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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Jocelyn J. Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHASE MICHAEL MILAM,

APPELLANT.

APPELLATE CASE NO. 2021-001490

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**DEFENDANT’S EXHIBIT #1 (DVD OF 911 CALL) and
STATE’S EXHIBIT #9 (DVD OF DASHCAM)**

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1 MONDAY, DECEMBER 6, 2021

2 THE COURT: Does the state have a witness list?

3 MS. WEST: I do have a witness list.

4 THE COURT: And a copy of the indictments, please,
5 since we hadn't had time to get them.

6 MR. SNELL: Your Honor, I've got, I've a piece of
7 paper with a few names on it if you'd like to have that.

8 THE COURT: Yes. Thank you.

9 (A PAUSE.)

10 THE COURT: All right, is the state ready for *voir*
11 *dire*?

12 MR. SCOTT: We are, Your Honor.

13 THE COURT: Defense ready?

14 MR. SNELL: Yes, Your Honor.

15 THE COURT: All right. All right, you can go ahead
16 and bring the jury panel.

17 CLERK: Yes, Your Honor.

18 (WHEREUPON, THE JURY PANEL ENTERS.)

19 JURY *VOIR DIRE*

20 THE COURT: Hello again, folks, to the lucky number of
21 you were selected for potential jury service on the trial
22 of this case. We are ready to select a jury in the trial
23 of the case of the *State of South Carolina v. Chase Michael*
24 *Milam*. I am going to ask you a number of questions
25 different from the questions that I just asked you. These

1 questions are more specific to your fitness to serve as
2 jurors for the trial of this particular case, but before I
3 do that, I'm going to have the clerk place you under oath
4 one more time.

5 (WHEREUPON, THE JURY PANEL IS SWORN.)

6 MR. SNELL: Your Honor.

7 THE COURT: Yes.

8 MR. SNELL: Can we approach briefly?

9 THE COURT: Sure.

10 (OFF-THE-RECORD BENCH CONFERENCE.)

11 THE COURT: All right, folks, as I said, you are here
12 for jury selection for the trial of the *State of South*
13 *Carolina v. Chase Michael Milam*. This is a criminal case
14 and the trial won't last all week. I think I've told some
15 of you that already, but I'm going to ask you a number of
16 questions.

17 Now, Mr. Milam is accused of committing two crimes:
18 burglary second degree and possession of burglary tools.
19 These indictments allege that in Richland County at [REDACTED]
20 Koulter Drive on October 29, 2020, that Mr. Milam entered a
21 building belonging to Donnie Ballentine during the
22 nighttime hours, and that at that time he had in his
23 possession a screwdriver.

24 My first question is does any member of the jury panel
25 know anything about this case or think that they know

1 number 285 indicated she could not be fair and impartial,
2 so she was removed from the selection, although as it turns
3 out, we would not have reached her juror number anyway, but
4 the court pulled juror 285 for cause.

5 Anything from the state before we wrap up for the day?

6 MR. SCOTT: Nothing from the state, Your Honor.

7 THE COURT: From the defense?

8 MR. SNELL: No, Your Honor.

9 THE COURT: All right. I'll see y'all at 9:30
10 tomorrow morning.

11 (WHEREUPON, THE CASE IS AT EASE.)

12 *TUESDAY, DECEMBER 7, 2021*

13 (COURT RESUMES AT 9:43 AM.)

14 (PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT
15 NUMBERS 1 THROUGH 7 FOR IDENTIFICATION.)

16 (SCREWDRIVER MARKED AS STATE'S EXHIBIT NUMBER 8 FOR
17 IDENTIFICATION.)

18 (DVDS OF DASHCAMS INDIVIDUALLY MARKED AS STATE'S
19 EXHIBIT NUMBERS 9, 10 FOR IDENTIFICATION.)

20 (PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT
21 NUMBERS 11, 12, 13 FOR IDENTIFICATION.)

22 (DVD OF DASHCAM MARKED AS STATE'S EXHIBIT NUMBER 14
23 FOR IDENTIFICATION.)

24 (KNIFE MARKED AS STATE'S EXHIBIT NUMBER 15 FOR
25 IDENTIFICATION.)

1 (DVD OF 911 CALL MARKED AS DEFENDANT'S EXHIBIT NUMBER
2 1 FOR IDENTIFICATION.)

3 THE COURT: All right, good morning, folks. It looks
4 like the defendant is present, represented by counsel. We
5 are ready to begin the trial.

6 I'm told that State's 1 through 15 and Defendant's
7 Exhibit 1 have been marked for ID. Are there any
8 stipulations as to the admissibility of any of those
9 exhibits?

10 MR. SNELL: Your Honor, if I may? We had some
11 discussions and we're cooperating. So, I think no -- all
12 those are stipulated. Additionally, the state has marked
13 three video -- I think they're kind of clips from the main
14 video, and I think we've agreed that if I need more video
15 later, they're going to stipulate to that.

16 And there's two pieces of physical evidence up there.
17 There's a screwdriver and a knife, and my understanding,
18 they're going to offer the screwdriver but not the knife
19 and with that, we have no objection.

20 THE COURT: Okay.

21 MR. SCOTT: Well, my understanding was we were going
22 to offer the knife, but it's got a, a logo on it that they
23 don't want to, to be published, so we could just cover it
24 up with some tape or something maybe. It's got a
25 Confederate flag on it that they want it covered.

1 THE COURT: Okay. Do we have any exhibit numbers as
2 to any of the things y'all have just discussed? Are those
3 included in State's 1 through 15?

4 MR. SCOTT: They are.

5 MR. SNELL: Are they? Okay. I thought the -- I
6 thought we had 15 -- I thought we had photographs but
7 certainly no, no -- stipulate to the, to the, the
8 screwdriver. And I know the knife is the knife, but we
9 just -- I just would not want the, the logo becoming
10 distracting or getting published. And I don't think
11 normally knives go back to juries for deliberations
12 anyway.

13 THE COURT: No, I would not send the knife.

14 MR. SNELL: So, if there's a way to -- if there's
15 some kind of tape or something that could just cover the
16 logo so it's not distracting or -- that would be no -- I
17 don't think there would be an issue then.

18 MR. SCOTT: We can take care of that. Your Honor,
19 the screwdriver is 8 and the knife is 15.

20 THE COURT: Okay. So, State's 1 through 15 are
21 admitted with the caveat that the knife -- the Confederate
22 flag on the knife will be covered before it is shown to any
23 witnesses and to the jury.

24 MR. SCOTT: We'll take care of that, Your Honor.

25 THE COURT: And is Defense 1 stipulated to as well?

1 MR. SCOTT: It is, Your Honor. It's a 911 audio.

2 THE COURT: Got it. So, State's 1 through 15 and
3 Defense 1 are all in evidence.

4 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
5 STATE'S EXHIBIT NUMBERS 1 THROUGH 7.)

6 (SCREWDRIVER MARKED INTO EVIDENCE AS STATE'S EXHIBIT
7 NUMBER 8.)

8 (DVDs OF DASHCAMS INDIVIDUALLY MARKED INTO EVIDENCE AS
9 STATE'S EXHIBIT NUMBERS 9, 10. AUDIO IS NOT TRANSCRIBED.)

10 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
11 STATE'S EXHIBIT NUMBERS 11, 12, 13.)

12 (DVD OF DASHCAM MARKED INTO EVIDENCE AS STATE'S
13 EXHIBIT NUMBER 14. AUDIO IS NOT TRANSCRIBED.)

14 (KNIFE MARKED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
15 15.)

16 (DVD OF 911 CALL MARKED INTO EVIDENCE AS DEFENDANT'S
17 EXHIBIT NUMBER 1. AUDIO IS NOT TRANSCRIBED.)

18 THE COURT: Anything else before we begin this morning
19 from the defense?

20 MR. SNELL: Nothing further.

21 THE COURT: From the state?

22 MS. WEST: No, Your Honor.

23 THE COURT: Okay. Thank you. Let's bring the jury.
24 Bring the jury.

25 (THE JURY ENTERS AT 9:48 AM.)

1 THE COURT: Good morning, folks. I'm sorry to keep
2 you waiting, but we are now ready to start the trial of
3 this case. As I told you, I will try to minimize any
4 inconvenience to you, but there are a lot of moving parts
5 to a jury trial, and all of those parts have to be in place
6 before we can get started during the day.

7 And I say that by way of explanation but also to
8 encourage each of you to be punctual, to be on time because
9 we can't start when we're missing any one juror. We can't
10 start when we're missing any of the court staff, but
11 specifically I have to wait for all thirteen of you to
12 appear before we can even consider getting started for the
13 day. So, I understand things happen, and I think there was
14 just a little bit of tardiness this morning. And to be
15 quite frank, I had a little hiccup in my morning routine,
16 too, so I understand things happen, but just do your best
17 to be on time because we're all depending on you.

18 So, we are going to start the trial of the case of the
19 *State of South Carolina v. Chase Michael Milam*. I'm going
20 to give you some preliminary remarks before you begin to
21 hear from the attorneys. But before I even do that, I'm
22 going to have the clerk place you under oath one more time.

23 (WHEREUPON THE JURY IS SWORN.)

24 THE COURT: All right, folks, before we begin this
25 trial, I want to tell you that this trial will probably be

1 different from what you might expect. Many people do not
2 have the chance to attend actual court sessions, as you are
3 doing now, and may think from watching television or movies
4 or reading books that trials are always full of high drama,
5 intense action, and riveting circumstances. While all of
6 these things may be true at times, this trial is not for
7 entertainment. It is a fundamental part of our democracy,
8 an effort to make sure that justice is done between the
9 parties before the court. Making sure that justice is done
10 is often slow, deliberate, and repetitive, the opposite of
11 what you may have seen on television or in movies or read
12 in books.

13 This courtroom is a place of honor dedicated to the
14 protection and preservation of citizens' rights through
15 what many have called the greatest justice system ever
16 created. The attorneys appearing before you are advocates
17 for the parties they represent, but first and foremost they
18 are officers of the court, sworn to uphold the integrity
19 and fairness of our judicial system, and to help you in
20 understanding the evidence. You should expect them to be
21 professional, competent, and ethical in the representation
22 of their client's interests.

23 Remember that you have just taken an oath to try this
24 case and reach a fair and just verdict, and you are also
25 expected to be professional, reasonable, and ethical.

1 Thank you for accepting the important responsibility of
2 jury service and for your contribution today to our justice
3 system.

4 What I will now say is intended to serve as an
5 introduction to the trial of this case. These remarks are
6 not a charge on the law in this case. I will instruct you
7 on the law applicable to this case at the end of the trial
8 before you retire to consider your verdict. This is merely
9 an explanation of the procedure that we will follow in the
10 trial so that you may better understand what is happening.

11 You may not take notes during the trial of this case.

12 The defendant is charged in two indictments filed in
13 this court with the crimes of burglary in the second degree
14 and possession of burglary tools. The elements of those
15 crimes will be explained to you later. The indictments are
16 simply the charges by which the case is brought into court.
17 They are not in any sense evidence of the allegations they
18 contain.

19 The defendant has pled not guilty to each of these
20 indictments. The state, therefore, has the burden of
21 proving each of the elements of each of the indictments
22 beyond a reasonable doubt. It will be your duty, ladies
23 and gentlemen, to decide whether the state has met that
24 burden. Your purpose as jurors is to find and determine
25 the facts. You are the sole judges of the facts. If at

1 any time I make any comment regarding the facts, you must
2 disregard it.

3 You are to determine the facts from the testimony you
4 hear and the other evidence introduced in court. It is up
5 to you to determine the inferences which you feel may
6 properly be drawn from the evidence. It is especially
7 important that you perform your duty of determining the
8 facts diligently and conscientiously because ordinarily
9 there is no way to correct an erroneous determination of
10 the facts by a jury.

11 Now on the other hand, and with equal emphasis, the
12 same law that makes you the judges of the facts makes me
13 the judge of the law. The law as given by the court is the
14 only law you must -- the only law you may consider or must
15 consider. You must accept it and follow it even though you
16 may disagree with it. I cannot tell you what the facts
17 are, and you cannot disagree with me about what the law is
18 or what the law should be. Your job is to take the law as
19 I give it to you and apply it to the facts as you find them
20 from the testimony of witnesses and any other evidence that
21 is introduced. After doing that, you will render your
22 verdict under the solemn oath that you just took as jurors.

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

1 in the case. This includes discussions face to face and
2 those by telephone, email, text, blogs, or any other method
3 of communication.

4 You may not use a computer, cell phone, or other
5 electronic device with communication capabilities at any
6 time while in the courtroom or during deliberations.
7 During your breaks for meals or overnight, if necessary you
8 may use those devices, of course. However, you may not at
9 any time use those devices to get or send information about
10 the case. This includes information about a party, a
11 witness, an attorney, or a court officer, news accounts
12 about the case, research on any topics raised, any topics
13 you may think would be helpful in deciding the case, or any
14 testimony presented by any witness.

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

23 The attorneys and parties in this case have been
24 advised that they are not to talk to you at all. So, if
25 you see anyone involved in the case and they don't even say

1 hello to you, they're not being unfriendly. They're simply
2 following my instructions.

3 It is important that you keep an open mind and not
4 decide any issue in the case until all of the evidence has
5 been presented, the parties have made their closing
6 arguments, and I have instructed you on the law in this
7 case. It is your solemn responsibility to determine the
8 guilt or innocence of the defendant, and your verdict must
9 be based solely on the evidence as it is presented to you
10 in this trial and on the law as I instruct you during and
11 at the close of the trial.

12 Now in just a moment, the solicitor will make what is
13 called an opening statement in which the solicitor will
14 explain to you the issues in this case, or at least what
15 the solicitor thinks the issues are in this case. The
16 attorney for the defendant may also make an opening
17 statement, although he is not required to do so.

18 What the attorneys tell you during their opening
19 statements is not evidence in this case; it is only their
20 contention as to what the issues are. The evidence in this
21 case will be presented to you from -- by the testimony of
22 sworn witnesses from the witness stand and by exhibits that
23 may be introduced into court.

24 Now from time to time during the trial, you may hear
25 one of the lawyers say something like Your Honor, I believe

1 we have a question of law or a matter of law to discuss
2 with you, or Your Honor may we approach the bench. Or
3 sometimes I myself might find it necessary to excuse you
4 from the courtroom for a short while so that the attorneys
5 and I can discuss a matter of law. The reason for this is
6 because you are the judges of the facts in this case, and
7 sometimes when I'm discussing matters of law with the
8 attorneys, it may be necessary for me to make some comment
9 as to the facts in connection with ruling whether a
10 particular law applies or does not apply. I'm not supposed
11 to tell you what I think the facts are, so I'll excuse you
12 from the courtroom for a short while while these
13 discussions take place so that you will not in any way be
14 affected by anything that I might say or do in connection
15 with the facts.

16 In determining what the facts are in this case, you
17 must decide whether or not the testimony of the witnesses
18 is believable. It will be my responsibility to rule as a
19 matter of law as to whether certain testimony is admissible
20 or not. But once the testimony is admitted, whether or not
21 you believe it is solely for you to determine.

22 In deciding whether to believe a witness, you have a
23 right to consider the interest of any witness, the bias of
24 any witness, the prejudice of any witness, the opportunity
25 for the witness to have seen the matters and things about

1 which the witness may testify, and the way the witness acts
2 on the witness stand. You have the right to consider
3 anything that is in the record that will help you evaluate
4 the testimony of the witnesses.

5 That means that it is your duty to pay attention to
6 the witnesses, to observe them, to listen to them, and to
7 pay close attention to the attorneys and the court. Do not
8 let your thoughts wander, but give strict attention to the
9 testimony in this case so that at the end of all of the
10 testimony, after the arguments of counsel, and the charge
11 on the law by the court, you will then be in a position to
12 determine what the facts are, to apply the law to those
13 facts, and thus render a true and just verdict.

14 Now, it will be the added duty of the foreperson to be
15 the jury spokesperson in court and to preside in the jury
16 room, but we will discuss that in further detail later.

17 So before we begin, in order to preserve everyone's
18 rights, I will give the attorneys an opportunity to object
19 to anything that I have just told you.

20 Any objection from the state?

21 MR. SCOTT: No, Your Honor.

22 THE COURT: From the defense?

23 MR. SNELL: No, Your Honor.

24 THE COURT: All right, we are now ready to begin the
25 trial of the case, and I'm going to ask the attorneys and

1 all of the witnesses that when you speak to the court,
2 whether you're on the witness stand and/or presenting your
3 opening statement, to remove your mask the benefit of the
4 court reporter and everyone else. It's just easier to hear
5 and understand you without the mask obstructing your mouth.

6 So, I will now call on the state for opening
7 statement. Ms. West.

8 MS. WEST: Good morning. Yesterday afternoon when we
9 first brought you in here, you heard this case called and
10 you heard the indictments read, and they said that this
11 defendant was charged with burglary. That's because on the
12 night of October 29, 2020, the defendant, Chase Milam, went
13 to a house on Koulter Drive. He went into the backyard,
14 and he forced the door to a crawlspace open. What he
15 didn't know was that the owner of that house was watching
16 that night.

17 Throughout the next couple of days, you'll hear from
18 several witnesses. You'll hear from Donnie Ballentine, the
19 victim in this case, who watched from the woods with his
20 son as the defendant broke into the home of his late
21 father. You'll also hear how Donnie called 911 to alert
22 the police of this break-in. You'll hear from Donnie's son
23 Wells, who will tell you how he watched as the defendant
24 forced the door to the crawlspace open. You'll heard from
25 Deputy Peeples, who was the responding officer. You'll

1 hear from Deputy Peeples how he arrived on scene, saw the
2 defendant coming from beside the house, and was able to
3 chase him and catch up to him. And then you'll hear how he
4 found a large screwdriver in the defendant's waistband.

5 The defense may argue that this defendant isn't who
6 the Ballentines saw in the backyard that night, but often
7 the simplest explanation is the right one. And when you've
8 heard all of the evidence in this case, we're going to ask
9 that you hold this defendant accountable and that you
10 return a verdict of guilty of burglary in the second degree
11 and possession of burglary tools. Thank you.

12 THE COURT: Mr. Snell.

13 MR. SNELL: Good morning. The, the simplest
14 explanation is they got the wrong guy. Tell you what the
15 evidence in this case is and exactly what I think you're
16 going to hear from the witnesses. You're going to get to
17 see some video recordings collected by the sheriff's
18 department. I'm going to play a 911 call for you here in
19 just a minute.

20 This incident happened at [REDACTED] Koulter Drive. That's
21 in a neighborhood -- I looked on a map and it's kind of
22 close to where Broad River crosses I-20, okay, and there's
23 a neighborhood back there. It looks like a ranch-style
24 house.

25 Chase Milam, who, seated next to me, lived with his

1 father, Ray Milam, okay? Ray is right here on the end,
2 gray shirt. They lived at 1624 Omarest, okay? It's a --
3 it's, it's really close. It's like a, a quick walking
4 distance between Chase's house and the house we're talking
5 about here, okay?

6 Now, the, the, the three -- I think the, the three
7 witnesses that are, are going to be the -- say -- that the
8 state's going to call, they're going to say they saw
9 something are going to be Donald Ballentine, Jr., or the
10 second, Wells Ballentine, who was his son, okay, and then
11 there's the Deputy Peeples. Now, [REDACTED] Koulter Drive was
12 owned by Donald Ballentine, Sr. He had passed away, and
13 the house was full of things, okay, and my understanding
14 was it was either -- full of some things that were
15 valuable. Donald Ballentine's son, right, I think got to a
16 point -- I think the evidence will be they, they get ready
17 to clean the house out. They put a dumpster in front of
18 the house, and you're going to get to see it. It's a big,
19 red dumpster out front. And I think the way their
20 testimony -- the way the story goes, I think that's when
21 they started having a problem. And the day before Chase
22 Milam gets accused of a burglary out there, the Ballentines
23 had been at the house, and somebody actually had broken in
24 and had taken items and guns and a lot of valuable things
25 and maybe left other stuff in the house stacked up to come

1 back.

2 So, now we have the next night, which is October 29.
3 Donald Ballentine -- again Junior, I guess, or the second
4 -- and his son are in the woods, kind of in the woodline
5 behind the house in the backyard, okay? I think police
6 talk about how Junior was wearing some camouflage and got a
7 shotgun. They're waiting because whoever broke in Daddy's
8 house the night before, they're not going to -- they're
9 going to get them, right, and that's really where this
10 story begins, okay?

11 They're looking for somebody, expecting somebody to
12 break in, and then at this point they see activity. They
13 see a flashlight. They make a 9-1 call which I'd like to
14 play for you now, if you wouldn't mind.

15 And I'll tell -- the prosecutor's office actually owns
16 this playback equipment. They were kind enough to help me
17 with this, and what this is, this is the 9-1 call where
18 Donald Ballentine, Jr., is on the phone with 911 when he
19 sees a flashlight in the backyard, and that's where this
20 starts.

21 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 1 IS PLAYED FOR
22 THE COURT. AUDIO IS NOT TRANSCRIBED)

23 MR. SNELL: That's the entire unredacted 911 call,
24 okay? So, that's Donald Ballentine. I'm going to call him
25 his son, but he's grown obviously. That's his call to 911,

1 okay? So, he starts out seeing the flashlight. Doesn't
2 see who it is, right? Doesn't know if it's the police.
3 It's not. I mean, I think it's going to be clear, but sees
4 the flashlight, calls, and then whoever is in the back, he
5 loses track of him. He doesn't see them. They just, they,
6 they -- he doesn't know where they go.

7 Now when that 911 call ends, Deputy Peeples with the
8 Richland County Sheriff's Department, he arrived on scene.
9 There is a video recording you will see. I'm not going to
10 play it now. They're going to play it. It's going to show
11 where the deputy has the video camera from his patrol car.
12 It's turned on. He pulls up and parks in front of the
13 house. Now, it's very dark at that point outside because
14 it's raining. You're going to see drizzle. Now, we're
15 about two days before a full moon. Later on you're going
16 to see more video where more police come. You'll see more
17 footage from different angles and body cams and different
18 things. It's going to clear up, and it actually gets --
19 there's a lot more light outside, but when this starts,
20 it's dark and it's raining.

21 When Deputy Peeples gets there, he parks his car,
22 opens it up. Now for whatever reason, we understand his
23 body cam wasn't turned on or wasn't working at this point,
24 but we're, we're thankful we have this video recording from
25 the patrol car. You see him get out. You don't see

1 anything until he shines his flashlight and where he shines
2 his flashlight, you know, kind of lights up, you see the,
3 the house, you see the red dumpster, and you see a figure
4 with their back to the officer kind of in the distance,
5 okay? That figure is wearing a black -- looks like it's
6 got a black square. You'll notice it. That is a backpack.
7 That figure is Chase, okay? That's him.

8 Chase, his name is Chase, he takes off, right,
9 running. The deputy follows him. Chase goes through one
10 neighbor's yard, falls in a second neighbor's driveway, and
11 just says you got me. When the sheriff's deputy wants to
12 chase him, the, the Ballentines follow the, the deputy,
13 okay? That's when they get the first look at Chase, right?
14 That's when they first get to look at him.

15 Chase is taken into custody. They search his
16 belongings. They find his screwdriver, okay, which is on
17 this table, and this, I think, is the burglary tool, right,
18 that Chase had. He had a black backpack with a few other
19 things. He had a flashlight. He had some hair bows. He
20 had a jar. Nothing, though, he had was from the house;
21 nothing was from under the house. I think the evidence is
22 going to show that the hair bow and the glass jar was from
23 the dumpster, although we understand the Ballentines don't
24 know where these items came from.

25 Now, we know -- I don't think there's any allegation

1 in this case and it's not part of this case who broke in
2 the house the night before. They're not alleging that
3 that's Chase, okay? The state's not brought that case;
4 they're not alleging it's Chase. They did do some
5 fingerprinting, some DNA to try to figure out who broke in
6 the house, right, and it wasn't Chase, like, the night
7 before.

8 Now, an investigator you'll see comes on scene. They
9 talk to him for a few minutes. He's arrested and that --
10 my understanding is that's the end of the investigation
11 into what happened, okay?

12 Chase is staying at his father's house close, he and a
13 fellow named Chad Harper, and Chad, I'm going to call him a
14 friend or acquaintance or something, Chad Harper, who's
15 staying with him and his father a few days before this.
16 Chad likes to go into dumpsters, okay? That's, that's his
17 thing. What's, what's in dumpsters, what can I have,
18 what's -- can I get, salvage or do something with. He left
19 with Chad Harper the night of this incident. Chase goes
20 into the dumpster, uses the screwdriver to open it. Chad
21 is not there, not in the dumpster. Chase hears the police
22 get there, looks outside, sees the deputy, and then Chase
23 runs. I'm scared. I don't know what's happening. Should
24 I be in a dumpster? I don't know. He goes, and that's it,
25 okay?

1 It's the wrong guy. The state's been unable to prove,
2 and beyond a beyond a reasonable doubt, that Chase was in
3 the backyard of the house, opening up a back door of the
4 house, going in the house, was under the house. They can't
5 prove that's him because it wasn't him. He's in the front
6 the entire time, and we're going -- you're going to see
7 when the video starts Chase is in the front yard with his
8 back to the officer. He's not coming from around the
9 house. He is already in the front going away, and that's
10 huge because it ain't Chase that's -- he's in the dumpster.

11 I want to thank y'all so much for, for being here,
12 listening attentively. This is a criminal case. The state
13 has to prove this case beyond -- it's called a reasonable
14 doubt. A reasonable doubt, Judge is going to tell you
15 later, is the kind of doubt which would cause a reasonable
16 person to hesitate to act. It's the highest burden of
17 proof in the legal system. If this was simply a lawsuit
18 over money, you know, one side has to win by what's called
19 a preponderance of the evidence. In a criminal case, the
20 defense doesn't have to prove anything; it's not up to us
21 to win. It is, however, up to the state to prove this
22 beyond a reasonable doubt, okay?

23 I know the Ballentines very much want Chase to be the
24 one that's convicted of burglary. I, I think everybody's
25 going to believe what they're saying, but they can't say

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1 it's him. They didn't say it's him because it's not him,
2 and just ask you at the end of the trial to return a
3 verdict of not guilty. Thank y'all so much.

4 THE COURT: All right, the state can call its first
5 witness.

6 MR. SCOTT: State calls Donnie Ballentine.

7 DONALD BALLENTINE, JR., BEING DULY
8 SWORN, TESTIFIES AS FOLLOWS:

9 CLERK: Please have a seat. State your full name for
10 the record.

11 WITNESS: Donald Ballentine.

12 DIRECT EXAMINATION BY MR. SCOTT:

13 Q. Okay, you do go by Donnie, correct?

14 A. Yes.

15 Q. I've been calling you Donnie. Donnie, you heard the
16 opening statements and you got to hear your own voice on
17 the 911 recording. Not to, not to rehash everything, but,
18 but just if you could, give a little background to how we
19 get to October 29th of 2020. I think that would be
20 helpful. We heard about your father.

21 A. Right.

22 Q. And it was his home ---

23 A. He passed away, correct.

24 Q. Okay.

25 A. Yeah. So, my son and I were, you know, cleaning out

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1 his house. So, we had a dumpster that, that we put out
2 front. Cleaned it out. Came back the next day, and
3 noticed someone had broken in.

4 Q. Okay. So, the dumpster was put out there October 28?

5 A. Yes. Correct.

6 Q. Okay. So, you were in the process -- your dad had
7 been passed away for how long?

8 A. At that point probably five years, six years. Five
9 years.

10 Q. And so the home still had a lot of his belongings in
11 it?

12 A. Correct. Guns, just a lot of stuff. He was a
13 packrat, so he saved everything.

14 COURT REPORTER: Speak into the microphone, please.

15 WITNESS: Sorry.

16 BY MR. SCOTT:

17 Q. Okay, but as of October 28, 2020, the home was vacant?

18 A. Yes.

19 Q. As far as people living there, but it still had a lot
20 of his belongings in it?

21 A. Correct.

22 Q. And so your testimony is October 28th, you had a
23 dumpster delivered to [REDACTED] Koulter?

24 A. Uh-huh.

25 Q. And you and your son, Wells?

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1 A. Correct.

2 Q. Were in the process of cleaning it out?

3 A. Right.

4 Q. Okay. When you left the night of October 28th, what
5 efforts did you take to secure the house?

6 A. Oh, we locked it up.

7 Q. Okay. All the windows and all the doors and
8 everything was locked up?

9 A. No. The windows weren't locked, I mean, but we had
10 locked the doors.

11 Q. Okay. So, the morning of October 29.

12 A. Uh-huh.

13 Q. Went back to [REDACTED] Koulter to finish cleaning it out?

14 A. Yes. Correct.

15 Q. Tell the jury what you saw when you arrived back at
16 the home on October 29.

17 A. Well, we saw an empty gun case, a rifle case that was
18 laying out by the dumpster. I went up to the front door.
19 Door was unlocked, so I knew at that point someone had, you
20 know, had broken in.

21 Q. Because you had left it locked the night before?

22 A. I'm, I'm, I'm sorry?

23 Q. You ---

24 A. Yes. Correct.

25 Q. And tell us why that gun case was -- is relevant.

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1 A. The, the gun case itself? Because it wasn't out
2 there.

3 Q. Okay. So, you ---

4 A. When we left, I mean, the gun case wasn't in the yard.

5 Q. Okay. So, you arrive the next day. Gun case that
6 wasn't there the night before.

7 A. Uh-huh.

8 Q. Front door's unlocked?

9 A. Correct.

10 Q. Okay, and were you able to determine anything was
11 missing?

12 A. Yes. I mean, we called the police and then went
13 inside. I noticed right away there was a pistol that was
14 missing that I kept kind of where I was cleaning some stuff
15 out. It was loaded.

16 Q. So, you did file a report and you had officers come
17 out that -- I think it was, what, around noon on October
18 29th that this report ---

19 A. Somewhere in that area. Somewhere in there, I would
20 say.

21 Q. I heard in the opening there was something about a
22 hand truck that was loaded up with items. Did you observe
23 that?

24 A. Yes. There was a hand truck that was loaded up in the
25 foyer with boxes that were stacked up, which basically, you

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1 know, said to me that they were coming back for this. I
2 mean, it was a lot of stuff in the house. So, you know,
3 whoever broke in the house was probably going to come back
4 and get that.

5 Q. Okay.

6 A. Because they had -- it was stacked up as, you know, it
7 was ready to go.

8 Q. So, what decision did you make once you decided that
9 these people might be coming back for more goods?

10 A. Well, you know, my son and I spoke and, you know, I,
11 I, I figured they would -- someone would probably come back
12 to get that. So, we decided to -- we went home and we
13 decided we were going to go back that night and wait and
14 see if they came back for it.

15 Q. Okay. You wanted to catch them in the act?

16 A. I wanted to catch them in the act.

17 Q. Let me show you some pictures. I want to try to
18 orient the jury with this location to try to figure out
19 where all this stuff happens. Let me move this where
20 everybody can see it.

21 (A PAUSE.)

22 MR. SCOTT: Can everybody see this?

23 Q. Donnie, can you see it from there?

24 A. Yeah, I can see it okay.

25 Q. And all these have been admitted into evidence. I'm

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1 going to show you first State's Number 2. All right,
2 what's this? This is the home at [REDACTED] Koulter?

3 A. Yes, that's correct. That's my ---

4 Q. Your father's home?

5 A. --- dad's home, yes.

6 Q. And that's the home you grew up in, correct?

7 A. That's the home I grew up in.

8 Q. If you look at, let me see, State's Number 3,
9 that's the side driveway, I guess, to the right of the home
10 you ---

11 A. That's the side driveway that goes down the hill.

12 Q. Okay, and that's, of course, leading to the back of
13 the home? The way that I'm moving the cursor, that's going
14 to be the back of the home?

15 A. Correct.

16 THE COURT: Hold on.

17 COURT REPORTER: He has his back to me. I can't hear
18 him.

19 THE COURT: Yeah, you're going to have to face this
20 way, Mr. Scott, and speak louder.

21 MR. SCOTT: Who designed this courtroom?

22 BY MR. SCOTT:

23 Q. All right, this is -- what is this?

24 A. It's an aerial -- are you asking me?

25 Q. I am.

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1 A. Sorry. That's an aerial view of the house.

2 MR. SCOTT: And for the record, that's State's Number

3 1.

4 Q. Okay, which, which one of these homes is [REDACTED] Koulter?

5 A. It's the one on the right-hand side with the tarp.

6 Q. And this would be the backyard of the home, correct?

7 A. Yes, that's correct.

8 THE COURT: Mr. Scott if you stood on the other side
9 of the board, then your voice would project back this way.

10 MR. SCOTT: Thank you, Your Honor.

11 BY MR. SCOTT:

12 Q. This would be the backyard and this, along that power
13 line, just past the power line is what?

14 A. That's the, the edge of the woods.

15 Q. Okay.

16 A. Where we were.

17 Q. Okay.

18 A. That night. I mean, it's not that far.

19 Q. There's a few hundred yards of woods that go down to
20 the river. Is that right?

21 A. Correct.

22 Q. There's no homes back behind [REDACTED] Koulter?

23 A. No. That's all swampland all the way to the Broad
24 River.

25 Q. Okay. Just again to orient the jury, and I think you

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1 testified to it, [REDACTED] Koulter, this would be the driveway
2 that leads to the rear of the home. You guys on the night
3 of 18 -- or October 29th were hiding where?

4 A. We were hiding in the, in the back. There's a trailer
5 that's right at the edge of the woodline right underneath
6 the power lines.

7 Q. Uh-huh.

8 A. So, we were sitting there, and actually it was very
9 bright that night. I think the gentleman before said it
10 was a couple days before a full moon, but even with the
11 drizzling, I mean, it was, it was lit up. I mean, it ---

12 Q. Drizzle. It was raining that night?

13 A. It a little bit of drizzle at first, yes, and then it,
14 you know, tapered off, I believe. It wasn't raining. It
15 was, you know, more of a light drizzle.

16 Q. Do you remember about what time you guys got there
17 that night to that stakeout location?

18 A. I mean, I, I didn't look at my watch, but I'm, I'm
19 guessing probably around 8, 8, maybe 8:30, somewhere in
20 that, that timeframe.

21 Q. Okay, and you remember about what time you called 911?

22 A. I want to say it was around 10:30, 10:45, 10:45ish,
23 somewhere in that area.

24 Q. Okay. We just played the 911 tape. Would you
25 disagree with me that the call was made at 10:45 PM?

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1 A. No, I wouldn't.

2 Q. Okay. So, nighttime hours. You said it was raining.
3 You said the moon was bright enough where you could see
4 fairly decently?

5 A. Yes. I mean, the moon was bright enough and it was,
6 and it was actually behind me shining down, you know, on
7 the house, and the drizzle was, I mean, it was a light
8 drizzle.

9 Q. Okay, and are -- you got -- did you call 911
10 immediately when you saw the person walking down the
11 driveway with the flashlight?

12 A. No. I, I observed him first walk down the driveway,
13 down the steps. You know, he was shining the flashlight in
14 the windows. I had left, you know, I had left a light on
15 inside the house. So, I was thinking, I don't know, but I
16 was thinking maybe he was kind of casing it out. He wasn't
17 quite sure if there was someone in the house at that point
18 and he was listening, but no, I didn't. He, he came down
19 the steps, went up against the side -- walked up against
20 the side of the house, the back of the house.

21 Q. Uh-huh.

22 A. And I believe I called whenever he went in the house,
23 and the reason is I didn't want him to hear me. I mean,
24 it's close, and that's why I'm whispering and, and I didn't
25 want him to hear me. So -- and I, you know, I wasn't out

1 to hurt anybody that night or anything like that. I just
2 didn't want him to steal more stuff out of my dad's house,
3 I mean.

4 Q. Sure.

5 A. It's our belongings.

6 Q. But you say you were whispering because it was close.
7 What do you mean? Where you were laying in the woods and
8 where the back of the home ---

9 A. Oh, yeah. It's relatively close. I mean, you could,
10 you could hear me, me talking if I was talking like this on
11 the phone. You could easily hear it at the back of the
12 house. So, I believe I waited until he actually went under
13 the house, which it's a door. Like, you know, a front door
14 type deal. It's a back door and I think once he went in
15 and closed it, I could see the flashlight, you know, going
16 underneath the house, and I think that's when I called.

17 Q. Okay, but it was nighttime?

18 A. Yes.

19 Q. But you're saying the moon was bright enough that you
20 could still see, and you were close enough where you could
21 see what this person was doing?

22 A. Oh, yeah. Absolutely. It's not, it's not that big of
23 a backyard.

24 Q. This is State's Number 5.

25 A. Yeah.

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1 Q. What is this?

2 A. That's the backyard.

3 Q. That's the back of the house, [REDACTED] Koulter?

4 A. Correct.

5 Q. And would this generally be the view you would have
6 had of the woods that night?

7 A. Yes. That's, that's pretty much the view I had.

8 Q. All right. Just over here, I guess there's some
9 steps. Is that right?

10 A. Correct. That's the driveway and the steps that lead
11 to the back of the house.

12 MR. SCOTT: All right, with permission from the court,
13 I'm going to ask if, Your Honor, if he can step down and
14 just point to a couple things on here?

15 THE COURT: All right, you're going to have him go to
16 the SmartBoard? So, I need him to stand on that right side
17 and make sure ---

18 You're going to feel like you're shouting, Mr.
19 Ballentine.

20 WITNESS: Ma'am?

21 THE COURT: You're going to feel like you're shouting.

22 WITNESS: Okay.

23 THE COURT: I want you to sort of shout for me.

24 WITNESS: I have a deep voice. I can make a try.

25 MR. SCOTT: Don't do like I do.

1 THE COURT: And go to the other side so that your
2 voice is coming back this way.

3 WITNESS: Okay.

4 BY MR. SCOTT:

5 Q. So, I guess when your finger -- don't touch the screen
6 because it's -- it'll flip the page, but show the jury kind
7 of the general -- here, I'll tell you what. Show them sort
8 of the path you saw the person take once he came down
9 the...

10 A. So, I observed him come down the driveway over here,
11 and there's a set of steps here. So, he comes down the
12 steps, and he hugs close to the -- close and tight to the
13 house, right, walking like this. He's shining all up in
14 the windows. That door was broken the night before as
15 well. Checked that out. Walked over here. I had fastened
16 this door back, and we watched him pull the door open, go
17 inside under the house, close the door back.

18 Q. And then the path he took when he left was what?

19 A. He, he came back out. He walked the exact same way.
20 Went back up the steps, up the driveway, and circled. I
21 mean, I think he circled around the front just the exact
22 same way he came.

23 Q. Okay. We'll concede that once he goes up the driveway
24 and goes ---

25 A. I, I don't know.

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1 Q. You can't see?

2 A. I can't see.

3 Q. Let me show you...

4 A. That, that was the only person I saw. I didn't see
5 anybody else.

6 Q. Okay. Well, that's a good point. So, there was only
7 one person ---

8 A. There was ---

9 Q. --- that night ---

10 A. --- one person.

11 Q. --- that you saw?

12 A. Absolutely.

13 Q. This is State's Number 7. Let's see, what is that
14 right there?

15 A. That's the door. It's boarded up now because I had
16 boarded it back up because the door was busted off. That's
17 where the lock is, but there's a door behind here.

18 Q. Okay. So, this, this isn't exactly how it looked out
19 there the 29th. In fact, I told you members of my office
20 went out there within the last month and took some of these
21 pictures. So, this would be the door after it was
22 repaired?

23 THE COURT: Mr. Scott, you're talking with your back
24 to us again. The court reporter needs to hear your voice.
25 Project this way, and it helps for her to see your mouth.

1 MR. SCOTT: Sure.

2 BY MR. SCOTT:

3 Q. That's not how the door appeared on October 29?

4 A. No.

5 Q. That's how it looks now because you've taken efforts
6 to repair the damage that was done to the door?

7 A. Right, and -- that's exactly right. We keep it
8 closed.

9 THE COURT: You're about to do it again.

10 MR. SCOTT: I know. Let me see if I can look at this
11 and that at the same time.

12 BY MR. SCOTT:

13 Q. All right. State's 6, again, that's just -- is that
14 the same door here that you saw the ---

15 A. Yes.

16 Q. --- person go in?

17 A. That's the same door.

18 Q. All right, and then if you're looking to the left in
19 State's Number 6, this area over here, what is that?

20 A. So, this is going to be the neighbor's house, and this
21 is a, a fence that separates the two yards.

22 Q. Okay. Backing up really quick, and I'm going to have
23 you take your seat again. I can't remember if you were out
24 there with us, but we took these with a drone, and again
25 this was within the last month, but this is pretty much

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1 still how [REDACTED] Koulter Drive would have looked on October
2 29?

3 A. Correct, except we had a dumpster that sat right about
4 -- whoops, right about here.

5 Q. Yeah, and that's what I wanted you to do. Thank you.
6 I want you to show the jury generally where that dumpster
7 would have been on October 29.

8 A. So the dumpster, I sat it here because of the cement,
9 and I didn't want it to sink down into the, you know, into
10 the ground. It's a heavy -- big, red, heavy dumpster. So,
11 it started about right here and went this way. Whoops.
12 I'm sorry. Went about right here.

13 Q. And that's what I was going to ask you. Is it fair to
14 say the back of the dumpster would have kind of hugged the
15 edge of the cement?

16 A. Yes, that's correct, right about here.

17 Q. Okay. I think that's all, Donnie. Would you please
18 take the stand?

19 A. Sure.

20 Q. I did notice some difficulty, I guess, whenever you
21 were trying to communicate with 911, and you indicated you
22 were whispering. It sounded like you kind of had some
23 divided attention going on.

24 A. I had a lot of divided attention.

25 Q. All right.

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1 A. Going on at that time. I mean, I was concerned, you
2 know, about, you know, how loud my voice is, who's breaking
3 in the house. You know, I did have a little bit going on
4 there.

5 Q. Would you agree with me that there were times when she
6 would ask you questions and you are non-responsive?

7 A. I was non-responsive. I wasn't, I wasn't halfway
8 paying attention a lot of times because my main concern was
9 that I wanted her to get the right address.

10 Q. Okay.

11 A. A, and then, you know, we were in the woods, so I
12 wanted to make sure everything was communicated properly to
13 the responding officer.

14 Q. Yeah. That took some time even to spell the name of
15 the street because you were whispering and she was doing
16 things but ---

17 A. Right.

18 Q. I even noticed at one point, she asked about your
19 father and she asked you if he was inside, and you said no,
20 he's not inside. He's in the back.

21 A. I didn't, I didn't -- it was hard to hear, you know.
22 I mean, it was hard to hear.

23 Q. Okay, and there, there were times when you were
24 asking, you know, I just want to make sure is it the cop.

25 A. Uh-huh.

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1 Q. Because I've asked them to do welfare checks. I just
2 want to make sure it's not a cop. It doesn't look like a
3 cop. It looks like a burglar.

4 A. Uh-huh. Correct. I didn't think it was a police
5 officer, but again I wanted to make sure. You have to keep
6 in mind we had guns. I mean, I wasn't there to shoot
7 anybody, but at the same time, you know, we had guns and I,
8 I didn't want, you know, any -- anything bad to happen.
9 That wasn't my goal. My goal was to catch somebody.
10 However, I knew that a loaded pistol was stolen in addition
11 to other things, and I definitely wanted to protect myself
12 as well.

13 Q. Okay, but we can get a pretty good idea of how long
14 you were able to observe the person in the back just based
15 on that 911 tape. We got it beginning at 10:45, and you
16 even narrate at the point where the person goes to the
17 front of the house.

18 A. Correct.

19 Q. Okay. So, are you going to -- describe to the jury.
20 You know, did you feel like you got a good look at this
21 person?

22 A. Yes. I felt like I got a pretty good look at the
23 person.

24 Q. Okay. You could -- could you tell the general build
25 of the person?

D. BALLENTINE - DIRECT EXAMINATION BY MR. SCOTT

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1 A. Yes. I mean, general build, silhouette.

2 Q. Okay. You say that the moon was bright. We'll watch
3 some body cam videos and pretty close to full moon, you
4 said?

5 A. Pretty close. I think what the gentleman before said
6 two days. I thought it was a full moon.

7 Q. Okay.

8 A. But I guess it wasn't, but yeah, it was bright.

9 Q. So, this person walking and they got a flashlight.
10 You talk about them shining up in the windows, casing the
11 joint. They go back around the front. You lose sight of
12 them?

13 A. Correct.

14 Q. We hear on the 911 tape whenever you say that there's
15 lights up front. I hear a siren.

16 A. Uh-huh.

17 Q. What's the next thing that happened?

18 A. Well, I -- can I -- you want me to get down to show or
19 no or just explain?

20 Q. I think you can describe it.

21 A. Okay. So, basically we're sitting in the back and the
22 officer, you know, I assume pulls up at that point in time.
23 I see a flashlight on the ground. You know, like, if
24 someone's running with a flashlight, you can see it ---

25 Q. On what side?

D. BALLENTINE - DIRECT EXAMINATION BY MR. SCOTT

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1 A. --- on the ground. On this side of the house.

2 Q. This side?

3 A. Correct.

4 Q. Okay. So, the opposite side ---

5 A. The ---

6 Q. --- of the home from when you last saw him?

7 A. Correct, the opposite side. So ---

8 Q. You're talking about seeing a flashlight on the
9 ground?

10 A. Right, you know, and this again, this happens quick.

11 So, you know -- and I, I see someone running, and he hits
12 the fence, the front of that fence. There's a fence ---

13 Q. When you describe from the angle back here looking --
14 and this is the state's exhibit -- from left to right,
15 there's a fence that separates your father's home from the
16 neighbors?

17 A. Correct.

18 Q. And, and I'm generally kind of showing it's between
19 these two homes.

20 A. Correct, and it curves here where that, that tree is.
21 It curves towards the neighbor's house. Not towards. So,
22 it goes and then it -- no, no, no. So, it goes, it
23 basically just goes like this. So, it's locked here. So,
24 the fence is on the neighbor's side, not my side if that
25 makes sense.

1 Q. So, you've got, like, a gate ---

2 A. That's right. Yeah, I don't think it's a gate. I
3 think it's just part of the fence.

4 So, I see the flashlight and I hear it and see it,
5 someone hit that fence. When that happened, I jumped up
6 out of the woods.

7 Q. Okay.

8 A. He, he, this gentleman here, flips over the fence,
9 falls on the ground. I see him. I put the gun on him,
10 tell him not move. He gets up and then he takes off
11 running around the back of that -- the neighbor's house.

12 Q. All right. Back up. So, what you've just described
13 -- correct me if I'm wrong. You see a flashlight coming on
14 this side of the house?

15 A. Right, just bouncing back and forth on the ground.
16 You know, you hear some ruckus, some noise. I think the
17 officer said stop or I don't know exactly what he said, but
18 I knew that he was running at that point.

19 Q. You say you saw somebody hit the fence. You mean jump
20 it?

21 A. Hit it, jump it, yeah, and then flip over, fall down
22 on the ground.

23 Q. Okay, and you've, you've run, at this point, from the
24 woodline ---

25 A. That's right.

D. BALLENTINE - DIRECT EXAMINATION BY MR. SCOTT

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1 Q. --- over to the fence?

2 A. Right.

3 Q. And you say you have the gun on him?

4 A. Right.

5 Q. How far are you from this person?

6 A. I mean, I'm probably from here to, to her boot where
7 that -- I would say that -- about where you are.

8 Q. And did you get a good look at him at that point?

9 A. Oh, yeah.

10 Q. He's face up, you say?

11 A. No. I mean, he's kind of -- I mean, falls down but
12 then he kind of turns over. So -- and then he just looks
13 and takes off running. I mean, he wasn't scared. That's
14 for sure.

15 Q. You see the guy in the courtroom?

16 A. It's the gentleman sitting right over there, hundred
17 percent.

18 Q. And could you say that that was the same guy you had
19 witnessed going up under the house?

20 A. Absolutely. It's the same guy. I mean, it is. It's
21 the same guy.

22 Q. All right, and he didn't stop, you say. So, he kept
23 running. Did you see where he ran to?

24 A. No. I mean, I saw him circle back around, and then I
25 found out later that, I guess, the arresting officer caught

D. BALLENTINE - DIRECT EXAMINATION BY MR. SCOTT

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1 him, what, in the neighbor's yard, in the front of the ---

2 Q. Yeah. We'll get him to talk ---

3 A. Yeah.

4 Q. --- about that from his viewpoint, but you see the guy
5 around the fence this way?

6 A. Correct.

7 Q. And going over the neighbor's home?

8 A. Correct.

9 Q. But at some point, the officer arrests the person in
10 the front of the house, and you and Wells were able to walk
11 up there and meet with them?

12 A. Yes.

13 Q. Okay, and at that point, Officer Peeples had detained
14 Mr. Milam?

15 A. Uh-huh.

16 Q. And you were able to see him clearly at that point,
17 correct?

18 A. Uh-huh. Correct.

19 Q. And was that the same person you had seem going up
20 under the house?

21 A. Yes.

22 Q. This is State's Number 8. Do you remember this from
23 that night?

24 A. Yes.

25 Q. Had you even seen this before?

D. BALLENTINE - DIRECT EXAMINATION BY MR. SCOTT

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1 A. It probably came from my dad's house. I can't say
2 that it did, but he was in the construction business and
3 there was tools stolen, guns stolen. I mean, little stuff
4 stolen.

5 Q. This is State's Number 13. Is this how Mr. Milam
6 appeared that night?

7 A. Yes.

8 Q. Okay, 10:45 at night, rainy, and you witnessed this
9 man jumping a fence and running from police on your
10 father's property?

11 A. Yes.

12 Q. Your father's property that had been broken into?

13 A. Yes.

14 Q. That home, [REDACTED] Koulter, is that Richland County?

15 A. It's Richland County.

16 Q. Okay.

17 MR. SCOTT: Give me one second, Your Honor.

18 (A PAUSE.)

19 Q. I think this may go without saying, but did you ever
20 give Mr. Milam consent to go in that building at [REDACTED]
21 Koulter?

22 A. No. Never met him.

23 Q. Okay.

24 MR. SCOTT: All right, Your Honor, thank you so much.

25 Answer any questions Mr. Snell has for you.

D. BALLENTINE - CROSS-EXAMINATION BY MR. SNELL

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1 WITNESS: Okay.

2 THE COURT: Cross-examination?

3 MR. SNELL: Thank you. Can I ask? Could y'all switch
4 it back to the first picture, the, the aerial of the house?

5 (A PAUSE.)

6 MR. SNELL: Thank y'all so much.

7 CROSS-EXAMINATION BY MR. SNELL:

8 Q. And, and so, Mr. Ballentine.

9 A. Yes.

10 Q. I guess first of all, are, are you a junior or a
11 second?

12 A. A junior.

13 Q. Okay. You're Mr., Mr. Ballentine, Jr., and first of
14 all, looking at this picture I know -- I note, if I
15 understand correctly, on this side is a fence. Is that
16 correct?

17 A. Correct.

18 Q. What is on the other side of the house between the
19 house and the next neighbor?

20 A. I don't, I don't think there's anything much over
21 there that I -- I, I don't -- I can't remember if there's a
22 fence over there or not. You'd have to look at the -- I
23 don't remember off the top of my head if she added a fence
24 or, or not, the lady that did live next door.

25 Q. There, there's not a fence, though, in the front yard

D. BALLENTINE - CROSS-EXAMINATION BY MR. SNELL

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1 of the next house, is there?

2 A. No. No, there's not a fence in the front yard, no.

3 Q. On, on this night, the 29th, if I understand, you and
4 your son were in the, in the woods in the, the back of the
5 property beginning about 8 PM?

6 A. At the tree line, yes, the beginning of the woods.

7 Q. What were you, what were you wearing?

8 A. What was I wearing? I think I had on camouflage
9 overalls over whatever I was wearing at that time.

10 Q. And, of course, your son was with you?

11 A. Correct.

12 Q. How, how, how old is he?

13 A. He's twenty-three.

14 Q. And what kind of guns did y'all have?

15 A. Shotguns.

16 Q. Did y'all both have a shotgun?

17 A. Yes.

18 Q. And so you were in the back of the house on the -- in
19 the tree line for several hours before seeing anything. Is
20 that fair?

21 A. Yeah, somewhere in that neighborhood, yeah. I mean,
22 it was -- yes, several, couple hours maybe.

23 Q. And, and you, and you saw the individual come around
24 the -- to the back of the house, I think, as you described
25 correctly?

D. BALLENTINE - CROSS-EXAMINATION BY MR. SNELL

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1 A. Right. Down the driveway, down the steps, correct.

2 Q. And is everything you told the 911 operator, is all
3 that true?

4 A. Probably not. I mean, I don't recall what all I told
5 her. I mean, you know, there was a lot going on at that
6 point in time. So, no. I mean, there's questions. She
7 asked about my father being in the house that -- so, no, I
8 can't say that everything that I said in the heat of the
9 moment, adrenaline running, that it's all true. I mean,
10 when you're in that situation, you know, things, things are
11 going through your mind and happening quickly.

12 Q. And I'm not trying, not trying to trick you.

13 A. No, and I'm being serious. I, I can't say that it's
14 all true.

15 Q. But as far as, as you described what you -- when you
16 told the 911 operator what you saw the, the flashlight
17 figure doing ---

18 A. Correct.

19 Q. --- was all that truthful and accurate?

20 A. Yeah. He was breaking in the house, yes, that was
21 correct.

22 Q. And so what you told the 9-1 operator about what you
23 could see, what you could see, what you couldn't see, that
24 was all true?

25 A. Probably most of it. Again, I don't remember the -- I

D. BALLENTINE - CROSS-EXAMINATION BY MR. SNELL

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1 mean, I listened to it. I can't say if it's -- everything
2 was true. It was in the heat of the moment. I said what I
3 thought at that point in time, you know.

4 Q. Do, do, do you, do you recall -- well, do you recall
5 telling the 9-1 operator that -- saying no, I can't see
6 him. He just has a flashlight.

7 A. No, I mean, unless that was the point in time when he
8 went under the house. That's possible. I couldn't see him
9 after he went under the house, so that would be true
10 because he closed the door behind him but, yeah, I
11 completely saw him.

12 Q. Did you hear the 9-1 call that we played, I played
13 during opening?

14 A. Yes, but I don't ---

15 Q. Was that you on the 9-1 call?

16 A. Yes.

17 Q. And we're talking about the same 9-1 call?

18 A. Right.

19 Q. Okay.

20 A. I did not see him once he went under the house, no.

21 Q. But, but you're, you're saying now you saw him before
22 he went under the house?

23 A. Absolutely.

24 Q. And you got a good view of him?

25 A. I mean, you know, a pretty good view for being at, at

1 night. Yeah, I mean...

2 Q. And even though you -- and you, you didn't call 911
3 until the figure went under the house, correct?

4 A. Correct.

5 Q. Okay.

6 A. I think so. I mean, that's from what I recall.

7 Q. So, you're saying now you got a good view of the
8 person before they went under the house?

9 A. I got a pretty good view. I mean, it depends on what
10 would you -- what would be your definition? I'm not trying
11 to trick you, but of a good view? Silhouette? Yes. Mole
12 on his face? No.

13 Q. Well, good enough to determine if it's ---

14 A. It's him.

15 Q. --- Chase?

16 A. Yes.

17 Q. Or a cop?

18 A. No. It's him.

19 Q. It's him now, but you've heard you told the 911
20 operator you couldn't tell if it was a cop or not?

21 A. I couldn't because I didn't know if that was a police
22 officer with a flashlight. I didn't know if the gentleman
23 sitting right there was a police officer, but it doesn't
24 mean that I don't know that that's him. I just didn't know
25 if Chase was a police officer, if that makes sense.

D. BALLENTINE - CROSS-EXAMINATION BY MR. SNELL

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1 Q. No, it does and, of course, they asked if you -- the
2 9-1 operator asked if the person was wearing a uniform, and
3 you didn't know.

4 A. Well, the back was to me. I mean, you can't -- I
5 didn't know if he had a uniform on.

6 Q. All right. Now -- all right. So, testimony is you
7 had a good view of this individual before he went under the
8 house?

9 A. Correct.

10 Q. And you're positive it's Chase?

11 A. Yes.

12 Q. But not good enough for you to determine if that was a
13 police officer or not?

14 A. I did not know if he was a -- that gentleman sitting
15 right there was a police officer or not at the time, no.

16 Q. All right. Now, the, the, the figure you saw in the
17 back with the flashlight, to the best of what you saw, did
18 they try to go back in the main part of the house?

19 A. What would you -- what's the main part of the house?

20 Q. Well, like, like the living area, the living space.

21 A. Did he try to go into the living space? I, I have no
22 idea.

23 Q. Okay. That's my question.

24 A. He, he went -- he went under the -- I, I observed him
25 go under the house.

1 Q. Under the house?

2 A. Which is -- and, and I just want to clarify. That's
3 not a crawlspace. I mean, that's -- there's a door and
4 you're literally going, you know, underneath the house,
5 right? I mean, there's stuff under there where he had
6 tools and, you know, all that. So, it's not like, you
7 know, you're crawling on your feet.

8 No, I didn't witness him go in the front door because
9 I was in the back or the side door or in the living room or
10 what have you.

11 Q. And did that ---

12 A. He didn't get that far.

13 Q. And, and so, so you never saw the individual try to
14 open up any other door, and you saw them go into the --
15 underneath the house?

16 A. Well, there's only, there's only two doors. So, he
17 did check the first one, you know, and just kind of pressed
18 up against it, and then the only other door would be that
19 door, which has broken in the night before that he went in.
20 I mean, he forced it open and went underneath and closed
21 the door, which is when I didn't see him and when I called
22 911, I believe.

23 Q. And if I understand correctly, once the individual
24 went to -- towards the front end of the house, you lost
25 sight of him?

D. BALLENTINE - CROSS-EXAMINATION BY MR. SNELL

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1 A. Yes. That's correct.

2 Q. And the next thing you saw was when the deputy was
3 chasing Chase, this gentleman?

4 A. Yes.

5 Q. And chasing Chase, and you followed? You went also
6 after him with your shotgun to try to detain him?

7 A. I -- well, I mean, let me just clarify that. I didn't
8 see the deputy chasing him. It all happened quick, right?

9 Q. Right.

10 A. So, I saw that gentleman, Chase, you know, after he
11 hit the fence and flip over and he's on his back. I saw
12 him at that point in time and took off running again.

13 Q. But you agree there's a gap of time in between when
14 the figure left the backyard and when you finally saw --
15 when you saw Chase?

16 A. Correct, and I didn't see anyone else ever.

17 Q. Couple, couple ---

18 A. I mean, another perpetrator. There wasn't anybody
19 there that night.

20 Q. Now, I think you've always maintained you only saw one
21 person.

22 A. Correct.

23 Q. Right? Okay.

24 A. Correct.

25 MR. SNELL: All right, no other questions.

D. BALLENTINE - REDIRECT EXAMINATION BY MR. SCOTT

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1 WITNESS: Thank you.

2 THE COURT: Any redirect?

3 REDIRECT EXAMINATION BY MR. SCOTT:

4 Q. Let me ask this, and it might just be semantics. You,
5 you said -- he asked you was everything you said on 911 the
6 truth. You said maybe not. Would it be safer to say maybe
7 not everything you said was accurate?

8 A. Yes, accurate, yeah, which would be, you know, the
9 truth or not. You know, she asked me questions, and in the
10 meantime I'm having to put the phone down and be real
11 quiet. So, the question that she might have asked, I might
12 have heard a different question at that point in time
13 because you can hear she's -- and here I am trying to spell
14 the name of the street. So, that's what I mean by might
15 not be the truth. It might not be accurate.

16 Q. Okay, because clearly your father wasn't in the
17 backyard that night.

18 A. He wasn't. He wasn't alive that night either.

19 Q. Right. So, and, and described earlier, you're trying
20 to be quiet. You're trying to watch this guy, and you're
21 also trying to talk to dispatch at the same time?

22 A. Correct.

23 Q. Okay. I, I just wanted to clear that up.

24 MR. SCOTT: I think that's all I have for you, Donnie.
25 Thank you.

1 WITNESS: Okay.

2 THE COURT: Anything further from this witness, Mr.
3 Snell?

4 MR. SNELL: Nothing further.

5 THE COURT: All right. Thank you, sir. You may step
6 down.

7 (THE WITNESS EXITS THE STAND.)

8 THE COURT: All right, ladies and gentlemen, let's
9 take a short break. Please return to your jury room.
10 Don't discuss the case amongst yourselves. We'll bring you
11 back in fifteen minutes or so.

12 (THE JURY EXITS AT 10:59 AM.)

13 BAILIFF: Everyone remain seated until the jury
14 leaves, please.

15 THE COURT: Take a fifteen minute break.

16 (OFF THE RECORD.)

17 THE COURT: Looks like we've got everybody. Bring the
18 jury, please.

19 (THE JURY ENTERS AT 11:19 AM.)

20 THE COURT: All right, the state can call its next
21 witness.

22 MS. WEST: The state calls Wells Ballentine.

23 WELLS BALLENTINE, BEING DULY

24 SWORN, TESTIFIES AS FOLLOWS:

25 CLERK: Please have a seat. State your full name for

1 the record.

2 WITNESS: My name is Wells Ballentine.

3 DIRECT EXAMINATION BY MS. WEST:

4 Q. Mr. Wells, you are Donnie's son that we just heard
5 from?

6 A. Yes, ma'am.

7 Q. So, this would have -- the house that -- on Koulter
8 Drive would have been your grandfather's house?

9 A. Yes, ma'am.

10 Q. Okay. Were you at that house on the night of October
11 29th last year?

12 A. Yes, ma'am.

13 Q. And why were you there?

14 A. I was there during the daytime helping Dad out, and
15 that night I was his sidekick, I guess.

16 Q. Okay, and when you say you were his sidekick, I know
17 we heard from him, but what, what were y'all doing?

18 A. We were, like Dad said, we were waiting in the back
19 because we believed someone would come back to try and
20 break into the house again that night, so.

21 Q. Okay, and you had been there that morning, too?

22 A. Yes, ma'am.

23 Q. When you got there that morning, what was your
24 impression of what had happened?

25 A. In shock because -- I don't know. It was crazy.

W. BALLENTINE - DIRECT EXAMINATION BY MS. WEST

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1 Just, like, walking down and seeing, like, someone broke in
2 the house and stuff. So, I mean, my first impressions were
3 I was just kind of upset and angry and wanting to catch the
4 guy.

5 Q. How could you tell somebody had broken in?

6 A. The front door was unlocked, and there was some stuff
7 loaded up in the foyer and everything like it was ready to
8 go, and that pistol was missing in the, in the front.

9 Q. How could you tell that the pistol was missing?

10 A. Because we'd put it in, like, a specific place, kind
11 of, like, where all the valuables were.

12 Q. And you noticed it wasn't there anymore?

13 A. Yes, ma'am.

14 Q. Okay.

15 THE COURT: Ms. West, you're a little soft spoken.

16 Maybe if you pull that microphone closer to you?

17 MS. WEST: Sure. I'll try to be a little louder.

18 THE COURT: Yes, please.

19 BY MS. WEST:

20 Q. So, that night when you were out in the woods, what
21 was it like that night, like, as far as conditions outside?

22 A. It, it was drizzling a little bit, but it was -- it
23 seemed to me like a full moon. It was pretty bright out.

24 Q. Okay.

25 A. So.

1 Q. And what did you see happen?

2 A. That night, like, in regards of somebody ---

3 Q. Yes.

4 A. --- breaking in?

5 Q. That night.

6 A. So, I, I witnessed somebody coming down the driveway
7 with a flashlight and, you know, breaking in underneath the
8 house.

9 Q. Okay. So, and did you get a good look at him?

10 A. Yes, ma'am.

11 Q. And you said you saw him breaking in the house. Did
12 you see him -- like, can you describe a little bit of how
13 he broke into the house.

14 A. From, from what I saw -- because again we were down in
15 the woods. From what I saw, he just kind of, like, got up
16 against the door, and it opened some kind of way, and shut
17 it behind him.

18 Q. Okay. I'm going to show you -- all right, showing you
19 State's Exhibit 7. Is that the door you saw him break
20 into?

21 A. Yes, ma'am.

22 Q. Okay, and about how long would you say he was under
23 there?

24 A. I'd say as, as long as the duration of the, the phone
25 call. So, probably like, what, five, five minutes? Five,

W. BALLENTINE - DIRECT EXAMINATION BY MS. WEST

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1 ten minutes maybe.

2 Q. Okay, and what did you do after that?

3 A. We watched him walk back up the driveway, and then I
4 just stayed right next to Dad and waited, I guess, to see
5 what else unfolded. So, I was just kind of ---

6 Q. Okay, and what, what did unfold?

7 A. We witnessed him run down the, the right side of the
8 house, and that's when me and Dad got up, and I was just
9 kind of behind Dad the whole point -- or the whole time.
10 And he hopped the fence, and Dad and I, as well as the
11 police officer, took, took the front and -- or took the
12 front and kind of chased him down, so.

13 Q. Okay. So, you caught back up with him?

14 A. Yes, ma'am.

15 Q. And did you get a good look at him then?

16 A. Yes, ma'am.

17 Q. Was that the same person who had seen in the backyard?

18 A. Yes, ma'am.

19 Q. And do you see him here?

20 A. Yes, ma'am.

21 Q. Can you point him out?

22 A. I see him right there. That's Chase.

23 Q. Okay. Great.

24 MS. WEST: Thank you. Please answer any questions
25 from defense.

1 WITNESS: Yes, ma'am.

2 THE COURT: Mr. Snell.

3 MR. SNELL: Thank you.

4 CROSS-EXAMINATION BY MR. SNELL:

5 Q. Sir, and so were, were you with your father kind of
6 side by side or close to each other kind of through this
7 entire duration?

8 A. Yes, sir.

9 Q. So, just one question. On -- do you recall telling
10 one of the officers that the individual you saw had a dark
11 hoodie on?

12 A. Yes, sir, I, I do recall that.

13 Q. When did you see the, the dark hood?

14 A. What I was referring to, again, in the -- in a moment,
15 I believed to be a dark hoodie was whenever he was breaking
16 in underneath the house while we were down in the woods.

17 Q. So, and that's, that's, that's when you saw the person
18 with the dark hoodie?

19 A. Yes, sir.

20 Q. Okay.

21 MR. SNELL: Thank you. No other questions.

22 THE COURT: Anything further from this witness?

23 MS. WEST: Just briefly.

24 REDIRECT EXAMINATION BY MS. WEST:

25 Q. I'm showing you State's 13. Is it possible that what

W. BALLENTINE - REDIRECT EXAM / J. PEEPLES - DIRECT EXAM 84

1 you believed to be a hoodie could have been the bandanna
2 he's wearing here?

3 A. Yes, ma'am. I, I said it was a hoodie, but it was
4 some kind of covering covering his head.

5 Q. And again, it was dark that night?

6 A. Yes, ma'am. Yes, ma'am.

7 MS. WEST: Thank you. Nothing further.

8 WITNESS: Yes, ma'am.

9 THE COURT: Anything further, Mr. Snell?

10 MR. SNELL: Nothing further.

11 THE COURT: All right, thank you, sir. You may step
12 down.

13 (THE WITNESS EXITS THE STAND.)

14 THE COURT: Call your next witness.

15 MS. WEST: The state calls Joshua Peeples.

16 JOSHUA PEEPLES, BEING DULY SWORN,
17 TESTIFIES AS FOLLOWS:

18 CLERK: Please have a seat. State your full name for
19 the record.

20 WITNESS: Joshua Peeples.

21 DIRECT EXAMINATION BY MS. WEST:

22 Q. Deputy Peeples, where do you work?

23 A. Richland County Sheriff's Department.

24 Q. How long have you been at the sheriff's department?

25 A. Just over three and a half years.

1 Q. Okay. When were you certified as a law enforcement
2 officer?

3 A. December whenever -- three years, three and a half
4 years ago.

5 Q. Okay, and were you employed by the sheriff's office on
6 October 29th of last year?

7 A. Yes.

8 Q. Okay. On that night, what would your job duties have
9 been?

10 A. I was on regular patrol that night.

11 Q. Okay. So, when you're -- just so we know, when you're
12 on a regular patrol, what are some things you would
13 generally be doing?

14 A. Calls for service, traffic enforcement, something like
15 that.

16 Q. Did you receive a call that night regarding a house,
17 [REDACTED] Koulter Drive?

18 A. Yes.

19 Q. Is that in Richland County?

20 A. Yes.

21 Q. What was the nature of that call?

22 A. It came out as a burglary in progress.

23 Q. Okay, and how did you receive the call?

24 A. Through dispatch. It came through over our Region 4
25 Channel.

J. PEEPLES - DIRECT EXAMINATION BY MS. WEST

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1 THE COURT: All right, you're speaking very softly. I
2 need you to speak louder, but also maybe pull that
3 microphone closer.

4 WITNESS: All right.

5 BY MS. WEST:

6 Q. What time did you receive the call?

7 A. The call came in at 2245.

8 Q. All right. So, that would be 10:45 at night?

9 A. Yes.

10 Q. What was it like that night? Was it dark out?
11 Raining?

12 A. It, it was dark. It -- there was a, there was a light
13 rain, very light rain.

14 Q. When you got to the house, did you have your lights
15 and sirens on?

16 A. I, I did en route to the call, and I cut the lights
17 and sirens off about a mile or two out just for siren
18 discipline so they couldn't hear us getting close.

19 Q. Is that what y'all usually do as protocol?

20 A. Yes.

21 Q. Okay. When you were responding to this call, was your
22 dash cam activated?

23 A. Yes.

24 Q. How about your body camera?

25 A. My body camera was on. The blue lights did not

1 activate the camera to record.

2 Q. Okay.

3 A. Until I stopped and realized it.

4 Q. Okay, but does that happen frequently?

5 A. It -- sometimes.

6 Q. It can happen?

7 A. Yes.

8 Q. Okay. Once you got to the house, what did you do?

9 A. When I got to the house, I, I stopped just short of
10 the house. When I got out of my -- I got out of the truck,
11 I started walking to the front yard, and I saw something
12 out of the corner, out of the corner of the house, and when
13 I shined my flashlight on the corner, I saw the defendant
14 and I saw him turn around and run towards the neighbor's
15 backyard, and that's when I started chasing him.

16 Q. Okay. I'm going to pull this over.

17 (A PAUSE.)

18 Q. Can you step down and point out for us where you saw
19 him coming from when you arrived?

20 A. Yeah.

21 THE COURT: I need you to stand to the right of the
22 board and face back this way, and speak very loudly.

23 A. Where did I see him?

24 Q. Yes.

25 A. Is that the question?

J. PEEPLES - DIRECT EXAMINATION BY MS. WEST

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1 Q. When you first got there, where did you first see the
2 defendant?

3 A. When I pulled up, I saw someone on this side of the
4 house.

5 Q. Okay, and what did it look -- what did he look to be
6 doing?

7 A. It -- when I got there, someone was coming my
8 direction, coming this way from the side of the house. And
9 when they saw me, they stopped and turned around. That's
10 when I started chasing him.

11 Q. Okay. Do you have any doubt at all that you saw him
12 coming from the back to the front?

13 A. Not a doubt in my mind.

14 Q. So, after you first saw the defendant, then what
15 happened?

16 A. When I first saw him, I called over the radio that I
17 was 10-0 on foot. I gave him commands to stop. I shined
18 my light on him. When I realized he'd hit the fence and
19 hopped the fence and was in this backyard, I heard the
20 homeowners yelling at him, and I, I want to say that he
21 said that he's running towards the other side of the house.
22 I heard someone say that, and then -- so, I ran across the
23 front of the house and met him here, where he did -- yeah,
24 he put his hands up and gave up.

25 Q. Okay. So, you chased him in front of the house and

1 stopped him somewhere over here?

2 A. Yes.

3 Q. Okay. About how long -- sorry. You can step back
4 down.

5 A. All right.

6 Q. About how long did it take you to catch up to him?

7 A. The whole thing probably lasted fifteen, twenty
8 seconds, it felt like.

9 Q. And what did you do after detaining him?

10 A. Once he was detained I just, while he was still on the
11 ground, I patted his waistband down, just made sure he
12 didn't have any weapons on him, and there was a large
13 screwdriver that was hanging out of his waistband.

14 Q. Okay. Showing you what's been twelve as State's
15 Exhibit 8. Is this the screwdriver?

16 A. Yes.

17 Q. Okay, and you collected this from him?

18 A. Yes.

19 Q. Okay. Is there anything else in his possession at the
20 time?

21 A. He did have the backpack on, and he did have a
22 flashlight with him as well.

23 Q. Okay. Did you also collect anything like a knife from
24 him?

25 A. I'm not sure. I did not search the contents of the

J. PEEPLES - DIRECT EXAMINATION BY MS. WEST

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1 bag.

2 Q. Okay.

3 A. So, whatever else was found and taken by
4 investigations on scene.

5 Q. Okay.

6 A. But I do, I do remember the screwdriver and the
7 flashlight.

8 Q. Okay.

9 A. Specifically.

10 Q. Okay.

11 (A PAUSE.)

12 Q. All right, I'm going to play your dash cam for you.
13 This is State's Exhibit 9.

14 (WHEREUPON, STATE'S EXHIBIT NUMBER 9 PLAYED FOR THE
15 COURT. AUDIO IS NOT TRANSCRIBED.)

16 Q. I'm just going to back it up a little bit. What's
17 going on right here?

18 A. Here specifically?

19 Q. Well, just in general.

20 A. This was when I arrived at the house.

21 Q. Okay, this is where you arrived at the house.

22 (PLAY RESUMES AS EXAMINATION CONTINUES.)

23 Q. And then just as this is playing, can you just give us
24 an idea of what's going on?

25 COURT REPORTER: Excuse me. Can you repeat that?

J. PEEPLES - DIRECT EXAMINATION BY MS. WEST

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1 (AUDIO IS TEMPORARILY MUTED.)

2 Q. Sorry. As this is playing, can you tell me what
3 you're doing? What's happening right about here?

4 A. At that moment, that's when I saw someone at the
5 corner of the house, and see I cut my flashlight on, and I
6 saw him turn around and running away.

7 (AUDIO RESUMES AS EXAMINATION CONTINUES.)

8 Q. So, you cut your flashlight on. So, that, that would
9 be him that you saw right there?

10 A. Yes.

11 THE COURT: Hold it. Ms. West, you're going to have
12 to ask that again. Pause that.

13 (PLAY IS HALTED.)

14 THE COURT: So, you can't talk while the video is
15 playing because the court reporter can't hear you.

16 MS. WEST: Yes, ma'am.

17 THE COURT: So, I missed that last question.

18 BY MS. WEST:

19 Q. So, that was him that you saw right there as that was
20 playing?

21 A. Yes.

22 Q. And that's is when you started chasing him?

23 A. Yes.

24 Q. Okay.

25 (PLAY RESUMES.)

J. PEEPLES - DIRECT EXAMINATION BY MS. WEST

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1 Q. And right here, this was after you detained him?

2 A. Yes.

3 Q. He was coming back towards your car?

4 A. Yes.

5 Q. Okay.

6 (END OF PLAY.)

7 Q. This is State's Exhibit 10, your body worn camera.

8 (WHEREUPON, STATE'S EXHIBIT NUMBER 10 IS PLAYED FOR
9 THE COURT. AUDIO IS NOT TRANSCRIBED.)

10 Q. Okay. So, can you describe for us what's going on
11 there?

12 A. This was just after I had finished patting him down.
13 I stood him up and started walking him back to the vehicle.

14 (PLAY RESUMES.)

15 Q. And this would be the?

16 A. That was the screwdriver that I pulled out of his
17 waistband, yeah, picking up his items.

18 Q. Okay.

19 (PLAY RESUMES.)

20 Q. So, it's kind of difficult to see, but is this where
21 you found the flashlight on him, or is this the flashlight
22 you found on him?

23 A. Yes.

24 Q. Okay.

25 (PLAY CONTINUES TO THE END.)

1 Q. I show you State's 11. Tell us what this is.

2 A. That's the screwdriver that was in his waistband.

3 Q. Okay, and then again, I know we just saw it in the
4 video, but one more time, this is State's 12. What is --
5 what's here?

6 A. That's the items that he had on his person. That's
7 the screwdriver and the flashlight in my hand.

8 Q. Oh. So, the flashlight is in your hand?

9 A. Yes.

10 Q. Okay, and that's his flashlight?

11 A. Yes.

12 Q. Okay, and then the last one, State's 13, can you just
13 tell us what this is?

14 A. That's the defendant.

15 Q. This is the defendant?

16 A. That's Chase.

17 Q. That's him with the black bandanna around his neck?

18 A. Yes.

19 Q. After you detained him and went through his
20 belongings, what did you do next?

21 A. Passed him over to investigation when they got on
22 scene.

23 Q. So, you called investigators. Did you -- once
24 investigators were on scene, what did you do from there?

25 A. I pretty much left at that point.

J. PEEPLES - DIRECT EXAMINATION / CROSS-EXAMINATION 94

1 Q. Okay. Did, did you brief the investigator when he got
2 there?

3 A. Yeah. The investigator was told basically what
4 happened, and then he was handed over to the investigators.
5 Then the rest of us left.

6 Q. Okay, and then from there, did you prepare an incident
7 report?

8 A. I did, yes.

9 MS. WEST: That's all I've got for you. Please answer
10 any questions from the defense.

11 THE COURT: Cross-examination?

12 CROSS-EXAMINATION BY MR. SNELL:

13 Q. And, sir, you, you were the first deputy on scene. Is
14 that correct?

15 A. Yes.

16 Q. How -- were you -- and I don't know this. Were you
17 the last deputy also on the scene or one of the last?

18 A. That I'm not, I'm not totally sure, but I, I did stick
19 around for a minute, yes.

20 Q. And when you say a minute, that means maybe a while?

21 A. Right.

22 Q. Okay, a while, and when you first arrived on scene,
23 you get out of your car and shine the flashlight, and it's
24 -- I mean, the video shows it's dark, and I guess it's
25 dark, right?

1 A. Right.

2 Q. And was your flashlight basically the only real
3 useable sort of illumination over on this section?

4 A. I mean, there was a lot of ambient light. I mean,
5 there were street lights and my headlights. The area was
6 lit. It was a full moon. There was a lot of ambient light
7 in the area. As far as direct, focused light, my
8 flashlight, yes.

9 Q. And the, and the video does -- the video shows what
10 other lights were there?

11 A. Yes.

12 Q. Okay, and the, the -- and, of course, the figure you
13 saw, I know when the video starts and we see the flashlight
14 shine over there, that figure, that ended up being Chase
15 Milam, correct?

16 A. Yes.

17 Q. Okay, and when the video starts, on the video he's got
18 his back to you. Is that correct?

19 A. What was the question again?

20 Q. Well, when -- on the video, when the video picks up
21 Mr. Milam, it's got his back to you?

22 A. Yes.

23 Q. Okay, because we see that, that square or the black
24 backpack?

25 A. Yes.

J. PEEPLES - CROSS-EXAMINATION BY MR. SNELL

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1 Q. Okay. Now at that point, you don't see the
2 Ballentines. They're not in the yard or on the side yard.
3 They're not involved in that immediate situation, correct?

4 A. No.

5 Q. Okay, and then Mr. Milam -- and I guess at this point
6 on the video, it looked like this is kind of right next to
7 the dumpster?

8 A. It was in the area of the dumpster, but when I saw
9 him, he was nowhere near the dumpster, no.

10 Q. I mean, the video shows how close he would have been?

11 A. Perspective wise, there's -- he wasn't -- on the
12 camera, you can see him at the corner of the house, and the
13 corner of the house in relation to the dumpster, there was
14 a good distance.

15 Q. Is this dumpster one that -- did you actually get a
16 good look at the dumpster?

17 A. Yes.

18 Q. Did you go -- did you get a look inside the dumpster?

19 A. No.

20 Q. Okay. Is this one of the kind of dumpsters -- well,
21 I guess can you describe the dumpster for us?

22 A. It's a roll-up dumpster, just one of the ones that are
23 on, like, a roll-back trailer when they have to deliver it.

24 Q. Did, did you notice if it was one of the kind of
25 dumpsters that had a door where, like, one of the sides

1 would kind of swing open to, to load, you know, large
2 things or...

3 A. I'm not sure, but I believe all those dumpsters open,
4 yes.

5 Q. Do you recall if this dumpster had -- being open or
6 closed?

7 A. From what I saw, they were closed.

8 Q. Okay. Did you actually check, though?

9 A. No.

10 Q. Yeah. I didn't see it on -- I know I didn't see the
11 body camera ---

12 A. Right.

13 Q. --- where you walked up and checked it. Okay. Now
14 after fifteen, twenty seconds and you were able to, to get
15 Mr. Milam, and I understand he ended up falling and just
16 didn't put up any kind of resistance at that point. Is
17 that correct?

18 A. Yes.

19 Q. Okay, and then you walk him back. I notice kind of
20 that's when your body cam gets activated?

21 A. Yes.

22 Q. Okay. Now, there's no sound for the first so many
23 seconds, I guess, of the, of the footage?

24 A. Thirty seconds, yes.

25 Q. Right, and then so we have the video at that point but

1 no audio?

2 A. Right.

3 Q. Is that because the audio takes a while to start
4 recording?

5 A. It does a, it does a playback. So, I, I -- when I got
6 to him, I realized my body camera wasn't activated, so I
7 activated it, and then it does thirty seconds prior to when
8 I hit the button.

9 Q. Of videotape?

10 A. Yes.

11 Q. But not audio?

12 A. Yes.

13 Q. All right, and, and that's when you -- and so I guess
14 first of all this -- how, how -- the Ballentines, how --
15 what was their state, I guess, at that time once you had
16 Mr. Milam?

17 A. I mean, they were, they were upset that somebody was
18 trying to break into their house. They had just chased
19 somebody. A lot of adrenaline.

20 Q. I think I heard some hoop -- some whooping kind of
21 noise?

22 A. Yes.

23 Q. And that was -- was that the Ballentines?

24 A. Yes.

25 Q. Okay. Anybody else involved in this other than you

1 and the Ballentines at that point?

2 A. No.

3 Q. Okay. Now, when you saw Chase to begin with, was --
4 did he have -- was his flashlight on?

5 A. I did not see a flashlight on when I saw him.

6 Q. Okay. You didn't see it lit up, okay. Did you see
7 any items with Chase or in between where he was and the
8 house where he ended up getting apprehended? Was there
9 anything dropped on the ground or relevant to, to this
10 case?

11 A. No.

12 Q. Was there any kind of clothing that you saw or picked
13 up?

14 A. Not that I'm aware of.

15 Q. Any -- anything that could have looked like it was
16 property that would have been taken, like tools, equipment,
17 just anything that would be stuff?

18 A. No. I -- we backtracked a little bit and looked
19 through the yard. Didn't find anything.

20 Q. Did y'all ever -- and I don't know. Did, did anybody
21 ever go back under the house and clear the underneath of
22 the house?

23 A. I don't know.

24 Q. Okay, and what I'm asking you is did anybody actually
25 from the sheriff's department, you know, go under the house

J. PEEPLES - CROSS-EXAMINATION BY MR. SNELL

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1 and kind of look around and make sure there was nobody
2 hiding or anybody still under there?

3 A. Typically we would. I would say a hundred, almost a
4 hundred percent of the time we will always check the
5 residence that they're alleging was burglarized to make
6 sure there is nobody else in the house. I did not. When
7 other deputies got on scene, I wasn't keeping track of what
8 everybody was doing. I was still handling Chase, and then
9 I handed him over to investigations.

10 Q. Okay. Did any -- and again I don't know this. Since
11 you were first on scene, were there any other deputies who
12 were behind you or are close by that do kind of canvassing,
13 like driving up side roads or around the neighborhood kind
14 of looking to see if there's anybody else on foot?

15 A. Not that I'm aware of. They all showed up after I had
16 already detained him. So, they were in the, in the area
17 anyway.

18 Q. All right, and you, you, you were the arresting -- I
19 guess you were the arresting officer?

20 A. I was -- I detained him. I did not make the charges
21 or arrest him, no.

22 Q. Okay, but you, you heard -- you looked -- you did the
23 -- you -- the first officer on the scene and you did an
24 incident report?

25 A. Yes.

1 Q. Okay. Now, other than the items -- I know we don't
2 have the flashlight, but that was on the video. You said
3 you saw him with the flashlight?

4 A. Yes.

5 Q. Right? Did you actually turn the flashlight on and
6 test it?

7 A. No.

8 Q. Okay. Do you -- and do you recall him having any kind
9 of, other than the screwdriver, any kind of large, bulky
10 items or any other tools?

11 A. Any other ---

12 Q. Tools.

13 A. --- tools? No.

14 Q. Or equipment or...

15 A. Not that I recall. Just those couple items that came
16 off of him that you saw me drop and, like, a set of keys
17 and stuff like that and then that screwdriver.

18 Q. But I'm saying did you actually open the book bag and
19 look in it?

20 A. I did eventually, yes.

21 Q. Did he have -- was there hair bows in there?

22 A. I'm not sure.

23 Q. Was there anything -- any of those items that were
24 clearly connected with the inside of the [REDACTED] Koulter Drive
25 address?

J. PEEPLES - CROSS-EXAMINATION BY MR. SNELL

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1 A. No. I don't know. I don't know what they own at
2 1880, so I don't know what inside that bag was his or not.

3 Q. Okay, and then as -- after Mr. Milam was -- I mean,
4 your first involvement was this, when you came on scene
5 and, and that video begins, correct?

6 A. Yes.

7 Q. And then after he was apprehended, at some point you
8 were there while he left. Is that correct?

9 A. Yes.

10 Q. And did you have any kind of follow-up responsibility
11 or any participation, any investigation after that point?

12 A. No.

13 Q. Okay.

14 MR. SNELL: Thank you so much.

15 THE COURT: Anything further from this witness?

16 MS. WEST: No, Your Honor.

17 THE COURT: All right. Thank you. You may step down.

18 (THE WITNESS EXITS THE STAND.)

19 THE COURT: Call your next witness.

20 MS. WEST: The state calls Emily Hampton.

21 EMILY HAMPTON, BEING DULY SWORN,

22 TESTIFIES AS FOLLOWS:

23 CLERK: Please have a seat. State your full name for
24 the record.

25 WITNESS: Emily Hampton.

1 DIRECT EXAMINATION BY MS. WEST:

2 Q. Deputy Hampton, where do you work?

3 A. Richland County Sheriff's Department.

4 Q. How long have you been there?

5 A. About five years.

6 Q. Were you working there the night of October 29, 2020?

7 A. Yes.

8 Q. And what would your job duties have been then?

9 A. To respond to calls for service, traffic enforcement,
10 general. Yeah.

11 Q. Did you receive a call that night regarding [REDACTED]
12 Koulter Drive?

13 A. Yes.

14 Q. And what was the nature of the call?

15 A. It was a, it was a call of burglary in progress. We
16 were told that the homeowners were on scene and were
17 witnessing someone break into the house.

18 Q. Okay, and when you got there, what did you do?

19 A. By the time I got there, Deputy Peeples had already
20 gotten the suspect detained. So, I briefly -- I think I
21 got his ID. Ended up putting the suspect in the back of my
22 car, and then we discussed what had happened. At one
23 point, I go to the back of the house to kind of see the
24 area that he entered just to try to figure out what exactly
25 that area was used for.

E. HAMPTON - DIRECT EXAMINATION BY MS. WEST

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1 Q. Okay. So, you said you went to the back of the house.
2 What, if anything, did you see once you were back here?

3 A. So, the door was not locked to this -- what was called
4 a crawlspace. I opened that door and looked under, and it
5 was larger than a crawlspace. You could easily walk into
6 it, and it was full of lawn equipment items that were being
7 stored there.

8 Q. Okay. There was nobody under the house at that point?

9 A. No, not that I saw.

10 Q. Okay. So, what was the -- was the door -- what was
11 the condition of the lock on the door? Did you notice
12 anything about it?

13 A. I believe the lock was still kind of hooked into the
14 space, but it was kind of hanging off a little bit. It
15 wasn't intact.

16 Q. So, it had been pulled out?

17 A. Yes.

18 Q. From where it was supposed to be?

19 A. Correct.

20 Q. Okay. I'm going to play State's Exhibit 14 for you.
21 This is your body camera, right?

22 A. Yes.

23 (WHEREUPON, STATE'S EXHIBIT NUMBER 14 IS PLAYED FOR
24 THE COURT. AUDIO IS NOT TRANSCRIBED.)

25 Q. So, this is the door you went in?

1 A. Yes.

2 (PLAY RESUMES.)

3 Q. And when you say the lock was hanging off, you're
4 talking about right here?

5 A. Yes.

6 (PLAY RESUMES.)

7 Q. So, here we see the, the dumpster?

8 A. Yes.

9 Q. About how, how far would you say it was from the
10 corner of the house to the dumpster if you -- just if you
11 have -- from memory?

12 A. I'm terrible with estimates of distance. Maybe 50
13 feet or so.

14 Q. Okay. So, I want to show you the aerial photo. You
15 would agree that the dumpster was right here where the
16 sidewalk is?

17 A. Yes.

18 Q. And where you were coming from was over here?

19 A. Correct.

20 Q. So, a decent distance?

21 A. Yes. It, it appeared that the dumpster was almost
22 centered on the front of the house.

23 Q. Okay.

24 MS. WEST: All right, no further questions. Please
25 answer any questions of the defense.

E. HAMPTON - CROSS-EXAMINATION BY MR. SNELL

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1 CROSS-EXAMINATION BY MR. SNELL:

2 Q. And, Deputy, I, just make sure I understand. Were you
3 -- you, you were second or third deputy on scene to the
4 best of your...

5 A. Yeah, somewhere around there. I'm not sure exactly
6 what number, but there were several.

7 Q. I mean, we know you weren't the first.

8 A. Correct.

9 Q. And did you do any kind of -- I know you said you went
10 around back and looked back at the back of the house,
11 right?

12 A. Yes.

13 Q. I saw you were wearing body cam. It was activated?

14 A. Yes.

15 Q. I saw, I think I saw you. You opened up the, the back
16 door and looked inside underneath the house?

17 A. Correct.

18 Q. And it really wasn't a, a tall area that somebody
19 could step in and walk -- step into?

20 A. Yes, sir.

21 Q. Did you actually step in the crawl -- in, in that
22 space and look around?

23 A. I don't believe so; I think I stayed pretty much
24 inside the door.

25 Q. Outside? Okay. Do you know if any other -- did you

1 see any other deputies actually went in that area?

2 A. I didn't personally observe; I couldn't say one way or
3 another.

4 Q. All right. Did you help or take part or, or any kind
5 of walking around and looking at the ground surrounding the
6 house or the area that Mr. Milam would have been?

7 A. I believe after this, I ended up coming back on the
8 side that Deputy Peebles observed him to see if anything
9 had been dropped.

10 Q. Did you find anything?

11 A. No.

12 Q. Did, did Mr. Milam I guess -- I think you actually,
13 you actually transported him. Is that correct?

14 A. I transported him to meet up with the transport van,
15 and then he transported him down to the jail.

16 Q. So, you drove him for little bit?

17 A. Correct.

18 Q. Okay, and I understand y'all had conversation?

19 A. Maybe. Most likely. I haven't reviewed that video,
20 so I'm not ---

21 Q. Okay, but ---

22 A. --- totally sure what we talked about.

23 Q. Well, let me -- just this. Did Mr. Milam agree that
24 he was at the scene?

25 A. Yes.

E. HAMPTON - CROSS-EXAMINATION BY MR. SNELL

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1 Q. And did he say that he was in the dumpster?

2 A. Yes.

3 Q. Did he ever change that story?

4 A. No, not to my knowledge.

5 Q. Okay. Do you recall him pointing out or asking you
6 about any of the neighbors that had cameras, getting the
7 footage to show what that would -- basically to see what
8 that would show?

9 A. I don't recall that conversation. He may have. I'm
10 not sure.

11 Q. After you had delivered Mr. Milam, did you have any
12 kind of role, any kind of follow up, or do anything else
13 with this case?

14 A. No, sir.

15 Q. And if I understand correctly, you did not arrive
16 until after Deputy Peebles had Mr. Milam in custody?

17 A. Correct.

18 Q. Okay. So, you do not get to personally witness any of
19 the pursuit or any of the other events prior to that point?

20 A. No, sir.

21 Q. Okay.

22 MR. SNELL: Thank you. Thank you. No other
23 questions.

24 THE COURT: Anything further from this witness?

25 MS. WEST: Nothing further.

1 THE COURT: Okay. Thank you. You may step down.

2 (THE WITNESS EXITS THE STAND.)

3 THE COURT: All right, folks, we going to take a lunch
4 break at this time. Please return to your jury rooms at
5 1:30. Don't discuss the case amongst yourselves or with
6 anyone else. Don't do any research about the case. Just
7 have a good lunch and be back at 1:30.

8 (THE JURY EXITS AT 12:09 PM.)

9 THE COURT: All right, see y'all at 1:30.

10 (OFF THE RECORD.)

11 (PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT
12 NUMBERS 16, 17 FOR IDENTIFICATION.)

13 THE COURT: The state is present; the defendant is
14 present, represented by counsel. We are ready to
15 recommence. Bring the jury.

16 (THE JURY ENTERS AT 1:36 PM.)

17 THE COURT: Folks, before I forget, I want to go ahead
18 and appoint the foreperson. That foreperson is juror 223.
19 Where is juror 223? All right, so you can just switch
20 seats with this juror in the corner here. Not you. In the
21 front in the corner. That's the power seat.

22 So, you are now foreperson of the jury. If the jury
23 needs to communicate with the court, if any member of the
24 jury needs to communicate with the court, you will write a
25 note. You will sign it as the foreperson on behalf of the

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1 jury and send it. Knock on the door. Tell the bailiff you
2 have a note, but you'll also preside over deliberations in
3 the jury room, but as I said, we'll talk about that later.
4 I just wanted to get that done.

5 We are still listening to the state's case. The state
6 is presenting its witnesses. So, please give them your
7 full attention. The state's going to call its next
8 witness.

9 MR. SCOTT: Thank you, Your Honor. The state calls
10 Investigator Aaron Grill.

11 AARON GRILL, BEING DULY SWORN,
12 TESTIFIES AS FOLLOWS:

13 CLERK: Please have a seat. State your full name for
14 the record.

15 WITNESS: Aaron Grill.

16 DIRECT EXAMINATION BY MR. SCOTT:

17 Q. Thank you, Investigator Grill. Did you have an
18 occasion to go out October 29th to [REDACTED] Koulter Drive?

19 A. I did, sir.

20 Q. Okay, and what role did you serve on that particular
21 occasion?

22 A. On that evening, I was the on-call investigator here
23 in Richland County. So, if there's any major incident that
24 occurs or an incident in which road units capture a subject
25 involved in a case, we get called to come out and try and

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1 sort it out and see what needs to be done.

2 Q. Okay. I think we, we take for granted that everybody
3 kind of understands the relationships and the roles between
4 the road officer and investigator and then all these
5 different kinds of officers. We heard from Peeples and we
6 heard from Hampton earlier. I believe they were road
7 deputies that night?

8 A. That's correct.

9 Q. I heard Peoples say that part of his duties as a road
10 officer was responding to calls for service and whatnot,
11 traffic tickets and whatnot?

12 A. Yes, sir.

13 Q. But typically, is it fair to say that where the road
14 deputy's job ends, yours begins?

15 A. That would be safe to say, yes.

16 Q. Okay. So, we all -- we saw the actual -- with our own
17 eyes we get to watch Peeples detain the suspect, and then
18 he kind of inventoried some belongings from Mr., Mr. Milam,
19 and that was pretty much the extent of his role. So,
20 afterwards the investigating officer takes over. Is that
21 fair to say?

22 A. Yea. We come in after the fact, after everything's
23 said and done, uh-huh.

24 Q. Okay, and so in watching these body cams, we see
25 multiple officers arrive on the scene. And typically when

A. GRILL - DIRECT EXAMINATION BY MR. SCOTT

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1 you're doing your investigation, you're gathering bits of
2 information from all these other officers: what did you
3 see, what did you do, what was your role?

4 A. Yeah. There's a lot of moving parts when we get on
5 scene.

6 Q. Okay. So as part of your investigation, you did speak
7 with these other responding officers who may have gotten
8 there before you?

9 A. Yes, sir.

10 Q. Okay. Did anybody report to you that they had seen
11 any suspicious pedestrians walking down the road as they
12 drove to [REDACTED] Koulter Road?

13 A. Not at all.

14 Q. Okay. That, that was never brought to your attention
15 as the lead investigating officer?

16 A. No, sir.

17 Q. Okay. Were you able to go up under the basement of
18 the home? I've heard it called a crawlspace. I've heard
19 it called different things, but were you able to go up
20 under there yourself?

21 A. Yes. I did not go all the way throughout the entirety
22 of it, but I did go in there and take a peek around.

23 Q. Okay. What, what did you observe?

24 A. A lot of different items that were stored underneath
25 the house. I personally wouldn't be able to tell if

A. GRILL - DIRECT EXAMINATION BY MR. SCOTT

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1 anything was moved or anything like that, but there was
2 just a lot of items underneath the home.

3 Q. Okay. Did you see any people under there?

4 A. I did not.

5 Q. When's the last time you went to this house?

6 A. About forty-five minutes ago.

7 Q. Okay.

8 A. Give or take.

9 Q. Did I take -- did I ask you to take some measurements?

10 A. Yes, sir.

11 Q. That's State's 1, State's Number 1 right here and I'll

12 -- okay, what is the measurement from the edge of this
13 concrete sidewalk to the corner of that house?

14 A. We measured from about the apex of the curve on the
15 sidewalks to the corner of the house, and that measured
16 approximately 32 and a half feet.

17 Q. Okay, and let me show you what's been pre -- or marked
18 for ID purposes State's Number 16. What is that?

19 A. This is the view from the front of [REDACTED] Koulter
20 approximately in the same area where Deputy Peeples was
21 parked in his Tahoe from where his in-car dash camera was
22 approximately recording.

23 Q. Okay. So, you were trying to approximate what Peeples
24 would have seen in that in-dash camera, the viewpoint we
25 would be looking at from his in-dash camera?

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1 A. Yes, sir.

2 Q. We watched that video earlier, and so that, that was
3 what you observed today at [REDACTED] Koulter?

4 A. Absolutely.

5 MR. SCOTT: Your Honor, the state offers 16 for
6 admission into evidence.

7 THE COURT: Any objection?

8 MR. SNELL: No objection.

9 THE COURT: State's 16 is admitted without objection.

10 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
11 NUMBER 16.)

12 BY MR. SCOTT:

13 Q. As I'm just looking at it, if, if you look at that
14 viewpoint, State's 1, if you're looking right to left, it
15 looks pretty much like the corner of that concrete is
16 adjacent to the corner house from that viewpoint?

17 A. Yeah. From that perspective, it looks as though it's
18 extremely closer than it actually is from the corner to the
19 sidewalk.

20 Q. If you're looking straight down -- your testimony is
21 you've measured it -- it's 32 and a half feet from that
22 sidewalk to the corner of house?

23 A. Yeah. It's a fair distance.

24 Q. Okay.

25 MR. SCOTT: And just to be clear, we offer only 16 to

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1 offer perspective as far as what Peebles would have seen,
2 and permission to publish, Your Honor, to the jury?

3 THE COURT: Yes, sir. Yes, sir.

4 BY MR. SCOTT:

5 Q. Have you ever heard the name Chad Harper before?

6 A. Not until today, sir.

7 Q. All right. You ever heard the name Ray Milam?

8 A. Not until today.

9 Q. Okay. Did -- I'm told Ray Milam is Chase Milam's
10 father. Has he ever contacted you?

11 A. No, sir.

12 Q. There was some talk about checking surveillance around
13 the neighborhood, whether anybody might have Ring cameras
14 or any other kind of home security cameras that may have
15 captured anything. Did you check?

16 A. I checked that night, but there was nothing that was
17 useful.

18 Q. Okay. We took this a little while ago. This has been
19 premarked State's 17. What is that?

20 A. That would be me standing in front of what has been
21 referred to as the crawlspace door in which the defendant
22 is accused of going into that night on October 2020.

23 Q. Okay, and State's 17 depicts you, I guess, in
24 comparison to the, the door? Sort of shows the size of it?

25 A. Yes, sir. I'm about 6-1, 6-2.

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1 Q. Okay. Could you have walked through the door upright?

2 A. I would have to get -- just lower my head down to fit
3 through, but then once inside you can stand up.

4 Q. Okay.

5 MR. SCOTT: And we only offer this for perspective as
6 well, but this is State's 17 for admission into evidence,
7 Your Honor.

8 THE COURT: Any objection?

9 MR. SNELL: No objection.

10 THE COURT: State's 17 is admitted without objection.

11 MR. SCOTT: And now we're going to publish it to the
12 jury.

13 THE COURT: Yes, sir.

14 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
15 NUMBER 17.)

16 BY MR. SCOTT:

17 Q. Okay. Based on everything you observed, your
18 information that there was -- somebody had gone through
19 that door that's in State's 17 -- it was nighttime,
20 correct?

21 A. Yes, sir.

22 Q. Your understanding and, and then the officers
23 indicated they had detained Mr. Milam a short time after
24 the 911 call in the front yard of the neighbor's home. Is
25 that your understanding?

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1 A. Yes, sir.

2 Q. So based on those facts, did you determine criminal
3 charges that, that would be brought?

4 A. Yes, sir. Based on the facts I gathered from the
5 responding deputies, as well as the two witnesses who were
6 on scene who had already spoken before me today, I gathered
7 that the appropriate charge due to entering a building
8 crawlspace area during the nighttime hours was burglary in
9 the second degree of a violent nature, and possession of a
10 burglary tools due to the fact that he was carrying a very
11 large screwdriver which, in my experience doing hundreds if
12 not thousands of property crime cases, is very consistent
13 with being used to pry into something, be it a locked
14 container or a door of any sort.

15 Q. Okay.

16 MR. SCOTT: All right, thank you, Investigator Grill.
17 Answer any questions that Mr. Snell has for you.

18 WITNESS: Yes, sir.

19 CROSS-EXAMINATION BY MR. SNELL:

20 Q. Sir, from October 29th of 2020 until today, during
21 that period of time, did you ever go back out to the house?

22 A. Yes, sir, I did.

23 Q. When? When did you go?

24 A. I don't recall the exact dates before today. I did go
25 back during the lunch break today, but I did go back and

A. GRILL - CROSS-EXAMINATION BY MR. SNELL

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1 meet with the victims at some point. I don't recall the
2 date.

3 Q. Is that when you took their statements?

4 A. I don't recall if they came into my office and gave
5 the statements or if it was out at the house, but I believe
6 it was the same day. I can't be certain without my report
7 in front of me.

8 Q. Okay, but there were no pictures taken on that visit
9 that you recall?

10 A. Not to my knowledge.

11 Q. All right. I, I understand that at some point there
12 was DNA or fingerprints taken for this house?

13 A. I believe in the initial burglary report that Mr.
14 Donnie Ballentine reported.

15 Q. Okay, and, and those did not come back as matching Mr.
16 Milam?

17 A. To my knowledge, no, sir.

18 Q. Were, were there any fingerprints taken or other kinds
19 of testing like that done for this incident that Chase was
20 charged with?

21 A. I do not believe so.

22 Q. So as far as, as the night of the 29th, no one came
23 and looked at the handle or, or the door for this
24 crawlspace area and tried to determine if there were any
25 prints on it?

A. GRILL - CROSS-EXAMINATION BY MR. SNELL

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1 A. It was a wooden door and based on my experience,
2 unless it's a non-porous surface, your can't exactly use
3 fingerprint dust on a porous surface.

4 Q. But any other, any other areas tested?

5 A. I don't believe anything else was reported as being
6 touched.

7 Q. Was the -- well, the dumpster was touched. He
8 reported the dumpster being touched. Was the dumpster
9 tested?

10 A. No, sir. As was testified earlier, it was a light
11 drizzle. You can't use fingerprint powder if it's wet.

12 THE COURT: You need to lean forward and speak into
13 the microphone.

14 A. If it's wet out, you cannot use fingerprint power on
15 damp surfaces.

16 Q. Was there any -- and I'm just asking. Hold up. Did
17 anybody actually go through the underneath of the house?

18 A. While I was there?

19 Q. That, that you had knowledge of?

20 A. Not that I have knowledge of. I went under the house,
21 but I did not actually do a protective sweep with my gun
22 drawn because I came however long after the initial...

23 Q. Did anybody -- and I don't know this. Did anybody
24 look at the ground under the house because it's -- was a
25 dirt floor under the house, correct?

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1 A. I believe so.

2 Q. Was there ever any, I guess, review or inspection or
3 anything taken to see what kind of footprints were there?

4 A. I personally did not because generally when we arrive
5 on scene, there's already been a handful of deputies that
6 have gone through the area, and so I would be personally
7 unable to tell if it's their boot prints, shoe prints, or
8 mine. So, I do not know.

9 Q. Okay. Some -- sometimes you can't match prints, I
10 guess?

11 A. I cannot.

12 Q. Some people come in. It can be done?

13 A. I would assume a professional CSI could.

14 Q. And I, and I heard the testimony that there was no --
15 nobody brought it to your attention of any kind of other
16 people, pedestrians, or anybody else in the general area?

17 A. That's correct. No one's reported anything like that.

18 Q. Was there, to the best of your knowledge, was there
19 ever an effort, specific effort made by the sheriff's
20 department to kind of canvass or do some riding around the
21 side streets and in the vicinity?

22 A. That I don't know.

23 Q. Okay. Was there any, I guess, review kind of these
24 doorbell cameras or, or, you know, other security cameras
25 that people would have on their house?

A. GRILL - CROSS-EXAMINATION BY MR. SNELL

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1 A. I, I looked around the neighborhood, and there was
2 nothing really usable that's pointed at the incident
3 location too well.

4 A. Okay. Other than speaking to -- other than what
5 happened on the night, October 29th -- and you did a
6 follow-up meeting with the Ballentines, correct, and
7 then ---

8 A. Yes.

9 Q. --- you then went out to take some pictures?

10 A. Yes, sir.

11 Q. What else did your investigation consist of?

12 A. Not a whole lot at that point. The defendant did not
13 wish to really speak with me on scene after given his
14 Miranda. So, at that point I had to go with what I had,
15 which was what was presented to me by the other officers on
16 scene, as well as the victim/witnesses.

17 Q. Did you ever listen to the 911 call?

18 A. Not before today. I've read the dispatch notes, but
19 not the actual audio.

20 Q. Okay. Did you -- you heard it today when we played it
21 during opening statement?

22 A. I did.

23 Q. And that's your first time listening to it?

24 A. Yes, sir.

25 Q. Did you hear in that 9-1 call, I guess the, the, the

A. GRILL - CROSS-EXAMINATION BY MR. SNELL

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1 period of time that the -- Mr. Ballentine said that the
2 suspect left the backyard and went to the front yard?

3 A. I did.

4 Q. And he lost track of him?

5 A. Yes, sir.

6 Q. And you agree with me that was about three minutes,
7 give or take a few seconds, before Deputy Peeples arrived
8 on scene?

9 A. Probably a few minutes.

10 Q. So, you agree with me there's that three minute chunk
11 of time that nobody knows where the person in the backyard
12 was?

13 A. I don't know the exact time but, yeah, there was a
14 portion of time.

15 Q. Okay. Was that something you were aware of before
16 today listening to the 911 call?

17 A. To my knowledge, I believe I thought it was a much
18 closer timeframe at the time because, as Deputy Peeples
19 testified earlier, he saw him coming around the side of the
20 house so that I assumed it was a much closer window than
21 three minutes.

22 Q. But you agree with me in listening to the 9-1 call it
23 was about three minutes?

24 A. Give or take, yes.

25 Q. And was any of the -- were you the officer that went

A. GRILL - CROSS-EXAMINATION BY MR. SNELL

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1 through Chase's or Mr. Milam's bag?

2 A. I did not, no.

3 Q. Okay, because somebody, to the best of your knowledge,
4 somebody did go through the book bag, correct?

5 A. Yes, sir.

6 Q. Or should have?

7 A. Should have, yes.

8 Q. Was there anything that Mr. Milam had that was from
9 this house, the [REDACTED] Koulter Avenue -- or Koulter Drive
10 address?

11 A. To my knowledge, no, but he was apprehended shortly
12 after the person was seen going under the house. So, I
13 don't believe they had time to get anything.

14 Q. Well, he -- now, whoever -- what, what -- was the --
15 Ballentines saw had a flashlight and was under that house.

16 A. Uh-huh.

17 Q. And there were all kind of tools and, I think, a
18 generator and equipment and all kind of things under there,
19 correct?

20 A. Yeah. Those are large objects.

21 Q. And also know that there had been a burglary or a
22 break-in at that house the day before, correct?

23 A. Yes, sir.

24 Q. When you went out there on the 29th, was there any
25 kind of damage where somebody had tried to re-break in the

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1 -- into the main living area?

2 A. Aside from what has already ---

3 Q. Yeah.

4 A. --- from the day before? I, I personally don't know
5 if there was anything.

6 Q. I mean, you would -- so, at some point you would have
7 walked around and looked at the front door and, and
8 everywhere else to look to see if there were signs of
9 another break-in?

10 A. I mean, the house is pretty worn, so it would be hard
11 to see if something's new. But I do believe the front door
12 and -- was still locked and the side door was still locked.

13 Q. All right, and, and was -- so, I -- just make sure
14 I've got it. I mean, because I think on the video, Chase
15 had -- I believe it's on the video -- discussed having
16 those hair bows and a glass jar. Did you examine those
17 items or review them?

18 A. I've only seen the glass jar which was in evidence,
19 and when we reviewed it for the case. That's all I've ever
20 seen it. I didn't know of any hair bows or...

21 Q. Okay, but -- and it's, it's -- you were never able to
22 determine where those items came from or where the glass
23 jar came from?

24 A. No. It was an old, like, Avon beauty supply, like,
25 glass jar.

A. GRILL - CROSS-EXAMINATION BY MR. SNELL

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1 Q. Okay, and did, did you recall Chase telling you that
2 that came from that dumpster?

3 A. I don't recall that, no, sir, but it's possible he
4 said that.

5 Q. And that's the only story Chase gave you was he was in
6 the dumpster?

7 A. To my recollection, yeah. I would have to review my
8 notes, but I believe that was his story. That's all he
9 would say to me that evening.

10 Q. All right, and would -- let me ask you this. Was
11 there a very good effort made to look around the ground and
12 the surrounding areas where -- you know, this yard, the
13 neighbor's yard where all this happened, was there a good
14 effort made by the sheriff's department to do that?

15 A. In regards to?

16 Q. Well, I knew that the -- we have the [REDACTED] Koulter
17 Drive address.

18 A. Uh-huh.

19 Q. And we know that Chase was called -- chased through
20 one neighbor's yard into the second neighbor and where he
21 was apprehended or taken, correct?

22 A. Yes, sir.

23 Q. Did the sheriff's department ever go out there and
24 look around to see if there was anything on the ground or
25 anything, you know, that would have been dropped or, or

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1 discarded?

2 A. I'm fairly certain Deputy Peeples eventually at some
3 point walked me on the path in which -- and that we didn't
4 locate anything.

5 MR. SNELL: All right, I've got no further questions.
6 Thank you so much.

7 WITNESS: Thank you, sir.

8 THE COURT: Any redirect?

9 MR. SCOTT: None, Your Honor.

10 THE COURT: All right. Thank you. You may step down,
11 please.

12 WITNESS: Thank you.

13 (THE WITNESS EXITS THE STAND.)

14 THE COURT: Call your next witness.

15 MR. SCOTT: Your Honor, the state rests.

16 THE COURT: All right, ladies and gentlemen of the
17 jury, you've heard all of the evidence you are going to
18 hear from the state. What remains is the defendant's case,
19 if they choose to present a case, but there are certain
20 matters of law that I need to discuss with the attorneys
21 outside of your presence. So, please return to the jury
22 room. Don't discuss the case amongst yourselves. We'll
23 bring you back soon.

24 (THE JURY EXITS AT 1:59 PM.)

25 THE COURT: All right, any motions?

1 MR. SNELL: Your Honor, at this time we make a motion
2 for a directed verdict, and taken in the light presented --
3 taken in the light most favorable, the state fails to meet
4 the necessary elements to the two offenses, and we move for
5 directed verdict on that ground.

6 THE COURT: Motions are respectfully denied. Anything
7 -- any further motions?

8 MR. SNELL: No further motions at this time, and just
9 if I may? I think we're going to put -- have two
10 witnesses.

11 THE COURT: Okay.

12 MR. SNELL: The state's asked, and Mr. Milam has
13 agreed to voluntarily give his information so they can run
14 a background check on him.

15 THE COURT: Okay. Yes.

16 MR. SNELL: Which we're happy -- he, he said he's
17 happy to do it. So, he's -- if he -- willing to do it.
18 I'm going to hand -- they're going to, I think, run it and
19 then I think they're going to tell me if there's anything
20 on it that would be relevant to him. But -- and then other
21 than that, the defendant, I believe, has advised me he's
22 going to testify.

23 THE COURT: All right. Let me go ahead and advise
24 him, though.

25 Mr. Milam, would you stand?

1 Place him under oath.

2 (WHEREUPON, THE DEFENDANT IS DULY SWORN.)

3 THE COURT: All right, Chase Milam, at this time I am
4 going to explain to you your rights. If you do not
5 understand anything I say, please let me know. If you want
6 me to explain anything in more detail, please let me know.
7 Do you understand?

8 DEFENDANT: Yes, ma'am.

9 THE COURT: We have now reached the stage of the trial
10 where you may present your defense. You have the right to
11 claim the protections given to you by the Fifth Amendment
12 to the Constitution of the United States. This amendment
13 states in part: No person shall be compelled in any
14 criminal case to be a witness against himself. This means
15 that you cannot be required to testify in this case. You
16 have the right to testify on your own behalf; however, no
17 one can make you testify. This is a personal right and no
18 one can waive this right except you.

19 If you decide to testify, you will be subject to the
20 same rules that govern other witnesses, and you may be
21 examined and cross-examined on any relevant issue in this
22 case. In addition, if you have any convictions involving
23 dishonesty or false statement or for crimes punishable by
24 imprisonment for more than one year and the court
25 determines that the probative value of admitting this

1 evidence outweighs its prejudicial effect to you, the
2 solicitor will be able to introduce your record to attack
3 your credibility.

4 If you decide to testify, this decision on your part
5 must be freely, voluntarily, and intelligently made, with
6 knowledge of the protections given to you by the Fifth
7 Amendment and the consequences of your decision to testify.

8 If you decide not to testify, I will instruct the jury
9 that they cannot give the fact that you did not testify any
10 consideration whatsoever, and that there is to be no
11 prejudice to you because you did not testify.

12 It is left entirely up to you whether or not you
13 testify. You may talk to your attorney, your family and
14 friends, or anyone else, but the final decision would be
15 left entirely up to you.

16 Do you understand what I have explained to you?

17 DEFENDANT: Yes, ma'am.

18 THE COURT: Do you have any questions about what I
19 have explained to you?

20 DEFENDANT: No, ma'am.

21 THE COURT: All right. Do you need additional time to
22 talk to your lawyer or family or friends about whether you
23 should testify?

24 DEFENDANT: No, ma'am.

25 THE COURT: Do you wish to testify?

1 DEFENDANT: Yes, ma'am.

2 THE COURT: Okay. You may have a seat.

3 So, do we need to talk about Mr. Milam's record? Is
4 there anything?

5 MR. SCOTT: Your Honor, I'm showing a December 20,
6 2017, conviction for shoplift out of Kershaw; clearly it
7 doesn't carry a year or more, but I believe that's a crime
8 of dishonesty. Petit larceny from January 29, 2019.
9 Likewise a thirty-day misdemeanor, likewise a crime of
10 dishonesty. July 10th of 2019 out of Lexington, he has a
11 petit larceny enhanced. That carries, of course, up to ten
12 years. I find that highly relevant, highly probative to a
13 state's case where he is alleged to have gone to [REDACTED]
14 Koulter with intent to commit a burglary. So, a pattern
15 and a history of theft and thievery, I believe, is
16 probative. And we'll see how his testimony goes to how
17 that -- how we use those convictions.

18 THE COURT: What's the defense's position on
19 introducing those three convictions?

20 MR. SNELL: Your Honor, we contend that the
21 prejudicial value obviously outweighs anything probative
22 and do not believe that the state should be allowed to
23 introduce those or impeach the defendant with them.

24 THE COURT: I will allow questions about the three
25 convictions over the defendant's objection. I find that

1 the prejudicial effect to the defendant does not outweigh
2 the probative value, and that they are not the same crime
3 charged. I understand how that can be a slippery slope,
4 but they are certainly crimes involving dishonesty and are
5 appropriate for purposes of attacking the witness's -- the
6 defendant's credibility. So, they will be permitted over
7 defendant's objection.

8 That's a 2017 shoplifting, a 2019 petit larceny, and a
9 2019 petit larceny under the property crime enhancement,
10 correct?

11 MR. SCOTT: Correct, Your Honor.

12 THE COURT: Okay.

13 All righty, Mr. Snell, do you intend to call your
14 client first, second, third?

15 MR. SNELL: Judge, I was going to tell you that just
16 -- I was planning on calling him second.

17 THE COURT: Okay.

18 MR. SNELL: And then I also -- it's our defense
19 exhibit, which is that 911 call, and I know I'm going to
20 publish it, and then that's going to be -- I, I anticipate
21 at this point, just scheduling process, that will be our
22 case. So, Ray Milam first and then Chase.

23 THE COURT: Okay.

24 MR. SNELL: Now, I guess, I guess -- and just so I
25 know, just so I'm aware, I know he's, he's got his legs

1 restrained and I...

2 THE COURT: That's why I was asking. So, what I want
3 to do -- because I assume his dad will be a short witness.

4 MR. SNELL: Yes, Your Honor.

5 THE COURT: So, we're going to take a break now so
6 that the state can run Dad's rap sheet and we can discuss
7 that. We'll break for ten minutes or so and come back.

8 When we begin, right before we bring the jury back in,
9 I want to go ahead and unshackle the defendant so that he
10 can walk from the counsel table to the witness stand
11 without, of course, the shackles being seen by the jury and
12 without having to take another break and send the jury back
13 out. So -- because his dad will be a short one, and so I
14 think it will only be a short time that he's sitting there
15 without the shackles. And, of course, you know you're
16 welcome to sit where you are right near him, and if more
17 security needs to come in, that's fine, too.

18 MR. SNELL: Okay.

19 THE COURT: I wouldn't want any more than two officers
20 sitting behind him as you are now. If someone needs to be
21 at the door or, you know, at the other entrances, that's
22 fine. So, we will keep him restrained for now, but once I
23 come back in and we talk about whether Dad has a record,
24 you can unshackle him at that time and proceed from there.

25 Let's take a ten minute break.

1 (OFF THE RECORD.)

2 THE COURT: All right. All right, everybody is
3 present and ready. Do we need to discuss anything with
4 respect to Ray Milam?

5 MR. SCOTT: No, Your Honor, we don't.

6 THE COURT: Okay. Anything before we bring the jury?
7 No? From the state?

8 MR. SCOTT: Nothing from the state.

9 THE COURT: From the defense?

10 MR. SNELL: Nothing from defense.

11 THE COURT: Okay. If Mr. Chase Milam has not been
12 unshackled yet, if we could go ahead and do that? He's
13 good to go? Okay. Wonderful.

14 Bring the jury, please.

15 (THE JURY ENTERS AT 2:30 PM.)

16 THE COURT: All right, as I said, it is now time for
17 the defense to present their case. Please give Mr. Snell
18 your undivided attention.

19 Call your first witness, sir.

20 MR. SNELL: Your Honor, we call Ray Milam.

21 THE COURT: Mr. Milam, come around, please, and be
22 sworn.

23 RAY MILAM, BEING DULY SWORN,

24 TESTIFIES AS FOLLOWS:

25 CLERK: Please have a seat. State your full name for

R. MILAM - DIRECT EXAMINATION BY MR. SNELL

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1 the record.

2 WITNESS: Ray Milam

3 DIRECT EXAMINATION BY MR. SNELL:

4 Q. Mr. Milam, first of all, what is your relationship to
5 Chase Milam?

6 A. He's my son.

7 Q. Do you love him?

8 A. Very much.

9 Q. Do you want him to be found not guilty?

10 A. Of course.

11 Q. But are -- is any of that going to change your
12 testimony?

13 A. Not at all.

14 Q. Where do you live?

15 A. [REDACTED] Omarest Drive, Columbia.

16 THE COURT: I need you to hold on. You speak a little
17 fast. First off, I need you to lean forward into that
18 microphone, but also we didn't catch that street.

19 A. [REDACTED] Omarest Drive.

20 Q. Could you spell that Omarest for us?

21 A. O-m-a-r-e-s-t Drive.

22 Q. And if you slow down speaking to make sure --- the
23 court reporter ---

24 A. I'm sorry.

25 Q. --- has to, has to hear everything. Okay, how close

R. MILAM - DIRECT EXAMINATION BY MR. SNELL

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1 is your house from [REDACTED] Koulter Drive?

2 A. Maybe a half a mile.

3 Q. Walking distance?

4 A. Oh, yeah.

5 Q. Back on -- back in October, specifically October 29th
6 of 2020, okay, who was living or staying at your house?

7 A. Well, myself; Chase; his girlfriend at the time,
8 Adrian; and Chad Harper had been staying for about three or
9 four days.

10 Q. On the evening of October 29th.

11 A. Uh-huh.

12 Q. Were you present when Chase left?

13 A. Yes.

14 Q. What -- approximately what time did he leave?

15 A. I'm not really sure on the time. It was around 10:00,
16 I believe.

17 Q. Was that AM or PM?

18 A. PM.

19 Q. What was he -- do you know what he was leaving to do?

20 A. They told me they were going dumpster diving.

21 Q. Okay. Did anyone leave with him?

22 A. Chad Harper did.

23 Q. Okay. Is that something you know for, for a fact?

24 A. Yes.

25 Q. Okay.

R. MILAM - DIRECT EXAMINATION BY MR. SNELL

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1 A. I saw them walk out together and walk down the street.

2 Q. What was Chase, if you know -- do you remember what
3 Chase was wearing?

4 A. No, not particularly. Just jeans and a T-shirt, I
5 believe.

6 Q. Okay. Do you remember what Chad was wearing?

7 A. I believe because he got -- he asked to borrow it. It
8 was, like, a jumper-type outfit, coveralls outfit.

9 Q. Okay.

10 A. It had a hood on it.

11 Q. Was it, was it unusual for Chase to go through
12 dumpsters?

13 A. No. He did it all the time.

14 Q. Why did he do that?

15 A. Because he could find things that were broke, find
16 things that were broke and fix them and repair them.

17 Q. Now, did -- so, how many days had Chad been staying
18 there before October 29th?

19 A. About four, three or four.

20 Q. How many days after October 29th did he ---

21 A. He didn't ---

22 Q. --- continue to stay there?

23 A. --- come back. He got somebody to pick him up and
24 left.

25 Q. When did you find out that Chase had been arrested and

1 accused of, of this crime?

2 A. When Chad came back and told me. Chad Harper came
3 back and told us.

4 THE COURT: Can you -- okay, we're having trouble
5 understanding again. If you'll lean in ---

6 A. Chad Harper came back and told us. My throat's
7 scratchy.

8 Q. Now, you were at your house this entire evening?

9 A. Yes.

10 Q. Okay. So, you did not go to [REDACTED] Koulter at any point
11 and actually ---

12 A. No.

13 Q. You personally didn't see what happened?

14 A. No.

15 Q. Okay.

16 MR. SNELL: Thank you. No other questions.

17 WITNESS: Okay.

18 THE COURT: Any cross-examination?

19 CROSS-EXAMINATION BY MS. WEST:

20 Q. Mr. Milam.

21 A. Yes.

22 Q. You said that Chase is your son?

23 A. Yes.

24 Q. And you love him very much?

25 A. Oh, yeah.

R. MILAM - CROSS-EXAMINATION BY MS. WEST

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1 Q. You wouldn't want to see him found guilty?

2 A. Of course not.

3 Q. You said that Chad Harper had been at your house for
4 three or four days, and he never came back after this
5 night?

6 A. He came back and then he got somebody to pick him up.

7 Q. Okay. Did you ever tell anybody at the sheriff's
8 department that Chad Harper had been there that night?

9 A. They never questioned me about anything.

10 Q. Did you ever ---

11 A. Nobody ever questioned me at all.

12 Q. --- call them?

13 A. No.

14 Q. You didn't think it would be relevant to the case?

15 A. Well, yeah, but Chase was scared to death of Chad, to
16 be honest. He's scared to death he was going to hurt him
17 or something.

18 Q. Okay, but ---

19 A. So, I was looking after Chase.

20 Q. You know, you thought this was relevant and you
21 thought this could help your son out, but you never thought
22 to call the sheriff's department?

23 A. No. They, they never talked to me. I never talked to
24 them.

25 Q. Okay. So, even though it could have helped him out,

R. MILAM - CROSS-EXAM / C. MILAM - DIRECT EXAM

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1 you just never thought it was necessary to call and let
2 them know this other guy had been there?

3 A. No. I mean, no. I didn't think of that, think of it.

4 MS. WEST: All right. Thank you. I have no further

5 ---

6 A. I doubt I'd ---

7 MS. WEST: --- questions.

8 A. --- be able to change them about it, you know?

9 MS. WEST: Thank you.

10 THE COURT: Anything further from this witness?

11 MR. SNELL: No other questions, Your Honor.

12 THE COURT: Okay. Thank you. You may step down.

13 (THE WITNESS EXITS THE STAND.)

14 THE COURT: Call your next witness.

15 MR. SNELL: We call Chase Milam.

16 THE COURT: Mr. Milam, come around and be sworn.

17 CHASE MICHAEL MILAM, BEING DULY

18 SWORN, TESTIFIES AS FOLLOWS:

19 CLERK: Please have a seat. State your full name for
20 the record.

21 WITNESS: Chase Milam. Chase Milam.

22 DIRECT EXAMINATION BY MR. SNELL:

23 Q. So, Mr. Milam, and you go by Chase?

24 A. Yes, sir.

25 Q. Well, first of all, Chase, how old are you?

C. MILAM - DIRECT EXAMINATION BY MR. SNELL

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1 A. Twenty-eight.

2 Q. Where are you from?

3 A. Colombia. Well, Irmo originally.

4 Q. How far did you go in school?

5 A. To college.

6 Q. Well, what, what kind of college?

7 A. Heating and air school.

8 Q. And back in October 29, 2020, okay, where were you
9 living?

10 A. At my dad's house, 1624 Omarest Drive.

11 Q. Okay. How long had you been living there?

12 A. About two or three years.

13 Q. Who else was living there?

14 A. My dad and ex-girlfriend, Adrian.

15 Q. Okay.

16 A. Well, she was my girlfriend at the time, but she's my
17 ex now, and Chad was visiting.

18 Q. Was -- had Chad been spending the night?

19 A. Yeah.

20 Q. How did you know Chad?

21 A. He was my ex's friend.

22 MR. SCOTT: Repeat.

23 A. He was my ex Adrian's friend, and Adrian was my
24 girlfriend at the time that lived there with us.

25 Q. All right. Now, so, first of all this. At any point,

C. MILAM - DIRECT EXAMINATION BY MR. SNELL

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1 have you been inside [REDACTED] Koulter Drive?

2 A. No.

3 Q. That house?

4 A. No.

5 Q. You've been under the house?

6 A. No.

7 Q. Did you open up any of the doors?

8 A. No.

9 Q. You ever touch the house?

10 A. No.

11 Q. Okay. Are, are you the one that was in the backyard
12 with the flashlight?

13 A. No.

14 Q. Okay. Are you guilty of this burglary?

15 A. No.

16 Q. You -- is that screwdriver to help you break into
17 houses?

18 A. No.

19 Q. Or any part of the burglary?

20 A. No.

21 Q. All right. What were you -- what was your plan when
22 you left the house on October 29th?

23 A. You want me to tell you, like, everything that
24 happened?

25 Q. Well, let's -- what were you planning on doing?

C. MILAM - DIRECT EXAMINATION BY MR. SNELL

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1 A. I was planning on going around the neighborhood to see
2 if there was trash in my neighborhood, and I was going to
3 go around and see if there was anything I could fix and
4 sell.

5 Q. And, Chase, I'm going to ask you to slow down a little
6 bit, okay, just ---

7 A. I'm sorry. I get really bad stage fright.

8 Q. That's okay, and I'm going to try to ask you just one
9 question at a time.

10 A. Uh-huh.

11 Q. So the court reporter has time to record.

12 A. Okay.

13 Q. All right? And, and so I'm going to ask you again.
14 What was your plan when you left the house on the 29th?

15 A. To go around the neighborhood and see if there was
16 anything I could find or sell because it was trash night.

17 Q. Why would you be doing that?

18 A. Because it was, it was my temporary source of income
19 at the time because the things that I, that I fixed and
20 sold, I made money off of them at the pawnshops and just...

21 Q. Now, were you -- you said you were looking because it
22 was trash day?

23 A. Right.

24 Q. Were you looking for things people were throwing away?

25 A. Yes.

C. MILAM - DIRECT EXAMINATION BY MR. SNELL

143

1 Q. Now, have you ever been in trouble for, for larceny or
2 things like that?

3 A. Yes.

4 Q. I understand that, and did you have a conviction for
5 shoplifting in, in 2017?

6 A. Yes, pled guilty.

7 Q. Do you have a misdemeanor larceny in '18?

8 A. Yes, and pled guilty.

9 Q. And another one in 2019?

10 A. Yes. Pled guilty.

11 Q. Okay. Now, even though you've had that experiences,
12 you still going to be here telling the truth about this?

13 A. Yes, sir.

14 Q. All right. Who, who -- did anybody leave with you
15 when you left to go on trash day?

16 A. Yes, Chad did.

17 Q. How did y'all leave?

18 A. We walked.

19 Q. How long did it take you to walk to [REDACTED] Koulter?

20 A. Maybe ten or fifteen minutes because we were stopping
21 and checking in trash cans to see if there was anything
22 else we could find.

23 Q. Did you find anything else on your way? Before you
24 got to the house, did you find anything else?

25 A. No.

C. MILAM - DIRECT EXAMINATION BY MR. SNELL

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1 Q. Okay. When you got to the house, to [REDACTED] Koulter,
2 what did you do?

3 A. I had used my screwdriver to open the door on the
4 dumpster. Went, went inside the dumpster. I noticed Chad
5 wasn't with me all of a sudden. I didn't pay it no mind,
6 and a few minutes later I heard a car door. I peeked over
7 the side of the dumpster and saw the cop, and I panicked.
8 I took off running out of the dumpster into the neighbor's
9 backyard, and I tried to jump the fence, but it was taller
10 than I thought, and I fell on -- I was going to say a cuss
11 word, but I busted my butt going over the fence. And I
12 looked over, and I thought I saw someone standing there
13 pointing a shotgun at me, and I got scared for my life and
14 took off running across the backyard, out of the backyard,
15 into the following neighbor's driveway, where I gave up and
16 realized I was running for no reason because I didn't do
17 anything wrong.

18 Q. When -- okay, any point did you go into the back of
19 the house?

20 A. No.

21 Q. Did you -- to get -- how did you get into the
22 dumpster?

23 A. I used my screwdriver to open the door on it.

24 Q. Is that the ---

25 A. Yes.

1 Q. I'm showing you what's marked as State's Exhibit 8.

2 Is that what you used?

3 A. Yes.

4 Q. Did you find anything in the dumpster? Was there
5 anything you picked up or collected?

6 A. I found a pack of hair bows that I was going to give
7 to my girlfriend and a little glass jar that I thought was
8 cool looking.

9 Q. Did you have both those -- what -- how -- did you, did
10 you have both those items with you when the police got you?

11 A. Yes. They were in my backpack.

12 Q. Did you have a flashlight?

13 A. Yes.

14 Q. Did you ever turn the flashlight on at that, at that
15 address?

16 A. While I was in the dumpster, yeah.

17 Q. Okay. When you came out of the dumpster, did you have
18 it on or off?

19 A. Off.

20 Q. Did you ever have a chance to -- did you tell -- did
21 the police ask you what you were doing?

22 A. No, but I went ahead and told him that I was just in
23 the dumpster.

24 Q. Have you ever told anybody anything different?

25 A. No.

C. MILAM - DIRECT EXAMINATION BY MR. SNELL

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1 Q. When was the last time you saw Chad?

2 A. When we walked into the dumpster. I haven't seen him
3 since.

4 Q. So, I want, I want to try to understand. When, when
5 you were in the dumpster, did you hear any noises? First
6 of all, did you know anybody was in the backyard?

7 A. No.

8 Q. Okay. When the -- when you heard the deputy get
9 there, that's when you said you got up and, and ran?

10 A. I checked over the side of the dumpster and I saw it
11 was a cop, and that's when I took off running out of the
12 dumpster.

13 Q. Was the, was the dumpster, that, that side door, was
14 it open or closed at that point?

15 A. Open.

16 Q. So, did you have to -- did you run through that
17 opening, or did you climb over the wall?

18 A. Through the opening.

19 Q. All right. We, we saw the video at the beginning that
20 had -- Deputy Peeples recorded when he first arrived. Do
21 you remember seeing that?

22 A. Yes.

23 Q. Was that you in the beginning of that video?

24 A. The person running?

25 Q. Yes.

C. MILAM - DIRECT EXAMINATION BY MR. SNELL

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1 A. Yes.

2 Q. Okay. What were you wearing?

3 A. I was wearing a gray T-shirt, blue jeans, and I think
4 black shoes.

5 Q. Did you have the backpack?

6 A. Yes.

7 Q. How were you wearing the backpack?

8 A. Just like normal, on my shoulders.

9 Q. And, and again, have -- did you ever try to open the
10 door of this house?

11 A. No.

12 Q. Did you, did you go -- even try to check out or
13 explore the bottom of the house?

14 A. No.

15 Q. And ever walk around the back with the flashlight
16 looking for anything?

17 A. Never.

18 Q. And I understand you don't, you don't know for certain
19 who that was.

20 A. Right.

21 Q. But you definitely know it wasn't you?

22 A. Right.

23 MR. SNELL: Thank you. I got no other questions.
24 Thank you so much.

25 THE COURT: Cross-examination?

C. MILAM - CROSS-EXAMINATION BY MR. SCOTT

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1 MR. SCOTT: Thank you, Your Honor.

2 CROSS-EXAMINATION BY MR. SCOTT:

3 Q. All right, Chase, let's go back to October 29th. You
4 were twenty-seven years old at the time or twenty-eight?

5 A. I was twenty-seven.

6 Q. And, of course, you had your high school diploma?

7 A. Yes.

8 Q. Had some college education?

9 A. Yes.

10 Q. What were you doing for a living at that time?

11 A. I, I didn't have a job at the time.

12 Q. Why not?

13 A. Because I had -- I got a DUI when I was younger, and
14 heating and air jobs require you to drive a company truck,
15 and my, my insurance is really expensive to, to do that,
16 and it was hard for me to find a job.

17 Q. How long had you been unemployed at that time?

18 A. About two years.

19 Q. All right, and so you were living with your father and
20 Adrian, your girlfriend, was living there, too?

21 A. Yes.

22 Q. Where is Adrian today?

23 A. I'm not sure. Far as I know, she's in Red Bank
24 somewhere.

25 Q. In Red Bank somewhere?

C. MILAM - CROSS-EXAMINATION BY MR. SCOTT

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1 A. Yes, sir.

2 Q. Hm. So, we're not going -- she's not here?

3 A. No.

4 Q. Chad Harper was staying with you, too?

5 A. Sure.

6 Q. Why was he staying with you?

7 A. He didn't have anywhere else to go.

8 Q. Okay.

9 A. And we were just being nice for a few days.

10 Q. And he was from Red Bank?

11 A. I believe so.

12 Q. How did he get to your house?

13 A. He was dropped off by someone.

14 Q. Who was that?

15 A. I'm not sure.

16 Q. Where's Chad Harper today?

17 A. I have no clue. I've had, I've had no contact with
18 him since that day in the dumpster.

19 Q. Okay. What did you talk about in the dumpster?

20 A. What do you mean?

21 Q. What did you and Chad talk about while you were in the
22 dumpster together?

23 A. Just what we could find, what was in there.

24 Q. Okay, and so was that something you and Chad were
25 accustomed to doing, walking around at night and looking in

C. MILAM - CROSS-EXAMINATION BY MR. SCOTT

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1 people's trash cans?

2 A. That's what I did. Every single trash night in my
3 neighborhood I did it, every ---

4 Q. Every single trash night?

5 A. Every Sunday night.

6 Q. Okay. Sunday is trash night?

7 A. Yes, sir.

8 Q. Okay. Did you ever look at the calendar and realize
9 this was a Thursday night?

10 A. I did not.

11 Q. Okay. So, it wasn't trash night.

12 A. I guess not. I thought it was.

13 Q. Huh.

14 A. Hm.

15 Q. Okay. So, then we need to think back, and I guess we
16 weren't going around looking in trash cans that night.

17 A. I thought I was.

18 Q. You thought you were?

19 A. I thought it was trash night that night, but it was a
20 year ago and...

21 Q. Could you have been wrong about that?

22 A. I could have.

23 Q. Okay. So, maybe you were up to something else?

24 A. No, sir.

25 Q. Well, tell the jury. How were you hunting around

C. MILAM - CROSS-EXAMINATION BY MR. SCOTT

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1 trash cans on trash night when this was a Thursday, and you
2 said trash day was Sunday where you put the trash out
3 Sunday for a Monday pickup.

4 A. I'm mistaken on that.

5 Q. What are you mistaken on?

6 A. That it wasn't trash night.

7 Q. Okay. Well, help me out. Why are we -- well, why
8 that night, the night after this home had been burglarized,
9 did you decide to go out 11:00 at night, a bandanna around
10 your neck, a 2-foot long screwdriver in your pocket, a
11 flashlight on you, why did you decide to walk half a mile
12 from your house go to [REDACTED] Koulter?

13 A. To see what was in the dumpster.

14 Q. Okay. So, that was your main target. You weren't
15 looking at other trash cans, were you?

16 A. Right.

17 Q. Okay. Why did you tell your lawyer that just a minute
18 ago?

19 A. Because I really thought it was trash night. I'm
20 mistaken on that. It was a year ago and...

21 Q. Well, your dad remembered what Chad Harper was wearing
22 a year ago, but you don't remember what happened with you
23 that night?

24 A. What do you mean?

25 Q. What was Chad Harper wearing that night?

C. MILAM - CROSS-EXAMINATION BY MR. SCOTT

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1 A. I'm not sure.

2 Q. Okay.

3 A. I don't remember.

4 Q. But your testimony was the two of you left. Said
5 goodbye to your dad. Did you tell Adrian what you were
6 doing?

7 A. Yes.

8 Q. Okay, and did she say that sounds like a good idea,
9 going in other people's yards and looking through their
10 stuff?

11 A. She didn't really have anything to say about it.

12 Q. Okay, but your testimony is you used that screwdriver
13 that you took from your house, put in your waistband after
14 you tied the bandanna around your neck, after you put the
15 flashlight in your pocket, and you went to [REDACTED] Koulter,
16 and you used that to pry open a dumpster?

17 A. Yes, sir.

18 Q. Why did you pry open a dumpster when it's open top?

19 A. Because it was easier access.

20 Q. Why did you pry open a dumpster when it had a latch on
21 it that opens up?

22 A. You had to pry it open to get it open.

23 Q. Okay. Is that why you take that with you, to break
24 into things that are locked?

25 A. No, sir.

C. MILAM - CROSS-EXAMINATION BY MR. SCOTT

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1 Q. Is that how you used it that night?

2 A. Didn't, no, sir. Not locked.

3 Q. Well, you just testified you used that to pry it open.

4 A. It was -- it wasn't locked.

5 Q. Why did you use it to pry it open?

6 A. Because the door was heavy.

7 Q. Okay. Why not just crawl over the top side of it?

8 A. Because it was 8 foot tall.

9 Q. That's an 8 foot tall dumpster? You want to watch
10 those videos again where the deputy walks by it?

11 A. We can.

12 (WHEREUPON, EXCERPT OF UNIDENTIFIED STATE'S EXHIBIT IS
13 PLAYED FOR THE COURT. AUDIO IS NOT TRANSCRIBED.)

14 Q. Your testimony is that's 8 feet?

15 A. I mean, I'm not a hundred percent sure it's 8 foot.

16 Q. 8 foot's up here, right?

17 A. Yeah. It looks like she was holding her flashlight up
18 in the air.

19 Q. 8 foot's up here, right?

20 A. Right.

21 Q. I'm over ---

22 A. Something like that.

23 Q. --- 6 feet tall, so somewhere up in here?

24 A. I don't know if ---

25 Q. Testimony is ---

C. MILAM - CROSS-EXAMINATION BY MR. SCOTT

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1 A. --- it's 8 foot exactly, but it was tall enough to
2 where you had to climb up over it to get into it.

3 Q. Well, it sounds like you jumped that neighbor's fence
4 like it wasn't any problem. You can't climb over that?
5 You got to pry the door open with a screwdriver?

6 A. I did have a problem jumping that fence. I fell and
7 tripped over the fence trying to jump ---

8 Q. You ---

9 A. --- over it.

10 Q. --- ran through the yard right after that, right?

11 A. Right.

12 Q. Why were you running anyway?

13 A. Because I just panicked, and I didn't know what to do.

14 Q. So, you knew you weren't supposed to be on that
15 property then, right? You knew you were doing something
16 you weren't supposed to be doing, right?

17 A. Seeing the cop car made me think that, and that's why
18 I panicked and ran.

19 Q. Would you agree with me that at the very least, it's
20 suspicious to be out on a rainy night at 11 o'clock with a
21 mask around your neck, 2-foot long screwdriver, in
22 somebody's yard? Would you agree with me?

23 A. Yeah.

24 Q. I mean, your lawyer just rattled off two, three, three
25 different larcenies you've been involved with.

1 A. Two.

2 Q. I see a shoplift from 2017. That means you stole
3 something from a store, right?

4 A. Right.

5 Q. And then a petit -- that was out of Kershaw. Petit
6 larceny out of Richland. That means you stole something
7 that didn't belong to you?

8 A. Right.

9 Q. And then another petit larceny from 2019 out of
10 Lexington County. So, that's three different counties,
11 three different theft charges that you've been involved
12 with, and you're college educated. Why, why didn't you
13 learn your lesson?

14 A. I did learn my lesson.

15 Q. Well, why are you out here running from the police on
16 somebody else's property that night?

17 A. Because I panicked. I wasn't sure if it was legal to
18 be in that dumpster or not.

19 Q. Okay, and you learned your lesson that night?

20 A. I, I didn't do anything wrong to learn a lesson.

21 Q. So, you think you're okay being on somebody else's
22 property taking things?

23 A. Not if you put it that way, but it is okay to take
24 things out of a dumpster that people throw away, right?

25 Q. I don't know because after you bonded out, you were

C. MILAM - CROSS-EXAMINATION BY MR. SCOTT

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1 back on that property ---

2 MR. SNELL: Objection, Your Honor.

3 THE COURT: Y'all approach.

4 (OFF-THE-RECORD BENCH CONFERENCE.)

5 THE COURT: Ladies and gentlemen, I have a matter of
6 law to discuss with the attorneys outside of your presence.
7 Please return to the jury room. Don't discuss the case
8 amongst yourselves.

9 (THE JURY EXITS AT 2:57 PM.)

10 THE COURT: I'm sorry. I don't know enough about the
11 circumstances of this case to have been able to rule on
12 this objection.

13 Mr. Snell, tell me your objection.

14 MR. SNELL: Well, Your Honor, and I apologize. I
15 would have, I would have brought this up. I, I thought --
16 my discussion with the state previously was they were not
17 going to bring this up.

18 Mr. Milam was arrested the next day. So, he gets
19 arrested the 29th. He goes back to the same dumpster the
20 next day after he's bonded out, and somebody call -- it's
21 called and reported that he's there, and he is basically
22 found at that -- the same location the next day.

23 THE COURT: Okay.

24 MR. SNELL: Actually, I think that's why he's in
25 custody now because that was a bond violation on something

C. MILAM - CROSS-EXAMINATION BY MR. SCOTT

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1 else and, you know, that's -- I think that's why he's still
2 in custody.

3 THE COURT: Okay, and tell me why that's
4 objectionable. I mean, I understand why the subsequent
5 arrest may be, but his presence at the property.

6 MR. SNELL: Well, certainly I don't know how that's --
7 has -- I, I guess at this point, the jury's heard it. I
8 mean, normally I would say that the prejudicial value
9 outweighs anything probative because -- and it's also --
10 not have -- doesn't have any relevance to this particular
11 incident, what he's accused of, you know? We, we've had --
12 I think, you know, for whatever reason, fortunately or
13 unfortunately, we've had -- the jury's had to hear about
14 this unrelated burglary the night before simply because
15 that's why we got the homeowners in the woods and scoping
16 it out. I don't, I don't think there's any part of the
17 state's case that necessi -- necetates -- makes bringing
18 this -- bring that incident in and, and, and, and that's my
19 objection.

20 I would like to have just a minute and think through
21 it. I think sort of the cat's out of the bag, I guess,
22 with it potentially.

23 THE COURT: Okay.

24 MR. SNELL: But at this point would, would just
25 maintain the objection.

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1 THE COURT: Let me hear from the state.

2 MR. SCOTT: Your Honor, essentially what triggered
3 that was he indicated through testimony that he learned his
4 lesson after that, and two days later he's back on the
5 property. So, clearly the lesson didn't get through.

6 I find it relevant that he says he panicked, but he
7 wasn't doing anything wrong because he, he finds dumpster
8 diving to be a normal activity for just an average civilian
9 on a Thursday night. But why is he running if he's not
10 doing anything wrong, and if he's not doing anything wrong
11 and he's been told not -- he, he's back there two days
12 after he bonds out.

13 So, I don't make up the fact. I just sort of point
14 out what I find to be relevant. I think that just kind of
15 shows the mindset of Chase Milam, and again him indicating
16 he learned his lesson that night tends to open the door to
17 that testimony.

18 THE COURT: My concern is any discussion about a
19 subsequent arrest or violation of bond conditions. The
20 fact that he was there I do not find to be objectionable.
21 I'm just concerned, Mr. Scott, about you going into any
22 circumstances surrounding that. You know, police being
23 called or bond being revoked or conditions of the initial
24 bond or anything like that, I don't think any of that is
25 appropriate.

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1 MR. SCOTT: Certainly, Your Honor. I've been around
2 this block a couple times. I have no intention of doing
3 that. That's why the question was you were back there the
4 -- a couple of days after. It wasn't you were arrested a
5 couple days after.

6 THE COURT: Right.

7 MR. SCOTT: I'm careful with the question, and I, I
8 certainly won't get into any of that.

9 THE COURT: Okay, and so I understand Mr. Snell's
10 objection as to even that part of it, but that portion of
11 the objection is overruled.

12 All right, let's bring the jury, and you may want to
13 ask that question again since the objection -- I mean, I
14 won't tell you what to do. Never mind. Sorry.

15 (THE JURY ENTERS AT 3:03 PM.)

16 THE COURT: So, apparently the alternate and the
17 foreperson have assigned seats; no one else does. So --
18 and honestly I don't know the reason for that, but just to
19 make things simple and to make the bailiffs happy, make
20 sure that the foreperson sits in this front seat in the
21 corner, and the alternate is just the last seat on that
22 back row, the last of the people on the back row.

23 So, just before you stepped out of the courtroom, Mr.
24 Scott had asked a question. In your absence, I have
25 overruled Mr. Snell's objection to that question. So,

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1 we're going to resume with Mr. Scott and his questioning.

2 MR. SCOTT: Thank you, Your Honor.

3 BY MR. SCOTT:

4 Q. Help me and the court understand the mindset of Chase
5 Milam on the October 29th. Why did you have the face mask,
6 the bandanna, around your neck?

7 A. The coronavirus.

8 Q. Okay.

9 THE COURT: I'm sorry. I didn't understand that. Say
10 that again.

11 WITNESS: Because of the coronavirus.

12 BY MR. SCOTT:

13 Q. Okay, and, and was that a concern for you at 11
14 o'clock at night where you're walking around an open-air
15 neighborhood?

16 A. I mean, I, I always wore it if I went outside
17 anywhere.

18 Q. Say that one more time.

19 A. I always wore it if I went outside anywhere.

20 Q. Fair enough. Why did you decide to take an 18 inch
21 screwdriver, this State's Number 8? What did you think
22 you'd need this for?

23 A. To open the dumpster.

24 Q. That specific dumpster?

25 A. Yes.

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1 Q. Had you seen the dumpster earlier?

2 A. Earlier when? Earlier that day?

3 Q. Before you went out there with this screwdriver.

4 A. I saw it a few days before.

5 Q. Okay. Well, what if it was just dropped off the day
6 before?

7 A. I don't -- I didn't think it was.

8 Q. How many days before did you see it?

9 A. I'm not sure.

10 Q. Okay, and did you get out and walk around and look at
11 it and say I'm going to have to bring back a pry bar or
12 maybe a screwdriver to get in this thing?

13 A. No.

14 Q. Well, why did you take the screwdriver that night?

15 A. Because I knew I would need it because I dumpster dive
16 all the time.

17 Q. Okay. Is it, like, a pastime for you?

18 A. No. It's, like, a temporary income.

19 Q. Okay. Now, tell me. Why do you decide to dumpster
20 dive at 10 o'clock on a weeknight? 10 PM, that is.

21 A. No. It's just a spur, spur of the moment thing.

22 Q. A spur of the moment thing? You know, I don't -- why
23 not do it earlier in the day or the next day during the
24 daylight hours where you're not hidden? I mean, you're not
25 working, so it's not like you got a lot of obligations

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1 during the day. Would that have been a better idea?

2 A. Yes.

3 Q. Okay, but you decide to go out at 10:00 and, you know,
4 we see it raining when the deputy gets there and spots you
5 with that flashlight. The rain looks like it's coming down
6 a decent bit. Wouldn't it have been better to dumpster
7 dive during the daylight when it's not raining?

8 A. Yes.

9 Q. Okay, but, but this is because you weren't just
10 dumpster diving, correct?

11 A. What do you mean?

12 Q. You were there for other reasons other than that
13 dumpster, correct?

14 A. No, sir.

15 Q. Because you got the flashlight. You got the
16 screwdriver, and that's very helpful in prying open doors,
17 and, and you run when the police get there. And you say
18 you panicked, but what are you panicking about if you're
19 not doing anything wrong?

20 A. I figured I could have been doing something wrong
21 because the police officer showed up, and why would they
22 show up if I wasn't doing anything wrong?

23 Q. Well, what did you think you were doing wrong?

24 A. I didn't think it was legal to be in that dumpster.

25 Q. You didn't think that was legal?

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1 A. I wasn't sure. I just panicked.

2 Q. Well, you dumpster dive all the time. You haven't
3 done your homework on whether that's legal or illegal?

4 A. No. I've never been in trouble for it before, so.

5 Q. Okay. So, why did you think you were in trouble that
6 night?

7 A. Because the cop showed up out of nowhere. I had no
8 clue why the cop showed up.

9 Q. I guess, I guess my, my question is if, if I have a
10 pastime that I do on a regular basis, wouldn't it be
11 incumbent on me to know whether it was legal or illegal?

12 A. That would be a smart thing.

13 Q. Okay, but you ran because you panicked, and -- but,
14 but what I was saying is you were back on that property
15 three days after you bonded out of jail for this?

16 A. Yes. Officer Peeples told me that it was not illegal
17 to be in the dumpster if they're throwing the stuff away,
18 and I went back to the same dumpster.

19 Q. And you weren't supposed to be there, though, right?

20 A. I wasn't sure.

21 Q. But you weren't supposed to be there, right?

22 A. I mean, after the fact, I do know that.

23 Q. Okay. All right. Is that your testimony, that you
24 never went to the rear of that house?

25 A. Yes.

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1 Q. And, in fact, it was somebody named Chad Harper?

2 A. I'm not a hundred percent sure, but I never went in
3 the back of that house. That's my assumption on -- because
4 I don't know who else could have done it.

5 Q. Okay. Could it have been you?

6 A. No.

7 Q. Is Chad Harper a real person?

8 A. Yes.

9 Q. Is Adrian a real person?

10 A. Yes.

11 Q. But we don't know where they are?

12 A. No.

13 Q. Okay, and that night when -- I mean, we watched
14 Peeples's body camera. He, he asked you a number of times
15 why did you go under the house. They saw you back there.
16 Why did you go under the house, and you said I was dumpster
17 diving. It wasn't me. Well, at what point did you say you
18 know who it was? It could have been Chad Harper. He was
19 here with me just a minute ago.

20 A. I was scared to give up his name because, you know,
21 I'm deathly afraid of him.

22 Q. You're telling them right now Chad Harper did it. Are
23 you not scared of him anymore?

24 A. Not, not when it comes to me getting prison time for
25 something I didn't do.

C. MILAM - CROSS-EXAMINATION BY MR. SCOTT

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1 Q. All right, but leading up to that, I mean, you went to
2 jail for this, didn't you?

3 A. No.

4 Q. You didn't go to jail for this?

5 A. No -- yes.

6 Q. Okay.

7 A. I falsely went to jail for it because I didn't
8 burglarize anything.

9 Q. And that's what I'm saying. You know, you go to jail.
10 Wouldn't it be good to say, Grill, you got the wrong
11 person. Let me help you out here. It's Chad Harper.

12 A. I was scared to give up his name.

13 Q. But you're not anymore?

14 A. Not when it comes down to me getting prison time for
15 something I didn't do.

16 Q. Let me ask you this. I thought of this, too. Who
17 picked Chad Harper up that night?

18 A. I don't know. He was dropped off at my house.

19 Q. And we don't know ---

20 A. Wait, that night? No, he was staying at my house that
21 night. He had been dropped off at my house a few days
22 before.

23 Q. Oh. I thought your dad testified somebody picked him
24 up that night.

25 A. I don't know. I was in jail.

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1 Q. Okay.

2 A. At that time.

3 Q. Okay. Who could that have been that would have known
4 to pick him up?

5 A. I don't have a clue.

6 Q. Okay. Okay. So, your testimony is there was a third
7 person, but have no clue who is -- who it was. Could have
8 been Chad Harper, but we don't have him, or it could have
9 just been an unidentified person. And it is a sheer
10 coincidence that you were caught three minutes after the
11 homeowners who were in the woods, saw a man break into
12 their house, and walk around the front of the house? Three
13 minutes after that, you were nabbed running from the cops
14 in the front yard with an 18 inch long screwdriver in your
15 waist. That's a coincidence?

16 A. I, I don't know, but I was never anywhere but that
17 dumpster.

18 Q. So, your testimony is you were just unlucky to be in
19 that -- the wrong place, the proverbial wrong place at the
20 wrong time?

21 A. Yes, sir.

22 Q. And that's your testimony, and you've taken an oath,
23 and you're telling this jury, you're looking them in the
24 eye and saying that's the truth?

25 A. Yes, sir.

C. MILAM - REDIRECT EXAMINATION BY MR. SNELL

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1 Q. Can you look them in the eye?

2 A. Yes.

3 MR. SCOTT: All right, thank you, Mr. Milam.

4 THE COURT: Any redirect?

5 REDIRECT EXAMINATION BY MR. SNELL:

6 Q. All right, Mr. Milam, make sure I understand. Who --
7 whose idea was it to go that night out to, to look for
8 trash or look for things to pick up?

9 A. It was Chad's idea.

10 Q. Okay. When you leave your house, I mean, there are
11 houses in the neighborhood, houses to the left and right
12 and all around, correct?

13 A. Correct.

14 Q. Who picked that direction?

15 A. I'm not sure.

16 Q. Do you know yourself when trash pickup is for that
17 area?

18 A. Sunday night.

19 Q. Okay. That's something you're sure of?

20 A. Yes.

21 Q. When you -- so, after you get charged with this, you
22 go back a couple days later?

23 A. Yes.

24 Q. Why?

25 A. To look in the dumpsters more because Officer Peoples

C. MILAM - REDIRECT EXAMINATION BY MR. SNELL

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1 has told me there was nothing wrong with being in the
2 dumpster as long as it was trash and being thrown away.

3 Q. All right, and again you'd agree -- I mean, you, the
4 prosecutor, everybody -- it's a bad idea?

5 A. Yes.

6 Q. All right, but, but that other time, does -- has --
7 anybody catch you or tell you or accuse you of going in the
8 house, around the house, or anything like that?

9 A. No.

10 Q. Just the dumpster?

11 A. Right.

12 Q. So, a couple of days later, you were just in the
13 dumpster?

14 A. Yes.

15 Q. Where were you on the 29th?

16 A. In the dumpster.

17 Q. Now, you said you've gone to college?

18 A. Yes.

19 Q. What college?

20 A. Fortis College.

21 Q. Okay. So, not like the University of South Carolina
22 or Clemson or ---

23 A. No. It's a trade school.

24 Q. Do you have a license?

25 A. Yes.

C. MILAM - REDIRECT EXAMINATION BY MR. SNELL

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1 Q. But you haven't worked for years?

2 A. Two years.

3 Q. At any point, did you get anything out of that
4 dumpster other than the hair bows and the little jar?

5 A. No.

6 Q. Was there any -- and other than the, the clothes that
7 you were -- the police found you, which was jeans and a
8 T-shirt, correct, and the bandanna, was there anything else
9 you were wearing that night?

10 A. No. Well, I was wearing my baseball hat.

11 Q. I'm sorry?

12 A. I was wearing my baseball hat.

13 Q. Other than -- so, just again to be clear, did you, did
14 you have any kind of plan or project or idea or anything
15 else to go in that house or have anybody else go in that
16 house?

17 A. No.

18 Q. Okay. You guilty of this or not guilty of this?

19 A. Not guilty.

20 MR. SNELL: All right. Thank you. No other
21 questions.

22 THE COURT: Anything further from this witness, Mr.
23 Scott?

24 MR. SCOTT: No, Your Honor.

25 THE COURT: All right. Thank you. You may step down.

1 (THE WITNESS EXITS THE STAND.)

2 THE COURT: Does the defense have any additional
3 witnesses?

4 MR. SNELL: No, no witnesses, but I have for
5 publication.

6 THE COURT: Right.

7 Ladies and gentlemen, let's take a short break. I'm
8 going to excuse you to your jury room. Don't discuss the
9 case amongst yourselves. I'll bring you back in about ten
10 minutes.

11 (THE JURY EXITS AT 3:17 PM.)

12 THE COURT: All right, we're going to take just a
13 minute, ten minutes or so, but I wanted Mr. Milam to be
14 reshackled before we got into that. So, we'll take about
15 ten minutes.

16 During those ten minutes, if you'll just go ahead and
17 cue up the ---

18 MR. SCOTT: And, Your Honor, my question, it's been
19 published, A. I don't know what witness he's going to use
20 to publish it through. Of course, we've stipulated to it,
21 too, but this is just highly unorthodox. I fully expect
22 him to publish it through closing. So, what is the purpose
23 of publishing right now?

24 THE COURT: No idea.

25 MR. SCOTT: Right?

1 THE COURT: Mr. Snell.

2 MR. SCOTT: I mean, you're going to publish it during
3 closing, so.

4 MR. SNELL: Well, two, two -- I, I was going to say
5 this and I'm -- two things. It's how I was going to try
6 the case, right? And number two, simply because my
7 understanding is it's stipulated to. I, I know we
8 published it during openings. Openings aren't evidence.
9 The court's going to give the jury instruction that
10 evidence is not openings or closings or -- it's the portion
11 during the trial. So, I just wanted to make sure it's
12 presented during the defense portion of the trial.

13 MR. SCOTT: I stipulated that it's part of the
14 evidentiary record. So, it most certainly is in evidence
15 and will go back with them.

16 My question is other than being offered, he's going to
17 stand up here and hit play. They're going to listen to it
18 again. There's no -- there are not going to be any
19 follow-up questions because there's not going to be a
20 witness on the stand, and then we're going to hear it two
21 or three more times in closing. So, I, I fail to
22 understand the purpose of publishing it now when we
23 stipulate that it is part of the evidentiary record.

24 THE COURT: Right. I mean, I understand that you
25 played it in your opening, and that's not evidence, and I

1 will certainly instruct the jury that what the attorneys
2 tell you during their opening is not evidence. But there's
3 also the stipulation that it is admitted into evidence.

4 So, just -- and, you know, it's up to you, but
5 practically speaking the jury has heard it. They've heard
6 it today, and it is in evidence. So, if they wanted to
7 hear it again during their deliberations, they will have it
8 during deliberations, so they could hear it again. I just
9 don't know the necessity of playing it. I mean, it's not
10 transcribed or anything when it's played. It would simply
11 be noted that it's in evidence. I don't know. I don't do
12 appellate work. I don't want to screw you up.

13 MR. SNELL: That, that, that was my -- that's, that's
14 my concern, you know, with, with that.

15 THE COURT: But it's in evidence.

16 MR. SNELL: And, and just let me -- just, just by way
17 of -- and I will just -- and I'm also trying -- was trying
18 to look at the clock and, and what would be your schedule
19 for completing the, the balance of the trial?

20 THE COURT: Oh, and the reason I asked the question
21 when I did is because I'm ready to send the jury home after
22 the defense rests. If you were going to rest right now, I
23 just would have send them home rather than on break. We
24 will close and charge in the morning.

25 MR. SNELL: Okay. Well, Judge, I was going to tell

1 you this. I want to -- and again, I absolutely respect
2 the, the court's time and want to be mindful of judicial
3 economy and everything else. I guess with the, with the
4 full stipulation...

5 THE COURT: I don't want to interrupt your train of
6 thought.

7 MR. SNELL: No, no, I just, I just want to -- you
8 know, I'd like to say this, Judge. If I could -- because I
9 know I'm going to want to play it during closing.

10 THE COURT: Sure.

11 MR. SNELL: And I, I, I -- you know, so the -- could I
12 rest tomorrow morning and just look at a case I'm thinking
13 of, just make sure that I'm not required to publish it
14 during the case in chief? That's my whole, that's my whole
15 concern.

16 THE COURT: Okay. I don't want to tell you wrong, but
17 I don't know of any case that requires any piece of
18 evidence to be published. You publish photos because you
19 want to in the moment and it gives the context and all of
20 that, but once it's submitted, it's in and doesn't have to
21 be -- those -- even photographs don't have to be published.
22 They are to give context, but ---

23 MR. SNELL: No, Judge, and you probably, Judge, you
24 probably are right. I, I remember and, Judge, I remember
25 things wrong all the time. Those appellate rules scare me.

1 THE COURT: I understand.

2 MR. SNELL: So, I would just like to be -- but I --
3 that, that -- I would have no objection to -- if we close
4 tomorrow, and that way I can just double verify. And then
5 unless I find something to the contrary, I'm not going to
6 publish it and I'll just -- we'll just -- I'll probably use
7 it in closing only.

8 MR. SCOTT: Okay, and just to be crystal clear, the
9 state has fully stipulated that Defense Exhibit 1 has been
10 admitted into evidence, and there will be no challenge from
11 the state as to that being admitted, regardless of whether
12 it's been published in the case in chief.

13 THE COURT: Understood. All right. Well, let's hang
14 it up -- oh, bring the jury back, please. Yeah. I'll
15 release them for the night, and we will handle that in the
16 morning.

17 Bring the jury.

18 (THE JURY ENTERS AT 3:24 PM.)

19 THE COURT: Yeah, I think this is a good point to
20 break for the day. We're not going to finish this case
21 today anyway. There may be another defense witness; there
22 may be additional defense testimony. I'm not sure, but
23 we'll figure that out, and we'll just handle that in the
24 morning. After that, all that will remain is the same
25 closing arguments of the attorneys and my charge on the

1 law, and after that you will deliberate. You will continue
2 to deliberate until you reach a verdict. So, so that all
3 of that does not go into the late evening, because I don't
4 know how long you will deliberate, I think that now is a
5 good time to just break for the day.

6 Be back in your jury room tomorrow morning at 9:30.
7 Don't discuss the case amongst yourselves or with anyone
8 else. Don't do any research about the case. Have a good
9 night, and be back at 9:30 tomorrow morning.

10 (THE JURY EXITS AT 3:25 PM.)

11 (CELL PHONE RINGS.)

12 THE COURT: I have never in a twenty-four hour period
13 had so many cell phones go off in court, and I don't want
14 to take them. I don't. I don't. I don't. Some judges
15 love to take cell phones and fine you to get them back. I
16 don't like to do that, but y'all are going to force me to
17 do it. I know it was in the jury qualifications yesterday.
18 This is mostly a different group of people. Please silence
19 your cell phones.

20 If I hear any cell phones tomorrow, I will confiscate
21 them; you will be in contempt of court. You will have to
22 pay to get your cell phone back. I just hate to do that to
23 you because who wants to, you know, who wants to force
24 somebody to pay some money to get a cell phone. The easier
25 thing is to put it on silent. If you don't know how, ask

1 somebody before you step into this courtroom. Test it if
2 you need to to make sure that it's not going to ring out
3 loud or make any noises.

4 But seriously, I've never had so many cell phones go
5 off in a twenty-four, twenty-six hour period in court.
6 It's highly unusual, and it's getting on my nerves. So, do
7 better tomorrow. Y'all have a good night. I'll see you at
8 9:30 tomorrow morning.

9 (WHEREUPON, THE CASE IS AT EASE.)

10 WEDNESDAY, DECEMBER 8, 2021

11 (COURT RESUMES AT 10:15 AM.)

12 THE COURT: Good morning. We are back on the record
13 in the *State v. Chase Michael Milam*. He is here with
14 counsel. It appears everybody's ready to proceed.

15 We did not have a charge conference on the record;
16 however, I've given photocopies of my written charge to
17 both the state and the defense. Any objections to the
18 charge as written from the state?

19 MR. SCOTT: None from the state.

20 THE COURT: From the defense?

21 MR. SNELL: No, Your Honor.

22 THE COURT: Wonderful. All right, we left off with
23 defendant's case. Where are we?

24 MR. SNELL: Your Honor, we had, I think, an agreement.
25 I'm going to offer the Defendants 2, which is a still photo

1 that the state has agreed to allow us to introduce. I'd
2 just like to make that the record, and then we'll plan --
3 as soon as the jury comes out, we'll, we'll rest.

4 THE COURT: Okay. Is there a stipulation as to
5 Defendant's 2?

6 MR. SCOTT: There is, Your Honor. It's a still shot
7 of Deputy Peeples's camera, in-dash camera, and it's in
8 without objection, Your Honor.

9 THE COURT: All right, Defendant's 2 admitted without
10 objection.

11 MR. SNELL: May I mark, Your Honor?

12 THE COURT: Yes.

13 (PHOTOGRAPH MARKED INTO EVIDENCE AS DEFENDANT'S
14 EXHIBIT NUMBER 2.)

15 THE COURT: For efficiency sake, I know it's a little
16 bit out of order, but I'd rather not bring the jury in for
17 you to rest, then send them right back out. Can we can go
18 ahead and do motions now as though you have rested, or do I
19 need to bring them in? You want to stick to the rules?
20 That's fine. We'll bring them in and send them right back
21 out.

22 MR. SNELL: Thank you, Your Honor.

23 THE COURT: Just based on the look on your face.

24 All right, please bring the jury in.

25 (THE JURY ENTERS AT 10:20 AM.)

1 THE COURT: Good morning, folks. I'm sorry to have
2 kept you waiting. As I told you yesterday, there are lots
3 of moving parts to a trial, and if any one of those parts
4 fails, it throws off the entire schedule. So, I appreciate
5 you being punctual, but there were some other factors that
6 caused a few hiccups this morning.

7 We were on the defendant's case. We left off with Mr.
8 Snell calling his witnesses. Please give him your
9 attention.

10 Mr. Snell, call your next witness.

11 MR. SNELL: Your Honor, at this time the defense
12 rests.

13 THE COURT: All right. So, that means you've heard
14 all the testimony and received all the evidence you're
15 going to receive. There are certain matters of law that I
16 need to take up with the attorneys outside of your
17 presence, so please return to the jury room. Don't discuss
18 the case amongst yourselves. I'll bring you back shortly.

19 (THE JURY EXITS AT 10:21 AM.)

20 THE COURT: Any motions?

21 MR. SNELL: Your Honor, at this time the defense will
22 renew the prior motions made for directed verdicts on
23 grounds previously offered. Additionally, we renew all
24 prior objections, and nothing further.

25 THE COURT: All right, my rulings on the objections

1 remain the same. Your motion for a directed verdict is
2 respectfully denied.

3 Anything else before closing arguments?

4 MR. SCOTT: Nothing from the state, Your Honor.

5 MR. SNELL: Nothing from defense, Your Honor.

6 THE COURT: All right. Please bring the jury.

7 (THE JURY ENTERS AT 10:23 AM.)

8 THE COURT: Welcome back, folks. Now as I said,
9 you've heard all the testimony, received all the evidence.
10 All that remains is the closing arguments of the attorneys
11 and my charge to you on the law. After that, you will
12 begin to deliberate and deliberate until you've reached a
13 verdict. So, I now ask that you give the attorneys your
14 undivided attention for their closing arguments. I'll
15 first call on the state for their closing argument.

16 MR. SCOTT: Thank you, Your Honor. May it please the
17 court?

18 It's a tough pill to swallow to know that you can get
19 up, get dressed, go to work, spend a day at work, and then
20 do that the next day and the next day, and that you do that
21 year after year. And you may accumulate a thing or two
22 over the years of all that hard work, and some of them may
23 be generally understood to be valuable. Some of them may
24 only hold sentimental value. You may have plans to pass
25 these things on to your kids, your grandkids, or other

1 loved ones, but those things are yours, right? And they
2 may represent memories of just all the work and all the
3 things you've accomplished in life. And it's a tough pill
4 to swallow to know that if a man can put on dark clothes,
5 put on a bandanna, grab a screwdriver, and then go to your
6 house for the intent to steal those things from you. It's,
7 it's downright offensive, but Mr. Milam is just such a
8 taker.

9 In October of last year, he was unemployed. He told
10 you that. Sounded like a involuntary unemployment because
11 the guy had a high school degree and then he had a degree
12 as a heating and air technician. That's a job that's
13 always in demand. That's a job that pays well, but there
14 he was sitting in his dad's house unemployed, and so he had
15 some decisions that night, October 29th. He decided to put
16 on some dark clothes. He decided to put on that dark
17 bandanna and grabbed this screwdriver. Tucked in his
18 waistband. Grabbed a knife. Put it in his pocket, and
19 then he stepped out into the dark, rainy night he says
20 around 10 o'clock and walked to his destination, [REDACTED]
21 Koulter about half a mile away.

22 He had no way of knowing that once he got to his
23 destination, he'd be watched. You see, y'all remember
24 hearing from Donnie yesterday, that home at 1880 belonged
25 to his father and was still full of all his father's

1 belongings, a lifetime of accumulating things that he had
2 inherited. And he and his son on October 28th, the day
3 before, had been in the process of cleaning out the home.
4 They had a dumpster delivered to the property, and they
5 were taking out the trash, cleaning up the place, trying to
6 remove the valuables from the home. And October 28th when
7 they left the place, Donnie testified he locked the whole
8 place up, which normal people would do, right? When he
9 returned the next day, October 29th, that morning, the
10 first thing he says he noticed was a gun case out by that
11 dumpster, and he knew exactly what had happened at that
12 point, but he goes to the house anyway. He checks the
13 locks. They're all unlocked. Somebody had broken into the
14 house. They had stolen at least one firearm.

15 He did look and saw -- and sees a hand truck loaded up
16 with valuable. So, what is he to think? This guy's coming
17 back. He makes the decision to get his son, Wells, and
18 they decided to put on camo and go hide in the woods, see
19 if they can catch the burglar. Is that advisable?
20 Probably not, but it does go to show the level of
21 frustration and aggravation and anger somebody would feel
22 to know that somebody else is victimizing you in such a
23 way. That's what they did.

24 They, they go out, and those are the lengths you go
25 to. A Thursday night, that's how he had to spend the

1 night, hiding in the woods with his son, waiting for this
2 dude to come back. Sure enough, he did.

3 They see a flashlight coming down the driveway towards
4 them. The man holding a flashlight hugs the back of the
5 house and goes to a door. It's been called a crawlspace at
6 times. It's, it's a door that you saw the picture with
7 Deputy Grill standing beside it. It, it -- it's tall
8 enough to walk through. At any rate, they saw the man who
9 we know is Chase Milam go inside the door with the
10 flashlight. Close the door behind him.

11 Was he taking inventory of the belongings that were
12 under the house? We saw a pressure washer, a lawn mower,
13 and other things in the body cam footage, or was he looking
14 for alternate ways to get inside the house because we heard
15 Donnie, when he had been there earlier in the day, locked
16 the house back up after finding it unlocked. We don't,
17 don't really know what Chase was doing, but there he is
18 inside the building without consent in the middle of the
19 night with that screwdriver in his waistband.

20 Donnie and Wells watched as Mr. Milam exited the door.
21 Shined his flashlight up into the windows, walked around
22 the side of the house, back up the driveway the same way
23 he'd come in, and they called 911. We heard that.

24 About three minutes, give or take, goes by from when
25 they lose sight of the man with the flashlight, Chase

1 Milam, and when Deputy Peebles arrives, three minutes. And
2 then we of course know Milam flees and is caught a short
3 distance later.

4 He told you some things yesterday. He told you a lot
5 of things yesterday, and the judge is going to tell when
6 you go back there to deliberate is that that one of the
7 things you are to consider when you're deliberating is the
8 credibility of all the witnesses. I, I submit to you that
9 Milam shows -- showed yesterday that he has some serious
10 credibility issues, and I think that was evident when he
11 testified yesterday.

12 He indicated that on the night of October 29th, he had
13 left with a man named Chad Harper. He said that Chad
14 Harper had been staying with him, had been dropped off at
15 his home by an unknown person. He could not name who had
16 dropped Chad Harper off at his home, but Chad Harper had
17 been staying with him, and Chad had gone with him on the
18 night of October 29th to go dumpster diving, as he put it.
19 And he hopes that you will infer that it was Chad Harper
20 who had gone in the back of the house, and that was Chad
21 Harper who the Ballentines had seen go into the home.

22 The problem is Chad Harper does not exist. Chad
23 Harper, had he existed, would have probably been the first
24 person that you would have told law enforcement about.
25 When they say hey, you broke into that house, the

1 homeowners saw you, you'd say hey, that wasn't me. That
2 was Chad Harper.

3 Nobody heard about Chad Harper until yesterday. And
4 the same time you guys heard the name was the first time
5 that law enforcement heard that name because he doesn't
6 exist, and, and it was just convenient. He says I have no
7 idea where he went. That night, some unknown person picked
8 him up, never to be seen again.

9 He talked about an ex-girlfriend. I would have liked
10 to have heard the ex-girlfriend talk about Chad Harper,
11 too, but we don't know where she is either. It, it, it
12 doesn't, it doesn't ring true.

13 The bandanna, he says he wore the dark bandanna for
14 COVID purposes. That, that may or may not be true, but I
15 find it interesting that he chose to put it on after 10 PM
16 when he was going to be in the open air of his
17 neighborhood. I don't know. It's just something to
18 consider.

19 The trash pickup, he agrees with me that perhaps 10
20 o'clock on a rainy night might not be the best time to go
21 looking through people's trash cans and dumpsters, but he
22 said he had to do it that night because trash pickup was
23 the next day, remember? And he says yeah, yeah, yeah. My
24 neighborhood, everybody knows Sunday night is when people
25 put their trash out because Monday is when you pick the

1 trash up. Everybody knows that, so I had to go that night.
2 That's the best time to go dumpster diving and looking
3 through people's trash. And I said, well, wait a minute.
4 You know October 29th was a Thursday, right? And so I
5 think he murmured something silently. You may not have
6 caught it, but I think he said I thought it was trash day.

7 Said he took that long screwdriver to pry the dumpster
8 open, a dumpster that had a latch on it to allow for easy
9 opening. See, they don't make dumpsters to require a
10 screwdriver to pry them open. And then if you look at the
11 picture, he said he left the door open to the dumpster, but
12 it's clear that all sides of the dumpster are closed in the
13 pictures. I've got a still shot I'll show you in a minute.
14 Was not clear on why he couldn't just crawl over the walls
15 of it. He said it was 8 foot tall, but that is clearly
16 inaccurate.

17 And he said -- I said, well, you know, why did you run
18 when the cops got there if you weren't doing anything
19 wrong? He said he just panicked. But why would you panic?
20 Why would you run if you weren't doing anything wrong to
21 begin with?

22 I could go on, but I don't want to repeat everything.
23 I do want to repeat what Ms. West said in her opening, and
24 that is typically the simplest answer to a question is the
25 right one. When you're trying to figure out competing

1 hypotheses of what happened, the best course of action is
2 typically the one that requires the least leaps to
3 conclusions, requires the least amount of assumptions.
4 Clear answer here is that the person that Mr. Ballentine
5 saw, that he identified in court, who he identified at the
6 scene going into the home was Mr. Milam.

7 I'm not going to sit up here a long time. It's not a
8 long trial. This was a really quick trial. You know, I
9 think it probably seemed like it took -- I know y'all had
10 to go in and out of the courtroom. There was a lot of
11 downtime, but as trials go, that was pretty, pretty
12 stinking quick because it's pretty straightforward, but I
13 do want to walk you through a little bit of the scene just
14 because I wish I could take you all out there and we could
15 walk the scene, but that's rarely allowed, but I think
16 these pictures kind of help orient you.

17 That's the house; that's [REDACTED] Koulter. Now, our
18 burglary law -- the judge is going to give you that in a
19 little bit, distinction between buildings and dwellings.
20 Typically a house would be a dwelling, but October 29th of
21 last year the owner, Mr. Donnie Ballentine's father, was
22 passed on. He was deceased, and nobody was currently
23 living in that house. Therefore, it goes from being a
24 dwelling to a building. I'll explain that a little bit
25 later, but if I call it out as a building, it's just, just

1 I'm thinking in legal terms. But [REDACTED] Koulter Drive was a
2 dwelling. At the time it was -- nobody living in it. Full
3 of valuables obviously, but it, it would be considered a
4 building.

5 That, that is the rear of the house, okay? That is
6 where most of our facts take place, the facts that give
7 rise to the burglary charge. The door I'm pointing to over
8 the blue arrow, this would be pretty much the view that
9 Donnie and Wells would've had on the night of October 29th
10 from the woods where they were watching for the burglar.
11 Again, there's the door that they watched being pried open
12 that night, and they watched the person go in with a
13 flashlight.

14 This is my attempt at, at kind of showing you what I
15 think one of the officers were talking about perspective
16 wise. You've heard Mr. Milam say I was dumpster diving. I
17 was dumpster diving. You're going to have this video, by
18 the way, and you can play it back in slow motion if you
19 want to. You can do whatever you want to. This is simply
20 a still shot of Deputy Peeples's in-dash video. If you
21 look closely right here, this would be the individual
22 fleeing with his back to the camera. And he's saying,
23 well, that was me leaving the dumpster, right?

24 This was taken yesterday. Pretty much the same angle.
25 What I'm attempting to show you is the sidewalk right here

1 and this bush. That bush right there is the same one this
2 individual is going around to the side of the house. Now
3 if you look at this, that bush and the edge of that
4 sidewalk look very close, don't they? It's perspective,
5 okay, and that's, that's -- we're looking at it from an
6 angle where we can't get a real, true sense of perspective.
7 But what I'm trying to tell you is at that point, Mr. Milam
8 is at least 32 and a half feet away from the edge of that
9 sidewalk.

10 The reason the edge of that sidewalk is relevant is
11 because the edge of the sidewalk is where the dumpster was
12 parked. When you see him going around that bush right
13 there, he is 32 and a half feet from the edge of the
14 sidewalk. As you see, that dumpster is right on the edge
15 of the sidewalk. I hope you're following me here. What
16 I'm trying to show you is he was 32 and a half feet away
17 from the dumpster and that's, that's just when the officer
18 hit him with the flashlight.

19 Now, what the officer testified to on the scene, you
20 can hear him on the body cam. You hear him at the scene.
21 I mean, y'all are going to get to watch that, too.
22 Anything that was entered into evidence that we talked
23 about, y'all will get to take that back to the jury room
24 with you, watch it over and over and look at all the
25 pictures and everything, but that Officer Peeples, he was

1 adamant. He said I saw you coming from the back of the
2 house, the backyard, and he indicated he was coming up this
3 side when he first saw him, when he hits him with a light.
4 He sees the cop and he's doubling back, going back to the
5 backyard. Of course, we hear how he jumps the fence and
6 then flees.

7 But what I've attempted to do is show you the path
8 that the evidence seems to indicate, according to the
9 state's witnesses' perspective, Mr. Milam took, that yellow
10 dot representing Mr. Milam. Of course, we hear he went
11 down that driveway, and that's when they first see him with
12 the flashlight. Goes to the door. They see him leave. He
13 goes -- he's coming back from the side of the house when
14 Peeples sees him. Then he doubles back, jumps the
15 neighbor's fence, runs through the backyard, and he's
16 ultimately detained in the neighbor's front yard.

17 What was he doing? Why would he be in the back of the
18 house and then circling around the whole house and be seen
19 on the other side, flashing lights in the windows? Could
20 he have been looking for alternate ways to enter the home
21 since the doors had been locked? The officer was clear
22 that he sees him coming from the back of the house. He's
23 caught with that screwdriver, and he's caught with a
24 flashlight. That's how he appeared that night, that rainy
25 night.

1 It's Occam's razor. That, that is the term I was
2 trying to think of when Bret was talking about the simplest
3 answer is usually the best. That was a philosopher who
4 came up with a principal that, that essentially said what I
5 told you earlier. If you're trying to determine the right
6 answer with competing hypotheses, generally you choose the
7 one that requires the least amount of assumptions. Chase
8 Milam was caught on the scene, caught with a burglary tool
9 in his waistband, dressed like he is, flashlight in hand,
10 witnesses identifying him, and then fleeing from law
11 enforcement.

12 What's the logical answer here? Was it the
13 nonexistent Chad Harper nobody's ever heard of and nobody
14 will ever hear of? Or was it Mr. Milam, who was very
15 unclear yesterday in his testimony of what exactly he was
16 up to that night? I think that's the answer that requires
17 the least amount of assumption: that it was Mr. Milam.

18 There was a -- I was watching -- I don't know. I was
19 thinking whether I should even mention this or not, but
20 Richard Pryor had a -- it was a stand-up routine, *Live at*
21 *the Sunset Strip* he did, and he had this one bit where he
22 talks about the guy never admitting to cheating, never
23 admitted to cheating even if caught. And he talked about
24 the wife catching the guy in bed with a woman, and he -- he
25 is trying to implore, beg her. I'm not cheating. I didn't

1 cheat. I didn't cheat. And finally he desperately tells
2 her who you going to believe? Me or your lying eyes?

3 And isn't that kind of what Mr. Milam is asking of us?
4 Isn't that what he's asking Donnie? Believe me. Don't
5 believe your lying eyes, and he's telling that to you, too.
6 Don't believe the evidence. Don't believe your eyes.
7 Believe me.

8 That's not the logical answer. The logical answer is
9 he's guilty of burglary second and he's guilty of
10 possession of tools in order to further that burglary, and
11 that's what we're going to ask you to do. We're going to
12 ask you to find him guilty. We're going to ask you to find
13 him guilty beyond a reasonable doubt.

14 The judge is going to explain that, but just briefly
15 what I want to tell you is that just means firmly
16 convinced. Are you firmly convinced of his guilt? That
17 judge will tell you twice when she explains beyond a
18 reasonable doubt that if you are firmly convinced of his
19 guilt, you will find him guilty of the crimes he's charged
20 with.

21 I almost forgot about it, but I want to show you a
22 couple slides here that demonstrate the law. Burglary
23 second degree is what he's charged with. I told you about
24 -- it's labeled a building for our purposes. In order to
25 be found -- I'm going to go over this pretty quick. The

1 judge is going to do this later. If my law differs from
2 hers, you are always to go with what she says burglary
3 second is, but it's if you enter a building without consent
4 and with the intent to commit a crime once you're inside.
5 There's another factor that, that, that we're looking at
6 for our indictment. You can be guilty of burglary second
7 violent if you have a weapon. You know, you hurt somebody
8 once you're inside the house, you threaten to use a
9 dangerous instrument. That -- that's the law, but we're
10 not alleging any of that here.

11 What we are alleging is it occurred in the nighttime,
12 okay? I don't think -- you know, it's pretty clear that
13 it's nighttime. There was abundant testimony it was
14 nighttime. He, himself, I think, said it was around 10
15 o'clock when he left his house. You can see from the video
16 that it's nighttime.

17 But it is a building. That was him going up under the
18 house without consent. I asked Donnie. You know, some of
19 these questions, y'all were probably going what's this
20 lawyer asking this for? I said did you give him consent to
21 go in? He said absolutely not. I have to ask that to get
22 the evidence.

23 With the intent to commit a crime therein. It is
24 generally understood that when you're entering a property
25 that doesn't belong to you in the nighttime, that you have

1 intent to commit a crime. Our allegation is he intended to
2 steal items from that home, and that's what the evidence
3 seems to indicate why he was there.

4 Burglary second, entering a building without consent
5 with the intent to commit a crime inside, those are the
6 elements that give rise to a burglary second. To upgrade
7 to a burglary second violent, enter a building without
8 consent to commit a crime and it occurred in the nighttime.
9 So, that's the burglary charge.

10 Possession of burglary tools, pretty much what it
11 sounds like. The statute says:

12 Unlawful to make or mend, cause to be made or
13 mended, or have in his possession any engine,
14 machine, tool, false key, picklock, bit, nippers,
15 nitroglycerin, dynamite cap ---

16 All these other items they talk about.

17 --- or other implement or thing adapted,
18 designed, or commonly used for the commission of
19 a burglary.

20 You heard Investigator Grill talk about all the
21 property crimes he's investigated and something like this,
22 something like a pry bar is a commonly used tool, commonly
23 used implement to further a burglary.

24 Those are the two charges, guys. Had in his
25 possession tools commonly used for the commission of a

1 burglary under circumstances evincing intent to use. And
2 there you have it. That's the case, guys. We, we, we just
3 ask you -- I thank you for your attentiveness. I thank you
4 for serving. I know you probably didn't have a choice, but
5 still thank you. We ask you to retire, deliberate amongst
6 yourselves, and ultimately find Mr. Milam guilty of the
7 burglary second and find him guilty of possession of that
8 tool for the burglary. Thank you.

9 THE COURT: Mr. Snell.

10 MR. SNELL: Thank you. Thank you very much, Your
11 Honor, and, and, Your Honor, in a minute I may ask the
12 solicitor's office to help me play the 911 call again.

13 THE COURT: Okay.

14 MR. SNELL: Masks do not work with glasses.

15 All right, at the, I think, yesterday morning, kind of
16 opening statement I started off saying they got the wrong
17 guy, okay, and, and the state here has the burden of
18 proving beyond a reasonable doubt, okay, that Chase Milam
19 is the one seen in the backyard opening up the door and
20 going under the house. okay? That is it. That is the
21 burglary they brought today, okay? Opening up the door for
22 the back, going under the house.

23 Now, normally I think in a, in a trial like this, I
24 don't think the court would get into a prior burglary that
25 may have happened the day before where somebody had broken

1 in simply because it's kind of confusing. It's -- you're,
2 you're telling the, the jury about a crime that the
3 person's not on trial for, but, but here I think it was --
4 you know, came in simply because it link -- it tells the
5 story of why the Ballentines are in the woods, kind of the
6 tree line behind the property, why they're scoping it out,
7 right?

8 Now, let me -- I'll tell you this. We heard that that
9 burglary the day before, right, guns were taken, okay?
10 Right? Now, two things we know about that burglary, all
11 right? Number one -- well, three things, three things.
12 Chase Milam's never been charged, accused, arrested, and
13 that ain't -- that -- that's not what this trial is.
14 That's all, all true.

15 Number two, Chase Milam's DNA, fingerprints -- while
16 prints were taken and DNA was done for that burglary in
17 that house, Chase Milam didn't match up, right?

18 Number three, if the police thought for one second
19 that Chase Milam was involved in, in that thing the day
20 before, better believe they would've got a search warrant
21 and gone and searched his dad's house looking for a stolen
22 gun because one thing I know is priority for law
23 enforcement is getting illegal, stolen guns off the street
24 and getting away from criminals. And if they thought
25 there'd be stolen guns at that house, they would have

1 gotten a search warrant and gone.

2 The police didn't, and it's not because they're lazy
3 or ineffective or, or bad. It's that they knew Chase Milam
4 wasn't involved in that, right? Tell them -- after looking
5 at all the evidence, they know.

6 Prosecutor, I think it was just probably a, a,
7 misspeak or accident. Talked about how the, the
8 Ballentines were in the woods waiting for him to come back,
9 being the burglar, and he did. That's not this case. This
10 case is on the 29th: did Chase Milam open up that back door
11 and go in.

12 I guess at this point I may ask if we could play the
13 911 call which, which is in evidence. You have a -- it's
14 going to be -- I don't -- I think they may be going to send
15 you back -- but there's going to be discs in evidence, and
16 y'all can always ask to, to watch anything or listen to
17 anything again.

18 (A PAUSE.)

19 MR. SNELL: And again, I'll thank the solicitor's
20 office for letting me share in their equipment.

21 One thing to focus on. I'm going to ask you to listen
22 to this very carefully, okay, because then I'm going to ask
23 you -- going to talk about the witness testimony and
24 compare what you hear on this call to what the testimony
25 was from the witness stand, okay? Specifically Mr.

1 Ballentine, who was saying I knew it was him. I saw it was
2 him. I could tell it was him in the backyard, all right?
3 That's what he said, right?

4 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 1 IS PLAYED FOR
5 THE COURT. AUDIO IS NOT TRANSCRIBED.)

6 MR. SNELL: So, that's, that's the entire 911 call,
7 and that's Mr. Ballentine on the phone with 911 in, in
8 realtime basically saying exactly what he sees. That's
9 what he knows, okay?

10 I'm going to say that's different than what he
11 testified to, all right? I mean, he testified that he knew
12 it was Mr. Milam. He could tell, and I know he very much
13 wants to believe it's Mr. Milam, okay, and I can absolutely
14 understand why he would -- you would think it's Mr. Milam
15 or he'd be suspicious it's Mr. Milam, but he doesn't know,
16 okay? And, and that's important because that's the only
17 thing that Mr. Milam is charged with, okay? He -- he's got
18 to -- they've got to prove he's the one that was in the
19 back going in that backdoor.

20 Now Mr. Ballentine, again, testified -- I -- I'm going
21 to ask you to recall, you know, remember what he testified,
22 how he testified. I'm going to tell you the 911 call where
23 he's in realtime saying exactly what he saw, I, I think
24 that's the correct version, okay, but he changed, right?

25 Now, we, we heard -- I think the next witness the

1 state called was Wells Ballentine, right? So, that's the
2 grandson of the, the, the gentleman who used to own the
3 house, who passed away, and Donald Ballentine's son. I
4 think he testified -- you know, my understanding he was in
5 the backyard with his father. Kind of stayed with him the
6 whole time. I think that's right. He did, he did tell law
7 enforcement at some point that he thought that the person
8 who had done the -- gone in the house had a hoodie on.

9 Again, I'm going to tell you this. It's dark back
10 there; you can't see anything. I don't know if he did see
11 a hoodie or didn't see a hoodie. He at least thought he
12 saw a hoodie, okay? We know from the pictures that you've
13 got Chase Milam wasn't wearing a hoodie. The police did a
14 search. Didn't find anything like that, but that's, that's
15 really all -- Wells basically had the same vantage point.

16 Now, the next witness they called was Deputy Peeples,
17 okay? So, this is the first sheriff's deputy who arrived,
18 and you hear him arrive at the very end of the 9-1 call.
19 That's him coming up. That's also about three minutes give
20 or take after Mr. Ballentine had lost sight of whoever's in
21 the backyard with the flashlight. So, they're gone.
22 There's this three-minute period.

23 Now, they -- this video was played. Marked as
24 Defendant's Exhibit 2, which is going to go back in the
25 jury room with you. It's just a, a picture from the very

1 beginning of the video and, of course, if y'all decide you
2 need to see the whole video later, you can ask and, and
3 they'll play it. But this is where Deputy Peeples arrives
4 on scene and, and that basically is how dark it is, and
5 he's got his flashlight. You see the individual right
6 here. It's, it's, you know, kind of real small and faint,
7 but when you're in the jury room you can look, and that's
8 Chase with his back to the deputy.

9 Now, the deputy says that he thought he was coming
10 from the back of the house, okay? I'll tell you it's
11 completely dark out there. I don't think where the deputy
12 was he would be able to see anybody coming from the back,
13 but absolutely Chase is there. Chase is moving, and you'll
14 see when the light shines on him, you'll -- you know,
15 deputy, we'll see where he is. That three minutes, see, if
16 the, if the individual had been in the back -- had been in
17 the front for three minutes, they're not going to be coming
18 from the back anymore. So, just think through that.

19 So, we then heard from Deputy Hampton. She was the
20 female deputy who testified; I think she was their fourth
21 witness. Again, I think she testified as to, to what the
22 scene was, that they did the search, looked for other
23 items. I think she also confirmed what Deputy Peeples had
24 said, that Chase from the very onset said I'm in the
25 dumpster. That's the first thing he says.

1 And then their -- the final witness they had was
2 Investigator Gill [sic], and I understand he had been at
3 the scene briefly October 29th. He testified he came back
4 and did some interviews and then was there yesterday. I'm
5 not actually certain what other investigation was done, and
6 I, I think he said there really wasn't any kind of ability
7 -- forensics. They didn't canvass the neighborhood. They
8 didn't actually clear under the house where they would have
9 gone and looked all around to see if there had been
10 somebody hiding there. They didn't go into -- they didn't
11 go to the neighbors' yards and, and check their bushes,
12 their tree lines, other areas to see if there had been
13 somebody hiding.

14 So, although I think the investigator says he took
15 over when the patrol deputies finished, I, I heard him
16 testify -- I didn't hear anything that was an actual
17 further investigation or which confirmed anything else
18 involved.

19 Now, we know that when Chase was, was stopped, he fell
20 down. They got him. He didn't have anything that was
21 taken from the house, under the house, anything like that.
22 We heard that there had been items stacked up, they
23 thought, the Ballentines thought, in the house somebody was
24 going to come back for. Well, Mr. Milam's not doing that.
25 He's not getting those things, right? Doesn't have those

1 things. Frankly, doesn't have anything. I think he
2 testified he had hair bows and a -- some kind of glass jar.
3 That's it.

4 Now, one of the things about this case, I guess, is --
5 and we're very thankful one of the rules for deciding legal
6 cases like this in criminal cases and under the rules that
7 you, the jury, you know, are told -- are instructed to
8 follow, and one the things the judge will give you is
9 something called mere presence, okay? Basically this. If
10 all the government can do is prove you were at the scene,
11 right, you just happened to be there when some crime is
12 committed, and that's what the state can prove beyond a
13 reasonable doubt, you must find the defendant not guilty,
14 okay?

15 When the judge gives you the instructions, that is
16 going to be -- you're going to hear a whole paragraph about
17 mere presence, okay? We're not -- I think from the very
18 beginning, you know, the story in this case is Chase is at
19 his dad's house, leaves to go look through dumpsters. His
20 father testified that's something he's done before. His
21 father testified that he had gone with Chad Harper.

22 I will tell you I don't believe Chase ever told them
23 about Chad Harper. However, Chad Harper's name and
24 identity has been previously disclosed to the prosecutor's
25 office before the trial.

1 That house is within walking distance of this [REDACTED]
2 Koulter address. Chad [sic] walked to that house, said he
3 was in the dumpster, is caught by the dumpster, and there's
4 nobody can say and prove beyond a reasonable doubt that he
5 was anywhere else other than by the dumpster or in the
6 dumpster. That's it. The only person who possibly could
7 say -- the only people who could possibly say he was in the
8 back of the house, going under the house were the
9 Ballentines. And you heard the 9-1 call. They can't say
10 that, right? They can't prove that. That testimony from
11 the Ballentines cannot prove Mr. Milam guilty beyond a
12 reasonable doubt of being the one in the backyard with a
13 flashlight. It simply can't. Evidence, evidence is clear.
14 Chase told you. I think I told you. He was on the
15 property, on the scene, but absolutely not doing anything
16 with the break-in and absolutely simply in the front of the
17 house.

18 We have the burglary tool item, which is the
19 screwdriver. I, I just -- I'll tell you this. The statute
20 is clear what burglary tools are. In order for it to be a
21 burglary tool, there has to be a burglary, okay, committed
22 by the person accused. Here, there's no evidence at all
23 that that screwdriver was in any way connected with
24 breaking into the house, used to pry anything open with the
25 house, anything else like that, okay? Certainly he had it.

1 Not disputing that, but it's absolutely not used for a
2 burglary or in a commission of a burglary.

3 Now, reasonable doubt is the kind of doubt which would
4 cause a reasonable person to hesitate to act, okay? If you
5 find that the evidence makes it -- you, you find that it
6 creates just a strong suspicion that Chase Milam is guilty,
7 you must find him not guilty. If you think that he's
8 probably guilty, right, you got to find him not guilty,
9 okay? And, frankly, if there's any real possibility he's
10 not guilty, you must find him not guilty. That's going to
11 be following the instructions from the judge.

12 As I told you before, in the legal system there are
13 several burdens of proof. In civil cases where, say,
14 there's a lawsuit even in this very courtroom where one
15 side is suing the other for a million dollars, right, a lot
16 of money, the, the, the burden of proof is preponderance of
17 the evidence. Is it more likely than not that the
18 plaintiff -- in this case the, the government would be the
19 plaintiff -- but the moving -- the side alleging the case,
20 if it's just -- they just -- it's just more likely not
21 their side's right, okay? Occam's razor, okay? That's
22 preponderance. That's a not guilty verdict, okay?

23 I'll give you another context. In this very building
24 they have family court, and in family court you have cases
25 of abuse and neglect where children are taken from their

1 parents, okay? Put in foster homes because of allegations
2 the parents are, are unfit or something else. The legal
3 burden to take people's children from them is called clear
4 and convincing. That is a higher burden than you have in
5 civil court. If that's the case that state's brought,
6 which would make it enough evidence to take somebody's
7 children from them, that's still not enough here. That's a
8 not guilty verdict. Reasonable doubt is the highest, okay?

9 So, one thing I'm going to ask y'all to do, and I know
10 in just a minute the, the prosecution, government has the
11 chance to come up and get the final word, okay? But what
12 I'm going to ask you to do is go through and consider all
13 the evidence, exactly what the witnesses who say that it
14 was Chase Milam in the back of the house. What did they
15 actually see, okay? What did the deputy when he arrived on
16 scene, what did he see, okay? And then does that prove
17 that Chase Milam beyond a reasonable doubt is in the back
18 of the house, opening up the door, and going inside? I
19 will tell you it does not, okay?

20 I want to thank y'all very much. I think you got the
21 idea this is beyond important for Mr. Milam. You know, of
22 course Mr. Milam -- and I even asked him. You know, you
23 heard he's got this record for, for some theft that he pled
24 guilty to on a few prior occasions. Also in the rules the
25 judge is going to give you is the rule that just because

1 someone has a prior record, you can take that into account
2 that you do -- not being truthful in court today, but that
3 doesn't mean that they did whatever they're accused of.
4 But he's -- I asked him. He admitted to it. He has the
5 prior record. He said he pled guilty in those situations.
6 That's the only information we have is he, he said he did,
7 and I'm sure he did. That don't make him guilty of this.

8 And I will tell you. The kind of guy who's, you know,
9 diving at night in a dumpster, I mean, that's Chase, you
10 know? And he's, he's kind of -- that's what he's doing.
11 Not the smartest thing in the world. I think you even
12 heard that's -- about going back the next day in the same
13 dumpster. Not, not a good idea. Not the smartest thing in
14 the world. Not a burglary, okay?

15 And just focus on that, and I ask you again to keep
16 your -- keep in mind what this burglary is in the house on
17 October 29th, not before, because. Again, even the police
18 don't think he did it before. On October -- that is it.
19 The state cannot prove beyond a reasonable doubt he was in
20 the back of that house opening that door. It is a not
21 guilty, and that's -- I'm, I'm firmly convinced the state's
22 been unable to do that, and I want to thank you for your
23 verdict.

24 THE COURT: Mr. Scott.

25 MR. SCOTT: I, I just, I just ask you again. You

1 listened to the 911 tape. They spent the first minute
2 trying to get the spelling of the street name right, and,
3 and, and Donnie told you why he's hiding in the woods.
4 He's trying to watch this dude, trying to be quiet. Took
5 him about a minute to get that squared away. Had to ask
6 twice. Are you a neighbor? Is your father at home? She
7 asked four times.

8 And, and finally because it's not a -- this isn't like
9 me and you communicating, right? He's hiding in the woods.
10 It's raining. He's trying to be quiet. He's trying to
11 watch this dude. Is your father inside the home four
12 times, and finally is he inside? No, he's in the backyard.
13 Well, well, well, clearly that's not what he meant to
14 communicate, right? Verify your phone number. Had to ask
15 twice for that. Never answered the COVID question.

16 I only bring that up just to indicate this wasn't, you
17 know, really a one-on-one communication under normal
18 circumstances. It was divided attention. This was
19 somebody trying to pay attention to somebody breaking into
20 their father's home and trying to communicate at the same
21 time, but I do want to offer this thought to you guys.

22 You know, Ace, my investigator over there, you may
23 have seen him in the courtroom, but you probably never seen
24 him before today. But as you were sitting here during a
25 break, nobody else was in the courtroom, and Ace was kind

1 of on that back wall doing something. You may look at him
2 up there and say who is that guy? Is he a lawyer? Maybe
3 that's the judge. I don't know. Could have been a family
4 member of somebody. Could have been a young lawyer or --
5 watching to, you know, figure out what's going on in court.
6 Then he could have exited the room. He was a far distance
7 away and it's a little bit darker up there. You don't know
8 who that guy is.

9 But let's say they brought him in through that door.
10 Wouldn't you immediately say, ah, that's the guy. That's
11 the guy we just saw in the back. Donnie had no clue who
12 Chase Milam was when he was watching him along side the
13 back side of the house. But as soon as he was in the front
14 and Peeples has him detained, he's, like, that's the guy.
15 That's the guy we saw in the back going under the house,
16 going inside the door, and closing it behind him. That's
17 the guy. I only offer that to you as an explanation.
18 Probably a real-world explanation. Something maybe some of
19 you have experienced before, something like that.

20 He -- Mr. Snell said he didn't have anything on him
21 that came from the house. You think maybe that's because
22 they caught him before he could? He, he didn't have any of
23 the stuff that was stacked up on that hand truck. You
24 think maybe because poor Donnie Ballentine had to go hide
25 in the woods to keep this guy from pilfering the home?

1 When he's going from one end of the house to the other, you
2 think he's looking for a way to get in? It -- it's just
3 the simple answer is he got caught before he could. He
4 certainly went into the building at [REDACTED] Koulter.

5 You know, he -- he's telling Donnie, he's telling you
6 guys don't believe your lying eyes. Believe me. But you
7 have a choice. You don't have to believe him. You have a
8 choice to believe what you see, to believe what the
9 evidence is, judge credibility, and I think you have a duty
10 to use your god-given logic and rational thinking that
11 you've accumulated over these years. I'm going to ask you
12 to use that logic and that rational thinking. And I'm
13 going to ask you to come up with the only verdict that
14 makes any sense here, and that's guilty. Thank you.

15 JURY CHARGE

16 THE COURT: All right, folks, it's now time for me to
17 charge you the law that applies to this case. I remind you
18 that during this trial, you and I have certain duties to
19 perform. As the trial judge, it is my responsibility to
20 preside over the trial of this case, and I also have the
21 duty to rule on the admissibility of the evidence offered
22 during this trial. You are to consider only the competent
23 evidence before you, including the testimony which has been
24 presented from this witness stand, any exhibits which have
25 been made a part of the record in this case, and any

1 stipulations of counsel.

2 I have the additional duty to charge you the law
3 applicable to this case. As the presiding judge, I am the
4 sole judge of the law of this case, and it is your duty as
5 jurors to accept and apply the law as I now state it to
6 you. If you already have any idea as to what the law is or
7 what the law ought to be and it does not agree with what I
8 now tell you the law is, you must abandon this idea because
9 you are sworn to accept the law and apply the law exactly
10 as I state it to you.

11 In every case tried in this court before a jury, the
12 jury becomes the sole and exclusive judge of the facts. A
13 trial judge cannot intimate, state, comment on, or make any
14 statement to a trial jury about the facts in a case. Since
15 you, the jury, are the sole judges of the facts in this
16 case, do not infer from anything that I have said or done
17 during the progress of this trial or anything that I say
18 during the course of this instruction to you that I have
19 any opinion about the facts in this case. The law does not
20 allow me to have an opinion about the facts in this case.
21 This is a matter solely for you, the jury, to determine.

22 The indictments charge the defendant with burglary in
23 the second degree and possession of burglary tools. I
24 remind you that the fact that the defendant was arrested,
25 charged, and indicted is not evidence in this case and

1 cannot be considered by you as evidence of guilt in this
2 case. Nor does it create any presumption or inference of
3 guilt. These documents are simply the formal written
4 instruments which contain the charges made against the
5 defendant; they are the formal documents by which this case
6 is brought into this court.

7 The defendant has pled not guilty to each of these
8 indictments, and that plea puts the burden on the state to
9 prove the defendant guilty. A person charged with
10 committing a criminal offense in South Carolina is never
11 required to prove himself innocent. I charge you that it
12 is an important rule of the law that the defendant in a
13 criminal trial, no matter what the seriousness of the
14 charge may be, will always be presumed to be innocent of
15 the crime for which the indictment was issued unless guilt
16 has been proven by evidence satisfying you of that guilt
17 beyond a reasonable doubt.

18 This presumption of innocence doesn't end when you
19 begin your deliberations, but it accompanies the defendant
20 throughout the trial until you reach a verdict of guilt
21 based on evidence satisfying you of that guilt beyond a
22 reasonable doubt. The presumption of innocence is like a
23 robe of righteousness placed about the shoulders of the
24 defendant which remains with the defendant until it has
25 been stripped from him by evidence satisfying you of the

1 defendant's guilt beyond a reasonable doubt.

2 The presumption of innocence is not a mere legal
3 theory; it is not just a legal phrase. It is a substantial
4 right to which every defendant is entitled unless you, the
5 jury, are satisfied from the evidence of the defendant's
6 guilt beyond a reasonable doubt.

7 What is a reasonable doubt in the law? A reasonable
8 doubt is the kind of doubt that would cause a reasonable
9 person to hesitate to act. The state has the burden of
10 proving guilt -- proving the defendant guilty beyond a
11 reasonable doubt.

12 Some of you may have served as jurors in civil cases
13 where you were told that it is only necessary to prove that
14 a fact is more likely true than not true, such as by the
15 greater weight or preponderance of the evidence. In
16 criminal cases, the state's proof must be more powerful
17 than that. It must be beyond a reasonable doubt.

18 Proof beyond a reasonable doubt is proof that leaves
19 you firmly convinced of the defendant's guilt. There are
20 very few things in this world that we know with absolute
21 certainty, and in criminal cases the law does not require
22 proof that overcomes every possible doubt. If, based on
23 your consideration of the evidence, you are firmly
24 convinced that the defendant is guilty of the crime
25 charged, you must find the defendant guilty. If, on the

1 other hand, you think there is a real possibility that the
2 defendant is not guilty, you must give the defendant the
3 benefit of the doubt and find him not guilty.

4 There are two types of evidence which are generally
5 presented during a trial: direct evidence and
6 circumstantial evidence. Direct evidence is the testimony
7 of a person who claims to have actual knowledge of a fact,
8 such as an eyewitness. It is evidence which immediately
9 establishes the main fact to be proved.

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

16 The law makes absolutely no distinction between the
17 weight or value to be given to either direct or
18 circumstantial evidence, nor is a greater degree of
19 certainty required of circumstantial evidence than of
20 direct evidence. You should weigh all of the evidence in
21 the case. After weighing all of the evidence, if you are
22 not convinced of the guilt of the defendant beyond a
23 reasonable doubt, you must find the defendant not guilty.

24 Necessarily, you must determine the credibility of
25 witnesses who have testified in this case. Credibility

1 simply means believability. It becomes your duty as jurors
2 to analyze and to evaluate the evidence and determine which
3 evidence convinces you of its truth. In determining the
4 believability of witnesses who have testified in this case,
5 you may believe one witness over several witnesses or
6 several witnesses over one witness. You may believe a part
7 of the testimony of a witness and reject the remaining part
8 of the testimony of that same witness. You may believe the
9 testimony of a witness in its entirety or reject the
10 testimony of a witness in its entirety. You may consider
11 whether any witness has exhibited to you any interest,
12 bias, prejudice, or any other motive in this case. You may
13 also consider the appearance and manner of a witness while
14 on the witness stand.

15 You have heard evidence that the defendant was
16 convicted of a crime other than the one for which the
17 defendant is now on trial. This evidence may be considered
18 by you, if you conclude it is true, only in deciding
19 whether the defendant's testimony is believable and for no
20 other purpose. You must not consider the defendant's prior
21 record as any evidence of the defendant's guilt of the
22 charge we are trying today.

23 In order to establish criminal liability, criminal
24 intent is required. For example, the mental state required
25 to be proven by the state for a particular crime might be

1 purpose, intent, knowledge, recklessness, or criminal
2 negligence. Criminal intent must be proven by the state
3 beyond a reasonable doubt. Criminal intent is always a
4 matter that must be determined by the jury from the
5 circumstances surrounding the situation. There is no way
6 to prove -- I'm sorry. There is no way to prove intent to
7 a mathematical certainty; there is no way medical science
8 can dissect a person's brain and determine what the person
9 had in mind. So, the law says that criminal intent may be
10 inferred from the circumstances shown to have existed.

11 This is how you make the determination of whether or
12 not the element requiring intent was present. It is not
13 necessary to establish intent by direct and positive
14 evidence, but intent may be established by inference in the
15 same way as any other fact: by taking into consideration
16 the acts of the parties and all of the facts and
17 circumstances of the case. Criminal intent is a mental
18 state, a conscious wrongdoing. It is up to you to
19 determine what the defendant intended to do based on the
20 circumstances shown to have existed.

21 An issue in this case is the identification of the
22 defendant as the person who committed the crime charged.
23 The state has the burden of proving identity beyond a
24 reasonable doubt. You must be satisfied beyond a
25 reasonable doubt of the accuracy of the identification of

1 the defendant before you may convict the defendant.

2 Identification testimony is an expression of belief or
3 impression by a witness. You must determine the accuracy
4 of the identification of the defendant. You must consider
5 the believability of each identification witness in the
6 same way as any other witness. You may consider whether
7 the witness had an adequate opportunity to observe the
8 offender at the time of the offense. This will be affected
9 by things like how long or short a time was available, how
10 far or close the witness was, the lighting conditions, and
11 whether the witness had the chance to see or know the
12 person in the past.

13 Once again, I instruct you the burden of proof on the
14 state extends to every element of the crime charged, and
15 this specifically includes the burden of proving beyond a
16 reasonable doubt the identify of the defendant as the
17 person who committed the crime. If, after examining the
18 testimony, you have a reasonable doubt as to the accuracy
19 of the identification, you must find the defendant not
20 guilty.

21 The defendant is charged with burglary in the second
22 degree. To prove that the defendant is guilty of burglary
23 in the second degree, the state must prove beyond a
24 reasonable doubt that the defendant entered a building
25 without consent with the intent to commit a crime in the

1 building. A building is any structure, vehicle,
2 watercraft, or aircraft where any person lodges or lives or
3 where goods are stored. The state must also prove beyond a
4 reasonable doubt that the defendant entered or remained in
5 the building in the nighttime. Nighttime is the period
6 between sunset and sunrise during which there is not enough
7 daylight to recognize a person's face except by artificial
8 light or moonlight.

9 Mere presence at the scene is not sufficient to prove
10 someone guilty of a crime. A defendant's presence where a
11 crime is being committed or mere association with a person
12 who commits a crime does not make a defendant an accomplice
13 or an aider or abettor of the person committing the crime.
14 The burden is on the state to prove every element of the
15 crime charged.

16 If you find, after reviewing all of the evidence, that
17 the state has proved that the defendant was only present at
18 the scene of a crime and that they have not proved beyond a
19 reasonable doubt any other participation in the crime, then
20 you must find the defendant not guilty. The law is that
21 proof at the scene of the crime is not sufficient to find
22 someone guilty.

23 The defendant is also charged with possession of
24 burglary tools. To prove that the defendant is guilty of
25 this charge, the state must prove beyond a reasonable doubt

1 that the defendant had in his possession a tool, false key,
2 picklock, or other implement or thing adapted, designed, or
3 commonly used for the commission of burglary, larceny,
4 safecracking, or other crime under circumstances evincing
5 an intent to use, employ, or allow the same to be used or
6 employed in the commission of a crime, or knowing that the
7 same are intended to be so used.

8 Now, you have been chosen and sworn to give the
9 parties in this case a fair and impartial trial. When you
10 have done so, you will have complete -- I'm sorry -- you
11 will have complied with your oath, and no one will have a
12 right to criticize your verdict. You must not be
13 influenced by opinions or expressions of opinion you may
14 have heard outside of the courtroom, but rather should base
15 your verdict solely on the testimony of the sworn witnesses
16 who took the stand, the exhibits received into evidence,
17 and the law which I have stated. You should not be swayed
18 by caprice, passion, prejudice, or improper sympathy for or
19 against anyone in this case. Remember you have no friends
20 to reward or enemies to punish, and all parties are
21 entitled to a fair and impartial trial.

22 It is your duty as jurors to consult with one another
23 and deliberate in an effort to reach an agreement. Each of
24 you must decide this case for yourself, but only after
25 impartial consideration of all of the evidence with your

1 fellow jurors.

2 In the course of your deliberations, do not hesitate
3 to re-examine your own views and change your opinion if you
4 become convinced it is erroneous. However, do not
5 surrender your honest conviction as to the weight or effect
6 of the evidence solely because of the opinion of your
7 fellow jurors, or for the mere purpose of returning a
8 verdict.

9 As I stated earlier, you are judges, judges of the
10 facts. Your verdict must represent the considered judgment
11 of each juror. In other words, your verdict must be
12 unanimous.

13 There are two possible verdicts which you may find for
14 each of the indictments in this case: guilty or not guilty.
15 There is no significance whatsoever in the order in which I
16 state these possible verdicts. It's simply that one must
17 be stated first.

18 Now, you may have noticed that I have read these
19 instructions. I do so to give you the law as accurately as
20 possible.

21 Mr. Foreman, it will be your added duty to preside
22 over the deliberations in the jury room. If, during
23 deliberations, you should desire to communicate with the
24 court, please reduce your message or question to writing,
25 signed by you as foreperson and foreperson only, and pass

1 the note to the bailiff, who will bring it to my attention.
2 I will then respond as promptly as possible, either in
3 writing or by having you return to the courtroom. I
4 caution you, however, with regard to any message or
5 question you might send that you should never state or
6 specify your numerical division at the time.

7 Now, you have heard the evidence, and you have heard
8 the law. Whatever your verdict, Mr. Foreman, you will
9 indicate it on the indictment and then sign it and date it
10 on behalf of the jury.

11 And so each indictment describes the crime charged,
12 and with the flip side of that indictment in the bottom,
13 left-hand corner, there is a place to write the verdict.
14 You will write guilty or not guilty, and you'll sign it and
15 date it on behalf of the jury.

16 Remember that although the foreperson is the only
17 juror who writes the verdict, it is not his alone. The
18 verdict has to be unanimous. Mr. Foreman, you are not
19 authorized to write the verdict until all of you have
20 agreed on the verdict.

21 Now, do not begin to discuss the case until you have
22 received, received the exhibits and the indictments. Once
23 you receive these things, that will be your signal to begin
24 your deliberations. Once you begin your deliberations, you
25 will continue to deliberate until you have reached a

1 verdict, at which time you will knock on the door, advise
2 the bailiff you've reached a verdict, and we'll bring you
3 back into the courtroom to receive your verdict.

4 So, the last time I'll tell you don't discuss the case
5 is this time, and as I said, that's only because you need
6 the evidence and you need the indictments. As soon as you
7 receive those, begin to deliberate.

8 As you know, we've ordered lunch for you just because
9 we're unsure how long you'll deliberate. The lunch should
10 be here; if it's not here already, it should be here
11 relatively soon. You have your choice as to how you deal
12 with lunch, whether you want to eat while discussing,
13 whether you want to save it, whether you want to eat first
14 and then deliberate. That is completely up to you. Just
15 do what's best for the whole group.

16 So, I'll excuse you from the courtroom now, and once
17 you receive the indictments and the evidence, you'll begin
18 to deliberate. Please return to your jury room.

19 (THE JURY EXITS AT 11:33 AM.)

20 THE COURT: Any objections to the jury charge from the
21 state?

22 MR. SCOTT: No, Your Honor.

23 THE COURT: From the defense?

24 MR. SNELL: No, Your Honor.

25 THE COURT: All right, please check the evidence.

1 We'll send it back to the jury, and we'll be at ease. Oh,
2 we won't. We need the alternate to come out.

3 (OFF THE RECORD AS ATTORNEYS REVIEW EXHIBITS WITH
4 COURT REPORTER.)

5 THE COURT: If y'all will quiet down, we're going to
6 go back on the record.

7 First off, Madame Alternate, thank you for your
8 service. All twelve of the other jurors made it to the
9 finish line. So, your service is no longer needed. You
10 are now free to go, and that completes your jury service
11 for this year. If you're summoned for jury duty in circuit
12 court in 2022 or 2023, you'll have to show up, but tell the
13 judge then that you served on this jury, and you can
14 exercise any exemption if you choose not to serve. You can
15 choose to serve if you want to.

16 Let's see, the lunch is in the back. They are pulling
17 out your lunch for you. So, it comes in a little box, so
18 you can take it to go, but you are now free to discuss the
19 case with whoever you want to discuss it with. You can
20 come back in this courtroom and talk to the attorneys if
21 you want to or the family or friends or whoever you want
22 to ---

23 ALTERNATE: Okay.

24 THE COURT: --- discuss it with, but you're otherwise
25 free to go. Thank you so much.

1 ALTERNATE: Thanks a lot.

2 THE COURT: Thank you.

3 Also as to the exhibits, let me talk about this
4 laptop. Mr. Snell, any objection to the laptop going to
5 the jury?

6 MR. SNELL: No, Your Honor. My understanding is
7 that's something y'all have customarily done here, so no,
8 no objection.

9 THE COURT: Okay. So, we'll send all of the exhibits
10 except the knife to the jury. I don't know where the knife
11 is.

12 BAILIFF: Right here, Your Honor.

13 THE COURT: Okay, but all the other exhibits do.

14 Mr. Bowan, you can go ahead and take those exhibits
15 minus the knife with the indictments and the laptop. Thank
16 you.

17 BAILIFF: Is the verdict form in here?

18 THE COURT: They're going to write it on the
19 indictments.

20 Mr. Snell, let's get a phone number for you in case
21 you go anywhere.

22 MR. SNELL: I will not wander far.

23 (JURY DELIBERATIONS BEGIN AT 11:38 AM.)

24 (OFF THE RECORD.)

25 (JURY NOTE MARKED INTO EVIDENCE AS COURT'S EXHIBIT

1 NUMBER 1.)

2 THE COURT: All right, we are back on the record.
3 Defendant is present, along with his counsel. We have a
4 question from the jury. The note has been marked as
5 Court's Exhibit Number 1. It reads: Can we have a written
6 copy of the definition for reasonable doubt? Signed by the
7 foreperson.

8 Ordinarily I would just send it to them. However,
9 typically when the court gives a written copy of the
10 instructions to the jury, there is an instruction included
11 that instructs them that they must take the jury charges as
12 a whole and not ignore some and pay attention to others.
13 For that reason, the court proposes or suggests that the
14 entire charge should be sent to the jury rather than just
15 one portion of it.

16 What is the state's position on that?

17 MR. SCOTT: I've known a couple of judges that do send
18 the charges back. That's certainly not my preference. Of
19 course I defer to Your Honor, but it, it -- I would propose
20 if the question is regarding reasonable doubt that we bring
21 them back in here and just read the charge to them again.

22 THE COURT: Is there any specific objection as to
23 giving them a written copy of the definition of reasonable
24 doubt?

25 MR. SCOTT: Just that I don't like it. No, I don't

1 have any legal basis of it. It just seems to -- I don't
2 know. You create twelve lawyers in a room to me, and
3 instead of, I don't know, considering the evidence, and it
4 forces them to construe legal concepts that we've spent
5 many years trying to understand ourselves. So, I have no
6 legal basis. It's only a preference and only a suggestion,
7 but specifically it's the reasonable doubt charge. I would
8 just propose bringing them out and read that to them once
9 more.

10 THE COURT: What says the defense?

11 MR. SNELL: Your Honor, we respectfully request to
12 provide them with the entire charge. If, if they want --
13 one portion is given -- the entire charge, and trust the
14 jury to do their work.

15 THE COURT: Is there any opposition from the state as
16 to giving them the entire charge? I understand the
17 objection to them having anything in writing, but if I'm
18 going to give it to them in writing, is there an objection
19 to it being the entire charge?

20 MR. SCOTT: No, Your Honor.

21 THE COURT: Okay. So, I am going to give them the
22 entire charge as read to them. It will be marked as
23 Court's Exhibit Number 2. That's over the state's
24 objection to them having the written charge. So, they will
25 have the entire charge.

1 It does not have that language included about taking
2 the charges as a whole and not ignoring some and paying
3 attention to others because I did not intend to give them a
4 written copy. But I also don't want to amend what I've
5 already read. So, but that is part of the reasoning for
6 sending the entire charge. It just won't have that
7 language in there. So, the entire charge will be Court's
8 2, and I will send it to the jury. I'll let you know if
9 anything further comes -- you know, what the next step is,
10 whether there is another question or a verdict. So, we
11 will be at ease waiting for the jury. Thank you.

12 (JURY CHARGE MARKED INTO EVIDENCE AS COURT'S EXHIBIT
13 NUMBER 2.)

14 (OFF THE RECORD.)

15 (JURY NOTES INDIVIDUALLY MARKED INTO EVIDENCE AS
16 COURT'S EXHIBIT NUMBERS 3, 4.)

17 THE COURT: All right, in that short time, we've
18 gotten two additional notes from the jury. Court's Exhibit
19 3 is: Please provide a written transcript of Ray Milam's
20 testimony. Signed by the foreperson. Court's Exhibit
21 Number 4: Did the solicitor's office or Richland County
22 Sheriff's Department look into the existence of one Chad
23 Harper or Adrian?

24 The court's plan is to bring the jury back into the
25 courtroom. Certainly we don't have a written transcript of

1 Ray Milam's testimony. However, we will replay the audio
2 file, the audio recording of that testimony for them, and
3 the response to the investigation of Chad Harper and Adrian
4 will simply be you have all of the evidence before you, all
5 the evidence and testimony. You must consider the evidence
6 and testimony before you. That's my standard answer. It's
7 my nice way of saying I can't answer that question.

8 Any objection to any of that from the state?

9 MR. SCOTT: No, Your Honor.

10 THE COURT: From the defense?

11 MR. SNELL: No, Your Honor.

12 THE COURT: All right, please bring the jury.

13 (THE JURY ENTERS AT 1:34 PM.)

14 THE COURT: All right, ladies and gentlemen, I've
15 received the most recent two notes which you've marked
16 request number 2 and request number 3. For purposes of the
17 record, they are marked Court's Exhibit Number 3 and Number
18 4 respectively.

19 I will deal with Court's Exhibit Number 4, also known
20 as request number 3, first: Did the solicitor's office or
21 Richland County Sheriff's Department look into the
22 existence of one Chad Harper or Adrian? My response to
23 that is you have heard all of the testimony and received
24 all of the evidence. You must consider the evidence and
25 testimony that is before you.

1 Request number 2, which is also Court's Exhibit Number
2 3: Please provide a written transcript of Ray Milam's
3 testimony. We do not have a written transcript. That's
4 what the court reporter does, but she's not doing a full
5 written transcript in realtime. That something that would
6 be prepared later. So, what we can offer you is the audio
7 recording of Ray Milam's testimony. So, we're going to
8 pause for just a second while she cues that up and turns it
9 up as loud as she can so that you can listen to Mr. Milam's
10 testimony.

11 (WHEREUPON, THE TESTIMONY OF RAY MILAM IS PLAYED FOR
12 THE COURT.)

13 THE COURT: All right, please return to your jury
14 room.

15 (THE JURY EXITS AT 1:42 PM.)

16 THE COURT: All right, we're on another recess as we
17 wait for the jury. Thank you.

18 (OFF THE RECORD.)

19 THE COURT: All right, folks, let's go back on the
20 record, *State v. Chase Michael Milam*. I understand the
21 jury has reached a verdict.

22 Please bring the jury, Mr. Tolbert.

23 MR. SCOTT: Your Honor, we're, we're getting the
24 victim down here right here.

25 THE COURT: Oh.

1 MR. SCOTT: Should be right down.

2 MR. SNELL: Your Honor, if I may?

3 THE COURT: Yes.

4 MR. SNELL: Would he be allowed at this point to take
5 the verdict seated? He's, he's, he's got his cuffs on.

6 THE COURT: No. Why?

7 MR. SNELL: He's got his cuffs on.

8 THE COURT: He's got his cuffs off?

9 MR. SNELL: On.

10 THE COURT: On. Yeah, if they've reached a verdict.

11 DEPUTY: That's our policy.

12 THE COURT: Right.

13 MR. SNELL: I didn't, I didn't know. I didn't -- I, I
14 didn't know if that would mean he would stand up for it or
15 -- we'll -- he'll stand.

16 THE COURT: He will stand.

17 MR. SNELL: Yes. Yes, Your Honor.

18 THE COURT: But there is no reason for them not to see
19 him handcuffed at this point because they've reached a
20 verdict. If it were -- maybe if it were a hung jury, but
21 probably not even because you'd get a whole new jury panel
22 to try it again.

23 They've made a decision at this point, and I don't
24 disagree with security, with their policies. I'm not a
25 security expert. I don't expect them to disagree with me

1 about judging, and I don't disagree with them about the
2 policing. You've got to stay in your lane, know your
3 strengths.

4 (THE JURY ENTERS AT 2:56 PM.)

5 THE COURT: All right, Mr. Foreman, I understand the
6 jury has reached a verdict. Is that correct?

7 FOREPERSON: We have, Your Honor.

8 THE COURT: As to both charges?

9 FOREPERSON: We have.

10 THE COURT: Okay. Is -- are those verdicts unanimous?

11 FOREPERSON: Yes, ma'am.

12 THE COURT: Would you hand those indictments to the
13 bailiff, please?

14 (A PAUSE.)

15 THE COURT: Madame Clerk, will you publish the
16 verdicts?

17 VERDICTS

18 CLERK: Indictment number 2021-5273, it's *The State of*
19 *South Carolina v. Chase Michael Milam*. It's an indictment
20 for tools, possession of implements capable of being used
21 in crime. The verdict is not guilty. This is signed
22 foreperson, juror number 223.

23 Indictment number 2021-2669, *The State of South*
24 *Carolina v. Chase Michael Milam*, this is an indictment for
25 burglary second degree. We, the jury, find the defendant

1 guilty. This is signed foreperson, juror number 223.

2 Mr. Foreman, are these your verdicts and the verdicts
3 of the entire jury?

4 FOREPERSON: Yes, ma'am.

5 THE COURT: All right, anything from the state before
6 the jury is released?

7 MR. SCOTT: No, Your Honor.

8 THE COURT: From defense?

9 MR. SNELL: Move to poll, Your Honor.

10 THE COURT: Please poll the jury, Madame Clerk.

11 CLERK: Yes, Your Honor.

12 POLLING OF THE JURY

13 CLERK: Ladies and gentlemen of the jury, I'm going
14 to ask you two questions regarding your verdict. If you'll
15 answer yes or no to both questions.

16 Juror number 223, was this your verdict?

17 FOREPERSON: Yes.

18 CLERK: Is it still your verdict?

19 FOREPERSON: Yes.

20 CLERK: Juror number 60, was this your verdict?

21 JUROR: Yes.

22 CLERK: Is it still your verdict?

23 JUROR: Yes.

24 CLERK: Juror number 50, was this your verdict?

25 JUROR: Yes.

1 renew the prior motion for directed verdict. We would
2 renew the prior objections made during the course of the
3 trial, and would also on the -- on those grounds make a
4 motion for a new trial.

5 THE COURT: Right. My rulings on all objections and
6 motions made during the trial remain the same. Motion for
7 a new trial is respectfully denied.

8 All right, is the state ready for sentencing?

9 MR. SCOTT: We are, Your Honor.

10 THE COURT: All right, if y'all would -- you can stay
11 there, but -- no, actually come forward because I want Mr.
12 Milam here at the center microphone.

13 All right, let me hear from the state.

14 MS. WEST: Your Honor, I believe that the victim would
15 like to address you at the appropriate time, and then all I
16 have is his prior record.

17 THE COURT: Give me his prior record, please.

18 MS. WEST: He's got a 2012 DUI first offense; 2013,
19 public drunk; 2014, possession of marijuana; 2017,
20 shoplifting; 2018, possession of marijuana and
21 miscellaneous criminal offense; 2019, petit larceny and
22 then a 2019 petit larceny under the property crimes
23 enhancement.

24 THE COURT: Okay. Let me hear from Mr. Ballentine,
25 Mr. Ballentine. That's fine.

1 MR. BALLENTINE: Do I sit? Do I sit down or stand?
2 I'm used to sitting. I'm used to having to sit.

3 MS. WEST: No, I was just moving so you can use the
4 microphone.

5 MR. BALLENTINE: Oh, I'm sorry.

6 THE COURT: Wherever you want to be.

7 MR. BALLENTINE: I'll just stand right here, yes,
8 ma'am.

9 THE COURT: Yes, sir.

10 MR. BALLENTINE: I'd just like for you -- first of
11 all, you know, it stinks that I had to go and wait at the
12 house. I mean, someone broke in who I believe to be him
13 the night before.

14 I'd like for you to take into consideration the guns
15 that were stolen, ammunition, the history, and it seems to
16 me like it's progressing. He had mentioned that he's
17 learned his lesson. I think it's far from that. I don't
18 think he's learned it at all, and I think he does need to
19 learn his lesson.

20 THE COURT: Okay. Thank you, sir.

21 MR. BALLENTINE: Thank you.

22 THE COURT: Anything else from the state?

23 MS. WEST: No, Your Honor. I agree. Mr. Milam needs
24 to be held accountable. It does sound like he's been
25 progressing.

1 THE COURT: Mr. Snell.

2 MR. SNELL: Your Honor, Your Honor, thank, thank you
3 so much, and, you know, kind of look at this -- saw this
4 verdict come back with a not guilty on the, the tools and
5 the guilty on the burglary, and again what that, that kind
6 of signaled to me, although you never know, is that I guess
7 they found him to be the one back there opening the door
8 and looking in the bottom of the house but not using the
9 screwdriver, the part of it -- or as a planned activity.

10 But, but again that's -- you know, one, one thing. I
11 don't believe there was any accusation or anything about
12 his involvement with anything before. I know the DNA came
13 back negative, not him. So, I know that won't be anything
14 the court takes into account with sentencing.

15 Judge, he has -- he graduated high school. He did go
16 to trade school. He got a really bad burn when he was
17 working in Charleston and had to have skin grafting and,
18 and cadaver parts put in his face, and I think that kind of
19 ended his, his work at the time. And I don't know if he's
20 gone back to working since really.

21 He has -- he did four days in jail prior to getting
22 bonded out initially, okay? He then -- I understand that
23 as a result of this whole situation -- he was on probation.
24 He got revoked and terminated ten months, okay? Now at the
25 time, they revoked his bond on an unrelated case that's

1 pending -- my understanding of the history -- and they
2 released him from SCDC by accident, okay, and -- because
3 they were supposed to transport him back to the county
4 jail.

5 I got -- so, this has been a public defender case up
6 until basically, I think, kind of early November. They --
7 my office gets a call from the solicitor's office. Tells
8 us that he's got this bench warrant for bond violation, and
9 he turns himself in on November 8th. So, he basically
10 drives down, you know, comes, self -- basically reports,
11 turns himself in November 8th. He's been in custody since,
12 and that's why he's in custody today. And I think that,
13 you know, I guess that's almost, I guess, a month ago
14 today. So, so, really, since this incident, I mean, he's,
15 he's been in custody almost non -- you know, almost the
16 entire duration. He is, of course, past ---

17 THE COURT: He's been in custody, but you say he has a
18 pending charge. What is pending?

19 MR. SNELL: It's a 2018 something. It's ---

20 MS. WEST: If I may? I meant to mention that. It's a
21 2018 auto breaking.

22 THE COURT: Auto breaking. Okay.

23 MR. SNELL: Yeah, and that's -- so, that's pending.
24 So, it's kind of one of these things where no matter what
25 the outcome of the case was, he was going to be going back

1 to the jail today because his bond's revoked, I think, on
2 that.

3 Judge, if, if -- at this time, if you wouldn't mind, I
4 know he's had family that's been here his whole life who
5 just wanted to briefly address Your Honor.

6 THE COURT: Certainly.

7 MR. SNELL: Do they, do they stand up there? Do they
8 need to walk to the microphone?

9 THE COURT: Let's see. Let's stand where they are and
10 speak very loudly. We'll take one at a time.

11 If you'll take your mask off, give me your first and
12 last name.

13 MS. BURGESS: I'm Kimberly Milam Burgess. I'm Chase's
14 aunt.

15 THE COURT: Yes, ma'am.

16 MS. BURGESS: May I speak?

17 THE COURT: Yes, ma'am

18 MS. BURGESS: So, obviously I've known Chase his
19 entire life. He has had a troubled life. Some of it is
20 due to his own poor decisions; some of it is due to
21 circumstances beyond his control, especially during his
22 childhood.

23 He did have a job. He was very excited about going to
24 college, to the trade school for the HVAC, and he suffered
25 a, basically a job-ending, career-ending injury when the

1 propane -- not propane, Freon exploded, and he was sent to
2 the Augusta Burn Center. And after that, he really didn't
3 work in HVAC again. He sort of spiraled out. That led to
4 some of the DUIs.

5 He hasn't had -- I'll be honest. He hasn't had a good
6 support system. My mother, his grandmother, has been his
7 -- really his sole cheerleader for a long time. I always
8 felt like, you know, he should stand on his own two feet.
9 But since he's been in prison and since he got out in
10 October, he, he does want to change. He does. He is
11 excited about getting a new life.

12 And I feel like I -- my -- me, personally, I had the
13 wrong attitude because he's in an endless cycle. He can't
14 get himself out, and I feel like we, as his family, if we
15 stand together, we can help him. We can help him. You
16 know, like, he can't get a job because he needs a driver's
17 license. He can't get a driver's license because he
18 doesn't have a job. So, he's in this cycle, and I feel
19 like we're ready now to help him. My eyes are open to his
20 circumstances, and I feel like that we can help him be a
21 productive citizen, to be a, a productive part of society.
22 I know he wants to, and I know that I would like to help
23 him do that.

24 THE COURT: Thank you, ma'am.

25 Your first and last name.

1 MS. MILAM: My name is Marilyn Milam. I'm Chase's
2 grandmother, and she has told the truth. He is at a point
3 in his life where he wants to join society, be productive,
4 eventually have a family.

5 He's been -- had a lot of trouble and primarily
6 because of his mother's instability. And I think he's at
7 the point where he wants to change if we help him.

8 And I want to say how disappointed I am in Richland
9 County for not doing DNA on the tools or flashlights that
10 were at the site because Chad Harper really existed and
11 really did a lot of damage to Chase personally. So, I am
12 sorely disappointed in Richland County's lack of
13 investigation, and I hope you will be lenient, lenient with
14 Chase.

15 THE COURT: Yes, ma'am. Thank you.

16 Tell me your name, please.

17 MS CREWS: My name is Deborah Milam Crews. I'm
18 Chase's other aunt, and I love Chase dearly. He's got a
19 big, big heart. His downfall is helping people who were
20 less fortunate than he, and he brought them into his life
21 and into his home, and then they brought people in, Chad
22 Harper, who does exist, and Adriana -- Adrian, who does
23 exist. I met Adrian, and I was glad when Chase decided not
24 to have anything to do with her anymore.

25 But he has served a year in prison, and it has

1 affected him, and I feel like he deserves a chance to prove
2 that he does want a productive life. And I am willing to
3 stand right beside him and do whatever I need to do to help
4 him because he is a good person with a wonderful, huge
5 heart. He's a very loving person. He's not violent; he's
6 not vindictive. He is a loving person to human beings and
7 to animals, and I think that says a lot about a person.

8 He's had a hard life, and he hasn't been given many
9 chances, and he deserves it. He's twenty-eight years old.
10 You know, he deserves a chance to make a career for himself
11 and build something for himself. He's not a evil, bad
12 person.

13 And I love you, Chase.

14 DEFENDANT: I love you, too.

15 THE COURT: Thank you, ma'am. Y'all can have a seat.

16 Dad, do you want to ---

17 MR. MILAM: All right, I'm just ---

18 THE COURT: --- say anything, too?

19 MR. MILAM: I would love to say something, but I'm
20 just too angry and I might say ---

21 THE COURT: Okay.

22 MR. MILAM: --- the wrong thing.

23 THE COURT: Hold on, Mr. Ray. You don't want to say
24 -- got it. That's fine. That's fine.

25 MR. MILAM: I'm just too angry. I don't think I'm --

1 it won't come out right, so I'm not going to...

2 THE COURT: Okay.

3 Mr. Snell.

4 MR. SNELL: Your Honor, that, that's it. He's, he's
5 -- had the pleasure the last three days getting to meet his
6 family, get to know them, and the same thing. They've been
7 very concerned.

8 Just, you know, I know juries, juries, we all -- as a
9 lawyer, I respect the jury's decision, and I know they
10 found him guilty of this. I know he's got the record of
11 what would be misdemeanor theft cases, and I don't know if
12 Chase wants to say anything, but I think, I think those are
13 the sentiments he would share and just would ask for all
14 consideration, Your Honor.

15 THE COURT: Chase, did you want to say anything?

16 DEFENDANT: No, ma'am.

17 THE COURT: Okay. I don't want to get nit picky over
18 details, but he's not worked in HVAC since this burn, but
19 his testimony was that he doesn't work in HVAC because he
20 doesn't have a driver's license, and he can't get driver's
21 license because the insurance -- or no. I don't know what
22 that has to do with the driver's license, but the insurance
23 is so expensive, the SR22, which would have been from DUIs
24 nine years ago, which really doesn't make sense to me but
25 is also inconsistent with the fact that he doesn't do HVAC

1 work because of a burn. I thought it had to do with
2 insurance. You want to clear that up for me, Mr. Snell?

3 MR. SNELL: And again, what I understand is he, he had
4 the DUI, I think, in 2012. So, that would have been maybe
5 nine years ago. He has not had a license since. I, I --
6 first thing I hear is that's plenty of time to get that --
7 those things sorted out, but that it never got resolved
8 with the DMV. You know, some people overcome challenges
9 very easily, and some people have to struggle with what
10 should be normal inconveniences to other people.

11 What they told me is that the real serious injury he
12 had when he did go to the hospital -- and he's got pictures
13 of all this. That was really like a, a, a change in
14 attitude, kind of like depression, or it did something that
15 kind of demotivated him.

16 THE COURT: What year was that?

17 DEFENDANT: 2017.

18 THE COURT: '17?

19 DEFENDANT: I got a burn on my hand, too, and my
20 shoulder.

21 THE COURT: Okay.

22 MR. SNELL: And was that the last time you worked at
23 HVAC?

24 DEFENDANT: I think so, yeah.

25 THE COURT: Okay.

1 MR. SNELL: And that may be the last time he worked in
2 HVAC.

3 THE COURT: Okay. Like I said, I don't want to get
4 nit picky about the details because we're not here about
5 that exactly, but I did notice that inconsistency.

6 And, you know, everyone, family members and friends,
7 always want to tell me what a good person is standing
8 before me, and I don't know whether that's true. I don't
9 disbelieve you, but it's not for me to determine even. I
10 judge people's actions and their history of criminal
11 activity and other things. And what I'm looking at here is
12 someone whose criminal record goes back until he's nineteen
13 years old.

14 And I know there are small things, and part of that
15 driver's license problem could be additional suspensions
16 because any time you're convicted of a drug offense, you
17 get a driver's license suspension in addition to the DUI.
18 So, you know, any delay there is as a result of Mr. Milam's
19 own actions.

20 And I do believe that everybody deserves a chance, but
21 here's someone who stands before me who is educated beyond
22 high school even, has learned a trade, and I don't know
23 what is inhibiting him or preventing him from having a
24 chance. He seems to have the same chance to be successful
25 as any other human being. I don't know what's inhibiting

1 that.

2 What I do know is that whether you're in good
3 circumstances or bad circumstances, that it's never okay to
4 take from someone else. And it's, frankly, fortunate that
5 with two people out there with shotguns that night, that
6 Mr. Milam is still alive even to answer for this charge.

7 But when you particularly invade someone's home --
8 and I know that the homeowner had passed, was not there
9 at the time. I don't know that you knew that, Mr. Milam,
10 but I just personally find that to be so offensive to my
11 sensibilities because you disturb a person's peace of --
12 sense of peace, safety, and security. Whether that's
13 Mr. Ballentine's home or not, I'm sure he would want to
14 feel that he could be safe and secure inside his father's
15 home, and the idea that someone violates that has
16 psychological impacts on the victim for a considerable
17 amount of time.

18 I just, I don't understand this crime other than that
19 you thought you could get something for nothing. Or, you
20 know, take from people who work or earn or save or become
21 packrats, as Mr. Ballentine described his father, or
22 whatever it is. That's just never okay.

23 DEFENDANT: I didn't take anything.

24 THE COURT: And there's no allegation that you did
25 take anything. The allegation, what's you've been

1 convicted if, is the intent to take something, and maybe
2 you didn't, for all I know, because the police showed up,
3 because you hadn't set out your plan. You know, you've
4 been convicted of having the intent to do that inside the
5 building.

6 Honestly, I don't want to pull at the wrong strings,
7 but it's my belief that a twenty-eight year-old white male
8 in America is in no better position than anyone else -- or
9 no worse position, certainly, than anyone else to have an
10 opportunity to be successful. You're the right age.
11 You're the right nationality even. You know, you're not in
12 some Third World country. There is nothing but
13 opportunity, and you have to make a choice to do the wrong
14 thing.

15 SENTENCE OF THE COURT

16 THE COURT: Mr. Milam, the sentence on the charge of
17 burglary second degree violent is that you be committed to
18 the state Department of Corrections for a term of seven
19 years. You'll get credit for eleven months that you've
20 already served. Good luck to you, sir.

21 And if everyone in the courtroom will just hold tight
22 and follow the ---

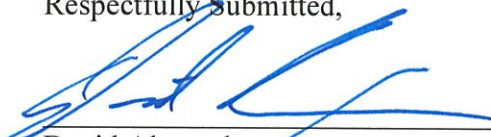
23 MR. MILAM: Love you, bud. Love you.

24 THE COURT: --- follow the directions of the deputies
25 as to who exits when.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



David Alexander
Appellate Defender

RECEIVED

Feb 06 2023

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEY FOR APPELLANT

This 6th day of February, 2023.

