

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**Jan 06 2023**

**S.C. SUPREME COURT**

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Certiorari to Spartanburg County

Honorable William A. McKinnon, Circuit Court Judge

\_\_\_\_\_  
SAMUEL JETER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-000978

\_\_\_\_\_  
APPENDIX  
\_\_\_\_\_

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1     STATE OF SOUTH CAROLINA             )  
2                                     ) IN THE COURT OF GENERAL SESSIONS  
3     COUNTY OF SPARTANBURG     )  
4     The State,                     )  
5     -vs-                             ) TRANSCRIPT OF RECORD  
6     Samuel Jeremiah Jeter,        ) 2018-GS-42-419-421  
7                                     )                     )  
8                                     ) January 7 - 9, 2019  
9                                     ) Spartanburg, South Carolina  
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B E F O R E:

HONORABLE J. DERHAM COLE; and a jury

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

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SARA BOWSHER BOZARTH, ESQUIRE

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(Edited by Michael Watkins)

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1 VOIR DIRE

2 (Proceedings January 7, 2019)

3 THE COURT: All right. State vs. Samuel Jeremiah  
4 Jeter. Mr. Jeter is here represented by Mr. Neely, Mr.  
5 Smith and Mrs. Bozarth are here on behalf of the State. Do  
6 we have any matters we need to address before the jury  
7 panel is brought around for the selection?

8 MR. SMITH: None from the State, Your Honor.

9 MR. NEELY: None from the defense, Your Honor.

10 THE COURT: Okay. Bring them around.

11 (The jury venire entered the courtroom.)

12 THE COURT: Good afternoon, ladies and gentlemen. We  
13 are ready to begin with the jury selection in the first  
14 case that's going to require some of your participation,  
15 and the title of the case is the State vs. Samuel Jeremiah  
16 Jeter. Mr. Jeter has been accused by way of these  
17 indictments. Indictments are documents that serve as a  
18 charging paper, it's like an arrest warrant except an  
19 indictment comes from a grand jury. The indictments charge  
20 Samuel Jeremiah Jeter with the crimes of burglary in the  
21 first degree, assault and battery in the first degree and  
22 attempted common law robbery. The State alleges by way of  
23 these indictments that Mr. Jeter did here in Spartanburg  
24 County on or about October the 25th of 2017 enter a  
25 dwelling that belonged to Katrina Walker on Gentry Street

1 here in Spartanburg, that's in the Beaumont Community of  
2 Spartanburg County, without her consent and with intent to  
3 commit a crime therein, and that the burglary occurred in  
4 the nighttime and/or physical injury was caused to a person  
5 who was not a participant in the crime of burglary. The  
6 second indictment charges assault and battery in the first  
7 degree. The State is alleging on the same date and time  
8 that the defendant did commit an assault and battery to  
9 Katrina Walker by injuring her, and that the act did occur  
10 during the commission of a robbery or burglary or theft, or  
11 the act was accomplished during the commission of a  
12 robbery, burglary or theft. And the remaining indictment  
13 charges Mr. Jeter with the crime of common -- attempted  
14 common law robbery occurring on the same date and time.  
15 The State alleges by the indictment that Mr. Jeter did  
16 attempt to take from the person or presence of Katrina  
17 Walker by the use of force and/or intimidation personal  
18 property belonging to her with the intent to steal it.  
19 Now, as to those allegations and as to each of the charges  
20 contained in those indictments the defendant has entered a  
21 plea of not guilty. A plea of not guilty places upon the  
22 State the burden of proving the allegations that they have  
23 made by way of these indictments. The State has the burden  
24 of proving each of the essential elements of the crimes  
25 alleged against the defendant, and therefore the burden is

1 upon the State to establish the defendant's guilt to the  
2 satisfaction of 12 jurors beyond a reasonable doubt before  
3 any verdict of guilty could be returned as to any of the  
4 separate indictments, and therefore we are going to be  
5 selecting probably 13 of you, 12 primary jurors, one  
6 alternate juror. The function of the jury is to listen to  
7 the testimony and to consider the evidence presented during  
8 the trial. At the trial's conclusion you'll be called upon  
9 to examine that evidence to decide the facts if you can as  
10 they relate to the allegations made by way of the  
11 indictments. Upon deciding the facts the jury will be  
12 called upon to apply the law that I'll provide and the jury  
13 will decide whether or not the defendant has been proven  
14 guilty of a crime beyond a reasonable doubt, and if he has  
15 the verdict would be guilty as to that charge, and if he  
16 has not then the verdict would be not guilty as to that  
17 particular charge. Now, before we begin with jury  
18 selection I have some folks to introduce to you. The  
19 purpose of the introductions is to find out if any juror  
20 has any connection by blood, marriage or personal, social,  
21 professional relationship with anybody involved in the  
22 case, in other words, are you connected to them by family,  
23 do you socialize with them, do you go to school with them,  
24 do you go to work with them, do you attend church with  
25 them, do you know them, have you met them, any connection



1    whatsoever.  If you do as that person's name is announced  
2    or that person is introduced I'll ask that you please stand  
3    so that we can determine what that connection is, and then  
4    determine whether or not it would have any impact upon your  
5    decision or your ability to be fair and impartial if called  
6    upon to serve as a juror in the case.  And after those  
7    introductions I'll have some additional questions to ask  
8    you, again, the purpose being to determine your ability to  
9    be fair and impartial.  Now, first of all as I told you,  
10   the person who is accused of the crimes is Samuel Jeremiah  
11   Jeter.  Mr. Jeter, if you'll please stand and face the jury  
12   panel.

13           (The defendant stood.)

14           THE COURT:  Mr. Jeter is the gentleman to your left.  
15   The gentleman to your right is Paul Neely, he's a lawyer in  
16   the 7th Judicial Circuit Public Defender's Office and he's  
17   representing Mr. Jeter in the trial of this case.  Thank  
18   you, you may be seated.  Is Ms. Walker here?

19           MR. SMITH:  She decided not to come, Your Honor.

20           THE COURT:  Sir?

21           MR. SMITH:  She's not here, no.

22           THE COURT:  Okay.  The person who is alleged to be the  
23   victim, as I've indicated earlier, is Katrina Walker, she  
24   was the resident at [REDACTED] Gentry Street in Spartanburg in the  
25   Beaumont Community and she's alleged to be the victim of

1 each of these offenses. Presenting the case on behalf of  
2 the State are Spenser Smith and Sara Bozarth, they are each  
3 assistant circuit solicitors for the 7th Judicial Circuit.  
4 What's the matter?

5 THE BAILIFF: Excuse me, Your Honor, he was saying  
6 that he knew the gentleman --

7 THE COURT: Oh, I'm sorry, okay. Y'all can sit down.  
8 Tell me your name and number, please sir.

9 THE DEFENDANT: Justin Barber, number 5.

10 THE COURT: Number 5? And you know Mr. Jeter or you  
11 know Mr. Neely?

12 THE DEFENDANT: I know Mr. Neely.

13 THE COURT: All right. And how do you know Mr. Neely?

14 THE DEFENDANT: We go to the same gym.

15 THE COURT: Okay. Would that have any bearing in your  
16 decision in this case if you were selected?

17 THE DEFENDANT: I don't think so.

18 THE COURT: Well, do you foresee any reasonable  
19 probability that it could?

20 THE DEFENDANT: That's really hard to say, but I don't  
21 see why it would. We don't normally interact apart from  
22 the gym, but we are friends at our gym, work out together.

23 THE COURT: That's fine. What I'm saying is, you  
24 know, now Mr. Neely is not a witness to anything and he's  
25 representing Mr. Jeter, but would you side with Mr. Jeter

1 just because you know Mr. Neely?

2 THE DEFENDANT: No.

3 THE COURT: Okay. Thank you, you may be seated. Let  
4 me ask if any juror knows -- any other jurors know either  
5 the defendant or Ms. Walker who's alleged to be the victim  
6 or any of the lawyers involved in this case, as well as any  
7 other lawyers or employees of the 7th Judicial Circuit  
8 Solicitor's Office, or the 7th Judicial Circuit Public  
9 Defender's Office. Do you know these or any other  
10 employees of those two offices? If so, please stand. All  
11 right. Now, during the trial as you can imagine there will  
12 be a number of witnesses which might be called to provide  
13 information to the jury, so I'm going recite a list of  
14 those witnesses. Again, the purpose of the recitation is  
15 to find out if you have any connection with any of the  
16 potential witnesses, again, by family, personal,  
17 professional, social or the like. Potential witnesses  
18 would include Sonya McCullough with the police department,  
19 Spartanburg Police Department. Shanetta Thompson with the  
20 police department. Sean Cloran with the police department.  
21 Christy Norkett with the police department. Jeff Kirby  
22 with the police department. Joseph Eggleston with the  
23 police department. Jesse Braswell with the police  
24 department. Bill Mabry with the police department. Sean  
25 Coats with the police department. Officer Hancock with the

1 police department. Mark Narungalo with the police  
2 department. Ed Guthro with the police department.  
3 Samantha Hayes, a resident of Spartanburg. Alexis Walker,  
4 a resident of Spartanburg. Sharaia Walker, a resident of  
5 Spartanburg. And the following three witnesses are  
6 employed by the State Law Enforcement Division, they  
7 include Sara Goodman, Amy Black and Doris Yarborough, as  
8 well as Donald Stepp, employed in the public defender's  
9 office. So does any juror know any of the potential  
10 witnesses, have any connection with them whatsoever? If  
11 so, please stand. Tell me your name and number please,  
12 ma'am.

13 THE JUROR: Narcissia Lewis, 105.

14 THE COURT: And who is it that you know?

15 THE JUROR: Officer McCullough.

16 THE COURT: And how do you know Officer McCullough?

17 THE JUROR: I've worked with Officer McCullough on  
18 some cases.

19 THE COURT: Okay. And would that have any bearing in  
20 your decision in this case?

21 THE DEFENDANT: No.

22 THE COURT: Thank you, be seated. Anybody else? Has  
23 any member of the jury panel or any members of your  
24 immediate family, and I'm going to define immediate family  
25 member as a parent or a spouse or a child or a sibling, a

1 parent, a spouse, a child or sibling, have you or any  
2 members of your immediate family as I just defined it ever  
3 been the victim, or have you or that family member ever  
4 been accused of having committed any type of criminal  
5 offense that might be described or characterized as a  
6 violent offense? Now, included in that definition would be  
7 murder, manslaughter, armed robbery, domestic violence of a  
8 high and aggravated nature, burglary, common law robbery,  
9 criminal sexual conduct, or any type of crime that might be  
10 described and classified as violent offense. I need to  
11 know if you or that family member has been the victim of  
12 such, or you or that family member has ever been accused of  
13 having committed such? If so, please stand. All right.  
14 Is that everybody that needs to respond? I've got six.  
15 Now, what I'll do is I'll ask for your names and your  
16 number, I'll ask if it was you or a family member, I'll ask  
17 if that person, you or that person was a victim or if you  
18 or that person was accused, and what was the nature of the  
19 offense. If you prefer not to respond to the question from  
20 where you're standing, that's fine, you can step down here  
21 and I'll try to discuss it with you privately, otherwise  
22 I'll just ask that you respond to it there where you are.  
23 All right. So your name and number, please, ma'am?

24 THE JUROR: Sabrina Henderson, and my number is 72. I  
25 was a victim.

1 THE COURT: And your number was what?

2 THE JUROR: Seventy-two.

3 THE COURT: Seventy-two. And it was you and you were  
4 a victim?

5 THE JUROR: Yes.

6 THE COURT: And the nature of the offense was what?

7 THE JUROR: It was just criminal domestic violence.

8 THE COURT: Okay. And is there anything about that  
9 experience that you've had that would have any bearing upon  
10 your decision in this case?

11 THE JUROR: No, because I mean, every --

12 THE COURT: Well, it's just -- don't give me too much  
13 information, just yes or no.

14 THE JUROR: I'm sorry. No.

15 THE COURT: Do you think it would or would not affect  
16 your judgment in the case, your personal experience?

17 THE JUROR: No.

18 THE COURT: It would not? It would not?

19 THE JUROR: No. I'm sorry, I didn't --

20 THE COURT: Okay. Thank you, you may be seated. Yes,  
21 sir, your name and number?

22 THE JUROR: Number 62, Ira Greenfield.

23 THE COURT: You or a family member?

24 THE JUROR: It was a family member.

25 THE COURT: Victim or accused?

1 THE JUROR: Victim.

2 THE COURT: The nature of the offense?

3 THE JUROR: My four month old daughter was killed in  
4 the care of a babysitter.

5 THE COURT: All right. Is there anything about that  
6 event that would affect your judgment in this particular  
7 case?

8 THE JUROR: In any particular criminal case, sir.

9 THE COURT: It what?

10 THE JUROR: Yes, sir, any criminal case.

11 THE COURT: Okay. We'll excuse juror 62 from service  
12 in this case. All right. Next, yes, ma'am?

13 THE JUROR: Michelle Raffo, number 145. I was the  
14 victim of a criminal domestic violence.

15 THE COURT: Is there anything about that experience  
16 that would affect your judgment in this case?

17 THE JUROR: Yes, sir.

18 THE COURT: All right. We'll excuse juror 145 from  
19 service in this case. Next?

20 THE JUROR: My name is Harriet Bastarache, number 8.  
21 My brother was accused and convicted of a --

22 THE COURT: Of what?

23 THE JUROR: Armed robbery.

24 THE COURT: All right. Would that have any bearing on  
25 your decision in this case?

1 THE JUROR: No.

2 THE COURT: Thank you, be seated. Yes, ma'am?

3 THE JUROR: Tonya Royal, 153. I have fostered and  
4 adopted children through DSS, so I guess victim.

5 THE COURT: You have fostered --

6 THE JUROR: Uh-huh, and adopted children.

7 THE COURT: Okay. Well, were they victims?

8 THE JUROR: Of domestic violence.

9 THE COURT: Oh, they were victims of domestic  
10 violence.

11 THE JUROR: Yes.

12 THE COURT: Okay. Is there anything about that fact  
13 that would affect your judgment in this case?

14 THE JUROR: No.

15 THE COURT: All right. Thank you, be seated. Yes,  
16 sir?

17 THE JUROR: Justin Barber, number 5. My brother,  
18 armed robbery attempted on him.

19 THE COURT: He was a victim or accused?

20 THE JUROR: He was the victim.

21 THE COURT: All right. Is there anything about that  
22 fact that would affect your judgment in this case?

23 THE JUROR: No, sir.

24 THE COURT: All right. Thank you, be seated. Yes?

25 THE JUROR: Kira Kern, number 96. Victim of CDV,



1 criminal domestic violence.

2 THE COURT: And would that have bearing in your  
3 decision in this case?

4 THE JUROR: It might depending on what happened, I  
5 think it might.

6 THE COURT: Okay. We'll excuse juror 96 from service  
7 in this case. Next?

8 THE JUROR: 186, Hugh Todd Webber. I was a victim at  
9 my small business, burglary.

10 THE COURT: And would that have any bearing in your  
11 decision?

12 THE JUROR: I don't think so.

13 THE COURT: You're pretty sure it wouldn't, or do you  
14 think there's a reasonable probability that it could?

15 THE DEFENDANT: It might.

16 THE COURT: Well, do you think that's a reasonable  
17 probability?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. We'll excuse juror 186 from  
20 service in this case, but don't leave yet, don't get too  
21 anxious. Has any member of the jury panel or any members  
22 of your immediate family as I've already described it or  
23 defined it ever been employed as any type of law  
24 enforcement officer? Have you or that family member ever  
25 been employed by any type of law enforcement agency? If

1     so, please stand. Just got two. All right. Your name and  
2     number?

3             THE JUROR: Mindy Brown, 115 -- or, sorry, 15.

4             THE COURT: And how does that relate to you?

5             THE JUROR: My uncle was a police officer.

6             THE COURT: Where?

7             THE JUROR: Upstate New York.

8             THE COURT: Would that have any bearing in your  
9     decision?

10            THE JUROR: No.

11            THE COURT: Thank you, be seated. Yes, ma'am?

12            THE JUROR: Angela Wofford, 193. My cousin is retired  
13     FBI.

14            THE COURT: Would that have any bearing in your  
15     decision?

16            THE JUROR: No.

17            THE COURT: Thank you, be seated. Yes, ma'am?

18            THE DEFENDANT: Lucretia Hendrix, 73. Ex-husband and  
19     two brother-in-laws and two nieces and nephews.

20            THE COURT: Was that here or somewhere else?

21            THE JUROR: All around here, yes.

22            THE COURT: In Spartanburg County?

23            THE JUROR: SLED, Spartanburg County, Charleston,  
24     Easley.

25            THE COURT: Okay. Would those connections have any

1 bearing in your decision?

2 THE JUROR: I don't think so.

3 THE COURT: All right. Thank you, ma'am, you may be  
4 seated. All right. I've told you just the basic facts  
5 about what the case is about and what the allegations are  
6 and who the folks are involved in the trial and the nature  
7 of the offenses themselves. Does any juror -- or has any  
8 juror already made up your mind or formed an opinion as to  
9 what you think the ultimate outcome ought to be based upon  
10 what you've heard up to this point or based upon any other  
11 consideration? Have you already made up your mind in the  
12 case? If so, please stand. Does any juror know of any  
13 reason whatsoever why you feel that you could not be fair  
14 and impartial if called upon to serve as a juror in this  
15 particular case? If you have any reason whatsoever why you  
16 think you could not be fair and impartial I would ask that  
17 you please stand. All right, none responding. Any other  
18 questions requested by the State?

19 MR. SMITH: None from the State, Your Honor.

20 THE COURT: From the defendant?

21 MR. NEELY: None from the defendant.

22 THE COURT: All right. The way a jury is selected is  
23 the computer draws your names randomly, as your name is  
24 called you will be asked to come forward, the bailiff is  
25 going to be standing out there in the floor in a minute,

1     you just come towards me about two or three paces past the  
2     desk where the lawyers are seated, each side has an  
3     opportunity to have you seated for service in the case or  
4     to have you excused from serving in the case. If either  
5     side asks that you be excused from serving simply go back  
6     and have a seat where you are now. If both agree to have  
7     you seated for service in the case you'll be having a seat  
8     in that jury box to my left and to your right. So please  
9     come forward as your name is called and you'll be  
10    instructed if you are to be seated for service in the case  
11    or excused from serving in the case.

12           (Whereupon, a jury was impaneled.)

13           THE COURT: All right. Those selected please go with  
14    a bailiff to the jury room and I'll bring you back shortly.

15           (The jury left the courtroom.)

16           THE COURT: Are there any matters to be addressed  
17    regarding jury selection by the State?

18           MR. SMITH: None from the State, Your Honor.

19           THE COURT: By the defendant?

20           MR. NEELY: None, Your Honor.

21           (The remaining jury panel was excused.)

22           THE COURT: All right. Bring the jury in, please.

23           (The jury returned to the courtroom.)

24           THE COURT: Ladies and gentlemen, we're going start  
25    the actual trial this morning beginning at 10:00 so you're

1 going to be excused now for the balance of the afternoon.  
2 I know that you haven't heard anything about the case other  
3 than what I mentioned earlier, but you still can't talk  
4 about the case with anybody in any fashion whatsoever. You  
5 can't conduct any research. You can't do your own  
6 investigation. You can't go on the internet to search any  
7 information about the case should there be any or anybody  
8 involved in the case. You have to base your decision upon  
9 what you see and hear during the trial of the case, and you  
10 can't supplement your wealth of knowledge by conducting  
11 research or discussing the matter with people outside of  
12 the case. So no research, no investigation, no internet  
13 searching. Also you can't be exposed to any type of media  
14 coverage. I don't know if there will be any but you have  
15 to avoid television, radio or newspapers as it relates to  
16 the case. Aside from that, have a good evening and please  
17 report to -- they'll tell you to report to the jury  
18 assembly room, and from there you'll be taken to the jury  
19 room, but be there by 10:00 in the morning. Have a good  
20 afternoon.

21 (The jury left the courtroom.)

22 THE COURT: Court is in recess until 10:00 in the  
23 morning.

24 (Court recessed for the day and resumed at 10:00 a.m.

25 On Tuesday, January 8th, 2019)

1           THE COURT: Any matters to address before the jury is  
2 brought in?

3           MR. SMITH: Your Honor, I've never had a life without  
4 parole case with you before, what we do is we have served  
5 the defendant and the defense attorney with the life  
6 notice. I don't know if you want copies of that or wait  
7 until the conclusion of the trial.

8           THE COURT: You have the notice, Mr. Neely?

9           MR. NEELY: Yes, sir.

10          THE COURT: And your client has been served also?

11          MR. NEELY: Yes, sir.

12          THE COURT: Any other matters to address?

13          MR. SMITH: None from the State, Your Honor.

14          MR. NEELY: Judge, we would move to sequester the  
15 witnesses in this case. The State has named one victim in  
16 each of the three indictments. With this being a life  
17 without parole case and the chance that on cross  
18 examination some of the questions to the different  
19 potential State's witnesses would be the same I would like  
20 to afford my client the opportunity to not have the  
21 witnesses think about their answers before they are  
22 confronted, so I would move to sequester.

23          THE COURT: What's the State's position?

24          MR. SMITH: I don't have a problem with that.

25          THE COURT: All right. Well, I don't know who all

1     they are or who you're going to call so you'll have to  
2     ensure that they are sequestered.  Ms. Walker, of course,  
3     will remain.  Is she here?

4             MR. SMITH:  Can Officer McCullough?  She's the  
5     arresting officer.

6             THE COURT:  She can.

7             MR. NEELY:  Judge, I would ask that they be  
8     sequestered before we start the trial.

9             THE COURT:  They are.

10            MR. SMITH:  Before opening?

11            THE COURT:  Yeah.  Who is the case officer?

12            MR. SMITH:  Officer McCullough.

13            THE COURT:  All right.  So Ms. McCullough will remain  
14     and Ms. Walker.

15            MR. SMITH:  Ms. Katrina Walker.  They're all Ms.  
16     Walker.  Katrina is the head of the household, the one that  
17     is the victim on the assault and the common law robbery.

18            THE COURT:  Okay.  The other two?

19            MR. SMITH:  Technically I think they're all victims  
20     but, you know --

21            THE COURT:  Well, they're not named as such.

22            MR. NEELY:  Your Honor, Ms. Alexis Walker is in the  
23     courtroom as well and I would ask that she be sequestered  
24     as well.

25            THE COURT:  Katrina Walker can remain, the other two

1 will have to be excused if you're agreeing to  
2 sequestration, otherwise -- I'll hear you on the  
3 sequestration if you want to.

4 MR. SMITH: I don't have a great argument against it,  
5 I don't have a problem with it.

6 THE COURT: Okay. Well, if you don't have a problem  
7 with it then everybody has got to be sequestered with the  
8 exception of the named victim and the case officer. All  
9 right. Anything else?

10 MR. NEELY: Nothing else from the defense, Your Honor.

11 THE COURT: Okay. Bring the jury in and ask Mr.  
12 Karper, Juror 94, have him take the foreperson's seat.

13 (The jury returned to the courtroom.)

14 THE COURT: Good morning, ladies and gentlemen. We're  
15 ready to begin with the trial of the case for which each of  
16 you have been selected. And Mr. Karper, I'm going to ask  
17 you to serve as the foreperson of the jury. As the  
18 foreperson you'll have three specific duties that none of  
19 the other jurors will have. First of all, you'll be asked  
20 to serve as the spokesperson for the jury, and that just  
21 means if something arises during the course of the trial  
22 that needs to be brought to my attention, you or one of  
23 your fellow jurors has some difficulty, problem or  
24 question, you're going to be the person to let me know of  
25 that fact and you'll do that directly if you're in the



1 courtroom, you'll do that through the bailiff if you're  
2 outside of the courtroom. Secondly, you'll be called upon  
3 to preside over jury deliberations when the time comes for  
4 those deliberations, and that, of course, will not be until  
5 the end of the trial after all of the evidence has been  
6 received and I have instructed you on the law that's  
7 applicable and I have instructed you and your fellow jurors  
8 to begin with your deliberations in the case. But you're  
9 going to be called upon to preside over that process in the  
10 jury room simply to ensure that those deliberations are  
11 carried out in some orderly fashion. And thirdly, you'll  
12 be asked to actually write the verdicts or the decisions of  
13 the jury, and you'll do that on verdict forms that I'll  
14 provide you at the trial's conclusion on which you will  
15 indicate the jury's unanimous decision as it relates to  
16 that particular indictment. Now, the foreperson has those  
17 specific duties that I've just indicated, that does not,  
18 however, mean that he is anymore important than any of you  
19 other jurors, and that's because the decision or the  
20 verdict of a jury is the unanimous and consensus opinion of  
21 all 12 jurors. And so all of you and each of you will have  
22 an equal say and an equal vote in what the ultimate  
23 decision will be in this case, someone just simply has to  
24 be tasked with the responsibility of those obligations that  
25 I've just indicated, and I have appointed Mr. Karper to be

1 the foreperson in order to accomplish those tasks, but all  
2 of you jurors are equally important so far as the ultimate  
3 decisions in this case are concerned because, as I've  
4 stated, the verdicts have to be unanimous, all 12 of you  
5 must be in agreement before any decision may be rendered.  
6 Now, Mr. Felder and Mr. Banks, each of you have been  
7 selected as alternate jurors, and the function of an  
8 alternate juror is to take the place of one of the original  
9 12 jurors if during the trial one of these 12 or two could  
10 not continue to serve as a juror in the case. In that  
11 event one or both of you would be called upon to become the  
12 12th juror, and in that event you would participate  
13 throughout the trial, including in the jury deliberations  
14 at the trial's conclusion. If, however, when the time does  
15 come for jury deliberations, if the original 12 are able to  
16 participate then your service as alternates would end, and  
17 that's because the decision of a jury is that only 12 and  
18 no more than 12 jurors may participate in that deliberation  
19 process. But it is important that each of you pay just as  
20 careful attention as we ask all of the jurors in the case  
21 because it does occur from time to time for one reason or  
22 another one of these 12 may be unable to continue, and in  
23 that event one or both of you would be called upon to  
24 become the 12th. So we do appreciate your participation as  
25 alternate jurors, just as we appreciate the participation

1 of each of you jurors who have been selected for the  
2 purpose of deciding the verdicts in this particular case.  
3 You may swear the panel.

4 (Whereupon, the jury was duly sworn.)

5 THE COURT: All right. Ladies and gentlemen, as you  
6 know, you have been selected to decide the verdicts in the  
7 case of the State vs. Samuel Jeremiah Jeter, and as you  
8 also know Mr. Jeter has been accused by the prosecutor by  
9 way of these indictments with having committed three  
10 separate and distinct criminal offenses, although they are  
11 alleged to have arisen out of one event or a course of  
12 events which the State alleges occurred back on October the  
13 25th of 2017. But there are three separate charges, you  
14 will be rendering three separate verdicts and your verdicts  
15 may be the same as to all of the indictments, they may be  
16 different as to some of indictments. That, of course, will  
17 depend upon your determination of fact as it relates to the  
18 allegations contained in the indictments as to a particular  
19 charge, and then your application of the law to those facts  
20 as you determine them to be in order to arrive at your  
21 decision. But the defendant is charged with three separate  
22 crimes, those crimes are burglary in the first degree,  
23 assault and battery in the first degree and attempted  
24 robbery. The State alleges in the indictments that Mr.  
25 Jeter did commit the crime of burglary in that he entered a

1 dwelling without consent of the owner and with intent to  
2 commit a crime therein, and that that burglary did occur in  
3 the nighttime, and/or Mr. Jeter did cause physical injury  
4 to some person who was not a participant in the crime of  
5 burglary. Mr. Jeter is also charged with assault and  
6 battery in the first degree in that on the same date and  
7 time he did commit an assault and battery upon Katrina  
8 Walker injuring her, and that the act occurred during the  
9 commission of a robbery or burglary or theft, or he did  
10 attempt or offer or attempt to injure the victim with the  
11 present ability to do so, and it occurred during the  
12 commission of a robbery, burglary or theft. And the  
13 remaining indictment charges Mr. Jeter with the crime of  
14 attempted common law robbery, the State alleging that he  
15 did attempt to take, steal and carry away from the person  
16 or presence of Katrina Walker by the use of force or  
17 intimidation certain property that belonged to her and  
18 attempted to take that property with the intent to steal  
19 it. Now, as to those allegations and as to each of those  
20 charges Mr. Jeter has entered a plea of not guilty, and as  
21 I indicated earlier a plea of not guilty places upon the  
22 State the burden of proving the allegations that they have  
23 made against the defendant, the burden of proving each of  
24 the essential elements of the crimes that have been alleged  
25 against the defendant, and therefore the burden is upon the

1 State to establish the defendant's guilt to the  
2 satisfaction of you 12 jurors beyond a reasonable doubt  
3 before any verdict of guilty could be returned as to any of  
4 the separate indictments and charges contained therein.  
5 Every person accused of a crime, and it doesn't matter how  
6 serious the offense might be for which that person stands  
7 charged, a person accused of a crime is always presumed to  
8 be innocent of that charge. That presumption of innocence  
9 remains with every defendant as it does with this defendant  
10 from the time that he is placed under arrest and throughout  
11 the course of the criminal process, and even throughout the  
12 course of the actual trial in the case. That presumption  
13 of innocence will be with Mr. Jeter even as you go back  
14 into your jury room to begin with your deliberations at  
15 this trial's conclusion. And that presumption of innocence  
16 will be with him in that jury room and it will be with him  
17 forever unless you 12 jurors determine that he's no longer  
18 entitled to the presumption of innocence. In other words,  
19 after you have considered all of the evidence in the case  
20 and you've been able to determine the facts as they relate  
21 to the allegations contained in a particular indictment and  
22 then you apply the law that I will have provided you as it  
23 relates to the charge contained in that indictment, if you  
24 12 jurors unanimously determine that his guilt as to a  
25 particular charge has been proven beyond a reasonable

1     doubt, then the defendant would no longer be entitled to  
2     the presumption of innocence as it relates to that  
3     particular charge. But it is only if, unless and until you  
4     are satisfied of his guilt beyond a reasonable doubt that  
5     the presumption of innocence would no longer be applicable  
6     to him with respect to that particular charge. Now, the  
7     way the trial will proceed is that in a moment the lawyers  
8     are going to address you in what are called opening  
9     statements. There are two occasions in the trial of a case  
10    where lawyers are permitted to address the jury directly  
11    and that is at the beginning of the trial before any  
12    evidence has been introduced, and then again at the  
13    conclusion of the trial after all of the evidence has been  
14    received. But keep in mind as I had just indicated the  
15    lawyers statements are not evidence. The lawyers aren't  
16    witnesses to anything. They don't know anything about this  
17    case of their own personal knowledge or perception like  
18    witnesses will be testifying to when a witness takes the  
19    witness stand and testifies under oath. The lawyers aren't  
20    going to take the witness stand, they aren't going to be  
21    placed under oath and they're not going to be subjected to  
22    direct and cross-examination like witnesses will be when  
23    they take the witness stand. So what the lawyers tell you  
24    in their statements is not to be construed by you as being  
25    any evidence upon which you will base your decision, but

1 the statements do serve a purpose so you should listen to  
2 what they have to say. The opening statements will serve  
3 to provide you with a basic understanding as to what this  
4 case is about from both the perspective of the State and of  
5 the defense so that you'll will have some context in which  
6 to place the evidence that we will be receiving shortly  
7 thereafter. The closing statements occur after all of the  
8 evidence has been received. And again, while those  
9 statements are not evidence, it does afford the lawyers an  
10 opportunity to discuss with you the evidence that you have  
11 seen and heard during the course of the trial, and it  
12 allows them the opportunity to try to persuade you or to  
13 convince you that the evidence in the case does or does not  
14 support a particular decision, and it's in between those  
15 opening and the closing statements that we actually receive  
16 the evidence upon which you will decide the case. The  
17 State, as you know, has the burden of proof. They've  
18 brought the accusation and they've made the charge, they've  
19 got to prove it beyond a reasonable doubt. So the State  
20 will go forward first in its presentation of evidence.  
21 Once the State has concluded in its presentation of  
22 evidence every defendant has an opportunity to take the  
23 witness stand and testify, to call a witness, to introduce  
24 evidence, but understand that there's never any burden upon  
25 a person accused of a crime to prove that they are not

1 guilty or to prove that they are innocent, because in some  
2 cases that might not be possible. And therefore during a  
3 criminal trial it might be that a person standing trial who  
4 is charged with a crime doesn't take the witness stand,  
5 doesn't call any witness, doesn't introduce evidence, and  
6 that's not something or that's not a circumstance or a fact  
7 that may be considered by the jury or allow it to weigh in  
8 the slightest degree against the defendant. Because as I  
9 say, the burden is not upon a person accused of a crime to  
10 prove anything. The burden is on the State who has made  
11 the accusation to prove the defendant's guilt beyond a  
12 reasonable doubt. And so in the event that the defendant  
13 does not take the witness stand and testify, you can't hold  
14 it against him. If the defendant doesn't call any other  
15 witness during the trial of the case you can't hold it  
16 against him. If the witness (sic) doesn't introduce  
17 evidence you can't hold it against him because he doesn't  
18 have any burden of proof and you cannot consider that in  
19 any fashion whatsoever, nor may you even discuss that fact  
20 while you are engaged in your deliberations at the trial's  
21 conclusion. However, as I've said, every person accused of  
22 a crime is always afforded an opportunity to testify or to  
23 call witnesses, or to present evidence should he or she  
24 wish to do so. So after all of the evidence has been  
25 received and after you hear the final summations of the



1 lawyers, I will then instruct you fully on the law as it  
2 relates to the criminal law generally, and as it relates to  
3 these particular crimes specifically, and then you'll be  
4 asked to go back and to begin with your deliberations in  
5 the case. And through that process you're simply going to  
6 be asked to exercise your good judgment and common sense,  
7 apply it to the evidence received during the trial,  
8 determine the facts that relate to the allegations where  
9 you can. After deciding the facts apply the law that I  
10 will have provided you, and decide whether or not the  
11 defendant's guilt has been proven beyond a reasonable  
12 doubt, and if it has been proven as it relates to a charge  
13 then the verdict would be guilty. If it has not been  
14 proven as it relates to a charge, then the verdict would be  
15 not guilty. As I've said, the verdicts may be the same but  
16 they may be different, that will depend upon your decision  
17 as to the facts and then your application of the law to  
18 facts as you determine them to be where you are able to do  
19 so. Now, it's important that you keep an open mind  
20 throughout the course of the trial, and that simply means  
21 that you're not to begin making up your minds or  
22 formulating your opinions as to what you think the ultimate  
23 decisions in this case ought to be until all of the  
24 evidence has been received, until you have been instructed  
25 as to the law that's applicable and until you've been asked

1 to begin with your deliberations by the Court. It's also  
2 important that you give every witness that testifies the  
3 same degree of attention while they are testifying. That,  
4 of course, doesn't mean that you have to give every  
5 witness' testimony the same degree of weight, because one  
6 of your prerogatives in deciding the facts of the case is  
7 to judge and to evaluate the credibility and the  
8 believability of each witness that testifies during the  
9 course of the trial. And so in the exercise of good  
10 judgment and common sense you can believe everything that a  
11 witness testified to, you may choose to believe none of it.  
12 You may believe some portion of a witness' testimony and  
13 reject some other portion of that same witness' testimony.  
14 You may believe one witness as opposed to several, or  
15 several as opposed to one. But in order for you to be in a  
16 proper position to be able to fairly evaluate the  
17 credibility of a witness' testimony in light of not just  
18 that witness' testimony but in light of all of the  
19 testimony and evidence received you've got to pay attention  
20 to each witness as they testify so that when you do go back  
21 you can fairly evaluate each witness' testimony in light of  
22 all of the testimony and evidence received during the  
23 trial. That is the process that has been designed over the  
24 last 240 some odd years to ensure that you can arrive at a  
25 fair decision in any case, and specifically now in this

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1 particular case. So I do want to thank you in advance for  
2 your participation, as well as for your careful attention.  
3 I would ask that you please give the lawyers your attention  
4 now as they give you their opening statements.

5 MR. SMITH: May we approach for one second?

6 THE COURT: Yes.

7 (Bench conference was held.)

8 MS. BOZARTH: May it please the Court?

9 THE COURT: Ms. Bozarth.

10 MS. BOZARTH: This case is about a home invasion. A  
11 home where Katrina Walker lived with her two daughters,  
12 Alexis and Sharaia, as well as their small children. This  
13 is a house full of mamas and their babies. The evidence  
14 will show that during the middle of the night,  
15 October 25th, 2017 the defendant, Samuel Jeter, a complete  
16 stranger to these women, got inside their house through  
17 their front door and made his way inside their home  
18 undetected. The evidence will show that once inside the  
19 home the defendant creeps past a sleeping child on the sofa  
20 in the living room, he makes his way down the hallway past  
21 mom, Katrina, who's sleeping in her bed, makes his way past  
22 Alexis' room where she's sleeping with her child and makes  
23 his way all the way down the hall in the back Shea's room  
24 where her door is shut, he make his way all the way back  
25 there. When he gets there he opens her closed door, peers

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1 in, sees her awake an on the phone and immediately shuts  
2 the door. Shay doesn't recognize this guy or this figure,  
3 so she's trying to get up and open up the door, and while  
4 she's struggling she manages to open the door and there's  
5 the defendant standing there with a black ski mask and a  
6 gray hoodie pulled over his head going "shh." By that time  
7 Shea's fight or flight instincts kick in and she is a  
8 fighter. She scrams, she's hollering, she wakes up mom,  
9 she wakes Alexis, they come running. Mom and Alexis come,  
10 they see this masked intruder and immediately mom falls on  
11 her back with the intruder our top of her, the defendant  
12 wearing his ski mask, finger in her face saying, "Where is  
13 the money at?" At this time Shay has the time to run her  
14 closer, grab her nine millimeter and she cocks it and she  
15 tells him to get out of my house. Mom on her back,  
16 defendant in her face says, "Shoot him." Shay shoots him  
17 and she gets him twice. The defendant realizes he's in the  
18 wrong house messing with the wrong women, he runs out the  
19 front door, she shoots him twice more, he runs away. Shay  
20 calls the cops immediately, the cops get there within  
21 minutes. Cops follow the trail of the blood to the  
22 neighbors next door in their backyard in their fence where  
23 they find the defendant laying down bleeding from his  
24 wounds laying with his head on top of that black ski mask,  
25 and at that point the police try to save his life and get

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1 him to the hospital. They're asking, you know, "What's  
2 your name, what's your name?" He gives them a fake name  
3 and a fake date of birth, and he maintains this fake  
4 identity all of the way to the hospital and that's where  
5 police finally figure out his real identity of Samuel  
6 Jeter. Now, the defendant is charged with three things,  
7 the Judge already instructed you on that, and you are to  
8 listen to his instructions, and he'll instruct you again  
9 before you deliberate. But basically he's charged with  
10 assault and battery first degree, which means you injure or  
11 you attempt to injure with the present ability to do so and  
12 that happens during a burglary or larceny. He's also  
13 charged with attempted common law robbery, which means that  
14 you try to take something from someone under the threat of  
15 force or intimidation. And he's also charged with burglary  
16 in the first degree, which means he entered a dwelling  
17 where someone sleeps without consent with the intent to  
18 commit a crime therein, and that it that happened during  
19 the night, or that someone got injured during that incident  
20 from the defendant. And like I said, again, the Judge will  
21 instruct you on that before you deliberate, and you are to  
22 listen to his instructions. And also the State does have  
23 the burden of proof to prove the defendant's guilt beyond a  
24 reasonable doubt but that's it, it's a reasonable doubt,  
25 it's not all possible doubt, and I think by the end of this

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1 trial you will find that the State has met that burden.

2 Thank you.

3 THE COURT: Mr. Neely?

4 MR. NEELY: I was online the other day and I was  
5 looking at some -- just a column of funny police fliers  
6 that had come out, and one of the things I saw was from New  
7 Years Eve of this year. On New Year's Day a family in  
8 Wisconsin woke up and in their house cuddled with their 150  
9 pound Mastiff in their laundry room to the dog's bed was a  
10 complete stranger. The night before on New Year's Eve he  
11 had gone out and celebrated a little too much, went back to  
12 his house, but in his neighborhood all of the houses looked  
13 the same and he accidentally went into the wrong house, and  
14 so everybody in the house was surprised. Myself, late  
15 August I was going up to Charlotte to meet my friends for  
16 my fantasy football draft and I'm on the phone, stone cold  
17 sober on the phone with my friend and he's giving me  
18 directions to the Air B and B that we've we rented. He  
19 doesn't tell me that it's a split level and that it's split  
20 into two different apartments, so he just gives me  
21 directions where to go. So I go where I think I'm supposed  
22 to be, and again all of the doors look exactly the same,  
23 and so when I walk in imagine my surprise, my shock, my  
24 fear, imagine the shock, the surprise and the fear of the  
25 people eating breakfast when I walked in, complete

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1 strangers. I had no idea who they were. Accidents happen.  
2 Sometimes when residences look identical people go into the  
3 wrong place. They make mistakes. Fear. Fear is a really  
4 weird emotion. As the solicitor said, fear elicits a fight  
5 or flight response. When you listen to the evidence that  
6 comes from this witness stand at the end of this trial what  
7 the evidence is going to point to is a lot of fear, and  
8 rightfully so. Fear from Samuel when he realized he wasn't  
9 at his friend's house, that he was in the wrong house, and  
10 in him that fear elicited a flight response. Because when  
11 he realized he was in the wrong house he ran, and he  
12 certainly tried to run as fast as he could once he realized  
13 that Sharaia Walker had a gun, and Mrs. Walker elicited a  
14 flight response as she got that gun and she shot him. As  
15 the Judge told you, as the solicitor told you, burglary is  
16 what Samuel is charged with, breaking or entering into a  
17 place that you don't have the right to be. But the key  
18 part of that is that when you go into that place where you  
19 don't have a right to be you have to intend to commit a  
20 crime. Accidentally going into the wrong place, trespassing  
21 without intent to commit a crime is not burglary. So when  
22 we are done with this trial, when all of the evidence has  
23 been presented and you've heard all of it and you look at  
24 your notes at the end of this trial, what you are going to  
25 see is that all of the evidence that the State puts before

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1 you is evidence of a person who's gone into the wrong  
2 place. What you won't see is evidence that that person  
3 went into the wrong place with the intent to commit a  
4 crime. The Judge just told you for the last 240 years our  
5 system of justice has been developed, and over the last 240  
6 years it has been perfected, and as part of that system of  
7 justice the burden of proof remains on the lawyers for the  
8 State. Where Samuel sits today he doesn't have to prove  
9 anything to you. He doesn't have to prove that he wasn't  
10 in that house, and we're not contesting that. He doesn't  
11 have to prove that he didn't intend to commit a crime, but  
12 he didn't. But it is their job beyond a reasonable doubt,  
13 the highest standard of proof that our justice system has,  
14 the highest, it's their job. I got married back in August,  
15 and in the weeks leading up to our wedding my wife, my then  
16 fiancée, she would wake up, and as we got closer to the  
17 wedding this would happen more and more frequently, she  
18 would wake up and she would be having these nightmares, she  
19 would wake up in a cold sweat, and she would be having the  
20 nightmares that the band went to the wrong place, or the  
21 caterer brought the wrong the food, or something was wrong  
22 with the wedding dress. And each time I would assure her  
23 the wedding hasn't happened yet, everything is going to be  
24 fine, go back to sleep, and once we finally got married the  
25 wedding went off perfect. She was able to go back to sleep



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1 after her nightmare. For the last 441 days Samuel has been  
2 living a nightmare. He went to go see his friend and he  
3 wound up getting shot in the back four times, and for the  
4 last 441 days he hasn't been able to wake up from that  
5 nightmare. Because not only has he been shot, now he's on  
6 trial for burglary, for something that he didn't do and  
7 he's not able to just go back to sleep and wake up and  
8 everything is okay. Ladies and gentlemen, the 12 of you  
9 are the only ones who can wake him up from that nightmare.  
10 At the end of this trail you will see that the State cannot  
11 meet their burden of proof and you're going to have no  
12 choice but to go back there and find him not guilty.

13 THE COURT: Mr. Smith?

14 MR. SMITH: The State is going to call Sharaia Walker.  
15 The witness, SHARAIA WALKER, was first duly sworn and  
16 Testified as follows:

17 DIRECT EXAMINATION

18 BY MR. SMITH

19 Q Good morning. Will you state your name for the jury?

20 A Sharaia Walker.

21 THE COURT: Let me ask you to pull your chair up  
22 closer to that black microphone, you can adjust it if you  
23 need to, just be sure you speak into it so everybody can  
24 hear you.

25 A Sharaia Walker.

SHARAIA WALKER - DIRECT

1 Q Do you know go by Shay?

2 A I do, yes, sir.

3 Q Shay, where do you live?

4 A [REDACTED] Gentry Street. Well, that's my mother's address.

5 THE COURT: Let's ask you, you're going to have to  
6 adjust that microphone, I can't hear you and I'm sure they  
7 can't either.

8 THE WITNESS: Is this better?

9 THE COURT: If you speak up louder it will be.

10 THE WITNESS: Yes, sir.

11 Q Where do you live currently?

12 A I live at [REDACTED] Bryant Road myself.

13 Q Where did you live, or where were you staying on  
14 October 25th/26th of 2017?

15 A [REDACTED] Gentry Street.

16 Q Is that the city and county of Spartanburg?

17 A Yes, sir.

18 Q And whose house is that?

19 A That's my mother's.

20 Q Who is your mom?

21 A Katrina Walker.

22 Q Who all was staying in the house at that time?

23 A My sister, myself, my mother, and my two kids and my  
24 sister's son.

25 Q Okay. So it's a pretty full house.

SHARAIA WALKER - DIRECT

1 A Yes, sir.

2 Q All right. What did you do on October 25th of 2017?

3 A I had just came from outside, I had locked the door  
4 behind me and --

5 Q Is that the front door?

6 A The front door, yes, sir, and I went -- I was on the  
7 phone. My son was in the bed with me, my daughter was on  
8 the couch and I was just on the phone talking, and I seen a  
9 dark figure poke its head into the door. And I was like  
10 that's kind of weird. My mom would have told me good night  
11 or something. So I was like hold on and let me see. So I  
12 went and I got up, the inside of my door, it was just the  
13 knob, it wasn't the handle so I'm going to have a hard time  
14 opening it either way, so I had a struggle kind of opening  
15 the door. And when I got finally got the door opened I  
16 looked to my left and I seen a black figure put his hand up  
17 to his mouth and say, "Shh, be quiet." So then that's when  
18 I started yelling saying, "I'm not going to be quiet, who  
19 are you?" And my mom and my sister then came out into the  
20 hallway.

21 Q All right. Let me show you a couple of pictures. I  
22 show you what's been marked as State's Exhibits 2, 3, 4 and  
23 5, and ask if you can tell me what these are.

24 A This is the front of my mom's house. That's the living  
25 room. That's the hallway. And that's toward more into the

SHARAIA WALKER - DIRECT

1 hallway.

2 Q Okay. Are those fair and accurate representations of  
3 what the house looked like on the night of -- the evening of  
4 October 25th going into the early morning hours of  
5 October 26th?

6 A Yes, sir.

7 MR. SMITH: At this time we move State's Exhibits 2  
8 through 5 into evidence.

9 MR. NEELY: No objection.

10 THE COURT: They are admitted.

11 MR. SMITH: Permission to publish to the jury.

12 THE COURT: You may.

13 (The photos were received as State's 2-5.)

14 Q This is State's Exhibit 2. What is that?

15 A That is the front of my mom's house.

16 Q All right. Was the porch light on that night?

17 A I want to say it was not.

18 Q Okay.

19 A But the rest of the house was lit up, like the living  
20 room, the hallway and my mom's room.

21 Q The window on the right, would that be to the living  
22 room, behind that window on the right?

23 A That one right there?

24 Q Yes.

25 A Yes, sir.

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1 Q What would the one on the left be?

2 A That's my mother's bedroom, and that light was on.

3 Q That light is on, and the living room was on as well?

4 A Yes, sir.

5 Q What's that blue thing on the left there?

6 A Looks like a ball.

7 Q Okay. Is it customary for you to have toys and stuff  
8 out in yard?

9 A Yes, sir.

10 Q Okay. You described closing the front door and locking  
11 it. Can you explain, was that a sturdy door or anything --

12 A The door at the time was not sturdy. When that  
13 happened she did get the lock replaced, but you could jimmy  
14 through the door so it wasn't not possible that you couldn't  
15 get through the door, so you could have.

16 Q Without kicking the door in or something.

17 A Right.

18 Q This is State's Exhibit 3. Can you explain what that  
19 is?

20 A My mom's living room.

21 Q All right. So that would be if we looked in through  
22 that window to the right, is that the window we'd be looking  
23 into?

24 A Yes, sir.

25 Q This is State's Exhibit 4. Can you explain what this

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1 picture is?

2 A That's the entryway into the house, so that's going  
3 down towards the hallway.

4 Q Would the person who is taking this picture essentially  
5 be standing at the front door or right inside the house?

6 A Yes, sir.

7 Q And what would be immediately to the left of this  
8 picture?

9 A Right here would be my mother's room, and that's the  
10 window you were looking at from the front.

11 Q And what about -- what happens in that hallway there?  
12 I've got a better picture, State's Exhibit 5. What is that  
13 room with the person standing there?

14 A That is my sister's room.

15 THE COURT: Excuse me just a minute. Let me remind  
16 you now, you've got to use that microphone. I know you're  
17 looking at this photograph, but when you look at it you've  
18 got to turn back, because if you don't use the microphone  
19 we can't hear you and this lady is taking down everything  
20 you're saying, or trying to.

21 A That is my sister's room.

22 Q All right. And what about the rest of the -- can you  
23 just describe the layout of the rest of the picture?

24 A That would be my room and that's the bathroom.

25 Q And what's the door to the right?

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1 A That is the living room, or the kitchen, excuse me.

2 Q All right. So you were inside your bedroom when you  
3 first saw the man that was inside your house.

4 A Yes, sir.

5 Q All right. Did you end up calling 911 as a result of  
6 what happened this night?

7 A Yes, sir.

8 Q All right. Is that after you had shot the person  
9 inside of the house?

10 A Yes, sir.

11 Q Let me show you what's been premarked as State's  
12 Exhibit 1 and ask if you can identify what that is.

13 A 911 call, Samuel Jeter.

14 Q All right. Is this a copy of the call that you made to  
15 911 that night?

16 A Yes, sir.

17 MR. SMITH: At this time we would move State's Exhibit  
18 1 into evidence with permission to publish.

19 MR. NEELY: Judge, I do have an objection, if we can  
20 take that up outside the presence of the jury.

21 THE COURT: Okay. Let me ask the jury to please go to  
22 your jury room, I've got some matter I'll need to address.  
23 You can't talk about the case, of course, as I've said  
24 until you're involved in jury deliberations, so when you go  
25 back during a break, or if I take a break or send you back,

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1 just remember you still can't talk about the case until the  
2 end, okay? I'll bring you back shortly.

3 (The following takes place outside the presence of the  
4 Jury.)

5 THE COURT: Okay.

6 MR. SMITH: Your Honor, I have an objection to the  
7 entrance of the 911 tape on a couple of different grounds.  
8 Number one, I don't believe that this witness is the proper  
9 witness for this call to come in through. She made a 911  
10 call that night but that disc is just labeled 911 but they  
11 don't have the records custodian here from EMS  
12 communications to actually identify that that is the 911  
13 call, that it is just a 911 tape that says Sharaia Walker's  
14 911 tape. My other objection, Your Honor, which I think  
15 might carry the weight here, is that this is cumulative  
16 under 403. Everything that's on that 911 tape is what  
17 she's testifying to here today, the fact that a man in a  
18 ski mask came into her house, she shot him in the back, so  
19 that's everything that she's about to tell the jury. The  
20 jury is just going to hear it again on the 911 tape, so I  
21 think it's improper bolstering, it's cumulative, it's  
22 incredibly prejudicial, and as a matter of fact on the 911  
23 tape, Your Honor, what you hear for a significant portion  
24 of it in the background is Ms. Katrina Walker screaming  
25 because she's in fear or the traumatic experience, whatever



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1 it is, but that goes on for a large portion of the tape.  
2 So this 911 tape, which again is the exact same information  
3 that's already being testified to, is just likely to  
4 inflame the passion of the jury and lead to unfair  
5 prejudice, so I would ask that this tape not be admitted.

6 THE COURT: All right. Mr. Smith?

7 MR. SMITH: Your Honor, she said that this is the call  
8 that she placed --

9 THE COURT: Well, if she hears it she can state that  
10 that's her talking but she can't identify that disc. Y'all  
11 haven't discussed this before now?

12 MR. SMITH: We discussed it with her prior to the --

13 THE COURT: No, you and Mr. Neely, y'all didn't  
14 discuss the authentication of the disc?

15 MR. SMITH: No.

16 THE COURT: Why not?

17 MR. SMITH: I didn't think it would be an issue. I  
18 thought she could --

19 THE COURT: Well, there you go. All right. Ms.  
20 Walker, you can step down from the stand right now but  
21 don't talk about your testimony with anybody because you're  
22 still on the witness stand, you can step down. I'm going  
23 to take ten minutes and I need to see Mr. Neely and Mr.  
24 Smith in chambers.

25 (A recess was taken.)

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1 THE COURT: All right. Mr. Neely?

2 MR. NEELY: Thank you, Your Honor. After speaking  
3 with Mr. Smith, Judge, he informs me that if need be  
4 somebody from EMS communications can be here this afternoon  
5 to lay the proper foundation for that 911 tape so I will  
6 withdraw my objection to the authentication of the 911  
7 call. I've had a chance to review it when discovery was  
8 previously turned over by the State and I don't actually  
9 have a question that that is Sharaia Walker, I'll withdraw  
10 on that ground, Your Honor. I will maintain my objection  
11 as to the prejudicial nature of this 911 tape being played  
12 under 403. Exactly what she's about to testify to the  
13 jury, all of the events of that night as she remembers them  
14 today are what's going to be testified with her being on  
15 the witness stand, this is the State's best evidence is her  
16 testifying today. What's on the 911 tape will be  
17 cumulative. As I said previously, Mrs. Katrina Walker is  
18 heard constantly in the background screaming multiple  
19 times. The 911 operator has to ask Mrs. Walker to ask  
20 Mrs. Katrina Walker to be quiet because they're having  
21 trouble hearing, and I believe that that's likely to  
22 inflame the passion of the jury and subject my client to a  
23 trial that's not necessarily fair. So at this time I would  
24 ask that you not admit the 911 tape on those grounds.

25 THE COURT: All right, sir. Anything further on that

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1 ground, Mr. Smith?

2 MR. SMITH: No, Your Honor.

3 THE COURT: All right. That motion is denied and the  
4 objection overruled.

5 MR. SMITH: Do you want me to move it into evidence  
6 when the jury comes in?

7 THE COURT: Yeah. All right. Bring the jury in,  
8 please.

9 (The jury returned to the courtroom.)

10 THE COURT: All right.

11 MR. SMITH: Your Honor, at this time we move State's  
12 Exhibit 1 into evidence.

13 THE COURT: It is admitted over objection.

14 MR. SMITH: With permission to publish to the jury.

15 THE COURT: You may.

16 (The 911 disc was received as State's 1.)

17 (The disc was played for the jury.)

18 Q Did the police arrive at the end of that phone call?

19 A Not like even two minutes after that phone call.

20 Q The reason you hung up, I don't know if you could hear  
21 it then --

22 A Yeah. She said they were pulling around the corner,  
23 so --

24 Q Okay. So before we played the 911 tape you had  
25 described the man shushing you and then you started

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1 screaming. What were you screaming to the person that was  
2 inside the house?

3 A "No, I'm not going to be quiet, who are you and why are  
4 you in my house? Get out."

5 Q Things that would indicate that he's in the improper  
6 place.

7 A Yes, sir.

8 Q What was his reaction to your screaming?

9 A He told me to be quiet, and that's when I told him to  
10 be quiet -- or I'm not going to be quiet. And my mom and my  
11 sister then came out of their room. But I don't know, he  
12 was kind of cornered at that time so he ran down the hallway  
13 and had my mom on the floor. And then at that time I had  
14 went and got my gun and came back and he had looked up at  
15 me, that's when I cocked it and told him to get the hell out  
16 of my house, so that's when I started shooting when he was  
17 taking off.

18 Q Do you know how long it was between when you told him  
19 "I'm not going to be quite, you're in the wrong place," to  
20 ultimately shooting him?

21 A Not even a minute, like it was happening so fast. When  
22 he shushed me, that's when my mom cut on the light to that  
23 hallway, because all of those pictures are not up there, but  
24 that main hallway light was not on at the time but the  
25 living room light and my mother's light and the kitchen

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1 light was on. So she cut the light on and that's when she  
2 seen him and like, "Oh my God." And my sister, when she was  
3 coming down the hallway, her and my sister met at the same  
4 time. My sister had shut the door, and when she was like  
5 what the hell, like what's going on, he comes running down  
6 the hallway. And when he did that I went back into my room  
7 because I was still standing in my hallway having the  
8 conversation with him, I went back into my bedroom, got into  
9 my closet and that's when I got my gun and went out there,  
10 so it wasn't even more than a minute.

11 Q Okay. Would there have been enough time to react to  
12 not being in the right house?

13 A Yes. Yes.

14 Q I know you're soft-spoken today and the 911 tape is  
15 getting louder.

16 A I'm getting over a cold, I apologize.

17 Q Were you screaming at him?

18 A Yeah.

19 Q Was it apparent that --

20 A Yes, sir. I woke my whole house up besides the kids,  
21 they were out, but my mom and my sister heard me, so --

22 Q Describe what you saw -- you said ultimately your mom  
23 came out and ended up on the ground. Can you describe that?

24 A He kind of had her by her arms like "Where is the  
25 money," like he was standing over her. And I remember so

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1 vividly, like he turned and like just looked at me, and so  
2 that's when I just like cocked the gun and he took off,  
3 so --

4 Q You just said where is the money, is that what you're  
5 saying --

6 A He was saying to my mom, "Where's the money, where's  
7 the money?"

8 Q And did you -- is it the sound of the gun that makes  
9 him react or did he --

10 A Yeah. When he heard me cock the gun back he looked up  
11 at me, he was like, "Oh, she got a gun," so he took off.

12 Q Okay. And then I guess what happens at that point?

13 A He's running. My sister came out of the bedroom at  
14 that time as everybody is running down the hallway. He is  
15 in front me. Me and my mom were kind of side by side but  
16 I'm a couple of steps ahead of her, and he's running and I'm  
17 shooting and he gets the door open and I shot him one more  
18 time. And he tripped over the stairs coming down from  
19 the -- in the front of the house, and he took that right and  
20 jumped over the fence to my neighbor's and the police were  
21 there.

22 Q Did you see him jump over the fence to the neighbors?

23 A I did not. I didn't even know where he went.

24 Q Did you see which right or left?

25 A I seen that he went right, so coming out of the house

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1 down the stairs he ran right.

2 Q You had described him having a ski mask on. Was it  
3 pulled down, was it up?

4 A At the time -- when he told me to "shh" it was down.  
5 But when everything was going on I remember seeing it right  
6 here, like he had lifted it up at some point in the house.

7 Q All right. What about the hoodie, was that down or was  
8 that up?

9 A Yes, sir, it was down at the time.

10 Q Down?

11 A Uh-huh.

12 Q And do you remember what clothing he was wearing?

13 A He had on a gray hoodie. I didn't see the jeans until  
14 like he was down and I shot him one more time, I seen that  
15 he had blue jeans on because his butt was hanging out, so I  
16 do remember that. I didn't know what type of shoes he had  
17 on until the officer said, "Does this belong to you guys?"  
18 And I said, "No, that was apparently his shoe."

19 Q Where was that at?

20 A That was in the front yard.

21 Q Of your house?

22 A Yes, sir.

23 Q How do you know that you shot him in the butt?

24 A I seen blood. I didn't know until I was outside. I  
25 didn't know I was even shooting him until like there's no

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1 bullet holes, there's nothing, so --

2 Q It's not quite like the movies?

3 A Right.

4 Q Do you know this man?

5 A I do not.

6 Q Have you ever seen him before or anything like that?

7 A No, sir.

8 Q Any reason you would know why he would be at your  
9 house, inside your house? Was it nighttime when all of this  
10 occurred?

11 A It was.

12 Q Do you have a guess around what time it was?

13 A It was 12:00. Like I remember coming in the house at  
14 12:00, so it was around that time.

15 Q Right at the fringe of the 25th and the 26th? What was  
16 the -- what were your emotions like during this? I mean,  
17 put this into the state of mind when you first see that  
18 picture, what are you thinking?

19 MR. NEELY: Objection, Your Honor, relevance.

20 THE COURT: Let me see y'all just a minute.

21 (A bench conference held.)

22 THE COURT: Sustained.

23 Q Did you see the defendant making visible contact with  
24 your mom?

25 A Yes, sir, I did.



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1 Q Did you see any sort of weapons or anything else he had  
2 on him?

3 A No, sir.

4 Q So just the clothing that you've described.

5 A Yes, sir.

6 Q Did you end up seeing somebody get arrested as a result  
7 of this?

8 A I did.

9 Q Where did that happen?

10 A It was right next door, so --

11 Q Is that the house to the right, the direction that you  
12 said he ran?

13 A If you're looking at the house it would be the house to  
14 the left, so that house.

15 Q If you run out of the house it would be the house to  
16 your right.

17 A Yes.

18 Q Who lives there?

19 A Joe. My neighbor, Joe.

20 Q I'm going to show you what's been marked as State's  
21 Exhibits 6 and 17 and ask if you can identify -- 17 is the  
22 top one. Can you identify?

23 A This is Joe's house, and that's our property but that's  
24 like the walkway between our -- mine and Joe's house.

25 Q Are those fair and accurate representations of the

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1 night of this incidents?

2 A Yes, sir.

3 Q Can you see what the address for Joe's house is on it?

4 A It's 410.

5 Q 410?

6 A Is it 410? Or 470.

7 MR. SMITH: Your Honor, at this time we move State's  
8 Exhibits 6 and 17 into evidence with permission to publish.

9 MR. NEELY: No objection.

10 THE COURT: They are admitted.

11 (The photos were received as State's 6 and 17.)

12 Q This is State's Exhibit 6. Can you explain what that  
13 is?

14 A That is our walkway between Joe's and the house.

15 Q And are those your children's -- you and your sister's  
16 children's toys?

17 A Yes, sir.

18 Q And would that be -- that's -- Joe's house would be  
19 further to the left in this picture?

20 A Yes, sir.

21 Q State's Exhibit 17. Joe's house?

22 A Yes, sir.

23 Q Do you remember how long after it was when they ended  
24 up finding him in Joe's back yard?

25 A Maybe ten minutes. Because I know they were walking

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1 through the house and asking questions and stuff, and then  
2 the other officers outside said that they had found him. So  
3 they were still asking questions and seeing what was going  
4 on when they found him, so it wasn't too long after, but it  
5 was a few minutes.

6 MR. SMITH: Please answer any questions Mr. Neely has.

7 CROSS EXAMINATION

8 BY MR. NEELY

9 Q Ms. Walker, at the time of October of last year, or I  
10 guess 2017, you were working at Goodwill?

11 A Yes, I was.

12 Q And you worked first or second shift.

13 A Yes, sir.

14 Q Okay. On the 25th of October your shift ended about  
15 4:30? Maybe a little bit earlier but that's about the time  
16 you got home?

17 A Forgive me, I don't really remember too well if I even  
18 worked that day. I know I worked the day after because I  
19 had to get a work excuse from city hall, so I know the day  
20 after I did work but that day I am not too sure.

21 Q That's quite all right. What I'm going to show you is  
22 the statement that you gave the next day on the 26th at city  
23 hall with Investigator Hayes.

24 A Okay.

25 Q And see if -- where it starts right here, see if that

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1 refreshes your memory a little bit.

2 A Do you want me to read it out loud?

3 Q No. Just look at it and if it helps you remember.

4 A Yes, thank you.

5 Q So on the 25th you worked that day.

6 A Yes, sir.

7 Q And you got home about 4:30.

8 A Yes, sir.

9 Q Okay. When you got home it was you and your two kids,  
10 right?

11 A It was.

12 Q All right. And at that time they were nine and six?

13 A Yes.

14 Q Okay. Your mom and your sister and your sister's son  
15 had all gone off to a birthday party, and they were gone for  
16 awhile, four or five hours.

17 A Uh-huh.

18 Q You worked a what, eight hour shift that day?

19 A Right.

20 Q Okay. So your shift ended probably about 4:00, so you  
21 got there about 8:00, so you had been up since what, like at  
22 least 6:00 or 7:00 in the morning?

23 A Uh-huh.

24 Q They all get home about 9:30 that night.

25 A Right.

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1 Q And then all the kids kind at the McDonald's that  
2 grandma has brought back and they kind of played and the  
3 kids take baths and get settled down for the night, and  
4 that's 10:30. And then you're in your bedroom and you're on  
5 the phone with your boyfriend.

6 A Right.

7 Q Correct?

8 A Right.

9 Q Okay. At about 11:20 that night you step outside still  
10 on the phone with your boyfriend.

11 A Uh-huh.

12 Q And you step outside to go smoke a cigarette.

13 THE COURT: Please answer out loud and say yes or no  
14 rather than uh-huh or nuh-uh.

15 THE DEFENDANT: Yes, sir.

16 Q I'm sorry. You finished smoking your cigarette,  
17 correct?

18 A Yes, sir.

19 Q And you go back inside.

20 A Yes, sir.

21 Q And then you think about midnight is when somebody  
22 peaked their head into your room. You have to answer the  
23 question, I'm sorry.

24 A Yes, sir, I'm sorry.

25 Q All right. So about that time you've been up for maybe

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1 18 hours at least.

2 A Yes, sir.

3 Q And when you went and you talked to Investigator Hayes  
4 the next day at city hall you told her that you hadn't slept  
5 in awhile.

6 A Right.

7 Q That you were pretty tired when all of this happened.

8 A Right.

9 Q And what you remember is that all of this happened  
10 pretty quick.

11 A Yes, sir.

12 Q You just told all of us that from the time you kind of  
13 approached Samuel in the bathroom until the time he was out  
14 the door you think it was about a minute.

15 A Yeah.

16 Q But again, you were tired at the moment, correct?

17 A Yes, sir.

18 Q And you were scared and you were frightened.

19 A Yes, sir.

20 Q And you were going to take action.

21 A Yes, sir.

22 Q So that minute probably could have felt like a minute.

23 A Right.

24 Q But it could have been shorter.

25 A Right.

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1 Q It could have been 45 seconds.

2 A Right.

3 Q It could have been 30 seconds.

4 A Right.

5 Q All you know is that this man was standing in your  
6 doorway.

7 A Yes, sir.

8 Q All right. Now, you told us that you had some trouble  
9 with your bedroom door.

10 A Right, yes, sir.

11 Q That's why you had to kind of take the fabric from your  
12 pajamas and get the door handle.

13 A Yes, sir.

14 Q Okay. So you say ordinarily you kind of have a little  
15 bit of trouble getting that door open anyway.

16 A Right.

17 Q So he may or may not have been on the other side  
18 pulling that door closed.

19 A Right.

20 Q Now, all you know is when you finally got the door open  
21 you look out and there is a strang man standing in your  
22 house.

23 A Yes, sir.

24 Q That last door on the left, that's your bedroom.

25 A It is.

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1 Q Right? That's the door that you came out of.

2 A Yes, sir.

3 Q Okay. Now, when you come out of that bedroom and you  
4 go left --

5 A Right.

6 Q -- you go left and you're in the bathroom.

7 A Yes, sir.

8 Q If you go right you go down that hallway towards the  
9 front door.

10 A Yes, sir.

11 Q So depending on which way you go, you either get out of  
12 the house or you get stuck in the bathroom with somebody  
13 standing in front of you.

14 A Right.

15 Q So about midnight on the 25th, morning of the 26th a  
16 strange man pokes his head in his room, excuse me, in your  
17 room.

18 A Right.

19 Q You don't know who it is.

20 A Right.

21 Q You know that your six year old is in your bed, or in  
22 his little tent in the ground.

23 A Uh-huh.

24 Q Your nine year old is asleep on the couch.

25 A Yes, sir.



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1 Q So your reaction is you want to protect those babies,  
2 get up and see who this strange man is.

3 A Yes, sir.

4 Q So you get up right away right, and as soon as you get  
5 up and you get that door open you confront the person and  
6 he's standing kind of at the bathroom.

7 A Yes, sir.

8 Q Almost as if he'd gone the wrong way.

9 A Right.

10 Q And then when you confront him you asked him who the  
11 hell is he.

12 A Right.

13 Q And he says "shh."

14 A Yes, sir.

15 Q And you start screaming.

16 A Yes.

17 Q And that wakes up Ms. Walker?

18 A Yes, sir.

19 Q And it wakes up your sister, Alexis.

20 A Yes, sir.

21 Q And they come out of their rooms.

22 A Yes.

23 Q This house that your mama lives in, in October of  
24 2017 --

25 A Uh-huh.

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- 1 Q -- she had been living there for about seven years.
- 2 A Right.
- 3 Q Now this is over in Beaumont Mills, correct?
- 4 A Yes, sir.
- 5 Q So these are the old mill houses.
- 6 A Right.
- 7 Q So these houses have quite a bit of age on them.
- 8 A Yes.
- 9 Q So they do things that old houses typically do.
- 10 A Yes.
- 11 Q Doors creak?
- 12 A Yes.
- 13 Q Floors squeak?
- 14 A Yes.
- 15 Q You can pretty much hear everything.
- 16 A Right.
- 17 Q All right. On this night, October 25th, when your nine
- 18 year old went to sleep that living room light was on?
- 19 A It was.
- 20 Q That big TV was on?
- 21 A Yes, sir.
- 22 Q And in your mama's room her light was on?
- 23 A Yes, sir.
- 24 Q Her TV was on?
- 25 A Yes, sir.

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- 1 Q And your sister's room I believe the light was off.
- 2 A Yes.
- 3 Q But the TV was on.
- 4 A Yes, sir.
- 5 Q And you were talking on the phone in your bedroom.
- 6 A And my TV was on as well.
- 7 Q And your TV was on.
- 8 A Yes, sir.
- 9 Q So there was a lot of volume in the house.
- 10 A Right.
- 11 Q So you might not necessarily have heard if somebody was
- 12 walking through there, so it might not have been that
- 13 somebody was tip-towing, correct?
- 14 A Could have been.
- 15 Q It might just be that there was a lot of volume in the
- 16 house.
- 17 A Right.
- 18 Q As a matter of fact, there was so much volume that when
- 19 you shot your nine millimeter your nine year old stayed
- 20 asleep, correct?
- 21 A Yes, sir.
- 22 Q Your living room, when you open the front door --
- 23 A Right.
- 24 Q -- you walk right into that living room, correct?
- 25 A You do.

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- 1 Q How big is that TV?
- 2 A Fifty, 55 inch.
- 3 Q Fifty or 55 inches? Flat screen?
- 4 A It is.
- 5 Q HD?
- 6 A Yeah.
- 7 Q Nobody tried to move it.
- 8 A No.
- 9 Q That's a purse, correct?
- 10 A Yeah.
- 11 Q That belongs to your mom?
- 12 A My sister.
- 13 Q That one belongs to your sister?
- 14 A Yes.
- 15 Q But your mom's purse was in the living room too,
- 16 correct? I don't believe it's shown in this picture.
- 17 A I'm not too sure, it might have been sitting on the --
- 18 Q But there is at least one purse --
- 19 A Right.
- 20 Q -- that's in the living room where all of the lights
- 21 are on.
- 22 A Right.
- 23 Q And that wasn't rummaged through, correct?
- 24 A Probably not. He could have. There probably wasn't no
- 25 money because we ain't have no money, but not to say that he

SHARAIA WALKER - CROSS

1 didn't rummage through it.

2 Q But you don't know that he rummaged through it.

3 A Exactly.

4 Q What we do know is that when he left at least two of  
5 the shots were when he was outside of the house, correct?

6 A Yes.

7 Q And each and every single one of those shots that you  
8 fired, they weren't at the front of him.

9 A Right.

10 Q They weren't on the side of him.

11 A Right.

12 Q He wasn't facing you.

13 A Right.

14 Q He wasn't facing your mom.

15 A Right.

16 Q He wasn't facing your sister.

17 A Right.

18 Q He wasn't facing your children.

19 A Right.

20 Q He was running away.

21 A Away. That's the whole key, away.

22 Q He was running away.

23 A Right.

24 Q And you shot him in his back.

25 A Right.

SHARAIA WALKER - CROSS

1 Q Outside of your house.

2 A He was still on my property on the stairs.

3 Q Sure. But he wasn't in your house, was he?

4 A To me, yes, he was. He thought -- there is not a grown  
5 man has no business being on somebody's porch, somebody's  
6 yard if that person does not want them on their porch, yard,  
7 piece of grass so be it, that's just how I see it. So, yes,  
8 he was still invading my privacy when he stepped foot on my  
9 sidewalk. I did not give him permission, nor did my mother,  
10 nor did my sister to let this man put his foot on the  
11 sidewalk. If he wants to walk down the road all he wants  
12 to, more be it. I did not give you permission to come up my  
13 stairs, so yes, I did while he was running away.

14 Q Now, you told us that while he was in your house  
15 standing over your mother that he was saying, "Where is the  
16 money at? Where is the money at?" That's a traumatic thing  
17 that you remembered, correct?

18 A Yes.

19 Q You remember that very good. That's one of the  
20 important things that sticks out to you about this case,  
21 that and the shooting, correct?

22 THE COURT: Excuse me. You're going to need to answer  
23 out loud and please use the words yes or no if that's an  
24 appropriate response.

25 A Yes.

SHARAIA WALKER - CROSS

1 Q When law enforcement responded they talked to you --

2 A Right.

3 Q -- correct? And they talked to your mom.

4 A Yes, sir.

5 Q And they talked to your sister.

6 A Right.

7 Q Law enforcement is very good about making you feel at  
8 ease, right?

9 A Yes.

10 Q This is a scary situation.

11 A Yes.

12 Q You bought that gun for protection when you were living  
13 in Seneca.

14 A Yes.

15 Q Because when you were living in Seneca it was just you  
16 and your two kids.

17 A Right.

18 Q You never thought that you would have to actually fire  
19 that gun.

20 A Right.

21 Q Especially once you moved back to the safety of your  
22 mom's house.

23 A Exactly.

24 Q So law enforcement after you do have to fire this gun,  
25 after there is a stranger in your house, calms you down as

SHARAIA WALKER - CROSS

1 best they can.

2 A Uh-huh.

3 Q And they say tell us everything about that night, tell  
4 us everything that happened. And they actually had you give  
5 a written statement, correct?

6 A Yes, sir.

7 Q They actually had you give a written statement that  
8 night.

9 A Yes.

10 Q When they had you give this written statement on the  
11 night of the 25th law enforcement told you to remember  
12 everything about that night.

13 A Right.

14 Q They told you to remember as many details as you  
15 possibly can. They told you to be as thorough as you can  
16 be, correct?

17 A Yes.

18 Q They told you to be as accurate as you can be, correct?

19 A They just said try to remember all of the chain of  
20 events that happened to your best ability.

21 Q Try to remember all of the chain of events to the best  
22 of your ability, and that's what you did.

23 A Yes.

24 Q And you wrote all of that down for them, correct?

25 A To what I could remember at the time.



SHARAIA WALKER - CROSS

1 Q To what you could remember at the time right after it  
2 happened.

3 A Right.

4 Q And memory doesn't get better with time, does it?

5 A I disagree.

6 Q Okay. When you wrote this statement down law  
7 enforcement asked you to write down everything you could  
8 remember at the time after it happened.

9 A Okay.

10 Q And they told you you could have as many sheets of  
11 paper as you wanted, just write down everything that you  
12 wanted, everything that you could remember about what  
13 happened. Please look at that for me. Is that the  
14 statement that you wrote right after this happened?

15 A That's in a nutshell, yeah, what happened.

16 Q Okay. Well, you just told us that law enforcement  
17 didn't ask you for a nutshell --

18 A I was not looking to write a biography, no, I just shot  
19 somebody. No. Yeah. "Here is what happened, y'all holler  
20 at me tomorrow and we can take it" -- that's in a nutshell  
21 that exactly what I wrote.

22 Q Okay. So in a nutshell after law enforcement asked you  
23 to write down everything that you remember about the event,  
24 where in there did you write that this man had asked anybody  
25 for money?

SHARAIA WALKER - CROSS

1 A There I did not write it.

2 Q You didn't write that down.

3 A No, I did not.

4 Q And where in there did you write this man had pushed  
5 your mom down?

6 A I didn't.

7 Q You didn't. Because again, after law enforcement asked  
8 you to write everything you can remember about this event  
9 right after it happened you wrote a nutshell.

10 A Yep, I did.

11 Q Okay. And in your words what you just told us you said  
12 "Holler at me tomorrow."

13 A Because they said we'll be in contact with you a direct  
14 more statement. Why would I write two statements if they  
15 weren't going to get a another statement?

16 Q Sure, absolutely. So that's the statement that was  
17 given the next day, correct?

18 A Right.

19 Q And that's actually a four page statement.

20 A Right.

21 Q All right. Now, you spent about an hour and a half  
22 with Investigator Samantha Hayes, correct?

23 A Yes, sir.

24 Q Telling her everything that you remember about that  
25 day.

SHARAIA WALKER - CROSS

- 1 A Yes, sir.
- 2 Q Okay. And at the end of it we got this statement.
- 3 A Right.
- 4 Q This four page statement.
- 5 A Right.
- 6 Q Okay. That's got your name on it, Sharaia Marie
- 7 Walker.
- 8 A It sure does.
- 9 Q Okay. And that's your signature --
- 10 A Yes.
- 11 Q -- on each and every page where you verified that this
- 12 is the full, complete, accurate version of events that
- 13 happened that night.
- 14 A Yes, sir.
- 15 Q All right. Now, please look at those four pages and
- 16 tell me where in there it says that you heard that man ask
- 17 you for money.
- 18 A It doesn't say.
- 19 Q Okay. Where in that four page statement does it say
- 20 that you saw that man push your mother down?
- 21 A It doesn't say. It doesn't say anything about what
- 22 happened in this hallway.
- 23 Q You reviewed this statement the day after this
- 24 happened, right, the day after you wrote that nutshell
- 25 conclusion. You signed both of these.

SHARAIA WALKER - REDIRECT

1 A I did.

2 MR. NEELY: Thank you.

3 THE WITNESS: You're welcome.

4 REDIRECT EXAMINATION

5 BY MR. SMITH

6 Q Were you able to hear the first line of the 911 call  
7 when I played it for the jury?

8 A I mean, I heard it but to reiterate, no.

9 MR. SMITH: This is State's Exhibit 1.

10 (The 911 call was played for the jury.)

11 Q What did you just say there?

12 A Where's the money at.

13 Q Where's the money at. Why were you saying that?

14 A Because he had said that.

15 Q So you weren't just generally curious where the money  
16 was at, that was something he'd said.

17 A Right.

18 Q Okay. Is it kind of a --

19 MR. NEELY: Objection, he's about to narrate.

20 Q Is it a burden when someone whether it was a burglary  
21 or not --

22 MR. NEELY: Objection, Your Honor, he's leading the  
23 witness here.

24 THE COURT: Overruled.

25 Q Was it a burden to go through this process even as far

SHARAIA WALKER - REDIRECT

1 as what the police demanded of you?

2 A Like in general, like the whole --

3 Q Like how many times that night did you tell the story  
4 to how many different officers about what had happened?

5 A There was two that night. But the reason I had a four  
6 page statement was because I was up all night talking to my  
7 mom about what happened. I kind of gathered my thoughts  
8 about being bombarded with a strange man in my house, so  
9 yeah, of course I can recollect. Memory does get better  
10 over time because you can actually sit and process things  
11 that really happened, and that really happened. So me not  
12 speaking of the money, he didn't get no money so I'm not  
13 worried about the money. He had my mom on the ground, he  
14 came for me -- I don't know, I'm not going to speak about  
15 the money because he didn't get anything so I'm not worried  
16 about the money. We were all broke in the house.

17 Q I believe you said you interviewed with Samantha Hayes  
18 for like an hour and a half, right? And then they give you  
19 the task of writing it all down, everything that you had  
20 just said, right?

21 A And I really didn't want to be in the police station, I  
22 wanted to get out of that environment. I left -- as soon as  
23 I wrote that statement I left, I did not want to be around  
24 there, I wanted to go -- no. I left -- after I wrote that  
25 statement I left.

SHARAIA WALKER - REDIRECT

1 Q Okay.

2 A So I did not want to be around there, no. I apologize  
3 I didn't write a whole statement, but yes.

4 Q But you did -- you told -- in the oral interview you  
5 told everything --

6 A Right.

7 Q An hour and a half for what we're talking about sounds  
8 like at most a couple of minutes of interaction --

9 A Right.

10 Q -- you talked about for an hour and a half with an  
11 investigator.

12 A Yes, sir.

13 Q You have no idea what the person inside your house did  
14 until walking past -- or peaking his head in your door.

15 A Correct.

16 Q You didn't know if he --

17 A I didn't even know there was anybody in the house, so  
18 there is no telling what he went through or -- there's no  
19 telling because I didn't know.

20 Q All right. And your mom and your sister are asleep.

21 A Right.

22 Q And they're able to -- or they are awoken, I guess, by  
23 your screaming.

24 A Yes.

25 Q Okay. And they're able to get up and come down the

SHARAIA WALKER - REDIRECT

1 hallway. And what time did you get your gun?

2 A When he -- I think he probably figured he was trapped,  
3 because my mom was in the hallway, I'm right here and  
4 there's the bathroom, so I don't know if -- he just kind of  
5 ran and charged at her, so when he did that I stepped back  
6 into my room. So that's when that took place.

7 Q But when he charged at her did he continue on out of  
8 the house?

9 A He did not.

10 Q Did he say anything like, "Oh my God, this is a  
11 mistake," anything like that?

12 A No, sir. He had ample of time. If he would have  
13 knocked my mama down and just ran out the house he would  
14 have had time and probably would have not got shot. But he  
15 knocked her down, was looking over her asking her where the  
16 money was and that's when I had time, because he was still  
17 over her when I came out of my bedroom.

18 Q And he had a ski mask on.

19 A It was up over his face at this time.

20 Q At that time.

21 A Yes.

22 Q But at no point did he tell you to stop or this is a  
23 mistake or please don't shoot? You even said that he saw  
24 the gun.

25 A Yes, sir.

SHARAIA WALKER - REDIRECT

1 Q No reaction at that point about putting his hands up or  
2 anything to indicate --

3 A As soon as seen the gun he took off, he let up off my  
4 mom and he took off.

5 Q But until he saw the gun he didn't leave.

6 A Right, yes, sir.

7 Q Mr. Neely made a big deal about you being tired. Could  
8 something like this wake you up?

9 A If anybody knows I am the first one to go to sleep, so  
10 I am typically not up. It is not normal for me to be up  
11 past 9:30 or 10:00, so nothing -- I wouldn't have -- I would  
12 have slept right through all of that if I wasn't up. None  
13 of us would have known if I was asleep.

14 Q What I mean is if, I guess, it seemed like trying to  
15 make it that you were sleepy and tired, I mean --

16 MR. NEELY: Objection, leading, Your Honor.

17 THE COURT: Sustained.

18 Q When you see a person in your house --

19 MR. NEELY: Objection, Your Honor.

20 THE COURT: I haven't heard the question yet.

21 MR. NEELY: I believe he's asking the same question.

22 THE COURT: Well, let me hear the question.

23 Q When you see a person in your house do you become alert  
24 and excited?

25 MR. NEELY: Objection.



SHARAIA WALKER - REDIRECT

1 THE COURT: Overruled.

2 A Of course. It depends which person that is to have  
3 that type of emotion.

4 Q An unknown person in your house.

5 A You're not going to get excited, you're going to feel  
6 fearful. I was more fearful and confused when I didn't --

7 Q Alert?

8 A Right, right.

9 MR. SMITH: I don't have any more questions, thank  
10 you.

11 MR. NEELY: Briefly, Your Honor.

12 RECROSS EXAMINATION

13 BY MR. NEELY

14 Q The bedroom door, it opens to the left, correct?

15 A Yes.

16 Q And then the closet is right there inside the door?

17 A Yeah. Right by the door, yeah.

18 Q Right. So when you went back to get your gun all you  
19 had to do was reach up in the top of the closet --

20 A Right.

21 Q -- and it was sitting on top of a Christmas box?

22 A Yes.

23 Q But it was ready to go.

24 A I mean, yeah. She was unlocked and the safety, but  
25 yeah, she was loaded up.

ALEXUS WALKER - DIRECT

1 Q She?

2 A Yeah.

3 Q You call her Barbara?

4 A Yeah.

5 Q But Barbara was sitting right there at the top of your  
6 closet?

7 A Yes.

8 Q So all you had to do was go back to your room, reach in  
9 the top of the closet and take the safety off.

10 A Right.

11 Q Matter of seconds.

12 A Right.

13 MR. NEELY: Thank you.

14 THE COURT: You may step down.

15 MS. BOZARTH: Next the State calls Alexis Walker.

16 The witness, ALEXUS WALKER, was first duly sworn and  
17 Testified as follows:

18 DIRECT EXAMINATION

19 BY MS. BOZARTH

20 THE COURT: I don't think that microphone is working  
21 very well, try to use it, but even so let's pretend like we  
22 don't have one so you just speak up loudly so everybody can  
23 hear, okay?

24 THE WITNESS: Okay.

25 Q Alexis, would you please state your name for the

ALEXUS WALKER - DIRECT

1 record?

2 A Alexis Walker.

3 Q And Alexis, how old are you?

4 A Twenty-three.

5 Q Where do you work?

6 A I work at the Spartanburg Marriott.

7 Q And do you live around the Spartanburg area?

8 A Yes, I do. I live in Spartanburg County.

9 Q And do you know this defendant?

10 A Yes.

11 Q Do you know --

12 A I don't know him, no. I thought you meant if I  
13 recognized him.

14 Q Back in October of 2017, the day of this incident, were  
15 you living at -- where were you living?

16 A [REDACTED] Gentry Street.

17 Q And who did you live with?

18 A My mom, my sister, my niece, my nephew and my son.

19 Q Okay. And could you just kind of describe the layout  
20 of your house? Where is your bedroom?

21 A When you walk in it will be my mom's 's room on the  
22 left-hand side, and then a hallway and my door is the first  
23 one on the left.

24 Q Okay. And then where is everybody else's rooms?

25 A And then my sister, you have to walk down a little bit

ALEXUS WALKER - DIRECT

1 further, hers is on the left as well, and then straight down  
2 the hallway is the restroom.

3 Q Okay. And on the incident day, October 25th, that day,  
4 could you just describe, what did you do that day starting  
5 from the beginning of the day?

6 A After the incident?

7 Q No, the beginning of the day before.

8 A Okay. We went to -- my mom and I went to my friend's  
9 birthday party and we came home and we were just relaxing at  
10 home.

11 Q What time did y'all come home?

12 A We probably came home around that evening, I would say  
13 maybe around 5:00 or 6:00, and then we were just at home for  
14 the rest of the night. The remainder of the night everybody  
15 was in the house and then we all went to bed.

16 Q Do you remember about what time you went to bed?

17 A I had a headache that night so I went to bed fairly  
18 early, I want to say around 10:00, 9:30 or 10:00 is when I  
19 went to bed.

20 Q Do you know if it was dark outside by the time you went  
21 to bed?

22 A It was dark outside.

23 Q Okay. And do you know who was in the house at that  
24 point at the time you went to bed?

25 A At the time I went to bed everybody was in the house.

ALEXUS WALKER - DIRECT

1 Q Okay. And did you wake up at some point during the  
2 middle of the night?

3 A No, not prior to that. I woke up once I heard my  
4 sister screaming.

5 Q Okay. And what else did you hear, what else woke you  
6 up?

7 A My sister screaming. I woke up, I came out the door  
8 and that's when I saw the gentleman at the end of the  
9 hallway by the bathroom, and then me and my mom met each  
10 other at the door.

11 Q What did you see when you woke up and you saw that  
12 gentleman? Could you describe him?

13 A Yeah. He was a tall black guy, he was standing -- I  
14 came out the door where he was, my mom was on the floor and  
15 he was standing over my mom while she was knocked on the  
16 floor by the bathroom.

17 Q Okay. So you come out and you see him. What's he  
18 wearing?

19 A He's wearing a -- I don't know what kind of pants he  
20 was wearing, but he was wearing a gray hoodie with a ski  
21 mask on, a black ski mask.

22 Q Was the ski mask on?

23 A Yes. It was pulled over his face, and then he had his  
24 hood on as well.

25 Q This gray hoodie?

ALEXUS WALKER - DIRECT

1 A Yes. He had the hood pulled over his head.

2 Q So at the time you're woken up but your sister's scream  
3 and you and your mother run out, you see him, is he on top  
4 of your mom right then, or when is he on top of your mom?

5 A Me and my mom see him at the same time, so when I came  
6 out my door I shut my door so I can go grab my bat. And  
7 then when I finally came out of my room again that's when he  
8 had already pushed my mom down onto the ground and he was  
9 standing over her.

10 Q Okay. So what you -- did you see him push her?

11 A No.

12 Q Okay. And what did you see -- how was he positioned on  
13 top of her? Could you describe that?

14 A She was on the floor in the corner and she -- he was  
15 kind of just like hovering over her, just standing over her.

16 Q Okay. And where -- did you see -- was Shay there?

17 A Sharaia was there. I don't remember where she was at  
18 that time.

19 Q And were you scared for yourself?

20 A Yes, terrified.

21 Q Were you scared for your family?

22 MR. NEELY: Objection, relevance.

23 THE COURT: Overruled.

24 Q And did you recognize that man?

25 A No, not at all.

ALEXUS WALKER - DIRECT

1 Q Did he hurt you?

2 A No. He didn't physically hurt me, no.

3 Q Did you think he might was going to hurt you?

4 A Yes.

5 Q Did he hurt anyone else?

6 A He hurt my mom. When he -- I guess when he pushed her  
7 over he hurt her and she had bruises going up and down her  
8 arms.

9 Q Her arms, both arms?

10 A I honestly can't remember if it was both. I remember  
11 one specifically had a significant amount of bruises on it.

12 Q Okay. Thank you. Did you hear him say anything?

13 A No. I heard him -- I didn't hear him say anything, but  
14 I seen when I came out is when my mom said, "Just follow  
15 me." I guess she was going to take him to where some money  
16 was to get him away from where he was, to try to get him  
17 out.

18 Q And during that time you had gone to go get your  
19 baseball bat?

20 A Yes.

21 Q Why?

22 A Because I was going to hit him with it.

23 MS. BOZARTH: Okay. Please answer any questions Mr.  
24 Neely may have for you.

25 CROSS EXAMINATION

ALEXUS WALKER - CROSS

1 BY MR. NEELY

2 Q You purse was in the living room?

3 A I'm sorry?

4 Q Your purse was in the living room?

5 A My purse -- I did not have a purse, my mother did.

6 Q Okay. You spent the afternoon of October 26th talking  
7 to Investigator Hayes, correct?

8 A Correct.

9 Q And when Investigator Hayes was going over this with  
10 you you told her what you just told us, that you heard your  
11 mom say, "Follow me, I'll take you to my purse."

12 A Correct.

13 Q And you thought it was pretty weird that he would be  
14 asking for money because what you told Investigator Hayes  
15 was your purse was right there in the living room.

16 A I'm sorry, let me rephrase that. My purse was in the  
17 living room, it was between the couches, between the two  
18 couches. I had just forgot that I had my purse in the  
19 living room.

20 Q That's not your purse.

21 A Yes, it is.

22 Q That's your purse?

23 A Yes.

24 Q Okay. That's your purse that was in the living room.

25 A Correct.



ALEXUS WALKER - CROSS

1 Q And nothing was taken out of that purse.

2 A No.

3 Q You told us that you got home about 5:00 that night?

4 A Around. I don't remember exactly what time but that's  
5 an estimate.

6 Q Sure, absolutely. This happened October 25th/26th of  
7 2017?

8 A Correct.

9 Q 441 days ago.

10 A Right.

11 Q Memory doesn't get better with time, does it?

12 A Not at all.

13 Q That's why we give written statements, correct?

14 A Correct.

15 Q So as best you remember when you gave -- when you gave  
16 your statement to Investigator Hayes the next day you told  
17 her what time you thought you had gotten home, correct?

18 A Okay.

19 Q Today you think it was about 5:00.

20 A My memory is hazy, I have no clue.

21 Q Sure. But that's the statement you gave Investigator  
22 Hayes on the 26th, correct?

23 A Okay.

24 Q And you said in that one you thought you'd got home  
25 about 8:00.

ALEXUS WALKER - REDIRECT

1 A Okay.

2 Q So your memory of that event is pretty fuzzy at this  
3 point.

4 A Yes, it is.

5 Q Sure. But as you just told us you never heard him ask  
6 anybody for money.

7 A I did not hear him ask for money personally, no.

8 Q You never saw him shove your mom.

9 A No. But I was in my room getting my bat at that  
10 moment.

11 Q Right. You never saw them shove your mom.

12 A No.

13 Q You never heard him ask for money.

14 A No sir.

15 MR. NEELY: Thank you.

16 REDIRECT EXAMINATION

17 BY MS. BOZARTH

18 Q Alexis, in regard to your statement you spoke with  
19 Investigator Hayes the following day.

20 A Yes.

21 Q And before that you had written the statement.

22 A Yes, ma'am.

23 Q And in that statement -- you said memory doesn't get  
24 better with time, however did you have time when talking to  
25 Investigator Hayes, did you have more time to think about

ALEXUS WALKER - REDIRECT

1 the incident --

2 A Yes.

3 Q -- versus when you initially wrote it?

4 A Yes.

5 Q Did you give a more thorough account of events?

6 A Yes, ma'am.

7 Q And in regard to your memory also about specific times,  
8 you -- you don't remember specific times --

9 A Not at all.

10 Q -- from then, but you remember generally those times.

11 A Correct.

12 Q So you're testifying to general times. So you remember  
13 generally when you got home, that it was night by the time  
14 you went to bed.

15 A Right.

16 Q And you know no one was in your house by the time you  
17 went to bed. And in regard to not hearing anything, when  
18 you woke up from the incident -- from hearing your sister  
19 screaming you saw him, you run and go get your bat.

20 MR. NEELY: Your Honor, I'm going to object, she's not  
21 asking a question.

22 THE COURT: Put in it the form of a question.

23 MS. BOZARTH: Thank you, Your Honor.

24 Q You and your mother both ran out at the same time when  
25 you were woken up?

ALEXUS WALKER - REDIRECT

1 A Yes, ma'am.

2 Q Then you went to go get your bat?

3 A Yes.

4 Q And then the next thing you know your mom is on the  
5 floor with the defendant standing over her?

6 A Correct.

7 Q And you saw that.

8 A Yes, I did.

9 Q Were you scared?

10 A Absolutely.

11 MS. BOZARTH: No further questions.

12 THE COURT: You may step down.

13 MS. BOZARTH: Next the State calls Katrina Walker.

14 The witness, KATRINA WALKER, was first duly sworn and  
15 Testified as follows:

16 DIRECT EXAMINATION

17 BY MS. BOZARTH

18 Q Katrina, could you please state your name for the  
19 record?

20 A Katrina Walker.

21 Q And how old are you?

22 A Forty-four.

23 Q And where do you work?

24 A Right now I'm employed with FedEx.

25 Q And do you live in the Spartanburg area?

KATRINA WALKER - DIRECT

1 A Yes, I do.

2 Q And where did you live on October 25th of 2017?

3 A [REDACTED] Gentry Street, where I still live today.

4 Q Who did you live with?

5 A Both of my daughters and their three children.

6 Q And do you know this defendant?

7 A No, I do not.

8 Q So back on the day of this incident, back on the  
9 25th of 2017, what did you do that day?

10 A I really just remember going to Lexi's friend's  
11 birthday party at a bowling alley. When we left the bowling  
12 alley I called Sharaia and asked her if she wanted me to get  
13 her and the kids some McDonald's on the way home, and we  
14 stopped at McDonald's, we went home. I had a migraine so  
15 when we got there I probably went to bed maybe within a half  
16 hour, but I think it was a little bit later that 5:00 but I  
17 could be wrong.

18 Q So were you going to sleep or were you just laying  
19 down?

20 A I had a migraine, I was going to sleep.

21 Q Okay. And when you got home, around what time did you  
22 get home again?

23 A I thought it was maybe around like -- I thought it was  
24 maybe around like eight, between eight and nine, I could  
25 being wrong, though. I think it was a little bit later in

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1 the evening.

2 Q And do you know who else was in your home at that time?

3 A Everybody was home. Once me and Lexi got home Sharaia  
4 and her kids were there, we brought them food from  
5 McDonald's, and Alexis and **minor** got home when I did.

6 Q And when you went to bed, did you wake up during the  
7 middle of the night at anytime?

8 A Not prior to this, no.

9 Q So when did you wake up?

10 A When I heard Sharaia screaming.

11 Q What was she screaming, do you know?

12 A I don't know. It was just enough for me to -- it just  
13 kind of jolted me out of bed, I was sleeping so I just heard  
14 something, a mother, and I went running. And when I got to  
15 the very beginning of my hallway by Alexis' door we met  
16 simultaneously, and at the end of the hallway he was  
17 standing at the end of my hallway.

18 Q And what did you see? What was this defendant wearing?

19 A Samuel was wearing a hoodie and a mask over his face.

20 Q Do you remember what color it was?

21 A Gray.

22 Q And at that point what did you do?

23 A I'm not too sure. I had to ask the girls, I'm like,  
24 "Did I charge at him or did he charge at me?" Because all I  
25 remember is just like looking up at the ceiling, so that was

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1 just kind of a gray area because I'm not too sure exactly  
2 how I responded because I really wasn't awake, but I had an  
3 intruder in my house as well. But really before I knew it  
4 like I seen him standing in the bathroom in front of the  
5 bathroom door, and the next thing I know I'm looking up at  
6 the ceilings, so I'm really just trying to get my bearings  
7 like, you know, what happened, what am I looking at. And so  
8 as I'm down he straddles me and he points. And I remember,  
9 you know, because like I said, we had just woke up and then  
10 we see him, so everything is just kind of chaotic. And  
11 pointed his hand, and at first I'm like, "Oh my gosh, is he  
12 holding a gun," you know, I just wasn't too sure. And he  
13 straddles over me and he's asking me, he says, "Where is  
14 money? Where the money?" And so I'm just trying to calm it  
15 down, I said, "Relax, let me go get my purse." And on that  
16 instant is when we heard the gun cock. So he looked at me,  
17 his eyes got big, and I looked at him and my eyes got big  
18 because I didn't know -- he looked at like oh, you have a  
19 gun, and I looked at him like oh my gosh, do you have a gun?  
20 But then there's Ms. Shay back there and she told him to get  
21 the hell out of our house. That's when he took off and I  
22 told her shoot him, and she did.

23 Q And did you sustain any injuries from this incident?

24 A I did. I had bruises all down my left arm.

25 Q Okay.

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1 MR. NEELY: May we approach?

2 (A bench conference was held.)

3 Q Did anyone take any pictures of your injuries?

4 A Yes. We came down here to city hall I believe it was  
5 the morning of -- well, I mean it wasn't the day after  
6 because it was midnight around the time it happened so it  
7 was that morning.

8 MS. BOZARTH: Permission to approach.

9 Q And did you take your own pictures of your injuries  
10 later?

11 A I did.

12 Q And when was that?

13 A Probably, maybe the day after we came to city hall.

14 MS. BOZARTH: Permission to approach the witness.

15 Q I'm showing you what's been marked as State's Exhibits  
16 38, 39 and 40. Can you tell me, do you recognize these?

17 A Yes, I do, that's me. I believe this was the one taken  
18 at city hall.

19 THE COURT: Just look at them yourself and identify  
20 them if you can.

21 THE WITNESS: Yes, sir.

22 A This is the one I took personally on my cell phone, and  
23 that one personally with my cell phone.

24 Q And are these fair and accurate depictions of the  
25 condition of your arm the day that you went to city hall?



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1 A I believe I took these like the day after city hall.

2 Q Right. So this is the city hall? Exhibit 38 is city  
3 hall?

4 A Yes.

5 Q That's a fair and accurate depiction?

6 A Yes.

7 Q And Exhibits 38 and 39, those are -- 38 and 40, sorry,  
8 are fair and accurate depictions?

9 A Yes, definitely.

10 MS. BOZARTH: Your Honor, the State would move State's  
11 Exhibits 38, 39 and 40 into evidence.

12 MR. NEELY: No objection.

13 THE COURT: They are admitted.

14 MS. BOZARTH: Permission to publish to the jury?

15 THE COURT: You may.

16 (The photos were received as State's 38-40.)

17 Q And could you describe what this is?

18 A Those are bruises from after he knocked me down on my  
19 left arm.

20 Q When were those taken?

21 A This one in particular was taken at city hall the  
22 morning of, since it happened at midnight, so that  
23 morning --

24 THE COURT: Try to use the microphone, please.

25 A The morning of the incident, so I guess you could say

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1 the 26th.

2 Q And do you know who took those pictures?

3 A I don't know the name in particular, but that's  
4 definitely at city hall.

5 Q Okay. And did you have these bruises before the  
6 incident?

7 A Absolutely not.

8 Q And how do you know that these are from the incident?

9 A Because he gave them to me from knocking me over.

10 Q Now, I'm showing you State's Exhibit 39. What is that?

11 A Bruises on my left arm.

12 Q And was -- when did you take these pictures?

13 A This was the day after we went to city hall. I just  
14 wanted to document them, because I felt when we went to city  
15 hall that they hadn't come into fruition I guess you could  
16 say and so I just wanted to make sure it was documented, the  
17 bruises.

18 Q And I'm showing you State's 40. Can you tell us what  
19 this is?

20 A Those are the bruises on my left arm, I took those at  
21 my home.

22 Q And when did you take those?

23 A The day after city hall in my home.

24 Q Okay.

25 A So maybe the 26th or 27th.

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1 Q Okay. Other than hearing the defendant say "Where's  
2 the money at," did you hear the defendant say anything else?

3 A No.

4 Q Anything about, "I'm in the wrong house, where am I?"

5 A Absolutely not.

6 MS. BOZARTH: Okay. Thank you. Please answer any  
7 questions Mr. Neely has.

8 CROSS EXAMINATION

9 BY MR. NEELY

10 Q Ms. Walker, this is your house, correct?

11 A Correct.

12 Q [REDACTED] Gentry Street?

13 A Correct.

14 Q And that's in --

15 A Spartanburg.

16 Q In Spartanburg in the Beaumont Mill Village.

17 A It is.

18 Q That recently got a name change, the historic Beaumont  
19 Mill Village.

20 A I guess so.

21 Q You're probably familiar that in 2010 the Beaumont Mill  
22 Villae was named a local historic district.

23 A I wasn't living there at that time but I have seen the  
24 historic name put there.

25 Q Okay. And that's part of the charm of the

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1 neighborhood, right?

2 A Maybe so.

3 Q It's one of South Carolina's most historic mill  
4 villages.

5 A Oh, is it? I didn't know that.

6 Q Because all of the houses that were built for the mill  
7 way back in the day are still intact.

8 A Yes, they are.

9 Q They look pretty much just the same that they did when  
10 the mill village was built.

11 A Oh, okay, I didn't know that.

12 Q And your house, you haven't made very many improvements  
13 to the outside, correct?

14 A If she has it was prior to when I got there. I rent so  
15 no, I did not.

16 Q I've heard you say this a couple of times, both in the  
17 interviews that you gave to 26th and today --

18 A Uh-huh.

19 Q -- your mama bear instincts took over.

20 A Absolutely.

21 Q You've got two daughters.

22 A Yes, I do.

23 Q They've each got children.

24 A Yes, they do.

25 Q Just about three weeks prior to October 26th Shay had

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- 1     just moved back.
- 2     A     Yes.
- 3     Q     And she brought her nine year old, your granddaughter.
- 4     A     Yes, **minor**.
- 5     Q     And six year old grandson.
- 6     A     **minor**.
- 7     Q     And Alexis was already in the house with **minor**.
- 8     A     With **minor**, yes, sir.
- 9     Q     So you wake up in the middle of the night.
- 10    A     I'm awoken just to be clear.
- 11    Q     You're awakened.
- 12    A     Uh-huh.
- 13    Q     But in the middle of the night when you had gone to bed
- 14    your TV was on.
- 15    A     Always.
- 16    Q     Light was on.
- 17    A     Yes.
- 18    Q     Living room TV was on.
- 19    A     Yes.
- 20    Q     Light was on.
- 21    A     Yes.
- 22    Q     Alexis had her TV on.
- 23    A     I'm sure.
- 24    Q     Shay had her TV on.
- 25    A     I'm sure.

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1 Q Everybody has got something on TV that they're falling  
2 asleep to.

3 A Well, except for Sharaia, yes.

4 Q Volume is up on the TV so you can hear.

5 A Well, I mean, normal. It's not like it was blaring, it  
6 was nighttime. Yeah, enough to hear, sure.

7 Q Well, we have four TV's on in the house.

8 A Yes.

9 Q And as we just talked about, this is that historic mill  
10 village.

11 A Okay.

12 Q So it has got the problems or charm, however you want  
13 to say, of old houses. Floors creak?

14 A No, they don't.

15 Q Floors don't creak.

16 A No, they don't, not in my house. Maybe somebody else's  
17 house, but no, not -- I've really -- I don't know if she  
18 replaced the wood floors in there but they're beautiful and  
19 they do not squeak.

20 Q Okay. And the doors, do they creak?

21 A Maybe. Yeah, the front door does a little bit. No,  
22 not so much, I can't say, no. I think she's kept up the  
23 house pretty well. And I also WD40 doors too when they  
24 start to squeak.

25 Q This probably is one of the more traumatic things that

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1 has ever happened in your life.

2 A That's a safe statement.

3 Q And there's no doubt in my mind when this happened the  
4 fear that you were feeling was very real.

5 A You understand that.

6 Q Not personally --

7 A Okay.

8 Q -- it has never happened to me, I can only imagine.

9 A Uh-huh.

10 Q We heard the 911 tape.

11 A Yes.

12 Q That's you in the background.

13 A Sure is.

14 Q When you hear Shay screaming.

15 A That was me screaming.

16 Q When you awoken and you hear Shay screaming at somebody  
17 you come out and there's just a man.

18 A It was a man in a mask, yes.

19 Q A man in a mask.

20 A Uh-huh, that doesn't belong there.

21 Q Doesn't belong there.

22 A Right.

23 Q So you come out of your bedroom.

24 A Yes, run.

25 Q And yours is the first one to the left.

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- 1 A When you first walk into my house --
- 2 Q When you come in your front door.
- 3 A Yes. My bedroom is the first to the left.
- 4 Q Okay. You run out to get to where Shay is.
- 5 A I run out to see what's going on. I did not know what
- 6 was going on until I got out there.
- 7 Q You run down the hallway.
- 8 A I run to the beginning of the hallway, sure.
- 9 Q Where Alexis bedroom is.
- 10 A Yes.
- 11 Q Kind of right where that table is.
- 12 A After the table. This is just a wall separating --
- 13 Q And -- excuse me, I'm sorry.
- 14 A This is a wall separating -- this is my bedroom right
- 15 here, this is the wall separating me and Alexis and this is
- 16 her bedroom right here to the left of this doorway exactly
- 17 right here.
- 18 Q And that's where you meet Alexis.
- 19 A Yes.
- 20 Q Okay. And the two of you are kind of standing in the
- 21 hallway.
- 22 A Well, by the time I got to her door is when she opened
- 23 her door and that's when I just kind of froze, because I see
- 24 Samuel there with a ski mask in my house.
- 25 Q Okay. And as you told us, you don't know if you went



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1 charging at him or if he came charging at you.

2 A I don't know.

3 Q Okay. Now, after all of this happened --

4 A After all -- after he knocked me down or after what?

5 Q After law enforcement arrives --

6 A Okay.

7 Q -- they spend some time with you and your family.

8 A They do.

9 Q And clearly you're hysterical on the 911 tape.

10 A Absolutely.

11 Q Absolutely. So law enforcement, they take their time  
12 with you and they calm you down as best they can.

13 A Yeah. I mean, I wasn't looking for anybody to calm me  
14 down, it happened when it was supposed to.

15 Q But eventually they were able to get you to write a  
16 statement that night.

17 A Uh-huh.

18 Q And when they gave you that statement they told you  
19 these statements are very important, correct?

20 A Yeah.

21 Q Because these statements are going help them find the  
22 person that was in your house.

23 A Well, I mean in fairness he's bleeding out in the  
24 neighbor's yard, so --

25 Q But this is going to help them solve the crime, right,

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1 these statements?

2 A I guess so, but I mean, he was right there.

3 Q But when they give you statements they want you to be  
4 accurate. They don't want you to make things up.

5 A Well, no, I'm sure they don't.

6 Q They want you to give as much detail as possible.

7 A As you can for the situation. It was hectic and  
8 chaotic.

9 Q Sure. So at 1:30 or 2:00 in the morning, the morning  
10 of the 26th, you gave a statement, right?

11 A If that's what it says.

12 Q Sure. Take a look at it.

13 A I'm aware of what it says.

14 Q Okay. That says at 1:32 in morning this statement was  
15 completed, correct?

16 A Okay.

17 Q And that's got your name it.

18 A Yes, it does.

19 Q That has got your signature on it.

20 A Uh-huh.

21 Q That's got your handwriting on it.

22 A Uh-huh.

23 Q That's your recollection of events from that night.

24 A This is my paper.

25 Q Okay. And in that paper where does it say that this

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1 man asked you for money?

2 A It doesn't. We were just focused on him getting shot.

3 Q Sure. But in that paper that you wrote for law  
4 enforcement it doesn't say anything about him asking you for  
5 money.

6 A No, it doesn't.

7 Q In that paper you say you're not sure if he pushed you  
8 or if you fell.

9 A Well, I mean, I'm not going to just be standing upright  
10 and then all the sudden fall. What I said was I don't know  
11 if I charged him or if he charged me.

12 Q This is your handwriting.

13 A It is.

14 Q This is your signature.

15 A Again.

16 Q Okay. "Not sure if I fell or if he pushed me but I  
17 fell."

18 A Well --

19 Q That's what that says, correct?

20 A It does in the heat of the moment, but I didn't just go  
21 from upright to falling on my own, it makes no sense. But  
22 it makes sense for a man that is not supposed to be in my  
23 house to try to push past me to get out. I didn't just get  
24 to the ground and decide to fall if that's what you're  
25 trying to imply.

KATRINA WALKER - REDIRECT

1 Q Again this is written --

2 A I'm just saying, I understand what the paper says. But  
3 if you're implying that I went from a standing position to  
4 falling, no, that's not correct.

5 Q This is your statement, correct?

6 A But I did not just fall, I was pushed.

7 MR. NEELY: Okay. Thank you. Nothing further.

8 REDIRECT EXAMINATION

9 BY MS. BOZARTH

10 Q Katrina, could you please describe your neighborhood  
11 and describe the area?

12 A It's quiet. We're on a cul-de-sac. I live across the  
13 street from a church. Up until that point like I guess our  
14 side of the street is the pretty full. There's maybe four  
15 or five houses on my side. There's a vet home next to the  
16 church, and then there is another house on the corner.

17 Q Can you see Isom Street from your front yard?

18 A Yes.

19 Q Are you kind of on a corner or are you --

20 A Yes. I'm on the corner at the beginning of the block.  
21 Like if this was the block my house is third from this  
22 corner, and then looking down the street you see Isom  
23 Street.

24 Q Okay. And Mr. Neely informed us that you're in a  
25 historic area, historic home, historic noises perhaps and

KATRINA WALKER - REDIRECT

1   there was a bunch of noise going on in your house. Did you  
2   hear the defendant come in your house?

3   A    No, I didn't. And I would like to say there was not a  
4   whole bunch of noise. People were laying down sleeping so  
5   it wasn't like a typical 4:00 in the afternoon maybe type of  
6   noise, I don't know what he's implying. But yes, the TV is  
7   on but they weren't blaring or anything.

8   Q    So do you know how long the defendant had been inside  
9   your house?

10   A    I don't know how long. But we do have a long house and  
11   just to see that he was able to get from our front door to  
12   the very back of the house, he could have been anywhere. I  
13   mean, you know, my daughter -- my granddaughter was sleeping  
14   on the couch, I don't know if he looked at her, if he  
15   touched this baby while she was sleeping. He could have  
16   came and looking at me in my bed while I was sleeping. I  
17   mean, you know, we didn't know this man was in our house  
18   until he got to and opened Sharaia's bedroom door.

19   Q    And when you issued your statement to police had they  
20   already found the defendant when you issued your statement?  
21   Do you remember?

22   A    I don't remember, I don't remember if they had found  
23   him. To me -- even though I know it was chaotic, to me it  
24   seems like it took forever for them to find him, because I  
25   was looking at it like oh my God -- because when we came

KATRINA WALKER - REDIRECT

1 outside after he got shot he was gone, so I'm flipping out  
2 because I'm like he's going come back and get us, you know.  
3 So to me, just to me, I'm not saying that that's accurate,  
4 but to me it seems like it took forever for them to find  
5 him, so I'm not -- I can't recall for sure to say that I had  
6 made the statement before or after they had found him.

7 Q But when you're issuing your statement, do you remember  
8 what was most important to you at that time?

9 A Well, I know we were just kind of like focusing on my  
10 daughter shooting somebody, that was huge.

11 Q And in regards to your injuries, would you have  
12 suffered those injuries if the defendant had not broken into  
13 your home that night?

14 A Absolutely not, and I wouldn't have fallen either.

15 MS. BOZARTH: Thank you. No further questions.

16 THE COURT: You may step down.

17 MR. SMITH: Your Honor, can we approach?

18 THE COURT: Sure.

19 (A bench conference was held.)

20 THE COURT: We're going to break for lunch. Keep in  
21 mind my caution, no discussion, no research, no  
22 investigation, no media exposure. Please report to your  
23 jury room this afternoon at 2:15, 2:15 this afternoon.  
24 Have a good lunch.

25 (The jury left the courtroom.)

KATRINA WALKER - REDIRECT

1 THE COURT: Court is in recess until 2:15.

2 (A lunch break was taken.)

3 THE COURT: Any matters to address before the jury is  
4 brought in?

5 MR. SMITH: Your Honor, I just have one kind of  
6 housekeeping issue. There seems to be a discussion in the  
7 case about when statements were made, I think generally it  
8 wouldn't be proper to play the witnesses interview but in  
9 this case I think the door has somewhat been opened that he  
10 is challenging it seems that it was later fabricated that  
11 there was a request for money or something like that. I  
12 didn't know what Your Honor's position would be to calling  
13 the people and attempting to put in their interviews where  
14 they do mention the cash or to put in their oral statements  
15 that were given before the written statements of the  
16 victims.

17 THE COURT: Well, where was that? Where is that  
18 statement?

19 MR. SMITH: There is recorded interviews from city  
20 hall that are done.

21 THE COURT: Recorded interviews prior to the written  
22 statements being taken?

23 MR. SMITH: Yes, Your Honor.

24 THE COURT: Where they did say that he said where's  
25 the money?

KATRINA WALKER - REDIRECT

1 MR. SMITH: Yes, Your Honor.

2 THE COURT: Okay. Yeah, sure. I mean, that's  
3 certainly responsive to the claim of failure to state it  
4 until today. You've had those?

5 MR. NEELY: Judge, I've had them.

6 THE COURT: You have not?

7 MR. NEELY: No. I have had it and I've reviewed them  
8 and I understand what Mr. Smith is saying, however two  
9 things. Number one, his point in putting them in is to  
10 show that this is not a recent fabrication, but the Court  
11 allowed in the 911 tape where the first thing that she said  
12 is where is the money, so that statement is already out  
13 before the jury as being said immediately after. And then  
14 there's not a prior inconsistent statement, it's just a --  
15 when she was on the stand for cross examination I went over  
16 her written statements that she reviewed and nowhere in  
17 those statements was that comment made. But she was  
18 redirected and at no point in time did the State ever  
19 attempt to ask her did she say it, so for an investigator  
20 to get on the stand and then show the statements that she  
21 made at a different time I think would be bolstering to  
22 somebody else that has already testified, and improper at  
23 this point as extrinsic evidence as something that has  
24 already been testified to.

25 THE COURT: Well, bolstering, as you know, is all



KATRINA WALKER - REDIRECT

1 right if the purpose of the evidence is to show that  
2 previously a witness has made a consistent statement with  
3 testimony provided in court where the witness has been  
4 challenged by you as to not having told the police that.  
5 In other words, you at length went through the written  
6 statements suggesting that, well, if that was important and  
7 if that had occurred and if he had said it then you would  
8 have told that police that it's not in your statement, and  
9 that's all true. But what I didn't know and apparently  
10 what y'all do know is there were recorded interviews prior  
11 to the written statements being reduced to writing where  
12 the witnesses did tell the police that he made the  
13 statement that where is the money. So, you know, why that  
14 wasn't put in the written statement I don't know, but  
15 obviously it wasn't the fault of the declarant, because if  
16 you have recorded interviews where the witness does, in  
17 fact, tell the police that he made that statement, I don't  
18 know why it wasn't included. Like you, I don't know why it  
19 wasn't in the statement, but it wasn't, but that wasn't the  
20 fault of the witness, that was the fault of the police  
21 apparently. Because what you're telling me is that it's a  
22 recorded interview?

23 MR. SMITH: Yes, Your Honor.

24 THE COURT: And the witness told the police officer,  
25 the investigator, that the defendant, or the person

KATRINA WALKER - REDIRECT

1 entering -- the burglar said where's the money.

2 MR. SMITH: At 38 minutes and 40 seconds into the time  
3 remaining in it Sharaia Walker says that she's on the floor  
4 and he's over her asking for money. Alexis Walker makes a  
5 statement about her mom, as she said on the stand today she  
6 said she did not hear the part about money. In her  
7 interview with the police she said she heard her mom  
8 saying, "If you want money I'll take you to my purse but I  
9 did not hear him asking for money." That's, I believe,  
10 exactly what she testified to on the stand about -- the  
11 comment about taking him to I don't know if she said purse  
12 or taking him to some sort of source of money.

13 THE COURT: Well, what is it that -- I misunderstood,  
14 then. I thought you were wanting to introduce a recording  
15 of the witness making the statement that he did say where  
16 is the money.

17 MR. SMITH: That's what Sharaia Walker, her  
18 interview --

19 THE COURT: All right. So she does say that.

20 MR. SMITH: She says she's on the floor and he's over  
21 her asking for money.

22 THE COURT: Right. So that would corroborate and  
23 bolster her testimony today that's has been challenged by  
24 Mr. Neely because it was not included in the written  
25 statement. But the other two is consistent?

KATRINA WALKER - REDIRECT

1 MR. SMITH: I believe that's exactly what Alexis  
2 testified to, I think she said that --

3 THE COURT: Well, so you don't need to introduce that  
4 then, do you?

5 MR. SMITH: No.

6 THE COURT: All right.

7 MR. SMITH: And Ms. Katrina Walker, she actually --  
8 her second written statement she does mention the money.  
9 Obviously that was not flushed out on redirect but there is  
10 a written statement where she actually does --

11 THE COURT: Well, if that's the case then that's just  
12 a failure to ask the question so we're not going to bolster  
13 that, I mean, that could have been asked. The actual  
14 recording I think is relevant and it's important in the  
15 context that her recollection has been challenged by the  
16 defense as to whether or not the burglar made that  
17 statement, and it's not in her statement but she apparently  
18 did tell the police so that's perfectly allowable as I see  
19 it. But y'all can stipulate to that fact if you want to  
20 unless you just want to put it in.

21 MR. SMITH: I just want the confusion cleared up.

22 THE COURT: Well, what I'm saying is y'all can  
23 stipulate to the fact that there is a recorded interview  
24 wherein Sharaia Walker did tell the investigator taking her  
25 statement that the burglar did say where is the money.

KATRINA WALKER - REDIRECT

1 MR. NEELY: That will be fine with me, Your Honor.

2 THE COURT: I'll leave that up to y'all.

3 MR. SMITH: I mean, I'm fine with the stipulation. I  
4 mean, the story is the same. I do believe playing the  
5 entire interview would be very repetitive, one specific  
6 line is all we're looking for.

7 THE COURT: Well, there's no purpose in playing the  
8 whole interview. But if y'all would like to y'all can  
9 stipulate as a fact that there was a recorded interview of  
10 Sharaia Walker's statement, and that in that interview,  
11 which was recorded, she did tell the investigator that the  
12 burglar stated where is the money. Is that -- you've  
13 listened to it, what does it say?

14 MR. NEELY: It says exactly what Spenser said.

15 THE COURT: Okay.

16 MR. NEELY: I am fine stipulating to that.

17 THE COURT: Do you want to write it down so y'all can  
18 agree to what the stipulation is?

19 MR. NEELY: Are you stipulating to that?

20 MR. SMITH: Yeah, I'm fine.

21 MR. NEELY: You've got the lineup, don't you?

22 MR. SMITH: Yes. Of course, this is my notes. What  
23 he's saying is that's fine -- that Sharaia Walker gave an  
24 interview, it's the second interview she gave the police at  
25 city hall where she did include the burglar.

KATRINA WALKER - REDIRECT

1 THE COURT: Well, do y'all need to play it so you'll  
2 be sure?

3 MR. SMITH: Yeah, I can pop it in, I think it's on  
4 this one.

5 MR. NEELY: While he is loading that, Your Honor, I  
6 would ask the Court to take judicial notice of the weather  
7 on that night, on October the 26th, that according to the  
8 National Weather Service the high that day was 45 degrees  
9 and the low was 37 degrees, so I would ask the Court to  
10 take judicial notice of that fact.

11 THE COURT: And why would I take judicial notice of  
12 that fact?

13 MR. NEELY: Because it is indeed a fact --

14 THE COURT: No, what's the relevance of it?

15 MR. NEELY: Well, they're making a big deal about a  
16 ski mask.

17 THE COURT: Oh, okay. Well, do you know what the  
18 temperature was at the time that this event is to have  
19 occurred?

20 MR. NEELY: I believe around 37 degrees that night,  
21 Your Honor.

22 THE COURT: All right. Well, you believe it was or  
23 you know it was? What did the National Weather Service  
24 say?

25 MR. NEELY: It said the low that night was 37 degrees.

KATRINA WALKER - REDIRECT

1 THE COURT: Well, the low is usually about 5:00 in the  
2 morning.

3 MR. NEELY: I don't have an exact. The high was 45  
4 and the low was 37, that's what I have, Your Honor, based  
5 on what they're able to provide on the website.

6 THE COURT: I'm sure you can get the hourly temps if  
7 you check it.

8 MR. NEELY: They have a special link for litigation  
9 that you've got to pay and send something off to them.

10 THE COURT: How much does it cost?

11 MR. NEELY: I don't know, I didn't click the link.

12 THE COURT: Well, if y'all can agree to a stipulation  
13 as to that we'll do that one, too.

14 MR. SMITH: I haven't seen anything. I don't know if  
15 he's got a piece of paper or something showing. Do you  
16 have the disc?

17 MR. NEELY: Yeah.

18 (Break in proceedings.)

19 MR. NEELY: "Threw himself on her, where's the money,  
20 where's the money."

21 THE COURT: "He threw himself on her, he was over her  
22 hollering where's the money, give me the money," that's  
23 what she said he said.

24 (Break in proceedings.)

25 THE COURT: Okay. Mr. Smith, are you going to

KATRINA WALKER - REDIRECT

1 announce the stipulation? You're going to have to also  
2 include telling the jury where the -- when the interview  
3 took place and where it took place and who was involved.

4 MR. SMITH: Is the weather request a specific  
5 timeframe? I'm looking at some stuff on the internet. Is  
6 that the midnight frame? I'm seeing 45/37. Is that what  
7 you said?

8 MR. NEELY: That's what I said.

9 THE COURT: Well, ordinarily it's colder at about  
10 5:00 in the morning then it was at midnight, that's  
11 ordinary, so I don't know what it was on October 25th of  
12 2017. It could have been the low was midnight and it got  
13 warmer, but that's usually not the case. That's why if  
14 y'all are going to ask me to take judicial notice of a fact  
15 I've got to see the fact from the report that you're  
16 referencing.

17 MR. SMITH: Your Honor, that interview took place at  
18 city hall on the 26th, it was around 2:00 p.m. And it was  
19 done by Samantha Hayes from the city.

20 THE COURT: Are you going to announce the stipulation?

21 MR. SMITH: I didn't know when the appropriate time to  
22 do it was, but -- I guess you can't do that during charge  
23 or --

24 THE COURT: Oh, no. I mean, this is a fact in  
25 evidence, y'all are introducing evidence. What I'm saying

KATRINA WALKER - REDIRECT

1 is when the jury comes back you can state to the jury that  
2 you and Mr. Neely have agreed as to a stipulation of fact,  
3 and that fact is that on -- well, on October 26th of 2017  
4 around 2:00 p.m. at city hall in response to questioning by  
5 Investigator Hayes the previous witness, Sharaia Walker,  
6 told Ms. Hayes that the burglar threw himself on her,  
7 meaning her mother, and that he was over her and said,  
8 "Where is the money? Give me the money."

9 MR. SMITH: I'll do that.

10 THE COURT: Yeah. Do you want these notes?

11 MR. SMITH: Yes, Your Honor.

12 THE COURT: And then I'll ask Mr. Neely if he agrees  
13 with that stipulation of fact. All right. Anything else?

14 (Break in proceedings.)

15 MR. NEELY: Judge, as far as the stipulation goes, I  
16 objected entirely to it coming in at all. Now, my  
17 understanding is that that objection is being overruled and  
18 that it is coming in whether I agree and let Spenser  
19 announce it or we play the tape, but as far as it coming in  
20 at all -- because I previously objected to that and you  
21 overruled that and admitted the stipulation. I would like  
22 to reserve the objection while just allowing Mr. Smith --

23 THE COURT: Okay. Well, then if you can't stipulate  
24 to the fact then you don't have to, but then he'll have to  
25 play that tape. I mean, he'll have to play the relevant



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1 portion, not the whole thing.

2 MR. NEELY: I think the record preservation is better  
3 just to play the tape.

4 MR. SMITH: Okay. We'll have her over, we've got  
5 witnesses ready to go.

6 THE COURT: All right. Bring the jury in, please,  
7 sir.

8 (The jury returned to the courtroom.)

9 THE COURT: Good afternoon, ladies and gentlemen. As  
10 you know when we recessed the State was in the midst of  
11 their presentation of evidence, so we will continue with  
12 that presentation this afternoon.

13 MR. SMITH: The State calls officer Shanetta Thompson.  
14 The witness, SHANETTA THOMPSON, was first duly sworn  
15 And testified as follows:

16 DIRECT EXAMINATION

17 BY MR. SMITH

18 Q Will you please state your name and rank for the jury?

19 A My name is Shanetta Thompson, a patrol officer at  
20 Spartanburg City Police Department.

21 Q How long have you been a patrol officer?

22 A A little over four and a half years.

23 Q What do you do as a patrol officer generally?

24 A I patrol mainly the north side in the city limits of  
25 Spartanburg, but I can patrol pretty much the jurisdiction

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1 of the City of Spartanburg.

2 Q What is patrolling?

3 A Yes. I respond to all types of calls for service,  
4 whether it's traffic related, misdemeanor, felony calls,  
5 calls to assist animals, people, anything of the nature I  
6 can respond to.

7 Q If anyone calls 911 they're going to send you or  
8 somebody else like you out there?

9 A Yes, sir.

10 Q Did you end up responding to an incident at [REDACTED] Gentry  
11 Street on the late evening of October 25th, early morning  
12 October 26th of 2017?

13 A Yes, sir.

14 Q What was the nature that call?

15 A It stated that a shooting had come out, that a female  
16 had stated that someone invaded her home and she shot a male  
17 and there was a male victim shot somewhere in the vicinity.

18 Q Can you tell when you responded to that call, when you  
19 received the call?

20 A I got dispatched to the call at approximately 12:35 on  
21 October 26th, 2017.

22 Q And you headed straight to Gentry Street?

23 A Yes, sir.

24 Q What did you see upon arrival?

25 A Upon my arrival I immediately spoke with the victims

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1 Ms. Katrina Walker, Sharaia and Alexis Walker, which are  
2 present here in the courtroom today.

3 Q And did they -- I know we've already heard from them,  
4 but did they give you a rundown of what had happened?

5 A Yes, sir.

6 Q What did you begin doing at that point?

7 A Being that I was the one mainly with the victims I  
8 stayed with the victims throughout the duration until the  
9 suspect was found. I mainly talked to Sharaia Walker, who  
10 was the one that was calm at the time, Katrina was still  
11 like a little worked up. I stayed with them, I asked them  
12 what happened, I got the details of the case. I relayed  
13 that information over to the officers that were in route and  
14 that were on scene looking, and EMS as well relaying the  
15 information to them being that they were on scene as well  
16 looking to provide aid.

17 Q So y'all had EMS waiting, I guess, hoping that you  
18 would find the person that was shot?

19 A Yes, sir.

20 Q Did you take pictures of the residence, or the  
21 surrounding areas of [REDACTED] Gentry Street?

22 A Yes, sir. I took pictures inside and outside of the  
23 residence.

24 Q All right. Did you ultimately end up collecting any  
25 evidence in this case?

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1 A Yes, sir.

2 Q All right. I show you State's Exhibit 7 through 20 and  
3 ask if you can identify where these pictures are taken or  
4 what they are generally?

5 A Yes, sir.

6 Q You don't have to tell individually, but if you can  
7 flip through them and ask if you recognize what they are.

8 A Yes. These are the pictures that I took that are of  
9 the residence, [REDACTED] Gentry Street, the blood residue that I  
10 captured on the house. If you look in front of the house  
11 the picture is going to be on the left side of the house, so  
12 that's if you're standing right in front of [REDACTED] Gentry  
13 Street. And the blood residue that's in the grassy area  
14 that's connected between [REDACTED] Gentry Street and [REDACTED] Gentry  
15 Street is going to be that grassy area in between the two  
16 houses. And the fence area, that fence area that's  
17 connected to [REDACTED] Gentry Street, which there also is blood  
18 residue on the fence area. The back yard of 470 Gentry  
19 Street has blood residue in it. Yes.

20 Q All right. So all of those pictures are of the area  
21 between [REDACTED] and [REDACTED] Gentry Street?

22 A Yes, sir.

23 Q Taken the night of this incident?

24 A Yes, sir.

25 MR. SMITH: Your Honor, at this time we would move

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1 State's Exhibits 7 through 20 into evidence with permission  
2 to publish.

3 MR. NEELY: No objection.

4 THE COURT: They are admitted.

5 (The photos were received as State's 7-20.)

6 Q State's Exhibit 7 is a little bit hard to see, I might  
7 have to show it to you. It's better up here. Can you see  
8 that picture?

9 THE COURT: Let me caution the witness, you've got a  
10 microphone there and got your back to it right now, but  
11 when you respond -- you can look at the picture obviously,  
12 but when you respond to it you've got to use that  
13 microphone, otherwise we won't hear you back here.

14 THE WITNESS: Yes, sir.

15 Q Did you tell it is, what you're trying to take the  
16 picture of?

17 A Yes. If you look right here at this spot, it's like a  
18 dark spot, that was believed to be a handprint with blood  
19 residue on it. But I have a closer picture of it, but  
20 that's blood residue in that spot.

21 Q This is State's Exhibit 8, it looks like it was taken  
22 from the left of where you took that from. What is that?  
23 Is that the same spot?

24 A Yes. Right here is blood residue on the ground and  
25 right here is that blood residue, what's again believed to

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1 be a handprint on the side of the house at [REDACTED] Gentry  
2 Street.

3 Q And can you see what that is in the upper right hand  
4 corner?

5 A Right here?

6 Q Upper right hand corner.

7 A Right here?

8 Q Do you know what those are?

9 A I can't see.

10 Q All right.

11 THE COURT: Do you want to hand her the picture? She  
12 might be able to see it from the picture itself.

13 A Oh, the toys?

14 Q Yeah.

15 A Yes.

16 Q All right. State's Exhibit -- what is that?

17 A That is the picture that I took on the side of 476  
18 Gentry Street. That's what is believed to be a handprint  
19 from the suspect bleeding.

20 Q Did you have information, or is there a reason you  
21 went -- I guess if you're running out of the house it is to  
22 your right, if you're facing it it is to the left, did you  
23 have reason to believe that's where the suspect had fled?

24 A When we first got on scene the victim stated that -- I  
25 asked them where the male suspect ran to, they stated that

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1 he left out the front door and he left running towards the  
2 right, which is why a K-9, when they got on scene they  
3 started immediately tracking towards the right. And at some  
4 point during our investigation the K-9 hit on scent and  
5 officers started looking towards the back of [REDACTED] Gentry  
6 Street, which is where they saw the first spot of blood  
7 residue on the side of the house at [REDACTED] Gentry and the blood  
8 trail between the houses, which led them to go behind [REDACTED]  
9 Gentry Street.

10 Q And State's Exhibit 10, can you tell what that is?

11 A Yes. Right here is the blood residue between the  
12 grassy area of [REDACTED] and [REDACTED] Gentry Street.

13 Q State's Exhibit 11. Is this -- can you tell what  
14 perspective this is taken at, which house this is on the  
15 right here?

16 A This is going to be [REDACTED] Gentry Street, and the fence  
17 area right here is [REDACTED] Gentry Street because the blood  
18 residue is right here.

19 Q Do they essentially have like a joint fence between the  
20 two properties?

21 A They do, yes.

22 Q State's Exhibit 12?

23 THE COURT: Don't forget about the microphone.

24 THE WITNESS: Sorry.

25 A Yes, here and here. The blood residue is found on the

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1 top of the fence connecting to [REDACTED] Gentry Street, and the  
2 blood residue that's seen in the grassy area between the two  
3 houses.

4 Q Okay. This is State's Exhibit 13. Can you tell me  
5 what this is?

6 A Yes. If you're looking at the top of the fence it is  
7 believed to be a handprint from the suspect where he jumped  
8 over the fence, hence as to how he got -- believed to be how  
9 he got behind [REDACTED] Gentry Street.

10 Q All right. State's Exhibit 14, do you see any blood in  
11 this one or anything of note?

12 A Yes. Again there is blood residue on the top of the  
13 fence and you see a little blood residue on the grassy area  
14 near that same fence area.

15 Q Fifteen.

16 A That's a closer picture of the blood residue in the  
17 grassy area.

18 Q Sixteen?

19 A That's a closer picture of the blood residue on the  
20 fence.

21 Q And 18?

22 A Another close picture of the blood on the ground.

23 Q And 20 is just more blood; is that right?

24 A Yes, sir.

25 Q Okay. In your experience is this a pretty significant



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1 amount of blood?

2 A Yes, sir. Which is why we were grateful and assured  
3 that EMS knew to follow us to the trail of the blood.

4 Q All right. So did you remain at [REDACTED] Gentry Street  
5 around the area the entire time until the suspect was found?

6 A Upon my arrival on the scene I stayed with the victims  
7 at [REDACTED] Gentry Street until I heard over the radio that  
8 contact was made with suspect. Due to officers trying to  
9 get their way over the fence at [REDACTED] Gentry Street, because  
10 it was a locked fence we had to make sure that EMS was able  
11 to get over inside as well. We made contact with the  
12 residence owner of [REDACTED] Gentry Street so I walked in -- I  
13 left [REDACTED] Gentry Street and I made contact with the owner of  
14 [REDACTED] Gentry Street, walked in with him, walked through his  
15 house to get to his back yard, which is when EMS and the  
16 officers were already working on the suspect at the time.

17 Q Okay. So you were either at [REDACTED] or [REDACTED] until he was  
18 found?

19 A Yes, sir. I went there to take pictures and I came  
20 back.

21 Q Did you hear any shouts for help or anything like that  
22 the entire time you were there?

23 A I did not.

24 Q It took, what you said earlier, a K-9 track in order to  
25 find the suspect?

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1 A Yes, sir. Because we was going off the victims stating  
2 that he ran to the right of the house outside and officers  
3 immediately started tracking out front and immediately to  
4 the right.

5 Q Did you look around the scene at [REDACTED] Gentry Street and  
6 take pictures in there as well?

7 A Yes, sir.

8 Q What were you taking pictures of inside the house?

9 A Inside the house is any evidence. The victim stated  
10 she shot off some gunshots, so I did locate several  
11 rounds -- several shell casings and a round where she said  
12 she shot off nine millimeter. Outside the house was small  
13 trails of blood, I took pictures of that. There was a shoe,  
14 a right shoe, a black in color right shoe that I took  
15 pictures of and I did recover that shoe.

16 Q Okay. I'm going to show you State's Exhibits 21  
17 through 27 and ask if you can identify what these are.

18 A Yes, sir. Yes. These are the pictures of the shell  
19 casings that I took and the round. This first picture is  
20 the first shell casing that I took is outside the front door  
21 but on the porch of the house, the second one was inside a  
22 vent that's inside the house near the mother's bedroom.  
23 That's the one round that I took pictures of and recovered,  
24 and I did recover all of these shell casings and the one  
25 round. A shell casing was found on the carpet inside the

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1 home, another shell casing in the closer shot of that last  
2 shell casing.

3 Q All right. Do those fairly and accurately represent  
4 what it looked like the night you collected those items?

5 A Yes, sir. I took pictures of them before I collected  
6 them.

7 MR. SMITH: Your Honor, at this time we would move  
8 State's Exhibits 21 through 27 into evidence.

9 THE COURT: They are admitted.

10 MR. SMITH: With permission to publish to the jury.

11 THE COURT: You may.

12 (The photos were received as State's Exhibits 21-27.)

13 Q Do you collect evidence as a part of your job in  
14 uniform patrol?

15 A Yes, sir.

16 Q Do you generally try to photograph the collection of  
17 evidence?

18 A Yes, sir.

19 Q Do you take a picture of it in the location it was  
20 prior to you collecting it, is that the general idea?

21 A Yes, sir. Assuming that it is tactically safe to do  
22 so, yes, sir.

23 Q Okay. State's Exhibit 21, what's that?

24 A Right here, that is a shell casing that was located  
25 outside of the house but on the porch right in front of the

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1 front door.

2 Q So that's like the doormat and the inside of the house?

3 A Yes, sir.

4 Q State's Exhibit 22?

5 A That's a secondary shell casing that I recovered. I  
6 mean, if you're looking at the house it is at a vent area on  
7 the left, inside the house at the mother's bedroom.

8 Q State's Exhibit 23. I might have to show you another  
9 one for context, but can you tell where that was taken from?

10 A That one I believe was in the living room on the floor,  
11 that's the one round that was not shot off.

12 Q Let me show you State's Exhibit 4.

13 A Yes. That's going to be a chair that was located in  
14 the hallway inside the home, and that's that one round there  
15 that was located next to it.

16 Q Okay. So that round in State's 23 you think is near  
17 this table in State's Exhibit 4, I would call it the hallway  
18 table?

19 A Yes, sir.

20 Q All right. This one is hard. Might have to -- State's  
21 Exhibit 24, can you tell --

22 A It's right -- this is the shell casing that's right by  
23 the door, just not certain if it's Ms. Katrina's door or Ms.  
24 Alexis' door.

25 Q I think I can clear that up too.

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1 A Okay. That's a closer shot of the shell casing before  
2 I retrieved it.

3 Q Let me get the -- this is State's Exhibit 5. Can you  
4 see what the carpet looks like on that room right there?  
5 That's the same --

6 A Yes, sir.

7 Q -- is that the room that you recovered that bullet  
8 from, or that shell casing from? This room in State's  
9 Exhibit 5, the first one?

10 A I believe so. I'm not exactly sure which room it came  
11 out of.

12 Q But that's in close proximity to where you found the  
13 other one.

14 A Yes. They all were in close proximity to include the  
15 one on the front porch, yes.

16 Q Did it appear to you that there was maybe two different  
17 bursts of two or something like that maybe that had been --

18 A No, sir. They all had the same shell casing and --

19 Q I mean that there was like one location where two shots  
20 were made and then another location where two more shots  
21 were made. There's distance between these, right?

22 A Yes, sir.

23 Q They're not all four shell casings found in the same  
24 spot.

25 A No, sir.

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1 Q So the shooter could have been moving.

2 A Sir?

3 Q Could the shooter have been moving?

4 A Yes.

5 Q State's Exhibit 26. Can you identify what that is?

6 State's Exhibit 27 is a close-up of it.

7 A That's believed to be within the hallway, one of the  
8 doors within the hallway and that's just a closer shot of  
9 the shell casings.

10 Q And you collected all of these and put them into  
11 evidence?

12 A Yes. I collected all the shell casings and the one  
13 round and placed them in evidence.

14 Q I show you State's Exhibit 42 and ask if you can  
15 identify what that is?

16 A Yes, sir. That's the evidence entry I made with the  
17 shell casings stating that it's four shell casings and one  
18 bullet.

19 Q How do you know what this is?

20 A I added that evidence.

21 Q Is there notations on the outside of it that say --

22 A Yes. I noted that it was a shooting, it was four shell  
23 casings and one bullet.

24 Q Does it say where it was collected from on there?

25 A [REDACTED] Gentry Street, I notated it as a hallway inside the

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1 house.

2 MR. SMITH: Your Honor, at this time we'd move State's  
3 Exhibit 42 into evidence.

4 MR. NEELY: No objection.

5 THE COURT: It's admitted.

6 (The shell casing was received as State's 42.)

7 Q Now, earlier you had mentioned finding a shoe. Will  
8 you want to go back and explain what happened with that?

9 A Yes, sir. During my investigation on scene at [REDACTED]  
10 Gentry Street as I was taking pictures of the outside I saw  
11 there was a black in color shoe, one of the victims stated  
12 that it's the male's shoe so I recovered it. I wasn't  
13 exactly sure at the time, but later on through the  
14 investigation it was found that it was a matching shoe that  
15 was located near the suspect.

16 Q And you did the same thing, photograph this one as  
17 well?

18 A Yes. When I located the second shoe, which is the left  
19 shoe, I took photographs of that shoe and then it was  
20 recovered for evidence.

21 Q I show you State's Exhibit 28 through 30 and ask if you  
22 can identify what that is, what those are?

23 A Yes. This is the front yard of [REDACTED] Gentry Street.  
24 This is the right shoe -- the black in color right shoe that  
25 I found in front of the yard of [REDACTED] Gentry Street.

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1 MR. SMITH: Your Honor, at this time we would move  
2 State's Exhibits 28 through 30 into evidence.

3 MR. NEELY: No objection.

4 THE COURT: Admitted.

5 MR. SMITH: With permission to publish.

6 THE COURT: You may.

7 (The photos were received as State's 28-30.)

8 Q This is State's Exhibit 28, what is that and where was  
9 it taken?

10 A That's going to be the right shoe that I located in the  
11 front yard of [REDACTED] Gentry Street.

12 Q And 29?

13 A That's going to be a closer picture of the right shoe  
14 that I located in the front yard of [REDACTED] Gentry Street.

15 Q And 30?

16 A That's just a closer picture.

17 Q It's a right foot shoe?

18 A Yes, sir.

19 Q Okay. Saw a picture before you were here. State's  
20 Exhibit 2, I think it's a picture you took but it shows the  
21 same area as 28 but the shoe is gone, give you some context.  
22 Do you know if forensics or anyone came by and took pictures  
23 of the house later after you retrieved evidence?

24 A Later after I did, yes, sir.

25 Q And when you found out -- you said that when you found



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1 out that the person had been found in the back of [REDACTED] you  
2 made your way over there and started taking pictures; is  
3 that right?

4 A Yes, sir.

5 Q Okay. What did you notice when you saw him?

6 A When I went over to the backyard of [REDACTED] Gentry Street I  
7 saw a black male laying down, he appeared to be unresponsive  
8 at the time. I did see the second pair, the left shoe that  
9 I had found earlier laying right next to him, it was off his  
10 foot at that time, and at that time, of course, EMS was  
11 working on him providing aid.

12 Q Okay. And you took pictures of that process as well?

13 A Yes, sir.

14 Q I show you State's -- well, one second. I show you  
15 State's Exhibits 31 through 34.

16 (Break in proceedings.)

17 Q I made a slight redaction to 31, but I'm going to show  
18 you State's Exhibits 31 through 34 and ask if you can tell  
19 me what those are.

20 A Yes. These are pictures of Mr. Jeter who is present in  
21 the courtroom today that I took of him with my city issued  
22 camera. Mr. Jeter was responsive at this time. He has a  
23 ski mask, a black in color ski mask located right up under  
24 his head. I took a picture of the left shoe before  
25 recovering it, and I took a picture of the ski mask before

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1 recovering it, and a closer picture of the left shoe that  
2 had blood residue on it as well.

3 Q And do those fairly and accurately represent what you  
4 saw when you got to the backyard of [REDACTED] Gentry Street?

5 A Yes, sir.

6 MR. SMITH: Your Honor, at this time we'd move State's  
7 Exhibits 31 through 34 into evidence.

8 MR. NEELY: No objection.

9 THE COURT: They're admitted.

10 MR. SMITH: With permission to publish?

11 THE COURT: You may.

12 (The photos were received as State's 31-34.)

13 Q Is that the ski mask you collected underneath his head  
14 there?

15 A Yes, sir.

16 Q Different shot?

17 A Yes, sir.

18 Q And State's Exhibits 31 and 32, State's Exhibit 33, is  
19 that the companion shoe, the one that you had collected in  
20 476 Gentry?

21 A Yes, sir.

22 Q This being a left shoe?

23 A Yes, sir.

24 Q And what about this one?

25 A That's a different angle but the same position of the

SHANETTA THOMPSON - DIRECT

1 shoe before I collected it for evidence.

2 Q What's that above the shoe, do you know what that is?

3 A That is Mr. Jeter laying down on the ground receiving  
4 aid from EMS.

5 (Break in proceedings.)

6 Q I'm going to show you State's Exhibit 43 and ask if you  
7 can identify what that is?

8 A Yes. That's the black ski mask that I recovered that  
9 was located under Mr. Jeter on scene.

10 MR. SMITH: Your Honor, at this time we move State's  
11 Exhibit 43 into evidence.

12 MR. NEELY: No objection.

13 THE COURT: It's admitted.

14 (The photo was received as State's 43.)

15 Q Did you find anything else of evidentiary value on Mr.  
16 Jeter?

17 A Not on his otherwise person. I didn't search Mr.  
18 Jeter, I just located the shoe and the ski mask and other  
19 items was located by officers.

20 Q What about any items out of his clothing?

21 A Yes. Some pepper spray was located, his clothing, of  
22 course, was cut and recovered for evidence.

23 Q So you collected all of his clothing. I know we just  
24 put in this, but you collected more than just the ski mask?

25 A Yeah. I collected all of his clothing.

SHANETTA THOMPSON - DIRECT

1 Q I show you State's Exhibit 44. Can you tell us what  
2 that is?

3 A Yes. That's the pepper spray that was recovered from  
4 his pants, Mr. Jeter's pants.

5 MR. SMITH: Your Honor, at this time we move State's  
6 Exhibit 44 into evidence.

7 MR. NEELY: No objection.

8 THE COURT: It's admitted.

9 MR. SMITH: Permission publish to the jury, Your  
10 Honor?

11 (The pepper spray was received as State's 44.)

12 Q Were you able to communicate with Mr. Jeter in any way?

13 A No, sir. Mainly EMS was working on Mr. Jeter.

14 Q Did you get a name for him?

15 A When officers near EMS asked him for a name he gave the  
16 name Calvin Jeter.

17 Q At that time did you know if that was correct or you  
18 just kind of took him at his word?

19 A Right. We did not find an ID on Mr. Jeter to confirm  
20 his identity at the time.

21 Q The name was Calvin Jeter?

22 A That's the name Mr. Jeter gave us, Calvin Jeter.

23 Q I show you State's Exhibits 35 through 37 and ask if  
24 you can identify what those are?

25 A Yes, sir. These are Mr. Jeter's pants, ski mask and

SHANETTA THOMPSON - DIRECT

1 both of his left and right shoe that I recovered. His pants  
2 were cut, to include his shirt, by EMS to provide proper  
3 aid.

4 MR. SMITH: Your Honor, at this time we would move  
5 State's Exhibits 35 through 37 into evidence.

6 MR. NEELY: No objection, Your Honor.

7 THE COURT: Admitted.

8 MR. SMITH: With permission to publish to the jury.

9 THE COURT: You may.

10 (The photos were received as State's 35-37.)

11 Q What's that?

12 A That is a picture of Mr. Jeter's pants, the ski mask  
13 and the two shoes I recovered.

14 Q State's Exhibit 35, State's Exhibit 36?

15 A That's just a picture of the ski mask.

16 Q Thirty-seven?

17 A That's Mr. Jeter's shirt that was cut, his boxers and  
18 two socks -- his two pairs -- or a pair of socks.

19 Q It's difficult to see on that, I didn't point it out.  
20 What type of coat is Mr. Jeter' wearing in State's  
21 Exhibit 32?

22 A He was wearing a gray in color hoodie.

23 Q Hoodie. Do you know how long it was before they found  
24 Mr. Jeter after you got there?

25 A Within an hour of us searching.

SHANETTA THOMPSON - DIRECT

1 Q Not immediate?

2 A No, sir, not immediate. We immediately started  
3 tracking to the right -- outside and to the right of the  
4 house down Gentry Street.

5 Q Do you know how many officers were out there?

6 A I don't, not exactly. Approximately five to eight, I  
7 don't know the exact amount.

8 Q But a pretty significant effort was made to find him?

9 A Yes, sir.

10 Q But you think it was close to an hour. In all of that  
11 time did any officer that you're aware of hear a shout for  
12 help or anything like that?

13 A No, sir. The officers -- it was midnight so it was  
14 rather quiet outside, we didn't hear anything so that's when  
15 we made the K-9 track to right. We mainly went off the K-9  
16 track and further down the street towards Gentry.

17 Q And all of these are in Spartanburg County, all of  
18 these locations we talked about, [REDACTED] Gentry and [REDACTED]?

19 A Yes, sir. In the city limits within the county, yes,  
20 sir.

21 MR. SMITH: Please answer any questions Mr. Neely has.

22 CROSS EXAMINATION

23 BY MR. NEELY

24 Q Officer Thompson, you told us that you've been on  
25 patrol you said for about four and a half years?

SHANETTA THOMPSON - CROSS

1 A Yes, sir.

2 Q Prior to that did you have any previous law enforcement  
3 experience?

4 A Yes. I used to be employed at Spartanburg County  
5 Detention Center, I was there for approximately two and a  
6 half years prior to me becoming a police officer.

7 Q So you're a detention officer for two and a half years,  
8 you've been here for four and half years?

9 A Yes, sir.

10 Q Any other law enforcement experience?

11 A No, sir.

12 Q So seven years total you've been a law enforcement  
13 officer.

14 A Yes.

15 Q Now, before you can become a law enforcement officer  
16 they just don't hand you a badge and a gun, correct?

17 A No, sir.

18 Q They make you actually go down and attend the South  
19 Carolina Criminal Justice Academy.

20 A Yes. I attended the criminal justice academy for 12  
21 weeks.

22 Q Your course is 12 weeks. I always get a different  
23 answer, some people do eight weeks, some do nine, yours is  
24 12.

25 A Yes, sir.

SHANETTA THOMPSON - CROSS

1 Q Okay. Now, during that 12 week course you had to take  
2 courses in a lot of different areas of law enforcement,  
3 correct?

4 A Yes, sir.

5 Q You had to take courses in the proper way to hold a  
6 gun?

7 A Yes, sir.

8 Q And the proper way to shoot a gun?

9 A Yes, sir.

10 Q The proper way to drive a patrol vehicle?

11 A Yes, sir.

12 Q The proper way to investigate a case.

13 A Yes.

14 Q The proper way to write an incident report.

15 A Yes, sir.

16 Q In each of those things; writing incident reports,  
17 investigating cases, responding to calls, they taught you  
18 that the most important thing is for you to be thorough,  
19 correct?

20 A Yes, they did.

21 Q And they taught you that the most important thing is to  
22 be accurate, correct?

23 A Yes, sir.

24 Q And they taught you accurate and correct, right?

25 A Yes, sir.



SHANETTA THOMPSON - CROSS

1 Q Thorough, accurate, correct and complete, right?

2 A Yes.

3 Q For instance, with incidents reports, when you write an  
4 incident report you want to put as much information in those  
5 reports as possible, right?

6 A Yes, sir.

7 Q Because the purpose of those incident reports is so  
8 that you or another law enforcement officer can rely on that  
9 later.

10 A Yes, sir.

11 Q Correct? This case --

12 A Uh-huh.

13 Q -- this happened October 25th, 2017.

14 A I got the call on October 26th, 2017 at approximately  
15 12:35 that morning.

16 Q Right. So about 440 days ago you got the call for this  
17 case.

18 A Yes, sir. I didn't count the days, but yes, sir.

19 Q And in the last 440 days you've responded to ten more  
20 calls?

21 A Within the last 400 days? No, sir. I've responded to  
22 a tremendous amount of calls within those days.

23 Q A hundred calls?

24 A I can't give an approximate estimate.

25 Q A thousand calls?

SHANETTA THOMPSON - CROSS

1 A Between a thousand, less than, I can't count them.

2 Q Somewhere around a thousand calls in the last 400 days.

3 So if I were to ask you for the details of each of those  
4 thousand calls it would be almost impossible for you to just  
5 remember from memory, correct?

6 A Depending on the calls. A lot of calls give certain  
7 details to where if you can remember a particular call you  
8 can revert back and give certain details of a certain case.

9 Q If asked for all the details of any one of those  
10 particular thousand calls you would probably have to look  
11 back at your notes, correct?

12 A Yes.

13 Q Now, for this case when you wrote your incident report,  
14 you did exactly what your training taught you to do,  
15 correct? You were thorough, right?

16 A Yes, sir.

17 Q And you were accurate?

18 A As accurate as I can be, yes, sir.

19 Q And you were complete?

20 A Yes.

21 Q You wrote down all the information that you received  
22 during your investigation.

23 A Yes, sir.

24 Q Do you have a copy of your incident report with you?

25 A Yes, sir, I do.

SHANETTA THOMPSON - CROSS

1 Q Okay. You did a thorough, accurate and complete  
2 investigation, you wrote a thorough, accurate, complete  
3 incident report. Mr. Smith just spent a little bit of time  
4 showing all of us some pepper spray, showing that Samuel had  
5 some pepper spray on him like it was a weapon.

6 A Yes, sir.

7 Q Anywhere at any point in time in your thorough,  
8 complete, accurate incident report do you have any notes  
9 about him pointing that pepper spray at any one of those  
10 ladies?

11 A No, I do not.

12 Q At any point in your incident, your thorough, accurate  
13 and complete incident report do you have him threatening  
14 those ladies with that pepper spray?

15 A No, I do not.

16 Q It's just some pepper spray on a key chain, right?

17 A Yes, sir.

18 Q In his pocket.

19 A Yes, sir.

20 Q We just spent a long time, half an hour about, looking  
21 at pictures of blood, pictures that you took, correct?

22 A Yes, sir.

23 Q All right. Now, those weren't pictures of any of the  
24 Walker's blood, correct?

25 A Repeat.

SHANETTA THOMPSON - CROSS

1 Q Those weren't pictures of any of the Walker's blood,  
2 right?

3 A No, sir.

4 Q Those were Samuel's blood.

5 A Yes, sir.

6 Q Okay. All of those pictures that we just looked at,  
7 any of those blood droplets inside of the house?

8 A It was outside the front porch and so forth out.

9 Q Right. But was there any blood indicating that he'd  
10 been hit inside of the house?

11 A No, sir, not that I can recall.

12 Q But you did tell us that that was a pretty significant  
13 amount of blood.

14 A Yes, sir.

15 Q We saw a picture of the clothes that Samuel was wearing  
16 that night and a garment that was white originally was  
17 almost completely red.

18 A His boxers?

19 Q Sure.

20 A Yes, sir.

21 Q Covered in his blood.

22 A Yes, sir.

23 Q Mr. Smith made a big deal about the fact that there was  
24 a large law enforcement effort made to locate Samuel but he  
25 wasn't calling out for help, right?

SHANETTA THOMPSON - CROSS

1 A Yes, sir.

2 Q When you found him, when you got to the back yard of

3 [REDACTED] he was just about unresponsive, correct?

4 A When I got to Mr. Jeter the paramedic, EMS, was  
5 currently working on Mr. Jeter so he was alert when I got to  
6 him.

7 Q You spent a great deal of time with the Walkers,  
8 correct?

9 A Yes, sir.

10 Q You talked to them and you tried to understand what had  
11 happened.

12 A Yes, sir.

13 Q And you noticed that they had a big TV in their living  
14 room?

15 A I didn't focus on the TV.

16 Q You're investigating the case and you didn't notice  
17 your surroundings?

18 A They had a TV but my attention wasn't drawn to the TV.

19 Q And did you happen to notice that Ms. Alexis' purse was  
20 in the living room?

21 A No, sir, I didn't.

22 Q Did they tell you that any items were rummaged with?

23 A No, sir.

24 Q Any items were messed with?

25 A No, sir.

SHANETTA THOMPSON - CROSS

1 Q Anything was taken?

2 A No, sir.

3 Q Okay. And then when you went and you got over to [REDACTED]  
4 where Samuel was, you had said there were no items of  
5 evidentiary value you in his pockets, right?

6 A I didn't search Mr. Jeter's pockets, he was searched by  
7 another officer.

8 Q Okay. But you just told us, right, that no items of  
9 evidentiary value were located on his person.

10 A Aside from his pepper spray.

11 Q Aside from his pepper spray. You testified just a  
12 minute ago when Mr. Smith was asking you questions that no  
13 items of evidentiary value were found on him, correct?

14 A Yes, correct.

15 Q Nothing that belonged to any of the Walkers.

16 A None of their items, no, sir.

17 Q Now, you were the one that spent at least initially  
18 most of the time with the Walkers, correct?

19 A Yes, sir.

20 Q In your thorough, accurate, complete report that you  
21 wrote about this incident you wrote that no harm came to  
22 anybody in the house.

23 A Yes. I did notate after checking on all the victims to  
24 include the small children in the house no harm came to no  
25 one in the house.

SHANETTA THOMPSON - CROSS

1 Q When you responded to the 911 call it was to gunshots  
2 because somebody was in the house, correct?

3 A It stated that a female shot a male, yes, sir.

4 Q Right. A male who wasn't supposed to be in the house,  
5 correct?

6 A I didn't get the full details, yes, sir.

7 Q Now, because it's a possible burglary you went and you  
8 looked at all points of entrance, correct?

9 A The front door was my main point of entry, yes.

10 Q The front door was the main point of entry. And in  
11 your thorough, accurate, complete incident report you noted  
12 that there were no signs of forced entry into this house,  
13 correct?

14 A Correct.

15 Q It wasn't like somebody forced their way into this  
16 house.

17 A Correct.

18 MR. NEELY: Thank you, Officer Thompson.

19 THE WITNESS: You're welcome.

20 MR. SMITH: I don't have any further questions, Your  
21 Honor.

22 THE COURT: Okay. You may step down.

23 MS. BOZARTH: The State calls Joseph Eggleston.

24 The witness, JOSEPH EGGLESTON, was first duly sworn and  
25 Testified as follows:

JOSEPH EGGLESTON - DIRECT

1 DIRECT EXAMINATION

2 BY MS. BOZARTH

3 Q Could you please introduce yourself to the jury?

4 A I'm Officer Joseph Eggleston with the Spartanburg City  
5 Police Department.

6 THE COURT: Use that microphone that's making all of  
7 that racket, please, thank you.

8 A Officer Joseph Eggleston, Spartanburg City Police  
9 Department.

10 Q And what is your current job title?

11 A I'm a patrol officer.

12 Q And what kind of -- what are your duties?

13 A Respond to calls, make charges as appropriate based off  
14 the evidence I have received at the scene.

15 Q What kind of training have you received as a police  
16 officer?

17 A Going through the South Carolina Criminal Justice  
18 Academy and various departmental trainings over the years.

19 Q Did you work in law enforcement before joining the city  
20 police department?

21 A Never before.

22 Q And how long have you been working at the Spartanburg  
23 Police Department?

24 A Just over three years.

25 Q And were you working there on the night of October the



JOSEPH EGGLESTON - DIRECT

1 25th of 2017, early morning of October 26th of 2017?

2 A I was.

3 Q And did you respond to [REDACTED] Gentry Street?

4 A Initially I responded to the area of that, but yes, I  
5 did.

6 Q Where is that located?

7 A In the city limits of Spartanburg by East Boundary  
8 Drive and Isom.

9 Q And around what time did you get the call?

10 A Approximately 30 minutes after midnight.

11 Q And when did you arrive, around what time?

12 A It would have been shortly after, I don't recall, but I  
13 did respond with lights and sirens.

14 Q And around that time of night/morning, what was the  
15 weather like?

16 A To my recollection it was normal temperature, didn't  
17 need a coat or anything, just --

18 Q And what do you mean by normal?

19 A I could stand outside without shivering. I wasn't cold  
20 being outside for an extended period of time.

21 Q So wasn't cold?

22 A No.

23 Q And upon your arrival, how long did it take to find the  
24 defendant?

25 A It was -- it was -- it took awhile until the K-9 got

JOSEPH EGGLESTON - DIRECT

1    there, I probably walked around between 30 to 45 minutes  
2    looking for the area.

3    Q     So what did you do when you got to the scene?

4    A     I set up on perimeter, got my rifle out and was  
5    checking the area looking for any signs of the suspect,  
6    anybody calling out saying that they needed help.

7    Q     And were you wearing a body-worn camera on you at the  
8    time?

9    A     Yes, I was.

10   Q     And can you explain what a body-worn camera is?

11   A     It's a camera that affixes to this plate right here, it  
12   was on my chest. As soon as I go to a call I hit the  
13   button, activate it and it starts recording until it is time  
14   to turn it off.

15   Q     And were you wearing your body-worn camera that night?

16   A     Yes, I was.

17   Q     And did you make a recording of that night?

18   A     Absolutely.

19   Q     Okay.

20           MS. BOZARTH: Permission to approach the witness, Your  
21   Honor.

22   Q     I'm showing you what's been marked as State's  
23   Exhibit 44. Did you recognize this?

24   A     Yes, I do.

25   Q     What is that?

JOSEPH EGGLESTON - DIRECT

1 A That's the body camera footage burned to a compact  
2 disc.

3 Q Is that from that night?

4 A Yes.

5 Q And how do you know it is your body cam?

6 A Because I watched it and initialed that that was  
7 consistent with my body camera footage.

8 Q And is that a fair and accurate representation of the  
9 events that night?

10 A Yes.

11 Q And has that been altered in any way?

12 A No.

13 MS. BOZARTH: Your Honor, at this time the State would  
14 move Exhibit 44 into evidence.

15 MR. NEELY: Can we approach just for a second?

16 (A bench conference was held.)

17 MS. BOZARTH: Thank you. And the State would move  
18 Exhibit 44 into evidence.

19 THE COURT: It's admitted.

20 MS. BOZARTH: Thank you, Your Honor. Permission to  
21 publish?

22 THE COURT: You may.

23 (The disc was received as State's 44.)

24 Q And Officer Eggleston, where did you find the  
25 defendant?

JOSEPH EGGLESTON - DIRECT

1 A He was on the ground behind [REDACTED] Gentry Street laying on  
2 the ground in the back yard.

3 Q And was the back yard enclosed by anything?

4 A Yeah. There was a chain-link fence that actually had a  
5 lock on it.

6 Q Was there a gate to the fence? Could you open the  
7 gate?

8 A Yes, after the lock was cut.

9 Q So was it easy to get into the back yard?

10 A No.

11 Q What did y'all have to do to get into the back yard?

12 A Cut the chain.

13 Q How did y'all cut it?

14 A Somebody had some bolt cutters.

15 MS. BOZARTH: Please answer any questions Mr. Neely  
16 may have.

17 MR. NEELY: Judge, I don't have any questions.

18 THE COURT: You may step down.

19 MR. SMITH: Your Honor, at this time the State calls  
20 officer Sonya McCullough.

21 The witness, SONYA MCCULLOUGH, was first sworn and  
22 Testified as follows:

23 MR. SMITH: Your Honor, can we approach before she  
24 starts testifying?

25 (A bench conference held.)

SONYA MCCULLOUGH - DIRECT

1 THE COURT: Ladies and gentlemen, I've got one matter  
2 I will need to address outside of your presence so I'll ask  
3 you to please go to your jury room, don't discuss the case,  
4 I'll bring you back after I finish.

5 (The jury left the courtroom.)

6 MR. SMITH: Your Honor, Investigator McCullough did  
7 large work on identifying Mr. Jeter as not Calvin Jeter but  
8 as Samuel Jeter, she used the combination of Spillman and  
9 the Department of Motor Vehicles to do that. The DMV's is  
10 not problematic but Spillman only has pictures of people  
11 that have been arrested for prior offenses. She used  
12 tattoo information and other information to determine that  
13 he was not Calvin Jeter. I just wanted to address that  
14 with the Court before we opened the door that he has a  
15 prior record. I'm not trying to do that. We've got  
16 pictures that we can cut down, one that she's got. I  
17 obviously don't want to tell the witness how to testify but  
18 I would be fine saying that it was the DMV database she  
19 used rather than Spillman. If he doesn't have a problem  
20 with us saying Spillman I certainly don't but I don't want  
21 to taint the jury's mind with his prior record.

22 THE COURT: Well, let's do this, you and Mr. Neely  
23 talk about it and you, Mr. Neely, talk about it with the  
24 witness and y'all get it sorted out how you want to handle  
25 that issue. If you can resolve it, resolve it, if you

SONYA MCCULLOUGH - DIRECT

1     can't I'll address it. You can step down and talk to the  
2     lawyers together about the scope of your testimony as it  
3     regards the identification of the defendant. We'll take 15  
4     minutes.

5             (A recess was taken.)

6             THE COURT: All right. Did y'all get it figured out  
7     what you want to do?

8             MR. SMITH: Yes, Your Honor. We had one thing to put  
9     on the record. During the break we realized that there was  
10    two State's Exhibit 44's, that was the pepper spray and  
11    Officer Eggleston's body cam, we changed Officer  
12    Eggleston's body cam to State's Exhibit 45. I informed  
13    Mr. Neely of that, I think he's in agreement. We do have  
14    an understanding of how Ms. McCullough is going to testify.  
15    Officer McCullough, we're going to refer to the DMV  
16    records.

17            THE COURT: All right. And Officer McCullough knows.

18            THE WITNESS: Yes, sir.

19            MR. NEELY: She was a part of the conversation.

20            THE COURT: I know, and everybody is understanding it.

21            THE WITNESS: Yes, sir.

22            THE COURT: All right. Bring the jury in, please.

23            (The jury returned to the courtroom.)

24            THE COURT: All right. Mr. Smith?

25                             DIRECT EXAMINATION

SONYA MCCULLOUGH - DIRECT

1 BY MR. SMITH

2 Q Will you please state your name and rank for the jury?

3 A Sonya McCullough, master patrol officer/investigator  
4 with the Spartanburg City Police Department.

5 Q How long have you been with the Spartanburg City  
6 Police?

7 A Twenty-three and a half years.

8 Q Did you do any law enforcement before that?

9 A Worked in the county jail for three.

10 Q How long have you been doing investigations?

11 A Ten years.

12 Q What is your role as an investigator?

13 A Basically I investigate all crime that is reported,  
14 well, not all crime, but serious crimes against persons that  
15 is reported to the city police department. I respond after  
16 patrol has already responded.

17 Q So these calls that generally need a little bit more  
18 than what patrol is equipped to handling?

19 A Yes, sir.

20 Q Did you end up responding, or is there a process where  
21 you're on call or anything like that?

22 A Yes, sir. Once a month, sometimes twice a month,  
23 depending on the rotation, two investigators are paired up  
24 and we are on call from Monday of one week to Monday of the  
25 next week after 6:00 p.m.

SONYA MCCULLOUGH - DIRECT

1 Q Anything that comes in y'all run with it until the next  
2 crew comes on?

3 A Yes, sir, until first shift starts at 8:00.

4 Q All right. Were you on call the week of October the  
5 25th and 26th of 2017?

6 A I was.

7 Q Did you receive a call about an incident that occurred  
8 on Gentry Street?

9 A I was.

10 Q What did you understand had happened?

11 A I received the call from the then supervisor, Sergeant  
12 Kirby, advising that I needed to respond to [REDACTED] (sic) Gentry  
13 Street regarding a home invasion and a shooting. As I  
14 was --

15 Q Is it [REDACTED] or [REDACTED]?

16 A I'm sorry, [REDACTED]. As I was in route to that particular  
17 location I then received another call from Sergeant Kirby  
18 telling me to respond to the hospital instead, that the  
19 gunshot victim had been transported to the hospital.

20 Q All right. Did you do as you were told?

21 A I did.

22 Q And what happened when you got to the hospital?

23 A Once I arrived to the scene at the hospital to  
24 Spartanburg Regional to the trauma area I was advised -- I  
25 met with Billy Mabry, which at that time was a lieutenant I



SONYA MCCULLOUGH - DIRECT

1 do believe, and Officer Shanetta Thompson. Officer Thompson  
2 advised me or briefed me on what had taken place or what was  
3 reported to her had taken place on Gentry Street, and  
4 advised of the male being -- the gunshot victim being in  
5 trauma bay one. She provided me a name of Calvin Jeter with  
6 a date of birth of [REDACTED]/1981.

7 Q What did you do from that point?

8 A I proceeded into trauma bay number one. Once inside  
9 there were a lot of medical personnel around the male that  
10 was lying on the table. Once the personnel kind of cleared  
11 out a little bit I was able to see a black male, the young  
12 man sitting in the courtroom right now, lying on the table  
13 completely -- he had no clothing on, he was covered with a  
14 sheet. I saw his face. I saw he had a bald head, the  
15 description of his face. Basically that was all I was able  
16 to see at the time.

17 Q Were you able to speak with him at all in the trauma  
18 bay?

19 A Once medical personnel allowed me to speak to him I  
20 did.

21 Q How did that conversation go?

22 A Basically the male, he appeared alert once I got there.  
23 I'm referring back to my notes.

24 Q Sure.

25 A He appeared alert once I got there. I introduced

SONYA MCCULLOUGH - DIRECT

1   myself to him and I asked his name in which he replied  
2   Calvin Jeter. And at that point in time I did take a  
3   photograph of his face only.

4   Q   All right. Was he eventually moved?

5   A   Eventually, yes, he was.

6   Q   Is the trauma bay where they try to stabilize you, is  
7   that right, when you go --

8   A   Basically their traumas are serious injuries and they  
9   go into a certain part of the ER. Once the person is  
10  stabilized they move them to a different part of the  
11  emergency room.

12  Q   Is that a more private setting, I guess, or less  
13  chaotic?

14  A   It's less chaotic. By that time the doctors change,  
15  because there are doctors that are assigned to traumas, they  
16  have a trauma staff that are assigned to nothing but  
17  traumas, and then they have just regular ER doctors that  
18  take over once you are moved from a trauma bay into the  
19  regular part of the ER.

20  Q   All right. Were you able to have an additional  
21  conversation with him at that point?

22  A   I did.

23  Q   What did you learn from that conversation?

24  A   He was moved into ER room 55. I briefly spoke with him  
25  again, Mr. Jeter again, and advised him who I was again and

SONYA MCCULLOUGH - DIRECT

1 we spoke briefly. He told me, you know, he had no address  
2 and that he was homeless. He told me that he was 42 years  
3 old and he stayed with relatives or wherever he could.

4 Q Okay. Were you able to observe his wounds or what --  
5 why he was in the hospital?

6 A At that time, I didn't, you know. I asked him about,  
7 you know, what happened to him, why was he shot or, you  
8 know, what. And he did tell me that -- he asked me -- well,  
9 he said, "You can see I've been shot." And then he made a  
10 comment to me about ever being shot.

11 MR. NEELY: Your Honor, can we approach for a moment?

12 (A bench conference held off.)

13 Q Did you -- did Mr. Jeter have any identification on him  
14 to prove he was Calvin Jeter?

15 A No, sir, not that I'm aware of.

16 Q So did you begin attempting to determine if he actually  
17 was Calvin Jeter?

18 A A short time later I was, I did.

19 Q At that time you had the name Calvin Jeter and you said  
20 you had a date of birth?

21 A Yes, [REDACTED]/1981.

22 Q What did you do with that information?

23 A At that time due to him not having an ID and being shot  
24 upon my investigation I -- we have laptops that we're  
25 allowed to take home and they link back into our computers

SONYA MCCULLOUGH - DIRECT

1 at city hall and I had it that night, I usually have it  
2 anytime I go out to call. I was able to log into my  
3 computer outside of his room, I was not inside, I was  
4 outside of his room, log into my computer and go into our --  
5 city hall's account and log into South Carolina DMV. And I  
6 typed in the name and the date of birth that he'd given me,  
7 which showed me a totally different picture of the person  
8 that was lying -- or the Calvin Jeter that was inside 55.

9 Q But it came back to a real person?

10 A It came back to a real person, yes, sir.

11 Q And you were able to retrieve a picture of that person?

12 A Yes, sir.

13 Q I'm going to show you what's been marked as State's  
14 Exhibit 46 and ask if you can identify that.

15 A Yes, sir.

16 Q What is it?

17 A This is Calvin with a C, Douglas Jeter with a J.

18 Q Is that the picture that you pulled up in the DMV of  
19 Mr. Jeter?

20 A Yes, sir. This one actually -- if I can explain a  
21 little bit further?

22 THE COURT: Well, is it or not? He just asked you if  
23 that came from the DMV.

24 A Yes.

25 MR. SMITH: Your Honor, at this time I would move

SONYA MCCULLOUGH - DIRECT

1 State's Exhibit 46 into evidence with request to publish to  
2 the jury.

3 MR. NEELY: No objection.

4 THE COURT: It's admitted.

5 (The photo was received as State's 46.)

6 Q How did you -- how were you able to tell right away  
7 that wasn't the person that was in front of you?

8 A By the tip of the nose. This Calvin Jeter does not  
9 have the mole or the distinct marking on the nose as the  
10 Calvin -- the person that was saying that he was Calvin  
11 Jeter that was in the ER.

12 Q Let me show you State's Exhibit 31. Is that what  
13 you're talking about, the mole?

14 A Yes, sir, right there on the tip of the nose.

15 Q So what did you do at this point once you realized that  
16 you did not have Calvin Jeter in front of you?

17 A I continued to do a little more searching through a  
18 different system, and during the time that I was doing that  
19 search through the other system that we can utilize there  
20 was a young lady that worked for Spartanburg Regional in the  
21 ER that had been doing documentation in and out of the room  
22 and she provided me with a different date of birth for  
23 Calvin Jeter.

24 Q All right. What was that date of birth?

25 A [REDACTED]/1974.

SONYA MCCULLOUGH - DIRECT

1 Q But still with the name Calvin Jeter?

2 A Yes.

3 Q All right. What did you do at that point?

4 A At that point in time I researched the other database  
5 that we have access to with that date of birth and it came  
6 back to a different person being Mr. Samuel Jeter.

7 Q Were you able to then use the DMV and do the same?

8 A I did. With Samuel Jeter and the date of birth I went  
9 back into DMV and was able to pull another picture, which  
10 was the same person that I had been talking to in the ER.

11 Q And were you able to pull a copy of that picture and  
12 make it a part of the case file?

13 A Yes, I did.

14 Q Let me show you State's Exhibit 47 and ask if you can  
15 identify what that is?

16 A It is a photo of Calvin Jeter -- excuse me, Samuel  
17 Jeremiah Jeter.

18 Q And does that picture match the individual here and the  
19 individual that was in the hospital?

20 A Yes, sir.

21 MR. SMITH: Your Honor, at this time I move State's  
22 Exhibit 47 into evidence with request to publish.

23 MR. NEELY: No objection.

24 THE COURT: It's admitted.

25 (The photo was received as State's 47.)

SONYA MCCULLOUGH - DIRECT

1 Q Do you know how long it went on thinking that it was  
2 Calvin Jeter in front of you?

3 A I arrived at the hospital 2:48 a.m., I was given the  
4 name of Calvin Jeter once I arrived. I talked with the  
5 person at 309 and he still provided the same name and date  
6 of birth. At 4:00 is about the time that I realized or  
7 found out that Calvin Jeter that was in the hospital was  
8 actually Samuel Jeter.

9 Q All right. Did you end up actually talking to him  
10 again after you had found this picture and kind of  
11 discovered the truth?

12 A I did, that was at 5:10.

13 Q And what happened in that conversation?

14 A About -- it was at 5:10 according to my report, my  
15 supplemental, and basically I went back into his room and I  
16 asked him again his name and his date of birth with the --  
17 providing the same name as Calvin Jeter. But at that time  
18 he provided the birth of [REDACTED]/74, which was different from  
19 what he gave me the first time I spoke with him.

20 Q And that's the same one that the medical staff had  
21 given you?

22 A Yes, sir.

23 Q Did you smell any alcohol on Mr. Jeter when you were  
24 interacting with him?

25 A I didn't, no.

SONYA MCCULLOUGH - DIRECT

1 Q Would you describe him based off your experience and  
2 interaction with him as being drunk?

3 A Well, he was lying down. When he was able to stand,  
4 because they had him to stand up while he was in room 55 in  
5 the ER, and he stood, he wasn't wobbling or anything, he was  
6 unsteady on his feet. When I spoke with him he was very  
7 talkative. I did inquire with medical staff when I was in  
8 the trauma bay about him being under the influence of any  
9 medical drugs and they said that he was not.

10 Q All right. But you wouldn't describe him as  
11 belligerent or blackout drunk or anything like that.

12 A No, sir.

13 Q Seemed to have his senses about him and knew what he  
14 was saying and the questions you were asking him?

15 A Yes, sir.

16 Q I mean, you were talking with a capable individual?

17 A Yes. It wasn't hostile or anything, he wasn't  
18 argumentative. He did tell me that he wanted me to stop  
19 asking him questions. He complained about his hands  
20 hurting, he made the comment about, you know, being shot,  
21 but --

22 Q Nothing about, you know, he wasn't repeating the same  
23 thing or things you would typically associate with somebody  
24 being highly intoxicated?

25 A No, sir.



SONYA MCCULLOUGH - CROSS

1 Q All total, almost two and a half hours he kept going  
2 with Calvin Jeter, did he ever admit to you he was Samuel  
3 Jeter?

4 A No, sir.

5 MR. SMITH: I don't have any further questions, Your  
6 Honor.

7 CROSS EXAMINATION

8 BY MR. NEELY

9 Q Twenty-six and a half years you've been in law  
10 enforcement?

11 A Yes, sir.

12 Q Prior to that just like every other law enforcement  
13 officer in the State of South Carolina, criminal justice  
14 academy?

15 A Yes, sir.

16 Q How long was your course?

17 A Which time?

18 Q How about the first time.

19 A First time it was six weeks, I do believe, that was  
20 back in '93 for the jail. '96 when I went it was eight  
21 weeks.

22 Q Okay. Fourteen weeks of training, wanted to learn how  
23 to be a jailer, wanted to learn how to be, I guess, an on  
24 the road officer.

25 A Yes, sir.

SONYA MCCULLOUGH - CROSS

1 Q And then over the last 26 and a half years between your  
2 service at the jail and your time with the city you've taken  
3 continuing education requirements as well.

4 A Years.

5 Q As a matter of fact in order to obtain your  
6 certification you have to take continuing education  
7 requirements every year.

8 A Yes.

9 Q Let's go all the way back to the criminal justice  
10 academy, both times, all right? Before they would just hand  
11 you a badge and a gun you had to take those classes, right?

12 A Yes.

13 Q Not just take those classes you had to take a test.

14 A Every week.

15 Q Every week. And you had to pass all of those classes.

16 A Yes.

17 Q Otherwise you couldn't become a law enforcement  
18 officer.

19 A They send you home.

20 Q They send you home. So just like every other law  
21 enforcement officer in the State of South Carolina you  
22 learned how to drive a car?

23 A Yes.

24 Q You learned how to shoot a gun?

25 A Yes.

SONYA MCCULLOUGH - CROSS

1 Q You learned about legals?

2 A Yes, sir.

3 Q You learned how to write incident reports?

4 A Oh, yes.

5 Q Oh, yes. You learned how to investigate cases.

6 A Yes.

7 Q Just like Officer Thompson told us earlier, you learned  
8 that when you do these things you're thorough?

9 A Yes.

10 Q You're accurate?

11 A Yes.

12 Q You're complete?

13 A Yes.

14 Q And for the last 26 and a half years you practiced  
15 that.

16 A I've done my best.

17 Q Thorough, accurate, complete.

18 A Yes.

19 Q Twenty-six and a half years. Could retire but still  
20 going strong.

21 A Still going, hadn't got enough.

22 Q Yes, ma'am. And every single time thorough, accurate,  
23 complete.

24 A I do my best.

25 Q You laughed when we said incident reports, because in

SONYA MCCULLOUGH - CROSS

1 the last 26 and a half years you've probably written ten  
2 thousand, maybe 50,000, could be up there?

3 A Thousands. I haven't counted.

4 Q But you've written a lot of them.

5 A Yes.

6 Q And each time you write them thorough, accurate,  
7 complete.

8 A I do my best.

9 Q And like I talked about with Officer Thompson, the  
10 reason for that is because especially over a 26 and a half  
11 year career you've investigated who knows how many cases.

12 A Yes.

13 Q And when we were talking earlier, obviously in your  
14 role now you have some cases that stick with you a little  
15 more than others.

16 A Yes.

17 Q But in thousands of cases details get lost.

18 A Uh-huh.

19 Q And so the point of those incident reports is so that  
20 you can go back and remember it.

21 A Yes, sir.

22 Q For instance we're all here in trial today, and we're  
23 all just trying to figure out what happened on October 25th,  
24 2017. The purpose of that incident report is so that you  
25 can look at your notes and tell us.

SONYA MCCULLOUGH - CROSS

1 A Yes.

2 Q Or, God forbid, if something were to happen to you in  
3 the line of duty or otherwise another officer could refer  
4 back to your notes.

5 A Yes.

6 Q In the case on October 25th, 2017, October 26th of 2017  
7 you wrote an incident report.

8 A Wrote a supplemental.

9 Q You wrote a supplement, excuse me. Officer Thompson  
10 wrote the initial narrative.

11 A Yes, sir.

12 Q All right. So let's explain that for a jury a little  
13 bit, okay? The responding officer is the one responsible  
14 for writing the original narrative, correct?

15 A They are.

16 Q And then every other officer that responded after that  
17 should, it doesn't always happen, officers don't always  
18 follow their training, but should write a supplemental --

19 A They should.

20 Q -- incident report.

21 A Yes.

22 Q Okay. You over a 26 and a half year career, you do  
23 what you're supposed to do.

24 A Yes.

25 Q And so you wrote a supplemental report in this case.

SONYA MCCULLOUGH - CROSS

1 A I did.

2 Q And the reason you wrote it, and the reason that it's  
3 really important that you wrote yours is because your role  
4 in this case was as the lead investigator.

5 A I later found out it was.

6 Q After responding out to the call Lieutenant Kirby --  
7 did I get that wrong? I probably got that wrong.

8 A He was a sergeant at that time.

9 Q Sergeant at the time, assigned you as the lead  
10 investigator to this case.

11 A Yes.

12 Q So you're the lead investigator in this case. So your  
13 role as lead investigator, putting all of your 26 and a half  
14 years of training to work is to thoroughly, accurately and  
15 completely investigate this case.

16 A It is.

17 Q So at the end of the day you're the one that's  
18 responsible for this.

19 A Pretty much.

20 Q You're the one that at the end of the day goes and gets  
21 the warrants for the arrest.

22 A Yes.

23 Q Before we talk about those warrants I want to go back  
24 to your incident report and something Mr. Smith just went  
25 over with you. He spent a little bit of time with you

SONYA MCCULLOUGH - CROSS

1 talking about alcohol specifically as it pertains to Samuel.  
2 You didn't know, or at least you don't remember, smelling  
3 any alcohol on him.

4 A Referring back to my supplemental. It is documented in  
5 my supplemental of only having a high alcohol level. That  
6 is not what I noticed, that came from medical staff, it says  
7 per medical staff.

8 Q Per medical staff when Samuel was in the hospital he  
9 had a high alcohol level.

10 A In trauma bay one.

11 Q So he had a high alcohol level. What he didn't have  
12 was an address, right?

13 A No, he didn't.

14 Q He was homeless.

15 A That's what he told me.

16 Q So end of October going into November as the weather is  
17 turning cold he's homeless.

18 A That's what he told me.

19 Q Doesn't have a place to stay.

20 A That's what he told me.

21 Q Doesn't have a car.

22 A Didn't ask him about a car.

23 Q You mentioned to us that you met Officer Mabry at the  
24 hospital.

25 A He was there, yes.

SONYA MCCULLOUGH - CROSS

1 Q Okay. And let me back up a second before we talk about  
2 Officer Mabry. One of your jobs as a lead investigator, and  
3 you told us your job is to go get the warrants, because when  
4 you're putting it altogether solving the case is to review  
5 all of the evidence, correct?

6 A It is, what's there at the time.

7 Q What's there at the time. If something new comes in  
8 you're responsible for reviewing that too, right?

9 A Yes.

10 Q I mean, you don't go get a warrant for somebody's  
11 arrest and then new evidence turns up and you just ignore  
12 it, do you?

13 A No.

14 Q So as the investigator you review all of the evidence  
15 in the case.

16 A Yes.

17 Q That includes all of the incident reports and  
18 supplements that officers write, correct?

19 A Yes.

20 Q Now, one of those incident reports that you happened to  
21 review was officer Billy Mabry's, correct?

22 A Yes.

23 Q And in his report he noted --

24 MR. SMITH: Your Honor, I object, he can call Officer  
25 Mabry if he wants to.



SONYA MCCULLOUGH - CROSS

1 MR. NEELY: Judge, she's the lead --

2 (A bench conference was held.)

3 THE COURT: Sustained.

4 Q All right. So your job at the conclusion of the case  
5 once it's solved is to go get the warrants, correct?

6 A Yes.

7 Q And those warrants are for arrest, correct?

8 A Yes.

9 Q To take somebody into custody.

10 A Uh-huh.

11 Q All right. Now, when you do that you've learned  
12 through 26 and a half years that what you do is you take the  
13 evidence in the case and you present to it a magistrate  
14 judge.

15 A Yes.

16 Q And that magistrate judge decides if there is enough  
17 evidence y'all have collected enough to know sign off on  
18 that warrant, correct?

19 A Enough probable cause.

20 Q Enough probable cause. Enough evidence, that's the  
21 lowest legal standard, right? Probable cause.

22 A Yes, sir.

23 Q So in this case your name is the one that's on the  
24 warrants as the affiant.

25 A It is.

SONYA MCCULLOUGH - CROSS

1 Q Okay. October 26th, 2017 at 5:29 in the morning you  
2 went to city hall, correct?

3 A I did.

4 Q And you printed out all of the information provided  
5 that far up to that point, correct?

6 A I did.

7 Q All right. And that included printed information,  
8 right? Photos?

9 A Included the main report.

10 Q The main report.

11 A Yes.

12 Q And any other supplements that have been provided up to  
13 that point.

14 A I didn't present -- I don't take those. We don't take  
15 the supplementals of the investigators to the magistrate, we  
16 present it verbally.

17 Q Okay. But you reviewed all of that evidence prior to  
18 going to the magistrate.

19 A All that I had.

20 Q Okay. So you took all of that evidence, and when you  
21 went at 6:50 in the morning to the magistrate you got a  
22 warrant for Samuel Jeter's arrest.

23 A Yes.

24 Q But you only got one warrant, correct?

25 A Yes.

SONYA MCCULLOUGH - REDIRECT

1 Q The only warrant you got was for burglary.

2 A Yes.

3 Q You did not at that point get a warrant for assault and  
4 battery.

5 A No.

6 Q You at that point did not get a warrant for attempted  
7 strong armed robbery.

8 A No.

9 Q The only warrant you got was for burglary.

10 A Yes.

11 Q You didn't get a warrant for any crime that he  
12 committed when he went in the house.

13 A No, I didn't.

14 Q You didn't get a warrant for any crime that he was  
15 attempting to commit when he went in the house.

16 A No, I didn't.

17 Q The only warrant you got was for burglary, for being in  
18 the house.

19 A Yes.

20 Q You didn't actually get the warrants for the strong  
21 armed robbery and the assault and battery until five days  
22 later, correct?

23 A Once the interview of the victims -- once we  
24 interviewed the victims, or the other investigator  
25 interviewed the victims then that's when we went for the

SONYA MCCULLOUGH - REDIRECT

1 others.

2 Q The second interview with the victims, right?

3 A Yes.

4 Q Not the one they gave right after it happened.

5 A No.

6 MR. NEELY: I believe that's all, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. SMITH

9 Q Do you know what the high alcohol level was?

10 A No, sir, I do not.

11 Q That's just -- they told you high, so it could be  
12 whoever told you's interpretation of a high alcohol level?

13 A Yes, that came from medical staff.

14 Q About getting a warrant, had you talked to the victims  
15 at the time that you got the warrant?

16 A No, sir, I had not.

17 Q But Officer Thompson had, I believe?

18 A I believe she had.

19 Q Had Officer Thompson shared with you the clothing items  
20 that were found on Mr. Jeter? Did you at the time you got  
21 the warrant, did you know what had been found on him?

22 A Basically she -- during the brief -- the briefing that  
23 we had, the short briefing we had she did tell me about the  
24 clothing, which included -- well, the items she collected  
25 included clothing, a cell phone and pepper spray, no

SONYA MCCULLOUGH - REDIRECT

1 identification information.

2 Q Do you remember anything about the clothing  
3 specifically?

4 A I didn't see the clothing.

5 Q Okay. Were you aware if a ski mask was found.

6 A It was mentioned.

7 Q Okay. Did that factor into your decision to get a  
8 burglary warrant?

9 A Based on the information that I received at the time,  
10 yes.

11 Q So when you were just talking with Mr. Neely, you  
12 mentioned that you brought the victims back in really almost  
13 the same day, kind of the same day that this happened. It  
14 happened in the late hours of the 25th, early the 26th, but  
15 that you had all three of the Walkers come down to city  
16 hall?

17 A I sat in with Investigator Samantha Hayes with the  
18 first young lady, I think her name was Shay.

19 Q But do you know if the other two came in for  
20 statements?

21 A We transported two, we left the mother, I do believe,  
22 at home with the small children, and we transported two to  
23 city hall.

24 Q And when did that incident happened roughly?

25 A It's on the 26th at 1:20.

SONYA MCCULLOUGH - REDIRECT

1 Q The middle of the night?

2 A Middle of the day. Oh, you mean --

3 Q When did the crime happen?

4 A It happened after midnight on the 26th, 25th/26th.

5 Q What I'm saying is it's not normal operating hours.

6 A No, it's not.

7 Q It's not time for women with young children to be up  
8 writing statements with the police.

9 A No, sir.

10 Q Was the purpose to bring them in because it was normal  
11 working hours, they would have time to think, process and  
12 give --

13 MR. NEELY: Objection, Your Honor.

14 Q What was the purpose?

15 A Follow-up investigation, to give them a chance to, as  
16 we mentioned, to rest, to calm down, not to keep bombarding  
17 them with questions. They had small children, children  
18 needed to rest, to just give them time to calm down  
19 basically, and to think about things.

20 Q All right. And once you had gathered -- you and  
21 Investigator Hayes had gathered that you made the decision  
22 to charge him with attempted common law robbery and assault.

23 A Yes.

24 Q Based off of those statements.

25 A Yes.

SONYA MCCULLOUGH - RECROSS

1 Q The night that you decided the burglary you knew that  
2 he had been found inside another person's residence. Did  
3 you know that?

4 A Yes.

5 Q Did you know those people claimed to not know him, he  
6 was a stranger?

7 A Yes.

8 Q You knew he was wearing the ski mask.

9 A Yes.

10 Q Did you know that he had been shot by those people who  
11 said he wasn't supposed to be there?

12 A That's what I was told, yes.

13 Q And you know that he had fled out of that house.

14 A Yes.

15 Q And that he was wearing a ski mask when he went inside  
16 another person's home.

17 A Yes.

18 Q Did you believe that was probable cause to believe that  
19 he entered that house with an intent to commit a crime?

20 A Yes.

21 Q What do people generally use ski masks for in your  
22 experience as an investigator?

23 A In my experience as an investigator a ski mask is not  
24 worn just to walk around town or just to go to McDonald's to  
25 the drive-thru. Normally ski masks are used when you are

SONYA MCCULLOUGH - RECROSS

1 committing a crime unless you're somewhere in the snow, or  
2 it's really, really cold outside.

3 Q We've seen a video, there was not snow on the ground.

4 A No.

5 MR. SMITH: I don't have any further questions.

6 RECROSS EXAMINATION

7 BY MR. NEELY

8 Q You've been employed for the last 26 and a half years,  
9 correct?

10 A Yes.

11 Q Okay. Prior to that you had a house you lived in.

12 A Uh-huh.

13 Q And you've had a house to live in for the last 26 and a  
14 half years.

15 A I have.

16 Q At any point, at any point in your life have you been  
17 homeless?

18 A No.

19 Q So you don't know what it's like to live in the woods.

20 A Not personally, no.

21 Q To be exposed to the elements all night.

22 A There has been times I've been called out and had to be  
23 exposed to the elements of the night.

24 Q But on a sustained basis you didn't know what that's  
25 like.



SONYA MCCULLOUGH - RECROSS

1 A No, I don't, not personally.

2 MR. NEELY: Thank you.

3 THE COURT: Okay. You may step down.

4 MR. SMITH: Your Honor, do you want to approach for --

5 (A bench conference was held.)

6 THE COURT: All right. We're going to recess for the  
7 evening. Keep in mind the cautions I have previously  
8 given, no discussions, no search, no investigation, no  
9 media exposure of any type. Have a good lunch -- excuse  
10 me, have a good evening and we'll see you at 9:30 in the  
11 morning. 9:30 in the morning.

12 (The jury left the courtroom.)

13 THE COURT: Court is in recess until 9:30 in the  
14 morning.

15 (Court recessed for the day and resumed at 9:30 a.m.,  
16 On Wednesday, January 9, 2019.)

17 THE COURT: Any matters to address before the jury is  
18 brought in?

19 MR. SMITH: Your Honor, we submitted a redacted video  
20 of State's Exhibit 45 that was played yesterday, Officer  
21 Eggleston's body cam, we edited out everything but that  
22 wasn't shown to the jury, and the video was stopped seven  
23 minutes and 27 seconds, we've shared that with Mr. Neely  
24 before.

25 THE COURT: Mr. Neely?

1           MR. NEELY: That's correct, Your Honor. I don't have  
2 any additional.

3           THE COURT: Does the State have additional witnesses  
4 or is the State going to rest?

5           MR. SMITH: The State is going to rest at this time.

6           THE COURT: All right. Mr. Neely, do you want to go  
7 ahead and make your motions?

8           MR. NEELY: Yes, sir. Judge, at this time I would  
9 move for a directed verdict on behalf of Mr. Jeter. Judge,  
10 this is a circumstantial case as far as the element of  
11 intent to commit a crime goes and I don't believe the State  
12 has submitted substantial circumstantial evidence to raise  
13 a question of fact for the jury at this point. What all of  
14 the witnesses testified to is that none of the stuff in the  
15 house was moved, none of the stuff in the house was  
16 touched. There was a purse in the living room, there was a  
17 TV in the living room, none of that stuff was touched.  
18 According to all of the witnesses the interaction was over  
19 in less than a minute, one of the witnesses testified it  
20 could have been 45 seconds, it could have been 30 seconds.  
21 At this point there isn't I don't believe sufficient  
22 evidence to lead to a jury question for the burglary  
23 charge. As far as the attempted strong armed robbery and  
24 the assault and battery in the first degree, while both of  
25 those are crimes, based on what I've heard, based on the

1 testimony that I've heard if those, in fact, happened,  
2 which obviously we contest, Your Honor, it would be our  
3 position based on the evidence that's been presented to the  
4 Court that the intent to commit those crimes would have  
5 been formed inside of the house once he was confronted by  
6 those witnesses, and if the intent is formed once he's  
7 crossed the threshold I don't believe that satisfies the  
8 elements for the burglary. So I think our strongest  
9 argument at this point is that a verdict should be directed  
10 on the burglary first degree. I would move for a directed  
11 verdict on the other two charges based on the inconsistent  
12 statements given by the witnesses. I don't think that's  
13 our strongest argument, again, I think it's circumstantial.  
14 It's actually direct because the witnesses testified  
15 directly to it, to what happened and the State's burden is  
16 a scintilla in that case. I would disagree based on the  
17 inconsistent statements but I would understand the Court  
18 denying those motions. But I don't think that their burden  
19 has been met specifically as it applies to the burglary in  
20 the first degree.

21 THE COURT: All right. Mr. Smith?

22 MR. SMITH: Your Honor, we believe that there's direct  
23 evidence and circumstantial evidence of his intent to  
24 commit a crime. Sharaia Walker said on the stand that he'd  
25 asked where the money was at, her 911 tape begins by

1 repeating where is the money at. Katrina Walker testified  
2 he held her down to the ground, pointed in her face and  
3 asked where the money is at. Alexis Walker testified to  
4 hearing her mother say that she would get money for the  
5 individual. He was wearing a ski mask, he had pepper  
6 spray. This is a house he was not welcome in, it was  
7 nighttime. There's bruises on the victim indicating that  
8 there was contact. His actions afterwards I think also are  
9 circumstantial as far as what his intention was. He does  
10 not -- he gives a fake name to law enforcement. He does  
11 not yell out for help. He doesn't run into a populated  
12 area, he runs into the back yard of a location. There is  
13 certainly enough evidence for a jury to conclude that the  
14 man with the ski mask on was in a house at night that he  
15 doesn't belong in. He had ill intent combined with the  
16 statement made by the victims that were in his presence.  
17 As far as the assault and battery and the common law  
18 robbery, it would essentially be the same evidence of his  
19 intention to commit a crime was formulated when he went in  
20 with a ski mask on. He had the ski mask on when he was  
21 first seen by the homeowners, and that Katrina Walker, as I  
22 said, has the injuries that occurred during the commission  
23 of a burglary, that makes it an assault and battery first.  
24 And the common law robbery request when he's standing over  
25 her and pointing at her would be sufficient.

1 THE COURT: All right. Anything else?

2 MR. NEELY: No.

3 THE COURT: Well, there does appear to be more than  
4 adequate evidence to establish all of the essential  
5 elements of the crimes of burglary, assault and battery  
6 first and attempted common law robbery. The State has  
7 presented testimony from witnesses indicating that the  
8 defendant did wilfully and intentionally enter a dwelling,  
9 that he did so without the consent of Mrs. Walker or any  
10 other person in ownership or possession of the property,  
11 and that he did intend to commit a crime in that there's  
12 evidence tending to show that he intended to commit the  
13 crime of larceny, and that he -- there's also evidence  
14 tending to show that he intended to commit the crime of  
15 larceny by force or intimidation, which would make it a  
16 robbery and therefore those are the essential elements of a  
17 burglary. And then burglary in the first has got to occur  
18 in the nighttime, or a physical injury be caused to a  
19 person who is not a participant, and I think the evidence  
20 is clear that the burglary did occur in the nighttime and  
21 that a person was physically injured, or at least there is  
22 evidence supporting that fact, and therefore your motion  
23 for a directed verdict as to the burglary first indictment  
24 is denied. And the same evidence that supports the charges  
25 of assault and battery and attempted common robbery, so

1 your motions for a directed verdict as to those charges is  
2 also denied. Have you discussed with Mr. Jeter his right  
3 to testify as well as not testify?

4 MR. NEELY: I have, Your Honor.

5 THE COURT: And does he indicate to you a preference?

6 MR. NEELY: Judge, we have discussed this matter and  
7 he's more concerned before he takes the stand -- he would  
8 like to take the witness stand. His one concern is the  
9 jury hearing his prior record, because he does have a prior  
10 criminal record, obviously this is a LWOP case. Based on  
11 previous conversations that we've had in chambers with Your  
12 Honor between Mr. Smith, Your Honor and myself, it's my  
13 understanding that nothing on his record can be used to  
14 impeach him, and if that is the case I believe Mr. Jeter  
15 will be taking the witness stand.

16 THE COURT: Mr. Smith, are you aware of any 609  
17 convictions that can be used for impeachment purposes?

18 MR. SMITH: I don't believe any that Your Honor would  
19 be inclined to allow us to impeach him with so I wasn't  
20 going to try.

21 THE COURT: So you don't intend to ask him anything  
22 about his criminal history unless it otherwise becomes  
23 relevant.

24 MR. SMITH: I would not, unless he opens the door.

25 MR. NEELY: Judge, he intends to testify.

1           THE COURT: Mr. Jeter, Mr. Neely tells me that you  
2 obviously have talked to him about testifying. Do you  
3 understand that you have a right to testify during the  
4 trial of this case if you want to, nobody can require it  
5 however, you can't be made to testify. Because when you're  
6 charged with a crime you have an absolute right to remain  
7 silent and to require the State to prove your guilt by  
8 presenting evidence of their own to convince a jury beyond  
9 a reasonable doubt that you're guilty and you never have to  
10 assist them in their efforts to prove that you are guilty  
11 by you taking the witness stand and testifying and perhaps  
12 providing evidence that might tend to prove your own guilt.  
13 So when you're charged with a crime you have an absolute  
14 right to remain silent, you don't have to take the stand,  
15 you don't have to testify and you don't have to make a  
16 statement, you don't have to answer any questions. At the  
17 same time if you wish to provide this jury with any  
18 additional testimony or evidence now is the only  
19 opportunity that you will have to do so. So if you take  
20 the witness stand and you do testify you're going to have  
21 to answer all of the questions that are asked of you not  
22 only by your lawyer but also by the prosecutor, and you'll  
23 have to answer those questions even if the responses might  
24 tend to prove guilt of some crime they claim you committed.  
25 If you make the decision not to testify in this trial I'm

1     going to instruct the jury, as I already have but I'll do  
2     it again, that they can't hold that against you, they can't  
3     consider it in any way in their deliberations or in their  
4     determination as to whether or not your guilt has been  
5     proven beyond a reasonable doubt. Do you understand your  
6     right to testify?

7             THE DEFENDANT: Yes, sir.

8             THE COURT: Do you understand your right to not  
9     testify?

10            THE DEFENDANT: Yes, sir.

11            THE COURT: Have you and Mr. Neely discussed the  
12     advantages and disadvantages of testifying as well as of  
13     not testifying?

14            THE DEFENDANT: Yes, sir.

15            THE COURT: And do you appreciate what those  
16     advantages and disadvantages are?

17            THE DEFENDANT: Yes, sir.

18            THE COURT: And have you had time to reflect upon your  
19     decision?

20            THE DEFENDANT: Yes, sir.

21            THE COURT: Do you need to talk Mr. Neely about it any  
22     further?

23            THE DEFENDANT: No, sir.

24            THE COURT: Have you made a decision?

25            THE DEFENDANT: Yes, sir.



1 THE COURT: And what is that decision?

2 THE DEFENDANT: To take the stand.

3 THE COURT: You are going to testify?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Is that a decision that you made of your  
6 own free will and accord?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And you're satisfied with it?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And you've had plenty of time to reflect  
11 upon it?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Anybody forced you into it?

14 THE DEFENDANT: No, sir.

15 THE COURT: Anybody pressured you into it?

16 THE DEFENDANT: No, sir.

17 THE COURT: Has anyone even suggested what decision  
18 you ought to make in that regard?

19 THE DEFENDANT: No, sir.

20 THE COURT: You made that decision on your own?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. Anything else?

23 MR. SMITH: Officer Mabry is here. I didn't know if  
24 we had determined if we needed him here or not.

25 THE COURT: I'll leave that up to Mr. Neely. So

BILLY MABRY - DIRECT

1 Mr. Mabry will remain and Mr. Neely will decide whether to  
2 call him or not. All right. Bring the jury in please,  
3 sir.

4 (The jury returned to the courtroom.)

5 THE COURT: Good morning, ladies and gentlemen. I  
6 apologize for the delay but I had some matters that I had  
7 to address before we could get back to the trial of the  
8 case, but we are ready now to continue with the  
9 presentation of evidence. Mr. Smith, does the State have  
10 any additional testimony or other evidence to introduce?

11 MR. SMITH: No, Your Honor. At this time the State  
12 would rest.

13 THE COURT: That's all of the testimony and evidence  
14 to be offered by the State at least in their case in chief  
15 so we'll now proceed with any to be offered by the defense.  
16 Mr. Neely?

17 MR. NEELY: Thank you, Your Honor. At this time we  
18 call officer Billy Mabry.

19 The witness, BILLY MABRY, was first duly sworn and  
20 Testified as follows:

21 DIRECT EXAMINATION

22 BY MR. NEELY

23 Q Officer Mabry, if you will give the jury your name,  
24 your rank and where you're currently employed?

25 A Billy Mabry, lieutenant, City of Spartanburg Police

BILLY MABRY - DIRECT

1 Department.

2 Q And how long have you been there?

3 A Twenty years. 20 years.

4 Q Twenty years? Okay. Did you have any prior law  
5 enforcement experience?

6 A No.

7 Q Okay. Prior to that did you attend the South Carolina  
8 Criminal Justice Academy?

9 A I did.

10 Q How long was that course?

11 A Eight or nine weeks at the time I went through.

12 Q Eight or nine at the time you went through? And you  
13 took all the courses that every law enforcement officer  
14 takes.

15 A Correct.

16 Q How to shoot a gun?

17 A Yes.

18 Q How to write incident reports?

19 A Yes, sir.

20 Q How to drive a vehicle?

21 A Correct.

22 Q All right. Specifically as it pertains to how to write  
23 incident reports, when they taught you that they taught you  
24 to be thorough?

25 A Yes.

BILLY MABRY - DIRECT

1 Q Accurate?

2 A Yes, sir.

3 Q Complete?

4 A Yes.

5 Q To put in as much detail as possible.

6 A Correct.

7 Q Because that taught you that the reason for incident  
8 reports, the importance of incident reports is so that you  
9 can rely on them later.

10 A Correct.

11 Q Because memory doesn't get better with time, does it?

12 A It does not.

13 Q So for instance with trial, you have to -- when it's  
14 been 442 days you have to go back to your incident report to  
15 refresh your memory.

16 A Correct.

17 Q God forbid something were to happen to you, somebody  
18 else would have to rely on your incident report.

19 A Correct.

20 Q Let me take you back to this particular case, State vs.  
21 Samuel Jeter. Did you have an opportunity to respond?

22 A I did respond.

23 Q Okay. And in that case did you have an opportunity to  
24 write a supplemental incident report?

25 A I did.

BILLY MABRY - DIRECT

1 Q All right. And when you wrote that supplemental  
2 incident report, were you thorough?

3 A Kind of hard to answer that question, I would have to  
4 say no.

5 Q Okay. So your training was to be thorough, accurate  
6 and complete and you were not.

7 A Correct.

8 Q Okay. Were you accurate?

9 A In what I placed in the report, yes.

10 Q Okay. So you wrote down what was accurately happening  
11 at the time.

12 A What do you mean by happening at the time?

13 Q You wrote down your recollections from that night and  
14 it was accurate, you didn't make things up.

15 A Correct.

16 Q Okay. Do you have a copy of your incident report in  
17 front of you?

18 A I do not.

19 Q In your incident report, did you happen to note what  
20 the weather was that night?

21 A I noted there was a cold temperature that night.

22 MR. NEELY: Thank you, Officer Mabry. That's all I  
23 have, Your Honor.

24 CROSS EXAMINATION

25

BILLY MABRY - CROSS

1 BY MR. SMITH

2 Q Do you remember how cold it was?

3 A It's hard to answer because I don't know what I was  
4 wearing.

5 Q Were you wearing a ski mask?

6 A No, I was not.

7 MR. SMITH: I don't have any questions.

8 THE COURT: You may step down.

9 MR. NEELY: Judge, he's under subpoena, we would ask  
10 he be released.

11 THE COURT: You may be excused, thank you.

12 MR. NEELY: Judge, we would call Donald Stepp, not a  
13 police officer.

14 The witness, DONALD STEPP, was first duly sworn and  
15 Testified as follows:

16 DIRECT EXAMINATION

17 BY MR. NEELY

18 Q Give us your name, please.

19 A Donald Stepp.

20 Q Mr. Stepp, where are you currently employed?

21 A I'm a senior investigator with the public defender's  
22 office, Spartanburg County.

23 Q And how long have you been employed there?

24 A Almost ten and a half years.

25 Q Where were you before that?

DONALD STEPP - DIRECT

1 A Fifteen years at probation and parole, five years  
2 solicitor -- four years with the solicitor's office. A  
3 total of 29 years.

4 Q Officer Stepp, or I'll call you Mr. Stepp as it  
5 pertains to this case, what did I ask you to do?

6 A To go to Gentry Street to make photographs of similar  
7 houses of where the incident occurred.

8 Q If you'll just take a look at all of those. Are those  
9 pictures that you took?

10 A They are.

11 Q Have they been altered in any way?

12 A No, sir.

13 Q All right. Specifically where are these pictures  
14 taken?

15 A On Gentry Street. All of them were taken on the same  
16 side of the street where the incident occurred. There was  
17 one house that was constructed similarly but it was across  
18 the street.

19 Q Okay. So included in these pictures is [REDACTED] Gentry  
20 Street?

21 A Yes, sir.

22 Q And every other picture is of the surrounding area.

23 A Yes, sir.

24 Q How long have you lived in Spartanburg County?

25 A 59 years.

DONALD STEPP - DIRECT

1 Q So you're familiar with the Beaumont Mill Village.

2 A Yes, sir.

3 Q To the best of your recollection has that village  
4 changed?

5 A Not a bit.

6 MR. NEELY: Your Honor, at this time we move Defense's  
7 1 through 8 into evidence at this time.

8 MR. SMITH: No objection.

9 THE COURT: They're admitted.

10 (The photos were received as Defense 1-8)

11 Q You can tell the jury which one that is.

12 A This is house number 482. This is the house -- if  
13 you're standing in the street looking at the house where  
14 this occurred, this is the house to the immediate right of  
15 where it occurred.

16 Q Okay. Tell us what each one is.

17 A This is number [REDACTED]. This is the house where the  
18 incident occurred in.

19 Q Okay.

20 THE COURT: Refer to the exhibit number too.

21 MR. NEELY: This is Defense's 2 and it is house number  
22 476, Your Honor.

23 A This is Defense's 3, it's house number 452, which is  
24 down the street on the same side of [REDACTED].

25 Q Donald, try to speak up for me, I'm having a little bit



DONALD STEPP - CROSS

1 of a hard time hearing you.

2 A This is Defendant's Exhibit 4, which is house number  
3 446, which is the same side of Gentry Street. This is  
4 Defendant's Exhibit 5, which is house number 442, which  
5 again is the same side of Gentry Street. Defendant's Number  
6 6, house number 420, same side of Gentry Street.  
7 Defendant's Exhibit 7, house number 414, same side of Gentry  
8 Street. And Defendant's Exhibit Number 8, which is house  
9 number 437, which is on the opposite side of the street.

10 MR. NEELY: Thank you, Mr. Stepp. I don't have any  
11 further questions.

12 CROSS EXAMINATION

13 BY MR. SMITH

14 Q Did you say you only took pictures of similar looking  
15 houses?

16 A Correct.

17 Q Are there other houses that are not similar looking in  
18 that area?

19 A Yes, sir.

20 Q Are all of those houses white?

21 A No, sir.

22 Q Did you notice any toys in the yard of [REDACTED]?

23 A No, sir.

24 Q What about that? Do you see what that is? I'll show  
25 it to you, State's Exhibit 2. It's kind of between [REDACTED] and

DONALD STEPP - CROSS

1     [REDACTED] to the left of the house.

2           THE COURT:  State's exhibit or a defense exhibit?

3           MR. SMITH:  Defense Exhibit 2, I apologize, Your  
4     Honor.

5     Q     Could have been bicycles there?

6     A     It may be.  It looks like it appears to be on maybe the  
7     property line laid out in the yard, it's not leaning up  
8     against any of the houses.

9     Q     And you're saying when you went out there you didn't  
10    notice toys in the front yard?

11    A     I was looking more at the house than what was laying in  
12    the yard.

13    Q     Okay.  I show you one other picture that was taken the  
14    night of.  Did you see anything like that, State's  
15    Exhibit 6?

16    A     No, sir.

17           MR. SMITH:  I don't have any further questions, Your  
18    Honor.

19           MR. NEELY:  No redirect.

20           THE COURT:  You may step down.

21           MR. NEELY:  May he be excused from the subpoena, Your  
22    Honor?

23           THE COURT:  He may be.

24           MR. NEELY:  Call Samuel Jeter.

25           The witness, SAMUEL JETER, was first duly sworn and

SAMUEL JETER - DIRECT

1           Testified as follows:

2                                 DIRECT EXAMINATION

3   BY MR. NEELY

4   Q    All right.  You're pretty soft-spoken, okay?  You're  
5   going to need to speak up so we can all hear you.

6   A    Okay.

7   Q    What's your name?

8   A    Samuel Jeremiah Jeter.

9   Q    How old are you?

10  A    Forty-four.

11  Q    Where are you from?

12  A    Spartanburg.

13  Q    Your whole life?

14  A    Yes, sir.

15  Q    On October 25th of 2016 (sic), did you burglarize  
16  anywhere?

17  A    No, sir.

18  Q    Did you assault anybody?

19  A    No, sir.

20  Q    Were you attempting to rob anybody?

21  A    No, sir.

22  Q    Samuel, let's talk about October 25th, okay?  Let's  
23  talk about earlier in the evening.  What you were you doing?

24  A    Drinking.

25  Q    What were you drinking?

SAMUEL JETER - DIRECT

1 A Hurricanes.

2 Q I don't know what a hurricane is.

3 A Beer.

4 Q What kind of beer?

5 A Got 8.0 alcohol in it.

6 Q How many of them did you have?

7 A Probably about 12, 12 pack, whatever you want to call  
8 it.

9 Q Right. By about midnight on the 25th how were you  
10 feeling?

11 A I was still on it, you know, still.

12 Q What do you mean still on it?

13 A Drunk.

14 Q Okay. Do you remember what the weather was like that  
15 night?

16 A It was cold.

17 Q All right. So what were you wearing?

18 A I was wearing a mask.

19 Q Why?

20 A Because it was cold.

21 Q Okay. Do you drive anywhere?

22 A No.

23 Q How do you get around?

24 A I walk.

25 Q So where were you walking to on the morning of

SAMUEL JETER - DIRECT

1     October 25th and October 26th?

2     A     I was walking to my home -- well, I thought I was  
3     walking to my homeboy's house on Gentry Street.

4     Q     So what happened?

5     A     I messed around, and when I got to Gentry Street he got  
6     like a green Crown Vic., so -- well a Crown Victoria, you  
7     know what I'm saying, and I thought there was this car in  
8     front of the house I went in, so I knocked. But before I  
9     knocked I made sure that, you know what I'm saying, somebody  
10    was in there, but ain't nobody answered the door. But at  
11    the same time when I turned the knob the door already  
12    unlocked, so when I went in there I see like ain't nobody in  
13    the living room, you know what I'm saying, I didn't see, you  
14    know what I'm saying. I seen the TV on, you know, it was  
15    loud, ain't nobody -- so when I went to the back room I  
16    heard somebody talking and I'm thinking this is him talking  
17    the one of his fiances. So when I opened the door it wasn't  
18    him talking to her so he was just -- the one shot me, she  
19    was on the phone so I closed the door back.

20    Q     Okay. So what did you -- what happened at that point  
21    once you saw that it wasn't --

22    A     I realize I'm in the wrong place at the wrong time.

23    Q     So what did you do?

24    A     I panicked to be honest, I panicked. I'm drunk so I  
25    panicked. I'm like, "How I end up in the wrong house?" So

SAMUEL JETER - DIRECT

1 as I closed the door she came to the door and, "Get out of  
2 my house," or whatever. I said, "All right, my bad, I  
3 didn't mean nothing." I'm drunk, I didn't know it was their  
4 house. I was trying to leave. As I was leaving she was  
5 shooting at me, so that's how I ended up running out of  
6 there. Her mom came out of the room and fell on her own, I  
7 didn't touch her or nothing, she just fell. So as I was  
8 stepping down my shoe came off, my shoe came off in the  
9 house because she pulled my leg and made my shoe came off.  
10 That's why I kept on trying to run. I didn't approach  
11 nobody, I didn't ask for no money, no nothing. Like you  
12 said, the two pocketbooks was in the living room. I wasn't  
13 even focused on taking nothing, you feel me, I just made the  
14 mistake looking for somebody that wasn't there. And I was  
15 going out, she chased me with the gun shooting at me.

16 Q Were you inside or outside when she shot you?

17 A I was outside when she shot me. She shot at me in the  
18 house but I was running outside, she was chasing me outside.

19 Q When you actually got hit, were you inside or outside  
20 of the house?

21 A I was outside when I got hit.

22 Q Running away.

23 A Running away.

24 Q Shot in the back.

25 A In the back.

SAMUEL JETER - DIRECT

1 Q Did you go in that house with the intent to burglarize  
2 it?

3 A No.

4 Q Did you go in that house with the intent to take  
5 anything?

6 A No, sir.

7 Q Did you go in that house with the intent to assault  
8 anybody?

9 A No, sir.

10 Q You trespassed.

11 A Trespassed.

12 Q Not --

13 A Not even display a weapon, no nothing.

14 Q Did you have a weapon?

15 A I didn't have no weapon. I had my key chain with the  
16 pepper spray still in the case.

17 Q But that was in your pocket?

18 A It was in my pocket. I never displayed it. I never  
19 said, "Give it up," or "I'm going to spray you if you don't  
20 give it to me," or whatever. I never did that.

21 Q Just drunk in the wrong house.

22 A Just drunk in the wrong house.

23 MR. NEELY: Thank you, Samuel.

24 CROSS EXAMINATION

25 BY MR. SMITH

SAMUEL JETER - CROSS

1 Q So you're wearing that ski mask when you were inside  
2 the house?

3 A When I went in the house?

4 Q Yeah.

5 A It was cold, yeah.

6 Q It was cold in the house?

7 A No, it was cold outside.

8 Q So you made it to the third bedroom in the house with  
9 this pulled down over your face.

10 A Uh-huh.

11 Q It was on the whole time.

12 A Well, when I took off -- I took it off -- I brought it  
13 up when I took off.

14 Q You make it to the friend's house and you're like,  
15 "Man, I'm at my friend's house, I'm going to keep my ski  
16 mask on until I see him?"

17 A I thought I was at that time my friend's house.

18 Q Right. You went into your friend's house with a ski  
19 mask on. You didn't like take it off on the porch before  
20 you walked in?

21 A No.

22 Q Okay. Do you normally wear ski masks in the  
23 wintertime?

24 A I mean, if it's cold, yeah.

25 Q Where were you drinking your 12 hurricane high drafts?



SAMUEL JETER - CROSS

- 1 A [REDACTED] Spruce Street.
- 2 Q Where is that?
- 3 A That's over there by Ice Grill, it ain't too far from
- 4 Ice Grill.
- 5 Q Okay. So it is the same general neighborhood?
- 6 A Yeah.
- 7 Q Who lives there?
- 8 A A friend.
- 9 Q Who?
- 10 A Kendra Williams.
- 11 Q Who were you going to see?
- 12 A I was going to see my cousin.
- 13 Q Who?
- 14 A Anthony Hollis.
- 15 Q What's his address?
- 16 A He stays on [REDACTED] Gentry Street.
- 17 Q [REDACTED]?
- 18 A Uh-huh.
- 19 Q The pictures we saw were on the 400s?
- 20 A Oh, well.
- 21 Q Right? So you're I guess two blocks off?
- 22 A Yeah.
- 23 Q Had you ever been to his house before?
- 24 A Yeah.
- 25 Q How many times?

SAMUEL JETER - CROSS

- 1     A     About three times.
- 2     Q     Okay.  So you'd been to that house three times before.
- 3     You knew what was across from it or anything like that?
- 4     A     No.
- 5     Q     You just always saw the green Crown Vic. and that was
- 6     it.
- 7     A     Yeah.  That's what I was looking for, the car.
- 8     Q     Do you know what color his house was?
- 9     A     White.
- 10    Q     Okay.  And I assume it looks like this if I'm just
- 11    guessing, right?
- 12    A     All of them made about the same.
- 13    Q     Yeah.  But some of them are different colors.
- 14    A     I mean at night --
- 15    Q     Right.  What about this house, it's got a -- what's
- 16    across the street from the [REDACTED] whatever address you just
- 17    gave, what's across the street from that?
- 18    A     More houses.
- 19    Q     Not a church like this that you broke into.
- 20    A     I didn't break in it, I walked in.  I didn't break in
- 21    it.
- 22    Q     Sure.  This one has a church across from it, right?
- 23    A     Yeah, I guess.
- 24    Q     And it's near the cul-de-sac, you can see Isom Street,
- 25    right?

SAMUEL JETER - CROSS

1 A I guess.

2 Q Did you know the address that you were going to on that  
3 night, or is that something you've learned since then?

4 A No.

5 Q You didn't know.

6 A Nuh-uh.

7 Q So since this event you've made it a point to learn  
8 what his address was.

9 A I just seen the green Crown Vic. and I assumed that's  
10 where he was at.

11 Q Right. Oh, so you're saying you don't know it was his  
12 house, you just thought he was there maybe?

13 A Yeah.

14 Q So you were just going in because you saw a green Crown  
15 Vic., a very unique car and thought, "Well, I'll just walk  
16 in here with a ski mask on because I think my buddy is at  
17 this house?"

18 A I guess.

19 Q I want to make sure, did you think you were walking  
20 into his house or you think you were walking into a house  
21 that he was in but not his house. Which one?

22 A Well, the house I thought he was in.

23 Q But not where he lives.

24 A Yeah.

25 Q So you knew you were walking into some other person's

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1 house that you knocked on the door, they didn't answer, but  
2 because your friend is there at midnight you feel that it's  
3 okay to walk in with a ski mask on.

4 A I mean, the door was unlocked, that's why -- I  
5 knocked --

6 Q I leave my door unlocked, I hope that strange men don't  
7 walk in with ski masks.

8 A Yeah, but I knocked before I went in.

9 Q Okay. But you didn't think you were going to your  
10 friend's house, you thought you were going to a house that  
11 your friend was at.

12 A He said meet him on Gentry Street.

13 Q Okay. Had you communicated with him?

14 A Yeah, he called my phone.

15 Q Okay. And he said "I'm over at the [REDACTED] Gentry Street,"  
16 or what --

17 A He said at Gentry Street.

18 Q He said just find my car and walk on in?

19 A Yeah. He said, "My car should be outside."

20 Q Leave your ski mask on. All right. You said you  
21 didn't see anyone in the living room.

22 A No. I wasn't paying attention for nobody in the living  
23 room.

24 Q And, of course, I know you said you'd been into the [REDACTED]  
25 Gentry Street several times, had you ever been into this

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1 house?

2 A No.

3 Q So you wouldn't even know -- when you see pictures of  
4 strange people that wouldn't be an alarm to you because you  
5 don't even know whose house you're walking into.

6 A No.

7 Q Right. Does your friend on [REDACTED] Gentry Street have  
8 children?

9 A Got grown kids.

10 Q Does he have that in his yard, toys like that?

11 A No.

12 Q How did your shoe get outside if they took it off  
13 inside the house?

14 A How it got -- I mean, she probably throwed it out.

15 Q So you're saying what drew you back to that bedroom is  
16 a voice; is that right?

17 A Yeah. She was on the phone, talking on the phone.

18 Q You said she, I thought you were looking for a man.

19 A Yeah. I thought she was talking to my homeboy.

20 Q Oh, so you heard a woman's voice, no male voice in  
21 response and thought that was him?

22 A Yeah. I thought he was back there with her.

23 Q Okay. I'm curious, you said one of his finances, how  
24 does that work?

25 A I mean, he got -- he ain't no married man or nothing.

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1 Q That's a first for me, I didn't know that. Okay. So  
2 you're saying that you peer into that door --

3 A Yeah.

4 Q -- and you see at that point it's just a female,  
5 there's no man at that point.

6 A That's what you --

7 Q You are immediately aware that --

8 A I'm in the wrong house.

9 Q Okay. Why did you not immediately run out?

10 A I mean, I was lost, I was in fear, like I made a  
11 mistake and I was drinking.

12 Q Did you say, "Oh my God," -- did you immediately go,  
13 "Oh my God, I'm in the wrong house," and take your ski mask  
14 off?

15 A I mean, I did that as I was going out the door.

16 Q Okay. So when she opens the door again -- I guess you  
17 peer in, you close it and then she ends up coming to the  
18 door and y'all are standing right there in the hallway?

19 A Yeah.

20 Q And you're saying --

21 A My bad --

22 Q -- my bad, my bad.

23 A My mistake, and that's when I took off.

24 Q And then she runs and goes and gets the gun and shoots  
25 you.

SAMUEL JETER - CROSS

1 A Shot at me, yeah.

2 Q And then you end up running -- it sounds like the mom  
3 is coming towards you, you say she fell?

4 A Yeah.

5 Q And did you get on top of her?

6 A No. I was trying to get on through, I kept on going,  
7 that's when she grabbed my shoe and my shoe came off.

8 Q The mom grabbed it?

9 A Yeah.

10 Q Okay. You ended up in the nextdoor neighbor's back  
11 yard, right?

12 A Yeah.

13 Q Why did you end up there?

14 A Because I thought she was going to kill me because I  
15 started crawling. That's why when they came to the door and  
16 said where I was at I started crawling, because she kept  
17 shooting. So the only way she probably was going to stop is  
18 I get out of her eyesight because she kept shooting.

19 Q Did you climb over that locked fence?

20 A Yeah.

21 Q And then --

22 A And laid and collapsed.

23 Q And laid?

24 A And collapsed.

25 Q Did you go unconscious?

SAMUEL JETER - CROSS

1 A Yeah.

2 Q All right. Do you remember anything -- I mean, we  
3 watched the body cam, do you remember that where they're  
4 talking to you in the back of the house or whatever?

5 A Some.

6 Q Okay. Who is Calvin Jeter?

7 A My brother.

8 Q Your brother. Why would you have told, I don't know,  
9 sounds like somewhere around 10 law officers --

10 A The only reason I said that because I was unconscious.  
11 I don't know what they were asking me, you know what I am  
12 saying. I was just saying names, I was talking out of my  
13 head because I'm drunk, I'm under the influence of alcohol a  
14 lot.

15 Q So while belligerently drunk even though you say just a  
16 minute ago that you were consciously walking into that house  
17 because you thought your friend was there, not actually it's  
18 the wrong house, but while belligerently drunk you can  
19 remember your brother's name and date of birth just off the  
20 top of your head while you've also been shot four times and  
21 you're bleeding out? Did you get your wits about you when  
22 you made to it the hospital? Because Officer McCullough  
23 talked to you almost three hours after this happened, were  
24 you still --

25 A I was unconscious then when she came over and tried to



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1 question me.

2 Q You don't remember talking?

3 A Who, Ms. McCullough?

4 Q Yeah.

5 A I remember her asking me questions, and all I kept on  
6 telling her, "Can you please go get the nurse to get these  
7 bullets out of my --

8 Q Sure. But you told her you were Calvin Jeter?

9 A That's what she say.

10 Q So you claim you've got no recollection of that.

11 A I don't remember that.

12 Q So you remember drinking the hurricanes, walking to  
13 Gentry Street, seeing the Crown Vic., walking inside,  
14 exactly what happened inside, but then you don't remember  
15 anything. So is it the intoxication or the shooting that's  
16 causing this?

17 A Probably shooting, because I was bleeding like, you  
18 know --

19 Q You've got a good memory before, but then the shooting  
20 is kind of what tipped it off.

21 A Yeah.

22 Q Did you scream for help while you were over there?

23 A I was unconscious.

24 Q Immediately?

25 A Yeah, I was out.

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1 Q All right. And you didn't see a kid asleep on the  
2 living room floor.

3 A No.

4 Q Or on the couch?

5 A No.

6 Q Did you ever tell law enforcement officers that you  
7 were Samuel Jeter?

8 A Yeah, once I had woke up the next day.

9 Q Okay. But that night you were Calvin just because you  
10 were so out of sorts that you --

11 A I guess that night it just came to my head.

12 Q Right. Not because you didn't want to get caught for  
13 burglarizing a house?

14 A No, it wasn't that.

15 Q And you're saying you never asked anybody about where  
16 money was at.

17 A No.

18 Q What do you carry pepper spray for?

19 A I mean for my protection. Dogs be running around off  
20 the chain and all of that.

21 Q All right. I just want to make sure I'm clear, your  
22 story is that you were very, very intoxicated, drinking on  
23 Spruce Street, and then you had talked to your friend on  
24 Gentry Street that lives in the 200 area and he told you to  
25 come and hang. And then you know he drives a Crown Vic.,

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1 you come up to a house that has a green Crown Vic., in front  
2 of it, you know it's not his house, right? You have to  
3 answer.

4 A I mean, I thought it was his car though.

5 Q Right. But what I'm saying, you knew that the house  
6 wasn't his but his car was there.

7 A Yeah.

8 Q And so you knocked and then you entered.

9 A Yeah.

10 Q With the ski mask on pulled down over your face.

11 A If that's what you want to say.

12 Q Okay. And you walk all the way to the back of the  
13 house knowing it is not your friend's house because you  
14 heard a voice and wanted to see if it was your friend.

15 A Yeah, talking to one of his fiances.

16 Q So it's really not that you walked into a similar  
17 looking house, it's that you conscientiously walked into  
18 this house thinking that your friend was there and that you  
19 should walk in there and meet up with him.

20 A Yeah.

21 Q Okay.

22 MR. SMITH: I don't have any further questions.

23 MR. NEELY: No redirect.

24 THE COURT: You may step down.

25 MR. NEELY: We rest, Your Honor.

1           THE COURT: Any reply?

2           MR. SMITH: No, Your Honor.

3           THE COURT: All right. Ladies and gentlemen, that is  
4 all of the testimony and evidence to be offered in the  
5 trial of the case, and therefore what remains to be done  
6 are the lawyers' final summations after which I'll instruct  
7 you on the law and then after which you'll begin your  
8 deliberations. I've got some legal matters I need to  
9 address with the lawyers, it shouldn't take too long but  
10 nevertheless I have to do it before we can conclude, so  
11 right now I'm going to ask you to please go to the jury  
12 room but do not yet begin any discussions of the case, I'll  
13 bring you back shortly to conclude with the final  
14 summations and the legal instruction.

15           (The jury left the courtroom.)

16           THE COURT: All right. Mr. Neely, do you want to  
17 renew your motions?

18           MR. NEELY: Yes, sir, same grounds as previously  
19 stated.

20           THE COURT: They are also denied. Instruction  
21 requests?

22           MR. SMITH: Voluntary intoxication, Your Honor. And I  
23 don't know about lessers, but -- I didn't have anything  
24 other than involuntary intoxication.

25           THE COURT: Mr. Neely?

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1 MR. NEELY: I don't have any specific requests.

2 THE COURT: All right. I thought you wanted to  
3 discuss the charges.

4 MR. NEELY: I would like to review the charges before  
5 I give my closing.

6 THE COURT: All right. Well, we'll take ten minutes  
7 and then we'll -- I'll let you know what I'm going to  
8 charge.

9 (A recess was taken.)

10 THE COURT: Ready for the jury?

11 MR. SMITH: The State is ready, Your Honor.

12 MR. NEELY: The defense is ready.

13 THE COURT: All right. Bring them in.

14 (The jury returned to the courtroom.)

15 THE COURT: All right. As you know you're going to  
16 hear the final summations accomplished by the lawyers,  
17 after this I'll provide you the instruction as to the law  
18 and then you'll go back and begin deliberations. Please  
19 give the lawyers your attention now as they give you their  
20 final summation.

21 MR. SMITH: Thank you, Your Honor. Good morning,  
22 ladies and gentlemen. Spenser Smith. I'm going to start  
23 by playing the 911 tape. I think it's the most critical  
24 piece of evidence in this case because it puts exactly the  
25 state of mind that happened right after this crime. The

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1 most critical part is actually the first line, and if you  
2 notice it's before the 911 operator even picks up the  
3 phone, they have not even talked, Ms. Sharaia has not even  
4 spoken to a law enforcement officer or anybody that works  
5 for the county whatsoever. In fact, what I think is she's  
6 processing the crime right there on the phone, she's saying  
7 where's the money at, that's what she's saying, that's not  
8 some random thought that's coming to her minds, she's  
9 processing what's happened. You can hear her processing  
10 throughout the call.

11 (State's Exhibit 1 was played for the  
12 Jury.)

13 MR. SMITH: Doesn't sound like an accident to me or a  
14 mistake. You can hear Katrina in the background screaming  
15 like something terrible has just happened. You can hear  
16 the panic even in Sharaia's voice even though she's very  
17 calm she's processing what just happened, and what happened  
18 is Samuel Jeter with a ski mask on entered their house  
19 right around midnight on October 25th of 2017, he had a ski  
20 mask on, he just admitted that he had a ski mask on, and  
21 that he made it all the way to the third bedroom of the  
22 house of what originally started as what he thought was his  
23 friend's house and then turned into another house that his  
24 friend was staying at, and that he just thought he would  
25 walk into where he had permission to be. He's lying. He

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1     couldn't keep his story straight on the stand for all of  
2     five minutes basically.  It's just a lot contradictory to  
3     everything else that's in this case.  I'll talk a little  
4     bit about the law but I'm going to let the Judge do that  
5     mostly.  Burglary first requires entry into a dwelling,  
6     that would be a house, they stated that they lived there,  
7     with the intent to commit a crime therein, entry without  
8     permission.  He even admitted he would have had permission  
9     to go into that house because he said his friend was just  
10    staying there.  Entry with the intent to commit a crime  
11    therein.  And then that either occurs at nighttime or the  
12    physical injury occurred to somebody inside the house, I  
13    believe both are present in this case, that make it a  
14    burglary first.  If it's nighttime or somebody got injured.  
15    All of the testimony is about it being at night.  Katrina  
16    Walker testified about being attacked and she testified  
17    about her injuries as you've seen them in three State's  
18    exhibits, State's Exhibit 40, the days following.  Assault  
19    and battery in this case is going to require an injury to a  
20    victim or an offer or attempt to injure a victim during the  
21    commission of a robbery, burglary or theft.  In this case  
22    it's a robbery, burglary and a theft, all three.  And we  
23    think that he actually injured, but even the offer or  
24    attempt to injure would make him guilty of assault and  
25    battery first if you believe he was committing a robbery or

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1 a burglary at that time. Attempted strong armed robbery  
2 would be basically the forceful taking from a person. The  
3 statement of where's the money at would be the statement  
4 about his intention. The common law robbery also gives you  
5 the intent that he entered that house to commit a crime.  
6 The Judge will talk to you about reasonable doubt, I'm  
7 going to let him handle that. I'm not going to tell you  
8 cheesy stories about my family and explain reasonable doubt  
9 that way, I would just let the Judge do that, but I would  
10 ask that you focus on reasonable, reasonable. Is it  
11 reasonable. The two stories he told on the stand, are  
12 those reasonable or is what all three of the these people  
13 said happened in the middle of the night with the man in  
14 the ski mask coming in, is that a more reasonable  
15 probability of what happened? What I think the case comes  
16 down to ultimately, and that's where I'm going to spend the  
17 rest of my time talking about to you is the intent to  
18 commit the crime. Mr. Neely essentially in his opening  
19 admitted that everything would be proven as far as the  
20 burglary, and I think it has and it hasn't controverted  
21 other than what his intent was when he entered. Was he  
22 going to the wrong house or a friend's house, or was he in  
23 there to steal or do some other criminal activity. The  
24 first point, the ski mask. I mean, I don't even know if  
25 people wear ski masks to ski anymore. I went skiing last



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1 year and didn't see any. It's very unusual. This is  
2 October 25th. We've got one officer that says it was cold,  
3 one officer said it was all right. We have the EMS worker  
4 who has apparently been standing out there for 45 minutes  
5 in a t-shirt, he's got a short sleeve shirt on the body cam  
6 video. I don't know. I don't see the breath off of  
7 anybody on the body cam videos. I mean, is it ski mask  
8 weather? Maybe, I don't know, I think not. But it is even  
9 more unusual that when he gets to a house that he is  
10 supposed to be -- well, maybe he is supposed to be going  
11 into but he may have a reason, got a friend there, that he  
12 would actually go into the house and go all the way back to  
13 what's the third bedroom in the house if you remember the  
14 pictures, with a ski mask on, and that when he was  
15 confronted he still doesn't even pull his ski mask on.  
16 Because if you remember he ends up found on the ground with  
17 his ski mask on right underneath his head, and that's, you  
18 know, at the back of [REDACTED] Gentry Street, the nextdoor  
19 neighbor's house. The ski mask is a tool that somebody  
20 uses to conceal their identity to commit crimes. It is  
21 also something that could keep you warm, but look at the  
22 entire circumstances of the case. Where's the money at.  
23 You have two people testified that that was said, and  
24 Alexis testified she didn't hear it, I think she was going  
25 to get the baseball bat at that time, but she testified she

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1 heard her mom saying she would take Mr. Jeter to the money.  
2 So you've got three people and the 911 call, and then  
3 you've got Sonya McCullough who testified about when they  
4 did the more thorough interview the next day when they made  
5 the decision to charge the common law robbery and assault  
6 and battery, that they had talked to all three of those and  
7 used statements as a basis in order to get those warrants.  
8 Pepper spray. I know there's an allegation that it's used  
9 but it still factors into the entire totality of the  
10 picture. He's going into a house that he doesn't know with  
11 a ski mask on, pepper spray could be used in case he is  
12 confronted by somebody to facilitate his escape. The  
13 bruises on the victim. His story is that she falls and he  
14 just runs past her. To me it's -- her bruises are totally  
15 consistent with the story she tells, which is that he's  
16 grabbing her, he's holding her. I believe when she  
17 testified she used her left hand talking about him saying  
18 where's the money at, the bruises are on her left arm which  
19 you would presume would be being held by Mr. Jeter's right  
20 arm which was free, the other one was demanding money. All  
21 of the females inside the house testified about seeing  
22 their mom with Mr. Jeter hovering over them. He doesn't  
23 know the people. I didn't know exactly what he was going  
24 to say on the stand, it's kind of unclear still even after  
25 what exactly he thought he was doing. He was either drunk

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1 to the point that he didn't know where he was going and  
2 walked to a house that looked similar, or he knew exactly  
3 what he was doing, had talked with his friend and was going  
4 to a house on Gentry Street and was just going to walk into  
5 whatever house there was a green Crown Vic. parked in front  
6 of. The inconsistencies, you should take those seriously,  
7 that's because he's lying. He says on his -- he says in  
8 his direct testimony that he is screaming you know,  
9 "Don't," you know, "That's the wrong house, I'm sorry, I'm  
10 sorry." None of our witnesses said that, nobody says that.  
11 And I think it's important, because although there's  
12 varying degrees of how quickly this happened, think of what  
13 Sharaia's interaction with this person was. She's in her  
14 bedroom talking with her boyfriend on the phone, a man  
15 peers in with a ski mask on, she goes to inspect that.  
16 This is time passing, she's assessing the situation, she's  
17 able to get the door open and fully sees the man, starts to  
18 begin screaming and telling him he's in the wrong place.  
19 At that point he's got an opportunity to start diffusing  
20 the situation, she says nothing about that. In fact, her  
21 reaction is to close the door and go get a gun, hardly  
22 seems like the reaction of somebody who is being told that  
23 this is a mistake. When she gets back out there, that's  
24 when he's on top of her mother, and if you remember Katrina  
25 tells her to shoot him. All of the victims in this case;

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1   Alexus, Katrina and Sharaia are all assessing the situation  
2   too, they're all hearing what Mr. Jeter says, and all of  
3   them are under the impression that this a burglary, this is  
4   anything but a mistake. This is a burglary that's caught  
5   in the act. Doesn't scream for help after he's shot. He  
6   says he's unconscious. I don't know, I can't answer that  
7   question for you, but he is apparently able to climb over a  
8   locked fence and get the back. They're able to awaken him  
9   where he is able to give a fake name and date of birth to  
10   law enforcement, saying that he's homeless, saying he lives  
11   around Duncan Park. Seems to have a pretty good  
12   conversation given the circumstances of being incredibly  
13   intoxicated and shot four times. They had officers saying  
14   that they were in the area for 45 minutes, nighttime, quiet  
15   looking for this guy. They did not hear any pleas for  
16   help. Presumably if this was an accident you would be  
17   trying to be saved, you would want them to find you because  
18   you're going to died otherwise. You saw the amount of  
19   blood that he was losing. He runs to a locked fence in a  
20   back yard, it's not somewhere easily seen, I know trying to  
21   escape the shooter, but he consciously climbs over a fence  
22   that law enforcement had to cut off with bolt cutters to  
23   get there. It's hardly a place that you would readily be  
24   found. He gives a fake name and date of birth, it's his  
25   brother, I guess that's part of why he would have been able

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1 to remember that when he was in such a state. But I think  
2 it's important to note that while he's supposedly  
3 belligerently intoxicated, or maybe he's not because I  
4 don't know based off of his testimony, he says he drank 12  
5 eight percent beers. My knowledge of hurricanes, they come  
6 in 24 ounces, so that's like 48 beers that he said he drank  
7 on the stand, because it is eight percent, it's twice as  
8 strong as a beer, it's twice as big as a normal beer. So  
9 while he drank 48 beers and has lost all kinds of blood he  
10 is able to give a fake name and a date of birth. Maybe  
11 it's because he's confused, maybe it's because he doesn't  
12 want to get caught and arrested for burglary. I think it's  
13 easy to see which one it is. He maintains that fake name  
14 for three hours. If you remember sergeant, or Officer  
15 McCullough's testimony she talks about getting to the  
16 hospital, and at that point he's already told them at the  
17 scene that his name is Calvin Jeter. He continues telling  
18 her his name is Calvin Jeter. He finally slips up and  
19 gives a real date of birth, which she already knows that  
20 he's Calvin Jeter (sic) at that point. You remember her  
21 testimony -- excuse me, Samuel Jeter. In her testimony she  
22 says that she was able to have a conversation with him, not  
23 belligerently intoxicated, he was able to stand on his  
24 feet, wasn't repeating things, wasn't having memory lapses  
25 or anything that you associate with somebody belligerently

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1     intoxicated. He maintains that fake name for three hours.  
2     The distance that he makes it into the house without  
3     realizing this is the wrong house. Now, this kind of  
4     depends on which version of the story that he told you  
5     believe, because it's either he's going into house that  
6     he's been to three times before and he should have seen  
7     because he said he has adult children. He should have seen  
8     this. He should have seen all of these pictures because  
9     there's family pictures all over the place. He said his  
10    friend has adult children. These are all babies. These  
11    are all children's toys out in the front yard. But it also  
12    could be that he did walk into a random person's house who  
13    he believed his friend was at with a ski mask on. If  
14    that's true we'll give him he wouldn't have known the  
15    layout of the house, I just believe that that's very  
16    unlikely to be true. There's also it's -- if you've had  
17    children there's going to be child things all over the  
18    house. Again, Sharaia makes the decision to shoot him, and  
19    I don't think you'll get -- she was tough on the stand,  
20    it's not a decision that is made lightly. When she goes  
21    and gets that gun see tells him to get out of the house.  
22    She's not wanting to shoot him. I don't think she woke up  
23    that day wanting to shoot anybody, you know. She's  
24    protecting her children and she's making a decision based  
25    off of what she's seeing and hearing, and she's not seeing

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1 or hearing a person who is acting like somebody who is in  
2 the wrong house and is trying to get out. She's seeing  
3 somebody who is attacking her mother and has her on the  
4 ground, and she makes the decision to protect her family,  
5 her children, her mom and to shoot. Obviously you have  
6 conflicting people, somebody is lying in this story. I  
7 just ask that you look at the totality of the circumstances  
8 and think about is it reasonable for a person with a ski  
9 mask to go into somebody's house all the way to the back of  
10 the house? Is that reasonable? It seems insane. In  
11 Spartanburg County you can get killed doing that. I mean,  
12 there a lot of guns. Also, finally, the defense's opening  
13 referred to this as a nightmare that you can wake Samuel  
14 Jeter up from. I thought that was interesting, because  
15 I've always viewed this case as a nightmare for the  
16 Walkers. They have small children, elementary school and  
17 younger children inside the house. Katrina has her  
18 children in the house. It's all women in the house. It's  
19 midnight, two of them are asleep, one is in her bed, the  
20 children are asleep. This is the worse case scenario. You  
21 are in your house asleep and a strange man in a ski mask  
22 comes inside your house. It is everyone's worst nightmare.  
23 And the only reason it didn't become their worst nightmare  
24 is because they're not victims, they're heros because  
25 Sharaia solves the case. Sharaia shoots him and leaves a

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1 Hansel and Gretel blood trail right to where they would end  
2 up finding Mr. Jeter. So the police didn't have a whole  
3 lot of work to do on this because of the actions taken by  
4 them to protect their family, and then they want to make it  
5 out like he's a victim because he got shot in the back or  
6 whatever because, you know, he made it out the front porch.  
7 Honestly, just it bothers me. I think the nightmare has  
8 been the Walkers, and if any nightmare that Samuel Jeter is  
9 suffering from, it is a nightmare of his own creation by  
10 walking into a stranger's house with a ski mask on and  
11 demanding money. He got exactly what you get when you do  
12 those type of actions. Co-counsel sent me a quote last  
13 night from Teddy Roosevelt, it says that if you could kick  
14 the person in the butt responsible for most of your  
15 problems you probably wouldn't sit for a month. Mr. Jeter,  
16 I don't know how long he couldn't sit for, but he's  
17 responsible for all of his problems and we would ask that  
18 you return a verdict of guilty on burglary first, attempted  
19 common law robbery and assault and battery first. Thank  
20 you.

21 THE COURT: Mr. Neely?

22 MR. NEELY: I've been thinking about this case a lot,  
23 and I've been thinking about what this case is really,  
24 really about, what it boils down to, and I don't remember  
25 if I read this in a magazine, saw it online or saw it on a



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1 bumper sticker, but I saw that fear stands for false  
2 evidence appearing real. False evidence appearing real,  
3 fear. That's what this case is. It's a case all about  
4 fear. It starts with Samuel's fear. He thinks he's going  
5 to see his friend, and we know he opens the door to Ms.  
6 Sharaia Walker's room, he realizes it's not her and then  
7 he's afraid, he's fearful because he realizes he's in the  
8 wrong house. Then there's Ms. Walker's fear, and no doubt  
9 it is justified. I can't imagine what I would do honestly  
10 in my bedroom or away from my bedroom on the phone, my  
11 children are in the room with me, my children are in the  
12 house and a person that I don't know that has no business  
13 being in my house opens the door to my bedroom, I would be  
14 fearful. I would be terrified. Quite frankly I would  
15 respond the exact same way that she did. There's her fear.  
16 And then Samuel tried to leave the house. As he's running  
17 away Ms. Walker reaches inside of her closet and grabs her  
18 nine millimeter and points at it Samuel. Now there's even  
19 more fear. There's the fear that this lady that he doesn't  
20 know because he's gone into the wrong house is going to use  
21 that nine millimeter, and does she. She's a good shot,  
22 four times all in the rear end. So much so that when you  
23 watch the tape of Officer Eggleston's body camera you can  
24 hear an officer on there say, or an EMS technician say, "We  
25 think he nicked an artery." That's why when you look at

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1 the pictures of his clothes there's so much blood. That's  
2 why he's unconscious. That's why he can't scream for help  
3 because she's a good shot, she nicked an artery. So  
4 there's fear for Samuel that he's going to die because he  
5 made a mistake, he went into the wrong house and this lady  
6 shot. Then there's Ms. Walker's fear and Mrs. Katrina  
7 Walker's fear because this man was in her house. But then  
8 he tried to run, he tried to get out, he tried to flee. He  
9 didn't take that pepper spray, he didn't pull it out. The  
10 solicitor just told you during his closing that the pepper  
11 spray factors in because it could have been a weapon if he  
12 was confronted by somebody. Well, all of the evidence says  
13 that he was confronted by all three Walkers, none of the  
14 evidence says that that pepper spray was pulled out or used  
15 in any manner ever. So this man who didn't pull out a  
16 weapon is running away, is outside of her house, outside in  
17 the front yard, she shoots that man in the back as he's  
18 fleeing. At that point he's not posing a threat, he's not  
19 posing a harm, none of her children are in danger and she  
20 shoots him in the back. When you look at the evidence --  
21 Mr. Smith spent 45 minutes yesterday with Officer Thompson  
22 showing you the blood trail and not a single bit of that  
23 blood was in the Walkers' house, it was all outside, and it  
24 was outside because when Sharaia Walker shot Samuel Jeter  
25 he was outside. Now listen, this is Spartanburg, South

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1 Carolina, and like I told you a little while ago if that  
2 happened in my house I'm pretty sure I would react the  
3 exact same way. I don't fault Sharaia Walker one bit for  
4 what happened. I cannot imagine what I would do in this  
5 situation. But here is the thing, that was 2017, and more  
6 and more watching on the news, 2015, 2016, 2017 we're  
7 watching on the news, and those shots where you shoot  
8 somebody in the back, it's a gray area of whether that is  
9 self-defense or whether that's attempted murder. Sometimes  
10 people get self-defense, sometimes they get prosecuted, and  
11 so there's fear. There's the Walkers' fear. What if what  
12 I did was wrong? What if I made a mistake? What if I'm  
13 the one that committed the crime? And so you heard from  
14 the witness stand what Ms. Katrina Walker said, "We were  
15 focused on what mattered, the fact that my daughter had  
16 just shot somebody." And you heard what Officer McCullough  
17 said, she said, "I did take those second statements after  
18 we had got the warrant for burglary. We did get those  
19 second statements to give them the opportunity to think  
20 about what had happened." And you know what? A funny  
21 thing happened. Once they started talking to each other  
22 and they started thinking and they started realizing their  
23 fears, all of a sudden some stuff gets added to their  
24 statements. All three of the Walkers sat on this witness  
25 stand, and all three of them told you that they gave a

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1 statement when this incident was fresh in their mind right  
2 after it happened, and not a single one of those statements  
3 said that the man in their house pushed their mother down,  
4 not a single one of those statements said the man in the  
5 house asked for money, not a single one. And then  
6 overnight that story changes, except for Sharaia's, the one  
7 who did the shooting, she gave a four page statement. She  
8 told you that the first one she gave where she left out the  
9 part about the money and the part about the shooting, that  
10 was just enough in bulk, that she knew she was going to the  
11 police station the next day and that was when she was going  
12 to tell her whole story. So she spent an hour and a half  
13 with Investigators Hayes, gave a four page statement that  
14 she signed and she read over every page and that was  
15 exactly what happened, and again, she left out the part  
16 about the money and she left out the part about her mom  
17 being pushed.

18 MR. SMITH: Your Honor, can we approach?

19 THE COURT: Yes.

20 (A bench conference was held.)

21 MR. NEELY: We try a lot of cases in this courthouse,  
22 a lot of them. And Mr. Smith didn't do it in this  
23 particular case, but a lot of times when we're up here  
24 giving closing arguments the solicitor will tell the jury,  
25 just like y'all, to use your common sense, when you go back

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1 to the jury room and you're going through the evidence to  
2 use your common sense. He didn't do it this time because I  
3 believe if you use your common sense you'll see that the  
4 burglary and the assault and the common law robbery didn't  
5 happen, because it doesn't make sense for a person to go in  
6 when the house is full and then still walk all of the way  
7 through the house when all of those TV's are on and then  
8 not touch anything. There's a big TV sitting right there  
9 in the living room, it wasn't touched. A purse is sitting  
10 right there in the living room, it wasn't touched. I told  
11 you yesterday during the opening statements during this  
12 trial that you will hear evidence that Samuel went into the  
13 wrong house, no doubt about it, we don't contest that one  
14 bit. But you won't hear evidence of an intent to commit a  
15 crime, which is an essential element of burglary, and the  
16 State has to prove that to you beyond a reasonable doubt.  
17 They have to prove all of the elements of these crimes  
18 beyond a reasonable doubt. Samuel doesn't have to prove  
19 anything to you. He didn't have to get up there on the  
20 witness stand but he chose to, he chose to tell you what  
21 happened. Reasonable doubt is one of those weird legal  
22 concepts that is sometimes difficult to understand, and  
23 quite frankly I didn't really understand it until about my  
24 second year in law school. See, I came home one day during  
25 the spring and I came home to visit my parents right down

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1 the road here in Roebuck, and I was at home and I was  
2 upstairs in my bedroom and I was studying. Now, in the  
3 springtime my mama likes to leave all of the windows in the  
4 house up so that a nice breeze can go through, and I love  
5 to eat chocolate chip cookies, so when I come home I'm on  
6 break so I am going to make chocolate chip cookies. So I'm  
7 upstairs and I'm in my room studying, I can smell chocolate  
8 chip cookies. My dad is downstairs in the den and he's  
9 watching Sportscenter and I can kind of hear highlights  
10 from the night before from spring training and I can smell  
11 those cookies, and then I can hear my little brother in the  
12 kitchen with my mom and they're kind of arguing, and  
13 finally my mom says, "That's it, go to your room." So my  
14 brother starts storming upstairs. And the last thing my  
15 dad says to him before he gets to his room is "Don't you  
16 dare slam that door." Because my brother has got this bad  
17 habit when he gets in trouble of slamming the door shut.  
18 Well, no doubt, as soon as he got to his room what happens?  
19 The door slams shut. And so my dad comes storming up those  
20 stairs and he said, "I told him not to do it, that's it,  
21 I'm going get him." And my mom comes behind him and she's  
22 followed my dad upstairs saying, "Don't do it, don't get  
23 him, don't get him." And I come out of my room saying,  
24 "Yeah, get him, get him." And so we get into my little  
25 brother's room and tears are pouring down his face and he's

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1 saying, "I didn't do this, I didn't slam the door. You  
2 told me not to do it and I didn't do it." And my dad says,  
3 "Nope, that's it, I'm going to spank you." And so as soon  
4 as he gets ready to spank him my little brother gets down  
5 on his hands and knees and says, "I promise you I didn't do  
6 it," and just then a gust of wind comes through those open  
7 windows, the doors, the door slams shut, and in that moment  
8 my dad hesitated because he had a doubt. That is what a  
9 reasonable doubt is, something that causes you to hesitate  
10 to act. Anything that causes you to hesitate to act is a  
11 reasonable doubt. The officer told you that Samuel was  
12 highly intoxicated. Officer McCullough told you that he  
13 was highly intoxicated. Samuel told you that he had been  
14 drinking hurricanes, he had had 12 of them, highly  
15 intoxicating. And Mr. Smith wanted to argue with him on  
16 the stand, he wanted to rationalize the actions of a drunk  
17 person. We talked yesterday about the man in Wisconsin who  
18 was covered up with a 150-pound Mastiff. Drunk people.  
19 You can't rationalize actions, but he told you he was going  
20 to his friend's house. But him being highly intoxicated,  
21 all of the houses looking the exact same in that mill  
22 village, from the 200 block to the 400 block, those are  
23 reasonable doubts. The fact that he was wearing that ski  
24 mask. They want to make a really, really, really big deal  
25 about that ski mask. Officer Eggleston told you that it

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1 was cold. On video Samuel tells you that he's homeless and  
2 he lives in the woods back behind Duncan Park. Just like  
3 officer McCullough, I've never been homeless. I do not  
4 know what that's like to have to walk everywhere and have  
5 to sleep outside in the elements. I suppose you do what  
6 you have to do to stay warm and survive. If owning a ski  
7 mask was illegal they wouldn't sell them in stores, you  
8 wouldn't be able to find them. They are there to protect  
9 you against the cold. The cold is a reasonable doubt in  
10 this case, because it's going to cause you to stop and  
11 think about what happened. Nothing in the house being  
12 touched. A purse right there in the living room when you  
13 walked in the door. The TV not being messed with at all.  
14 That's going to cause you to hesitate to act. It should  
15 cause you to hesitate to act, because if somebody was going  
16 in that house to burglarize it those would be the first  
17 things they would take. He said when they found Mr. Jeter  
18 that nothing from the Walkers' house was found on his  
19 person. Katrina Walker told you that she didn't remember  
20 if she fell or if she got pushed, that was what was in her  
21 written statement, she didn't remember if she fell or if  
22 she got pushed, that should cause you to hesitate to act.  
23 Samuel and I have had long conversations about this exact  
24 one moment, and quite frankly just like on that night when  
25 he gave a fake name, what he was afraid of is that when 12



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1 people sat here and heard the evidence that they just  
2 dismiss it, they wouldn't listen to it. But we spent a  
3 long time Monday afternoon and each one of you stood before  
4 us and Samuel and I talked, and we made a specific decision  
5 to pick each and every one of you to sit on this jury.  
6 Samuel wasn't afraid anymore because he knew that y'all  
7 would listen to the evidence in the case and realize when  
8 he went in that house he didn't have any intent to commit a  
9 crime. He didn't push Ms. Walker down, he certainly never  
10 demanded money, that's what the evidence in this case  
11 shows. He went into the wrong house where he wasn't  
12 supposed to be but that's it. So what we're asking right  
13 now is to go in that room and find him not guilty. Thank  
14 you.

15 MR. SMITH: In my closing I said the Walkers weren't  
16 victims but now they're apparently attempted murderers and  
17 conspiracy to cover up a crime so maybe they are. One  
18 thing I do want to point out, I'll get the picture and  
19 briefly put it on the ELMO. Sharaia's testimony is  
20 actually she shot him starting in the house and then  
21 followed him to the porch and shot him again. Alexis'  
22 testimony was when the gun was cocked back, that that was  
23 the initial time that Mr. Jeter started trying to get out  
24 of the house, not until then does he try to get out of the  
25 house, once he realizes he's really in trouble. Remember,

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1   you've got the hallway table, there's a bullet, possibly  
2   tried to cock the gun when it had one in the chamber could  
3   be what resulted that. We've got Alexis' room, it's in the  
4   middle, had a shell casing found. The shooting happens  
5   inside the house. The shooting happens basically right as  
6   Mr. Jeter is standing over Katrina hovering over her,  
7   grabbing her by the arm causing bruises that you've seen,  
8   and her mama tells her to shoot him. Everybody who is  
9   there perceiving it felt the same way and that's when they  
10   decided to act and shoot him. They didn't hesitate to act  
11   because they knew exactly what it was just like you will  
12   know what it when you get back in the jury room. He talks  
13   about stuff getting added. It's interesting, I mean,  
14   because the 911 call is as clear as day in Sharaia's  
15   statement, the first thing she says before she even knows  
16   she's talking to somebody is where's the money. I'm  
17   supposed to believe that that's just some random thing that  
18   she decides to say and then later, or I don't even know,  
19   they don't know anything about the law, suddenly decided  
20   let's just say he was going to steal from us or something,  
21   it's just kind of a ridiculous notion. You've got Officer  
22   McCullough talked to them, said she got the warrants for  
23   common law robbery based off the statements given the next  
24   day. I mean, I think it's kind of being undersold how  
25   traumatic this is, the time of night, what they were going

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1 through, the mental state and maybe having a good night  
2 sleep to think on it. But that initial moment he has just  
3 walked out of the house, she's just shot him and she's  
4 saying where's the money now. She's given you the intent  
5 to commit a crime. And then, of course, you've got the ski  
6 mask. And I know it's cold or whatever, but come on, be  
7 real. Would somebody walk all the way into a house with a  
8 ski mask on? Normally if it is cold you take your cold  
9 stuff off at the door, leave it on the couch or something  
10 like that, certainly a ski mask. I mean, they're  
11 uncomfortable to wear anyway. And the TV and the purse not  
12 being touched, whoop dee doo, it's an attempted common law  
13 robbery. You've got a TV that I think came from the  
14 testimony is like 50 or 55 inch ones, we've got Mr. Jeter  
15 who is drunk supposedly maybe, doesn't have a car or  
16 anything, what's he going to do with a 55 inch TV in the  
17 City of Spartanburg, wonder around with it? Come on. The  
18 purse, it's left right by the door. Maybe he wanted to see  
19 if there was some other stuff in there and he would just  
20 grab the purse on his way out, I mean it's not crazy. They  
21 said they didn't have anything in the purse, who knows if  
22 he looks through it. We don't know what he did until  
23 Sharaia Walker saw him and how long he was in the house.  
24 It's interesting, you know, Mr. Neely said all the houses  
25 looked the same. Well, obviously there was a strategy, he

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1    had Mr. Stepp goes out and take pictures of the houses  
2    because that's what, you know, we thought the story was  
3    going to be. Because it was the story when he was asking  
4    the questions, when he was preparing for what was coming,  
5    you know, "Yeah, I was super drunk and I walked into the  
6    wrong house but I thought I was going to a friend's."  
7    Well, then when I asked him questions it's now like it's  
8    not that I thought the house was similar looking, it is I  
9    saw the green Crown Vic. and my friend had told me to come  
10   over so I just decided to wonder in. I mean, the story  
11   unwound in seconds, I mean it was amazing to see honestly.  
12   You know, reasonable doubt, any sort of hesitation. Of  
13   course we want you to deliberate but a doubt that you can't  
14   overcome, it's a doubt that you hesitate to act or you  
15   won't act, that's what we're talking about not. It's  
16   reasonable in this case to think either one of his stories  
17   is true. And the final thing that I just thought was  
18   amazing is the reason he gives a fake name in his  
19   intoxicated bleeding out state where he's probably worried  
20   about dying, I don't know if he's worried about trial,  
21   apparently he's worried about trial at this time. When  
22   he's drunk and laying on the ground bleeding out with his  
23   butt hanging out he's going, "Oh, man, I really better say  
24   my name is Calvin Jeter or they're not going to believe me  
25   at trial." I mean, that is just insane. He's already

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1 thinking about trial and he thinks it is going to make his  
2 case better to say his name is Calvin Jeter and they'll  
3 believe me more later? I mean, it's just another lie. He  
4 didn't want to get caught. That's why he ran. That's why  
5 he hid in the back yard. That's why he didn't scream for  
6 help. That's why he gave a fake name. That's why he kept  
7 it up for three hours. That's why he had a ski mask on.  
8 Everything about this case indicates it is what it is,  
9 walks like a duck, talks like a duck, acts like a duck if  
10 it's a duck. Please return a verdict for burglary first,  
11 assault and battery, attempted to common law robbery, the  
12 family deserves this. This is a nightmare for them. This  
13 trial experience has probably been a nightmare given the  
14 defense strategy in this case, and I would just ask that  
15 you provide them justice and find him guilty of all counts.  
16 Thank you.

17 THE COURT: Mr. Foreman and ladies and gentlemen of  
18 the jury, you, of course, have heard and seen all of the  
19 evidence presented during the trial of the case, you've now  
20 heard the final summations of the lawyers, and therefore it  
21 now becomes my duty and obligation to instruct you on the  
22 law that's applicable in the case, and then you'll be asked  
23 to go back and to begin with your deliberations. And  
24 through that process you will examine the evidence, you  
25 will determine the facts where you can as they relate to

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1 the allegations, you'll decide the facts, you'll allow the  
2 law to the facts as you determine them to be, and you will  
3 determine whether or not the defendant has been proven  
4 guilty of any crime the State claims that he has committed.  
5 It is your exclusive prerogative to determine what the  
6 facts are, and you do that through your own common sense,  
7 examination and evaluation of all of the testimony and  
8 other evidence received during the course of this trial.  
9 You 12 jurors alone will decide what weight, value and  
10 effect to give to any particular witness' testimony, or  
11 even portions of that testimony. But it is your obligation  
12 and duty to render a fair and impartial decision based upon  
13 the evidence presented and the law that's applicable to the  
14 facts as you determine those facts to be. Now, as you know  
15 the defendant in this case is charged with three separate  
16 and distinct criminal offenses. Each of those offenses is  
17 alleged to have arisen out of one particular event or a  
18 course of events which the State alleges occurred back on  
19 October the 25th of 2017. But as I've told you there are  
20 three separate and distinct criminal offenses. Your  
21 decisions or your verdicts as to those charges may be the  
22 same, they may be different, that, of course, will depend  
23 upon your determination of fact as it relates to the  
24 allegations relating to that charge, and then your  
25 application of the law to the facts as you determine them

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1 to be where you can. But one indictment charges the  
2 defendant with burglary in the first degree alleging that  
3 he did here in Spartanburg County on or about October the  
4 25th of 2017 wilfully and intentionally enter a dwelling  
5 that belonged to Katrina Walker without her consent and  
6 with the intent to commit a crime therein, and that that  
7 burglary was committed in the nighttime, or a physical  
8 injury was caused to a person who was not a participant in  
9 the crime. A second indictment charges Mr. Jeter with the  
10 crime of assault and battery in the first degree, alleging  
11 that, again, in Spartanburg County on October the 25th of  
12 2017 he did commit an assault and battery on Katrina  
13 Walker, which caused injury to her, or he did attempt to  
14 cause injury to her with the present ability to do so, and  
15 that that act or those acts did occur during the commission  
16 of a robbery or a burglary or a theft. And the remaining  
17 indictment charges Mr. Jeter with attempted common law  
18 robbery. Again, the State is alleging on October the  
19 25th of 2017 that Mr. Jeter did attempt to take from the  
20 person or from the presence of Katrina Walker by the use of  
21 force or intimidation personal property that belonged to  
22 her with the intent to steal it. Now, as to those  
23 allegations and as to each of those charges Mr. Jeter has  
24 entered a plea of not guilty, and as you know that plea of  
25 not guilty has placed upon the State the burden of proving

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1 the allegations that they have made by way of the  
2 indictments, the burden of proving each of the essential  
3 elements of the crimes of burglary first degree, assault  
4 and battery first degree and attempted common law robbery,  
5 and therefore the burden is upon the State to establish the  
6 defendant's guilt to the satisfaction of you 12 jurors  
7 beyond a reasonable doubt before any verdict of guilty  
8 could be returned as to the charges. Now, I think I told  
9 you before, but if I didn't, the indictments are not  
10 evidence in the case, they don't prove anything, they don't  
11 establish anything. They will be in the jury room because  
12 it is on the back of the indictments, Mr. Foreman, that you  
13 will indicate the jury's unanimous decision. So these  
14 indictments are going to serve as the verdict forms, but  
15 they serve no other purpose so far as you jurors are  
16 concerned. The burden is never upon a defendant or a  
17 person accused of a crime to prove that they are not guilty  
18 or to prove that they are innocent, because in some cases  
19 that might be not be possible. You are instructed that it  
20 is a vital, important and cardinal rule of law that every  
21 defendant in a criminal trial, no matter how great or  
22 serious the offense might be for which that person stands  
23 charged, that person shall always be presumed innocent of  
24 that charge and that presumption of innocence remains with  
25 Mr. Jeter from the time that he was placed under arrest and



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1 throughout the course of the criminal process, and even  
2 throughout the course of this trial. As I told you, that  
3 presumption of innocence will be with him even as you go  
4 back in the jury room to begin with your deliberations in  
5 the case, and that presumption of innocence will be with  
6 him there and it will be with him forever unless you 12  
7 jurors determine that he's no longer entitled to the  
8 presumption of innocence. In other words, after you have  
9 considered all of the testimony and evidence received  
10 during the trial of the case and where you've been able to  
11 determine the material facts that relate to the allegations  
12 made against him by way of each of the indictments, and  
13 then you apply the law to the facts as you determine them  
14 to be, if you 12 jurors unanimously determine that his  
15 guilt as to a charge has been proven beyond a reasonable  
16 doubt then he would no longer be entitled to that  
17 presumption of innocence. But it is only if, unless and  
18 until you are satisfied of his guilt beyond a reasonable  
19 doubt that the presumption of innocence would no longer be  
20 applicable. Now, the State does have the burden of proving  
21 the defendant's guilt to your satisfaction beyond a  
22 reasonable doubt. That does not mean that the State has to  
23 prove his guilt beyond all doubt or beyond any possible  
24 doubt, but it does require the State to prove his guilt to  
25 your satisfaction beyond a reasonable doubt. The term

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1 reasonable doubt should be given its plain and ordinary  
2 meaning. A reasonable doubt is the kind of doubt that  
3 would cause a reasonable person to hesitate to act upon the  
4 information provided. And a defendant is entitled to any  
5 reasonable doubt that arises from the evidence or lack of  
6 evidence in a case, and if upon any factual issue essential  
7 to a finding of a verdict of guilty you have some  
8 reasonable doubt as to how that issue should be resolved,  
9 it would be your duty to resolve that reasonable doubt in  
10 favor of the defendant. And therefore if upon your  
11 consideration of the whole case you have a reasonable doubt  
12 as to his guilt as to a particular charge, you must resolve  
13 that reasonable doubt in his favor and return a verdict of  
14 not guilty. And at the same time after you consider the  
15 evidence decide the facts and apply the law, if you have no  
16 reasonable doubt as to his guilt as to a particular charge,  
17 then it would your corresponding duty to find him guilty of  
18 any charge that you find he has committed and which was  
19 proven beyond a reasonable doubt. Now, while there are  
20 various forms of evidence, such as testimony, documents,  
21 charts, photographs and other types of physical exhibits,  
22 there are really only two types of evidence, either or both  
23 of which may be independently or in combination be used to  
24 prove a fact in issue, but the two types of evidence are  
25 direct evidence and circumstantial evidence. Direct

## JURY CHARGE

1 evidence is the testimony of a person who testifies from  
2 actual knowledge of that fact. It is testimony by a person  
3 who has perceived the existence of some fact by means of  
4 his or her senses, and then that person comes into court  
5 and they testify as to what they have previously seen or  
6 heard or felt for that matter. Direct evidence proves the  
7 existence of a fact directly and does not require any  
8 deduction or inference in order to establish that fact.  
9 Circumstantial evidence on the other hand is the proof of  
10 some other fact or a set of facts which taken either singly  
11 or collectively may prove the existence of a fact in  
12 question as a necessary consequence, that is by a deduction  
13 or an inference. An inference is simply a deduction of  
14 fact that may logically and reasonably be drawn from a poof  
15 of some other fact or a set of facts. In other words, it  
16 is not a fact proven by the direct testimony of a person  
17 based upon that person's personal perception, but it is a  
18 conclusion which might reasonably be drawn from the proof  
19 of other facts. In other words, you may infer that a  
20 particular event occurred or that a particular fact exists  
21 based upon the proof of sufficient factual circumstances  
22 which would reasonably warrant your arriving at a  
23 particular conclusion. The commission of a crime and any  
24 particular element necessary to prove that crime may be  
25 proven by direct evidence or by circumstantial evidence, or

## JURY CHARGE

1 by a combination of both direct and circumstantial  
2 evidence. The law makes no distinction between the weight  
3 or the value to be given to direct evidence or to  
4 circumstantial evidence, however to the extent that the  
5 State relies upon circumstantial evidence in order to  
6 establish the commission of a crime, all of the  
7 circumstances proven must be consistent with each other and  
8 when taken together point conclusively to the guilt of the  
9 accused beyond a reasonable doubt. If those circumstances  
10 merely portray the defendant's behavior as suspicious then  
11 the proof is insufficient and it fails. The burden rests  
12 with the State regardless of whether the State relies upon  
13 direct evidence or circumstantial evidence or some  
14 combination of the two types of evidence to prove the  
15 defendant guilty beyond a reasonable doubt. Proof beyond a  
16 reasonable doubt is proof that leaves you firmly convinced  
17 of the defendant's guilt. There are very few things in the  
18 world that we know with absolute certainty, and in criminal  
19 cases the law does not require proof that overcomes every  
20 possible doubt. But if based upon your consideration of  
21 the evidence in this case and in the exercise of good  
22 judgment and your own common sense you are firmly convinced  
23 that the defendant is guilty of a crime for which he stands  
24 charged, then you must find the defendant guilty of that  
25 crime. If on the other hand you think there is a

## JURY CHARGE

1 possibility that the defendant is not guilty of a crime  
2 with which he stands charged, then you must give him the  
3 benefit of that doubt and find him not guilty of that  
4 charge. Now, as I've told you you are the sole judges of  
5 the facts in this case and you are therefore necessarily  
6 the sole judges of the credibility, that is the  
7 believability of each witness that has testified during the  
8 course of this trial, but there are a number of factors  
9 which you should consider in arriving at your assessment or  
10 your evaluation as to a particular witness' credibility and  
11 I'm going list those factors for you. You should consider  
12 the demeanor of the witness, that is how the witness  
13 appeared to you as the witness testified from the witness  
14 stand. Was the witness straightforward in responding to  
15 questions, or was the witness hesitant or evasive in  
16 responding to questions that were asked of the witness.  
17 Simply put, did the witness appear to you to be telling the  
18 truth and to have knowledge of the facts to which that  
19 witness has testified. You should also consider whether or  
20 not the testimony of a witness is consistent or is it  
21 inconsistent with that witness' testimony provided here in  
22 court in relation to other statements made by that same  
23 witness whether in court or outside of court. You should  
24 also consider whether or not the testimony of a witness is  
25 consistent or is it inconsistent with other witness'

## JURY CHARGE

1 testimony or other evidence received during the course of  
2 the trial. You should also consider how the witness came  
3 to know the facts to which that witness has testified. In  
4 other words, what was a particular witness' opportunity and  
5 ability to perceive the existence of those facts to which  
6 that witness has testified by having previously used his or  
7 her senses, and then what is that witness' ability to be  
8 able to come into court and to accurately recollect to you  
9 as to what they have previously perceived. You should also  
10 consider any bias or prejudice or interest that a witness  
11 might have with regard to the case. In other words, do you  
12 find some reason why a particular witness would come to  
13 court and testify one way or another to help or hurt one  
14 side or the other. And you may consider any interest that  
15 a witness might have in the outcome of the case if you  
16 determine that that witness does have such an interest and  
17 you find that that interest would bear upon that particular  
18 witness' credibility. And you should also consider whether  
19 or not the testimony of a witness is strengthened or is it  
20 weakened by other testimony or other evidence received  
21 during the course of the trial. Now, you as the finders of  
22 the fact and you as the judges of the credibility and the  
23 believability of each witness that has testified during the  
24 trial are permitted to believe as much or as little of what  
25 a witness has testified to as you deem is appropriate, and

## JURY CHARGE

1 so you may believe everything that a witness testified to  
2 from the witness stand, you may chose to believe none of  
3 it. You may believe some portion of a witness' testimony  
4 and reject some other portion of that same witness'  
5 testimony. You could believe one as opposed to several or  
6 several as opposed to one, but whatever your good judgment  
7 and common sense tells you is the most believable and  
8 credible testimony is the testimony you should accept, and  
9 you should reject any testimony or evidence that you find  
10 not to be credible or believable. Again, your sole  
11 objective is to simply render a fair and impartial trial  
12 based upon the evidence presented and the law that's  
13 applicable. Now, the same law that provides that you are  
14 the judges of the facts also provides that I am the judge  
15 of the law. That simply means that nobody is going tell  
16 you how to arrive at your determination of fact in this  
17 case, you do that, as I've already stated, through the  
18 exercise of good judgment and common sense conscientiously  
19 applied to the testimony and evidence received during the  
20 course of the trial. You must, however, under your oath as  
21 a juror accept the law as I provide it to you as being the  
22 law that you are to apply in the case. In other words,  
23 you're not to concern yourself with what you thought the  
24 law was before you came to serve as a juror this week, or  
25 what you think the law ought to be, you simply under your

## JURY CHARGE

1 oath must accept the law as I provide it to you as being  
2 the law that you are to apply in the case. And then you  
3 take that law and you apply it to the facts as you 12  
4 jurors determine those facts to be based after your common  
5 sense examination of the testimony and evidence received  
6 during the trial. Now, as you know, there are three  
7 separate and distinct crimes for which the defendant has  
8 been put to trial, those crimes are burglary in the first  
9 degree, assault and battery in the first degree and  
10 attempted common law robbery. All of those are statutory  
11 offenses, and that just means that those crimes are set  
12 forth in these blue books. Every year the legislature  
13 meets from January to June, during those legislative  
14 sessions they pass a number of laws and rules and  
15 regulations that govern our conduct in a variety of ways.  
16 Some of those laws they pass prohibit us from engaging in  
17 particular types of conduct, and where we are found to have  
18 engaged in that conduct in violation of that statute then  
19 it subjects us to some form of punishment or penalty for  
20 having committed that crime or violated that statute. But  
21 please understand that you are never to be concerned with  
22 punishment or penalty that might result from any decision  
23 that you make. Your function as a juror is to determine  
24 whether or not a person has been proven guilty, and you  
25 must do that without any consideration being given to any



## JURY CHARGE

1 consequence of that decision. But the three crimes are  
2 burglary first, assault and battery first and attempted  
3 common law robbery. I am going to start with burglary in  
4 the first degree, followed by assault and battery in the  
5 first degree, followed by attempted common law robbery.  
6 And you can take those in any order that you want to. I've  
7 got to go in some order and that's the order I've selected  
8 so that's the way I'm going to provide it to you. Burglary  
9 in the first degree is a statutory offense set forth in  
10 section 16-11-311 of the Code of Laws of South Carolina,  
11 and that statute provides in its pertinent and relevant  
12 parts that a person is guilty of burglary in the first  
13 degree if the person enters a dwelling without consent and  
14 with the intent to commit a crime therein, and either when  
15 in effecting entry or while in the dwelling or in immediate  
16 flight therefrom he causes physical injury to a person who  
17 is not a participant in the burglary, or the crime, or the  
18 burglary occurs in the nighttime. So based upon the  
19 foregoing statute before you could return a verdict of  
20 guilty as to the crime of burglary in the first degree it  
21 would be necessary that the evidence in this case has  
22 proven to your satisfaction beyond a reasonable doubt four  
23 essential elements. First, it must be established that the  
24 defendant did enter a dwelling. Entry is simply going into  
25 the structure. Entry is the act of going into the dwelling

## JURY CHARGE

1 or any room or structure attached to it. It's not  
2 necessary that any physical force be used to accomplice the  
3 entry, nor does any door, window or other barrier have to  
4 necessarily be opened or moved in order to effect an entry.  
5 The entry into the dwelling satisfies the element of that  
6 particular -- or satisfies that particular element, which  
7 is entering a dwelling. As I stated it also must be an  
8 entry into a dwelling, and a dwelling is defined in the law  
9 as a building or a structure which is used or normally used  
10 for sleeping, living or lodging by any person, and that  
11 would include any structure room or anything attached to  
12 that dwelling. Secondly, there must be an entry of a  
13 dwelling without consent. Entering without consent means  
14 to enter a dwelling without the consent of the owner or the  
15 person otherwise in lawful possession of that premises.  
16 Thirdly, there must be an entry of a dwelling without  
17 consent and with the intent to commit a crime therein.  
18 There must be an intent to commit a crime whether or not  
19 the crime is actually committed, accomplished or completed  
20 or not. The mere entering of a dwelling without an intent  
21 to commit a crime does not constitute burglary. It is only  
22 when there is an entering accompanied with an intent to  
23 commit a crime that the crime of burglary is complete, and  
24 a crime of any grade or severity is sufficient to satisfy  
25 this particular element of the crime of burglary. And so

## JURY CHARGE

1 the entering of a dwelling without consent and with the  
2 intent to commit a crime therein completes the crime of  
3 burglary. And the fourth element that is necessary in  
4 order to be -- that is necessary to be proven in order to  
5 establish the crime of burglary in the first degree is that  
6 either when in effecting entry or while in the dwelling or  
7 in immediate flight therefrom the defendant does cause  
8 physical injury to a person who is not a participant in the  
9 crime, or the entering or remaining, that is the burglary,  
10 occurs in the nighttime. And nighttime is defined as that  
11 period of time between sunset and sunrise. It's that  
12 period of darkness when a person's facial features are not  
13 discernable by the light from the sun. The next indictment  
14 that I'll address is the indictment charging assault and  
15 battery in the first degree. An assault is the unlawful  
16 attempt to do violence or to do injury to the person of  
17 another where there is the present ability to complete the  
18 attempt by way of a battery. And a battery is the unlawful  
19 and intentional touching or striking of the person of  
20 another. It is the commission of an act doing violence or  
21 injury to the person of another. A battery may be further  
22 defined as the carrying into effect an assault by using or  
23 applying force to the person of another no matter how  
24 slight without any lawful or legal justification. Assault  
25 and battery in the first degree is defined in section 16-3

## JURY CHARGE

1 subsection C, and it provides in its pertinent and relevant  
2 parts that a person commits the offense of assault and  
3 battery in the first degree if the person unlawfully  
4 injures another person, or attempts to injure another  
5 person with the present ability to do so, and the act  
6 causing the injury or the attempt to cause the injury  
7 occurs during the commission of a robbery, a burglary or a  
8 theft. With regard to the indictment for assault and  
9 battery in the first degree I'm also going to instruct you  
10 on the lesser included offense of assault and battery in  
11 the third degree. Assault and battery in the third degree  
12 would be a lesser included offense that you could consider  
13 finding the defendant guilty of in the event you find the  
14 State has failed to prove one or more of the essential  
15 elements of the crime of assault and battery in the first  
16 degree as I described it -- as I've defined it. But  
17 assault and battery in the third degree is defined in the  
18 law as when a person unlawfully injures another person or  
19 offers or attempts to injure another person with the  
20 present ability to do so. And the remaining indictment  
21 charges the defendant with attempted common law robbery.  
22 The crime of robbery is a larceny by force or by the threat  
23 of the use of force. A robbery is defined in the law as  
24 the taking of another person's property with the intent to  
25 steal it from the person or from the presence of that

## JURY CHARGE

1 person by the use of force or violence or by the threat of  
2 the use of force or violence, that is by way of  
3 intimidation in order to accomplish the theft. And an item  
4 is deemed to be in the presence of a person with respect to  
5 the crime of robbery when the property is so within her  
6 reach, observation or control that she could, if not  
7 overcome by violence or prevented by fear, retain  
8 possession of it. A robbery is the forcing of a person to  
9 surrender property with intent to steal it by the use of  
10 force or violence or by threatening a person the use of  
11 force or violence in order to accomplice the theft. Taking  
12 property of another with an intent to steal it by forcing a  
13 person to surrender possession of their property or by  
14 causing a person to surrender possession of the property by  
15 putting that person in fear by way of intimidation is not a  
16 robbery under the law. And an attempt to commit the crime  
17 of robbery is the commission of an overt act or acts done  
18 in furtherance of the intent to do a specific thing which  
19 tends towards the accomplishment of the intended goal but  
20 which for some reason falls short of completion. An  
21 attempt to commit a crime means making an effort towards or  
22 the doing of an act or acts which directly move towards the  
23 completion of the commission of the crime intended, and in  
24 this case that crime is alleged to have been the crime of  
25 robbery. And therefore before you could find the defendant

## JURY CHARGE

1 guilty of the crime of attempted robbery it would be  
2 necessary that the State has proven beyond a reasonable  
3 doubt that the defendant did commit some overt act in the  
4 attempt to steal personal property belonging to another,  
5 and that he did so by the use of force or by the threat of  
6 the use of force in order to intimidate a person to  
7 surrender possession of her property. And you are further  
8 instructed that the voluntary consumption by a person of  
9 any type of intoxicating or mind altering substance  
10 affecting his mental faculties or cognitive function is not  
11 a defense to the commission of a crime for which a person  
12 will otherwise be responsible if he committed that crime  
13 while he was not under the influence of any intoxicating or  
14 mind altering substance. In other words, any person who  
15 voluntarily consumes any type of an intoxicating substance  
16 or a mind altering substance is just as responsible for any  
17 act committed while under the influence of that substance  
18 as he would be if the act was committed while his mental  
19 faculties or cognitive functions was not impaired by the  
20 use of any kind of intoxicating or mind altering substance.  
21 Voluntary intoxication is not a defense to the commission  
22 of a criminal offense. Now, ladies and gentlemen, I am not  
23 in any way concerned with what your decisions are, but as  
24 I've stated the verdicts have to be unanimous, all 12 of  
25 you must be in agreement. So Mr. Foreman, as you know

## JURY CHARGE

1   you're going to be tasked with the responsibility of  
2   presiding over jury deliberations in the jury room simply  
3   to ensure that they are carried out in some orderly  
4   fashion, but all jurors are expected to participate in  
5   those deliberations, because the decision of the panel is  
6   going to have to to be the unanimous and consensus opinion  
7   of all 12 jurors. Now, Mr. Foreman, as I told you, you're  
8   going to have these indictments in the jury room. On the  
9   back of each indictment you'll see in the lower left hand  
10   corner the word verdict, and it is beneath that word  
11   verdict that you're going to indicate the jury's decision  
12   as it relates to that particular charge contained in that  
13   particular indictment. With respect to the crime of  
14   burglary in the first degree you have two potential verdict  
15   forms, those two potential verdict forms are guilty and not  
16   guilty. So whatever that decision is insert it in the  
17   space provided, there's also a space for you to sign your  
18   name as a foreperson and place the appropriate date, today  
19   is the 9th of January, you're the only juror that needs to  
20   sign the verdict form. With respect to the indictment  
21   charging the defendant with assault and battery in the  
22   first degree you are going to have three potential verdict  
23   forms, those three potential verdict forms are guilty,  
24   which means guilty of assault and battery in the first  
25   degree, or you may find the defendant to be guilty of the

## JURY CHARGE

1 lesser offense of assault and battery in the third degree.  
2 If the jury were to find the defendant guilty to only the  
3 lesser offense you would have to write that out, and that  
4 is assault and battery -- or guilty of assault and battery  
5 in the third degree. And if the State has failed to prove  
6 the defendant guilty of either, the verdict form would  
7 state not guilty. Again, sign your name, place the  
8 appropriate date. And the remaining indictment charging  
9 the defendant with attempted common law robbery has two  
10 potential verdict forms, those are guilty and not guilty.  
11 Again, whatever that decision is, insert it in the space  
12 provided, sign your name and date it. Now, during  
13 deliberations there may come a time where you have a  
14 question about evidence, you may have a question about  
15 testimony. I am never permitted to comment upon the facts  
16 of the matter, or to comment upon the evidence in the case.  
17 Also, no additional evidence can be introduced now that  
18 you're going back to begin deliberations, so even if  
19 something exists that you think might help you, if it  
20 hasn't been introduced during the trial it can't come in  
21 now, so no additional evidence can be received. We'll  
22 verify all of the exhibits that have been introduced and  
23 we'll submit those. If for some reason we miss something,  
24 you think something was introduced that was not sent back,  
25 let me know, we'll find it and include it. But understand



## JURY CHARGE

1 that no additional evidence can be received. Now, if you  
2 ever have a question about a witness' testimony and you  
3 think that question can be answered by having a witness'  
4 testimony replayed in whole or in part, we can bring you  
5 back into the courtroom to have a witness' testimony  
6 reheard. I do not have transcripts of the witness'  
7 testimony to send back, but if you'd like to hear a  
8 witness' testimony reheard you let me know which you would  
9 like to hear, we'll bring you back and have it reheard in  
10 whole or in part. If at anytime you ever have a question  
11 about the law that's applicable I am always allowed to  
12 answer those questions, so if you need re-instruction or  
13 you need an additional explanation or a clarification of  
14 some point of law that I have provided, if you'll let me  
15 know of that fact I'll be happy to bring you back to  
16 provide you with that re-instruction, explanation or  
17 clarification. Mr. Foreman, if at anytime you have a  
18 matter or fellow jurors have a matter that needs to be  
19 addressed to me, if you'll write it on a piece of paper,  
20 give to the bailiff and he or she will provide that to me  
21 and I will respond accordingly. Now, one or more jurors  
22 may have taken notes during the course of the trial, that's  
23 not prohibited, there are good reasons for taking notes,  
24 there are also bad reasons for it for which I won't talk  
25 about necessarily. But the point I wish to make is that

## JURY CHARGE

1 the fact that a juror has taken notes that is fine for the  
2 purpose of this case, however no juror should rely upon the  
3 notes of another juror as your recollection as to what the  
4 evidence or the testimony was during the course of the  
5 trial. So if you have a question as I said about a  
6 witness' testimony we can have the testimony replayed. So  
7 notes are fine to be used but they are not to be relied  
8 upon by any other juror who did not take those notes. I  
9 think that covers everything, but if it doesn't I'll ask  
10 the lawyers if they think I've neglected to provide you  
11 with some information that I should have and I agree I'll  
12 bring you back out to provide you with that additional  
13 information. If I do not need to bring you back for any  
14 reason I'll simply send word by way of the bailiff that you  
15 may begin your deliberations, and in that event the bailiff  
16 will bring to the jury room all of the exhibits which have  
17 been introduced. And to you, Mr. Foreman, you will also  
18 bring the indictments, the will serve as the verdict forms.  
19 There was a DVD introduced so there will a computer sent  
20 back, so if you need to review that or look at it you'll be  
21 able to do so by use of that computer. All right. Now, I  
22 am going to ask Mr. Felder and Mr. Banks to stay here in  
23 the courtroom with me, the original 12 jurors will retire  
24 to your jury room but do not begin deliberations until I  
25 send you word to do so. One other thing, I don't if we

## JURY CHARGE

1 have any smokers, if we do you can smoke but you can't  
2 smoke in the courthouse, you have to go outside for that  
3 purpose, but you are instructed that if at anytime a juror  
4 is absent from the jury room based upon an authorized  
5 absence, the deliberations have to stop. They can only  
6 resume when all jurors are present so that all can  
7 participate in those deliberations. Your lunches should be  
8 here shortly if they're not here now, and if you want to  
9 you can eat while you deliberate, you can stop and eat and  
10 then resume your deliberations afterwards. I'll just leave  
11 that up to you, y'all make that decision on your own. So  
12 with the exception of the two alternates, please retire to  
13 your jury room but await my instruction as when to begin  
14 deliberations.

15 (The jury left the courtroom.)

16 (The alternate jurors were excused.)

17 THE COURT: Any exceptions to the instruction or  
18 requests for additions to the instruction by the State?

19 MR. SMITH: Not from the State, Your Honor.

20 THE COURT: By the defendant?

21 MR. NEELY: None, Your Honor.

22 THE COURT: Let me ask y'all to verify the exhibits,  
23 please, before they go back.

24 (Break in proceedings.)

25 THE COURT: All of the exhibits are accounted for?

1 MR. NEELY: Yes, sir.

2 THE COURT: Send them back and tell the jury to begin  
3 deliberations and notify us when they have concluded.

4 (The jury began deliberations.)

5 THE COURT: The jury has requested for the Court to  
6 provide them with the definition of one of the statutory  
7 offenses that they were instructed as to. My response has  
8 been reduced to writing, it's verbatim language from the  
9 statute, it's been shown to counsel for the State and for  
10 the defense and I understand neither have an objection to  
11 that document being provided to the jury in their  
12 deliberation room as the response to the question.

13 MR. SMITH: That's correct, Your Honor.

14 MR. NEELY: That's correct, Your Honor.

15 THE COURT: All right.

16 (The jury resumed deliberations.)

17 THE COURT: All right. I understand the jury has  
18 reached a decision. Are we ready to receive it?

19 MR. SMITH: The State is ready, Your Honor.

20 MR. NEELY: The defense is ready, Your Honor.

21 THE COURT: All right. Bring them in.

22 (The jury returned with a verdict.)

23 THE COURT: Mr. Foreman, have you and your fellow  
24 jurors reached a unanimous decision as to each of the  
25 separate indictments?

## JURY VERDICT

1 THE FOREMAN: We have reached a unanimous decision on  
2 one of the indictments --

3 THE COURT: All right, stop right there. Have you  
4 reached a unanimous decision on the other two indictments?

5 THE FOREMAN: No, we have not, Your Honor.

6 THE COURT: You have not. All right. I'm going to  
7 ask you to please retire to your jury room and continue  
8 with your deliberations as to those two charges, okay?

9 THE FOREMAN: Yes, sir.

10 (The jury left the courtroom and continued  
11 Deliberations.)

12 THE COURT: We will continue to be at ease while the  
13 jury is deliberating.

14 (A recess was taken.)

15 THE COURT: All right. I'm again told that the jury  
16 has reached a decision. Are we ready to receive it?

17 MR. SMITH: The State is again ready, Your Honor.

18 MR. NEELY: The defense is ready.

19 THE COURT: Bring them in.

20 (The jury returned to the courtroom.)

21 THE COURT: Mr. Foreman, have you and your fellow  
22 jurors reached unanimous decisions on each of the separate  
23 indictments?

24 THE FOREMAN: Yes, would have, Your Honor.

25 THE COURT: And have you reflected those decisions on

## JURY VERDICT

1 the back of the indictment as requested?

2 THE FOREMAN: Yes, we have, Your Honor.

3 THE COURT: And did you sign your name as the  
4 foreperson and date it?

5 THE FOREMAN: Yes, I have, Your Honor.

6 THE COURT: If you'll please hand those verdict forms  
7 up by way of the bailiff. You may publish the verdicts.

8 THE CLERK: State of South Carolina, County of  
9 Spartanburg, court of general sessions, the State vs.  
10 Samuel Jeremiah Jeter on indictment number 2018-GS-42-0419,  
11 indictment for attempted common law robbery, we, the jury,  
12 find the defendant not guilty, signed by the foreperson,  
13 William Karper, on today's date, 1/9/19. On indictment  
14 2018-GS-42-0420, an indictment for assault and battery  
15 first degree, the jury finds the defendant not guilty,  
16 again signed by the foreperson, William Karper, on today's  
17 date, 1/9/19. And on indictment number 2018-GS-42-0421, an  
18 indictment for burglary first degree, the jury finds the  
19 defendant guilty. Again, signed by the foreperson, William  
20 Karper, on today's date 1/19/19. Ladies and gentlemen of  
21 the jury, is this your verdict and still your verdict? If  
22 so please raise your right hand. So say you all.

23 THE COURT: All right. Poll the jury, please, ma'am.

24 THE CLERK: Ladies and gentlemen of the jury, I'll be  
25 asking you a question and that question is is this your

## JURY VERDICT

1 verdict and still your verdict. When I call your name and  
2 juror number if you would please stand and answer yes or  
3 no. Juror number 94. William Karper?

4 THE JUROR: Yes, ma'am.

5 THE CLERK: Juror number 67, Kimberly Harris.

6 THE JUROR: Yes.

7 THE CLERK: Juror number, 51 Beth Fricks.

8 THE JUROR: Yes.

9 THE CLERK: Juror number 152, Mauricio Rodriguez.

10 THE JUROR: Yes.

11 THE CLERK: Juror number 170, Aaron Threatt.

12 THE JUROR: Yes.

13 THE CLERK: Juror No. 38, Selena Farr.

14 THE JUROR: Yes.

15 THE CLERK: Juror number 112, Carl Manigan.

16 THE JUROR: Yes.

17 THE CLERK: Juror number 188, Joshua Whitford.

18 THE JUROR: Yes, ma'am.

19 THE CLERK: Juror number 16, Rebecca Brown.

20 THE JUROR: Yes ma'am.

21 THE CLERK: Juror number 159, Lewis Smith.

22 THE JUROR: Yes.

23 THE CLERK: Juror number 166, Robert Teague.

24 THE JUROR: Yes, ma'am.

25 THE CLERK: And Juror number 130. Nathan Honeycutt.

## JURY VERDICT

1 THE JUROR: Yes.

2 THE CLERK: Your Honor, the jury has been polled.

3 THE COURT: All right. Any other matters that need to  
4 be addressed with the jury present?

5 MR. SMITH: None from State, Your Honor.

6 MR. NEELY: None from the defense.

7 (The jury was excused.)

8 THE COURT: All right. Any other matters that need to  
9 be addressed prior to the imposition of sentence?

10 MR. SMITH: None from the State, Your Honor.

11 MR. NEELY: Judge, at this time we would move for a  
12 new trial based on the evidence presented to this Court.  
13 Obviously the jury only found Mr. Jeter guilty of burglary.  
14 I know that I stated during my directed verdict motion,  
15 while there is evidence that Mr. Jeter was in the house,  
16 there's a lack of evidence of any intent to commit a crime  
17 based on all of the items that were in the house, that none  
18 of them were touched. Based on those grounds and all of  
19 our previous objections we move for a new trial.

20 THE COURT: All right. That motion is denied.

21 MR. NEELY: Yes, sir. That's it from the defense,  
22 Your Honor.

23 THE COURT: All right. The defendant was previously  
24 served with a life notice. Mr. Neely, do you have any  
25 reason why a mandatory life sentence should not be imposed?



1 MR. NEELY: No, sir.

2 THE COURT: Okay. Mr. Jeter, do you have anything you  
3 want to tell me prior to the imposition of sentence?

4 THE DEFENDANT: No.

5 THE COURT: All right. On indictment 2018-00421,  
6 that's the indictment for burglary first degree where you  
7 have been found guilty by a jury of that offense, the  
8 sentence of the Court is that you be confined to the South  
9 Carolina Department of Corrections for the balance of your  
10 natural life pursuant to 17-25-45. You have a right to  
11 appeal the verdict of the jury and the sentence of the  
12 Court, you must file your notice of intent to appeal those  
13 decisions within ten days of today's date. Mr. Neely will  
14 instruct you about that. Do you understand it?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. Anything else?

17 MR. SMITH: Nothing from the State, Your Honor.

18 (END OF TRIAL PROCEEDINGS.)

19

20

21

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25

1 I, the undersigned, Michael C. Watkins,  
2 Official Court Reporter for the Sixth Judicial  
3 Circuit of the State of South Carolina, do hereby  
4 certify that the foregoing is a true, accurate and  
5 complete transcript of the proceedings had and  
6 evidence introduced in the trial of the captioned  
7 case (reported by Linda Moffitt and edited by  
8 Michael Watkins) relative to appeal in the Court of  
9 Common Pleas for Richland County, South Carolina, on  
10 the 8-10 days of January, 2019.

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

13

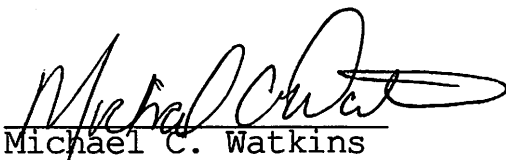
14

April 30, 2019

15

16

17

  
Michael C. Watkins

18

Court Reporter

19

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25

STATE OF SOUTH CAROLINA    )  
                                          )  
COUNTY OF SPARTANBURG    )

## INDICTMENT

At a Court of General Sessions, convened on JAN 11 2019, the Grand Jurors of  
Spartanburg County present upon their oath:

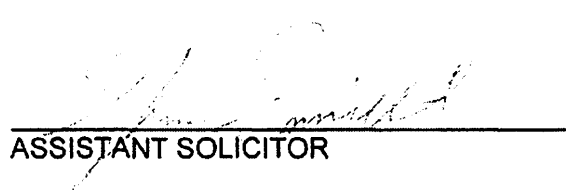
**BURGLARY, FIRST DEGREE****(DWELLING)**

That the Defendant, Samuel Jeremiah Jeter, did in Spartanburg County, on or  
about October 25, 2017, willfully and intentionally enter the dwelling belonging to  
Katrina Walker located at [REDACTED] Gentry Street, Spartanburg, South Carolina without  
consent and with the intent to commit a crime therein, and that the defendant did enter  
the dwelling either:

- (1) in the nighttime and/or
- (2) caused physical injury to any person who is not a participant in the  
crime

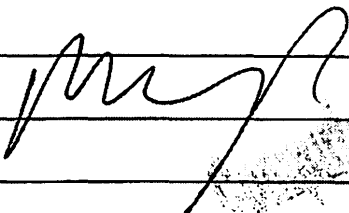
in violation of Section 16-11-311, Code of Laws of South Carolina (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such  
case made and provided.

  
\_\_\_\_\_  
ASSISTANT SOLICITOR

**WITNESSES**

**Spartanburg City Police Department**

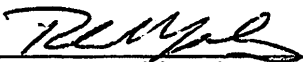


**ARREST WARRANT NUMBER**

**2017A4210203513**

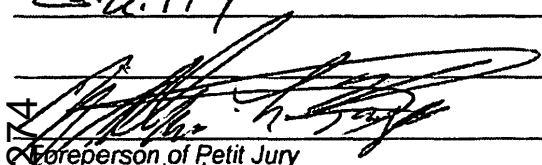
**JAN 11 2018**  
**SECTION OF GRAND JURY**

**JAN 11 2018**

  
Foreperson of Grand Jury  
Date:

**VERDICT**

**Guilty**

  
Foreperson of Petit Jury  
Date: 1/9/19

DOCKET **18-GS-42- 0421**

**The State of South Carolina**

**County of Spartanburg**

**Barry J. Barnette, Solicitor**

**COURT OF GENERAL SESSIONS**

**JAN 22 2018**

**TERM**

**THE STATE**  
**vs.**

**Samuel Jeremiah Jeter**

**Indictment for**

**BURGLARY, FIRST DEGREE**  
**(Dwelling)**

SC Code: 16-11-0311  
CDR Code: 0079  
Class: FEL/EXM (V)

## STATE OF SOUTH CAROLINA

## IN THE COURT OF GENERAL SESSIONS

275

COUNTY OF SPARTANBURG  
 STATE VS.  
Samuel Jeremiah Jeter  
 AKA: \_\_\_\_\_  
 Race: BLACK Sex: M Age: 44  
 DOB: [REDACTED] SS#: [REDACTED]  
 Address: [REDACTED] St  
 City, State, Zip: Spartanburg, SC 29306  
 DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

INDICTMENT/CASE#: 2018GS4200421A/W#: 2017A4210203513Date of Offense: 10/25/2017S.C. Code § 16-11-0311CDR Code #: 0079

## SENTENCE SHEET

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was  
 TO: Burglary (After June 20, 1985) - First degree (15-Life)☒ CONVICTED OF or ☐ PLEADSin violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079  
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. \_\_\_\_\_ (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☐ Recommendation by the State.

ATTEST [Signature] SC101370 SCB101474  
SMITH, SPENSER H SC Bar# Neely, Paul K. SC Bar#  
 Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
 for a determinate term of life days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation.  
 which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: \_\_\_\_\_☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP \_\_\_\_\_

Total: \$ \_\_\_\_\_ plus 20% fee: \_\_\_\_\_ \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_

☐ Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine: \$ \_\_\_\_\_  
 §14-1-206 (Assessments 107.5 %) \$ \_\_\_\_\_  
 §14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00  
 §14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_  
 §56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
 §56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_  
 Proviso (Public Def/Probation) \$500 \$ \_\_\_\_\_  
 §14-1-212 (Law Enforce. Funding) \$25 \$ 25.00  
 §14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_  
 §50-21-114(BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
 §56-5-2942(J) (Vehicle Assessment) \$40/ca \$ \_\_\_\_\_  
 3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Obtain GED ☐  
 Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling ☐  
 Random Drug/Alcohol testing ☐  
 Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel,  
 Proviso requires \$500 be paid to Clerk  
 during probation and shall be collected before  
 any other fees.

Clerk of Court/ Deputy Clerk KG McKinneyCourt Reporter: Sinda Moffitt

SCCA/217 (04/2018)

Presiding Judge

Judge Code: \_\_\_\_\_

Sentence Date: January 9, 2019

STATE OF SOUTH CAROLINA )

County of Spartanburg )Samuel Jeter #9 )  
Full name and prison number (if any) of Applicant )

v. )

State of South Carolina )

IN THE COURT OF COMMON PLEAS

2021-CP-42-1100

APPLICATION FOR

POST-CONVICTION RELIEF

2021 JUN -2 AM 10:48  
CLERK OF COURT  
SPARTANBURG COUNTY  
AMY M. COX

FILED

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Spartanburg County Detention Center
2. Name and location of Court which imposed sentence Spartanburg County Courthouse - 180 Magnolia St.
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2018 GS4200421 - Burglary 1<sup>st</sup> degree.
  - (b) \_\_\_\_\_

- (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) January 9, 2019
- (b) Sentenced to Life
- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty \_\_\_\_\_
- (b) after a plea of not guilty ☒ \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. NO
- ii. |
- iii. |
- (b) the result in each such Court to which you appealed:
- i. NO
- ii. |
- iii. |
- (c) the date of each such result:
- i. NO
- ii. |
- iii. |
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. NO
- ii. |
- iii. |
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) This is my first step in the process.
- (b) \_\_\_\_\_

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2021 JUN -2 AM 10:40  
CLERK OF COURT  
SPARTANBURG COUNTY  
AM & W. CO.

- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) I was convicted of Burglary 1<sup>st</sup> →
- (b) I was offered a 15 year plea deal →
- (c) \_\_\_\_\_
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Same as question 10.
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. NO
- ii. |
- iii. |
- iv. |
- (b) the name and location of the Court in which each was filed:
- i. NO
- ii. |
- iii. |
- iv. |

2021 JUN +2 AM 10:40  
CLERK OF COURT  
SPARTANBURG COUNTY  
ATTY W. DOX

FILED



(c) the disposition thereof:

- i. NO
- ii. |
- iii. |
- iv. |

(d) the date of each such disposition:

- i. NO
- ii. |
- iii. |
- iv. |

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. NO
- ii. |
- iii. |
- iv. |

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. NO
- ii. |
- iii. |

(b) the proceedings in which each ground was raised:

- i. NO
- ii. |
- iii. |

2021 JUN -2 AM 10:40  
CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. COX

FILED

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) My lawyer failed to raise this issue —————→  
 (b) This my first attempt at Post —————→  
 (c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? Yes  
 (b) your trial, if any? Yes  
 (c) your sentencing? Yes  
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes  
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

2021 JUN -2 AM 10:40  
 CLERK OF COURT  
 SPARTANBURG COUNTY  
 ALIXA COX

FILED

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Paul K. Neely - 366 N. Church St.  
Suite 3000 Spartanburg S.C. 29303  
 ii. Jessica M. Saxon - 1330 Lady  
Street, Suite 401 Columbia S.C. 29201-3332  
 iii. \_\_\_\_\_

(b) the proceedings at which each such attorney represented you:

i. Paul K. Neely (a) (b) (c)  
 ii. Jessica M. Saxon (d) (e)  
 iii. \_\_\_\_\_

19. State clearly the relief you seek in filing this application:

To have the burglary 1<sup>st</sup> con-  
viction overturned and/or to have  
the life sentence overturned

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA )

County of Spartanburg )

VERIFICATION

2021 JUN -2 AM 8:40  
 CLERK OF COURT  
 SPARTANBURG  
 MAY 27 2021

FILED

I, Samuel Jeter, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Samuel Jeter

SWORN to and subscribed before me this 26  
 day of May, 2021.  
Lamarcia Conwell (L.S.)  
 Notary Public

My Commission Expires: September 22, 2022

RECEIVED

MAY 26 2021

FOI MAILROOM

**APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF**

I, Samuel Jeter, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Samuel Jeter  
Applicant

SWORN or affirmed to and subscribed before me this

26 day of May, 2021.  
Tamara Conwell  
Notary Public

My Commission Expires: \_\_\_\_\_

My Commission Expires: September 25, 2023

**RECEIVED**

MAY 26 2021

PCI MAILROOM

**FILED**  
2021 JUN -2 AM 10:40  
CLERK OF COURT  
SPARTANBURG COUNTY  
ARMY, VA. COX

283  
I was found not guilty of all other charges involved in this case. S.C. code 16-1-311 states that a person must have "intent to commit a crime in the dwelling". Due to the fact that the jury found me "not guilty" of all other charges, The State failed to prove "intent to commit a crime" and, so the burglary 1<sup>st</sup> conviction cannot stand. My lawyer (Paul Neely) nor the Court explained his fact to the jury, nor did they take any action on my behalf. The conviction is unlawful and should not stand.

O.(B) before trial but as an act of "trial tax" was given a Life Sentence. There are no aggravating circumstances in this case to justify the burglary 1<sup>st</sup> conviction, much less a life sentence.

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

Samuel Jeter, #242979,  
Applicant,

v.

State of South Carolina,  
Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2021-CP-42-01700

**RETURN AND MOTION FOR A  
MORE DEFINITE STATEMENT**

NOW COMES Respondent, moving for a more definite statement and making its return to the post-conviction relief (hereafter “PCR”) application filed on June 2, 2021, by Samuel Jeter (hereafter “Applicant”). Respondent respectfully offers the following in support of its return:

**I. Procedural History**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its January 2018 term, the Spartanburg County Grand Jury indicted Applicant for first degree burglary (2018-GS-42-0421).<sup>1</sup> Applicant was represented by Paul K. Neely, Esquire. Assistant Solicitors Spenser H. Smith and Sara B. Bozarth of the Seventh Circuit Solicitor’s Office prosecuted the case. On January 7, 2019, Applicant proceeded to trial before the Honorable J. Derham Cole, circuit court judge, and a jury. Applicant was found guilty of first degree burglary. Judge Cole sentenced Applicant to life imprisonment.

Applicant filed a timely notice of appeal on January 17, 2019 that was perfected by Jessica M. Saxon, Esquire, who filed a brief raising the following issue:

---

<sup>1</sup> Applicant was also indicted for attempted common law robbery and first degree assault and battery, both of which the jury found he was not guilty of. However, since these charges were not brought up in Applicant’s application and, accordingly, will not be addressed in this return.

Did the trial court err in admitting the 911 call over defense counsel's objections under Rule 403, SCRE without performing the requisite Rule 403 analysis on the record, where the admission of the 911 call was cumulative in nature and so prejudicial as to inflame the passions of the jury?

Briefing concluded on May 13, 2020. The South Carolina Court of Appeals affirmed the convictions by unpublished opinion. *State v. Jeter*, 2021-UP-152 (S.C. Ct. App. May 5, 2021). The remittitur was issued on May 26, 2021.

## **II. Statement of Facts**

In October of 2017, Sharaia Walker lived with her mother Katrina, sister Alexis, her two children, and Alexis's son. Around midnight on October 26, 2017, Sharaia entered the home through the front door, locking the door behind her and allowing her sleeping daughter to remain on the couch. Sharaia was on the phone, sitting in her bed when she noticed a "dark figure" poke its head into the room and leave. She left the room to investigate and saw a strange man wearing a ski mask and gray hoodie, put his hand up to his mouth and say, "Shh, be quiet." She immediately began screaming, and Katrina and Alexis awoke, despite Applicant's attempts to quiet her down. (R. 21-27, 35, 46).

With all three women alarmed and in the hallway, Applicant ran down the hall, but knocked over Katrina, grabbed her arms, and began repeating, "Where's the money?" over and over. Sharaia retrieved her gun and began firing at him. Several shots hit the man as he fled through the house and out the door. (R. 31-39).

Officer Shanetta Thompson with the Spartanburg Police Department responded to the scene. She found shell casings inside and outside the home and a shoe in front of the house. Officers found Applicant, still wearing a ski mask and gray hoodie, behind the home next door, bleeding from several bullet wounds. As EMS worked on Applicant, he told them his name was Calvin Jeter, but was eventually identified as Samuel Jeter. (R. 101-27, 132-45).

Applicant testified at trial that he did not go to the home to burglarize it, but meant to go to a friend's house to stay the night but was very drunk and went into the wrong home instead. He testified he knocked on the door, but after receiving no response opened an unlocked front door and walked into an empty living room. Hearing voices towards the back of the house, he went towards them and opened a door to find Sharaia. Realizing he had the wrong house, he immediately shut the door. When confronted by Sharaia, he claimed he stated being in the home was "his bad" and started to leave when Sharaia began chasing him with the gun. (R. 162-67).

On cross examination, Applicant conceded he was wearing a ski mask that night and wore it while interacting with the women; he only took it off as he was running at the door with bullets flying at him. When asked whose house Applicant intended to enter that night, he claimed he was going to see his cousin Anthony Hollis. Applicant admitted the two areas had several distinct differences. Applicant eventually changed his story to that he did not believe he was entering his cousin's home, but merely a house his cousin was inside and knew he was walking into a stranger's home. He claimed he did not look around the living room enough to see a child sleeping on the couch. (R. 168-76).

When questioned about why he provided officers with the wrong name, he claimed Calvin Jeter was his brother's name and could not remember why he told it to police because he was "unconscious." He also claimed he was still "unconscious" at the hospital and had no recollection of speaking with Investigator McCullough except that he kept asking for the nurse. As to why he had pepper spray, Appellant claimed it was to protect him from dogs. (R. 176-79).

### **III. Current Action before the Court**

In his *pro se* PCR application, Applicant alleges he is detained unlawfully for the following reasons:



1. I was convicted of burglary first and was found not guilty of all other charges involved in this case. S.C. Code 16-1-311 states that a person must have “intent to commit a crime in the dwelling.” Due to the fact that the jury found me “not guilty” of all other charges, the state failed to prove intent to commit a crime” and so the burglary first conviction cannot stand. My lawyer (Paul Neely) nor the court explained this fact to the jury, nor did they take any action on my behalf. The conviction is unlawful and should not stand.<sup>2</sup>
2. I was offered a fifteen year plea deal before trial but as an act of “trial tax” was given a life sentence. There are not aggravating circumstances in this case to justify the burglary first conviction, much less a life sentence.”<sup>3</sup>

Attached to and incorporated herein are Applicant’s Spartanburg County Clerk of Court Records, Applicant’s South Carolina Department of Corrections Records, the trial transcript, the direct appeal records, and the current PCR application. Respondent reserves the right to amend this Return upon receipt of additional relevant information.

#### IV. Argument

##### *Ineffective Assistance of Counsel*

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Effective assistance of counsel does not mean perfect or mistake-free representation. *See Weaver v. Massachusetts*, 137 S. Ct. 1899 (2017) (“[A] defendant has a right to effective representation, not a right to an attorney who performs his duties ‘mistake-free.’” (citation omitted)); *Burt v. Titlow*, 571 U.S. 12, 24 (2013) (“[T]he Sixth Amendment does not guarantee the right to perfect counsel; it promises only the right to effective assistance[.]”); *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of

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<sup>2</sup> This is interpreted as an allegation of ineffective assistance of counsel for failure to assert a defense of lack of intent to commit a crime.

<sup>3</sup> This is interpreted as an allegation of ineffective assistance of counsel for failure to mitigate the sentence.

hindsight.”). Instead, it simply means assistance that was objectively reasonable under prevailing professional norms. *Strickland*, 466 U.S. at 687-688.

When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel’s actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRPC (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”). Reasonableness is determined by the “variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); *see Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel’s strategic decisions are to be afforded “‘strong presumption’ of reasonableness that the defendant must overcome); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed

to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Importantly, "[t]he likelihood of a different result must be *substantial*, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 112 (2011).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

#### ***Failure to Assert a Defense***

Applicant claims Counsel was ineffective for failure to assert a defense concerning lack of intent to commit a crime. Whether failure to assert a defense constitutes deficient performance ultimately hinges on whether failure to explore the decision was a strategic decision. *Strickland*, 466 U.S. at 680. If there is only one line of defense, counsel must conduct a "reasonably

substantial investigation” into that line of defense. *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1252). However, if there are several lines of defense, counsel may still be effective even if every single line is not explored. *Id.* “[W]hen counsel's assumptions are reasonable given the totality of the circumstances and when counsel's strategy represents a reasonable choice based upon those assumptions, counsel need not investigate lines of defense that he has chosen not to employ at trial.” *Id.* at 681 *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1255). Further, “[w]hen counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough*, 540 U.S. at 5 (citing *Strickland*, 466 U.S. at 690).

Regarding failure to alert the Applicant of a defense specifically, Counsel will not be found ineffective if there was inadequate evidence to support the defense, if the defense did not exist at the time of trial, or another avenue of defense existed. *See McCray v. State*, 317 S.C. 557, 455 S.E.2d 686 (1995) (stating that failure to state an entrapment defense was not ineffective when the applicant denied any wrongdoing); *Arnette v. State*, 306 S.C. 556, 413 S.E.2d 803 (1992) (stating that failing to inform of a defense was not ineffective when there was no evidence at trial that supported the defense); *Robinson v. State*, 308 S.C. 361, 417 S.E.2d 361, 417 S.E.2d 88 (1992) (stating that Counsel was not ineffective when failing to state a defense that was not recognized by the Court until six years later and was just recently acknowledged by the scientific community).

Applicant claims Counsel was ineffective for failing to assert a defense of lack of intent to commit a burglary because he was found not guilty of all other crimes. Respondent contends that this is a misrepresentation of the law and that he was found not guilty of all other crimes is inconsequential to whether or not he committed the burglary. Regardless, he has failed to show

why this was an appropriate defense, why Counsel was deficient for failing to argue it, or why Applicant was prejudiced by this deficiency. Respondent requests a more definite statement.

***Failure to Mitigate the Sentence***

Applicant claims Counsel was ineffective for failing to mitigate the sentence. Counsel may be found deficient for failing to sufficiently investigate and present mitigating evidence. *See Council v. State*, 380 S.C. 159, 172, 670 S.E.2d 356, 363 (2008) (finding it unreasonable for counsel not to further investigate the defendant's background and present even minimal mitigating evidence obtained); *Wiggins v. Smith*, 539 U.S. 510, 521 (2003) (finding it unreasonable when Counsel failed to investigate mitigating evidence beyond a couple retained records, including the presentence investigation report and social service records); *Williams v. Taylor*, 529 U.S. 362, 398 (2000) (finding that Counsel was unreasonable for failing to evaluate the totality of available mitigation evidence). An applicant is prejudiced by this deficiency if there is a reasonable probability that a different sentence would have been imposed but for Counsel's failure to investigate and present mitigating evidence. *Council v. State*, 380 S.C. 159, 171, 670 S.E.2d 356, 362 (2008).

Applicant claims Counsel was ineffective because he was subjected to a "trial tax." He has failed to show how this was unlawful, how Counsel was deficient, or how he was prejudiced by this deficiency. Accordingly, Respondent contends this allegation lacks merit. Still, the ineffective assistance of counsel allegations probably raise questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) ("Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a

question of fact is raised which can only be resolved by an evidentiary hearing.”).

#### V. Motion for a More Definite Statement

Respondent moves for a more definite statement regarding Applicant’s allegations.

Applicant alleges that plea counsel was constitutionally ineffective because of failure to mitigate the sentence and failure to assert a defense of lack of intent to commit the burglary. However, he does not explain exactly what Counsel did that constituted ineffective assistance of counsel.

Applicant fails to set forth with specificity any facts and circumstances upon which the claim is based. The Uniform Post-Conviction Procedure Act requires that applicants must “specifically set forth the grounds upon which the application is based.” Section 17-27-50 of the Code of Laws of South Carolina (1976). In a PCR application, it is incumbent upon applicants to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

*Coardes v. State*, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRPC, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.” Respondent moves pursuant to Rule 12(e), SCRPC, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an additional amended application well in advance of any evidentiary hearing concerning this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves

the right to move to dismiss the allegation.

#### **VI. Other Allegations Denied**

Each and every other allegation in Applicant's PCR application not explicitly admitted, qualified, or explain in this return is hereby denied by the Respondent.

#### **VII. Assertion of Rights to Notice of Amendments, Experts**

Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well in advance of the hearing. Here, Applicant's court-appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity, Rule 11(a), SCRCPC and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) ("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.").

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) ("In most PCR cases . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases."); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) ("When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend

against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); *see also* Rules 15(a)-(b), SCRCP (explaining how to amend a pleading). Pursuant to Section 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

#### VIII. Conclusion

WHEREFORE, Respondent requests that the Court require Applicant to provide a more definite statement and then hold an evidentiary hearing regarding Applicant’s allegations.

Respectfully submitted,

ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

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Assistant Attorney General

By:   
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January 7, 2022

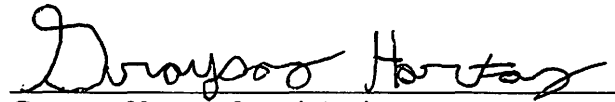


|                         |   |                                |
|-------------------------|---|--------------------------------|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS   |
| COUNTY OF SPARTANBURG   | ) | FOR THE SEVENTH JUDICIAL       |
|                         | ) | CIRCUIT                        |
| Samuel Jeter, #242979   | ) |                                |
|                         | ) | Case No.: 2021-CP-42-01700     |
| Applicant,              | ) |                                |
|                         | ) |                                |
| v.                      | ) | Certificate of Service by Mail |
|                         | ) |                                |
| State of South Carolina | ) |                                |
|                         | ) |                                |
| Respondent,             | ) |                                |
| _____                   | ) |                                |

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return and Motion for a More Definite Statement in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Mr. Rodney Wade Richey**  
**Richey & Richey, PA**  
**PO Box 10916**  
**Greenville, SC 29603-0916**

DATED this 7<sup>th</sup> day of January, 2022.



Grayson Horton, Legal Assistant  
For Respondent

1 STATE OF SOUTH CAROLINA )  
2 COUNTY OF SPARTANBURG ) IN THE COMMON PLEAS COURT  
3  
4 Samuel Jeter, )  
5 Applicant, ) TRANSCRIPT OF RECORD  
6 -vs- ) 2021-CP-42-01700  
7 The State. ) June 6, 2022  
8 ) Spartanburg, South Carolina  
9

10 B E F O R E:  
11

12 HONORABLE WILLIAM A. MCKINNON, JUDGE  
13  
14

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

16 RODNEY WADE RICHEY, ESQUIRE  
17 Attorney for the Applicant

18 CHELSEY FAITH MARTO, ESQUIRE  
19 Attorney for the State  
20  
21

22 Linda D. Moffitt  
23 Circuit Court Reporter  
24  
25

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22

Cross-examination by Ms. Marto

26

1 THE COURT: Yes, ma'am.

2 MS. MARTO: Thank you, Your Honor. May it please the  
3 Court.

4 We are today on the case of Samuel Jeter vs. The State  
5 of South Carolina, docket No. 2021-CP-42-01700.

6 My name is Chelsey Marto, and I represent the  
7 respondent, and Mr. Rodney Richey is representing the  
8 applicant in this matter.

9 The applicant is presently confined in the South  
10 Carolina Department of Corrections.

11 During its January of 2018 term the Spartanburg County  
12 Grand Jury indicted applicant for first degree burglary.

13 He was represented by Mr. Paul Neely, and Assistant  
14 Solicitor Spenser Smith and Sarah Boulezar [sic] prosecuted  
15 the case.

16 January 7th of 2019 applicant proceeded to trial  
17 before the Honorable J. Derham Cole and a jury. Applicant  
18 was found guilty of first degree burglary and was sentenced  
19 to life imprisonment.

20 Applicant filed a timely notice of appeal  
21 January 17th of 2019. That was perfected by Jessica M.  
22 Saxon. Brief was concluded May 13th of 2020, and the South  
23 Carolina Court of Appeals affirmed the convictions.

24 The remittitur was issued on May 26th of 2021.

25 The post conviction relief application was filed

1 June 2nd of 2021, and the state's return was made  
2 January 7th of 2022.

3 With that, I'll turn it over to Mr. Richey.

4 MR. RICHEY: Thank you, Your Honor.

5 We call Mr. Jeter at this time.

6 SAMUEL JETER, having been  
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. RICHEY

9 Q Sir, would you state your name, please?

10 A Samuel Jeter.

11 Q Mr. Jeter, are you currently in the Department of  
12 Corrections?

13 A Yes, sir.

14 Q And what are you there for?

15 A Burglary first.

16 Q Okay. And who represented you on your charges?

17 A Paul Neely.

18 Q Okay. And you filed an application because it is your  
19 position he didn't effectively represent you?

20 A Yes, sir.

21 Q Okay. And in this case -- what type of case was it?  
22 Was it a burglary case?

23 A Burglary.

24 Q Okay.

25 A Burglary first.

Samuel Jeter  
Direct examination by Mr. Richey

1 Q And what happened? Just briefly tell me what happened.  
2 Tell me what happened on the burglary case. You were -- you  
3 were out and you thought you went in someone else's house,  
4 correct?

5 A Yes, sir. I was intoxicated.

6 Q You were intoxicated. And what happened when you were  
7 intoxicated?

8 A I went in the wrong house and I was looking for -- for  
9 a home boy, and he wasn't there.

10 Q And so you got in the house. And what happened?

11 A And when I went in the house and realized he wasn't  
12 there, I was leaving. As I was leaving I was shot four  
13 times.

14 Q Okay. And where were you shot?

15 A In my back.

16 Q Okay. And the people in the house, they allege that  
17 you broke into the house or you burglarized the house,  
18 correct?

19 A Yes, yes.

20 Q Okay. And during the case you got -- you got offered a  
21 15-year plea offer, right?

22 A Yes, if I pled to burglary first, yes.

23 Q Okay. And that would have been the minimum, correct?

24 A Yes.

25 Q Okay. When did you get this offer? Was it at the

1 beginning?

2 A Before the trial.

3 Q Okay. And did you talk to your lawyer about that  
4 offer? Did you discuss it with Mr. Neely?

5 A No. He came to me about it if I'd pled. That's the  
6 only plea bargain they had for me, if I pled guilty to  
7 burglary first they would throw the other two charges out  
8 and give me 15 years.

9 Q Okay. And did he explain to you that you were facing  
10 life without parole?

11 A Yes.

12 Q And that offer of 15, when y'all discussed it, did you  
13 accept -- did you want to accept it or turn it down?

14 A I turned it down.

15 Q Okay. Did you talk to your lawyer about why you turned  
16 it down?

17 A No. I ain't talked to him why I turned it down because  
18 I didn't commit burglary first.

19 Q Okay. Do you tell him I didn't do burglary first, I'm  
20 not taking this offer?

21 A Yes.

22 Q Okay. All right. So it was your position that you  
23 didn't do a burglary first because you didn't break into a  
24 house.

25 A No. I didn't break. I didn't break in the house.

Samuel Jeter  
Direct examination by Mr. Richey

1 Q Okay.

2 A It was a mistake. I went in the wrong house. The door  
3 was already opened. I didn't break in the house. I walked  
4 in looking for -- the person I was looking for that wasn't  
5 there. And I left and got shot as I was leaving.

6 Q Okay. And so you and your lawyer, y'all talked about  
7 the elements of burglary, correct?

8 A No. Didn't talk about no evidence, no.

9 Q So you didn't -- y'all didn't talk about entering  
10 without the consent of the owner and all of that stuff?

11 A Oh, yeah. He brought me a copy of the -- copy of the  
12 paper.

13 Q The statute?

14 A Yeah, the statute.

15 Q So did he discuss with you you don't necessarily have  
16 to break in for it to be a burglary? You just have to enter  
17 without the consent of the owner. Did y'all talk about  
18 that?

19 A Yeah. With the intent to commit.

20 Q Right.

21 A I mean, I didn't intend to commit no crime.

22 Q So you said the first part, you entered without the  
23 consent of the owner.

24 A Okay.

25 Q Right.



1 A Yes, sir.

2 Q But you're saying the second part, you didn't have an  
3 intent to commit a crime.

4 A No. Didn't have no intent. No.

5 Q Because you were there looking for this friend.

6 A That's it.

7 Q Okay. And you and Mr. Neely went over all of that  
8 about you going to look for this friend, right?

9 A Yes.

10 Q Okay. And -- and the jury convicted you, correct?

11 A Yes.

12 Q And what did they convict you of?

13 A Burglary first.

14 Q Okay. Were you found not guilty on anything?

15 A On the intent, the attempted robbery and assault and  
16 battery first. They throwed it -- I was acquitted on them  
17 two.

18 Q Okay. So you were acquitted on those charges, but you  
19 were convicted on the burglary.

20 A On burglary first.

21 Q So you basically -- the stuff that you would do a  
22 crime, you were acquitted on that, correct?

23 A Yes.

24 Q Okay. So did you and your lawyer have any discussions  
25 about these verdicts?

1 A No, no, sir.

2 Q Okay. After you got convicted, did you talk to your  
3 lawyer after you were convicted?

4 A Yeah, after I got found guilty, yes.

5 Q Okay. And what -- did y'all talk about what the jury  
6 found you guilty of?

7 A Yes.

8 Q Y'all did.

9 A Burglary first.

10 Q Okay. Did y'all discuss about being convicted of  
11 burglary first and being not convicted on other charges?  
12 Did y'all talk about that?

13 A No.

14 Q Okay. All right. Did y'all -- you didn't ask him to  
15 file a motion for a new trial or anything.

16 A Put in a direct appeal.

17 Q Okay. So you wanted to appeal.

18 A Yeah. Direct appeal.

19 Q Okay. Do you believe that your lawyer properly  
20 explained the risks of this plea -- of going to trial?

21 A Explain. Say that again.

22 Q Okay. Do you believe that your lawyer explained to you  
23 all of the risks in going to the jury trial?

24 A No.

25 Q He did not?

- 1 A No.
- 2 Q Okay. Do you know what I mean when I say risk?
- 3 A You say risk?
- 4 Q Risk.
- 5 A Risk.
- 6 Q Yeah.
- 7 A Oh, risk of going to trial.
- 8 Q Yeah.
- 9 A Instead of a plea deal.
- 10 Q Yeah.
- 11 A Okay. I didn't understand what you were saying. Okay.
- 12 You said risk.
- 13 Q Right.
- 14 A Yeah, yeah. I was looking at life.
- 15 Q Right. Did he tell you, explain to you, that the risk
- 16 in that is life, correct?
- 17 A Yes, sir.
- 18 Q And did you -- so he did.
- 19 A Yeah. He said I'm looking at life if I'm found guilty
- 20 of burglary first.
- 21 Q And did y'all go over your case in relations to that,
- 22 say, hey, look, you're facing life, you were in the house
- 23 and you didn't know the people and all of this stuff, right?
- 24 Did y'all do that kind of back and forth?
- 25 A Yes.

Samuel Jeter  
Direct examination by Mr. Richey

1 Q Okay. Let me -- let me explain it to you. You look  
2 puzzled.

3 when -- when you were deciding on going to have a jury  
4 trial, correct, when you were deciding that you and Mr.  
5 Neely talked, right?

6 A Yes.

7 Q Okay. And y'all talked about the case, correct?

8 A Yes.

9 Q And Mr. Neely told you, hey, you're facing life,  
10 correct?

11 A Yes.

12 Q When y'all went over that case did y'all have  
13 discussions about, hey, this is a lot of risk you're taking,  
14 that you won't get out again? Right? Did y'all talk about  
15 that?

16 A Yes. I can't remember. That's been a minute ago. I  
17 can't remember that.

18 Q Okay. Your lawyer did not say to you, hey, life  
19 without parole, man, that's a big sentence, that's like a  
20 lot of time.

21 A I mean, yes.

22 Q Okay. All right. Okay. And you are requesting this  
23 court give you a new trial, correct?

24 A Yes.

25 Q Okay. Because you believe at a -- at a new trial you

1 will be found not guilty, correct?

2 A Yes.

3 Q Because you believe that they could not convict you of  
4 committing a crime in the house, correct?

5 A Yes, sir.

6 Q Okay. All right. What do you have up there?

7 A I've got notes about my -- I got issues really.

8 Q Okay.

9 MR. RICHEY: Can I approach the witness, Your Honor?

10 THE COURT: Yes, sir.

11 Q So on here you -- you want to object to the Court's  
12 circumstantial-evidence jury charge, right? You got to  
13 answer.

14 A Yes.

15 Q Okay. And you believe that those are improper,  
16 correct?

17 A Yes.

18 Q Okay. And you believe that your lawyer should have  
19 challenged the burglary conviction, challenged that  
20 conviction.

21 A Yes.

22 Q And take it to Court and asked for a new trial.

23 A Yes.

24 Q Okay. Because you believe what they had was not  
25 consistent with the other two burglaries, correct?

1 A Yes.

2 Q Okay. And you believe that -- you believe that there  
3 was no great bodily injury by anyone in that home that  
4 night.

5 A No, sir.

6 Q Okay. And you believe that your counsel should have  
7 challenged the jury itself.

8 A Yes.

9 Q Huh?

10 A To challenge the burglary first since I was -- I was  
11 found not guilty on the intent.

12 Q And you're going by here -- the trial counsel was  
13 ineffective for failing notification of a 15-year plea deal  
14 without no clarification of the bargain. So you're saying  
15 he gave you a 15-year offer and didn't explain what benefit  
16 you're getting?

17 A Yes, sir. He didn't explain everything.

18 Q And he didn't explain the benefit that you were  
19 getting.

20 A Yes, sir.

21 Q And I'm going to ask you a question. Sitting here  
22 today do you believe that that 15-year sentence was a good  
23 offer for you, sitting here today?

24 A I mean no, no, sir.

25 Q Okay. So you don't believe that a 15-year sentence --

1 well, it's obviously better than what you got, correct?

2 A Better than what I got now, yes.

3 Q But you don't -- but you don't believe that that was a  
4 fair offer on these facts of this case, correct?

5 A No, sir.

6 Q Based off the case, you don't think that was a good  
7 offer, correct?

8 A No, sir.

9 Q Okay. Thank you. Answer any questions the attorney  
10 general may have for you.

11 THE COURT: Let me just -- Mr. Jeter, I'm a little  
12 confused. So what is it you say that the -- knowing what  
13 you know now, would you have taken the plea?

14 THE WITNESS: Knowing what I know now, I would've took  
15 the 15 years?

16 THE COURT: Right.

17 THE WITNESS: No, sir.

18 THE COURT: Okay. So are you saying that your lawyer  
19 should have convinced you to have taken the plea? If  
20 you're saying knowing that -- you still think turning down  
21 the plea was the correct decision. Is that a fair way to  
22 put it?

23 THE WITNESS: Yes, sir.

24 THE COURT: You made the right decision turning down  
25 the 15 years.

1 THE WITNESS: Yes, sir.

2 THE COURT: So what is it that your attorney didn't  
3 do? Are you saying --

4 THE WITNESS: He didn't -- when I was found not guilty  
5 of the intent he didn't -- he didn't challenge the burglary  
6 first.

7 THE COURT: Okay. So your argument is you cannot be  
8 convicted of burglary first because of the other crimes you  
9 were acquitted on.

10 THE WITNESS: Exactly.

11 THE COURT: So it's kind of a legal argument. Okay.  
12 But other than that, do you have any complaints about Mr.  
13 Neely?

14 THE WITNESS: I mean, no, not that. That's about it  
15 really. He didn't -- that's it really. He didn't put up a  
16 fight. He put up a defense for me, but he just, I mean, he  
17 had the guns out but he put them back up. Do you --

18 THE COURT: But the jury made the decision on the  
19 facts. So as far as what Mr. Neely didn't do or did do.

20 THE WITNESS: Yeah.

21 THE COURT: You think he should have done what  
22 differently?

23 THE WITNESS: He could've -- he could've, you know,  
24 could've put up -- I can't explain it. I got it wrote  
25 down, you know.



1 THE COURT: Okay. You can look.

2 THE WITNESS: I can't remember everything.

3 (Pause.)

4 THE COURT: I'll let your counsel bring it. That's  
5 okay. I just wanted to make sure that I'm understanding  
6 you correctly because some people will say when they get to  
7 court on the P.C.R. my attorney should have given me better  
8 advice and I should have taken that plea. That's not what  
9 you're saying, right? You're not saying you made a mistake  
10 turning down the plea?

11 THE WITNESS: No, sir.

12 THE COURT: Okay. That's what I want to clarify.

13 CROSS-EXAMINATION

14 BY MS. MARTO

15 Q Good afternoon, sir.

16 A Good afternoon.

17 Q So I think it's your argument today that in order to be  
18 found guilty of first degree burglary you need to also have  
19 been found actually guilty of committing another crime. Is  
20 that a fair way?

21 A The intent, yeah, the intent.

22 Q So yeah. And so intent to commit a crime. It's you  
23 must actually also be convicted of another crime. Is that  
24 the fact?

25 A Yes, ma'am.

1 Q Okay.

2 A Yes, ma'am.

3 Q Okay. Now, you testified at your trial, correct?

4 A Yes, ma'am.

5 Q And you stated that you were intoxicated and you  
6 thought you are in another house then too, correct?

7 A Yes, ma'am.

8 Q And, again, you were unwilling to take any plea offers  
9 because you thought it was just a mistake that you went into  
10 the house, correct?

11 A No, ma'am.

12 Q You would have taken a plea offer?

13 A I would have took a plea, I mean, for a lesser-offense  
14 charge like burglary, attempt burglary, trespassing,  
15 something like that. I didn't commit burglary first.

16 Q Okay. But you did enter the home in the middle of the  
17 night.

18 A Yes, ma'am, without consent. Yes. I admit that.

19 Q Okay. And you didn't know the people that lived there,  
20 right?

21 A No, ma'am.

22 Q You just thought you went into the wrong house?

23 A Yes, ma'am.

24 Q Okay. Did you ask your attorney to file a motion for a  
25 new trial?

1 A Yes.

2 Q And what was his response to that?

3 A He put in for a direct appeal.

4 Q Okay. So he -- did you ask him to file a notice of  
5 appeal or a motion for a new trial? Do you remember?

6 A He just put in. I can't remember. But I know I had --  
7 I know he had put in for a direct appeal for me. I know  
8 that.

9 Q And he filed a notice of appeal, right?

10 A Yes.

11 Q So why did you go into the house in the middle of the  
12 night?

13 A I was looking for a friend that I thought that was  
14 there, and he wasn't there.

15 Q Did you call him beforehand?

16 A Yeah. He told me he was going to be -- you know, he --  
17 the same car that was in front of the house, similar to his  
18 car, so I thought there -- he was in the house at that time.  
19 And when I knocked on the door, it was so loud, you know  
20 what I'm saying, the T.V. was on, lights and stuff was on.

21 So I knocked on the door and, you know, small -- and I  
22 just turned the knob and the door was unlocked. So I'm  
23 thinking he's already in there because the door was open.

24 Q And there were several women inside the house at that  
25 time, right?

1 A Three.

2 Q Okay. And they all testified at trial, correct?

3 A Yes.

4 Q And it's at least one or two of them say that you asked  
5 for money.

6 A Yes.

7 Q Okay.

8 A In their statement, yeah. I got statements and all.

9 Q And they all stated that they didn't know you, right?

10 A Yes, ma'am.

11 Q And then one of the women started chasing you with a  
12 gun?

13 A Yes, ma'am.

14 Q Started shooting at you?

15 A Yes, ma'am. Shot me four times.

16 Q Okay. And did you believe it was your friend's house  
17 or a house your friend was at?

18 A A house my friend was at.

19 Q Okay. So did you know the owner of the house?

20 A No, ma'am.

21 Q Okay. And the owner of the house didn't give you  
22 permission to enter the house, right?

23 A No, ma'am.

24 Q Did you ask when you entered the house where is the  
25 money?

1 A No, ma'am.

2 Q Did you tell anybody to be quiet?

3 A No, ma'am.

4 Q Were you wearing a ski mask that night?

5 A I was before I went in the house, and then when I  
6 realized that I was in the wrong house, I took it off. It  
7 was cold.

8 Q Did you give the police a wrong name that night?

9 A That's what they said, but I was intoxicated. I don't  
10 know what I was saying.

11 Q Okay. So you thought you were just kind of being funny  
12 with the police at that time?

13 A I guess. I mean, I was intoxicated. They say I gave  
14 them my brother's name or something they were saying.

15 Q And you gave them, I think, your brother's birthdate  
16 too, right?

17 A I think that's what they said, yeah.

18 MS. MARTO: No further questions.

19 THE COURT: Mr. Richey.

20 REDIRECT EXAMINATION

21 BY MR. RICHEY

22 Q You were intoxicated that night?

23 A Yes, sir.

24 Q Okay. And so do you remember what actually happened?

25 A I just remember -- I just remember riding in the

Paul Neely  
Direct examination by Mr. Richey

1 ambulance after that.

2 Q Okay. And so -- so you were drunk and you didn't know  
3 what happened. And tell me. How would you defend yourself  
4 if you were drunk and didn't know what happened? Did your  
5 lawyer talk to you about that, hey, man, you were drunk, you  
6 don't know what happened, you could've went in there, and  
7 could've not, and these 15 years should have taken. Did  
8 that ever go down like that?

9 A No, sir.

10 Q Okay. But you were intoxicated.

11 A Yes.

12 Q And you did not know what you were doing.

13 A No, sir.

14 Q Okay. So you were not in a position to defend yourself  
15 in the case, right?

16 A No.

17 Q Okay. And did you and your lawyer discuss that?

18 A No.

19 Q Okay. Thank you.

20 MS. MARTO: No further questions.

21 THE COURT: Thank you, sir. You can step down.

22 MR. RICHEY: No other questions, Your Honor.

23 THE COURT: That's okay.

24

25

1                                   PAUL NEELY, having been first  
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. RICHEY

4 Q     would you state your name, please?

5 A     Paul Neely, N-E-E-L-Y.

6 Q     And, Mr. Neely, do you recall representing Mr. Jeter?

7 A     I do.

8 Q     And at that time you were over in Spartanburg working,  
9 is that correct?

10 A     That's correct.

11 Q     And you heard the charges of what he was charged  
12 with -- burglary. And did you have a discussion with him  
13 about -- and I use the phrase -- risk profile in this case?

14 A     We did. And you just asked him about a 15-year plea  
15 offer. That was probably made by Spenser right before  
16 trial.

17           I actually had an offer made about a year before in  
18 February, on February 6th of 2018, that I took him at the  
19 jail on February 8th of 2017 that was straight up to burg  
20 first and strong arm and assault and battery first. And the  
21 conversation that we had then was the same conversation we  
22 had before trial, you're facing life, they served you with  
23 life-without-parole notice, straight up, still give you a  
24 chance to get out of jail, life without parole means life  
25 without parole.

1 Q Okay. And so -- and so he turned down all of those  
2 offers.

3 A He did turn down all of those offers. And in the same  
4 conversation is exactly what Sammy just testified to, which  
5 is I went in that house, it was an accident, I was looking  
6 for my friend, I didn't have any intent to commit any crime.  
7 And so that's how we prepared for trial, was I didn't have  
8 any intent to commit a crime therein.

9 Q Okay. And so that's kind of the angle you took.

10 A That was the entire trial strategy.

11 Q Okay. And that was pretty successful, correct?

12 A Two thirds of the way fortunately.

13 Q And when you all talked about him being intoxicated,  
14 did you explain to him how it affects his case being  
15 intoxicated and really can't understand what happened to  
16 that extent?

17 A Not -- I don't know if our conversations centered  
18 around exactly the way you're phrasing that question.

19 Q Right.

20 A I kind of tried to use that intoxication as a means of  
21 bolstering our defense.

22 The crime occurred over in Beaumont Mills, which is a  
23 little mill village here in Spartanburg. All of the houses  
24 in that mill village look identical. So if it's midnight,  
25 which is when this occurred, and you're in a mill village



1 and everything looks the exact same, when you are -- I think  
2 he testified he had eight hurricanes before he went to go  
3 find his friend. I believe that's what he testified to.  
4 Eight malt liquor drinks.

5 when you're that drunk it's real easy to think that one  
6 house that you're supposed to be going in that neighborhood  
7 looks like the house next door. And actually I had one of  
8 the investigators spend an hour up here testifying before  
9 Sammy took the stand showing the jury every single house in  
10 the 400 block of Beaumont Mills.

11 Q And, well, let me ask you a question that he was asked.  
12 Is this the type of case that you believe he should have  
13 taken the offer?

14 A Yes, yes. I think he should have taken the first offer  
15 straight up.

16 Q Okay. And did you tell him that?

17 A Yes.

18 Q And what was his response?

19 A I can't plead to anything, I didn't have -- I wasn't  
20 intending to commit any crime, I went in the house by  
21 accident.

22 Q Okay. And this deal about him asking for money, did  
23 you investigate that?

24 A I did. And we went at length in front of the jury  
25 about that. And that was something that came up towards the

1 end. There was no allegation that as he went through the  
2 house he was asking for money.

3 I think we talked to law enforcement on cross-examine  
4 and witnesses on cross-examine. You walked into that house.  
5 There were purses in the living room. There was a T.V. that  
6 was on. If you were there to burglarize the house, you  
7 wouldn't do what he did, which is walk in the house and just  
8 walk through the house like you're looking for somebody.  
9 You would have picked up purses. You would have taken the  
10 T.V. He didn't touch any of that stuff.

11 Q What about these verdicts in this case? I mean, was  
12 there -- was there any request for you to file for a new  
13 trial or anything about these?

14 A There was no request by him because I don't know how he  
15 would have known to ask me to file for a new trial. And I  
16 know I -- it never crossed my mind to ask for a new trial,  
17 which is why we had a talk about a direct appeal, which is  
18 why I filed a direct appeal. But the thought to file for a  
19 new trial based on inconsistent verdicts never crossed my  
20 mind.

21 Q Okay. And these verdicts were inconsistent. Is that  
22 what you would say -- bad?

23 A I mean, yes, yes. I mean, they found him not guilty of  
24 the crimes that they alleged occurred inside and found him  
25 guilty of the burglary.

1 Q Okay. No other questions.

2 THE COURT: Ms. Marto.

3 MS. MARTO: Yes, Your Honor.

4 CROSS-EXAMINATION

5 BY MS. MARTO

6 Q So, again, you thought that he should have taken both  
7 offers when they were presented, correct?

8 A Sure.

9 Q And do you think that a new trial would have been  
10 granted by Judge Cole?

11 A That's a loaded question. No. I don't believe based  
12 on what the law in the state is that based on an  
13 inconsistent verdict that a new trial would have been  
14 granted.

15 Q Just in broad strokes, what was the evidence that the  
16 state had in the case?

17 A That he was in the house, that he was wearing a ski  
18 mask at the time. They found him next door. He'd been shot  
19 in the back side. I think he was actually shot in the rear  
20 end, not his back. But he was found in the yard next door.  
21 He's actually lucky to be alive as best I can remember, but  
22 that he was found next door.

23 Q And he did testify that he mistakenly went in the wrong  
24 house and his friend lived nearby, correct?

25 A He did.

1 Q And do you think that reaching, I guess, inconsistent  
2 verdicts in this case was improper in the way that Mr. Jeter  
3 testified to?

4 A The way that he testified to? I mean, the jury found  
5 him not guilty of the two crimes that the state alleged him  
6 of, and then they found him guilty of the burglary.

7 MS. MARTO: I have no further questions.

8 THE COURT: Mr. Richey.

9 MR. RICHEY: No other questions for him, Your Honor.

10 THE COURT: All right. Thank you, sir. You can step  
11 down.

12 Any additional witnesses, Mr. Richey?

13 MR. RICHEY: No, Your Honor. There's no additional  
14 witnesses.

15 MS. MARTO: No witnesses, Your Honor.

16 THE COURT: Argument, Mr. Richey?

17 MR. RICHEY: Your Honor, at this position we'd ask the  
18 Court to really consider the trial transcript, the  
19 testimony of the witnesses and ask the Court based off that  
20 to grant Mr. Jeter a new trial based off those documents  
21 and the testimony.

22 THE COURT: Any argument, Ms. Marto?

23 MS. MARTO: We would rest on the pleadings as well,  
24 Your Honor.

25 THE COURT: All right. Counsel, I appreciate it. We

1 had a full day. Thank y'all for your hard work. I'll take  
2 this matter under advisement.

3 END OF REQUESTED TRANSCRIPT OF RECORD  
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 6th day of June 2022.

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

August 5, 2022

s/Linda D. Moffitt

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Linda D. Moffitt  
Circuit Court Reporter

|                          |   |                                  |
|--------------------------|---|----------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS     |
| COUNTY OF SPARTANBURG    | ) | FOR THE SEVENTH JUDICIAL CIRCUIT |
|                          | ) |                                  |
| Samuel Jeter, #242979,   | ) | Case No.: 2021-CP-42-01700       |
| Applicant,               | ) |                                  |
|                          | ) |                                  |
| v.                       | ) | <b>ORDER OF DISMISSAL</b>        |
|                          | ) |                                  |
| State of South Carolina, | ) |                                  |
| Respondent.              | ) |                                  |
| _____                    | ) |                                  |

This matter comes before this Court by way of Applicant's post-conviction relief application filed June 2, 2021. Respondent made its return on January 7, 2022, requesting an evidentiary hearing be convened. An evidentiary hearing was held on June 6, 2022, at the Spartanburg County Courthouse. Rodney Richey, Esquire, represented Applicant. Assistant Attorney General Chelsey Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel Paul Neely also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

#### **Procedural History**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its January 2018 term, the Spartanburg County Grand Jury indicted Applicant for first degree burglary (2018-GS-

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42-0421).<sup>1</sup> Applicant was represented by Paul K. Neely, Esquire. Assistant Solicitors Spenser H. Smith and Sara B. Bozarth of the Seventh Circuit Solicitor's Office prosecuted the case. On January 7, 2019, Applicant proceeded to trial before the Honorable J. Derham Cole, circuit court judge, and a jury. Applicant was found guilty of first-degree burglary. Judge Cole sentenced Applicant to life imprisonment.

Applicant filed a timely notice of appeal on January 17, 2019, that was perfected by Jessica M. Saxon, Esquire, who filed a brief raising the following issue:

Did the trial court err in admitting the 911 call over defense counsel's objections under Rule 403, SCRE without performing the requisite Rule 403 analysis on the record, where the admission of the 911 call was cumulative in nature and so prejudicial as to inflame the passions of the jury?

Briefing concluded on May 13, 2020. The South Carolina Court of Appeals affirmed the convictions by unpublished opinion. *State v. Jeter*, 2021-UP-152 (S.C. Ct. App. May 5, 2021). The remittitur was issued on May 26, 2021.

### **Summary of Relevant Facts**

In October of 2017, Sharaia Walker lived with her mother Katrina, sister Alexis, her two children, and Alexis's son. Around midnight on October 26, 2017, Sharaia entered the home through the front door, locking the door behind her and allowing her sleeping daughter to remain on the couch. Sharaia was on the phone, sitting in her bed when she noticed a "dark figure" poke its head into the room and leave. She left the room to investigate and saw a strange man wearing a ski mask and gray hoodie, put his hand up to his mouth and say, "Shh, be quiet." She immediately began screaming, and Katrina and Alexis awoke, despite Applicant's attempts to

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<sup>1</sup> Applicant was also indicted for attempted common law robbery and first degree assault and battery, both of which the jury found he was not guilty of. However, since these charges were not brought up in Applicant's application and, accordingly, will not be addressed in this return.

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quiet her down. (R. 21-27, 35, 46).

With all three women alarmed and, in the hallway, Applicant ran down the hall, but knocked over Katrina, grabbed her arms, and began repeating, "Where's the money?" over and over. Sharaia retrieved her gun and began firing at him. Several shots hit the man as he fled through the house and out the door. (R. 31-39).

Officer Shanetta Thompson with the Spartanburg Police Department responded to the scene. She found shell casings inside and outside the home and a shoe in front of the house. Officers found Applicant, still wearing a ski mask and gray hoodie, behind the home next door, bleeding from several bullet wounds. As EMS worked on Applicant, he told them his name was Calvin Jeter, but was eventually identified as Samuel Jeter. (R. 101-27, 132-45).

Applicant testified at trial that he did not go to the home to burglarize it, but meant to go to a friend's house to stay the night but was very drunk and went into the wrong home instead. He testified he knocked on the door, but after receiving no response opened an unlocked front door and walked into an empty living room. Hearing voices towards the back of the house, he went towards them and opened a door to find Sharaia. Realizing he had the wrong house, he immediately shut the door. When confronted by Sharaia, he claimed he stated being in the home was "his bad" and started to leave when Sharaia began chasing him with the gun. (R. 162-67).

On cross examination, Applicant conceded he was wearing a ski mask that night and wore it while interacting with the women; he only took it off as he was running at the door with bullets flying at him. When asked whose house Applicant intended to enter that night, he claimed he was going to see his cousin Anthony Hollis. Applicant admitted the two areas had several distinct differences. Applicant eventually changed his story to that he did not believe he was entering his cousin's home, but merely a house his cousin was inside and knew he was walking

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into a stranger's home. He claimed he did not look around the living room enough to see a child sleeping on the couch. (R. 168-76).

When questioned about why he provided officers with the wrong name, he claimed Calvin Jeter was his brother's name and could not remember why he told it to police because he was "unconscious." He also claimed he was still "unconscious" at the hospital and had no recollection of speaking with Investigator McCullough except that he kept asking for the nurse. As to why he had pepper spray, Appellant claimed it was to protect him from dogs. (R. 176-79).

### **Current Action Before this Court**

In his current PCR application, Applicant alleges he is being held in custody unlawfully because of ineffective assistance of counsel in that:

1. I was convicted of burglary first and was found not guilty of all other charges involved in this case. S.C. Code 16-1-311 states that a person must have "intent to commit a crime in the dwelling." Due to the fact that the jury found me "not guilty" of all other charges, the state failed to prove intent to commit a crime" and so the burglary first conviction cannot stand. My lawyer (Paul Neely) nor the court explained this fact to the jury, nor did they take any action on my behalf. The conviction is unlawful and should not stand.
2. I was offered a fifteen year plea deal before trial but as an act of "trial tax" was given a life sentence. There are not aggravating circumstances in this case to justify the burglary first conviction, much less a life sentence."

At the PCR hearing, Applicant proceeded forward on the following allegations:

1. Ineffective Assistance of Counsel:
  - a. Failure to file an appeal or move for a new trial based upon conflicting verdicts.
  - b. Failure to pursue a defense of mistake at trial.

All other allegations raised in his initial application and amendments are deemed waived and abandoned and, accordingly, will not be addressed in this order.

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**Summary of the Testimony**

***Applicant Testimony***

Applicant testified he was convicted of first-degree burglary. He stated Counsel did not effectively represent him. He stated that the incident occurred because he was intoxicated and went into the wrong house. He stated that he did not break into the house because the door was already open. He stated that when he was leaving the house he was shot. He stated he received a fifteen-year plea offer in the case and that he discussed the offer with Counsel. He stated he did not want to take the offer because he thought it was a bad deal and stood by the decision to reject the offer as of the date of the post-conviction relief hearing. He stated he spoke with Counsel about how the State intended to seek life without parole if he went to trial. He stated that Counsel brought a copy of the statutes under which he was charged to the jail and that they discussed these together. He stated he did not intend to commit a crime and that he was only found guilty of first-degree burglary; not first-degree assault and battery or attempted armed robbery. Applicant stated he wanted a direct appeal. He stated Counsel informed him of the risks of going to trial. He stated he was seeking a new trial because he believes that the State cannot prove he committed first-degree burglary. He stated he did not think the jury charge was proper. He stated he thought Counsel should have challenged the first-degree burglary charge because it was not consistent with the jury's verdict on the other charges. He stated that no great bodily injury was committed during the incident.

Applicant was unresponsive when asked by this Court what Counsel could have done differently in this case.

On cross-examination, Applicant stated that he thought he had to be convicted of another crime to be properly convicted of first-degree burglary. Applicant stated he would have pled if a

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deal to a lesser-included offense was offered but was unwilling to plead to first-degree burglary. Applicant stated he could not remember if he expected Counsel to file a motion for a new trial, but remembered Counsel filed a notice of appeal. Applicant stated he did not ask for money within the home and was too intoxicated to remember whether he gave the police the wrong name.

### ***Counsel Testimony***

Counsel stated that Applicant turned down all plea offers. He stated the defense at trial was that Applicant was drunk and mistakenly went into the wrong home. He stated he told Applicant to take the offer. Counsel stated it never crossed his mind to move for a new trial based upon conflicting verdicts. He stated he filed a notice of appeal.

On cross-examination, Counsel stated he did not think a new trial would be granted based upon conflicting verdicts. Counsel stated that Applicant entered the home with a ski mask, was shot in the rear end by someone in the home while running away and was found bleeding out in the next-door neighbor's yard.

### **Findings of Fact and Conclusions of Law**

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. Before this Court are the Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the trial transcript, direct appeal records, and this PCR action's records. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Ann. § 17-27-80 (2003).

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### *Ineffective Assistance of Counsel*

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel’s actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRCP (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”). Reasonableness is determined by the “variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel’s performance remains highly deferential towards defense counsel. The strong presumption that counsel acted competently, because competent representation may be expected

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in virtually “countless” ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters “only in the rarest case” because “[t]he likelihood of a different result must be substantial, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

#### ***Failure to Pursue a Defense***

Applicant’s claim that Counsel was ineffective for failure to pursue a defense at trial is without merit. Whether failure to assert a defense constitutes deficient performance ultimately hinges on whether failure to explore the decision was a strategic decision. *Strickland*, 466 U.S. at 680. If there is only one line of defense, counsel must conduct a “reasonably substantial investigation” into that line of defense. *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1252). However, if there are several lines of defense, counsel may still be effective even if every single line is not explored. *Id.* “[W]hen counsel’s assumptions are reasonable given the totality of the

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circumstances and when counsel's strategy represents a reasonable choice based upon those assumptions, counsel need not investigate lines of defense that he has chosen not to employ at trial." *Id.* at 681 *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1255). Further, "[w]hen counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough*, 540 U.S. at 5 (citing *Strickland*, 466 U.S. at 690).

Regarding failure to alert the Applicant of a defense specifically, Counsel will not be found ineffective if there was inadequate evidence to support the defense, if the defense did not exist at the time of trial, or another avenue of defense existed. *See McCray v. State*, 317 S.C. 557, 455 S.E.2d 686 (1995) (stating that failure to state an entrapment defense was not ineffective when the applicant denied any wrongdoing); *Arnette v. State*, 306 S.C. 556, 413 S.E.2d 803 (1992) (stating that failing to inform of a defense was not ineffective when there was no evidence at trial that supported the defense); *Robinson v. State*, 308 S.C. 361, 417 S.E.2d 361, 417 S.E.2d 88 (1992) (stating that Counsel was not ineffective when failing to state a defense that was not recognized by the Court until six years later and was just recently acknowledged by the scientific community).

Applicant alleges ineffective assistance of counsel for failure to assert a defense consisting of Applicant's allegation that he drunkenly entered the wrong home by mistake. However, this defense was exhausted at trial, primarily through Applicant's own testimony. (Tr. 201-05, 212-13). Applicant did not articulate any new defense or defense strategy at the PCR hearing that was not already addressed at trial. Applicant's issue with Counsel in this regard is seemingly less rooted in a failure on Counsel's part and more of a displeasure over the defense did not lead to the jury rendering a favorable verdict. Regardless, Counsel did its part

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in presenting the chosen defense, even though it was not successful. Thus, he cannot be found deficient. Additionally, because nothing new regarding the defense was presented at the PCR hearing that was not presented at trial, no prejudice is found. Accordingly, relief is denied on this ground.

***Failure to Move for a New Trial/Appeal***

Applicant's allegation that Counsel was ineffective for failure to move for a new trial or file an appeal is without merit. The record makes clear that Counsel filed a notice of appeal. Concerning the failure to file for a motion for a new trial, the only issue Applicant states he wants raised deals with Applicant's receipt of conflicting verdicts from the jury at trial. Specifically, Applicant claims that to be found guilty of first-degree burglary, he must also have been found guilty of a second offense. He stated that this second offense conviction is required to meet the statutory element of first-degree burglary of "intent to commit a crime." *See* S.C. Code Ann. § 16-11-311(A)(2003) (a person is guilty of first-degree burglary if he "enters a dwelling without consent and with intent to commit a crime in the dwelling.").

Here, the underlying argument Applicant wanted advanced through either his direct appeal or a post-trial motion is without merit. The fact that the jury failed to convict Applicant of another crime is immaterial to the validity of the burglary conviction. *See State v. Peterson*, 336 S.C. 6, 7-8, 518 S.E.2d 277, 278 (1999) (finding that "[t]he fact that the jury failed to convict [the defendant] . . . does not affect the validity of the burglary charge. Indeed, the fact is immaterial." ). Counsel was not deficient for failing to advance an unsuccessful argument, particularly considering his PCR hearing testimony that pursuing a post-trial motion based upon conflicting verdicts was not a consideration and would not have led to a favorable outcome for the defense. This Court concurs with Counsel finds that the post-trial motion on this basis would

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not have been successful in the case. Thus, no prejudice is found, and relief is denied on this allegation accordingly.

### Conclusion

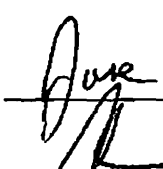
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this PCR application must be denied and dismissed with prejudice.

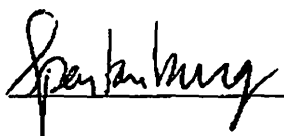
This Court notifies the Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. See Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCF provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

### **IT IS THEREFORE ORDERED:**

1. The PCR application be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 30 day of June, 2022.

  
 WILLIAM A. MCKINNON  
 Presiding Judge  
 Seventh Judicial Circuit

, South Carolina.

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