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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County

Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROBERT ANTHONY CARTER,

APPELLANT

APPELLATE CASE NO. 2023-000797

RECORD ON APPEAL

SARAH E. SHIPE
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MARK FARTHING
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803)734-4117

ATTORNEY FOR APPELLANT

I. MCDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit
101 Hampton Street
Walterboro, SC 29488
(843) 779-8716

ATTORNEYS FOR RESPONDENT

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1 MONDAY, MAY 8, 2023

2 THE COURT: All right, ladies and gentlemen, we are
3 getting ready to start the trial of the case of the *State*
4 *of South Carolina v. Robert Anthony Carter*. Mr. Carter has
5 been charged with committing the crimes of burglary in the
6 first degree assault and battery in the first degree. I've
7 got some questions to go over with you at this time. All
8 of you have been qualified to serve as jurors for this term
9 of general sessions court, but the next series of questions
10 I have to go over with you is referred to as *voir dire*
11 questions. That is to determine whether not you are
12 qualified to serve as jurors on this particular case, and
13 it also assists the attorneys and gives them a little bit
14 of information that assists in the jury selection process.

15 So as I told you in the qualifications, jurors, just
16 like witnesses, are constantly taking oaths. So, I'll need
17 all members of the jury panel to please stand and raise
18 your right hand before we respond to these *voir dire*
19 questions. Please raise your right hand.

20 (WHEREUPON, THE JURY PANEL IS DULY SWORN.)

21 THE COURT: Thank you very much. You can be seated
22 now. Now, is there any member of the jury panel that did
23 not respond to the oath by saying I do? If so, please
24 stand.

25 (NO ONE STANDS.)

JURY VOIR DIRE

THE COURT: All right, as I said, this is the case of the *State of South Carolina v. Robert Anthony Carter*, the allegations in this case being that on or about October 22, 2019 ---

It says in Colleton County, South Carolina. Where is this is alleged to have occurred?

MS. KEENEY: [REDACTED] Tram Road in Walterboro, South Carolina.

THE COURT: Sorry. Say that again.

MS. KEENEY: [REDACTED] Tram Road, Walterboro, South Carolina.

THE COURT: All right. This burglary and assault and battery is alleged to have occurred at [REDACTED] Tram Road here in Walterboro, South Carolina, the allegations being that Robert Anthony Carter entered a dwelling without consent and with intent to commit a crime in that dwelling, and that he committed assault and battery in the first degree upon Colin or Colin, C-o-l-i-n, Amburg, A-m-b-u-r-g. Now, is there any member the jury panel that has heard anything, read anything, discussed anything, or knows anything about this case? If so, please stand.

(NO ONE STANDS.)

THE COURT: As I said, the defendant in this case is Robert Anthony Carter. Is there any member of the jury

1 panel related by blood or marriage, have a close, personal
2 relationship, business relationship, social relationship,
3 or any other type of relationship with Mr. Carter? If so,
4 please stand.

5 (NO ONE STANDS.)

6 THE COURT: All right, the alleged victim in this case
7 is Colin Amburg. Is there any member of the jury panel
8 related by blood or marriage, have a close, personal
9 relationship, business relationship, social relationship,
10 or any other type of relationship with Colin Amburg? If
11 so, please stand.

12 (NO ONE STANDS.)

13 THE COURT: All right, please listen carefully as
14 there are a number of witnesses who may testify in this
15 case. So, please listen up. We have Investigator William
16 Ballard of the Colleton County Sheriff's Office, Captain
17 Angela Stallings of the Colleton County Sheriff's Office,
18 Colin Amburg, Shannon Deay, Johnny Powell, Deputy Marvin
19 Jones of the Colleton County Sheriff's Office, Deputy
20 Clarissa Kessler of the Colleton County Sheriff's Office,
21 Melanie Buchanan, Alexa Tuten, Lieutenant Tanya Adams,
22 Captain Wanda Taylor, Officer Jackson Lee Riley of the
23 Walterboro Police Department, Arthur Trae Simmons, Jackie
24 Lawson, Corporal Duboise.

25 Do you know the first name of Corporal Duboise?

1 MS. KEENEY: It's Brandon.

2 THE COURT: Brandon, Corporal Brandon Duboise,
3 Shontaisia Atkins, Rhonda Martin, and LaDean Drawdy, Rhonda
4 Martin and LaDean Drawdy being employed with Coastal
5 Electric Co-op. Now, is any member of the jury panel
6 related by blood or marriage, have a close, personal
7 relationship, business relationship, social relationship,
8 or any other type of relationship with any of these
9 potential witnesses? If so, please standI

10 Yes, ma'am, your name and number.

11 JUROR: Amanda Gates-Craven, juror 87.

12 THE COURT: Bear with me for one second.

13 (A PAUSE.)

14 THE COURT: And I apologize, your name and number
15 again.

16 JUROR: Amanda Gates-Craven, 87.

17 THE COURT: All right, Ms. Gates-Craven, who is it
18 that you know?

19 JUROR: I was a dispatcher at the sheriff's
20 department.

21 THE COURT: Colleton County Sheriff's Office?

22 JUROR: Yes, sir.

23 THE COURT: Okay. All right, Ms. Gates-Craven, I'm
24 going to excuse you from this particular case. Stay with
25 us right now, but I will excuse you from this case.

1 Anyone else knows of any of these potential witnesses?

2 If so, please stand.

3 Yes, ma'am, your name and number?

4 JUROR: Wanda Brock, 28.

5 THE COURT: All right, Ms. Brock, who is it that you
6 know?

7 JUROR: I know Marvin Jones. That's my pastor.

8 THE COURT: Who?

9 JUROR: Marvin Jones.

10 THE COURT: Oh, Marvin Jones.

11 JUROR: Yes.

12 THE COURT: I see. I see, and how do you know Mr.
13 Jones?

14 JUROR: That's my pastor.

15 THE COURT: Y'all go to church together, and I
16 apologize again. Your name and number?

17 JUROR: Wanda Brock, 28.

18 THE COURT: All right, Ms. Brock, I'm going to excuse
19 you from this particular case. Stay with us right now,
20 okay?

21 JUROR: Yes, sir.

22 THE COURT: Yes, sir, your name and number.

23 JUROR: John Gibbons, juror 94.

24 THE COURT: All right, Mr. Gibbons, who is it that you
25 know?

1 JUROR: Deputy Marvin Jones is my pastor as well.

2 THE COURT: Okay, Mr. Gibbons, I'll excuse you from
3 this first case, but stay with us right now. Thank you
4 very much.

5 Anyone else? Yes, ma'am, your name and number.

6 JUROR: Marcie Stone, 219.

7 THE COURT: All right, Ms. Stone, who do you know?

8 JUROR: I know Alexa Tuten.

9 THE COURT: I apologize. With this air conditioning,
10 I can't hear you. You need ---

11 JUROR: Alexa Tuten.

12 MS. KEENEY: And, Judge, she's actually not going to
13 testify. She is -- we meant to take her off the list.

14 THE COURT: Alexa Tuten. Okay, they just informed me
15 she will no longer be testifying in this case. All right,
16 thank you very much.

17 Anyone else?

18 (NO ONE STANDS.)

19 THE COURT: All right, prosecuting this case on behalf
20 of the State of South Carolina are attorneys Jillian
21 Constestabile and Julie Kate Keeney. Representing the
22 defendant are Carles Anderson and David Mathews. Now, is
23 there any member of the jury panel related by blood or
24 marriage, have a close, personal relationship, business
25 relationship, social relationship, or any other type of

1 relationship with any of these attorneys? If so, please
2 stand.

3 (NO ONE STANDS.)

4 THE COURT: Now, is there any member of the jury panel
5 who has ever been represented by any of these attorneys?
6 If so, please stand.

7 (NO ONE STANDS.)

8 THE COURT: Is there any member of the jury panel who
9 has ever been involved in any legal action which any of
10 these attorneys represented a party to that action? If so,
11 please stand.

12 (NO ONE STANDS.)

13 THE COURT: Is there any member of the jury panel who
14 either personally has a family member or close, personal
15 friend employed with the Fourteenth Circuit Solicitor's
16 Office or the Colleton County Public Defender's Office? If
17 so, please stand.

18 (NO ONE STANDS.)

19 THE COURT: Is there any member of the jury panel who
20 has ever been prosecuted by the Fourteenth Circuit
21 Solicitor's Office, whether it be in Allendale, Beaufort,
22 Hampton, or Jasper? If so, please stand.

23 (NO ONE STANDS.)

24 THE COURT: Has any member the jury panel ever been
25 the victim of a violent crime? If so, please stand.

1 (NO ONE STANDS.)

2 THE COURT: Has any member of the jury panel either
3 personally or had a family member that has been the victim
4 of a burglary or an assault? If so, please stand.

5 All right, yes, ma'am, your name and number.

6 JUROR: Kelly Hudson, 127.

7 THE COURT: All right, Ms. Hudson, if I could get you
8 to come forward, please?

9 And if the attorneys need to come forward, you can.

10 (THERE FOLLOWING CONFERENCES ARE HELD AT THAT BENCH.)

11 (THE JUROR COMES FORWARD.)

12 THE COURT: All right, is this you or a family member?

13 JUROR: My mother.

14 THE COURT: Your mother, and how long ago was that?

15 JUROR: Several years ago.

16 THE COURT: Okay. Would that incident affect your
17 ability to be impartial to the state and to the defendant
18 in this case?

19 JUROR: I'm not sure.

20 THE COURT: Okay, and that's why we ask the question.
21 That's not a problem; that's not a problem. I'll go ahead
22 and excuse you from this case, okay?

23 JUROR: Okay.

24 THE COURT: All right, I'm going to go ahead and
25 excuse Ms. Hudson from this case.

1 Thank you very much.

2 JUROR: Thank you.

3 THE COURT: But stay with us right now.

4 JUROR: Okay.

5 (THE JUROR RETURNS TO THE GALLERY.)

6 THE COURT: All right, the lady in the striped shirt,
7 your name and number.

8 JUROR: Winifred Teal, 224.

9 THE COURT: All right, Ms. Teal, if you would come
10 forward, please.

11 (THE JUROR COMES FORWARD.)

12 THE COURT: Ms. Teal, is this you or a family or who?

13 JUROR: It was me.

14 THE COURT: You, and how long ago was this?

15 JUROR: It was in 2006. That was in Virginia.

16 Wasn't here.

17 THE COURT: Would that incident affect your ability to
18 be fair and impartial to the defendant and to the state?

19 JUROR: No, sir.

20 THE COURT: Could you disregard your incident in its
21 entirety and base your decision in this case exclusively on
22 the testimony and evidence in this case?

23 JUROR: Yes, sir.

24 THE COURT: Thank you, Ms. Teal.

25 (THE JUROR RETURNS TO THE GALLERY.)

1 THE COURT: Lady in the black top, your name and
2 number.

3 JUROR: Marcia Wilson-White, 246.

4 THE COURT: All right, Ms. Wilson-White, if you would
5 come forward, please.

6 (THE JUROR COMES FORWARD.)

7 THE COURT: Was this you or a family member or who?

8 JUROR: It was me.

9 THE COURT: And how long ago was this?

10 JUROR: It was 1984 in Camden.

11 THE COURT: Okay. Would that incident affect your
12 ability to be fair and impartial not only to the state but
13 to the defendant as well?

14 JUROR: Well.

15 THE COURT: It would affect your ability?

16 JUROR: I don't think it would.

17 THE COURT: Okay. Could you disregard your incident
18 in its entirety and base your decision in this case
19 exclusively on the testimony and evidence in this case?

20 JUROR: [NO AUDIBLE RESPONSE.]

21 THE COURT: Thank you for bringing that to our
22 attention. Thank you.

23 (THE JUROR RETURNS TO THE GALLERY.)

24 THE COURT: All right, the lady beside Ms.
25 Wilson-White, your name and number.

1 JUROR: 14, Brenda Bishop.

2 THE COURT: All right, Ms. Bishop, if you'd come
3 forward, please.

4 (THE JURY COMES FORWARD.)

5 THE COURT: Is this you or a family member?

6 JUROR: I'm sorry. I can't hear you.

7 THE COURT: Was this you or your family member?

8 JUROR: My home was burglarized.

9 THE COURT: Okay. How long ago was that?

10 JUROR: Probably eight years or so, about eight years
11 or more.

12 THE COURT: Okay. Well, this case ---

13 JUROR: It went to trial.

14 THE COURT: And this case involves allegations of
15 burglary.

16 JUROR: Okay.

17 THE COURT: Would that affect your ability in this
18 case to not only give the state but the defendant a fair
19 and impartial trial?

20 JUROR: I think I can.

21 THE COURT: Could you disregard all of the facts and
22 circumstances of the burglary that occurred to you and base
23 your decision in this case exclusively on the testimony and
24 evidence in this case?

25 JUROR: I think I can.

1 THE COURT: Thank you for bringing that to our
2 attention. All right.

3 (THE JUROR RETURNS TO THE GALLERY.)

4 THE COURT: Ma'am, your name and number?

5 JUROR: 24, Melanie Breland.

6 THE COURT: All right, Ms. Breland, if you would come
7 forward, please.

8 (THE JUROR COMES FORWARD.)

9 THE COURT: Ms. Breland, was this you or a family
10 member?

11 JUROR: Family member.

12 THE COURT: Okay.

13 JUROR: It was my father. He got robbed of a small
14 arsenal.

15 THE COURT: Okay. How long ago was that?

16 JUROR: It's been years.

17 THE COURT: Okay.

18 JUROR: He's passed away since then.

19 THE COURT: Would that incident affect your ability to
20 be fair and impartial in this case?

21 JUROR: I'll be good.

22 THE COURT: Okay. Could you give both the state and
23 the defendant a fair trial?

24 JUROR: Yes, sir.

25 THE COURT: And could you disregard all of the facts

1 and circumstances regarding your father's incident and base
2 your decision in this case ---

3 JUROR: Yes, sir.

4 THE COURT: --- exclusively on the testimony and
5 evidence?

6 JUROR: Yes, sir.

7 THE COURT: Thank you for bringing that to our
8 attention.

9 (THE JUROR RETURNS TO THE GALLERY.)

10 THE COURT: Yes, sir, your name and number.

11 JUROR: Jerrod Johnson, 136.

12 THE COURT: All right, if you'd come forward, please.

13 (THE JUROR COMES FORWARD.)

14 THE COURT: All right, Mr. Johnson, was this you or a
15 family member?

16 JUROR: My house was robbed when I was a kid.

17 THE COURT: Okay. How long ago was that?

18 JUROR: Ten, fifteen years ago.

19 THE COURT: Would that event affect your ability to be
20 fair and impartial not only to the state but to the
21 defendant in this case?

22 JUROR: I don't think so, no.

23 THE COURT: Could you disregard that incident in its
24 entirety and base your decision on this case exclusively on
25 the testimony and evidence in this case?

1 JUROR: I think so.

2 THE COURT: Thank you for bringing that to our
3 attention. I appreciate it.

4 JUROR: Thank you.

5 (END OF CONFERENCES AT THE BENCH.)

6 THE COURT: Has any member of the jury panel ever been
7 the victim of any crime that you feel would affect your
8 ability to be fair and impartial in this case, not only to
9 the state but to the defendant? If so, please stand.

10 (NO ONE STANDS.)

11 THE COURT: Is there any member of the jury panel who
12 either personally or has a family member employed in law
13 enforcement? If so, please stand.

14 If I've already excused you, don't need to.

15 Yes, this is just for those who remain with us.
16 Anybody who either personally or has a family member
17 employed in law enforcement, if so please stand.

18 (NO ONE STANDS.)

19 THE COURT: Has any member of the jury panel formed or
20 expressed an opinion about any issue or matter involved in
21 this case? If so, please stand.

22 (NO ONE STANDS.)

23 THE COURT: Is any member of the jury panel aware of
24 any bias or prejudice towards either the State of South
25 Carolina or the defendant in this case? If so, please

1 stand.

2 (NO ONE STANDS.)

3 THE COURT: Is any member of the jury panel a member
4 of the grand jury that issued the indictments in this case?
5 If so, please stand.

6 (NO ONE STANDS.)

7 THE COURT: Is any member the jury panel a member of
8 or a contributor to any organization which has as its
9 primary concern the promotion of law enforcement or
10 victims' rights? Some of these organizations are Mothers
11 Against Drunk Drivers [sic], also referred to as MADD,
12 Students Against Drunk Drivers [sic], Citizens Against
13 Violent Crime, also referred to as CAV, Citizens Against
14 Spousal Abuse, also referred to as CASA, or any similar
15 organization. If you're a member of or contributor to,
16 please stand.

17 (NO ONE STANDS.)

18 THE COURT: Does any member of the jury panel know of
19 any reason whatsoever why he or she should not serve as a
20 juror in this case, with particular emphasis being placed
21 on your ability to be fair and impartial to the State of
22 South Carolina and to the defendant? If so, please stand.

23 (NO ONE STANDS.)

24 THE COURT: All right, any additional questions from
25 the state?

1 MS. KEENEY: The state submitted proposed *voir dire*.
2 Question number two, I do not believe, was asked.

3 (A PAUSE.)

4 THE COURT: I'm going to let -- I'm not going to ask
5 those. Anything else?

6 MS. KEENEY: Nothing from the state.

7 THE COURT: All right, anything further from the
8 defense?

9 MS. ANDERSON: Yes, Your Honor. We submitted
10 additional questions. We do not believe number 16, 17, 18,
11 or 19 -- and 19 is inclusive of additional groups that are
12 local.

13 THE COURT: Hold on one second, let me get to -- well,
14 you don't have yours numbered. Hold for a second. 16.

15 MS. ANDERSON: 17.

16 THE COURT: I only got nine *voir dire* questions.

17 MS. ANDERSON: May I approach?

18 THE COURT: Yes.

19 (A PAUSE.)

20 THE COURT: Aside from those, any further questions
21 from the defense?

22 MS. ANDERSON: No, Your Honor.

23 THE COURT: All right.

24 All right, ladies and gentlemen, the way we select
25 jurors in general sessions cases, what will happen is ---

1 Is the clerk here to call the names?

2 (A PAUSE.)

3 THE COURT: The clerk will call your name. When your
4 name is called, if you would come forward, stand here in
5 front of the attorneys right here in front of the desk and
6 the clerk of court, and turn and face the attorneys. Now,
7 the state's attorneys are going to look at you a little
8 while, and then look at their notes a little while, and
9 then look back at you a little while, and they're going to
10 talk among themselves a little, and they're going to decide
11 if they want you as a juror. And if they decide they want
12 you as a juror, then the defense attorney is going to look
13 at you a little while look and look at their notes a little
14 while and talk a little while and decide if they want you
15 as a juror. And we follow this process until we get twelve
16 jurors and however many alternates that they feel that we
17 need in this case. So if your name is called, you'll need
18 to come forward, stand in front of the attorneys, turn, and
19 face the attorneys.

20 If you get struck in this case, please do not take it
21 personally. It just means that for whatever reason, you
22 don't fit a certain profile that one or the other parties
23 is looking for. It doesn't mean that you've done anything
24 wrong, or that you wouldn't be a fair and impartial juror.
25 It just means that there is something about your profile

1 that they don't want on the jury. I've known may jurors
2 who are struck in one case and then taken by the same party
3 in the second case, or taken in a first case and struck by
4 the same party in the second case. There's no real rhyme
5 or reason as to why they choose, but each side gets a
6 certain number of strikes, and they get to exercise those
7 strikes.

8 So, I think she ---

9 (A PAUSE.)

10 THE COURT: So, it's going to take her just a few
11 minutes to get that list and then get back with it, and
12 we'll get started at that time. So if your name is called,
13 as I said come forward, bring everything with you, any
14 pocketbooks, any umbrellas, whatever you might have with
15 you. Bring them with you when you come forward.

16 (A PAUSE.)

17 THE COURT: All right, as I understand in this case,
18 state gets five strikes, defense gets ten. Is that
19 correct?

20 MS. KEENEY: Yes, Your Honor.

21 THE COURT: Okay.

22 All right, ladies and gentlemen, please listen up. If
23 your name is called, please come forward.

24 CLERK: Are there going to be any alternates?

25 THE COURT: If we have enough, we'll get at least one.

1 We'll see.

2 CLERK: Okay.

3 THE COURT: All right.

4 JURY SELECTION

5 CLERK: Juror number 10, April Barber. What say you
6 for the state?

7 MS. KEENEY: Please accept this juror.

8 CLERK: What say you for the defendant?

9 MS. ANDERSON: Please excuse this juror.

10 CLERK: You may return to your seat.

11 Juror number 99, Lucy A. Green. What say you for the
12 state?

13 MS. KEENEY: Please present this juror.

14 CLERK: What say you for the defendant?

15 MS. ANDERSON: Please seat this juror.

16 CLERK: Ma'am, if you'll go ahead and have a seat in
17 the jury box.

18 Juror number 4, Jervey L. Chaplin. What say you for
19 the state?

20 MS. KEENEY: Judge, may we approach?

21 THE COURT: All right.

22 (OFF-THE-RECORD BENCH CONFERENCE.)

23 THE COURT: All right, Mr. Chaplin, I'm going to
24 excuse you from this particular case. Thank you.

25 JUROR: Stay here or leave or?

1 THE COURT: No, stay here.

2 JUROR: Okay.

3 THE COURT: Thank you.

4 CLERK: Juror number 75, Samuel Ellis. What say you
5 for the state?

6 MS. KEENEY: Please present this juror.

7 CLERK: What say you for the defendant?

8 MS. ANDERSON: Please seat this juror.

9 CLERK: Please have a seat in the jury box, sir.

10 Juror number 219, Macie Stone. What say you for the
11 state?

12 MS. KEENEY: Please present this juror.

13 CLERK: What say you for the defendant?

14 MS. ANDERSON: Please excuse this juror.

15 CLERK: Ma'am, you may return to your seat.

16 Juror number 224, Winifred Teal. What say you for the
17 state?

18 MS. KEENEY: Please present this juror.

19 CLERK: What say you for the defendant?

20 MS. ANDERSON: Please excuse this juror.

21 CLERK: Ma'am, you may return to your seat.

22 Juror number 59, Robin S. Crosby. What say you for
23 the state?

24 MS. KEENEY: Please present this juror.

25 CLERK: What say you for the defendant?

1 MS. ANDERSON: Please seat this juror.

2 CLERK: Please have a seat in the jury box.

3 Juror 200, Tracy M. Shock. What say you for the
4 state?

5 MS. KEENEY: Please present this juror.

6 CLERK: What say you for the defendant?

7 MS. ANDERSON: Please seat this juror.

8 CLERK: Please have a seat in the jury box.

9 Juror 120, Loretta K. Hodges. What say you for the
10 state?

11 MS. KEENEY: Please present this juror.

12 CLERK: What say you for the defendant?

13 MS. ANDERSON: Please excuse this juror.

14 CLERK: You may return to your seat, ma'am.

15 Juror number 54, Dalton R. Craven. What say you for
16 the state?

17 MS. KEENEY: Please present this juror.

18 CLERK: What say you for the defendant?

19 MS. ANDERSON: Please seat this juror.

20 CLERK: Please have a seat in the jury box.

21 Juror number 5, Debra G. Avant. What say you for the
22 state?

23 MS. KEENEY: Please present this juror.

24 CLERK: What say you for the defendant?

25 MS. ANDERSON: Please excuse this juror.

1 CLERK: You may return to your seat.

2 Juror number 136, Jerrod Johnson. What say you for
3 the state?

4 MS. KEENEY: Please present this juror.

5 CLERK: What say you for the defendant?

6 MS. ANDERSON: Please seat this juror.

7 CLERK: Please have a seat in the jury box.

8 Juror 145, Matthew Laudick. What say you for the
9 state?

10 MS. KEENEY: Please present this juror.

11 CLERK: And what say you for the defendant?

12 MS. ANDERSON: Please seat this juror.

13 CLERK: Please have a seat in the jury box.

14 Juror 145 -- 41, Kendra Kinsey. What say you for the
15 state?

16 MS. KEENEY: Please present this juror.

17 CLERK: What say you for the defendant?

18 MS. ANDERSON: Please seat this juror.

19 CLERK: Please have a seat in the jury box.

20 Juror number 53, Jesse Crapse. What say you for the
21 state?

22 MS. KEENEY: Please present this juror.

23 CLERK: What say you for the defendant?

24 MS. ANDERSON: Please excuse this juror.

25 CLERK: You may return to your seat.

1 Juror number 31, Jonathan Brown. What say you for the
2 state?

3 MS. KEENEY: Please present this juror.

4 CLERK: What say you for the defendant?

5 MS. ANDERSON: Please seat this juror.

6 CLERK: Please have a seat in the jury box.

7 Juror 130, Tony Infinger. What say you for the state?

8 MS. KEENEY: Please this is juror.

9 CLERK: What say you for the defendant?

10 MS. ANDERSON: Please seat this juror.

11 CLERK: Please have a seat in the jury box, sir.

12 Juror 246, Marcia Wilson-White. What say you for the
13 state?

14 MS. KEENEY: Please present this juror.

15 CLERK: What say you for the defendant?

16 MS. ANDERSON: Can you recall her number again? I'm
17 sorry.

18 CLERK: Number 246.

19 MS. ANDERSON: Please excuse this juror.

20 CLERK: Please return to your seat.

21 Juror number 18, Faith Bongiorno. What say you for
22 the state?

23 MS. KEENEY: Please present this juror.

24 CLERK: What say you for the defendant?

25 MS. ANDERSON: Please excuse this juror.

1 CLERK: You may return to your seat.

2 Juror number 96, Paula Gough, and what say you for the
3 state?

4 MS. KEENEY: Please present this juror.

5 CLERK: And what say you for the defendant?

6 MS. ANDERSON: Please excuse this juror.

7 CLERK: You may return to your seat.

8 Juror 217, Madison Stephens. What say you for the
9 state?

10 MS. KEENEY: Please present this juror.

11 CLERK: What say you for the defendant?

12 MS. ANDERSON: Please excuse this juror.

13 CLERK: You may return to your seat.

14 Juror 144, Nathan Lane. What say you for the state?

15 MS. KEENEY: Please excuse this juror.

16 CLERK: You may return to your seat.

17 Juror 191, Daniel Sabien. What say you for the state?

18 MS. KEENEY: Please present this juror.

19 CLERK: Does the defendant have any strike for cause?

20 MS. ANDERSON: No. Please seat this juror.

21 CLERK: Okay. Please go to the jury box.

22 Juror 216, Kristin Stephens. What say you for the
23 state?

24 MS. KEENEY: Please present this juror.

25 CLERK: Does the state [sic] have any strike for

1 cause?

2 MS. ANDERSON: No.

3 CLERK: Ma'am, have a seat in the jury box.

4 Judge, that is your twelve.

5 THE COURT: All right. We'll go ahead and let's
6 select an alternate. State gets one strike, defense gets
7 two.

8 CLERK: Yes, sir.

9 Juror 213, Chelsea Spooner. What say you for the
10 state?

11 MS. KEENEY: Please present this juror.

12 CLERK: What say you for the defense?

13 MS. ANDERSON: Please seat this alternate.

14 CLERK: Ma'am, you can have a seat in the jury box.
15 That is our alternate.

16 THE COURT: All right. Let's -- y'all think one
17 alternate is enough, or do we want another alternate?

18 MS. KEENEY: I like to do two just to be safe.

19 THE COURT: All right. We'll do another alternate
20 since we have enough jurors. State gets one strike.
21 Defense gets two.

22 CLERK: Yes, sir.

23 Juror 156, Tandy Metzendorf. What say you for the
24 state?

25 MS. KEENEY: Please present this juror.

1 CLERK: What say you for the defendant?

2 MS. ANDERSON: Please excuse this juror.

3 CLERK: Ma'am, you may return to your seat.

4 Juror 22, Jamie S. Breland. What say you for the
5 state?

6 MS. KEENEY: Please present this juror.

7 CLERK: What say you for the defendant?

8 MS. ANDERSON: Please strike this juror.

9 CLERK: You may return to your seat, ma'am.

10 Juror number 55, Russell E. Craven. What say you for
11 the state?

12 MS. KEENEY: Please present this juror.

13 CLERK: Does defense have any strike for cause?

14 MS. ANDERSON: No. Please seat this juror.

15 CLERK: Okay. Please have a seat in the jury box,
16 sir.

17 Those are your two alternates, Judge.

18 THE COURT: All right. Thank you.

19 All right, ladies and gentlemen, you will be the jury
20 that will preside over this first case. I'm going to
21 excuse you back to the jury room for just a few minutes
22 while I release the remainder of the jury panel, and I'll
23 bring you back out in just a minute with some opening
24 instructions. Okay. So, I'll excuse you to the jury room
25 for just a few minutes. Thank you very much.

1 (THE JURY EXITS AT 12:06 PM.)

2 THE COURT: Any challenges to the selection or
3 composition of the jury by the state?

4 MS. KEENEY: None from the state.

5 THE COURT: Any from the defense?

6 MS. ANDERSON: None from, from defense.

7 THE COURT: All right, ladies and gentlemen, those of
8 you who remain in the jury panel, we have our jury for this
9 first case. So, I'm going to go ahead and excuse you for
10 the remainder of the day. You should have been given a
11 phone ---

12 Is that what y'all do, just a call back?

13 All right, you should have been given a phone number
14 to the clerk of court's office, and you'll need to call
15 that number after 6 PM today, and that will give you some
16 direction as to when you need to return or if you need to
17 return or what the situation is.

18 Again, I look forward to working with you this week.
19 As I said, the reason -- even if you do not get selected on
20 a jury, please do not feel that you have not fulfilled your
21 duties as jurors. You have. Just being here today and
22 assisting with the process is a great assistance to the
23 court.

24 I hope you have a good day; I hope you have a good
25 week. I'm going to excuse you now, and please call after 6

1 PM today. Thank you very much.

2 (THE JURY PANEL EXITS.)

3 THE COURT: All right, I'm going to bring the jury
4 back in and let them go to lunch. Do we want to address
5 our pretrial motions now or wait until after lunch, or what
6 time do you want me to tell the jury to be back? I mean,
7 it's -- I've got 12:10 now, and I'll do whatever y'all want
8 me to do. It doesn't matter to me.

9 MS. KEENEY: I'm good if we want to go ahead and do
10 our pretrial motions and then have the jury come back maybe
11 at 2 or 1:30.

12 THE COURT: Well, we'll check -- it will probably be 2
13 because I don't foresee us -- it will probably be 2:30.
14 Well, y'all know how long the motions are going to take. I
15 don't know, but I ---

16 MS. KEENEY: I don't ---

17 THE COURT: We've got to have the staff and everybody
18 that gets a lunch break. So, I'll just bring them in, and
19 I'm not going to hold you to it. Any idea as to how long
20 motions ---

21 MS. ANDERSON: I did not believe I will be long.

22 THE COURT: Okay.

23 MS. ANDERSON: I talk pretty fast. I don't think any
24 longer than thirty minutes.

25 THE COURT: Okay.

1 MS. ANDERSON: Probably forty-five minutes at best.

2 THE COURT: Okay. All right. So, you're looking at,
3 say at the most, 1 o'clock. So, I'll have them come back
4 at 2:30, and we'll do it that way, okay?

5 MS. ANDERSON: Okay.

6 THE COURT: Because if we break at 1, that will be an
7 hour and a half and we'll come back.

8 All right, anything from the state before we bring the
9 jury in?

10 MS. KEENEY: Nothing from the state.

11 THE COURT: Anything from the defense?

12 MS. ANDERSON: Nothing from defense.

13 THE COURT: All right, let's bring the jury back in,
14 please.

15 (THE JURY ENTERS AT 12:11 PM.)

16 THE COURT: Ladies and gentlemen, welcome back. We,
17 we've got some pretrial scheduling we have to do, and given
18 the time of day, I'm going to go ahead and release you and
19 let you go to lunch. I'm going to ask that you please be
20 back at 2:15, and we'll try to get started as soon after
21 2:15 as we can. That will give you two hours to eat lunch,
22 do whatever you need to do, and get back in time.

23 When you get back at 2:15, if I could get you to do me
24 a favor, and that would be to select the foreperson for
25 this jury. If you're not able to select the foreperson, do

1 not worry about that; I can appoint someone to serve as
2 foreperson. Many judges appoint their own foreperson. I
3 like to give the jury the opportunity to select one on
4 their own accord if they're able to do so.

5 Now, the foreperson has absolutely no more authority,
6 no more influence, no more importance than the other juror.
7 The purpose of the foreperson is to act as a liaison
8 between the court and the jury. If the jury has a need,
9 the foreperson let's us know; if the jury has a question,
10 the foreperson let's the court know. When it's time to
11 deliberate, the foreperson will preside over the
12 deliberations and sign any verdict form that may be
13 presented to them, but other than that, the foreperson has
14 no more influence, no more authority, no more importance
15 than any other juror.

16 Now, the only restriction is at this point in time,
17 Mr. Craven and Ms. Spooner, you are alternates, so you
18 would not be allowed to serve as foreperson because you're
19 not part of the twelve panel jury at this time.

20 When you come back into the courtroom, the foreperson
21 will always occupy the first seat on the front row closest
22 to the witness. The alternates will always occupy the
23 alternate seats unless you become part of the twelve panel
24 jury. The rest of you are at liberty to sit in whatever
25 seats you'd like. If you want to alternate seats, you can

1 do that; if you want to sit in the same seat throughout the
2 trial of the case, you can do that as well. The only
3 restrictions we have is that the foreperson occupy the
4 first seat on the front row, and the alternate occupy the
5 alternate seats. So, when you come back at 2:15, if you
6 could select a foreperson, write his or her name on a sheet
7 of paper with the juror number, give it to the bailiff, and
8 we'll bring you back into the court at that time.

9 Now I'm going to excuse you to go to lunch. Please do
10 not discuss this case with anyone. It's too early for
11 deliberations. Do not even discuss it among yourselves.
12 Don't conduct any independent investigations. Don't go
13 looking on the internet or through the newspaper or try to
14 find out anything about the case. Everything you need to
15 make a decision in this case will be presented to you
16 during the trial of this case.

17 I hope everybody has a good lunch. I want to thank
18 you for your service, and we'll see you back at 2:15.
19 Thank you very much.

20 (THE JURY EXITS AT 12:16 PM.)

21 THE COURT: All right, Ms. Anderson, what's your first
22 motion?

23 MS. ANDERSON: Your Honor, it would be a motion to
24 sequester witnesses.

25 THE COURT: All right, any objection?

1 MS. KEENEY: Judge, no, other than the two victims in
2 this case, Shannon Deay, victim of the burglary, and Colin
3 Amburg have the right to be in here.

4 THE COURT: Who is the victim of the burglary?

5 MS. KEENEY: Shannon Deay.

6 THE COURT: Okay, she's on the witness list?

7 MS. KEENEY: She's on the witness list.

8 THE COURT: Okay. All right.

9 MS. KEENEY: And Colin Amburg, the victim of the
10 assault and battery first, has the right to be in here for
11 the -- pursuant to the victim's bill of rights, and then we
12 have our chief case officer, Billy Ballard, who will be in
13 here.

14 THE COURT: And what's his name?

15 MS. KEENEY: Billy Ballard.

16 THE COURT: Ballard.

17 MS. KEENEY: Investigator Ballard.

18 THE COURT: All right, and, of course, the defendant
19 can be present in the courtroom as well, but I'll grant
20 that motion but under law, let me hear from you.

21 MS. ANDERSON: I would just ask. I know you have to
22 take into consideration the victim's bill of rights. I
23 would just ask that they do -- they have a right to
24 participate. However, I would ask once Colin Amburg or
25 Shannon Deay, whoever is called first, is testifying, that

1 they be excused for that period of testimony so that is not
2 influenced in any manner.

3 THE COURT: Well, if you can give me some authority
4 because all I know is that the victim, the chief
5 investigating officer, and defendant can be present. I
6 don't know. I understand your argument. I tend to agree
7 with your argument, but I don't think that's the authority
8 of the state, that I'm allowed to do that. Do you have
9 anything?

10 MS. ANDERSON: No, Your Honor.

11 THE COURT: Okay. All right. So -- and I apologize.
12 Is it Colin or Collin?

13 MS. KEENEY: I think Colin.

14 THE COURT: Colin.

15 (A PAUSE.)

16 THE COURT: All right, I'll grant your motion to
17 sequester witnesses. Lead Investigator Billy Ballard,
18 victims Shannon Deay, Colin Amburg can be in the courtroom,
19 as well as the defendant.

20 Now, it's going to be up to y'all to make sure that
21 your witnesses are not in the courtroom because if anybody
22 -- I don't know these witnesses. I can't recognize them,
23 so you need to check. If any of your witnesses are in the
24 courtroom improperly, then they're going to be excluded,
25 okay?

1 All right, Ms. Anderson, what's your next motion?

2 MS. ANDERSON: The next motion is to exclude the use
3 of the word victim during trial. Based on the South
4 Carolina Victim's Bill of Rights, there is no right
5 established to refer to the victim -- to refer to someone
6 as victim during trial, nor has there been such
7 understanding under a South Carolina statutory scheme.

8 If you look to our constitution, Article 1, Section
9 24(b) (2) and South Carolina Code Annotated 16-3-1010(8)
10 victim means a person who suffers direct or a physical,
11 emotion -- or financial harm as result of an act by someone
12 who -- which is a crime.

13 At this time, we -- this is just an allegation at
14 best, and the use of the word victim is -- shows bias
15 towards the jury. We ask that when referring to Mr. Amburg
16 or Ms. Deay that the state uses accused or complainant.

17 THE COURT: All right, the state's position?

18 MS. KEENEY: I hear this motion every now and then,
19 and I always say I'll do the best I can to say their names.
20 However, if I unintentionally, you know, throw out the word
21 victim, I don't think it's a ground for a mistrial. Your
22 Honor will charge the jury that he's presumed innocent
23 multiple times throughout the course of the trial. So, I
24 will do my best not to call them victims and address them
25 by their names.

1 THE COURT: All right. Well, I will grant the motion.
2 Try to use their names or refer to them as alleged rather
3 than calling them a victim. Certainly if you refer to them
4 as a victim, we'll deal with that issue if it arises. I'll
5 need to check the context and how it's used, okay?

6 MS. KEENEY: Okay.

7 THE COURT: All right, but I'll grant the motion.
8 They can say alleged victim, or they can say Ms. Deay or
9 Mr. Amburg, however they want to refer to them, all right.

10 MS. ANDERSON: And the next motion would be to
11 suppress the jail calls. We find that it violates the
12 confrontation clause, and there cannot be any provided
13 context to the other person and what this call means.

14 We do understand that my client does not have to
15 testify, and at this time we believe that he won't, and we
16 can -- and as I've looked at the witness list prepared by
17 the state, the person on the other line of the calls are
18 not, outside of Ms. Deay, are not included in a witness
19 list or intend to be called so that we can cross-examine
20 them, and I -- in what context where they're referring to
21 any call that has been made between him and the defendant.

22 THE COURT: All right, what's the state's position?

23 MS. KEENEY: Judge, they're non-testimonial in nature
24 pursuant to the confrontation clause. Therefore, that would
25 not apply. The only issue is whether -- the hearsay and

1 the statements made by the defendant. So, that is
2 none-hearsay under the rules. And they are records kept in
3 the ordinary course of business by the jail.

4 But the -- one of the witnesses that -- one of the
5 jail calls is Shannon Deay, and she will be testifying.
6 So, if you were even to find that they were testimonial as
7 required under *Crawford*, she would be here to testify, but
8 they're non-testimonial. They're not for -- they were not
9 made for purposes of building a case for anything such as
10 that.

11 THE COURT: All right. Well, I mean, this can't be a
12 novel issue. Is there an appellate decision on this?

13 MS. KEENEY: No. The only case law on jail calls is
14 whether or not it complies with federal wiretapping law. I
15 looked, and which it does here because the parties are told
16 that it's recorded.

17 THE COURT: All right, anything in reply?

18 MS. ANDERSON: Your Honor, what we look to is *State v.*
19 *Primid* [phonetic], whereas it refers to -- we use it as
20 contextual in nature. This is referring to having a
21 defendant shackle. When you present a jail call, it does
22 present to the jury that this person was detained for
23 whatever amount of time. It's that impartial bias towards
24 the defendant.

25 THE COURT: Oh, I -- so, are you asking that they --

1 are you seeking to suppress the actual phone call ---

2 MS. ANDERSON: Yes.

3 THE COURT: --- or for them referring to it as a jail
4 call?

5 MS. ANDERSON: I think that they will know it's a jail
6 call based on the start of the conversation unless they are
7 seeking to redact the start where it states where the call
8 is being -- where the call comes from. They will know as
9 soon as it's played that it is a jail call. So, I would
10 ask that the entire call be suppressed.

11 THE COURT: Okay. How many are there, and what did
12 they say in them?

13 MS. KEENEY: There's three jail calls that we're
14 intending to admit, and one of the calls is with Shannon
15 Deay and the defendant who is -- the alleged victim of the
16 burglary. And defendant is talking about how he wants her
17 to go to the solicitor's office and drop the charges, and
18 he tells her -- she said -- he tells her that just tell the
19 solicitor's office that your memory is not good. You're
20 not sure if he came into the house. And she said you were
21 in the house, and he says no, I'm not and stick with that.
22 And then he also tells her that he didn't come in through
23 this one -- through the backdoor. He came in through the
24 way that he normally comes. So, essentially admitting to
25 entering the house. So, that's one call.

1 The other call is with either his dad or his stepdad,
2 some ---

3 THE COURT: So, I guess you're using it as an
4 admission.

5 MS. KEENEY: Yes, sir.

6 THE COURT: Well.

7 MS. KEENEY: And, Judge, with respect to the shackles
8 argument, that case law -- that case is completely
9 different than when you're dealing with a jail call. When
10 you bring a defendant in here in shackles, you are -- that
11 is -- that can be saying that you are telling the jury that
12 this person is dangerous. That's not what we have with the
13 jail.

14 Everybody knows that if you get arrested for a
15 burglary or whatever crime, you're going to go to jail for
16 a certain period of time before you get bonded out. It is
17 not the same as in the courtroom as having a defendant
18 shackled up looking like a dangerous member -- dangerous
19 person in the courtroom.

20 THE COURT: Well, let me ask your this. So, what are
21 other the calls? You've got the call where he says drop
22 the charges, which if I get charged, I'm going to -- and
23 the victim calls me, I'm going to say drop the charges,
24 but ---

25 MS. KEENEY: Right, but he's admitting to going into

1 the house.

2 THE COURT: Going into the house, yes, but he says --
3 how -- what is said? He says what? She says what?

4 MS. KEENEY: He says tell the solicitor's office that
5 you don't really remember anything. Your memory is kind of
6 fuzzy, and I'm paraphrasing, and that you're not sure he
7 was in -- if I was in the house. And she says you were in
8 the house and you came in through the backdoor, and he goes
9 no, I came in through the -- how I always come in.

10 THE COURT: Well, which way did he come in? It's up
11 to you to prove. Are you saying he came in the backdoor,
12 or are you saying he came in the front?

13 MS. KEENEY: I don't have to prove what door he came
14 in. I just have to prove he came in without permission.

15 THE COURT: Well, you got to show an illegal entry.

16 MS. KEENEY: Right, into the house. I know I have to
17 show that he entered the home without permission. You
18 don't have to prove where the point of entry was.

19 THE COURT: Okay. All right. Go ahead.

20 All right, and so what's the other call?

21 MS. KEENEY: The other call -- one of them is with his
22 either dad or stepdad, and I'm not sure I even need to
23 admit it unless the defense gets into a certain line of
24 defense that I think they might get into.

25 So, when we were trying to resolve this case, the

1 defense presented to me that he had permission to be in the
2 home because he lived there, and they showed us a power
3 bill. Well, he had been officially evicted from the
4 residence, put on trespass notice. He just hasn't changed
5 the power bill out of his name. And so the one jail call
6 with his dad talks about his home is his camper, not this
7 house, and so that was proof that he did not live there. I
8 don't need that in if they don't get into that. Does that
9 make sense?

10 THE COURT: I understand, yes.

11 MS. KEENEY: And then the -- and I think he also says
12 -- his dad says I told you to stay away from there. He
13 said I know. I always learn the hard way. And then the
14 other call is with one of this friends, and his friend says
15 -- summarizing what happened -- saying I told them that you
16 kicked the door in, beat the boy's ass, and you should had
17 slapped her, too. And he was, like, yeah, but I didn't
18 kick the door in.

19 THE COURT: But you've got -- so these -- I'm assuming
20 those two people are not going to be present to testify.

21 MS. KEENEY: Correct.

22 THE COURT: All right. All right, I'll take those
23 under advisement. You're saying there's no appellate
24 decision out there.

25 MS. KEENEY: I didn't -- all I found out was the

1 federal wiretapping one.

2 THE COURT: Well, how does it -- you're trying to get
3 in statements of somebody that says I told him you kicked
4 in the door and you should have slapped her, and you've got
5 a father saying I told you not to go down there. How does
6 that not violate the confrontation clause of the
7 constitution? They're not going to be there for him to
8 cross-examine them as to what they meant by that or what
9 the context was in that.

10 MS. KEENEY: I would suggest that we look at *Crawford*
11 *v. The United States* where they define what testimonial is,
12 which they said is prior testimony at a preliminary
13 hearing, the grand jury, or a formal trial, or -- and
14 police interrogation. This has nothing to do with any of
15 that. It's not police interrogation or anything of that
16 sort. This is ---

17 THE COURT: Exactly. So, if you've got somebody out
18 there that says I saw shoot them shoot them, it's in the
19 conversation, you're saying that gets to come in and it
20 doesn't violate the confrontation clause. It's hearsay. I
21 mean, how ---

22 MS. KEENEY: Right. It's not ---

23 THE COURT: --- are they -- how are they going to
24 cross-examine the declarant? The confrontation clause says
25 that every defendant has the right to confront and

1 cross-examine anybody making accusations against them.

2 MS. KEENEY: If it's testimonial.

3 THE COURT: All right. So, when he said I told them
4 you kicked in the door and I under -- he didn't say it in
5 anticipation of testifying, but still it's pretty
6 accusatory.

7 MS. KENNEY: Right, but it's not testimonial under
8 *Crawford* and it's -- and it's -- really what we're offering
9 is his response to it. Really the point of it is no, I
10 didn't kick the door in, which ---

11 THE COURT: You're saying that the United States
12 Constitution confrontation right only applies to
13 testimonial ---

14 MS. KEENEY: Statements.

15 THE COURT: --- statements?

16 MS. KEENEY: Yes.

17 THE COURT: Any other -- regardless of how prejudicial
18 it is, it comes in?

19 MS. KEENEY: Yes. It only applies to testimonial
20 statements under *Crawford*.

21 THE COURT: I need to read *Crawford* because I don't
22 know that that's -- so, *Crawford* says that the United
23 States Constitution does not apply to non-testimonial
24 hearsay testimony?

25 MS. KEENEY: Hearsay is a separate issue but

1 testimonial, yes.

2 THE COURT: All right. Well, let's say hearsay, out
3 of court, offered for the fact of the matter asserted.

4 MS. KEENEY: I would say that it's being offered for,
5 number one, his admission that he didn't kick the door in.
6 Like, yes, I went inside but I didn't kick the door in
7 and ---

8 THE COURT: So, you're using that to challenge his
9 testimony without giving him the opportunity to
10 cross-examine the declarant.

11 MS. KEENEY: The declarant being him?

12 THE COURT: No. The declarant being the person that
13 said I told them you kicked the door in.

14 MS. KEENEY: Correct.

15 THE COURT: All right. Anything else?

16 MS. KEENEY: Not from the state.

17 THE COURT: All right, anything in reply?

18 MS. ANDERSON: Your Honor, looking towards the
19 statute, as we reference entering into a dwelling without
20 consent, what's in that same call that the solicitor is
21 referencing, Ms. Deay also confirms that she does not know
22 why he is charged or how he is charged with burglary. She
23 essentially states that -- when he states that he came
24 through the window, she says, oh, I thought I got that
25 fixed and confirms that she knows habitually that that's

1 how he would enter into their home.

2 THE COURT: Well, I mean, and that might be the case.
3 The question -- I mean, you could use it.

4 The fact of the matter, and my concern, is, number
5 one, does it mislead a jury and, number two, does it affect
6 your client's right to confront people accusing him.

7 MS. ANDERSON: With Ms. Deay it does not, but I just
8 reference back to the statute that this is not a burglary
9 at all when she knows that this is how he gets into their
10 home. They had been dating for years, and while Ms. Keeney
11 references the trespass, we have several incidents that
12 show that they were involved romantically throughout the
13 period of when this incident occurred.

14 And in no point of the call -- and I know that -- to
15 get into the facts of the case and that's up to the jury,
16 but at no point in this call does she seem to be upset that
17 he entered into the home. And she even states that I am
18 going to call and I have called several times because I
19 don't know why you were charged with burglary in the first
20 place.

21 THE COURT: Well, then that would benefit your client.

22 MS. ANDERSON: Absolutely.

23 THE COURT: So, why, why are you trying ---

24 MS. ANDERSON: I don't ---

25 THE COURT: --- to suppress ---

1 MS. ANDERSON: --- want to suppress that one. I mean,
2 if we could just dismiss this whole thing for it not being
3 a burglary, that ---

4 THE COURT: Yeah. So, how many ---

5 MS. ANDERSON: --- would be more so the basis.

6 THE COURT: So, what conversation is that in? How
7 many ---

8 MS. KEENEY: It's in ---

9 MS. ANDERSON: It's three calls.

10 MS. KEENEY: It's in the same one that I mentioned.

11 THE COURT: Okay. So, you're going to play the whole
12 conversation?

13 MS. KEENEY: Right. The part where she -- well,
14 there's parts that I've redacted I've sent to Ms. Anderson
15 because he talks about how he can't get a bond, and I
16 didn't think that that was relevant to anything and
17 probably prejudicial. But I sent her the redactions, and I
18 did not redact that part that she's talking about, about
19 where she says I don't know why it's burglary. And to be
20 clear, she's going to testify that she didn't think it was
21 burglary because she thought you had steal something for it
22 to be a burglary.

23 THE COURT: Okay. Well, I'm inclined to deny your
24 motion as to Ms. Deay's conversations since she's here, and
25 she's going to testify, and she's part of that

1 conversation, and it's between her and the defendant. So,
2 I think that does come in if they lay the proper groundwork
3 and get it admissible. As to the others, I'm going to have
4 to take those under advisement because I can't believe
5 there's not an appellate decision other than *Crawford*.

6 And what was in *Crawford*? What was that situation?
7 That dealt with jailhouse phone calls?

8 MS. KEENEY: It did not. That was -- their attorney
9 used a live statement which allegedly controverted the
10 defendant's assertion of self-defense, and she was
11 unavailable at trial due to marital privilege. It didn't
12 have anything to do with ---

13 THE COURT: Oh. So, that's an unavailable witness
14 exception.

15 MS. KEENEY: Right. So -- yeah.

16 THE COURT: Yeah. Okay. Well, that's different.

17 MS. KEENEY: But the base rule -- the main case when
18 you're talking about confrontation is *Crawford*, and they
19 lay out the definition of what is testimonial, which is
20 required ---

21 THE COURT: But by the same token ---

22 MS. KEENEY: --- for confrontation.

23 THE COURT: --- *Crawford* is an unavailable witness
24 because she's exercising her privilege not to testify.

25 MS. KEENEY: Right. You have to have both. It has to

1 be unavailable and it has to be testimonial before the
2 confrontation clause applies.

3 THE COURT: Okay. This -- you don't have an
4 unavailable witness.

5 MS. KEENEY: No.

6 THE COURT: So, how do you get that in?

7 MS. KEENEY: Because it's not testimonial. You have
8 -- you have to have both.

9 THE COURT: Exactly.

10 MS. KEENEY: Correct.

11 THE COURT: And you only have one.

12 MS. KEENEY: Let me look; let me look at it.

13 THE COURT: Yeah. I mean, you can get the other
14 members of the conversation to appear. They're not
15 unavailable. I mean, they're not -- unless they are
16 asserting some type of privilege, which they're not married
17 to him. They're not codefendants who are saying I'm
18 exercising my right not to testify. And even then the
19 Supreme Court has rarely limited anything that comes out of
20 a codefendant.

21 MS. KEENEY: Let me look at it one more time.

22 THE COURT: Okay.

23 MS. KEENEY: And we can come back to it.

24 THE COURT: That will be good.

25 MS. KEENEY: I'm not going to reference Mr. Randy in

1 opening statement or anything like that.

2 THE COURT: Okay. All right. So, I'm denying your
3 motion as to Ms. Deay's conversation, assuming they --
4 well, put it this way. I'm going to deny your motion *in*
5 *limine*, while I will re-address this one as to the two,
6 father and the friend, because they're clearly not
7 unavailable witnesses. They can be called in to testify by
8 the state if the state wants their testimony in there
9 because I'm not sure -- aware of -- I mean, I'm assuming
10 they're still living. They don't have a marital privilege.
11 They don't have attorney-client privilege. They're not a
12 codefendant with -- who's exercising the right to remain
13 silent. So, I don't know that they're unavailable. So,
14 we'll re-address that.

15 All right, what else you got?

16 MS. ANDERSON: Your Honor, the next one would be to
17 suppress alleged prior bad acts. As the -- we understand
18 that the state was going to introduce it for motive,
19 intent, or purpose. However, we've received thirty-seven
20 incidents, eighteen which are prior to the allegation, and
21 we -- and we see that most of that time it is with Ms. Deay
22 calling the police stating that she may have heard a noise
23 or heard a car. They do not result in an arrest for my
24 client, and often -- and most -- and most times law
25 enforcement does not even see him in the vicinity. And it

1 is our understanding that, you know, if he were in the
2 vicinity, it would be within the three or four-minute
3 range. There would be no reason for law enforcement, who
4 is responding within one to two minutes because of her
5 constant calls, to not see him if he were actually there.
6 And that's their accusations and with no arrests made or
7 convictions, they are not proper to be entered.

8 THE COURT: All right.

9 MS. KEENEY: Judge, the only incidents that I'm trying
10 to get into are -- so, my incident occurred on October 22
11 of 2019 around 1:13 in the morning, somewhere around there.
12 The only calls that I'm trying to get into are the ones
13 from that same night but technically on the 21st that
14 started about 10 -- about 10:30 PM where Ms. Deay called
15 law enforcement four or five times reporting that Robert
16 Carter is outside her house banging, making all sorts of
17 noise, breaking lights, shooting what sounds to be like a
18 pellet gun. Those are the ones that I'm trying to get into
19 pursuant to the *res gestae* rule and 404(b), common scheme
20 or plan, and basically rebut the defense that he had
21 permission to come in through a window because if he had
22 permission to come in through a window, why would she be
23 calling law enforcement four or five times that night
24 reporting that he's outside of her house in violation of
25 the no trespass?

1 THE COURT: All right, anything in reply?

2 MS. ANDERSON: Your Honor, in reference to Ms. Keeney
3 stating that he has trespassed, the trespass, as I see it,
4 typically on a month-- it is September 29, 2019, where the
5 landlord states he's been trespassed from the location. On
6 October 6th, she calls law enforcement one more time
7 stating that her ---

8 THE COURT: She's not using October 6th.

9 MS. ANDERSON: Yes, but it is referenced to the
10 trespass where he is referring to him as her boyfriend.

11 THE COURT: But it don't matter. She's just -- she's
12 -- you don't have to worry about those conversations
13 because she's not trying to get them in.

14 As I understand, you're talking about three calls on
15 -- starting at 10:30 PM on October 21st and then an
16 incident on October 22nd at 1:13 AM.

17 MS. KEENEY: Yes, and I am trying to get into the fact
18 that he was placed on trespass notice in September 2019.

19 THE COURT: But you're not using phone calls for that.

20 MS. KEENEY: No phone calls, no, sir. Actually, I'm
21 not using phone calls for anything. I'm using just the
22 call for services because the service, the 9 -- 911 call
23 server that these calls were on got damaged. We don't have
24 them anymore. We just have the call for service reports.

25 THE COURT: I see.

1 MS. KEENEY: But I am trying to put in the fact that
2 he was put on trespass notice and, and advised that if he
3 came back to the property, he would be trespassing in
4 September 2019 because I have to prove that he intended to
5 commit some crime, and whether that be the assault or the
6 trespass, I think both of those would apply in this case.
7 So, I think that that trespass notice is relevant.

8 THE COURT: I see.

9 All right, go ahead.

10 MS. ANDERSON: Your Honor, I would just again restate
11 that the relationship is continuing throughout that period,
12 and he is not ticketed for trespass.

13 THE COURT: Okay. All right. Well, I'm going to deny
14 your motion. Since it's made *in limine*, I can't rule as a
15 matter of law that it's inadmissible. They'll have to lay
16 the foundation, and I'll address it. If you -- it's
17 objectionable at that point in time, raise your objection
18 and I'll deal with it, but I can't say at this point in
19 time. I don't know what the testimony is going to say. I
20 don't know the context and when it's used. So, I can't say
21 as a matter of law it doesn't come in.

22 I can -- I agree. Generally, prior bad acts cannot be
23 used to prove guilt in this situation unless it fits under
24 one of *Lyles* exemptions or unless it's the *res gestae* for
25 this crime. So, we'll deal with that at that time. All

1 right.

2 MS. ANDERSON: Your Honor, the last one, and this may
3 be premature, but we understand that the state is seeking
4 to call the landlord, Mr. John Powell. It does look like
5 he is the person who instituted the trespass and that
6 occurred, if I am not mistaken, 2016, June of 2016. We ask
7 that his testimony not involve him trespassing her because,
8 as you can see, there's a continuation of the relationship.
9 While the landlord may have trespassed Mr. Carter, the
10 tenant had rights to provide him entry into the home, and
11 there would be no basis to mention a trespass in his
12 testimony.

13 THE COURT: Okay.

14 MS. KEENEY: He is -- I'm not planning on -- he is on
15 my witness list. I'm not planning on calling him. Once
16 again, I am going to try to get into the fact that he was
17 put on trespass notice by law enforcement in September
18 2019.

19 THE COURT: Okay. All right. Well, she says she's
20 not going to use it, but I'm going to deny the motion *in*
21 *limine*. When it comes up, if it comes up, I'll address the
22 issue then, okay?

23 MS. ANDERSON: Thank you.

24 THE COURT: All right, anything else?

25 MS. ANDERSON: No, Your Honor.

1 THE COURT: All right.

2 MS. KEENEY: Judge, I have one thing.

3 THE COURT: All right. What have you got?

4 MS. KEENEY: The only issue I want to just take up is
5 the defendant. He's out on bond, and he did appear today
6 obviously. Honestly, I've never asked this before in the
7 eleven years I've been prosecuting, but I am asking that he
8 remain in custody throughout the remainder of this trial
9 due to the ongoing incidents between him and the people in
10 this residence.

11 Even while out on bond for this charge, he got charged
12 with harassing the victim in Dorchester County after she
13 left a court appearance involving them, and he has since
14 pled guilty to that. He lives within, I would say, a mile
15 of their residence. I just don't want there to be any
16 issue between him and the vic -- alleged victims in this
17 case, and so I'm asking that he remain in custody for the
18 remainder of the trial, which should conclude tomorrow.

19 THE COURT: All right.

20 MS. ANDERSON: Your Honor, I ask that you deny that
21 motion. The incident in which she was talking -- she is
22 talking about is November 30th of 2020 where he is arrested
23 for stalking. His plea occurred a few months ago, November
24 9th of 2022. There have since been no incidents reporting
25 -- and I find that it would be improper to have him in

1 custody with that, that length of time.

2 THE COURT: All right. So, that was in 2020, November
3 2020?

4 MS. ANDERSON: Yes, sir.

5 THE COURT: And he's been out since when?

6 MS. ANDERSON: It looks like he got a PR bond for the
7 2020 incident, but he pled guilty November 9th of 2022.

8 MS. KEENEY: He got out on this charge in November of
9 2019.

10 THE COURT: Okay.

11 MS. KEENEY: So, he gets out in November ---

12 THE COURT: How long has he been out since the
13 harassment?

14 MS. KEENEY: Since '20, November 2020.

15 THE COURT: Okay. Has there been anything since
16 November of 2020?

17 MS. KEENEY: I believe just, like, driving by her
18 residence and, like, revving engines. Like, that sort of
19 thing.

20 MS. ANDERSON: If I may?

21 THE COURT: All right.

22 MS. ANDERSON: Your Honor, in reference to a truck
23 going by, the only case file that we see or incident report
24 that has been submitted to us was last seen in 2019 where
25 she states that she's familiar with the vehicle. She does

1 not see my client driving. He is not the only person that
2 owns a pickup truck.

3 THE COURT: I understand that. Yeah, but given the --
4 I'm going to have him held during the trial.

5 You're just talking about today and tomorrow. If it's
6 not guilty, then he's served forty-eight hours and that's
7 basically it. But given the prior with the harassment, I'd
8 rather hold him today and tomorrow when we don't need to
9 now than let him out and another harassment or something
10 like that.

11 If it wasn't for the harassment and him pleading
12 guilty to harassment, I'd tend to agree with you because
13 you'd have from 2019 until today. But with the harassment
14 charge and him pleading guilty, with it being a two-day
15 trial, I'd rather just have him held for the two days.

16 All right, anything else?

17 MS. KEENEY: Nothing from the state.

18 THE COURT: All right, just check on the -- I'm going
19 to let you re-address the issue, but I -- I'm inclined to
20 grant the motion if you -- unless the father and the friend
21 are unavailable for whatever reason, and then we'll address
22 that, okay?

23 All right, I've got the jury coming back in at 2:15.
24 They're going to select the foreperson. I'll take the
25 bench at 2:30. Okay.

1 (OFF THE RECORD.)

2 (CALL FOR SERVICE REPORT MARKED AS STATE'S EXHIBIT
3 NUMBER 1 FOR IDENTIFICATION.)

4 (CALL FOR SERVICE REPORT MARKED AS STATE'S EXHIBIT
5 NUMBER 2 FOR IDENTIFICATION.)

6 (CALL FOR SERVICE REPORT MARKED AS STATE'S EXHIBIT
7 NUMBER 3 FOR IDENTIFICATION.)

8 (CALL FOR SERVICE REPORT MARKED AS STATE'S EXHIBIT
9 NUMBER 4 FOR IDENTIFICATION.)

10 (DISC WITH BODY-WORN CAMERA FOOTAGE MARKED AS STATE'S
11 EXHIBIT NUMBER 5 FOR IDENTIFICATION.)

12 (MAP MARKED AS STATE'S EXHIBIT NUMBER 6 FOR
13 IDENTIFICATION.)

14 MS. KEENEY: Judge, I apologize for the delay. It
15 doesn't matter how many times you test it out. Courtroom
16 technology will work one minute and not the next.

17 THE COURT: I understand that. Not a problem at all.

18 MS. KEENEY: And I have Ms. Contestabile, the other
19 lawyer with me. She's downstairs with Deputy Ballard.
20 We're having to fix one of the discs of body cams. It was
21 working on Friday when I tested it out, and I guess it got
22 scratched up in the meantime. So, they're fixing that
23 downstairs, but that won't be for our first witness anyway.

24 THE COURT: Okay.

25 MS. KEENEY: So, I just wanted to let you know where

1 she was.

2 THE COURT: That will be fine; that will be fine.

3 All right, now, going back before we recessed for
4 lunch -- well, first before we go any further, the jury has
5 selected juror number 31, Jonathan Brown, as the
6 foreperson. So, I'll have this marked as Court's Exhibit
7 1.

8 (JURY NOTE RECEIVED INTO EVIDENCE AS COURT'S EXHIBIT
9 NUMBER 1.)

10 THE COURT: And when we broke, I was going to hear --
11 I didn't know if you had any further arguments on the
12 defendant's motion to suppress the jail calls.

13 MS. KEENEY: Judge, I just decided to go forward
14 without one jail call where Shannon Deay will be present in
15 the courtroom.

16 THE COURT: Okay.

17 MS. KEENEY: I don't need the other two.

18 THE COURT: All right. Well, I'll then grant that
19 motion as to those other two calls by consent.

20 MS. KEENEY: And, Judge, I had just one question so
21 that I was clear about your 404(b) *res gestae* ruling. My
22 first witness is from the sheriff's office. She's the
23 records custodian of all the calls for service. So, I was
24 planning on asking her about the calls couple hours before
25 the burglary occurred. So, I just wanted to make sure that

1 that was proper pursuant to your ruling. I believe you did
2 rule in my favor, but I just wanted to clarify.

3 THE COURT: Well, I did not rule that they were
4 admissible. What I ruled was I denied her motion *in limine*
5 to suppress it because I couldn't rule as a matter of law
6 that they were not admissible. Now, as long as you lay
7 your foundation -- and I understand you're going to have to
8 lay your foundation and all of that -- then I do think that
9 that comes in, yeah.

10 MS. KEENEY: Okay.

11 THE COURT: All right. All right, anything further
12 from the state before we bring the jury in?

13 MS. KEENEY: Nothing from the state.

14 THE COURT: All right, anything from the defense ---

15 MS. ANDERSON: Nothing from the defense.

16 THE COURT: --- before we bring the jury? All right,
17 anything from the defense before we bring the jury in?

18 MS. ANDERSON: No, Your Honor.

19 THE COURT: All right. Now, I do need to let you know
20 I allow direct examination, cross-examination, then
21 redirect only as to matters addressed on cross that were
22 not addressed on direct. You don't get to go through your
23 whole direct again, but if on cross-examination something
24 is brought up that was not addressed on direct, I will
25 allow you redirect. I don't allow recross, okay? All

1 right.

2 And who it going to swear in the jury? You'll do
3 that? All right.

4 All right, let's go ahead and bring the jury in. I'm
5 just going to bring them in and swear them. I'll do the
6 preliminary charge, opening statements, and we'll get
7 started.

8 (THE JURY ENTERS AT 2:53 PM.)

9 BAILIFF: Jury is present

10 THE COURT: All right, ladies and gentlemen, welcome
11 back. Number one, I want to thank you for being prompt and
12 returning on time. Number two, I want to apologize for the
13 delay in keeping you in the jury room. Sometimes that
14 unavoidable when we address scheduling matters and things
15 of that nature.

16 I understand, Mr. Brown, you have been selected as
17 foreperson. Is that correct?

18 FOREPERSON: Yes, sir.

19 THE COURT: All right. Thank you for serving in that
20 capacity. If you'd always occupy the seat where you now
21 sit.

22 And if our alternates always occupy your seat unless
23 you become a part of the twelve-panel jury.

24 As I told the rest of you, you're at liberty to change
25 seats, alternate seats, or keep the same seat, whichever

1 makes you feel more comfortable.

2 Now before we get started, as I told you during
3 qualifications and *voir dire*, jurors are constantly taking
4 oaths. So, I need all members of the jury to please stand
5 and raise your right hand while the clerk of court
6 administers the oath for you to serve as jurors on this
7 specific case.

8 (WHEREUPON, THE JURY IS SWORN.)

9 THE COURT: Thank you very much, ladies and gentlemen.
10 Now, is there any member of the jury that did not respond
11 to the oath by saying I do? If so, please stand.

12 (NO ONE STANDS.)

13 THE COURT: Thank you.

14 All right, ladies and gentlemen, as I told you during
15 *voir dire*, we're getting ready to start the trial of the
16 case of the *State of South Carolina v. Robert Anthony*
17 *Carter*. Mr. Carter is charged with in burglary first
18 degree and assault and battery in the first degree. Now
19 before we get started on that trial, I need to go over some
20 matters with you, some preliminary charges.

21 I know from watching movies, reading books, watching
22 TV shows, trials are often full of action, a lot of
23 suspense. While that might be the case in this trial, it
24 probably won't be. Trials are often repetitive processes,
25 the exact opposite of what you might be accustomed to you

1 when you watch a trial on TV or when you watch a movie or
2 read a book about trials. But I hope you do find this
3 trial interesting. I hope you do find it educational, and
4 I want to thank you from the outset for serving as jurors
5 in this particular case.

6 The attorneys appearing before you are advocates for
7 the parties they represent, but first and foremost, they
8 are officers of the court. They are sworn to uphold the
9 integrity and the fairness of our judicial, judicial system
10 and to help you in a search for the truth in this case.
11 You can expect them to be professional, competent, and
12 ethical in the revisitation of their client's interests.

13 Now, what I will now say to you is intended to serve
14 as an introduction to the trial of this case. These
15 remarks are not a charge on the law in this case. I'll
16 instruct you on the law applicable in this case at the end
17 of the trial before you retire to consider your verdict.
18 This is merely an explanation of the procedure that we will
19 follow in the trial of this case so that you can better
20 understand what is happening.

21 Now, the defendant is charged by two indictments.
22 Here are the indictments. He's charged with burglary in
23 the first degree and with assault and battery in the first
24 degree, and I'll explain the elements of those crimes to
25 you at a later time. These indictments are simply the

1 charges by which this case is brought into this court, and
2 they are not in any sense evidence of any of the
3 allegations contained in them. The defendant has pled not
4 guilty to these indictments. The state, therefore, has the
5 burden of proving each of the elements of each indictment
6 beyond a reasonable doubt.

7 It will be your duty, ladies and gentlemen, to decide
8 whether not the state has met that burden of proof. Your
9 purpose as jurors is to find and determine the facts of
10 this case. You are the sole judge of the facts of this
11 case. If at any time I make any comment regarding the
12 facts of this case, you disregard my comments. You are to
13 determine the facts from the testimony you hear and the
14 other evidence introduced during the trial of this case.
15 It is up to you to determine the inferences which you feel
16 may be properly drawn from that evidence.

17 It is especially important that you perform your duty
18 of determining the facts diligently and conscientiously
19 because ordinarily there is no way to correct an erroneous
20 determination of the facts by a jury.

21 On the other hand and with equal emphasis, the law
22 that makes you the judge of the facts in this case makes me
23 the judge of the law. The law as given to you by the court
24 is the only law that you may consider. You must accept and
25 follow the law as I give it to you even though you may

1 disagree with it. Just as I cannot tell you what the facts
2 of this case are, you cannot disagree with me about the law
3 to be applied in this case.

4 Your job is to take the law as I give it to you and
5 apply it to the facts as you find those facts to be from
6 the testimony of witnesses and any other evidence that is
7 introduced here in the trial of this case. After doing
8 that, you will then render your verdict, a true and just
9 verdict under the solemn oath you just took as jurors.

10 Now, until I advise you to begin your deliberations in
11 this case, you must not discuss this case with anyone,
12 including your fellow jurors. Do not discuss it with any
13 friends, family members, or anyone involved in the case.
14 After the case is submitted to you, you can then discuss
15 the case but only in the jury room with your fellow jurors.

16 The attorneys and parties in this case have been
17 advised that they are not to talk to you. So, if anyone
18 involved in the case does not speak to you or say hello,
19 they're not being rude. They're just following the
20 instructions of the court.

21 Now during the trial, you must not read, listen to, or
22 watch any news reports about this case. This includes
23 anything that may be in the newspapers or on the internet,
24 radio, or television. You must not consider anything you
25 may have read or heard about the case outside of the

1 courtroom, whether that be during or prior to the trial of
2 this case. It's important that you keep an open mind and
3 not decide any issue in this case until all of the evidence
4 has been presented, the attorneys and parties have made
5 their closing arguments, and I've instructed you on the law
6 to be applied in this case.

7 It is your solemn responsibility to determine the
8 guilt or innocence of the defendant, and your verdict must
9 be based solely on the evidence as it is presented to you
10 in this trial and on the law as I instruct you during and
11 at the close of the trial.

12 Now in just a moment, the solicitor will make what is
13 called an opening statement in which the solicitor will
14 explain to you the issues in this case, or at least what
15 the solicitor thinks the issues in this case are. The
16 attorney for the defendant may also make an opening
17 statement, although she is not required to do so. What the
18 attorneys tell you during these opening statements is not
19 evidence in this case; it is only their contention as to
20 what they feel the issues in this case are.

21 The evidence in this case will be presented to you by
22 testimony of sworn witnesses from the witness stand and by
23 any other exhibits that may be introduced into evidence.

24 Now in determining what the true facts are in this
25 case, you must decide whether or not the testimony of a

1 witness is believable. It is my responsibility to rule as
2 a matter of law as to whether certain testimony is
3 admissible at all or not. But once testimony is admitted
4 into evidence, whether or not you believe it is solely for
5 you to determine. In deciding whether to believe a
6 witness, you have the right to consider the interest of any
7 witness, the bias or prejudice of any witness, the
8 opportunity for the witness to have seen the matters and
9 things about which the witness may testify, and the way the
10 witness acts on the witness stand. You have the right to
11 consider anything that is in the record that will help you
12 to evaluate the testimony of the witness.

13 That means it is your duty to pay close attention to
14 these witnesses, to observe the witnesses, to listen to the
15 witnesses, and to pay close attention to the attorneys and
16 to the court. Don't let your thoughts wander, but give
17 strict attention to the testimony in this case so that at
18 the end of all the testimony, after the arguments of
19 counsel, and the charge on the law by the court, you will
20 then be in a position to determine what the true facts are
21 and to apply the law to those facts and thus render a true
22 and just verdict.

23 Now, are there any challenges or additional charges
24 from the state?

25 MS. KEENEY: None from the state.

1 THE COURT: Any from the defense?

2 MS. ANDERSON: None from the defense.

3 THE COURT: All right, ladies and gentlemen, we'll
4 begin the trial of this case with the attorneys' opening
5 arguments, and as I told you, these opening arguments are
6 not evidence. It is just their contention as to what they
7 feel the issues in this case are.

8 All right, who wishes to make the opening statement?
9 All right.

10 MS. KEENEY: May it please the court?

11 THE COURT: Yes, ma'am.

12 MS. KEENEY: Good afternoon. Home is where you're
13 supposed to feel safe; home is where a person should be
14 able to lay their head down at night and not feel like
15 they're scared to go to bed. On October 22nd of 2019, the
16 defendant in this case, Robert Anthony Carter, robbed
17 Shannon Deay of her ability to feel safe in her own home.
18 At 1 AM that night, he broke into her home, he entered her
19 home without permission, and he hit her now fiancé Colin
20 Amburg in the face. Why did he did this? He was jealous.
21 He thought Shannon Deay belonged to him, and he wasn't
22 going to let her move on with her life.

23 Now, you're going to hear that the defendant and
24 Shannon dated for a very long time, and they lived together
25 at this house at [REDACTED] Tram Road in Walterboro for a while.

1 However, in September of 2019, which is a month before this
2 incident, the defendant was evicted from the house and told
3 he could not go back there. However, this didn't stop the
4 defendant. He knew that she had a new guy, and he wasn't
5 going to allow it.

6 Now, you're going to hear from the witnesses in this
7 case. You're going to hear from law enforcement. You're
8 going to hear from Shannon. You're going to hear from
9 Colin. You're going to see certain pieces of evidence that
10 we have that we got pursuant to an investigation. And at
11 the end of this, the judge is going to tell you about the
12 law of this case, and he's going to tell you that the
13 defendant is charged with burglary in the first degree and
14 assault and battery first degree. Now I am briefly going
15 to explain what those charges are so that from the
16 beginning you'll know what to look for.

17 So, burglary in the first degree, that occurs when
18 someone enters someone's home without consent with the
19 intent to commit a crime inside, and it has to happen at
20 nighttime for it to be burglary first degree, the
21 nighttime. So, here you're going to hear about how the
22 defendant entered the home without permission that night,
23 and he intended to commit a crime.

24 Now, the crime he intended to commit wasn't stealing.
25 A lot of people think that for it to be a burglary, you

1 have to steal something, but that's not what the law says.
2 The law says any crime, if you intend to commit any crime
3 inside the home, it's burglary. And so he intended to
4 assault Colin, and that is why we are here. And he, in
5 fact, carried out that assault in this case.

6 He's also charged with assault and battery in the
7 first degree, and that's when someone injures another
8 person and it occurs during the commission of a burglary.
9 And so he hits Colin in the face. He has some redness on
10 his face. He didn't have to have any medical attention,
11 but he punches him in the face, and it happened during the
12 commission of a burglary. And so that's the law in the
13 case.

14 And you're going to hear from the -- opening statement
15 for the defense, and then we're going to start with the
16 witnesses. And after all this is over with, I'm going to
17 ask that you find the defendant guilty of both charges.
18 Thank you.

19 THE COURT: Ms. Anderson, does the defense wish to
20 make an opening statement?

21 MS. ANDERSON: Yes, Your Honor.

22 THE COURT: All right.

23 MS. ANDERSON: May it please the court?

24 THE COURT: Yes, ma'am.

25 MS. ANDERSON: Ladies and gentlemen of the jury, my

1 client, Robert Carter, stands here today accused of --
2 accused of burglarizing the home of another and assaulting
3 a man that he discovered laying in the same bed that he
4 slept each night. The state wants you to believe that
5 Robert just couldn't get over Shannon, but the truth is
6 some people show their affection and love language in
7 multiple ways. Some use the words of affirmation, others
8 prefer physical touch, and some people even like receiving
9 gifts. But we believe Shannon's love language was
10 manipulation.

11 The state has to prove beyond a reasonable doubt that
12 he entered into the home of another with the intent to
13 commit a crime therein and attacked someone in the process.
14 But you will hear evidence to show that he was living with
15 his girlfriend, Shannon. They shared a pet, and he was
16 paying the bills, giving any reasonable person the idea
17 that they still have a right to be in the home.

18 The state will want you to focus on a trespass notice
19 and eviction, but what they won't be able to show you is a
20 sizeable gap in communication to indicate and firmly
21 convince you that Shannon and Robert had broken up. They
22 won't be able to show you damages to the property. They
23 won't be able to show you injury to Colin or a 911
24 recording indicating that a struggle had occurred in the
25 home.

A. STALLINGS - DIRECT EXAMINATION BY MS. KEENEY

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1 I ask that you listen closely and think to yourself
2 how credible these witnesses sound. And remember the issue
3 is not whether he was trespassing. He was. The issue is
4 not whether he was evicted. He was. The issue is
5 Shannon's manipulative behavior that now has Robert
6 Carter's freedom hanging in the balance. Their
7 relationship was dysfunctional at best, but the actions of
8 Robert did not rise to criminal intent, and I ask that you
9 listen closely and pay attention to everyone on the stand
10 today. Thank you.

11 THE COURT: All right, ladies and gentlemen, we will
12 now begin the evidentiary portion of the trial with the
13 state's case.

14 State can call your first witness.

15 MS. KEENEY: State calls Captain Angela Stallings.

16 ANGELA STALLINGS, BEING DULY
17 SWORN, TESTIFIES AS FOLLOWS:

18 CLERK: Please state your name again for the record.
19 Spell your last name.

20 WITNESS: Angela Stallings, S-t-a-l-l-i-n-g-s.

21 MS. KEENEY: May it please the court?

22 THE COURT: Yes, ma'am.

23 DIRECT EXAMINATION BY MS. KEENEY:

24 Q. Captain Stallings, where do you work?

25 A. The Colleton County Sheriff's Office.

A. STALLINGS - DIRECT EXAMINATION BY MS. KEENEY

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1 Q. What's your position at the sheriff's office?

2 A. I am captain over the administrative services.

3 Q. Okay, what does that mean? What are your duties?

4 A. Currently they've recently been reassigned just
5 because of shortage in dispatch. I was over several
6 different divisions, but currently right now I am
7 responsible for the 911 Communication Center, Records
8 Division, and those two currently.

9 Q. So, you're in charge if dispatch?

10 A. Yes.

11 Q. And what are some of the duties for 911 communication
12 dispatchers?

13 A. So, we dispatch for seven agencies inside the county.
14 We receive all 911 calls that come into the county,
15 regardless of where they're located. They come in through
16 our dispatch center. Once the dispatcher answers the call,
17 they'll ask a series of questions and determine what the
18 emergency is. Based on the emergency, we determine at that
19 point what agency or agency is dispatched to that call.

20 So, we could have one call come in and based off of that
21 one call, we could dispatch three different agencies to it.

22 Q. Okay. So when someone calls 911, dispatch will take
23 that call, correct?

24 A. That's correct.

25 Q. And are the 911 calls recorded?

A. STALLINGS - DIRECT EXAMINATION BY MS. KEENEY

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1 A. They are.

2 Q. And they recorded as the call is being made?

3 A. Yes.

4 Q. And what are calls for services, or CFS?

5 A. Calls for service is basically our CAD report. We
6 have a CAD system that allows us to do numerous different
7 things. We have a section for incident reports. We have a
8 section for civil process. We have a section for
9 communication, and a call for service is when we take --
10 when we receive the call, we'll go into the CAD system,
11 we'll initiate a new call, and we document what the caller
12 is telling us, and that creates a call for service.

13 Q. So, you're making that calls for service as the call
14 is coming in ---

15 A. That's correct.

16 Q. --- is that correct?

17 A. Yes.

18 Q. And are those calls for service kept in the ordinary
19 course of business?

20 A. They are.

21 Q. At our request -- okay, let me talk about the 911
22 calls in this case. Do you have the 911 calls in this
23 case?

24 A. We do not.

25 Q. What happened to the 911 calls in this case?

A. STALLINGS - DIRECT EXAMINATION BY MS. KEENEY

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1 A. So, during this timeline of 2019, we had moved to the
2 new sheriff's office in 2018. Our communication center had
3 not moved over in 2018. They moved over in 2019. In the
4 process of moving them over, we upgraded our recorder
5 software. So, the recorder that we currently had at the
6 old center was being replaced, and if -- the way the system
7 was working, we had it temporarily but if the officers
8 involved did not make an immediate request -- that system
9 wasn't a storage system where it maintained it for three
10 years like it's required to. So, if they didn't make that
11 immediate request, after so many hours we would lose that
12 recording, and this was during that time frame. So, we
13 don't have those calls.

14 Q. Okay, but do you still have the calls for services?

15 A. We do.

16 Q. Which kind of summarize what the 911 call was?

17 A. That's correct.

18 Q. Okay.

19 MS. KEENEY: May I approach the witness?

20 THE COURT: Yes, ma'am.

21 Q. I'm going to show you what's been marked as State's
22 Exhibit 1 for ID right now. Do you recognize that?

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

24 Q. What is that?

25 A. This is a call for service that is entered into our

A. STALLINGS - DIRECT EXAMINATION BY MS. KEENEY

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1 system through dispatch.

2 Q. And was that a call for service related to this case
3 we've here today for?

4 A. Yes, ma'am.

5 Q. And is that a fair and accurate copy of that call for
6 service on October 21, 2019?

7 A. Yes, ma'am, it is.

8 MS. KEENEY: At this time, the state wishes to enter
9 State's Exhibit Number 1 into evidence.

10 THE COURT: Any objection?

11 MS. ANDERSON: No objection.

12 THE COURT: All right, State's Exhibit 1 is admitted
13 into evidence without objection.

14 (CALL FOR SERVICE REPORT RECEIVED INTO EVIDENCE AS
15 STATE'S EXHIBIT NUMBER 1.)

16 MS. KEENEY: Thank you, and I'm going to publish --
17 try to enter all these and then try to publish them.

18 THE COURT: All right.

19 Q. I'm going to show you what's been marked as State's
20 Exhibit Number 2. Do you recognize that item?

21 A. Yes, ma'am.

22 Q. And what is that item?

23 A. It's a call for service for October 21, 2019, 2321
24 hours.

25 Q. Okay, and is that related to this case?

A. STALLINGS - DIRECT EXAMINATION BY MS. KEENEY

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1 A. Yes, ma'am, it is.

2 Q. Is that a fair and accurate depiction of the call for
3 service on October 21, 2019?

4 A. Yes, ma'am.

5 MS. KEENEY: At this time, the state moves to admit
6 State's Exhibit Number 2 into evidence.

7 THE COURT: Any objection?

8 MS. ANDERSON: No objection, Your Honor.

9 THE COURT: All right, State's Exhibit 2 admitted into
10 evidence without objection.

11 MS. KEENEY: Thank you.

12 (CALL FOR SERVICE REPORT RECEIVED INTO EVIDENCE AS
13 STATE'S EXHIBIT NUMBER 2.)

14 Q. Now I'm going to show you State's Exhibit Number 3.
15 Do you recognize that?

16 A. Yes, ma'am.

17 Q. What is that item?

18 A. It's another call for service for the following
19 morning at 0113 hours AM.

20 Q. And is that a fair and accurate depiction of a call
21 for service on October 22nd of 1919 related to this case?

22 A. Yes, ma'am.

23 MS. KEENEY: At this time, the state moves State's
24 Exhibit 3 into evidence.

25 THE COURT: Any objection?

A. STALLINGS - DIRECT EXAMINATION BY MS. KEENEY

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1 MS. ANDERSON: No objection.

2 THE COURT: State's Exhibit 3 admitted into evidence
3 without objection.

4 (CALL FOR SERVICE REPORT RECEIVED INTO EVIDENCE AS
5 STATE'S EXHIBIT NUMBER 3.)

6 Q. And finally I'm going to approach you with State's
7 Exhibit Number 4. Do you recognize this item?

8 A. Yes, ma'am.

9 Q. What is that item?

10 A. It's another for the same location the morning of the
11 22nd around 4:16 AM.

12 Q. Is that a fair and accurate call for service related
13 to this case?

14 A. Yes, ma'am.

15 MS. KEENEY: At this time, the state moves to admit
16 State's Exhibit Number 4 into evidence.

17 THE COURT: Any objection?

18 MS. ANDERSON: No objection.

19 THE COURT: State's Exhibit 4 admitted into evidence
20 without objection.

21 (CALL FOR SERVICE REPORT RECEIVED INTO EVIDENCE AS
22 STATE'S EXHIBIT NUMBER 4.)

23 MS. KEENEY: Thank you.

24 Q. So, we're going to go back to State's Exhibit Number
25 1. Can you please tell the jury the date and time of that

1 call?

2 A. This call was entered on October 21, 2019, at 2224
3 hours, 10:24 PM.

4 Q. Okay. Who was the complainant? Who made the phone
5 call?

6 A. A Shannon Deay.

7 Q. And what address was Shannon Deay located at?

8 A. [REDACTED] Tram Road, Walterboro, South Carolina.

9 Q. What county is that?

10 A. That's in Colleton County.

11 Q. And in that call for service, could you tell what that
12 -- who was the -- who was she complaining about?

13 A. The complaint was against a Robert Anthony Carter.

14 Q. Okay, and in that call for service, does it summarize
15 what the complaint was?

16 A. Yes, ma'am.

17 Q. What was it?

18 A. They want -- the caller wanted law enforcement to meet
19 in reference to her ex, who was on trespass from the
20 location, hitting her door and yelling something at her.
21 The caller did not see him but thinks that's who it was,
22 and the residence was a white mobile home.

23 Q. Okay. Can you tell from that call for service what
24 officers responded?

25 A. Yes, ma'am.

A. STALLINGS - DIRECT EXAMINATION BY MS. KEENEY

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1 Q. Who were they?

2 A. It was Detective Spry and Detective Ballard.

3 Q. Okay. So, can you tell what time they were -- those
4 officers were on scene?

5 A. Yes. Spry was on scene at 22:41:07 and Ballard was on
6 scene at 22:41:10.

7 Q. Okay. So, the call came in at 10:24, and they got
8 there -- let's see, I'm awful in math -- at 10:41. Are you
9 good at math? Can you give me a rough time?

10 A. Seventeen minutes.

11 Q. Okay. So, it took them about seventeen minutes to get
12 there, correct?

13 A. Yes, ma'am.

14 Q. Okay. Thank you. Now I'm going to move on to Exhibit
15 2, and once again, that was October -- the night of October
16 21st?

17 A. Yes, ma'am.

18 Q. Thank you. State's Exhibit 2, can you tell me what
19 time and what day this call was?

20 A. This on is October 21, 2019, at 2321 hours, which is
21 11:21 PM.

22 Q. Okay. So, that is the same night approximately, let's
23 say, an hour from the first call almost?

24 A. Yes, just shy of an hour.

25 Q. Okay, and actually let me hand you back State's

1 Exhibit 1 because you can tell what time the officers
2 closed out the case, correct, from the first time that they
3 arrived?

4 A. Yes.

5 Q. Okay. You said they got there at 10?

6 A. At 10:41.

7 Q. Okay. What time did they leave?

8 A. They left at 10:46.

9 Q. So, would have been gone by the time ---

10 A. Correct.

11 Q. --- that this second call came in?

12 A. Yes, ma'am.

13 Q. Thank you. Okay. So once again, who makes that phone
14 call, the second phone call?

15 A. Shannon Deay.

16 Q. So, Shannon Deay calls back after the officers left,
17 correct?

18 A. Correct.

19 Q. Okay, and she calls back at 11:21 that night,
20 approximately an hour from the first call, correct?

21 A. Correct.

22 Q. And what is the complaint?

23 A. The complaint is for [REDACTED] Tram Road. It's got Round O
24 on here, but Tram Road is in Walterboro.

25 Q. Okay.

A. STALLINGS - DIRECT EXAMINATION BY MS. KEENEY

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1 A. Call says someone keeps hitting the side of her house.
2 Sounds like a pellet gun.

3 Q. Okay, and what officers responded?

4 A. This was Detective Ballard and Detective Spry again.

5 Q. Okay. So, the same officers go back to 226 Tram Road
6 that night. Can you tell what time they got there?

7 A. Ballard as on scene at 11:33, and Spry is on scene at
8 0030.

9 Q. Okay, and so if Ballard gets there -- call comes in at
10 11:21 that night, and he gets there approximately thirteen,
11 twelve minutes later?

12 A. Yes. Looking at this -- if I may?

13 Q. Yes.

14 A. Looking at this call, it looks like they actually
15 cleared this call and regenerated this specific call, and
16 they went back on scene again for the second complaint at a
17 different time.

18 Q. It looks like Shannon Deay called back again.

19 A. Correct.

20 Q. Correct?

21 A. Yes.

22 Q. So on that same report, Shannon Deay calls the police
23 back. Does it look like law enforcement left at 11:47 when
24 she called the first time?

25 A. Yes. So, the first time Ballard arrived on scene and

1 Ballard cleared. So, just Ballard.

2 Q. Okay.

3 A. When she called back, Ballard and Spry ---

4 Q. Okay.

5 A. --- went ---

6 Q. When did she ---

7 A. --- that time.

8 Q. --- call back the second time?

9 A. The second time ---

10 Q. I guess now we're at the third time she called back.

11 A. Well, this would have been a third, yes.

12 Q. Correct.

13 A. So, the third time would have been at zero-eighteen
14 hours. So, 12:18 AM.

15 Q. She calls at 12:18 AM and what's the complaint now?

16 A. Caller is now saying the suspect is now on the back
17 porch. Caller -- caller -- the suspect broke the light
18 out. So, they think they -- the suspect broke the light
19 out.

20 Q. Okay, and law enforcement responded at what time?

21 A. The law -- Ballard gets on scene at zero-29, and Spry
22 gets on scene at 12:30.

23 Q. Okay, and what time did they complete the call?

24 A. They completed the call at zero-48, so 12:48 AM.

25 Q. Okay. So up until this point, we've got Shannon Deay

A. STALLINGS - DIRECT EXAMINATION BY MS. KEENEY

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1 calling the police three times, correct?

2 A. Correct.

3 Q. And the suspect was who?

4 A. Robert...

5 Q. Robert Anthony ---

6 A. Robert Anthony Carter, yes.

7 Q. Thank you, and now I'm going to show you State's
8 Exhibit 3. What's the time -- what's the date and time of
9 that call?

10 A. So, this is the next morning. This is October 22,
11 2019, and this call is received at 0:1:13 AM.

12 Q. Okay, and you say next morning, but the last call back
13 was at 12:48 AM. So, it's really ---

14 A. Right.

15 Q. --- you know, a matter of -- not good at math but
16 twentyish minutes later ---

17 A. Right.

18 Q. --- correct?

19 A. Correct.

20 Q. It's just rolled into the morning of ---

21 A. Yes.

22 Q. --- 10/20, October 22nd ---

23 A. Correct.

24 Q. --- 2019, okay, and who is calling law enforcement?

25 A. Shannon Deay.

A. STALLINGS - DIRECT EXAMINATION BY MS. KEENEY

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1 Q. And what is she complaining of?

2 A. Caller was on 911 stating he broke into the back door.
3 Cannot give a DOT, which is direction of travel. Green
4 shirt and shorts. Description is a white male on foot.
5 She does not seem any damage on the door. Says that he's
6 C26, the male. That means that the -- one of our codes
7 means for assault. Says that he assaulted the male on
8 scene and has marks on his face. Told, told them they
9 would be waiting for them when they leave. Caller broke
10 something all over the bed and a hole in the wall.
11 Negative need for a 52. A 52 is for an ambulance, so at
12 that time they did not need an ambulance.

13 Caller says he lives at Kyle Beasley's house and
14 knows people on Smoke Road, Our Dream, and Tika Road. Also
15 knows a Kevin Drawdy in the area. The residence he is
16 usually at is the camper on Smoke Road between Glenn and
17 Tika. Caller said he was on code 53. 53 is another code
18 for narcotics. The only weapon she knows of is the glass
19 that busted on the bed.

20 Caller was not advised -- caller was advised not to go
21 back -- caller was advised not to go to the back door or
22 touch anything in the room. She stated that she had
23 already locked the back door.

24 Code messaging sent. That's just where they sent a
25 notification through the chain of command. Advised them

A. STALLINGS - DIRECT EXAMINATION BY MS. KEENEY

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1 not to touch anything else at this time.

2 Q. And can you tell me what time law enforcement arrived
3 on scene?

4 A. Yes.

5 Q. And you can just tell me who's the first officer that
6 got there?

7 A. Ballard again was the first one on scene. He gets on
8 scene at 1:26.

9 Q. Okay, and the call came in at 1:13 AM.

10 A. Yes.

11 Q. Now, that was the call for the burglary case which
12 we're here for.

13 A. Yes.

14 Q. Okay. Now I'm showing you State's Exhibit 4. Do you
15 recognize that one?

16 A. Yes, ma'am.

17 Q. What is the date and time of that?

18 A. October 22, 2019, 0416, 4:16 AM.

19 Q. So, that's a couple hours later after the burglary
20 call ---

21 A. Correct.

22 Q. --- correct? Who was the caller?

23 A. Shannon Deay.

24 Q. And what is she complaining of?

25 A. Caller advised the male suspect is on her back deck.

1 She cannot see him but can hear him talking.

2 Q. Can you tell from that call for service at what time
3 the defendant was arrested?

4 A. He was marked in custody at 4:44.

5 Q. Okay. So, at the time this 4:16 AM phone call came
6 in, he hadn't been in custody yet, correct?

7 A. Correct.

8 Q. Thank you.

9 MS. KEENEY: Nothing further for the witness.

10 THE COURT: Cross-examination.

11 MS. ANDERSON: Your Honor, may I approach the court
12 reporter?

13 THE COURT: Yes.

14 CROSS-EXAMINATION BY MS. ANDERSON:

15 Q. When dispatch is going, those calls the dispatch --
16 the complainant -- those calls are recorded and they go
17 back a few seconds so that you can hear the background.

18 A. When the call comes in?

19 Q. Yes.

20 A. So when someone calls our center, whether it's 911 or
21 admin, as soon as it hits the phone system and starts
22 ringing, our recorder starts recording.

23 Q. So, you could hear a struggle if there was one.

24 A. Yes.

25 Q. Or voices of any individual on scene.

A. STALLINGS - CROSS-EXAMINATION BY MS. ANDERSON

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1 A. You would -- with a lot of calls, you can usually tell
2 if there's someone in the home with them.

3 Q. And the incident calls, the reports that the state has
4 shown you, they are redacted transcriptions of what the
5 dispatch is hearing.

6 A. Redacted? No. That's -- it's shorthand but it's not
7 redacted. Looking at those reports, that is what the
8 dispatcher is putting in that is being told to her. I did
9 not see anything in there where the dispatcher notated any
10 background noise; I don't see where she notes anything
11 about that.

12 Q. And to your knowledge with Exhibit 2, pellet sounds
13 will not -- will sound like any typical gun?

14 A. No.

15 Q. It would be quite lower.

16 A. The discharge of a pellet gun would be lower, but
17 depending on what it's hitting -- you could hit metal with
18 a pellet gun and it's still -- the impact could be loud,
19 but the discharge would be less than a discharge of a
20 firearm.

21 Q. And you would ---

22 A. If that makes sense.

23 Q. And you would agree that any firearm sounds different
24 than a whispering male voice.

25 A. I'm sorry. Say that one again.

A. STALLINGS - CROSS-EXAMINATION / REDIRECT EXAMINATION 90

1 Q. If a firearm is discharged and you're using it to
2 compare it to someone whispering on a porch, you would
3 agree that that sounds different?

4 A. A regular firearm or a pellet gun?

5 Q. A pellet gun which is referenced in Exhibit 2.

6 A. I don't -- that's hard to answer. I don't know.
7 Hearing the discharge of a gun, I don't know that you would
8 hear that, but hearing it strike something, you could hear
9 that.

10 MS. ANDERSON: No further questions for this witness.

11 THE COURT: All right.

12 MS. KEENEY: Beg the court's indulgence.

13 REDIRECT EXAMINATION BY MS. KEENEY:

14 Q. That call for service in State's Exhibit 2 ---

15 THE COURT: Oh. Wait a minute.

16 Q. --- it says sounds like a pellet gun, correct? You
17 want to look at it again.

18 THE COURT: All right, now redirect. Go ahead.

19 MS. KEENEY: Oh, I'm sorry.

20 THE COURT: That's all right. I needed her to get
21 back to her seat. Redirect.

22 MS. KEENEY: I'm sorry.

23 Q. State's Exhibit 2, do you need to see it again?

24 A. Please.

25 Q. And it states: Sounds like a pellet gun.

A. STALLINGS - REDIRECT / W. BALLED - DIRECT

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1 A. Sounds like a pellet gun.

2 Q. So, maybe not quite sure what it was.

3 A. Something hitting the side of the house that sounds
4 like a pellet gun.

5 MS. KEENEY: Thank you. No further questions.

6 THE COURT: All right. You may step down.

7 WITNESS: Thank you.

8 THE COURT: Thank you.

9 MS. KEENEY: May this witness be excused?

10 THE COURT: Any objection?

11 MS. ANDERSON: No, Your Honor.

12 THE COURT: All right. She's free to go.

13 (THE WITNESS EXITS THE STAND.)

14 MS. KEENEY: State calls...

15 THE COURT: You can call your next witness.

16 MS. KEENEY: State calls Investigator Billy Ballard.

17 WILLIAM BALLARD, BEING DULY SWORN,

18 TESTIFIES AS FOLLOWS:

19 CLERK: State your name again for the record. Spell
20 your last name, please.

21 WITNESS: William Ballard, B-a-l-l-a-r-d.

22 THE COURT: All right.

23 MS. KEENEY: May it please the court?

24 THE COURT: Yes, ma'am.

25 DIRECT EXAMINATION BY MS. KEENEY:

1 Q. Investigator Ballard, where do you work?

2 A. The Colleton County Sheriff's Office.

3 Q. And how long have you been with the sheriff's office?

4 A. I've been with the sheriff's office since -- I believe
5 it was either November or December of 2018.

6 Q. What is your current position at the sheriff's office?

7 A. Currently I'm an investigator sergeant with the
8 Criminal Investigations Unit.

9 Q. Back October of 2019, what was your position with the
10 sheriff's office?

11 A. I, I was on patrol. I believe I was a corporal at the
12 time on a patrol shift.

13 Q. As some people say, you were on the road?

14 A. Yeah. I was on road patrol.

15 Q. Okay.

16 A. At the time.

17 Q. And as a road patrol officer, what were some of your
18 common duties?

19 A. During road patrol, first and foremost your primary
20 role is responding to any calls for service received by
21 dispatch. Outside of that, there is proactive policing,
22 saturation areas, traffic stops, things of that nature,
23 assisting with any other calls, medical, but the primary is
24 actually calls for service received to dispatch which is
25 given to us.

W. BALLARD - DIRECT EXAMINATION BY MS. KEENEY

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1 Q. Okay. So, if someone calls 911 complaining of
2 something, your job as a road patrol deputy is to basically
3 respond to the call, correct?

4 A. Yes, ma'am.

5 Q. Okay. I'm going to take you back to October 21st and
6 October 22nd of 2019. You -- and how you got involved in
7 this case.

8 A. Okay.

9 Q. Can you tell me what address you responded to on
10 October 21st and 22nd and -- October 21st ---

11 A. We ---

12 Q. --- and 22nd?

13 A. We received calls in regards to the defendant, Mr.
14 Carter, being at the residence of [REDACTED] Tram Road in
15 Walterboro, which is in Colleton County.

16 Q. And did you respond to that [REDACTED] Tram Road one time or
17 multiple times?

18 A. All but the last time.

19 Q. Okay. So, you heard Ms. Stallings testify. You heard
20 all those calls that came in. You went to that [REDACTED] Tram
21 Road every single time except for that last, very last
22 phone call at 4-something in the morning.

23 A. Yes, ma'am, and actually the last call, well, I was
24 there at the very last moment as everybody was clearing,
25 but I was at the first for the entirety.

1 Q. Okay, and why didn't you go to the last call?

2 A. I sustained an injury during the K-9 track of the
3 actual burglary incident where my, the time, my patrol
4 sergeant informed me that I had to go to the hospital
5 before he would allow me to leave for shift -- or to go
6 home that morning.

7 Q. So, you got injured during the investigation ---

8 A. Correct.

9 Q. --- of this and then you had to go to the hospital?

10 A. Yes, ma'am.

11 Q. Okay, and you don't have to go into all the detail
12 about the times you responded, but it's safe to say you
13 went there a few times, correct?

14 A. Yes, ma'am.

15 Q. And who was the suspect each time that you were
16 looking for when you were going there?

17 A. By the occupants of the residence at Tram Road, Ms.
18 Deay and Mr. Amburg, the only name I was given every time
19 was Mr. Carter.

20 Q. Okay, and do you see Robert Anthony Carter in the
21 courtroom today?

22 A. Yes, ma'am. He's the ---

23 Q. Can you please point to where he is sitting and what
24 he's wearing?

25 A. He's sitting with the defense in the middle with the

1 green shirt.

2 Q. Okay.

3 MS. KEENEY: Let the record reflect that he's
4 identified the defendant.

5 THE COURT: Well, that's for the jury to determine.

6 MS. KENNEY: Okay.

7 Q. When you went to this residence the first few times
8 that you responded, what did you do? Did you look around
9 for the suspect? What exactly did you do?

10 A. Yes, ma'am. The residence of [REDACTED] Tram actually sits a
11 little off of the roadway. The actual driveway into the
12 residence is narrow due to shrubbery and bushes at the very
13 front of Tram Road. So, we did, myself and Detective Spry
14 and others that responded, once we were there, spoke with
15 the occupants of the home. Then we, in turn, walked around
16 to see if we did actually see anyone still on the property
17 or within the vicinity.

18 Q. Okay, and when you responded to the actual call for
19 the burglary at 1:26 AM on the morning of October 22nd of
20 2019, who did you meet with?

21 A. Both Ms. Deay and Mr. Amburg.

22 Q. Okay, and this might sound like a silly question, but
23 at 1 o'clock in the morning, is it light outside or dark
24 outside?

25 A. It's dark.

1 Q. So, it's nighttime.

2 A. Correct.

3 Q. Thank you, and when you -- what did you do when you
4 got there?

5 A. Once I arrived, I checked the immediate area around
6 the home. I then knocked on the residents' door and made
7 contact with both Ms. Deay and Mr. Amburg, where they -- be
8 -- gave -- to give me the information that they were both
9 in bed in the master bedroom area, which would be once you
10 go in the residence, it's to the left all the way at the
11 back past the rear door to the residence. They both stated
12 they were in the bed, where they heard a noise. And when
13 they woke, they stated that Mr. Carter was in the bedroom
14 where a altercation ensued where he assaulted Mr. Amburg,
15 striking him to the head or face.

16 Also while there, I believe they said that there were
17 some curtains pulled down, a hole made in the wall. Some
18 type of glass was broken inside the bedroom, and then after
19 what could have been seconds, minutes while inside the home
20 and the assault occurred, they then -- Mr. Carter fled the
21 residence into the back of the home where they, once
22 outside, they did not exactly know where he went from
23 there.

24 Q. Okay, and where did they think the point of entry --
25 where, where did they think he entered in?

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1 A. It was stated they believed he came in the back door
2 of the residence due to it being slightly damaged, but the
3 main concern was of a faulty latch to the back door that
4 doesn't always secure, but that's where they stated they
5 believe he came in the residence.

6 Q. Okay, and were you wearing a body cam at the time of
7 this when you were ---

8 A. Yes, ma'am.

9 Q. --- responding to this call?

10 MS. KEENEY: May I approach the witness?

11 THE COURT: Yes.

12 Q. I'm going to show you what's been marked as State's
13 Exhibit Number 5. Do you recognize this item?

14 A. Yes, ma'am.

15 Q. What is that item?

16 A. This is a disc containing the body cam footage from
17 myself on the date of the incident.

18 Q. And how do you recognize that item?

19 A. I reviewed the disc prior to signing and dating.

20 Q. Okay, and is it a fair and accurate depiction of your
21 body cam from the night of October 22, 2019?

22 A. Yes, ma'am.

23 Q. Thank you.

24 MS. KEENEY: At this time, the state moves to submit
25 State's Exhibit Number 5 into evidence.

1 THE COURT: Any objection?

2 MS. ANDERSON: No objection.

3 THE COURT: All right, State's Exhibit 5 admitted into
4 evidence without objection.

5 (DISC WITH BODY-WORN CAMERA FOOTAGE RECEIVED INTO
6 EVIDENCE AS STATE'S EXHIBIT NUMBER 5.)

7 MS. KEENEY: Permission to publish?

8 THE COURT: All right.

9 MS. KEENEY: And, Judge, for record purposes, I'm
10 stopping it at 3 minutes and 30 seconds.

11 (WHEREUPON, EXCERPT OF STATE'S EXHIBIT NUMBER 5 IS
12 PLAYED FOR THE COURT. AUDIO IS NOT TRANSCRIBED.)

13 Q. Okay, so when you responded and you had your body cam
14 on, what did y'all do next as law enforcement?

15 A. From where the video left off?

16 Q. Yeah. Did y'all get another agency to assist you?

17 A. Yes, ma'am.

18 Q. What agency did you get?

19 A. The Waltherboro Police Department. I requested their
20 K-9 unit that was on duty to do a live track for the
21 defendant due to the nature of the call and with the
22 previous responses to the home. He had been at Tram Road.
23 I just wanted to do a K-9 track to locate him.

24 Q. Okay, and who was a part of the K-9 team?

25 A. I believe that was Patrolman Duboise and Patrolman

1 Riley with the Waltherboro Police Department, both K-9
2 handlers.

3 Q. Okay, and did they, in fact, bring the K-9 out to the
4 scene?

5 A. Yes, ma'am, they did. They also deployed the K-9
6 where -- about approximately a mile. K-9 track was
7 conducted.

8 Q. Okay, and did you participate in that K-9 track?

9 A. Yes, ma'am, I did.

10 Q. What was your participation?

11 A. I was one of the cover officers for the K-9, for the
12 K-9 handler. They normally run normally at least three
13 officers, the K-9 officer and then two extras for support
14 role, and -- for their coverage or a live track.

15 Q. Okay, and when you assisted, where did you go?

16 A. So, the K-9 track started right behind the residence,
17 the rear door, which led for, I'd say, approximately 100
18 yards straight behind the residence through a, lack of a
19 better term, a path towards a cut down where some trees
20 were logged, where it then made a left-hand turn. Went to
21 another 100, 200 yards. It then doubled back through the
22 woods coming in through an adjacent property, which then
23 led through that property on Tika onto Glenn Street -- or,
24 excuse me, on Glenn Street. From Tram to Glenn, Glenn to
25 Tika, Tika to Smoke Road, which then it ended at -- I

1 believe the address was [REDACTED] Smoke Road, which was the
2 residence of Mr. Carter.

3 Q. So, you had a known -- you knew there was a known
4 residence of the defendant, correct?

5 A. Yes, ma'am.

6 Q. It was off Smoke Road.

7 A. Yes, ma'am.

8 Q. And Smoke Road is not too far away from Tram Road,
9 correct?

10 A. No, not a straight line, no, ma'am.

11 Q. Okay, and what type of residence does the defendant
12 live in? Was it a house, a camper?

13 A. It's a white camper.

14 Q. Okay. Was the defendant there at his residence?

15 A. Not at the time of the conclusion of the K-9 track.
16 He was not located.

17 Q. Okay.

18 MS. KEENEY: May I approach the witness?

19 THE COURT: Yes, ma'am.

20 Q. I'm going to show you -- I put the sticker on upside
21 down -- but State's Exhibit 6. Do you recognize that?

22 A. Yes, ma'am.

23 Q. Okay.

24 A. This is basically a map image the area from Smoke Road
25 all the way to Tram, both the defendant and the -- that --

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1 of the stated victim's residence.

2 Q. Okay, and you prepared that whole exhibit for me?

3 A. Yes, ma'am.

4 Q. Okay.

5 MS. KEENEY: At this time ---

6 Q. And that's a fair and accurate depiction of the map of
7 Tram Road, Smoke Road ---

8 A. Yes, ma'am.

9 Q. --- as related ---

10 A. There's a red point of reference for the defendant's
11 -- for Mr. Carter's residence and then a green point of
12 reference for Ms. Deay's.

13 MS. KEENEY: At this time, the state moves in State's
14 Exhibit Number 6 into evidence.

15 THE COURT: Any objection?

16 MS. ANDERSON: No objection.

17 THE COURT: State's Exhibit 6 admitted into evidence
18 without objection.

19 (MAP RECEIVED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
20 6.)

21 MS. KEENEY: Permission to publish?

22 THE COURT: All right.

23 Q. And I know it's kind of hard to see up there, but you
24 said there's a green dot there at the top right, correct?

25 A. Correct. Top right corner, there's a green dot. That

1 would be the [REDACTED] Tram, which is Ms. Deay's residence.

2 Q. Okay, and the red to the left is the Smoke Road
3 address.

4 A. Yes, ma'am. The lower left corner would be the
5 residence of Mr. Carter.

6 Q. Okay, and when you did -- participated in the K-9
7 track, it was clear that the K-9 wasn't going on a straight
8 path to Smoke Road, correct?

9 A. Correct, no, ma'am. The K-9's going to follow the
10 path of whatever the track takes it, not as far as point A
11 to point B.

12 Q. And this is a very wooded area, correct?

13 A. Correct.

14 Q. And when you responded to the first few calls before
15 the burglary occurred, it took you a little bit of time to
16 get to Tram Road, correct?

17 A. Yes, ma'am.

18 Q. Okay, and obviously you didn't see the suspect on
19 scene, correct?

20 A. No, ma'am.

21 Q. But there is a bunch of woods out there, correct?

22 A. Yes, ma'am.

23 Q. Okay.

24 (FACEBOOK PROFILE PICTURE MARKED AS STATE'S EXHIBIT
25 NUMBER 7 FOR IDENTIFICATION.)

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1 (FACEBOOK PROFILE PICTURE MARKED AS STATE'S EXHIBIT
2 NUMBER 8 FOR IDENTIFICATION.)

3 (FACEBOOK POST MARKED AS STATE'S EXHIBIT NUMBER 9 FOR
4 IDENTIFICATION.)

5 (A PAUSE.)

6 MS. KEENEY: May I approach the witness?

7 THE COURT: Yes, ma'am.

8 Q. I'm going to show you. In preparation for trial, did
9 you go onto the defendant's Facebook page?

10 A. Yes, ma'am.

11 Q. And was his Facebook page -- one, it was super private
12 where you couldn't see anything, or could you can see posts
13 that the defendant made?

14 A. Most of the things that were -- you could see that
15 things were posted on his page, yes, ma'am.

16 Q. And when you got onto his Facebook page, did you
17 scroll down to the year 2019?

18 A. Yes, ma'am.

19 Q. Around maybe the time period a little bit after the
20 time period of this offence, correct?

21 A. Yes, ma'am, within a month or so.

22 Q. Okay. I'm going to show you what's been marked
23 State's 7, 8, and 9 and ask if you recognize those items.

24 A. 7 is the initial profile picture of Mr. Carter. 8 is
25 just a, I guess, a better stored version of the same

1 profile picture of Mr. Carter, and then 9 is a Facebook
2 post he made back on November 24, 2019, in reference to the
3 incident with Mr. Amburg.

4 Q. And you looked around on his Facebook, and does that
5 -- did it appear to be Robert Anthony Carter who we are
6 trying today, does that appear to be his Facebook account?

7 A. Yes, ma'am.

8 Q. Okay. Are those fair and accurate depictions of his
9 Facebook account?

10 A. Of what I've seen, yes, ma'am.

11 Q. Okay.

12 MS. KEENEY: At this time, the state moves to admit
13 Exhibit 7, 8, and 9 into evidence.

14 THE COURT: Any objection?

15 MS. ANDERSON: No objection.

16 THE COURT: State's Exhibit 7, 8, and 9 are admitted
17 into evidence without objection.

18 (FACEBOOK PROFILE PICTURE RECEIVED INTO EVIDENCE AS
19 STATE'S EXHIBIT NUMBER 7.)

20 (FACEBOOK PROFILE PICTURE RECEIVED INTO EVIDENCE AS
21 STATE'S EXHIBIT NUMBER 8.)

22 (FACEBOOK POST RECEIVED INTO EVIDENCE AS STATE'S
23 EXHIBIT NUMBER 9.)

24 MS. KEENEY: Permission to publish.

25 THE COURT: All right.

W. BALLARD - DIRECT EXAMINATION BY MS. KEENEY

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1 Q. And I'm not going to put it up on the screen, but I'm
2 going to publish State's Exhibit 7, State's Exhibit 8,
3 which is just the blown-up version of his profile picture,
4 correct? And then for State's Exhibit 9, can you please
5 tell me the date of his post?

6 A. This post is November 24, 2019.

7 Q. Can you please read what he posted?

8 A. It states that:

9 This is Colin Amburg, LMAO. He flew up out of
10 the bed like a bolt of lightning when he seen me.
11 By the time my hands were done, he was curled up
12 in a ball kicking, LMAO. It's okay though, dude.
13 You can have her. You thought you found a
14 diamond but in reality you found a w****.

15 Q. A vulgar word?

16 A. Yes, ma'am.

17 Q. Okay, and LA -- was it LAMO? Is that what he says?

18 A. LMAO, yes, ma'am. It ---

19 Q. In your common knowledge, you know what that means?

20 A. Laughing my ass off.

21 Q. Okay. So, he -- and he was -- below it, what is that
22 he was sharing?

23 A. Below it there was some type of -- there was some
24 content that was now shown to be unavailable.

25 Q. Okay. He shared some type of content that someone

1 else posted, but that was now unavailable?

2 A. Correct.

3 Q. But you could still see the words of what he was
4 laughing, his ---

5 A. Correct. Whatever, whatever the context may be, a
6 posted or another image, something, it was no longer
7 available, but the actual -- his comment was still
8 available.

9 MS. KEENEY: Thank you. No further questions.

10 THE COURT: All right, cross-examination.

11 CROSS-EXAMINATION BY MS. ANDERSON:

12 Q. Hi, Captain Ballard. How are you doing today?

13 A. How are you?

14 Q. I'm doing well. Thank you.

15 A. Good.

16 Q. You would agree that an officer's most important duty
17 is to keep an accurate and detailed report.

18 A. Yes, ma'am.

19 Q. So, you record it so you can recall it later. You
20 record ---

21 A. Is that a statement or a question?

22 Q. It is a ---

23 A. Oh.

24 Q. --- question.

25 A. Okay. Yes, ma'am.

W. BALLARD - CROSS-EXAMINATION BY MS. ANDERSON

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1 Q. And as you've done, you reviewed the report and body
2 camera footage for your testimony today.

3 A. Yes, ma'am.

4 Q. So, you've watched the body camera. Are your lights
5 activated on scene?

6 A. My lights? No, ma'am.

7 Q. Sirens activated?

8 A. No, ma'am.

9 Q. You only see one dark car. It's -- dark grey car in
10 the road. That's Ms. Deay -- Deay's, car.

11 A. I believe so.

12 Q. And you don't see any signs of forced entry.

13 A. Only think I, like I said, when I arrived, there
14 appeared to be some damage to the door. I was advised that
15 there was a multilatch on the door, but the door was not
16 open when I arrived, no.

17 Q. And she stated to you that she'd locked the door back.

18 A. I'm not sure if she said she locked it back or if she
19 asked if she needed to lock it back, but either way there
20 was a comment about locking it, but I'm, I'm not fully
21 aware. I believe she just asked if she needed to lock it
22 back.

23 Q. And I do understand there was previous damage in the
24 home.

25 A. Yes, ma'am. It wasn't a brand new home, yes, ma'am.

1 Q. Because you would have taken photos of any damages.

2 A. If it was in regards to the calls when I responded,
3 yes, ma'am, I would have.

4 Q. And when you talked to the parties on scene, do they
5 appear shocked?

6 A. They weren't normal as they just woke up on their own
7 at 1:30 in the morning, no, ma'am. They appeared to be
8 shocked and shook.

9 Q. And what was described to you as an elaborate fight,
10 you have a hole a wall.

11 A. There was a hole in the wall. There was glass
12 shattered in the floor. There was a curtain, I believe,
13 was partially pulled down or thrown to the side, and then
14 there was some redness to the side of Mr. Amburg's face.

15 Q. Did you take any pictures Mr. Amburg?

16 A. I believe I did but, however, on preparation, I'm not
17 sure why they not in the actual case file.

18 Q. And his clothes, did he appear disheveled?

19 A. Not that I recall, no, ma'am.

20 Q. And in reference to the Facebook posts ---

21 A. Yes, ma'am.

22 Q. --- just going to transition a little bit.

23 A. Uh-huh.

24 Q. We don't know what that content is Robert was
25 referencing.

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1 A. No, ma'am, I do not.

2 Q. And the asterisks, are they made by Facebook?

3 A. No, ma'am. The asterisks were typed. I believe the
4 word he was implying was whore, but it's just a W and then
5 four asterisks.

6 Q. So, there's multiple W words we don't know, correct?

7 A. No, ma'am, I don't know what it is, but given the
8 context of what I was reading, it would be a fair and
9 accurate assumption that the word he was using was whore.

10 Q. But we don't know for a fact.

11 A. No, ma'am, I do not.

12 MS. ANDERSON: No further questions.

13 THE COURT: Redirect?

14 MS. KEENEY: Briefly.

15 REDIRECT EXAMINATION BY MS. KEENEY:

16 Q. Regardless of whether he meant whore or some other
17 word, the defendant is talking about putting his hands
18 around Colin Amburg when he was in bed, correct?

19 A. Yes, ma'am. Don't remember exact verbiage. Yes,
20 ma'am, that basically he, Mr. Amburg, would have had to get
21 out of bed once he seen him and then once he was done with
22 his hands: he was curled up in a ball.

23 MS. KEENEY: Thank you. No further questions.

24 THE COURT: All right, you may step down.

25 (THE WITNESS EXITS THE STAND.)

S. DEAY - DIRECT EXAMINATION BY MS. KEENEY

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1 THE COURT: State can call your next witness.

2 MS. KEENEY: State calls Shannon Deay.

3 SHANNON DEAY, BEING DULY SWORN,

4 TESTIFIES AS FOLLOWS:

5 CLERK: State your name again for the record. Spell
6 your last name.

7 WITNESS: Shannon Deay, D-e-a-y.

8 MS. KEENEY: May it please the court?

9 THE COURT: Yes, ma'am.

10 DIRECT EXAMINATION BY MS. KEENEY:

11 Q. Ms. Deay, how old are you?

12 A. I'm thirty-eight.

13 Q. Thirty-eight. Where do you live?

14 A. Same address, [REDACTED] Tram Road.

15 Q. Okay, here in Walterboro?

16 A. Yes.

17 Q. Is that Colleton County?

18 A. Yes.

19 Q. And what do you do for work?

20 A. I'm a vet tech.

21 Q. You're a vet tech?

22 A. Uh-huh.

23 Q. And I know you're kind of emotional. Can you just
24 kind of talk a little bit louder so everyone can hear you?

25 How long have you lived at Tram Road?

S. DEAY - DIRECT EXAMINATION BY MS. KEENEY

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1 A. At least four, maybe five years.

2 Q. A while?

3 A. A while, yes.

4 Q. Okay. Who's your landlord?

5 A. Johnny, Johnny Powell.

6 Q. Johnny Powell?

7 A. Yes.

8 Q. Where does he live?

9 A. Right next door.

10 Q. Okay, and you rent from Mr. Powell?

11 A. Yes.

12 Q. It's your residence?

13 A. Yes.

14 Q. Okay. Who is Colin Amburg?

15 A. My fiancé.

16 Q. And is he in the courtroom today?

17 A. He is.

18 Q. Okay. Can you point him out? The guy raising his
19 hand?

20 A. Yes.

21 Q. Okay. That Colin's. Who is Robert Anthony Carter?

22 A. My ex-boyfriend.

23 Q. Okay. Is Robert Anthony Carter in the courtroom
24 today?

25 A. He is.

1 Q. Where is he?

2 A. At the table to the left in the green shirt.

3 Q. Thank you, and you said Robert Carter is your
4 ex-boyfriend. About how long did you date Robert Carter?

5 A. Off and on for about three years.

6 Q. Three years, and did you ever live with Robert Carter?

7 A. Yes.

8 Q. Where did y'all live at?

9 A. Different places but also the residence I am currently
10 in.

11 Q. Okay, and can you just kind of describe the layout of
12 this Tram Road residence that you live at? Like, what is
13 it? Is it a ---

14 A. Mobile home.

15 Q. Mobile home. How many bedrooms is it?

16 A. Three bedrooms.

17 Q. And you were here when we saw Ballard's body cam,
18 correct?

19 A. Yes.

20 Q. And when Investigator Ballard knocked on the door,
21 would you consider that your front door or back door?

22 A. Front.

23 Q. Okay. That's your front door, and when you go into
24 the front door, what do you see? Is it the living room or
25 kitchen? What is it?

S. DEAY - DIRECT EXAMINATION BY MS. KEENEY

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1 A. Right in front of you is the kitchen and over to the
2 left -- or right in front of you is the living room. Over
3 to the left is the kitchen.

4 Q. Okay, and where are the bedrooms?

5 A. One main bedroom is past the kitchen. Down the little
6 hall to the right is a hall with two bedrooms.

7 Q. Okay, and where is the bathroom?

8 A. Right in front of the kitchen before the hallway to
9 the bedroom.

10 Q. Okay. So, I want to take you back to September, and
11 we're going to talk about the eviction process. Were you
12 -- what happened with you and Robert Carter at that time?
13 Were y'all together, broken up?

14 A. We were trying to break up and split because the
15 relationship was not good. So, he was evicted because it
16 was not working.

17 Q. Okay. So, did Robert Carter get evicted from [REDACTED] Tram
18 Road?

19 A. Yes.

20 Q. In September of 2019?

21 A. Yes.

22 Q. Okay, and was he put on trespass notice?

23 A. Yes.

24 Q. And at that time, y'all had broken up, but were you
25 still talking to each other?

1 A. Yes.

2 Q. You were together for a long time, weren't you?

3 A. Yes.

4 Q. And so you would still communicate, correct?

5 A. Yes.

6 Q. How would y'all communicate? Like, would it be, like,
7 Facebook Messenger, would it be text messages, or a little
8 bit of both?

9 A. Both.

10 Q. Okay, and where was -- after Robert Carter gets
11 evicted from [REDACTED] Tram Road, where did -- do you know where
12 he went and moved in at?

13 A. He moved into the camper up the street at Kyle
14 Beasley's houses.

15 Q. Okay. Is that off of Smoke Road?

16 A. Yes.

17 Q. Okay, and is that close to you or far away from you?

18 A. It's close. It was in the picture you showed.

19 Q. So, it's pretty close?

20 A. Yes.

21 Q. Okay. So, now I'm going to take you back to October
22 21, 2019, and I want to show you some exhibits.

23 MS. KEENEY: Judge, may we approach?

24 THE COURT: Yes.

25 (OFF-THE-RECORD BENCH CONFERENCE.)

1 THE COURT: All right, ladies and gentlemen, I'm going
2 to need to excuse you back to the jury room just a few
3 minutes, and I tell you why we do that. It's not that
4 we're trying to hide anything from or you keep anything
5 from you. But as I told you during the opening charges,
6 you and you alone decide the facts of this case. I decide
7 the law in this case. Your determination of the facts is
8 based upon the testimony of witnesses and evidence that is
9 introduced or exhibits introduced into evidence.

10 Well, a situation has arisen where the attorneys and I
11 need to discuss the law. When discussing the law, it often
12 requires us to reference factual issues. Well, what we say
13 is not evidence, and so we don't want you to be influenced
14 by anything that I might say or anything the attorneys
15 might say when we discuss the law. We don't want that to
16 influence your decision on what the facts are, and that's
17 why we excuse you back to the jury room. In any event, it
18 will give you a little while to stretch your legs, use the
19 restroom, whatever the case may be.

20 I remind you: do not discuss the case, even amongst
21 yourselves. It's too early for deliberations. But we'll
22 take a short break, and we'll bring you back in just a
23 minute. Thank you very much.

24 (THY JURY EXITS AT 4:04 PM.)

25 THE COURT: All right, so what's the issue now?

1 MS. KEENEY: I sent Ms. Anderson screenshots of
2 Facebook messages between Shannon and defendant. I sent
3 them on April 11th of 2023 at 12:34 PM, and it was
4 delivered to her via our Matrix system, and she's saying
5 that she hasn't seen them.

6 THE COURT: All right, can we -- let's -- so that we
7 have the record as to what we're referencing, can we get
8 them marked for identification?

9 MS. KEENEY: Yes. I'm marking them State's 10, 11,
10 12, 13, 14, 15.

11 (TEXT MESSAGES INDIVIDUALLY MARKED AS STATE'S EXHIBIT
12 NUMBERS 10, 11, 12, 13, 14, AND 15 FOR IDENTIFICATION.)

13 THE COURT: So, State's Exhibits 10 through 15. All
14 right, Ms. Anderson, you say you didn't get them.

15 MS. ANDERSON: No, Your Honor. I actually don't have
16 any reference from Matrix -- the matrix exchange beyond May
17 5th, and that's just referencing my client. So, I do not
18 see anything of that nature.

19 THE COURT: Well, I don't know.

20 MS. KEENEY: It tells you it was delivered to her
21 account, and it was delivered April 11, 2023.

22 MS. ANDERSON: Essentially it states that it was sent
23 to me. It may not be a delivery issue. However, I am
24 looking at my computer, and I do not have any email for
25 that date or beyond the 5th.

1 THE COURT: Why...

2 MS. KEENEY: I, I can't ---

3 THE COURT: Either it wasn't sent, it wasn't
4 delivered, it wasn't received ---

5 MS. KEENEY: It says that ---

6 THE COURT: --- or somebody's misleading the court. I
7 don't know which one.

8 MS. KEENEY: No. It just says it was delivered to her
9 but she didn't open it.

10 MR. MATHEWS: Oh. Your Honor, the -- I'm Dave
11 Mathews. Matrix is different from Evidence.com. They're
12 two different delivery systems. The attorneys, we get
13 direct -- when we're sent something by discovery --
14 Evidence.com, we get emails saying we've received it.

15 Matrix is a different system. I, I asked Nancy here
16 to check mine because we never get -- I have never gotten a
17 notification saying I received evidence by Matrix unless
18 there's a separate email saying I sent you some Matrix.
19 Check it because it's different. Evidence.com, we
20 attorneys get it directly. With Matrix, we may or -- I, I
21 don't ever get it directly.

22 I don't know what Ms. Anderson's situation is, but it
23 is -- it is entirely possible it was sent and she had no
24 idea it was sent. And as far as whether the office
25 received it, I can't say. I know I asked Ms. Green here to

1 check mine. I don't know if Ms. Adkins checks the other,
2 but in terms of whether it was received, it's not -- we're
3 not notified by email and ---

4 THE COURT: All right. Well, it's an important issue
5 because if it was sent, delivered, and not checked by the
6 defense attorney, that's one issue. If it was sent and
7 never delivered, that's a separate issue. If it was not
8 sent, that's a separate issue. I don't know.

9 Let's -- I'm going to take a break. Y'all get
10 together, show her what you've got, where it was sent,
11 where it's was delivered. Then show her on her computer
12 where she would have gotten it and where it would be in her
13 system because I'm assuming that if it was delivered and if
14 she just has not opened it, that it's still in there
15 somewhere where she can open it and see that it was
16 delivered and received. If it was received and not opened,
17 I think the state has met what they're required to do. If
18 it was not received, then the state has not done what
19 they're required to do. So, let's take about a ten minute
20 break.

21 Ms. Deay, we're in the middle of your testimony. You
22 cannot discuss your testimony with anyone, whether that be
23 what you're testified to thus far or what you anticipate
24 testifying to, okay?

25 WITNESS: Okay.

1 THE COURT: All right, let's take about a ten minute
2 break. Y'all get together. Let me know what you've got,
3 and we'll come back.

4 (OFF THE RECORD.)

5 THE COURT: All right, Ms. Deay, if you will come back
6 up and have a seat. You're still under oath.

7 All right, State's Exhibits 10 to 15, sent, delivered,
8 and received?

9 MS. ANDERSON: Yes, Your Honor.

10 THE COURT: Okay. Well, then they were received and
11 I'm assuming they were received and it just was not opened?

12 MS. ANDERSON: No. I did not get proper notification
13 of it. It looks like the manner in which it was
14 transmitted, I didn't see. So, the state has fulfilled
15 their duty.

16 THE COURT: All right. All right, that will be fine
17 then. We'll go ahead. Let's just follow the -- now that
18 we've got that, you can go ahead and lay your foundation,
19 and then I'll make a decision, okay?

20 Anything from the state before we bring the jury back
21 in?

22 MS. ANDERSON: Your Honor, I ask that we actually
23 break for today just because we both understand that
24 testimony from the state -- on my end and the state is
25 going to be pretty lengthy, and we're already at 4:25, if

1 that is okay with Your Honor.

2 MS. KEENEY: I can actually probably finish my direct
3 of her if we might break for cross.

4 THE COURT: Yeah. I hate to stop. I mean, if we get
5 close to 5 then, yeah, we will, but I hate to break in the
6 middle of direct.

7 Do you think you'll finish your direct by 5?

8 MS. KEENEY: Yes.

9 THE COURT: Okay. Then we'll do that. Okay.

10 All right, anything from the state before we bring the
11 jury in?

12 MS. KEENEY: No, Your Honor.

13 THE COURT: Anything from the defense?

14 MS. ANDERSON: No, Your Honor.

15 THE COURT: All right. Let's bring the jury back in.

16 (THE JURY ENTERS AT 4:24 PM.)

17 THE COURT: All right, ladies and gentlemen, welcome
18 back.

19 State can resume your direct examination.

20 MS. KEENEY: Beg the court's indulgence?

21 THE COURT: All right.

22 MS. KEENEY: May I approach the witness?

23 THE COURT: Yes.

24 DIRECT EXAMINATION BY MS. KEENEY RESUMES:

25 Q. I'm going to show you State's Exhibits 10 through 15.

S. DEAY - DIRECT EXAMINATION BY MS. KEENEY

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1 You take a look at these, each of them, and tell me if you
2 recognize them.

3 A. Yes. They're messages between me and Robert.

4 Q. Okay. So, they're -- or what kind of messages? Text
5 messages, Facebook messages, or something else?

6 A. Facebook messages.

7 Q. Okay. So, those are Facebook messages between you and
8 the defendant ---

9 A. Yes.

10 Q. --- correct, and how do you know that that's the
11 message between you and the defendant?

12 A. His picture and the mark on there and I recognize...

13 Q. Okay. So, his profile picture is up there?

14 A. Yes.

15 Q. And I'm going to show you what's already been entered
16 as State's Exhibit 7 and 8 and show you. Do you recognize
17 these photos?

18 A. Yeah. Yes.

19 Q. Okay, and what are these?

20 A. Those are his profile pictures.

21 Q. Okay, and so the profile picture and the exhibits we
22 got in through Mr. -- or Investigator Ballard, that's the
23 same picture as the one in the Facebook messages?

24 A. Yes.

25 Q. Thank you.

1 MS. KEENEY: At this time, the state submits State's
2 Exhibit Exhibits 10 through 15 into evidence.

3 THE COURT: All right, State's Exhibits 10, 11, 12,
4 13, 14, and 15 are admitted into evidence over defendant's
5 objection.

6 (TEXT MESSAGES INDIVIDUALLY RECEIVED INTO EVIDENCE AS
7 STATE'S EXHIBIT NUMBERS 10, 11, 12, 13, 14, AND 15.)

8 Q. I'm going to approach you so I can make sure I'm
9 referring to the correct exhibit number, but I'm going to
10 start with -- we're actually going to start with State's
11 Exhibit 14 because I put the stickers on wrong, in the
12 wrong order. So, I want you to tell me. What's the date
13 in the middle of the page?

14 A. Saturday, October 19, 2019.

15 Q. Okay. Tell me. Tell me what the defendant says at
16 the beginning of this page conversation.

17 A. If you want something to eat, come get it before
18 you leave.

19 Q. What did you say?

20 A. No, I'm not crying today.

21 Q. What does he say?

22 A. Whatever. I knew you wouldn't come see me before
23 you left.

24 Q. And what did you say in response?

25 A. Because you're already starting.

S. DEAY - DIRECT EXAMINATION BY MS. KEENEY

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1 Q. You said shit?

2 A. Yes.

3 Q. Okay, and then what did he say?

4 A. Whatever. Just go see your friends. When you're
5 done, go back to your house.

6 Q. Okay, and then I'm going to -- so, he wanted to see
7 you. You didn't want to see him?

8 A. Correct.

9 Q. And October 21, 2019, at around 5 o'clock in the
10 morning, did you have messages with him?

11 A. Yes.

12 Q. And what does he say at the beginning?

13 A. Sorry I pissed you off this morning.

14 Q. What else does he say?

15 A. You're probably running late and don't have time
16 anyway, so don't worry about it.

17 Q. What did you say?

18 A. You didn't piss me off. I'm having a stressful
19 morning. I just needed to get off the phone.
20 I'm fine. I don't...

21 Q. It's fine?

22 A. It's fine.

23 Q. And then did he say in response -- or what does he
24 send in response?

25 A. A thumbs-up but it's a cow head.

1 Q. Okay, and you what did you say?

2 A. I corrected the SEP as stop. I just won't have a
3 bunch of time.

4 Q. Okay, and now I'm showing you State's Exhibit 11. It
5 kind of picks up where you left off on State's Exhibit 10.
6 So, don't read that, what you already read. What does he
7 say after you say: I won't have a bunch of time?

8 A. By the way, my blanket, bedding, and all that is
9 ruined now that I slept in my truck last night.

10 Q. And what did you say in response?

11 A. I can wash it for you.

12 Q. And why did you agree to wash and clean for him?

13 A. Because I felt bad for him.

14 Q. You felt bad, okay, and what does he say?

15 A. It's not your problem. The dogs can have it.

16 I'll sleep in my truck like I did last night.

17 It's fine. I've got -- I have got to adapt and
18 get used to this new lifestyle anyway.

19 Q. What new lifestyle is he talking about?

20 A. Living in a truck or camper.

21 Q. Okay, and then State's Exhibit 12, he sends you some
22 type of photo, correct?

23 A. Uh-huh.

24 Q. But you can't see it from ---

25 A. Uh-huh.

S. DEAY - DIRECT EXAMINATION BY MS. KEENEY

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1 Q. And then because of the Facebook Messenger ---

2 A. Uh-huh.

3 Q. --- app, how that works, and what does he say?

4 A. Dude, this soaking wet sucks.

5 Q. And what did you say?

6 A. Why is it wet?

7 Q. What does he say?

8 A. The tarp came off to top with all the wind and
9 rain the other day.

10 I said: I'm sorry.

11 He said: I'm about to sell this piece of s***
12 and go get a house or at least be a roommate
13 somewhere.

14 And I said: You need to.

15 Q. Okay. So, you told him you need -- he said I need to
16 go find my own place, and you said yes, you need to, and
17 why did you say that? Was it because he didn't have a home
18 with you anymore?

19 A. Correct.

20 Q. Okay, and State's Exhibit 13, what does he say?

21 A. Going to try to pick up the pieces of my heart
22 that I can find and go about getting my life back
23 on its feet, show you that I could be the same
24 person I was when we first met even though you're
25 not around. I just talked with someone yesterday

1 about a house for \$400 a month, no downpayment.

2 Q. What did you say?

3 A. That's all I asked you to do, but you got mad and
4 impatient.

5 And he said: I'm getting back on my feet with my
6 own house.

7 I said: Good.

8 And then he said: I'm willing to bet you a
9 forty-hour week paycheck you will never see the
10 inside of it.

11 Q. Now I'm going to show you State's Exhibit 15 when --
12 right here, what does he say?

13 A. My home is on the couch or in the bed beside you
14 every night. I might go to a house to hang out
15 or go to sleep, but my home is with you, but from
16 what you said, that's not my home anymore.

17 Q. What did you say?

18 A. Not that house.

19 Q. So, what did you mean by that house?

20 A. As in he -- his home is not at my house.

21 Q. Okay, and then what does he say in response to you
22 telling him he doesn't have a home at your house?

23 A. It doesn't matter what house I have. You don't
24 want any part of it. You are my home.

25 And I said: I know.

S. DEAY - DIRECT EXAMINATION BY MS. KEENEY

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1 He said: So, what is the point in me having a
2 house?

3 Q. These Facebook messages between you and Robert Carter,
4 those were around October 21st, 22nd, correct?

5 A. Yes.

6 Q. And that was the same day where pretty much that you
7 heard the dispatcher or the lady in charge of dispatch talk
8 about how your phone calls about reporting Robert Carter
9 started at 10:30 PM on October 21, 2019, correct?

10 A. Yes.

11 Q. So, that was just messages earlier in the day ---

12 A. Yes.

13 Q. --- correct, and you were making it clear to him that
14 he did not have a home at your house, Tram Road ---

15 A. Yes.

16 Q. --- correct?

17 A. Correct.

18 Q. And y'all had broken up at this time?

19 A. Yes.

20 Q. But y'all were obviously still communicating, correct?

21 A. Yes.

22 Q. I'm assuming since you dated him for three years, at
23 one point in time you did love him, correct?

24 A. Yes.

25 Q. Okay. On October 21, 2019, did you go to a boat

1 landing?

2 A. Yes.

3 Q. And what happened at the boat landing?

4 A. I met up with Colin and our dogs, and we were playing
5 with the dogs at the river, and Robert found out we were
6 there and showed up to yell at us.

7 Q. Do you recall anything he said in particular?

8 A. That I'm his fiancée and I have no problems with
9 Colin, but a bunch of awful things about me and...

10 Q. So, Robert Carter thinks you're his fiancée?

11 A. Yes. However, I did not have a ring or anything like
12 that.

13 Q. Do you -- you're, in fact, broken up?

14 A. Yes.

15 Q. Okay, and after the boat landing, after you see Robert
16 Carter while you were with Colin, later that night around
17 10:30, did you have to call law enforcement?

18 A. Yes.

19 Q. Do you remember about how many times you called law
20 enforcement?

21 A. Four or five.

22 Q. And what were the various complaints and why you were
23 calling law enforcement that night?

24 A. He continued to show up at the back door swearing,
25 yelling, making noise with a pellet gun, hitting the side

S. DEAY - DIRECT EXAMINATION BY MS. KEENEY

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1 of the house. I assume that's what it was. Breaking out
2 the light, pounding on the door, threatening us from
3 outside, and then eventually breaking into the house.

4 Q. Okay, and you said that it sounded like a pellet gun,
5 but you're not totally sure, are you?

6 A. No. I, I don't know.

7 Q. You didn't see a pellet gun?

8 A. I did not.

9 Q. Okay, and you said eventually breaking into the house.
10 Are you positive about where he entered home? Like, was it
11 the ---

12 A. No.

13 Q. --- back door or something else?

14 A. I, I don't know if it was the door or the window. I
15 know he went out the door. I don't know if he came in it.

16 Q. Okay, but did he have permission to come to your home
17 on the night of October 22nd of 2019?

18 A. He did not.

19 Q. Okay, and tell me about that. When, when he broke
20 into the home or when he entered the home -- I'm saying
21 broke into the home, but you don't have to break. So, when
22 he entered the home without permission around 1 am, tell me
23 what happened. What a -- what did you see? What did you
24 hear?

25 A. So, we were both laying down because we were exhausted

1 from all of this.

2 Q. And you said we. I'm sorry for interrupting.

3 A. Myself and Colin.

4 Q. Okay.

5 A. And all of a sudden, all the cats came jumping over
6 the half door we have, and then he appeared. At this time,
7 Colin got up. I grabbed my phone to call 911. Robert
8 grabbed Colin and there was a scuffle. I was on the phone
9 with 911. I think I left the room for a second, came back.
10 That's when they were apart. Robert then picked up some
11 glass thing and hucked it at Colin. It hit the wall and
12 shattered, and then Robert went out the back door yelling
13 that he was going to get us or wait for us or something.

14 Q. Okay. Now, this obviously may seem like a silly
15 question, but at 1 AM in the morning when he entered the
16 home, was it nighttime? Was it dark outside?

17 A. Yes.

18 Q. Okay, and I'm going to ask you again. Did he have
19 permission to come into your home October 22, 2019?

20 A. No, he did not.

21 Q. Okay, and, in fact, you called law enforcement
22 multiple times reporting that he was at the property.

23 A. Yes.

24 Q. Uninvited.

25 A. Correct.

S. DEAY - DIRECT EXAMINATION BY MS. KEENEY

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1 Q. Now your electric bill, at one point in time was the
2 electric bill in Robert Carter's name?

3 A. Yes.

4 Q. And do you remember about what time it was, in fact,
5 changed to your name?

6 A. It was a few months because it was over \$100 to switch
7 over, and it just stayed in his name long after he had
8 left, which was stupid on my part, but...

9 Q. So, it was a few months after he got evicted? He just
10 didn't change his name out of it?

11 A. Correct.

12 Q. But he not living at the residence on October 22,
13 2019.

14 A. No.

15 Q. And that's clear from the Facebook messages from
16 October 21, 2019.

17 A. Yes.

18 Q. And when the defendant got arrested for this charge,
19 did he call you when he was in jail?

20 A. He did.

21 Q. Did you answer one of his phone calls?

22 A. Yes.

23 Q. Okay, and what was he trying to get you to do in those
24 phone calls?

25 A. Say that either I was too tired or intoxicated to have

1 been -- to have recognized him or drop the charges or
2 change my story.

3 Q. Did he mention going to the solicitor's office to drop
4 the charges?

5 A. He asked me to multiple time.

6 Q. And did you tell him that you would?

7 A. I did tell him that.

8 Q. Why did you tell him that you would drop the charges?

9 A. Just to placate him, to keep him from getting riled up
10 and angry.

11 Q. Okay. Did ---

12 A. If I had told him no, he would have gotten angry.

13 Q. Okay. So, you were just trying to make everything be
14 calm.

15 A. Yes.

16 Q. Okay. Did you go to the solicitor's office to try to
17 drop the charges?

18 A. I did not.

19 Q. Okay, and that's -- we're here today because you want
20 the charge to go forward, correct?

21 A. Correct.

22 Q. Okay, and in the jail call when you talked to him, he
23 says something. You've listened to part of the jail call,
24 correct?

25 A. Uh-huh.

S. DEAY - DIRECT EXAMINATION BY MS. KEENEY

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1 Q. He says something in the jail call about they charged
2 me with burglary. I ain't committed a burglary, and you
3 said something like I know. I don't know why you got
4 charged with burglary. Why did you say that?

5 A. I thought burglary meant you break into a home and
6 steal things. I did not know it meant anything other. I
7 thought you had to steal things.

8 Q. Because we're -- you're not saying he stole anything,
9 correct?

10 A. Right. Correct. He did not.

11 Q. Okay. You just thought in order for it to be a
12 burglary, someone had to come into your home and steal
13 something.

14 A. Yes.

15 Q. Okay. So, that's why you told him I don't know why
16 you got charged with burglary.

17 A. Correct.

18 Q. Okay, and did you see the defendant hit Colin?

19 A. I saw them grabbing each other. I'm not sure if I saw
20 -- I can't recall that, but ---

21 Q. You saw them tussle.

22 A. I saw them together grabbing each other.

23 Q. Okay.

24 MS. KEENEY: And nothing further.

25 THE COURT: All right.

1 All right, ladies and gentlemen, we're still in the
2 middle of this testimony, but given the time of day, I
3 think we're going to go ahead and break for the day. I'm
4 going to ask that you please be back at 9:15 tomorrow
5 morning.

6 Do not discuss the case even among yourselves. It's
7 too early for deliberations. Don't conduct any independent
8 investigations.

9 I hope everybody has a good evening, and we'll see you
10 back at 9:15 tomorrow morning. Thank you very much.

11 Everyone else please remain seated while the jury is
12 excused.

13 (THE JURY EXITS AT 4:40 PM.)

14 THE COURT: All right, Ms. Deay, we're still in the
15 middle of your testimony. As I told you earlier, the law
16 says you cannot discuss your testimony with anyone. Not
17 the state's attorney, no one, okay, whether that be what
18 you've testified to thus far or what you anticipate
19 testifying to in the future, okay?

20 WITNESS: Okay.

21 THE COURT: All right, anything from the state before
22 we rest for the evening?

23 MS. KEENEY: Nothing from the state.

24 THE COURT: Anything from the defense?

25 MS. ANDERSON: No, Your Honor.

1 THE COURT: All right, I told you them to be back at
2 9:15. That's so I can hopefully take the bench right at
3 9:30 tomorrow right, all right, and we'll get started then.
4 Thank y'all very much.

5 You may step down.

6 WITNESS: Thank you.

7 (THE WITNESS EXITS THE STAND.)

8 (WHEREUPON, THE CASE IS AT EASE.)

9 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR COLLETON COUNTY, SOUTH CAROLINA, ON
THE 8TH DAY OF MAY, 2023.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/Elizabeth B. Harris, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

AUGUST 27TH, 2023

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF COLLETON

4 State of South Carolina,

5 vs. Transcript of Record
6 2019-GS-15-01049
7 2019-GS-15-01050

8 Robert Anthony Carter,

9 Defendant.

10 May 9, 2023
11 Walterboro, South Carolina

12 B E F O R E:

13 The HONORABLE BENJAMIN H. CULBERTSON

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

15 Julie Kate Keeney, Assistant Solicitor
16 Jillian Contestabile, Assistant Solicitor

17 David Mathews, Representing the defendant
18 Anderson, Representing the defendant

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22 SHARON G. HARDOON, CSR
23 Official Circuit Court Reporter, III
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1 THE COURT: All right. Anything from the
2 State before we bring the jury in?

3 MS. KEENEY: Nothing from the State.

4 THE COURT: Anything from the defense?

5 MS. ANDERSON: Nothing from the defense.

6 THE COURT: I think what we'll do is,
7 we'll bring the jury in. And then I'll call
8 Miss Deay back up to the stand and we'll put her
9 under oath again, and then we'll start
10 cross-examination.

11 Is that agreeable to everybody?

12 MS. KEENEY: Yes, Your Honor.

13 THE COURT: All right. Let's go ahead
14 and bring the jury in.

15 (Jury enters the courtroom.)

16 THE COURT: Now, ladies and gentlemen,
17 welcome back. I hope everyone had a good evening.
18 We're ready to resume the trial of this case.
19 Number one, I want to thank you for being prompt
20 and on time this morning. That's a great
21 assistance to the Court.

22 As you recall yesterday, we broke during
23 the testimony of Miss Deay, so I'll ask Miss Deay
24 to come back forward and take the stand. We'll
25 put her under oath again since this is a new.

Exmination of Shannon Deay

5

1 day

2 THE CLERK: Place your left hand on the
3 Bible, raise your right hand. Do you solemnly
4 swear or affirm the testimony you're about to give
5 the Court shall be the truth so help you God?

6 THE WITNESS: Yes.

7 THE CLERK: State your name again for the
8 record and spell your last name.

9 THE WITNESS: Shannon Deay, D-e-a-y.

10 THE COURT: All right. Miss Anderson,
11 cross-examination.

12 CROSS-EXAMINATION

13 BY MS. ANDERSON:

14 Q Good morning, Miss Deay.

15 A Good morning.

16 Q You loved each other?

17 A I'm sorry.

18 Q You-all loved each other?

19 A Yes.

20 Q You dated for three years?

21 A Yes.

22 Q And within that period, you lived together?

23 A Yes.

24 Q And when you moved in, the property was in pretty
25 bad shape?

Exmination of Shannon Deay

6

1 A I mean, it wasn't the worst, but it could
2 have been better.

3 MS. ANDERSON: May I approach the
4 witness?

5 THE COURT: Yes, ma'am.

6 BY MS. ANDERSON:

7 Q I'm handing you what has been premarked as
8 Defense Exhibit 1. Can you identify what this is?
9 You can take your time and look through the pictures.

10 A It looks like the old back bathroom window.
11 I don't -- I mean, there's a picture of my foot
12 with some electrical outlets on the floor. I'm
13 not really sure what that is. But this is our old
14 back bathroom window.

15 Q It's four pages.

16 A Okay. This is our bad carpet. There are
17 some repaired holes in the wall. It looks like it
18 was spackled.

19 This is next to the -- oh, this is where the
20 laundry goes. That has been repaired since.

21 And I don't know what this picture is. I
22 don't know what that is.

23 Q Are these not holes in the wall?

24 A I guess. It's hard to tell in this
25 picture.

Exmination of Shannon Deay

7

1 Q Okay.

2 A And that is a hole in the wall.

3 Q So you would say that the property was in pretty
4 bad shape?

5 A I mean, there were holes and some repairs
6 needed, yes.

7 Q And through you-all's relationship you developed
8 pet names for each other?

9 A Yes.

10 Q He called you biscuit.

11 A Yes.

12 Q You called him muffin?

13 A Yes.

14 Q And your dogs lived together by brothers and
15 sisters?

16 A Yes.

17 MS. ANDERSON: May I approach the
18 witness?

19 THE COURT: Yes, ma'am.

20 BY MS. ANDERSON:

21 Q I'm handing you what has been marked as
22 Defense Exhibit 2. Can you identify this picture?

23 A That's me and our dogs. I'm sorry. Two of
24 them have recently passed. That is me with my
25 dogs, yes, and one of them is his.

Exmination of Shannon Deay

8

1 Q This picture was taken on October 20th. Can you
2 tell me whose dog is this?

3 A Which?

4 Q The brown dog.

5 A That is his.

6 Q What's his name?

7 A His name was Butch.

8 Q Is this a fair and accurate depiction of the
9 picture -- the selfie you took on October 20th?

10 A Yes.

11 Q Has it been changed or altered in any way?

12 A No.

13 MS. ANDERSON: Your Honor, at this time I
14 would ask to move Defense's 2 into evidence.

15 THE COURT: Any objection?

16 MS. KEENEY: I have no objection other
17 than can you clarify what year.

18 MS. ANDERSON: October 20, 2019.

19 THE COURT: All right. Defendant's
20 Exhibit 2 admitted into evidence without
21 objection.

22 (DFT. EXH. 2, Photo of Dog; Butch, was
23 entered into evidence.)

24 BY MS. ANDERSON:

25 Q And in addition to sharing pets, you-all shared

Exmination of Shannon Deay

9

1 the cost of rent?

2 A For some of the time, yes.

3 Q And he paid the light bill?

4 A Sometimes.

5 Q And he would do laundry sometimes?

6 A I mean, I guess. I mostly did the laundry.

7 Q And you-all would have your nightly dinners?

8 A Yes.

9 Q And like any relationship, you-all had
10 disagreements?

11 A Yes.

12 Q And the police were called?

13 A Yes.

14 Q Sometimes he would call?

15 A I'm pretty sure I called every time. I can't
16 remember a time he called, but I could be wrong.

17 Q When the disagreements became noticing to your
18 landlord, you started having him park his car in the
19 trailer next to the house?

20 A No, I don't remember that.

21 Q Mr. Powell, your landlord, did not approve of the
22 relationship between you and Robert?

23 A No, he did not get along with Robert.

24 Q So he threatened to evict you if you kept seeing
25 Robert?

Exmination of Shannon Deay

10

1 A He threatened to evict us if the fighting
2 continued.

3 Q You would be homeless if he found out Robert was
4 still coming over there.

5 A No, because he had found out Robert was still
6 coming over and he allowed him back in the house
7 the first time we broke up.

8 Q He later trespassed Robert.

9 A Yes, after that incident. Yes.

10 Q And you filed for eviction?

11 A No.

12 Q So Mr. Powell was not okay with Robert being
13 there.

14 A Off and on, yes.

15 Q You started having him come through the window so
16 Mr. Powell wouldn't see.

17 A At one point, yes.

18 Q You had to have him come in discreetly because
19 Mr. Powell lived so close to you. What is it, a
20 minute away? Sixty feet?

21 A Short --

22 Q You were scared and you didn't want to risk being
23 homeless?

24 A It had nothing to do with that.

25 Q You continued to see him even though he was

1 trespassed.

2 A Is that a question?

3 Q It is.

4 A Yes.

5 Q You picked and chose when to enforce the trespass
6 notice?

7 A Sure, I guess.

8 Q Because you wanted the relationship to work?

9 A Of course, who wouldn't want their
10 relationship to work.

11 Q So you continued to see him even after the
12 eviction was filed?

13 A Which one?

14 Q The one between you and him?

15 A Yes.

16 Q You even saw him two days before the incident.

17 A Yes.

18 Q You got money for gas so you could take the dogs
19 to the boat landing.

20 A Sure.

21 Q But instead of going solo, you met with Colin?

22 A Yes.

23 Q And Robert found out?

24 A Yes.

25 Q Because you-all would only go to one or two parks

1 to walk the dogs.

2 A I guess. I mean, I didn't go to that boat
3 landing often.

4 Q So, as the days passed, you're thinking, how are
5 my bills going to get paid if we don't make up.

6 A No.

7 Q You didn't want him to think that you and Colin
8 were an item.

9 A I have messages of him saying he would have
10 met Colin, but

11 Q So Robert could enter at any time?

12 A No. He could not enter at any time, which is
13 shown in the messages from yesterday.

14 MS. ANDERSON: May I approach the
15 witness?

16 THE COURT: Yes, ma'am.

17 (DFT. EXH. 4, Key, was marked for
18 identification.)

19 BY MS. ANDERSON:

20 Q I am handing you what has been marked Defense
21 Exhibit 4. Opening the envelope, do you recognize
22 this key?

23 A It looks like a key to the house, which was
24 supposed to be handed over to Johnny.

25 Q So this is Robert's key?

Exmination of Shannon Deay

13

1 A That was supposed to be handed over to
2 Johnny, yes.

3 Q This is Robert's key.

4 A I guess.

5 Q This is a fair and accurate depiction of the key
6 that he had to your home?

7 A Yes, but it was our understanding that it was
8 given to Johnny.

9 Q Has it been changed or altered in any way?

10 A The key?

11 Q Yes.

12 A No.

13 MS. ANDERSON: At this time, Your Honor,
14 I would ask to move Defendant's 4 into evidence.

15 THE COURT: Any objection?

16 MS. KEENEY: No objection.

17 THE COURT: Defendant's Exhibit 4
18 admitted into evidence without objection.

19 (DFT. EXH. 4, Key, was entered into
20 evidence.)

21 BY MS. ANDERSON:

22 Q So he doesn't come through the front door because
23 that would tip Mr. Powell off, wouldn't it?

24 A Sure.

25 Q And knowing this, you still decided to lure Colin

1 back to Walterboro?

2 A I wouldn't say lure.

3 Q Where was his car?

4 A At his house. I went home to let my dogs out
5 and feed chickens, and we were going to then go
6 somewhere else.

7 Q Colin lived an hour away, correct?

8 A Not quite.

9 Q He -- I'll move on.

10 No one would know he was there, just like you
11 didn't want Mr. Powell to know Robert was staying
12 there.

13 A We got there during day.

14 Q Excuse me?

15 A We got there during to the day. And then my
16 house was that clear from Johnny's house. Anybody
17 could have seen. As well as, if we would have
18 driven past where Robert lives and he was
19 actually -- I'm pretty sure that was one of the
20 days he was in his yard flipping us off. So he
21 was seen -- Colin was seen that day.

22 Q But his car was not outside?

23 A No.

24 Q And the allegations took place at night?

25 A Yeah.

Exmination of Shannon Deay

15

1 Q So Colin was pretty shocked to see Robert in the
2 home?

3 A I mean, who wouldn't be?

4 Q And you continued to see Robert even after he was
5 detained?

6 A No, not that I recall. We talked.

7 MS. ANDERSON: May I approach the
8 witness?

9 THE COURT: Yes.

10 (DFT. EXH. 3, Photo; Dart, was marked
11 for identification.)

12 BY MS. ANDERSON:

13 Q I'm going to hand you what has been marked Defense
14 Exhibit 3. Can you identify this car?

15 A It looks like my Dart.

16 Q Is this a fair and accurate depiction of the
17 vehicle that you owned in 2019?

18 A Yes.

19 Q Has it been changed or altered in any way?

20 A No.

21 Q Is this a fair and accurate depiction?

22 A Yes.

23 MS. ANDERSON: At this time, I would ask
24 to move Defense's 3 into evidence.

25 THE COURT: Any objection?

Exmination of Shannon Deay

16

1 MS. KEENEY: No objection.

2 THE COURT: Defendant's Exhibit 3

3 admitted into evidence without objection.

4 (DFT. EXH. 3, Photo; Dart, was entered
5 into evidence.)

6 BY MS. ANDERSON:

7 Q You saw Robert on 11 -- excuse me -- November 12th
8 of 2019?

9 A I don't remember that, but, okay.

10 Q Let's circle back to the night of the incident.

11 MS. ANDERSON: May I approach the
12 witness?

13 THE COURT: Yes.

14 (DFT. EXH. 5, Statement of Incident,
15 was marked for identification.)

16 BY MS. ANDERSON:

17 Q I'm going to hand you what has been marked as
18 Defense Exhibit 5. Can you recognize this document?

19 A That is the statement from that night.

20 Q Is this your signature?

21 A Yes.

22 Q Is this a fair and accurate depiction of the
23 statement that you wrote?

24 A Yes.

25 Q Has it been changed or altered in any way?

Exmination of Shannon Deay

17

1 A No.

2 MS. ANDERSON: At this time, I would ask
3 to move Defense's 5 into evidence?

4 THE COURT: Any objection?

5 MS. KEENEY: No, Your Honor.

6 THE COURT: All right. Defendant's
7 Exhibit 5 admitted into evidence without
8 objection.

9 (DFT. EXH. 5, Statement of Incident, was
10 entered into evidence.)

11 BY MS. ANDERSON:

12 Q Can you read your statement?

13 A "I was laying in bed. Heard the cats
14 scatter, then saw Robert come into the bedroom.
15 He started yelling through something and started
16 attacking Colin. They fell into the wall. Robert
17 was yelling. I ran for my phone. Came back into
18 the bedroom and Robert moved away from assaulting
19 Colin and said, *I'll get you, I'll be waiting for*
20 *you, I'll see you in the morning*, and then took
21 off into the yard through the back door. I was on
22 the phone with 911 at that point."

23 Q You gave a pretty elaborate statement that night.
24 From the beginning, you said -- you stated that you
25 heard the cats scattering.

1 A Uh-huh.

2 Q You had dogs, correct?

3 A Uh-huh.

4 Q You didn't hear them barking?

5 A No, they were sleeping in the bed, or laying
6 next to us somewhere.

7 Q You didn't hear anything before then?

8 A No.

9 Q You have pretty impeccable hearing, wouldn't you
10 say?

11 A I don't understand that question.

12 Q You have pretty good hearing?

13 A I have normal hearing.

14 Q You could hear male whispering voices outside.

15 A There was no whispering.

16 Q No. I'm talking about an incident where you made
17 a call for service indicating that there were male
18 voices you could hear outside.

19 A He was standing on the porch. I could hear
20 him through the door.

21 Q So you state you have pretty good hearing.

22 A Sure.

23 Q But you didn't hear anything before Robert got in
24 the room?

25 A Besides the cats, no.

Exmination of Shannon Deay

19

1 Q And you had to run and get your phone?

2 A Yes.

3 Q You called 911 several times that night.

4 A Yes.

5 Q You didn't have your phone next to you?

6 A I guess not.

7 Q So you ran passed someone intruding.

8 A I was trying to get away from two men
9 fighting, yes.

10 Q But you couldn't give them a description over at
11 the 911 dispatch center?

12 A What do you mean?

13 Q You told them that you could not identify the
14 male.

15 A While they were fighting, no. I said it was
16 Robert when they were fighting. I couldn't
17 identify him when he was outside, because I didn't
18 see him outside.

19 Q And you stated to Officer Ballard that he broke
20 into the back door.

21 A That's what I thought, yes.

22 Q But you admit, while on the phone with Robert, you
23 knew he didn't come in through the back door?

24 A We discussed it.

25 Q But you -- excuse me. Go ahead.

1 A Sorry. I remember from hearing it, that I
2 thought he came through the door, but it was later
3 discussed that he had come through the window,
4 which I had thought it was appropriately locked,
5 which wouldn't make noise.

6 Q But you go as far as saying to Officer Ballard
7 that you locked the door back.

8 A Yes.

9 Q But you knew he didn't come through that door.

10 A Not at the time.

11 Q What other lies did you tell that night?

12 A I didn't tell any lies.

13 Q Very briefly. You accepted the jail call from
14 Robert, correct?

15 A After he called me 33 or more times, yes.

16 Q Did you ever tell him to stop calling you?

17 A At some point, I'm sure I did.

18 Q Did you call him out of his name?

19 A Sorry?

20 Q Did you call Robert out of his name?

21 A What does that mean?

22 Q Did you call him an SOB? Did you say, *You stupid,*
23 *stop calling me?* Did you do anything derogatory?

24 A Not that I remember. Maybe.

25 Q Do you even mention calling?

Exmination of Shannon Deay

21

1 A During when?

2 Q During the call.

3 A I can't remember.

4 Q You confirm that you weren't sleeping with Colin.

5 A Yes.

6 Q You tell him that he didn't deserve this?

7 A Who, Robert?

8 Q Yes.

9 A I was trying to be calm in the situation.

10 Q He was in jail.

11 A Right.

12 Q He couldn't do anything to you?

13 A Yet.

14 Q He concluded -- you concluded with "I love you."

15 A Okay.

16 Q You concluded the call with "I love you."

17 A Okay.

18 Q You concluded the call with "I love you"; yes or
19 no?

20 THE COURT: Her response was --

21 THE WITNESS: If you're saying it, yes,
22 sure.

23 THE COURT: You're making a statement.

24 Ask her a question.

25 BY MS. ANDERSON:

Exmination of Shannon Deay

22

1 Q Did you conclude the call with "I love you?"

2 A I can't remember, but it sounds like you're
3 saying I did.

4 MS. ANDERSON: No further questions.

5 At this time, may I publish the exhibits to
6 the jury?

7 THE COURT: 2, 4, 3, and 5?

8 MS. ANDERSON: Yes.

9 THE COURT: Yes.

10 (Defendant's Exhibits 2, 4, 3, and 5 are
11 published to the jury.)

12 THE COURT: All right. Redirect?

13 MS. KEENEY: May it please the Court?

14 THE COURT: Yes.

15 REDIRECT EXAMINATION

16 BY MS. KEENEY:

17 Q You were in here when we watched Stephanie
18 Ballard's, or Officer Ballard's, body camera?

19 A Yes.

20 Q And you were pointing out the damage to the house
21 that Robert caused, correct?

22 A Yes.

23 Q At one point, did you note that that hole was
24 already there?

25 A Yes.

Exmination of Shannon Deay

23

1 Q There were some holes already there the night of
2 October 22nd, 2019, correct?

3 A Yes.

4 Q But he inflicted new holes that night?

5 A Yes.

6 Q Thank you.

7 The defense showed you a picture of, I guess,
8 a selfie you took with Robert's dog. You uploaded it
9 on October 20th of 2019?

10 A I guess.

11 Q And so you obviously -- do you know when you
12 actually took the picture?

13 A I don't know when. But while he was in jail,
14 the dogs had gotten loose from where they were.
15 Animal control got involved, and I took the dogs
16 at one point and gave them to someone to try to
17 find them a home. But I have hundreds of pictures
18 with me with the dogs.

19 Q And when Robert called you from jail, he asked
20 that you look after his dogs, didn't he?

21 A Probably. I think so.

22 Q And you're a vet tech, correct?

23 A Yes.

24 Q I take it you like animals.

25 A A little bit.

1 Q Yeah. The defense showed you what appeared to be
2 a key to your home at Tram Road that Robert had,
3 correct?

4 A Yes.

5 Q You said he was supposed to turn it in to the
6 landlord, Johnny Powell?

7 A Yes.

8 Q Do you know if he, in fact, turned the key in?

9 A It seems like he didn't. He gave Johnny a
10 key, but we also changed the locks.

11 Q Okay. Do you know if he could have made duplicate
12 keys of the house?

13 A Sure. At any point, yes.

14 Q So he could have given Johnny Powell one key and
15 then duplicated it, or just given Johnny Powell any
16 key, correct?

17 A Yes.

18 Q You're not sure what he did with the keys?

19 A Correct.

20 Q Let's see. Obviously, you dated the man for three
21 years. You loved him.

22 A Yes.

23 Q You're not denying that.

24 A Correct.

25 Q And when you talked to him on a jail phone call

Exmination of Shannon Deay

1 and you told him you love him, that was true. You
2 loved him, right?

3 A Yeah, that doesn't just go away.

4 Q But did you love all his actions?

5 A No, that's why we were splitting up.

6 Q Yeah. And, in fact, in those Facebook messages
7 between you and the defendant he talked about how he
8 needed to change himself, correct?

9 A Yes.

10 Q To be the man that he once was when you first met.

11 A Yes.

12 Q On October 22nd of 2019, at 1:00 a.m., did you
13 give Robert Carter permission to come in through your
14 window?

15 A No.

16 MS. KEENEY: Thank you. No further
17 questions.

18 THE COURT: All right. You may step
19 down.

20 State can call your next witness.

21 MS. KEENEY: State calls Colin Amburg.

22 THE CLERK: Raise your right hand. Do
23 you solemnly swear or affirm the testimony you're
24 about to give the Court shall be the truth so help
25 you God?

Exmination of Colin Amburg

26

1 THE WITNESS: Yes.

2 THE CLERK: Take a seat in the witness
3 stand. State your name again for the record and
4 spell your last name.

5 THE WITNESS: Colin Amburg, A-m-b-u-r-g.

6 MS. KEENEY: May it please the Court?

7 THE COURT: All right.

8 WHEREUPON:

9 COLIN AMBURG,
10 after having been sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. KEENEY:

13 Q Mr. Amburg, how old are you?

14 A Twenty-seven.

15 Q Twenty-seven. Where do you work? What do you do
16 for a living?

17 A I work general maintenance on the Charleston
18 Air Force Base.

19 Q And where are you originally from?

20 A I'm from New Jersey.

21 Q When did you come to Walterboro? When did you
22 move here?

23 A Well, I was living here before I moved to
24 Walterboro. I was actually in Orangeburg for a
25 few years before I moved to Walterboro.

Exmination of Colin Amburg

1 Q Okay. What address do you live at now?

2 A [REDACTED] Tram Road.

3 Q How do you know Shannon Deay? Who is she to
4 you?

5 A My fiance.

6 Q And do you know Robert Anthony Carter?

7 A Yes.

8 Q Okay. How do you know him?

9 A From the boat landing, and then since then --
10 yeah.

11 Q Do you see Robert Anthony Carter in the courtroom?

12 A Yes. He's in the green shirt.

13 Q At that table?

14 A Yes.

15 Q I want to take you back to October 21st and 22nd
16 of 2019. Can you tell me about the boat landing on
17 October 21? What happened at the boat landing?

18 A Me and Shannon were out there with our dogs
19 just letting them run around. He come in his
20 truck speeding down the road cursing and yelling
21 out the window. Shannon actually got -- walked
22 away, got towards her car and grabbed her dogs to
23 get them safe. I was screaming at him saying, *Get*
24 *away from me. I don't want you around me, like,*
25 *stuff like that. Then he walked up to me, I got a*

1 *problem with you. We're engaged. But it seemed,*
2 *at the time, that she didn't want to be around him*
3 *at all.*

4 Q Did he make any comments to you, other comments,
5 or any threats?

6 A No, not at that time.

7 Q Now, later that night, around 10:30 at night,
8 where were you at?

9 A At Shannon Deay's house.

10 Q Okay. What happened then?

11 A That's when the bang and the noise at the
12 door, everything started happening.

13 Q And were the cops called multiple times?

14 A Yeah, they were out there.

15 Q Tell me about while you were there. What happened
16 on, technically, October 22nd of 2019 around
17 one o'clock in the morning?

18 A That's when Robert came into the window, and
19 that's when I heard the animals running across the
20 room. He jumped over into the bedroom and I
21 jumped out of the bed. That's when we got into
22 the altercation. I had pushed him into the corner
23 of the room and Shannon went out the door to get
24 her phone to call the police.

25 Q Okay. And you said he came in through the window.

Exmination of Colin Amburg

29

1 At the time of the incident, did you actually know
2 where he came in through?

3 A No, because that was the first time I was
4 ever in that house, so I didn't know.

5 Q You're just learning now through the jail calls
6 that he came in through the window.

7 A Yeah.

8 Q Obviously, you didn't give him permission to come
9 into the house, did you?

10 A No.

11 Q Tell me about the fight. Did he hit you? What
12 happened?

13 A He hit me.

14 Q Where did he hit you?

15 A I believe it was on the right side of my
16 face. I mean, it's been a while. It could have
17 been the left side. It was one on my face.

18 Q How did it feel when he hit you?

19 A It hurt.

20 Q It hurt. Was there, sort of, redness?

21 A Yeah.

22 Q Okay. Did you need medical treatment?

23 A No.

24 Q It was just, kind of, not the fight of the
25 century, but he --

1 A Yeah. I mean, plus at one o'clock in the
2 morning, you got your adrenalin going, especially
3 when someone is climbing in the window and trying
4 to fight you.

5 Q Okay. So you saw him. There was a glass object.
6 Tell me about the glass object.

7 A It was on the back porch. And, as he was
8 leaving, he picked it up, hooked it at me. I
9 moved out of the way of it, and it went -- flew
10 into the wall. Shattered all over the place.

11 Q Okay. Did he make any threats when he was there
12 inside the house?

13 A Yes.

14 Q What did he say?

15 A That was going to come back tomorrow, that I
16 better not be outside in the morning.

17 Q Do you remember if the defendant had any marks on
18 him or anything?

19 A I can remember.

20 Q Okay. And this is one o'clock in the morning.
21 It's obviously nighttime, correct? Dark outside?

22 A Yes.

23 Q I'm going to show you State's Exhibit 9, the
24 Facebook post. Does this appear to be Robert Carter
25 talking about this incident --

Exmination of Colin Amburg

31

1 A Yes.

2 Q Between you and him on October 22, 2019?

3 A (Witness nods head up and down.)

4 Q Can you say yes or no?

5 A Yes.

6 Q He appears to be talking about that fight then,
7 correct?

8 A My name is right there on it.

9 Q Thank you?

10 MS. KEENEY: No further questions.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MS. ANDERSON:

14 Q Good morning, Colin.

15 A Good morning.

16 Q How you doing today?

17 A All right.

18 Q You and Shannon were just friends in October of
19 2019.

20 A That's correct.

21 Q So you were pretty surprised when Robert entered
22 that house.

23 A Yes. I think anyone --

24 Q Because you lived -- you said what?

25 A I think anyone would be surprised if someone

1 climbed through a window and tried to fight you.

2 Q But because you lived in Orangeburg, you weren't
3 aware of any relationship that Shannon had going on in
4 Walterboro.

5 A No.

6 Q But you understood that Shannon was scared and you
7 decided to come over.

8 A Yes.

9 Q But you didn't drive your car.

10 A No, because there really wasn't a point to
11 drive two cars.

12 Q Instead parking your car at her house so that the
13 big bad wolf wouldn't come and get her, you left your
14 car an hour away.

15 A Is that a question?

16 Q It is.

17 A It sounded like a statement.

18 Q Did you leave our your car an hour away from her
19 home?

20 A Yes.

21 Q At the Summerville Walmart, correct?

22 A Yes.

23 Q Because you-all were getting drugs?

24 A Drugs? No.

25 Q You told Officer Ballard that you were new to

Exmination of Colin Amburg

33

1 Summerville and you had just moved?

2 A That's correct. I wasn't living in
3 Summerville, no.

4 Q You told Officer Ballard that, correct?

5 A That I was living in Summerville?

6 Q Yes.

7 A (No response.)

8 Q I'll move on.

9 Why not let Shannon stay at your house?

10 A Because she had her dogs and her chickens
11 that she had to take care. She can't leave them
12 for 24 hours not letting them outside.

13 Q So Shannon drives back and you were with her?

14 A Yes.

15 Q You say that Robert knows Shannon's car.

16 A Yeah.

17 Q Wouldn't you agree that if someone sees a stranger
18 or multiple cars even that they're less likely to come
19 inside?

20 A No, because he already knew I was there.

21 Q But this happened at night?

22 A Yes, he knew I was there.

23 Q How would he know that you're there?

24 A From coming to the back door, looking in the
25 window, banging on the door. He knew I was

1 there.

2 Q Let's circle back a bit. So she called the police
3 at 10:24 p.m. and reported a person outside.

4 A Yes.

5 Q Did you see anyone?

6 A No. By the time I got to the door, they
7 weren't there anymore.

8 Q So she called 911 again at 11:13. Did you see
9 anyone?

10 A No, but I heard noises outside.

11 Q Did you go and check and see if anyone was there?

12 A Yes. By the time I was outside, no one was
13 there anymore. The whole property is surrounded
14 by woods, so it's very easy -- you could go into
15 the woods. You could walk 10 feet and be in the
16 woods.

17 Q Did you go out into the woods to look?

18 A No, because I didn't have a flashlight. It
19 sounded like a bad idea.

20 Q But you're there to protect her?

21 A To go out into the woods in the dark with no
22 light to fight someone that already knows what
23 those woods are like?

24 Q When we watched Officer Ballard's body camera
25 footage, you could see that the light was on, correct?

Exmination of Colin Amburg

35

1 A Yeah, because I went back outside and fixed
2 it.

3 Q Did you see anyone else or him before he entered
4 the house?

5 A No.

6 Q She had dogs.

7 A Yes.

8 Q You didn't hear the dogs barking?

9 A Well, the dogs also lived with him for three
10 year, so they probably wouldn't bark at him. They
11 knew him more than they knew me.

12 Q But dogs bark when they see their owners, right?

13 A No.

14 Q So, you were pretty shocked when he got in your
15 face?

16 A Yeah.

17 Q And just to clarify, what type of car did you
18 drive?

19 A At the time, I was driving a Honda Accord.

20 Q And you didn't drive that night?

21 A No, I didn't drive there that night. No.

22 Q Very briefly, the boat landing, you-all went to
23 the boat landing on October 20th of 2019, correct?

24 A That's correct.

25 MS. ANDERSON: No further questions.

Exmination of Colin Amburg

36

1 THE COURT: Redirect.

2 MS. KEENEY: I do not have anything.

3 THE COURT: All right. You may step
4 down.

5 THE WITNESS: Thank you.

6 THE COURT: State can call your next
7 witness.

8 MS. CONTESTABILE: The State calls
9 Melanie Buchanan.

10 THE COURT: All right.

11 THE CLERK: Raise your right hand. Do
12 you solemnly swear or affirm the testimony you're
13 about to give the Court shall be the truth so help
14 you God?

15 THE WITNESS: I do.

16 THE CLERK: State your name again and
17 spell your last name.

18 THE WITNESS: Melanie Buchanan,
19 B-u-c-h-a-n-a-n.

20 MS. CONTESTABILE: May it please the
21 court?

22 THE COURT: Yes, ma'am.

23 DIRECT EXAMINATION

24 BY MS. CONTESTABILE:

25 Q Good morning.

Exmination of Melanie Buchanan

37

1 A Good morning.

2 Q Miss Buchanan, where are you currently employed?

3 A Colleton County Magistrate Court.

4 Q What is your current position at the magistrate
5 court?

6 A I am the deputy court administrator.

7 Q What are your duties as the deputy court
8 administrator?

9 A Also I assist in the overall operation of the
10 magistrate's court. I also supervise in training
11 staff members.

12 Q Does the magistrate court keep records of
13 different documents?

14 A Yes, we keep all kinds of records.

15 Q What are some of those records?

16 A We keep all kinds of civil records, which are
17 summons and complaints, eviction records,
18 restraining order records, plaintiff delivery
19 record, all types of records.

20 Q Would you keep a writ of ejectment?

21 A Yes, that would be part of the eviction
22 records we keep.

23 Q And are those kept in the regular practice of
24 Colleton County Magistrate Court?

25 A Yes, absolutely.

Exmination of Melanie Buchanan

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1 MS. CONTESTABILE: Your Honor, may I
2 approach the witness?

3 THE COURT: Yes.

4 (STATE EXH. 16, Writ of Ejectment;
5 9/18/2019, was marked for identification.)

6 BY MS. CONTESTABILE:

7 Q I'm going to hand you what has been previously
8 marked as State's Exhibit 16. Do you recognize this
9 document?

10 A Yes, I do.

11 Q How do you recognize it?

12 A This is an affidavit of service from the
13 sheriff's department.

14 Q Okay. Is it a writ of ejectment?

15 A The writ of ejectment is included in this
16 package you handed me, yes.

17 Q Okay. Has it been altered or changed in any
18 way?

19 A No, it has not.

20 Q So would it be a fair and accurate depiction of a
21 writ of ejectment?

22 A Yes, that's correct.

23 MS. CONTESTABILE: Your Honor, at this
24 time, the State moves to enter State's Exhibit 16
25 into evidence.

Exmination of Melanie Buchanan

39

1 THE COURT: Any objection?

2 MS. ANDERSON: No objection.

3 THE COURT: State's Exhibit -- you said
4 16.

5 MS. CONTESTABILE: Yes.

6 THE COURT: State's Exhibit 16 admitted
7 into evidence without objection.

8 (STATE EXH. 16, Writ of Ejectment;
9 9/18/2019, was entered into evidence.)

10 BY MS. CONTESTABILE:

11 Q Looking at those documents, can you tell us when
12 the writ of ejectment was written on?

13 A The writ of ejectment was entered on
14 September 18, 2019.

15 Q What does that writ of ejectment state for that
16 date?

17 A The writ of ejectment basically states that
18 Mr. Robert Carter was evicted from [REDACTED] Tram Road,
19 Walterboro, South Carolina. He was to be out of
20 that residence on September 23rd of 2019.

21 Q Would Mr. Carter have been made aware of this writ
22 of ejectment?

23 A Yes. Mr. Carter was -- he appeared in court,
24 so he was there when the judge issued this
25 order.

1 Q Okay. So would it have been served on
2 Mr. Carter?

3 A Yes, it was actually served on Mr. Carter.
4 It was served on him in my office on September the
5 18th, 2019, at 11:15 a.m. that morning.

6 Q Okay.

7 MS. CONTESTABILE: Nothing further.

8 THE COURT: All right.

9 Cross-examination.

10 CROSS-EXAMINATION

11 BY MS. ANDERSON:

12 Q Good morning, Miss Buchanan.

13 A Good morning.

14 Q Would your also keep trespass tickets if one was
15 issued?

16 A We do not keep trespass tickets, no.

17 Q Would there be any record of a trespass given to
18 any defendant?

19 A Not in my office, no. That's done by the
20 sheriff's department.

21 Q In your time at the magistrate's court, have you
22 seen cases where a person is evicted or ejected and
23 they return to the property with permission?

24 A Not that I'm aware of, no.

25 MS. ANDERSON: No further questions.

Exmination of Melanie Buchanan

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1 THE COURT: Redirect.

2 MS. CONTESTABILE: Nothing further, Your
3 Honor.

4 THE COURT: All right. You may step
5 down.

6 MS. KEENEY: May this witness be excused?

7 THE COURT: Any objection?

8 MS. ANDERSON: No objection.

9 THE COURT: She is free to go.
10 Call your next witness.

11 MS. CONTESTABILE: The State calls Deputy
12 Clarissa Kessler.

13 THE CLERK: Raise your right hand. Do
14 you solemnly swear or affirm the testimony you're
15 about to give the Court shall be the truth so help
16 you God?

17 THE WITNESS: Yes, ma'am.

18 THE CLERK: State your name again. Spell
19 your last name.

20 THE WITNESS: My first name is Clarissa,
21 last Name Kessler, K-e-s-s-l-e-r.

22 WHEREUPON:

23 CLARISSA KESSLER,
24 after having been sworn, testified as followed:

25 DIRECT EXAMINATION

1 BY MS. CONTESTABILE:

2 Q Good morning.

3 A Good morning.

4 Q Deputy Kessler, where are you currently
5 employed?

6 A I'm currently employed at the Colleton County
7 Sheriff's Office.

8 Q What is your position at the Colleton County
9 Sheriff's Office?

10 A A deputy.

11 Q And in September of 2019, where did you work?

12 A Colleton County Sheriff's Office.

13 Q And what was your position at that time?

14 A 2019, I believe I was a sergeant at that
15 time.

16 Q What were your duties as a sergeant in 2019?

17 A To handle 911 calls, any calls for service
18 that came in, and supervise deputies that were
19 under myself.

20 Q At any point in time, would you have served
21 trespass notices?

22 A Yes, ma'am.

23 Q Is that something that you were doing in 2019?

24 A Yes, ma'am.

25 Q Can you explain briefly what a trespass notice

Exmination of Clarissa Kessler

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1 is?

2 A A trespass notice is a form that a land owner
3 can request to have somebody notified that they're
4 no longer welcome on their property, and, on it,
5 it states, if you come back on the property you
6 can be sentenced to jail, and the land owner and
7 the person that's being trespassed have to sign
8 it, as well as myself.

9 Q So how did you get involved in this case?

10 A I got a phone call from dispatch -- well,
11 actually a call for service from dispatch stating
12 that they wanted Robert Anthony Carter trespassed
13 from 226 Tram Road.

14 Q Okay. Did you, in fact, go and serve the
15 defendant with the trespass?

16 A Yes, ma'am, I did.

17 Q Okay.

18 MS. CONTESTABILE: May I approach the
19 witness?

20 THE COURT: Yes.

21 (STATE EXH. 17, Trespass Form, was marked
22 for identification.)

23 BY MS. CONTESTABILE:

24 Q I'm handing you what's been previously marked as
25 State's Exhibit 17. Do you recognize that document?

1 A Yes, ma'am.

2 Q What is it?

3 A This is a trespass form.

4 Q How do you recognize it?

5 A Oh, this is the standard trespass form that
6 we fill out for anybody that's requesting that
7 someone be trespassed through the sheriff's
8 office.

9 Q Who was that served on?

10 A That was served on Robert Carter.

11 Q Okay. So is it a fair and accurate depiction of
12 the trespass notice that was served on Robert Carter
13 on September 29, 2019?

14 A Yes, ma'am, it is.

15 MS. CONTESTABILE: Your Honor, at this
16 time, the State moves to enter State's 17 into
17 evidence.

18 THE COURT: Any objection?

19 MS. ANDERSON: No objection.

20 THE COURT: State's Exhibit 17 entered
21 into evidence without objection.

22 (STATE EXH. 17, Trespass Form, was entered
23 into evidence.)

24 BY MS. CONTESTABILE:

25 Q Deputy Kessler, can you just read through what

Exmination of Clarissa Kessler

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1 that document says for us, please?

2 A "This is a formal notice of trespass. The
3 property owner or agent has requested the Colleton
4 County Sheriff's Office to issue a trespass notice
5 on you. You are hereby formally notified of their
6 intent of prosecution if you return to this
7 property," and it has Mr. Carter's information,
8 the landowner's information, the State statute for
9 trespassing, and then the signature by the
10 landowner, Mr. Carter, and myself.

11 Q Okay.

12 MS. CONTESTABILE: Court's indulgence.

13 THE COURT: All right.

14 BY MS. CONTESTABILE:

15 Q So, Deputy Kessler, is trespassing a crime in
16 South Carolina?

17 A Yes, ma'am, it is.

18 Q Okay.

19 MS. CONTESTABILE: Nothing further.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 BY MS. ANDERSON:

23 Q Good morning, Deputy Kessler.

24 A Good morning.

25 Q Do you recall serving the incident on Robert?

1 A I do not.

2 Q So you wouldn't know if he was friendly?

3 A I cannot say. Mr. Carter and I have a
4 descent relationship. We dealt with each other in
5 the past. So I would imagine he's friendly, but I
6 can't remember.

7 Q So, generally, he would cooperate with you when
8 you-all came into contact with each other.

9 A With myself. I can't speak with everybody,
10 but with myself, yes.

11 Q Thank you.

12 MS. ANDERSON: No further questions.

13 THE COURT: Redirect?

14 MS. CONTESTABILE: No, Your Honor.

15 Your Honor, may we approach?

16 THE COURT: Yes.

17 (Bench conference off the record.)

18 THE COURT: All right. Ladies and
19 gentlemen, we're going to take about a 10- or
20 15-minute break. Give you an opportunity to
21 stretch your legs, get something to drink,
22 whatever the case may be.

23 I caution you again, do not discuss the
24 case. It's too early for deliberations. Don't
25 even talk about it among yourselves. Don't

Exmination of Clarissa Kessler
1 conduct any independent investigation.

2 As I said, we'll take a 10- or 15-minute
3 break and we'll come back in just a minute. Thank you
4 very much.

5 Everybody else, remain seated while the
6 jury is excused.

7 (Jury exits the courtroom at 10:14 a.m.)

8 THE COURT: All right. Anything from the
9 State before we recess?

10 MS. KEENEY: Nothing.

11 THE COURT: Anything from the defense?

12 MS. ANDERSON: No, Your Honor.

13 THE COURT: Let's take about a 15-minute
14 recess. Let me know when the witness is here.

15 MS. KEENEY: We are moving a lot quicker
16 than I thought we would be.

17 THE COURT: Not a problem.

18 (A break was taken from 10:15 a.m. to 10:37 a.m.)

19 THE BAILIFF: All rise.

20 THE COURT: Thank you very much. Please
21 be seated.

22 Anything from the state before we bring
23 the jury in?

24 MS. ANDERSON: Your Honor, we need a few
25 more minutes. They switched the order of who

Exmination of Clarissa Kessler

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1 they're going to call next, so we need to have our
2 investigator speak to them.

3 THE COURT: Okay.

4 MS. KEENEY: We're good to go, because I
5 can call another witness.

6 THE COURT: They said they can call
7 another witness.

8 MS. ANDERSON: That's fine.

9 THE COURT: So do you still need time, or
10 are you good to go?

11 MS. ANDERSON: I'm fine with her calling
12 her other witness.

13 THE COURT: All right. Let's go ahead
14 and bring the jury in.

15 Ladies and gentlemen, welcome back.

16 State can call your next witness.

17 MS. KEENEY: The State calls
18 Sergeant Lee Riley.

19 THE CLERK: Good morning. Raise your
20 right hand. Do you solemnly swear or affirm the
21 testimony you're about to give the Court shall be
22 the truth so help you God?

23 THE WITNESS: I do.

24 THE CLERK: Take a seat in the witness
25 stand, state your name again, spell your last name

Exmination of Jackson Riley
1 for the record.

2 THE WITNESS: My name is Jackson Lee
3 Riley, R-i-l-e-y.

4 WHEREUPON:

5 JACKSON LEE RILEY,
6 after having been sworn, testified as follows:

7 MS. KEENEY: May it please the Court?

8 THE COURT: All right.

9 DIRECT EXAMINATION

10 BY MS. KEENEY:

11 Q Are you a sergeant? Is that your rank?

12 A Yes.

13 Q Sergeant Riley, where do you work?

14 A Walterboro Police Department.

15 Q What's your position there?

16 A I'm a sergeant, a team sergeant and a K-9
17 handler. I'm also a member of the street crime
18 unit.

19 Q In October of 2019, were you a K-9 handler then?

20 A I was.

21 Q I want to talk to you about your K-9 training.
22 Where did you get trained at?

23 A We went to Virginia and we certified through
24 the American Society of K-9 Trainers
25 International. We go through a two-week course

Exmination of Jackson Riley

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1 where you learn all about the dog, the olfactory
2 system, how the dog works, and you actually do
3 hands-on with your dog during those two weeks.
4 And then you go through what's called a
5 double-blind certification on -- we're certified
6 in narcotics and tracking. We have a track and we
7 have no idea other than where it starts, and we
8 have a certain amount of time to look for a
9 suspect. I think it's like 20 minutes.

10 Q How long have you been certified as a K-9
11 handler?

12 A It will be four years, I believe, in either
13 May or June. I went up there sometime during May,
14 I believe, of 2019. I believe.

15 Q So in October of 2019, you were certified,
16 correct?

17 A I was.

18 Q Brandon Duboise, he no longer works for the police
19 department, correct?

20 A He does not.

21 Q Was he also a K-9 handler?

22 A He was.

23 Q What is your dog's name?

24 A My dog's name is Hydro.

25 Q What was Brandon's dog's name?

Exmination of Jackson Riley

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1 A Poppy.

2 Q Are Poppy and Hydro still dogs with the police
3 department?

4 A They are.

5 Q Are you familiar with Poppy?

6 A Yes. I've trained regularly with Poppy since
7 he's become a member of the police department.

8 Q And has Poppy -- were Poppy and Brandon certified
9 as well?

10 A They were.

11 Q Were they certified about the time period that you
12 were certified?

13 A Brandon went to Virginia when I did. Poppy
14 was up there, but we weren't sure which dog we
15 were going to buy. But we knew we were going to
16 buy Hydro, so I got Hydro certified with him.
17 Brandon did the written portion of the test. I
18 believe it was only, like, two months later they
19 decided to buy Poppy, and he went up there and did
20 the hands-on. He already completed the written
21 portion of the test.

22 Q So everybody passed the written portion of the
23 test?

24 A That's correct.

25 Q And you and all the dogs passed -- you, Brandon,

1 Hydro, and Poppy all passed the actual hands-on
2 portion of the test.

3 A That is a correct.

4 Q And I guess you still see Poppy now and work with
5 him a little bit too.

6 A I still train with him very regularly.

7 Q Okay. And what type of dog is Poppy?

8 A He's a German Shepherd. He's a black
9 shepherd. He is fully black.

10 Q Are German Shepherds common police dogs?

11 A They are.

12 Q What type of law enforcement functions does Poppy
13 perform?

14 A Poppy performs the same thing Hydro does,
15 which is narcotics and tracking.

16 Q Okay. And what is tracking?

17 A Tracking whenever -- say, a lost person, or,
18 say, a suspect were to run from us, the dogs are
19 able to stay on that person's scent and locate him
20 by giving signs of being on and also offs. We
21 call them negatives. And they will help you. You
22 and the dog together are able to track to the
23 suspect.

24 Q Okay. And after Poppy got certified in 2019, did
25 Poppy undergo any other training, like in-house

Exmination of Jackson Riley

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1 training, like at Walterboro?

2 A We have to regularly train with our dogs.

3 They changed the standards. It's almost been

4 every year since I've been in, and you have to go

5 through so many training sessions or so many

6 hours. I think at the time -- I can't remember

7 exactly, because, like I said, they changed it

8 every year.

9 The biggest part of that is, you have to

10 recertify every year through the same test that you

11 did when you first began, which is some unknown track

12 for tracking portion and you have to locate the

13 suspect in, like I said -- I think it's 20, 30

14 minutes. It's a .5 to a .75 track that's aged for a

15 certain amount of time. All you know is that it

16 starts here and you have to locate the suspect.

17 Q And you participated with the training of Poppy,

18 correct?

19 A I have trained and continue to train numerous

20 times with Poppy, yes, ma'am.

21 Q In your experience with Poppy, is Poppy a reliable

22 dog?

23 A Poppy is a reliable dog, yes, ma'am.

24 Q And obviously dogs are not perfect, but, in your

25 experience, he's reliable?

Exmination of Jackson Riley

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1 A That is correct.

2 Q And when I asked that, I meant to do it with
3 tracking, correct?

4 A Yes.

5 Q And, obviously, is he certified -- he's certified
6 with narcotics too?

7 A Yes, ma'am.

8 Q Is he reliable in detecting narcotics?

9 A He is.

10 MS. KEENEY: At this time, the State
11 moves to Officer Riley as an expert in K-9
12 handling and tracking.

13 THE COURT: All right. Any challenges or
14 questions?

15 MS. ANDERSON: No objection.

16 THE COURT: All right. Ladies and
17 gentlemen, I find this witness to be an expert in
18 the field of K-9 handling and tracking.

19 Now, I'll give you some instructions on
20 expert testimony when I charge you on the law in
21 this case, but all you need to know at this point
22 in time is that, typically, a person can only
23 testify as to his or her personal knowledge; what
24 they saw, what they tasted, what they smelled,
25 things of that nature.

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1 There are exceptions for witnesses who
2 are qualified as experts, which means that, in
3 addition to any personal observation, this witness
4 can give an opinion in the field in which he is
5 qualified as an expert.

6 All right.

7 MS. KEENEY: Thank you.

8 BY MS. KEENEY:

9 Q On October 22, 2019, did you get involved in this
10 case?

11 A I did.

12 Q How did you get involved?

13 A I believe I was actually out training on my
14 day off. And it was Brandon Duboise's night to
15 work, and there was a track called out and I
16 responded with him to run the track with him and
17 Poppy.

18 Q So you went with Brandon and Poppy to run the
19 track.

20 A That's correct.

21 Q And the address, is it [REDACTED] Tram Road in
22 Walterboro?

23 A That's correct.

24 Q And do you recall what time you arrived at the
25 scene?

Exmination of Jackson Riley

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1 A I don't recall exactly what time. I do
2 remember it was at night. I believe I was also
3 working the night shift then. And, like I said, I
4 overheard the call. I might have been training
5 with Poppy and Brandon at the time or about to
6 begin some kind of training. I can't remember the
7 exact time. I do remember it was dark outside.

8 Q Does 1:30 in the morning sound about right?

9 A That sounds about right.

10 Q Okay. And what did you do? Did you -- whenever
11 you do a track, are there certain requirements that
12 have to be met before you even do a track about
13 contamination?

14 A So we always try to find out if the track has
15 been contaminated. Whatever -- as long as no one
16 has attempted to search in the woods for the
17 suspect or something like that, you'll have a
18 good, what we call, starting point. And that's
19 the last known point that the person that you're
20 looking to track has been or no one has run in the
21 woods or run out. I always tell officers if, you
22 know, you chase somebody or if somebody else
23 chases somebody, if they drop a hat, this is the
24 last point mark. Something. Mark your ground or
25 something. And it gives the dog a good start

Exmination of Jackson Riley

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1 point, and they stay on this track of this person
2 because it's the only one that went through in the
3 last however long.

4 Q Did you determine if the track in this case had
5 been contaminated?

6 A Yes. I think we talked to -- I can't
7 remember who all was there. But I remember we
8 talked to some of the deputies that were there and
9 asked if anybody had walked around the yard. They
10 said they had not. I think they said they checked
11 the back door, so I believe Brandon started
12 casting Poppy out a little ways away from the back
13 door which is the last known location.

14 Q And tell me about the track. Where did it lead
15 you-all?

16 A We went down -- it was like a wood path
17 behind the house. I believe we passed another
18 house during there. Poppy began -- within, like,
19 the first 100 yards, they began what's called
20 scent discrimination, when the dog chooses to
21 remain on track from just prior training and stuff
22 like that.

23 We tracked through a wooded path. I believe
24 we eventually came out on Glen Street, went down Glen
25 Street to Tika and then Tika to Smoak Road. And we

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1 took a right turn, I believe it was, onto Smoak Road
2 and ended up in a yard. I think it was like a camper
3 or something.

4 Q Okay. Do you know whose camper that was?

5 A From my understanding -- later on, I learned
6 that it was the suspect they were looking -- they
7 thought was the suspect.

8 Q Was the suspect there when you, Poppy, and the
9 other law enforcement got there?

10 A He was not that we could tell. Poppy began
11 giving negatives around the area of the camper. I
12 remember Brandon and Poppy continuously going
13 around the area of the camper to see if there was
14 any other track in that area. Poppy didn't show
15 no indication of a track further than that area,
16 and we believe the tracking ended there.

17 Q The tracking ended at the suspect's camper?

18 A Yes, ma'am.

19 Q Thank you.

20 MS. KEENEY: No further questions.

21 THE COURT: Cross-examination.

22 CROSS-EXAMINATION

23 BY MS. ANDERSON:

24 Q Good morning, Corporal Riley.

25 A Good morning, ma'am. I'm actually a

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1 sergeant.

2 Q Sorry. Sergeant Riley. I do not want to mistake
3 your title.

4 You were aware that Robert wasn't there,
5 correct?

6 A That he wasn't there? As far as, we
7 didn't -- I don't remember us checking inside the
8 residence, but we did look -- I believe we did
9 look in the windows and didn't see him. And I
10 don't think we believed that he was there at the
11 time we finished the track.

12 Q And, to your knowledge, you were given the address
13 of where he could potentially be?

14 A I did not know where it was. I believe right
15 when we made the right turn into his yard, one of
16 deputies looked at me and said, *This is actually,*
17 *I believe, where the guy lives.*

18 And I think, as Brandon was working through
19 the negatives, somebody was like, *Hey, this is where*
20 *the guy lives.* Brandon was pretty focused on tracking
21 and he was like, *I still want to make sure, you know,*
22 *there's no other track around that area,* and continued
23 to process the area around that camper.

24 Q And the knowledge of where he lived had came from
25 the complainant, Shannon and Colin?

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1 A I'm not sure where it came from. I didn't
2 interview anyone, but I do remember the deputies
3 did know where he lived because they said, when we
4 were in the area of the camper, *Hey, this is where*
5 *the guy lives.*

6 MS. ANDERSON: No further questions.

7 THE COURT: All right. Redirect.

8 MS. KEENEY: Briefly.

9 MS. ANDERSON: Excuse me. I beg the
10 Court's indulgence.

11 THE COURT: It's all right.

12 BY MS. ANDERSON:

13 Q Mr. Carter was not there when you got there?

14 A To my knowledge, that's correct.

15 MS. ANDERSON: No further questions.

16 THE COURT: All right. Now redirect.

17 MS. KEENEY: May I approach the witness?

18 THE COURT: Yes.

19 REDIRECT EXAMINATION

20 BY MS. KEENEY:

21 Q I'm going to show you this report by Brandon, the
22 assistant officer. Can you look at that "however"
23 sentence towards the bottom?

24 A That one of neighbors had confirmed the track
25 with the suspect?

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1 Q About the vehicle, the suspect's vehicle.

2 A That his vehicle was not there at the time we
3 tracked the residence.

4 Q Okay. The defendant potentially left in his
5 vehicle?

6 A Yes. There was no vehicle there at the time
7 that we ended the track there.

8 Q So if the defendant had left in his vehicle, would
9 that have made Poppy do negatives?

10 A Whenever somebody would be in an enclosed
11 area, their odor may not leave that particular
12 vehicle. A lot of times our tracks will end --
13 I've had our tracks end at tire tracks. And, you
14 know, just to make sure there's no other suspects,
15 I have, in other times, continued to check and
16 received negatives from where they left the
17 vehicle.

18 Q And he could have very well just driven off?

19 A That's correct.

20 Q Thank you.

21 MS. KEENEY: No further questions.

22 THE COURT: You may step down.

23 State can call your next witness.

24 MS. KEENEY: May I ask defense a quick
25 question?

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1 THE COURT: All right.

2 MS. KEENEY: The State calls Johnny
3 Powell.

4 THE CLERK: How are you doing,
5 Mr. Powell? Raise your right hand. Left hand on
6 the Bible. Do you solemnly swear or affirm the
7 testimony you're about to give the Court shall be
8 the truth so help you God?

9 THE WITNESS: I will.

10 THE CLERK: Take a seat in the witness
11 stand, please, and state your name again, spell
12 your last name.

13 THE WITNESS: Johnny Powell.

14 THE CLERK: Spell that last name.

15 THE WITNESS: P-o-w-e-l-l.

16 MS. KEENEY: May it please the Court?

17 THE COURT: Yes.

18 WHEREUPON:

19 JOHNNY POWELL,
20 after having been sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. KEENEY:

23 Q Mr. Powell, where do you live?

24 A I live at [REDACTED] Tram Road.

25 Q And that's in Walterboro?

Exmination of Johnny Powell

1 A Here in Walterboro yes.

2 Q Are you familiar with [REDACTED] Tram Road?

3 A I own that property.

4 Q Okay, you own that property. Did you own that
5 property in October of 2019?

6 A Yes.

7 Q And who rents that property from you? Who rented
8 that property from you in October of 2019?

9 A Shannon Deay.

10 Q Okay. And did Shannon Deay have lawful possession
11 of that property in October of 2019?

12 A Yes.

13 Q Okay.

14 MS. KEENEY: That's all the questions I
15 have for this witness.

16 THE COURT: All right.

17 Cross-examination.

18 CROSS-EXAMINATION

19 BY MS. ANDERSON:

20 Q Good morning, Mr. Powell.

21 A Good morning.

22 Q Very briefly, what utilities did Robert pay?

23 A What?

24 Q What bills did he pay for the home?

25 A What bills did Robert pay for the home?

1 Q Yes, sir.

2 A I don't know of any.

3 Q You spoke with our investigator and you told them
4 that he paid the water and the light bill, correct?

5 A No, I never said that. I don't know who paid
6 the bills, to be honest with you.

7 MS. ANDERSON: Your Honor, no further
8 questions.

9 THE COURT: All right. Redirect.

10 MS. KEENEY: Nothing from the State.

11 THE COURT: All right. Thank you very
12 much. You may step down.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: The State can call your next
15 witness.

16 MS. ANDERSON: The State calls Captain
17 Wanda Taylor.

18 MS. KEENEY: Can Mr. Powell be excused
19 from his subpoena?

20 THE COURT: Any objection?

21 MS. ANDERSON: No objection.

22 THE COURT: He's free to go.

23 MS. KEENEY: You can watch in the
24 courtroom. You can stay.

25 Can I excuse Sergeant Riley from his

Exmination of Wanda Taylor
1 subpoena as well?

2 THE COURT: Any objection?

3 MS. ANDERSON: No objection.

4 THE COURT: He's free to go.

5 MS. KEENEY: Thank you.

6 THE CLERK: Raise your right hand, left
7 hand on the Bible. THE CLERK: Raise your right
8 hand. Do you solemnly swear or affirm the
9 testimony you're about to give the Court shall be
10 the truth so help you God?

11 THE WITNESS: I do.

12 THE CLERK: Take a seat in the witness
13 stand, state your name again, spell your last
14 name.

15 THE WITNESS: May name is Wanda Taylor,
16 Taylor, T-a-y-l-o-r.

17 MS. ANDERSON: May it please the Court?

18 THE COURT: Yes.

19 WHEREUPON:

20 WANDA TAYLOR,
21 after having been sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. CONTESTABILE:

24 Q Captain Taylor, where do you currently work?

25 A Colleton County Detention Center.

1 Q And what is your position at the detention
2 center?

3 A The detention administrator.

4 Q And where -- so you regularly work at the jail?

5 A I'm the supervisor and manager at the jail,
6 yes.

7 Q Does the jail allow inmates to make phone calls?

8 A Yes.

9 Q And as captain of the jail, would you have access
10 to those phone calls?

11 A Yes.

12 Q Does your jail call system record the calls as
13 those calls are being made?

14 A Yes.

15 Q Are the inmates made aware that the calls are
16 being recorded?

17 A Yes.

18 Q Does the jail keep those calls in the ordinary
19 course of business?

20 A Yes.

21 Q So when an inmate wants to make a call, do they
22 have a code or inmate name that they would use to
23 identify themselves that the system with know who was
24 making the call?

25 A Yes.

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1 Q Did Miss Keeney ask you to look at some jail calls
2 for us in this case?

3 A Yes.

4 Q And whose jail calls were those?

5 A Mr. Robert Carter.

6 MS. CONTESTABILE: May I approach the
7 witness?

8 THE COURT: Yes.

9 (STATE EXH. 18, Jail Call, was marked for
10 identification.)

11 BY MS. CONTESTABILE:

12 Q I'm going to hand you what has been previously
13 marked as State's Exhibit 18. Do you recognize
14 that?

15 A I do.

16 Q And what is it?

17 A It's a redacted jail call from October the
18 30th, 2019.

19 Q How do you recognize that?

20 A My initials, W.T., and the date, 05/05/23.

21 Q And besides what's required by law, is this a fair
22 and accurate depiction of Robert Carter's jail call on
23 October 30, 2019?

24 A It is, yes.

25 MS. CONTESTABILE: At this time, the

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1 State would request that State's Exhibit 18 be
2 moved into evidence.

3 THE COURT: Any objection?

4 MS. ANDERSON: No objection.

5 THE COURT: State's Exhibit 18 admitted
6 into evidence without objection.

7 (STATE EXH. 18, Jail Call, was entered into
8 evidence.)

9 MS. CONTESTABILE: Permission to publish
10 to the jury?

11 THE COURT: All right.

12 MS. CONTESTABILE: Court's indulgence.

13 (Jail call played in its entirety.)

14 MS. CONTESTABILE: No further questions.

15 THE COURT: Cross-examination.

16 MS. ANDERSON: No questions.

17 MS. KEENEY: May he be released from his
18 subpoena?

19 THE COURT: Any objection?

20 MS. ANDERSON: No objection.

21 THE COURT: He is free to go. Thank you
22 very much.

23 The State may call their next witness.

24 MS. KEENEY: At this time, the State
25 rests.

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1 THE COURT: All right. Ladies and
2 gentlemen, the State has rested their case. And
3 now is the time in the trial where I have to
4 address matters of law with the attorneys. We
5 have to do that in every trial when the State
6 finishes their case in chief.

7 As I told you previously, when I address
8 matters of law with the attorneys, we have to do
9 it outside the presence of the jury so that you're
10 not influenced by anything that we might say when
11 we discuss the law in your determination of the
12 facts of this case.

13 So I'm going to excuse you back to the
14 jury room for a little while and we'll bring you
15 back out in just a minute. Do you not discuss the
16 case, even among yourselves. It's too early for
17 deliberations.

18 It will give you a little break and then
19 we'll bring you back in just a minute.

20 Thank you very much.

21 (Jury exits the courtroom at 11:14 a.m.)

22 THE COURT: All right. Any motions at
23 this time?

24 MS. ANDERSON: Yes, Your Honor. If we
25 can make a motion for directed verdict at this

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1 time. At this time, we have not heard any
2 testimony that indicates intent. As the burglary
3 statute reads, there must be an entry without
4 content without the intent to commit a crime. It
5 cannot be speculative in nature as to what crime
6 the State is representing occurred.

7 We have testimony showing that the crime
8 that they're alleging to have occurred is a
9 trespass. And while it may be a crime of the
10 State of South Carolina, there has been no testify
11 stating that my client was charged with the
12 trespass.

13 It cannot be speculative in nature. It
14 must be that he entered with the intent to commit
15 a crime. And we heard the evidence. There is no
16 way for him to have known that Mr. Colin was
17 there. There is no car outside. There is no
18 indication that he would have known that she was
19 staying with him, so I would just ask that, you
20 know, it be a directed verdict.

21 And I will state that is our position.

22 THE COURT: All right. Thank you.

23 State's position.

24 MS. KEENEY: Thank you. Viewing the evidence
25 in the most light favorable to the State, you just

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1 heard his jail call where he says, *I saw it all, in*
2 *the bed, bouncing around, happy where I used to be. I*
3 *saw a lot more than you think that I saw that night.*
4 So there is evidence that he knew Colin was there. He
5 had seen them together earlier that day. He admits
6 that he saw them together when he was looking in her
7 bedroom outside that night.

8 And that's all from the State.

9 THE COURT: All right. Anything in
10 reply?

11 MS. ANDERSON: Yes, Your Honor. When she
12 mentioned the boat landing, I had Colin clarify
13 that he did not see Mr. Carter on the day before
14 or an hour before, six hours before the boat
15 landing incident occurred on October 20th, which
16 is two days after this allegation occurred.

17 THE COURT: All right. I'm going to deny
18 the motion. I need to just look and see if
19 there's any evidence that exists and not weigh the
20 evidence.

21 So I find that there is enough evidence
22 there viewing the case in the light most favorable
23 to the State, and that that does make it a jury
24 question. So I will deny that motion.

25 Anything else?

Exmination of Wanda Taylor

1 MS. ANDERSON: No, Your Honor.

2 THE COURT: All right. Do we want to go
3 ahead and let me question your client on his right
4 to testify at this point in time? I need to go --
5 let me go over this with him first, okay?

6 All right. Sir, if I could get you to
7 stand, please. If you would, raise your right
8 hand. Do you swear or affirm to tell the truth,
9 the whole truth, and nothing but the truth?

10 MR. CARTER: Yes, sir.

11 THE COURT: And your name is Robert
12 Anthony Carter?

13 MR. CARTER: Yes, sir.

14 THE COURT: Thank you very much,
15 Mr. Carter. You can put your hand down now. I'd
16 ask that you please remain standing.

17 All right. At this time, I'm going to
18 explain to you certain rights that you have. If
19 you don't understand what I'm saying, please let
20 me know. And if you want me to explain anything
21 in more detail, please let me know. Do you
22 understand that?

23 MR. CARTER: Yes, sir.

24 THE COURT: We've now reached the stage
25 of the trial where you may present your defense.

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1 You have the right to claim the protections given
2 to you by the 5th Amendment to the United States
3 Constitution which states in part that no person
4 shall be compelled in any criminal case to be a
5 witness against himself. This means that you
6 cannot be required to testify in this case. You
7 have the right to testify on your own behalf;
8 however, no one can make you testify. This is a
9 personal right and no one can waive this right
10 except for you.

11 If you decide to testify, you will be
12 subject to the same rules that govern other
13 witnesses, and you may examined and cross-examined
14 on any relevant issue in this case.

15 In addition, if you have any convictions
16 involving dishonesty or false statement or for
17 crimes punishable by imprisonment for more than
18 one year and this Court determines that the
19 probative value of admitting this evidence
20 outweighs its prejudicial affect to you, the
21 solicitor WILL be able to introduce your record to
22 attack your credibility.

23 Now, are there any prior convictions that the
24 State intends to use?

25 MS. KEENEY: Yes, Your Honor. 2014,

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1 domestic violence 1st degree, failure to stop for
2 a blue light, and 2015, giving false information.

3 THE COURT: All right. 2014, domestic
4 violence in the first degree.

5 MS. KEENEY: Yes, sir.

6 THE COURT: And what were the others?

7 MS. KEENEY: Failure to stop for a blue
8 light in 2014. And 2015, giving false
9 information.

10 THE COURT: Okay. And all of those were
11 convictions?

12 MS. KEENEY: Yes, sir.

13 THE COURT: All right.

14 All right. So if you testify, the State
15 will be allowed to introduce domestic violence.
16 Your convictions for domestic violence in the 1st
17 degree, failure to stop for a blue light, and
18 giving false information to attack your
19 credibility. Do you understand that?

20 MR. CARTER: Yes, sir.

21 THE COURT: All right. If you decide to
22 testify, this decision on your part must be freely
23 and voluntarily and intelligently made with the
24 knowledge of the protections given to you by the
25 5th Amendment and the consequences of your

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1 decision to testify.

2 If you decide not to testify, I will
3 instruct the jurors that they cannot give the fact
4 that you did not testify any consideration
5 whatsoever, and that there is to be absolutely no
6 prejudice to you because you did not testify.
7 It's left entirely up to you whether or not you
8 testify. You may talk with your lawyer, your
9 family, friends, or anyone else, but the final
10 decision will be left entirely up to you.

11 Now, do you understand what I've
12 explained to you?

13 MR. CARTER: Yes, sir.

14 THE COURT: Do you have any questions
15 about what I've explained to you?

16 MR. CARTER: No, sir.

17 THE COURT: All right. What we are going
18 to do is, we'll take about a 10-minute break.
19 We're going to come back. And then, at that time,
20 I'm going to ask you whether or not you wish to
21 testify in this case. Okay?

22 MR. CARTER: Thank you, sir.

23 MS. KEENEY: I do need to correct
24 something for the record. I need to take off that
25 domestic violence 1st degree. It was criminal

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1 domestic violence first offense, which would not
2 qualify because that was back in the day when it
3 was a 30-day misdemeanor.

4 THE COURT: So the only thing that the
5 State would use to attack your credibility is a
6 failure to stop for a blue light and giving false
7 information?

8 MS. KEENEY: Yes, sir.

9 THE COURT: So it's not domestic violence
10 in the 1st degree. They would not be using that.
11 Okay?

12 MR. CARTER: Yes, sir.

13 THE COURT: All right. Let's take about
14 a 10-minute break. We'll come back and I'll let
15 you tell me what you decide to do in this case.
16 Okay?

17 MR. CARTER: Yes, sir.

18 THE COURT: Thank you very much.

19 Anything from the State before we take a
20 short recess?

21 MS. KEENEY: Nothing from the State.

22 THE COURT: Anything from the defense?

23 MS. ANDERSON: Yes, Your Honor. We do
24 have our investigator who was on the witness list.
25 We do not intend to call her. May she come in at

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1 this time?

2 THE COURT: If she's not going to be
3 testifying as a witness, she can come in, yes.

4 Thank you very much. Let's take about a
5 10-minute break.

6 (A break was taken from 11:22 a.m. to 11:43 a.m.)

7 THE BAILIFF: All rise.

8 THE COURT: All right. You're still under
9 oath. Now, do you recall the rights I read to you?

10 MR. CARTER: Yes.

11 THE COURT: And discussed with you prior
12 to taking this recess?

13 MR. CARTER: Yes, sir.

14 THE COURT: All right. Do you want me to
15 go over those in more detail, or do you understand
16 your rights under the 5th Amendment?

17 MR. CARTER: No, I understand them.

18 THE COURT: All right. Have you had an
19 ample opportunity to discuss with your attorney,
20 your family, or whoever you want to discuss this
21 matter with, your right to testify? Have you
22 discussed thoroughly?

23 MR. CARTER: Yes, sir.

24 THE COURT: Do you need any additional
25 time to discuss it?

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1 MR. CARTER: No, sir.

2 THE COURT: Have you made a decision as
3 to whether or not you wish to testify in this
4 case?

5 MR. CARTER: Yes, sir.

6 THE COURT: All right. And do you wish
7 to testify?

8 MR. CARTER: No, sir.

9 THE COURT: Is this your decision?

10 MR. CARTER: Yes, sir.

11 THE COURT: Have you felt pressured into
12 making this decision?

13 MR. CARTER: Not at all.

14 THE COURT: All right. And are you
15 making this decision voluntarily?

16 MR. CARTER: Yes, sir.

17 THE COURT: All right. As I understand,
18 anything further you want on the record in regard
19 to his decision not to testify?

20 MS. ANDERSON: No, Your Honor.

21 THE COURT: Anything further the State
22 wants on the record regarding his decision not to
23 testify?

24 MS. KEENEY: No, Your Honor.

25 THE COURT: All right. Do you plan to

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1 present any witnesses?

2 MS. ANDERSON: Yes, Your Honor.

3 THE COURT: Okay. It's about quarter to
4 12:00. Do you know how long your witness will
5 take?

6 MS. ANDERSON: I would say no more than
7 20 minutes.

8 THE COURT: All right. And I'm not going
9 to hold you to it. How many witness do you
10 have.

11 MS. ANDERSON: Just one.

12 THE COURT: Just one, okay.

13 All right. Well, we'll go ahead with that
14 witness.

15 Anything from the State before we bring
16 the jury in?

17 MS. KEENEY: No, sir.

18 THE COURT: Anything from the defense?

19 MS. ANDERSON: No, Your Honor.

20 THE COURT: Thank you very much. Let's
21 bring the jury in. You can have a seat. Thank
22 you.

23 (Jury enters the courtroom at 11:45 a.m.)

24 THE COURT: Ladies and gentlemen, welcome
25 back. We're ready to proceed with the trial of

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1 the case.

2 Before we took a recess, the State had
3 rested their case in chief, and now is the time
4 where the defendant can present his defense, if he
5 chooses to.

6 THE COURT: Miss Anderson, defense can
7 call their first witness.

8 MS. ANDERSON: Defense calls Rhonda
9 Martin.

10 THE CLERK: Raise your right hand, place
11 your left on the Bible. Do you solemnly swear or
12 affirm the testimony you're about to give the
13 Court shall be the truth so help you God?

14 THE WITNESS: Yes, I do.

15 THE CLERK: Please take the witness
16 stand, state your name for the record, and spell
17 your last name.

18 THE WITNESS: Rhonda Martin, M-a-r-t-i-n.

19 THE COURT: All right.

20 WHEREUPON:

21 RHONDA MARTIN,
22 after having been sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. ANDERSON:

25 Q Hi, Miss Martin. Thank you for being here today.

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Can you tell me where you work?

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A I work for Coastal Electric.

Q And what is your position?

A I'm the front office manager.

Q How long have you been with Coastal Electric?

A Twenty-three years.

(DFT. EXH. 6, Coastal Electric Account;
Carter, was marked for identification.)

BY MS. ANDERSON:

Q I'm going to hand you what has been marked as
Defense Exhibit 6.

MS. ANDERSON: May I approach the
witness?

THE COURT: Yes.

BY MS. ANDERSON:

Q Do you recognize this document?

A This is like a print screen for one of the --
account information.

Q And in your line of work, you-all keep client's
accounts as a customary business practice? You keep
the records of clients?

A Yes.

Q Is this a fair and accurate depiction of what the
client record would look like?

A Yes, ma'am.

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1 MS. ANDERSON: At this time, I would ask
2 to move Defense Exhibit 6 into evidence.

3 THE COURT: Any objection?

4 MS. KEENEY: No objection.

5 THE COURT: Defendant's Exhibit 6
6 admitted into evidence without objection.

7 (DFT. EXH. 6, Coastal Electric Account;
8 Carter, was entered into evidence.)

9 MS. ANDERSON: May I approach the
10 witness?

11 THE COURT: Yes.

12 BY MS. ANDERSON:

13 Q Miss Martin, can you tell me whose name is on this
14 account?

15 A It says Robert A. Carter.

16 Q Can you tell me the connect date?

17 A That would be August 30th of 2017.

18 Q Can you tell me what the disconnect date is?

19 A January 28, 2020.

20 Q Okay. In what ways can accounts be created and
21 opened with Coastal Electric?

22 A You can do it on-line. Complete the
23 application on-line and submit the documents that
24 are required, which is a rental agreement or proof
25 of ownership and picture ID, or you come into the

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1 office and bring that documentation with you.

2 Q And in what manners can they be closed?

3 A Someone can request it by phone or through
4 the Internet, verify their information, personal
5 information. Or in the case of a non-payment
6 situation, we disconnect it, and I think that
7 account would be a pre-paid account which means
8 it's billed daily. So if there's no credit on the
9 account when it bills, it's automatically
10 disconnected.

11 And then the account would stay active but
12 disconnected for 7 to 10 days. If no attempt has been
13 made to reconnect it -- because it will automatically
14 reconnect if you pay what's owing, plus a \$40 minimum
15 credit. So it can reconnect at any time during those
16 10 days as long as someone pays that. And it doesn't
17 matter what time of day. They can pay it on-line at
18 our payment kiosk and it will automatically reconnect.

19 Q In the event that someone is evicted from the
20 property that Coastal Electric is providing services
21 for, what would that new tenant have to show?

22 A If they want to put it in their name, they
23 would just have to show a rental agreement or
24 proof of ownership, picture I.D.

25 Q Could they also get a notarized letter from the

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1 landlord if there is not a written lease?

2 A Yes. Or in the case of pre-pay, if you can't
3 come up with one of those, you just have to get a
4 pre-paid account. You don't qualify for a monthly
5 bill.

6 Q Thank you.

7 MS. ANDERSON: No further questions.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MS. KEENEY:

11 Q Miss Martin, my name is Julie Kate Keeney. I
12 represent the State of South Carolina. How are you
13 doing?

14 A Good.

15 Q I'm guessing Coastal Electric doesn't really care
16 who pays the bill as long as it gets paid, correct?

17 A Correct.

18 Q And you have no knowledge of whether -- the bill's
19 name is in Robert Carter's name, correct?

20 A (Witness nods head up and down.)

21 Q You have no knowledge if, you know, someone gave
22 Robert Carter money to pay the bill and he then paid
23 it. You don't know anything about that, do you?

24 A No.

25 Q Okay. And if someone gets evicted from the

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1 residence where they have service with your company,
2 do you know about that? Do you stop the payment just
3 because -- or stop billing just because they got
4 evicted?

5 A No.

6 Q You have no knowledge of whether or not they are
7 evicted?

8 A No.

9 Q It's up to the customer to request that the
10 service be terminated, correct?

11 A Correct.

12 Q So I could get evicted from my residence, but just
13 keep the bill in my name for five years and it
14 wouldn't matter to Coastal, would it?

15 A Right.

16 Q As long as it gets paid.

17 A Right.

18 MS. KEENEY: No further question.

19 THE COURT: Anything further?

20 MS. ANDERSON: No questions.

21 THE COURT: You may step down.

22 Defense can call your next witness.

23 MS. ANDERSON: At this time, defense
24 rests.

25 THE COURT: All right.

1 Ladies and gentlemen -- let me see the
2 attorney for one second.

3 (Bench conference off the record.)

4 THE COURT: Does the State have anything
5 in reply?

6 MS. KEENEY: Nothing from the State.

7 THE COURT: Ladies and gentlemen, the
8 defense has rested. The State has nothing in
9 reply. So the only thing remaining is for the
10 attorneys to make their closing arguments. I need
11 to charge you on the law to be applied in the case
12 and deliberations. Given the time of day, I'm
13 going to go ahead and let you go to lunch on your
14 own. I'm going to ask that you please be back at
15 2:00 and that will give two hours. Well, let's
16 say be back at 1:45 and we'll try to get started
17 right at 2:00. So come back at 1:45 and we'll get
18 started at that time.

19 Again, I caution you: It's still too
20 early for deliberations, so don't discuss the case
21 at this point in time even among yourselves.
22 Don't conduct any independent investigation.

23 I hope everybody has a good lunch and we'll
24 see you back at 1:45. Thank you very much.

25 (Jury exits the courtroom at 11:55 a.m.)

1 THE COURT: All right. Any motions at
2 this time?

3 MS. ANDERSON: Your Honor, very briefly.
4 Can we release Miss Martin?

5 THE COURT: Any objection?

6 MS. KEENEY: No objection.

7 THE COURT: She is free to go. Thank you
8 very much.

9 All right. Any motions?

10 MS. ANDERSON: We would just renew our
11 motion for directed verdict.

12 THE COURT: All right. The motion is
13 noted, but I'm going to deny it based on the same
14 grounds that I stated earlier.

15 Anything further?

16 MS. ANDERSON: No, Your Honor.

17 THE COURT: All right. Anything from the
18 State?

19 MS. KEENEY: Nothing from the State.

20 THE COURT: All right. I've been working
21 on some charges. I'll have those printed out,
22 hopefully, within the next hour, have it
23 completed. Since the defense has introduced
24 evidence and called a witness, as I understand,
25 the State closes in full, then the defense closes

1 in full, then the State can give a brief reply as
2 to any matters that the defense addressed in their
3 closing that you did not address in your original
4 closing.

5 All right. Now, on charges, burglary in the
6 1st degree, I looked over it, I don't see that there's
7 any lesser included burglary.

8 Assault and battery, we got 1st degree.
9 I think there is where they can find assault and
10 battery 2nd, or assault and battery 3rd. Do you
11 want all three charged?

12 MS. ANDERSON: I would say 3rd. There's
13 been no indication of injury -- I mean, for a
14 medic. This looks to be a fistfight.

15 THE COURT: Well, let me see what assault
16 and battery --

17 MS. ANDERSON: Your Honor, if you are
18 inclined to do so, we will accept it.

19 THE COURT: Do what?

20 MS. ANDERSON: If you are inclined to
21 include assault and battery 2nd, we would
22 accept.

23 THE COURT: Well, if you don't want it to
24 charge -- you just want 1st and 3rd?

25 MS. ANDERSON: Yes, sir.

1 THE COURT: What is the State's position?

2 MS. KEENEY: Well, assault and battery
3 2nd says moderate bodily injury could result. It
4 doesn't say that it had to result. So I think the
5 2nd would be appropriate.

6 THE COURT: Yeah, and that's why I had it
7 there. Yeah. Moderate bodily injury to another
8 person results, or moderate bodily injury to
9 another person could have resulted. So I think
10 that's a jury question. I wouldn't include it if
11 both parties agreed. But if the State wants it in
12 there, then I'll do assault and battery 1st, 2nd
13 and 3rd. Okay?

14 Anything else?

15 MS. ANDERSON: No, Your Honor.

16 THE COURT: I mean, it's just the general
17 charges, and then -- you know, it will just be
18 burglary in the 1st degree, guilty or not guilty.
19 Assault and battery in the 1st degree, either
20 guilty or not guilty of assault and battery in the
21 1st degree, assault and battery in the 2nd degree,
22 assault and battery in the 3rd degree or not
23 guilty. All right?

24 If you think of anything else, just get
25 it to me and I'll take a look at it. We'll be in

1 recess. The jury is coming back in at 1:45. So
2 I'll try to get you my charges by 1:30 so you can
3 take a look at it, and then I'll try to take the
4 bench at two o'clock. Okay?

5 Anything from the State before we recess?

6 MS. KEENEY: Nothing from the State.

7 THE COURT: Anything from the defense?

8 MS. ANDERSON: Nothing from defense.

9 THE COURT: All right. We'll be in recess
10 until two o'clock.

11 (A break was taken from 11:59 a.m. to 1:56 p.m.)

12 THE BAILIFF: All rise.

13 THE COURT: I provided everyone with a
14 copy of my proposed charges and the proposed
15 verdict form. Have you had an opportunity to look
16 over those? I'll give you two opportunities to
17 raise any objections, one now. And then after I
18 charge the jury, I'll give you another opportunity
19 to raise any objections or seek any modifications,
20 because sometimes it does sound differently when
21 you hear charges read versus just reading them on
22 paper.

23 But as far as the proposed charges that
24 I've handed out at this point in time, any charges
25 or anything from the State?

1 MS. KEENEY: The only comment that I
2 would make would be with assault and battery in
3 the 1st degree, you put in the language of the
4 full statute, which will always be the correct
5 law, but I did not proceed under my indictment
6 with the great bodily injury possibly. I just
7 chose during the commission of a burglary. So I
8 don't know if Your Honor wants to take it out. It
9 doesn't really matter to the State. I just wanted
10 to be honest with the Court with what my
11 indictment just says.

12 THE COURT: Yeah. And I, kind of,
13 assumed that. What's the defendant's position on
14 that? Do you want me to delete that part or
15 include it in there?

16 MS. ANDERSON: It's fine.

17 THE COURT: We'll leave it as is.

18 Anything further from the State?

19 MS. KEENEY: Nothing from the State.

20 THE COURT: All right. Any challenges or
21 requested additions at this time from the defense?

22 MS. ANDERSON: Nothing from the
23 defense.

24 THE COURT: Okay. I don't know, is the
25 jury back?

1 THE BAILIFF: Yes, sir.

2 THE COURT: They're all back?

3 THE BAILIFF: Yes, sir.

4 THE COURT: All right. So I guess we'll
5 just bring the jury in, closing arguments,
6 charges, and then I'll send them out.

7 Anything from the State before we bring
8 the jury in?

9 MS. KEENEY: Nothing from the State.

10 THE COURT: Anything from the defense
11 before we bring the jury in?

12 MS. ANDERSON: Nothing from the
13 defense.

14 THE COURT: All right. Let's go ahead
15 and bring the jury in then.

16 Ladies and gentlemen, welcome back.
17 Again, I want to thank you for being prompt. I
18 hope everyone had a good lunch. We're ready to
19 proceed with the trial of the case now. And as I
20 told you before we broke for lunch, the only thing
21 left at this point in time is for the attorneys to
22 make their closing arguments and for me to charge
23 you on the law to be applied in this case.

24 Now is the time for the closing arguments
25 by the attorneys. Now, just like their opening

Closing; Ms. Keeney

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1 statements, these closing arguments are not evidence
2 in this case. It is simply the attorney contention as
3 to what they think the evidence has shown and the law
4 to be applied to this case.

5 If, at any time, an attorney references a
6 factual issue that is different from the facts as
7 you find them, or references the law that is
8 different from the law as I will charge you at the
9 end of their arguments, then you are to disregard
10 that portion of the argument because this is not
11 evidence of the facts and it is not a charge on
12 the law. I will give you that charge following
13 their arguments.

14 All right. Who wishes to close from the
15 State?

16 MS. KEENEY: I am, Your Honor.

17 THE COURT: All right.

18 MS. KEENEY: May it please the Court?

19 THE COURT: Yes, ma'am.

20 CLOSING ARGUMENT

21 MS. KEENEY: This is Colin Amburg.

22 "Laugh my ass off. He flew up out of the bed like
23 a bolt of lightening when he see me. By the time
24 my hands were done, he was curled up in the ball,
25 kicking. Laugh my ass off. It's okay, though,

Closing; Ms. Keeney

1 dude, you can have her. You thought you found a
2 diamond, but in reality found a W," star, star,
3 star, star. State's Exhibit Number 9.

4 Ladies and gentlemen, the defendant has
5 told you in his Facebook post that he has
6 committed these crimes. He's admitted to it.

7 Now, as the State of South Carolina, I
8 have to prove these charges beyond a reasonable
9 doubt. You probably heard that term a bunch of
10 times in your life. You heard it in this
11 courtroom. So let's talk about what reasonable
12 doubt is and let's talk about what it's not.

13 So let's start with what it's not. There
14 are very few things in life that we know with
15 absolute certainty. I do not have to prove that
16 he committed these crimes beyond every single
17 doubt that there is. It's beyond every reasonable
18 doubt.

19 So what does that mean? If you are
20 firmly convinced that he committed these crimes by
21 the evidence that I presented to you, then you
22 must find him guilty.

23 So what do I have to prove? He's charged
24 with burglary in the 1st degree and assault and
25 battery in the 1st degree. Now, burglary in the

Closing; Ms. Keeney

1 1st degree, I have to prove four things to you;
2 that he entered a dwelling without consent and
3 with intent to committed a crime in the dwelling,
4 and it happened at nighttime.

5 So let's touch on all four of those
6 things. The first thing, he entered a dwelling.
7 What is a dwelling? A dwelling is a house where
8 someone lives. So what evidence did I present to
9 you that he entered the house? Well, first and
10 foremost, we have Colin and Shannon testifying,
11 telling you that he entered the house. You see it
12 on Investigator Ballard's body cam where they also
13 told him that the defendant entered the house.

14 Now, whether he entered the house through
15 the back door, the window, or some other door, it
16 does not matter. If he enters, then he's guilty.
17 I don't have to prove that he broke into the
18 house. That's not what the law requires. Force
19 is not an element here. I don't have to prove
20 that he kicked the door in. I don't have to prove
21 that he broke a window. All I have to prove is
22 that he entered the house without permission.

23 How else do we know that he entered the
24 house? Well, State's Exhibit 9, "When he seen me,
25 he few up out of the bed." Colin was in Shannon's

Closing; Ms. Keeney

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1 bedroom, so the defendant had to go into the house
2 to beat Colin up -- in order to beat him up. He
3 had to go in. He had to enter.

4 How else do we know he entered? Well,
5 you listened to his jail call. He tells you how
6 he's trying to convince Shannon to lie to the
7 solicitor's office and say, *Your memory is hazy,*
8 *you'd been drinking, you don't know if I came in*
9 *the house.* What does Shannon say? *But you were*
10 *in the house.* And he says, *No, I wasn't. Stick*
11 *with that.* And he says, *You know me. I didn't go*
12 *in through the back door.* And what does she say?
13 *Well, how did you get in?* He says, *Through the*
14 *window.* He says, *How I always get in.* She says,
15 *Through the window? I thought I fixed that.* He
16 said, *No, you didn't.* So he admits to you in the
17 jail call that he went through the window.

18 So let's talk about the next element that
19 I have to prove. That he entered the dwelling
20 without consent. So the consent he needs is from
21 Shannon because she's the person that's lawfully
22 in possession of the residence, as Mr. Johnny
23 Powell, her landlord, told you. So he didn't have
24 consent.

25 Well, I don't know what else Shannon has

Closing; Ms. Keeney

1 to do to prove to the defendant that he's not
2 welcome there, because you have State's Exhibit 10
3 through 14, which are their messages. They start
4 on October 19th and they go to October 21st. Now,
5 remember, October 21st at 10:30 is when he starts
6 coming over to the residence, yelling, possibly
7 shooting a pellet gun, making all sorts of noise.
8 So this is the day of the incident. And what does
9 he say? He keeps sending little heart emojis with
10 an arrow in it implying that he is broken hearted.
11 And he says, *If you want to come see me, or you*
12 *want to come eat, come to me, and get it before*
13 *you leave. She says, No, I'm not crying today.*
14 *Whatever. I knew you wouldn't come see me before*
15 *you have left. And she says, Because you're*
16 *already starting shit. He says, Whatever. Just*
17 *go see your friends when you're done and go back*
18 *to your house. He's saying, Go back to your*
19 *house, which basically acknowledges that that's*
20 *her house, not his house. If you have a second*
21 *stop off in my driveway, then you're out. That's*
22 *him acknowledging that he has a separate driveway*
23 *than Shannon's.*

24 And then he says, *It's not your problem.*
25 *The dogs can have it. I can sleep in my truck*

Closing; Ms. Keeney

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1 *like I did last night. I got to adapt and get*
2 *used to this new lifestyle anyway. This is him*
3 *acknowledging that he's no longer welcome to the*
4 *house. He's got to sleep in his camper. He's got*
5 *to sleep in his truck. He's acknowledging. He's*
6 *acknowledging he is not welcome at Shannon's*
7 *house.*

8 *Then he says, I'm about to sell this*
9 *piece of shit and go get a house or at least be a*
10 *roommate somewhere. And she says, You need to.*
11 *He's referring to his camper on Smoak Road.*

12 *Then he says, I'm going to try to pick up*
13 *the pieces of my heart that I can find and go*
14 *about getting my life back on its feet and show*
15 *you that I can be the same person I was when we*
16 *first met though you're not around. He's*
17 *acknowledging the break-up. He wants -- he can't*
18 *accept it. He acknowledges she doesn't want him,*
19 *but he's trying to do everything he can to the*
20 *make her want him. She says, That's all I asked*
21 *you to do, but you got mad and impatient. He*
22 *says, I need to get back on my feet with my own*
23 *house. She says, Good. She doesn't say, Oh, no,*
24 *Honey, you can come to my house. She says, Good,*
25 *get your own house. If your camper is not good*

Closing; Ms. Keeney

1 *enough for you, if you want to sleep in your*
2 *truck, go get your own place, go get a roommate.*
3 *That's fine.*

4 Then he says, *My home is on the couch or*
5 *in the bedroom beside you every night. I might go*
6 *to a house to hang or go to sleep, but my home is*
7 *with you. But from what you said, that's not my*
8 *home anymore. What does she say? Not that house.*

9 He knows he's not welcome at Tram Road.
10 He's just pissed off on October 21st and October
11 22nd because he sees her out with a new guy. He
12 cannot accept that she's trying to move on.

13 What else does she have to do to get his
14 attention that he's not welcome there? She evicts
15 him. She goes through the legal process. She
16 goes to a magistrate court. He goes to magistrate
17 court. They show up for a hearing, and the
18 magistrate judge says, *Robert, you got to get out.*
19 *You got to September 23rd of 2019 to get your*
20 *stuff and get out. You're not welcome back.*

21 Well, he comes back on September 21 and he gets
22 put on trespass notice. He is advised formally by
23 the sheriff's office, *If you come back to this*
24 *house, you are going to get charged with a crime*
25 *of trespass. But that doesn't stop him.*

Closing; Ms. Keeney

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1 What else does Shannon do to prove that
2 she didn't give consent? Well, she called the
3 cops three times before he actually even entered
4 the home. Remember? You heard Angela Stallings.
5 She listed out all those dates and times. They
6 were all on October 21st that night starting at
7 10:30 p.m. up until he entered the home at 1:13 in
8 the morning. And so she is calling the cops over
9 and over and over again because that man over
10 there won't stop showing up at her house and
11 violating the no trespass in violation of
12 eviction, screaming, hollering, and potentially
13 shooting a pellet gun. Why would she call the
14 cops that many times if she didn't invite him over
15 there or if he was allowed to live over there?
16 That doesn't make any sense.

17 What else doesn't make any sense? If
18 he's welcome there, if this is home, why does he
19 keep running? He's never there when the cops show
20 up. He always flees. He flees the scene every
21 single time because he knows he's not allowed to
22 be there.

23 I want to make this very, very clear.
24 Shannon Deay could have given Robert Carter
25 permission to enter the home two days before this

Closing; Ms. Keeney

1 crime and that would be perfectly fine. Doesn't
2 change a thing here. The question is: Did she
3 give him consent to enter the home on October 22nd
4 at one o'clock in the morning? That is the only
5 question. I could give someone permission to come
6 in my home a thousand times, but if they come to
7 my house one time without permission and commit
8 some crime, steal something, whatever, that's a
9 burglary. Just because you get invited once,
10 doesn't mean it's a blanket permission to come to
11 the house.

12 Did he have permission October 22nd of
13 2019 at 1:00 a.m.? No.

14 Let's talk about the third element that I
15 have to prove. Intent to commit a crime in a
16 dwelling. Well, there's two -- maybe three crimes
17 that he intended to commit. Number 1 would be the
18 trespass. We already heard that he was put on the
19 trespass notice. If he comes back, then that
20 would be a crime. So he intended to commit
21 trespass.

22 What else did he intend to commit? He
23 intended to commit assault. He wanted to beat
24 Colin because he was jealous. And the defense
25 wants you to believe, oh, he didn't know Colin was

Closing; Ms. Keeney

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1 there because his truck wasn't there. Well, that
2 is bologna because you heard in his jail call, his
3 jail call when he said -- he said, *I saw you-all*
4 *in the bed, happy, bouncing around. He was in the*
5 *place that I used to be. He says, I saw a lot*
6 *more than you think I saw that night. He told you*
7 he admits that he saw him there.

8 So what does he want to do? He's trying
9 to get back what he thinks belongs to him and he
10 thinks that's Shannon. He's trying to get rid of
11 Colin. Scare him away, beat him up.

12 Also, I want to make it clear, because,
13 you know, you heard Shannon in the jail call say,
14 *Yeah, I don't know how it's a burglary. That's*
15 because Shannon, probably -- I would say most
16 Americans probably assume that a burglary is when
17 you go into a house and steal something, but that
18 is not the law. The law does not say in order to
19 be convicted of burglary you have to steal
20 something or you have to intend to steal
21 something. The law says you just have to have
22 intent to commit a crime. It doesn't specify what
23 type of crime.

24 And so let's talk about the final element
25 that I have to prove for burglary, which is it

Closing; Ms. Keeney

1 happened at nighttime. It's not disputed it's
2 1:13 in the morning, nighttime hours, dark
3 outside. That's a pretty easy one to get past.

4 So let's move on to assault and battery
5 1st degree. Now, under the law, there's two ways
6 to commit assault and battery in the 1st degree,
7 and one way is, if you injure someone and great
8 bodily injury occurs. We're talking about that.
9 Nobody is trying to claim that Colin had great
10 bodily injury from this fistfight. So that part,
11 when the Judge talks about the facts, that's not
12 the theory we're going on.

13 The second way, we'll say either great
14 bodily injury occurred or it happened during the
15 commission of a burglary. That is what we're
16 talking about.

17 So we have to prove that the defendant
18 entered -- or the defendant assaulted Colin during
19 the commission of a burglary. So if you think or
20 you believe beyond a reasonable doubt that he
21 assaulted Colin that night and it happened during
22 the commission of the burglary, which is what we
23 already talked about, then he is guilty of that
24 crime.

25 Now, the Judge is going to give some

Closing; Ms. Keeney

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1 lesser-include offenses. And, honestly, they only
2 really apply because of assault and battery 2nd
3 and assault and battery 3rd. The only way you can
4 really find him guilty of assault and battery 2nd
5 and assault and battery 3rd is if, for whatever
6 reason, you don't think he's guilty of burglary.
7 So if you think he's not guilty of burglary, but
8 you still think he assaulted Colin, then you go
9 for assault and battery 2nd and assault and
10 battery 3rd.

11 But if you think he committed burglary or
12 you believe he committed burglary beyond a
13 reasonable doubt and you believe he assaulted
14 Colin, he is guilty as charged. Assault and
15 battery 1st and burglary 1st.

16 The defense wants you to believe that
17 Shannon is some manipulator, that she is playing
18 on the defendant's emotions. Let me tell you who
19 the manipulator is. It's that man sitting right
20 there sitting next to the defense attorneys
21 because you heard him on that jail call trying to
22 manipulate. *Oh, go tell them that you don't*
23 *remember things clearly.* He wants her to go lie
24 to the police and to the solicitor's office to get
25 him out of trouble. And then he says, *If you ever*

Closing; Ms. Keeney

1 *loved me, you'll do this for me. That is a*
2 *manipulation, ladies and gentlemen.*

3 You know what is not a manipulation?
4 State's Exhibits 10 through 14. Where she is
5 telling him, *My house is not your home. Go work*
6 *on yourself.* She's not manipulating him. And,
7 sure, at this time, Shannon loved him. No one is
8 disputing that. You can love a person and not
9 love the things that they do. You can love a
10 person and not want to be with them because of how
11 they're acting. That is perfectly reasonable.
12 They want you to find him not guilty because she
13 says "I love you" after that. She's not lying
14 about that. But she doesn't love him coming into
15 her house uninvited and assaulted the new guy in
16 her life. Doesn't love that. If she approved of
17 that, she wouldn't have called the cops. She
18 wouldn't have come to testify today on the
19 stand.

20 The defense wants you think they weren't
21 really broken up, that he had this blanket
22 permission to be there, to come in through a
23 window. You don't need anything more than those
24 court exhibits and those messages between them to
25 know that he knew he wasn't allowed there. He

1 knew. He just didn't care.

2 They want you to think that, oh, his name
3 is on the power bill. Yeah, he did live there.
4 We're saying he hadn't live there. He lived there
5 at some point in time. But he didn't live there
6 in October of 2019. He'd been evicted. And it's
7 not Shannon's fault that he didn't take the power
8 bill out of his name. I don't think he took it
9 out of his name until even after he got charged
10 with this. I think it was months after. So, I
11 mean, if he wasn't smart enough to take power bill
12 out of his name, then that's on him. The power
13 company doesn't care who's paying the bill as long
14 as it gets paid. That doesn't mean that he was
15 rightfully or lawfully in the house just because
16 he didn't change the power bill.

17 They want you to think, oh, because they
18 presented a key in here and that appears to be the
19 key to Tram Road, that, oh, he's got permission to
20 be there. He either turned in a key to Johnny
21 Powell that was not the key, or he made a
22 duplicate key. Or maybe he just didn't turn it in
23 at all. But regardless of having a key, it
24 doesn't mean that he has permission to be there
25 after he's been legally evicted, put on trespass

Closing; Ms. Anderson
1 notice, told numerous times by Shannon, *My house is*
2 *not your home. Go find your own home. Like, Sorry,*
3 *work on yourself.*

4 I submit to you that there's more than
5 enough evidence in this case to find him guilty
6 beyond a reasonable doubt. And I ask that you
7 look through these exhibits when you deliberate,
8 and you think carefully about it, and you find him
9 guilty of both crimes.

10 Thank you.

11 THE COURT: All right. Miss Anderson.

12 MS. ANDERSON: May it please the Court?

13 THE COURT: Yes, ma'am.

14 CLOSING ARGUMENT

15 MS. ANDERSON: Did he have a duplicate
16 key? Did he turn one in to Johnny Powell? Did he
17 have a duplicate key? Did he turn it in to Johnny
18 Powell?

19 Did she let him in that night? We don't
20 know. The State has given no answers. Ton of
21 questions, but no answers. Were they broken up?
22 Were they together? Was it murky? You heard
23 Shannon state on the stand that they were trying
24 to work through things. But just like a
25 puppeteer, the master is here. Puppetry is a

1 performance that involves the manipulation of
2 puppets. And in the performance, a puppeteer is
3 typically using strings and sticks to get the
4 puppet to move and respond to their commands. But
5 instead, and similar to puppetry, Shannon used any
6 one who would listen to her.

7 Let's recap the cast of characters. You
8 have Robert on trial now taken advantage of as he
9 still believes the relationship is flowing. Yeah,
10 they have problems. Who doesn't? You heard her
11 state disagreements for a normal part of their
12 relationship. She called the police. He called
13 the police. It was a thing that they had. It was
14 dysfunctional, but it was far from criminal.

15 Then we have Colin convinced to drive an
16 hour away so that he can protect her. Wouldn't
17 any reasonable person place two cars, three cars
18 outside if they're wanting Robert to know, I have
19 someone in here. Don't come in here. Please.
20 I'm scared. He parked at the Summerville Walmart?
21 You-all are residents of Colleton. There are no
22 Walmarts on Bells Highway. Why not park his car
23 there. He's saying he was already in town. Don't
24 need to go that far. Why did Colin drive 45
25 minutes to an hour to park his car? Why not go to

Closing; Ms. Anderson

1 his house? He wants you to believe that because
2 she was a vet tech, she loved dogs. I'm not
3 disputing that. We all do. But that's not
4 reasonable. That's not reasonable to believe that
5 this couple would drive an hour away just because
6 they didn't want to drive two cars.

7 Let's look at Mr. Powell, the sweet
8 landlord. He's also in Shannon's puppet
9 performance. You heard her state that she would
10 have Robert enter into that window. When things
11 got bad, she didn't want Mr. Powell to know, so
12 she had to. She, otherwise, would be homeless.
13 She's still living at that location. We're not
14 disputing that. But Mr. Powell is still under the
15 impression to date that Robert is this terrible
16 person. She could not have him thinking
17 otherwise. Who wants to risk their home? Ask
18 yourself, would you risk your home, or would you
19 lead the outside neighbor to think that you were
20 done with this man?

21 Now, let's take a look at the Colleton
22 County Sheriff's Office, they're also in this
23 puppet performance. You heard Colin state and
24 you've seen some calls come in to Captain
25 Stallings where they say sometimes the male is

Closing; Ms. Anderson

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1 identified. Other times, he's not identified.
2 Shannon can't give a description. There's a
3 whispering male in the night. It's a complete
4 goose chase. But you heard him state he went
5 outside. He saw him peeping through the window.
6 How? Today you learned that he came through a
7 window? Come on. You-all are reasonable people.
8 You know that doesn't make any sense.

9 Ladies and gentlemen of the jury, the
10 State and I agree about one thing: You should
11 find Robert guilty. But what we don't agree on is
12 what. The State has overcharged him. What he did
13 is commonly referred to as a fistfight. There's
14 no redness on Colin. He didn't even know Colin
15 was there. You see the video shown by Officer
16 Ballard. You don't even see him disheveled.
17 Clothes are not in a ruffraff. But she describes
18 to you this elaborate fight. I mean the curtains
19 are pulled down. The window rod is bent. There's
20 a hole in the wall, but then she tries to clean it
21 up. That's pre-existing damage. Which one is it?
22 Which lie are we going to tell today?

23 The State cannot prove the elements of
24 their case. You are not here to decide who was
25 the more passionate lover, whether this was

Closing; Ms. Anderson
1 dysfunctional, whether they're all crazy, but
2 rather to prove, did the State prove beyond a
3 reasonable doubt that Robert entered into this
4 home with the intent to commit a crime. Not a
5 trespass. Because it's not a speculative crime.
6 He is only charged with an assault. This is the
7 first time we're hearing today about trespass.
8 You can check the public index. He is not --

9 MS. KEENEY: Objection.

10 MS. ANDERSON: I'll move on. We can
11 strike that.

12 THE COURT: All right.

13 MS. ANDERSON: He is not charged with a
14 trespass. The only thing he is charged with is an
15 assault and battery. It is not any crime that you
16 could possibly imagine. What they're getting you
17 to lean on is the assault, but how could he intend
18 to assault someone that he had no indication is
19 there. You heard all the evidence in this case.
20 But what you should not have to do is fill in the
21 State's blanks.

22 When we picked you out of the jury panel,
23 we asked you several questions. We're wanting to
24 make sure that there are no biases. Everyone is
25 neutral. And the State's job is to slowly move

Closing; Ms. Anderson

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1 you over into their side. Ask yourself, are you
2 there yet? Or is there some wiggle room. And if
3 you hesitate to act, you must find him not guilty.

4 In the state of South Carolina for a
5 person to be guilty of burglary, they must enter
6 into a home without consent, intend to commit a
7 crime therein at nighttime. We know he entered
8 into the home. We know it's at night. Consent is
9 murky, and intent is just simply not there.

10 We've seen pictures of her with his dogs
11 two days prior. She even confirms on the stand
12 that she had them hours before the allegations
13 took place. We've seen Facebook messages.
14 They're referring you to State Exhibit 9 affirming
15 his idea what home is.

16 Remember in the State's opening they said
17 home is where you feel safe. Robert and Shannon
18 both knew his home was on the couch or on the bed
19 next to her each night. But we can certainly show
20 you that he had no intention of committing a
21 crime. Shannon is not assaulted. She's fine.

22 The State wants you-all to be led into
23 the puppeteer's direction. But ask yourself:
24 What type of person would wash their
25 ex-boyfriend's clothes, allow him to come over

Closing; Ms. Anderson
1 after he's broken into their house, accept jail
2 calls? You pay for those. Allowed them -- you
3 even see them after they're released.

4 Today -- today Shannon stated that she
5 wanted to end the relationship. Not then. He had
6 no indication. He has these messages of saying
7 "not my house," but, again, I submit to you, this
8 was not your typical relationship. It was
9 dysfunctional, and dysfunction is not criminal.

10 Remember, Shannon told you herself she
11 picked and chose when to enforce that trespass
12 notice. How would he know that today she wants to
13 be serious?

14 The State is going to try to justify her
15 acts, but, ladies and gentlemen, do not get pulled
16 into the performance.

17 One of the very last things that the
18 State submitted to you was the jail call. Now,
19 you-all have been scared in this courtroom. When
20 you're scared, there is a pit in our voice. When
21 you're mad, it's in her choice of words.
22 Sometimes you even allow bad language to flow.
23 You heard me ask Shannon, did you ever tell him to
24 stop calling you? Did you ever call him out of
25 his name? No. None of this was done. She

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1 volunteered that she called him -- that he called
2 30 times. We don't have proof of that. But if he
3 did, why would you answer on the 30th, and then
4 you don't sound annoyed? You just continue on
5 this call. Come on you guys. You certainly don't
6 meet up with your ex.

7 Defense Exhibit 2, this woman looks
8 pretty happy here. Okay. This is a few hours in
9 between the calls with Robert. Remember she
10 stated she went to go get gas money to walk their
11 dogs. She's still getting money from him.

12 Defense Exhibit 3, this is their car.
13 Remember on the stand she told you that she met
14 him on November 12th, 2019. This is days after
15 he's been arrested for this. Actually, shortly
16 after he has been released. Was she getting more
17 money? You don't take money from someone you're
18 done with. You want to know why? Because it's
19 likely they're going to expect something from you
20 in return. You don't explain yourself to them.
21 You don't explain yourself to an ex. You don't
22 justify whether or not you're sleeping with
23 someone else. What would it have mattered?
24 You're done. You're free. But not Shannon. You
25 saw Robert pour his heart out in those Facebook

Closing; Ms. Anderson
1 messages. He wasn't looking to hurt Shannon. The
2 solicitor told you, home is where you feel safe.

3 Remember when I told you they would not
4 be able to show you a sizable gap in communication
5 to convince anyone that this relationship was
6 done? Don't get caught up in her work position
7 when they stated, oh, she's a vet tech. That's
8 why she's keeping the dogs. He asked me to keep
9 the dogs. Let me tell you something, when you're
10 done with someone, you get your stuff, you get
11 out. I'm through.

12 The State wants you to lean on that call
13 and tell you that the only person here that's
14 manipulating someone is Robert because he asked to
15 have her go to the solicitor's office and drop the
16 charges. Who wouldn't? Who wouldn't ask for the
17 charges to be dropped?

18 But ask yourself, who would benefit from
19 all of this? Shannon benefited each time with her
20 cast of characters. She is not homeless, because
21 she had Robert's income coming in. She's getting
22 her light bill paid. She is continuing to talk to
23 him. And whether she loved him or not, we don't
24 know. Remember, dysfunction is not criminal.

25 When you go back to the jury room, I want

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1 you to keep in mind the many lies told to you by
2 Shannon. I want you to pick apart Defense Exhibit
3 5. I want you to ask yourself, does this make any
4 sense? *I heard cats scattering. I had to run and*
5 *get my phone.* She called the police several times
6 that night. If you're scared and you're thinking
7 something is going to happen to you, wouldn't you
8 have your phone close by?

9 She couldn't give him a description.
10 Remember in the calls to service, she could not
11 state a description. Again, on the stand, she
12 tried to justify saying, I was trying to pull two
13 guys from attacking each other away. But you can
14 identify your ex. You-all been dating for three
15 years.

16 Take a look at this. Take a look at
17 Defendant's Exhibit 6. You heard Miss Martin
18 testify that the account owner is Robert. Now,
19 the State wants you to lean into the fact that
20 Shannon, again, something that benefits her, just
21 was getting her bills paid. But you heard Miss
22 Martin tell you-all that the only thing that she
23 had to do was submit a lease or get a notarized
24 document showing that the lights needed to be
25 transferred. But instead, you know what she tells

Closing; Ms. Anderson

1 us on the stand, it would cost over \$100 to do
2 that. Again, benefiting her.

3 The judge is going to charge you with the
4 law. He will explain to you what burglary is and
5 what it means to enter without consent, how intent
6 is established. He will also explain to you
7 assault and battery in the 1st degree and the
8 level of jury that is needed to establish that.

9 We've asked him to include, you know,
10 lesser offenses because what this is is just
11 assault and battery in the 3rd degree. This was a
12 fistfight. If you decide to find Robert guilty of
13 passion, find him guilty of assault and battery in
14 the 3rd degree.

15 There is no testimony that he peeped
16 through any window. Consent is murky. They want
17 you to imagine that that window they speak of is
18 in eye view, but did you hear anything about that?
19 You saw Ballard's testimony. You saw that there
20 was a curtain on that window. How is he peeping
21 through? Ask yourself.

22 And if burglary is about feeling safe, we
23 can assure you that she was perfectly safe and
24 sound. The only thing that happened that night is
25 that Robert assaulted a man that he found sleeping

Closing; Ms. Keeney

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1 with his girlfriend in the bed that they shared each
2 night.

3 For those reasons, we would ask that you
4 find him not guilty of assault and battery in the
5 1st degree, and not guilty of burglary in the 1st
6 degree.

7 Thank you for your time.

8 THE COURT: Does the State have anything
9 in reply?

10 MS. KEENEY: Briefly. May it please the
11 Court?

12 THE COURT: Yes.

13 CLOSING ARGUMENT

14 MS. KEENEY: The defense wants you to
15 think Shannon is some big liar, that she told you
16 all these lies in the courtroom, and that's for
17 you to decide. Personally, I haven't heard any.
18 They want you to think she made things up because
19 her cell phone was in another room, that her cats
20 were scattering, yet they just admitted that he
21 went into the house through the window. They just
22 admitted that he assaulted Colin, so she didn't
23 lie about that.

24 They want you to think because she posted
25 some picture two days before of her and Robert's

Closing; Ms. Keeney

1 dogs on Facebook, but remind you, she doesn't
2 remember when she took the picture. She doesn't
3 remember if she took the picture when she was with
4 the dogs that day or it was just some old photo.
5 But that means, because she posted a picture on
6 Facebook with his dogs, not even him, that that
7 means he can come crawl through her window at one
8 o'clock in the morning without permission. That
9 doesn't make any sense.

10 They want you to think that Shannon is
11 some puppeteer pulling all these strings and
12 making up all this stuff to get Robert in trouble.
13 She didn't want to get Robert in trouble. She
14 wanted him to give her her space, work on himself,
15 as documented in those Facebook messages, and she
16 said, that's all I wanted you to do, is work on
17 herself. But you're getting mad and impatient.
18 That's all she wanted.

19 How could she puppeteer that, that he is
20 bragging about committing these crimes on
21 Facebook. She didn't make Robert Anthony Carter
22 get on that jail call and admit to crawling
23 through the window. She didn't make him do that.
24 She wasn't puppeteering that.

25 Now, they want you to think because she's

Closing; Ms. Keeney

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1 still talking to him, I think her words were, When
2 you're done with an ex, you're done with an ex.
3 But, ladies and gentlemen, in my experience
4 personally -- and you can use your life
5 experiences. When you dated someone for three
6 years, that's not always true. When you're done
7 with someone, you're not necessarily all the way
8 done. You can still text them, communicate with
9 them. You may not want to be with them in that
10 moment in time but still care about them.

11 She did not give Robert Anthony Carter
12 permission to enter that home through a window at
13 one o'clock in the morning.

14 He had the intent to commit, not one, but
15 two crimes that night. He intended to trespass at
16 the residence and he intended to assault Colin.
17 And he tells you in the jail call that he saw
18 them. He says, *You don't even know everything*
19 *that I saw.* He says -- you can listen to the jail
20 call again if you want. *You don't even know what*
21 *all I saw. I saw you-all there happy in bed,*
22 *bouncing around where I used to be.* He saw Colin
23 there. And he wanted to beat him up, so he went
24 through a window at one o'clock in the morning and
25 did so.

Closing; Ms. Keeney

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1 The defense wants you to say, what kind
2 of person offers to wash his clothes? A nice
3 person. She told you that she felt bad that his
4 stuff was getting rained on. She knows she kicked
5 him out. She knew that he had a little camper
6 that maybe was not that nice and he was sleeping
7 in his truck. She felt bad about that. But what
8 did she say? *My house is not your home.* That's
9 what those messages say. I'll watch your stuff.
10 That doesn't give you the right to come through a
11 window at one o'clock in the morning.

12 Like I said, you can give permission for
13 someone a thousand times to come to your house,
14 but if they come to your house without permission
15 through a window at one o'clock in the morning and
16 commit some crime, and intend to commit a crime,
17 that is burglary in the 1st degree, ladies and
18 gentlemen. You got to have permission every
19 single time to enter someone's home. You can't
20 just randomly crawl through at one o'clock in the
21 morning because you don't like the new guy in
22 their life.

23 Thank you.

24 THE COURT: All right. Ladies and
25 gentlemen, all of the evidence has been presented

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1 to you, the attorneys have made their closing
2 arguments, and now is the time in the trial where I
3 charge you with the law to be applied in this case.

4 The indictments in this case allege two
5 separate offenses against the defendant. The
6 charges are burglary in the 1st degree and assault
7 and battery in the 1st degree. Each indictment
8 charges a separate and distinct offense. You must
9 decide each indictment separately on the evidence
10 and the law applicable to it uninfluenced by your
11 decision as to any other indictment.

12 The defendant may be convicted on both
13 charges, acquitted on both charges, or convicted
14 on one charge and acquitted on the other charge.
15 You will be asked to write a separate verdict of
16 guilty or not guilty for each indictment. I
17 remind you that the fact that the defendant was
18 arrested, charged, and indicted in this case is
19 not evidence in this case and cannot be considered
20 by you as evidence of guilt in this case. Nor
21 does the defendant's arrest, charge, or indictment
22 create any presumption or inference of guilt.
23 These documents are simply the formal written
24 instruments which contain the charges made against
25 the defendant. They are the formal documents by

Jury Charge

1 which this case is brought into this court.

2 Defendant pleads not guilty to these
3 indictments, and that plea puts the burden on the
4 state to prove the defendant guilty. A person
5 charged with committing a criminal offense in
6 South Carolina is never required to prove his
7 innocence. I charge you that an important rule of
8 the law is that the defendant in a criminal trial,
9 no matter what the seriousness of the charge may
10 be will always be presumed to be innocent of the
11 crime for which the indictment was issued unless
12 guilt has been proven by evidence satisfying you
13 of that guilt beyond a reasonable doubt.

14 This presumption of innocence does not
15 end when you begin your deliberations, but it
16 accompanies the defendant throughout the trial
17 unless you reach a verdict of guilt based on the
18 evidence satisfying you of that guilt beyond a
19 reasonable doubt.

20 The presumption of innocence is like to
21 robe of righteousness placed about the shoulders
22 of the defendant which remains with the defendant
23 until it has been stripped from the defendant by
24 evidence satisfying you of the defendant's guilt
25 beyond a reasonable doubt.

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1 The presumption of innocence is not a
2 mere legal theory. It is not just a legal phrase.
3 It is a substantial right to which every defendant
4 is entitled, unless you, the jury, are satisfied
5 from the evidence of the defendant's guilt beyond
6 a reasonable doubt.

7 Now, what is reasonable doubt in the law?
8 A reasonable doubt is the kind of doubt that would
9 cause a reasonable person to hesitate to act.
10 Proof beyond a reasonable doubt is proof that
11 leaves you firmly convinced of the defendant's
12 guilt. We know very few things with absolute
13 certainly. And, in criminal cases, the law does
14 not require proof that overcomes every possible
15 doubt. If based on your consideration of the
16 evidence, you are firmly convinced that the
17 defendant is guilty of the crime charged, you must
18 find the defendant guilty.

19 If, on the other hand, you think a real
20 possibility exists that the defendant is not
21 guilty, you must give the defendant the benefit of
22 that doubt and find him not guilty.

23 I remind you that during this trial you
24 and I have certain duties to perform. As the
25 trial judge, my responsibility is to preside over

Jury Charge

1 the trial of this case. I also have the duty to
2 rule on the admissibility of the evidence offered
3 during this trial. You are to consider only the
4 competent evidence before you. If any testimony
5 was ordered stricken from the record in this case
6 during this trial, you must disregard that
7 testimony. You are to consider only the testimony
8 which has been presented from the witness stand,
9 any exhibits which have been made a part of the
10 record in this case and any stipulations of
11 counsel.

12 I have the additional duty to charge you
13 the law applicable to this case. As the presiding
14 judge, I am the sole judge of the law of this
15 case. Your duty as jurors is to accept and apply
16 the law as I now state it to you. If you have any
17 idea as to the what is or what the law ought to be
18 and your idea is different from what I now tell
19 you the law is, you must disregard your idea of
20 what the law is or ought to be because you are
21 sworn to accept the law and apply the law exactly
22 as I state it to you.

23 In every case tried in this court before
24 a jury, the jury is the sole and exclusive judge
25 of the facts in a case. A trial judge cannot

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1 intimate, state, comment on, or make any statement
2 to a trial jury about the fact in a case. Since
3 you the jury are the judge of the facts in this
4 case, you're not to infer from what I have said
5 during the progress of this trial in ruling upon
6 on the admissibility of evidence or otherwise, or
7 anything that I say now during the course of this
8 instruction that I have any opinion about the
9 facts in this case. The law does not allow me to
10 have an opinion about the facts in this case.
11 This is a matter solely for you, the jury, to
12 determine.

13 As jurors, your duty is to determine the
14 effect, value, weight, and truth of the evidence
15 presented during this trial. Necessarily, you
16 must determine the credibility of witnesses who
17 have testified in this case. Credibility simply
18 means believability. Your duty, as jurors, is to
19 analyze and to evaluate the evidence and determine
20 which evidence convinces you of its truth.

21 In determining the believability of
22 witnesses who have testified, you may believe one
23 witness over several witnesses, or several
24 witnesses over one witness. You may believe a
25 part of the testimony of a witness and reject the

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1 remaining part of the testimony of that same
2 witness. You may believe the testimony of a
3 witness in its entirety, or reject the testimony
4 of a witness in its entirety. You may consider
5 whether any witness has exhibited to you any
6 interest, bias, prejudice, or other motive in this
7 case. You may also consider the appearance and
8 manner of the witness while on the witness stand.

9 Now, the rules of evidence ordinarily do
10 not permit witnesses to testify to opinions or
11 conclusions. An exception to this rule exists for
12 witnesses we call expert witnesses. A witness who
13 by education and experience has become an expert
14 in some art, science, profession, or calling may
15 state an opinion as to the relevant and material
16 matter in which the witness claims to be an
17 expert, and may also state the reasons for the
18 opinion. You should consider any expert opinion
19 received in this case, and, like any other
20 evidence, give it the weight you think it
21 deserves. If you decide that the opinion of an
22 expert witness is not based on sufficient
23 education and experience, or, if you conclude that
24 the reasons given in support of the opinion are
25 not sound, or that the opinion is outweighed by

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1 other evidence, you have may disregard the opinion
2 entirely.

3 An expert witness's testimony is to be
4 given no greater weight than that of any other
5 witness simply because the witness is an expert.
6 Further, you're not required to accept an expert's
7 opinion even though it is not contradicted.

8 Now, I instruct you and emphasize that
9 the fact that the defendant did not testify in
10 this case is not a factor to be considered by you
11 in any way in your deliberation and in your
12 consideration on the question of the guilt or the
13 innocence of the defendant. The defendant's
14 failure to testify must not be considered by you
15 in any manner whatsoever. A defendant has the
16 constitutional right to remain silent. And the
17 assertion of this right must not be considered by
18 you in your deliberations. I repeat, under your
19 oath, you are to draw no conclusion whatsoever
20 from the fact that the defendant in this case did
21 not testify. The fact that this defendant did not
22 testify should not even be discussed in the jury
23 room.

24 The burden of proof, as I have stated to
25 you, is on the State. The defendant is not

Jury Charge

1 required to prove his innocence. The burden of
2 proof remains on the State to prove the
3 defendant's guilt beyond a reasonable doubt.

4 Now, in order to establish criminal
5 liability, criminal intent is required. For
6 example, the mental state required to be proven by
7 the State for a particular crime might be purpose,
8 intent, knowledge, recklessness, or criminal
9 negligence. Criminal intent must be proven by the
10 state beyond a reasonable doubt. Criminal intent
11 is always a matter that must be determined by the
12 jury from the circumstances surrounding the
13 situation. Intent cannot be proven to a
14 mathematical certainty. Medical science cannot
15 dissect a person's brain and determine what the
16 person had in mind. So the law says that criminal
17 intent may be inferred from the circumstances
18 shown to have that existed. This is how you make
19 a determination of whether or not the element
20 requiring intent was present. Intent does not
21 have to be established by direct and positive
22 evidence. But intent may be established by
23 inference in the same way as any other fact, by
24 taking into consideration the acts of the parties
25 and all the facts and circumstances of the case.

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1 Criminal intent is a mental state, a
2 conscience wrongdoing. You must determine what
3 the defendant intended to do based on the
4 circumstances shown to have existed. Criminal
5 intent can arise from an action or a failure to
6 act. It may arise from negligence, recklessness,
7 or an indifference to duty, or the consequences
8 that is considered by the law to be equivalent of
9 the criminal intent.

10 Now, the defendant is charged with 1st
11 degree burglary. To convict the defendant of 1st
12 degree burglary, the State must first prove beyond
13 a reasonable doubt that the defendant entered a
14 dwelling without consent. The dwelling -- excuse
15 me. A dwelling is any building or portion of a
16 building in which a person ordinarily sleeps. A
17 building constructed as a dwelling that has never
18 been occupied cannot be considered a dwelling for
19 purposes of burglary. But a building is a
20 dwelling even if the residents are temporarily
21 absent from the building.

22 In order to prove that the defendant
23 entered the dwelling, the State does not have to
24 show that the defendant's entire body entered the
25 dwelling. The smallest entry is sufficient. It

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1 may be any part of the body, such as a hand or a
2 foot or even an instrument, such as hook or other
3 instrument.

4 In addition, the State does not have to
5 prove that force was used to gain entry. If a
6 person enters a building by using deception,
7 artifice, trick, or misrepresentation to get
8 consent to enter, this is an entry without
9 consent.

10 Next, the State must prove beyond a
11 reasonable doubt that the defendant intended to
12 commit a crime, either a felony or a misdemeanor
13 at the time of the entry. The mere entry into a
14 dwelling without consent is not burglary. If the
15 intent to commit a crime is formed after the
16 entry, then the entry alone is not a burglary.

17 On the other hand, if the defendant
18 intended to commit a crime at the time of the
19 entry, the entry is a burglary even if the intent
20 was abandoned after the entry. Burglary still
21 exists even if the intended crime was not
22 completed.

23 Intent may be shown by acts and conduct
24 of the defendant and other circumstances from
25 which you may naturally and reasonably infer

1 intent.

2 Finally, the State must prove beyond a
3 reasonable doubt that when entering the dwelling,
4 while in the dwelling, or when fleeing the
5 dwelling, the defendant caused physical injury to
6 anyone not participating in the crime, or that the
7 defendant entered or remained in the dwelling in
8 the nighttime. Nighttime is the period between
9 sunset and sunrise during which there is not
10 enough daylight to recognize a person's face
11 except by artificial light or moonlight.

12 The defendant is also charged with
13 assault and battery in the 1st degree. To convict
14 the defendant of the assault and battery in the
15 1st degree, the State must prove beyond a
16 reasonable doubt that the defendant unlawfully
17 injured another person and the act occurred during
18 the commission of a burglary. A person may also
19 commit the offense of assault and battery in the
20 1st degree if the person unlawfully offers or
21 attempts to injure another person with the present
22 ability to do so and the act either is
23 accomplished by means likely to produce death or
24 great bodily injury, or occurred during the
25 commission of a burglary.

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1 Great bodily injury means bodily injury
2 which causes a substantial risk of death or which
3 causes serious permanent disfigurement or
4 protracted loss or impairment of the function of a
5 bodily member or organ.

6 If you find that the State has failed to
7 prove the defendant guilty of assault and battery
8 in 1st degree, you may then consider whether the
9 State has proved the defendant guilty of assault
10 and battery in the 2nd degree. Included in the
11 charge of assault and battery in the 1st degree is
12 the lesser charge of assault and battery in the
13 2nd degree.

14 To convict the defendant of assault and
15 battery in the 2nd degree, the State must prove
16 beyond a reasonable doubt that the defendant
17 unlawfully injured another person, or offers or
18 attempts to injure another person with the present
19 ability to do so and moderate bodily injury to
20 another person results, or moderate bodily injury
21 to another person could have resulted.

22 Moderate bodily injury means physical
23 injury that involves prolonged loss of
24 consciousness or that causes temporary or moderate
25 disfigurement, or temporary loss of the function

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1 of a bodily member or organ, or injury that
2 requires medical treatment and the treatment
3 requires the use of regional or general
4 anesthesia, or injury that results in a fracture
5 or dislocation. Moderate bodily injury does not
6 include one-time treatment and subsequent
7 observation of scratches, cuts, abrasions,
8 bruises, burns, splinters or other minor injuries
9 that do not ordinarily require extensive medical
10 care.

11 If you find that the State has failed to
12 prove the defendant guilty of assault and battery
13 in the 1st degree and has failed to prove the
14 defendant guilty of assault and battery in the 2nd
15 degree, you may then consider whether the State
16 has proved the defendant guilty of assault and
17 battery in the 3rd degree. Included in the charge
18 of assault and battery in the 1st degree and
19 assault and battery in the 2nd degree is the
20 lesser charge of assault and battery in the 3rd
21 degree.

22 To convict the defendant of assault and
23 battery in the 3rd degree, the State must prove
24 beyond a reasonable doubt that the defendant
25 unlawfully injured another person or offered or

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1 attempted to injure another person with the
2 present ability to do so.

3 Now, as to the charge of burglary in the
4 1st degree, you may find one of two possible
5 verdicts. No significance is to be given to the
6 order in which I state these possible verdicts to
7 you. I simply have to state one first and one
8 second. The possible verdicts for burglary in the
9 1st degree are either guilty or not guilty.

10 As to the charge of assault and battery
11 in the 1st degree, you may find one of four
12 possible verdicts. Again, no significance is to
13 be given to the order in which I state these
14 possible verdicts to you.

15 The possible verdicts for assault and
16 battery in the 1st degree are, guilty of the
17 assault and battery in the 1st degree, or guilty
18 of assault and battery in the 2nd degree, or
19 guilty of assault and battery in the 3rd degree,
20 or not guilty.

21 Ladies and gentlemen, your verdict for
22 each indictment must be a unanimous one. As I
23 previously instructed you, you must decide each
24 indictment separately on the evidence and the law
25 applicable to it uninfluenced by your decision as

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1 to the other indictment.

2 Mr. Brown, as the foreperson, when the
3 jury agrees on a verdict, you will check the
4 appropriate verdict on the verdict form and then
5 sign your name as the foreperson. When the jury
6 has reached a unanimous verdict on both
7 indictments and you've completed the verdict form,
8 you can then knock on the door and let the bailiff
9 know that you reached a verdict and we'll bring
10 you back into the courtroom at that time.

11 Now, I'm going to excuse you back to the
12 jury room, but I'm going to ask that you not to
13 begin your deliberation at this time. I need to
14 check with the attorneys and see if they have any
15 additional charges I need to give you, or if they
16 feel that there is a correction that needs to be
17 made to the charges that I've already given to
18 you. If there is, and I deem them appropriate,
19 I'll bring you back in and make whatever
20 corrections or additional charges are needed.

21 If there are none, then the verdict form
22 and the exhibits will be brought to you in the
23 jury room and the bailiff will instruct you to
24 begin your deliberations. But, please, do not
25 begin your deliberations until you're instructed

1 to do so by the bailiff.

2 Okay. Thank you very much, and I'll excuse
3 you to the jury room.

4 (Jury exits the courtroom at 2:57 p.m.)

5 THE COURT: All right. Any exceptions or
6 additional charges from the State?

7 MS. KEENEY: Not from the State.

8 THE COURT: Any from the defense?

9 MS. ANDERSON: None from the defense.

10 THE COURT: All right. Let's check and
11 make sure we have all of the exhibits up here. If
12 you-all will go over the exhibits with the court
13 reporter. Let me give you this verdict form to
14 put with those exhibits.

15 Could we go ahead and get Miss Spooner
16 and Mr. Cravin, the alternates, and have them come
17 out so I can excuse them?

18 (Off the record.)

19 MS. KEENEY: Can we send this back?

20 THE COURT: If you go ahead and send it
21 back and you can tell them they can begin their
22 deliberations.

23 (Alternates enter the courtroom.)

24 THE COURT: Miss Spooner and Mr. Cravin,
25 this is the part of the trial I always hate

1 because the law says you are alternate in the
2 event something happened to one of the 12 members
3 of the jury. Since nothing happened and we don't
4 need your services, the laws does not allow you to
5 participate in the deliberations. I hate that
6 because we make you sit through the whole trial,
7 do everything a jury does, and then we don't let
8 you make a decision, but I want to thank you for
9 your service.

10 This will conclude your services, not
11 only for this trial, but for the remainder of the
12 week. Tomorrow is a State holiday and I don't
13 think they have any trials set up for Thursday or
14 Friday, so that will conclude your duties for this
15 week.

16 You're at liberty to do whatever you want
17 to do. If you want to stick around and see what
18 happens, you can do that. If you want to leave,
19 you can do that as well.

20 Do you have anything in the jury room
21 that you need to get? Okay.

22 All right. So whichever you prefer to do
23 is fine with the Court. You've got a one-year
24 disqualification from serving jury duty -- you got
25 a three-year exemption. I hope you don't exercise

1 your exemption because we do need good jurors and
2 I want to thank you for you service.

3 Okay. Thank you very much. You're free to
4 go or you can just have a seat and wait for the jury
5 to come back with a verdict, whichever you prefer.

6 All right. Thank you very much.

7 (Alternates excused at 3:03 p.m.)

8 THE COURT: All right. Anything from the
9 State at this time?

10 MS. KEENEY: Nothing from the state.

11 THE COURT: Anything from the defense?

12 MR. CARTER: Nothing from the defense.

13 THE COURT: We'll be in recess until we
14 hear something from the jury.

15 (Deliberations begin at 3:03 p.m.)

16 (A break was taken 3:03 p.m. to 3:08 p.m.)

17 (Jury question.)

18 THE BAILIFF: All rise.

19 THE COURT: Thank you very much. Please
20 be seated.

21 I received a request from the jury. I
22 think I know what this means, but I'm not sure.
23 It says, "We would like the law regarding burglary
24 in the 1st degree to further understand the
25 charge." I don't know if that means they want me

1 to charge them again, or if they want a copy of
2 the instructions. I'm inclined to bring them back
3 in ask them what they want. If they want the
4 charge on burglary in the 1st degree, me to charge
5 them, I'll charge them again. If they want the
6 written instructions, then I'll give them all of
7 my instructions and tell them that I can only give
8 it to him in full. They have to consider all of
9 the instructions, not part and disregard others,
10 and to return it at that time.

11 Anything from the State in that regard?

12 MS. KEENEY: Nothing, Your Honor.

13 THE COURT: Anything from the defense?

14 MS. ANDERSON: No, Your Honor.

15 THE COURT: Anything from the State
16 before we bring the jury in?

17 MS. KEENEY: No, Your Honor.

18 THE COURT: Anything from the defense?

19 MS. ANDERSON: No, Your Honor.

20 THE COURT: I'm going to mark this
21 request -- what would that be? Court's Exhibit 2,
22 I believe.

23 (COURT EXH. 2, Question from Jury, was
24 marked for identification.)

25 THE COURT: Let's get and bring the jury

1 in.

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

3 THE COURT: Ladies and gentlemen, welcome
4 back.

5 Mr. Brown, I received the request. It
6 says, "We would like the law regarding burglary in
7 the 1st degree to further understand the charge."
8 Is that correct?

9 FOREPERSON: Yes.

10 THE COURT: All right. Now, are you
11 wanting the written charge, or do you want me to
12 just charge you with the law again?

13 FOREPERSON: Yes, you can charge us with
14 the law again so everyone will understand.

15 THE COURT: All right.

16 All right. 1st degree burglary, to
17 convict the defendant of 1st degree burglary, the
18 State must first prove beyond a reasonable doubt
19 that the defendant entered a dwelling without
20 consent. A dwelling is any building or portion of
21 a building in which a person ordinarily sleeps. A
22 building constructed as a dwelling that has been
23 occupied cannot be considered a dwelling for
24 purpose of the burglary. But a building is a
25 dwelling if the residents are temporarily absent

1 from the building. In order to prove that the
2 defendant entered the dwelling, the State does not
3 have to show that the defendant's entire body
4 entered the dwelling. The smallest entry is
5 sufficient. It may be any part of the body, such
6 as a hand or foot or even an instrument, such as a
7 hook or other instrument. In addition the State
8 does have to prove that force was used to gain
9 entry. If a person enters a building by using
10 deception, artifice, trick, or misrepresentation
11 to get content to enter, this is an entry without
12 consent.

13 Next, the State must prove beyond a
14 reasonable doubt that the defendant intended to
15 commit a crime, either a felony or a misdemeanor,
16 at the time of the entry. The mere entry into a
17 dwelling without consent is not burglary. If the
18 intent to commit a crime is formed after the
19 entry, then the entry alone is not burglary. On
20 the other hand, if the defendant intended to
21 commit a crime at the time of the entry, the entry
22 is a burglary even if the intent was abandoned
23 after the entry. Burglary still exists even if
24 the intended crime was not completed. Intent may
25 be shown by acts and conduct of the defendant and

1 other the circumstances which you naturally and
2 reasonably infer intent.

3 Finally, the State must prove beyond a
4 reasonable doubt that when entering the dwelling
5 while in the dwelling or when fleeing the
6 dwelling, the defendant caused physical injury to
7 anyone not participating in the crime, or that the
8 defendant entered or remained in the dwelling in
9 the nighttime. Nighttime is the period between
10 sunset and sunrise during which there is not
11 enough daylight to recognize a person's face
12 except by artificial light or moonlight.

13 All right.

14 FOREPERSON: Thank you, sir.

15 THE COURT: I'm going to excuse you back
16 to the jury room and you can continue with your
17 deliberation. Thank you very much.

18 (Jury exits the courtroom at 3:16 p.m.)

19 THE COURT: All right. Anything further
20 from the State?

21 MS. KEENEY: Nothing from the State.

22 THE COURT: Anything from the defense?

23 MR. MATHEWS: Your Honor, Dave Mathews.
24 This has totally been, obviously, Miss Anderson's
25 case, but one of the things that has always

1 troubled me about the definition of a dwelling is
2 it doesn't say "of another." And to give consent,
3 obviously you don't need consent to enter a place
4 where you live. And a lot of the trial in this
5 case has been about if -- it comes down to
6 consent, or if it comes down to the right to be
7 there to start with. Other than adding the
8 dwelling the words "of another," I'm not sure how
9 it can be fixed, but that would be one way to cure
10 that possible -- and I could be wrong, but that's
11 what I perceive the jury's problem is, is that the
12 dwelling must be consent to enter the building of
13 another.

14 THE COURT: Well, yeah. But it's
15 entering a dwelling without consent. So you don't
16 need consent to enter your own dwelling.

17 MR. MATHEWS: Well, that's what I think
18 they may not be sure of. It does seem
19 self-evident, but I don't know that it is.

20 But anyway, that's my concern. It's
21 Miss Anderson's case and she said just go ahead
22 and argue it, so I'm arguing it.

23 But whatever Your Honor wants to do.

24 THE COURT: Well, let me ask this: Does
25 it have to be the dwelling of another? I guess

1 you could own the building, but if it's occupied
2 and under the legal authority of someone else, you
3 could still burglarize your own property, I guess.

4 MR. MATHEWS: That's true. I mean,
5 burglary is a crime of possession, not ownership.
6 That's true.

7 THE COURT: Right.

8 MR. MATHEWS: Anyway, it's a bit of a
9 mess. I'm not sure of the easiest way to clean it
10 up. It just looks like, to me, a problem. If not
11 now, at some point. This may be the point.

12 THE COURT: Right.

13 MR. MATHEWS: The owner of the property
14 did trespass -- as I heard the testimony, he --
15 the possessor of the house tells him go through
16 the window to fool the owner of the place that he
17 wasn't visiting. So that's the difference between
18 possession and ownership. The owner trespassed.
19 The owner evicted. The possessor did not, until
20 that.

21 But, anyway, whatever Your Honor wants to
22 do. But that's what I think the problem is, but,
23 of course, I don't know.

24 THE COURT: Well, for purposes of your
25 argument, I'll take this as an objection and

1 request to charge the dwelling of another. I'm
2 going to deny your motion, so you got it on the
3 record if that issue comes up.

4 MR. CARTER: Thank you, Your Honor.

5 THE COURT: Okay. Anything further from
6 the defense?

7 MS. ANDERSON: No, Your Honor.

8 THE COURT: All right. We'll be in
9 recess until we hear something from the jury.

10 All right. Thank you.

11 (A break was taken from 3:19 p.m. to 4:08 p.m.)

12 THE COURT: All right. I've gotten some
13 more requests from the jury. First, "Can we have
14 a copy of the charge of the law regarding burglary
15 in the 1st degree?"

16 Next, "Can we have a written copy of a
17 charge of the law regarding assault and battery in
18 the 1st, 2nd, and 3rd degree?"

19 And the third, "Can we have a transcript
20 of or hear again the jail call between Robert and
21 Shannon strictly at the point where Robert admits
22 what he saw."

23 Okay. What I suggest we do, I'll let
24 you-all put input; I suggest we come back. Let's
25 set up where they can hear the jail house call,

1 play it in its entirety to them, and then give
2 them all of my written instructions, charges, with
3 the instruction that, you know, they have to
4 consider all of the charges. Can't pick and
5 choose part and ignore other parts.

6 Any objection or input from the State?

7 MS. KEENEY: No objection.

8 THE COURT: How about from the defense?

9 MS. ANDERSON: No, Your Honor.

10 THE COURT: How long will it take to set
11 this up so we can play it?

12 MS. KEENEY: I can have it done by the
13 time they get in here, Your Honor.

14 THE COURT: All right. Well, let's go
15 ahead and bring the jury in and I'll tell them
16 we're setting this up. And we'll play that first
17 and then I'll send them out with the instructions.

18 (COURT EXH. 3, Question from Jury, was
19 marked for identification.)

20 (COURT EXH. 4, Jury Charges, was marked for
21 identification.)

22 (Jury enters the courtroom at 4:11 p.m.)

23 THE COURT: Welcome back, ladies and
24 gentlemen. I received your request. As I
25 understand it says, "Can we have a copy of the

1 charge of the law regarding burglary in the 1st
2 degree?" And, "Can we have a written copy of the
3 charge of the law regarding assault and battery in
4 1st, 2nd, and 3rd degree?" Is that correct?

5 FOREPERSON: Yes.

6 THE COURT: When you return for your
7 deliberations, I will give you a written copy of
8 my entire jury charge. The law says I have to
9 give you the entire charge, not just a portion of
10 it. I must instruct you that you must consider
11 the entire jury charge. You can't pick and choose
12 and choose to follow one part of my charge and
13 ignore another part of my charge, so you must
14 follow the charges as a whole. And then I'm going
15 to ask that when you return if you would return
16 the jury charge with you when you come back.
17 Okay?

18 FOREPERSON: Yes, sir.

19 THE COURT: Also, I see that you say,
20 "Can we have a transcript of or hear again the
21 jail call between Robert and Shannon strictly at
22 the point where Robert admits what he saw?"

23 What we're going to do, we're going to play
24 the entire call to you. Okay?

25 FOREPERSON: Okay.

1 THE COURT: All right. Are we ready to
2 go on that?

3 MS. KEENEY: Yes, Your Honor.

4 THE COURT: What is that? That is
5 State's exhibit?

6 MS. KEENEY: 18.

7 THE COURT: 18, okay. So this is State's
8 Exhibit 18. All right. You can go ahead and play
9 it.

10 (Jail call played in its entirety.)

11 MS. KEENEY: May I approach?

12 THE COURT: Yes, thank you.

13 Here are the written charges as a court
14 exhibit. You can take those back to the jury room
15 and resume your deliberations. Thank you very
16 much.

17 (Jury exits the courtroom at 4:13 p.m.)

18 THE COURT: Anything from the State
19 before we recess?

20 MS. KEENEY: Nothing from the State.

21 THE COURT: Anything from the defense?

22 MS. ANDERSON: Nothing from the
23 defense.

24 THE COURT: All right. We'll be in
25 recess until we hear something from the jury.

1 (Deliberations resume at 4:13 p.m.)

2 THE BAILIFF: All rise.

3 THE COURT: Thank you very much. Please
4 be seated.

5 I understand the jury has reached a
6 verdict. Anything from the State before the jury
7 comes in?

8 MS. KEENEY: No, Your Honor.

9 THE COURT: From the defense?

10 MS. ANDERSON: No, sir.

11 THE COURT: Who's going to read the
12 verdict? Are you going to read it?

13 THE CLERK: Yes, sir.

14 THE COURT: All right. Let's go ahead
15 and bring the jury in.

16 (Jury enters the courtroom at 4:30 p.m.)

17 THE COURT: All right. Ladies and
18 gentlemen, welcome back.

19 Mr. Brown, I understand the jury has
20 reached a verdict. Is that correct?

21 FOREPERSON: Yes.

22 THE COURT: Have you completed the
23 verdict form?

24 FOREPERSON: Yes.

25 THE COURT: All right. Thank you very

1 much.

2 All right. I'll ask the clerk of court
3 if she will please publish the verdict.

4 THE CLERK: Thank you.

5 The State of South Carolina, County of
6 Colleton vs. Robert Anthony Carter, indictment
7 number 2019-GS-15-1049 charging the defendant with
8 burglary in the 1st degree, we, the jury,
9 unanimously find the defendant guilty.

10 As to indictment number 2019-GS-15-1050
11 charging the defendant with assault and battery in
12 the 1st degree, we, the jury, unanimously find the
13 defendant guilty of assault and battery in the 3rd
14 degree.

15 Foreperson is Jonathan Brown, and the date is
16 May 9th, 2023.

17 THE COURT: All right. If this is your
18 verdict, please signify by raising your right
19 hand. Let the record reflect that all jurors
20 raised their right hand.

21 Any polling of the jury by the defense?

22 MS. ANDERSON: No, Your Honor.

23 THE COURT: All right. Ladies and
24 gentlemen, thank you very much. That will
25 conclude your duties as jurors for this case. It

1 always concludes your duties as jurors for the
2 week. Tomorrow is a State holiday. And then we
3 do have some things set up for Thursday and
4 Friday, but no more trials.

5 I want to thank you for your service. I
6 know it's not an easy thing to serve jury duty.
7 You got a one-year disqualification from serving
8 jury duty. You got a three-year exemption. I
9 hope you don't exercise your exemption because we
10 need good jurors, and I want to thank you for your
11 service.

12 But you're free to go for the remainder
13 of the day and for the remainder of the week.
14 Thank you very much.

15 Everyone else, please remain in place
16 while the jury is excused.

17 (Jury is excused at 4:38 p.m.)

18 THE COURT: All right. I know it was a
19 criminal procedure. I'll allow you some time for
20 post-trial motions, but any post-trial motions at
21 this time?

22 MR. MATHEWS: Your Honor, would you like
23 10 days? We have 10 days to file this motions, I
24 think. Why don't -- the verdict doesn't make any
25 sense. I mean, I have not asked -- we're

1 certainly not asking for additional time for our
2 client, but a 3rd degree assault and battery is
3 not consistent with a burglary finding. And they
4 clearly must have had some misunderstanding about
5 it. They asked about it. And I think the other
6 part of it was part of their confusion.

7 You know, it's -- so I suppose I could
8 state that at length. Miss Anderson filed this
9 written motion, so I guess not at this time, but I
10 want to put on the record that that is a concern
11 that I have, and imagine she'll take her 10 days
12 to file a post-trial motion.

13 THE COURT: All right. Ms. Anderson,
14 anything you want to put on the record, or any
15 motions you want to make at this time?

16 MS. ANDERSON: No, Your Honor. That is
17 all.

18 THE COURT: Any reason we cannot go
19 forward with the sentencing?

20 MS. ANDERSON: Your Honor, we would
21 request a deferment in sentencing. The mitigation
22 specialist that works for our defendant is
23 essentially overloaded. She is handling the
24 intake on her own. She was able to start the
25 process but not complete it. While that is our

1 burden, I will understand and respect whatever you
2 do, but I would ask that it be deferred.

3 THE COURT: All right. I'm sorry. I
4 didn't understand. What is your basis for
5 deferring sentencing?

6 MS. ANDERSON: Our mitigation specialist
7 that works with our clients essentially has an
8 overload and was able to complete the intake.

9 THE COURT: I understand. Well, given
10 the age of the case, I think I'm going to deny the
11 motion and go ahead and impose sentencing.

12 I know you haven't -- your mitigating
13 analysis hadn't been completed, but any mitigating
14 comments you want to make at this time?

15 MS. ANDERSON: Your Honor.

16 We briefly heard the State give his
17 record. It is not anything that is indicative of
18 him being a danger, and this is not a crime of a
19 stranger. He was in a relationship with Shannon
20 at the time, so we would ask that you impose the
21 minimum of 15 years for the sentence, and that be
22 ran concurrent with the assault and battery.

23 He has one biological daughter. She is
24 nine years old. He is in full parenting with the
25 mom. He, likewise, owns a mechanic business where

1 he works as a diesel mechanic. And he is, if I
2 haven't already stated 34, so relatively young.
3 That minimum sentence will still allow for him to
4 become a productive member of society and go on
5 with his life once this chapter is closed.

6 THE COURT: All right. Mr. Carter
7 anything you want to say?

8 MR. CARTER: No.

9 THE COURT: Does the victim wish to
10 speak?

11 MS. KEENEY: The victim does. I just
12 want to state that his record which I could use to
13 impeach --

14 THE COURT: I understand.

15 MS. KEENEY: I pull up his full record.

16 THE COURT: I will in just a minute.

17 MS. KEENEY: Okay.

18 THE COURT: Any victims wish to speak,
19 they need to come forward to the microphone and
20 give the court reporter their name.

21 Ma'am, your name?

22 MS. DEAY: Shannon Deay.

23 THE COURT: All right. Miss Deay, what
24 would you like to say?

25 MS. DEAY: The last four years, ever

1 since charge happened, have been absolute hell.
2 The fact that he's finally going to prison, I can
3 actually leave my house again.

4 When I leave my house and go out in
5 public and to stores, if I'm alone, I'm shaking.
6 I have panic attacks. I can't sleep at night. I
7 can't even go out in my yard at night.

8 He has done nothing but terrorize me and
9 make me fearful for my life at every moment since
10 this day, if not before that. I know like they're
11 saying like he is a young guy with this great life
12 that needs to move on, but I need to move on with
13 my life because I have done nothing to deserve
14 what I have been through for the last four years.

15 PTSD. I can't leave my house. And if he
16 is in jail, the relief from him being found
17 guilty, I can finally just go to Walmart by myself
18 without having a mental breakdown in the parking
19 lot because I'm afraid this man is going to appear
20 out of no where and kill me, because -- I am
21 afraid for my dogs, if they get out of my yard
22 that he is going to take them and hurt them
23 because he lives a mile away from me. I just want
24 to make sure it's not one-sided where I'm the bad
25 guy. Even though he was found guilty, I have gone

1 through hell and he is not a good man. I just
2 wanted to make sure you knew that.

3 THE COURT: All right. Thank you.

4 Any other victims wish to speak?

5 MS. KEENEY: No, Your Honor.

6 THE COURT: All right. Prior record.

7 MS. KEENEY: Your Honor, 2009, driving
8 under suspension; 2011, failure to stop for a blue
9 light; 2014, criminal domestic violence first
10 offense, failure to stop for a blue light; 2015,
11 giving false information and receiving stolen
12 goods valued \$10,000 or more; he had two probation
13 violations in 2014 and 2015; and 2018, possession
14 of marijuana; and then the 2022 harassment
15 conviction that you heard about before the trial
16 started that involved the victim in this case.
17 She did get a permanent restraining order, so I
18 don't see the need to request one in this case.

19 THE COURT: All right.

20 MS. KEENEY: I have the sentencing
21 sheets. Do you mind if I approach to print them?

22 THE COURT: No, I need those.

23 Mr. Carter, you have been found guilty by
24 a jury of your peers on the charges of burglary in
25 the 1st degree and assault and battery in the 3rd

1 degree.

2 On the charge of burglary in the 1st
3 degree, the sentence of the Court is that you be
4 confined to the state of department of corrections
5 for 15 years.

6 On the charge of assault and battery in
7 the 3rd degree, the sentence of the Court is that
8 you be confined to the county detention center for
9 30 days or pay a fine of \$500.

10 The sentences will run concurrently.
11 You'll be given credit for any time served thus
12 far.

13 All right.

14 MS. ANDERSON: Thank you.

15 THE COURT: Thank you.

16 (Court adjourned at 4:55 p.m.)

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1 CERTIFICATE OF REPORTER

2
3 I, SHARON G. HARDOON, Official Circuit
4 Court Reporter, III for the State of South Carolina at
5 Large, do hereby certify that the foregoing is a true,
6 accurate and complete Transcript of Record of the
7 proceedings had and evidence introduced in the trial
8 of the captioned case, relative to appeal, in General
9 Sessions Court for Colleton County, South Carolina.

10
11 I do further certify that I am neither kin,
12 counsel, nor interest to any party hereto.
13
14

15 August 27, 2023
16
17

18 
19
20
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23
24
25

Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

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WITNESSES

CCSO

[Signature]

DOCKET NO. 2019GS1501049

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

November Term 2020

THE STATE

vs.

Robert Anthony Carter

Indictment For

Burglary, 1st degree

SC Code: 16-11-311(A)(3)

CDR Code: 0079

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2019A1510100708

ACTION OF GRAND JURY

True Bill

Tammy E. [Signature]
Foreperson of Grand Jury

Date: *11/5/20*

VERDICT

Foreperson of Petit Jury

Date:
INDICT

Defendant

Witness:

C.C.C. PLS. and G.S.

COLLETON COUNTY
GENERAL SESSIONS COURT
2020 NOV - 5 AM 10:30

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF COLLETON)

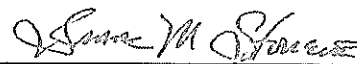
2019GS1501049

At a Court of General Sessions, convened on November 5, 2020, the Grand Jurors of Colleton County present upon their oath:

Burglary, 1st degree

That in Colleton County, South Carolina, on or about October 22, 2019, the Defendant, Robert Anthony Carter, did enter a dwelling without consent and with intent to commit a crime therein and the entering or remaining occurred in the nighttime, all in violation of Section 16-11-311(A)(3), et al. of the Codes of Law of South Carolina.

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



Solicitor

STATE ROBERT ANTHONY CARTERINDICTMENT/CASE#: 2019GS1501049

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF COLLETON

STATE

INDICTMENT/CASE#: 2019GS1501049

VS.

ROBERT ANTHONY CARTER

AW#: 2019A1510100708

AKA:

Date of Offense: 10/22/2019Race: White Sex: Male Age: 30 34S.C. Code §: 16-11-311(A)(3)DOB: [REDACTED] SS#: [REDACTED]CDR Code #: 0079Address: [REDACTED]City, State, Zip: [REDACTED]

SENTENCE SHEET

DL#* [REDACTED] SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Burglary, 1st DegreeIn violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

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

ATTEST:

[Signature]
Solicitor100145
SC Bar #[Signature]
Defendant[Signature]
Attorney for Defendant104926
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 15 days/months/years/Time-Served ☐ Youthful Offender Act not to exceed X yearsand/or to pay a fine of \$ X; provided that upon the service of X days/months/years/Time Served and or payment of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/9/2023☒ 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. [REDACTED] days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

SCCA/217 (07/2021)

STATE

ROBERT ANTHONY CARTER

INDICTMENT/CASE#: 2019GS1501049

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

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

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100 \$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§56-1-286 (DUI Breath Test)	\$25 \$ _____
§14-1-212 (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150 \$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41 \$ _____
§50-21-114 (BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	TBD \$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500 \$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD \$ _____
TOTAL	\$ <u>128.75</u>

 Clerk of Court/Deputy Clerk: Sharon Haddock
 Court Reporter: Elizabeth Harris
Presiding Judge: Margaret CulbertsonJudge Code: 2148Sentence Date: May 9, 2023

300

WITNESSES

CCSO

Adrian L. Chapman

DOCKET NO. 2019GS1501050

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

November Term 2020

THE STATE

vs.

Robert Anthony Carter

Indictment For

Assault and Battery, 1st degree

SC Code: 16-3-600(C)(1)(a)(ii)

CDR Code: 3412

ACTION OF GRAND JURY

Tracy Brill

Tracy Brill
Foreperson of Grand Jury

Date: *11/5/20*

VERDICT

Foreperson of Petit Jury

Date:
INDICT

I, _____, being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

COLLETON COUNTY
GENERAL SESSIONS COURT
2020 NOV -5 AM 10:30

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF COLLETON

2019GS1501050

At a Court of General Sessions, convened on November 5, 2020, the Grand Jurors of Colleton County present upon their oath:

Assault and Battery, 1st degree

That in Colleton County, South Carolina, on or about October 22, 2019, the Defendant, Robert Anthony Carter, did injure Colin Amburg, and that act occurred during the commission of a robbery, burglary, kidnapping, or theft, all in violation of Section 16-3-600(C)(1)(a)(ii), et al. of the Codes of Law of South Carolina.

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



Solicitor

STATE ROBERT ANTHONY CARTERINDICTMENT/CASE#: 2019GS1501050

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS)

COUNTY OF COLLETON)

STATE)

INDICTMENT/CASE#: 2019GS1501050)

VS.)

ROBERT ANTHONY CARTER)

A/W#: 2019A1510100709)

AKA:)

Date of Offense: 10/22/2019)Race: White Sex: Male Age: 30)S.C. Code §: 16-3-600(C)(1)(a)(ii))

DOB: [REDACTED] SS#: [REDACTED])

CDR Code #: 3412)

Address: [REDACTED])

City, State, Zip:)

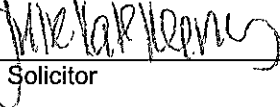
SENTENCE SHEET

DL#* _____ SID# _____)

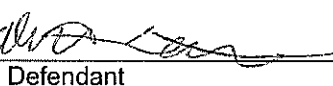
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Assault and Battery, 3rd DegreeIn violation of § 16-3-600 (E)(2) of the S.C. Code of Laws, bearing CDR Code # 3414
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

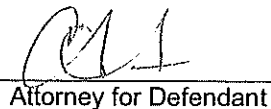
 The charge is: ☐ As indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:


 Solicitor

 100145
 SC Bar #


 Defendant


 Attorney for Defendant

 1049260
 SC Bar #
WHEREFORE, the Defendant is committed to the ☐ State Department of Correction ☒ County Detention Center,for a determinate term of 30 days/months/years/Time-Served ☐ Youthful Offender Act not to exceed X years
 and/or to pay a fine of \$500.00, provided that upon the service of X days/months/years/Time Served and or payment
 of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/9/2023☒ 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. _____ days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

SCCA/217 (07/2021)

STATE

ROBERT ANTHONY CARTER

INDICTMENT/CASE#: 2019GS1501050

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

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

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§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		\$ _____
§14-1-212 (Law Enforce. Funding)	\$25		\$ 95.00
§14-1-213 (Drug Court Surcharge)	\$150		\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50		\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$ _____
3% to County (if paid in installments)	TBD		\$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500		\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$ _____
TOTAL			\$ 188.75

 Clerk of Court/Deputy Clerk:
 Court Reporter:

 Presiding Judge:
 Judge Code:
 Sentence Date:

SCCA/217 (07/2021)

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED

Feb 09 2024

SC Court of Appeals

Respectfully Submitted,



Sarah E. Shipe
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 9th day of February, 2024.

RECEIVED

Feb 09 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County

Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

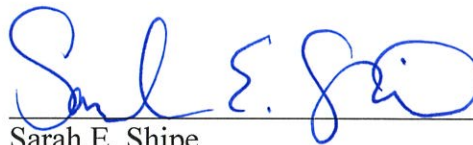
ROBERT ANTHONY CARTER,

APPELLANT

APPELLATE CASE NO. 2023-000797

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 9th day of February, 2024.



Sarah E. Shipe
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT