

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Spartanburg County

Honorable G.D. Morgan, Jr., Circuit Court Judge

JOHNNY CHAPMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-001029

APPENDIX

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1 STATE OF SOUTH CAROLINA) IN THE COURT OF
2) GENERAL SESSIONS
3 COUNTY OF SPARTANBURG) OF THE SEVENTH
4) JUDICIAL CIRCUIT
5 STATE OF SOUTH CAROLINA,)
6 Plaintiff,) TRANSCRIPT OF RECORD
7 vs.) 2019-CP-42-4066
8 JOHNNY R. CHAPMAN,) 2019-CP-42-4067
9 Defendant.)
10 -----

11 January 30, 2020
12 Spartanburg, South Carolina

13
14 B E F O R E:

15 HONORABLE R. KEITH KELLY, Judge.

16
17 A P P E A R A N C E S

18 KATHERINE SIEBER, ASSISTANT SOLICITOR
19 For The State

20 BRENDAN M. DELANEY, ESQUIRE
21 For Defendant

22
23
24 Julie A. Cendroski,
25 Circuit Court Reporter
 Seventh Judicial Circuit

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1 THE STATE VERSUS JOHNNY RAY CHAPMAN

2 (State's Exhibit Number 1, CD 9-1-1 Calls, was
3 marked for identification.)

4 (State's Exhibit Number 2, CD Abbott's Farm 9-1-1
5 Call, was marked for identification.)

6 (State's Exhibit Number 3, Photo of Man Walking,
7 was marked for identification.)

8 (State's Exhibit Number 4, Photo of Man In
9 Parking Lot, was marked for identification.)

10 (State's Exhibit Number 5, Arial Photo of Abbott
11 Farm, was marked for identification.)

12 (State's Exhibit Number 6, Photo of Front
13 Entrance of Abbott's Fruit Market, was marked for
14 identification.)

15 (State's Exhibit Number 7, Photo of Front of
16 Fireworks Store, was marked for identification.)

17 (State's Exhibit Number 8, Photo of Front of
18 Store Burnt Walls, was marked for identification.)

19 (State's Exhibit Number 9, Photo of Front of
20 Abbott's Farm, was marked for identification.)

21 (State's Exhibit Number 10, Photo of Burnt Wall,
22 was marked for identification.)

23 (State's Exhibit Number 11, Photo of Burnt Wall,
24 was marked for identification.)

25 (State's Exhibit Number 12, Photo of Burnt

1 Window, was marked for identification.)

2 (State's Exhibit Number 13, Photo of Inside of
3 Store, was marked for identification.)

4 (State's Exhibit Number 14, Photo of Street, was
5 marked for identification.)

6 (State's Exhibit Number 15, Photo of Fruit Stand,
7 was marked for identification.)

8 (State's Exhibit Number 16, Close-up Photo of
9 Fruit Stand, was marked for identification.)

10 (State's Exhibit Number 17, Photo of Burnt Fruit
11 Stand, was marked for identification.)

12 (State's Exhibit Number 18, Photo From Street of
13 Burnt Fruit Stand, was marked for identification.)

14 (State's Exhibit Number 19, Close-up Photo of
15 burnt Fruit Stand, was marked for identification.)

16 (State's Exhibit Number 20, Photo of Ashes, was
17 marked for identification.)

18 (State's Exhibit Number 21, Photo of Burnt Fruit
19 Stand, was marked for identification.)

20 (State's Exhibit Number 22, Close-up Photo of
21 Inside of Burnt Fruit Stand, was marked for
22 identification.)

23 (State's Exhibit Number 23, Photo of Feet in
24 Grass, was marked for identification).

25 (State's Exhibit Number 24, Photo of Man by Car,

1 was marked for identification.)

2 (State's Exhibit Number 25, Photo of Blue Jacket,
3 was marked for identification.)

4 (State's Exhibit Number 26, Photo of Blue Jacket,
5 was marked for identification.)

6 (State's Exhibit Number 27, Photo of Pants, Socks
7 & Shoes, was marked for identification.)

8 (State's Exhibit Number 28, Photo of Right Shoe,
9 was marked for identification.)

10 (State's Exhibit Number 29, Photo of Both Shoes,
11 was marked for identification.)

12 (State's Exhibit Number 30, Photo of Jeans, Pants
13 & Sweater, was marked for identification.)

14 (State's Exhibit Number 31, Photo of Police & Man
15 in Blue Jacket, was marked for identification.)

16 (State's Exhibit Number 32, Photo of Man by the
17 Car, was marked for identification.)

18 (State's Exhibit Number 33, 9-1-1 Report, was
19 marked for identification.)

20 (State's Exhibit Number 34, 9-1-1 Report, was
21 marked for identification.)

22 (Court's Exhibit Number 1, Mental Health
23 Evaluation, was marked for identification.)

24 THE COURT: Okay. Let's have our jury.

25 (Jury panel enters the courtroom at 11:05 a.m.)

JURY QUALIFICATION

THE COURT: Thank you, ladies and gentlemen, for your patience. We are now about to begin the matter of the State of South Carolina versus Johnny Ray Chapman. Indictment Number 2019-GS-42-4066. It is alleged that Mr. Chapman did, in the county of Spartanburg, State of South Carolina, on/or about November 4 of 2018, commit the offense of arson in the second degree against a business known as Abbott's Fruit Market located in this county and state.

Mr. Chapman has entered a plea of not guilty to this indictment. That puts the burden on the State to prove him guilty beyond a reasonable doubt. His plea of not guilty has been entered and he is presumed innocent of the allegations made in the indictment.

Once again I tell you that the indictment is not evidence against him. It is merely a written document that brings him before the court for trial. In the indictment 2019-GS-42-4067, alleges that Mr. Johnny Ray Chapman did, in the county of Spartanburg, state of South Carolina, on/or about November 4 of 2018, commit the criminal offense of arson in the second degree, that being a dwelling house -- I'm sorry, no, a business owned by Thomas Welchel, located in this county and state.

1 He has entered a plea of not guilty to this
2 indictment. He is presumed innocent of the allegations
3 made against him in this indictment. And, again, the
4 State has the burden of proving him guilty beyond a
5 reasonable doubt.

6 The questions that I'm required to ask are ones
7 you've heard before. Is there any -- is there any
8 member of this jury pool -- well, let me do this.

9 Mr. Chapman, would you stand and face the jury
10 panel for about 15 seconds, please. (Complies.) Thank
11 you, sir.

12 Is there any member of this jury panel who is now
13 or ever has been related to Mr. Johnny Ray Chapman? If
14 so, please stand. (No person stood.)

15 Is there any member of this jury panel who has a
16 personal or social relationship with Mr. Chapman? If
17 so, please stand. You know him from school, work,
18 somehow or the other you know him. (No person stood.)

19 The following is a list of potential witnesses in
20 this case. Steven Abbott, Daniel Abbott, Dennis
21 McDaniel, Thomas Welchel, Keith Lee, Tim Jones,
22 Detective Garrett Cash, Detective Deputy Kelby Allen.
23 Is there any member of this jury panel who is related by
24 blood or marriage, or ever has been related by blood or
25 marriage, to any of the potential witnesses in this

1 case? If so, please stand. (No person stood.)

2 Any member of the jury panel have a close,
3 personal, or a social relationship with any of the
4 potential witnesses, please stand. (No person stood.)

5 I'm gonna ask the lawyers to introduce
6 themselves. And as always, ladies first.

7 MS. SIEBER: I'm Assistant Solicitor Katie
8 Sieber.

9 MR. DELANEY: And I'm Brendan Delaney, Johnny
10 Chapman's lawyer.

11 THE COURT: Is there any member of the jury panel
12 who is now or ever has been related by blood or marriage
13 to either of the lawyers in this case? If so, please
14 stand. (No person stood.)

15 Any member of the jury panel have a close or
16 personal or social relationship with either of the
17 lawyers? If so, please stand. (No person stood.)

18 Any member of the jury panel ever sought legal
19 advice from either of the lawyers? Again whether that's
20 a real estate matter, a personal injury, a criminal
21 matter, whatever it might be, even if you did not hire
22 him or her, please stand. (No person stood.)

23 Any member of the jury panel ever been summoned
24 by a Seventh Circuit Solicitor's Office to testify in a
25 case, please stand. (No person stood.)

1 Any member of the jury panel, either yourself or
2 a family member or a close friend that was prosecuted by
3 the Seventh Circuit Solicitor's Office? Is so, please
4 stand. (No person stood.)

5 Any member of the jury panel, either yourself or
6 a family member or a friend been represented by Mr.
7 Delaney, Brendan Delaney? If so, please stand. (No
8 person stood.)

9 Any member of the jury panel have a family
10 member, friend, or a close associate who has -- who is
11 employed with the Seventh Circuit Solicitor's office,
12 please stand. (No person stood.)

13 Any member of the jury panel employed with the
14 Seventh Circuit Public Defender's Office? If so, please
15 stand. (No person stood.)

16 Any member of the jury panel, you, yourself, ever
17 been a commissioned law enforcement officer, whether
18 that be a state, military police, county, municipality,
19 you were a commissioned officer at one time in your
20 life, please stand. (No person stood.)

21 Any member of the jury panel have a family member
22 or a close friend who is a law enforcement officer? Any
23 agency, any state, please stand.

24 All right. Starting over here. Yes, ma'am, your
25 number, please.

1 JUROR #94: 94. My nephew is in law enforcement
2 in Spartanburg County.

3 THE COURT: Would that interfere with your
4 ability to be fair and impartial?

5 JUROR #94: No, sir.

6 THE COURT: Ma'am, you may stay.

7 Yes, sir.

8 JUROR #54: 54. My son-in-law in St. Lewis,
9 Missouri is a police officer.

10 THE COURT: Would that interfere with your
11 ability to be fair and impartial?

12 JUROR #54: No, ir.

13 THE COURT: Thank you, you may stay.

14 Yes, ma'am.

15 JUROR #69: My dad's a volunteer chaplain for
16 Spartanburg Sheriff's Office.

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

19 JUROR #69: No, sir.

20 THE COURT: Thank you.

21 Yes, ma'am?

22 JUROR #160: 160, son-in-law is with USC Upstate.

23 THE COURT: Would that interfere with your
24 ability to be fair and impartial?

25 JUROR #160: No, sir.

1 THE COURT: Thank you, ma'am.

2 JUROR #10: My dad's a SLED agent.

3 THE COURT: Would that interfere with your
4 ability to be fair and impartial?

5 JUROR #10: No, sir.

6 THE COURT: You may stay.

7 Yes, sir.

8 JUROR #179: Number 179. My nephew is state
9 trooper for Rock Hill.

10 THE COURT: Would that interfere with your
11 ability to be fair and impartial?

12 JUROR #179: No, sir.

13 THE COURT: Yes, sir. You may stay.

14 Yes, ma'am.

15 JUROR #124: 124. My brother is a Greenwood
16 Highway State Patrol.

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

19 JUROR #124: No, sir.

20 THE COURT: You may stay.

21 Yes, sir.

22 JUROR #75: 75. My father-in-law out of North
23 Carolina.

24 THE COURT: Would that interfere with your
25 ability to be fair and impartial?

1 JUROR #75: No, sir.

2 THE COURT: You may stay.

3 Yes, sir.

4 JUROR #16: Brother-in-law, retired secret
5 service agent. Currently an official with the Tennessee
6 Department of Homeland Security.

7 THE COURT: Yes, sir. Your number, please?

8 JUROR #16: Sixteen.

9 THE COURT: Would that interfere with your
10 ability to be fair and impartial?

11 JUROR #16: No, sir.

12 THE COURT: You may stay.

13 Yes, ma'am.

14 JUROR #162: 162, son with USC Upstate.

15 THE COURT: Would that interfere with your
16 ability to be fair and impartial?

17 JUROR #162: No, sir.

18 THE COURT: You may stay.

19 Yes, sir.

20 JUROR #34: 34. My son-in-law is a deputy
21 sheriff in Richland County.

22 THE COURT: Would that interfere with your
23 ability to be fair and impartial?

24 JUROR #34: No, sir.

25 THE COURT: You may stay.

1 Yes, sir.

2 JUROR #25: Number 25, father-in-law Laurens
3 County detective.

4 THE COURT: Would that interfere with your
5 ability to be fair and impartial?

6 JUROR #25: No, sir.

7 THE COURT: Thank you. You may stay.

8 Is there any member of the jury panel who is a
9 financial contributor or ever has been a financial
10 contributor to pro law enforcement organizations, such
11 as Mothers Against Drunk Driving, Students Against Drunk
12 Driving, The Sheriff's Association, The Highway Patrol
13 Association or Troopers Association? Any such
14 organization, you gave money or volunteered time, please
15 stand.

16 Okay. Starting on this side. Yes, ma'am.

17 JUROR: Wanda Dixon, the local fire department,
18 police department, and Humane Society.

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

21 JUROR: (Shakes head back and forth.)

22 THE COURT: Ma'am, you may stay.

23 Yes, sir, 110?

24 JUROR 110: 110.

25 THE COURT: Yes, sir.

1 JUROR 110: Beaufort County and highway patrol.

2 THE COURT: Would that interfere with your
3 ability to be fair and impartial?

4 JUROR 110: No, sir.

5 THE COURT: You may stay.

6 Yes, ma'am?

7 JUROR: Humane Society.

8 THE COURT: Would that interfere with your
9 ability to be fair and impartial?

10 JUROR: No, sir.

11 THE COURT: Thank you. You may stay.

12 Yes, ma'am.

13 JUROR #51: I'm 51, Mothers Against Drunk
14 Driving, State Troopers, and the sheriffs.

15 THE COURT: Would that interfere with your
16 ability to be fair and impartial?

17 JUROR #51: No, sir.

18 THE COURT: You may stay.

19 Yes, sir?

20 JUROR 127: 127, highway patrol.

21 THE COURT: Would it interfere with your ability
22 to be fair and impartial?

23 JUROR 127: No.

24 THE COURT: You may stay.

25 Yes, sir?

1 JUROR #34: 34, Sheriff's Association and the
2 Troopers Association.

3 THE COURT: Would that interfere with your
4 ability to be fair and impartial?

5 JUROR #34: No, sir.

6 THE COURT: You may stay.

7 Yes, sir?

8 JUROR #143: 143, Sheriff's Association.

9 THE COURT: Would that interfere with your
10 ability to be fair and impartial?

11 JUROR #143: No, sir.

12 THE COURT: You may stay.

13 Yes, ma'am.

14 JUROR #135: 135, sheriff and highway patrol.

15 THE COURT: Would that interfere with your
16 ability to be fair and impartial?

17 JUROR #135: No, sir.

18 THE COURT: You may stay.

19 Yes, ma'am.

20 JUROR #6: Number 6, Sheriff's Department and
21 Humane Society.

22 THE COURT: Would that interfere with your
23 ability to be fair and impartial?

24 JUROR #6: No.

25 THE COURT: You may stay.

1 Yes, sir, in the back?

2 JUROR #58: Number 58, The Sheriff's Association.

3 THE COURT: Would that interfere with your
4 ability to be fair and impartial?

5 JUROR #58: (Shakes head back and forth.)

6 THE COURT: You may stay.

7 Yes, sir.

8 JUROR #118: 118, Police Association.

9 THE COURT: Would that interfere with your
10 ability to be fair and impartial?

11 JUROR #118: No, sir.

12 THE COURT: You may stay.

13 Is there any member of the jury panel who has a
14 family member or close friend who is currently being
15 represented by a public defender in the Seventh Circuit?
16 If you have a family member or a friend who has some
17 offense charged against them and they are being
18 represented by the public defender, please stand. (No
19 person stood.)

20 Is there any member of the jury panel who has
21 been arrested for, charged with, you, yourself, a family
22 member or a friend, charged with or convicted of arson
23 or a similar type of offense? Please stand. And I will
24 not ask particulars.

25 Yes, ma'am, your number?

1 JUROR #98: 98.

2 THE COURT: 98. Would that interfere with your
3 ability to be fair ---

4 JUROR #98: Yes, sir.

5 THE COURT: It would?

6 JUROR #98: Yes, sir.

7 THE COURT: Ma'am, you would be excused for the
8 trial of this case. Just have a seat with us.

9 Yes, sir.

10 JUROR #50: 50.

11 THE COURT: Number 50. Would that interfere with
12 your inability or ability to be fair and impartial?

13 JUROR #50: Yes, sir.

14 THE COURT: Sir, you will be excused for the
15 trial of this case.

16 Do you got those two?

17 THE CLERK: What was that last one?

18 THE COURT: 50?

19 JUROR #50: Yes, sir.

20 THE COURT: And?

21 JUROR #98: 98.

22 THE COURT: 98. Okay. Is there any member of
23 the jury panel who has a family member, friend, either
24 yourself or family member or friend, who is currently
25 being prosecuted by the Seventh Circuit Solicitor's

1 Office or a district attorney's office on the federal
2 side? Please stand. And I will not ask particulars.
3 (No person stood.)

4 Does any member of this jury panel know of any
5 reason why he or she should not be a juror in the trial
6 of this case? I know nothing about it other than these
7 pieces of paper. Does anyone know anything about this
8 case? Please stand. (No person stood.)

9 Anything from the State?

10 MS. SIEBER: No, Your Honor.

11 THE COURT: Anything from the defense?

12 MR. DELANEY: No, Your Honor.

13 THE COURT: All right. We'll have a jury. It's
14 five and ten, Madam Clerk.

15 JURY SELECTION

16 THE CLERK: As I call your name, will you please
17 come forward and stand facing the attorneys' tables.

18 Number 136, Breonna Ravan. (White female comes
19 forward.) What says the State?

20 MS. SIEBER: Please present the juror.

21 THE CLERK: Says defense?

22 MR. DELANEY: Please present the juror.

23 THE CLERK: Number 124, Marie A. Ordonez.

24 (Hispanic female comes forward.) Says the State?

25 MS. SIEBER: Please present the juror.

1 THE CLERK: And says defense?

2 MR. DELANEY: Please excuse the juror.

3 THE CLERK: Number 127, Robert Perkins. (White
4 male comes forward.) What says the State?

5 MS. SIBER: Please present the juror.

6 MR. DELANEY: Please excuse the juror.

7 THE CLERK: Number 131, Jerry Price. (White male
8 comes forward.) What says the State?

9 MS. SIEBER: Please excuse the juror.

10 THE CLERK: Number 61, Matthew Fowler. (White
11 male comes forward.) What says the State?

12 MS. SIEBER: Please present the juror.

13 THE CLERK: What says defense?

14 MR. DELANEY: Please present the juror.

15 THE CLERK: Number 160, Elizabeth Tedder. (White
16 female comes forward.) What says the State?

17 MS. SIDEBER: Please present the juror.

18 THE CLERK: What says defense?

19 MR. DELANEY: Please excuse the juror.

20 THE CLERK: Number 1, Linda Abdul-Quddas. (Black
21 female comes forward.) What says the state?

22 MS. SIEBER: Please excuse the juror.

23 THE CLERK: Number 55, Michelle Escalante.

24 (Hispanic female comes forward.) What says the State?

25 MS. SIEBER: Please present the juror.

1 THE CLERK: Says defense?

2 MR. DELANEY: Please present the juror.

3 THE CLERK: Number 2, Zachary Akers. (White male
4 comes for forward.) What says the State?

5 MS. SIEBER: Please present the juror.

6 THE CLERK: Says the defense?

7 MR. DELANEY: Please present the juror.

8 THE CLERK: Number 80, John Hunton. (White male
9 comes forward.) What says the State?

10 MS. SIEBER: Please present the juror.

11 THE CLERK: Says defense?

12 MR. DELANEY: Please excuse the juror.

13 THE CLERK: Number 81, Brently Israel. (White
14 male comes forward.) What says the State?

15 MS. SIEBER: Please present the juror.

16 THE CLERK: What says the defense?

17 MR. DELANEY: Please present the juror.

18 THE CLERK: Number 27, Kristine Burton. (White
19 female comes forward.) What says the State?

20 MS. SIEBER: Please present the juror.

21 THE CLERK: Says the defense?

22 MR. DELANEY: Please present the juror.

23 THE CLERK: Number 156, Zachary Stocksett.
24 (White male comes forward.) What says the State?

25 MS. SIEBER: Please present the juror.

1 THE CLERK: Says the defense?

2 MR. DELANEY: Please present the juror.

3 THE CLERK: Number 43, Amy Crooker. (White
4 female comes forward.) What says the State?

5 MS. SIEBER: Please present the juror.

6 THE CLERK: Says the defense?

7 MR. DELANEY: Please present the juror.

8 THE CLERK: Number 76, April Henderson. (Black
9 female comes forward.) What says the State?

10 MS. SIEBER: Please present the juror.

11 THE CLERK: Says the defense?

12 MR. DELANEY: Please excuse this juror.

13 THE CLERK: Number 25, Phillip Bryan. (White
14 male comes forward.) What says the State?

15 MS. SIEBER: Please present the juror.

16 THE CLERK: What says the defense?

17 MR. DELANEY: Please excuse this juror.

18 THE CLERK: Number 62, Steven Frost. (White male
19 comes forward.) What says the State?

20 MS. SIEBER: Please present the juror.

21 THE CLERK: Says the defense?

22 MR. DELANEY: Please present the juror.

23 THE CLERK: Number 51, Sharon Dumit. (White
24 female comes forward.) What says the State?

25 MS. SIEBER: Please present the juror.

1 THE CLERK: What says the defense?

2 MR. DELANEY: Please excuse the juror.

3 THE CLERK: Number 90, Steven Kelly. (White male
4 comes forward.) What says the State?

5 MS. SIEBER: Please excuse the juror.

6 THE CLERK: Number 75, Joshua Heckel. (White
7 male comes forward.) What says the State?

8 MS. SIEBER: Please present the juror.

9 THE CLERK: Says the Defense?

10 MR. DELANEY: Please excuse the juror.

11 THE CLERK: Number 168, Shanie Vafiadis. (White
12 female comes forward.) What says the State?

13 MS. SIEBER: Please present the juror.

14 THE CLERK: Says the defense?

15 MR. DELANEY: Please present the juror.

16 THE CLERK: Number 38, Benjamin Collins. (Black
17 male comes forward.) What says the State?

18 MS. SIEBER: Please excuse the juror.

19 THE CLERK: Number 152, Michelle Somers. (White
20 female comes forward.) What says the State?

21 MS. SIEBER: Please excuse the juror.

22 THE CLERK: Number 100, Patricia Looney. (White
23 female comes forward.) What says the State?

24 MS. SIEBER: Please present the juror.

25 THE CLERK: Says the defense?

1 MR. DELANEY: Please present the juror.

2 THE CLERK: Number 176, Sean Wright. (White male
3 comes forward.) Says the State?

4 MS. SIEBER: Please present the juror.

5 THE CLERK: What says the defense?

6 MR. DELANEY: Please present the juror.

7 THE CLERK: And for the alternate, number 54,
8 Jerry Ellis. (White male comes forward.) What says the
9 State?

10 MS. SIEBER: Please present the juror.

11 THE CLERK: What says the defense?

12 MR. DELANEY: Please excuse the juror.

13 THE CLERK: Number 60, Walter Forrister. (White
14 male comes forward.) What says the State?

15 MS. SIEBER: Please present the juror.

16 THE CLERK: Says the defense?

17 MR. DELANEY: Please present the juror.

18 THE COURT: Anything from the State?

19 MS. SIEBER: No, Your Honor.

20 THE COURT: From the defense?

21 MR. DELANEY: No, Your Honor.

22 THE COURT: Okay. Ladies and gentlemen, if you
23 were not selected, I'm gonna let you go back to the jury
24 assembly room, but I will not keep you there past 12
25 noon. I'm trying to get an answer about my case that's

1 gonna follow this one before I turn you loose, actually.
2 And, in fact, I'm trying to get that right now. I
3 actually have been trying to get it for about 30
4 minutes.

5 So I'm gonna let you go back to the jury room,
6 but I will not keep you past 12 noon without coming to
7 the back and talking to you and seeing where we are, all
8 right? Please go back with the bailiffs.

9 (Jury panel leaves courtroom at 11:23 a.m.)

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

12 THE CLERK: Yes, sir. Please stand and raise
13 your right hands. (All comply.) Do you solemnly swear
14 in the case about to be tried to truly try the issues
15 joined in this case and a true verdict rendered
16 according to the law and evidence, so help you God?

17 (All affirm.)

18 Thank you. You may be seated.

19 THE COURT: Ladies and gentlemen, as I previously
20 stated, we are about to try the case of the State of
21 South Carolina versus Johnny Ray Chapman. Indictment
22 2019-4067, alleges that the defendant committed the
23 criminal offense known as arson in the second degree,
24 and he did so in this county and state on/or about
25 November 4 of 2018. That would be of the business of

1 Thomas Welchel.

2 In 2019-4066, it is alleged that he committed the
3 criminal offense of arson in the second degree in
4 Spartanburg County, South Carolina, on/or about November
5 4 of 2018, that being a business belonging to Abbott's
6 Fruit Market located in this county and state.

7 He has entered a plea of not guilty to both
8 indictments and he is presumed innocent of the
9 allegations contained in the indictments. The burden is
10 on the state of South Carolina to prove his guilt beyond
11 a reasonable doubt.

12 Now, ladies and gentlemen, many people do not
13 have a chance to participate in a trial, such as you are
14 doing here today, and believe the entertainment
15 industries that trials are full of intense action,
16 drama, and riveting circumstances. This trial is not
17 for entertainment purposes, but this trial is a
18 fundamental part of our country's jurisprudence. This
19 courtroom is a place of honor dedicated to the
20 protection and the preservation of citizens rights
21 through what some other countries have called the
22 greatest justice system ever created.

23 Now, my remarks are not a charge on the law in
24 this case. I'll instruct you on the law applicable to
25 the case at the end of the trial before you retire to

1 consider your verdict. My remarks are merely an
2 explanation of procedures that we will follow.

3 Ladies and gentlemen, it will be your duty to
4 decide whether the State has met the burden of proof,
5 that being beyond a reasonable doubt. Your purpose as
6 jurors is to find and determine facts. You 12 are the
7 sole judges of the facts. If at any time I make a
8 comment regarding the fact, you must disregard it. You
9 are to determine the facts from the testimony you hear
10 and any and all evidence that is introduced in this
11 courtroom.

12 It will be up to you to determine the inferences
13 which you think that would be properly drawn from the
14 evidence presented in this case. It is important that
15 you perform your duty by determining the facts
16 diligently and conscientiously because ordinarily there
17 is no way to correct an erroneous determination of a
18 fact by the jury.

19 Now, on the other hand and with equal emphasis,
20 the same state law that makes you 12 the judge of all
21 facts, makes me the judge on the law. You must accept
22 it and you must follow it, even if you disagree with it.
23 A trial judge cannot tell you what a fact is, and a
24 juror cannot tell the judge what the law is. Your job
25 will be to take the facts and apply, and apply the law

1 as I give it to you, and in doing so, render a verdict.

2 Now, ladies and gentlemen, until I tell you to
3 begin your discussion -- your discussions, your
4 deliberations, you must not discuss the case with any
5 person, including your fellow jurors, family members or
6 friends.

7 The lawyers in this case have been advised by me
8 not to speak to you if you see them in the hallway.
9 Even if I see you in the hallway, I might nod at you or
10 kind of waive to you, but I cannot talk to you until
11 your jury service has ended this week.

12 You must decide this case based solely on the
13 evidence presented in this courtroom. Therefore, you
14 must not conduct in your defense research about a case
15 or a fact of any evidence presented. You must not use
16 dictionaries, reference materials, or surf the internet
17 or use any tool, electronic tool that has communication
18 capability. Do not use computers, telephones,
19 cellphones, smart phones, tablets or any other tool of
20 technology with communication capability during your --
21 during your -- during the courtroom or during your
22 deliberations.

23 You may use those devices when we break for
24 lunch. You may use those devices overnight if we go
25 into the overnight, but you must not use them to send or

1 receive information about this case or to do any
2 research about this case. And that includes using
3 phones, e-mails, text messages, instant messages. Any
4 twitter, blog room or chat room or any social media
5 whatsoever.

6 Now, during the trial do not read, listen to or
7 watch the news report about this case, if any. We don't
8 have any media here today. Don't know if someone would
9 show up, but if they do and they print something or had
10 a story on the radio or a story in the paper, it might
11 be newspaper or a TV, please disregard it. Don't look
12 at that until after your jury service has ended because
13 that, that information may be incomplete or it might be
14 completely wrong.

15 In our system of justice, it is important that
16 you are not influenced by anything or anyone outside of
17 this courtroom. I tell you and charge you that if you
18 become aware of a fellow juror that is in violation of
19 my instructions, please inform me immediately.

20 Ladies and gentlemen, it's important that you
21 keep an open mind and not decide any issue in this case
22 until all evidence has been presented, the parties have
23 made their closing statements, and I have instructed you
24 on the law. And it will then be your duty to determine
25 the guilt or innocence of this defendant.

1 In just a few moments the solicitor will make
2 what is known as the opening statement in which she will
3 explain her position on the case. The lawyers for the
4 defendant may also make an opening statement, although
5 he is not required to do so. But I tell you that what
6 the lawyers say in their opening statements is merely
7 their position on the case, it is not evidence in the
8 case. Evidence will be presented to you by sworn
9 witnesses from that witness stand and also from any
10 exhibit that might be introduced into, into evidence.

11 Now, during this trial, you will hear one of the
12 lawyers or both rise to make an objection or say, Judge,
13 we need a moment at the bench or may we approach the
14 bench for a matter of law. In fact, I, myself,
15 sometimes call the lawyers up to the bench. What we're
16 talking about there is one of these rules that's in our
17 rule book. The lawyers will be talking about whether
18 that particular piece of evidence, whatever it might be,
19 is applicable or is admissible in the trial of this
20 case.

21 If I can decide that in just a few seconds here
22 in the courtroom, I certainly will, and then we'll
23 continue to proceed. But if I have to use more than
24 just a few seconds, I will remove you from the courtroom
25 so that I can deal with the matters of law. Again,

1 juries are concerned with the facts in the case. It is
2 up to the Court to make rulings on issues of law.

3 Now, in determining what the facts are, you must
4 decide whether or not the testimony is believable.
5 Again, it's my responsibility to rule that as a matter
6 of law whether certain testimony is admissible. But
7 once the testimony is admitted, whether or not you
8 believe it is solely for you 12 to determine. And in
9 deciding whether to believe a witness, you have the
10 right to consider the interest of that witness or any
11 bias or prejudice of that witness.

12 You have the right to consider anything in the
13 record that will help you decide this case. And that
14 necessarily means that you are to pay close attention to
15 the witnesses, observe them or listen to them so that
16 you will be in a position to, to do that, to make your
17 decision.

18 I am often asked, ladies and gentlemen, I take
19 this opportunity to tell you ahead of time, that you are
20 not to take any notes during the trial of this case.
21 And the reason for that is in state court we want you to
22 be paying attention to the witnesses, rather than making
23 a note.

24 Juror Number 27, Ms. Kristine Burton, ma'am,
25 would you serve as the forelady of this jury?

1 MADAM FORELADY: Yes, sir.

2 THE COURT: Thank you. I won't require you to do
3 that if you don't want to, but I would appreciate it if
4 you would. Thank you.

5 You're almost sitting in the right seat. From
6 here on out after we break for lunch, from which we're
7 gonna do shortly, when we return, if you would be kind
8 enough to sit in the very end seat right here
9 (indicating.)

10 MADAM FORELADY: Okay.

11 THE COURT: That is on the front, that is the
12 foreperson's seat. I would appreciate you sitting
13 there. And, sir, you are the alternate and you are in
14 the correct seat. If you'll always sit on the very end
15 of the jury, which you are doing, I would appreciate
16 that. That way when I look up, I know where my
17 foreperson is and I know which one is my alternate right
18 off.

19 I tell everybody else here, you're now honorary
20 Rotarians. Two or three of you have been Rotarians all
21 week on this jury, so... But you can sit on the front,
22 you can sit on the back, you can change your seats each
23 and every time you come in the courtroom, it's fine with
24 me. And, again, you see that I stand and I stand a lot.
25 If you want to stand, please sit on the back row so that

1 you would not block the view of a fellow juror. And
2 you're welcome to stand five or ten minutes and sit
3 down.

4 I'll also take this opportunity to tell you that
5 if I'm standing, it does not mean that I believe or
6 disbelieve a witness. It simply means that Keith Kelly
7 is tired of the sitting. And if I'm sitting, I'm tired
8 of standing. That's all it is.

9 All right. Anything from the State?

10 MS. SIEBER: No, Your Honor.

11 THE COURT: Anything from defense?

12 MR. DELANEY: No, Your Honor.

13 THE COURT: Ready to open?

14 MS. SIEBER: Yes, sir.

15 THE COURT: Please give your attention to the
16 solicitor.

17 OPENING STATEMENT OF THE STATE

18 MS. SIEBER: Thank you, ladies and gentlemen. On
19 November 4th of 2018, 9-1-1 received calls about two
20 different priors in the Cowpens area. The first came in
21 about a fire at a small fruit stand. The second came in
22 just 15 minutes later of a second fire at Abbott's
23 market.

24 Now, you're gonna hear today from Mr. Abbott, who
25 owns that business, and he's gonna tell you about how he

1 had just set up surveillance at his business. And on
2 that surveillance he captured this defendant, Johnny
3 Chapman, setting fire to hay bales directly outside of
4 his business.

5 And you'll see that that causes parts of his
6 business to spark on fire. Mr. Abbott recognized this
7 defendant and was able to tell Investigator Cash where
8 he lived. You'll hear from Investigator Cash, who went
9 out and spoke to the defendant that day. And you'll
10 also see that the defendant, when he was found, was
11 wearing the exact same clothes as you're gonna see in
12 the surveillance footage when he was arrested. All of
13 it is exactly the same.

14 The fire at the fruit stand happened just 15
15 minutes apart from the fire at Abbott's market. And
16 you'll see that those two locations are just about a
17 half hour apart. Just about a ten-minute walk. A
18 second call comes in at Abbott's market where we know
19 this defendant was just 15 minutes later, setting that
20 business on fire.

21 I would ask that you pay close attention to the
22 witnesses in this case and at the end it will be clear
23 to you that this defendant is guilty of arson in the
24 second degree, both willfully and maliciously burning
25 both of those two buildings. Thank you.

1 MR. DELANEY: Thank you, Your Honor.

2 OPENING STATEMENT OF DEFENSE

3 MR. DELANEY: Ladies and gentlemen of the jury,
4 thanks for your time being here today. I represent
5 Johnny Chapman and my name is Brendan Delaney. The
6 defendant is always cloaked in a veil of innocence. And
7 it's the State that has the burden of removing that
8 veil.

9 A lot of times in a crime it's impossible for an
10 individual to prove their innocence. That's why you're
11 charged with a verdict of guilty or not guilty. Not
12 guilty or innocent. You're just charged with guilty or
13 not guilty because, again, a lot of times it is
14 physically impossible for someone to prove that they
15 didn't do something. That's why the State has the
16 burden.

17 I would ask you to pay close attention to the
18 evidence in this case, keep an open mind. Don't come to
19 any decision until the judge charges you with the law in
20 this matter and we look forward to trying this case.

21 THE COURT: Let me see the lawyers.

22 (Bench conference was held off the record.)

23 THE COURT: Madame Forelady and ladies and
24 gentlemen, I'm gonna break for lunch. It's 15 minutes
25 to 12. If we take the first witness, I'm afraid we'll

1 run a little longer then I'd like to for lunch. I like
2 to take about an hour-and-a-half. Hat gives you time to
3 get in and out of the building, that sort of thing. So
4 it's a quarter to 12, so if we could be back ready to go
5 at 1:15, 1:15. That's an hour-and-a-half from now.
6 Plenty of time to eat and we'll be ready to begin this
7 trial -- actually, continue this trial, continue the
8 trial at 1:15.

9 While you're at lunch, please do not try to learn
10 anything about the case. Don't try -- don't discuss it
11 with anyone, but enjoy your lunch.

12 Madam Forelady, will you take the jury out. Be
13 excused.

14 (Jury leaves the courtroom at 11:47 a.m.)

15 THE COURT: All right. We'll be in recess until
16 1:15.

17 (Lunch recess was had from 11:47 a.m. - 1:26
18 p.m.)

19 THE COURT: I think there's a matter or two
20 before we bring the jury in, Solicitor?

21 MS. SIEBER: Yes, Your Honor. At this time we'd
22 ask to enter in as a Court's Exhibit, the defendant was
23 evaluated by the Department of Mental Health and was
24 found competent to stand trial back in August of 2019.
25 If I may approach?

1 THE COURT: Yes.

2 MS. SIEBER: And we'd like to make that a Court's
3 Exhibit.

4 THE COURT: Any objection?

5 MR. DELANEY: No, sir.

6 THE COURT: Okay. It's Court's 1.

7 (Court's Exhibit Number 1 was entered into the
8 record.)

9 THE DEFENDANT: May I?

10 THE COURT: Yes, sir. I think he wants for you
11 to come up and be sworn.

12 THE DEFENDANT: Right. But I'm not going to
13 because what he just now said wasn't true. The only
14 thing they did was come and offered me a plea this
15 morning. Now, nobody's come to me except James Cheek
16 one time.

17 Also, Officer Bishop can tell you when I told him
18 I had an attorney, Rachel Kepley, he -- they had to come
19 to the door because James Cheek started yelling and
20 screaming. Said, ooh, ooh, because I didn't want to
21 speak to him. So I was coming to a trap.

22 So he comes to me this morning. I had no idea
23 that I had a trial today. And I hadn't talked to him.
24 Today was the first time I met him. Rachel Kepley
25 resigned or whatever and went to Greenville.

1 Okay. He offers me a plea. He said, this is
2 what we're gonna do is offer you a plea for you plead
3 guilty and we're gonna give you six months probation. I
4 declined ---

5 MR. DELANEY: (Shakes head back and forth.)

6 THE DEFENDANT: No? Well, what did you say?

7 MR. DELANEY: I said if you plead guilty to one
8 charge, the State will agree to dismiss the second
9 charge and I will ask the judge to sentence you to the
10 minimum three-year sentence. And you would then
11 probably be required to do some probation, but that will
12 be in the discretion of the judge.

13 THE DEFENDANT: Six months, sir. Six months
14 probation. Then I refused it and he comes back about
15 15, 20 minutes later and offers me a plea. You plead
16 guilty, but mentally ill. Mentally ill. Now, why would
17 I not take the first? And he said I recommend you take
18 the second.

19 I said, when I've got witness testimony that if
20 you were to do anything about the sentence and he said
21 they're irrelevant. I said, how are they not relevant
22 if they jury don't get to hear it? He want -- he don't
23 even know what they're gonna say. So how am I not
24 competent when y'all sent me down there for 60 days? I
25 stayed 56 or 58 days, 57 days. They sent me back here.

1 She comes and says -- Rachel Kepley says I'm competent
2 enough to stand trial. I was restored.

3 This right here doesn't make no sense. You got
4 that part right, but why are you gonna offer me a plea
5 of six months probation with a guilty plea and come back
6 and challenge am I mentally incompetent enough to stand
7 trial?

8 THE COURT: So you think you are competent to
9 stand trial?

10 THE DEFENDANT: Absolutely.

11 THE COURT: Okay.

12 THE DEFENDANT: But under the circumstances, the
13 witness list, you read it off a while ago, to them has
14 no -- nothing for the defense. He's limiting me of
15 having a fair trial. The jury don't know. And when I
16 get up to testify, I want them to know what's going on.

17 THE COURT: Well, you can tell the jury whatever
18 you want to tell them if you testify. You have the
19 right to testify.

20 THE DEFENDANT: Right.

21 THE COURT: You have the right to defend
22 yourself.

23 THE DEFENDANT: But if I -- ain't that taking
24 away my ability not to have to testify? We won't have
25 -- they've got the burden of proof.

1 THE COURT: Yes, sir.

2 THE DEFENDANT: I shouldn't have to get up and
3 plead with the jury because they don't want to do their
4 job to defend me properly. If he knows that I'm telling
5 him something, he don't think it's relevant but he won't
6 talk to the witnesses to find out what they know.

7 THE COURT: Well, I don't know what he's done or
8 not done.

9 THE DEFENDANT: And he just told you that he --
10 me and him ain't on the same page, but I just met him
11 less than five hours ago.

12 THE COURT: Well, he's telling me that you're not
13 competent and you're telling me you are and this
14 says ---

15 THE DEFENDANT: But you've got it in your hands.

16 THE COURT: I do. I do.

17 THE DEFENDANT: But there ain't no way I can --
18 you said they could stand up too.

19 THE COURT: You can stand up.

20 THE DEFENDANT: Thank you. But if he's got
21 information in this file that the jury should know
22 about, and we're gonna suppress it from them, how is
23 that a fair trial in letting them ---

24 THE COURT: I don't know what Mr. Delaney's gonna
25 do, Mr. Chapman.

1 THE DEFENDANT: He done told me. That's why I
2 was explaining to you. He's wanting the trial not to go
3 forward. He's wanting to put me on the stand, he just
4 told you, to find me mentally unable to go on with the
5 trial.

6 THE COURT: But you want to go forward?

7 THE DEFENDANT: Yes. But I, I want to have this
8 hearing because, I mean, I just found out about court
9 today. Today. Today.

10 THE COURT: Well...

11 THE DEFENDANT: Now, I've been in jail for 15
12 months.

13 THE COURT: Yes, sir.

14 THE DEFENDANT: Now, 15 months I could have been
15 -- we got you a trial coming up in a week, two weeks,
16 three weeks, a month. Nothing. I wake up this morning,
17 eat breakfast, they come get the trays out of the way,
18 and that's when he told me that I was coming to trial
19 today. He said, you're going to court. That's what he
20 said.

21 So I'm here thinking that it's a bond reduction,
22 maybe. I had to talk to him. I mean maybe it's
23 something like that, not court. I mean, come on now.

24 THE COURT: Well ---

25 THE DEFENDANT: I turned down two pleas this

1 morning.

2 THE COURT: Okay.

3 THE DEFENDANT: Okay, two pleas. Now, why wasn't
4 I given an option 14 months ago?

5 THE COURT: Sir, I can't -- I don't have anything
6 to do with that. I -- you understand I ---

7 THE DEFENDANT: But what I'm saying is, is
8 everything is kind of strange. With me having an
9 attorney, Rachel Kepley, she kept dropping the ball.
10 She kept -- and once again, Bishop was there when me and
11 her had an exchange about, look, I said you're handling
12 my case like you don't care that I'm facing 50 years if
13 I'm found guilty. I said, come on. I said, you keep --
14 I said, it don't make sense.

15 So, the next thing you know, Bishop comes to get
16 me out of the room. She says, don't you threaten me,
17 but I didn't threaten her. I said, you -- when it's
18 time to put people on the stand, I said, I'm gonna fire
19 you and put you on the stand. Why is she not
20 representing me?

21 THE COURT: She left the solicitor's office -- I
22 mean, the public defender's office, sir. She went with
23 another office.

24 THE DEFENDANT: This is before all of that.

25 THE COURT: Oh.

1 THE DEFENDANT: This is before all that. See,
2 she tells me -- she done told me like three different
3 tales, like three lies. She would say something, do
4 something else. She gave me my motion of discovery and
5 told me that -- I said, this ain't all of the motion,
6 all of the discovery. She said, I didn't think you
7 wanted it all. That's all you wanted. I said, the
8 important stuff. I said, you don't think I wanted
9 everything? Just have what she wanted me to have and I
10 don't understand that.

11 THE COURT: Well, all right. Are y'all ready for
12 the jury?

13 MR. DELANEY: Yes, sir.

14 THE COURT: All right.

15 (Jury enters the courtroom at 1:33 p.m.)

16 THE COURT: Ready to go to work, Solicitor?
17 Defense?

18 MS. SIEBER: Yes, Your Honor.

19 MR. DELANEY: Yes, Your Honor.

20 THE COURT: Madam Forelady, ready to go?

21 MADAM FORELADY: Yeah.

22 THE COURT: We're ready.

23 MS. SIEBER: Your Honor, at this time the State
24 calls Daniel Abbott.

25 THE COURT: All right.

1 (Witness comes forward.)

2 THE CLERK: Place your left hand on the Bible and
3 raise your right. (Complies.)

4 Do you solemnly swear or affirm the testimony you
5 give will be the truth, the whole truth and nothing but
6 the truth so help you God?

7 THE WITNESS: Yes, ma'am.

8 THE CLERK: Okay.

9 THE COURT: Mr. Abbott, if you'll tell us who you
10 are and spell your last name for my court reporter,
11 please.

12 THE WITNESS: Daniel Abbott, A-b-b-o-t-t.

13 THE COURT: Okay. You can move that microphone
14 up if you want. There you go. Thank you, sir.

15 Solicitor?

16 DANIEL ABBOTT,
17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. SIEBER:

20 Q. Mr. Abbott, what do you do for a living?

21 A. One of the owners of Abbott Farms.

22 Q. How long have you been doing that?

23 A. My whole life.

24 Q. Whole life. And what is Abbott Farms?

25 A. We sell produce, canned goods, fireworks, produce

1 in the summer time, but everything else.

2 Q. Where is that business located?

3 A. We have five. One of them is in Cowpens, Exit
4 83.

5 Q. Is that in Spartanburg County?

6 A. Yes, ma'am.

7 Q. And at that store, do you have customers coming
8 in and out of it typically?

9 A. Yes, ma'am.

10 Q. Is there surveillance at the store?

11 A. Yes, ma'am.

12 Q. And when had you put that in?

13 A. We recently updated a couple of years ago, but
14 probably ten years ago.

15 Q. Is there a camera located on the outside of the
16 store?

17 A. Yes, ma'am.

18 Q. And, Mr. Abbott, I'm going to show you what's
19 been marked for identification as State's Exhibit 2. Do
20 you recognize that?

21 A. Yes, ma'am.

22 Q. What is it?

23 A. It's the DVD that we burned off of our security
24 system.

25 Q. And is that a fair and accurate depiction of the

1 outside of your store on November the 4th of 2018?

2 A. Yes, ma'am.

3 Q. Has it been edited or altered in any way?

4 A. No, ma'am.

5 MS. SIEBER: Your Honor, at this time we'd ask to
6 move State's Exhibit 2 into evidence.

7 MR. DELANEY: No objection.

8 THE COURT: No objection, State's 2.

9 (State's Exhibit Number 2 was entered into the
10 record.)

11 MS. SIEBER: And may we publish it to the jury at
12 this time?

13 THE COURT: Yes, ma'am.

14 (Plays video.)

15 BY MS. SIEBER:

16 Q. Mr. Abbott, did you get a call that your store
17 had been set on fire?

18 A. Yes, ma'am.

19 Q. And when was that?

20 A. Around six or seven in the morning. I don't
21 remember exactly.

22 Q. Do you remember what day it was?

23 A. On Sunday morning.

24 Q. Did you come out to your store after you got that
25 phone call?

1 A. Yes.

2 Q. Tell me what you saw when you got there.

3 A. Fire trucks and flames. I was just trying to get
4 to it and they were still putting the fire out when I
5 got there.

6 Q. Tell me about the damage to you store.

7 A. The front wall busted the windows, the sidewalk
8 cracked, the vinyl siding above the windows. It almost
9 got to the fireworks. I mean, it was right beside the
10 fireworks display.

11 Q. The window that was started on fire was right
12 beside the fireworks?

13 A. Right.

14 Q. And did you meet with Detective Cash when he came
15 out?

16 A. Yes, ma'am.

17 Q. And did you look at the surveillance footage in
18 this case?

19 A. Yes, ma'am.

20 Q. Were you able to identify the person you saw on
21 the surveillance?

22 A. Yes, ma'am.

23 Q. And how were you able to do that?

24 A. I had seen him walking up and down the road
25 previous times before and I recognized who he was.

1 Q. Mr. Abbott, I'm going to hand you what's been
2 marked for identification as State's Exhibits 3 and 4.
3 Do you recognize those?

4 A. Yes, ma'am, I do.

5 Q. And what are they?

6 A. Pictures of him in front of our store.

7 Q. And is that from the surveillance footage?

8 A. Yes, ma'am.

9 Q. All right. Has it been edited or altered in any
10 way?

11 A. No, ma'am.

12 MS. SIEBER: All right. Your Honor, at this time
13 we'd ask to enter State's Exhibits 3 and 4 into
14 evidence.

15 THE COURT: Any objection?

16 MR. DELANEY: No, sir.

17 THE COURT: Without objection.

18 (State's Exhibit Nos. 3 and 4 were entered into
19 the record.)

20 BY MS. SIEBER:

21 Q. Mr. Abbott, were you able to tell Investigator
22 Cash where that person lived that you saw on the
23 surveillance?

24 A. Yes, ma'am.

25 Q. And is the person that you saw in the

1 surveillance present in the courtroom today?

2 A. Yes, ma'am.

3 Q. Can you point him out?

4 A. (Indicating.)

5 Q. Is that the defendant?

6 A. Yes, ma'am.

7 Q. Johnny Chapman?

8 A. Yes, ma'am.

9 Q. And do you know how far from your store he lives?

10 A. I'd say a quarter of a mile, maybe.

11 Q. It's very close?

12 A. Yes, ma'am.

13 Q. And are you familiar with Thomas Welchel's fruit
14 stand?

15 A. Yes, ma'am.

16 Q. And where is that located?

17 A. Maybe a half mile before you get to ours. It's
18 off of Highway 110.

19 Q. Is that also in Spartanburg County?

20 A. Yes, ma'am.

21 Q. All right. And what is that fruit stand used
22 for?

23 A. Welchel's, I think, it's just watermelons and
24 cantaloupes he sells.

25 Q. He sells things out of it?

1 A. Yes, ma'am.

2 Q. All right. And is he inside that stand when he's
3 selling things out of it?

4 A. Yes, ma'am.

5 Q. He is?

6 A. Yes, ma'am.

7 Q. I have no further questions. Please answer any
8 questions the defense has.

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. DELANEY:

12 Q. Mr. Abbott, have you ever had any prior vandalism
13 at your stand there?

14 A. Yes, sir.

15 Q. And before this incident on November 4th, what
16 was the most recent episode that you had?

17 A. I'm not sure of a date, but somebody had busted a
18 window of, let me think, a couple weeks right before --
19 I'm not sure of the exact date.

20 Q. That morning when you got the call there was this
21 fire, who called you?

22 A. The security monitoring company called me because
23 it set the alarm off inside and then they called me.

24 MR. DELANEY: Thank you. No further questions.

25 THE COURT: Anything at all?

1 MS. SIEBER: Not from the State.

2 THE COURT: Sir, you may step down. Please be
3 careful.

4 (Witness leaves witness stand but remains in the
5 courtroom.)

6 MS. SIEBER: Your Honor, at this time the State
7 would call Detective Garrett Cash.

8 (Witness comes forward.)

9 THE CLERK: Place your left hand on the Bible and
10 raise your right. (Complies.)

11 Do you solemnly swear or affirm to tell the
12 truth, the whole truth, and nothing but the truth so
13 help you God?

14 THE DEFENDANT: I do.

15 THE COURT: Detective, can you tell us who you
16 are and spell your last name for the court reporter,
17 please.

18 THE WITNESS: I'm senior Detective Garrett Cash.
19 Last name C-a-s-h.

20 THE COURT: Thank you.

21 Solicitor.

22 DETECTIVE GARRETT CASH,
23 having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. SIEBER:

1 Q. How long have you been -- what is your duties and
2 what is your role?

3 A. I'm the lead arson investigator for the
4 Spartanburg County Sheriff's Office.

5 Q. How long have you been doing that?

6 A. I've been in arson investigations since 2012.

7 Q. All right. And explain what you do as an Arson
8 investigator.

9 A. My primary duties as an arson investigator is to
10 respond to fires at the request of fire departments
11 where they feel like something may be suspicious. And
12 upon responding to this virus through the training that
13 I've received, I use it to determine where the fire
14 started and generally how it started, and if it was
15 started by an individual.

16 Q. Did you get called out to fires in Cowpens on
17 November 4th of 2018?

18 A. I did.

19 Q. How many?

20 A. Two fires. One located at Edgefield Road and
21 Battleground Road in Spartanburg County, and the other
22 on Bud Arthur Bridge Road at Abbott's Fruit Stand.

23 Q. And which one did you respond to first?

24 A. The one on Edgefield Road and Battleground Road.
25 That's the fruit stand owned by Mr. Welchel.

1 Q. Do you recall what time that was?

2 A. May I refer to my notes?

3 Q. Uh-huh.

4 A. It was approximately 7 to 7:30 in the morning.

5 Q. And you said you responded to the fruit stand
6 first?

7 A. Yes, ma'am. Fruit stand on Edgefield Road and
8 Battleground Road.

9 Q. And what did you find when you arrived there?

10 A. It is a small structure with open walls. There's
11 no enclosure there. It has a tin roof. It's wood frame
12 construction and had sustained very heavy fire damage.

13 Q. And describe your investigation when you got to
14 the scene.

15 A. When I arrived on the scene there I observed, as
16 described before, heavy fire damage to the small
17 structure, approximately 12 foot by 12 foot. And it has
18 a tin or metal roof on it. The fire damage was, was
19 very severe, even throughout the structure due to the
20 heavy fire damage. It was difficult to do any kind of
21 mapping or determine origin. It would be in that small
22 area.

23 Q. And you said you're determining origins. Do you
24 go -- did you go through any training in order to do
25 that?

1 A. I did. I received approximately 130 hours of
2 fire and arson investigation.

3 Q. All right. And describe some of that training.
4 Where was that?

5 A. That training, some of the training I've been
6 through, the instructor will actually set fires,
7 extinguish them without us being present. And then it's
8 our job to go in and as part of the examinations
9 determine exactly where those fires were set on actual
10 structures.

11 Q. So explain what types of things you look for when
12 you're trying to determine how a fire was set.

13 A. What we refer to as fire patterns or burn
14 patterns. As a fire burns, it creates charring on a lot
15 of the wood or any other items that may be within that
16 area of that structure. Fire burns in very geometrical
17 shapes. Generally a cone shape from its origin. So
18 from where it starts, it'll burn up and out. So I'm
19 following those origins back to where it originally
20 started.

21 Q. And were you able to determine a cause of the
22 fire at the fruit stand?

23 A. I was able to rule out several causes, but to
24 determine one particular, I was not.

25 Q. And what causes were you able to rule out?

1 A. I was able to rule out that it was not started by
2 any kind of electoral means, as there was no electrical
3 service to this fruit stand in the beginning. Also, the
4 weather was not conducive for it to be a weather related
5 cause, like lightning. There was no lightning in the
6 area.

7 Q. I'm going to show you what's been marked for
8 identification as State's Exhibit 14, 15, 16 -- I
9 apologize. That's 14 through 22. Take a look at those
10 and tell me if you recognize them.

11 A. These were all the photos that I took upon
12 arriving at the scene to document the condition of the
13 scene upon my arrival, as well as the location.

14 Q. And have those been edited or altered in any way?

15 A. No, they have not.

16 MS. SIEBER: Your Honor, at this time we'd ask to
17 move State's Exhibits 14 through 22 into evidence.

18 MR. DELANEY: No objection.

19 THE COURT: Without objection.

20 (State's Exhibit Numbers 14-22 were entered into
21 the record.)

22 MS. SIEBER: And may we publish them to the jury?

23 THE COURT: Yes, ma'am.

24 BY MS. SIEBER:

25 Q. All right. Investigator, I'm going to show you

1 State's Exhibit 14. Can you tell the jury what they're
2 looking at?

3 A. This picture here documents the roadside that is
4 at the intersection where Mr. Welchel's fruit stand is
5 located.

6 Q. And State's Exhibit 15?

7 A. From the direction of the roadside, that was in
8 the previous picture, this is looking back at Mr.
9 Welchel's fruit stand, as in the condition that it was
10 the day I arrived.

11 Q. State's 16?

12 A. This would be the side of Mr. Welchel's fruit
13 stand as it faces Highway 110, also known as
14 battleground road.

15 Q. And State's 17?

16 A. This would be the side of Mr. Welchel's fruit
17 stand that faces away from the roadside in the
18 previously depicted picture.

19 Q. And after you responded out to the fruit stand,
20 where did you go next?

21 A. From there I responded to Abbott's Fruit Stand on
22 Bud Arthur Bridge Road for the other fire I was
23 dispatched to.

24 Q. Did you do the same type of investigation there
25 as you did at the other fruit stand?

1 A. I did.

2 Q. And tell us what you saw when you got there.

3 A. Upon arriving at that scene I immediately noticed
4 the front of the structure had burns on the front of it
5 with an origion being wrapped on the exterior of the
6 structure close to where a fall display was set up with
7 some cornstalks and hay that had been burned.

8 Q. And were you able to rule out causes there as
9 well?

10 A. I was. There were no electrical outlets or
11 electrical loads plugged into any outlets in the area
12 where that fire started. Additionally, the weather was
13 not conducive for any kind of weather related fire
14 starts.

15 Q. And I'm going to show you what's been marked for
16 identification as State's Exhibits 6 through 13. Would
17 you take a look at those and tell me if you recognize
18 them.

19 A. Those are some of the crime scene photos that I
20 -- or the photos that I took documenting the condition
21 of the building at the time of my arrival.

22 Q. And have those been edited or altered in any way?

23 A. They have not.

24 MS. SIEBER: All right. Your Honor, at this time
25 we'd ask to move State's Exhibits 6 through 13 into

1 evidence.

2 MR. DELANEY: No objection.

3 THE COURT: 6 through 13 is entered in.

4 (State's Exhibit Numbers 6 through 13 were
5 entered into the record.)

6 MS. SIEBER: And may we publish to the jury?

7 THE COURT: Yes.

8 BY MS. SIEBER:

9 Q. I'm showing you State's Exhibit 6. Can you
10 explain what you're seeing there?

11 A. This is a picture of the entrance documenting the
12 address of 291 Southwest corner of the door of this
13 building 291 or it was the numerical address on Bud
14 Arthur Bridge Road.

15 Q. And State's 7?

16 A. This is an overall photo of the fire damage, as
17 taken standing back where the fire occurred there at
18 Abbott's Fruit Stand.

19 Q. This is State's 10?

20 A. It is. That, that is actually oriented upside
21 down. There we go. That is showing the soot deposits
22 that came up onto the ceiling on the exterior. It's
23 showing that the fire was moving upward and then towards
24 the roof.

25 Q. And six?

1 A. This is the interior of the building showing
2 where the window had failed as a result of the fire.
3 And you also have soot deposits on the interior of the
4 building where the fire was beginning to move up and
5 into the building. Directly to the right of that window
6 is a fireworks display.

7 Q. And, Investigator, were you able to determine the
8 cause of the fire at Abbott's?

9 A. I was.

10 Q. Did you review the surveillance in this case?

11 A. I did.

12 Q. And did you speak with Mr. Abbott?

13 A. Yes, I did speak with Mr. Daniel Abbott.

14 Q. And after speaking with Mr. Abbott, where did you
15 go?

16 A. From that point I left that scene and Mr. Abbott,
17 as he previously mentioned, told me who he believed the
18 person was who set the fire, as we saw in the video. I
19 went from there to farther up Bud Arthur Bridge Road to
20 the defendant's residence.

21 Q. And about how far is the defendant's residence
22 from this address?

23 A. Approximately three-quarters of a mile.

24 Q. All right. And did you speak with the defendant
25 there when you arrived?

1 A. I did speak to the defendant and explained why,
2 why I was there.

3 Q. And what can you tell me about him, what he was
4 wearing when you got there?

5 A. The defendant was wearing the same clothes when I
6 arrived that were -- was seen on the suspect in the
7 video that I viewed there at Abbott's stand, to include
8 shoes, pants, coat. I also observed some, some black
9 napkins that were in his pocket that were consistent
10 with what was seen coming out of his pocket on video.

11 Q. All right. Investigator, I'm going to show you
12 what's been marked for identification as State's
13 Exhibits 23 through 31. Tell me if you recognize those.

14 A. I do recognize these. These were photos ---

15 Q. What are they?

16 A. These are photos that I took, the last one in
17 this series, this was actually taken on scene, as well
18 as the first and second, of the defendant in the
19 clothing at the time where we located him. The rest of
20 them are pictures of the clothes after he was taken out
21 of them after being booked at the jail.

22 Q. And about how long after you -- after the fire
23 did you speak with the defendant and find him like this?

24 A. About 9:30 a.m.; the fires were called in around
25 6:30 a.m.

1 Q. Okay. Have these photos been edited or altered
2 in any way?

3 A. They have not.

4 MS. SIEBER: All right. Your Honor, at this time
5 we'd ask to move State's Exhibits 23 through 31 into
6 evidence.

7 THE COURT: Any objection?

8 MR. DELANEY: No objection, Judge.

9 THE COURT: Without objection they're admitted.

10 (State's Exhibit Numbers 23 through 31 were
11 entered into the record.)

12 BY MS. SIEBER:

13 Q. And, Investigator, I'm showing you State's
14 Exhibit 23. What's that?

15 A. That is a picture of the shoes that the defendant
16 was wearing at the time when we located him at his
17 residence.

18 Q. And did that match the shoes in the surveillance
19 footage?

20 A. It did.

21 Q. And State's 24?

22 A. This is a picture of the defendant at the time
23 that we located him at his residence.

24 Q. And does his jacket match the surveillance?

25 A. It does.

1 Q. State's 25?

2 A. This is a picture of a blue jacket that the
3 defendant was wearing at the time he was taken into
4 custody.

5 Q. State's 26?

6 A. This is a picture of another jacket defendant was
7 also wearing at the time he was taken into custody.

8 Q. Twenty-seven?

9 A. This is a picture to the far right of the
10 outerwear pants to the center of the gray pair. It was
11 actually under the outerwear pants, along with the socks
12 and shoes the defendant was wearing at the time he was
13 taken into custody.

14 Q. And this is State's 31.

15 A. This is an overall photo of the defendant and
16 what he was wearing, as can be seen with the darker
17 outer jacket, the lighter inner jacket, and the dark
18 pants and shoes.

19 Q. I'm also gonna show you State's Exhibit 3. Does
20 that match? This is an image from the surveillance.
21 Does that match what you found the defendant wearing?

22 A. It does, to include the outer jacket being dark
23 blue. The inner jacket falling out from under it being
24 light blue, dark pants, gray shoes and the white soles.

25 Q. And at that time were you able to determine who

1 would have set fire to Abbott's Market?

2 A. I did.

3 Q. And was he placed under arrest at that time?

4 A. He was. He was placed in custody at that time.

5 Q. And, Investigator, how far is Tom Welchel's Fruit
6 Stand from Abbott's Market?

7 A. Approximately a half a mile.

8 Q. Do you know about how far walking distance that
9 is?

10 A. Roughly ten minutes.

11 Q. And did you pull a map image of those two
12 locations?

13 A. I did.

14 Q. And what did that help you determine?

15 A. Based on the video showing the defendant coming
16 from the direction of Battleground Road, also the
17 direction of Mr. Welchel's Fruit Stand, coming towards
18 Abbott's Fruit Stand, the timelines matched up for the
19 defendant to be going past Mr. Welchel's Fruit Stand at
20 the time the fire started there.

21 Q. What was the first fire that started?

22 A. Mr. Welchel's Fruit Stand.

23 Q. And how long after was the Abbott's Farm set?

24 A. The 9-1-1 calls were about 15 minutes apart.

25 Q. And is that consistent with the length of time it

1 | would take you to walk between those two places?

2 | A. The length of time being ten minutes, yes.

3 Q. I'm showing you what's been marked for
4 identification as State's Exhibit 5. Do you recognize
5 that?

6 A. I do. This is a map that I pulled off of Google
7 Maps showing the two locations and the approximate time
8 it would take to walk between those two locations.

9 Q. And has that been edited or altered in any way?

10 A. It has not.

11 MS. SIEBER: All right. Your Honor, at this time
12 we'd ask to move State's Exhibit 5 into evidence.

13 THE COURT: Any objection?

14 MR. DELANEY: No, sir.

15 THE COURT: It's admitted.

16 (State's Exhibit Number 5 was entered into the
17 record.)

18 BY MS. SIEBER:

19 | 0. And is that the location of Abbott's Market?

20 | A. It is.

21 Q. Is this the location of the fruit stand?

22 | A. It is.

23 Q. Thank you. Please answer any questions the
24 defense has.

25 | CROSS-EXAMINATION

1 BY MR. DELANEY:

2 Q. Good afternoon, Detective Cash.

3 A. Good afternoon, sir.

4 Q. I'm gonna show you State's 6 and in conjunction
5 State's 7.

6 A. Yes, sir.

7 Q. There's a, what appears to be, a burned out
8 window with some glass that's shattered --

9 A. Uh-huh.

10 Q. -- in both of those. Do you have any opinion as
11 to how that glass shattered or was busted?

12 A. Based on my experience with fire and fire
13 investigation, that is consistent with the glass having
14 sustained heat damage.

15 Q. Do you know where Johnny Chapman was ultimately
16 arrested and charged with these crimes? Do you know
17 where he was picked up?

18 A. Yes, sir. At his residence in the 650 block of
19 Bud Arthur Bridge Road.

20 MR. DELANEY: Thank you. No further questions.

21 THE COURT: Anything at all?

22 MS. SIEBER: No, Your Honor.

23 THE COURT: Detective, you may step down, please
24 be careful.

25 THE WITNESS: Thank you.

1 (Witness leaves witness stand.)

2 MS. SIEBER: Your Honor, may I have a few minutes
3 to see if my next witness is here? I'm seeing if my
4 witness is upstairs, can I have a few minutes?

5 THE COURT: Yes. Do you need more than two or
6 three minutes or?

7 MS. SIEBER: Oh, they're here.

8 THE COURT: Got it?

9 MS. SIEBER: Yes, sir.

10 THE COURT: Okay.

11 MS. SIEBER: Your Honor, at this time the State
12 would call Scott Francis.

13 (Witness comes forward.)

14 THE CLERK: Place your left hand on the Bible and
15 raise your right. (Complies.)

16 Do you solemnly swear or affirm the testimony you
17 will give will be the truth, the whole truth, and
18 nothing but the truth so help you God?

19 THE WITNESS: I do.

20 THE COURT: Sir, adjust the microphone and tell
21 us your name and spell your last name for my court
22 reporter here, please.

23 THE WITNESS: First name Scott, last name
24 Francis, F-R-A-N-C-I-S.

25 SCOTT FRANCIS,

1 having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. SIEBER:

4 Q. Mr. Francis, where do you work?

5 A. Spartanburg 9-1-1 communications.

6 Q. And how long have you been doing that?

7 A. I've been with them now for 21 years.

8 Q. Can you explain what your role is there?

9 A. Currently my role is the computer rated dispatch
10 by IT side of 9-1-1.

11 Q. And if someone calls 9-1-1, is that information
12 recorded on any type of document?

13 A. Okay. Our dispatch system is Motorola dispatch.
14 Everything that comes in goes into a central computer,
15 into a secret data base, so once it's there it cannot be
16 changed.

17 Q. And is there a report that would show when a call
18 was made for an incident?

19 A. Yeah. We can run reports for any agency, for
20 police, fire, medical, multiple different types of
21 requests. Microsoft report.

22 MS. SIEBER: Your Honor, can we have these marked
23 for identification?

24 (State's Exhibit Number 33, 9-1-1 Report, was
25 marked for identification.)

1 (State's Exhibit Number 34, 9-1-1 Report, was
2 marked for identification.)

3 BY MS. SIEBER:

4 Q. And I am showing you what's been marked as
5 State's Exhibit 33. Do you recognize that?

6 A. Yes, ma'am.

7 Q. And what type of report is that?

8 A. It says this incident details, this is created,
9 this actual report was mostly created by Motorola. So
10 it gives you, basically if there's a caller it would
11 have a caller name, address where the incident is taking
12 place. It will tell you what time the phone is picked
13 up. What time the incident is created, which units go
14 on route and so on and so forth. So it's just a
15 detailed list of everything that went on.

16 Q. And what ---

17 A. As far as the call goes, and any comments that
18 were given to the call taker at the time.

19 Q. And what incident location does that report show?

20 A. It shows the initial it's Battleground Road and
21 Edgefield Road in the Cowpens community.

22 Q. And does it tell you what type of call came in?

23 A. Right. So the, the initial call when the phone
24 was picked up on November 4th at 06:43:50 by operator
25 104.

1 Q. And was that a report of a fire?

2 A. Yes. This is a fire incident.

3 Q. And I'm going to show you what's been marked as
4 for identification as State's 34.

5 A. Yes, ma'am.

6 Q. Do you recognize that?

7 A. So that would be the same basic report. You're
8 looking at a business fire at 291 Bud Arthur Bridge
9 Road. Same general information. It does not show a
10 time that the phone was picked up, which means it came
11 in by a different means. But it shows what time the
12 incident was. This is mostly created by Motorola, so it
13 gives you basically the, if there's a call here, it
14 would have a caller name, address where the incident is
15 taking place, it'll tell you what time the call is
16 picked up, what time the incident was created, which was
17 7 o'clock in the morning.

18 Q. And does that give you a location name of where
19 this ---

20 A. It does say in this case Abbott Farms.

21 Q. And was that also a report of a fire?

22 A. Yes, ma'am.

23 Q. And what time was that received?

24 A. I don't show as far as a phone call being
25 received, but the incident was created at 7 o'clock and

1 14 seconds.

2 Q. And are these reports kept in the regular course
3 of business? Can this report be generated for a call
4 that comes in to 9-1-1?

5 A. Right. This is the, this is the backside of the,
6 of the 9-1-1 center. So we have a, a report in server
7 that allows us to create reports and can be pulled by
8 authorized people.

9 MS. SIEBER: Your Honor, at this time we'd ask to
10 move State's Exhibits 33 and 34 into evidence.

11 MR. DELANEY: No objection.

12 THE COURT: Without objection, 33 and 34
13 admitted.

14 (State's Exhibit Numbers 33 and 34 were entered
15 into the record.)

16 MS. SIEBER: And I have no further questions.
17 Please answer any questions the defense has.

18 THE COURT: Any questions, Mr. Delaney?

19 CROSS-EXAMINATION

20 BY MR. DELANEY:

21 Q. Do you have a physical or an audio copy of these
22 calls that came in to play for the jury today?

23 A. I do not. I was not requested to bring in any
24 calls. Normally I'm not the person who would physically
25 pull the report. My other kind of a person who writes a

1 lot of the reports for people to pull or authorizes
2 people to pull, but we match the reports with the
3 telephone calls as requested. So if you have requested
4 it, it could have been pulled.

5 MR. DELANEY: Thank you.

6 THE COURT: Anything at all?

7 MS. SIEBER: Nothing further.

8 THE COURT: Sir, you may step down. Please be
9 careful.

10 (Witness leaves witness stand and courtroom.)

11 MS. SIEBER: And, Your Honor, our last witness
12 will be here at 2:30. Are we able to take a ten-minute
13 break?

14 THE COURT: Yes, we will take a ten-minute break.

15 Ladies and gentlemen, the next witness for the
16 State and the last witness for the State, I understand,
17 will be here in about 11 minutes. No reason for you to
18 sit there. We'll use this time -- it's a little bit
19 early, but we'll use that time as our afternoon break.
20 So I'll make this a 15, 18-minute break.

21 Let me ask, is there anyone on the jury who
22 smokes and wishes to go outside to smoke? I know we've
23 got one. Do you want to go outside?

24 JUROR: Yes.

25 THE COURT: Anyone else smoke and wants to go

1 outside? If you do, you have to go -- you have to be
2 escorted, that's why I'm asking, by one of our officers
3 or one of the bailiffs. So if there's anybody wanting
4 to go outside, because you can't smoke in the building.

5 All right. Madam Forelady, let's go into the
6 jury room here and take your afternoon break. Don't
7 talk about the case. It's not at an end.

8 (Jury leaves the courtroom at 2:20 p.m.)

9 Let's be in recess for about 15 minutes.

10 (Recess was had from 2:20 p.m. - 2:50 p.m.)

11 THE COURT: Ready Solicitor?

12 MS. SIEBER: Yes, Your Honor.

13 THE COURT: Ready Mr. Delaney?

14 MR. DELANEY: Yes, Your Honor.

15 THE COURT: All right.

16 (Jury enters the courtroom at 2:51 p.m.)

17 THE COURT: Everything good, Madam Forelady?

18 MADAM FORELADY: Yes, sir.

19 THE COURT: All right, very good.

20 MS. SIEBER: Your Honor, the State would call
21 Dennis McDaniel.

22 (Witness comes forward.)

23 THE CLERK: Please place your left hand on the
24 Bible and raise your right, please. (Complies.)

25 Do you swear or affirm that the testimony you're

1 about to give will be the truth, the whole truth, and
2 nothing but the truth so help you God?

3 THE WITNESS: I do.

4 THE CLERK: Have a seat right there.

5 THE COURT: Sir, tell us your name and spell your
6 last name for my court reporter.

7 THE WITNESS: Dennis McDaniel, M-c-D-a-n-i-e-l.

8 THE COURT: Thank you.

9 Solicitor?

10 DENNIS MCDANIEL,
11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. SIEBER:

14 Q. And Mr. McDaniel, what do you do for a living?

15 A. Ma'am? I'm sorry.

16 Q. What do you do for a living?

17 A. Balloon technician.

18 Q. Where do you work?

19 A. Mermet in Cowpens.

20 Q. And were you in Cowpens on November 4th of 2018?

21 A. Yes, going to work.

22 Q. And what time do you normally start work?

23 A. Seven.

24 Q. 7 a.m.?

25 A. Yeah.

1 Q. And did you make a call to 9-1-1 on that day?

2 A. Yeah.

3 Q. What did you call them about?

4 A. A fire inside of a little building, a little
5 small building.

6 Q. And do you remember where that fire was?

7 A. It's on Highway 110.

8 Q. And I'm gonna show you what's been marked for
9 identification as State's Exhibit 1. Do you recognize
10 that?

11 A. Yeah.

12 Q. And what is it?

13 A. It's the video of me talking.

14 Q. Is that of your 9-1-1 call?

15 A. Yeah.

16 Q. Has that been edited or altered in any way?

17 A. No.

18 MS. SIEBER: Your Honor, at this time we'd ask to
19 move State's Exhibit 1 into evidence.

20 THE COURT: Any objection?

21 MR. DELANEY: No objection.

22 THE COURT: Without objection, State's 1 is
23 admitted.

24 (State's Exhibit 1 was entered into the record.)

25 MS. SIEBER: And may we publish it to the jury?

1 THE COURT: Yes, ma'am.

2 (Plays audio recording.)

3 BY MS. SIEBER:

4 Q. And, Mr. McDaniel, you said you saw a man
5 walking?

6 A. Yeah.

7 Q. Where was that?

8 A. Off the exit I was getting off of, right there at
9 Four Paws.

10 Q. Is that close to Abbott's Market?

11 A. Yeah.

12 Q. And was he walking in the direction -- which
13 direction was he walking?

14 A. He was walking -- well, I was getting off of 85,
15 he was going towards that way.

16 Q. Headed towards --

17 A. On the exit part.

18 Q. -- Abbott's Market?

19 A. Yeah.

20 Q. And describe what he looked like.

21 A. Well, he wasn't looking at me. He was turned to
22 the side with his black head. And he had something
23 brown in his hand. I didn't know if it was a garbage
24 bag or, you know, a towel.

25 Q. Do you recall what type of clothing he was

1 wearing?

2 A. He was wearing a blue coat and something. You
3 know, it was in the morning time. It was hard really.

4 Q. And I'm gonna show you what's been marked -- what
5 is introduced as State's Exhibit 31. Is the person in
6 that picture -- does that clothing match the clothing
7 that you saw that day?

8 A. Yeah.

9 Q. But you couldn't see his face?

10 A. No.

11 Q. Thank you. I have no further questions. Please
12 answer any questions the defense has.

13 MR. DELANEY: No questions, Your Honor.

14 THE COURT: Sir, you may step down. Please be
15 careful.

16 (Witness leaves witness stand and courtroom.)

17 THE COURT: Solicitor?

18 MS. SIEBER: Your Honor, at this time the State
19 rests.

20 THE COURT: The State rests. All right. Madam
21 Forelady and ladies and gentlemen, the State has now
22 rested its case in chief. That means the State does not
23 intend to offer another witness or any other exhibit
24 into evidence at this time or in its case in chief. Now
25 brings us to one of those times when I told you I would

1 have to excuse you from the courtroom because there are
2 certain legal matters that I now must take up.

3 They're procedural in nature and they don't
4 concern the facts of the case, so it would be improper
5 for you to be here. Again, you are the finders of the
6 fact and I am the judge of the law, so I have some legal
7 matters I have to take up outside of your presence.
8 Don't talk about the case and I'll be back with you and
9 have you back here as quick as I can.

10 If you'll take the jury out.

11 (Jury leaves the courtroom at 2:59 p.m.)

12 THE COURT: Matters from the State?

13 MS. SIEBER: No, Your Honor.

14 THE COURT: From the defense?

15 MR. DELANEY: Your Honor, we make a motion for
16 directed verdict of not guilty in favor of the defendant
17 at this time. We would assert that the State has failed
18 to produce sufficient evidence even if viewed in the
19 most light favorable to them to submit this matter to
20 the Jury to have the ultimate question in this case.
21 Therefore, we would respectfully request a directed
22 verdict of not guilty.

23 THE COURT: Solicitor?

24 MS. SIEBER: Your Honor, regarding the Abbott
25 Market's case, there is surveillance footage of the

1 defendant setting that store on fire. Regarding the
2 fruit stand that is more circumstantial. However, there
3 is a witness who says he saw someone matching the
4 description of the defendant walking away from that
5 fruit stand. The timing is about 15 minutes apart at a
6 distance that's less than half a mile, about a 10-minute
7 walk, so... Investigator Cash also said that he ruled
8 out anything, any other causes of the fire.

9 THE COURT: The defense motion as to both
10 indictments for a directed verdict is denied. There is
11 sufficient evidence for which to go to the jury. The
12 Court must review the evidence in the light most
13 favorable to the non-moving party, which is the State of
14 South Carolina. And the Court does not weigh the
15 evidence. The Court must consider whether there is any
16 evidence, and there is evidence of his guilt for it to
17 go to the jury as a question of fact.

18 Okay. Anything further?

19 MR. DELANEY: Yes, Your Honor. I talked to my
20 client on a couple of occasions about whether or not he
21 is going to testify. I'm not sure he's made a final
22 decision. I would ask Your Honor to please inquire of
23 Mr. Chapman as to his decision on whether or not to
24 testify.

25 THE COURT: Sure I will.

1 Mr. Chapman, if you'll stand and be sworn right
2 there, and she's gonna swear you in.

3 THE CLERK: Do you solemnly swear that the
4 testimony you're about to give will be the truth, the
5 whole truth, and nothing but the truth, so help you God?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Mr. Chapman, you are Johnny Ray
8 Chapman?

9 THE WITNESS: Yes, sir.

10 THE COURT: Mr. Chapman, you've been in the
11 courtroom during these proceedings. This is the point
12 in the trial where you have the right to testify. You
13 may present evidence if you choose to. You have the
14 right of the protections of the Fifth Amendment of the
15 constitution of the United States, which says in part
16 that no person shall be compelled in a criminal case to
17 be a witness against himself.

18 Sir, you also have the right to claim protections
19 given to you by Article 1, Section 12 of our State
20 constitution which says: No person shall be compelled
21 in any criminal case to be a witness against himself.
22 And this means that you cannot be called to the stand.
23 You cannot be required to testify. You have the right
24 to do so, but no one can make you do so.

25 This right belongs to you and no person can waive

1 that right except you. If you decide to testify, you
2 will be subject to the same rules that govern other
3 witnesses, and you may be examined and cross-examined
4 for relevant issues in the case. Additionally, if you
5 have convictions involving dishonesty or a false
6 statement, or for crimes punishable by imprisonment for
7 more than one year and if this Court determines that the
8 probative value of admitting the evidence outweighs its
9 prejudicial effect to you, the solicitor will be able to
10 introduce your criminal record to attack your
11 credibility.

12 If you decide to testify, this decision on your
13 part must be freely, intelligently, and voluntarily made
14 with knowledge of the protections given to you by the
15 constitutions of these United States and of this state
16 and the consequences of your decision. If you decide
17 not to testify, sir, I will instruct the jurors they
18 cannot give the fact that you did not testify any
19 consideration. It is entirely your decision as to
20 whether or not you testify.

21 Sir, do you understand what I've told you?

22 THE DEFENDANT: I do.

23 THE COURT: Do you have any questions about what
24 I've told you?

25 THE DEFENDANT: Well, I mean, the representation

1 leads that way. I mean, who am I supposed to call? I
2 didn't even know I was coming to court. I can't get out
3 to call and do this and do that with a \$30,000 bond and
4 an ankle monitor. I mean, that -- I've got to have an
5 address to go to with the ankle monitor to go with -- I
6 mean, it's baffling to where I'm supposed to rally up
7 any witnesses and do all of this with no means of doing
8 so.

9 So this morning they bring me in the court, like
10 I stated earlier. But he, he don't want to ask
11 questions. He asked the guy, I wrote down and I asked
12 him, the owner of the store, Mr. Abbott, I asked, I
13 said, I asked him if there had ever been any prior
14 vandalism and he said yes and he stopped and said no
15 further questions.

16 Why wouldn't he follow it up on it. She's
17 recording it and he just let him go. I mean, can we put
18 him back on the stand and find out exactly what the --
19 what the vandalism was and did he view the person who
20 did it?

21 THE COURT: Sir, your lawyer, it's up to your
22 lawyer on a trial -

23 THE DEFENDANT: But he don't ---

24 THE COURT: Let me talk.

25 THE DEFENDANT: Okay. I'm sorry.

1 THE COURT: He -- to answer your question, the
2 question is yes. If your lawyer decides to put anybody
3 on the stand he can do that.

4 THE DEFENDANT: He said he wasn't going to unless
5 -- he was gonna put me up if I want to testify. I asked
6 him, I said, who are you gonna call? And he said you.
7 And I said, who else? He said nobody. No one. He
8 don't plan to, to represent me.

9 THE COURT: Sir, I don't understand -- I don't
10 know what his trial strategy is, but trial strategy ---

11 THE DEFENDANT: It would be absolutely none
12 because if she rests and he don't call no witnesses, you
13 bring the jury in and they deliberate. What I'm saying
14 is, is why would he ask questions that are so vague and
15 left open? It's open ended. Have they been vandalized
16 at your store, any vandalism? And he stated yes. And
17 he didn't ask him what kind, did he know who done it.

18 He stated the fact that I was walking in front of
19 his building several times. That's how he knew me, but
20 if he knew anything about the vandalism and he had a
21 video, well, why didn't he ask him who was on it and if
22 any at all? Well, what I'm getting at is, is halve
23 truths and then go follow it up. So we're gonna give
24 the jury that?

25 THE COURT: Sir, I'm just asking if you want to

1 testify or not.

2 THE DEFENDANT: What I'm saying to you is, how
3 can I not testify?

4 THE COURT: Sir.

5 THE DEFENDANT: And, listen. If I got a cousin
6 who'll come up, come right by where Cash was at. You
7 can ask Garrett Cash. Why didn't Garrett Cash tell you
8 about the residence 650 Bud Arthur Bridge Road? The
9 reason why they put a bond me like they did is because
10 the judge that was giving the bond was saying that the,
11 the number of fires that had been set in the area over
12 the, the last little while. Okay? So ask Garrett about
13 650 Bud Arthur Bridge Road and he wouldn't do it. Is it
14 in tact? You see on the, one the sitting with counsel
15 right there, but he ain't showing the photos the house
16 (sic). The house has been brought completely down. But
17 he's not telling you that he already knew who I was.
18 Did you not, Garrett?

19 THE COURT: Sir, I just need to know if you want
20 to testify.

21 THE DEFENDANT: Why didn't he ask him had he ever
22 met me before?

23 THE COURT: This Court nor any other judge tells
24 the trial lawyer which strategy to use.

25 THE DEFENDANT: But he's not trialed it.

1 THE COURT: Sir ---

2 MR. DELANEY: Your Honor, the two specific issues
3 that he's talking about --

4 THE DEFENDANT: It's a lot more than that, he
5 just won't listen to what I'm saying to him.

6 MR. DELANEY: -- is Mr. Abbott's testimony
7 regarding vandalism and then this other information my
8 client's provided me ---

9 THE DEFENDANT: They took it. It's a ---

10 THE COURT: Sir, let him talk now.

11 THE DEFENDANT: But listen.

12 THE COURT: I've let you ---

13 THE DEFENDANT: But, sir, it's a \$100 value on my
14 discovery. \$100. They took the building that was where
15 they sold the produce.

16 MR. DELANEY: Stop.

17 THE DEFENDANT: And just a ragged building. And
18 he photographs the whole, all the way around it. But
19 when he goes down and does the, the bigger company,
20 Abbott's Farm, look at the photos of it. Look at the
21 way he handles -- this ain't right. That's what I tried
22 to tell him.

23 THE COURT: All right. Let Mr. --

24 THE DEFENDANT: So it's a \$100 value.

25 THE COURT: -- Delaney speak.

1 THE DEFENDANT: \$100. Why wouldn't they come to
2 me with a plea of anything? So, if it's a \$100 value,
3 which one is he talking about, both? Because when they
4 handcuffed me, he said when he arrived at the Stand,
5 okay, when he pulled up, that's the way they was taking
6 pictures.

7 It was already extinguished. He asked him about
8 the witness. He said, that comes from fire, fire
9 damage. But we know that that ain't true because when
10 they arrested me and took me out, it wasn't no damage
11 like that. It was a little spark probably about as big
12 as this paper right here in front of the hay, the hay
13 bail, about like that.

14 And the next thing you know when I seen them
15 photos. They didn't give me none on my motion until I
16 seen them today. When -- and the whole front of the
17 store is burning up. I mean, it's no way that it
18 happened twice. Did it start a fire that start up
19 again? When I came back, I mean, he'd come up there to
20 where I was at to arrest me. Drove me right by where
21 the fire was set and it didn't look nothing like that.
22 No nothing like that. That's what I was trying to tell
23 my defense attorney, you've got to ask questions because
24 he already knows who I am. And I mean, that ain't
25 attacking his character because he won't, sir.

1 THE COURT: Do you want to testify or not?

2 THE DEFENDANT: I think I just did.

3 THE COURT: No, sir. You've got to testify in
4 front of the jury, if you want to testify.

5 THE DEFENDANT: Why didn't -- it's his job to
6 represent me, so why didn't he ask them kind of
7 questions? I mean, I can testify and I just did. I
8 swore in.

9 THE COURT: I know, sir.

10 THE DEFENDANT: And I will tell the truth. I
11 told him ---

12 (Conversation occurred off the record between
13 attorney and defendant.)

14 MR. DELANEY: The two issues that Mr. Chapman
15 raised regarding my representation, I did discuss those
16 matters with him. I'll refer to the one as the
17 vandalism and then the one as the 680 Bud Arthur Bridge
18 Road site.

19 THE DEFENDANT: But you didn't followup with it,
20 Mr. Delaney.

21 THE COURT: Sir, let ---

22 MR. DELANEY: And there's a reason I didn't
23 followup with it, because there's information regarding
24 those two things is gonna go down the track that I think
25 it's gonna go down, based on the information my client

1 has provided to me, I clearly don't think it's in his
2 best interest to talk about those two topics. So I made
3 a decision, a strategy decision not to go down those two
4 roads because I think at the end of those two roads
5 could potentially be information that's harmful to my
6 client. So I made a conscious decision of trial
7 strategy not to look into those matters.

8 THE DEFENDANT: Did you ---

9 THE COURT: Sir.

10 THE DEFENDANT: When you got to 650 Bud Arthur
11 Bridge Road, I'm just asking, how bad was the fire there
12 when you got there? Because the old structure is three
13 levels to this house. Three levels to this house. Wait
14 a minute. Wait a minute. I just now testified in front
15 of everybody in here that when we come out, when he
16 arrested me and comes out at Abbott's Farm on Bud Arthur
17 Bridge Road, that it wasn't no damage like he's showing
18 in that -- in them photos and that video. None of that.
19 None of that. I said, that ain't -- I said it. And if
20 you got a video or audio in the, in the vehicle you
21 would have heard me say it.

22 THE COURT: Do you want to testify or not?

23 THE DEFENDANT: And this is -- hold on. Hold on
24 a second.

25 THE COURT: No, sir. No, sir, I'm not gonna hold

1 on.

2 THE DEFENDANT: Just please, please, just hear me
3 out. So if there's a fire that is 650 Bud Arthur Bridge
4 Road and he shows up to it, how do -- what else
5 happened, if it's a small fire and then he relit it and
6 brought the whole structure down?

7 THE COURT: Okay. Let me ask you one more time,
8 do you want to testify or not? I just want a yes or no
9 answer.

10 THE DEFENDANT: Can I ask, did you get that down?

11 THE COURT: Yes, she got every word of it.

12 THE DEFENDANT: Thank you.

13 THE COURT: Do you want to testify or not?

14 THE DEFENDANT: I just did. Thank you, sir. I
15 don't mean no disrespect to you, Judge Kelly.

16 THE COURT: All right. I want to know if you
17 want to testify in front of that jury or not. Are you
18 gonna testify in front of the jury or not?

19 THE DEFENDANT: Does this right here seem like I
20 got an option?

21 THE COURT: I tell you what, bring that jury back
22 in. We'll do it this way. Are y'all ready to go to
23 closing?

24 MS. SIEBER: Yes, Your Honor.

25 (Jury enters the courtroom at 3:12 p.m.)

1 THE COURT: Thank you, ladies and gentlemen.

2 Sir, do you want to testify?

3 THE DEFENDANT: No, sir.

4 THE COURT: Thank you. Anybody?

5 MR. DELANEY: No, Your Honor.

6 THE COURT: All right. Let me see the lawyers
7 real quick, side bar.)

8 (Side bar was held.)

9 THE COURT: Do you renew your motion?

10 MR. DELANEY: Yes, sir.

11 THE COURT: Anything from the Solicitor?

12 MS. SIEBER: No.

13 THE COURT: The directed verdict motion?

14 MR. DELANEY: Yes.

15 THE COURT: Directed verdict motion is now
16 renewed by defense counsel. I'm gonna deny it for the
17 same reason I here before stated. You're on the record.

18 (Side bar ended.)

19 THE COURT: All right. The defense has now
20 rested?

21 MR. DELANEY: Yes, sir.

22 THE COURT: Ready for your closing?

23 MS. SIEBER: Yes, sir.

24 THE COURT: Ladies, you go, and then Mr. Delaney
25 you get the last word.

1 Ladies and gentlemen, we're at that stage where
2 the lawyers are going to make their closing statements,
3 and after which they're gonna charge you on the law.
4 And then I'm gonna ask you to retire to consider your
5 verdict.

6 All right, Solicitorr?

7 MS. SIEBER: Thank you, Your Honor.

8 CLOSING STATEMENT

9 BY MS. SIEBER:

10 Ladies and gentlemen, you've heard about two
11 fires that were started in Cowpens 15 minutes apart.
12 The first one being at Thomas Welchel's fruit stand.
13 And you heard from Dennis McDaniel who said he was on
14 his way to work and he saw someone who matched the
15 description of the defendant right by Abbott's Market.

16 He turns the corner and he sees the fruit stand
17 is on fire. He told you he didn't see anybody else and
18 this was about 6:45 a.m. on a Sunday morning. Then, we
19 have surveillance footage that you saw of someone at
20 Abbott's Market. And y'all saw that surveillance
21 footage. That person in that video is this defendant,
22 Johnny Chapman.

23 The owner of that business is familiar with Mr.
24 Chapman, and he sent Investigator Cash out that same
25 day, two hours after, to go and speak to him. He is

1 wearing the exact same outfit that you see in that
2 surveillance picture. Every piece of clothing is the
3 same.

4 Investigator Cash did an investigation at both of
5 these fires. He looked at the fruit stand and said
6 there was no weather that could have caused a fire like
7 this. There's no electric that goes to the fruit stand.
8 This is just a stand that Mr. Welchel sells his produce
9 from, his home grown produce. There's no other cause to
10 this fire but this defendant, Johnny Chapman.

11 The two 9-1-1 calls, again, they come in just 15
12 minutes apart. Each piece of this timeline matches up
13 with this defendant, starting both of these same caused
14 the fire. You can go back and look at the surveillance
15 again if you'd like to. Look at the pictures and see
16 everything fits with this defendant, starting both of
17 these businesses willfully and maliciously on fire.

18 You can see the damage that was done at this
19 market and to that fruit stand. It's burned to the
20 ground. Now, my job is to prove each of these things to
21 you beyond a reasonable doubt. And what that means is
22 at the end of the case you need to be firmly convinced
23 of the defendant's guilt in both of these cases.

24 Well, one case you have a picture of him setting
25 it on fire and the other, each piece of evidence lines

1 up and leads you directly to this defendant setting that
2 fire as well. It doesn't mean beyond any and all doubt.
3 As long as you are firmly convinced that this defendant
4 set both of these fires, we ask that you find him guilty
5 of arson in the second degree. Thank you.

6 MR. DELANEY: Thank you, Your Honor.

7 CLOSING STATEMENT

8 BY MR. DELANEY:

9 Thank you for being here, ladies and gentlemen.
10 It's a very important matter for Johnny Chapman. He's
11 got a lot at stake. I ask that you examine the evidence
12 closely. Ensure that it's accurate. There is direct
13 evidence in some matters and in some matters there is no
14 direct evidence. And the only allegation is based on
15 circumstantial evidence.

16 I ask that you examine that evidence closely. I
17 would say that potentially on a circumstantial case the
18 burden on the State's a little bit more. It's a harder
19 case to prove when you're depending on things like
20 timelines or, you know, potential time it takes you
21 walking between two points or when the phone calls are
22 coming in. In that kind of case, you kind of got to put
23 a bunch of items together and see it all makes sense.
24 Sometimes those cases are a little more harder to prove
25 than a case where a potentially direct evidence of

1 someone's guilt.

2 So I would ask you to examine the evidence
3 closely with the understanding that every individual is
4 presumed innocent and they remain innocent until a jury
5 of their peers determine that they're no longer entitled
6 to that presumption. And they're not entitled. That
7 presumption is never removed until proof and evidence is
8 presented that proves a person's guilt beyond a
9 reasonable doubt. And I would ask you to hold the
10 government to that standard.

11 It's a very important matter. Thank you for your
12 time. Please examine the evidence closely and give it
13 your utmost attention, and I'm sure you will. Thank you
14 very much.

15 JURY CHARGE

16 THE COURT: Madam Forelady and ladies and
17 gentlemen of the jury, you have seen and heard the
18 evidence presented, as well as the arguments of the
19 lawyers, and it is my duty and my obligation to instruct
20 you on the law applicable to this case. And it will
21 then be your duty and obligation to begin your
22 deliberations through which process you will decide the
23 facts, apply the law as I instruct it, and render a fair
24 and impartial decision.

25 It is your exclusive duty to determine what the

1 facts are in this case. You do that based on your own
2 common sense, examination, and evaluation of the
3 testimony and all evidence received during the trial of
4 this case.

5 You 12 alone will decide what effect, value, and
6 weight is to be given to any testimony and evidence
7 received. Quite simply, your goal is to find the facts
8 in this case, and by doing so you will fulfill your
9 obligation as jurors.

10 The first indictment in the case charges the
11 defendant with arson. Specifically, that Johnny Ray
12 Chapman did, in Spartanburg County, South Carolina, on
13 or about November 4 of 2018, willfully and maliciously
14 caused an explosion, set a fire to, burned or caused to
15 be burned, or aided, counseled, or procured the burning
16 of a building or structure that was one or more of the
17 following: Either a dwelling house or any structured
18 designed for occupancy; to wit, a business of Abbott's
19 Farm, Abbott's Fruit Market on Bud Arthur Bridge Road,
20 Cowpens, South Carolina, in violation of state law.

21 The other indictment charges the defendant with
22 arson. Specifically, that Johnny Ray Chapman did, in
23 Spartanburg County, South Carolina on or about November
24 4 of 2018, willfully and maliciously cause an explosion,
25 set fire to, burn or caused to be burned, or counseled,

1 or aided the procure -- or procured the burning of a
2 building or structure that was one or more of the
3 following: A dwelling house or any structure designed
4 for human occupancy; to wit, the business of Thomas
5 Welchel, located on Battleground Road, Cowpens, South
6 Carolina, in violation of the state law.

7 I remind you again, the fact that this defendant
8 was arrested, charged, and indicted is not evidence and
9 cannot be considered by you as, as evidence of guilt.
10 It does not create a presumption or inference of guilt.
11 The indictments are simply a formal written instrument
12 which brings the charge made against the defendant
13 before the court.

14 This defendant has pled not guilty to each
15 indictment, and that puts the burden on the State to
16 prove his guilt beyond a reasonable doubt. A person
17 charged with committing a criminal offense is never
18 required to prove himself innocent.

19 I charge you as an important, vital rule of law
20 that in a criminal trial, no matter what the seriousness
21 of the charge may be for which he stands charged, the
22 defendant is always presumed to be innocent of the crime
23 for which the indictment was issued, unless guilt has
24 been proven by evidence satisfying you of guilt beyond a
25 reasonable doubt.

1 This presumption of innocence does not end when
2 you begin your deliberations. It accompanies him
3 throughout the trial until you reach a verdict of guilt
4 based on evidence satisfying you of guilt beyond a
5 reasonable doubt.

6 The presumption of innocence has been described
7 as being like a robe of innocence placed about the
8 shoulders of this defendant, which remains with him from
9 the moment of his arrest and continues until it has been
10 stripped from his shoulders by evidence satisfying you
11 of guilt beyond a reasonable doubt. The presumption of
12 innocence is not a legal theory nor a legal phrase, but
13 it's a substantial right to which every defendant is
14 entitled, unless you 12 are satisfied from the evidence
15 of his guilt beyond a reasonable doubt.

16 I remind you that during this trial you and I
17 have certain duties to perform. As the trial judge, it
18 is my responsibility to preside over the trial. And,
19 additionally, to rule on the admissibility of evidence
20 offered during this trial. You are to consider the
21 competent evidence before you.

22 Additionally, I have the duty to charge you with
23 the law applicable to the facts. As the presiding
24 judge, I'm the sole judge of the law, and it is your
25 duty to accept it and apply it, as I now tell it to you.

1 Ladies and gentlemen, if you have an idea as to
2 what the law is or what the law ought to be or what the
3 law should be and it does not agree with what I now tell
4 you, you must abandon your idea because you have sworn
5 to accept the law that I give you at this time.

6 In every case tried in this courtroom before a
7 jury, you 12 become the sole and exclusive judge of all
8 facts. State law does not allow a trial judge to make a
9 comment or a statement about any facts about the case
10 because you 12 are the sole judges of all the facts.

11 The law of this state does not allow any Circuit
12 Court judge to have an opinion about a fact in this
13 case. That matter is solely for your -- in your
14 discretion. The State has the burden of proving this
15 defendant guilty beyond a reasonable doubt. Now, proof
16 beyond a reasonable doubt is proof that leads you firmly
17 convinced of the defendant's guilt.

18 There are very few things of this world that we
19 know with absolute certainty. And in criminal cases the
20 law doe not require proof that overcomes every possible
21 doubt. A reasonable doubt has been described as the
22 kind of doubt that would cause a reasonable person to
23 hesitate to act. If you have such a doubt as to the
24 guilt of this defendant, then say so, and he is entitled
25 to a verdict of not guilty.

1 Reasonable doubt may arise from the evidence
2 which is in the case or it could be from a lack or
3 absence of evidence in a case. If you are firmly
4 convinced that this defendant is guilty of either or
5 both of the crimes charged, then say so and find him
6 guilty. But on the other hand, if there is a real
7 possibility he is not guilty, then say so, give him the
8 benefit of the doubt, and find him not guilty. You 12
9 alone must weigh the determination of whether or not
10 reasonable doubt exists as to the guilt of this
11 defendant.

12 There are two types of evidence which are
13 generally presented during every trial, and they are
14 known as the direct evidence and circumstantial
15 evidence. Direct evidence is testimony of a person who
16 claims to have actual knowledge, such as an eye witness.
17 Circumstantial evidence is proof of a chain of facts and
18 circumstances indicating the existence of a fact. It is
19 evidence which immediately establishes collateral facts
20 from which the main fact may be inferred, but it is not
21 based upon personal knowledge or observation.

22 I tell you that our law makes no distinction
23 between the weight or value to be given either direct or
24 circumstantial evidence, nor is a greater degree of
25 certainty required of circumstantial evidence. You

1 should weigh all evidence. And after doing so, if you
2 are not convinced of his guilt beyond a reasonable
3 doubt, say so and find him not guilty.

4 Under our constitution you are the finders of the
5 facts and that necessarily means you must determine the
6 credibility of witnesses who have testified.
7 Credibility simply means believability. It is your duty
8 to analyze and evaluate the evidence and determine which
9 evidence convinces you of the facts.

10 In determining believability of witnesses, you
11 may believe one witness over several; you may believe
12 several witnesses over one. Ladies and gentlemen, you
13 may believe all of what a witness tells you and refuse
14 to believe anything that another witness tells you.
15 Whatever your good judgment and common sense tells you
16 it is the believable testimony is the testimony you
17 should accept and reject the remaining testimony.

18 I tell you now and I emphasize this fact, that
19 the defendant did not testify and is not a factor to be
20 considered by you in your deliberations and in your
21 consideration of the question of guilt or innocent. It
22 is not to be considered by you and not discussed in the
23 jury room.

24 The fact that this defendant did not testify,
25 this defendant is, as I previously said, this defendant

1 has a constitutional right not to testify and it's not
2 to be held against him because he did not testify.

3 Criminal intent is a necessary element of each
4 crime and must be proven by the State beyond a
5 reasonable doubt. Criminal intent is a matter that must
6 be determined by you 12. There's no way to prove intent
7 to a mathematical certainty because medical science
8 cannot dissect a person's brain to determine what he has
9 in mind.

10 The law says that criminal intent may be inferred
11 from the circumstances shown to have existed. It is a
12 state of mind, which operating jointly with an act is a
13 crime.

14 Criminal Intent has been described as a mental
15 state. It is a conscious wrong doing, so it is up to
16 you 12 to determine what this defendant intended to do
17 based upon the evidence before you. I tell you the
18 State must prove criminal intent beyond a reasonable
19 doubt, just as it must prove every element beyond a
20 reasonable doubt.

21 The defendant is charged with arson in the second
22 degree. In order to prove second-degree arson, the
23 State must prove beyond a reasonable doubt this
24 defendant willfully and maliciously caused an explosion,
25 set fire to, burned, caused to be burned, or aided,

1 counseled, or procured the burning that resulted in
2 damage to a dwelling house, church or place of worship,
3 public or private school facility, building where
4 business is conducted, institutional facility or any
5 structure designed for human occupancy.

6 Now, willfully means that it was not done by
7 accident, but was done knowingly or intentionally. It
8 must be shown that the burning was by a willful act of
9 someone and not as a result of a natural or accidental
10 cause. Maliciously means with hatred. Your will or
11 hostility toward another. A person who intentionally
12 does a wrongful act without legal justification or an
13 excuse.

14 A malicious burn is an act of the condition of
15 mind which shows a heart bent on mischief, showing a
16 design to do an intentional wrong act toward another or
17 toward the public without any legal justification or
18 cause. Burning is defined in our statute as actual
19 combustion of some portion of a piece of property. It
20 is not necessary that the property be consumed or
21 destroyed. Charring of a material of which the property
22 is constructed or a chain to the fiber or composition of
23 a structure is required for a verdict.

24 You 12 have been selected as fair and impartial
25 jurors sworn to impartially try the criminal facts of

1 this case. And you are to decide this case according to
2 the testimony and the evidence in those documents that
3 have been received.

4 Madam Forelady and ladies and gentlemen, during
5 your deliberations you may only discuss the case in the
6 jury room with your fellow jurors because they have seen
7 and heard the same evidence you have seen and heard, but
8 you must not discuss it with anyone else until you have
9 returned a verdict and the case is pending.

10 Once the case is over you can discuss it with
11 anyone or no one, the choice is yours. But you must not
12 discuss it outside of the jury room with anyone until
13 you have rendered a verdict. Your verdict must be a
14 unanimous verdict.

15 Madam Forelady, when the jury agrees on the
16 verdict, you'll indicate the jury's verdict on the space
17 provided on the verdict form. I'm gonna provide it to
18 you. Knock on the door, advise the bailiff that you
19 have -- that the jury has reached its verdict, and we
20 will return you to the courtroom to accept the verdict.

21 Now, these are the two forms because we have two
22 indictments. One form is for one and one's for the
23 other. They are captioned with The State of South
24 Carolina with the Defendant's name and an indictment
25 number. The other one is one digit different from this

1 one. One goes to one indictment and one goes to the
2 other.

3 The question, there's one question on each one
4 that says: We, the jury, unanimously find the
5 defendant, Johnny Ray Chapman, on the charge of arson
6 second degree; to wit, the business of Abbott's Fruit
7 Market, not guilty or guilty. It matters not which one
8 comes first on this piece of paper. My law clerk's
9 seated with me, puts it in this format every -- in every
10 case.

11 Madam Forelady, if you would indicate the jury's
12 unanimous verdict, you can use an X mark, a checkmark,
13 an initial. The only thing I ask is that you make it
14 unambiguous so that the Court and the clerk, in
15 determining the verdict of this jury is clear. And then
16 it says: I certify this decision was the unanimous
17 decision of this jury. Madam Forelady, there's a space
18 here for you to sign your name.

19 The other verdict form is exactly the same except
20 there's one digit different on the indictment number and
21 this one says: To wit, the business of Thomas Welchel.

22 As you know and you can see, there are two
23 questions for the jury. The jury can find the defendant
24 guilty of both, not guilty of both, guilty of one, not
25 guilty of the other. Whatever the decision of the jury

1 is, it must be unanimous.

2 All right. In about 35 seconds I'm gonna ask
3 you, Madam Forelady, to take your jury out, all 13, but
4 do not begin deliberations. I've practiced law many
5 years in this courtroom before coming up here.

6 I'm gonna ask the lawyers to come up and go with
7 Madam Court Reporter and document that all of that
8 evidence is accounted for. It is so very easy as a
9 lawyer to be talking to you using a document and walk
10 back and lay it on my table and it's now missing because
11 all of this belongs to you. So when you go out, I'm
12 gonna ask them, starting now, to verify that it's all
13 here.

14 And once Madam Court Reporter and the two lawyers
15 verify it's there, my bailiff is gonna bring that
16 evidence to you. She's gonna bring both of these sheets
17 of paper.

18 And, sir, you are my alternate. The bailiff
19 brings this to the forelady, you will leave with my
20 bailiff and return to the courtroom. There's no video
21 back there. If the video needs to be watched again,
22 I'll return you to the courtroom to do that.

23 All right. Madam Forelady, if you take the jury,
24 all 13, out.

25 (Jury leaves the courtroom at 3:33 p.m.)

1 (Alternate returns to the courtroom at 3:36 p.m.)

2 THE COURT: Sir, thank you for your jury service.
3 This concludes your jury service this week. I released
4 the rest of your brothers and sisters at 12, I think,
5 this morning, about the time we broke for lunch. Thank
6 you again for your service. Come any time. He's gonna
7 take your badge and you're free to leave or you're
8 welcome to stay with us.

9 JUROR #60: I'll probably leave.

10 THE COURT: You'll probably leave. Again, thank
11 you for your service.

12 (Alternate Juror leaves the courtroom.)

13 (A recess was had at the hour of 3:37 p.m.)

14 (Court's Exhibit Number 2, Jury Note, was marked
15 for identification.

16 (Court's Exhibit Number 2 was entered into the
17 record.)

18 (Jury enters the courtroom at 4:02 p.m.)

19 THE COURT: All right. Ladies and gentlemen,
20 we've got it cued up for you here. Are you ready?

21 (Plays video.)

22 MS. SIEBER: And, Your Honor, this is the point
23 where we shut it off prior.

24 THE COURT: Madame Forelady, is that what the
25 jury wanted to see?

1 MADAM FORELADY: Pardon?

2 THE COURT: Is that what the jury wanted to see?

3 MADAM FORELADY: Yes, sir.

4 THE COURT: Anything further?

5 MADAM FORELADY: We're set.

6 THE COURT: Okay. If you'll take the jury back
7 out and resume deliberations.

8 (Jury leaves the courtroom at 4:07 p.m.)

9 Anything from the State or defense?

10 MS. SIEBER: No, Your Honor.

11 MR. DELANEY: No, Your Honor.

12 THE COURT: Okay.

13 (A recess was had from 4:07 p.m. - 4:12 p.m.)

14 THE COURT: Okay. We ready?

15 MS. SIEBER: Yes, Your Honor.

16 MR. DELANEY: Yes, Your Honor.

17 (Jury enters courtroom at 4:14 p.m.)

18 THE COURT: Madam Forelady, has the jury reached
19 its verdict?

20 MADAM FORELADY: We have, sir.

21 THE COURT: Thank you. If you would give that to
22 the bailiff, please.

23 Madame Clerk, please publish the verdict.

24 THE CLERK: In the court of general sessions,
25 Case Number 2019-GS-42-4066, The State of South Carolina

1 versus Johnny Ray Chapman, we, the jury, unanimously
2 find the defendant, Johnny Ray Chapman, on the charge of
3 arson in the second degree; to wit, the business of
4 Abbott Fruit Market guilty. This is signed by the
5 foreperson and dated today's date.

6 Case Number 2019-GS-42-4067, The State of South
7 Carolina versus Johnny Ray Chapman, we, the jury,
8 unanimously find the defendant, Johnny Ray Chapman, on
9 the charge of arson second degree; to wit, the business
10 of Thomas Welchel guilty. This is also signed by the
11 foreperson and dated today's date.

12 Ladies and gentlemen of the jury, if this is your
13 verdict and still your verdict, please raise your right
14 hand.

15 (All jurors rose their right hand.)

16 So say you all.

17 THE COURT: Polling from the jury from the State?

18 MS. SIEBER: No, Your Honor.

19 THE COURT: From the defense?

20 MR. DELANEY: No, Your Honor.

21 THE COURT: Okay. Madam Forelady, if you would
22 come forward to Madam Clerk and sign these indictments,
23 please. (Complies.)

24 Madam Forelady and ladies and gentlemen, thank
25 you so much for your service. We could not do what we

1 do without you. It's both an honor and a privilege to
2 serve on jury duty and an obligation to serve on jury
3 duty. And I thank you for accepting your
4 responsibility.

5 This concludes your jury service for the week. I
6 will be here tomorrow working, along with Judge Hayes,
7 but we do not need a jury. We will be doing non-jury
8 matters tomorrow, so you're invited back but you're not
9 gonna be required to be here.

10 I'm gonna let you turn your badges in and go with
11 the bailiff to turn your badges in. You're free to
12 leave if you choose, but some jurors in the past have
13 asked me if they could come, if they could see the
14 remainder of this process, and the answer to that is
15 yes.

16 So if you wish to stay for sentencing, you'll
17 turn your badge in and come back around, the bailiffs
18 will show you. You can come back in these doors and be
19 seated in the gallery out here instead of the jury box,
20 but you are not required to. It's your choice.

21 So with that, I'll give you one last thing about
22 inviting you back to the courthouse. Please, it is your
23 courtroom. It is your courthouse, mine too. I'm a
24 South Carolina, Spartanburg boy, so you're welcome here
25 any time. We would love to have you. Bring your child,

1 bring your grandchild, something like that to show them
2 the court.

3 Madam forelady, take them out. Thank you.

4 (Jury leaves the courtroom at 4:18 p.m.)

5 THE COURT: Matters from the State?

6 MS. SIEBER: No, Your Honor.

7 THE COURT: Matters from the defense?

8 MR. DELANEY: I would just renew my objection at
9 this time that I made earlier this morning, Your Honor,
10 regarding the trial proceeding forward. I don't think
11 my client is competent. The Department of Mental Health
12 found him incompetent at one time. Just for purposes of
13 the record, I renew that objection at this time, based
14 on my client's inability to assist with his defense.
15 Thank you.

16 THE COURT: All right. But I'll put on the
17 record that, again, himself says that he is not
18 incompetent. He wanted a trial, and the State found it,
19 and it's a Court's Exhibit into the record.

20 Do you have a motion for a new trial?

21 MR. DELANEY: Yes, Your Honor. I also make a
22 motion for a new trial for on those same grounds, Judge.
23 My client's mental incapacity to assist with his
24 defense, I make a motion for a new trial at this time.

25 THE COURT: Solicitor?

1 MS. SIEBER: Your Honor, the defendant was
2 competent to stand trial and I think he's been in this
3 trial and in speaking to you that he understands the
4 proceedings today.

5 THE COURT: Yes. The Court denies the motion for
6 a new trial. The State found him qualified, that he's
7 not incompetent. That document is a Court's exhibit.
8 And, also, the Court denies the new trial on the ground
9 that there was evidence to go to the jury, sufficient
10 evidence to go to the jury, so that motion is denied as
11 well.

12 Anything further from anyone before we proceed to
13 sentencing?

14 MS. SIEBER: No, Your Honor.

15 MR. DELANEY: No, sir.

16 THE COURT: Sentencing sheets, please.

17 MR. DELANEY: Your Honor, my client refuses to
18 sign the sentencing sheets.

19 THE DEFENDANT: I didn't get nobody to come in
20 here representing me. It changed the view of exhibits.
21 I mean, he came in this morning without any notification
22 of when I was coming to trial. And what I said at the
23 bond hearing is there has to be a way for him to -- him
24 keeping me in jail. I didn't know any of that
25 stipulation that I have to go out and get -- round up

1 people for my defense when I had the witness list.

2 THE COURT: All right. Solicitor, anything?

3 MS. SIEBER: Your Honor, the defendant does have
4 a prior record. He has a 1991 driving under suspension;
5 1994, driving under suspension; 1998, criminal domestic
6 violence; 2008, driving under the influence; 2017,
7 breach of peace; and a 2018, possession of a controlled
8 substance. And, judge, the victim in this case, Thomas
9 Welchel, is asking for \$1,600 in restitution as well.

10 THE DEFENDANT: See, I didn't know that either,
11 Judge. The value on my discovery showed \$100.

12 THE COURT: Okay. I'll defer that. All right.
13 Yes, sir.

14 MR. DELANEY: Thank you, Your Honor. Johnny
15 Chapman's 48 years old. He's single, but he has two
16 grown children, ages 32 and 27. He has a fourth grade
17 education, but he does inform me that he can read and
18 write. Prior to being arrested on this matter he did
19 some work as a painter.

20 Mr. Chapman has lodged numerous complaints
21 against me throughout the process, but generally they
22 all come back to the witness list and what he believes
23 or relies upon as basically his path of being able to
24 put up a case that will prove his innocence or assist
25 the jury in finding a not guilty verdict.

1 The witness list that he often refers to is a
2 one-page document that's got names on both sides. It's
3 got approximately 180 names on it. I'm not gonna recite
4 all of the names from the witness list, but some of the
5 names are Georgia Anderson, Chuck Wright, Albert
6 Einstein, Oprah Winfrey, Gail King, and God. And,
7 again, that's just a handful of the 180-some-odd members
8 of his witness list. Other than that, we were provided
9 with no relevant evidence or witnesses to testify for
10 Mr. Chapman's behalf.

11 The other, for lack of a better word, troubling
12 part of this case from my perspective is that Mr.
13 Chapman was sent down to Columbia originally and found
14 incompetent to stand trial, and 60 days later the State
15 found that he could be cured, which, again, from my
16 seat, is not the case. Judge, from the original
17 analysis of Mr. Chapman, the folks down at the
18 Department of Mental Health stated that Mr. Chapman
19 lacks a factual, rational understanding of the legal
20 system and he cannot assist his attorney in his defense
21 due to his delusional thinking, disorganized thought
22 process, labile mood, and distractability. And that is
23 exactly the state of my client throughout today's trial.

24 We would ask the Court to consider his mental
25 state when you sentence. We ask the Court for leniency

1 based on my client's, what I feel, and I don't have the
2 expertise or the authority to classify Mr. Chapman as
3 this, but from where I sit he is wholly incompetent and
4 we would ask for the Court's mercy. Thank you.

5 THE COURT: Sir, would you like to speak?

6 THE DEFENDANT: Sir?

7 THE COURT: Would you like to speak?

8 THE DEFENDANT: Sir, well, some of them are
9 nicknames. So like Albert Einstein, it's just their
10 little nickname. My cousin, Adam Hill, come to my house
11 where I stayed at in a camper, come to my house, drove
12 right by where everything was going on. Never mentioned
13 anything about a fire whatsoever.

14 He gives me a cigarette and then leaves just
15 before dawn. But he had already said that Spartanburg
16 County was trying to set me up, was looking to set me up
17 and had been. And some, some rather strange behavior
18 for the last 11 years. I live in Cowpens at [REDACTED] Boiling
19 Road, and they was -- I had two front doors, a front
20 porch connected that with both of them. But when I come
21 in from the girlfriend that I had at the time,
22 somebody's pried the door open.

23 Well, the police come out and it was two officers
24 and I said -- they said, well, what's your complaint
25 today? And I said, somebody's breaking in the home and

1 doing all this stuff. And the other police turned
2 around and said, yep, right here, you shows pry marks on
3 the door.

4 And the other police snapped his hand and said we
5 have a cure for that. I turned right back around and I
6 said, well, just give me a police report. I said,
7 because where I live at in the housing development, if
8 you changed the locks, the kitchen windows, anything
9 like that, you have to have a police report because
10 you've got to turn the key over. They pay for all that.
11 So if, it would have showed grounds for it and they
12 wouldn't do any of it.

13 So they come out again about seven times taking
14 it all down. And people's coming in the house, doing --
15 cutting sunglasses, the lens, messing with clothes,
16 bleaching clothes, throwing Clorox bleach on them.
17 Cutting ends off of towels. Just, just vandalizing.
18 And I'm sitting there trying to show the police, they're
19 not interest in it. But then it dawns on me that it is
20 bazaar. Things that they've done that I'm telling you.

21 It's the reason why I made me one of them police
22 reports. I mean, who breaks in somebody's house just to
23 vandalize? You know, cut the ends off of a towel. I
24 mean, come on. So I asked him, I said, so what was your
25 name, like that. And he cussed at me and said it wasn't

1 none of my, none of my F-ing business. And it's a
2 third, he would have come out three out of the seven to
3 nine times. So police report, so they could evict me.
4 Ended up evicting me because the police kept coming out
5 there. So he would come out of three to seven to nine
6 pounds.

7 So I go to Bud Arthur bridge Road, same thing.
8 The police kept coming out and Judge Georgia Anderson
9 was putting me in the hospital for no reason. I had a
10 malicious injury to personal property. Well, they're
11 tearing all of my stuff up. And I was reporting it to
12 the police and they won't do anything about it. No
13 reports. None. No report whatsoever.

14 So the first thing that I do in retaliation, it's
15 on that malicious injury to personal property, is --
16 they locked me up and then kicked me out. I mean, I
17 don't understand how come that I can't have -- all of my
18 stuff is gone. Nothing. I have nothing left. I didn't
19 understand why I can't use the justice system to help
20 me, but they can use it against me. I mean, it just
21 don't make much sense.

22 If they would have gave me the police report,
23 nothing ever -- I don't -- I've never have lived at 650
24 Bud Arthur Bridge Way. I know none of that because they
25 wanted me. They was beating me because in the lease it

1 states that if you have multiple run-ins with law
2 enforcement being called, due to the neighborhood, it's
3 grounds for an eviction.

4 THE COURT: Anything further?

5 THE DEFENDANT: (Shakes head back and forth.)

6 THE COURT: 2019-4066, five years at the
7 Department of corrections, consecutive to the other
8 indictment, credit for time. I deferred the
9 restitution. The defendant refused to sign.

10 2019-4067, five years, it would be consecutive to
11 the other indictment, credit for time. The defendant
12 refused to sign the paper. Best of luck to you.

13 MS. SIEBER: Thank you, Your Honor.

14 (Court concluded at 4:32 p.m.)

15

16

17 --- THIS ENDS REQUESTED TRANSCRIPT ---

18

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25

1 COURT REPORTER CERTIFICATE

2
3 I, the undersigned Julie A. Cendroski, Court
4 Reporter for the Seventh Judicial Circuit Court of the
5 State of South Carolina, do hereby certify that to the
6 best of my ability the foregoing is a true, accurate,
7 and complete transcript of record of all the proceedings
8 and evidence introduced in the hearing and/or trial of
9 the captioned case, relative to appeal, in the Court OF
10 General Sessions for Spartanburg County, South Carolina,
11 on the 30th day of January, 2020.

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

14
15
16
17
18 s/Julie A. Cendroski
19 Julie A. Cendroski
20 Circuit Court Reporter
21 Seventh Judicial Circuit
22
23
24
25

ARREST WARRANT

2018A4210204243

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

THE STATE
against

Johnny Ray Chapman

Address: 650 Bud Arthur Bridge Rd

Prosecuting Agency: Spartanburg County Sheriff

Prosecuting Officer: Garrett L. Cash - 0577

Offense: Arson / Arson - Second degree

Offense Code: 2551

Code/Ordinance Sec: 16-11-0110(B)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant on Chapman, Johnny
11/4/18

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
180 Magnolia Street
P O Box 3483
Spartanburg, SC 29304

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 918Personally appeared before me the affiant, Garrett L. Cash, who
being duly sworn deposes and says that defendant, Johnny Ray Chapman
did within this county and state on or about 11/4/2018 violate the criminal laws of the
State of South Carolina (ordinance of ☒ County/ ☐ Municipality of Spartanburg)
in the following particulars:

DESCRIPTION OF OFFENSE: Arson / Arson - Second degree

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:That on November 4, 2018 in the county of Spartanburg, one Johnny Ray Chapman did willfully and maliciously set fire causing
damage to a structure where business is conducted belonging to victim Abbott Fruit Markets. Warrant based on police investigation.
BT

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

Affiant's Address 8045 Howard Street

Spartanburg, SC 29303-

Affiant's Telephone (864)503-4500

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 11/4/2018 defendant Johnny Ray Chapman

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Spartanburg) as set forth below;

DESCRIPTION OF OFFENSE: Arson / Arson - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 11/4/2018

Signature of Issuing Judge
Charles F. Bagwell

Judge Code: 7389

(L.S.)

Judge's Address 180 Magnolia Street, Room 105

Spartanburg, SC 29306-

Judge's Telephone (864)596-2186

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

WITNESSES

Spartanburg County Sheriff's Office

Kevin Bots

ARREST WARRANT NUMBER

2018A4210204243

ACTION OF GRAND JURY

~~THIS IS~~
[Signature]
Foreperson of Grand Jury JUL 19 2019
Date:

VERDICT

Guilty
Kevin Bots 1-30-2020

Foreperson of Petit Jury
Date:

DOCKET NO.

19-GS-42-40 Cole

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUL 22 2019

TERM

THE STATE

vs.

Johnny Ray Chapman

Indictment for

ARSON - 2ND DEGREE

SC Code: 16-11-110(B)

CDR Code: 2551

Class FEL-B

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2019 JUL 24 PM 3:55

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

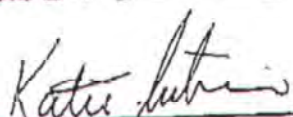
JUL 19 2019

At a Court of General Sessions, convened on _____, the Grand Jurors of Spartanburg County present upon their oath:

ARSON - SECOND DEGREE

That Johnny Ray Chapman, did in Spartanburg County on or about November 4, 2018, willfully and maliciously cause an explosion, set fire to, burn, or cause to be burned or aided, counseled or procured the burning of a building or structure that was one or more of the following: a dwelling house or any structure designed for human occupancy, to wit: the business of Abbott's Fruit Market, 291 Bud Arthur Bridge Road, Cowpens, South Carolina, all in violation of §16-11-110 (B), CODE OF LAWS OF SOUTH CAROLINA, (1976 as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE VS.

Johnny Ray Chapman

AKA:

Race: WHITE Sex: M Age: 48

C 29330

SID#:

Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Arson / Arson - Second degree

in violation of § 16-11-0110(B) of the S.C. Code of Laws, bearing CDR Code # 2551

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is. ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Katherine M. Sieber SC102826

SIEBER, KATHERINE M.

SC Bar#

Defendant

Delaney, Brendan M.
Attorney for Defendant

SCB68596

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2019-4067☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☒ RESTITUTION: ☒ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$	
§14-1-206 (Assessments 107.5 %)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 2.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS4204066

A/W#: 2018A4210204243

Date of Offense: 11/4/2018

S.C. Code § : 16-11-0110(B)

CDR Code #: 2551

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther: Defendant refused to sign

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code: 2165Sentence Date: 30 January 2020

ARREST WARRANT

2018A4210103487

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

THE STATE

18110149

against

Johnny Ray Chapman

Address: 650 Bud Arthur Bridge Rd

Cowpens, SC 29310-

420000

Prosecuting Agency: Spartanburg County Sheriff

Prosecuting Officer: Garrett L. Cash - 0577

Offense: Arson / Arson - Second degree

Offense Code: 2551

Code/Ordinance Sec: 16-11-0110(B)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Johnny R. Chapman
on 11-19-18

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
180 Magnolia Street
P O Box 3483
Spartanburg, SC 29304

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SOGA 518Personally appeared before me the affiant, Garrett L. Cash,
being duly sworn deposes and says that Johnny Ray Chapman
did within this county and state on or about 11/4/2018 violate the criminal laws of the
State of South Carolina (or ordinance 2018 NOV 27 AM 11:20 Municipality of Spartanburg)
in the following particulars:

DESCRIPTION OF OFFENSE: Arson / Arson - Second degree

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:That on November 4, 2018 in the county of Spartanburg, one Johnny Ray Chapman did willfully and maliciously cause set fire to,
burn, cause to be burned, a structure wherein business is conducted and belonging to victim. Property belonging to Thomas
Whelchel. Warrant based on police investigation. TCM

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

Affiant's Address: 8045 Howard Street

Spartanburg, SC 29303-

Affiant's Telephone: (864)503-4500

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 11/4/2018 defendant Johnny Ray Chapmandid violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Spartanburg) as set forth below:

DESCRIPTION OF OFFENSE: Arson / Arson - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before meon 11/19/2018Signature of Issuing Judge (L.S.)
Kerry L. Guillory

Judge Code: 7247

Judge's Address: 180 Magnolia Street

Spartanburg, SC 29306-

Judge's Telephone: (864)596-2228

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

WITNESSES

Spartanburg County Sheriff's Office

Kevin [Signature]

ARREST WARRANT NUMBER

2018A4210103487

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

JUL 19 2019

VERDICT

Guilty 1-30-2020

Kate Butler

Foreperson of Petit Jury

Date:

DOCKET NO.

19-GS-42-4067

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUL 22 2019

TERM

THE STATE

vs.

Johnny Ray Chapman

Indictment for

ARSON - 2ND DEGREE

SC Code: 16-11-110(B)

CDR Code: 2551

Class FEL-B

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2019 JUL 24 PM 3:55

BC

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JUL 19 2019 the Grand
Jurors of Spartanburg County present upon their oath:

ARSON - SECOND DEGREE

That Johnny Ray Chapman, did in Spartanburg County on or about November 4, 2018, willfully and maliciously cause an explosion, set fire to, burn, or cause to be burned or aided, counseled or procured the burning of a building or structure that was one or more of the following: a dwelling house or any structure designed for human occupancy, to wit: the business of Thomas Wheelchel, 424 Battleground Road, Cowpens, South Carolina, all in violation of §16-11-110 (B), CODE OF LAWS OF SOUTH CAROLINA, (1976 as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Katie Huber
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE VS.

Johnny Ray Chapman

AKA:

Race: WHITE Sex: M Age: 48

Address: 650 Bud Arthur Bridge Rd

City/State/Zip: Spartanburg, SC 29330

SID#:

☐ No ☐ MV Yes ☐ No ☐ Hazmat Yes ☐ No

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The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

KATHERINE M. SIEBER

SC102826

SC Bar#

Defendant

Delaney, Brandon M
Attorney for Defendant

SCB68596

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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SPECIAL CONDITIONS:

☒ RESTITUTION: ☒ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5 %)

\$

§14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

§14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§56-5-2995 (DUI Assessment)

\$12

\$

§56-1-286 (DUI Breath Test)

\$25

\$

Proviso (Public Def/Probation)

\$500

\$

§14-1-212 (Law Enforce. Funding)

\$25

\$

§14-1-213 (Drug Court Surcharge)

\$150

\$

§50-21-114(BUI Breath Test Fee)

\$50

\$

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

TOTAL

\$

Obtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther: Defendant refused to sign.
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk

Court Reporter:

Presiding Judge

Judge Code:

Sentence Date:



State of South Carolina Department of Mental Health

MENTAL HEALTH COMMISSION:

Allison Y. Evans, PsyD, Chair
Sharon L. Wilson, Vice Chair
Louise Haynes
Bob Hlott, MEd
L. Gregory Pearce, Jr.

INTERIM STATE DIRECTOR

Mark Binkley

Division of Inpatient Services
Forensic Evaluation and Outpatient Services
7901 Farrow Road, Building #6
Columbia, SC 29203
Information: (803) 835-6600

August 28, 2019

Katherine Sieber
Assistant Solicitor
180 Magnolia Street, 3rd Floor
Spartanburg, SC 29306

Re: The State of South Carolina vs. Chapman, Johnny R.
DMH #: 1029-3386
Spartanburg County, Court of General Sessions

Dear Assistant Solicitor Sieber

In accordance with the court order issued by the Honorable R. Keith Kelly, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health and South Carolina Department of Disabilities and Special Needs, pursuant to S.C. Code Ann. § 44-23-410 (1976).

Please see the attached report for the results of this evaluation.

This 11 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

Aug 28, 2019
Date

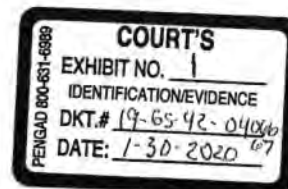
Rosalinda Burt
for Kelly Gothard, Ph.D.
Clinical Director
Forensic Outpatient Services
Department of Mental Health

cc: Rachel A. Kepley, Attorney at Law, 366 N. Church St, Ste. 3000, Spartanburg, SC 29303
Melinda Fair, DDSN, PO Box 4706, Columbia, SC 29240

KG/rb

MISSION STATEMENT

To support the recovery of people with mental illnesses.



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SCDMH South Carolina Department of Mental HealthSouth Carolina
Department of
Mental HealthDMH Mailing Address -Forensic Evaluation Services/CBHS
7901 Farrow Rd., Building 6
Columbia, SC 29203
(803) 935-5600
(803) 935-5599 Fax

HIPAA (PHI) FAX COVERSHEET

To: Katherine Sieber

TELEPHONE

FAX

From: Rosalind Burks

(864) 596-2386

Date: August 29, 2019

NO. PAGES INCLUDING THIS PAGE

23

TIME

See Date Stamp

☐ Urgent☒ For Review☐ Please Comment☐ Please Reply☐ Please Recycle

SUBJECT:

FORENSIC REPORT ATTACHED; J. Chapman

MESSAGE:

THIS COMMUNICATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN SCDMH PATIENT OR OTHER INFORMATION THAT IS PRIVATE AND PROTECTED FROM DISCLOSURE BY APPLICABLE LAW INCLUDING 45 CFR PART 160 (HIPAA), 42 CFR PART 2 (ALCOHOL AND DRUG PROGRAM CONFIDENTIALITY, WHEN APPLICABLE), §44-22-100, S.C. CODE (SCDMH PATIENT CONFIDENTIALITY). IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION OR THE INFORMATION CONTAINING WITHIN IT, IS STRICTLY PROHIBITED AND MAY SUBJECT THE VIOLATOR TO CIVIL AND/OR CRIMINAL PENALTIES. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, REPLY E-MAIL OR FAX USING THE PHONE NUMBER OR ADDRESS IDENTIFIED IN THIS COMMUNICATION AND DESTROY OR DELETE ALL COPIES OF THIS COMMUNICATION AND ALL ATTACHMENTS.

20. Abbot surveillance footage – unable to view
21. Police body camera footage, Sergeant Wood dated November 4, 2018.
22. Police body camera footage, Deputy Allen dated November 4, 2018.
23. Police body camera footage, Deputy Thomas dated November 4, 2018.
24. Police body camera footage, Sergeant Wood (in car) dated November 4, 2018.
25. Medical records from the Spartanburg County Detention Center dated April 19, 2018 to December 5, 2018.
26. Medical records from Patrick B. Harris Psychiatric Hospital dated March 13, 2014 to March 25, 2014.
27. Medical records from the Spartanburg Area Mental Health Center dated April 3, 2014 to April 10, 2014.
28. Medical records from Mary Black Health System dated July 22, 2009 to September 27, 2017.
29. Medical records from Spartanburg Regional Medical Center dated August 14, 2011 to March 3, 2018.
30. Medical records from G. Werber Bryan Psychiatric Hospital Forensic Services (BPH Forensics) dated June 25, 2019 to August 18, 2019.
31. A 15-minute telephone interview with Dr. Sanzone (inpatient psychiatrist for the defendant at BPH Forensics) on August 13, 2019.
32. SCDMH Episodes of Care form
33. A one-hour and two-minute clinical forensic interview conducted on August 19, 2019 and a one-hour and fifty-three minute clinical forensic interview conducted on March 14, 2019.

A SCDMH Forensic Evaluation Service social work assessment could not be conducted due to lack of next of kin.

We reserve the right to alter our opinion should further information become available.

CLINICAL AND PSYCHIATRIC HISTORY

Mr. Chapman was escorted to the evaluation center by SCDMH officers. He reported that he has been doing "all better" at the hospital. He stated that he had an issue with another patient punching him and this resulted in lingering physical pain, but he is working to resolve this "issue." He reported that, other than that incident, he gets along well with all of the other patients and staff. The defendant went on to describe a "great" mood and commended the staff at the hospital for providing excellent care for the patients.

He denied that he has experienced depressed mood. He denied current suicidal or homicidal ideations but admitted that he attempted suicide twice in the past by "taking pills." He denied the signs and symptoms associated with mania and psychosis. The defendant explained that he is not prescribed psychiatric medications and has been doing well at the hospital without them. He reported that the groups have been helpful. He attends all groups that are assigned to him and often sits in on others if allowed.

He admitted that he received treatment at Patrick B. Harris Psychiatric Hospital (PBHPH) and Spartanburg Area Mental Health Center (SAMHC). However, he does not believe that he is mentally ill, or that he needed treatment at those times.

REVIEW OF AVAILABLE RECORDS

According to records from G. Werber Bryan Psychiatric Hospital Forensic Services (BPH Forensics), Mr. Chapman was admitted on June 25, 2019 for a 60-day competency restoration. He presented as frustrated and angry with being sent to inpatient treatment. He displayed poor hygiene, limited insight, and perseverated in his thought process. He was guarded and suspicious of staff. He was initially prescribed risperidone sol-tab (Risperdal M-Tab®, an antipsychotic oral disintegrating tablet). With only a few brief episodes of paranoia recorded during his stay, the defendant immediately began to behave appropriately. He interacted well with staff and peers. During group sessions, he did not display signs and symptoms of psychosis. He complained to his psychiatrist that the medication was not helpful, thus it was switched to olanzapine (Zyprexa®, an antipsychotic). He continued to complain of his psychiatric medication and requested that it be stopped. With input from the treatment team, Dr. Sanzone gave him a trial period with no psychiatric medication starting August 5, 2019. He tolerated this change well and has not seen a return of symptoms. His diagnoses as of August 12, 2019 were "Unspecified Schizophrenia Spectrum and Other Psychotic Disorder" and "Methamphetamine-Type Use Disorder."

According to records from the Spartanburg County Detention Center, Mr. Chapman was witnessed "talking to wall and objects" on April 24, 2019. He was placed on the list for mental health follow up. On November 5, 2018 he told staff that he had a history of Schizophrenia and "bipolar" and has been "off medications" for eight months.

According to records from Spartanburg Regional Medical Center, the defendant has been evaluated by emergency department (ED) staff and admitted for inpatient treatment on several occasions since August 2011. He has been assigned a variety of diagnoses including: Depressive Disorder, NOS with psychotic features; Polysubstance Dependence; Amphetamine induced depressive disorder, with use disorder, severe; Cannabis Use Disorder; Cluster B traits; Amphetamine induced psychotic disorder with use disorder, severe; Antisocial Personality Disorder; Unspecified Psychotic Disorder; Amphetamine and Cannabis Use Disorder; and "Schizophrenia, Paranoid Type versus Delusional Disorder." Over the years, his urine drug screen tests have been positive for amphetamine, phencyclidine (PCP), and cannabis. On March 10, 2014, he admitted to staff he functioned well when he did not use illicit drugs. He reported that when he uses methamphetamine, he experiences hallucinations and paranoia. From February 16, 2018 to March 3, 2018, Mr. Chapman was evaluated in the ED on three occasions after being brought in on detention order (DO). He reported that his daughter was using this method, a DO, to punish him for getting into an argument with her. He claimed that she was using illicit drugs and causing problems at their home. He was described as "polite and cooperative and had normal thought content and process...he did not appear psychotic during the assessment and said he has not used meth in two months." After

he was evaluated the second and third times, staff assumed that he was delusional about the daughter and asked that he stay away from her prior to his discharge from the ED. Please note that the defendant experienced a head injury on July 1, 2017 where he fell from a ladder and hit his head and right shoulder. CT head was negative for acute intracranial abnormalities.

According to medical records from the Mary Black Health System, he was evaluated in the ED on April 1, 2012 for "paranoia, hearing voices." Staff expressed concern that he had attempted to overdose on dextroamphetamine/amphetamine (Adderall®, a stimulant) and methamphetamines. His urine drug screen was positive for methamphetamine and amphetamine. His discharge diagnoses were "Paranoid Schizophrenia," "Methamphetamine overdose," "Adderall overdose," and "Tobacco Abuse." He had a CT head examination on September 27, 2017 due to complaints of headache. The findings indicated no acute intracranial abnormalities; however, prior surgical changes in the frontal region were noted.

According to records from PBHPH, the defendant was admitted for inpatient psychiatric treatment on March 13, 2014 and discharged on March 25, 2014. He presented as paranoid and irritable. He admitted that he was using methamphetamine and had a positive urine drug screen for amphetamines. He was prescribed haloperidol (Haldol®, an antipsychotic), citalopram (Celexa®, an antidepressant), and diphenhydramine (Benadryl®, used for side effects from antipsychotics) and referred to an "Intensive Substance Abuse Program." His discharge diagnoses were "Methamphetamine Induced Psychotic Disorder (resolved)," "Substance Induced Mood Disorder - Depressed Type," "Polysubstance Dependence in Controlled Environment," and "Cognitive Disorder, not otherwise specified (NOS) (possibly due to TBI)."

According to medical records from the SAMHC, Mr. Chapman followed up for one visit on April 3, 2014 after his inpatient psychiatric treatment at PBHPH. His urine drug screen was positive for cannabis and cocaine. He reported to staff that he believed that "meth caused these problems" and his recent need for inpatient psychiatric treatment. He requested that his chart be closed and told staff that he would abstain from using drugs. It was noted that he appeared anxious. He was diagnosed with Substance Induced Mood Disorder, by history; rule out Personality Disorder; and Traumatic Brain Injury (TBI), by history.

ALCOHOL AND SUBSTANCE USE HISTORY

Mr. Chapman reported that he smoked one pack of cigarettes daily. He denied that smoking caused problems for him. He denied past use of alcohol, illicit drugs, or prescription misuse. When pressed, he admitted that he used methamphetamines and last used in the detention center on November 4, 2018. Review of the medical records indicates that use of this substance has caused significant problems for the defendant socially, occupationally, and legally. He continued to use despite symptoms of paranoia and hallucinations. He appeared to develop tolerance over time and had difficulty

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quitting. He meets criteria for Amphetamine-type Substance Use Disorder, in a controlled environment.

He denied use of other illicit substances and alcohol; however, it is evident from the medical record that he regularly used cannabis and has tested positive for PCP and cocaine. He denied past substance abuse treatment although he has been referred to treatment (according to the record). Due to lack of detailed information regarding his use of other illicit drugs, we will not be assigning another diagnosis at this time.

MEDICAL HISTORY

Mr. Chapman denied significant medical problems. He admitted to a past head injury. He reported that someone struck him with a pool stick across his forehead. This assault "crushed [his] forehead." According to the medical record, the defendant was hit on the frontal region of his head. A head CT confirms a past brain injury to the frontal region with surgical changes noted in the findings.

FAMILY HISTORY

The defendant's mother, Ms. Willie May Sanders "sold drugs." His father, Mr. Bobby Chapman is retired and worked at Sun Supply® and "Sid Harvey's" doing HVAC delivery and installation. He denied that family members had mental illness or that there were past suicides.

SOCIAL HISTORY

Mr. Chapman was born in Greenville, South Carolina and raised in Spartanburg, South Carolina. His primary caregiver was his father. He is the youngest of three sons. He reported a good upbringing except for severe abuse by his mother (i.e. stabbing him with a pool stick and beating him) and one of his brothers. His parents divorced when he was nine years old. He reported that his uncle sexually abused him when he was five or six years old.

The last grade that the defendant completed was 4th grade. He repeated the 5th grade three times and eventually quit because of "racism." When he stopped attending school, he was charged with Truancy and sent to a "boy's home." He was there for six months before being released on probation. He tried to attend the Will Lou Gray Opportunity College but quit after he was assaulted due to "racism." He believes that since he was 15 years old, the courts no longer pursued him for Truancy and he did not return to school. He reported that while he was in school he made "good grades." He admitted that he was suspended once after getting into an altercation with a teacher. He denied past expulsions. He denied other behaviors associated with Conduct Disorder.

Mr. Chapman worked as a roofer at Cannon Roofing® and worked for Southern Cross, Inc.® repairing gas main bell joints. He denied that he has received disability benefits. He did not serve in the military.

He has never been married. He has one adult daughter. He had another daughter who died in a house fire as a child. At the time of his arrest, he was living in a camper on his daughter's property.

A review of the defendant's NCIC report revealed the following arrests and convictions:

1. October 10, 1990 – Grand Larceny (dismissed)
2. July 9, 1991 – Petty Larceny (not guilty); Malicious Injury to Property (not guilty); Assault and Battery (not guilty)
3. November 16, 1991 – Driving Under Suspension 1st (convicted)
4. July 13, 1992 – Assault and Battery of a High and Aggravated Nature (dismissed)
5. July 14, 1992 – Fraudulent Check (dismissed)
6. August 12, 1992 – Assault and Battery; Fraudulent Check, two counts
7. February 23, 1993 – Burglary (Violent) – 2nd degree (non-conviction); Common Law Robbery, Strong Arm Robbery (non-conviction)
8. May 12, 1994 – Assault and Battery (not guilty)
9. May 16, 1994 – Driving Under Suspension 2nd Offense (convicted)
10. January 19, 1998 – Criminal Domestic Violence (convicted)
11. January 24, 1998 – Assault
12. June 12, 1998 – Criminal Domestic Violence (not guilty)
13. August 27, 1998 – Assault and Battery
14. December 6, 1998 – Driving Under Suspension
15. May 12, 2007 – Open Container of Beer/Wine; Possession of 28 grams or less Marijuana/10 grams or less Hash 1st
16. October 9, 2007 – Driving Under the Influence 2nd Offense (convicted)
17. January 21, 2009 – Driving Under Suspension 2nd (convicted)
18. February 20, 2012 – Fail to Appear After Release for Misdemeanor (convicted)
19. June 13, 2016 – Driving Under Suspension
20. June 13, 2017 – Breach of Peace (convicted)
21. September 8, 2018 – Possess Schedule I (B) (C) LSD/Schedule II 1st (convicted)
22. November 4, 2018 – Arson 2nd Degree
23. November 20, 2018 – Arson 2nd Degree

MENTAL STATUS EXAMINATION

Mr. Chapman presented to the evaluation appropriately dressed. He was well groomed with appropriate hygiene. He made good eye contact. No abnormal movements were noted. His speech was fluent and clear with normal volume when he spoke. He had a linear and goal-directed thought process. He was cooperative with the evaluation and answered questions appropriately. He was alert and oriented to person, place, and situation. He stated that the date was August 16, 2019. He had an average fund of

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knowledge. He was able to name the current president and three immediate past presidents. He was able to perform a calculation. The defendant was able to repeat three words presented to him and recall all three after a period of distraction. He was able to recall significant past personal information and we find no evidence of clinically significant long- or short-term memory impairment.

Mr. Chapman performed well on a test of concentration. He was able to place similar objects into abstract categories and interpret common idioms. His judgment to a hypothetical situation was fair. If he were in a crowded theater and smelled smoke, he would "go to the exits." The defendant described his mood as "great" and he was observed to have a euthymic (normal) affect (observed expression of mood). He denied current suicidal or homicidal ideations. He denied current auditory or visual hallucinations, and he did not appear to be responding to internal distractions. He did not voice fixed, false beliefs (i.e. delusions).

DIAGNOSTIC IMPRESSION

He meets criteria for Amphetamine-type Substance Use Disorder, in a controlled environment. See section on Alcohol and Substance Use History for full diagnostic criteria.

Mr. Chapman sustained head trauma when he was a young adult that caused injury to the frontal region of his brain. This was confirmed on a CT head examination performed on September 27, 2017. The findings confirmed a past injury with prior surgical changes noted. The defendant has been assigned the diagnosis of Traumatic Brain Injury (TBI). He does not appear to have a Neurocognitive Disorder associated with this injury. He is able to function appropriately socially and behaviorally.

The defendant voiced delusional thoughts and had a disorganized thought process during our initial evaluation on March 14, 2019. He admitted that he had used crystal methamphetamine while in the detention center several months prior. He has since had no access to illicit drugs. Although he was paranoid when he was admitted for his 60-day competency restoration, this resolved rapidly (within 24 hours). During his inpatient stay, he was prescribed two different antipsychotic medications but they did not appear to add benefit (according to Mr. Chapman and staff report). These medications were stopped on August 5, 2019, which is two weeks prior to this evaluation. He has not had a return of psychotic symptoms. He interacts well with staff and peers at the hospital. He has not displayed signs of behavioral disturbances. He has, by all recent accounts, been psychiatrically stable, even when not taking antipsychotic medication. This information indicates that Mr. Chapman was experiencing residual symptoms of psychosis from his use of illicit drugs during our first evaluation.

He does not meet the criteria for a genuine psychotic illness at this time. All previous symptoms of psychosis appear to be substance related. As for his past diagnoses of "Schizophrenia versus Delusional Disorder" and "Paranoid Schizophrenia," they were assigned to him by ED staff during brief encounters, which can make it difficult to

narrow down a diagnosis. Additionally, he was using illicit drugs during the episodes where he appeared psychotic. Since his symptoms of psychosis were directly related to his illicit substance use, he did not meet the criteria for these diagnoses and they will not be assigned at this time. His current presentation is evidence of his mental stability. Additionally, he has distinct periods of sobriety (according to the medical records) where he is stable and functional when not using illicit drugs. His symptoms of psychosis return after he uses methamphetamine, which are common side effects of this illicit drug.

CONCLUSION REGARDING CAPACITY TO STAND TRIAL

The S.C. Code Ann. §44-23-410 states a defendant lacks capacity to stand trial if that defendant "lacks the capacity to understand the proceedings against him or to assist in his own defense as a result of a lack of mental capacity"

Mr. Chapman answered all questions regarding the legal system appropriately and correctly.

The defendant was aware of the charges against him and the alleged acts that resulted in the charges against him. He stated that the charges were felonies and that they were serious. Mr. Chapman reported that he could "get up to 25 years" if convicted of these charges. He stated that a judge told him this during his bond hearing.

Mr. Chapman identified his attorney as "Rachel Kepley". He reported meeting with his attorney prior to the evaluation "three times" and trusts that his case is being handled appropriately. He stated that his lawyer's job was "to gather evidence in my favor...talking to people...sway jury in my favor to a *not guilty* verdict" and that she was "on his side." The defendant reported that he trusted his lawyer and is willing to tell her his side of events. When asked if he would keep secrets from his attorney, he stated, "No."

The defendant stated that the solicitor's job was "to convict me on the charges" and that she was "against" him. When asked if he would speak to the solicitor without his lawyer present, he stated, "No...use it against me."

He reported that the job of the judge was to "listen to both sides...hand down sentence...maintain order in the court."

The defendant was able to state that there are twelve jurors and that all twelve have to agree for a *guilty* or *not guilty* verdict. He reported that a *guilty* verdict would result in sentencing and a *not guilty* verdict would result in being released from custody.

Mr. Chapman was able to state the pleas of *guilty* and *not guilty* and correctly defined them both. He was able to accurately describe the concept of a plea bargain. He understood that he did not have to accept a plea bargain. He understood that if he

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pleaded *guilty*, he would be giving up his right to a trial and receiving a sentence. He understood that he would go to trial following entering a *not guilty* plea.

Mr. Chapman was able to correctly solve a hypothetical problem involving the courtroom. For example, if someone were lying about him in court, he would tell his attorney. He understood the importance of appropriate courtroom behavior and understood that if he were to be disruptive in court, he would get an additional charge. He understood the importance of telling the truth under oath and that there could be consequences for lying under oath; he understood the term *perjury*.

He was able to describe the role of evidence and witnesses in his case. He was able to describe the role of evidence and witnesses in a hypothetical situation presented to him. He understood the requirements involved in probation.

He understood the concept of testifying in court. He understood that he could not be forced to testify. He stated that he would speak with his attorney if he had questions about wanting to testify in the future. He stated that if he were to testify that he could be asked questions by the solicitor, judge, and his attorney. When asked if he thought he would get a fair trial, he stated, "Yes." His hope for the case is "I'm found *not guilty*."

In summary, it is our opinion that the defendant understands the proceedings against him and is able to assist his defense attorney in the preparation of a defense should he choose to do so. Therefore it is our opinion that Mr. Johnny Chapman has the capacity to stand trial pursuant to State vs. Blair, 275 S.C. 529, 273 S.E. 2d 536 (1981) and S.C. Code Ann. §44-23-410 (1976).

Please be aware that it is possible that the defendant will return to using illicit drugs if he is to gain access at the detention center. His substance use might cause him to appear psychotic. Paranoia, delusional thinking, and disorganized behavior are common side effects of amphetamine-type drugs.

Dr. Hall (SCDDSN Examiner) has had an opportunity to review this report and concurs with the opinions herein.


Stephanie M. Le, MD
Forensic Psychiatrist



State of South Carolina
Department of Mental Health

MENTAL HEALTH COMMISSION:

Allison Y. Evans, PsyD, Chair
Sharon L. Wilson, Vice Chair
Louise Haynes
Bob Hott, MEd
L. Gregory Pearce, Jr.

INTERIM STATE DIRECTOR
Mark Binkley

August 28, 2019

Division of Inpatient Services
Forensic Evaluation and Outpatient Services
7901 Farrow Road, Building #6
Columbia, SC 29203
Information: (803) 935-6800

Rachel A. Kepley
Attorney at Law
366 N. Church Street, Ste. 3000
Spartanburg, SC 29303

Re: The State of South Carolina vs. Chapman, Johnny R.
DMH #: 1029-3386
Spartanburg County, Court of General Sessions

Dear Attorney Kepley:

In accordance with the court order issued by the Honorable R. Keith Kelly, evaluations of criminal responsibility and capacity to conform were conducted by the South Carolina Department of Mental Health (SCDMH) pursuant to S.C. Code Ann. § 17-24-10 (1976) and § 17-24-20 (1976).

Please see the attached report for the results of this evaluation.

This 11 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 17-24-10 (1976) and § 17-24-20 (1976).

Aug. 28, 2019
Date

Rosalind Burks
for Kelly Gothard, Ph.D.
Clinical Director
Forensic Outpatient Services
Department of Mental Health

cc: Katherine Sieber, Assistant Solicitor, 180 Magnolia St., 3rd Floor, Spartanburg, SC 29306

KG/rb

MISSION STATEMENT
To support the recovery of people with mental illnesses.



CRIMINAL RESPONSIBILITY AND CAPACITY TO CONFORM EVALUATION
FORENSIC EVALUATION SERVICE
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (SCDMH)

DATE OF EVALUATION: August 19, 2019
NAME: Johnny Chapman
SCDMH #: [REDACTED]
PRESIDING EXAMINER: Stephanie M. Le, MD
Forensic Psychiatrist
PSYCHIATRIC DIAGNOSES: Amphetamine-type Substance Use Disorder, in a
controlled environment
Traumatic Brain Injury (TBI)

OPINION REGARDING CRIMINAL RESPONSIBILITY

Mr. Johnny Chapman would have been criminally responsible on or about November 4, 2018.

OPINION REGARDING CAPACITY TO CONFORM

Mr. Chapman would have had the capacity to conform his behavior to the requirements of the law on or about November 4, 2018.

DISPOSITION

Mr. Chapman returned to G. Werber Bryan Psychiatric Hospital Forensic Services upon conclusion of this evaluation.

IDENTIFYING INFORMATION

Mr. Johnny Chapman is a 48-year-old Caucasian male who was seen at the Forensic Evaluation Service pursuant to a court order from the Spartanburg County Court of General Sessions. This court order requested an evaluation of the defendant's criminal responsibility for his actions on or about November 4, 2018, and if responsible, a determination of his capacity to conform his conduct to the requirements of the law pursuant to S.C. Code Ann. §17-24-10 (1976). The defendant is currently charged with Arson, 2nd degree, two counts. According to the court order, this request was issued for the following reason: "Johnny Chapman is currently charged with two counts of Arson, Second Degree. Mr. Chapman has been diagnosed and treated for Schizophrenia, Delusional Disorder, as recently as 2012. His mental health disorders cause frequent breaks with reality, psychosis, and paranoid thinking. Mr. Chapman has been

prescribed Depakote and anti-psychotic medications for his disorders. On the date of the incident, Mr. Chapman was not taking any of his medications as he struggles to maintain stable medical treatment. Mr. Chapman has expressed active delusional thinking and reports auditory hallucinations to his defense counsel that complicate the ability to properly prepare a defense for these charges."

STATEMENT OF NONCONFIDENTIALITY

Prior to participating in the examination, Mr. Chapman was warned regarding the limitation of confidentiality. He was informed that this evaluation was court ordered. He was informed that the evaluators were employed by the South Carolina Department of Mental Health and were not being paid by his attorney or the solicitor in his case. He was informed that after the evaluation was completed a report would be submitted to his attorney. He was also informed that a report would be submitted to the solicitor and the judge in his case. Finally, he was informed that the evaluators could be called to court to testify at a hearing related to his criminal responsibility and his capacity to conform his behavior. He was able to answer questions regarding this information correctly and he voluntarily agreed to participate in the evaluation.

SOURCES OF INFORMATION

1. An order from the Spartanburg County Court of General Sessions requesting commitment for competency restoration dated April 30, 2019.
2. An order from the Spartanburg County Court of General Sessions requesting a Competency to Stand Trial evaluation dated January 11, 2019.
3. Arrest warrant 2018A4210204243 for Arson/Arson -- second degree dated November 4, 2018.
4. Arrest warrant 2018A42101003487 for Arson/Arson -- second degree dated November 4, 2018.
5. Spartanburg County Sheriff's Office Deputy Report for Incident 18110149 dated November 4, 2018.
6. Narrative by Deputy Allen dated November 4, 2018.
7. Supplemental Investigative Report with narrative by Investigator Cash dated November 4, 2018.
8. Spartanburg County Sheriff's Office Deputy Report for Incident 18110148 dated November 4, 2018.
9. Supplemental narrative by Sergeant Wood
10. Supplemental narrative by Deputy Allen
11. Supplemental narrative by Investigator Cash
12. Spartanburg County Sheriff's Office -- Detention, Personal Property as Evidence Form dated November 4, 2018.
13. Spartanburg County Sheriff's Department Property Report dated November 15, 2018.
14. Voluntary Statement by Mr. Dennis McDaniel dated November 16, 2018.
15. Spartanburg Communications/911 Incident Details Report dated November 4, 2018.

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16. Solicitor's Office Deputy Report for Incident 18110148 dated November 4, 2018.
17. National Crime Information Center (NCIC) report for the defendant dated December 14, 2018.
18. Crime Scene photographs dated November 4, 2018.
19. 911 audio files with Mr. Dennis McDaniel, Mr. Kenneth Ashe, and four anonymous callers
20. Abbot surveillance footage – unable to view
21. Police body camera footage, Sergeant Wood dated November 4, 2018.
22. Police body camera footage, Deputy Allen dated November 4, 2018.
23. Police body camera footage, Deputy Thomas dated November 4, 2018.
24. Police body camera footage, Sergeant Wood (in car) dated November 4, 2018.
25. Medical records from the Spartanburg County Detention Center dated April 19, 2018 to December 5, 2018.
26. Medical records from Patrick B. Harris Psychiatric Hospital dated March 13, 2014 to March 25, 2014.
27. Medical records from the Spartanburg Area Mental Health Center dated April 3, 2014 to April 10, 2014.
28. Medical records from Mary Black Health System dated July 22, 2009 to September 27, 2017.
29. Medical records from Spartanburg Regional Medical Center dated August 14, 2011 to March 3, 2018.
30. Medical records from G. Werber Bryan Psychiatric Hospital Forensic Services (BPH Forensics) dated June 25, 2019 to August 18, 2019.
31. A 15-minute telephone interview with Dr. Sanzone (inpatient psychiatrist for the defendant at BPH Forensics) on August 13, 2019.
32. SCDMH Episodes of Care form
33. A one-hour and two-minute clinical forensic interview conducted on August 19, 2019 and a one-hour and fifty-three minute clinical forensic interview conducted on March 14, 2019.

A SCDMH Forensic Evaluation Service social work assessment could not be conducted due to lack of next of kin.

We reserve the right to alter our opinion should further information become available.

CLINICAL AND PSYCHIATRIC HISTORY

Mr. Chapman was escorted to the evaluation center by SCDMH officers. He reported that he has been doing "all better" at the hospital. He stated that he had an issue with another patient punching him and this resulted in lingering physical pain, but he is working to resolve this "issue." He reported that, other than that incident, he gets along well with all of the other patients and staff. The defendant went on to describe a "great" mood and commended the staff at the hospital for providing excellent care for the patients.

He denied that he has experienced depressed mood. He denied current suicidal or homicidal ideations but admitted that he attempted suicide twice in the past by "taking pills." He denied the signs and symptoms associated with mania and psychosis. The defendant explained that he is not prescribed psychiatric medications and has been doing well at the hospital without them. He reported that the groups have been helpful. He attends all groups that are assigned to him and often sits in on others if allowed.

He admitted that he received treatment at Patrick B. Harris Psychiatric Hospital (PBHPH) and Spartanburg Area Mental Health Center (SAMHC). However, he does not believe that he is mentally ill, or that he needed treatment at those times.

REVIEW OF AVAILABLE RECORDS

According to records from G. Werber Bryan Psychiatric Hospital Forensic Services (BPH Forensics), Mr. Chapman was admitted on June 25, 2019 for a 60-day competency restoration. He presented as frustrated and angry with being sent to inpatient treatment. He displayed poor hygiene, limited insight, and perseverated in his thought process. He was guarded and suspicious of staff. He was initially prescribed risperidone sol-tab (Risperdal M-Tab®, an antipsychotic oral disintegrating tablet). With only a few brief episodes of paranoia recorded during his stay, the defendant immediately began to behave appropriately. He interacted well with staff and peers. During group sessions, he did not display signs and symptoms of psychosis. He complained to his psychiatrist that the medication was not helpful, thus it was switched to olanzapine (Zyprexa®, an antipsychotic). He continued to complain of his psychiatric medication and requested that it be stopped. With input from the treatment team, Dr. Sanzone gave him a trial period with no psychiatric medication starting August 5, 2019. He tolerated this change well and has not seen a return of symptoms. His diagnoses as of August 12, 2019 were "Unspecified Schizophrenia Spectrum and Other Psychotic Disorder" and "Methamphetamine-Type Use Disorder."

According to records from the Spartanburg County Detention Center, Mr. Chapman was witnessed "talking to wall and objects" on April 24, 2019. He was placed on the list for mental health follow up. On November 5, 2018 he told staff that he had a history of Schizophrenia and "bipolar" and has been "off medications" for eight months.

According to records from Spartanburg Regional Medical Center, the defendant has been evaluated by emergency department (ED) staff and admitted for inpatient treatment on several occasions since August 2011. He has been assigned a variety of diagnoses including: Depressive Disorder, NOS with psychotic features; Polysubstance Dependence; Amphetamine induced depressive disorder, with use disorder, severe; Cannabis Use Disorder; Cluster B traits; Amphetamine induced psychotic disorder with use disorder, severe; Antisocial Personality Disorder; Unspecified Psychotic Disorder; Amphetamine and Cannabis Use Disorder; and "Schizophrenia, Paranoid Type versus Delusional Disorder." Over the years, his urine drug screen tests have been positive for amphetamine, phencyclidine (PCP), and cannabis. On March 10, 2014, he admitted to staff he functioned well when he did not use illicit drugs. He reported that when he uses

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methamphetamine, he experiences hallucinations and paranoia. From February 16, 2018 to March 3, 2018, Mr. Chapman was evaluated in the ED on three occasions after being brought in on detention order (DO). He reported that his daughter was using this method, a DO, to punish him for getting into an argument with her. He claimed that she was using illicit drugs and causing problems at their home. He was described as "polite and cooperative and had normal thought content and process...he did not appear psychotic during the assessment and said he has not used meth in two months." After he was evaluated the second and third times, staff assumed that he was delusional about the daughter and asked that he stay away from her prior to his discharge from the ED. Please note that the defendant experienced a head injury on July 1, 2017 where he fell from a ladder and hit his head and right shoulder. CT head was negative for acute intracranial abnormalities.

According to medical records from the Mary Black Health System, he was evaluated in the ED on April 1, 2012 for "paranoia, hearing voices." Staff expressed concern that he had attempted to overdose on dextroamphetamine/amphetamine (Adderall®, a stimulant) and methamphetamines. His urine drug screen was positive for methamphetamine and amphetamine. His discharge diagnoses were "Paranoid Schizophrenia," "Methamphetamine overdose," "Adderall overdose," and "Tobacco Abuse." He had a CT head examination on September 27, 2017 due to complaints of headache. The findings indicated no acute intracranial abnormalities; however, prior surgical changes in the frontal region were noted.

According to records from PBHPH, the defendant was admitted for inpatient psychiatric treatment on March 13, 2014 and discharged on March 25, 2014. He presented as paranoid and irritable. He admitted that he was using methamphetamine and had a positive urine drug screen for amphetamines. He was prescribed haloperidol (Haldol®, an antipsychotic), citalopram (Celexa®, an antidepressant), and diphenhydramine (Benadryl®, used for side effects from antipsychotics) and referred to an "Intensive Substance Abuse Program." His discharge diagnoses were "Methamphetamine Induced Psychotic Disorder (resolved)," "Substance Induced Mood Disorder - Depressed Type," "Polysubstance Dependence in Controlled Environment," and "Cognitive Disorder, not otherwise specified (NOS) (possibly due to TBI)."

According to medical records from the SAMHC, Mr. Chapman followed up for one visit on April 3, 2014 after his inpatient psychiatric treatment at PBHPH. His urine drug screen was positive for cannabis and cocaine. He reported to staff that he believed that "meth caused these problems" and his recent need for inpatient psychiatric treatment. He requested that his chart be closed and told staff that he would abstain from using drugs. It was noted that he appeared anxious. He was diagnosed with Substance Induced Mood Disorder, by history; rule out Personality Disorder; and Traumatic Brain Injury (TBI), by history.

ALCOHOL AND SUBSTANCE USE HISTORY

Mr. Chapman reported that he smoked one pack of cigarettes daily. He denied that smoking caused problems for him. He denied past use of alcohol, illicit drugs, or prescription misuse. When pressed, he admitted that he used methamphetamines and last used in the detention center on November 4, 2018. Review of the medical records indicates that use of this substance has caused significant problems for the defendant socially, occupationally, and legally. He continued to use despite symptoms of paranoia and hallucinations. He appeared to develop tolerance over time and had difficulty quitting. He meets criteria for Amphetamine-type Substance Use Disorder, in a controlled environment.

He denied use of other illicit substances and alcohol; however, it is evident from the medical record that he regularly used cannabis and has tested positive for PCP and cocaine. He denied past substance abuse treatment although he has been referred to treatment (according to the record). Due to lack of detailed information regarding his use of other illicit drugs, we will not be assigning another diagnosis at this time.

MEDICAL HISTORY

Mr. Chapman denied significant medical problems. He admitted to a past head injury. He reported that someone struck him with a pool stick across his forehead. This assault "crushed [his] forehead." According to the medical record, the defendant was hit on the frontal region of his head. A head CT confirms a past brain injury to the frontal region with surgical changes noted in the findings.

FAMILY HISTORY

The defendant's mother, Ms. Willie May Sanders "sold drugs." His father, Mr. Bobby Chapman is retired and worked at Sun Supply® and "Sid Harvey's" doing HVAC delivery and installation. He denied that family members had mental illness or that there were past suicides.

SOCIAL HISTORY

Mr. Chapman was born in Greenville, South Carolina and raised in Spartanburg, South Carolina. His primary caregiver was his father. He is the youngest of three sons. He reported a good upbringing except for severe abuse by his mother (i.e. stabbing him with a pool stick and beating him) and one of his brothers. His parents divorced when he was nine years old. He reported that his uncle sexually abused him when he was five or six years old.

The last grade that the defendant completed was 4th grade. He repeated the 5th grade three times and eventually quit because of "racism." When he stopped attending school, he was charged with Truancy and sent to a "boy's home." He was there for six months before being released on probation. He tried to attend the Will Lou Gray

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Opportunity College but quit after he was assaulted due to "racism." He believes that since he was 15 years old, the courts no longer pursued him for Truancy and he did not return to school. He reported that while he was in school he made "good grades." He admitted that he was suspended once after getting into an altercation with a teacher. He denied past expulsions. He denied other behaviors associated with Conduct Disorder.

Mr. Chapman worked as a roofer at Cannon Roofing® and worked for Southern Cross, Inc.® repairing gas main bell joints. He denied that he has received disability benefits. He did not serve in the military.

He has never been married. He has one adult daughter. He had another daughter who died in a house fire as a child. At the time of his arrest, he was living in a camper on his daughter's property.

A review of the defendant's NCIC report revealed the following arrests and convictions:

1. October 10, 1990 – Grand Larceny (dismissed)
2. July 9, 1991 – Petty Larceny (not guilty); Malicious Injury to Property (not guilty); Assault and Battery (not guilty)
3. November 16, 1991 – Driving Under Suspension 1st (convicted)
4. July 13, 1992 – Assault and Battery of a High and Aggravated Nature (dismissed)
5. July 14, 1992 – Fraudulent Check (dismissed)
6. August 12, 1992 – Assault and Battery; Fraudulent Check, two counts
7. February 23, 1993 – Burglary (Violent) – 2nd degree (non-conviction); Common Law Robbery, Strong Arm Robbery (non-conviction)
8. May 12, 1994 – Assault and Battery (not guilty)
9. May 16, 1994 – Driving Under Suspension 2nd Offense (convicted)
10. January 19, 1998 – Criminal Domestic Violence (convicted)
11. January 24, 1998 – Assault
12. June 12, 1998 – Criminal Domestic Violence (not guilty)
13. August 27, 1998 – Assault and Battery
14. December 6, 1998 – Driving Under Suspension
15. May 12, 2007 – Open Container of Beer/Wine; Possession of 28 grams or less Marijuana/10 grams or less Hash 1st
16. October 9, 2007 – Driving Under the Influence 2nd Offense (convicted)
17. January 21, 2009 – Driving Under Suspension 2nd (convicted)
18. February 20, 2012 – Fail to Appear After Release for Misdemeanor (convicted)
19. June 13, 2016 – Driving Under Suspension
20. June 13, 2017 – Breach of Peace (convicted)
21. September 8, 2018 – Possess Schedule I (B) (C) LSD/Schedule II 1st (convicted)
22. November 4, 2018 – Arson 2nd Degree
23. November 20, 2018 – Arson 2nd Degree

MENTAL STATUS EXAMINATION

Mr. Chapman presented to the evaluation appropriately dressed. He was well groomed with appropriate hygiene. He made good eye contact. No abnormal movements were noted. His speech was fluent and clear with normal volume when he spoke. He had a linear and goal-directed thought process. He was cooperative with the evaluation and answered questions appropriately. He was alert and oriented to person, place, and situation. He stated that the date was August 16, 2019. He had an average fund of knowledge. He was able to name the current president and three immediate past presidents. He was able to perform a calculation. The defendant was able to repeat three words presented to him and recall all three after a period of distraction. He was able to recall significant past personal information and we find no evidence of clinically significant long- or short-term memory impairment.

Mr. Chapman performed well on a test of concentration. He was able to place similar objects into abstract categories and interpret common idioms. His judgment to a hypothetical situation was fair. If he were in a crowded theater and smelled smoke, he would "go to the exits." The defendant described his mood as "great" and he was observed to have a euthymic (normal) affect (observed expression of mood). He denied current suicidal or homicidal ideations. He denied current auditory or visual hallucinations, and he did not appear to be responding to internal distractions. He did not voice fixed, false beliefs (i.e. delusions).

DIAGNOSTIC IMPRESSION

He meets criteria for Amphetamine-type Substance Use Disorder, in a controlled environment. See section on Alcohol and Substance Use History for full diagnostic criteria.

Mr. Chapman sustained head trauma when he was a young adult that caused injury to the frontal region of his brain. This was confirmed on a CT head examination performed on September 27, 2017. The findings confirmed a past injury with prior surgical changes noted. The defendant has been assigned the diagnosis of Traumatic Brain Injury (TBI). He does not appear to have a Neurocognitive Disorder associated with this injury. He is able to function appropriately socially and behaviorally.

The defendant voiced delusional thoughts and had a disorganized thought process during our initial evaluation on March 14, 2019. He admitted that he had used crystal methamphetamine while in the detention center several months prior. He has since had no access to illicit drugs. Although he was paranoid when he was admitted for his 60-day competency restoration, this resolved rapidly (within 24 hours). During his inpatient stay, he was prescribed two different antipsychotic medications but they did not appear to add benefit (according to Mr. Chapman and staff report). These medications were stopped on August 5, 2019, which is two weeks prior to this evaluation. He has not had a return of psychotic symptoms. He interacts well with staff and peers at the hospital. He has not displayed signs of behavioral disturbances. He has, by all recent accounts,

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been psychiatrically stable, even when not taking antipsychotic medication. This information indicates that Mr. Chapman was experiencing residual symptoms of psychosis from his use of illicit drugs during our first evaluation.

He does not meet the criteria for a genuine psychotic illness at this time. All previous symptoms of psychosis appear to be substance related. As for his past diagnoses of "Schizophrenia versus Delusional Disorder" and "Paranoid Schizophrenia," they were assigned to him by ED staff during brief encounters, which can make it difficult to narrow down a diagnosis. Additionally, he was using illicit drugs during the episodes where he appeared psychotic. Since his symptoms of psychosis were directly related to his illicit substance use, he did not meet the criteria for these diagnoses and they will not be assigned at this time. His current presentation is evidence of his mental stability. Additionally, he has distinct periods of sobriety (according to the medical records) where he is stable and functional when not using illicit drugs. His symptoms of psychosis return after he uses methamphetamine, which are common side effects of this illicit drug.

THE ALLEGED INCIDENTS

Mr. Chapman stated that he did not want to discuss the details of the alleged incidents without his attorney present. He reported that he did not know if he experienced an abnormal mood around that time but denied that he experienced auditory and visual hallucinations. The defendant denied that he was suicidal or had thoughts to harm others. He admitted that he was "not eating right" and "not sleeping right either." He could not explain why this was but stated, "I just remember that." He was not aware of feeling paranoid around that time and denied that he had delusional beliefs regarding the alleged victims or the structures that were set afire. He denied that he was using alcohol and illicit drugs around that time; however, he stated, "I don't know" when asked specifically about his methamphetamine use. A review of available medical records does not reveal evidence of the presence of delusions (i.e. fixed, false beliefs) or auditory hallucinations due to mental illness regarding the victims or his actions. There was no evidence of delusions that would cause the defendant to believe what he was doing was right. There was no evidence of delusions that relate to the alleged offenses.

Review of police body camera footage during the arrest shows the defendant to initially act in a calm manner. After he is handcuffed, he becomes verbally assaultive. He tells officers that he has a diagnosis of Schizophrenia and has not been taking his medications and that they should get treatment for him rather than arresting him. He goes on to claim that the FBI should be investigating him and that he has "a device" in his head. He does not make statements regarding the alleged offense.

CONCLUSION REGARDING CRIMINAL RESPONSIBILITY

S.C. Code § 17-24-10(A) states an individual may be found **not guilty by reason of insanity** if *"at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, lacked the capacity to distinguish*

moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong."

Although Mr. Chapman appeared to display some symptoms of psychosis (i.e. paranoia and delusional thinking) at the time of his arrest, it is most consistent with his history of side effects from methamphetamine use. He does not have a genuine psychotic illness, as evidenced in the section on the Diagnostic Impression.

Thus, we find no evidence that the defendant has a mental illness that would have substantially impaired his ability to distinguish legal or moral right from legal or moral wrong. Mr. Chapman did not relate symptoms of a mental illness to his thinking or actions around that time. Therefore, it is our opinion that he would have been criminally responsible pursuant to S.C. Code Ann. § 17-24-10 (1976).

CONCLUSION REGARDING CAPACITY TO CONFORM

S.C. Code § 17-24-20(A) states an individual may be found **guilty but mentally ill** "if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or to recognize his act as being wrong as defined in Section 17-24-10(A), but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law."

We find no evidence that Mr. Chapman was suffering from a compulsion, irresistible impulse, command auditory hallucination, delusion, or other symptoms of a genuine mental illness which would have substantially impaired his ability to conform his conduct to the requirements of the law.


Stephanie M. Le, MD
Forensic Psychiatrist

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF _____

Full name and prison number (if any) of Applicant _____

v. _____

State of South Carolina

IN THE COURT OF COMMON PLEAS

2020-CP-42- 02799

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Kirkland R+E
2. Name and location of Court which imposed sentence Spartanburg County
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) N/A
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) January 30, 2020 - Two 5 year sentences + pay restitution
 - (b) _____

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SPARTANBURG COUNTY
AMY W. COX

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- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. GENERAL SESSIONS - SPARTANBURG COUNTY

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. DENIED

ii. _____

iii. _____

(c) the date of each such result:

i. JANUARY 30, 2020

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

Involuntary guilty plea and InCAFSint Assistance Counsile ... Denial of a Fair Trial
I don't really know How To fill the rest of this out

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SPARTANBURG COUNTY
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- (a) _____
- (b) _____
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10): My Attorney told me that i was getting A Insanity plea,
- (a) I had witnesses that could of helped me and the
 - (b) State knew this, so that's one reason that i
 - (c) Didn't get a Fair trial.

12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? _____
 - (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
 - (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
 - (d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

- (b) the name and location of the Court in which each was filed:

- i. _____
- ii. _____
- iii. _____
- iv. _____

- (c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____

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SPARTANBURG COUNTY

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PAGE 3 - QUESTION 1A - I WOULD HAVE ACCESS TO ANYTHING. I'm
still in Kirkland R+E BECAUSE OF THE COVID-19 VIRUS, BUT I WOULD
LIKE FOR YOU TO SEND ME THE INFORMATION ON QUESTION 12-A, B,
C.

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SPARTANBURG COUNTY
AMY W. COX

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO - But I would like for it to be

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) NOT SURE - NEED To check with, Brandon Delaine

(b) HE WAS my Public Defender in this CASE

(c) _____

17. Were you represented by an attorney at any time during the course of:

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- (a) your arraignment and plea? _____
- (b) your trial, if any? YES
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you: _____
- i. Raycheal Kepley - Public Defenders Offices,
- ii. Brandon Delaine - Public Defenders Offices
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Raycheal Kepley - Preliminary Hearing
- ii. Brandon Delaine - At Trial
- iii. _____
19. State clearly the relief you seek in filing this application: To over turn my conviction, To bring to life what really happend, And to recover damages for the victim
20. Are you now under sentence from any other court that you have not challenged? No.

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SPARTANBURG COUNTY

AMY W. COX

STATE OF SOUTH CAROLINA)

VERIFICATION

County of)

Johnny Chapman

I, Johnny Chapman, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Johnny Chapman

SWORN to and subscribed before me this 18

day of August, 2020.

[Signature] (L.S.)
Notary Public

My Commission Expires: Dec. 1, 2025

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SPARTANBURG COUNTY
AMY W. COX

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

Johnny Chapman
I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Johnny Chapman
Applicant

SWORN, or affirmed to and subscribed before me this
18 day of August, 2020.

Melissa Spig
Notary Public

My Commission Expires: Dec. 1, 2025

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SPARTANBURG COUNTY
AMY W. COX
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Spartanburg County

Spartanburg County Court House
180 Magnolia Street
P. O Box 3483
Spartanburg, SC 29304-3483



Phone (864) 596-2591
Fax (864) 596-2259

Amy W. Cox
Clerk of Court

Gail Moffitt
Assistant Clerk of Court

March 20, 2020

Johnny Ray Chapman #382254 C#2
Kirkland R&E Center
4344 Broad River Rd
Columbia, SC 29210

Dear Mr. Chapman,

Enclosed you will find a PCR Application. I was not sure if you were requesting a PCR Application or an Appeal form. If you are requesting an appeal form, our office does not have those. You may locate those forms on the judicial website at sccourts.org.

Please let us know if we can be of further assistance to you.

Sincerely, TMD- Court Clerk

CLERK OF COURT
SPARTANBURG COUNTY
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To the clerk of court,

I'm currently an inmate
at Kirkland R3E. I'm writing in
regards to the sentencing decisions applied
to me in my just recent case. I would
like to file an appeal (PC12) as a
result. Could you please send the
paper work/forms necessary for me to
properly file this claim of appeal.

Thank You,
Johnny Ray Chipman

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SPARTANBURG COUNTY
AMY W. COX

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CLERK OF COURT
SPARTANBURG COUNTY
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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Johnny R. Chapman, SCDC No. 382254

Applicant,

v.

State of South Carolina

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2020-CP-42-02799

**RETURN, PARTIAL MOTION TO
DISMISS, AND MOTION FOR A
MORE DEFINITE STATEMENT**

NOW COMES Respondent, the State of South Carolina, in response to Applicant Johnny R. Chapman's August 24, 2020 application for post-conviction relief. Applicant would respectfully show this Court:

I. PROCEDURAL HISTORY

Applicant is currently incarcerated in the South Carolina Department of Corrections. Applicant was indicted for two counts of arson, second degree, by the Spartanburg County Grand Jury at its July 2019 term. (19-GS-42-4066; 19-GS-42-4067). Applicant was represented by Brendan M. Delaney, Esquire, and the case was prosecuted by Assistant Solicitor Katherine M. Sieber, of the Seventh Circuit Solicitor's Office. On January 30, 2020, Applicant proceeded to a jury trial and was convicted on both charges, as indicted. The Honorable R. Keith Kelly sentenced him to five years' imprisonment on each charge, to be served consecutively. Applicant did not appeal his conviction or sentence.

II. FACTUAL HISTORY

At trial, Daniel Abbott testified that he is the owner of Abbot Farms, a retail business selling produce with a location in Cowpens, South Carolina. (Tr. 47, 20 – Tr. 48, 6). One morning, Mr. Abbot received a call that his business had been set on fire. (Tr. 49, 16-23). The flames damaged

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SPARTANBURG COUNTY

the front wall, the windows, the sidewalk, and the vinyl siding on the building, and nearly ignited a fireworks display. (Tr. 50, 7-13). Surveillance cameras at the business captured Applicant setting the fire. (Tr. 50, 17-22).

Spartanburg County Sheriff's Detective Garrett Cash testified that he responded to two fires that morning, one at Abbotts Farm and another nearby at Welch's Fruit Stand. (Tr. 55, 16-25). After speaking with Mr. Abbott, Detective Cash went to Applicant's nearby residence to investigate. (Tr. 62, 16-23). It was determined from Applicant's movements on the video that he would have likely been walking past the nearby Welch's Fruit Stand at around the same time that fire was started. (Tr. 66, 15-20). Detective Cash noted that Applicant was wearing the same clothing as seen in the surveillance video and placed him under arrest. (Tr. 63, 5 – Tr. 66, 4).

III. CURRENT APPLICATION

In his present application for post-conviction relief, Applicant alleges that he is being held unlawfully for the following reasons (verbatim):

- (1) Involuntary guilty plea and ineffective assistance of counsel . . . Denial of a fair trial I don't really know how to fill the rest of this out
 - (a) My attorney told me that I was getting an insanity plea, I had witnesses that could have helped me and the state knew this, so that's one reason that I didn't get a fair trial.

In his prayer for relief, Applicant requests the following (verbatim):

- (1) To overturn my conviction, to bring me to what really happened and to recover damages for the victim

Attached and incorporated herein are the Spartanburg County Clerk of Court's records regarding the subject convictions, Applicant's SCDC records, a copy of the plea transcript, and Applicant's present application for post-conviction relief. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

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SPARTANBURG COUNTY
S.C.

Respondent interprets Applicant's allegations as one claim of an involuntary guilty plea, one claim of ineffective assistance of counsel, and one claim that his trial counsel failed to investigate. Respondent asserts that each of these allegations are without merit.

Respondent reads Applicant's allegations of ineffective assistance of counsel to include his claim that his plea counsel failed to investigate potential witnesses. The Sixth And Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668 (1984); *Taylor v. State*, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann §17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a prima facie violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRPC; *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel's conduct "was so ineffective as to require reversal" of the applicant's conviction or sentence. 466 U.S. at 687. First, the applicant must show that counsel's performance was deficient; and second, that the deficient performance prejudiced the applicant. *Id.* at 668; *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

The first prong—constitutional deficiency—is "necessarily linked to the practice and expectations of the legal community." *Padilla v. Kentucky*, 559 U.S. 356, 366 (2010). In order to

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prove deficient performance, the applicant must show counsel's representation fell below an objective standard of "reasonableness under prevailing professional norms." *Cherry v. State*, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland, however, "does not guarantee perfect representation . . . only a 'reasonably competent attorney.'" *Harrington v. Richter*, 562 U.S. 86, 110 (2011) (quoting *Strickland*, 466 U.S. at 687). Representation is constitutionally ineffective only if counsel's conduct so undermined the proper functioning of the adversarial process: that the defendant was denied a fair proceeding. *Strickland*, 466 U.S. at 686. Just as there is "no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities." *Harrington*, 562 U.S. at 110.

Accordingly, "[j]udicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel's assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable." *Strickland*, 466 U.S. at 689; see also *Yarborough v. Gentry*, 540 U.S. 1, 6 (2003) ("The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight."). Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney's representation amounted to incompetence under

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AMY W. COX

“prevailing professional norms,” not whether it deviated from best practices or most common custom. *Id.* (quoting *Strickland*, 466 U.S. at 690).

Thus, a fair assessment of attorney performance requires every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspectives at the time. *Id.* Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a “strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance. *Butler*, 286 S.C. at 445, 334 S.E.2d at 816. The applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Reviewing courts “must not judge the reasonableness of counsel’s challenged conduct on the facts of the particular case, viewed at the time of counsel’s conduct. *Strickland*, 466 U.S. at 690. An applicant making a claim of ineffective assistance “must identify the acts or omissions of counsel that are alleged not to have been the result of reasonable professional judgment.” *Id.* The reviewing court must then “determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance.” *Id.*

The *Strickland* standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689-90; see also *Harrington*, 562 U.S. at 105 (cautioning that an ineffective assistance of counsel claim could potentially function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial). Even under *de novo* review, the standard for judging counsel’s representation is a most deferential one.

The second, or “prejudice” prong of *Strickland* is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify

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SPARTANBURG COUNTY

reliance on the outcome of the proceeding. 466 U.S. at 691-92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. Thus, it is not enough "to show the errors had some conceivable effect" on the outcome of the proceeding—counsel's errors must be "so serious as to deprive the defendant of a fair trial." *Id.* at 687 (emphasis added).

Counsel must, at a minimum, make some effort to interview potential witnesses identified by the defendant, and make an independent investigation of the facts and circumstances of the case. *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011); *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). To support a claim that trial counsel was ineffective for failing to interview or call potential witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). The applicant's mere speculation about what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice.

The performance and prejudice standards, however, "do not establish mechanical rules; [t]he ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." *Id.* at 696. Moreover, "there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one." *Id.* at 697. The court "need not determine whether counsel's performance was deficient before examining the prejudice suffered

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JAMES H. COX

by the defendant as a result of the alleged deficiencies. *Id.* If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, the court may evaluate the prejudice prong only. *Id.*

Respondent submits that Applicant cannot satisfy either requirement of the *Strickland* test for either of his claims of ineffective assistance of counsel. Applicant's present application is devoid of information regarding who the witnesses were that his counsel may have failed to contact, or what their testimony may have been. Without more, Respondent is unable to fully and adequately respond to Applicant's claims, and moves later herein for a more definite statement.

V. PARTIAL MOTION TO DISMISS

Applicant alleges that his guilty plea was made involuntarily. Respondent notes that Applicant never entered any plea, instead he was convicted by a jury. Therefore Respondent respectfully requests that this Court dismiss this allegation as it is without merit.

VI. MOTION FOR A MORE DEFINITE STATEMENT

Respondent hereby moves for a more definite statement on Applicant's claims that his plea counsel failed to adequately investigate potential witnesses. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. §17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

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VII. GENERAL DENIAL

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

VIII. ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *See Id.* at 245, 834 S.E.2d at 203 (Kittredge, J., dissent) ("If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.").

Pursuant to §17-27-750 of the South Carolina Code, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Further, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State. *See Love*, 428 S.C. 231, 834 S.E.2d 196.

IX. CONCLUSION

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WHEREFORE, the State requests that this Court dismiss Applicant's claim of an involuntary guilty plea, that Applicant be required to amend his application to provide a greater factual basis for his claims of plea counsel's failure to investigate potential witnesses, and that an evidentiary hearing on the claims of ineffective assistance of counsel be held.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

WILLIAM H. RAY
Assistant Attorney General

By: /s/ William H. Ray
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

December 2 , 2020

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON
COUNTY OF SPARTANBURG	)	PLEAS
	)	FOR THE SEVENTH JUDICIAL
	)	CIRCUIT
Johnny R. Chapman, #382254	)	
	)	
Applicant,	)	Case No.: 2020-CP-42-02799
	)	
v.	)	Certificate of Service
	)	
State of South Carolina	)	
	)	
Respondent,	)	
	)	

1. Undersigned is counsel of record for the Respondent in the above-captioned action.
2. Pursuant to the South Carolina Supreme Court's Order "RE: Operation of the Trial Courts During the Coronavirus Emergency" (Appellate Case No. 2020-000447), dated April 3, 2020), "a lawyer admitted to practice law in this state may serve a document on another lawyer admitted to practice law in this state using the lawyer's primary email address listed in the Attorney Information System (AIS)."
3. Undersigned has served a copy of the **Return, Partial Motion to Dismiss, and Motion for a More Definite Statement** in the above-captioned matter on opposing counsel by emailing a copy to the email address as listed in the AIS:

Rodney W. Richey, Esquire
richeyandrichey@yahoo.com

DATED this 2nd Day of December, 2020.

/s/ William H. Ray
 William H. Ray
 Assistant Attorney General
 Office of the Attorney General
 Post Office Box 11549
 Columbia, SC 29211
 (803) 734-3737
ChelseyMarto@scag.gov

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 SPARTANBURG COUNTY
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ALAN WILSON
ATTORNEY GENERAL

December 2, 2020

The Honorable Amy W. Cox
Spartanburg County Clerk of Court
Post Office Box 3483
Spartanburg, South Carolina 29304-3483

Re: Johnny R. Chapman, #382254 v. State of South Carolina
2020-CP-42-02799

Dear Ms. Cox:

Enclosed please find the original **Return, Partial Motion to Dismiss, and Motion for a More Definite Statement** in the above-captioned case for filing in your office.

Sincerely,

/s/ William H. Ray
William H. Ray
Assistant Attorney General

CFM/ec
Enclosures

cc: Rodney W. Richey, Esquire

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AMY W. COX

State of South Carolina	)	
	)	
County of Spartanburg	)	
Johnny Chapman,	)	2020-CP-42-02799
	)	
Applicant,	)	
	)	
v.	)	Transcript
	)	
The State of SC,	)	of
	)	
Defendant.	)	Post-conviction
	)	Relief Hearing
	)	
	)	
	)	
	)	
	)	
	)	
	)	

Date: April 19, 2022

Time: 9:56 a.m.

Location: Spartanburg County Courthouse

180 Magnolia St.

Spartanburg, SC 29306

Reported by
Amber Payne, CVR

APPEARANCES

Presiding: The Honorable G.D. Morgan Jr.

For the Applicant: Rodney Richey, Esq.
Richey and Richey Law Firm
33 Market Pointe Drive
Greenville, SC 29607

For the Defendant: Chelsey Marto, Esq.
SC Attorney General's Office
1000 Assembly St., Room 519
Columbia, SC 29201

Also Present: Brendan Delaney, Esq.
Seventh Circuit
Public Defender
366 North Church St.
Ste. 300
Spartanburg, SC 29303

INDEX

(SW) - Denotes State's Witness
(DW) - Denotes Defense Witness

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(SW) BRENDAN DELANEY, ESQ.:

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Cross-Examination by Ms. Marto.....37

Certificate of the Court Reporter.....41

EXHIBITS

There were no exhibits marked during this hearing.

1 PROCEEDINGS

2 THE COURT: All right. Are we ready to
3 proceed?

4 MS. MARTO: Yes, Your Honor.

5 THE COURT: I believe we'll start with Johnny
6 Chapman. Case 2020-CP-42-02799; is that
7 correct?

8 MS. MARTO: Yes, Your Honor.

9 THE COURT: All right. Yes, ma'am?

10 MS. MARTO: Okay. May it please the Court.
11 Mr. Chapman is currently incarcerated in the
12 South Carolina Department of Corrections. He
13 was indicted for two counts of arson, second
14 degree, of the Spartanburg County Grand Jury
15 in its July 2019 term and was represented by
16 Mr. Brendan Delaney. The case was prosecuted
17 by Assistant Solicitor, Katherine Sieber, of
18 the 7th Circuit Solicitor's Office.

19 On January 30 of 2020, applicant
20 proceeded to a jury trial and was convicted on
21 both charges as indicted. And the Honorable
22 R. Keith Kelly sentenced him to five years
23 imprisonment on each charge to be served
24 consecutively. He did not appeal his
25 conviction or sentence. The post-conviction

1 relief application was filed August 24th,
2 2020, and the return was made December 2nd,
3 2020. I do have a packet of the pleadings if
4 Your Honor would like a hard copy.

5 THE COURT: All right.

6 MS. MARTO: (To the deputy) Thank you.

7 THE COURT: (To the deputy) Thank you.

8 THE BAILIFF: Yes, sir.

9 MS. MARTO: And with that, I'll turn it over
10 to Mr. Richey.

11 THE COURT: All right. Mr. Richey?

12 MR. RICHEY: Thank you, Your Honor. Mr.
13 Chapman -- at this time, I'm gonna request to
14 be relieved of Mr. Chapman. I've talked to
15 him a few minutes, and he -- he believes that
16 I can't handle this case. So I'll ask the
17 Court to relieve me and to have somebody else
18 represent him.

19 THE COURT: Mr. Chapman, is that your desire?

20 THE APPLICANT: (No response.)

21 THE COURT: You don't want me -- you don't
22 want to go forward with Mr. Richey
23 representing you?

24 THE APPLICANT: When me and him had a
25 conversation on the telephone, I asked him --

1 he just acted like he wasn't interested in my
2 case whatsoever. He tells me the first time
3 we got on the phone, nonchalantly, that you
4 could -- I couldn't get no more than a year
5 and a half back. So I asked him how he knew
6 that. I said, "How do you know that?" He
7 just -- he didn't -- didn't answer -- wouldn't
8 answer me. And if I asked him anything to
9 this day up to right now, it's the same thing.
10 He -- he -- he don't -- he -- it seems like
11 that he -- he don't want to help me. It ain't
12 that I don't want him to represent me. He
13 acts like he don't want me as a client. If I
14 asked him something about my case, he can't
15 answer it. So I -- I -- see that's what --
16 THE COURT: Well, I'm sure Mr. -- I'm -- Mr.
17 Richey's a good lawyer. I'm sure he knows
18 about your case.
19 THE APPLICANT: If I ask him a question --
20 THE COURT: I'm sure he knows about your case.
21 THE APPLICANT: -- and he's not answering me,
22 that just leads me to believe that he's not
23 interested in my case or representing me.
24 That's -- that's where we are at now. That's
25 the only impasse that I have. If I -- we're

1 trying to come to court and get -- get this
2 matter handled and I just -- she said just now
3 that we didn't appeal the case. My -- Brendan
4 Delaney tried to, but Judge Kelly wouldn't let
5 him. He denied it right there on the spot.

6 THE COURT: Now, I -- I don't think that's
7 true. I've looked at the record and --

8 THE APPLICANT: He -- he did.

9 THE COURT: -- a judge can't -- the Court
10 can't deny you from appealing a case. That's
11 not accurate.

12 THE APPLICANT: Brendan Delaney said in the
13 courtroom that, "He wants to appeal."

14 And he said, "Denied." He said, "No.
15 Denied." That's -- I -- I -- why would I make
16 it up when it's on -- when it's supposed to
17 have been on the record?

18 THE COURT: That's just not -- that's not in
19 the record. I mean, there is no denial of you
20 being able to appeal --

21 THE APPLICANT: He --

22 THE COURT: -- your -- you -- you can file --

23 THE APPLICANT: I told him --

24 THE COURT: Hold on just a minute. Hold on.

25 THE APPLICANT: Okay.

1 THE COURT: You can -- you can appeal your
2 conviction. And there -- there's nothing that
3 prevents you from that. There's nothing there
4 that Judge Kelly or anybody said you couldn't
5 appeal your -- your conviction.

6 THE APPLICANT: To my understanding in the
7 courtroom when I had the jury trial, was my --
8 my attorney, Brendan Delaney said to Judge
9 Kelly that, "He wanted an appeal."

10 And that's -- he said, "Denied."

11 THE COURT: Well, here's what we're gonna --
12 the question is: Do you want to go forward
13 with -- with Mr. Richey representing you in
14 this PCR hearing? That's the issue before us
15 right now.

16 THE APPLICANT: You -- you think he's got my
17 best interest --

18 THE COURT: Well, I can't give you that. I'm
19 not allowed to.

20 THE APPLICANT: You just now said to me that
21 he's a good attorney.

22 THE COURT: I -- I can tell you --

23 THE APPLICANT: And that he knows my case.

24 THE COURT: I can tell you that he is a -- a
25 good attorney and will represent you, but I

1 can't tell you anything else other than that.
2 I just know Mr. Richey, and -- and he's a good
3 lawyer. But I -- I can't comment about
4 anything about your case.

5 THE APPLICANT: Do you know anything about me
6 getting a year and a half off my sentence?

7 THE COURT: I -- I'm not going to comment on
8 that.

9 THE APPLICANT: He's told me that.

10 THE COURT: All right. Here's the issue.
11 Here's the issue. Hold on. Here's the issue.
12 Do you want to go forward with Mr. Richey
13 representing you with -- representing you in
14 this PCR?

15 THE APPLICANT: Do you think that he's
16 competent enough to --

17 THE COURT: I'm -- I'm not going to give you
18 the -- I'm not going to comment. I'm gonna to
19 ask you. That is choice on whether or not you
20 want to go forward with Mr. Richey
21 representing you in this PCR.

22 THE APPLICANT: Well, what's the alternative
23 if it takes another two years for me to come
24 back in the court?

25 THE COURT: Mr. -- Mr. --

1 THE APPLICANT: He told me --

2 THE COURT: -- Chapman --

3 THE APPLICANT: Listen, listen. He told me he
4 had all the time that he wanted --

5 THE COURT: No, no, no, no, no. Hold on.
6 Hold on. Hold on.

7 MR. RICHEY: (To the applicant) Hold on just
8 a second.

9 THE COURT: Hold on.

10 THE APPLICANT: I'm not trying to argue with
11 you.

12 MR. RICHEY: Shush. Just listen.

13 THE COURT: Hold on.

14 So here we are. You either go forward
15 with Mr. Richey or go forward representing
16 yourself. How do you want to proceed in this
17 matter?

18 THE APPLICANT: Yeah. We'll go with Mr.
19 Richey.

20 THE COURT: Go with Mr. Richey?

21 THE APPLICANT: He said --

22 MR. RICHEY: Okay. We call Mr. Chapman.

23 (WHEREUPON, the applicant was sworn.)

24 DIRECT EXAMINATION

25 BY MR. RICHEY:

- 1 Q Sir, will you state your name, please?
- 2 A Johnny Chapman.
- 3 Q And Mr. Chapman, are you currently at the
- 4 Department of Corrections?
- 5 A Yes, sir.
- 6 Q Okay. And what are you in there for?
- 7 A For arson, second degree.
- 8 Q Okay. And who -- did you have a trial, or did you
- 9 plead guilty?
- 10 A No. I had a trial.
- 11 Q Okay. And who represented you at that trial?
- 12 A Brendan Delaney.
- 13 Q And -- and you --
- 14 A I had two attorneys. And one of them -- she --
- 15 Rachel Kepley, the only one I had talked to prior
- 16 to my court date -- I didn't even know I had a
- 17 court date. We just ended up with -- I -- I was in
- 18 -- my bad. I'm sorry.
- 19 Q I'll -- I'll get to that.
- 20 A I did -- yeah.
- 21 Q I'll get to that. You're fine.
- 22 A I'm sorry.
- 23 Q You're fine.
- 24 A Sorry.
- 25 Q So Mr. Delaney represented you at the trial, right?

1 A Yes, sir.

2 Q He's the lawyer in the courtroom --

3 A Right.

4 Q -- right?

5 A Yes, sir.

6 Q And you filed an application for post-conviction
7 relief, because you believe that he did not
8 properly represent you; is that correct?

9 A Absolutely.

10 Q And -- and, in your case, there were witnesses that
11 you wanted him to try to get; is that correct?

12 A Yes, sir.

13 Q And who were those witnesses?

14 A One was Allen Hill and one was Bobby Chapman. But
15 they (as spoken) was a list of -- of witnesses, but
16 they --

17 Q Okay.

18 A -- was the two main ones.

19 Q And when you talked to them about procuring those
20 witnesses, what was his response?

21 A That -- that my witnesses couldn't help me.

22 Q Okay. And did he tell you why he believed they
23 couldn't help you?

24 A He -- he didn't -- I said, "Well, I" -- no. I just
25 said -- I said, "What do you mean?" I said, "You

1 hadn't even talked to them."

2 He said, "It's a -- it don't matter." He
3 said, "My suggestion is to you that you take the
4 second plea that -- that they offer you." I had
5 two pleas --

6 Q Okay.

7 A -- they gave to me that day.

8 Q And what where they?

9 A They was -- the -- the first plea was that time
10 served, and I go home. And I turned it down. And
11 he come -- he leaves, comes back about 25/30
12 minutes later, and says that, "They got a second
13 plea that they want you to plead guilty with time
14 served with a mental defect."

15 And I said, "I don't know even know what that
16 means?

17 He said, "My suggestion is you take that." He
18 didn't want to hear nothing I had to say.

19 Q Okay. And you turned down those offers, so tell me
20 why you did that.

21 A Because if he would've been interested in defending
22 me, we would've won the case hands down. He wasn't
23 interested in -- in any of that. If I got time
24 served, and I could've went home, why wouldn't I
25 just do that? I mean, then I -- I -- he don't even

1 -- if -- you read my transcripts, and he -- he
2 didn't even -- he asked the question if -- if the
3 store had been vandalized before.

4 And he said, "Yes." And he says, "No further
5 questions."

6 So he come back and sat down, and I asked him,
7 I said, "Well, why would you ask him that and not
8 follow up?"

9 He said, "Because you wanted me to."

10 I said, "I wanted you to call witnesses, and
11 you're not gonna do it." I said, "You picking and
12 choosing." I said, "I don't understand any of
13 this," and I -- I pointed at the lady like her
14 (indicating), and I said, "You know what she's
15 doing right now?"

16 And he said -- tried to wave me off.

17 I said, "She's recording everything going on."

18 Q And -- and --

19 A He didn't want to hear nothing I had to --

20 Q And --

21 A -- nothing.

22 Q In the timing of the case, when did you ask him to
23 get these witnesses? Was it a week before the
24 trial or two weeks? When was the --

25 A No. They had --

1 Q -- timing?

2 A They had my information for forever. Since I was
3 appointed to her, she -- she said, "Get your
4 witness list together," and I gave it to her at the
5 pretrial.

6 Q Okay. Did you give it --

7 A When I walked in there in the courtroom is for a
8 pretrial --

9 Q Uh-huh.

10 A -- the -- she -- the witness list that I gave her
11 was laying in the floor in front of the desk like
12 you're standing. The microphone was there. The
13 witness list was in the floor. She was leaned back
14 like that (indicating) with her leg propped up on
15 the end of the table.

16 She wasn't -- and Larry Powers, I don't know
17 why he was in the courtroom, was there. Remember I
18 was telling you about Larry?

19 Q Yeah.

20 A So . . .

21 Q So that witness list that you had -- that she had,
22 did that witness list ever get to Mr. Delaney?

23 A Mr. Delaney read it -- read some of it off in the
24 courtroom.

25 Q Yeah. And that's in the transcript, right?

- 1 A Yeah.
- 2 Q Okay. And -- and does the transcript reflect the
3 witnesses that you wanted at the trial?
- 4 A Yes.
- 5 Q Okay. And do you know what efforts Mr. Delaney
6 made to get those witnesses?
- 7 A None. He said -- he told me that there wasn't
8 nothing they could do. I got a paper in my pocket.
9 You told me -- I said -- I said -- I told him, my
10 attorney, Brendan Delaney, I told Mr. Richey what
11 he had said about my witnesses couldn't help me and
12 Mr. Richey told me on the phone, the 7th, that he
13 couldn't do that. That -- that my attorney,
14 Brendan Delaney, couldn't -- couldn't tell me that
15 my -- what my witnesses could or couldn't do.
16 That's what he said. You told me that the 7th of
17 this month when me and you had a conversation,
18 because I wrote it down. Because I asked you was
19 you writing down what we was talking about, and was
20 you recording it. And you said you was writing it
21 down, so when I asked you to read it back to me,
22 you said -- the last thing you said.
- 23 Q Well --
- 24 A And I said, "No." I said, "The whole thing."
- 25 Q Well --

- 1 A I said, "You don't -- you don't act like you paying
2 no attention to what I'm -- what I'm talking to you
3 about."
- 4 Q Well, let me ask you this: Do you -- do you
5 believe that if he had of done what you asked him
6 to do, that you would have won the case?
- 7 A Yes.
- 8 Q Okay. And -- and but for him doing that --
- 9 A If I didn't think that, well, I would have took the
10 plea of -- of time served on 15 months or -- or the
11 time I was in jail and went home.
- 12 Q So -- so what type of sentence did you get?
- 13 A He -- I got two five-year sentences --
- 14 Q Uh-huh.
- 15 A -- to --
- 16 Q And --
- 17 A -- to like she said.
- 18 Q And that was run consecutive; is that correct?
- 19 A Yeah. Because I wouldn't sign the sentencing
20 sheet, and Kelly act like he was offended-like,
21 because he said that I -- he told him that, "He
22 won't sign the -- the sentencing sheet."
23 Aggravated. He sounded aggravated.
- 24 Q Okay.
- 25 A And when he did, Kelly was standing up and started

1 getting, "Well, I'll tell you what. I'll tell you
2 what." See, I told you that some of the things
3 that seemed like it wasn't on in -- in the
4 transcripts.

5 Q Did he go over the discovery with you in the case?
6 The information?

7 A No.

8 Q He didn't -- y'all didn't talk about it?

9 A He didn't even tell me when we was even coming to
10 court.

11 Q Okay. Did you ever see --

12 A I didn't know that I was coming to court until they
13 was brought me up where I just now came from --

14 Q Uh-huh.

15 A -- and -- and started dressing me out. I said,
16 "What's going on?"

17 He said, "We're -- you're going to trial. We
18 gonna pick a jury." We picked the jury. They gave
19 me two plea offers; I refused both of them. They
20 dressed me out, had me in a courtroom picking a
21 jury within -- within two hours. I was convicted
22 in -- in less than five hours.

23 Q How much -- before you got dressed out to go to
24 court --

25 A I didn't have a chance to call anybody. I didn't

1 know I was going to -- to court.

2 Q Well, let me ask you this: Before you came and got

3 dressed out and went to court, what -- what kind of

4 interaction did y'all have?

5 A None.

6 Q None?

7 A He sent me a letter telling me that he was my new

8 attorney.

9 Q Did he ever come see you? talk to you?

10 A No, sir.

11 Q Nothing?

12 A Nothing.

13 Q So it's your testimony he just basically went to

14 trial --

15 A They never offered me a plea until I had done been

16 there 15 months.

17 Q Well, let me ask you --

18 A Here comes -- he comes James Cheeks and called me

19 out of my cell. I go in there and I'm setting

20 there with him and he starts talking to me and I'm

21 under the impression that I have a lawyer and I

22 can't speak to him. So I tell him that, but, at

23 the time, I don't know what he's there for. Then

24 it occurs to me later on, that was what James

25 Cheeks was in there trying to do was offer me a

1 plea.

2 Q And James Cheek is the attorney that works at the
3 jail, right?

4 A He works at the Public Defender's Office.

5 Q But he's got an office at the jail; is that
6 correct? Do you know?

7 A I have no idea about that.

8 Q Okay. All right. And so Mr. -- so James Cheek --
9 Mr. Cheeks comes down there and presents the plea
10 to you --

11 A No. He -- I -- I stopped him from talking to me.
12 He -- he got -- I said -- I said, "If you -- if you
13 was a man in my" -- and he slammed his hand on the
14 desk.

15 And said, "What do you mean if I was a man?"

16 I said -- oh, the C.O. Bishop come to the
17 door, opened up the door, and -- and he said, "It's
18 okay. It's okay. It's" -- you know.

19 I'm like -- I said, "I've got an attorney."

20 He said, "We all work out of the same office
21 and help one another out."

22 I said, "Well, I don't know nothing about
23 that." I said, "I'm under the impression that I
24 have a lawyer, and I can't speak to nobody legally
25 without her present." He didn't want no part of

1 that, so I got -- Bishop come back again because he
2 started getting loud, and they took me back to my
3 cell.

4 Q Well, let me ask you this question: Did Mr.
5 Delaney ever discuss these plea offers with you?
6 Did he ever --

7 A The -- that day.

8 Q He discussed them with you?

9 A That morning --

10 Q Okay.

11 A -- that -- that I went to trial.

12 Q Okay. And -- and so you said you had no contact
13 with him prior to you going to trial?

14 A He sent me a letter.

15 Q No. You didn't talk to him? He didn't come see
16 you? Nothing?

17 A No.

18 Q He just showed up and said, "I'm gonna try your
19 case"?

20 A See what I'm saying?

21 Q What's that?

22 A That's exactly what I'm saying.

23 Q Okay. And -- and so when he did that, did you tell
24 them, "Hey, I've got some witnesses. I don't want
25 to go to trial today," and all that?

1 A He -- he didn't want to hear it. I told him that
2 before when he was doing the -- the -- offering the
3 pleas. I said -- I said, "We" -- I said, "We won."
4 I said, "We done won this."

5 Q Okay.

6 A He -- he didn't want no part of it. He don't want
7 to hear nothing I got to say. His mind's made up,
8 and he -- the only thing he's interested in was
9 what -- what the prosecutor's had going on.

10 Q So you're saying that he wasn't interested in your
11 trial, he just wants you to plea to the charge --

12 A He's trying to tell Judge Kelly that I'm --

13 Q Let me finish the question. Let me --

14 A -- incompetent to stand trial.

15 THE COURT: And Mr. -- hold on. The court
16 reporter needs to take down what you testify
17 to, so it'll be on the record --

18 THE APPLICANT: Yes, sir.

19 THE COURT: -- and when he questions you --
20 but when y'all talk over each other --

21 THE APPLICANT: Right.

22 THE COURT: -- because she can't --

23 THE APPLICANT: Well, I'm just telling you --

24 THE COURT: Hold on. Hold on. When --

25 THE APPLICANT: I'm sorry.

1 THE COURT: When she has to type everything
2 y'all say, and when y'all talk over each
3 other, she can't do it. So I need you to
4 listen to Mr. Richey, let him --

5 THE APPLICANT: Yes, sir.

6 THE COURT: -- ask his question, then you can
7 answer, okay?

8 THE APPLICANT: I apologize. I'm a little
9 anxious because finally getting to -- to
10 hear --

11 THE COURT: All right.

12 THE APPLICANT: -- you know, say something.

13 THE COURT: You -- you just do that. Just let
14 Mr. Richey ask a question, then --

15 THE APPLICANT: Yes, sir.

16 THE COURT: -- then you can answer.

17 DIRECT EXAMINATION CONTINUES

18 BY MR. RICHEY:

19 Q Okay. You can go ahead and finish. I interrupted
20 you on the --

21 A Well, I didn't want to speak in court to start
22 with. I didn't feel -- I mean, if there's no
23 witnesses here, what -- and then Judge Kelly swore
24 me in because I was trying to tell him that he
25 didn't want to defend me. That, you know, it

1 wasn't -- it wasn't -- this ain't a -- I don't
2 understand what's going on. He's trying to get me
3 to tell the Judge Kelly that I'm incompetent to
4 stand trial. I'm mentally incompetent (as spoken)
5 to stand trial. I said to you -- I said, "They
6 sent me to Wellpath because they said that I was
7 mentally -- how'd they put it? But I could be
8 restored.

9 Q All right.

10 A Restored. And you said, "I've never heard of
11 that." Remember? Because I wrote it down when
12 they sent me to Columbia.

13 Q Right.

14 A And I told you how they did me with the medication
15 and all of that.

16 Q And so they claimed that you were mentally -- you
17 were restored?

18 A Oh, yeah. Because if -- when the truth come out in
19 court, they -- they already knew that -- that they
20 was going to lose. There's no way -- there's no
21 way for them to win. And he didn't want no part of
22 that, just like Rachel Kepley didn't -- what, got
23 off the case. I told Rachel Kepley, I said, "I
24 don't know" -- it's on the kiosk of the jail, but I
25 told her, I said -- I said, "You" -- I said, "I

1 don't know what you're trying to pull," I said,
2 "But if you'd have acted (as spoken) like this in
3 the courtroom," I said, "I'm going to fire you, and
4 I'm going to put you on the stand."

5 And she -- Rachel Kepley said, "Don't threaten
6 me." Hell, that ain't no threat. Sorry. It ain't
7 no threat. It's what you got going on.

8 Q Okay. Let me ask -- let me ask you this question:
9 I want you to tell me exactly what you want this
10 lawyer to do -- exactly. Mr. --

11 A What -- what lawyer?

12 Q The lawyer that represented you at trial, Mr.
13 Delaney. Tell me exactly what you want him to do.
14 We got you wanted to get the witnesses.

15 A No, no, no.

16 Q You wanted to get witnesses, correct?

17 A Right.

18 Q Okay. You wanted him to go over discovery with
19 you, right?

20 A Rachel Kepley was my attorney. Where he come from
21 and got in the play at, I can't tell you. So I
22 don't want him doing anything for me.

23 Q So you didn't want him to do anything at the trial?

24 A I knew -- well, I don't want -- speaking to him,
25 when -- whatsoever. I shouldn't have been talking

1 to -- if I got an attorney --

2 Q Right.

3 A -- just like I said, so when I switched off to him

4 and he's got -- I got one letter from him, and then

5 the next thing you know, the only -- the next time

6 I talked to him, I was going to court that day. I

7 didn't -- I -- I couldn't call my dad. I couldn't

8 call girlfriends. I couldn't call my daughter or

9 nothing to tell them I was going to court, because

10 I didn't know.

11 Q So -- so right now the issue you have is you had no

12 contact with your lawyer, and, all of a sudden,

13 you're thrust into a courtroom to try a case,

14 correct?

15 A Yes, sir. Oh, yeah.

16 Q And --

17 A It went down and I was convicted that day, and he

18 didn't defend me whatsoever.

19 Q And so you believe that the lawyer did not

20 effectively represent you, because he didn't do --

21 he -- he had no communication with you, right?

22 A No, sir. No, sir.

23 Q You had no communication with him, right?

24 A But you read the transcripts?

25 Q Yeah.

1 A Do you think he represented me?

2 Q No. I'll ask the questions.

3 A See.

4 Q That's how -- we do it this way.

5 A See. I'm -- I'm sorry. But I'm just saying you

6 read what went on.

7 Q Yeah. And so --

8 A That's what I was saying right there. See, he --

9 if I asked you a question, if you're representing

10 me, what do you think?

11 Q Okay. Well, let me ask you this question.

12 A I mean, don't -- don't --

13 THE COURT: Mr. -- she -- you're talking over

14 him again.

15 THE APPLICANT: Sorry. Sorry, ma'am.

16 THE COURT: Okay.

17 Q Let me ask you this question: You believe that he

18 had -- if he had of represented you right, you

19 would've won, right?

20 A Yes, sir.

21 Q Okay.

22 MR. RICHEY: Thank you. Answer the questions

23 the Attorney General may have for you.

24 THE COURT: All right. (To the State) Cross?

25 MS. MARTO: Yes, Your Honor. Thank you.

1 CROSS-EXAMINATION

2 BY MS. MARTO:

3 Q Good morning, sir.

4 A Good morning.

5 Q So you decided to go to trial after being told of
6 the plea deals, correct?

7 A Yeah. I was going to trial regardless of the fact.
8 I -- before I ever even was offered a plea.

9 Q But you made up you mind to go to trial? That was
10 your decision, right?

11 A Yeah. Because I thought I was going to be
12 represented by a competent attorney that was going
13 to try to call witnesses.

14 Q Approximately, how many total witnesses did you
15 want called? Do you recall?

16 A They was -- I had two pages worth of witnesses.

17 Q Okay.

18 A But you only doing one small thing. This -- the --
19 what -- what they tried to present in court, ain't
20 just from that day.

21 Q So would you say maybe 100 to 200 witnesses you
22 wanted to call?

23 A Maybe more than that.

24 Q Okay.

25 A Not call. She said, "What was relevant. So give

1 me your witness list."

2 I said, "This goes on for years. This ain't
3 just started." I said, "This is" -- they was
4 coming to my house picking me up taking me to the
5 hospital just out of the blue. The police would
6 show up no apparent reason, throwing me into
7 Spartanburg Regional Medical Center. And they
8 would put me down in this, I don't know. It was --
9 it was a far cry from a hospital. It was some kind
10 of, I don't know, mental ward. I don't know
11 nothing about what was going on, point blank.

12 Next thing you know, I'm prescribed
13 medication. I'm being put on medication, and
14 the -- the judge -- what -- what's her name? It's
15 been so long. She's a family court judge. She's
16 the one that signed off on me to be took to the
17 hospital. Now, I don't have no idea why she would
18 be doing nothing like that when both of my kids is
19 30 -- one's 33 and one's 28, so why is a family
20 court judge signing me into a hospital? So that's
21 where she would come -- she's relevant.

22 Q So you told the judge at the trial that you are
23 unhappy with your attorney?

24 A I didn't want to.

25 THE COURT: (To the applicant) Hold on. Let

1 her --

2 THE APPLICANT: Sorry.

3 THE COURT: Mr. Chapman, let her finish her
4 question.

5 Q Did you -- did you tell the judge you never saw any
6 of the discovery in the case at all at trial, as
7 well?

8 A I don't know what you mean by that. I didn't want
9 to speak at trial. I didn't want to talk to
10 anybody. He was aware of that.

11 Q Right. But my question is: Did you ask the judge
12 to continue the trial so that you can see the
13 discovery if you didn't see any of it at all?

14 A No. Well, I don't understand what they're talking
15 about. Why would I want to -- I would -- didn't
16 even know I was supposed to be in court. I ain't
17 got no witnesses there. Why would I want a trial
18 to begin?

19 Q Right. Did you bring that up to the judge is the
20 question? Did you bring the fact that you weren't
21 prepared, that they just took you, you didn't see
22 any of the evidence? Did you bring any of that up
23 with the judge?

24 A I ain't -- I ain't versed on court proceedings by
25 far.

1 Q Okay.

2 A None. Not educated. Not whatsoever. We can't
3 switch positions right now, and you -- you'll still
4 have me at a disadvantage like I am now. Well, I
5 didn't want to -- he swore me in, Judge Kelly did,
6 sitting next to my attorney at the defendant's
7 table. I didn't want to talk. I had to because he
8 didn't do his job.

9 MS. MARTO: No further questions, Your Honor.

10 THE COURT: All right. (To Mr. Richey) Any
11 redirect?

12 MR. RICHEY: No, Your Honor.

13 THE COURT: All right. You may step down Mr.
14 Chapman.

15 THE APPLICANT: Thank you, sir.

16 (WHEREUPON, the witness was excused.)

17 MR. RICHEY: Call Mr. Delaney.

18 (WHEREUPON, the witness was sworn.)

19 DIRECT EXAMINATION

20 BY MR. RICHEY:

21 Q Sir, will you state your name, please?

22 A Brendan Delaney.

23 Q And, Mr. Delaney, do you recall representing Mr.
24 Chapman?

25 A I do.

1 Q Okay. Can -- can you tell me -- the testimony
2 where that you did not talk to him till the day of
3 the trial; is that correct?

4 A That's not true. Ms. Kepley -- Rachel Kepley
5 originally represented Mr. Chapman. Ms. Kepley
6 moved from the Spartanburg Public Defender's Office
7 over to the Greenville Public Defender's Office,
8 and Mr. Chapman's case was reassigned to me, a
9 common occurrence for someone to get a new lawyer.

10 I met with Mr. Chapman a week or two at a
11 minimum before the trial began when he showed up on
12 -- high on a docket. He had been previously
13 provided the discovery from Ms. Kepley, which was a
14 surveillance video from the first arson, as well as
15 photos and other police narratives from both arson
16 sites.

17 Q Did y'all discuss the -- the discovery -- did you
18 sit down and discuss the discovery and what matters
19 were related to his case?

20 A We did. And it was a fairly straightforward case
21 on the first arson. They had an individual that
22 was alleged to be Johnny Chapman walking up to a
23 hay bale and starting it on fire and then walking
24 off.

25 Q Okay.

1 A And then the second site, which was a quarter mile
2 to a half mile away, they had an eyewitness of Mr.
3 Chapman in the area shortly after that fire
4 started. And according to the timestamp on the
5 surveillance and then the direct testimony of the
6 eyewitness, the timeline matched up and the State
7 had a very strong case. And I told Mr. Chapman
8 that. I advised him to take the plea deal.

9 They -- they were showing what I thought to be
10 leniency with him by offering him a time-served
11 sentence on a guilty plea wherein they had more
12 than enough evidence to convict him, but he refused
13 to plead guilty much to my chagrin. And so I did
14 the best I could for him at trial facing --

15 Q Okay.

16 A -- a mountain of evidence.

17 Q In -- in terms of his witnesses, did you talk to
18 him prior to trial by his potential witnesses?

19 A I did. And these are his two witness lists,
20 including Michael Jordan, Oprah Winfrey, Gayle
21 King --

22 MR. RICHEY: Can I approach the witness, Your
23 Honor?

24 A -- God, Chuck Wright, Albert Einstein.

25 MR. RICHEY: May I approach the witness, Your

1 Honor?

2 THE COURT: Yes. You can.

3 Q So -- so you're claiming these are the witnesses
4 that he wanted to have at trial --

5 THE APPLICANT: This -- that tells --

6 MR. RICHEY: (To the applicant) Shush. (sotto
7 voce.)

8 A That's correct.

9 Q Okay. All right. And any of these witnesses --
10 did you contact and talk to any of these witnesses
11 the ones that can be talked to?

12 A I did not.

13 Q Okay. And did -- did he -- is there any specific
14 person on that list that he asked you to talk to?
15 I mean "specific."

16 A From time to time he would point out random -- what
17 I deemed to be random persons on here, but, again,
18 basing my opinion of the relevance of his
19 witnesses, again, there was a surveillance video of
20 what the State alleged, and the jury ultimately
21 convicted Mr. Chapman of, of being alone walking to
22 a produce stand and setting a hay bale on fire.
23 And there was no one there, and no one saw it
24 except for the surveillance. And then the second
25 one -- the second arson a quarter to a half mile

1 away, the only witness was a random passerby.

2 You know, and at one point, that I think
3 further evidences Mr. Chapman's inability to
4 understand the proceedings, he was insistent that I
5 elicit testimony from some particular witness on
6 here; not one of the famous people. It might have
7 been one of his family members or friends that he
8 has on here. He wanted me to bring that particular
9 individual in and have that individual testify
10 about a previous arson investigation that Mr.
11 Chapman was involved in, but he never got charged
12 criminally. And I told Johnny -- I said, "Johnny,
13 the last thing I'm gonna do is to call a witness to
14 talk about some previous alleged arson that you
15 were involved in. I'm not gonna do that." And --
16 and, ultimately, I didn't. And he -- he moved on
17 to, you know, the next issue that -- that he wanted
18 me to address.

19 Q Well -- well, let me ask you this: Did -- were you
20 concerned at all about his mental state, at all?

21 A Oh, yeah. And -- and I'm concerned about it today.

22 Q Okay.

23 A I don't think Mr. Chapman was ever competent to go
24 forward at trial. The Department of Mental Health
25 declared that he was restored. He was not able to

1 assist me in his defense, so I did the best I
2 could.

3 Q When you say "restored," what does that mean?

4 A I don't -- I don't know. I don't have the ability
5 -- I don't know what that means, because --

6 Q So he -- I'm sorry. Go ahead.

7 A I have no idea what that means. And I've voiced my
8 frustration with that to the Court after the jury
9 convicted him and asked the Court to consider that
10 problem in -- in the sentence, and I don't think
11 the Court showed any -- Mr. Chapman any leniency,
12 unfortunately.

13 Q Okay. And so you believe that you adequately
14 represented him?

15 A I have no doubt.

16 Q Okay. One moment. (sotto voce)

17 In terms of his mental state, just being
18 restored, how much time did you have prior to trial
19 of knowing his reinstate -- reinstored (as spoken)
20 deal? How -- how long -- how long did you know
21 that?

22 A It was months. It -- it was months that he had
23 been restored and before his trial.

24 Q Is there any -- is there any -- did you --

25 MR. RICHEY: (To the applicant) Hey, I can't

1 -- I can't talk right now.

2 THE COURT: Hey -- hey --

3 MR. RICHEY: Sit down. Sit down.

4 THE COURT: Mr. Chapman, you need to sit down,
5 okay?

6 THE APPLICANT: Yes, sir.

7 Q Okay. Is -- is -- tell me once you got that
8 opinion that he's been restored, what action did
9 you take after that?

10 A We proceeded to trial. Again, I don't know any
11 other -- and I'd love to be educated on something
12 else I could've done when the Department of Mental
13 Health declares someone to be restored. At that
14 point, I've got to treat them like a competent
15 client and -- and move forward. I don't know
16 anything else I could do. If -- if there is, I
17 would've done it, but I don't think there is,
18 because I've talked about this with other people
19 and there's -- there's nothing I can do at that
20 point. He has been cleared for take off.

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

22 THE COURT: All right. (To the State) Any
23 recross (as spoken)?

24 MS. MARTO: Briefly, Your Honor.

25 CROSS-EXAMINATION

1 BY MS. MARTO:

2 Q Good morning, sir.

3 A Good morning.

4 Q So is it fair to state that Mr. Chapman rejected
5 your advice when it came to taking the plea offers
6 and decided to go to trial himself?

7 MR. RICHEY: (To the applicant) Shush.

8 THE COURT: Mr. Chapman -- Mr. Chapman?

9 THE APPLICANT: Yes, sir?

10 THE COURT: We can hear you -- we can all
11 hear you, okay?

12 THE APPLICANT: Yes, sir.

13 THE COURT REPORTER: I'm sorry. (To the
14 State) Can you repeat that question?

15 MS. MARTO: Yeah.

16 CROSS-EXAMINATION CONTINUES

17 BY MS. MARTO:

18 Q Is it fair to state that Mr. Chapman rejected your
19 advice when it came to the plea offers and decided
20 to go to trial himself?

21 A That's correct. And at -- at portions during the
22 trial, during recess, I would say, "Johnny, I might
23 can get you that time-served plea deal back on the
24 table. Do you want me to try to go see if the
25 State is still willing do that?" And he didn't

1 want any part of it. It's really sad.

2 Q Okay. You showed him all the discovery in this
3 case, correct?

4 A That's correct.

5 Q And, again, once they stated he was restored, you
6 didn't feel like there was anything you could have
7 done besides just going to trial like you would any
8 other defendant, correct?

9 A That's correct.

10 Q Okay. And for all of the witnesses that he wanted
11 you to call, is it fair to state that they were
12 either entirely untouchable or that he wouldn't
13 have been able to get them there at all, that they
14 would've been refuted by all the evidence in the
15 case or they would have been detrimental to your
16 client's case?

17 A Those three things are all correct.

18 Q Okay. And, again, you thought that the State had a
19 very strong case when it came to the facts,
20 correct?

21 A I did. And I told Mr. Chapman, you know, my role
22 as his lawyer is to give him my honest legal
23 opinion, not what he wants to hear. And I told him
24 that I thought the jury was going to convict him.
25 "If they're presented this evidence," I told him,

1 "I do believe the jury will convict you." I said,
2 "Johnny, therefore, I'm advising you to take this
3 plea deal and go home." He wouldn't do it.

4 MS. MARTO: No further questions, Your Honor.

5 THE COURT: All right. Anything else, Mr.
6 Richey?

7 MR. RICHEY: No other questions.

8 THE COURT: All right. Thank you, sir, you
9 may step down.

10 (WHEREUPON, the witness was excused.)

11 MR. RICHEY: No other witnesses.

12 THE COURT: No other witnesses?

13 MR. RICHEY: Yeah.

14 MS. MARTO: No witnesses, Your Honor.

15 THE COURT: No witness. All right. Anything
16 else from the parties?

17 MS. MARTO: No, Your Honor.

18 MR. RICHEY: Thank you, Your Honor.

19 THE COURT: All right. I'll take it under
20 advisement. Thank you.

21 (Whereupon the within hearing was
22 concluded at 10:32 a.m.)

23 (*This transcript may contain quoted material.
24 Such material is reproduced as read or quoted
25 by the speaker.)

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

CERTIFICATE

I, Amber Payne, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina on April the 19th, 2022.

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

Amber J. Payne, CVR

Date: 9/24/2022
Notary public for South Carolina
My commission expires August 12, 2029

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
 FOR THE SEVENTH JUDICIAL CIRCUIT

Johnny Chapman, #382254,
 Applicant,

Case No.: 2020-CP-42-02799

v.

ORDER OF DISMISSAL

State of South Carolina,
 Respondent.

This matter comes before this Court by way of Applicant's post-conviction relief application filed August 24, 2020. Respondent made its return on December 2, 2020, requesting an evidentiary hearing be convened. An evidentiary hearing was held on April 19, 2022, at the Spartanburg County Courthouse. Rodney W. Richey, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel Brendan Delaney also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. In July 2019, the Spartanburg County Grand Jury indicted Applicant for two counts of second degree arson (2019-GS-42-04066 and -04067). Brendan Delaney, Esquire represented Applicant. Katherine Heber prosecuted the case. On January 30, 2020, Applicant proceeded to trial before the Honorable R. Keith Kelly, circuit court judge, and a jury. Applicant was found guilty as indicted on both

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counts and Judge Kelly sentenced Applicant to five years' imprisonment on each count, sentences running consecutively. Applicant did not appeal his conviction or sentence.

Summary of Relevant Facts

Spartanburg County Sheriff's Detective Garrett Cash testified that he responded to two fires that morning, one at Abbotts Farm and another nearby at Welch's Fruit Stand. (Tr. 55). Daniel Abbott, the owner of Abbot Farms, testified that he received a call that his business had been set on fire. (Tr. 47-49). The flames damaged the front wall, the windows, the sidewalk, and the vinyl siding on the building, and nearly ignited a fireworks display. (Tr. 50). Surveillance cameras at the business captured Applicant setting the fire. (Tr. 50).

After speaking with Mr. Abbott, Detective Cash went to Applicant's nearby residence to investigate. (Tr. 62). It was determined from Applicant's movements on the video that he would have likely been walking past the nearby Welch's Fruit Stand at around the same time that fire was started. (Tr. 66). Detective Cash noted that Applicant was wearing the same clothing as seen in the surveillance video and placed him under arrest. (Tr. 63-66).

Current Action Before this Court

In his current PCR application, Applicant alleges he is being held in custody unlawfully because of ineffective assistance of counsel in that:

1. Involuntary plea.
2. Ineffective assistance of counsel:
 - a. Counsel entering an insanity plea.
 - b. Failure to call witnesses to testify.

At the PCR hearing, Applicant proceeded forward on the following allegations:

1. Ineffective Assistance of Counsel for:
 - a. Brevity of time in consultation.
 - b. Failure to pursue an insanity defense.
 - c. Failure to investigate and call Applicant's witnesses for trial.
 - d. Failure to review discovery.

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All other allegations raised in his initial application and amendments are deemed waived and abandoned and, accordingly, will not be addressed in this order.

Summary of the Testimony

Applicant Testimony

Applicant stated he does not think Counsel properly represented him. Applicant stated that he showed Counsel his witness list before trial, but Counsel did not contact them. He stated Counsel saw the witness list but stated he could not do anything to subpoena the witnesses at trial. He stated that Counsel told him to plead guilty but mentally ill to time served. He stated the Court stated he was mentally ill but could be restored. Applicant testified that Counsel was not interested in representing him. He stated he would have won at trial but for Counsel's ineffectiveness.

Applicant stated he was unwilling to sign the sentencing sheets. Applicant stated Counsel never reviewed discovery with him. He stated he did not interact with Counsel prior to trial and stated he did not know he had Court on the day of trial.

On cross-examination, Applicant stated he decided to go to trial and that he thought that at trial he would be represented by a competent attorney. He stated he told Counsel to contact maybe more than two hundred witnesses. Applicant stated he never told the Judge he did not see any discovery because he was not well versed in court proceedings and did not know he could talk in court. He stated he had to testify because the Court swore him in.

Counsel Testimony

Counsel stated that Applicant's case was reassigned to him after Applicant's prior attorney left the public defender's office. Counsel testified he met with Applicant a week before trial. He stated that they discussed the discovery in the case. He testified that he

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discovery on the first arson charge was straight forward. He stated he advised Applicant to take the plea offer and Applicant declined to do so. Counsel testified that he received two sheets full of witness names from Applicant and names on the list included Michael Jordan, Oprah, and God. Counsel stated that the State had a strong case because there was surveillance footage on one of the arson charges and a passerby witness who observed Applicant concerning the second arson charge.

Counsel testified that he was concerned about Applicant's mental health, but he was informed that Applicant was mentally restored and fit to stand trial. Concerning the competency issue, Counsel testified that he would have done more to get him found unfit to stand trial, but the Department of Mental Health found him restored and, as a result, Counsel had to treat Applicant like a competent witness.

On cross-examination, Counsel testified that Applicant rejected the plea offers over the advice of Counsel. Counsel testified that he showed Applicant all of the discovery in the case. Counsel testified that all witnesses on the sheets provided to him by Applicant involved witnesses that were either impossible to compel to appear in Court, would have further harmed Applicant's case, or would have testified to something readily refuted by the evidence in the case.

Findings of Fact and Conclusions of Law

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. Before this Court are the Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the trial transcript, and this PCR action's records. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This

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Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Annotated Section 17-27-80 (2003).

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRCP ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Official scrup

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of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters "only in the rarest case" because "[t]he likelihood of a different result must be substantial, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Brevity of Time

Applicant alleges that Counsel was ineffective for failure to communicate with him sufficiently regarding the case. "[B]revity of time spent in consultation with a defendant alone is not indicative of inadequate trial preparation." *Smith v. State*, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (2012). Applicant must show evidence indicating "how additional preparation or communication would have resulted in a different outcome." *Id.* See *Jackson v. State*, 399 S.C. 324, 330 (2012).

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345, 353-54, 495 S.E.2d 768, 772 (1998) (where application failed to show ineffective assistance of counsel based on lack of preparation by neglecting to show evidence of what counsel failed to discover or what defenses counsel could have pursued had he more fully prepared for the case); *Skeen v. State*, 325 S.C. 210, 214-15, 481 S.E.2d 129, 132 (1997) (where applicant failed to show ineffective assistance of counsel when he did not present evidence showing how additional preparation would have impacted the trial).

Applicant's allegation that Counsel did not contact him prior to trial is refuted by both Counsel's testimony and Applicant's testimony. Specifically, Counsel testified that he met with Applicant about a week or two before trial to go over discovery, the plea offer, and the witnesses Applicant wanted called at trial. Additionally, through his own testimony, Applicant indicated that he had discussed potential witnesses and the plea offer with Counsel prior to trial; indicating that he had had contact with Counsel prior to the trial date. Even if this Court were to assume Applicant was correct in his allegation of failure to communicate, Applicant has failed to show how Counsel's alleged failure to contact him had an impact at trial. He has failed to show what could have been discussed or brought out at trial that would have impacted the outcome. Thus, there has been no showing of prejudice. Accordingly, relief is denied on this ground.

Failure to Pursue Insanity Defense

Applicant claimed Counsel was ineffective for failure to pursue an insanity defense. Whether failure to assert a defense constitutes deficient performance ultimately hinges on whether failure to explore the decision was a strategic decision. *Strickland*, 466 U.S. at 680. If there is only one line of defense, counsel must conduct a "reasonably substantial investigation" into that line of defense. *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1252). However, if there are several lines of defense, counsel may still be effective even if every single line is not

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explored. *Id.* "[W]hen counsel's assumptions are reasonable given the totality of the circumstances and when counsel's strategy represents a reasonable choice based upon those assumptions, counsel need not investigate lines of defense that he has chosen not to employ at trial." *Id.* at 681 *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1255). Further, "[w]hen counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough*, 540 U.S. at 5 (citing *Strickland*, 466 U.S. at 690).

Regarding failure to alert the Applicant of a defense specifically, Counsel will not be found ineffective if there was inadequate evidence to support the defense, if the defense did not exist at the time of trial, or another avenue of defense existed. See *McCray v. State*, 317 S.C. 557, 455 S.E.2d 686 (1995) (stating that failure to state an entrapment defense was not ineffective when the applicant denied any wrongdoing); *Arnette v. State*, 306 S.C. 556, 413 S.E.2d 803 (1992) (stating that failing to inform of a defense was not ineffective when there was no evidence at trial that supported the defense); *Robinson v. State*, 308 S.C. 361, 417 S.E.2d 361, 417 S.E.2d 88 (1992) (stating that Counsel was not ineffective when failing to state a defense that was not recognized by the Court until six years later and was just recently acknowledged by the scientific community).

Counsel credibly testified that Applicant underwent a competency evaluation and was ultimately found competent and fit to stand trial. Counsel credibly testified that he did not think he could pursue this avenue for defense once he was found competent. This Court agrees. An insanity defense was not available to Applicant because he was found competent, and Counsel was not deficient as a result. Further, because an insanity defense would have been inappropriate, no prejudice is found. Accordingly, relief is denied on this ground.

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Failure to Investigate and Call Witnesses

Applicant claims Counsel was ineffective for failing to call and present the witnesses written down on the papers he provided to Counsel. At a minimum, counsel must interview potential witnesses and make independent investigations regarding the facts and circumstances of the case. *Ard v. Catoe*, 372 S.C. 318, 642 S.E.2d 590 (2007). To show counsel was ineffective by failing to call a witness, the witness(es) must be produced at the PCR evidentiary hearing or their testimony must otherwise be presented, consistent with the rules of evidence. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Mere speculation regarding the witness's testimony is insufficient to establish prejudice. *Clark v. State*, 315 S.C. 385, 434 S.E.2d 266 (1993).

"In most PCR cases in which the applicant seeks relief for trial counsel's failure to call witnesses, the PCR court's analysis—and the analysis by the appellate court—is focused on the strategic considerations of counsel in balancing the potential benefits of calling a particular witness against the identifiable risks." *Buckson v. State*, 423 S.C. 313, 320, 815 S.E.2d 436, 440 (2018).

Counsel's performance is not deficient if he decided not to present a witness as a tactical and strategic move, nor if the witness was unlikely to appear or present testimony that could have made a difference at trial. *See e.g. Smith v. State*, 404 S.C. 493, 502, 745 S.E.2d 378, 383 (2012) (finding that counsel was not deemed ineffective when petitioner failed to introduce any evidence that established prejudice to the petitioner); *Edwards v. State*, 392 S.C. 449, 457-58, 710 S.E.2d 60, 65 (2011) (stating that counsel was not ineffective because the witness could not withstand cross-examination due to his prior vacillation and the cumulative nature of his testimony and he knew the petitioner's statement to the police would be entirely consistent with

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the supposed witness's statement at trial); *Glover*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995) (finding that counsel was in deficient by failing to call all alibi witnesses when two witnesses who testified did not establish the alibi).

Further, prejudice will generally be found if the testimony was significant and favorable enough to the Applicant so that the trial proceedings results may have been different because of the testimony. See e.g. *Lounds v. State*, 380 S.C. 454, 670 S.E.2d 646 (2008) (finding that counsel was deficient by failing to call witnesses, for no other reason than lack of preparation, that may corroborated with the defendant or bolstered his credibility so that the findings at trial could have been favorable to the defendant); *Thomas v. State*, 308 S.C. 123, 417 S.E.2d 531 (1992) (finding that uncalled witness' testimony would have cast doubt on the sole witness' identification of the petitioner and, thus, would have made a difference at trial). Further, to demonstrate prejudice, Applicant was required to present the evidence or witnesses he alleges Counsel did not properly investigate. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995).

Counsel acted reasonably in determining that presenting these witnesses was not practicable. As Applicant testified, he provided Counsel with a list of over two hundred witnesses. Counsel credibly testified that among these witnesses were Oprah, God, and Michael Jordan. As Counsel testified, all witnesses on the sheets provided to him by Applicant involved witnesses that were either impossible to compel to appear in Court, would have further harmed Applicant's case, or would have testified to something readily refuted by the evidence in the case. Counsel is not expected to pursue all witnesses Applicant request he contact, no matter how unpracticable it may be. Counsel is only required to act reasonably in this regard; something he seemingly did when reviewing the lists and determining that none of the individuals on the paper

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would help at trial. Thus, Counsel was not deficient on this ground.

Applicant failed to call any witnesses on the paper at the PCR hearing to meet his burden of proof regarding the prejudice prong on the *Strickland* analysis. Accordingly, Applicant fails on both prongs of the *Strickland* analysis concerning this allegation and, thus, his claim of failure to investigate must be rejected.

Failure to Review Discovery

Applicant's claim that Counsel was ineffective for failure to review the discovery with Applicant is without merit. Specifically, Counsel credibly testified that he reviewed all discovery with Applicant a week or two before trial. Thus, this Court finds Applicant's argument to the contrary is without merit and denies relief as a result.

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Conclusion

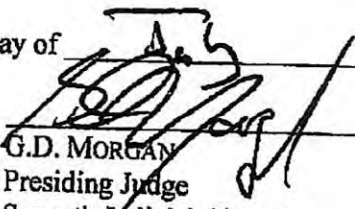
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. See Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

IT IS THEREFORE ORDERED:

1. The PCR application be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 14th day of July, 2022.


G.D. MORGAN
Presiding Judge
Seventh Judicial Circuit

Spartanburg, South Carolina.

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