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**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Certiorari to Richland County

Honorable DeAndrea G. Benjamin, Circuit Court Judge

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TERRANCE G. ADAMS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000242

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APPENDIX

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ATTORNEYS FOR RESPONDENT

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COUNTY OF RICHLAND

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STATE OF SOUTH CAROLINA  
-vs-  
TERRANCE ADAMS

:  
:  
: TRANSCRIPT OF RECORD  
:  
:

JANUARY 30, 31, FEBRUARY 1, 2006  
COLUMBIA, SOUTH CAROLINA

B E F O R E:

HONORABLE JAMES W. JOHNSON, JR., JUDGE, AND A JURY.

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

RICHARD CATHCART, ASSISTANT SOLICITOR  
MARGARET FENT, ASSISTANT SOLICITOR  
ATTORNEYS FOR THE STATE

LAUREN MOBLEY, ESQUIRE  
TIVIS SUTHERLAND, ESQUIRE  
ATTORNEYS FOR THE DEFENDANT

DIANNE A. RUTLEDGE  
CIRCUIT COURT REPORTER

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23		(JURY STRIKE LIST INCLUDED AT END OF ORIGINAL TRANSCRIPT		
24		ONLY.)		
25				

1 (MONDAY, JANUARY 30, 2006.)

2 MR. CATHCART: YOUR HONOR, AT THIS TIME THE STATE  
3 CALLS THE CASES OF STATE V. TERRANCE ADAMS, SIX COUNTS OF  
4 BURGLARY FIRST, LARCENIES THAT ACCOMPANY, I BELIEVE, MANY,  
5 TWO GRAND, A POSSESSION OF BURGLARY TOOLS AND RESISTING  
6 ARREST. THIS IS IN REFERENCE TO 2004 -- INDICTMENT NOS.  
7 05-3478, 3477, 3548, 3945, 3940, 4169, 3547, 3941, 35 --  
8 EXCUSE ME, 3475, 3474, 3936 -- 3936, 4170, 3549, AND 3550.

9 HE IS REPRESENTED BY COUNSEL. HE IS COMING INTO THE  
10 COURTROOM RIGHT AS WE SPEAK, YOUR HONOR.

11 THIS IS A CASE THAT THE DEFENDANT WAS ARRESTED BACK ON  
12 APRIL 2005. UPON GOING THROUGH THE DEFENDANT'S RECORD IN  
13 PREPARATION OF TRIAL, THE STATE AT THAT TIME REALIZED HE  
14 HAS A PRIOR CONVICTION -- IN FACT, BOTH PRIOR CONVICTIONS  
15 FOR BURGLARY FIRST DEGREE. HE IS NOW FACING SIX COUNTS OF  
16 BURGLARY IN THE FIRST DEGREE, THESE WOULD BOTH BE MOST  
17 SERIOUS OFFENSES. THE STATE HAS NO CHOICE BUT AT THAT TIME  
18 TO SERVE HIM WITH NOTICE OF INTENT TO SEEK LIFE WITHOUT  
19 PAROLE. THAT NOTICE WAS SERVED UPON HIM JANUARY THE 9TH I  
20 BELIEVE IN FRONT OF JUDGE MANNING IF I WAS NOT MISTAKEN --  
21 JUDGE JOHNSON.

22 IT WAS ON THE RECORD, YOUR HONOR. DEFENSE COUNSEL WAS  
23 PRESENT WHEN WE SERVED HIM WITH OUR NOTICE OF INTENTION TO  
24 SEEK LIFE WITHOUT PAROLE.

25 IF I MAY APPROACH AND HAND UP OUR NOTICE.

1 THE COURT: ALL RIGHT.

2 (PAUSE.)

3 MR. CATHCART: WE'RE PROCEEDING ON EACH OF THESE  
4 CHARGES, YOUR HONOR. EACH BURGLARY, HOWEVER, IS A SEPARATE  
5 INDIVIDUAL BURGLARY. THEY ALL OCCURRED AROUND THE SAME  
6 PERIOD OF TIME, AT THE SAME FIVE-HOUR PERIOD. HE WAS  
7 CAUGHT WITH PROCEEDS FROM ALL OF THE SAME BURGLARIES. THE  
8 WITNESSES IN ALL OF THESE BURGLARIES, OTHER THAN THE  
9 VICTIMS, SAY THAT THEY WERE NOT -- THEY DID NOT ALLOW THE  
10 DEFENDANT INTO THEIR HOME OR ALLOW HIM TO GATHER THEIR  
11 ITEMS. ALL THE WITNESSES WILL BE THE SAME.

12 HOWEVER, I JUST WANT TO MAKE CLEAR ON THE RECORD THAT  
13 EACH ONE IS A SEPARATE OFFENSE. IF THE JURY FOR SOME  
14 REASON FEELS THAT HE IS GUILTY OF ONE AND NOT THE OTHER  
15 ONE, FIND HIM GUILTY OF ONLY ONE COUNT OF BURGLARY FIRST AS  
16 OPPOSED TO ALL SIX COUNTS OF BURGLARY FIRST, IT'S STILL  
17 LIFE WITHOUT PAROLE.

18 (PAUSE.)

19 THE COURT: ALL RIGHT. WE HAVE SOME PRETRIAL MOTIONS,  
20 MS. MOBLEY.

21 MS. MOBLEY: THANK YOU. MAY IT PLEASE THE COURT.  
22 WOULD YOUR HONOR CARE TO ---

23 THE COURT: LET'S START -- LET'S GO AHEAD WITH THE  
24 MOTION TO QUASH, WHICH MUST BE HEARD PRIOR TO HAVING A JURY  
25 SELECTED. LET'S GO AHEAD AND DEAL WITH THAT, AND THEN THE

1 OTHERS WE CAN DEAL WITH AFTER WE GET A JURY.

2 MS. MOBLEY: YES, SIR, THANK YOU, YOUR HONOR. AGAIN,  
3 PLEASE THE COURT. YOUR HONOR, WE ARE MOVING TO QUASH THE  
4 INDICTMENTS -- SOLELY THE INDICTMENTS FOR BURGLARY IN THE  
5 FIRST DEGREE. YOUR HONOR, THERE ARE SIX OF THESE.

6 YOUR HONOR, THE LANGUAGE OF THE INDICTMENT FOR  
7 BURGLARY IN THE FIRST DEGREE READS THAT TERRANCE ADAMS DID  
8 IN RICHLAND COUNTY ON OR ABOUT APRIL 19, 2005 UNLAWFULLY  
9 ENTER THE DWELLING OF THE VARIOUS VICTIMS NAMES -- THIS ONE  
10 THAT I'M READING IN -- KEE CHUNG WITHOUT CONSENT AND WITH  
11 THE INTENT TO COMMIT A CRIME THEREIN. AND THE DEFENDANT  
12 HAS TWO PRIOR CONVICTIONS FOR BURGLARY AND/OR HOUSEBREAKING  
13 IN VIOLATION OF CODE 16-11-311.

14 YOUR HONOR, WE'RE MOVING TO QUASH THE BURGLARY  
15 INDICTMENTS ON THE GROUNDS THAT THE ENHANCEMENT TO BURGLARY  
16 FIRST IS IMPROPER.

17 YOUR HONOR, THE DEFENDANT WAS CHARGED WITH A NUMBER OF  
18 CHARGES STEMMING FROM AN INCIDENT FROM ABOUT ONE MONTH IN  
19 1993 RANGING FROM JULY 26, 1993 TO AUGUST 26, 1993.

20 YOUR HONOR, AT THIS TIME WE WOULD ASK WHICH CONVICTION  
21 THE STATE IS PLANNING TO USE TO ENHANCE THE BURGLARY --  
22 CERTIFIED CONVICTIONS THEY'RE USING TO ENHANCE THE BURGLARY  
23 CHARGES?

24 THE COURT: ALL RIGHT. SOLICITOR. WAIT A MINUTE,  
25 IT'S GOT IT IN THE NOTICE, I GUESS, DOES IT NOT?

1 MS. MOBLEY: YOUR HONOR, IT DOES HAVE THE FOUR -- THE  
2 FOUR CONVICTIONS THEY'RE PROCEEDING ON FOR THE LIFE WITHOUT  
3 PAROLE NOTICE. YOUR HONOR, THE REASON WHY THIS IS A LIFE  
4 WITHOUT PAROLE CASE, HOWEVER, IS THAT THE STATE USED THE  
5 PRIOR -- THE SAME PRIOR INCIDENT TO ENHANCE THIS TO A  
6 BURGLARY FIRST; THEREBY USING THE OTHER -- THE SAME PRIOR  
7 INCIDENT TO THEN MAKE IT A LIFE WITHOUT PAROLE CASE. AM I  
8 MAKING SENSE?

9 THE COURT: I UNDERSTAND WHAT YOU'RE SAYING. WHAT  
10 PRIOR TWO OR MORE BURGLARIES IS THE STATE RELYING ON?

11 MR. CATHCART: ACTUALLY, YOUR HONOR, I'M NOT -- THE  
12 DEFENDANT HAS MULTIPLE PRIOR BURGLARIES. THE STATUTE  
13 INDICATES THAT HE HAS TO HAVE TWO OR MORE PRIOR BURGLARIES  
14 TO GO FORWARD ON THE BURGLARY FIRST. WE HAVE A NUMBER  
15 WHICH WE CAN CHOOSE FROM.

16 SHE'S INDICATING THAT WE CAN'T USE THEM BOTH IN THE  
17 SAME PURPOSES, SUCH AS ONE TO ENHANCE IT AS A BURGLARY  
18 FIRST, AND THEN MAKE IT ALSO MOST SERIOUS. I BELIEVE  
19 THAT'S INCORRECT. I'M NOT SURE EXACTLY WHAT SHE'S ASKING.

20 THE COURT: WELL, RIGHT NOW ALL I'M ASKING FOR IS WHAT  
21 TWO OR MORE BURGLARIES DO YOU INTEND TO OFFER EVIDENCE ON  
22 TO MAKE THIS A BURGLARY FIRST?

23 MR. CATHCART: YES, SIR, I'M SORRY. BURGLARY FIRST  
24 DEGREE CONVICTION ON INDICTMENT 93-GS-40-09528. HE  
25 RECEIVED A SENTENCE OF 20 YEARS BACK DATED TO SEPTEMBER

1 13TH OF 1993. AND 93 -- THAT'S A BURGLARY IN THE FIRST  
2 DEGREE.

3 93-GS-40-9519, BURGLARY IN THE FIRST DEGREE. HE PLED  
4 GUILTY AS BURGLARY FIRST DEGREE. RECEIVED A SENTENCE OF 20  
5 YEARS BACKDATED TO 8-25 1993, I BELIEVE IT WAS.

6 BURGLARY FIRST DEGREE ON 93-GS-40-9520, 93-GS-40-9529,  
7 BURGLARY FIRST DEGREE. 93-GS-40-9529, AGAIN, BURGLARY  
8 FIRST DEGREE. AGAIN RECEIVED 20 YEARS. AND THIS IS ON  
9 EACH OF THOSE TO RUN CONCURRENT WITH THE ONE WE JUST SPOKE  
10 ABOUT.

11 1993-GS-40-9522, BURGLARY SECOND DEGREE. HE WAS  
12 SENTENCED TO 15 YEARS. HE HAD A CONVICTION.

13 93-GS-40-9516, BURGLARY SECOND DEGREE, SENTENCE OF 15  
14 YEARS.

15 93-GS-40-9521, BURGLARY SECOND DEGREE. THIS IS TWO  
16 COUNTS ON THIS CHARGE -- ON THIS ONE INDICTMENT OF ANOTHER  
17 BURGLARY SECOND DEGREE ALSO.

18 93-GS-40-9533, BURGLARY SECOND DEGREE.

19 93-GS-40-9531, BURGLARY SECOND DEGREE.

20 THAT IS THE EXTENT OF THE BURGLARIES THAT HE HAS  
21 CONVICTION ON THAT WE ARE RELYING ON AS TO AN ENHANCEMENT  
22 FROM A BURGLARY SECOND NON-VIOLENT TO A BURGLARY FIRST  
23 DEGREE, AS HE HAS HAD TWO OR MORE PRIOR CONVICTIONS OF A  
24 HOUSEBREAKING AND/OR BURGLARY, YOUR HONOR.

25 THE COURT: ALL RIGHT. MS. MOBLEY.

1 MS. MOBLEY: THANK YOU, YOUR HONOR. YOUR HONOR, I  
2 BELIEVE WE SPOKE IN CHAMBERS ABOUT THE STATE'S ABILITY TO  
3 SELECT A LIMITED NUMBER OF THE PRIOR CONVICTIONS FOR  
4 PRESENTATION IN FRONT OF THE JURY, AND ACTUALLY, THAT WAS  
5 REALLY ALL I WAS AFTER WAS WHICH TWO THEY WERE ASKING, AND  
6 THEN I COULD PROCEED WITH MY MOTION. ANY TWO, I MEAN.

7 MR. CATHCART: YOUR HONOR, I GUESS OUR POINT IS ---

8 THE COURT: IN YOUR CASE IN CHIEF TO MAKE THIS A  
9 BURGLARY FIRST, YOU'VE GOT TO PUT IN EVIDENCE OF TWO -- THE  
10 STATUTE SAYS TWO OR MORE. OF COURSE, THE CASE LAW SAYS NO  
11 MORE THAN TWO EVEN IF THERE ARE 15. AND THOSE ARE THE ONES  
12 THAT I -- I'M NOT POSITIVE WHERE WE'RE GOING, BUT I THINK  
13 IT'S GOING TO MAKE A DIFFERENCE ON WHICH TWO YOU PICK OUT  
14 AS TO WHAT THE MOTION IS.

15 MR. CATHCART: YOUR HONOR, I GUESS I WOULD HAVE TO GO  
16 TO A 1993-GS -- YOUR HONOR, I GUESS I WOULD HAVE TO RELY ON  
17 THEN THE 93-GS-9 -- I'M SORRY, 9530; THAT WAS ---

18 THE COURT: 9530?

19 MR. CATHCART: YES, SIR.

20 THE COURT: ALL RIGHT, SIR.

21 MR. CATHCART: THAT'S A CONVICTION DATE ON DECEMBER  
22 12, 1995.

23 THEN -- AND THEN 93-GS-9516, BURGLARY SECOND DEGREE,  
24 THAT'S A CONVICTION DATE ON JANUARY THE 8TH OF 1997.

25 I GUESS WE CAN USE THOSE TWO WOULD BE AS GOOD AS ANY

1 OTHERS.

2 YOUR HONOR, I JUST POINT OUT THAT THE STATUTE DOES SAY  
3 OR MORE. AND ALTHOUGH THE CASE LAW DOES LIMIT HOW MANY I  
4 GO FORWARD ON TO GO TO THE JURY, YOUR HONOR, I WOULD POINT  
5 OUT SHE WAS ASKING TO REMOVE SOME OF THEM, BUT WE HAVE  
6 THESE OTHER ONES TO RELY ON.

7 THE COURT: I UNDERSTAND. LET ME HEAR THE MOTION.

8 MR. CATHCART: YES, SIR.

9 MS. MOBLEY: THANK YOU, YOUR HONOR. YOUR HONOR, THE  
10 ARGUMENT IS ESSENTIALLY A SIMILAR ARGUMENT THAT WE WILL  
11 HAVE TO THE LIFE WITHOUT PAROLE ENHANCEMENT AT THE END.

12 YOUR HONOR, IF I MAY APPROACH. AND I WANT TO  
13 APOLOGIZE IN ADVANCE FOR HAVING A TECHNICAL DIFFICULTY IN  
14 THE PUBLIC DEFENDER'S OFFICE WITH PRINTERS AND COPIERS AND  
15 WHAT HAVE YOU. NORMALLY, I WOULD HAVE -- NORMALLY, I WOULD  
16 HAVE ALL OF THE CASE LAWS I'M RELYING ON PRINTED OUT.

17 YOUR HONOR, STATE VERSUS GORDON IS A CASE WHERE THE  
18 TRIAL COURT -- THERE WAS INITIALLY AN INDICTMENT FOR  
19 CONDUCT BETWEEN SEPTEMBER 21ST AND 23RD OF 1996 FOR  
20 TRAFFICKING -- FOR DRUG CHARGES.

21 THERE WAS ALSO CONDUCT INDICTED LATER AND TRIED LATER,  
22 SEPTEMBER 27TH OF 1996. AND THIS -- THE TRIAL COURT RULED  
23 AND THE SUPREME COURT AFFIRMED THAT THIS CANNOT BE USED TO  
24 ENHANCE TO LIFE WITHOUT PAROLE. THE REASONING FOR THE  
25 TRIAL COURT -- FOR THE SUPREME COURT UPHOLDING THE TRIAL

1 COURT'S RULING, IS THAT THESE ARE ONE COURSE OF CONDUCT.

2 YOUR HONOR, I WOULD DIRECT YOUR ATTENTION TO THE  
3 STATUTE THAT WAS IN THE LIFE WITHOUT PAROLE RECIDIVIST  
4 STATUTE SCHEME, 17-25-50, WHICH SAYS IN DETERMINING THE  
5 NUMBER OF OFFENSES FOR THE PURPOSE OF IMPOSITION OF  
6 SENTENCE, THE COURT SHALL TREAT AS ONE OFFENSE ANY NUMBER  
7 OF OFFENSES WHICH HAVE BEEN COMMITTED AT TIMES SO CLOSELY  
8 CONNECTED IN POINT OF TIME THAT THEY MAY BE CONSIDERED AS  
9 ONE OFFENSE, NOTWITHSTANDING UNDER THE LAW THEY CONSTITUTE  
10 SEPARATE AND DISTINCT OFFENSES.

11 YOUR HONOR, THE COURT -- THE CASE LAW THAT I HAVE  
12 FOUND, NAMELY, I AM RELYING ON STATE V. GORDON, SUGGESTS  
13 THAT 17-25-50 BE READ IN CONJUNCTION CERTAINLY WITH THE  
14 PRIOR SCHEME OF THE LIFE WITHOUT PAROLE STATUTE.

15 WE'RE ARGUING THAT THE PRIOR CONVICTIONS WHICHEVER  
16 TWO, THE CONDUCT WAS ALL ACCUMULATED OVER ABOUT THE COURSE  
17 OF A MONTH. WE'RE ARGUING THAT THIS IS A CRIME SPREE, YOUR  
18 HONOR, AND THEREFORE, CAN ONLY BE USED TO -- AS ONE PRIOR  
19 BASICALLY STRIKE IF YOUR HONOR WOULD LIKE TO CALL IT THAT.  
20 AND, THEREFORE, THE ENHANCEMENT TO BURGLARY FIRST IS  
21 IMPROPER BECAUSE IT REQUIRES TWO SEPARATE CONVICTIONS FOR A  
22 BURGLARY CHARGE, WHATEVER THE NATURE.

23 YOUR HONOR, THE GIST OF OUR ARGUMENT IS THAT THIS IS  
24 NOT A LIFE WITHOUT PAROLE CASE AT THIS POINT BECAUSE THE  
25 TWO OFFENSES ARE -- THAT THEY ARE RELYING ON -- AND I WOULD

1 SUBMIT ANY OF THE TWO THEY'RE RELYING ON OUT OF THAT MONTH  
2 ARE PART OF ONE SINGLE SPREE.

3 YOUR HONOR, PART OF THE LANGUAGE THAT THE COURT IN  
4 STATE V. GORDON RELIED UPON IN OVERRULING STATE V.  
5 BENJAMIN, IS JUSTICE WALLER'S DISSENT IN BENJAMIN. AND HIS  
6 DISSENT BASICALLY POINTING OUT THE IDEA AND THE LEGISLATIVE  
7 INTENT, THE PURPOSE FOR REQUIRING SEPARATE OFFENSES IS TO  
8 ENSURE THAT THOSE OFFENDERS BEING SENTENCED UNDER HARSH  
9 PROVISIONS OF THE RECIDIVIST SENTENCING STATUTE -- WHICH I  
10 WOULD SUBMIT THIS SECTION OF THE BURGLARY STATUTE IS A  
11 RECIDIVIST STATUTE -- HAD NOT BEEN CLASSIFIED AS HABITUAL  
12 OFFENDERS BECAUSE MULTIPLE CONVICTIONS ARISING FROM A  
13 SINGLE CRIMINAL ENTERPRISE.

14 YOUR HONOR, WE BELIEVE AND WE SUBMIT TO YOU THAT MR.  
15 ADAMS' CONDUCT THAT GAVE RISE TO THE NUMBER OF CHARGES, I  
16 BELIEVE IT WAS 11 OR MORE, OVER THOSE FOUR WEEKS IS ONE  
17 SINGLE CRIMINAL ENTERPRISE. AND I BELIEVE IN THE DISCOVERY  
18 THAT MR. CATHCART HAD SEEN HE MIGHT POTENTIALLY USE AS  
19 LYLE, THERE WAS A NEWS ARTICLE -- BEG THE COURT'S  
20 INDULGENCE.

21 (PAUSE.)

22 MS. MOBLEY: THE STATE IN SEPTEMBER OF '93 -- THE  
23 STATE CALLED IT A SPREE. I MEAN, I THINK, LOGICALLY IT  
24 WOULD BE A TORTURED RESULT TO ALLOW THIS ONE COURSE OF  
25 CONDUCT TO BE USED AS TWO SEPARATE STRIKES AGAINST MY

1 CLIENT. THIS IS NOT A LIFE WITHOUT PAROLE STATUTE AT THIS  
2 POINT, BUT AS AN ENHANCING MECHANISM UNDER THE RECIDIVIST  
3 SECTION OF THE BURGLARY STATUTE.

4 YOUR HONOR, I'M TRYING TO LOCATE A CASE. MOST OF THE  
5 CASES THAT I'VE FOUND WERE DEALING SOLELY WITH THE LIFE  
6 WITHOUT PAROLE STATUTE. SO AT THIS POINT I'M UNAWARE OF A  
7 CASE REGARDING THE PRIOR -- THE ACTUAL BURGLARY STATUTE I  
8 WAS NOT ABLE TO FIND ONE, YOU KNOW. YOU CAN TAKE MY  
9 RESEARCH SKILLS CERTAINLY WITH A GRAIN OF SALT. BUT AT  
10 THIS POINT I'M UNAWARE OF ANY CASE DIRECTING COURT ACTION  
11 IN EITHER DIRECTION.

12 THE COURT: ALL RIGHT. LET ME HEAR FROM THE STATE.

13 MR. CATHCART: YOUR HONOR, SHE'S ARGUING TWO SEPARATE  
14 THINGS. THE CASE LAW SHE'S TALKING ABOUT IS THE LWOP CASE  
15 LAW, LIFE WITHOUT PAROLE.

16 WHAT WE'RE TALKING ABOUT RIGHT NOW IS THE ELEMENTS OF  
17 BURGLARY FIRST. ONE OF THE ELEMENTS OF BURGLARY FIRST IS  
18 CONVICTION OF TWO OR MORE HOUSEBREAKINGS AND/OR BURGLARIES.

19 HE HAS HAD A NUMBER OF CONVICTIONS FOR HOUSEBREAKING  
20 OR FOR BURGLARY.

21 THERE IS CASE LAW AS TO LIFE WITHOUT PAROLE AS TO  
22 SENTENCING ENHANCEMENT; THAT INDICATES THAT YOU CAN'T GO  
23 BACK TO THE SAME TROUGH TO GO FOR SENTENCING AND  
24 ENHANCEMENT.

25 WHAT WE ARE HERE TALKING ABOUT IS A GUY WHO HAS

1 MULTIPLE CONVICTIONS FOR BURGLARY IN THE FIRST DEGREE, TWO  
2 OF WHICH -- THE FIRST HAS TO GO FORWARD TO THE JURY AS AN  
3 ELEMENT OF THE OFFENSE.

4 WE'RE NOT TALKING ABOUT AS TO HIS SENTENCING. THE  
5 DEFENDANT HAS ---

6 THE COURT: WELL, AS I UNDERSTAND THE ARGUMENT,  
7 ESSENTIALLY IT'S THIS: THERE'S PLENTY OF CASE LAW, AND  
8 IT'S FAIRLY CLEAR YOU CAN'T USE, LET'S SAY, MULTIPLE  
9 CONVICTIONS ON THE SAME DATE FOR A COURSE OF CONDUCT THAT  
10 OCCURRED IN A RELATIVELY SHORT PERIOD OF TIME TO GET THE  
11 NUMBER OF STRIKES TO GO WITH LIFE WITHOUT PAROLE.

12 AND WHILE I THINK MS. MOBLEY HAS BEEN VERY FRANK AND  
13 SAID, I CAN'T FIND A CASE THAT USES THAT SAME ARGUMENT ON  
14 ENHANCING BURGLARY TO MAKE A BURGLARY SECOND A BURGLARY  
15 FIRST, THE REASONING OUGHT TO BE THE SAME.

16 IS THAT ---

17 MS. MOBLEY: YES, YOUR HONOR.

18 THE COURT: --- PRETTY MUCH WHAT IT BOILS DOWN TO?

19 MS. MOBLEY: YES, YOUR HONOR.

20 THE COURT: OKAY. I DIDN'T MEAN TO CUT YOU OFF,  
21 THAT'S THE WAY I UNDERSTOOD THE ARGUMENT. I WANTED TO BE  
22 SURE. AND I'M NOT SAYING I AGREE WITH IT OR DISAGREE WITH  
23 IT; THAT'S THE WAY I UNDERSTOOD IT.

24 MS. MOBLEY: YES, SIR.

25 THE COURT: LET ME ASK THIS. THE GORDON CASE, THAT IS

1 A LIFE WITHOUT PAROLE CASE?

2 MS. MOBLEY: YES, SIR.

3 THE COURT: OKAY. AND I THINK YOU GAVE ME THE TIME  
4 PERIODS THAT WERE INVOLVED IN THAT CASE. AND I UNDERSTAND  
5 THE DIFFERENCE BETWEEN THE LIFE WITHOUT PAROLE AND  
6 ENHANCING TO MAKE IT A BURGLARY FIRST. THE TIME PERIOD, I  
7 THINK WAS A TWO- OR THREE-DAY TIME PERIOD THERE?

8 MS. MOBLEY: YES, SIR.

9 THE COURT: THE OFFENSES FROM THE CASES FROM  
10 CONVICTIONS YOU'RE RELYING ON, OVER WHAT TIME PERIOD? YOU  
11 INDICATED ABOUT A MONTH LONG FOR ALL OF THESE PRIOR  
12 CONVICTIONS; IS THAT RIGHT?

13 MS. MOBLEY: YES, SIR, YOUR HONOR. MY UNDERSTANDING  
14 IS THAT JULY 26TH, 1993 TO AUGUST THE 26TH, 1993 WOULD BE  
15 THE TIME FRAME WE'RE RELYING ON. I BELIEVE THAT WAS WHAT I  
16 GLEANED FROM THE INDICTMENTS AND WHAT HAVE YOU.

17 MR. CATHCART: AND THE CONVICTION DATES WERE TWO YEARS  
18 APART ON THE TWO THAT WE'RE TALKING ABOUT.

19 MS. MOBLEY: AND IF I MAY SPEAK TO THAT AT SOME POINT,  
20 YOUR HONOR.

21 MR. CATHCART: YOUR HONOR, COULD I SPEAK. YOUR HONOR,  
22 THERE ACTUALLY IS A CASE ON POINT AS TO -- I THOUGHT I HAD  
23 IT. I DON'T HAVE IT WITH ME RIGHT NOW.

24 BUT HER CASE SHE'S RELYING ON IS ALSO TALKING ABOUT  
25 CLOSEST IN TIME OF THE -- THE COURT OR THE STATE WAS

1 SEEKING LIFE WITHOUT PAROLE AS TO HIS PRIORS WHICH WAS A  
2 CONSPIRACY, ALL COMING OUT OF THE SAME COURSE OF CONDUCT IF  
3 I'M NOT MISTAKEN.

4 '97 IN A CONSPIRACY COMING BACK TO 2000. THEY  
5 INDICATE THAT THE 2000 CHARGES WERE PART OF THE CONTINUING  
6 -- PART OF THE TRANSACTION TO THE 1997 CHARGES.

7 AND, AGAIN, I THINK WE'RE ARGUING APPLES AND ORANGES.

8 THE STATUTE MERELY SAYS YOU HAVE TO BE CONVICTED OF  
9 GOING INTO TWO OR MORE HOUSES. IT DOESN'T SAY IN WHAT  
10 PERIOD OF TIME TWO OR MORE HOUSES -- WHEN THE STATUTE IS  
11 SAYING WHEN YOU'RE GO INTO A THIRD HOUSE, AND THAT IS AN  
12 AGGRAVATING CIRCUMSTANCE, NOT AS TO SENTENCING FOR LWOP OR  
13 WHATEVER, AS TO THE LIFE WITHOUT PAROLE THERE IS A PERIOD  
14 OF 10 YEARS BETWEEN THE TWO.

15 MS. MOBLEY: YOUR HONOR, MAY I APPROACH?

16 THE COURT: YES.

17 MS. MOBLEY: YOUR HONOR, I DO HAVE A CASE THAT'S  
18 SOMEWHAT INFORMATIVE ON THIS POINT. THE CASE OF STATE V.  
19 HACKET (PHONETIC), WHICH IS 363 SOUTH CAROLINA 177.

20 YOUR HONOR, THIS CASE SUPPORTS THE NOTION AND CITES  
21 GORDON -- SUPPORTS THE NOTION THAT THE CARDINAL RULE OF  
22 STATUTORY CONSTRUCTION IS TO ASCERTAIN AND EFFECTUATE THE  
23 INTENT OF THE LEGISLATURE.

24 CLEARLY, BOTH THE LIFE WITHOUT PAROLE STATUTE AND THE  
25 PROVISION OF THE BURGLARY STATUTE THAT WE'RE DISCUSSING

1       HERE ARE EXTREMELY SIMILAR, YOUR HONOR.   AND THAT TO ME  
2       WOULD BE A TORTURED READING OF THE BURGLARY STATUTE TO  
3       EXCLUDE THE CONSTRUCTIVE WITH THE HELPFUL LANGUAGE THAT THE  
4       LEGISLATURE SAW FIT TO ADD IN 17-25-50.   I CERTAINLY AGREE  
5       THAT WAS NOT ADDED TO THE BURGLARY STATUTE.

6                BUT WHEN WE ARE DISCUSSING LEGISLATIVE INTENT, I THINK  
7       THAT THE 17-25-50 SECTION IS VERY INFORMATIVE ON THAT POINT  
8       REGARDING THE WAY THE LEGISLATURE FEELS ABOUT ITS  
9       RECIDIVIST STATUTES, YOUR HONOR.

10               AND IF YOUR HONOR PLEASES -- WOULD YOU LIKE ME TO  
11       STOP?

12               THE COURT:   NO.   GO AHEAD.

13               MS. MOBLEY:   THANK YOU, YOUR HONOR.   YOUR HONOR, THE  
14       POSTURE OF THE CONVICTION IS SOMEWHAT INTERESTING, I FIND.  
15       YOUR HONOR, MR. ADAMS WAS CONVICTED AT TRIAL ON BURGLARY  
16       SECOND AND PETIT LARCENY, AND HE WAS SENTENCED ON 7/21/95.  
17       HE RECEIVED A 12 YEAR SUSPENDED SENTENCE -- EXCUSE ME, 12  
18       YEARS SUSPENDED TO 10 YEARS WITH 4 YEARS OF PROBATION TO  
19       FOLLOW.

20               YOUR HONOR, THE CHARGES WERE THEN -- THE REST OF THE  
21       CHARGES THAT WE ARE NOW TALKING ABOUT ARE BEING USED FOR  
22       ENHANCEMENT IN THIS CASE WERE DISMISSED BY THE STATE ON  
23       DECEMBER 11, 1996.   THEY WERE THEN RESTORED BY THE STATE  
24       JANUARY THE 8TH, 1997, WHICH IS THE SAME DAY AS THE PLEA.

25               AND I'M NOT QUITE SURE WHAT TO MAKE OF THAT, YOUR

1 HONOR. BUT IT SEEMS TO ME THAT IT WOULD BE FUNDAMENTALLY  
2 UNFAIR TO HANDLE OR TO USE A NUMBER OF THE SAME CONVICTIONS  
3 WHEN THE CHARGES WERE DISMISSED AND THEN BROUGHT BACK, WHAT  
4 HAVE YOU. I JUST FIND THAT -- CONSIDERING WHAT'S AT STAKE  
5 HERE, WHICH IS MR. ADAMS' LIFE, I WOULD FIND THAT TO BE  
6 JUST FUNDAMENTALLY UNFAIR.

7 THE COURT: ALL RIGHT. SOLICITOR.

8 MR. CATHCART: YOUR HONOR, THE DEFENDANT WAS CONVICTED  
9 AT TRIAL ON THOSE BURGLARIES. AT THE TIME SOME OF THOSE  
10 INDICTMENTS WERE NOL PROSSED WITH LEAVE TO RESTORE. I HAVE  
11 NO IDEA WHY THEY WERE DONE OR WHY THEY WERE BROUGHT BACK.  
12 I ASSUME THE VICTIMS WERE ASKING FOR THEM TO BRING THEM  
13 BACK. I DON'T KNOW. BUT THEY WERE NOL PROSSED WITH LEAVE  
14 TO RESTORE. THEY WERE RESTORED, AT WHICH TIME A SUBSEQUENT  
15 DATE THE DEFENDANT PLED GUILTY TO A BUNCH OF OTHER  
16 BURGLARIES THAT HE COMMITTED, AND PLED GUILTY TO BURGLARY  
17 IN THE FIRST DEGREE.

18 BURGLARY FIRST DEGREE IS THE ONE HE PLED GUILTY, AND  
19 THAT'S WHAT GIVES RISE TO LIFE WITHOUT PAROLE, NOT THE  
20 SUBSEQUENT ONES.

21 AGAIN, THIS IS NOT MY CASE BACK WHEN HE WAS CONVICTED  
22 BACK IN 1997. I'M NOT SURE AS TO WHY THEY WERE BROUGHT  
23 BACK, BUT THEY WERE BROUGHT BACK. PROBABLY THE DEFENDANT  
24 WAS PUT ON NOTICE, HAD OPPORTUNITY TO GO TO TRIAL ON  
25 INDIVIDUAL ONES. HE CHOSE TO PLEAD GUILTY TO THESE

1 SEPARATE BURGLARY FIRST INDICTMENTS, AND RECEIVED A  
2 SENTENCE OF 20 YEARS BACKDATED TO 1993.

3 MS. MOBLEY: YOUR HONOR, IF I MIGHT CLARIFY.

4 THE COURT: OKAY.

5 MS. MOBLEY: BUT FOR THE TWO PRIORS THE STATE IS  
6 TRYING TO USE OUT OF THE SAME COURSE OF CONDUCT, THESE  
7 WOULD PROPERLY BE BURGLARY SECOND NON-VIOLENT CHARGES, YOUR  
8 HONOR.

9 THE ONLY REASON WHY THESE ARE BURGLARY FIRSTS ARE THE  
10 TWO PRIORS.

11 MR. CATHCART: WHICH I WILL POINT OUT, YOUR HONOR, HE  
12 DID NOT PLEAD TO THEM ON THE SAME DAY. HE WENT TO TRIAL ON  
13 ONE AND DID NOT PLEAD TO THE OTHER ONES. HE WAITED TWO  
14 YEARS, I BELIEVE TWO YEARS TO PLEAD GUILTY TO HIS OTHER  
15 CHARGES; THAT'S TWO SEPARATE CONVICTIONS THAT ARE SEPARATED  
16 BY TWO YEARS.

17 THESE WERE TWO SEPARATE AREAS OF BURGLARIES. HE  
18 COMMITTED BURGLARIES ALL OVER THE COUNTY BACK IN 1993. HE  
19 CONFESSED TO 33 SEPARATE BURGLARIES. SOME WERE OUT IN THE  
20 COUNTY. SOME WERE IN THE CITY. HE DID NOT -- IT WAS NOT  
21 LIKE ONE COURSE OF CONDUCT. HE WAS COMMITTING BURGLARIES  
22 UNTIL HE WAS FINALLY CAUGHT.

23 MS. MOBLEY: YOUR HONOR, THE CONVICTIONS ARE WHAT  
24 INFORMED THE COURT AT THIS POINT THAT HIS CONVICTIONS ARE  
25 WHAT YOU HAVE ALREADY HEARD. YOUR HONOR, HE DIDN'T WAIT

1 THREE YEARS TO PLEAD. THE CHARGES WERE DISMISSED.

2 MR. CATHCART: YOUR HONOR -- (PAUSE.)

3 THE COURT: DO WE HAVE THE SPECIFIC DATES OF THE  
4 BURGLARIES IN '93?

5 MR. CATHCART: YES, SIR, I'M GETTING HIS FILE.

6 MS. MOBLEY: YOUR HONOR, I BELIEVE I HAVE A LIST IF  
7 MR. CATHCART WOULD CARE TO HEAR THIS, IT MAY BE FASTER.

8 MR. CATHCART: I DON'T KNOW -- I MEAN.

9 THE COURT: ARE THESE THE DATES THAT WERE IN THE  
10 INDICTMENTS?

11 MS. MOBLEY: YES, SIR.

12 (PAUSE.)

13 MS. MOBLEY: I APOLOGIZE, YOUR HONOR. ARE YOU  
14 REQUESTING THE DATE THE CRIME OCCURRED OR THE DATE OF THE  
15 INDICTMENT?

16 THE COURT: I'M NOT WORRIED SO MUCH ABOUT THE  
17 INDICTMENT RIGHT NOW AS I AM ---

18 MS. MOBLEY: THE TIME OF THE OCCURRENCE.

19 THE COURT: --- THE TIME OF THE OCCURRENCE.

20 MS. MOBLEY: YES, SIR.

21 (PAUSE.)

22 THE COURT: ALL RIGHT. THIS IS THE PROBLEM IF THERE  
23 IS A PROBLEM, IS AT WHAT POINT IN TIME DOES IT QUIT BEING  
24 AN ONGOING CRIMINAL ACT AND BECOME SEPARATE ACTS? IN OTHER  
25 WORDS, IF YOU'VE GOT SOMEONE WHO BEGINS BREAKING INTO

1 HOUSES OR BUILDINGS OR WHATEVER AND THEY DO IT FOR 10  
2 MONTHS AND THEY DO IT EVERY OTHER DAY FOR 10 MONTHS, IS  
3 THAT A CONTINUING CRIMINAL ENTERPRISE?

4 WE DON'T HAVE 10 MONTHS HERE, WE HAVE 1 MONTH HERE.

5 IF IT WAS FOR 1 DAY, THAT WOULD BE A WHOLE LOT EASIER  
6 TO DEAL WITH. WE DON'T HAVE 1 DAY.

7 MS. MOBLEY: YES, SIR.

8 THE COURT: AND THAT'S WHY I'M CURIOUS ABOUT THE  
9 SPECIFIC DATES OF THE INCIDENTS TO WHICH THE STATE IS GOING  
10 TO USE. THE TWO THAT WE USED, ALTHOUGH I DON'T THINK  
11 THERE'S ANYTHING TO KEEP THE STATE FROM OFFERING EVIDENCE  
12 ON OTHERS AND SPREAD IT OUT AS LONG AS THEY CAN SPREAD IT  
13 OUT. I DON'T KNOW.

14 MS. MOBLEY: YES, SIR. I DO HAVE A LISTING OF  
15 INCIDENT DATES. I DON'T KNOW ---

16 THE COURT: HAVE YOU GOT THEM FOR THE TWO INDICTMENTS  
17 THAT HAVE BEEN INDICATED AT LEAST AT THIS POINT?

18 MS. MOBLEY: BEG THE COURT'S INDULGENCE.

19 (PAUSE.)

20 MS. MOBLEY: YOUR HONOR, I BELIEVE THE 9530 INDICTMENT  
21 WAS ON AUGUST THE 4TH. AND THE OTHER ONE WAS 9516 --  
22 EXCUSE ME, AUGUST THE 19TH, YOUR HONOR.

23 THE COURT: AND WHAT YEAR WAS THAT? WAS THAT '93 OR  
24 '92?

25 MS. MOBLEY: THESE WERE ALL 1993.

1 THE COURT: '93. SO THOSE TWO INCIDENTS ON THE TWO  
2 THAT THE SOLICITOR HAS ALREADY INDICATED WERE 15 DAYS  
3 APART?

4 MS. MOBLEY: YES, SIR.

5 MR. CATHCART: DO YOU HAVE LOCATIONS FOR BOTH?

6 THE COURT: DO YOU HAVE THAT? IF YOU HAVE THAT  
7 INFORMATION, THAT MAY BE HELPFUL ALSO.

8 MS. MOBLEY: I APOLOGIZE, YOUR HONOR. I JUST PUT IT  
9 DOWN. I BELIEVE THE CORRESPONDING WARRANTS WOULD BE D-  
10 851011 TO INDICTMENT 9516, WHICH WAS LARCENY AND BURGLARY  
11 IN THE SECOND DEGREE. IT APPEARS THAT FROM THE WARRANTS,  
12 IT WAS A RESIDENCE AT address . (PAUSE.) AND I  
13 APOLOGIZE, YOUR HONOR.

14 THE COURT: THAT'S ALL RIGHT.

15 MS. MOBLEY: 9530, WHICH APPEARS TO CORRESPOND TO  
16 NUMBER address

17 THE COURT: ALL RIGHT. I THINK I UNDERSTAND THE  
18 ARGUMENT. I AM GOING TO DENY THE MOTION TO QUASH BASED IN  
19 THIS CASE ON THE FACT THAT THE TWO THAT THE STATE INTENDS  
20 TO OFFER TO ENHANCE IT TO A BURGLARY FIRST OCCURRED 15 DAYS  
21 APART, AT TWO SEPARATE LOCATIONS; AND THAT IN MY MIND IS  
22 SUFFICIENT TO MAKE THOSE SEPARATE AND DISTINCT OFFENSES AND  
23 CONVICTIONS FOR BURGLARY SECOND AND A BURGLARY FIRST.

24 AND I'M NOT RELYING SO MUCH ON THE DATES OF  
25 CONVICTION, BECAUSE I THINK THAT THAT CAN BE -- THAT CAN

1 BE -- I DON'T WANT TO SAY PLAYED WITH, BUT MANIPULATED IS  
2 THE WORD I'M LOOKING FOR. I DON'T THINK THAT WAS DONE IN  
3 THE CASE. AND I DON'T KNOW WHAT THE RESULT WOULD BE IF  
4 THE BURGLARIES WERE -- I THINK THERE MAY BE SOME CASE LAW,  
5 ALTHOUGH MAYBE NOT ON ENHANCING IT TO A BURGLARY FIRST --  
6 IF THEY WERE DONE THE SAME DAY, TWO DIFFERENT LOCATIONS OR  
7 WITHIN A DAY OR TWO, TWO DIFFERENT LOCATIONS.

8 BUT UNDER THE FACTS OF THIS CASE WITH THOSE TWO  
9 OFFENSES 15 DAYS APART, SEPARATE LOCATIONS, I WOULD FIND  
10 THAT THEY ARE NOT A CONTINUING CRIMINAL ENTERPRISE OR AN  
11 ONGOING CRIMINAL CONDUCT BUT TWO SEPARATE AND DISTINCT  
12 OFFENSES THAT OCCURRED 15 DAYS APART AT TWO SEPARATE  
13 LOCATIONS.

14 FOR THAT REASON, THE MOTION IS DENIED.

15 MS. MOBLEY: THANK YOU, YOUR HONOR.

16 THE COURT: ALL RIGHT. THANK YOU.

17 ALL RIGHT, NOW, I BELIEVE YOUR OTHER PRETRIAL MATTERS  
18 WE CAN TAKE CARE OF AFTER WE GET A JURY SELECTED?

19 MS. MOBLEY: YES, SIR.

20 THE COURT: OKAY. ALL RIGHT. ALL RIGHT. SOLICITOR,  
21 ANYTHING FURTHER PRETRIAL BEFORE THE PANEL IS BROUGHT UP?

22 MR. CATHCART: YOUR HONOR, I'M KIND OF -- I WANT TO  
23 MAKE SURE THAT I'M STRAIGHT AS TO WHICH ONES WE'RE TALKING  
24 ABOUT, BECAUSE I THOUGHT SHE WAS SAYING DIFFERENT NUMBERS  
25 THAN WHAT I THOUGHT I EARLIER SAID.

1 THE COURT: SHE USED THE SAME TWO YOU GAVE, 93-9530.

2 MR. CATHCART: 30.

3 THE COURT: AND 93-9516.

4 MR. CATHCART: OKAY. GREAT. THANK YOU.

5 THE COURT: THOSE ARE THE ONES YOU GAVE ME, AND THOSE  
6 ARE THE ONES MS. MOBLEY GAVE ME THE INFORMATION ON.

7 MS. MOBLEY: THANK YOU.

8 MR. CATHCART: THANK YOU, SIR. I WAS KIND OF DIGGING  
9 THROUGH THEM KIND OF QUICKLY, AND I APOLOGIZE.

10 THE COURT: ALL RIGHT. LET'S GET A PANEL UP HERE  
11 PLEASE.

12 BEFORE YOU DO THAT, WAIT ONE SECOND. ANY SPECIAL VOIR  
13 DIRE THAT YOU'RE REQUESTING?

14 MS. MOBLEY: YOUR HONOR, I'VE ONLY I BELIEVE PICKED  
15 ONE JURY IN FRONT OF YOUR HONOR. THE ONLY THING WE REQUEST  
16 IS THAT YOU ASK THE JURORS IF THEY HAVE EVER BEEN A VICTIM  
17 OF A CRIME OF BURGLARY OR A VICTIM CRIME OF VIOLENCE. I  
18 DON'T KNOW IF THAT WOULD BE PART OF YOUR REGULAR VOIR DIRE  
19 IN A CASE LIKE THIS.

20 AND, OBVIOUSLY, WE WOULD NOT OBJECT TO RECIPROCAL  
21 QUESTION WHETHER ANY OF THEM HAVE BEEN CONVICTED OF THE  
22 CRIME OF BURGLARY.

23 THE COURT: WELL, HOPEFULLY, THAT CAME OUT IN  
24 QUALIFICATION.

25 MR. CATHCART: YOUR HONOR, I GUESS THE ONLY PROBLEM I

1 HAVE WITH THE PANEL THAT'S COMING UP IS THERE'S ONE PERSON  
2 ON IT WHICH IS FIELDING PRINGLE, WHO WAS AS OF LAST YEAR A  
3 DEPUTY PUBLIC DEFENDER. SHE IS NOW WITH THE DEATH PENALTY  
4 RESOURCE CENTER. I'D ASK THAT SHE BE REMOVED FROM THE  
5 PANEL, OR THAT WE ASK THAT WE WOULD BE ABLE TO STRIKE HER  
6 FOR CAUSE. I DON'T THINK IT'S ANY DIFFERENT THAN ANY  
7 POLICE OFFICER OR SOLICITOR WHO'S ACTIVELY STILL DOING  
8 THEIR JOB BEING ON A PANEL.

9 MS. MOBLEY: YOUR HONOR, WE HAVE NO PROBLEM AS LONG AS  
10 WE ARE ALLOWED TO STRIKE ANYONE RELATED TO LAW ENFORCEMENT  
11 FOR CAUSE AS WELL.

12 MR. CATHCART: I THINK IT'S A LITTLE BIT -- I MEAN, IF  
13 THEY ARE -- IF THEY ARE LAW ENFORCEMENT, FINE. SHE IS THE  
14 OTHER SIDE, THAT'S NOT -- NOT RELATED TO, SHE IS.

15 I DON'T HAVE A PROBLEM IF THERE'S A POLICE OFFICER ON  
16 THERE WHO STANDS UP AND SAYS I'M A POLICE OFFICER, I THINK  
17 HE SHOULD BE STRUCK FOR CAUSE ALSO. THAT'S FINE.

18 MS. MOBLEY: YOUR HONOR, SHE IS NO LONGER A MEMBER OF  
19 THE PUBLIC DEFENDER'S OFFICE, SO ---

20 MR. CATHCART: SHE IS WITH THE DEATH PENALTY RESOURCE  
21 CENTER, WHICH IS -- MAY NOT BE THE SAME THING, BUT I THINK  
22 IT'S THE SAME SIDE.

23 THE COURT: HAVE EITHER OF YOU GOT ANY LAW RIGHT ON  
24 POINT WITH THAT? IN OTHER WORDS, I FREQUENTLY WILL ASK IF  
25 ANYONE IS RELATED TO A LAW ENFORCEMENT OFFICER. AND IF

1       THEY ARE, THEY'RE NOT DISQUALIFIED. THAT JUST GIVES THE  
2       DEFENSE INFORMATION SO THEY CAN EXERCISE A STRIKE IF THEY  
3       CHOOSE TO DO SO. I DON'T KNOW THAT THIS IS ANY DIFFERENT  
4       FROM THAT.

5           MR. CATHCART: YOUR HONOR, SHE'S NOT RELATED TO  
6       SOMEONE.

7           THE COURT: I UNDERSTAND THAT. BUT IF ---

8           MR. CATHCART: IT'S LIKE -- I MEAN, SHE IS -- I'VE  
9       KNOWN MS. PRINGLE FOR MANY YEARS. AND I RESPECT HER AND I  
10      LIKE HER. BUT SHE IS A ZEALOT AS TO HER CAUSE. I DON'T  
11      THINK THAT SHE CAN BE FAIR ON A CRIMINAL TRIAL. SHE'S BEEN  
12      A PUBLIC DEFENDER FOR ABOUT, I THINK, ALMOST TEN YEARS.  
13      AND SHE'S CURRENTLY WORKING FOR THE APPELLATE PROCESS FOR  
14      THE DEFENSE BAR.

15           MS. MOBLEY: YOUR HONOR, I BELIEVE THAT SHE WOULD BE  
16      SUBJECT TO YOUR HONOR'S QUESTIONING JUST LIKE YOUR HONOR  
17      WOULD QUESTION ANYONE RELATED TO A LAW ENFORCEMENT OFFICER,  
18      THAT IF SHE FEELS THAT SHE CAN BE FAIR AND IMPARTIAL, THEN  
19      IT'S UP TO EITHER SIDE TO SAVE A STRIKE FOR THAT PARTICULAR  
20      PERSON, IF THEY ARE IN FEAR OF THE PERSON'S MOTIVATION.

21           MR. CATHCART: I JUST FEEL LIKE SHE REALLY IS NOT ANY  
22      DIFFERENT FROM ANYONE -- IT'S MORE LIKE A QUESTION OF  
23      ANYONE WHO'S WORKING IN THE COURTHOUSE OR A MEMBER OF LAW  
24      ENFORCEMENT.

25           THE COURT: WELL, MEMBERS OF LAW ENFORCEMENT IS NOT --

1 WE SOMETIMES GET CONFUSED ON THAT. I ASK THE QUESTION IN  
2 QUALIFICATION IF YOU HAVE A STATE CONSTABLE'S COMMISSION,  
3 BECAUSE THAT NARROWS IT DOWN OR THAT LETS ME KNOW IF YOU'RE  
4 IN LAW ENFORCEMENT.

5 ACTUALLY, THE QUESTION IS WHETHER YOU'RE A DEPUTY AND  
6 IT'S GOT A LIST IN THERE. WHETHER YOU WORK IN THE  
7 COURTHOUSE IS A SPECIFIC QUESTION.

8 MR. CATHCART: YES, SIR.

9 THE COURT: WHETHER -- AND IF SHE WERE STILL IN THE  
10 PUBLIC DEFENDER'S OFFICE AND THEIR OFFICE IS HERE IN THE  
11 COURTHOUSE, NO.

12 NOW, THE DEATH PENALTY RESOURCE CENTER, THEY'RE NOT  
13 LOCATED HERE, I'M SURE.

14 MR. CATHCART: NO, SIR, THEY'RE NOT. BUT THEY ARE  
15 PART AND PARCEL OF -- I WOULD THINK THAT IF SOMEONE WAS  
16 WORKING AT THE ATTORNEY GENERAL'S OFFICE IN THE APPELLATE  
17 REVIEW WOULD BE CONSIDERED PART OF US.

18 AND SHE HAS COME FORWARD IN THIS COURTROOM, YOUR  
19 HONOR, AFTER SHE HAS BEEN A PUBLIC DEFENDER AND STOOD ON  
20 CASES THAT SHE WAS PART OF. SHE'S BEEN HERE SUBSEQUENT TO  
21 HER LEAVING THIS COURTHOUSE. SHE'S CONTINUING ON AS HER  
22 CAUSE. SHE HAS -- SHE HAS STANDED UP -- SHE HAS STOOD UP  
23 WITH CLIENTS. THANK YOU.

24 MS. MOBLEY: YOUR HONOR, WE'RE NOT DENYING THAT SHE'S  
25 STILL AN ATTORNEY.

1 MR. CATHCART: PUBLIC DEFENDER'S CLIENTS, NOT HERS,  
2 UNLESS SHE'S STILL WITH YOU ALL'S OFFICE.

3 (PAUSE.)

4 THE COURT: ALL RIGHT. BASED ON WHAT'S PRESENTED TO  
5 ME AT THIS TIME, I'M NOT GOING TO TAKE HER OFF THE PANEL.  
6 IN LOOKING AT THE STATUTE, IT SAYS, IF IT APPEARS TO THE  
7 COURT THAT THE JUROR IS NOT INDIFFERENT TO THE CAUSE, THEN  
8 THE COURT CAN SET HER ASIDE.

9 IF HER NAME IS CALLED, WE'LL SEE WHERE WE GO WITH IT.

10 MR. CATHCART: THANK YOU, YOUR HONOR.

11 MS. MOBLEY: THANK YOU, YOUR HONOR.

12 THE COURT: ALL RIGHT. NOW WE CAN GET THEM UP HERE.  
13 THIS WILL BE 10 AND 5 I BELIEVE.

14 MS. MOBLEY: YES, YOUR HONOR.

15 THE COURT: WHAT I PLAN ON DOING IS GOING AHEAD AND  
16 SELECTING A JURY, AND THEN PROBABLY I WILL EXCUSE THEM FOR  
17 THE DAY AND DEAL WITH THE REST OF THE PRETRIAL MATTERS, AND  
18 WE'LL START TESTIMONY IN THE MORNING.

19 MS. MOBLEY: YES, SIR, THANK YOU.

20 (PAUSE WHILE THE JURY PANEL ENTERS THE COURTROOM.)

21 BAILIFF: THE JURY PANEL IS ALL PRESENT, YOUR HONOR.

22 THE COURT: ALL RIGHT. THANK YOU, SIR.

23 LADIES AND GENTLEMEN, WELCOME TO COURTROOM 3-A. MY  
24 NAME IS JIM JOHNSON. I LIVE UP IN LAURENS COUNTY. IT WILL  
25 BE MY PLEASURE TO BE PRESIDING OVER COURT IN THIS COURTROOM.

1 THIS WEEK. IN OUR COURTROOM WE ARE HOLDING WHAT WE CALL  
2 GENERAL SESSIONS OR CRIMINAL COURT. AND THE CASE THAT WE  
3 ARE ABOUT TO SELECT A JURY IN HAS BEEN PROCESSED THROUGH  
4 THE COURT SYSTEM BY THESE DOCUMENTS THAT I'M HOLDING, WHICH  
5 ARE CALLED INDICTMENTS. THEY HAVE THE CASE NUMBER, THE  
6 CASE NAME, AND WHAT THE CHARGE OR THE CHARGES ARE THAT ARE  
7 IN THIS CASE. AND I WILL BE GIVING YOU THAT INFORMATION IN  
8 JUST A MINUTE.

9 I WILL INTRODUCE YOU TO THE SOLICITORS IN THE CASE AND  
10 THE DEFENSE ATTORNEYS AS WELL AS THE DEFENDANT IN THE CASE  
11 AND TELL YOU WHAT THE CHARGES ARE.

12 YOU DO NEED TO UNDERSTAND THAT THESE DOCUMENTS, THE  
13 INDICTMENTS, ARE NOT EVIDENCE. THEY CANNOT BE CONSIDERED  
14 BY THE JURY AS EVIDENCE OF THE CHARGES THAT THEY CONTAIN.

15 AGAIN, THESE DOCUMENTS HAVE PROCESSED THIS CASE  
16 THROUGH THE COURT SYSTEM.

17 IN THIS CASE THERE ARE A NUMBER OF DIFFERENT  
18 INDICTMENTS. I WANT TO BE SURE I HAVE THE INFORMATION  
19 CORRECT. THERE ARE A TOTAL OF 14 INDICTMENTS, WHICH  
20 CONTAIN 6 CHARGES OF FIRST DEGREE BURGLARY, 2 CHARGES OF  
21 GRAND LARCENY, 4 CHARGES OF PETIT LARCENY, 1 CHARGE OF  
22 POSSESSION OF BURGLARY TOOLS, AND 1 CHARGE OF RESISTING  
23 ARREST.

24 THESE ARE ALL ENTITLED THE STATE VERSUS TERRANCE  
25 ADAMS. MR. ADAMS IS PRESENT REPRESENTED BY MS. MOBLEY AND

1 CO-COUNSEL.

2 IF YOU WILL INTRODUCE YOUR CLIENT AND CO-COUNSEL AND  
3 YOURSELF TO THE JURY PANEL PLEASE.

4 MS. MOBLEY: I'M LAUREN MOBLEY. MY CO-COUNSEL IS  
5 TIVIS SUTHERLAND. THIS IS TERRANCE ADAMS.

6 THE COURT: THANK YOU.

7 THE STATE IN THIS CASE WILL BE REPRESENTED BY MR.  
8 CATHCART AND CO-COUNSEL. IF YOU'LL INTRODUCE YOURSELF AND  
9 YOUR CO-COUNSEL PLEASE TO THE JURY PANEL.

10 MR. CATHCART: MY NAME IS RICHARD CATHCART. AND THIS  
11 IS MARGARET FENT.

12 THE COURT: AND A LITTLE BIT MORE INFORMATION FROM THE  
13 INDICTMENTS. IT IS ALLEGED IN THE INDICTMENTS THAT THESE  
14 OFFENSES ALL OCCURRED ON OR ABOUT APRIL THE 19TH, 2005 HERE  
15 IN RICHLAND COUNTY.

16 I'M GOING TO READ TO YOU A LIST OF POTENTIAL WITNESSES  
17 IN THE CASE. QUITE FRANKLY, I DON'T KNOW THAT ANY OF THEM  
18 ARE PRESENT. IF THEY ARE PRESENT WHEN I READ THEIR NAMES,  
19 I'M GOING TO ASK THEM TO PLEASE STAND AND FACE YOU FOR JUST  
20 A MOMENT SO YOU CAN SEE WHO THEY ARE.

21 POTENTIAL WITNESSES IN THE CASE -- IS IT ASIA -- ASIA  
22 FERGUSON?

23 MR. CATHCART: ASIA FERGUSON.

24 THE COURT: ASIA FERGUSON. RUFUS KEYS, K-E-Y-S. JILL  
25 KNOLL, K-N-O-L-L. DALE HUNT. DEPUTY DAVID SOTO. BILL

STATE V. TERRANCE ADAMS

1 MANN.

2 YOU CAN HAVE A SEAT, MR. SOTO.

3 BILL MANN WITH THE RICHLAND COUNTY SHERIFF'S OFFICE AS  
4 WELL AS DAVID COLLINS ALSO WITH THE RICHLAND COUNTY  
5 SHERIFF'S OFFICE.

6 MR. CATHCART: YOUR HONOR, IF I MAY. I'M SORRY, THIS  
7 IS ACTUALLY DALE HUNT.

8 THE COURT: I'M SORRY. I'M SORRY. THIS IS DALE HUNT.

9 MR. CATHCART: YES, SIR.

10 THE COURT: THANK YOU. AS I INDICATED, I DON'T KNOW  
11 WHO ANY OF THESE FOLKS ARE.

12 BILL MANN. DAVID COLLINS. JENNIFER STONER.  
13 CONQUISTA DRAYTON. SENATRE JOHNSON. SHAWNETTA BELTON.  
14 DECHANTAL COFIELD. CHARLES NOTTINGHAM. KEE CHUNG.  
15 DOROTHY NELSON. NANCY BLANTON. BARBARA SCOTT. K. PRESTON  
16 WITH THE RICHLAND COUNTY SHERIFF'S OFFICE. AND G.  
17 GALLEGOS, ALSO WITH THE RICHLAND COUNTY SHERIFF'S OFFICE.

18 I'VE GOT A FEW QUESTIONS TO ASK YOU ABOUT THIS  
19 PARTICULAR CASE. IF ANYONE ON THIS JURY PANEL IS RELATED  
20 BY BLOOD OR CONNECTED BY MARRIAGE EITHER TO THE DEFENDANT,  
21 MR. ADAMS, OR TO ANY OF THESE POTENTIAL WITNESSES IN THE  
22 CASE, WOULD YOU PLEASE STAND? IF YOU'RE RELATED BY BLOOD  
23 OR CONNECTED BY MARRIAGE TO ANY OF THESE INDIVIDUALS?

24 (NO RESPONSE.)

25 THE COURT: IF ANYONE ON THIS JURY PANEL HAS ANY TYPE

1 OF BUSINESS, PERSONAL, OR SOCIAL RELATIONSHIP -- AND I'M  
2 SOMETIMES ASKED WHAT DO YOU MEAN BY SOCIAL OR PERSONAL  
3 RELATIONSHIP? IF YOU ARE FRIENDS WITH, IF YOU KNOW, IF YOU  
4 TRANSACT BUSINESS, IF YOU GO OR BELONG TO THE SAME CHURCH  
5 OR CIVIC ORGANIZATION -- ANY RELATIONSHIP OF THAT NATURE,  
6 WE JUST NEED TO BE MADE AWARE OF THAT.

7 AGAIN, ANY PERSONAL, BUSINESS, OR SOCIAL RELATIONSHIP  
8 WITH MR. ADAMS, THE DEFENDANT, OR ANY POTENTIAL WITNESS IN  
9 THE CASE, PLEASE STAND.

10 YOUR NAME PLEASE, MA'AM?

11 JUROR: PAMELA CROOKS.

12 THE COURT: LET ME FIND YOU PLEASE. IF YOU COULD TELL  
13 ME PLEASE WHO AND JUST GENERALLY THE NATURE OF THAT  
14 RELATIONSHIP PLEASE?

15 JUROR: DALE HUNT, AND SOCIAL.

16 THE COURT: PARDON ME?

17 JUROR: DALE HUNT, AND SOCIAL.

18 THE COURT: ALL RIGHT. AND, MS. CROOKS, WOULD THAT  
19 RELATIONSHIP AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL  
20 JUROR IF YOU ARE SELECTED IN THIS CASE?

21 JUROR: NO, SIR.

22 THE COURT: THANK YOU. YOU MAY HAVE A SEAT. THAT'S  
23 MS. CROOKS.

24 YOUR NAME PLEASE, MA'AM?

25 JUROR: AISHA WILLIAMS.

1 THE COURT: MS. WILLIAMS, IF YOU WILL TELL ME WHO AND  
2 GENERALLY THE NATURE OF THE RELATIONSHIP PLEASE?

3 JUROR: DAVID COLLINS.

4 THE COURT: OKAY.

5 JUROR: AN EX-BOYFRIEND OF MY BEST FRIEND.

6 THE COURT: OKAY. WOULD THAT RELATIONSHIP THAT HE IS  
7 THE EX-BOYFRIEND OF YOUR BEST FRIEND -- IS THAT RIGHT?

8 JUROR: THAT'S CORRECT.

9 THE COURT: WOULD THAT IN ANY WAY AFFECT YOUR ABILITY  
10 TO BE A FAIR AND IMPARTIAL JUROR IN THIS CASE?

11 JUROR: NO, SIR.

12 THE COURT: ALL RIGHT. YOU MAY HAVE A SEAT. THAT'S  
13 MS. WILLIAMS.

14 ANYONE ELSE?

15 (NO RESPONSE.)

16 THE COURT: IS THERE ANYONE ON THE JURY PANEL WHO HAS  
17 READ OR HEARD OR FROM ANY SOURCE AT ALL KNOWS ANYTHING  
18 ABOUT THE ALLEGATIONS OF THE CHARGES THAT HAVE BEEN MADE IN  
19 THIS CASE? IF SO, WILL YOU PLEASE STAND.

20 (NO RESPONSE.)

21 THE COURT: IS THERE ANY MEMBER OF THIS JURY PANEL WHO  
22 IS SENSITIVE TO OR AWARE OF ANY KIND OF BIAS OR PREJUDICE  
23 THAT YOU MIGHT HAVE THAT WOULD PREVENT YOU FROM BEING A  
24 FAIR AND IMPARTIAL JUROR IF YOU ARE SELECTED IN THIS CASE?  
25 IF SO, WOULD YOU PLEASE STAND.

1 (NO RESPONSE.)

2 THE COURT: IS THERE ANYONE ON THIS JURY PANEL WHO HAS  
3 FORMED OR EXPRESSED AN OPINION AS TO THE GUILT OR INNOCENCE  
4 OF THE DEFENDANT IN THIS CASE? IF SO, WILL YOU PLEASE  
5 STAND.

6 (NO RESPONSE.)

7 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO  
8 IS EITHER PRESENTLY OR IN THE PAST HAS BEEN REPRESENTED BY  
9 ANY OF THE ATTORNEYS WHO ARE INVOLVED IN THE CASE OR IF YOU  
10 HAVE ANY OTHER KIND OF BUSINESS OR PERSONAL OR SOCIAL  
11 RELATIONSHIP AS I'VE DEFINED THOSE TERMS FOR YOU WITH ANY  
12 OF THE ATTORNEYS, WILL YOU PLEASE STAND.

13 ALL RIGHT. I'LL START HERE ON THE FRONT ROW. YOUR  
14 NAME PLEASE, SIR.

15 JUROR: RHETT ANDERS.

16 THE COURT: AND, MR. ANDERS, WHICH ATTORNEY OR  
17 ATTORNEYS?

18 JUROR: THE SOLICITOR'S OFFICE. MY DECEASED UNCLE WAS  
19 FIFTH CIRCUIT SOLICITOR FOR MANY YEARS. I HAVE TWO REAL  
20 ESTATE CLIENTS THAT ARE CURRENTLY EMPLOYED WITH THE  
21 SOLICITOR'S OFFICE.

22 THE COURT: ALL RIGHT. WOULD ANY OF THOSE  
23 RELATIONSHIPS, MR. ANDERS, AFFECT YOUR ABILITY TO BE A FAIR  
24 AND IMPARTIAL JUROR IN THIS CASE?

25 JUROR: NO, SIR.

1 THE COURT: ALL RIGHT. YOU MAY HAVE A SEAT. THANK  
2 YOU.

3 YOUR NAME PLEASE, MA'AM?

4 JUROR: JULI BLALOCK.

5 THE COURT: CAN YOU TELL ME WHO AND THE NATURE OF YOUR  
6 RELATIONSHIP, MS. BLALOCK?

7 JUROR: MR. CATHCART GOES TO THE SAME CHURCH WE GO TO.

8 THE COURT: GO TO THE SAME CHURCH?

9 JUROR: YES.

10 THE COURT: WOULD THAT IN ANY WAY AFFECT YOUR ABILITY  
11 TO BE A FAIR AND IMPARTIAL JUROR?

12 JUROR: NO, SIR.

13 THE COURT: THANK YOU. YOU MAY HAVE A SEAT.

14 AND YOUR NAME PLEASE, MA'AM?

15 JUROR: MY NAME IS FIELDING PRINGLE. I AM NUMBER 176.  
16 AND I KNOW ALL THE ATTORNEYS FROM WORKING IN THE FIFTH  
17 CIRCUIT.

18 THE COURT: ALL RIGHT. AND THE COURT HAS BEEN ADVISED  
19 YOU PREVIOUSLY WORKED, I BELIEVE, IN THE PUBLIC DEFENDER'S  
20 OFFICE; IS THAT CORRECT?

21 JUROR: I DID UP UNTIL MAY OF LAST YEAR.

22 THE COURT: OKAY. WOULD ANY OF THOSE RELATIONSHIPS OR  
23 THAT EMPLOYMENT OR PRESENT EMPLOYMENT, WHATEVER IT MIGHT  
24 BE, IN ANY WAY AFFECT YOUR ABILITY TO BE FAIR AND  
25 IMPARTIAL?

1 JUROR: NO, SIR.

2 THE COURT: ALL RIGHT. YOU MAY HAVE A SEAT. THANK  
3 YOU.

4 IS THERE ANY MEMBER OF THE JURY PANEL, ANY MEMBER OF  
5 YOUR IMMEDIATE FAMILY WHO HAS EVER BEEN THE VICTIM OF A  
6 BURGLARY OR OTHER VIOLENT CRIME? IF SO, WILL YOU PLEASE  
7 STAND.

8 ALL RIGHT. LET ME START, MS. BLALOCK; IS THAT  
9 CORRECT?

10 JUROR: YES, SIR.

11 THE COURT: WAS IT YOU OR A MEMBER OF YOUR FAMILY?

12 JUROR: MY PARENTS.

13 THE COURT: AND HOW LONG AGO HAS THAT BEEN, MS.  
14 BLALOCK?

15 JUROR: ABOUT EIGHT YEARS.

16 THE COURT: PARDON ME?

17 JUROR: EIGHT YEARS AGO.

18 THE COURT: AND WOULD THAT IN ANY WAY AFFECT YOUR  
19 ABILITY TO BE FAIR AND IMPARTIAL AS A JUROR IN THIS CASE?

20 JUROR: NO, SIR.

21 THE COURT: YOU MAY HAVE A SEAT. THAT'S MS. BLALOCK.  
22 BEHIND HER, YOUR NAME PLEASE?

23 JUROR: ELEANOR HOOVER. MY BROTHER -- A HOME ROBBERY.  
24 AND IT'S ABOUT 25, 30 YEARS AGO.

25 THE COURT: A LONG TIME AGO?

1 JUROR: YES.

2 THE COURT: AND WOULD THAT EXPERIENCE AFFECT YOUR  
3 ABILITY TO BE A FAIR AND IMPARTIAL JUROR, MS. HOOVER?

4 JUROR: I DON'T THINK SO, NO.

5 THE COURT: ALL RIGHT. YOU MAY HAVE A SEAT. THAT'S  
6 MS. HOOVER.

7 YES, SIR, YOUR NAME PLEASE.

8 JUROR: PAUL SLOAN. I HAD A ROBBERY ABOUT 5 YEARS  
9 AGO.

10 THE COURT: AND IS IT SLOAN; IS THAT RIGHT?

11 JUROR: YES, YOUR HONOR.

12 THE COURT: MR. SLOAN, WOULD THAT IN ANY WAY AFFECT  
13 YOUR ABILITY IN THIS CASE TO BE FAIR AND IMPARTIAL?

14 JUROR: NO.

15 THE COURT: THANK YOU, SIR, YOU MAY HAVE A SEAT.

16 LET ME GO BACK TO THE FRONT ROW, MR. ANDERS. WAS IT  
17 YOU OR A MEMBER OF YOUR FAMILY?

18 JUROR: ME.

19 THE COURT: AND HOW LONG AGO HAS THAT BEEN?

20 JUROR: I HAD AN APARTMENT BROKEN INTO ABOUT 10 YEARS  
21 AGO. AND MY GARAGE WAS BROKEN INTO LAST YEAR.

22 THE COURT: AND WOULD EITHER OF THOSE EXPERIENCES  
23 AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

24 JUROR: NO, SIR.

25 THE COURT: YOU MAY HAVE A SEAT.

1 AND YOUR NAME PLEASE, SIR?

2 JUROR: ULYSSES WEBBER.

3 THE COURT: WEBBER. LET ME FIND YOU, MR. WEBBER.

4 AND, MR. WEBBER, WAS IT YOU OR A MEMBER OF YOUR  
5 FAMILY?

6 JUROR: MEMBER OF MY FAMILY.

7 THE COURT: HOW LONG AGO HAS THAT BEEN?

8 JUROR: LAST YEAR.

9 THE COURT: LAST YEAR. WOULD THAT IN ANY WAY AFFECT  
10 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS CASE?

11 JUROR: NO, SIR.

12 THE COURT: YOU MAY HAVE A SEAT, MR. WEBBER. THANK  
13 YOU.

14 AND YOUR NAME PLEASE, MA'AM?

15 JUROR: ANN MARIE OWENS.

16 THE COURT: OWENS. LET ME FIND YOU, MS. OWENS. MS.  
17 OWENS, WAS IT YOU OR A MEMBER OF YOUR FAMILY?

18 JUROR: ME. I CURRENTLY HAVE A CASE WHERE I AM THE  
19 VICTIM IN THAT CASE.

20 THE COURT: ALL RIGHT. IS THAT HERE IN RICHLAND  
21 COUNTY?

22 JUROR: YES.

23 THE COURT: WOULD THAT EXPERIENCE IMPACT OR AFFECT YOU  
24 IN ANY WAY IN BEING A FAIR AND IMPARTIAL JUROR IN THIS  
25 CASE?

1 JUROR: THE BURGLARY?

2 THE COURT: YES, MA'AM.

3 THE COURT: NO.

4 THE COURT: ALL RIGHT. YOU MAY HAVE A SEAT.

5 I'VE ASKED A NUMBER OF QUESTIONS. LET ME ASK SORT OF  
6 A CATCH-ALL QUESTION. IF ANY MEMBER OF THE JURY PANEL  
7 KNOWS OF ANY REASON WHETHER IT IS ASSOCIATED OR TOUCHES ON  
8 SOMETHING THAT I HAVE ASKED YOU ABOUT OR ANY OTHER REASON  
9 THAT DOESN'T HAVE ANYTHING TO DO WITH THE QUESTIONS I HAVE  
10 BEEN OVER WITH YOU, IF YOU KNOW OF ANY REASON THAT YOU  
11 COULD NOT GIVE BOTH THE STATE AND THE DEFENDANT A FAIR AND  
12 AN IMPARTIAL TRIAL, WOULD YOU PLEASE STAND?

13 AND THAT'S WHAT WE'RE LOOKING FOR WHEN WE GO THROUGH  
14 JURY SELECTION ARE FOLKS WHO DON'T HAVE ANY RELATIONSHIPS  
15 AND DON'T KNOW ANYTHING ABOUT THE CASE. BUT IF YOU KNOW OF  
16 ANY REASON THAT YOU COULD NOT BE FAIR AND IMPARTIAL BOTH TO  
17 THE DEFENDANT AND TO THE STATE, WOULD YOU PLEASE STAND?

18 (NO RESPONSE.)

19 THE COURT: ALL RIGHT. SOLICITOR, ANYTHING FURTHER  
20 FROM THE STATE AS FAR AS QUESTIONS ARE CONCERNED?

21 MR. CATHCART: NOTHING FURTHER FROM THE STATE, YOUR  
22 HONOR.

23 THE COURT: FROM THE DEFENSE?

24 MS. MOBLEY: NO, SIR.

25 THE COURT: ALL RIGHT. STEP UP FOR ONE SECOND,

1 COUNSEL. LET ME TALK TO YOU ALL HERE AT THE BENCH FOR JUST  
2 A MINUTE.

3 (A BENCH CONFERENCE WAS HELD OFF THE RECORD IN THE  
4 PRESENCE OF THE JURY PANEL, BUT OUT OF THE HEARING OF THE  
5 JURY PANEL.)

6 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE'RE  
7 GOING TO STRIKE THE JURY. THE WAY WE DO THAT IN CRIMINAL  
8 COURT IS YOUR NAMES ARE GOING TO BE CALLED ONE AT A TIME.  
9 YOU'RE NOT GOING TO BE ASKED ANY MORE QUESTIONS. BUT IF  
10 YOUR NAME IS CALLED, IF YOU WILL BRING YOUR PERSONAL  
11 BELONGINGS WITH YOU AND COME DOWN TO THIS MICROPHONE RIGHT  
12 HERE AT THE FRONT OF THIS TABLE AND SIMPLY TURN AROUND AND  
13 FACE THE ATTORNEYS AND STATE YOUR NAME.

14 AND THEN THE ATTORNEYS ARE GOING TO BE ASKED WHETHER  
15 THEY WOULD LIKE FOR YOU TO BE SEATED OR WHETHER THEY WOULD  
16 EXCUSE YOU FROM THIS PARTICULAR CASE. IF BOTH OF THE  
17 ATTORNEYS SAY, PLEASE SEAT OR PRESENT THE JUROR, THEN  
18 YOU'LL HAVE A SEAT IN THE JURY BOX. IF EITHER OF THE  
19 ATTORNEYS INDICATE THAT THEY WOULD LIKE TO EXCUSE YOU FROM  
20 THIS CASE, IF YOU'LL JUST STEP BACK TO THE BACK OF THE  
21 COURTROOM AND HAVE A SEAT BACK THERE.

22 ALL RIGHT. MADAM CLERK. STRIKES ARE 5 AND 10.

23 (THE JURY WAS EMPANELED AT 3:45 P.M.)

24 THE COURT: ALL RIGHT. ANY MATTERS OF LAW, ANYTHING  
25 CONCERNING -- OR MOTIONS CONCERNING THE STRIKING OF THE

1 JURY OTHER THAN THE MATTER WE'VE DISCUSSED THAT WE'LL BE  
2 PUTTING ON THE RECORD? ANYTHING OTHER THAN THAT FROM THE  
3 STATE?

4 MR. CATHCART: NOTHING FROM THE STATE, YOUR HONOR.

5 THE COURT: FROM THE DEFENSE?

6 MS. MOBLEY: NOTHING, YOUR HONOR.

7 THE COURT: ALL RIGHT.

8 (THE JURY PANEL WAS EXCUSED.)

9 THE COURT: LADIES AND GENTLEMEN, THOSE OF YOU WHO  
10 HAVE BEEN SELECTED ON THIS CASE, THE ACTUAL TRIAL WILL NOT  
11 START UNTIL TOMORROW MORNING. BUT WE WANTED TO GO AHEAD  
12 AND GET THE JURY SELECTED THIS AFTERNOON SO THAT WE COULD  
13 START RIGHT INTO THE TRIAL TOMORROW.

14 THERE MAY BE SOME PRETRIAL MATTERS FOR ME TO TAKE UP  
15 WITH THE ATTORNEYS, SO I'M NOT GOING TO SIT YOU BACK IN THE  
16 JURY ROOM AND HAVE YOU FUME BACK THERE FOR A WHILE. I'M  
17 GETTING READY TO TURN YOU LOOSE FOR THE DAY.

18 YOU DO NEED TO BE BACK IN THE JURY ROOM. THE BAILIFF  
19 WILL SHOW YOU WHERE IT IS IN JUST A MOMENT. YOU NEED TO BE  
20 BACK TOMORROW MORNING AT 9:30. WE'LL START THE TRIAL AT  
21 THAT TIME.

22 BEFORE YOU GO TODAY, THEY WILL TAKE YOU TO THE JURY  
23 ROOM. AND I NEED FOR YOU TO DO ONE THING FOR ME. IN SOUTH  
24 CAROLINA WE HAVE TO HAVE A JURY FOREMAN OR FORELADY. AND I  
25 CAN EITHER APPOINT ONE OF YOU OR YOU CAN DECIDE AMONG

1        YOURSELVES WHO YOU WOULD LIKE FOR THAT PERSON TO BE. YOU  
2        NEED TO UNDERSTAND THAT WHOEVER THAT PERSON IS, THEIR VOTE  
3        IS NO MORE IMPORTANT AND DOES NOT CARRY ANY MORE WEIGHT  
4        THAN ANY OTHER MEMBER OF THE JURY.

5                YOUR FOREMAN OR FORELADY WILL PRESIDE IN THE JURY ROOM  
6        AND BE THE SPOKESPERSON FOR THE JURY HERE IN THE COURTROOM.

7                AND WHAT I'M GOING TO ASK YOU TO DO IN JUST A MOMENT  
8        IS GO BACK AND TALK AMONG YOURSELVES AND DECIDE WHO YOU  
9        WOULD LIKE FOR THAT PERSON TO BE. WRITE THAT NAME ON A  
10       SHEET OF PAPER, AND GIVE IT TO THE BAILIFF. AND ONCE YOU  
11       HAVE DONE THAT, THEN YOU'RE EXCUSED FOR THE REST OF THE  
12       AFTERNOON, AND YOU WILL COME BACK TOMORROW MORNING.

13               NOW, I ALSO NEED TO ORDER YOU NOT TO DISCUSS THIS CASE  
14       WITH ANYBODY. I THINK WHEN YOU'RE AT THE COURTHOUSE ALL  
15       DAY AND YOU HEAR JUDGES TELLING YOU THAT, THAT'S FAIRLY  
16       EASY TO COMPLY WITH. AND WHEN YOU GO HOME AND YOU'VE GOT A  
17       HUSBAND OR A WIFE OR CHILDREN OR FRIENDS WHO KNOW THAT  
18       YOU'VE GOT JURY DUTY THIS WEEK, YOU'RE GOING TO BE PEPPERED  
19       WITH QUESTIONS. WELL, HAVE YOU BEEN SELECTED ON A JURY?  
20       WHAT'S THE CASE ABOUT? TELL ME SOMETHING ABOUT IT?

21               YOU CAN'T DO THAT. AND IT'S IMPORTANT THAT YOU NOT  
22       DISCUSS IT WITH ANYBODY. AGAIN, FOR THE SAME REASON I  
23       TALKED TO YOU BRIEFLY ABOUT WHEN WE WERE SELECTING A JURY.  
24       WE DON'T WANT YOU TO BE INFLUENCED BY ANYTHING OUTSIDE THE  
25       COURTROOM. YOU'RE THE ONLY PEOPLE WHO ARE GOING TO MAKE A

1 DECISION IN THIS CASE, AND IT HAS TO BE BASED TOTALLY ON  
2 THE EVIDENCE THAT'S PRESENTED HERE IN THIS COURTROOM.

3 SO PLEASE DON'T DISCUSS IT WITH ANYBODY.

4 I NEVER KNOW WHAT CASES GENERATE ANY KIND OF  
5 PUBLICITY, WHETHER IT'S RADIO OR TELEVISION OR NEWSPAPER.  
6 BUT IF YOU HAPPEN TO SEE AN ARTICLE AND YOU RECOGNIZE THAT  
7 THAT ARTICLE IS TALKING ABOUT THIS CASE, DON'T READ IT.  
8 JUST GO TO SOMETHING ELSE.

9 AGAIN, WHEN YOU COME BACK TOMORROW, YOUR FOREMAN OR  
10 YOUR FORELADY WILL TAKE THE FRONT SEAT ON THE FRONT ROW AND  
11 KEEP THAT SEAT THROUGHOUT THE TRIAL.

12 AND THEN, LET ME SEE. YOU ARE MS. BROWN ON THE BACK  
13 ROW. YOU'RE THE ALTERNATE JUROR. YOU'RE NOT ELIGIBLE TO  
14 SERVE AS THE FORELADY OF THE JURY. AND IF YOU WILL KEEP  
15 YOUR SEAT ON THAT BACK ROW THROUGHOUT THE TRIAL.

16 I NEED MY FORELADY OR FOREMAN AND MY ALTERNATE TO SIT  
17 IN THE SAME PLACE THROUGHOUT THE TRIAL. THE REST OF YOU  
18 CAN SIT IN ANY OF THE SEATS THERE IN THE JURY BOX THAT YOU  
19 WOULD LIKE TO AS YOU COME AND GO.

20 SO I'M GOING TO SEND YOU BACK TO YOUR JURY ROOM, LET  
21 YOU DECIDE ON WHO YOU WANT YOUR FOREMAN OR YOUR FORELADY TO  
22 BE. THEN YOU'LL BE EXCUSED FOR THE AFTERNOON.

23 WHEN YOU GET BACK IN THE MORNING AND WHEN WE GET  
24 STARTED HERE IN THE COURTROOM, I'LL MAKE SOME VERY BRIEF  
25 REMARKS TO YOU, SORT OF OUTLINE TO YOU PROCEDURALLY HOW THE

1 TRIAL WILL BE PRESENTED. AND THEN THE ATTORNEYS WILL MAKE  
2 BRIEF OPENING STATEMENTS TO YOU. AND THEN WE'LL PROCEED  
3 WITH THE PRESENTATION OF TESTIMONY AND OTHER EVIDENCE.

4 SO PLEASE DON'T DISCUSS THE CASE WITH ANYONE. SELECT  
5 A FOREPERSON AND THEN YOU'RE EXCUSED. AND BE BACK AT 9:30  
6 IN THE MORNING. AND PLEASE BE HERE ON TIME. WE CAN'T  
7 START UNTIL EVERYBODY'S HERE.

8 IF YOU'LL FOLLOW THE BAILIFF TO YOUR JURY ROOM PLEASE.  
9 EVERYONE ELSE STAY SEATED.

10 (THE JURY EXITS THE COURTROOM AT 3:55 P.M.)

11 THE COURT: ALL RIGHT. I DO NEED TO GO AHEAD AND PUT  
12 ON THE RECORD -- LET ME PUT ON THE RECORD WHAT I FEEL LIKE  
13 I NEED TO AS FAR AS JURY AND JURY PANEL IS CONCERNED. AND  
14 THEN I'LL LET COUNSEL ADD ANYTHING THAT YOU WOULD LIKE TO  
15 TO IT.

16 FIRST OF ALL, JUROR NO. 161, WHO WAS THE FIRST JUROR  
17 CALLED, WHO INDICATED THAT SHE HAD A PENDING CASE, ALTHOUGH  
18 SHE ANSWERED THE COURT THAT SHE FELT LIKE SHE COULD BE FAIR  
19 AND IMPARTIAL, UPON FURTHER QUESTIONING AT THE BENCH, SHE  
20 INDICATED THAT SHE HAD A PENDING CDV HAN AND KIDNAPPING AND  
21 POSSIBLY OTHER CHARGES BEING HANDLED BY MS. CAMPBELL WITH  
22 THE SOLICITOR'S OFFICE.

23 THE DEFENSE ASKED THAT SHE BE SET ASIDE FOR CAUSE.  
24 AND THE COURT DECIDED THAT THAT WOULD PROBABLY BE BEST, AND  
25 I DID DO THAT.

1 AT THE SAME TIME, THERE HAD BEEN PREVIOUS DISCUSSION  
2 BOTH IN CHAMBERS AND I BELIEVE SOME HERE IN THE COURTROOM  
3 -- OR MAYBE IT WAS ONLY IN THE COURTROOM, ABOUT JUROR NO.  
4 176, WHO INDICATED THAT SHE HAD PREVIOUSLY WORKED FOR THE  
5 PUBLIC DEFENDER'S OFFICE. AND SHE DID ANSWER THE QUESTION  
6 THAT THAT WOULD NOT AFFECT HER ABILITY TO BE FAIR AND  
7 IMPARTIAL EITHER THROUGH THAT EMPLOYMENT OR HER  
8 RELATIONSHIP WITH THE ATTORNEYS INVOLVED IN THIS CASE.

9 THE COURT WAS ADVISED -- I DON'T KNOW THAT THIS WAS ON  
10 THE RECORD, THAT SHE'S CURRENTLY EMPLOYED, I BELIEVE AT THE  
11 DEATH PENALTY RESOURCE CENTER. AND I THINK THAT WAS ALL ON  
12 THE RECORD WHEN THOSE ARGUMENTS WERE MADE.

13 ON FURTHER REFLECTION I FELT LIKE THE SAFEST THING TO  
14 DO IN SPITE OF THE FACT THAT SHE HAD ANSWERED THE QUESTION  
15 SHE FELT LIKE SHE COULD BE FAIR AND IMPARTIAL, WAS TO  
16 EXCUSE HER. AND I ADVISED COUNSEL HERE AT THE BENCH THAT  
17 THE COURT WAS REMOVING JUROR NO. 176 AND 161 FROM THE JURY  
18 POOL.

19 AND WE PROCEEDED WITH THE STRIKING OF THE JURY.

20 SOLICITOR, ANYTHING ELSE YOU NEED TO PUT ON THE RECORD  
21 CONCERNING THAT MATTER OR WOULD LIKE TO PUT ON THE RECORD?

22 MS. FENT: ONE THING I WAS GOING TO ADD. I MEAN, I  
23 BELIEVE THIS IS MADE PART OF THE COURT'S RECORD, THE STRIKE  
24 LIST AND THE LIST OF JURORS?

25 THE COURT: IS THAT RIGHT?

1 REPORTER: YES, SIR.

2 THE COURT: I JUST WANTED TO NOTE THAT MS. PRINGLE WAS  
3 NO. 26, AND WE NEVER GOT TO HER ANYWAY, SO.

4 THE COURT: ALL RIGHT. MS. MOBLEY, ANYTHING ELSE  
5 YOU'D LIKE TO PUT ON THE RECORD CONCERNING THAT ISSUE?

6 MS. MOBLEY: NOTHING, YOUR HONOR.

7 THE COURT: ALL RIGHT. WE HAVE SOME OTHER PRETRIAL  
8 MATTERS TO DEAL WITH; IS THAT RIGHT?

9 MS. MOBLEY: YES, SIR.

10 YOUR HONOR, AT THIS TIME AND THIS IS JUST FOR THE  
11 RECORD, MR. CATHCART AND I HAVE CONVERSED. I BELIEVE I  
12 HAVE EVERYTHING. BUT JUST TO PROTECT THE RECORD, I'D LIKE  
13 TO RENEW ALL DISCOVERY MOTIONS AT THIS TIME AS NUMBER ONE  
14 ON MY DEFENSE MOTIONS.

15 THE COURT: ANY ADDITIONAL DISCOVERY THAT THE STATE IS  
16 AWARE OF THAT HAS NOT BEEN EITHER PURPOSELY OR  
17 INADVERTENTLY DISCLOSED TO THE DEFENSE?

18 MR. CATHCART: YOUR HONOR, SHE'S GOT EVERYTHING I HAVE  
19 THAT I'M AWARE OF, THAT INCLUDES NOT ONLY THE EVIDENCE IN  
20 THIS CASE IN CHIEF, BUT ALSO ANY POTENTIAL LYLE AS TO PRIOR  
21 INCIDENTS. SHE HAS ALL OF THOSE -- ALL THE FILES THAT I  
22 HAVE. EVERYTHING I HAVE, SHE HAS.

23 THE COURT: ALL RIGHT. THE NEXT MOTION TO QUASH  
24 INDICTMENTS, I HAVE ALREADY RULED ON I BELIEVE.

25 MS. MOBLEY: YES, SIR.

1 THE COURT: THE MOTION TO JOIN CHARGES. LET'S PUT ON  
2 THE RECORD WHAT WE HAD DISCUSSED EARLIER ABOUT THAT. MS.  
3 MOBLEY.

4 MS. MOBLEY: THANK YOU, YOUR HONOR. YOUR HONOR, WE  
5 DISCUSSED IN CHAMBERS THAT I WOULD BE MOVING TO JOIN THE  
6 CHARGES, WHICH I THINK IS PROPER IN THIS CASE. YOUR HONOR,  
7 I HAVE LEARNED TO SATISFY -- THERE'S A SPECIFIC TEST UNDER  
8 CITY OF GREENVILLE, YOUR HONOR, THAT I BELIEVE IS THE  
9 SEMINOLE TEST FOR JOINDER.

10 BEG THE COURT'S INDULGENCE. YOUR HONOR, IT'S THAT THE  
11 CHARGES ARISE FROM A SINGLE CHAIN OF CIRCUMSTANCES, THAT IT  
12 CAN BE PROVEN BY THE STATE'S EVIDENCE. THEY ARE THE SAME  
13 GENERAL NATURE. AND THERE WOULD BE NO PREJUDICE TO THE  
14 DEFENDANT.

15 YOUR HONOR, I BELIEVE THAT ALL THE ELEMENTS ARE  
16 SATISFIED IN THIS CASE. AND IT IS MY UNDERSTANDING THAT  
17 THE STATE WAS NOT GOING TO OPPOSE THE MOTION, THAT THEY  
18 WERE IN AGREEMENT WITH MY POSITION. AND IF I'M MIS-  
19 SPEAKING, I APOLOGIZE, BUT THAT WAS MY UNDERSTANDING. AND  
20 I BELIEVE YOUR HONOR INDICATED THAT THAT WOULD BE  
21 APPROPRIATE.

22 THE COURT: THAT IS CORRECT. THERE'S NO OBJECTION TO  
23 THAT, SOLICITOR, AS I UNDERSTAND IT; IS THAT CORRECT?

24 MR. CATHCART: YOUR HONOR, I JUST WANT TO MAKE SURE  
25 SHE IS UNDER NO ILLUSION THAT THIS DOES NOT MAKE IT ALL

1 BECOME ONE CHARGE. IT IS STILL 6 SEPARATE CHARGES OF  
2 BURGLARY IN THE FIRST DEGREE. THE JURY MAY FIND FOR ONE  
3 AND NOT THE OTHER OR ---

4 THE COURT: THE JURY IS GOING TO BE ASKED FOR A  
5 VERDICT ON EACH OF THE 14 INDICTMENTS.

6 MR. CATHCART: THANK YOU.

7 THE COURT: AND YOU'RE NOT ASKING THAT THAT NOT BE  
8 DONE, ARE YOU?

9 MS. MOBLEY: NO, SIR.

10 THE COURT: OKAY. ALL RIGHT.

11 MS. MOBLEY: IT HADN'T CROSSED MY MIND.

12 THE COURT: ALL RIGHT.

13 MS. MOBLEY: YOUR HONOR, THE NEXT MOTION IS A MOTION  
14 TO SUPPRESS THE EVIDENCE IN THIS CASE. YOUR HONOR,  
15 FACTUALLY, THE EVIDENCE IN THIS CASE CAME ABOUT AFTER A  
16 WITNESS ALLEGED THAT SHE SAW MY CLIENT IN THIS APARTMENT  
17 COMPLEX, AND SHE AND, I BELIEVE, THE MAINTENANCE MAN DROVE  
18 TO A CONVENIENCE STORE WHERE THEY SAID THAT THEY SAW THE  
19 GENTLEMAN. AND THEN I BELIEVE THE MAINTENANCE MAN WENT  
20 BACK AND THEN CAME OVER WITH INVESTIGATOR HUNT TO IDENTIFY  
21 WHAT WAS LATER TO TURN OUT TO BE MR. ADAMS.

22 YOUR HONOR, THE EVIDENCE IN THIS CASE IS THAT TWO BAGS  
23 OF ITEMS FROM ALL THE BURGLARIES.

24 YOUR HONOR -- I APOLOGIZE. YOUR HONOR, WE WOULD RELY  
25 ON U.S. V. BURTON. AND IF I COULD GIVE YOUR HONOR A BRIEF

1 FACTUAL RECITATION OF THAT CASE.

2 THE COURT: ALL RIGHT.

3 MS. MOBLEY: IT IS A FOURTH CIRCUIT CASE FROM THE YEAR  
4 2000, YOUR HONOR. THE CITE IS 228 F. 3RD 524.

5 YOUR HONOR, THERE WAS A COMPANION CASE IN SOUTH  
6 CAROLINA, THIS IS AN APPEAL FROM THE POSTURE OF THE U.S. V.  
7 BURTON CASE -- WAS AN APPEAL TAKEN FROM A TRIAL POST-  
8 CONVICTION TO THE FIRST APPEALED CASE. I'M SORRY. AND THE  
9 FEDERAL GOVERNMENT PICKED UP THE CHARGE STEMMING FROM THAT  
10 FIRST TRIAL.

11 YOUR HONOR, THE CITE TO THE SUPREME COURT OF SOUTH  
12 CAROLINA CASE IS 356 SC 259.

13 YOUR HONOR, IN U.S. VERSUS BURTON THE FACTS ARE THAT  
14 IN THE AFTERNOON MR. BURTON WAS STANDING AT A PAY PHONE --  
15 WHICH IS IDENTICAL TO THIS CASE -- OUTSIDE A CONVENIENCE  
16 STORE WHEN HE WAS APPROACHED. AN OFFICER APPROACHED HIM.  
17 IDENTIFIED HIMSELF. AND ASKED FOR THE DEFENDANT'S  
18 IDENTIFICATION.

19 THE COURT: WAS THIS A LAURENS COUNTY CASE?

20 MS. MOBLEY: I'M NOT SURE, YOUR HONOR.

21 THE COURT: I'D BET YOU A THOUSAND DOLLARS IT IS. BUT  
22 GO AHEAD. THE FEDERAL GOVERNMENT PICKED IT UP ON A WEAPONS  
23 CHARGE, IS THAT ---

24 MS. MOBLEY: YES, SIR.

25 THE COURT: OKAY. GO AHEAD. I DON'T THINK I WAS THE

1 TRIAL JUDGE. BUT I -- I MAY HAVE BEEN. I DON'T KNOW. GO  
2 AHEAD.

3 MS. MOBLEY: THE DEFENDANT DID NOT RESPOND. HE  
4 REMAINED MUTE. THE OFFICER REPEATED QUESTIONED, ASKED FOR  
5 I.D. THE DEFENDANT STILL DIDN'T SAY ANYTHING. THE OFFICER  
6 JUST ASKED HIM TO REMOVE HIS HAND FROM HIS POCKET ---

7 THE COURT: HAD HIS HAND IN HIS POCKET.

8 MS. MOBLEY: AND HE REFUSED AND THERE WAS NO RESPONSE.  
9 AN OFFICER COMES BEHIND HIM AND THERE'S A STRUGGLE. AND AT  
10 SOME POINT MR. BURTON ACTUALLY PULLS OUT A GUN AND DROP  
11 FIRES IT AT THE OFFICERS.

12 THE COURT: IT MISFIRED AS I RECALL.

13 MS. MOBLEY: RIGHT, YES, SIR. YOUR HONOR, I WOULD  
14 ALLEGE THAT THE FACTS IN THIS CASE ARE VERY SIMILAR BY WAY  
15 OF ENCOUNTER TO THE FACTS IN U.S. V. BURTON, AND ALSO IN  
16 STATE V. BURTON.

17 NOW, IN FAIRNESS, STATE V. BURTON WAS -- THE POSTURE  
18 OF THE CASE, THE SUPREME COURT CASE, THEY FOUND THE ISSUE  
19 WAS NOT PROPERLY PRESERVED ON APPEAL. THERE IS AN OPINION  
20 THAT WAS ISSUED BY THE COURT OF APPEALS THAT BASICALLY  
21 STATE THE SAME THING AS U.S. V. BURTON. BUT -- AND -- AND  
22 THE SUPREME COURT INDICATED IN SOME DICTA IN THE CASE -- IN  
23 THEIR CASE THAT THEY WERE IN AGREEMENT WITH THE U.S.  
24 GOVERNMENT CASE. HOWEVER, THE ISSUE WAS NOT PRESERVED ON  
25 APPEAL, THAT'S WHY WE'RE RELYING ON U.S. V. BURTON.

STATE V. TERRANCE ADAMS

1           YOUR HONOR, MY ARGUMENT IS THIS IS A POLICE/CITIZEN  
2 ENCOUNTER.

3           AT THE TIME THE POLICE APPROACHED MR. ADAMS, THE ONLY  
4 INFORMATION THAT THEY HAD WAS THAT MR. ADAMS HAD BEEN SEEN  
5 BY A UPS PERSON AT THE APARTMENT COMPLEX. MY UNDERSTANDING  
6 IS THEY DID NOT TAKE ASIA FERGUSON'S STATEMENT UNTIL APRIL  
7 22ND OF '05, WHICH I BELIEVE WAS ABOUT 3 DAYS LATER.

8           AND HERE IN THIS CASE A PLAIN CLOTHED OFFICER WHO  
9 APPARENTLY -- AND I'M UNSURE AS TO THIS -- MAY OR MAY NOT  
10 HAVE IDENTIFIED HIMSELF DOES NOT INDICATE IN THE  
11 INVESTIGATORS NOTES -- WALKED UP TO HIM AS HE WAS STANDING  
12 IN FRONT OF THE FOOD FAIR. MR. ADAMS APPARENTLY REFUSED TO  
13 GIVE THE OFFICER IDENTIFICATION, REFUSED TO STAND UP, VERY  
14 SIMILAR TO THE U.S. V. BURTON CASE.

15           YOUR HONOR, I WOULD ARGUE THAT SUSPICION -- THE LEVEL  
16 THAT IT HAS TO RISE TO IN ORDER TO MAKE THIS AN APPROPRIATE  
17 STOP UNDER THE FOURTH AMENDMENT AND NOT A VIOLATION OF THE  
18 FOURTH AMENDMENT, WHICH IS WHAT WE FEEL THIS IS, THERE HAS  
19 TO BE SOME SORT OF REASONABLE SUSPICION TO APPROACH HIM.

20           I'M NOT SAYING THE OFFICERS CAN'T APPROACH ANYONE AND  
21 ASK FOR I.D. BUT AT THAT POINT IF THERE'S NO RESPONSE,  
22 THEY DON'T HAVE REASONABLE SUSPICION, THE CITIZEN IS FREE  
23 TO WALK AWAY.

24           IN THIS CASE MR. ADAMS WAS NEVER FREE TO LEAVE. AT  
25 THE POINT THAT INVESTIGATOR HUNT APPROACHED HIM, FROM THAT

1 POINT ON, MR. ADAMS WAS NOT FREE TO LEAVE. SO IT WAS  
2 CERTAINLY A DETENTION, YOUR HONOR.

3 AND THE ONLY INFORMATION THAT INVESTIGATOR HUNT HAD AT  
4 THE POINT HE ARRIVED AT THE FOOD FAIR WAS THAT MY CLIENT  
5 WAS SEEN AT AN APARTMENT COMPLEX.

6 YOUR HONOR, IF HE HAD WANTED TO CHARGE HIM WITH  
7 TRESPASSING AND THEN IT WAS SEARCH INCIDENT TO ARREST, WE  
8 WOULDN'T BE STANDING HERE HAVING THIS MOTION. BUT THAT'S  
9 NOT WHAT HAPPENED. YOUR HONOR, HE WENT ON A HUNCH OF ASIA  
10 FERGUSON -- INVESTIGATOR HUNT NEVER SAW MY CLIENT AT THE  
11 APARTMENT COMPLEX. HE WENT ON A ---

12 THE COURT: IS FERGUSON THE UPS PERSON?

13 MS. MOBLEY: YES. I APOLOGIZE. THE UPS PERSON.

14 THE COURT: OKAY.

15 MS. MOBLEY: INVESTIGATOR HUNT WENT OFF A HUNCH. SO  
16 IT'S BASICALLY A DOUBLE-HUNCH SITUATION, IF THE COURT WILL.  
17 AND THERE IS MORE -- THERE HAS TO BE MORE ARTICULATED THAN  
18 A HUNCH IN THIS KIND OF SITUATION IN ORDER TO MAKE THIS  
19 KIND OF INTRUSION INTO MR. ADAMS' PRIVACY AND MR. ADAMS' --  
20 INTRUDE INTO HIS FOURTH AMENDMENT RIGHT AGAINST SEARCH AND  
21 SEIZURE.

22 THERE WAS NO REASON -- NO ARTICUABLE REASON, AND  
23 CERTAINLY NOT SOMETHING WE CAN SEE FROM THE BURGLARY -- THE  
24 BURGLARY INCIDENT REPORTS THEMSELVES TO BELIEVE THAT HE HAD  
25 A GUN OR ANYTHING LIKE THAT.

1 THE COURT: NOW, WERE THESE ITEMS ON THE DEFENDANT? I  
2 MEAN, DID HE HAVE POSSESSION OF THEM?

3 MS. MOBLEY: YES, SIR.

4 THE COURT: WHAT WERE THEY IN?

5 MS. MOBLEY: THEY WERE IN TWO DUFFLE BAGS BESIDE HIM.  
6 HE WAS STANDING -- AND THERE'S A VIDEO ACTUALLY OF IT. HE  
7 WAS STANDING IN FRONT OF THE FOOD FAIR, WHICH IS LIKE SORT  
8 OF A CONVENIENCE STORE OR STORE-TYPE ESTABLISHMENT --  
9 STANDING IN FRONT, SOME TIMES SITTING IN FRONT WITH TWO  
10 BAGS. AND APPARENTLY, THERE WERE SOME ITEMS IN HIS POCKET  
11 AS WELL. OKAY.

12 INVESTIGATOR HUNT IN HIS INVESTIGATIVE NOTES INDICATE  
13 THAT AT SOME POINT AFTER HE HAS ALREADY DETAINED MY CLIENT,  
14 THAT HE SEES A BULGE IN HIS POCKET AND HE'S CONCERNED ABOUT  
15 IT.

16 BUT I WOULD DIRECT YOUR HONOR BACK TO U.S. V. BURTON  
17 WHERE OBVIOUSLY THE GENTLEMAN WAS ARMED AS HE PROCEEDED TO  
18 PULL OUT A GUN AND START FIRING.

19 WE WOULD ASK THAT THE EVIDENCE -- THIS IS AN ILLEGAL  
20 SEIZURE, THAT THE EVIDENCE OBTAINED FROM THIS SEARCH IS  
21 FRUIT OF THE POISONOUS TREE, AND THAT IT BE SUPPRESSED.

22 THE COURT: ALL RIGHT, SOLICITOR.

23 MR. CATHCART: YOUR HONOR, I GUESS I'M KIND OF FIRST  
24 OFF -- THE FIRST STAGE OF THIS, ASKING WHICH SPECIFIC  
25 EVIDENCE SHE'S SPEAKING OF? IS SHE TALKING ABOUT JUST THE

1 DUFFLE BAGS OR WHAT'S ON THE DEFENDANT'S PERSON?

2 MS. MOBLEY: ANYTHING RETRIEVED FROM THE PERSON OR  
3 SURROUNDING AREA OF MR. ADAMS.

4 THE COURT: ALL OF IT.

5 MS. MOBLEY: ALL OF IT.

6 MR. CATHCART: YOUR HONOR, EVIDENCE WILL SHOW -- ASIA  
7 FERGUSON WILL COME IN AND TESTIFY THAT HE SAW THE DEFENDANT  
8 INSIDE BUILDING NO. 3. HE FOUND IT UNUSUAL. AS HE WAS  
9 GOING TO DELIVER A PACKAGE, HE KNEW THERE WERE BURGLARIES  
10 IN THIS AREA, AND HAD BEEN DELIVERING THERE FOR 20 YEARS.  
11 HE'S KIND OF MEMBER OF THE COMMUNITY. HE KNEW THE  
12 BURGLARIES WERE HAPPENING IN THIS AREA, KNEW TO BE KIND OF  
13 A LOOKOUT FOR ANYTHING SUSPICIOUS.

14 AND WHEN HE'S GOING TO DELIVER A PACKAGE TO BUILDING  
15 NO. 3, HE SEES THE DEFENDANT POP HIS HEAD OUT, HOLDING SOME  
16 DUFFLE BAGS, AND SEE HIM PULL BACK. HE FOUND THAT UNUSUAL,  
17 UNUSUAL SUCH THAT HE WENT TO RUFUS KEYS, ALSO KNOWN AS CARL  
18 KEYS, HIS REAL NAME, AND TOLD HIM ABOUT IT. CARL KEYS IS  
19 THE MAINTENANCE MAN AT HUNT CLUB VILLAGE -- EXCUSE ME, THE  
20 HUNT CLUB VILLAGE.

21 MR. KEYS AT THAT POINT WENT TO THE BUILDING. HE  
22 VERIFIED THAT A NUMBER -- NOT JUST ONE, BUT A NUMBER OF THE  
23 APARTMENTS HAD BEEN BROKEN INTO.

24 HE THEN CONTACTS HIS APARTMENT MANAGER. AND THEN HE  
25 GETS ASIA FERGUSON TO GET INTO HIS TRUCK, BECAUSE HE FEELS

1 LIKE MAYBE THE GUY IS STILL CLOSE BY. AND HE FELT PROBABLY  
2 GONE DOWN TO THAT FOOD FAIR, WHICH IS RIGHT BASICALLY  
3 BESIDE THE APARTMENT COMPLEX.

4 THE APARTMENT COMPLEX IS HERE ON THIS MAP, YOUR HONOR.  
5 THAT'S BUILDING NO. 3 WHERE HE SAW THE DEFENDANT, WHERE  
6 THEY FOUND HIM AT THE FOOD FAIR RIGHT HERE.

7 ASIA FERGUSON POINTS THE DEFENDANT OUT AS THE MAN HE  
8 SAW RIGHT BY THOSE BURGLARIES.

9 RUFUS KEYS, AS YOU CAN SEE ON THE VIDEO WHEN WE SHOW  
10 THE VIDEO, GOES AND PARKS THE CAR. GETS A GOOD I.D. TO  
11 LOOK AT HIM. GOES INSIDE THE STORE AND CALLS THE POLICE.

12 JILL KNOLL HAS ALSO CALLED THE POLICE FROM THE  
13 APARTMENTS.

14 THEY GET IN TOUCH WITH DALE HUNT, WHO IS NEARBY. HE  
15 DRIVES AND AT THAT POINT MEETS UP AGAIN WITH MR. KEYS. MR.  
16 KEYS TELLS HIM WHAT'S HAPPENED, THAT BURGLARIES HAVE  
17 OCCURRED AND THAT WE HAVE AN EYEWITNESS WHO SAW THAT MAN AS  
18 THE PERSON WHO WAS LEAVING THE SCENE OF THE CRIMES.

19 AT THAT POINT IS WHEN INVESTIGATOR HUNT GOES AND  
20 SPEAKS TO THE DEFENDANT. THE FIRST THING HE ASKS HIM FOR  
21 WAS HIS I.D. THIS IS THE PERSON WHO'S BEEN IDENTIFIED AS A  
22 SUSPECT IN THESE BURGLARIES BY AN EYEWITNESS -- BURGLARIES  
23 THAT HAVE OCCURRED.

24 AT THAT POINT HE HAS REASONABLE SUSPICION -- SUSPICION  
25 TO ARREST AND STOP THIS DEFENDANT.

1           WHEN HE GOES AND ASKS HIM FOR HIS IDENTIFICATION, HE  
2           DIDN'T ASK HIM ABOUT THE DUFFLE BAGS. AT THAT POINT, THAT  
3           MAN DENIES ANY KNOWLEDGE OF THE BAGS AND DENIES THEY'RE  
4           HIS; THAT'S WHY I'M ASKING AS TO WHICH ONES SHE'S TALKING  
5           ABOUT, BECAUSE AT THIS POINT, THOSE BAGS HE HAS THROWN AWAY  
6           AND ARE NOT AN ISSUE AS TO SEARCH INCIDENT TO ARREST OR  
7           ANYTHING ELSE.

8           THE DEFENDANT IS ASKED TO STAND UP. AT THAT POINT HE  
9           GOES FOR A BULGE IN HIS POCKET. NOT AFTER ARREST. HE'S  
10          PICKING HIM UP TO STAND UP. HE GOES FOR HIS POCKET. AT  
11          THAT POINT THE OFFICER IS AFRAID HE HAS A WEAPON. AND HIM  
12          WITH A BADGE ON HIS POCKET, ALSO DEPUTY SOTO IS THERE IN A  
13          MARKED PATROL CAR, STANDING BESIDE THE INVESTIGATOR AND  
14          DEFENDANT. AND THEY BOTH ARREST -- WELL, DETAIN THE  
15          DEFENDANT. HE FIGHTS. THEY PLACE HIM UNDER ARREST AS HE'S  
16          FIGHTING.

17          IN FACT, MR. KEYS, THE MAINTENANCE MAN HAS TO COME AND  
18          HELP THE OFFICER SUBDUE THIS MAN BECAUSE HE CONTINUES TO  
19          FIGHT, UNTIL HE PICKS UP HIS LEGS.

20          WHILE HE'S FIGHTING THE DEFENDANT FINALLY IS ABLE TO  
21          GET -- START TO GET THE KNIFE THAT IS IN HIS POCKET OUT OF  
22          HIS POCKET. THEY'RE ABLE TO RETRIEVE THAT FROM HIM AND  
23          DETAIN HIM AND ARREST HIM.

24          INSIDE OF HIS POCKETS ARE ALSO NOT ONLY THE KNIFE HE  
25          HAD ON HIM, BUT THE SCREWDRIVER FROM ONE OF THE -- SOME OF

1 THE VICTIMS' HOMES, RINGS FROM ANOTHER VICTIM'S HOME. ON  
2 HIS FINGER IS A RING FROM ANOTHER VICTIM'S HOME. AND SOME  
3 OTHER JEWELRY FROM CONQUISTA DRAYTON'S HOUSE IS ALSO ON HIS  
4 PERSON.

5 IN THE BAGS ARE ITEMS FROM ALL VICTIMS, THE BAGS THAT  
6 HE HIMSELF -- AND AGAIN TO THE OFFICER, I DON'T KNOW WHAT  
7 THOSE BAGS ARE. THEY'RE NOT MINE.

8 ALSO IN HIS POCKET, YOUR HONOR, IS A -- IN HIS POCKET  
9 IN SEARCH INCIDENT TO ARREST AT THAT TIME AS HE WAS BEING  
10 PLACED UNDER ARREST FOR BURGLARY. AND ALSO TO MAKE SURE  
11 THERE ARE NO OTHER WEAPONS OTHER THAN THE KNIFE HE WAS  
12 TRYING TO PULL OUT, IS KEE CHUNG'S CREDIT CARD -- NOT ONLY  
13 WITH HIS NAME ON IT, BUT MR. CHUNG'S PICTURE ON HIS FACE.

14 AGAIN, THESE ARE ALL PART OF THE BURGLARIES THAT  
15 OCCURRED THAT INVESTIGATOR HUNT KNEW ABOUT WHEN HE  
16 APPROACHES THAT MAN SEEN BY AN EYEWITNESS AS THE PERSON  
17 LEAVING THE SCENE WHEN THOSE OCCURRED.

18 YOUR HONOR, I THINK THE TESTIMONY WILL -- I MEAN, AS  
19 TO THE ITEMS THAT HE DISCARDED IN THE DUFFLE BAGS -- I  
20 DON'T THINK THAT'S AN ISSUE AS TO THE ARREST OR SEARCH  
21 INCIDENT TO THE ARREST. THE ARREST OR THE SEARCH INCIDENT  
22 TO THE ARREST, BUT ALSO THE TERRY FRISK TO MAKE SURE HE HAS  
23 NO OTHER WEAPONS ON HIS PERSON. HE HAD PROBABLE CAUSE TO  
24 ARREST HIM AT THAT POINT, NOT JUST REASONABLE SUSPICION.

25 THE COURT: ALL RIGHT. MS. MOBLEY.

1 MS. MOBLEY: THANK YOU, YOUR HONOR. YOUR HONOR, A LOT  
2 OF WHAT YOU JUST HEARD IS THE BACK SIDE OF WHAT WAS FOUND.  
3 AND I APPRECIATE THAT IT SOUNDS TERRIBLE AND THESE THINGS  
4 WERE FOUND AND WHAT HAVE YOU.

5 THE POINT OF THIS MOTION, HOWEVER, IS THAT OFFICER  
6 HUNT -- THIS WAS A POLICE/CITIZEN ENCOUNTER. AFTER MY  
7 CLIENT DECLINED TO GIVE I.D., AT THAT POINT THE ENCOUNTER  
8 SHOULD HAVE ENDED.

9 YOUR HONOR, TO SAY THAT -- NOW WE HAVE THREE HUNCHES  
10 OPERATING HERE. WE'VE GOT ASIA FERGUSON, WHO SEES THE  
11 PERSON THAT APPARENTLY LEAVES AND DOES NOT GO IDENTIFY THE  
12 PERSON WITH THE INVESTIGATOR.

13 WE HAVE RUFUS KEYS, WHO RUNS AROUND AND SEES THAT, OH,  
14 YES, THERE HAVE BEEN SOME BURGLARIES.

15 AND THEN WE HAVE INVESTIGATOR HUNT WHO'S OBVIOUSLY  
16 BROUGHT IN BY THESE PEOPLE LATER ON TO BE TOLD, OH, WELL,  
17 YOU KNOW, WE SAW THIS GUY. THERE HAVE BEEN SOME  
18 BURGLARIES. MAYBE THAT'S HIM.

19 YOUR HONOR, I DON'T BELIEVE THAT THAT IS REASONABLE  
20 SUSPICION AT THIS POINT. YOUR HONOR, LIKE I SAID, IF HE  
21 WAS ARRESTED FOR TRESPASSING, SURE, WE WOULDN'T BE STANDING  
22 UP RIGHT NOW. OKAY. BUT THAT'S NOT WHAT HAPPENED.

23 YOUR HONOR, AT THAT POINT WHEN HE WAS APPROACHED --  
24 AND I WOULD SUBMIT DETAINED, BECAUSE I WOULD SUBMIT TO YOU,  
25 YOUR HONOR, THAT AT THE TIME HE WAS APPROACHED HE WAS NO

1 LONGER FREE TO LEAVE, AND I BELIEVE THAT AS HE WAS TRYING  
2 TO LEAVE, THAT'S PART OF WHEN THE STRUGGLE ENSUED WHEN HE  
3 WAS TRYING TO GET AWAY FROM THE OFFICERS.

4 AND I APPRECIATE THE FACT ALSO THAT, YES, THESE THINGS  
5 WERE FOUND, AND WHAT HAVE YOU. BUT IT STILL HAS TO BE DONE  
6 WITHIN THE AMBIT OF THE FOURTH AMENDMENT.

7 AND HERE MY CLIENT'S FOURTH AMENDMENT RIGHTS WERE  
8 VIOLATED WHEN OFFICER HUNT WENT INTO HIS POCKETS, JUST LIKE  
9 U.S. V. BURTON, WITHOUT A REASONABLE SUSPICION THAT MY  
10 CLIENT WAS THE ONE WHO COMMITTED THESE BURGLARIES, BECAUSE  
11 AT THAT POINT HE COULD HAVE ALL THE REASONABLE SUSPICIONS  
12 THERE HAVE BEEN BURGLARIES THAT HE WANTS TO, BUT THERE HAS  
13 TO BE SOME SORT OF LINKING LINK TO MY CLIENT TO MAKE IT  
14 REASONABLE.

15 THE COURT: WHAT ABOUT HIS DISAVOWING KNOWLEDGE OR  
16 OWNERSHIP OF THE BAG, DOES THAT MAKE ANY DIFFERENCE?

17 MS. MOBLEY: YOUR HONOR, I WOULD SUBMIT TO YOU THAT AT  
18 THE POINT THAT THAT HAPPENED, HE WAS DETAINED.

19 THE COURT: ALL RIGHT. SOLICITOR, YOU STOOD UP AGAIN.

20 MR. CATHCART: I'M SORRY, YOUR HONOR.

21 THE COURT: I SAID, YOU STOOD UP AGAIN. I'LL BE GLAD  
22 TO HEAR WHAT YOU WERE GOING TO SAY.

23 MR. CATHCART: YOUR HONOR, I JUST ---

24 THE COURT: OR IT MAY HAVE BEEN JUST A REFLEX, I DON'T  
25 KNOW.

1 MR. CATHCART: IT MAY HAVE BEEN. THE REASONABLE --  
2 THE DIFFERENCE IS THE EYEWITNESS WHO SAW THIS MAN AT THE  
3 BURGLARY; THAT'S THE BASIS OF THE REASONABLE SUSPICION. HE  
4 IS CONNECTED WITH THE CRIME, AND THAT'S WHY THE OFFICER  
5 WENT AND TALKED TO HIM. IT WASN'T JUST A WALK UP. HE WENT  
6 TO SPEAK TO THIS SPECIFIC PERSON WHO WAS SEEN LEAVING THE  
7 SCENE OF 6 BURGLARIES WITH BAGS ON HIS BACK, WHICH RECENTLY  
8 OCCURRED BY THE TIME HE WENT TO TALK TO HIM, WITHIN 10  
9 MINUTES AFTER ASIA FERGUSON SEES THE MAN, HE IS BEING  
10 TALKED TO BY THE POLICE.

11 (PAUSE.)

12 MR. CATHCART: AND, YOUR HONOR, I'D ALSO POINT OUT, HE  
13 WASN'T JUST SEEN LEAVING. HE WAS SEEN HIDING. ASIA  
14 FERGUSON WOULDN'T HAVE NOTICED THIS MAN IF HE HAD JUST  
15 WALKED ON BY. HE NOTICED HIM BECAUSE HE WAS ACTING  
16 SUSPICIOUS.

17 THE COURT: ALL RIGHT. ANYTHING FURTHER?

18 MS. MOBLEY: NOTHING FROM DEFENSE, YOUR HONOR.

19 THE COURT: ALL RIGHT. I'M GOING TO TAKE ANOTHER LOOK  
20 AT THE CASE. I'LL RESERVE RULING ON THAT UNTIL IN THE  
21 MORNING.

22 MS. MOBLEY: THANK YOU, YOUR HONOR.

23 THE COURT: ALL RIGHT. WHAT ELSE DO WE HAVE?

24 MS. MOBLEY: YOUR HONOR, I BELIEVE WE DISCUSSED A  
25 MOTION TO SEQUESTER THE WITNESSES IN CHAMBERS, AND I

1 BELIEVE THAT THAT WAS NOT OPPOSED.

2 THE COURT: RIGHT. THAT'S NOT OPPOSED. NOW, THERE  
3 WAS MENTION MADE OF EACH VICTIM UNDER THE VICTIM'S BILL OF  
4 RIGHTS HAVING A RIGHT TO BE IN THE COURTROOM.

5 MR. CATHCART: AND THEY DO, YOUR HONOR. I'VE NOT  
6 APPROACHED THEM AS TO THAT. AND, AGAIN, THEIR TESTIMONY  
7 WILL NOT BE INDIVIDUAL KNOWLEDGE OF THIS MAN AT ALL, ONLY  
8 THAT THEIR HOUSE HAD BEEN BURGLARIZED.

9 THE COURT: I'M GOING TO PERMIT THEM TO BE IN HERE,  
10 BUT I WOULD INSTRUCT COUNSEL TO INSTRUCT THEM NOT TO  
11 DISCUSS THEIR TESTIMONY WITH EACH OTHER OR WITH ANYONE  
12 ELSE.

13 MS. MOBLEY: YES, SIR.

14 THE COURT: ALL OTHER WITNESSES EXCEPT YOUR LEAD  
15 INVESTIGATOR WILL BE SEQUESTERED, THAT WILL GO FOR THE  
16 STATE AND DEFENSE WITNESSES. AND JUST TO BE SURE WE'RE  
17 ALL ON THE SAME PAGE, IF THERE'S ANY POSSIBILITY THE STATE  
18 WOULD WANT TO CALL SOMEONE IN REPLY AND THEY HAVE SAT IN  
19 HERE, IT WOULD NOT BE PERMITTED. SO IF THERE'S ANY  
20 POSSIBILITY, THEY NEED TO GO OUT AFTER THEIR DIRECT  
21 TESTIMONY.

22 MR. CATHCART: YES, SIR.

23 THE COURT: OR CASE IN CHIEF TESTIMONY.

24 MR. CATHCART: YOUR HONOR ---

25 THE COURT: AND I DON'T KNOW WHO YOUR WITNESSES ARE,

1 SO YOU ALL NEED TO KEEP UP WITH THAT.

2 MR. CATHCART: YES, SIR. I GUESS MY ONLY -- IS THE  
3 DEFENSE GOING TO HAVE A WITNESS LIST SO THAT WE CAN ---

4 THE COURT: RIGHT NOW THERE HAS BEEN NONE AND NONE  
5 WERE VOIR DIRE. SO I'M PRESUMING, NO.

6 MS. MOBLEY: NO, WE DON'T EXPECT CALLING WITNESSES. I  
7 MEAN, SUBJECT TO MY CLIENT'S RIGHT TO TESTIFY.

8 THE COURT: OH, SURE. OH, YES, THAT'S TOTALLY  
9 DIFFERENT.

10 ALL RIGHT. ANYTHING ELSE PRETRIAL?

11 MS. MOBLEY: FINALLY, I PUT A NEAL VERSUS BIGGERS  
12 HEARING ON THE DEFENSE MOTIONS. BUT IF ASIA FERGUSON IS  
13 GOING TO BE THE ONLY PERSON TO IDENTIFY MR. ADAMS AS BEING  
14 THE PERSON THAT HE SAW BOTH AT THE SCENE AND THEN AT THE  
15 FAST FAIR, I'D HAVE TO AGREE WITH THE STATE, THERE IS NO  
16 STATE ACTION FOR IDENTIFICATION.

17 THE COURT: THAT'S THE WAY IT WAS PRESENTED IN  
18 CHAMBERS.

19 MS. MOBLEY: YES.

20 THE COURT: THAT THAT PERSON -- THAT'S THE UPS PERSON  
21 WHO IDENTIFIED THE DEFENDANT, WAS TAKEN TO THE STORE, AND  
22 IDENTIFIED THE DEFENDANT TO THE MAINTENANCE PERSON. THE  
23 MAINTENANCE PERSON THEN TOOK THE POLICE TO THE STORE. IS  
24 THAT ---

25 MR. CATHCART: THAT'S CORRECT, YOUR HONOR.

1 THE COURT: SO FERGUSON WILL BE THE ONLY ONE WHO WILL  
2 BE MAKING IDENTIFICATION OF THE DEFENDANT AT THE SCENE; IS  
3 THAT RIGHT?

4 MR. CATHCART: THAT'S CORRECT, YOUR HONOR.

5 THE COURT: OKAY.

6 MR. CATHCART: AND IN FACT DID NOT TALK TO THE POLICE  
7 UNTIL 2 DAYS LATER WHEN AN INVESTIGATOR CAME ---

8 THE COURT: SO FERGUSON ONLY TALKED TO KEYS; IS THAT  
9 RIGHT, UNTIL 2 DAYS LATER?

10 MR. CATHCART: THAT'S CORRECT.

11 THE COURT: OKAY.

12 MS. MOBLEY: AS LONG AS WE DON'T -- AND JUST SO WE CAN  
13 GO AHEAD AND HANDLE THIS PRETRIAL AND WE'RE NOT TRYING TO  
14 SEND THE JURY OUT VERY OFTEN ---

15 THE COURT: RIGHT.

16 MS. MOBLEY: --- THE ONLY ISSUE I PERCEIVE WITH THAT  
17 IS RUFUS KEYS CERTAINLY WOULD BE ABLE TO SAY, YES, THAT'S  
18 THE MAN THAT I SAW IN FRONT OF FOOD FAIR. WE WOULD  
19 CERTAINLY HAVE A HEARSAY OBJECTION AND POSSIBLY A BIGGERS  
20 ISSUE IF HE IS ATTEMPTING TO IDENTIFY MR. ADAMS AS THE  
21 PERSON THAT ASIA FERGUSON TOLD HIM WAS THE GUY SHE (SIC)  
22 SAW AT THE SCENE. AND I DON'T KNOW IF YOUR HONOR WOULD  
23 JUST HANDLE THAT WHEN HE TESTIFIES, WILL BE FINE.

24 THE COURT: I THINK I WOULD ALMOST HAVE TO HANDLE IT  
25 WHEN HE TESTIFIES TO SEE WHAT EXACTLY THEY'RE GOING TO BE

1 SAYING.

2 MR. CATHCART: YES, SIR.

3 MS. MOBLEY: YES, SIR.

4 MR. CATHCART: I POINT OUT IF HE DID SAY THAT, IT  
5 WOULD NOT BE OFFERED FOR THE TRUTH OF THE MATTER ASSERTED  
6 THAT HE COMMITTED THE BURGLARIES, IT WOULD BE OFFERED AS TO  
7 WHY HE GOT DALE HUNT THERE ---

8 THE COURT: I UNDERSTAND.

9 MR. CATHCART: --- IN THE FIRST PLACE.

10 THE COURT: I UNDERSTAND. BUT I'LL HAVE TO HEAR THAT  
11 TESTIMONY TO KNOW WHETHER OR NOT IT IS HEARSAY TO START  
12 WITH, AND IF IT IS, WHAT EXCEPTIONS MIGHT APPLY.

13 MS. MOBLEY: CERTAINLY, YOUR HONOR.

14 THE COURT: SO I'LL DEAL WITH THAT AS WE PROCEED  
15 THROUGH THE TRIAL.

16 MS. MOBLEY: THANK YOU. I BELIEVE THAT WILL BE ALL  
17 FOR THE PRETRIAL MOTIONS AT THIS TIME.

18 THE COURT: I'LL TAKE ANOTHER LOOK AT THE BURTON CASE  
19 AND RULE ON THAT FIRST THING IN THE MORNING.

20 AND WE WILL START -- I'VE GOT A CONFERENCE AT 9:15,  
21 BUT I SHOULD BE THROUGH BY 9:30. WE'LL START THE TRIAL AT  
22 9:30.

23 MS. MOBLEY: THANK YOU, YOUR HONOR.

24 THE COURT: ALL RIGHT.

25 (COURT IS IN RECESS.)

1 (TUESDAY, JANUARY 31, 2006.)

2 THE COURT: ALL RIGHT. WE ARE STILL SHORT ONE JUROR.  
3 BUT I THOUGHT WE COULD GO AHEAD AND GET STARTED ON PRETRIAL  
4 MATTERS THAT I DEALT WITH YESTERDAY.

5 I'VE HAD AN OPPORTUNITY -- WE GOT A COPY OF THE U.S.  
6 V. BURTON. I'VE TAKEN A LOOK AT IT.

7 ANY ADDITIONAL ARGUMENT ANYBODY WANT TO MAKE THAT WAS  
8 NOT MADE YESTERDAY?

9 MS. MOBLEY: NO, SIR.

10 MR. CATHCART: YOUR HONOR, I JUST WANTED TO -- THE  
11 STATE -- THE UNITED STATES V. BURTON SPECIFICALLY STATES --  
12 I MEAN, THAT IS A CASE OF A WALK-UP. THERE'S NO -- THE  
13 OFFICER INDICATES ----

14 THE COURT: THEY HAD NO SUSPICION OF THAT GUY. HE WAS  
15 TALKING ON THE TELEPHONE OUTSIDE THE LITTLE CONVENIENCE  
16 STORE.

17 MR. CATHCART: EXACTLY.

18 THE COURT: I KNOW WHERE THE LITTLE STORE IS. IT WAS  
19 THAT LAURENS CASE I WAS TALKING ABOUT.

20 MR. CATHCART: YES, SIR. IN FACT, IT DOES SAY IT WAS  
21 FROM LAURENS.

22 YOUR HONOR, THIS CASE, THE OFFICER WHEN HE WENT TO  
23 THIS MAN -- THIS IS A MAN WHO WAS POINTED OUT TO HIM AS A  
24 SUSPECT OF BURGLARIES THAT HAD ACTUALLY OCCURRED. AND AS  
25 THE CASE ITSELF SAYS, THAT THE OFFICER IN ORDER TO CONDUCT

1 SUCH A PROTECTIVE SEARCH, THE OFFICER MUST FIRST HAVE A  
2 REASONABLE SUSPICION SUPPORTED BY ARTICUABLE FACTS THAT  
3 CRIMINAL ACTIVITY MAY BE AFOOT.

4 IN THIS CASE, THE OFFICER KNEW THAT THE BURGLARIES HAD  
5 OCCURRED AND KNEW THAT THAT MAN WAS THE MAN SEEN HIDING AT  
6 THE SCENE OF THE CRIME.

7 THE COURT: ALL RIGHT. MS. MOBLEY, ANYTHING FURTHER?

8 MS. MOBLEY: NO, SIR. WE STAND BY OUR INITIAL MOTION,  
9 YOUR HONOR.

10 THE COURT: ALL RIGHT. IN GOING THROUGH THAT CASE,  
11 U.S. VERSUS BURTON. I THINK THE CITE WAS GIVEN YESTERDAY.  
12 IT DOES INDICATE THAT A POLICE OFFICER MAY ELEVATE A  
13 POLICE/CITIZEN ENCOUNTER INTO AN INVESTIGATORY DETENTION  
14 ONLY IF THE OFFICER HAS REASONABLE SUSPICION SUPPORTED BY  
15 ARTICUABLE FACTS THAT CRIMINAL ACTIVITY MAY BE AFOOT, EVEN  
16 IF THE OFFICER LACKS PROBABLE CAUSE. AND LATER ON IT TALKS  
17 ABOUT A REASONABLE SUSPICION THAT A CRIME HAS BEEN  
18 COMMITTED OR THAT CRIMINAL ACTIVITY WAS TAKING PLACE.

19 AND IN THIS CASE I DON'T THINK THERE'S ANY QUESTION  
20 BUT AT THE VERY LEAST THE OFFICER HAD REASONABLE SUSPICION  
21 THAT A CRIME HAD TAKEN PLACE, GIVEN WHAT HAS BEEN STATED TO  
22 THE COURT ABOUT THE UPS PERSON WHO TOLD THE MANAGER, THAT  
23 INFORMATION HAD BEEN CONVEYED TO THE OFFICER, THE  
24 INDIVIDUAL HAD BEEN POINTED OUT.

25 I WOULD ALSO CITE WHILE IT'S NOT RIGHT ON POINT, THE

1 STATUTE IS 23-16 -- EXCUSE ME. 23-13-60. AND IT'S TALKING  
2 ABOUT POWER OF ARREST. DEPUTY SHERIFFS MAY IN A SUSPECTED  
3 FRESHLY COMMITTED CRIME WHETHER UPON VIEW OR UPON PROMPT  
4 INFORMATION OR COMPLAINT ARREST WITHOUT A WARRANT AND IN  
5 PURSUIT OF THE CRIMINAL OR SUSPECTED CRIMINAL ENTER HOUSES  
6 OR BREAK AND ENTER THEM WHETHER IN THEIR OWN COUNTY OR  
7 ADJOINING COUNTY -- ESSENTIALLY TALKING ABOUT THE SAME TYPE  
8 OF THING. AND I THINK THAT'S THE SITUATION WE HAVE HERE.

9 FOR THAT REASON, THE MOTION TO SUPPRESS IS DENIED.

10 MS. MOBLEY: THANK YOU, YOUR HONOR.

11 THE COURT: ALL RIGHT. ANYTHING FURTHER PRETRIAL?

12 MS. MOBLEY: YOUR HONOR, THE ONLY THING I DID NOT  
13 THINK OF YESTERDAY WAS THAT WE MIGHT WANT TO PERHAPS SETTLE  
14 THE RECORD. I DON'T ANTICIPATE PUTTING MR. ADAMS ON THE  
15 STAND, SO WE COULD PROBABLY WAIT TO DO THAT SHOULD HE  
16 DECIDE.

17 THE COURT: ALL RIGHT. IF HE DECIDES TO TESTIFY,  
18 WE'LL DEAL WITH THAT PRIOR TO HIS MAKING THAT FINAL  
19 DECISION.

20 MS. MOBLEY: THANK YOU, YOUR HONOR. AND I WOULD JUST  
21 ASK IF THE STATE HAS RECORDS -- THEY'VE PRODUCED SOME OF  
22 THESE TO ME ALREADY.

23 THE COURT: ANY WITNESSES THAT YOU'RE AWARE OF HAVE  
24 ANY CRIMINAL HISTORY?

25 MR. CATHCART: THE ONLY ONE THAT I'M AWARE OF IS

1 SHAWNETTA BELTON DOES HAVE A RECORD. I'VE NOT GOT IT  
2 PULLED YET. SHE WILL NOT BE -- I WILL HAVE IT TO THEM  
3 BEFORE SHE DOES TESTIFY AND BE AVAILABLE TO THEM.

4 THE TWO FIRST WITNESSES I'LL BE GOING THIS MORNING,  
5 I'VE GOT THEIR RECORDS PULLED AND HAVE PROVIDED THEM TO  
6 DEFENSE. NEITHER ONE HAVE ONE, WHICH IS ASIA FERGUSON AND  
7 CARL KEYS.

8 THE COURT: ALL RIGHT.

9 MS. MOBLEY: THANK YOU, YOUR HONOR.

10 MR. CATHCART: I WOULD SAY CARL KEYS DOES HAVE A  
11 RECORD, BUT IT'S A D.U.I. FROM 1986.

12 THE COURT: ALL RIGHT. WE WILL STAND AT EASE JUST FOR  
13 A FEW MORE MINUTES AND SEE IF THIS OTHER JUROR HAS GOTTEN  
14 HERE OR IF WE'VE GOTTEN ANY INFORMATION ON THAT PERSON.

15 (PAUSE.)

16 THE COURT: IS THE STATE READY TO PROCEED THEN? MR.  
17 CATHCART?

18 MR. CATHCART: YES, SIR.

19 THE COURT: IS DEFENSE READY?

20 MS. MOBLEY: YES, SIR.

21 THE COURT: ALL RIGHT. GET THE JURY IN PLEASE.

22 (PAUSE.)

23 MS. MOBLEY: YOUR HONOR, HE WISHES TO RELIEVE ME AS  
24 COUNSEL.

25 THE COURT: HOLD ON ONE SECOND. DON'T BRING THE JURY

1 IN AT THIS POINT IN TIME.

2 MS. MOBLEY: IF YOUR HONOR WISHES TO HAVE A COLLOQUY  
3 -- A DIRECT COLLOQUY WITH MY CLIENT, I WOULD ASSUME THAT WE  
4 WOULD NEED TO DO THAT AT THIS POINT. HE'S ASKING ABOUT IT  
5 -- FROM THIS POINT ON -- I'M NOT. THAT WOULD BE HIS  
6 MOTION.

7 THE COURT: IS THAT THE FIRST THAT THAT COMMUNICATION  
8 HAS BEEN MADE TO YOU?

9 MS. MOBLEY: YES, SIR.

10 THE COURT: MR. ADAMS, YOU'VE HEARD WHAT YOUR HAS  
11 SAID.

12 MR. ADAMS: YES, SIR.

13 THE COURT: FOR WHAT REASON DO YOU WANT TO HAVE HER  
14 RELIEVED AS HER ATTORNEY?

15 MR. ADAMS: CONFLICT OF INTEREST.

16 THE COURT: PARDON ME?

17 MR. ADAMS: CONFLICT OF INTEREST.

18 THE COURT: I CAN'T UNDERSTAND.

19 MR. ADAMS: CONFLICT OF INTEREST.

20 THE COURT: CONFLICT OF INTEREST. AND WHAT IS THE  
21 CONFLICT OF INTEREST, MR. ADAMS?

22 MR. ADAMS: THE SUPREME COURT FORWARDED THIS MATTER  
23 ALREADY. I THINK I ALREADY HAD IT DONE AND THEY WERE  
24 SUPPOSED TO GET IN TOUCH WITH YOU.

25 THE COURT: THE SUPREME COURT IS SUPPOSED TO BE

1 GETTING IN TOUCH IN WITH ME?

2 MR. ADAMS: YES. THE ASSISTANT DISTRICT COUNSEL --  
3 DISTRICT COUNSEL.

4 THE COURT: DO YOU HAVE ANY IDEA WHAT HE'S TALKING  
5 ABOUT, MS. MOBLEY?

6 MS. MOBLEY: IT SOUNDS LIKE A GRIEVANCE TO ME, YOUR  
7 HONOR, AT WHICH POINT WE MAY HAVE A PROBLEM. I'M NOT SURE.

8 THE COURT: I DON'T THINK WE DO. BASED ON A RECENT  
9 ORDER FROM THE SUPREME COURT THAT I'LL NEED TO TAKE A SHORT  
10 LOOK AT. BUT WE'LL STAND IN RECESS WHILE I DO THAT.

11 IS ---

12 MS. MOBLEY: AND, YOUR HONOR, I APOLOGIZE FOR  
13 INTERRUPTING. YOU MAY REQUIRE FURTHER. THAT'S WHAT IT'S  
14 SOUNDING LIKE TO ME. I HAVE NOT RECEIVED ANY SORT OF  
15 LETTER FROM THE SUPREME COURT AT THIS POINT. I DON'T KNOW  
16 WHEN THIS WAS DONE. I'M JUST NOT SURE, YOUR HONOR.

17 THE COURT: ALL RIGHT. MR. ADAMS, WHY DON'T YOU TELL  
18 ME A LITTLE BIT MORE ABOUT THIS MATTER WITH THE SUPREME  
19 COURT? WHEN DID YOU CONTACT THEM?

20 MR. ADAMS: WELL, THE PAPERWORK WAS THE LAST TIME I  
21 CAME WHEN I FOUND OUT THEY BROUGHT ANOTHER STATEMENT ON ME.  
22 I NEVER HAD A STATEMENT BY -- A MOTION TO DISCOVERY UNTIL  
23 THIS YEAR. I HAD REQUESTED MY MOTION EVER SINCE LAST YEAR,  
24 AND IT'D BEEN SIGNED OFF. NOTHING HAPPENED TO IT, WHEN  
25 THEY BROUGHT ME UP HERE JANUARY THE 9TH.

1 MS. MOBLEY: SERVED HIM WITH LIFE WITHOUT PAROLE, YOUR  
2 HONOR.

3 THE COURT: WHAT?

4 MS. MOBLEY: TO SERVE HIM WITH A LIFE WITHOUT PAROLE;  
5 I THINK THAT'S THE DATE HE'S SPEAKING OF.

6 THE COURT: ALL RIGHT. SO WHEN YOU WERE BROUGHT OVER  
7 HERE AND SERVED BY THE SOLICITOR'S OFFICE THAT THEY WOULD  
8 BE SEEKING TO HAVE A SENTENCE OF LIFE WITHOUT PAROLE,  
9 THAT'S WHAT YOU'RE TALKING ABOUT?

10 MR. ADAMS: NO. SEE, THEY BROUGHT A STATEMENT IN THAT  
11 NEVER BEEN IN MY MOTION. ALL OF A SUDDEN THE STATEMENT  
12 CAME, THIS HERE RIGHT THERE.

13 THE COURT: WHAT STATEMENT ARE WE TALKING ABOUT?

14 MS. MOBLEY: I'M ASSUMING THE STATEMENT OF ASIA  
15 FERGUSON?

16 MR. ADAMS: RIGHT.

17 MS. MOBLEY: WE RECEIVED THAT SEVERAL WEEKS AGO, A  
18 COUPLE OF WEEKS AGO. AT SOME POINT AROUND THE TIME WHEN WE  
19 REALIZED THAT THIS WAS GOING TO BE A TRIAL, THE STATE  
20 HANDED THAT OVER TO ME.

21 THE COURT: OKAY. WELL, WHY IS THAT A CONFLICT  
22 BETWEEN YOU AND YOUR LAWYER?

23 MR. ADAMS: WELL, IT'S CERTAIN THINGS, I'D LIKE FOR MY  
24 MEDICAL RECORDS TO BE SUBPOENAED. I WANT TO USE MY ---

25 THE COURT: WHOSE MEDICAL RECORD?

1 MR. ADAMS: MINE.

2 THE COURT: YOUR MEDICAL RECORD?

3 MR. ADAMS: THE POLICE BEAT ME UP DURING THE TIME --  
4 IF HE WOULD IDENTIFY HIMSELF AS A POLICE, ALL THIS WOULD  
5 NEVER HAVE TOOK PLACE. IF I WAS GUILTY OF ANY CRIME, I  
6 WOULD HAVE RAN INSTEAD OF STANDING STILL. AND THAT WASN'T  
7 THE QUESTION HE WAS ASKING.

8 THE COURT: THIS IS AT THE STORE?

9 MR. ADAMS: WHEN HE CAME UP APPROACHED ME.

10 THE COURT: AT THE STORE.

11 MR. ADAMS: IT WAS DIFFERENT IF I WOULD HAVE RAN OR I  
12 WAS TRYING TO HIDE SOMEWHERE. I WASN'T HIDING. I STOOD  
13 THERE WHEN HE CAME.

14 MS. MOBLEY: YOUR HONOR, I APOLOGIZE. IF HE WANTS TO  
15 CONTINUE DISCUSSING THE FACTS OF THE CASE, I WOULD ASK THAT  
16 THIS BE A CLOSED IN CAMERA HEARING.

17 THE COURT: WELL, LET ME CHECK ON THIS MATTER WITH THE  
18 SUPREME COURT. I STILL AM NOT CLEAR, MR. ADAMS, ON HOW  
19 THAT CREATES A CONFLICT BETWEEN YOU AND MS. MOBLEY.

20 MAYBE I JUST DON'T GET IT. I DON'T UNDERSTAND WHAT  
21 THE CONFLICT IS BETWEEN YOU AND YOUR ATTORNEY. AS SOON AS  
22 SHE GOT THIS STATEMENT FROM THE STATE, SHE APPARENTLY  
23 PROVIDED YOU WITH A COPY OF IT.

24 MR. ADAMS: I NEVER HAD IT IN MY POSSESSION, MY SOLE  
25 POSSESSION TO REALLY OBSERVE WHAT WAS SAID ON IT.

1 THE COURT: YOU MEAN PHYSICALLY YOU JUST DIDN'T HAVE A  
2 COPY OF IT? IS THAT WHAT YOU MEAN?

3 MR. ADAMS: RIGHT.

4 THE COURT: ALL RIGHT. DO YOU HAVE A COPY OF IT NOW?

5 MR. ADAMS: NO.

6 THE COURT: ALL RIGHT. LET ME TAKE A LOOK AT WHAT THE  
7 SUPREME COURT HAS SAID ABOUT THIS MATTER, AND WE'LL SEE  
8 WHERE WE GO. WE'LL TAKE A BRIEF RECESS.

9 MS. MOBLEY: THANK YOU, YOUR HONOR.

10 (A RECESS WAS TAKEN.)

11 THE COURT: ALL RIGHT. I NEED TO ASK A COUPLE MORE  
12 QUESTIONS. MR. ADAMS, WHY DID YOU WAIT UNTIL JUST NOW WHEN  
13 THE JURY'S GETTING READY TO COME IN TO BRING THIS TO YOUR  
14 ATTORNEY'S ATTENTION?

15 MR. ADAMS: BECAUSE I THOUGHT, YOU KNOW, THEY SENT A  
16 LETTER TO YOU, BUT THEY TOLD ME THEY WOULD SEND A LETTER TO  
17 YOU TO INFORM YOU ABOUT THE MATTER.

18 THE COURT: AND WHO DID YOU SPEAK WITH?

19 MR. ADAMS: WELL, I WROTE PARICI ---

20 THE COURT: PARDON ME?

21 MR. ADAMS: P-A-R-I-C-I.

22 THE COURT: I DON'T KNOW WHO THAT IS.

23 MR. ADAMS: THE SUPREME COURT.

24 THE COURT: ALL RIGHT. YOU CAN HAVE A SEAT.

25 MS. MOBLEY, DO YOU PERCEIVE ANY CONFLICT?

1 MS. MOBLEY: YOUR HONOR, I'M NOT SURE IF HE'S  
2 GRIEVANCED ME OR NOT. MY ONLY CONCERN AT THIS POINT -- I  
3 DON'T SEE ANY CONFLICT AT THIS POINT. MY ONLY CONCERN IS  
4 IF HE HAS FILED A GRIEVANCE WITH THE SUPREME COURT, THAT  
5 THAT MAY PRESENT A PROBLEM AT A LATER DATE. I'M JUST NOT  
6 SURE, AND I HAVE NOT RECEIVED ANY SORT OF A LETTER AT THIS  
7 POINT.

8 THE COURT: ALL RIGHT. LET'S DO THIS.

9 SOLICITOR, I NEED FOR YOU AND YOUR FOLKS TO STEP OUT.  
10 I NEED TO TAKE CARE OF THIS IN CAMERA. AND YOU ALL DON'T  
11 HAVE A DOG IN THIS FIGHT SO TO SPEAK. THIS IS BETWEEN MS.  
12 MOBLEY AND MR. ADAMS.

13 MR. CATHCART: YES, SIR.

14 THE COURT: AND EVERYBODY ELSE EXCEPT COUNSEL AND MR.  
15 ADAMS.

16 (PAUSE WHILE THE COURTROOM IS CLEARED.)

17 (THE FOLLOWING TOOK PLACE IN CAMERA. THE IN CAMERA  
18 PORTION IS UNDER SEAL, TO BE PROVIDED WITH COURT ORDER BY  
19 JUDGE JOHNSON.)

20 THE COURT: ALL RIGHT. YOU CAN OPEN THE COURTROOM AND  
21 BRING THESE OTHER FOLKS IN.

22 (PAUSE WHILE PEOPLE RE-ENTER THE COURTROOM.)

23 THE COURT: THE TRANSCRIPT DEALING WITH THIS ISSUE  
24 NEEDS TO BE PUT UNDER SEAL. AND IF YOU GET A TRANSCRIPT,  
25 THAT NEEDS TO BE SEPARATED FROM THE REST OF IT, AND I'LL

1 SIGN WHATEVER ORDER I NEED TO TO TAKE CARE OF THAT.

2 (PAUSE.)

3 THE COURT: STATE READY?

4 MS. FENT: YES, SIR.

5 THE COURT: DEFENSE READY?

6 MS. MOBLEY: YES, SIR.

7 THE COURT: BRING THE JURY IN PLEASE.

8 (THE JURY RETURNS TO THE COURTROOM AT 10:30 A.M.)

9 BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

10 THE COURT: ALL RIGHT. THANK YOU.

11 LADIES AND GENTLEMEN, I APOLOGIZE FOR THE BRIEF DELAY,  
12 BUT WE HAD A FEW OTHER MATTERS TO TAKE CARE OF, AND WE'VE  
13 NOW DEALT WITH THOSE, AND WE'LL PROCEED WITH THE TRIAL.

14 YOU'VE GOTTEN IN. YOU'VE GOTTEN COMFORTABLE. I NEED  
15 YOU TO ALL PLEASE STAND AND RAISE YOUR RIGHT HAND WHILE  
16 YOU'RE ADMINISTERED YOUR OATH. MR. CLERK.

17 (THE JURY WAS FIRST DULY SWORN AT 10:31 A.M.)

18 THE COURT: THE SECOND ORDER OF BUSINESS IS I WILL  
19 APPOINT MR. PERKINS AS THE FOREMAN OF THE JURY. THAT'S THE  
20 NAME THAT I WAS GIVEN.

21 MR. PERKINS, YOUR ROLE, AGAIN IS NO MORE IMPORTANT,  
22 DOESN'T COUNT ANY MORE THAN ANYBODY ELSE ON THE JURY. YOU  
23 WILL PRESIDE IN THE JURY ROOM. YOU'LL BE THE SPOKESMAN FOR  
24 THE JURY HERE IN THE COURTROOM.

25 NOW, LADIES AND GENTLEMEN, I'M GOING TO MAKE SOME VERY

1 BRIEF REMARKS TO YOU AND SORT OF OUTLINE TO YOU  
2 PROCEDURALLY WHAT YOU CAN EXPECT DURING THE COURSE OF THE  
3 TRIAL. WHAT I'M ABOUT TO TELL YOU ARE CERTAINLY NOT  
4 INTENDED TO BE A SUBSTITUTE FOR THE DETAILED INSTRUCTIONS  
5 OF LAW THAT I WILL GIVE YOU AT THE END OF THE CASE.

6 AGAIN, THIS IS A CRIMINAL CASE THAT HAS BEEN COMMENCED  
7 BY THE STATE -- AND WE REFER TO THE STATE AS THE  
8 PROSECUTION OR THE SOLICITOR -- AGAINST MR. TERRANCE ADAMS.  
9 THE CASE IS BASED ON THE INDICTMENTS THAT I BRIEFLY WENT  
10 OVER WITH YOU YESTERDAY.

11 THE INDICTMENTS, AGAIN, ARE THE LEGAL DOCUMENTS THAT  
12 HAVE PROCESSED THE CASE THROUGH THE COURT SYSTEM. THEY  
13 CONTAIN THE CHARGES THAT ARE MADE IN THE CASE, BUT THEY ARE  
14 NOT EVIDENCE OF THOSE CHARGES AND CANNOT BE CONSIDERED BY  
15 THE JURY IN ANY WAY AS EVIDENCE OF THE CHARGES THAT THEY  
16 CONTAIN.

17 THE DEFENDANT HAS PLED NOT GUILTY TO THE CHARGES IN  
18 THE INDICTMENTS. AND THE STATE DOES THEREFORE HAVE THE  
19 BURDEN OF PROVING EACH OF THE ESSENTIAL ELEMENTS OF THE  
20 CHARGES IN THE INDICTMENT BEYOND A REASONABLE DOUBT. AND  
21 THE PURPOSE OF THE TRIAL IS TO DETERMINE WHETHER THE STATE  
22 HAS MET THAT BURDEN.

23 I WILL EXPLAIN TO YOU THOSE LEGAL TERMS AT THE END OF  
24 THE CASE.

25 YOUR PURPOSE AS JURORS IN THIS CASE IS TO FIND AND TO

1 DETERMINE WHAT THE FACTS ARE. YOU HAVE BECOME THE JUDGES  
2 OF THE FACTS. YOU'RE A JUDGE JUST AS MUCH AS I AM. I AM  
3 THE JUDGE OF THE LAW, BUT YOU ARE THE JUDGES OF THE FACTS.  
4 YOU MAKE YOUR DETERMINATION OF WHAT THE FACTS ARE BASED ON  
5 THE EVIDENCE THAT'S PRESENTED HERE IN THE COURTROOM.

6 THE SAME LAW THAT MAKES YOU THE JUDGE OF THE FACTS  
7 MAKES ME THE JUDGE OF THE LAW. AND UNDER THE OATH THAT YOU  
8 HAVE JUST TAKEN, YOU'VE AGREED TO ACCEPT AND FOLLOW THE LAW  
9 AS I WILL EXPLAIN IT TO YOU AGAIN AT THE END OF THE CASE.

10 AGAIN, LET ME REMIND YOU THAT YOU CANNOT READ OR WATCH  
11 OR LISTEN TO ANYTHING ABOUT THIS CASE OUTSIDE OF THE  
12 COURTROOM. YOU CANNOT DISCUSS IT WITH ANYONE, NOT EVEN  
13 WITH YOUR FELLOW JURORS. AND I THINK JURORS HAVE A FAIRLY  
14 GOOD UNDERSTANDING THAT YOU CANNOT DISCUSS THE CASE WITH  
15 FAMILY OR FRIENDS OR ANYONE ELSE.

16 BUT SOMETIMES I THINK YOU'RE SURPRISED TO HEAR THE  
17 JUDGE SAY THAT DURING THE TRIAL WHEN WE TAKE BREAKS, WHEN  
18 WE BREAK AT LUNCH, IF YOU HAPPEN TO HAVE LUNCH WITH ANOTHER  
19 JUROR OR IF YOU'RE SITTING BACK IN THE JURY ROOM WAITING  
20 FOR THE REST OF THE CROWD TO GET BACK, YOU CANNOT DISCUSS  
21 THE CASE EVEN WITH YOUR FELLOW JURORS. IT'S IMPROPER TO DO  
22 THAT.

23 PROCEDURALLY, WHEN I CONCLUDE MY REMARKS, I'M GOING TO  
24 RECOGNIZE THE ATTORNEYS TO MAKE BRIEF OPENING STATEMENTS TO  
25 YOU. I'LL RECOGNIZE THE SOLICITOR'S OFFICE FIRST, BECAUSE

1 THE BURDEN OF PROOF IS ON THE STATE. THEN THE DEFENSE  
2 ATTORNEY IS GIVEN THE SAME OPPORTUNITY TO MAKE AN OPENING  
3 STATEMENT TO YOU.

4 THE LAWYERS WHEN THEY ARE MAKING THEIR OPENING  
5 STATEMENTS, THEY ARE NOT TESTIFYING. THE TESTIMONY WILL  
6 COME FROM THE WITNESSES WHO ARE SWORN, TO COME IN AND  
7 TESTIFY TO THE TRUTH. THE ATTORNEYS WILL SIMPLY OUTLINE TO  
8 YOU THEIR POSITION IN THIS CASE.

9 AND ONCE THE ATTORNEYS HAVE MADE THEIR OPENING  
10 STATEMENTS, THEN WE WILL PROCEED WITH THE PRESENTATION OF  
11 TESTIMONY AND OTHER EVIDENCE IN THE CASE.

12 WHEN ALL OF THAT HAS BEEN PRESENTED TO YOU, THE  
13 ATTORNEYS WILL COME BACK AND MAKE THEIR CLOSING ARGUMENTS.  
14 AND THEN I'LL INSTRUCT YOU IN THE LAW AND THEN SEND YOU OUT  
15 TO DELIBERATE AND REACH A VERDICT IN THE CASE.

16 A COUPLE OF OTHER THINGS THAT I NEED TO MENTION TO  
17 YOU. FIRST OF ALL, IF ONE OF THE LAWYERS OBJECTS TO A  
18 QUESTION OR OBJECTS TO A PARTICULAR EXHIBIT THAT MIGHT BE  
19 OFFERED INTO EVIDENCE, DON'T HOLD THAT AGAINST THE ATTORNEY  
20 OR THE ATTORNEY'S CLIENT. THAT IS THE LAWYER'S WAY OF  
21 BRINGING TO MY ATTENTION THE FACT THAT A PARTICULAR RULE OF  
22 EVIDENCE HAS COME INTO PLAY. AND I'LL HAVE TO MAKE A  
23 RULING.

24 IF I SUSTAIN THE OBJECTION, YOU ARE NOT PERMITTED TO  
25 TRY TO GUESS AT WHAT THE ANSWER WOULD HAVE BEEN OR WHAT

1 THAT EXHIBIT MIGHT HAVE BEEN THAT WAS NOT ADMITTED INTO  
2 EVIDENCE. YOU CAN ONLY RELY ON THE TESTIMONY AND OTHER  
3 EXHIBITS THAT ARE ADMITTED INTO EVIDENCE.

4 AND FROM TIME TO TIME THE ATTORNEYS MAY ASK IF AN  
5 EXHIBIT IS ADMITTED INTO EVIDENCE, THEY MAY ASK PERMISSION  
6 TO PUBLISH THAT EXHIBIT TO THE JURY. AND THAT SIMPLY MEANS  
7 TO TAKE THAT EXHIBIT AND PASS IT AROUND AMONG THE JURY  
8 WHILE THE TRIAL'S GOING ON. THERE'S NOTHING WRONG WITH  
9 THAT.

10 BUT I WOULD CAUTION YOU TO CONTINUE TO LISTEN TO THE  
11 TESTIMONY THAT'S GOING ON WHILE YOU'RE PASSING THIS OBJECT  
12 AROUND IN THE JURY BOX.

13 I HAVE HAD JURORS EXPRESS TO ME SOME CONCERN THAT THEY  
14 DIDN'T HAVE ENOUGH TIME TO LOOK AT SOMETHING AS LONG OR AS  
15 CLOSELY AS THEY WANTED TO -- AND I'LL TELL YOU, ALL OF THE  
16 EXHIBITS THAT ARE ADMITTED INTO EVIDENCE ARE GOING TO BE  
17 WITH YOU IN THE JURY ROOM WHILE YOU'RE DELIBERATING. SO  
18 YOU CAN TAKE AS LONG AND HARD A LOOK AT ANYTHING AT THAT  
19 POINT IN TIME THAT YOU CHOOSE TO DO.

20 I WOULD ALSO ASK YOU TO PLEASE GIVE ALL OF THE  
21 ATTORNEYS AND ALL OF THE WITNESSES WHO TESTIFY YOUR FULL  
22 ATTENTION. ONE OF THE THINGS THAT I DO DURING THE COURSE  
23 OF THE TRIAL IS I WATCH YOU TO BE SURE THAT YOU'RE STAYING  
24 ALERT AND AWAKE. AND WE'LL TAKE A BREAK ABOUT EVERY HOUR,  
25 HOUR AND 15 MINUTES.

1 BUT IF WE GET TO THE POINT TO WHERE YOU HAVE TO TAKE A  
2 BREAK AND IT DOESN'T LOOK LIKE I'M ABOUT TO, JUST RAISE  
3 YOUR HAND, GET MY ATTENTION, AND WE WILL TAKE A BREAK  
4 AGAIN. I DO WANT YOU TO STAY FRESH AND ALERT THROUGHOUT  
5 THE TRIAL.

6 AGAIN, PLEASE GIVE ALL OF THE ATTORNEYS AND ALL OF THE  
7 WITNESSES YOUR FULL ATTENTION AS WE PROCEED.

8 SOLICITOR.

9 OPENING STATEMENTS BY MS. FENT ON BEHALF OF THE STATE:

10 DECHANTAL COFIELD, SHAWNETTA BELTON, CONQUISTA  
11 DRAYTON, CHARLES NOTTINGHAM, KEE CHUNG, AND DOROTHY NELSON.

12 SIX INDIVIDUALS THAT WERE LIVING IN THE address

13 OFF DECKER BOULEVARD. SIX INDIVIDUALS WHO ON  
14 APRIL 19TH OF 2005 HAD THEIR HOME BROKEN INTO.

15 SIX INDIVIDUALS' HOMES WERE BROKEN INTO, PROPERTY  
16 RANSACKED, GONE THROUGH, AND TAKEN. SIX INDIVIDUALS WHO ON  
17 THAT DAY, THEIR SECURITY, THEIR FEELING OF PROTECTION AND  
18 SAFETY IN THEIR HOME WAS THREATENED.

19 SIX INDIVIDUALS WHOSE SAFETY AND SECURITY WAS  
20 THREATENED AND THEIR PROPERTY WAS TAKEN BY THAT MAN RIGHT  
21 THERE.

22 THE DEFENDANT STANDS CHARGED, AS YOU'VE HEARD FROM THE  
23 JUDGE, WITH 14 TOTAL CHARGES. 6 CHARGES OF BURGLARY IN THE  
24 FIRST DEGREE, FOR THE HOMES OF THOSE 6 INDIVIDUALS I JUST  
25 MENTIONED TO YOU ABOUT.

1           ALSO CHARGED, RESISTING ARREST. ALSO CHARGED WITH  
2 POSSESSION OF BURGLARY TOOLS. AND HE'S CHARGED WITH THE  
3 LARCENIES -- 6 LARCENIES RELATED TO EACH OF THOSE HOMES.  
4 SOME OF THE HOMES JUST CHARGED WITH WHAT'S CALLED PETIT  
5 LARCENY, MEANING THE ITEMS THAT WERE TAKEN VALUED LESS THAN  
6 A THOUSAND DOLLARS. 2 OF THOSE HOMES THE ITEMS THAT HE  
7 ENDED UP TAKING FROM THOSE HOMES VALUED MORE THAN THAT,  
8 CALLED GRAND LARCENY.

9           YOU WILL HEAR FROM THE VICTIMS OF THE ITEMS THAT WERE  
10 TAKEN FROM THEIR HOMES.

11           BURGLARY IN THE FIRST DEGREE, YOU ENTER A DWELLING  
12 WITHOUT PERMISSION WITH THE INTENT TO COMMIT A CRIME.

13           UNDER OUR LAW THERE ARE A NUMBER OF DIFFERENT WAYS IN  
14 ADDITION TO THOSE ELEMENTS THAT YOU CAN COMMIT A BURGLARY  
15 IN THE FIRST DEGREE. FOR EXAMPLE, IF YOU ENTER IN THE  
16 NIGHTTIME -- THERE'S A NUMBER OF OTHER DIFFERENT WAYS.

17           IN THIS PARTICULAR CASE WHAT YOU WILL HEAR IS THE  
18 REASON THAT THIS WAS A BURGLARY IN THE FIRST DEGREE IS THAT  
19 THIS DEFENDANT HAS TWO PRIOR CONVICTIONS FOR BURGLARY, AND  
20 THAT IS WHAT MAKES THE THIRD CONVICTION FOR BURGLARY A  
21 BURGLARY IN THE FIRST DEGREE. ENTERING SOMEONE'S HOME  
22 WITHOUT THEIR PERMISSION, WITH THE INTENT TO COMMIT A  
23 CRIME, AND YOU HAVE TWO PRIOR BURGLARY CONVICTIONS.

24           IT WAS ON THAT DAY IN 2005 AT THE HUNT CLUB VILLAGE  
25 APARTMENTS, MORNING -- LATE MORNING HOURS ASIA FERGUSON, A

1 UPS MAN, WENT TO THOSE APARTMENTS TO DELIVER A PACKAGE. HE  
2 KNOWS THE APARTMENTS WELL. IT'S HIS ROUTE. HE GOES THERE  
3 QUITE FREQUENTLY.

4 HE GETS OUT OF HIS TRUCK AND IS HEADED UP TO ONE OF  
5 THE BUILDINGS TO DELIVER A PACKAGE. FROM AROUND THE CORNER  
6 OF THAT BUILDING, THE OUTSIDE OF THAT BUILDING, DAYLIGHT  
7 HOURS, HE SEES A MAN COMING AROUND THE CORNER OF THAT  
8 BUILDING WITH SOME BAGS OVER HIS SHOULDERS.

9 WHEN THAT MAN SEES ASIA FERGUSON, HE DUCKS BACK AROUND  
10 THAT BUILDING. ASIA FERGUSON CONSIDERED THAT TO BE  
11 SUSPICIOUS BEHAVIOR. WHY WOULD THE PERSON NOT JUST  
12 CONTINUE WALKING IN THE DIRECTION THAT THEY'RE GOING? HE  
13 DUCKED BACK BEHIND THAT BUILDING WHEN ASIA FERGUSON SAW  
14 HIM.

15 ASIA FERGUSON WENT TO THE MAINTENANCE MAN AT THAT  
16 APARTMENT COMPLEX, RUFUS CARL KEYS, AND SAID, I JUST SAW A  
17 SUSPICIOUS MAN COMING AROUND THE CORNER OF THAT BUILDING.  
18 YOU MIGHT WANT TO GO CHECK IT OUT. FOR SOME REASON HE  
19 DIDN'T WANT TO BE SEEN. HE DUCKED BACK AROUND THE CORNER  
20 OF THAT BUILDING.

21 RUFUS KEYS GOES OVER TO THAT BUILDING WHERE THE  
22 PACKAGE WAS BEING DELIVERED AND HE SEES THAT A NUMBER OF  
23 THOSE APARTMENTS HAVE JUST BEEN BROKEN INTO.

24 RUFUS GETS ASIA. THEY GO IN THE DIRECTION -- THEY GET  
25 IN THE CAR AND GO IN THE DIRECTION THAT THEY SAW THAT MAN

1 WALKING. THERE'S A LITTLE CUT THROUGH THROUGH THE WOODS,  
2 AND THERE'S A FOOD FAIR, A LITTLE CONVENIENCE STORE A  
3 STONE'S THROW AWAY FROM THIS APARTMENT COMPLEX. SO THEY  
4 IMMEDIATELY UPON CONFIRMING THERE HAVE BEEN BURGLARIES IN  
5 THIS APARTMENT COMPLEX GET IN THE CAR. SHOW ME THE GUY.  
6 LET'S GO SEE IF WE SEE THE GUY WALKING. SHOW ME WHO IT IS  
7 YOU SAW.

8 THEY GO AROUND TO THE FOOD FAIR. SURE ENOUGH, THERE  
9 HE'S SITTING AT THE FOOD FAIR WITH ALL THESE BAGS NEXT TO  
10 HIM.

11 ASIA FERGUSON, THE UPS MAN SAYS, THAT'S THE GUY I SAW  
12 COMING AROUND THE CORNER OF THAT BUILDING AND DUCKED BACK  
13 WHEN I SAW HIM, HE DIDN'T WANT TO BE SEEN.

14 RUFUS KEYS THEN GOES TO TAKE ASIA BACK TO THE  
15 APARTMENT COMPLEX AND PHONE CALLS ARE NOW PLACED TO LAW  
16 ENFORCEMENT.

17 INVESTIGATOR DALE HUNT IS JUST A SHORT DISTANCE AWAY  
18 FROM THE APARTMENT COMPLEX WHEN HE GETS THAT PHONE CALL  
19 VERY QUICK IN TIME. HEY, WE HAVE A BURGLARY. WE HAVE A  
20 GUY WE THINK MAY HAVE DONE IT A STONE'S THROW AWAY FROM THE  
21 APARTMENT COMPLEX, SEEN LURKING AROUND THAT BUILDING THAT  
22 THE BREAK-INS HAPPENED, AND HAS ALL THESE BAGS WITH HIM.

23 DALE HUNT SHOWS UP. RUFUS KEYS, THE MAINTENANCE MAN,  
24 TO THAT FOOD FAIR. AND THEY APPROACH THE DEFENDANT.

25 HEY, WHAT YOU DOING? WILL YOU TALK TO US?

1           WHEN THEY GO TO STAND HIM UP, HE STARTS REACHING INTO  
2 HIS POCKET. THEY'RE AFRAID IT MIGHT BE A WEAPON. THEY GO  
3 TO DETAIN HIM. HE IS ARRESTED.

4           HE DENIES THOSE BAGS ARE HIS.

5           THE DEFENDANT IS FOUND WITH GLOVES, SCREWDRIVER TO  
6 BREAK IN THE DOORS, PROPERTY BELONGING TO THESE VICTIMS IN  
7 HIS POCKETS, A RING ON HIS FINGER, AND PROPERTY IN ALL OF  
8 THESE BAGS THAT ARE WITH HIM.

9           VICTIMS BEGAN TO BE NOTIFIED. COME OVER AND START  
10 IDENTIFYING THE PROPERTY THAT HAS BEEN TAKEN FROM THEIR  
11 HOME.

12           LADIES AND GENTLEMEN, IT'S A SIMPLE CASE. IT'S A  
13 STRAIGHT FORWARD CASE. WHEN YOU HEAR ASIA FERGUSON, RUFUS  
14 KEYS, THE VICTIMS WITH REGARD TO WHAT WAS TAKEN FROM THEIR  
15 HOMES, PROPERTY RECOVERED FROM HIS POCKETS, FROM THE BAGS  
16 THAT WERE RIGHT NEXT TO HIM. AT THE CLOSE OF THAT  
17 EVIDENCE, WE'RE GOING TO COME BACK TO YOU AND ASK YOU TO  
18 RETURN A VERDICT BASED UPON THAT EVIDENCE. WE'RE GOING TO  
19 ASK YOU TO RETURN A VERDICT THAT CALLS THIS MAN WHAT HE IS.  
20 TELL HIM -- CALL HIM THE REASON WE HAVE LOCKS ON OUR DOORS  
21 AND BARS ON OUR WINDOWS. WE'LL ASK YOU TO CALL HIM A  
22 BURGLAR.

23           THE COURT: ALL RIGHT. MS. MOBLEY.

24           MR. SUTHERLAND: YOUR HONOR.

25           THE COURT: MR. SUTHERLAND, THANK YOU.

1 MR. SUTHERLAND: MAY IT PLEASE THE COURT.  
2 OPENING STATEMENTS BY MR. SUTHERLAND ON BEHALF OF THE  
3 DEFENDANT:

4 LADIES AND GENTLEMEN, WE MET BRIEFLY YESTERDAY. I'LL  
5 RE-INTRODUCE US. MY NAME IS TIVIS SUTHERLAND. I'M WITH  
6 THE RICHLAND COUNTY PUBLIC DEFENDER'S OFFICE. MS. LAUREN  
7 MOBLEY IS THE LEAD COUNSEL IN THIS CASE.

8 WITH US IS MR. TERRANCE ADAMS. WE REPRESENT HIM.

9 YOU ALL HAVE -- THIS IS THE MOST IMPORTANT DAY IN MR.  
10 ADAMS' LIFE. YOU ALL HAVE JUST HEARD A LAUNDRY LIST OF  
11 ACCUSATIONS BY HIS GOVERNMENT AGAINST HIM. THESE ARE THE  
12 SAME ACCUSATIONS THAT THEY MADE 10 MONTHS AGO WHEN THEY  
13 FIRST ARRESTED HIM.

14 IT IS THE RESPONSIBILITY OF THE GOVERNMENT TO PROVE  
15 EACH AND EVERY ELEMENT OF EACH AND EVERY ONE OF THESE  
16 OFFENSES BEYOND A REASONABLE DOUBT. REASONABLE DOUBT IS  
17 THE HIGHEST STANDARD OF PROOF IN OUR SYSTEM OF JUSTICE.

18 WE HAVE SEVERAL THAT I WON'T GET INTO TOO DEEPLY. BUT  
19 IN CIVIL CASES WHERE MONEY IS AN ISSUE, THE STANDARD OF  
20 PROOF IS 51/49. MORE LIKELY THAN NOT OR IT PROBABLY  
21 HAPPENED THAT WAY.

22 THERE ARE SOME ADMINISTRATIVE HEARINGS AND LEGAL  
23 ISSUES THE STANDARD IS CLEAR AND CONVINCING EVIDENCE. IT'S  
24 EVIDENCE THAT LEAVES THE FINDER OF THE FACT REASONABLY  
25 CERTAIN OF A PARTICULAR RESULT.

1           IN THIS CASE THE STANDARD IS BEYOND A REASONABLE  
2 DOUBT. IT MEANS THAT THEY MUST PROVE -- THEY MUST CONVINC  
3 EACH AND EVERY ONE OF YOU INDIVIDUALLY AND COLLECTIVELY  
4 THAT WHAT THEY SAY HAPPENED ACTUALLY HAPPENED AND THAT IT  
5 HAPPENED THE WAY THAT THEY SAID IT HAPPENED.

6           NOW, YOU WILL HEAR -- I HAVE NO WAY OF KNOWING WHAT  
7 THE EVIDENCE IS THAT THEY'RE GOING TO PUT ON THE STAND,  
8 WHAT THEY'RE GOING TO PUT UP IN THE CASE.

9           I KNOW WHAT THEY HAVE. THEY CAN SELECT. THEY CAN  
10 CHOOSE TO PUT SOME WITNESSES OR NOT PUT WITNESSES UP. THEY  
11 CAN CHOOSE TO PUT SCIENCE PEOPLE UP OR NOT PUT SCIENCE  
12 PEOPLE UP.

13           I DON'T KNOW EXACTLY WHAT THEY'RE GOING TO PUT UP AS  
14 FAR AS EVIDENCE GOES IN THIS CASE. I CAN TELL YOU THAT YOU  
15 PROBABLY WILL HEAR THAT MR. ADAMS WAS IN THIS APARTMENT  
16 COMPLEX THAT DAY.

17           I CAN ALSO TELL YOU THAT HE WAS FOUND TO BE IN  
18 POSSESSION OF ITEMS THAT WERE MISSING FROM THESE  
19 APARTMENTS; THAT'S IT, LADIES AND GENTLEMEN. THEY HAVE TO  
20 PROVE EACH OF THE ELEMENTS, EACH OF THEM. NOT ONE, NOT  
21 TWO, EACH ELEMENT OF EVERY OFFENSE CHARGED.

22           WE ARE CONFIDENT THAT AT THE END OF THE DAY YOU WILL  
23 FIND THAT THEY HAVE NOT MET THAT BURDEN OF PROOF, AND THAT  
24 MR. ADAMS IS NOT GUILTY. THANK YOU FOR YOUR CONSIDERATION  
25 AND YOUR TIME.

1 THE COURT: ALL RIGHT. THANK YOU, MR. SUTHERLAND.  
2 SOLICITOR, CALL YOUR FIRST WITNESS PLEASE.

3 MS. FENT: THE STATE CALLS ASIA FERGUSON.

4 ASIA FERGUSON, BEING FIRST  
5 DULY SWORN, TESTIFIED AS FOLLOWS:

6 CLERK: PLEASE HAVE A SEAT THERE. SPEAK INTO THE  
7 MICROPHONE. STATE YOUR FULL NAME FOR THE RECORD.

8 WITNESS: MY NAME IS ASIA FERGUSON.

9 DIRECT EXAMINATION BY MS. FENT:

10 Q MR. FERGUSON, WHERE ARE YOU WORKING RIGHT NOW?  
11 ANYWHERE?

12 A NO, I'M NOT WORKING RIGHT NOW.

13 Q OKAY. WHERE DID YOU WORK?

14 A UPS.

15 Q HOW LONG DID YOU WORK FOR THEM?

16 A 30 YEARS.

17 Q OKAY. 30 LONG YEARS?

18 A RIGHT.

19 Q OKAY. WHAT WERE YOUR DUTIES AND RESPONSIBILITIES WITH  
20 UPS?

21 A I WAS A PACKAGE CAR DRIVER. I WORKED THE DECKER AREA.

22 Q OKAY. WERE YOU WORKING BACK ON APRIL 19TH OF 2005?

23 A YES, I WAS.

24 Q WHEN DID YOU STOP WORKING FOR UPS?

25 A I STOPPED WORKING FOR UPS JANUARY THE 12TH, I BELIEVE.

- 1 Q YOU RETIRED?
- 2 A I'M RETIRED.
- 3 Q I WANT TO DRAW YOUR ATTENTION BACK THEN TO APRIL 19TH
- 4 OF 2005. DO YOU REMEMBER WHAT HOURS YOU WERE WORKING?
- 5 A IT WAS BETWEEN 11:00 AND 12:30. THE AREA -- THE AREA
- 6 I WAS IN -- I WAS WORKING.
- 7 Q WHAT TIME DID YOU GO TO WORK THAT MORNING?
- 8 A OH, I WENT TO WORK 8:30.
- 9 Q OKAY. 8:30 A.M. AND THEN HOW LONG DID YOU WORK?
- 10 A I WORKED TO ABOUT 6:00 P.M. THAT AFTERNOON.
- 11 Q OKAY. AND DID YOU SOMETIMES DELIVER PACKAGES TO THE
- 12 address
- 13 A YES, MA'AM, THAT'S ONE OF MY AREAS THAT I WORK.
- 14 Q AND THAT'S ON address
- 15 A IT'S ON address
- 16 Q OKAY. HOW OFTEN DO YOU THINK YOU DELIVERED PACKAGES
- 17 OVER THERE?
- 18 A I HAVE TO STOP IN THERE EVERYDAY JUST ABOUT.
- 19 Q EVERY SINGLE DAY?
- 20 A EVERY SINGLE DAY.
- 21 Q YOU'RE PRETTY FAMILIAR WITH THAT AREA?
- 22 A YES, MA'AM.
- 23 Q OKAY. THEN ON THIS PARTICULAR DAY DO YOU RECALL ABOUT
- 24 WHAT TIME WAS IT THEN THAT YOU SHOWED UP AT THE address
- 25 ss

- 1 A BEFORE 12:00.
- 2 Q OKAY. DEFINITELY BEFORE NOON?
- 3 A RIGHT.
- 4 Q OKAY. DO YOU RECALL WHERE YOU WENT IN THE APARTMENT  
5 COMPLEX, WHERE YOU WERE DELIVERING A PACKAGE TO?
- 6 A THAT PARTICULAR DAY I PULLED UP AT address THE  
7 APARTMENT I WAS GOING TO WAS addre
- 8 Q OKAY. AND WHAT HAPPENED? OR WHERE DO YOU PARK? I  
9 GUESS, FIRST OF ALL, WHERE DO YOU PARK WHEN YOU DELIVER A  
10 PACKAGE?
- 11 A RIGHT -- ACTUALLY, RIGHT IN FRONT OF THE BUILDING.
- 12 Q RIGHT NEAR, I GUESS, THE DRIVEWAY?
- 13 A THE DRIVEWAY, RIGHT WHERE YOU WALK -- THE WALKWAY  
14 WHERE YOU WALK TO THAT PARTICULAR BUILDING.
- 15 Q AND CAN YOU KIND OF DESCRIBE EACH INDIVIDUAL BUILDING?  
16 ARE THE APARTMENTS ALL -- ALL THE DOORS INSIDE A CLOSED  
17 HALLWAY OR A BREEZEWAY OR ---
- 18 A IT'S A HALLWAY. YOU HAVE A, B, C, D. AND YOU HAVE  
19 APARTMENTS UPSTAIRS. ON THE OTHER SIDE YOU HAVE THE OTHER  
20 APARTMENTS THAT'S UPSTAIRS AT THAT PARTICULAR BUILDING.
- 21 Q AND IS THE HALLWAY ENCLOSED OR ---
- 22 A THE HALLWAY'S OPEN.
- 23 Q OPEN AIR?
- 24 A OPEN AIR.
- 25 Q OKAY.

1 (LARGE COLOR PHOTO MARKED FOR IDENTIFICATION AS  
2 STATE'S EXHIBIT NO. 1.)

3 Q I'M GOING TO SHOW YOU WHAT WE'VE MARKED AS STATE'S  
4 EXHIBIT NO. 1, AND ASK YOU: DO YOU RECOGNIZE WHAT'S IN  
5 THAT PHOTOGRAPH?

6 A THE CAR, GRAY CAR, AND THE CAR TO THE LEFT.

7 Q OKAY. BUT WHAT OTHER THAN THE CARS -- DO YOU  
8 RECOGNIZE WHAT AREA THIS PHOTOGRAPH IS?

9 A THIS IS HUNT CLUB VILLAGE.

10 Q OKAY.

11 A APARTMENT. address

12 Q OKAY. AND THAT'S THE BUILDING YOU WERE GOING TO?

13 A THAT'S THE BUILDING I WAS GOING TO.

14 MS. FENT: YOUR HONOR, I'D OFFER INTO EVIDENCE STATE'S  
15 EXHIBIT NO. 1 AND HAND IT TO DEFENSE COUNSEL.

16 MS. MOBLEY: WITHOUT OBJECTION.

17 THE COURT: WITHOUT OBJECTION, STATE'S 1 IS ADMITTED.

18 (STATE'S EXHIBIT NO. 1 RECEIVED IN EVIDENCE.)

19 Q LOOKING THIS PHOTOGRAPH, PHOTOGRAPH 1, IS THAT --  
20 WOULD YOU SAY THAT THAT'S KIND OF THE VIEW OF WHERE YOU  
21 PARKED?

22 A VIEW WHERE I PARKED RIGHT HERE. RIGHT -- RIGHT --  
23 WHERE THE CAR IS. I PARKED RIGHT THERE AT THE WALKWAY.  
24 AND I PULLED UP RIGHT THERE.

25 Q AND THEN YOU WALKED UP TO THE BREEZEWAY?

1 A RIGHT.

2 Q DO YOU REMEMBER THAT DAY? WAS IT -- THE SUN WAS OUT  
3 OR WAS IT CLOUDY OR ANYTHING?

4 A IT WAS APRIL. IT WAS A SUNNY DAY.

5 Q OKAY. IF YOU DON'T REMEMBER, THAT'S FINE. BUT  
6 OBVIOUSLY, IT WAS LIGHT OUT?

7 A YES.

8 Q IT WAS 12:00 NOON?

9 A RIGHT.

10 Q NOW, AS YOU WALKED UP TO THAT BREEZEWAY, YOU SAID  
11 WHICH APARTMENT WERE YOU GOING TO?

12 A addre

13 Q addre AND IS THAT UPSTAIRS?

14 A DOWNSTAIRS.

15 Q OKAY. AS YOU WERE HEADING OVER TO addre CAN YOU TELL  
16 US WHAT HAPPENED? WHAT DO YOU SEE?

17 A WELL, THAT PARTICULAR DAY AS I WAS HEADED TO THE  
18 APARTMENTS DELIVERING A PACKAGE, SOMEONE WAS WALKING UP ON  
19 THE SIDE OF THE BUILDING. AND THEY STOPPED. I JUST KEPT  
20 ON GOING AS I USUALLY DO TO DELIVER THE PACKAGE. BUT AS I  
21 WENT TO THE DOOR, I DIDN'T SEE NOBODY COME PAST. I JUST  
22 WENT ON BACK TO MY TRUCK.

23 Q THAT PERSON, WHICH DIRECTION WERE THEY WALKING?  
24 TOWARDS YOU OR AWAY FROM YOU?

25 A THEY WERE WALKING TOWARD ME.

- 1 Q OKAY. TOWARDS YOU?
- 2 A YES.
- 3 Q AND IN STATE'S EXHIBIT NO. 1 WHERE WAS THIS PERSON
- 4 THAT YOU SAW?
- 5 A THE PERSON WAS RIGHT THERE AT THAT CORNER.
- 6 Q OKAY. YOU POINTED TO -- THERE'S LIKE A LITTLE TREE
- 7 RIGHT THERE AT THE CORNER OF THE BUILDING?
- 8 A YEAH, RIGHT.
- 9 Q AND HE WAS WALKING TOWARDS YOU AS YOU'RE WALKING UP
- 10 THE SIDEWALK? CORRECT?
- 11 A HE STOPPED RIGHT THERE AT THE BUSHES THERE.
- 12 Q RIGHT WHERE THAT TREE IS AT THE CORNER. AND THEN WHAT
- 13 DID HE DO?
- 14 A WELL, HE DIDN'T COME OUT, LET'S PUT IT THAT WAY.
- 15 NORMALLY, THE PERSON WOULD BE WALKING, THEY WOULD COME ON
- 16 OUT, AND I WOULD SEE THEM, BUT THEY DIDN'T COME OUT.
- 17 Q OKAY. SO THEY STOPPED RIGHT THERE, AND THEN YOU WENT
- 18 INTO THE BREEZEWAY?
- 19 A RIGHT.
- 20 Q WHEN YOU'RE IN THE BREEZEWAY, DO YOU SEE THIS PERSON
- 21 WALK BY?
- 22 A NO, I DIDN'T SEE ANYBODY WALK BY.
- 23 Q OKAY. ABOUT HOW LONG DO YOU THINK YOU WERE IN THAT
- 24 BREEZEWAY?
- 25 A I WASN'T IN THAT BREEZEWAY BUT 2 MINUTES.

1 Q OKAY. WHEN YOU COME OUT, DO YOU SEE ANYBODY?

2 A I DIDN'T SEE ANYBODY. I DIDN'T SEE ANYBODY AFTER I  
3 CAME OUT.

4 Q OKAY. WHAT DO YOU DO THEN AT THIS POINT?

5 A WELL, I USUALLY TAKE THE PACKAGE TO THE OFFICE; THAT'S  
6 WHAT I DID, I TOOK -- I LEFT A NOTE ON THE DOOR AND TOOK  
7 THE PACKAGE TO THE OFFICE. AND PRIOR -- PRIOR TO MY  
8 DELIVERING, I HAD HEARD ABOUT BREAK-INS.

9 MS. MOBLEY: OBJECTION, YOUR HONOR.

10 MS. FENT: IT JUST GOES TO WHY HE WAS SUSPICIOUS AND  
11 WHY HE REPORTED IT.

12 THE COURT: IT'S AN EXCEPTION. I OVERRULE THE  
13 OBJECTION.

14 A I BEEN TOLD THAT THEY HAD SEVERAL BREAK-INS OUT THERE.  
15 AND THE FACT THAT A PERSON DIDN'T COME OUT AND JUST  
16 STOPPED, IT JUST LEFT ME -- IT JUST LEFT ME BE SUSPICIOUS,  
17 SO. I JUST DELIVER THE PACKAGE TO THE OFFICE. I SAW THE  
18 MAINTENANCE GUY DOWN THE STREET. I STOPPED AND TOLD HIM  
19 THAT I SAW SOMEONE HANGING AROUND address

20 Q OKAY. WHEN YOU GO TO THIS BREEZEWAY TO APARTMENT D TO  
21 DELIVER THE PACKAGE, NO ONE IS THERE?

22 A NO ONE WAS AT THE APARTMENT.

23 Q OKAY. DID YOU MAKE ANY OTHER STOP BEFORE YOU DROPPED  
24 THE PACKAGE OFF AT THE OFFICE?

25 A NO, MA'AM.

1 Q YOU WENT DIRECTLY -- AND ABOUT HOW FAR AWAY IS THE  
2 OFFICE FROM ---

3 A THE OFFICE IS NEXT DOOR TO THE BUILDING.

4 Q OKAY. YOU GO OVER TO THE OFFICE. AND THEN HOW MUCH  
5 SOONER AFTER THAT DO YOU SEE THE MAINTENANCE MAN?

6 A AS SOON AS I COME OUT OF THE OFFICE, I SAW THE  
7 MAINTENANCE MAN AT THE OTHER BUILDING.

8 Q OKAY. SO FROM THE TIME THAT YOU SEE THIS PERSON  
9 STOPPED AT THE CORNER OF THE BUILDING TO WHEN YOU TALKED TO  
10 THE MAINTENANCE MAN, HOW MUCH TIME HAS PASSED?

11 A I SAY MAYBE 5 MINUTES.

12 Q OKAY. AND DO YOU REMEMBER THE MAINTENANCE MAN'S NAME?

13 A CARL KEYS.

14 Q OKAY. AND WHERE -- DO YOU REMEMBER WHERE HE IS  
15 PHYSICALLY WHEN YOU SEE HIM?

16 A I SEE HIM AT BUILDING 14 -- HE JUST COME OUT OF  
17 BUILDING 14, GOING TO HIS TRUCK.

18 Q OKAY. AND YOU TELL HIM, HEY, I SAW SOMEONE TURN  
19 AROUND ---

20 A RIGHT.

21 Q AND THEN WHAT DO YOU DO NEXT?

22 A WELL, I WENT ON STILL DELIVERING IN THAT AREA.

23 Q OKAY.

24 A AND THEN THE MAINTENANCE MAN CAME AND ASKED ME TO GET  
25 IN HIS TRUCK AND RIDE AND SEE IF I SAW THE PERSON, AND

1 THAT'S WHAT WE DID. DROVE. THEN WE TURN AROUND AND I CAME  
2 BACK TO MY TRUCK, AND I WENT ON ABOUT MY BUSINESS.

3 Q OKAY. SO HE JUST WANTED TO SEE IF YOU SAW THE PERSON  
4 WALKING AROUND?

5 A RIGHT.

6 Q DID YOU SEE THIS PERSON?

7 A YES, SAW HIM AT THE STORE, AT THE FAST FAIR, WHATEVER  
8 IS THE NAME OF THAT STORE, YOU KNOW, OR A CLUB.

9 Q A CONVENIENCE STORE?

10 A A CONVENIENCE STORE.

11 Q OKAY. HOW FAR AWAY FROM THE HUNT CLUB VILLAGE IS THIS  
12 CONVENIENCE STORE?

13 A IT'S JUST RIGHT DOWN THE STREET. IT'S NOT FAR. IT'S  
14 NOT EVEN 2 MINUTES.

15 (LARGE COLOR PHOTO MARKED FOR IDENTIFICATION AS  
16 STATE'S EXHIBIT NO. 2.)

17 Q I'M GOING TO SHOW YOU WHAT I HAVE MARKED AS STATE'S  
18 EXHIBIT NO. 2, AND DO YOU RECOGNIZE THIS PHOTOGRAPH?

19 A YES, THAT'S HUNT CLUB VILLAGE, AND THAT'S THE STORE  
20 RIGHT THERE.

21 Q THE FOOD FAIR?

22 A FOOD FAIR.

23 Q AND IS THAT WHERE YOU SAW THE ---

24 A RIGHT.

25 Q --- SAME PERSON?

1 A THAT'S WHERE WE SAW HIM.

2 Q OKAY.

3 MS. FENT: OFFER INTO EVIDENCE STATE'S EXHIBIT NO. 2  
4 AND I HAND IT TO DEFENSE COUNSEL.

5 MS. MOBLEY: WITHOUT OBJECTION.

6 THE COURT: NO OBJECTION, STATE'S 2 IS ADMITTED.

7 (STATE'S EXHIBIT NO. 2 RECEIVED IN EVIDENCE.)

8 Q FROM THE ENTRY TO THE address  
9 HOW FAR DOWN IS address THAT'S IN STATE'S EXHIBIT NO.

10 1?

11 A IT'S NOT FAR FROM THE ROAD. I MEAN, PEOPLE WALK FROM  
12 THAT APARTMENT TO THE ROAD.

13 Q OKAY. IT'S A PRETTY SMALL COMPLEX?

14 A RIGHT.

15 Q AND THEN THIS IS THE FOOD FAIR, THIS IS JUST LIKE  
16 ABOUT A HALF A BLOCK DOWN?

17 A RIGHT, THAT'S THE FOOD FAIR.

18 Q SO YOU SHOW UP AT THE FOOD FAIR WITH MR. KEYS?

19 A YES, MA'AM.

20 Q AND DO YOU SEE THAT SAME PERSON THAT YOU SAW COMING  
21 AROUND THE CORNER OF THE BUILDING?

22 A YEAH.

23 Q AND WHERE IS THAT PERSON? AT THE FOOD FAIR, IS HE  
24 INSIDE THE BUILDING?

25 A NO. HE'S NOT INSIDE. HE'S JUST SITTING RIGHT THERE

- 1 NEAR THE -- NEAR THE PHONE.
- 2 Q OKAY. RIGHT OUTSIDE THE FOOD FAIR?
- 3 A RIGHT OUTSIDE.
- 4 Q WAS HE WITH ANYBODY ELSE?
- 5 A NOT THAT -- I DON'T REMEMBER HIM BEING WITH ANYBODY
- 6 ELSE.
- 7 Q OKAY. BUT YOU SAW THAT SAME PERSON AND TOLD RUFUS,
- 8 THAT'S WHO I SAW?
- 9 A THAT'S WHO I SAW.
- 10 Q DO YOU REMEMBER WHAT HE WAS WEARING, HOW HE WAS
- 11 DRESSED? I KNOW THAT WAS A WHILE AGO.
- 12 A HE HAD ON -- I WOULD SAY HE HAD ON A DARK SHIRT AND A
- 13 -- AND HAD A BACKPACK ON HIS BACK.
- 14 Q OKAY. AND WHEN HE WAS COMING AROUND THAT BUILDING AND
- 15 HE STOPPED AT THAT BUSH, DID YOU SEE HIM WITH ANY BAGS?
- 16 A ALL I SAW HIM, THE SHIRT, AND THE BACKPACK.
- 17 Q HIM AND A BACKPACK?
- 18 A YEAH.
- 19 Q OKAY. THEN AFTER YOU SHOWED HIM TO THE MAINTENANCE
- 20 MAN, SHOWED HIM TO MR. KEYS, WHAT DO YOU DO NEXT?
- 21 A I GET -- HE BROUGHT ME BACK TO MY TRUCK AND I DELIVER
- 22 -- WENT ON DELIVER TO THE NEXT COMPLEX.
- 23 Q OKAY. A COUPLE OF DAYS AFTER THIS DO YOU REMEMBER
- 24 GIVING A STATEMENT TO LAW ENFORCEMENT?
- 25 A YES, I DID.

ASIA FERGUSON -- DIRECT BY MS. FENT

1 Q ABOUT WHAT YOU SAW?

2 A YES.

3 Q IS THIS THE STATEMENT THAT YOU GAVE LAW ENFORCEMENT?

4 A YES, THAT'S THE STATEMENT I GAVE.

5 Q OKAY. I KNOW IT WAS A WHILE AGO THAT THIS HAPPENED.

6 TODAY YOU TOLD US THAT THE GENTLEMAN CAME AROUND FROM THE

7 BUILDING AND STOPPED AT THE BUSHES?

8 A HE CAME -- HE CAME TO THE BUSHES AND STOPPED. HE

9 DIDN'T COME ON AROUND. HE CAME TO THE BUSHES AND STOPPED

10 WHEN HE SAW ME. AND I WALKED IN TO DELIVER THE PACKAGE. I

11 DIDN'T SEE ANYBODY COME FROM BEHIND THE BUSHES, THAT'S WHAT

12 GAVE ME SUSPICION.

13 Q OKAY. DO YOU REMEMBER WHEN YOU GAVE YOUR STATEMENT TO

14 INVESTIGATOR DALE HUNT, YOU SAID, HE SAW ME AND THEN WENT

15 BEHIND ---

16 MS. MOBLEY: YOUR HONOR, I OBJECT TO LEADING.

17 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

18 Q DID YOU SAY SOMETHING DIFFERENT TO DALE HUNT, THE

19 INVESTIGATOR, WHEN YOU GAVE YOUR STATEMENT?

20 A I DON'T UNDERSTAND WHAT YOU'RE SAYING.

21 Q WELL, TODAY YOU SAID THAT HE JUST STOPPED AT THE

22 BUSHES AND DIDN'T DO ANYTHING ELSE, HE JUST STAYED RIGHT

23 THERE AT THE BUSHES.

24 A RIGHT. THAT'S WHAT I GAVE TESTIMONY TO -- TO -- TO

25 THE OFFICER.

1 Q OKAY. DO YOU REMEMBER GIVING THE STATEMENT TO DALE  
2 HUNT?

3 A I REMEMBER GIVING THE STATEMENT TO THE OFFICER.

4 Q OKAY. I WANT YOU TO READ ONE, TWO, THREE, FOUR --  
5 STARTING RIGHT THERE ON THE FOURTH LINE THAT HE -- AND JUST  
6 THAT LINE RIGHT THERE. JUST READ IT TO YOURSELF. DON'T  
7 READ IT OUT LOUD.

8 A (COMPLIED.)

9 Q RIGHT THERE?

10 A (NODS HEAD.)

11 Q DID YOU TELL INVESTIGATOR DALE HUNT THAT HE DID  
12 SOMETHING ELSE BESIDES JUST STOP?

13 MS. MOBLEY: YOUR HONOR, I OBJECT TO IMPEACHING HER  
14 OWN WITNESS.

15 MS. FENT: I CAN.

16 THE COURT: UNDER THE RULES SHE CAN IMPEACH ANYONE.

17 A I TOLD -- I TOLD THE OFFICER THAT -- THAT HE STOPPED  
18 WHEN HE SAW ME.

19 Q AND THEN WHAT DID HE DO?

20 A HE DIDN'T COME OUT FROM THE BUILDING.

21 Q OKAY. DID YOU SAY THAT HE DIDN'T COME OUT FROM THE  
22 BUILDING OR THAT HE THEN WENT ---

23 A WENT BEHIND THE BUILDING.

24 Q BEHIND THE BUILDING. OKAY.

25 MS. FENT: THANK YOU. IF YOU ANSWER ANY QUESTIONS THE

1 DEFENSE COUNSEL HAS FOR YOU.

2 THE COURT: ALL RIGHT. MS. MOBLEY.

3 MS. MOBLEY: THANK YOU, YOUR HONOR.

4 CROSS EXAMINATION BY MS. MOBLEY:

5 Q GOOD MORNING, SIR.

6 A GOOD MORNING.

7 Q I'M LAUREN MOBLEY.

8 A GOOD MORNING.

9 Q NOW, YOU TESTIFIED ON DIRECT THAT YOU SAW A MAN  
10 STANDING IN THE APARTMENT COMPLEX STANDING AROUND THE  
11 CORNER OF THE BUILDING; IS THAT CORRECT?

12 A RIGHT.

13 Q AND THEN YOU TESTIFIED THAT YOU AND MR. KEYS DROVE TO  
14 THE FOOD FAIR AND SAW A SIMILAR INDIVIDUAL; IS THAT  
15 CORRECT?

16 A THAT'S RIGHT, WE DROVE TO THE STORE AND POINTED OUT  
17 THE SUSPECT.

18 Q JUST SO I'M CLEAR ON YOUR TESTIMONY. AT THAT POINT  
19 WHEN YOU DROVE TO THE FOOD FAIR, YOU HAD NO IDEA THAT THERE  
20 WAS ANYTHING WRONG, CORRECT? YOU JUST SAW WHAT YOU  
21 BELIEVED TO BE WAS A SUSPICIOUS PERSON AND THEN YOU RELATED  
22 THAT TO MR. KEYS, CORRECT?

23 A RIGHT. I RELAYED THAT TO MR. KEYS THAT I SAID THE  
24 FACT THAT THE PERSON DIDN'T COME -- STOPPED. YOU KNOW, A  
25 NORMAL PERSON WOULD KEEP ON WALKING. PEOPLE SEE ME

1 EVERYDAY. THAT SHOULD BE NO SURPRISE TO SEE A UPS MAN  
2 THERE. PEOPLE JUST KEEP ON WALKING BY ME, THEY DON'T PAY  
3 ME NO ATTENTION. BUT THAT PARTICULAR DAY THE PERSON JUST  
4 STOPPED. SO I JUST -- KNOWING THAT THE FACT THAT THEY HAD  
5 BREAK-INS, I JUST WENT DOWN -- AFTER I WAS OFF -- AFTER I  
6 SAW CARL, I WENT AND TOLD HIM.

7 Q SURE. BUT THE ONLY THING THAT YOU TESTIFIED TO IS  
8 THAT YOU SAW HIM AT THE APARTMENT COMPLEX AND THEN AT FOOD  
9 FAIR?

10 A RIGHT.

11 Q YOUR TESTIMONY ALSO THAT YOU SAW THIS INDIVIDUAL WITH  
12 A BACKPACK ON HIM?

13 A RIGHT.

14 Q IS THAT CORRECT? THAT WAS THE ONLY THING YOU SAW?

15 A YES.

16 MS. MOBLEY: YOUR HONOR, I DON'T HAVE ANY FURTHER  
17 QUESTIONS.

18 THE COURT: ANY REDIRECT?

19 MS. FENT: NO, YOUR HONOR.

20 THE COURT: ALL RIGHT. SIR, YOU MAY STEP DOWN.

21 (THE WITNESS LEAVES THE WITNESS STAND.)

22 THE COURT: BEFORE YOU CALL YOUR NEXT WITNESS, I HAVE  
23 A VERY BRIEF MATTER THAT I NEED TO TAKE UP THAT I HAD  
24 SCHEDULED PREVIOUSLY.

25 MR. FOREMAN, LADIES AND GENTLEMEN, I'VE GOT SOMETHING

1 THAT WILL TAKE ME 5 MINUTES OR LESS, BUT I NEED TO ASK YOU  
2 TO STEP TO YOUR JURY ROOM, AND WE'LL HAVE YOU BACK IN A FEW  
3 MINUTES. PLEASE DON'T DISCUSS THE CASE. IF YOU'LL BE  
4 EXCUSED TO YOUR JURY ROOM.

5 EVERYONE STAY SEATED PLEASE.

6 (THE JURY RETIRES TO THE JURY ROOM AT 11:07 A.M.)

7 THE COURT: WE'LL TAKE ABOUT 5 MINUTES, AND WE'LL  
8 RESUME.

9 (A RECESS WAS TAKEN.)

10 THE COURT: IS THE STATE READY TO PROCEED?

11 MS. FENT: YES, YOUR HONOR.

12 THE COURT: DEFENSE READY, MS. MOBLEY?

13 MS. MOBLEY: YES, SIR.

14 THE COURT: ALL RIGHT. LET'S GET THE JURY BACK IN  
15 PLEASE.

16 (THE JURY RETURNS TO THE COURTROOM AT 11:13 A.M.)

17 BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

18 THE COURT: ALL RIGHT. CALL YOUR NEXT WITNESS,  
19 SOLICITOR.

20 MS. FENT: THE STATE CALLS RUFUS CARL KEYS.

21 RUFUS KEYS, JR., BEING FIRST  
22 DULY SWORN, TESTIFIED AS FOLLOWS:

23 CLERK: PLEASE HAVE A SEAT THERE. SPEAK INTO THE  
24 MICROPHONE. STATE YOUR FULL NAME FOR THE RECORD.

25 WITNESS: MY NAME IS RUFUS KEYS, JR.

1 THE COURT: MR. KEYS, YOU MIGHT NEED TO PULL UP AND  
2 SPEAK RIGHT INTO THE MICROPHONE. IT DOESN'T AMPLIFY AS  
3 WELL AS WE WISH IT WOULD.

4 WITNESS: OKAY. MY NAME IS RUFUS KEYS, JR.

5 THE COURT: THANK YOU.

6 DIRECT EXAMINATION BY MS. FENT:

7 Q MR. KEYS, WHERE ARE YOU WORKING RIGHT NOW?

8 A AT THE CARRINGTON PLACE IN WILDWOOD.

9 Q AND WHAT IS THAT, CARRINGTON PLACE?

10 A IT'S A LUXURY APARTMENT COMPLEX.

11 Q AND WHAT DO YOU DO THERE?

12 A MAINTENANCE.

13 Q OKAY. BACK ON APRIL 19TH OF LAST YEAR, 2005, WHERE  
14 WERE YOU WORKING?

15 A addre

16 Q AND WHAT WERE YOU DOING AT THE address

17

18 A I WAS MAINTENANCE SUPERVISOR.

19 Q OKAY. WHAT WERE YOUR HOURS BASICALLY?

20 A FROM 8:00 TO 5:00 AND ON CALL AFTER HOURS.

21 Q OKAY. WHAT ARE YOUR BASIC DUTIES AND RESPONSIBILITIES  
22 AS THE MAINTENANCE MAN?

23 A REPAIRING HEATING AND AIR, PLUMBING AND ELECTRIC,  
24 ETCETERA.

25 Q OKAY. BACK ON THIS PARTICULAR DAY, ON APRIL 19TH OF

1 2005, I WANT TO TALK TO YOU ABOUT THE TIME, YOU KNOW,  
2 AROUND NOON, BEFORE NOON, SOMETHING LIKE THAT. DO YOU KNOW  
3 ASIA FERGUSON, THAT WORKS FOR UPS?

4 A YES, I DO.

5 Q OR DID WORK FOR UPS?

6 A YES, I DO.

7 Q OKAY. CAN YOU TELL US BASICALLY WHAT HAPPENED THAT  
8 MORNING, WHAT CONNECTIONS YOU HAD WITH ASIA?

9 A THAT PARTICULAR MORNING, ASIA WAS MAKING HIS DELIVERY.  
10 WE HAD PREVIOUSLY HAD SOME BREAK-INS ON THE PROPERTY.

11 MR. SUTHERLAND: OBJECTION, YOUR HONOR.

12 THE COURT: ON WHAT GROUND?

13 MR. SUTHERLAND: THAT THAT'S IMPUTED CONDUCT TO MY  
14 CLIENT.

15 THE COURT: I OVERRULE.

16 Q OKAY.

17 A WE HAD PREVIOUSLY HAD SOME BREAK-INS ON THE  
18 APARTMENTS, SO WE LET ASIA KNOW. AND WE TALKED TO SOME OF  
19 THE STAFF. AND EVERYBODY KNEW THAT WE WERE HAVING BREAK-  
20 INS.

21 Q AND YOU BASICALLY JUST WANT PEOPLE TO BE ON THE LOOK  
22 OUT?

23 A YES.

24 Q OKAY.

25 A THIS PARTICULAR MORNING ASIA CAME ON THE PROPERTY AND

1 HE SEEN A SUSPICIOUS PERSON WITH A BACK SACK, AND HE WAS  
2 WALKING FROM THE SIDE OF address AND SO HE PROCEEDED  
3 DOWN TO DELIVER THE PACKAGE OR WHATEVER.

4 Q OKAY. WITHOUT SAYING WHAT ASIA DID, JUST -- AT WHAT  
5 TIME DID YOU HAVE THIS CONVERSATION WITH ASIA? AT WHAT  
6 TIME DID YOU LEARN THAT ASIA SAW SOMEBODY SUSPICIOUS?

7 A ABOUT BETWEEN 11:30 I SUPPOSE AND 12:00.

8 Q OKAY. AND YOU LEARNED THIS BECAUSE?

9 A ASIA STOPPED ME AND TOLD ME THAT SOMEONE LOOKS  
10 SUSPICIOUS AROUND address

11 MR. SUTHERLAND: OBJECTION, YOUR HONOR.

12 THE COURT: OVERRULED. HE'S BEEN ON THE STAND SUBJECT  
13 TO CROSS EXAMINATION. GO AHEAD.

14 Q SO ASIA CONTACTED YOU?

15 A YES.

16 Q AND WHAT'S THE LOCATION THAT HE SAID HE'S SEEN  
17 SOMEONE?

18 A NEXT -- ON THE SIDE OF address

19 Q OKAY. I'M GOING TO SHOW YOU WHAT'S ALREADY ADMITTED  
20 INTO EVIDENCE AS STATE'S EXHIBIT NO. 1. IS THAT BUILDING  
21 3?

22 A YES, IT IS.

23 Q OKAY. BE SURE YOU TALK INTO THE MICROPHONE.

24 A YES, IT IS.

25 Q OKAY. SO ASIA SEES SOMEONE. WHAT DO YOU DO WITH THAT

RUFUS KEYS -- DIRECT BY MS. FENT

1 INFORMATION?

2 A WHEN ASIA SEES SOMEONE, HE PROCEEDS DOWN TO MAKE A  
3 DELIVERY. HE STOPPED BY THE OFFICE. AND THEN HE CAME DOWN  
4 TO THE BUILDING WHERE I WAS LOCATED -- I WAS IN THE PARKING  
5 LOT. I HAD JUST GOT FINISHED WORKING ON THE WATER HEATER.  
6 AND I WAS AT BUILDING 14 ON THE OUTSIDE NEXT TO MY TRUCK.

7 AND ASIA SAYS TO ME, CARL, SOMEONE LOOKS SUSPICIOUS  
8 AROUND address

9 SO I STOPPED WHAT I WAS DOING, AND I WENT DOWN TO  
10 address AND I CHECKED ALL OF THE -- ALL OF THE DOORS TO  
11 THE APARTMENTS AT address AND ALL THE DOORS HAD BEEN  
12 KICKED IN.

13 Q OKAY. WHAT DID YOU ACTUALLY SEE -- HOW COULD YOU TELL  
14 THEY'D BEEN KICKED IN?

15 A THE THRESHOLD OF THE DOOR I COULD SEE WAS BUSTED.

16 Q OKAY. WAS BUSTED OUT?

17 A YES.

18 Q HOW MANY APARTMENTS ARE IN THIS BUILDING OR IN ANY  
19 BUILDING, I GUESS?

20 A IN THAT PARTICULAR BUILDING, address HAD TWO SIDES.  
21 SO THAT WAY WE HAVE A TOTAL OF 16 IN THAT PARTICULAR  
22 BUILDING.

23 Q OKAY.

24 A THE REST OF THE BUILDINGS ONLY HAD 8 IN EACH BUILDING.

25 Q AND HOW MANY OF THE APARTMENTS IN THAT BUILDING DID

1 YOU NOTICE HAD BEEN BUSTED IN?

2 A AT THAT TIME AFTER THAT, IT WAS -- IT WAS 4 THAT I  
3 NOTICED AT THAT TIME.

4 Q OKAY. HOW MUCH TIME PASSES FROM WHEN ASIA TELLS YOU,  
5 I'VE SEEN SOMEONE OVER BY address AND YOU GO CHECK OUT  
6 address YOURSELF?

7 A MAYBE 8 -- 7, 8 MINUTES OR SO.

8 Q OKAY.

9 A YOU KNOW, THAT TIME.

10 Q DO YOU CONFIRM SOMETHING HAPPENED IN address

11 A YES.

12 Q AND WHAT DO YOU DO?

13 A I GO TO THE CORNER STORE AND I NOTICE THAT THERE WAS A  
14 SUSPICIOUS PERSON THERE. THIS PARTICULAR DAY IT WAS REAL  
15 HOT AND HE WAS -- IT WAS A LOT OF BAGS. HE HAD A LOT OF  
16 BAGS THOUGH. I WALKED INTO THE STORE AND I CALLED  
17 DISPATCH.

18 Q OKAY. BEFORE YOU WENT DOWN THERE, DID YOU GET IN  
19 CONTACT WITH ASIA AGAIN?

20 A YES, I DID. BEFORE I WENT TO THE STORE, I CAME BACK  
21 AND -- WELL, AFTER I WENT TO THE STORE AND I SEEN THE GUY  
22 -- WHICH IS THAT GUY.

23 Q OKAY. YOU SAID, WHICH IS THAT GUY?

24 A YES.

25 Q WHO ARE YOU TALKING ABOUT?

RUFUS KEYS -- DIRECT BY MS. FENT

- 1 A THAT GENTLEMAN THERE.
- 2 Q WHAT IS HE WEARING? CAN YOU DESCRIBE AN ARTICLE OF  
3 CLOTHING?
- 4 A HE HAD A ---
- 5 Q NO, NO. THE PERSON YOU JUST POINTED TO TODAY, SO WE  
6 KNOW WHO YOU'RE TALKING ABOUT ---
- 7 A WHITE SHIRT. HE HAS ON A WHITE SHIRT AND A TIE.
- 8 MS. FENT: OKAY. LET THE RECORD REFLECT THE WITNESS  
9 HAS IDENTIFIED THE DEFENDANT.
- 10 A I WENT TO THE STORE. I SEEN A SUSPICIOUS GUY WITH  
11 SOME BAGS, WHICH IS HIM, SITTING NEXT TO THE TELEPHONE.  
12 AND SO WHAT I DID IS I RETURNED BACK TO THE PROPERTY AND  
13 PICKED UP ASIA, WENT BACK TO THE STORE. WE RODE PAST THE  
14 STORE THIS TIME. AND HE IDENTIFIED HIM AS BEING THE GUY.  
15 SO I WENT BACK TO THE PROPERTY ---
- 16 Q HE ACTUALLY IDENTIFIED HIM AS BEING THE GUY WHO WHAT?
- 17 A WHO HE SAW NEXT TO address
- 18 Q OKAY. NOW WHAT DO YOU DO?
- 19 A AFTER THAT, I TAKE ASIA BACK TO THE PROPERTY AND I  
20 CALL DALE. OKAY. DALE COMES AND PICKS ME UP FROM THE  
21 PROPERTY. WE GO UP TO THE STORE. DALE APPROACHES THE GUY  
22 AND ASKS HIM FOR HIS I.D. AND HE WAS GIVING DALE A HARD  
23 TIME. AND HE WOULDN'T COOPERATE WITH DALE. AND SO DALE  
24 ASKED HIM TO STAND UP. AND THEY GOT INTO A SCUFFLE. HE  
25 STARTED SCUFFLING WITH DALE. DALE ---

- 1 Q WHERE ARE YOU WHEN THIS IS HAPPENING? YOU'RE WATCHING  
2 IT FROM WHERE?
- 3 A I'M SITTING IN DALE'S VEHICLE.
- 4 Q OKAY. YOU'RE NOT UP THERE ON THE SIDEWALK ---
- 5 A NO, MA'AM.
- 6 Q --- WATCHING THIS WHOLE THING AT THIS POINT?
- 7 A NO, MA'AM.
- 8 Q YOU'RE SITTING BACK IN THE CAR AND WATCHING THE  
9 INVESTIGATOR DO HIS JOB?
- 10 A YES, MA'AM.
- 11 Q OKAY. SO THEY START GETTING INTO A SCUFFLE, AND WHAT  
12 HAPPENS NEXT?
- 13 A WELL, THEY STARTED GETTING INTO A SCUFFLE. AND DALE  
14 WAS HAVING A HARD TIME TRYING TO SUBDUE HIM SO HE COULD PUT  
15 HIS HANDCUFFS ON HIM. SO I THOUGHT MAYBE HE NEEDED A HAND,  
16 SO I GOT OUT OF THE CAR -- DALE HUNT'S CAR, THE  
17 INVESTIGATOR. AND I HELD HIM DOWN -- HELD HIS FEET DOWN  
18 UNTIL THE REST OF THE OFFICERS CAME UP, THEN I JUST ---
- 19 Q HELD WHOSE FEET DOWN?
- 20 A THE DEFENDANT.
- 21 Q OKAY. UNTIL THE REST OF THE OFFICERS SHOWED UP?
- 22 A YES, MA'AM.
- 23 Q OKAY. I'M GOING TO SHOW YOU WHAT'S BEEN ADMITTED INTO  
24 EVIDENCE AS STATE'S EXHIBIT NO. 2 AND ASK YOU, DO YOU  
25 RECOGNIZE WHAT'S IN THIS PHOTOGRAPH?

- 1 A YES, MA'AM.
- 2 Q OKAY.
- 3 A YES, MA'AM.
- 4 Q OKAY. AND YOU SAID YOU WENT DOWN TO THE FOOD FAIR OR  
5 THE FOOD MART?
- 6 A THE FOOD -- FOOD FAIR.
- 7 Q OKAY. AND IS THAT WHAT'S SHOWN IN THIS PHOTO THERE?
- 8 A YES, MA'AM.
- 9 Q OKAY. SO THAT DOESN'T LOOK LIKE IT'S VERY FAR AWAY  
10 FROM THE ENTRY OF THE address
- 11 A NO, IT'S NOT.
- 12 Q I'M GOING TO BACK UP A LITTLE BIT. IN STATE'S EXHIBIT  
13 NO. 1 THAT SHOWS address THERE LOOKS LIKE KIND OF A  
14 WOODED AREA OFF TO THE RIGHT. IS THAT RIGHT?
- 15 A YES, MA'AM.
- 16 Q OKAY. IF YOU GO THROUGH THAT WOODED AREA, NOT THROUGH  
17 THE APARTMENT COMPLEX PARKING LOT, BUT IF YOU GO THROUGH  
18 THAT WOODED AREA, WHERE DOES IT GO?
- 19 A IT LEADS TO THE STORE.
- 20 Q OKAY.
- 21 A THERE IS AN AREA RIGHT BETWEEN THERE YOU HAVE TO CUT  
22 THROUGH. THERE'S PATHS ALL BETWEEN THERE, IN THE BACK  
23 AREA.
- 24 Q OKAY. IS IT REALLY THICK WOODS OR HOW EASY IS IT FOR  
25 A PERSON TO WALK THROUGH THERE?

- 1 A IT'S EASY ACCESS.
- 2 Q OKAY. AND IF YOU LOOK AT STATE'S EXHIBIT NO. 2, CAN
- 3 YOU KIND OF SEE WHERE THE WOODED AREA, WHERE THE PERSON
- 4 WOULD COME OUT FROM THE WOODED AREA?
- 5 A YES, MA'AM.
- 6 Q AND WHERE IS THAT?
- 7 A RIGHT HERE. RIGHT THROUGH HERE. IT WOULD COME OUT
- 8 AND COME THROUGH THERE TO GO TO THE STORE.
- 9 Q OKAY. YOU'VE KIND OF POINTED TO -- THERE'S LIKE A
- 10 DRIVEWAY COMING OUT?
- 11 A YES, MA'AM.
- 12 Q JUST BEHIND WHERE THE CAR IS IN THIS PHOTOGRAPH?
- 13 A YES, MA'AM.
- 14 Q OKAY. AND THAT'S BETWEEN THE ENTRY OF THE HUNT CLUB
- 15 VILLAGE APARTMENTS AND THE FOOD FAIR?
- 16 A YES, MA'AM.
- 17 Q OKAY. SO YOU HELPED INVESTIGATOR HUNT BASICALLY
- 18 ARREST OR SUBDUE THE DEFENDANT, RIGHT?
- 19 A YES, MA'AM.
- 20 Q OKAY. AND THEN WHAT DO YOU DO NEXT? WHAT HAPPENS
- 21 NEXT?
- 22 A I JUST GET BACK INTO THE VEHICLE AND THE OFFICERS WAS
- 23 TRYING TO PUT THEIR HANDCUFFS ON HIM, BUT HE WAS GIVING
- 24 THEM A HARD TIME.
- 25 Q OKAY. WHAT ELSE DID YOU DO IF ANYTHING OUT THERE AT

1 THE FOOD FAIR?

2 A AFTER THAT SOME OF THE RESIDENTS THAT THEIR APARTMENT  
3 WAS BROKEN INTO, THEY CAME DOWN AND THEY HAD TO GO THROUGH  
4 SOME OF THE STUFF THAT WAS STOLEN OUT OF THE APARTMENTS AND  
5 SAY EXACTLY WHAT WAS THEIRS. SO I WAS OUT THERE WHEN THAT  
6 HAPPENED.

7 Q OKAY. DO YOU REMEMBER WHO SOME OF THOSE RESIDENTS  
8 WERE?

9 A NOT AT THE PRESENT TIME.

10 Q OKAY. BUT THEY SHOWED UP AND SOME OF THEM CLAIMED  
11 SOME OF THEIR PROPERTY?

12 A YES, MA'AM.

13 Q DO YOU REMEMBER ABOUT HOW LONG YOU WERE OUT THERE  
14 WHILE ALL THIS WAS TAKING PLACE?

15 A IT WAS ABOUT A GOOD HOUR.

16 Q ABOUT AN HOUR?

17 A HOUR, HOUR AND A HALF.

18 (LARGE DIAGRAM OF AREA MARKED FOR IDENTIFICATION AS  
19 STATE'S EXHIBIT NO. 3.)

20 Q OKAY. I'M GOING TO SHOW YOU WHAT HAS BEEN MARKED AS  
21 STATE'S EXHIBIT NO. 3. AND JUST TAKE A LOOK AT THE  
22 PHOTOGRAPH AND TELL ME IF YOU CAN RECOGNIZE WHAT'S SHOWN  
23 HERE IN THE PHOTOGRAPH?

24 A YES, MA'AM.

25 Q OKAY. AND DOES THIS ACCURATELY SHOW THE APARTMENT

1 COMPLEX AND WHERE THE FOOD FAIR IS AND THE APARTMENT  
2 BUILDINGS AND EVERYTHING?

3 A YES, MA'AM.

4 Q AND WOULD IT HELP YOU TO BE ABLE TO DESCRIBE THE  
5 WOODED AREA, THE APARTMENT BUILDING TO THE JURY?

6 A YES, MA'AM.

7 Q OKAY.

8 MS. FENT: OFFER INTO EVIDENCE STATE'S EXHIBIT NO. 3  
9 AND TENDER IT TO DEFENSE COUNSEL.

10 MS. MOBLEY: WITHOUT OBJECTION, YOUR HONOR.

11 THE COURT: WITHOUT OBJECTION STATE'S 3 IS ADMITTED.

12 (STATE'S EXHIBIT NO. 3 RECEIVED IN EVIDENCE.)

13 MS. FENT: IF I COULD ASK THE WITNESS TO COME DOWN.

14 THE COURT: KEEP YOUR VOICE UP PLEASE, SIR, WHILE  
15 YOU'RE OFF THE STAND.

16 WITNESS: YES, SIR.

17 (THE WITNESS STEPS DOWN FROM THE WITNESS STAND.)

18 Q MR. KEYS, I NEED YOU TO SPEAK AS LOUD AS POSSIBLE SO  
19 THAT THE PEOPLE IN THE BACK OF THE COURTROOM CAN HEAR YOU.

20 OKAY?

21 A YES.

22 Q BASICALLY, SEE IF YOU CAN DESCRIBE HERE WHAT WE'RE  
23 SEEING IN THIS DIAGRAM?

24 A IN THIS DIAGRAM -- YOU'RE SEEING THE AREAS OF address  
25 HUNT CLUB ROAD, address WHICH

RUFUS KEYS -- DIRECT BY MS. FENT

- 1 IS THE COMPLEX JUST BEHIND THE PROPERTY, RIGHT ON THE SIDE  
2 BUT IN BETWEEN THE WOODS. THE FOOD FAIR IS RIGHT HERE OFF  
3 OF HUNT CLUB ROAD.
- 4 Q STATE'S EXHIBIT NO. 2, THIS PHOTOGRAPH RIGHT HERE.  
5 WOULD THAT BE THIS ENTRANCE OFF OF HUNT CLUB ROAD?
- 6 A YES.
- 7 Q OKAY. AND SO THIS VIEW HERE WOULD BE FROM THIS  
8 ENTRANCE DOWN TO THE FOOD FAIR?
- 9 A YES.
- 10 Q OKAY. JUST TO KIND OF PUT IT INTO PERSPECTIVE.  
11 address CAN YOU PLACE THAT?
- 12 A RIGHT HERE.
- 13 Q OKAY. THIS IS address
- 14 A YES.
- 15 Q AND THIS IS WHERE YOU CONFIRMED THAT SOME APARTMENTS  
16 HAD BEEN BROKEN INTO?
- 17 A YES.
- 18 Q OKAY. AND SO THE CORNER WOULD BE RIGHT THERE?
- 19 A YES.
- 20 Q SO LOOKING AT STATE'S EXHIBIT NO. 1, THAT TREE RIGHT  
21 THERE, THAT'S ---
- 22 A THAT AREA IS RIGHT THERE.
- 23 Q IS RIGHT THERE?
- 24 A YES.
- 25 Q OKAY. AND THEN THROUGH THESE WOODS, YOU SAID A PERSON

STATE V. TERRANCE ADAMS

1 CAN WALK THROUGH THERE?

2 A YES, THROUGH THESE WOODS THERE'S A TOTAL OF MAYBE FIVE  
3 DIFFERENT PATHS THAT YOU CAN WALK THROUGH. AND WHAT YOU DO  
4 IS WALK THROUGH address AND CUT THROUGH AND COME OUT AND  
5 WALK TO THE FOOD FAIR.

6 Q OKAY. AND THEN WHERE WERE YOU WHEN YOU CONTACTED --  
7 OR ASIA CONTACTED YOU ABOUT SEEING A SUSPICIOUS PERSON?

8 A I WAS OVER HERE ON THIS SIDE OF BUILDING 14.

9 Q OKAY. HOW MUCH TIME DO YOU THINK -- WELL, YOU SAID  
10 MAYBE 7 OR 8 MINUTES PASSED BETWEEN GETTING THE INFORMATION  
11 AND CONFIRMING BREAK-INS HAD HAPPENED?

12 A YES, MA'AM.

13 Q OKAY. AND THEN WHERE DO YOU GO WITH ASIA? YOU GO  
14 DIRECTLY UP HERE OR ---

15 A WE GO DIRECTLY BACK OUT, HIT HUNT CLUB ROAD, AND WE  
16 RIDE PAST THE STORE. AND THAT'S WHEN ASIA COULD SEE THAT  
17 THE GUY WAS SITTING THERE -- THE DEFENDANT WAS SITTING AT  
18 THE PHONE BOOTH. AND SO HE SAID, CARL, THAT'S THE GUY. SO  
19 WENT BACK TO THE PROPERTY AND I CALLED DALE.

20 Q OKAY. YOU CAN HAVE A SEAT RIGHT NOW. THANK YOU.

21 (THE WITNESS RETURNS TO THE WITNESS STAND.)

22 Q PRIOR TO TESTIFYING TODAY YOU HAD AN OPPORTUNITY TO  
23 VIEW A VIDEO TAPE?

24 A YES, OF THE FOOD FAIR.

25 Q OF THE FOOD FAIR.

1 (VIDEO TAPE MARKED FOR IDENTIFICATION AS STATE'S  
2 EXHIBIT NO. 4.)

3 Q I'M GOING TO SHOW YOU WHAT I'VE MARKED AS STATE'S  
4 EXHIBIT NO. 4. IS THAT THE VIDEO TAPE THAT YOU TOOK A LOOK  
5 AT BEFORE TESTIFYING?

6 A YES, MA'AM.

7 Q OKAY. AND YOU SAID IT'S OF THE FOOD FAIR. CAN YOU BE  
8 A LITTLE BIT MORE SPECIFIC? WHAT IS THE VIEW ON THIS VIDEO  
9 TAPE?

10 A THE VIEW SHOWS ME DRIVING UP AND GOING INTO THE STORE,  
11 CALLING -- WELL, ACTUALLY, I JUST DROVE UP AND I SEEN THE  
12 DEFENDANT. AND THAT'S WHEN I CALLED DISPATCH, AND WENT ON  
13 BACK TO THE PROPERTY TO GET THE UPS GUY.

14 Q OKAY. SO BASICALLY THIS IS A SURVEILLANCE VIDEO TAPE  
15 AT THE FOOD FAIR?

16 A YES, MA'AM.

17 Q THAT SHOWS THE OUTSIDE OF THE FOOD FAIR?

18 A YES, MA'AM.

19 Q NOT THE INTERNAL, I GUESS, STORE, BUT IT SHOWS THE  
20 OUTSIDE?

21 A OUTSIDE, YES, MA'AM.

22 Q AND WATCHING THIS VIDEO TAPE, DOES IT ACCURATELY  
23 REFLECT THE EVENTS THAT TRANSPIRED IN THAT PARKING LOT OF  
24 THE FOOD FAIR?

25 A YES, MA'AM.

1 Q IS ANYTHING DELETED FROM THIS VIDEO TAPE?

2 A NO, MA'AM.

3 Q IS ANYTHING ADDED OR MANIPULATED IN THE VIDEO TAPE?

4 A NO, MA'AM.

5 Q AND THE PHOTOGRAPH OR THE VIDEO FOOTAGE ACCURATELY  
6 DEPICTS THE EVENTS OF THE TIME LINE YOU'VE JUST TESTIFIED  
7 TO?

8 A YES, MA'AM.

9 MS. FENT: WE'D OFFER INTO EVIDENCE STATE'S EXHIBIT  
10 NO. 4.

11 MR. SUTHERLAND: OBJECTION, YOUR HONOR, WITHOUT  
12 FOUNDATION.

13 MS. FENT: VIDEO TAPE, FOUNDATION ---

14 MR. SUTHERLAND: MAY WE APPROACH, YOUR HONOR.

15 THE COURT: SURE.

16 (A BENCH CONFERENCE WAS HELD OFF THE RECORD IN THE  
17 PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

18 THE COURT: ALL RIGHT. THE OBJECTION IS OVERRULED.  
19 STATE'S 4 IS ADMITTED.

20 (STATE'S EXHIBIT NO. 4 RECEIVED IN EVIDENCE.)

21 MS. FENT: AT THIS TIME, YOUR HONOR, WE REQUEST TO  
22 PUBLISH STATE'S EXHIBIT NO. 4 TO THE JURY.

23 THE COURT: ALL RIGHT.

24 (PAUSE.)

25 THE COURT: CAN EVERYONE IN THE JURY BOX SEE THE

RUFUS KEYS -- DIRECT BY MS. FENT

1 TELEVISION FROM WHERE YOU'RE SEATED?

2 JURORS: YES, SIR.

3 THE COURT: ALL RIGHT. HOW ABOUT MOVE THAT EASEL  
4 THAT'S LEANING UP RIGHT THERE AGAINST THE JURY BOX.

5 (PAUSE.)

6 MS. FENT: MAY I ASK THE WITNESS TO STEP DOWN?

7 THE COURT: YES. AGAIN, KEEP YOUR VOICE UP WHILE YOU  
8 DON'T HAVE THE MICROPHONE PLEASE.

9 WITNESS: YES, SIR.

10 (THE WITNESS STEPS DOWN FROM THE WITNESS STAND.)

11 (VIDEO TAPE PLAYED IN OPEN COURT.)

12 Q OKAY. MR. KEYS, I'M GOING TO DRAW YOUR ATTENTION TO  
13 THIS BOTTOM RIGHT-HAND SCREEN. IS THAT -- CAN YOU TELL US  
14 WHAT'S IN THIS BOTTOM RIGHT-HAND SCREEN?

15 A YES.

16 Q OKAY. WHAT IS THAT? WHAT IS THAT VIEW OF?

17 A THAT'S THE VIEW OF THE FRONT OF THE FOOD FAIR.

18 Q OKAY. AND WHAT KIND OF CAR ARE YOU DRIVING WHEN WE  
19 SEE THIS?

20 A I'M DRIVING A FORD RANGER.

21 Q OKAY. IS THAT WHAT YOU COME IN INITIALLY WITH ASIA?

22 A YES. BUT IN THIS -- I COME IN WITHOUT ASIA IN THIS  
23 PARTICULAR ONE.

24 Q OKAY.

25 A OKAY.

1 Q AND THIS ROAD OUT HERE IS HUNT CLUB DRIVE?

2 A YES.

3 Q OKAY. ARE THOSE THE OTHER BUSINESSES, I GUESS, IN THE  
4 COMPLEX?

5 A THE PLAZA.

6 Q OKAY. WHO IS THIS PERSON THAT JUST APPROACHED?

7 A THAT'S THE DEFENDANT.

8 Q OKAY. IS THAT THE ONE THAT ASIA FERGUSON POINTED OUT  
9 TO YOU?

10 A YES, MA'AM.

11 Q OKAY. NOW THIS PERSON JUST SAT DOWN -- THE DEFENDANT  
12 JUST SAT DOWN OUTSIDE. IS THAT WHERE YOU SEE HIM?

13 A YES, IT IS.

14 Q OKAY. WHAT IS THAT RIGHT THERE WHERE THE DEFENDANT IS  
15 STANDING?

16 A THIS IS THE TELEPHONE BOOTH.

17 Q OKAY. KEEP YOUR VOICE UP.

18 A THAT'S THE TELEPHONE BOOTH.

19 Q OKAY. AND HE'S USING THE TELEPHONE THERE?

20 A YES.

21 Q THE DRIVEWAY THAT YOU'VE DESCRIBED COMING THROUGH THE  
22 BUSHES, WHERE THE CAR IS -- IN WHICH DIRECTION ON THIS  
23 VIDEO IS THIS DRIVE GOING TO BE?

24 A WHICH ONE THERE?

25 Q THE DRIVE COMING THROUGH THE BUSHES?

- 1 A IT'S GOING TO BE RIGHT OVER HERE OFF TO THE SIDE.
- 2 Q OKAY. SO COMING BACK FROM THIS PART OF THE SCREEN
- 3 FORWARD?
- 4 A RIGHT.
- 5 Q OKAY. WHEN YOU'RE IN THE VIDEO, LET US KNOW. OKAY?
- 6 A OKAY. THAT'S MY TRUCK PULLING UP RIGHT THERE.
- 7 Q OKAY.
- 8 A IN THE DRIVEWAY.
- 9 Q IT'S THAT RED TRUCK?
- 10 A YES.
- 11 Q THAT'S YOU?
- 12 A YES, MA'AM.
- 13 Q OKAY. WHAT ARE YOU DOING?
- 14 A I'M WALKING INTO THE STORE. I NOTICE THE DEFENDANT
- 15 SITTING RIGHT THERE -- RIGHT HERE. THERE'S SOME BAGS.
- 16 THERE'S THREE DIFFERENT BAGS SITTING HERE. THIS PARTICULAR
- 17 TIME OF YEAR WAS REAL HOT. AND ASIA HAD TOLD ME WHAT HE
- 18 HAD ON. SO I NOTICED THAT WAS THE PERSON. SO I WENT IN
- 19 THE STORE AND I CALLED DISPATCH.
- 20 Q OKAY. AND DID YOU JUST COME BACK OUT? WAS THAT YOU
- 21 THAT CAME BACK OUT?
- 22 A NO.
- 23 Q OKAY. SO YOU'RE CALLING LAW ENFORCEMENT AT THIS TIME?
- 24 A YES, MA'AM.
- 25 Q OKAY.

1 A AND THAT'S ME COMING OUT AND THEN GETTING INTO MY  
2 TRUCK.

3 Q OKAY.

4 A AND GOING BACK TO THE PROPERTY TO MEET DALE.

5 Q OKAY. DALE HUNT, THE INVESTIGATOR?

6 A YES.

7 Q SO FAR THE DEFENDANT IS STILL SITTING THERE?

8 A YES, MA'AM.

9 Q NO ONE'S APPROACHED HIM, NO ONE'S TALKED TO HIM?

10 A NO, MA'AM.

11 Q WHO IS THIS NOW?

12 A THIS IS DALE DRIVING UP.

13 Q OKAY. AND ARE YOU WITH HIM?

14 A YES.

15 Q OKAY. SO THAT'S DALE HUNT APPROACHING THE DEFENDANT?

16 A YES.

17 Q OKAY. AND WHO IS THAT? THAT WAS ANOTHER OFFICER?

18 A YES, MA'AM.

19 Q OKAY.

20 A AND I GET OUT AND HOLD HIM DOWN THERE.

21 Q SPEAK UP.

22 A I GET OUT AND HELD HIM DOWN THERE AND GOT BACK IN THE  
23 CAR.

24 Q OKAY. ARE THERE SOME OTHER OFFICERS NOW THAT ARE  
25 STARTING TO SHOW UP?

RUFUS KEYS -- DIRECT BY MS. FENT

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- 1 A YES, MA'AM.
- 2 Q OKAY. AND YOU'RE JUST REMAINING IN THE TRUCK?
- 3 A YES.
- 4 Q OKAY. THE DEFENDANT'S STILL DOWN HERE IN THE SAME  
5 SPOT?
- 6 A YES, MA'AM.
- 7 Q OKAY. WHAT'S HAPPENING NOW? JUST ---
- 8 A BASICALLY THEY'RE JUST HOLDING THE SUSPECT UNTIL THE  
9 ONES THAT HAD THEIR APARTMENTS BROKEN INTO, THEY'RE ABOUT  
10 TO COME DOWN SHORTLY AND GO THROUGH SOME OF THE STUFF THAT  
11 WERE IN THE BAGS AND IDENTIFY WHAT WAS MISSING OUT OF THEIR  
12 APARTMENTS.
- 13 Q OKAY.. WHAT'S HAPPENING NOW?
- 14 A PARAMEDICS ARE CHECKING DALE AND THE SUSPECT.
- 15 Q OKAY. WE SAW THERE WAS A SCUFFLE?
- 16 A YES, MA'AM.
- 17 Q OKAY. WHERE ARE YOU AT THIS POINT?
- 18 A I'M STILL IN DALE'S SUV.
- 19 Q OKAY. STILL IN THE TRUCK, JUST WATCHING WHAT'S GOING  
20 ON?
- 21 A YES, MA'AM.
- 22 Q JUST STEP BACK JUST A LITTLE BIT.
- 23 A (COMPLIED.)
- 24 Q AND NOW WHAT ARE WE BASICALLY WATCHING HERE?
- 25 A THE PARAMEDICS PUTTING THE SUSPECT ON THE -- GETTING

1 READY TO PUT HIM IN THE AMBULANCE.

2 Q OKAY. PROVIDING HIM MEDICAL ATTENTION?

3 A YES.

4 Q OKAY. AFTER THIS HOW MUCH LONGER DO YOU THINK YOU  
5 STAY OUT THERE WATCHING WHAT'S GOING ON?

6 A I'D SAY BETWEEN AN HOUR, HOUR AND A HALF.

7 Q OKAY.

8 A BECAUSE THE RESIDENTS THEY HAD TO STILL COME DOWN AND  
9 IDENTIFY THEIR STUFF.

10 Q OKAY. AND THAT'S WHAT BASICALLY WE'RE GOING TO WATCH  
11 FROM THIS POINT ON IS ---

12 A RESIDENTS ARE GOING TO START COMING UP, GOING THROUGH  
13 THEIR STUFF.

14 Q OKAY. AND POINTING OUT THEIR PROPERTY FROM WHAT'S  
15 LAID OUT. WHAT HAVE THEY DONE WITH THE PROPERTY HERE?

16 A WELL, WHAT THEY'RE GOING TO DO IS THEY'RE GOING TO  
17 POINT IT OUT, AND THE RESIDENTS THAT WE WERE ABLE TO GET IN  
18 CONTACT WITH, THEY'RE GOING TO COME UP AND IDENTIFY SOME OF  
19 THEIR STUFF.

20 Q OKAY.

21 A LATER ON THE REST OF THE RESIDENTS WILL HAVE TO GO  
22 DOWN TO RICHLAND COUNTY AND LOOK THROUGH THEIR STUFF,  
23 IDENTIFY IT.

24 Q OKAY. BUT HERE PHYSICALLY WHAT ARE THEY DOING WITH  
25 THE PROPERTY?

1 A THEY'RE LAYING IT OUT SO THE RESIDENTS CAN COME AND  
2 IDENTIFY WHAT'S MISSING OUT OF THEIR APARTMENT.

3 Q OKAY. TAKING IT OUT OF THE BAG AND PHYSICALLY LAYING  
4 IT OUT?

5 A YES.

6 Q OKAY. ANYTHING ELSE THAT GOES ON BESIDES THE  
7 INDIVIDUALS PICKING OUT THEIR PROPERTY?

8 A NO, MA'AM.

9 Q OKAY. YOU CAN HAVE A SEAT BACK UP THERE.

10 (THE WITNESS RETURNS TO THE WITNESS STAND.)

11 (END OF THE VIDEO TAPE BEING PLAYED IN OPEN COURT.)

12 Q ANYTHING ELSE THAT YOU DID IN CONNECTION WITH THESE  
13 BURGLARIES?

14 A WELL, I WOULD JUST GET UP EARLY IN THE MORNING BECAUSE  
15 THE RESIDENTS WAS HAVING A REAL BAD TIME. THEY WERE  
16 FEELING UNCOMFORTABLE.

17 Q OKAY. BASICALLY THEN YOU WENT AND REPAIRED THE DAMAGE  
18 TO THE APARTMENTS?

19 A YES, MA'AM.

20 Q OKAY. AND WHAT KIND OF REPAIRS DID YOU HAVE TO MAKE  
21 TO THESE APARTMENTS?

22 A WE HAD TO REPAIR THE THRESHOLDS OF THE DOORS WHICH  
23 WERE KICKED IN.

24 Q SO THE LOCKS WERE ACTUALLY BUSTED THROUGH?

25 A YES, MA'AM.

1 MS. FENT: I HAVE NO FURTHER QUESTIONS FOR HIM AT THIS  
2 TIME. PLEASE ANSWER ANY QUESTIONS THE DEFENSE HAS.

3 THE COURT: MR. SUTHERLAND.

4 CROSS EXAMINATION BY MR. SUTHERLAND:

5 Q MR. KEYS ---

6 A YES, SIR.

7 Q --- GOOD AFTERNOON. I THINK YOU TESTIFIED THAT YOU  
8 SAW MR. ADAMS AT THE FOOD FAIR?

9 A YES, SIR.

10 Q WHAT TIME WAS IT THAT YOU FIRST WENT TO THE FOOD FAIR?  
11 DO YOU KNOW AN APPROXIMATION?

12 A 11:30, 12:00.

13 Q AND THE SECOND TIME?

14 A A FEW MINUTES LATER, 15, 20 MINUTES LATER.

15 Q AND THE FIRST TIME YOU ARRIVED, WAS MR. ADAMS ON THE  
16 PHONE OR SITTING DOWN OR STANDING UP?

17 A HE WAS SITTING DOWN NEXT TO THE PHONE BOOTH WITH THE  
18 THREE BAGS RIGHT THERE NEXT TO HIM.

19 Q THE SECOND TIME IS THE SAME, HE WAS JUST SITTING  
20 THERE?

21 A YES, SIR.

22 Q SO YOU SAW MR. ADAMS TWO TIMES ON APRIL 19?

23 A YES, SIR.

24 Q AND BOTH TIMES AT THE FOOD FAIR?

25 A YES, SIR.

RUFUS KEYS -- CROSS BY MR. SUTHERLAND

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1 Q AND YOU HAD TESTIFIED THAT THESE DOORS BEEN KICKED IN;  
2 THAT'S HOW THEY'D BEEN OPENED?

3 A YES, SIR.

4 Q DID YOU EVER GIVE A WRITTEN STATEMENT TO THE POLICE,  
5 SIR?

6 A I BELIEVE SO.

7 Q DO YOU REMEMBER SIGNING IT?

8 A I BELIEVE SO. I BELIEVE IT WAS WITH INVESTIGATOR DALE  
9 HUNT.

10 MR. SUTHERLAND: BEG THE COURT'S INDULGENCE, SIR.

11 THE COURT: ALL RIGHT.

12 (PAUSE.)

13 Q DO YOU HAVE THAT STATEMENT WITH YOU?

14 A NO, MA'AM. I'M SORRY. NO, SIR.

15 Q THAT'S ALL RIGHT. AND SO YOU SAW HIM TWO TIMES AT THE  
16 FOOD FAIR?

17 A UH-HUH. YES, SIR.

18 MR. SUTHERLAND: NO FURTHER QUESTIONS. THANK YOU.

19 THE COURT: ANY REDIRECT?

20 MS. FENT: NO FURTHER QUESTIONS.

21 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

22 (THE WITNESS LEAVES THE WITNESS STAND.)

23 THE COURT: ALL RIGHT. CALL YOUR NEXT WITNESS PLEASE.

24 MR. CATHCART: THE STATE CALLS DALE HUNT.

25 DALE G. HUNT, JR., BEING

STATE V. TERRANCE ADAMS

1 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

2 CLERK: PLEASE HAVE A SEAT THERE. SPEAK INTO THE  
3 MICROPHONE. STATE YOUR FULL NAME FOR THE RECORD.

4 WITNESS: MY NAME IS DALE GARDNER HUNT, JR.

5 DIRECT EXAMINATION BY MR. CATHCART:

6 Q MR. HUNT, WHERE ARE YOU EMPLOYED AT?

7 A PROBATION AGENT FOR THE UNITED STATES.

8 Q SO YOU'RE A FEDERAL PROBATION AGENT?

9 A YES, I AM.

10 Q WERE YOU A FEDERAL PROBATION AGENT BACK ON APRIL 19,  
11 2005?

12 A NO, I WASN'T.

13 Q WHERE WERE YOU EMPLOYED AT THAT TIME?

14 A I WAS AN INVESTIGATOR WITH THE RICHLAND COUNTY  
15 SHERIFF'S DEPARTMENT.

16 Q HOW LONG HAD YOU BEEN AN INVESTIGATOR WITH RICHLAND  
17 COUNTY SHERIFF'S DEPARTMENT?

18 A FOR ABOUT 2 YEARS.

19 Q OKAY. WHAT DID YOU DO BEFORE THAT?

20 A I WAS -- I WAS A SUPERVISOR ON THE ROAD.

21 Q AGAIN WITH THE SHERIFF'S DEPARTMENT?

22 A I WAS AT THE SHERIFF'S DEPARTMENT.

23 Q WERE YOU A MASTER DEPUTY?

24 A I WAS A MASTER DEPUTY.

25 Q IN CHARGE OF YOUR OWN GROUP OF PEOPLE?

1 A I DID IN REGION 3.

2 Q WHAT'S REGION 3?

3 A THAT'S AN AREA OF COLUMBIA THAT I WORKED. IT'S THE  
4 NORTH AREA -- NORTH COLUMBIA AREA, MONTICELLO, MAIN. I WAS  
5 A NARCOTICS INVESTIGATOR PRIOR TO COMING OVER TO C.I.D. AND  
6 HANDLING BURGLARIES AND ASSAULTS AND THAT TYPE OF THING.

7 Q HOW LONG HAVE YOU BEEN WITH LAW ENFORCEMENT ALL  
8 TOGETHER?

9 A ABOUT 7 YEARS. PRIOR TO THAT I WORKED WITH THE CITY  
10 OF COLUMBIA IN THE NORTH AREA OF COLUMBIA AS WELL.

11 Q BASICALLY, THE SAME REGION YOU'D BEEN IN FOR 7-ODD  
12 YEARS?

13 A YES.

14 Q AND YOU WERE AN INVESTIGATOR AS YOU STATED ON APRIL  
15 19, 2005?

16 A I WAS.

17 Q AND PURSUANT TO YOUR JOB AS AN INVESTIGATOR HAD YOU  
18 BEEN IN CONTACT WITH PEOPLE AT THE HUNT CLUB VILLAGE?

19 A YES, I HAD.

20 Q AND IN REFERENCE TO WHAT?

21 A BURGLARIES.

22 Q OKAY. AND THEY IN FACT HAD YOUR TELEPHONE NUMBER,  
23 DIDN'T THEY?

24 A I GAVE THEM MY PHONE NUMBER.

25 Q SO THEY COULD GET IN TOUCH WITH YOU PERSONALLY?

- 1 A EXACTLY.
- 2 Q WAS THAT A HOME NUMBER OR A ---
- 3 A IT WAS MY CELL NUMBER.
- 4 Q OKAY. AND THEY CALLED -- YOU'D GIVEN THEM YOUR CELL  
5 NUMBER. DID YOU RECEIVE A CALL FROM ANYONE ON APRIL THE  
6 19TH, 2005?
- 7 A I DID, JILL CALLED ME.
- 8 Q AND JILL IS JILL WHO?
- 9 A JILL IS THE APARTMENT MANAGER AT THAT TIME FOR HUNT  
10 CLUB.
- 11 Q SHE CALLED YOU IN REFERENCE TO WHAT?
- 12 A THAT THERE HAD POSSIBLY BEEN SOME BURGLARIES THAT HAD  
13 JUST BEEN COMMITTED ON THE PROPERTY AND WANTED TO KNOW IF I  
14 COULD COME OVER THERE.
- 15 Q OKAY. DO YOU RECALL ABOUT WHAT TIME SHE CALLED YOU?
- 16 A IT WAS ABOUT NOON TIME.
- 17 Q AND WHERE WERE YOU WHEN YOU RECEIVED THAT CALL?
- 18 A I WAS ON I-20.
- 19 Q OKAY. I-20 IN FLORENCE OR AUGUSTA OR WHERE?
- 20 A IT WAS ABOUT I-20 IN BETWEEN FAIRFIELD AND MAIN.
- 21 Q AND SO HOW LONG DID IT TAKE YOU TO GET TO THE HUNT  
22 CLUB APARTMENTS?
- 23 A NOT VERY LONG, I'D SAY. ABOUT 10, 15 MINUTES.
- 24 Q AND WHEN YOU ARRIVED AT THE HUNT CLUB APARTMENTS, WHAT  
25 OCCURRED?

- 1 A WHEN I PULLED INTO THE APARTMENT COMPLEX, JILL AND  
2 CARL WERE STANDING OUTSIDE.
- 3 Q WHEN YOU SAY CARL, WHO'S CARL? CARL WHO?
- 4 A THE MAINTENANCE MAN.
- 5 Q OKAY.
- 6 A CARL KEYS.
- 7 Q THE FELLOW THAT TESTIFIED JUST A FEW MINUTES AGO?
- 8 A YES.
- 9 Q AND WHAT OCCURRED WHEN YOU PULLED UP AND MET CARL AND  
10 JILL?
- 11 A THEY HAD TOLD ME THAT THERE HAD BEEN BURGLARIES,  
12 FRESHLY COMMITTED BURGLARIES, THAT DOORS WERE OPEN. AND  
13 CARL TOLD ME THAT THE GUY THAT THEY HAD SEEN IN THE BACK,  
14 THE UPS MAN HAD POINTED OUT TO THEM, WAS DOWN AT THE FAST  
15 POINT -- AT THAT TIME THE FOOD FAIR, EXCUSE ME -- AT THAT  
16 TIME.
- 17 Q THESE APARTMENTS, THEY'RE IN RICHLAND COUNTY?
- 18 A YES, THEY ARE.
- 19 Q ALL 6 OF THESE APARTMENTS?
- 20 A YES, THEY ARE.
- 21 Q AND FOOD FAIR, IS IT IN RICHLAND COUNTY ALSO?
- 22 A YES, IT IS.
- 23 Q WHEN THEY TOLD YOU BURGLARIES HAD TAKEN PLACE AND THAT  
24 THE GUY WAS NEARBY, WHAT OCCURRED?
- 25 A WELL, I ASKED CARL TO JUMP IN THE CAR WITH ME AND TO

1 RIDE DOWN THERE WITH ME AND POINT THE GUY OUT THAT  
2 APPARENTLY THE UPS MAN HAD POINTED OUT TO HIM AS COMING  
3 FROM BACK BEHIND THE BUILDING.

4 Q OKAY. AND WHAT HAPPENED?

5 A CARL JUMPED IN MY VEHICLE AND WE DROVE A SHORT  
6 DISTANCE AWAY AND PULLED IN. AND CARL POINTED MR. TERRANCE  
7 ADAMS OUT TO ME AS THAT INDIVIDUAL WHO ASIA HAD POINTED OUT  
8 TO HIM AS BEING CONCEALING HIMSELF BACK BEHIND THE  
9 BUILDING.

10 Q WHAT DID YOU DO AT THAT POINT?

11 A WELL, WHEN I PULLED IN, I RADIOED THE SUSPECT'S  
12 DESCRIPTION AND ADVISED CENTRAL THAT I WAS GETTING OUT WITH  
13 THE INDIVIDUAL. I SAW THAT HE HAD TWO BAGS ON EITHER SIDE  
14 OF HIM. I APPROACHED HIM, INTRODUCED MYSELF, ADVISED HIM I  
15 WAS WITH THE SHERIFF'S DEPARTMENT.

16 Q YOU DID ADVISE HIM THAT YOU WERE LAW ENFORCEMENT?

17 A YES. I WAS ACTUALLY DRIVING AN UNMARKED UNIT.  
18 HOWEVER, I HAD MY BADGE AND WEAPON ON MY HIP.

19 Q OKAY. DID YOU DISPLAY YOUR BADGE TO HIM ---

20 A YES.

21 Q --- SO HE KNEW WHO YOU WERE?

22 A YES, IT WAS -- MY BADGE WAS DISPLAYED. I ASKED HIM --  
23 HAD A CONVERSATION WITH HIM ABOUT WHAT HE WAS DOING. HE  
24 HANDED ME A LETTER THAT HE WAS READING.

25 Q WAS HE RESPONSIVE TO YOUR CONVERSATION?

1 A HE SEEMED CONFUSED TO ME. I ASKED HIM EXACTLY WHAT HE  
2 WAS DOING. AND HE DIDN'T SAY ANYTHING. HE JUST HANDED ME  
3 THE LETTER. THAT SEEMED UNUSUAL TO ME.

4 I CONTINUED AND ASKED HIM FOR SOME IDENTIFICATION.  
5 AND HE BECAME HOSTILE AND SAID THAT HE HAD RIGHTS, THAT HE  
6 DIDN'T HAVE TO GIVE ME ANYTHING.

7 I ASKED HIM ABOUT THE BAGS. HE SAID THE BAGS WEREN'T  
8 HIS.

9 Q SO HE DENIED ANY KNOWLEDGE OF THE BAGS?

10 A YES.

11 Q THAT WERE SITTING BESIDE HIM?

12 A ON EITHER SIDE OF HIM.

13 Q AND THEN WHAT DID YOU DO?

14 A WELL, AT THAT POINT I COULD SEE THAT HE HAD BULGES IN  
15 BOTH OF HIS FRONT POCKETS. AND I DECIDED THAT I WAS GOING  
16 TO DETAIN HIM, HANDCUFF HIM. AND I ASKED HIM TO STAND UP.  
17 AND HE REFUSED TO DO SO.

18 AND OVER THE BACK OF MY SHOULDER I COULD SEE A MARKED  
19 UNIT PULLING IN. AND AS I WENT DOWN TO SECURE HIS HAND, HE  
20 WENT TO HIS POCKET. AND I GRABBED HIS HAND, AND WE STOOD  
21 UP AS LATER DEPUTY SOTO WAS ACTUALLY WHO PULLED UP BEHIND  
22 ME.

23 I ADVISED DEPUTY SOTO THAT HE WAS REACHING FOR HIS  
24 POCKET, THAT I BELIEVE THAT HE HAD SOMETHING IN HIS POCKET.

25 AND WE TOOK HIM TO THE WALL AND A STRUGGLE ENSUED.

1 Q OKAY. DID HE COMPLY WITH YOUR COMMANDS TO ALLOW HIM  
2 TO BE DETAINED?

3 A NO, HE DID NOT.

4 Q DID YOU AT THAT POINT PLACE HIM UNDER ARREST OR  
5 ATTEMPT TO PLACE HIM UNDER ARREST?

6 A YES, I DID. I ADVISED HIM THAT HE WAS UNDER ARREST..

7 Q AND WHAT DID HE DO WHEN YOU ADVISED HIM THAT HE WAS  
8 UNDER ARREST?

9 A HE WAS TRYING TO GET AWAY. HE WAS SWINGING HIS ARMS.  
10 HE WAS TRYING TO PUSH OFF, REACHING TOWARD HIS POCKET.

11 Q AND WHAT OCCURRED AFTER THAT?

12 A WE MANAGED TO GET HIM TO THE GROUND, AND HE CONTINUED  
13 TO VIGOROUSLY STRUGGLE WITH US, MOVING HIS ARMS AND MOVING  
14 HIS LEGS. TRYING TO SUBDUE HIM, ALONG WITH DEPUTY SOTO.  
15 AND WASN'T COMPLYING.

16 AGAIN, WE TOLD HIM THAT HE WAS UNDER ARREST, AND WE  
17 TOLD HIM TO STOP RESISTING US.

18 Q AND AT SOME POINT WAS MR. KEYS HELPFUL TO SUBDUE HIM?

19 A DURING THE STRUGGLE, I WAS ABLE TO GET OUT ON THE  
20 RADIO THAT WE WERE STRUGGLING WITH THE INDIVIDUAL. AND AS  
21 I LOOKED UP TO DO THAT, I COULD SEE CARL COMING AROUND THE  
22 SIDE OF US, AND HE GRABBED MR. ADAMS' LEGS. AND BY DOING  
23 THAT, WAS ABLE TO GET HIM OFF BALANCE FROM MOVING AROUND  
24 AND KICKING AND SWINGING, AND WE WERE ABLE TO GRAB HIS  
25 OTHER ARM AND HANDCUFF HIM.

1 Q AND PURSUANT TO YOU'RE ABLE TO RETAIN -- OR, I GUESS,  
2 PUT HIM IN RESTRAINTS. DID YOU PAT HIM DOWN TO MAKE SURE  
3 HE DID OR DID NOT HAVE ANY WEAPONS ON HIM?

4 A THAT'S WHAT WE WERE IN THE PROCESS OF TRYING TO DO.

5 Q OKAY. AND WERE YOU ABLE TO DO THAT?

6 A AFTER THE FACT WE WERE.

7 Q AND SUBSEQUENT TO PATTING HIM DOWN, DID YOU FIND ANY  
8 WEAPONS ON HIM?

9 A HE HAD A KNIFE IN HIS POCKET.

10 Q THE POCKET HE WAS REACHING FOR?

11 A YES.

12 (KNIFE MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT  
13 NO. 5.)

14 Q I HAND YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NO.  
15 5. DO YOU RECOGNIZE THAT?

16 A YES, I DO.

17 Q WHAT IS THAT?

18 A THAT IS THE KNIFE THAT HE HAD IN HIS POCKET THAT WE  
19 PULLED OUT OF HIS POCKET.

20 MR. CATHCART: YOUR HONOR, AT THIS TIME, THE STATE  
21 MOVES TO ENTER STATE'S EXHIBIT NO. 5 INTO EVIDENCE.

22 THE COURT: ANY OBJECTION?

23 MS. MOBLEY: OBJECTION, YOUR HONOR, AS TO RELEVANCE.  
24 IT'S PREJUDICIAL. IT HAS NO BEARING ON THE CASE.

25 MR. CATHCART: YOUR HONOR, HE WAS ALSO CHARGED WITH

1 RESISTING ARREST.

2 MS. MOBLEY: THERE'S ALREADY BEEN TESTIMONY ON THE  
3 RECORD ABOUT THAT. THAT'S IRRELEVANT.

4 THE COURT: ALL RIGHT. THE OBJECTION IS OVERRULED.  
5 IT WILL BE ADMITTED.

6 MR. CATHCART: THANK YOU, YOUR HONOR.

7 THE COURT: WHAT EXHIBIT IS IT?

8 MR. CATHCART: EXHIBIT NO. 5.

9 THE COURT: STATE'S 5.

10 (STATE'S EXHIBIT NO. 5 RECEIVED IN EVIDENCE.)

11 Q WHEN YOU WERE SECURING HIM, MAKING SURE HE DIDN'T HAVE  
12 ANY OTHER WEAPONS OTHER THAN THAT, DID YOU FIND ANYTHING  
13 ELSE ON HIS PERSON?

14 A THERE WAS A SCREWDRIVER.

15 (SCREWDRIVER MARKED FOR IDENTIFICATION AS STATE'S  
16 EXHIBIT NO. 6.)

17 Q WOULD YOU LOOK AT WHAT'S BEEN MARKED AS STATE'S  
18 EXHIBIT NO. 6. DO YOU RECOGNIZE THAT?

19 A THAT'S IT.

20 Q THAT IS THE SCREWDRIVER THAT WAS REMOVED FROM HIS  
21 PERSON?

22 A YES, IT WAS.

23 Q WERE YOU ABLE TO DETERMINE WHO THE SCREWDRIVER  
24 BELONGED TO?

25 A I BELIEVE THAT SCREWDRIVER BELONGED TO MR. NOTTINGHAM.

1 Q OKAY. AND MR. NOTTINGHAM IS WHO?

2 A ONE OF THE VICTIMS OF THE BURGLARY.

3 Q WHO HAD AN APARTMENT THAT HAD BEEN BROKEN INTO?

4 A YES, HE DID.

5 Q THAT MORNING?

6 A YES, IT WAS.

7 Q IF YOU WOULD, PLEASE SPEAK LOUDER. OKAY? WHAT ELSE  
8 DID YOU REMOVE FROM HIS PERSON?

9 A HE HAD A PAIR OF LATEX GLOVES.

10 (ENVELOPE CONTAINING LATEX GLOVES MARKED FOR  
11 IDENTIFICATION AS STATE'S EXHIBIT NO. 7.)

12 Q LET ME GET YOU TO TAKE A LOOK AT WHAT'S BEEN MARKED AS  
13 STATE'S EXHIBIT NO. 7. COULD YOU TELL ME WHAT THOSE ARE?

14 A THOSE APPEAR TO BE THE GLOVES THAT COME OUT OF HIS  
15 POCKET, MOST DEFINITELY.

16 Q THESE ARE LATEX GLOVES?

17 A (NODS HEAD.)

18 Q AND THEY WERE ON HIS PERSON?

19 A YES, THEY WERE.

20 Q WHAT ELSE WERE YOU ABLE TO REMOVE FROM HIS PERSON?

21 A MR. CHUNG'S CREDIT CARD.

22 Q AND YOU KNEW IT AS MR. CHUNG'S CREDIT CARD BECAUSE?

23 A IT HAD MR. CHUNG'S PICTURE ON THE CORNER OF IT.

24 Q AND MR. CHUNG DID HAVE AN APARTMENT IN THIS COMPLEX?

25 A YES, HE DID.

1 Q DID YOU GO INTO THAT APARTMENT?

2 A YES, I DID.

3 Q WAS THE DOOR FORCED IN THAT APARTMENT?

4 A YES, IT WAS.

5 Q WAS HIS CREDIT CARD RETURNED TO HIM?

6 A YES, IT WAS.

7 (LARGE COLOR PHOTO MARKED FOR IDENTIFICATION AS  
8 STATE'S EXHIBIT NO. 8.)

9 Q LET ME LET YOU TAKE A LOOK AT STATE'S EXHIBIT NO. 8.  
10 IS THAT A PICTURE OF THAT CREDIT CARD?

11 A THAT IS.

12 Q BEFORE YOU RETURNED IT TO MR. CHUNG?

13 A THAT'S RIGHT.

14 MR. CATHCART: I ASK THAT STATE'S EXHIBIT NO. 8 ALSO  
15 BE ENTERED INTO EVIDENCE, YOUR HONOR.

16 THE COURT: ANY OBJECTION TO THAT?

17 MS. MOBLEY: NO OBJECTION TO THE PHOTOGRAPH.

18 THE COURT: STATE'S 8 IS ADMITTED.

19 (STATE'S EXHIBIT NO. 8 RECEIVED IN EVIDENCE.)

20 Q WHAT ELSE DID YOU REMOVE FROM HIS PERSON, HIS POCKETS  
21 ON HIS BODY?

22 A HE ALSO HAD AN AMOUNT OF CHANGE IN HIS POCKET.

23 Q DID HE HAVE ANY JEWELRY IN HIS POCKET ALSO?

24 A YES, I BELIEVE HE HAD SOME RINGS.

25 Q AND WERE YOU ABLE TO DETERMINE WHO THOSE RINGS

- 1 BELONGED TO?
- 2 (PAUSE.)
- 3 (THREE LARGE COLOR PHOTOS MARKED FOR IDENTIFICATION AS
- 4 STATE'S EXHIBIT NOS. 9, 10, AND 11.)
- 5 Q I WANT YOU TO TAKE A LOOK AT WHAT'S BEEN MARKED AS
- 6 STATE'S EXHIBIT NO. 11 AND 10.
- 7 A YES, THOSE ITEMS WERE REMOVED FROM HIS PERSON.
- 8 Q OKAY. AND WHAT ITEMS ARE THOSE?
- 9 A TWO RINGS.
- 10 Q THOSE TWO RINGS BELONG TO WHO?
- 11 A DECHANTAL COFIELD.
- 12 Q DECHANTAL COFIELD. WAS HER APARTMENT BROKEN INTO
- 13 ALSO?
- 14 A YES, IT WAS.
- 15 Q AND THIS IS IN THAT SAME AREA?
- 16 A YES, IT WAS.
- 17 Q OKAY. AND WHAT ELSE WAS FOUND ON HIS PERSON?
- 18 A THERE WAS A HEART-SHAPED NECKLACE AND A RING.
- 19 Q AGAIN, THAT WAS FOUND ON HIS PERSON?
- 20 A YES, IT WAS.
- 21 Q WHO DID THEY BELONG TO AND WERE RETURNED TO?
- 22 A MS. DRAYTON.
- 23 Q WHAT'S HER FIRST NAME, DO YOU RECALL?
- 24 A CONQUISTA DRAYTON.
- 25 Q AND DOES SHE HAVE AN APARTMENT ALSO IN THIS COMPLEX?

1 A YES, SHE DOES.

2 Q OKAY. AND WAS HER APARTMENT ALSO BROKEN INTO?

3 A YES, IT WAS BROKEN INTO.

4 Q THAT MORNING?

5 A YES, IT WAS.

6 Q ALL THE ITEMS THAT WERE REMOVED FROM THE DEFENDANT  
7 WERE REMOVED THAT MORNING?

8 A YES, THEY WERE.

9 Q FROM THE APARTMENTS THAT WERE BROKEN INTO BY FORCE?

10 A YES.

11 MR. CATHCART: I ASK THAT STATE'S 11 AND 10 BE  
12 ADMITTED.

13 THE COURT: ANY OBJECTION TO THOSE EXHIBITS?

14 MS. MOBLEY: I'M SORRY, YOUR HONOR. I'M LOSING TRACK  
15 OF PICTURES THAT I HAVEN'T SEEN IN A LONG TIME.

16 (PAUSE.)

17 MS. MOBLEY: WITHOUT OBJECTION, YOUR HONOR.

18 THE COURT: WITHOUT OBJECTION, 10 AND 11 ARE ADMITTED.

19 (STATE'S EXHIBIT NOS. 10 AND 11 RECEIVED IN EVIDENCE.)

20 Q THOSE ITEMS WERE IDENTIFIED BY THE VICTIMS AS  
21 BELONGING TO THEM, CORRECT?

22 A YES, THEY WERE.

23 Q SUBSEQUENT TO THE DEFENDANT BEING DETAINED, I BELIEVE  
24 EMS WAS CALLED?

25 A I'M SORRY?

- 1 Q EMS WAS CALLED?
- 2 A YES, THEY WERE.
- 3 Q AND THAT WAS BECAUSE OF WHAT?
- 4 A BECAUSE WE HAD STRUGGLED WITH THE DEFENDANT AND WE
- 5 CALLED EMS TO MAKE SURE THAT HE WAS OKAY.
- 6 Q OKAY. AND EMS TOOK HIM TO?
- 7 A RICHLAND HOSPITAL.
- 8 Q AND HE WAS RELEASED FROM RICHLAND HOSPITAL HOW LONG
- 9 AFTER?
- 10 A NOT VERY LONG AFTERWARDS.
- 11 Q RELEASED TO WHO?
- 12 A HE WAS RELEASED TO ME.
- 13 Q IN YOUR SPEAKING WITH THE DEFENDANT AT THE SCENE
- 14 AFTERWARDS, DID HE APPEAR TO BE UNDER THE INFLUENCE?
- 15 A HE APPEARED ---
- 16 MS. MOBLEY: OBJECTION. CALLS FOR AN OPINION, YOUR
- 17 HONOR.
- 18 MR. CATHCART: A LAY WITNESS CAN ---
- 19 THE COURT: I OVERRULE.
- 20 Q DID HE APPEAR TO BE UNDER THE INFLUENCE?
- 21 A YES, HE DID.
- 22 Q AND WHEN YOU PICKED HIM UP AT THE HOSPITAL, HOW LONG
- 23 AFTER, DO YOU RECALL?
- 24 A PROBABLY MAYBE AN HOUR TO TWO HOURS AFTERWARDS.
- 25 Q DID HE EVEN RECOGNIZE YOU WHEN YOU PICKED HIM UP

1 AGAIN?

2 A NO, HE DIDN'T.

3 Q WHERE DID YOU TAKE HIM?

4 A TOOK HIM BACK TO RICHLAND COUNTY SHERIFF'S DEPARTMENT  
5 HEADQUARTERS.

6 Q WHAT OCCURRED AT RICHLAND COUNTY SHERIFF'S DEPARTMENT  
7 HEADQUARTERS?

8 A THE DEFENDANT WAS YELLING AND SCREAMING.

9 MS. MOBLEY: OBJECTION, YOUR HONOR. RELEVANCE.

10 THE COURT: SUSTAINED TO THAT LAST QUESTION.

11 DISREGARD THAT LAST QUESTION AND ANSWER, LADIES AND  
12 GENTLEMEN OF THE JURY.

13 MS. MOBLEY: THANK YOU, YOUR HONOR.

14 Q AT THE RICHLAND COUNTY SHERIFF'S DEPARTMENT DID YOU  
15 OBSERVE ANYTHING ELSE ON THE DEFENDANT'S PERSON?

16 A YES, I DID.

17 Q THAT MADE YOU -- CAUGHT YOUR INTEREST, I GUESS WOULD  
18 BE THE RIGHT WORD?

19 A YES, I DID.

20 Q AND WHAT WAS THAT?

21 A HE HAD A RING ON HIS FINGER.

22 Q AND WHERE HAD YOU HEARD OF THIS RING BEFORE?

23 A WHILE ON THE SCENE ONE OF THE VICTIMS IN THE BURGLARY  
24 -- THE BURGLARIES THAT DAY ADVISED ME THAT HE WAS MISSING A  
25 RING.

- 1 Q OKAY. WHAT KIND OF RING?
- 2 A IT WAS A DIAMOND WEDDING BAND.
- 3 Q DO YOU RECALL WHO THAT PERSON WAS THAT WAS MISSING A
- 4 RING?
- 5 A IT WAS CHARLES NOTTINGHAM.
- 6 Q THE SAME GUY WHO OWNED THE SCREWDRIVER?
- 7 A THAT'S RIGHT.
- 8 Q AND HE SAID THAT HIS DIAMOND WEDDING BAND WAS MISSING
- 9 FROM HIS HOME?
- 10 A YES, HE DID.
- 11 Q AND WHAT DID YOU OBSERVE ON MR. ADAMS?
- 12 A THE RING ON HIS FINGER.
- 13 Q DID YOU SUBSEQUENTLY SHOW THAT RING BACK TO MR.
- 14 NOTTINGHAM?
- 15 A I DID.
- 16 Q AND THAT WAS THE RING HE WAS TALKING ABOUT?
- 17 A IT WAS.
- 18 Q MR. ADAMS, DID HE TELL YOU -- SAY ANYTHING ABOUT THE
- 19 RING?
- 20 A HE SAID THAT IT WAS ---
- 21 MS. MOBLEY: HEARSAY ---
- 22 A --- HIS.
- 23 MS. MOBLEY: --- YOUR HONOR.
- 24 THE COURT: SUSTAINED. WELL, WAIT A MINUTE. NO. I
- 25 OVERRULE THE OBJECTION.

1 MR. CATHCART: THANK YOU, YOUR HONOR.

2 THE COURT: YOU MAY ANSWER THAT QUESTION.

3 Q DID MR. ADAMS SAY ANYTHING ABOUT THE RING?

4 A HE SAID IT WAS HIS RING.

5 (LARGE COLOR PHOTO MARKED FOR IDENTIFICATION AS  
6 STATE'S EXHIBIT NO. 12.)

7 Q I WANT YOU TO TAKE A LOOK AT WHAT'S BEEN MARKED AS  
8 STATE'S EXHIBIT NO. 12. CAN YOU TELL ME WHAT THAT IS A  
9 PICTURE OF?

10 A THAT IS THE RING.

11 Q AND THAT RING WAS RETURNED TO MR. NOTTINGHAM?

12 A IT WAS.

13 Q WAS IT AS HE DESCRIBED IT TO YOU PRIOR TO YOU SEEING  
14 IT ON THE DEFENDANT'S HAND?

15 A YES, IT WAS.

16 MR. CATHCART: YOUR HONOR, AT THIS TIME THE STATE  
17 SEEKS TO ENTER STATE'S EXHIBIT NO. 12.

18 MS. MOBLEY: WITHOUT OBJECTION, YOUR HONOR.

19 THE COURT: PARDON ME?

20 MS. MOBLEY: WITHOUT OBJECTION, YOUR HONOR.

21 THE COURT: WITHOUT OBJECTION, STATE'S 12 IS ADMITTED.

22 (STATE'S EXHIBIT NO. 12 RECEIVED IN EVIDENCE.)

23 Q LET'S GO BACK TO THE FOOD FAIR. AS TO THE BAGS THAT  
24 WERE THERE, I BELIEVE YOU INDICATED THAT HE WAS SITTING  
25 AMONGST THESE BAGS AND THAT HE SAID HE DIDN'T KNOW ANYTHING

- 1 ABOUT THEM, CORRECT?
- 2 A YES.
- 3 Q SUBSEQUENT TO HIM BEING TAKEN FROM THE SCENE, WHAT DID
- 4 YOU ALL DO WITH THE BAGS?
- 5 A WE TOOK THE ITEMS OUT OF THE BAGS. THERE WAS A FEW
- 6 VICTIMS ARRIVED ON THE SCENE. TOOK THE ITEMS OUT OF THE
- 7 BAGS, AND THE VICTIMS WERE ABLE TO IDENTIFY THOSE.
- 8 Q THOSE ITEMS?
- 9 A AS PROPERTY ---
- 10 Q I'M SORRY?
- 11 A EXCUSE ME. AS PROPERTY TAKEN FROM THEIR RESIDENCE.
- 12 Q DO YOU RECALL HOW MANY PEOPLE CAME DOWN TO THE SCENE?
- 13 A CHARLES NOTTINGHAM ---
- 14 Q DID YOU WRITE A REPORT AFTER THIS OCCURRED?
- 15 A I DID.
- 16 Q WOULD LOOKING AT THE REPORT HELP REFRESH YOUR MEMORY
- 17 AS TO SPECIFIC NAMES AND TIMES?
- 18 A YES.
- 19 Q WOULD YOU CARE FOR A COPY OF THAT TO HELP REFRESH YOUR
- 20 MEMORY?
- 21 A YES, THAT WOULD BE GOOD.
- 22 (PAUSE.)
- 23 A THOSE INDIVIDUALS THAT ARRIVED ON THE SCENE THAT DAY
- 24 WERE MR. NOTTINGHAM, MS. COFIELD, AND MS. DRAYTON.
- 25 Q AND THEY WERE ABLE TO IDENTIFY ITEMS THAT WERE REMOVED

- 1 FROM THESE BAGS?
- 2 A THEY WERE.
- 3 Q AND INDICATED THEY WERE REMOVED FROM THEIR APARTMENT
- 4 THAT MORNING?
- 5 A THEY DID.
- 6 Q DID YOU RELEASE THEM TO THEM AT THAT POINT?
- 7 A NO, I DIDN'T.
- 8 Q OKAY. WHAT DID YOU DO WITH THOSE ITEMS THAT WERE IN
- 9 THE BAGS?
- 10 A TOOK THOSE ITEMS BACK TO THE SHERIFF'S DEPARTMENT.
- 11 Q OKAY. AND THEN YOU DID WHAT WITH THEM?
- 12 A TOOK PHOTOGRAPHS.
- 13 Q OKAY. DID YOU INVENTORY WHICH -- WHAT WAS WHOSE?
- 14 A YES, I DID.
- 15 Q AND THEY WERE RETURNED?
- 16 A YES, I DID.
- 17 Q YOU DID SIX SEPARATE BURGLARY REPORTS, CORRECT?
- 18 A THAT'S RIGHT.
- 19 Q BECAUSE THESE WERE SIX SEPARATE HOMES, CORRECT?
- 20 A YES.
- 21 Q YOU WROTE CASE JACKETS ON EACH OF THESE, CORRECT?
- 22 A I DID.
- 23 Q THESE ARE YOUR CASE JACKETS?
- 24 A THEY ARE.
- 25 Q AND WOULD THESE HELP REFRESH YOUR MEMORY AS TO THE

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1 ITEMS THAT WERE REMOVED FROM EACH APARTMENT AND WHICH WERE  
2 RETURNED TO THE VICTIMS?

3 A YES, IT WOULD.

4 Q LET'S START WITH MS. COFIELD. MS. COFIELD'S APARTMENT  
5 WAS WHICH ONE?

6 A addre

7 Q DID YOU HAVE A CHANCE TO OBSERVE HER APARTMENT?

8 A WITH ALL OF THE APARTMENTS THAT HAD BEEN BROKEN INTO  
9 THAT DAY, I DID WALK THE AREA, BUT I DON'T RECALL WALKING  
10 INSIDE OF HER APARTMENT. WE ALSO HAD THE LAB UNITS THERE  
11 THAT WERE ---

12 Q BUT YOU DID HAVE THE LAB UNITS GO AND OBSERVE THE  
13 APARTMENTS ALSO?

14 A YES.

15 Q DID MS. COFIELD GIVE YOU A LIST OF WHAT WAS MISSING  
16 FROM HER APARTMENT, WHAT SHE COULD REMEMBER?

17 A YES.

18 Q AND DID YOU MOVE ITEMS FROM THE BAGS THAT WERE BESIDE  
19 THE DEFENDANT AND MATCH THEM UP WITH WHAT WAS SHE WAS  
20 MISSING?

21 A THAT'S RIGHT, SHE PICKED OUT SOME ITEMS ON THE SCENE.

22 Q AND DID SHE ALSO PICK OUT SOME OTHER ITEMS AFTER --  
23 SOME ITEMS AT THE SHERIFF'S DEPARTMENT?

24 A I DID. I SCHEDULED THE VICTIMS OF THE CRIMES TO COME  
25 BACK TO THE SHERIFF'S DEPARTMENT AND GO THROUGH THE

1 EVIDENCE WITH ME. AND SHE DID DO THAT.

2 (LARGE COLOR PHOTO MARKED FOR IDENTIFICATION AS  
3 STATE'S EXHIBIT NO. 13.)

4 Q DO YOU RECALL WHAT ITEMS DID SHE INDICATE WERE MISSING  
5 FROM HER APARTMENT, THAT WERE TAKEN OUT OF HER APARTMENT  
6 AND WHAT ITEMS WERE RETURNED BACK TO HER FROM THE  
7 DEFENDANT'S POSSESSION?

8 A I PHOTOGRAPHED THOSE ITEMS.

9 Q DID YOU MAKE A LIST WHICH WAS RETURNED TO HER?

10 A I DID.

11 Q WHAT WERE THOSE ITEMS THAT YOU RETURNED BACK TO HER?

12 A A HIGH SCHOOL RING ENGRAVED DECHANTAL, A QUARTZ WATCH,  
13 DIAMOND AND GOLD BRACELET, GOLD NECKLACE, GOLD BRACELET,  
14 GOLD CHAIN NECKLACE, SILVER CROSS AND CHAIN, GOLD COLORED  
15 EARRING, GOLD RING WITH DIAMONDS, OPAL AND SAPPHIRE RING,  
16 PINK WITH WHITE PEARLS WITH GOLD RING, BLACK GOLD RING, A  
17 KNIGHT 30TH REUNION KEY CHAIN, PEARL EARRINGS, GLASS AND  
18 GOLD WATCH FACE, GOLD COLORED EARRING, GOLD AND GLASS  
19 EARRINGS, ONYX RING, SHRIMP RING, G.E. PHONE WITH CHARGER,  
20 CARTON OF NEWPORTS MINUS ONE PACK.

21 Q AND THE ITEMS -- THOSE ITEMS, WERE THEY VALUED OVER A  
22 THOUSAND DOLLARS?

23 MS. MOBLEY: YOUR HONOR, I OBJECT TO HIM TESTIFYING TO  
24 VALUES. HE HAS NO PERSONAL KNOWLEDGE. THE VICTIMS WILL  
25 TESTIFY LATER.

1 THE COURT: IS THIS A LIST GIVEN BY THIS PERSON TO  
2 HIM?

3 MR. CATHCART: THIS IS THE LIST OF WHAT HE RETURNED TO  
4 THE VICTIM, YOUR HONOR.

5 THE COURT: YOU HAVE TO ESTABLISH SOME BASIS. I  
6 SUSTAIN THE OBJECTION AT THIS POINT IN TIME.

7 MS. MOBLEY: THANK YOU, YOUR HONOR.

8 Q LET ME LET YOU TAKE A LOOK AT WHAT'S BEEN MARKED AS  
9 STATE'S EXHIBIT NO. 13.

10 A THAT'S RIGHT. THOSE WERE THE ITEMS. THOSE WERE  
11 PICTURES THAT I TOOK OF THE ITEMS THAT I GAVE BACK.

12 Q OKAY.

13 MR. CATHCART: AT THIS TIME THE STATE SEEKS TO  
14 INTRODUCE STATE'S EXHIBIT NO. 13 AND PLACE IT IN EVIDENCE.

15 MS. MOBLEY: WITHOUT OBJECTION, YOUR HONOR.

16 THE COURT: WITHOUT OBJECTION, STATE'S 13 IS ADMITTED.

17 (STATE'S EXHIBIT NO. 13 RECEIVED IN EVIDENCE.)

18 Q OKAY. LET'S GO ONTO THE NEXT APARTMENT. CONQUISTA  
19 DRAYTON. IS THAT MS. COFIELD. I'M SORRY. GO BACK. THESE  
20 ITEMS RIGHT HERE, THESE TWO RINGS, WHERE WERE THEY FOUND?

21 A THOSE RINGS, I BELIEVE, WERE IN HIS POCKET.

22 Q OKAY. AND THE REST OF HER JEWELRY, FROM THE SAME  
23 APARTMENT, WAS FOUND WHERE?

24 A IN THE BAGS BESIDE HIM.

25 Q OKAY. NOW, AS TO MS. DRAYTON. DO YOU RECALL WHAT

1 APARTMENT HERS WAS?

2 A addre

3 Q AND SHE INDICATED THINGS WERE MISSING FROM HER  
4 APARTMENT ALSO?

5 A SHE DID.

6 Q AND WERE YOU ABLE TO RETURN ITEMS TO HER THAT SHE  
7 CLAIMED AS HER OWN?

8 A I WAS.

9 Q DO YOU RECALL WHAT YOU RETURNED TO MS. DRAYTON?

10 A 1992 HIGH SCHOOL REDIRECTION HEART SHAPED LOCKET AND  
11 GOLD CHAIN, USHER C.D., THREE FLOWER DIAMOND RING, GOLD  
12 CROSS WITH BLUE GLASS, ONE FLOUR EARRING, HEART SHAPED GOLD  
13 NECKLACE, GLASS DIAMOND RING, AN AMOUNT OF CHANGE, HEART  
14 SHAPED PENDANT WITH BLACK HEART, AND ONE GOLD EARRING.

15 (LARGE COLOR PHOTO MARKED FOR IDENTIFICATION AS  
16 STATE'S EXHIBIT NO. 14.)

17 Q I'LL HAVE YOU TAKE A LOOK AT WHAT'S BEEN MARKED AS  
18 STATE'S EXHIBIT NO. 14.

19 A YES, THOSE ITEMS WERE RETURNED TO HER FROM THE  
20 SUSPECT'S POSSESSION.

21 Q AGAIN, AS WITH MS. COFIELD, SOME OF THE ITEMS WERE IN  
22 THE BAG AND SOME WERE ON HIS PERSON, CORRECT?

23 A THAT'S RIGHT.

24 Q AND WHAT ITEMS WERE TAKEN OFF OF HIS PERSON?

25 A THE RING AND THE HEART SHAPED CHAIN.

1 Q AND EVERYTHING ELSE WAS FOUND IN THE ---

2 A BAG.

3 Q AS TO CONQUISTA DRAYTON, THOSE ITEMS WERE MS.

4 DRAYTON'S, CORRECT, CONQUISTA DRAYTON?

5 A THAT'S RIGHT.

6 Q AND THE SAME LIKE MS. COFIELD, HER ITEMS WERE SPLIT

7 AMONGST THE DEFENDANT'S POCKETS AND THE BAGS?

8 A THAT'S CORRECT.

9 MR. CATHCART: YOUR HONOR, IF I DIDN'T, I ASK THAT  
10 STATE'S EXHIBIT NO. 14 BE ADMITTED IN EVIDENCE.

11 THE COURT: ANY OBJECTION?

12 MS. MOBLEY: WITHOUT OBJECTION.

13 THE COURT: STATE'S 14 IS ADMITTED.

14 MR. CATHCART: THANK YOU, YOUR HONOR.

15 (STATE'S EXHIBIT NO. 14 RECEIVED IN EVIDENCE.)

16 Q AS TO MR. CHUNG -- I GUESS WHILE YOU'RE GOING THROUGH  
17 THAT CASE JACKET, MS. DRAYTON'S APARTMENT, WAS IT ALSO  
18 FORCIBLY ENTERED?

19 A YES, IT WAS.

20 Q MR. CHUNG -- I BELIEVE YOU INDICATED YOU WENT IN HIS  
21 BUILDING ALSO, HIS APARTMENT, CORRECT?

22 A I DID.

23 Q WAS IT FORCIBLY ENTERED?

24 A YES, IT WAS.

25 Q WERE YOU ABLE TO RETRIEVE ITEMS FROM THE DEFENDANT

1 THAT BELONGED TO MR. CHUNG? I BELIEVE YOU ALREADY  
2 INDICATED FROM HIS PERSON YOU FOUND MR. CHUNG'S CREDIT  
3 CARD.

4 A I DID.

5 Q WAS ANY ITEMS IN THE BAGS THAT HE WAS CARRYING ALSO OR  
6 I GUESS AT THIS POINT THAT HE ACKNOWLEDGED TO?

7 A COULD YOU REPEAT THAT?

8 Q THE BAGS HE SAID HE DIDN'T KNOW ANYTHING ABOUT THEM.

9 A THAT'S RIGHT.

10 Q WAS ANYTHING OF MR. CHUNG'S IN THOSE BAGS?

11 A YES, THERE WAS. I RETURNED TO MR. CHUNG THE FIVE  
12 PACKAGE SOCKS, I CAN'T PRONOUNCE THEM. THEY WERE, I  
13 BELIEVE, KOREAN MANUFACTURED, WRITTEN IN KOREAN ON THE  
14 PACKAGE; THAT'S THE NAME BRAND. ONE GLASS CONTAINER BOX  
15 FILLED WITH VARIOUS CHANGE, ALTOID'S CONTAINER FILLED WITH  
16 CHANGE, ALSO A CREDIT -- A VISA CREDIT CARD WITH MR.  
17 CHUNG'S PHOTOGRAPH ON IT, A SMALL DIAMOND RING, GOLD SEKO  
18 WATCH. HE WAS ALSO ABLE TO IDENTIFY A GREEN PILLOW CASE,  
19 BLUE CONTAINER PLASTIC FILLED WITH PENNIES, A CLEAR PLASTIC  
20 CONTAINER FILLED WITH PENNIES.

21 I MIGHT ADD, THE CHANGE -- SOME OF THE CHANGE WAS ALSO  
22 FOREIGN CURRENCY.

23 Q ASIAN CURRENCY?

24 A YES.

25 Q THOSE ITEMS WERE RETURNED TO MR. CHUNG?

1 A YES, THEY WERE.

2 (LARGE COLOR PHOTO MARKED FOR IDENTIFICATION AS  
3 STATE'S EXHIBIT NO. 15.)

4 Q LET ME LET YOU TAKE A LOOK AT WHAT HAS BEEN MARKED AS  
5 STATE'S EXHIBIT NO. 15. DO YOU RECOGNIZE THIS?

6 A YES, I DO.

7 Q AND WHAT IS THIS?

8 A THOSE ARE THE ITEMS THAT WERE RETURNED TO MR. CHUNG --  
9 THAT I RETURNED TO MR. CHUNG FROM THE DEFENDANT.

10 MR. CATHCART: YOUR HONOR, IF I MAY, AND I NEGLECTED  
11 TO DO THIS EARLIER. MAY I PUBLISH THESE TO THE JURY?

12 MS. MOBLEY: YOUR HONOR, I'D ASK THAT HE GIVE THE  
13 NUMBERS FIRST.

14 THE COURT: TELL ME WHICH ONES YOU'RE PUBLISHING  
15 PLEASE.

16 MR. CATHCART: YOUR HONOR, I WAS GOING TO SHOW 10, 8,  
17 12, 13, 11, 14. AND I'M GOING TO ASK 15 ALSO BE ADMITTED  
18 INTO EVIDENCE AND BE SHOWN ALSO -- 15 BEING MR. CHUNG'S  
19 POSSESSIONS.

20 THE COURT: ALL RIGHT. WITH THAT EXCEPTION, ALL OF  
21 THE OTHERS HAVE BEEN ADMITTED INTO EVIDENCE, I BELIEVE.

22 MS. MOBLEY: YES, SIR.

23 THE COURT: ALL RIGHT. YOU MAY PUBLISH THOSE. AND I  
24 DON'T KNOW -- HAS HE IDENTIFIED THESE? IS THERE ANY  
25 OBJECTION TO THIS?

1 MR. CATHCART: HE HAS IDENTIFIED THEM, YOUR HONOR. I  
2 JUST ASK THAT IT BE ADMITTED INTO EVIDENCE AT THIS TIME.

3 MS. MOBLEY: WITHOUT OBJECTION.

4 THE COURT: WITHOUT OBJECTION, THAT'S EXHIBIT 15; IS  
5 THAT RIGHT?

6 MR. CATHCART: YES, SIR.

7 THE COURT: STATE'S 15.

8 (STATE'S EXHIBIT NO. 15 RECEIVED IN EVIDENCE.)

9 MR. CATHCART: 15 BEING MR. CHUNG'S, 14 WAS DRAYTON,  
10 11 MS. DRAYTON, 13 COFIELD, 12 CHARLES NOTTINGHAM, 8 MR.  
11 CHUNG, AND 10 WAS COFIELD.

12 Q AS TO MS. BELTON -- EXCUSE ME, WHAT APARTMENT WAS MR.  
13 CHUNG?

14 A addre  
--

15 Q AS TO MS. BELTON -- WHICH APARTMENT IS MS. BELTON'S?

16 A addre  
--

17 (TWO LARGE COLOR PHOTOS MARKED FOR IDENTIFICATION AS  
18 STATE'S EXHIBIT NOS. 16 AND 17.)

19 Q MS. BELTON'S APARTMENT HAD ALSO BEEN FORCIBLY ENTERED?

20 A IT HAD.

21 Q AND ITEMS IN THE BAG WERE ALSO FOUND BELONGING TO MS.  
22 BELTON?

23 A YES.

24 Q WERE THOSE ITEMS RETURNED TO MS. BELTON?

25 A THEY WERE.

1 Q AND WHAT ITEMS WERE THOSE?

2 A NOODLE SOUP, DOLLAR BILL, DOVE DEODORANT, NAIL POLISH,  
3 DVD PLAYER AND REMOTE, SPRINT P.T. 2100 BILL, FADED GLORY  
4 WATCH, A PILLOW CASE THAT WAS FLOWERED, VARIOUS JEWELRY,  
5 RED AND WHITE CANVAS BAG.

6 Q THAT WAS ONE OF THE BAGS HE WAS CARRYING?

7 A IT WAS.

8 Q OKAY. PLEASE CONTINUE.

9 A LEATHER C.D. CASE WITH VARIOUS C.D.'S, AND A BLACK VCR  
10 REMOTE.

11 Q LET'S TAKE A LOOK AT WHAT'S BEEN MARKED AS STATE'S  
12 EXHIBIT NO. 16 AND 17.

13 A THOSE ARE MS. BELTON'S ITEMS THAT WERE RETURNED TO HER  
14 FROM THE SUSPECT'S POSSESSION.

15 MR. CATHCART: AND, YOUR HONOR, AT THIS TIME I WOULD  
16 ASK THAT BOTH 16 AND 17 BE ADMITTED INTO EVIDENCE.

17 MS. MOBLEY: WITHOUT OBJECTION.

18 THE COURT: WITHOUT OBJECTION, 16 AND 17.

19 (STATE'S EXHIBIT NOS. 16 AND 17 RECEIVED IN EVIDENCE.)

20 MR. CATHCART: PUBLISH TO THE JURY?

21 THE COURT: YES, SIR.

22 (LARGE COLOR PHOTO MARKED FOR IDENTIFICATION AS  
23 STATE'S EXHIBIT NO. 18.)

24 Q AS TO MS. DOROTHY NELSON. WHAT APARTMENT WAS MS.  
25 NELSON IN?

1 A addre EXCUSE ME, addre

2 Q WERE ITEMS RECOVERED FROM THE DEFENDANT'S POSSESSION  
3 THAT BELONGED TO HER?

4 A YES, THERE WERE.

5 Q WAS HER HOME ALSO FORCIBLY ENTERED?

6 A YES, IT WAS.

7 Q WHAT ITEMS WERE RETURNED TO MS. NELSON THAT BELONGED  
8 TO HER?

9 A ONE BLUE PILLOW CASE, A C.D. RADIO PLAYER, BIG RED  
10 CHEWING GUM NINE PACKS, ONE CARTON OF MISTY MENTHOL LIGHTS,  
11 AND THEN THREE PACKS.

12 Q WOULD YOU TAKE A LOOK AT WHAT'S BEEN MARKED AS STATE'S  
13 EXHIBIT NO. 18.

14 A YES.

15 Q YES, WHAT?

16 A THOSE WERE THE ITEMS TAKEN FROM THE POSSESSION OF THE  
17 DEFENDANT, RETURNED TO THE VICTIM, MS. NELSON.

18 MR. CATHCART: YOUR HONOR, AT THIS TIME THE STATE  
19 SEEKS TO INTRODUCE STATE'S EXHIBIT NO. 18.

20 MS. MOBLEY: WITHOUT OBJECTION.

21 THE COURT: STATE'S 18 IS ADMITTED.

22 (STATE'S EXHIBIT NO. 18 RECEIVED IN EVIDENCE.)

23 MR. CATHCART: I ASK IT BE PUBLISHED TO THE JURY ALSO.

24 THE COURT: ALL RIGHT.

25 Q OKAY. AS TO MR. CHARLES NOTTINGHAM. CAN YOU TELL ME

1 WHICH APARTMENT WAS HIS?

2 A 2-D.

3 Q HIS APARTMENT WAS ALSO FORCIBLY ENTERED?

4 A IT WAS.

5 Q MR. NOTTINGHAM -- I BELIEVE YOU ALSO INDICATED HE HAD  
6 GONE DOWN TO THE SCENE OF THE FOOD FAIR?

7 A HE HAD GONE DOWN TO THE SCENE AND MET WITH ME.

8 Q OKAY. AND HE'S THE MAN WHO IDENTIFIED SOME ITEMS DOWN  
9 AT THE SCENE?

10 A HE DID.

11 Q AND ASKED YOU TO BE ON THE LOOK OUT FOR A RING,  
12 CORRECT?

13 A YES.

14 Q THAT RING AND THIS SCREWDRIVER WERE FOUND IN THAT  
15 MAN'S POCKETS?

16 A THAT'S RIGHT.

17 Q WELL, THE SCREWDRIVER, AND THE RING WAS ON HIS FINGER.  
18 WHAT OTHER ITEMS WERE RECOVERED FROM THE DEFENDANT'S  
19 POSSESSION THAT BELONGED TO MR. NOTTINGHAM?

20 A HE HAD A BLUE DUFFLE BAG, THAT WAS ONE OF THE BAGS.

21 Q THAT WAS ONE OF THE BAGS HE WAS CARRYING ALSO?

22 A THAT'S RIGHT.

23 (LARGE COLOR PHOTO MARKED FOR IDENTIFICATION AS  
24 STATE'S EXHIBIT NO. 19.)

25 Q LET ME GET YOU TO TAKE A LOOK AT WHAT'S BEEN MARKED AS

1 STATE'S EXHIBIT NO. 19.

2 A YES, THAT WAS ONE OF THE BAGS THAT THE DEFENDANT HAD.

3 MR. CATHCART: YOUR HONOR, AT THIS TIME THE STATE  
4 SEEKS TO INTRODUCE STATE'S EXHIBIT NO. 19.

5 MS. MOBLEY: WITHOUT OBJECTION.

6 THE COURT: WITHOUT OBJECTION, STATE'S 19 IS ADMITTED.

7 (STATE'S EXHIBIT NO. 19 RECEIVED IN EVIDENCE.)

8 MR. CATHCART: PUBLISH TO THE JURY?

9 THE COURT: YES.

10 Q WHAT ELSE WAS RECOVERED FROM THE DEFENDANT'S  
11 POSSESSION AND GIVEN BACK TO MR. NOTTINGHAM?

12 A PHILLIPS ALARM CLOCK, KENNETH COLE WATCH AND CASE, A  
13 DIAMOND WEDDING BAND, DREW HILL C.D., E.M.X. C.D., E.M.X.  
14 C.D., THE GAME C.D., 50 CENT C.D., TAXI C.D., DOUBLE "Q"  
15 C.D., SEVERAL OTHER C.D.'S, LETTER C.D. PROJECTS, WALLET,  
16 DAUGHTER'S BLUE CAP BARET. HE WAS ABLE TO IDENTIFY ONE OF  
17 HIS DAUGHTER'S -- A BARET THAT BELONGED TO HIS DAUGHTER.  
18 LOOSE CHANGE. AND HE IDENTIFIED THE ORANGE SCREWDRIVER,  
19 HOWEVER, I KEPT THAT IN EVIDENCE.

20 (LARGE COLOR PHOTO MARKED FOR IDENTIFICATION AS  
21 STATE'S EXHIBIT NO. 20.)

22 Q LET ME GET YOU TO TAKE A LOOK AT STATE'S EXHIBIT NO.  
23 20. DO YOU RECOGNIZE THAT?

24 A YES, I DO.

25 Q AND WHAT IS THAT PORTRAYED IN THE PICTURE?

INVESTIGATOR HUNT -- DIRECT BY MR. CATHCART

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1 A ITEMS BELONG TO CHARLES NOTTINGHAM TAKEN FROM THE  
2 DEFENDANT.

3 MR. CATHCART: AND AT THIS TIME THE STATE SEEKS TO  
4 ENTER INTO EVIDENCE STATE'S EXHIBIT NO. 20.

5 MS. MOBLEY: WITHOUT OBJECTION.

6 THE COURT: WITHOUT OBJECTION, STATE'S 20 IS ADMITTED.

7 (STATE'S EXHIBIT NO. 20 RECEIVED IN EVIDENCE.)

8 MR. CATHCART: MAY I MAY PUBLISH TO THE JURY?

9 THE COURT: YES.

10 Q AS YOU WENT THROUGH THOSE BAGS, WERE YOU ABLE TO FIND  
11 ANYTHING ELSE BELONGING TO THE DEFENDANT OR IN HIS  
12 POSSESSION?

13 A THERE WAS BLACK MILITARY GLOVES. THERE WAS ALSO A  
14 SCREWDRIVER, A LARGE SCREWDRIVER.

15 (LARGE COLOR PHOTO MARKED FOR IDENTIFICATION AS  
16 STATE'S EXHIBIT NO. 21.)

17 Q DID ANY OF THE VICTIMS CLAIM THE SCREWDRIVER?

18 A NO, THEY DIDN'T.

19 Q LET ME GET YOU TO TAKE A LOOK AT WHAT'S BEEN MARKED AS  
20 STATE'S EXHIBIT NO. 21.

21 A THAT'S THE SCREWDRIVER TAKEN FROM HIS POSSESSION.

22 MR. CATHCART: YOUR HONOR, THE STATE WOULD SEEK TO  
23 INTRODUCE STATE'S EXHIBIT NO. 21 AND PLACE IT INTO  
24 EVIDENCE.

25 THE COURT: ANY OBJECTION?

1 MS. MOBLEY: WITHOUT OBJECTION.

2 THE COURT: STATE'S 21 IS ADMITTED.

3 (STATE'S EXHIBIT NO. 21 RECEIVED IN EVIDENCE.)

4 MR. CATHCART: BEG THE COURT'S INDULGENCE, YOUR HONOR.

5 THE COURT: ALL RIGHT.

6 Q YOU WERE ABLE TO SEE THE VIDEO BEFOREHAND, CORRECT?

7 A I'VE SEEN THE VIDEO.

8 Q DID THOSE ACCURATELY PORTRAY WHAT OCCURRED THAT DAY?

9 A YES, IT DOES.

10 Q I BELIEVE YOU INDICATED THE I.D. TECH WAS SENT OUT TO  
11 THE SCENE, CORRECT?

12 A YES.

13 Q THEY THEN TOOK PICTURES OF THE SCENE?

14 A THEY DID.

15 Q AND PROCESSED FOR PRINTS, CORRECT?

16 A THEY DID.

17 Q DID PRINTS EVER COME BACK ON ANY OF THESE PROPERTIES?

18 A NOT THAT I'M AWARE OF.

19 Q I BELIEVE THE DEFENDANT WAS CHARGED WITH SIX  
20 BURGLARIES?

21 A YES, SIR.

22 Q AND WE WENT THROUGH EACH ONE OF THE VICTIMS, CORRECT?

23 A WE DID.

24 Q AND LARCENIES FROM THOSE PLACES, CORRECT?

25 A YES, WE DID.

1 Q AND RESISTING ARREST WAS HIM RESISTING YOUR LAWFUL  
2 ARREST FOR THESE BURGLARIES AT THE FOOD FAIR, CORRECT?

3 MS. MOBLEY: OBJECT TO ---

4 A YES.

5 MS. MOBLEY: --- LEADING, YOUR HONOR.

6 MR. CATHCART: I APOLOGIZE.

7 THE COURT: SUSTAIN TO THE FORM OF THE QUESTION.

8 Q WOULD YOU PLEASE TELL ME WHAT WAS THE BASIS FOR THE  
9 BURGLAR TOOLS?

10 A THE FACT THAT THERE WAS A RESIDENCE AND THAT HE HAD  
11 TWO PRIOR CONVICTIONS ---

12 Q FOR THE POSSESSION OF BURGLARY TOOLS.

13 A OH, I'M SORRY. I DIDN'T HEAR YOUR QUESTION. HE HAD  
14 BURGLARY TOOLS ON HIM, IN THE BAGS HE HAD SCREWDRIVER. HE  
15 HAD A KNIFE, GLOVES -- HAD LATEX GLOVES. ALL THESE ITEMS  
16 ARE USED TO ENTER HOUSES. HE DIDN'T LEAVE FINGERPRINTS.

17 Q AND IN THIS CASE HE WAS CONNECTED TO THE BURGLARIES?

18 A YES.

19 Q HOW WAS THE FORCE USED -- WHAT WAS THE FORCE USED TO  
20 GET INSIDE THESE BUILDINGS?

21 A LOOKED LIKE HE HAD TO PRY OPEN THE DOORS, HE BROKE  
22 GLASS AS WELL.

23 Q THERE WERE PRY MARKS ON THE DOOR JAMS?

24 A YES, THERE WAS.

25 MR. CATHCART: NO FURTHER QUESTIONS. PLEASE ANSWER

1 ANY QUESTIONS FROM DEFENSE COUNSEL.

2 THE COURT: ALL RIGHT. BEFORE YOU CROSS EXAMINE, MS.  
3 MOBLEY, WE'RE AT A PRETTY GOOD BREAKING POINT. I WOULD  
4 NORMALLY TAKE A BREAK, BUT IT'S ABOUT LUNCH TIME, SO WE'LL  
5 TAKE A LUNCH BREAK AND YOU MAY CROSS EXAMINE AFTER LUNCH.

6 MR. FOREMAN AND LADIES AND GENTLEMEN, PLEASE DON'T  
7 DISCUSS THE CASE. WE WILL BREAK FOR LUNCH. BE BACK IN  
8 YOUR JURY ROOM AT 2:15 AND WE'LL CONTINUE WITH THE TRIAL AT  
9 THAT TIME. YOU'RE EXCUSED. EVERYONE ELSE STAY SEATED  
10 PLEASE. 2:15 PLEASE.

11 (THE JURY EXITS THE COURTROOM AT 12:48 P.M.)

12 THE COURT: WE'LL BREAK UNTIL 2:15.

13 MR. HUNT, YOU CAN, OF COURSE, STEP DOWN. YOU CANNOT  
14 DISCUSS YOUR TESTIMONY DURING THE LUNCH BREAK.

15 ALL RIGHT. 2:15.

16 COUNSEL, I DID FAIL TO TELL YOU ALL THIS MORNING. I  
17 HAD HAD A NOTE FROM JURORS, TWO OF THEM HAVING PROBLEMS  
18 LATE THIS AFTERNOON, ONE ABOUT 5:30, ONE ABOUT 6:00. I  
19 TOLD THE CLERK JUST TO TELL THEM I WOULD WORK WITH THEM ON  
20 THAT SO IT WON'T BE A PROBLEM.

21 MS. MOBLEY: YES, YOUR HONOR.

22 (THE WITNESS STEPS DOWN FROM THE WITNESS STAND.)

23 (COURT IS IN RECESS FOR LUNCH.)

24 THE COURT: SOLICITOR.

25 MR. CATHCART: YOUR HONOR, IN GOING THROUGH OUR CHECK

1 LIST -- I HAD A CHECK LIST OF WHAT I WAS GOING TO PUT INTO  
2 EVIDENCE. APPARENTLY, ACCORDING TO THE COURT REPORTER,  
3 THERE'S ONE THING I DID NOT PUT IN, I WOULD LIKE TO PUT  
4 BACK IN IF I COULD JUST GO BACK AND FOR PURPOSES OF THAT  
5 EXHIBIT, AND LET ME PUT THIS INTO EVIDENCE.

6 THE COURT: THAT WAS STATE'S 7?

7 MR. CATHCART: YES. I THOUGHT I HAD AND SHE'S SAYING  
8 I DID NOT. SO OUT OF AN ABUNDANCE OF CAUTION, I WOULD LIKE  
9 TO MAKE SURE THAT IT'S IN.

10 THE COURT: ANY OBJECTION TO THAT?

11 MS. MOBLEY: WE JUST OBJECT TO THE TIMING.

12 THE COURT: ALL RIGHT. THAT OBJECTION IS OVERRULED.

13 (STATE'S EXHIBIT NO. 7 RECEIVED IN EVIDENCE.)

14 THE COURT: NOW, DID 6 COME IN?

15 MR. CATHCART: NO, SIR, I DID NOT PUT 6 IN.

16 THE COURT: YOU'RE NOT PUTTING 6 IN. OKAY.

17 MR. CATHCART: I HAVE THE VICTIMS COMING IN ON THAT.

18 THE COURT: ALL RIGHT. ANYTHING ELSE BEFORE THE  
19 JURY'S BROUGHT BACK IN?

20 MS. MOBLEY: NO, SIR.

21 MR. CATHCART: ACTUALLY, I GUESS NOTHING FOR THE  
22 RECORD.

23 (PAUSE.)

24 THE COURT: WHO IS THAT?

25 MR. CATHCART: SHAWNETTA BELTON.

1 MS. MOBLEY: SHAWNETTA BELTON.

2 THE COURT: ALL RIGHT. SO THE STATE WOULD HAVE NO  
3 OBJECTION TO THAT BEING USED FOR IMPEACHMENT?

4 MR. CATHCART: I THINK IT IS A CRIME OF DISHONESTY,  
5 YOUR HONOR.

6 THE COURT: ALL RIGHT. I DON'T KNOW THAT YOU'VE HAD A  
7 CHANCE TO GET THROUGH THE OTHERS. LET'S DO THIS. IF IN  
8 GOING THROUGH THESE RECORDS YOU FEEL LIKE THERE'S SOMETHING  
9 THAT YOU SHOULD BE ENTITLED TO BRING OUT, JUST BRING IT TO  
10 MY ATTENTION WHEN THAT WITNESS IS ANNOUNCED, AND WE'LL DEAL  
11 WITH IT AT THAT POINT IN TIME.

12 MS. MOBLEY: YES, SIR.

13 MR. CATHCART: EVERYBODY ELSE'S RECORDS ARE DRIVING  
14 OFFENSE AT MOST.

15 MS. MOBLEY: SHE'S THE ONLY ONE I'VE SEEN SO FAR.

16 THE COURT: ALL RIGHT. THAT'S FINE.

17 ALL RIGHT. ANYTHING FURTHER BEFORE WE PROCEED?

18 (NO RESPONSE.)

19 THE COURT: SIR, IF YOU'LL COME BACK UP ON THE WITNESS  
20 STAND PLEASE.

21 (THE WITNESS RETURNS TO THE WITNESS STAND.)

22 THE COURT: WHILE HE'S COMING UP, LET'S GET THE JURY  
23 IN PLEASE.

24 I BELIEVE WE WERE TO CROSS EXAMINATION; IS THAT RIGHT?

25 MS. MOBLEY: YES, SIR.

1 MR. CATHCART: I WAS GOING TO BE ABLE TO PUT IN THE  
2 EVIDENCE BEFOREHAND, YOUR HONOR.

3 THE COURT: IT'S IN.

4 MR. CATHCART: OKAY.

5 (THE JURY RETURNS TO THE COURTROOM AT 2:23 P.M.)

6 BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

7 THE COURT: THANK YOU.

8 MR. FOREMAN, LADIES AND GENTLEMEN, I HOPE YOU HAD A  
9 NICE LUNCH. WE WILL CONTINUE. MS. MOBLEY, YOU MAY CROSS  
10 EXAMINE.

11 MS. MOBLEY: THANK YOU, YOUR HONOR. MAY IT PLEASE THE  
12 COURT.

13 THE COURT: ALL RIGHT.

14 CROSS EXAMINATION BY MS. MOBLEY:

15 Q INVESTIGATOR HUNT, GOOD AFTERNOON.

16 A GOOD AFTERNOON.

17 Q I HAVE REALLY JUST A FEW QUESTIONS, INVESTIGATOR. AND  
18 I'M GOING TO TAKE THE APARTMENTS THAT YOU ACTUALLY  
19 TESTIFIED TO: MS. COFIELD LIVES IN addre CORRECT?

20 A I MAY NEED RECORDS, BUT ---

21 Q DID YOU LEAVE THE PRIOR RECORDS THAT YOU ALREADY HAD  
22 AT THE TABLE?

23 A I GAVE THEM BACK TO THE SOLICITOR.

24 MS. MOBLEY: YOUR HONOR, MAY I APPROACH THE WITNESS?

25 THE COURT: YES.

- 1 MS. MOBLEY: THANK YOU.
- 2 A YOU ASKED ABOUT MS. COFIELD?
- 3 Q YES, SIR.
- 4 A **addre**
- 5 Q YES.
- 6 A YES.
- 7 Q WOULD YOU LIKE TO REVIEW IT?
- 8 A YES. YES, THAT WAS HER APARTMENT.
- 9 Q OKAY. NOW, TO YOUR KNOWLEDGE, AS FAR AS THE TIME
- 10 FRAME THAT WE'RE DEALING WITH, MY UNDERSTANDING AND YOU AS
- 11 THE INVESTIGATOR -- IS IT YOUR UNDERSTANDING THAT THERE WAS
- 12 ABOUT A FOUR-HOUR TIME FRAME IN WHICH THIS COULD HAVE TAKEN
- 13 PLACE PRIOR TO YOUR SPOTTING OF MR. ADAMS AT THE FOOD FAIR?
- 14 A ME BEING CALLED, IT WAS ALMOST WITHIN ABOUT 15 OR 20
- 15 MINUTES I WAS THERE.
- 16 Q YES, SIR. BUT WHAT I'M ASKING IS: MS. COFIELD WAS
- 17 NOT AT THE APARTMENT AT THE TIME, WAS SHE?
- 18 A SHE HAD LEFT HER APARTMENT, HERE IN THE REPORT, AT
- 19 8:22 A.M.
- 20 Q YES, SIR. AND TO YOUR KNOWLEDGE, SHE DID NOT RETURN
- 21 UNTIL SHE WAS CONTACTED ABOUT SOMETHING HAPPENING TO HER
- 22 APARTMENT, CORRECT?
- 23 A THAT'S RIGHT.
- 24 Q AND MS. DRAYTON IN **addre** I DON'T BELIEVE THERE WAS A
- 25 TIME INDICATED ON THE REPORT. DID MS. DRAYTON INDICATE TO

INVESTIGATOR HUNT -- CROSS BY MS. MOBLEY

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1 YOU THAT SHE WAS AT HOME DURING THE BURGLARY OF HER  
2 APARTMENT?

3 A TO MY KNOWLEDGE SHE WAS NOT AT HOME.

4 Q MR. CHUNG IN addre

5 A THE TIME FRAME ON THE REPORT IS 7:20 A.M.

6 Q TO ABOUT 10:00 P.M. SO HE WAS NOT AT HOME EITHER.

7 MS. BELTON IN addre IF I TOLD YOU THE TIME FRAME WAS  
8 7:00 A.M. TO -- AND I BELIEVE THE NEXT TIME WAS 13:25,  
9 WHICH IS WHAT TIME DID YOU MAKE THESE CHARGES, 1:45; IS  
10 THAT CORRECT?

11 A THAT'S WHAT'S NOTED HERE.

12 Q SHE WAS NOT AT HOME. MS. NELSON, I DON'T BELIEVE  
13 THERE'S A BEGINNING TIME ON HER REPORT; IS THAT CORRECT?

14 A DOROTHY NELSON?

15 Q YES, SIR.

16 A I HAVE 10:00 A.M. HERE ON THE REPORT.

17 Q AND THEN MR. NOTTINGHAM WAS THE FINAL ONE. AND I  
18 BELIEVE THE REPORT INDICATED THAT FROM 7:50 TO 12:00 NOON,  
19 WHICH IS THE SAME TIME AS THE OTHER ONES, THAT HE WOULD NOT  
20 HAVE BEEN PRESENT AT THE APARTMENT; WOULD YOU AGREE WITH  
21 THAT?

22 A I -- I BELIEVE THAT'S CORRECT.

23 Q NOW, YOUR ARRIVAL -- MY UNDERSTANDING FROM YOUR PRIOR  
24 TESTIMONY WAS THAT JILL, THE APARTMENT MANAGER, TELEPHONED  
25 YOU AFTER SHE RECEIVED SOME INFORMATION, CORRECT?

1 A THAT'S RIGHT.

2 Q AND THAT INFORMATION WAS FROM ASIA FERGUSON AND CARL  
3 KEYS, RUFUS CARL KEYS, CORRECT?

4 A THE INFORMATION, YES.

5 Q OKAY. TO YOUR KNOWLEDGE, ANY OF THE SIX APARTMENTS  
6 THAT WERE BROKEN INTO, NONE OF THE RESIDENTS IN THOSE SIX  
7 APARTMENTS CAN TESTIFY AS TO REALLY WHO OR WHAT HAPPENED  
8 BECAUSE THEY WEREN'T THERE, CORRECT?

9 A JUST TO THE FACT THAT THEIR APARTMENTS WERE SECURED  
10 WHEN THEY LEFT.

11 Q YES, AND THEN SOMEONE BROKE IN, CORRECT?

12 A RIGHT.

13 Q OKAY. NOW, WHEN YOU WERE SUMMONED TO -- I APOLOGIZE  
14 FOR THIS, BECAUSE I DON'T REMEMBER WHAT YOU TESTIFIED TO  
15 BEFORE. WAS IT YOUR TESTIMONY THAT YOU WENT STRAIGHT TO  
16 THE APARTMENT COMPLEX OR WENT STRAIGHT TO THE FOOD FAIR?

17 A I WENT STRAIGHT TO THE APARTMENT COMPLEX.

18 Q STRAIGHT TO THE APARTMENT COMPLEX WHERE YOU PICKED UP  
19 MR. KEYS?

20 A THAT'S RIGHT.

21 Q DID YOU AT THAT TIME BEGIN TO LOOK AROUND THE  
22 APARTMENTS, THAT MR. KEYS HAD SAID WERE BEING BURGLARIZED  
23 OR HAD BEEN BURGLARIZED?

24 A DID I LOOK AT THE APARTMENTS WHEN I ARRIVED?

25 Q WHEN YOU ARRIVED THE FIRST TIME, YES.

1 A WELL, AS YOU PULL INTO THE APARTMENT COMPLEX, YOU CAN  
2 SEE THE BUILDINGS THAT THEY WERE TALKING ABOUT, BUT I  
3 DIDN'T GET OUT OF MY VEHICLE AND LOOK.

4 Q SO YOU ALL WENT STRAIGHT -- BASICALLY STRAIGHT TO THE  
5 FOOD FAIR, CORRECT?

6 A THAT'S RIGHT.

7 Q WHERE YOU SAW MR. ADAMS SITTING OUT FRONT OF THE FOOD  
8 FAIR WITH SOME BAGS, WHAT HAVE YOU, AND AT THAT POINT YOU  
9 APPROACHED HIM?

10 A AFTER MR. KEYS POINTED HIM OUT TO ME.

11 Q DID YOU EVER -- DID YOU RETURN -- I'M ASSUMING THAT  
12 YOU RETURNED TO THE APARTMENT COMPLEX AFTER THIS HAPPENED,  
13 AM I CORRECT IN SAYING THAT?

14 A I DID.

15 Q AND TO YOUR KNOWLEDGE AS THE LEAD INVESTIGATOR WAS  
16 THERE ANY EVIDENCE COLLECTED FROM THE APARTMENTS AS TO THE  
17 IDENTITY OF THE PERSON WHO BROKE IN APART FROM THE ITEMS  
18 THAT WERE FOUND ON MR. ADAMS?

19 A I'M NOT AWARE OF ANY EVIDENCE FROM THE APARTMENTS.

20 Q SO NOTHING LINKING MR. ADAMS FORENSICALLY SPEAKING TO  
21 THE APARTMENTS, SHOE PRINTS, THAT KIND OF THING?

22 A NOT TO MY KNOWLEDGE.

23 MS. MOBLEY: BEG THE COURT'S INDULGENCE FOR A MOMENT.

24 THE COURT: ALL RIGHT.

25 (PAUSE.)

1 Q BASICALLY WHAT YOU CAN TELL US IS THAT YOU LOCATED MR.  
2 ADAMS AT THE FOOD FAIR WITH SOME ITEMS FROM THE APARTMENTS,  
3 AND THAT WOULD BE THE EXTENT OF YOUR KNOWLEDGE AS TO HIS  
4 INVOLVEMENT WITH ANYTHING OUT OF THE APARTMENT COMPLEX,  
5 CORRECT?

6 A NO, THAT'S NOT ENTIRELY TRUE. I WAS ALSO TOLD BY  
7 RUFUS KEYS THAT THE DEFENDANT WAS ON THE PROPERTY BEHIND  
8 THE BUILDINGS THAT HAD BEEN BROKEN INTO. SO I HAD THAT.

9 Q OKAY. SO TO YOUR KNOWLEDGE, INVESTIGATOR, YOU HAVE  
10 MR. ADAMS WALKING AROUND, WHAT HAVE YOU, IN THE APARTMENT  
11 COMPLEX AND THEN THE FOOD FAIR?

12 A WITH THE BAGS. THE BAGS WERE ANOTHER.

13 MS. MOBLEY: I THINK THAT WOULD BE MY QUESTIONS, YOUR  
14 HONOR.

15 THE COURT: ALL RIGHT. ANY REDIRECT?

16 MR. CATHCART: YES, YOUR HONOR, JUST A FEW QUESTIONS.

17 REDIRECT EXAMINATION BY MR. CATHCART:

18 Q MR. FERGUSON, THE UPS MAN, SAW THE DEFENDANT WHEN?

19 A WHEN HE WAS CONCEALING HIMSELF BEHIND THE BUILDING  
20 AREA.

21 Q AND THAT WOULD BE WHICH BUILDING?

22 A I BELIEVE THAT WAS address

23 Q OKAY. address IN CONNECTION TO THE BURGLARIES --  
24 HOW MANY BURGLARIES WERE IN address DO YOU RECALL?

25 A I THINK THERE WAS APPROXIMATELY FOUR.

- 1 Q OKAY. AND address WAS NOT THE ONLY BUILDING THAT  
2 WAS BURGLARIZED THAT MORNING, WAS IT?
- 3 A address NEXT -- NEXT TO THAT.
- 4 Q AND TWO MORE BURGLARIES IN THAT ALSO?
- 5 A YES, TWO MORE BURGLARIES.
- 6 Q SO I BELIEVE YOU SAID THE LAST PERSON WHO INDICATED  
7 THEY LEFT WAS AROUND 8:00 A.M. UNTIL 12:00, SIX PLACES HAD  
8 BEEN BROKEN INTO?
- 9 A NO. I BELIEVE ONE OF THE REPORTS NOTED 10:00 A.M.
- 10 Q SO THAT PERIOD OF TIME, SIX SEPARATE PLACES HAD BEEN  
11 BROKEN INTO?
- 12 A THAT'S RIGHT.
- 13 Q SIX SEPARATE PLACES IN TWO SEPARATE BUILDINGS?
- 14 A THAT'S RIGHT.
- 15 Q THE EYEWITNESS SAW THE DEFENDANT STANDING BESIDE ONE  
16 OF THE BUILDINGS?
- 17 A THAT'S RIGHT.
- 18 Q CONCEALING HIMSELF?
- 19 A THAT'S HOW HE EXPLAINED IT TO ME.
- 20 Q SO YOU HAD AN OPPORTUNITY TO VIEW THE VIDEO TAPE,  
21 CORRECT?
- 22 A I VIEWED TO VIDEO TAPE.
- 23 Q WHO BROUGHT THE BAGS TO WHERE MR. ADAMS WAS SITTING AT  
24 THE FOOD FAIR?
- 25 A FROM THE VIDEO TAPE, I CAN SEE HIM WALKING DOWN THE

1       SIDEWALK FROM THE APARTMENT COMPLEX AREA AND THEN WALK INTO  
2       THE VIEW OF THE CAMERA AND SIT DOWN NEXT TO THE TELEPHONE  
3       IN A CHAIR WITH THOSE BAGS.

4       Q       PLACED THE BAGS DOWN?

5       A       THAT'S RIGHT.

6       Q       I BELIEVE YOU TESTIFIED UNDER CROSS THERE WAS NO OTHER  
7       -- NO FORENSIC EVIDENCE LINKING THAT MAN TO THE APARTMENTS,  
8       SUCH AS FINGERPRINTS, CORRECT?

9       A       NO, THERE WERE NO FINGERPRINTS.

10      Q       WHAT WAS IN HIS POCKET?

11      A       LATEX GLOVES.

12      Q       IF A MAN'S WEARING -- BASED ON YOUR EXPERIENCE, SEVEN  
13      YEARS AN INVESTIGATOR, IF HE'S PUTTING THESE GLOVES ON HIS  
14      HANDS, IS HE GOING TO LEAVE FINGERPRINTS?

15      A       HE WILL NOT.

16             MR. CATHCART: THAT'S ALL THE QUESTIONS I HAVE, YOUR  
17      HONOR.

18             THE COURT: ANY RECROSS?

19             MS. MOBLEY: BRIEFLY, YOUR HONOR.

20      RECROSS EXAMINATION BY MS. MOBLEY:

21      Q       INVESTIGATOR, IN THE COURSE OF YOUR INVESTIGATION WERE  
22      ANY SHOE PRINTS DISCOVERED?

23      A       NO.

24      Q       WERE ANY DNA, BLOOD, ANYTHING LIKE THAT DISCOVERED?

25      A       NO, THERE WAS NO DNA OR BLOOD THAT I KNOW OF.

INVESTIGATOR HUNT -- REDIRECT BY MR. CATHCART

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1 MS. MOBLEY: THANK YOU. THAT WILL BE IT, YOUR HONOR.

2 THE COURT: ANYTHING FURTHER?

3 REDIRECT EXAMINATION BY MR. CATHCART:

4 Q WAS MR. ADAMS CUT IN ANY WAY?

5 A NO, HE WAS NOT.

6 MR. CATHCART: NOTHING.

7 THE COURT: YOU MAY STEP DOWN.

8 (THE WITNESS LEAVES THE WITNESS STAND.)

9 THE COURT: ALL RIGHT. CALL YOUR NEXT WITNESS PLEASE.

10 MR. CATHCART: YOUR HONOR, THE STATE CALLS DEPUTY  
11 DAVID SOTO.

12 DAVID SOTO, BEING FIRST DULY  
13 SWORN, TESTIFIED AS FOLLOWS:

14 CLERK: THANK YOU. PLEASE HAVE A SEAT IN THE WITNESS  
15 CHAIR AND STATE YOUR FULL NAME FOR THE RECORD.

16 WITNESS: DAVID SOTO, S-O-T-O.

17 DIRECT EXAMINATION BY MR. CATHCART:

18 Q WHERE ARE YOU EMPLOYED?

19 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

20 Q WERE YOU EMPLOYED AT RICHLAND COUNTY SHERIFF'S  
21 DEPARTMENT BACK ON APRIL 19TH OF 2005?

22 A YES, SIR.

23 Q HOW LONG HAVE YOU BEEN WITH THEM?

24 A 13 YEARS.

25 Q YOUR JOB THERE RIGHT NOW IS WHAT?

STATE V. TERRANCE ADAMS

1 A GANG SUPERVISOR.

2 Q AND THAT MEANS YOU DO WHAT EXACTLY?

3 A INVESTIGATE GANG-RELATED CRIMES.

4 Q ON APRIL 19, 2005 WERE YOU BROUGHT TO THE HUNT CLUB  
5 ROAD AREA?

6 A YES, SIR.

7 Q WHAT BROUGHT YOU TO THAT AREA?

8 A DISPATCH CALLED -- CALLED OUT IN REFERENCE OF A  
9 BURGLARY IN PROGRESS AND THAT THE SUBJECT MAYBE POSSIBLY AT  
10 THE FOOD FAIR. UPON ARRIVING, I NOTICED THE GENTLEMAN  
11 STANDING THERE AND ALSO THE INVESTIGATOR SPEAKING TO HIM  
12 MATCHING THE SAME DESCRIPTION THAT WAS GIVEN OUT ON OUR  
13 DISPATCH CHANNEL.

14 Q WHAT DID YOU DO WHEN YOU SAW THAT THEY WERE THERE?

15 A WELL, AS OFFICER SAFETY, WE CHECK TO NEEDING MORE  
16 NUMBERS WHEN WE'RE DEALING WITH A SUSPECT. I APPROACHED TO  
17 ASSIST INVESTIGATOR HUNT, IS IT, AND TO ASSIST HIM AS HE  
18 WAS ASKING FOR HIS I.D.

19 THE SUBJECT BECAME VERY DEFENSIVE. AND I MEAN BY  
20 DEFENSIVE IS THAT HE GOT A DEFENSIVE STANCE WHEN HE ASKED  
21 FOR HIS I.D. AND IDENTIFICATION ONCE AGAIN.

22 AND UPON THAT, I WENT TO GRAB THE YOUNG MAN'S ARM.  
23 AND AT THAT, THAT'S WHEN HE BECAME VERY COMBATIVE AND  
24 THAT'S WHEN WE SUBDUED HIM AND TOOK HIM TO THE GROUND.

25 Q AND WHAT OCCURRED AFTER YOU ALL DID THAT?

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1 A WELL, AFTER WE TOOK HIM TO THE GROUND, WE TOLD HIM  
2 SEVERAL TIMES STOP RESISTING. STOP RESISTING. AT THAT  
3 TIME I WAS GOING TO TAKE A CAP STUN AND SPRAY HIM. I TOLD  
4 THE INVESTIGATOR, I'M GOING TO SPRAY HIM. HE SAYS, NO, I'M  
5 IN THE WAY. SO AT THAT TIME I ATTEMPTED TO TRY TO PULL HIS  
6 ARM BACK FROM UNDERNEATH -- UNDERNEATH HIS JACKET OR  
7 WAISTBAND AREA.

8 AND I DON'T KNOW IF HE WAS ON DRUGS OR WHAT, BUT HE  
9 WAS A PRETTY STRONG GUY, AND I STILL COULDN'T PULL HIS ARM  
10 BACK. I ENDED UP FINALLY HAD TO DO AN OPEN PALM STRIKE TO  
11 HIS NECK REGION. AND WHEN I FINALLY HIT HIM TWICE, HE WAS  
12 ABLE TO RELEASE HIS ARM AND WE WERE ABLE TO PLACE HIM IN  
13 CUSTODY.

14 Q OKAY. DID YOU NOTICE WHAT IF ANYTHING HE WAS  
15 ATTEMPTING TO REACH FOR?

16 A YEAH, AFTER WE WERE ABLE TO RESTRAIN HIM AND PLACE HIM  
17 IN HANDCUFFS, WE LOOKED IN HIS FRONT POCKET. WE PULLED OUT  
18 A LOCK BLADE -- A LOCK KNIFE. AND I THINK THE CHANGE AND I  
19 THINK A GOLD OR MAYBE A SILVER COLORED WATCH IN HIS -- I  
20 WANT TO SAY HIS FRONT RIGHT POCKET, THE SIDE THAT I WAS ON.

21 MR. CATHCART: NO FURTHER QUESTIONS. PLEASE ANSWER  
22 ANY QUESTIONS FROM THE DEFENSE COUNSEL.

23 THE COURT: ALL RIGHT. CROSS EXAMINE.

24 MS. MOBLEY: THANK YOU, YOUR HONOR. BEG THE COURT'S  
25 INDULGENCE JUST A MOMENT.

1 (PAUSE.)

2 CROSS EXAMINATION BY MS. MOBLEY:

3 Q MASTER DEPUTY YOU SAID OR ---

4 A SERGEANT.

5 Q SERGEANT?

6 A YES, MA'AM.

7 Q YOUR UNDERSTANDING FROM AFTER THE CONFRONTATION  
8 HAPPENED AT THE FOOD FAIR, MR. ADAMS WAS TAKEN TO THE  
9 HOSPITAL AFTER THAT; CORRECT?

10 A YES, MA'AM. TO ADD TO THAT, HE STARTED COMPLAINING  
11 ABOUT HIS EYE. SO I WENT INTO THE STORE, SPOKE WITH THE  
12 STORE MANAGER, ACQUIRED A PLASTIC BAG, PUT ICE IN THE  
13 PLASTIC BAG, AND THEN ---

14 Q HE WENT TO THE HOSPITAL. I'M NOT TRYING TO INTERRUPT  
15 YOU.

16 A YEAH, WE CALLED -- WE CALLED EMERGENCY SERVICES FOR  
17 HIM.

18 Q OKAY.

19 A YES, MA'AM.

20 Q HE WAS TREATED AT RICHLAND?

21 A CORRECT, YES, MA'AM.

22 MS. MOBLEY: I HAVE NO FURTHER QUESTIONS. THANK YOU.

23 THE COURT: ANY REDIRECT?

24 MR. CATHCART: NO, SIR.

25 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

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1 (THE WITNESS LEAVES THE WITNESS STAND.)

2 THE COURT: ALL RIGHT.

3 MS. FENT: THE STATE CALLS INVESTIGATOR BILL MANN.

4 WILLIAM MANN, BEING FIRST

5 DULY SWORN, TESTIFIED AS FOLLOWS:

6 CLERK: THANK YOU. PLEASE HAVE A SEAT IN THE WITNESS  
7 CHAIR AND STATE YOUR FULL NAME FOR THE RECORD.

8 WITNESS: MY NAME IS WILLIAM MANN.

9 DIRECT EXAMINATION BY MS. FENT:

10 Q AND WHERE ARE YOU CURRENTLY WORKING?

11 A RICHLAND COUNTY SHERIFF'S DEPARTMENT IN THE FORENSIC  
12 SCIENCE DIVISION.

13 Q HOW LONG HAVE YOU BEEN IN THE FORENSIC SCIENCE  
14 DIVISION?

15 A SINCE FEBRUARY OF '92.

16 Q OKAY. AND HOW LONG HAVE YOU BEEN WITH THE RICHLAND  
17 COUNTY SHERIFF'S DEPARTMENT?

18 A SINCE MAY OF '89.

19 Q WHAT DID YOU DO PRIOR TO GOING TO THE FORENSIC  
20 DEPARTMENT?

21 A ROAD PATROL.

22 Q COULD YOU EXPLAIN BASICALLY WHAT YOU DO IN THE  
23 FORENSIC DEPARTMENT?

24 A WE WORK THE CRIME SCENES, HOMICIDES, SUICIDE,  
25 BURGLARIES, ANY CRIME THAT THEY REQUEST A CRIME SCENE UNIT.

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1 WE DO THE PHOTOGRAPHY, THE EVIDENCE COLLECTION, THE  
2 PROCESSING OF THE EVIDENCE, THE FINGERPRINTING, ETCETERA.

3 Q CAN YOU DESCRIBE TO THE JURY OR TELL THE JURY  
4 BASICALLY YOUR EDUCATION AND YOUR TRAINING BACKGROUND THAT  
5 BROUGHT YOU TO THE FORENSIC SCIENCE DEPARTMENT?

6 A OUR BASIC TRAINING IS FINGERPRINT CLASSES AT THE  
7 CRIMINAL JUSTICE ACADEMY. PHOTOGRAPHY CLASSES.  
8 IDENTIFICATION TECHNICIAN CLASSES, WHERE THEY TEACH CRIME  
9 SCENE. WE'VE HAD SOME OUT OF STATE INSTRUCTORS COME IN.  
10 AND IT'S AN ON-GOING PROCESS.

11 Q ON APRIL 19TH OF 2005, LAST YEAR, WERE YOU WORKING  
12 AROUND THE NOONTIME HOURS?

13 A YES, I WAS.

14 Q OKAY. WERE YOU CALLED OUT OR DID YOU REPORT TO THE  
15 address FOR A CRIME SCENE PROCESSING?

16 A YES, I DID.

17 Q BASICALLY, HOW WERE YOU CALLED OUT THERE, HOW DID YOU  
18 ARRIVE TO THE SCENE?

19 A I HEARD THE RADIO TRAFFIC AND WAS IN THE DENTSVILLE  
20 AREA, SO I PROCEEDED OVER THERE.

21 Q OKAY. AND UPON ARRIVING TO THE HUNT CLUB VILLAGE  
22 APARTMENTS, WHERE WERE YOU DIRECTED, WHAT DID YOU GO DO?

23 A WITHOUT THE CALL SHEETS, I'M NOT SURE WHICH ONE I WENT  
24 TO FIRST. BUT IT WAS LIKE address address

25 Q THERE WERE MULTIPLE BUILDINGS ---

- 1 A RIGHT.
- 2 Q --- THAT WERE IN THIS APARTMENT COMPLEX?
- 3 A CORRECT.
- 4 Q OKAY. AND SOMEONE WITH THE SHERIFF'S DEPARTMENT WAS
- 5 ALREADY OUT THERE WORKING THE SCENE?
- 6 A INVESTIGATOR DALE HUNT WAS THERE. I BELIEVE DAVID
- 7 SOTO WAS ALSO IN THE AREA.
- 8 Q OKAY. WHEN YOU -- AFTER YOU GET THERE AND I GUESS
- 9 ARE YOU DIRECTED TO A PARTICULAR APARTMENT OR WHAT
- 10 HAPPENED?
- 11 A SEVERAL APARTMENTS WERE POINTED OUT, AND I PROCEEDED
- 12 TO GO TO THEM. AND THE FIRST THING I DID WAS PHOTOGRAPHY.
- 13 Q OKAY. AND WERE YOU WORKING BY YOURSELF? YOU HAVE
- 14 MULTIPLE APARTMENTS THAT HAVE BEEN PROBABLY BROKEN INTO.
- 15 DID YOU WORK IT BY YOURSELF OR DO YOU CALL FOR SOME HELP?
- 16 A I CALLED BACK, SINCE IT WAS MULTIPLE, AND ASKED IF
- 17 ANOTHER CRIME SCENE UNIT COULD COME TO THE SCENE. AND
- 18 INVESTIGATOR DIEDRA BROWN CAME OUT.
- 19 Q OKAY. DO YOU KNOW WHERE INVESTIGATOR DIEDRA BROWN IS
- 20 TODAY?
- 21 A SHE'S ON ONE OF THE LAW ENFORCEMENT CONTRACTS OUT OF
- 22 THE COUNTRY RIGHT NOW, THAT A LOT OF THE POLICE OFFICERS
- 23 ARE DOING NOW.
- 24 Q OKAY. SO SHE'S NOT IN THE UNITED STATES?
- 25 A TO MY KNOWLEDGE SHE'S NOT.

1 Q OKAY. BUT SHE SHOWS UP THERE OUT AT THE SCENE TO HELP  
2 YOU PROCESS THESE MULTIPLE SCENES?

3 A CORRECT.

4 Q OKAY. DID YOU DO REPORTS OR I GUESS CRIME SCENE  
5 INVESTIGATION REPORTS WITH REGARD TO PROCESSING THESE  
6 SCENES?

7 A THE ONES THAT I DID, YES, I DID.

8 Q OKAY. WOULD IT HELP YOU TO REFER TO THESE REPORTS TO  
9 BE ABLE TO REFRESH YOUR MEMORY?

10 A YES.

11 Q OKAY. ABOUT HOW MANY CRIME SCENES DO YOU THINK YOU  
12 PROCESS EVERY WEEK?

13 A IT VARIES. IT WOULD BE HARD TO SAY. IT WOULD REALLY  
14 DEPEND ON WHICH SHIFT YOU WERE WORKING.

15 Q OKAY. AND YOU SAID THAT THERE'S VARIOUS THINGS THAT  
16 YOU'RE GOING TO DO IN PROCESSING THE SCENE. JUST GENERALLY  
17 SPEAKING, YOU GO TO A BURGLARY SCENE AND WHAT DO YOU WANT  
18 TO DO? WHAT ARE YOUR GOALS?

19 A I GET THERE. THE VICTIM, THE RESIDENT'S ON THE SCENE.  
20 THE FIRST THING YOU DO IS DETERMINE A POINT OF ENTRY,  
21 EXAMINE THAT, AND THEN GET WITH THE VICTIM AND DO A WALK-  
22 THROUGH OF THE RESIDENCE, WHAT'S OUT OF PLACE, WHAT'S BEEN  
23 MOVED. IS THERE ANYTHING THERE THAT MAYBE WASN'T THERE  
24 PRIOR, LIKE SOMETIMES HYPOTHETICALLY THEY'LL BRING A DRINK  
25 CONTAINER IN WITH THEM. IT JUST DEPENDS ON WHO THE SUSPECT

1 IS.

2 Q WHEN YOU SAY THEY WILL BRING A DRINK CONTAINER WITH  
3 THEM, WHO DO YOU MEAN?

4 A THE SUSPECT.

5 Q OKAY. BUT YOU'RE LOOKING FOR ITEMS THAT MAYBE A  
6 SUSPECT BROUGHT IN THAT YOU CAN PROCESS?

7 A LOOKING FOR ITEMS THAT WE CAN SAY THE SUSPECT MORE  
8 THAN LIKELY DID HANDLE, AND THEN PROCESS THEM FOR  
9 FINGERPRINTS OR COLLECT THEM AND TAKE THEM BACK TO THE  
10 CRIME LAB FOR PROCESSING, WHICHEVER WOULD BE -- WOULD BE  
11 EASIER TO DO, MORE PRODUCTIVE.

12 Q OKAY. YOU SAID THAT UPON YOUR ARRIVING INITIALLY YOU  
13 WANT TO BE ABLE TO DETERMINE THE POINT OF ENTRY. IN  
14 LOOKING AT THE MULTIPLE APARTMENTS IN THIS PARTICULAR  
15 APARTMENT COMPLEX, WAS IT EASY OR DIFFICULT TO DETERMINE  
16 THE POINT OF ENTRY?

17 A IT WAS PRETTY EASY, BECAUSE THEY HAD BEEN PRIED. THE  
18 DOORS HAD BEEN FORCED. SOME OF THEM, THE DOOR FRAME, THE  
19 DOOR FACING HAD ACTUALLY COME LOOSE FROM THE WALL AND WAS  
20 LAYING OUT IN THE FLOOR.

21 Q I WANT TO START OUT AND LET'S DIRECT YOUR ATTENTION  
22 TO APARTMENT addr, MEANING, I GUESS address  
23 address

24 A OKAY.

25 Q WHAT DID YOU DO WITH REGARDS TO PROCESSING THIS

1 PARTICULAR APARTMENT?

2 A THIS IS GOING TO BE MR. CHARLES NOTTINGHAM'S  
3 RESIDENCE. I ARRIVED AT 13:00, 1:00 O'CLOCK MILITARY TIME.  
4 AND THE RESIDENT WAS NOT PRESENT. THE RESIDENT ARRIVED AT  
5 1:30 OR 13:30 MILITARY TIME. I PHOTOGRAPHED THE SCENE  
6 USING A DIGITAL CAMERA AND A REFERENCE SCALE WAS USED IN  
7 THE PHOTOS WHERE NECESSARY.

8 THE SLIDING GLASS PATIO DOOR WAS PRIED OPEN. THE LOCK  
9 ON THE DOOR FRAME PULLED OUT. THIS WAS PHOTOGRAPHED WITH A  
10 SCALE AND THE LOCK PIECE COLLECTED.

11 THE DOOR AND THE FILE DRAWERS IN THE BEDROOM WERE  
12 PROCESSED USING BLACK FINGERPRINT POWDER, LATENT POWDER.  
13 NO IDENTIFIABLE PRINTS WERE DEVELOPED.

14 (SIX LARGE COLOR PHOTOS WERE MARKED FOR IDENTIFICATION  
15 AS STATE'S EXHIBIT NOS. 22 THROUGH 27.)

16 Q INVESTIGATOR, I'M GOING TO SHOW YOU WHAT WE'VE MARKED  
17 AS STATE'S EXHIBIT NOS. 22 THROUGH 27.

18 A OKAY.

19 Q AND I'M GOING TO ASK YOU FIRST IF YOU'LL JUST LOOK  
20 THROUGH THE PHOTOGRAPHS AND SEE IF YOU RECOGNIZE THEM?

21 A YES, I DO.

22 Q OKAY. AND DO THOSE PHOTOS ACCURATELY DEPICT THE  
23 DAMAGE THAT YOU SAW OR WHAT YOU SAW IN THAT APARTMENT 2-D  
24 THAT AFTERNOON?

25 A YES, THEY DO.

1 MS. FENT: I'D OFFER INTO EVIDENCE STATE'S EXHIBITS 22  
2 THROUGH 27 AND TENDER THEM TO DEFENSE COUNSEL.

3 (PAUSE.)

4 MS. MOBLEY: YOUR HONOR, I HAVE NO OBJECTION TO 22,  
5 27, AND 26, OR 25. IT APPEARS THAT 24 AND 23 ARE  
6 ESSENTIALLY THE SAME PHOTOGRAPH, AND I WOULD JUST ASK THEM  
7 TO CHOOSE ONE.

8 THE COURT: IS THERE ANY DIFFERENCE IN THOSE, MS.  
9 FENT?

10 MS. FENT: IF I COULD JUST ASK INVESTIGATOR MANN,  
11 MAYBE IF THERE WAS ANYTHING DIFFERENT IN THE PHOTOGRAPH.

12 THE COURT: LET ME GO AHEAD. 22, 25, 26, 27 ARE  
13 ADMITTED WITHOUT OBJECTION. LET'S SEE WHERE WE GO WITH THE  
14 OTHERS.

15 (STATE'S EXHIBIT NOS. 22, 25, 26, AND 27 RECEIVED IN  
16 EVIDENCE.)

17 Q I'M GOING TO SHOW YOU -- 25 HAS BEEN ADMITTED INTO  
18 EVIDENCE ALREADY. TAKE A LOOK AT 23 AND 24. IS THERE  
19 ANYTHING DIFFERENT THAT YOU ARE SHOWING IN 23 OR 24 THAT'S  
20 NOT DEPICTED IN 25?

21 A THIS IS A LITTLE CLOSER UP.

22 Q OKAY. AND WHAT'S THE PURPOSE OF -- WHAT DO YOU CALL  
23 THIS? IS THAT BASICALLY A RULER?

24 A REALLY, 23 IS CLOSER UP. THAT IS A SCALE, WHICH BY  
25 PUTTING THIS ---

1 Q OKAY. WITHOUT SHOWING IT TO THEM, IT'S NOT IN  
2 EVIDENCE YET.

3 A WHAT IT ALLOWS IS TO GET AN EXACT SIZE. IF YOU PUT  
4 THE RULER IN THERE AND THEN BRING THE PHOTO BACK, YOU CAN  
5 HAVE AN EXACT SIZE ON IT.

6 Q OKAY.

7 A AND THAT'S JUST SHOWING THAT RIGHT THERE; THAT'S WHAT  
8 IT'S DOING.

9 Q THE IMAGE IN THE MIDDLE?

10 A RIGHT. 23 WOULD BE THE CLOSER OF THE TWO, BECAUSE  
11 THIS IS TIGHTER.

12 Q OKAY. SO 23 SHOWS THE RULER AND 25 DOES NOT, A CLOSER  
13 VIEW?

14 A RIGHT.

15 MS. FENT: OKAY. YOUR HONOR, I'D BE HAPPY TO WITHDRAW  
16 24.

17 THE COURT: 24 IS WITHDRAWN WITHOUT OBJECTION; IS THAT  
18 CORRECT?

19 MS. MOBLEY: YES, SIR.

20 THE COURT: ANY OBJECTION TO 23 BEING ADMITTED?

21 MS. MOBLEY: NO, SIR.

22 THE COURT: 23 IS ADMITTED WITHOUT OBJECTION.

23 (STATE'S EXHIBIT NO. 23 RECEIVED IN EVIDENCE.)

24 Q AND IF YOU CAN, ON 23 NOW THAT'S BEEN ADMITTED INTO  
25 EVIDENCE, CAN YOU SHOW US EXACTLY WHAT THIS IS, WHAT PART

1 OF THE DOOR FRAME THAT YOU ARE PHOTOGRAPHING HERE?

2 A THIS IS GOING TO BE IN OR AROUND THE LOCK AREA OF THE  
3 SLIDING GLASS DOOR. AND IT'S SHOWING THE SCUFFED, SCARRED  
4 MARKS, TOOL MARKS FOR ANOTHER TERMINOLOGY OF WHERE IT WAS  
5 PRIED. AND THE RULER JUST ALLOWS YOU TO -- IN THIS CASE,  
6 THAT'S GOING TO BE THE METRIC SYSTEM RULER INSTEAD OF THE  
7 STANDARD INCH RULER. AND YOU JUST BRING IT BACK TO WHERE  
8 THIS EQUALS, AND THEN YOU'VE GOT AN EXACT SIZE OF IT FOR  
9 COMPARING TOOL MARKS.

10 Q THE PART IN THE MIDDLE THAT YOU SAID SHOWS THE PRY  
11 MARKS, WHAT MATERIAL IS THAT? IS IT METAL? IS IT WOOD?

12 A MOST OF THOSE DOORS ARE PROBABLY AN ALUMINUM OF SOME  
13 TYPE. SO THAT'S WHERE IT HAD BEEN PRIED.

14 Q SO THE PIECE IN THE VERY MIDDLE, THE ALUMINUM PIECE  
15 SHOWS THE PRY MARKS?

16 A UH-HUH. AND IT LOOKS LIKE THERE COULD BE SOME SCUFF  
17 MARKS THERE.

18 Q OKAY. AND POINT OUT WHERE THE SCUFF MARKS ARE THAT  
19 YOU SEE?

20 A I'M TRYING TO SHOW CLOSE-UP OF SCARING, SCUFFING TOOL  
21 MARKS IS WHAT I'M TRYING TO SHOW.

22 MS. FENT: YOUR HONOR, MAY I PUBLISH STATE'S EXHIBIT  
23 NO. 23 TO THE JURY?

24 THE COURT: ALL RIGHT.

25 Q STATE'S EXHIBIT 26 AND 27, WHAT ARE BASICALLY THOSE

1 PHOTOGRAPHS SHOWING? I GUESS START WITH 27.

2 A THE SLIDING GLASS DOOR AREA GOING OUT ONTO THE LITTLE  
3 PATIO AREA. IT'S IDENTIFYING THE AREA -- WHEN I TAKE  
4 PHOTOS, I USUALLY WOULD STAND BACK. HYPOTHETICALLY, THIS  
5 DOOR WHEREVER IT IS RIGHT HERE -- WELL, IT'S OVER THERE.  
6 OKAY. UP THERE. I KNEW THERE WAS ONE BACK HERE SOMEWHERE.  
7 I WOULD SHOW A WIDE -- I'D TAKE A WIDE SHOT, AND THEN I'D  
8 WORK MY WAY IN TO IDENTIFY THAT DOOR AS BEING THE ITEM OF  
9 INTEREST.

10 SO I START OFF WITH THE WIDE AREA SHOWING THE SLIDING  
11 GLASS DOOR, AND THEN WORK MY WAY IN, DOWN TO THE LITTLE  
12 DETAILED RULER SHOT WITH THE TOOL MARKS THAT HE'S PASSING  
13 AROUND NOW.

14 Q OKAY. SO STATE'S EXHIBIT 23 THAT WE PASSED AROUND IS  
15 WHAT PART OF STATE'S EXHIBIT 27?

16 A IT WOULD BE IN THIS DOOR AREA. THE CHANNEL, WHERE IT  
17 OPENS FROM THE FRAME.

18 Q OKAY. AND STATE'S EXHIBIT 26?

19 A THAT'S GOING TO BE THE LOCK AREA. AND THAT'S GOING TO  
20 BE THE PART OF THE DOOR THAT SLIDES. YOU'VE GOT YOUR LOCK  
21 AREA AND THERE'S THE LOCK WHERE IT'S BEEN PRIED.

22 Q THERE ARE PRY MARKS ON STATE'S EXHIBIT 26?

23 A YES, RIGHT IN THERE.

24 Q OKAY. RIGHT AT THE DOOR.

25 MS. FENT: MAY I PUBLISH 26 AND 27 TO THE JURY, YOUR

1 HONOR?

2 THE COURT: SURE.

3 Q AND IN ADDITION TO TAKING THE PHOTOGRAPH OF THE POINT  
4 OF ENTRY, WHAT OTHER PHOTOGRAPH DID YOU TAKE OF THAT  
5 APARTMENT?

6 A THERE SHOULD BE A -- IN GENERAL THE APARTMENT IN  
7 GENERAL, TO SHOW ANYTHING OUT OF PLACE.

8 Q OKAY. WHAT WAS THE NEXT APARTMENT YOU WENT TO? addre  
9 I BELIEVE?

10 A CORRECT. 3-C. AND PHOTOGRAPHED THE DAMAGE AND PRY  
11 MARKS TO THE FRONT DOOR. AGAIN, DIGITAL PHOTOGRAPHY WITH A  
12 REFERENCE SCALE IN THE PHOTOS.

13 Q AND YOU SAID THE POINT OF ENTRY WAS WHERE ON addres

14 A addr WAS THE FRONT DOOR.

15 Q ADDITIONALLY, WITH THAT WAS POINT OF ENTRY DIFFICULT  
16 TO ASCERTAIN OR IS IT THE SAME AS THE OTHER ONES THAT YOU  
17 SAW?

18 A WITHOUT SEEING THE PHOTOS, BUT I BELIEVE THE FRONT  
19 DOOR, THE FACING WAS PUSHED IN ON THAT ONE.

20 Q OKAY.

21 A IT HAD BEEN PRIED AND THEN FORCED.

22 Q OKAY. YOU SAID THAT THAT SCENE WAS ALSO PROCESSED FOR  
23 PRINTS?

24 A INVESTIGATOR DIEDRA BROWN PROCESSED IT FOR PRINTS.

25 Q TO YOUR KNOWLEDGE WERE ANY PRINTS LIFTED FROM THAT

1 SCENE?

2 A NOT THAT I KNOW OF.

3 Q DID YOU THEN PROCEED TO APARTMENT addre

4 A YES, I DID.

5 Q OKAY. AND CAN YOU TELL US WHAT YOU DID WITH REGARDS  
6 TO PROCESSING THAT SCENE?

7 A PHOTOGRAPHED THE SCENE, AGAIN WITH DIGITAL CAMERA.  
8 PHOTOGRAPHED THE DAMAGE, PRY MARKS TO THE FRONT DOOR WITH A  
9 REFERENCE SCALE IN THE PHOTOS. THE REFERENCE SCALE BEING  
10 THAT NUMBER THAT YOU'RE SEEING IN THOSE PHOTOS.

11 (FIVE LARGE COLOR PHOTOS WERE MARKED FOR  
12 IDENTIFICATION AS STATE'S EXHIBIT NOS. 28 THROUGH 32.)

13 Q INVESTIGATOR, I'M GOING TO SHOW YOU WHAT'S BEEN MARKED  
14 AS STATE'S EXHIBITS 28 THROUGH 32 AND ASK YOU IF YOU CAN  
15 TAKE A LOOK AT THOSE AND SEE IF YOU RECOGNIZE THEM?

16 A YES, I DO.

17 Q OKAY. AND DO THESE PHOTOS -- DID YOU TAKE THESE  
18 PHOTOGRAPHS?

19 A YES, I DID.

20 Q OKAY. AND DO THEY ACCURATELY DEPICT WHAT YOU SAW IN  
21 THAT APARTMENT COMPLEX THAT AFTERNOON?

22 A YES, THEY DO. YES, THEY DO.

23 MS. FENT: I'D OFFER INTO EVIDENCE STATE'S EXHIBITS 28  
24 THROUGH 32 AND TENDER TO DEFENSE COUNSEL.

25 THE COURT: GIVE ME THOSE NUMBERS AGAIN PLEASE?

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1 MS. FENT: 28 THROUGH 32.

2 (PAUSE.)

3 MS. MOBLEY: NO. 28 THROUGH 30 I HAVE NO OBJECTION TO,  
4 YOUR HONOR. I WOULD ASK THE STATE TO ELECT BETWEEN 32 AND  
5 31.

6 THE COURT: IS THERE ANY DIFFERENCE IN THEM?

7 MS. FENT: YOUR HONOR, 31 AND 32 ARE AS THE  
8 INVESTIGATOR HAS ALREADY DESCRIBED, HOW HE'D TAKE THEM  
9 FURTHER BACK, PHOTOGRAPHED TO GET THE PERSPECTIVE, AND THEN  
10 CLOSER IN. I'D BE HAPPY TO TENDER THEM TO THE COURT.

11 THE COURT: ALL RIGHT. I'LL OVERRULE THE OBJECTION.  
12 THEY'LL BOTH BE ADMITTED.

13 MS. MOBLEY: THANK YOU, YOUR HONOR.

14 THE COURT: ALL RIGHT.

15 (STATE'S EXHIBIT NOS. 28 THROUGH 32 RECEIVED IN  
16 EVIDENCE.)

17 Q OKAY. GOING THROUGH THESE PHOTOGRAPHS, IF YOU CAN  
18 BASICALLY DESCRIBE FOR US WHAT WE'RE SEEING IN THESE  
19 PHOTOGRAPHS?

20 A YOU'RE SEEING DAMAGE TO THE DOOR FRAME.

21 Q IS THAT 28?

22 A STATE'S EXHIBIT 28.

23 29 IS WHERE THE DOOR FRAME HAS BEEN SEPARATED FROM  
24 FORCE, AND IT ACTUALLY SPLIT AND PART OF IT WAS ON THE  
25 FLOOR.

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- 1 Q THAT IS WHAT IS ON THE CARPET ON THE FLOOR?
- 2 A A PIECE OF THE DOOR FRAME, DOOR FACING.
- 3 Q OKAY.
- 4 A THIS IS WHERE THE DOOR HAS BEEN PRIED. THOSE ARE TOOL  
5 MARKS.
- 6 Q SPECIFICALLY, CAN YOU POINT TO THE TOOL MARKS THAT  
7 WE'RE SEEING?
- 8 A RIGHT THERE A TOOL HAS BEEN USED THERE AND THERE  
9 TRYING TO PRY IN AND AROUND THE LOCK AREA.
- 10 Q OKAY.
- 11 A THIS IS WHERE THE DEAD BOLT PART OF IT -- THE STRIKER  
12 PLATE ACTUALLY SEPARATED FROM THE DOOR FRAME.
- 13 Q AND THAT'S STATE'S EXHIBIT 31.
- 14 A AND THIS IS JUST A WIDER SHOT. THAT WOULD BE YOUR  
15 ENTRANCE LOCK, YOUR REGULAR DOOR KNOB, AND THAT WOULD BE  
16 YOUR DEAD BOLT.
- 17 Q AND THAT'S EXHIBIT 32.
- 18 MS. FENT: I WOULD JUST ASK TO PUBLISH STATE'S  
19 EXHIBITS 28 THROUGH 32 TO THE JURY.
- 20 THE COURT: YOU MAY.
- 21 Q AND IN ADDITION TO THE POINT OF ENTRY, YOU ALSO  
22 PHOTOGRAPHED THE REST OF THE APARTMENT?
- 23 A CORRECT.
- 24 Q OKAY. DOCUMENTING THE STATE THE APARTMENT WAS IN?
- 25 A CORRECT.

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1 Q OKAY. THEN DID YOU GO TO APARTMENT ~~addre~~  
2 A YES, I DID.  
3 Q OKAY. AND CAN YOU TELL US WHAT HAPPENED IN THAT  
4 APARTMENT? WHAT DID YOU DO THERE?  
5 A OKAY. INVESTIGATOR DIEDRA BROWN, AGAIN, SHE PROCESSED  
6 IT. AND ACCORDING TO THIS REPORT, SHE ACTUALLY DID THIS  
7 REPORT AND INDICATED ME AS BEING THE BACK-UP UNIT,  
8 RESPONDED TO THE SCENE TO ASSIST INVESTIGATOR MANN IN  
9 REFERENCE TO SEVERAL BURGLARIES. UPON ARRIVAL WAS INFORMED  
10 BY THE VICTIM THAT THE SUSPECT ENTERED THE INCIDENT  
11 LOCATION BY PRYING FRONT DOOR OPEN ENTRY/EXIT POINT WITH A  
12 TOOL.  
13 THE SUBJECT RANSACKED THE INCIDENT LOCATION. UNKNOWN  
14 ON ALL ITEMS TAKEN.  
15 AND IT WAS PHOTOGRAPHED AND PROCESSED FOR LATENT  
16 PRINTS USING BLACK POWDER AND VISUAL INSPECTION WITH  
17 NEGATIVE RESULTS.  
18 AND SHE ALSO CHECKED THE EXTERIOR AREA WHERE POSSIBLE  
19 TO SEE IF ANY SHOE TRACKS, SHOE WEAR IMPRESSIONS CAN BE  
20 LOCATED WITH NEGATIVE RESULTS.  
21 Q AND YOU WERE PRESENT AT THIS SCENE AT APARTMENT ~~addre~~  
22 A CORRECT.  
23 Q YOU WALKED THROUGH THE SCENE?  
24 A CORRECT.  
25 (FOUR LARGE COLOR PHOTOS MARKED FOR IDENTIFICATION AS

1 STATE'S EXHIBIT NOS. 33 THROUGH 36.)

2 Q AND I SHOW YOU WHAT HAS BEEN MARKED AS STATE'S  
3 EXHIBITS 33, 34, 35, AND 36. AND JUST ASK YOU TO TAKE A  
4 LOOK AT THOSE AND SEE IF YOU RECOGNIZE THEM?

5 A YES, I DO.

6 Q OKAY. AND DO THEY ACCURATELY REFLECT WHAT YOU SAW IN  
7 THAT APARTMENT THAT AFTERNOON?

8 A YES, THEY DO.

9 MS. FENT: I OFFER INTO EVIDENCE 33, 34, 35, AND 36.

10 MS. MOBLEY: WITHOUT OBJECTION, YOUR HONOR.

11 THE COURT: WITHOUT OBJECTION, 33, 34, 35, AND 36 ARE  
12 ADMITTED.

13 (STATE'S EXHIBIT NOS. 33 THROUGH 36 RECEIVED IN  
14 EVIDENCE.)

15 Q AND BASICALLY, 33 AND 34 LOOK LIKE THEY'RE JUST THE  
16 BUILDING ITSELF AND THE FRONT DOOR OF THE APARTMENT THAT  
17 YOU LOOKED AT?

18 A CORRECT.

19 Q OKAY. YOU'RE JUST DOCUMENTING THE PERSPECTIVE OF WHAT  
20 CRIME SCENE YOU'RE PROCESSING?

21 A CORRECT.

22 Q OKAY. AND THEN 35 AND 36, WHAT ARE YOU SHOWING HERE?

23 A THE BACK DOOR FRAME HAS BEEN PRIED AND SHATTERED, AND  
24 THEN THAT'S A CLOSE-UP OF IT, AND THAT'S JUST A LITTLE  
25 FURTHER BACK TO SHOW THE EXTENT OF THE DAMAGE. THE DOOR

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1 FRAME IS SPLIT, AND THIS IS JUST A CLOSE-UP OF IT.

2 Q AND AT THE POINT OF ENTRY HERE, WHEN YOU APPROACH IT,  
3 IS IT READILY APPARENT?

4 A YES.

5 Q OKAY.

6 MS. FENT: MAY I PUBLISH 33, 34, 35, AND 36 TO THE  
7 JURY, YOUR HONOR?

8 THE COURT: THAT'S FINE. UNLESS THERE'S AN OBJECTION,  
9 YOU DON'T NEED TO ASK EVERY TIME.

10 MS. FENT: OKAY. THANK YOU.

11 Q AND PROCEEDING TO APARTMENT **addre** WHAT HAPPENED WITH  
12 REFERENCE TO THAT APARTMENT?

13 A APARTMENT **addre** I PROCESSED IT. PHOTOGRAPHED THE  
14 SCENE, THE FRONT DOOR HAD BEEN PRIED AND FORCED IN. THE  
15 DOOR JAM FACING WAS LYING ON THE FLOOR INSIDE.  
16 PHOTOGRAPHED THE DAMAGE, THE PRY MARKS AGAIN WITH THE  
17 DIGITAL CAMERA WITH A REFERENCE SCALE WHERE NEEDED. CLOSE-  
18 UP PHOTOS WITH THE SCALE WERE TAKEN OF THE PRY MARKS.

19 INVESTIGATING OFFICER ALSO USED A MICRO-SILL  
20 (PHONETIC) SUBSTANCE TO TRY TO GET A MOLD. THIS WAS ALSO  
21 PHOTOGRAPHED. INVESTIGATOR DIEDRA BROWN PROCESSED IT FOR  
22 PRINTS.

23 I USED THE MICRO-SILL. IT'S KIND OF A REDDISH-BROWN  
24 RUBBERY SUBSTANCE. AND YOU JUST TAKE IT AND PUT IT ON WITH  
25 A SMALL WOODEN THING WHICH BASICALLY LOOKS LIKE A TONGUE

1 DEPRESSOR. IT'S WOOD. AND YOU JUST TAKE AND YOU COVER IT  
2 AND THEN LET IT DRY. IT TAKES ROUGHLY 15 MINUTES TO DRY.  
3 AND THEN YOU CAN PEEL IT OFF, AND THEN YOU WILL HAVE A MOLD  
4 OF WHATEVER MARKINGS ARE THERE. WHATEVER THE SURFACE LOOKS  
5 LIKE, YOU'LL HAVE A MOLD OF IT.

6 (FIVE LARGE COLOR PHOTOS MARKED FOR IDENTIFICATION AS  
7 STATE'S EXHIBIT NOS. 37 THROUGH 41.)

8 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS 37, 38,  
9 39, 40, AND 41, AND ASK YOU IF YOU RECOGNIZE THOSE  
10 PHOTOGRAPHS?

11 A YES, I DO.

12 Q OKAY. AND DO THOSE ACCURATELY REFLECT THAT APARTMENT  
13 AND WHAT YOU SAW AT THAT APARTMENT THAT AFTERNOON?

14 A YES, THEY DO.

15 MS. FENT: WE WOULD OFFER 37, 38, 39, 40, AND 41 INTO  
16 EVIDENCE.

17 (PAUSE.)

18 MS. MOBLEY: THOSE ARE WITHOUT OBJECTION, YOUR HONOR.

19 THE COURT: WITHOUT OBJECTION, 37, 38, 39, 40, AND 41  
20 ARE ADMITTED.

21 (STATE'S EXHIBIT NOS. 37, 38, 39, 40, AND 41 RECEIVED  
22 IN EVIDENCE.)

23 Q BASICALLY WITH THESE PHOTOGRAPHS BEGIN -- WE START AT  
24 37 JUST DOCUMENTING THE APARTMENT THAT YOU'RE PROCESSING?

25 A CORRECT.

1 Q OKAY. AND THEN LOOKING AT THE OTHER PHOTOGRAPHS, WHAT  
2 ARE WE LOOKING AT HERE?

3 A 38 WE'RE LOOKING AT THE FACT THE DOOR FRAME IS DAMAGED  
4 AND THE FACING ON THE INTERIOR IS LAYING IN THE FLOOR;  
5 THAT'S A CLOSE-UP OF THE DAMAGE WITH THE PRY MARKS.

6 Q ON THE BLUE -- WHAT PART OF THE DOOR -- DOOR FRAME?

7 A THAT WOULD BE THE OUTER DOOR FRAME HERE.

8 Q OKAY. AND THOSE ARE THE PRY MARKS?

9 A CORRECT.

10 Q OKAY.

11 A AND THAT WOULD BE PART OF THE DOOR FACING LAYING IN  
12 THE FLOOR ON THE INSIDE.

13 Q THE DOOR IS OPEN TO THE INSIDE OF THE APARTMENT?

14 A CORRECT.

15 Q OKAY.

16 A AND THAT'S JUST MORE SHOWING THE DAMAGE THAT WAS DONE.

17 Q TO YOUR KNOWLEDGE IN PROCESSING ALL OF THESE  
18 APARTMENTS FOR PRINTS, WERE ANY PRINTS LIFTED?

19 A NO.

20 Q IF A PERSON IS WEARING GLOVES, WILL A FINGERPRINT BE  
21 LEFT?

22 A NO.

23 MS. FENT: NO FURTHER QUESTIONS.

24 THE COURT: ALL RIGHT. CROSS EXAMINE?

25 MS. MOBLEY: BRIEFLY, YOUR HONOR. THANK YOU.

1 CROSS EXAMINATION BY MS. MOBLEY:

2 Q INVESTIGATOR MANN, I'M LAUREN MOBLEY.

3 A HOW YOU DOING?

4 Q GOOD. INVESTIGATOR, TO YOUR KNOWLEDGE, FORENSICALLY  
5 SPEAKING, WAS THERE ANY EVIDENCE GATHERED THAT POINT YOU TO  
6 ONE SINGLE PERSON BY WAY OF EITHER FINGERPRINTS OR LACK  
7 THEREOF, SHOE PRINTS -- ASSUMING THAT -- WELL, LET ME ASK  
8 -- LET ME ASK YOU THIS. WERE THERE ANY SHOE PRINTS  
9 RECOVERED?

10 A TO MY KNOWLEDGE, NO. MOST OF IT WAS GRASSY AREA.  
11 CONCRETE SIDEWALK AND GRASSY AREA, AS INDICATED IN SOME OF  
12 THE PHOTOS.

13 Q AND THERE WAS NO OTHER FORENSIC EVIDENCE COLLECTED BY  
14 YOU OR MS. BROWN THAT WOULD INDICATE ANY PARTICULAR PERSON?

15 A NONE THAT I KNOW OF.

16 MS. MOBLEY: I HAVE NO FURTHER QUESTIONS.

17 THE COURT: ANY REDIRECT?

18 MS. FENT: NO, YOUR HONOR.

19 THE COURT: YOU MAY STEP DOWN, SIR.

20 (THE WITNESS LEAVES THE WITNESS STAND.)

21 THE COURT: ALL RIGHT. CALL YOUR NEXT WITNESS.

22 MR. CATHCART: YOUR HONOR, AT THIS TIME THE STATE  
23 PURSUANT TO RULE 902 SUBSECTION 4 RULES OF EVIDENCE SEEK TO  
24 INTRODUCE THE DEFENDANT'S PRIOR CONVICTIONS OF BURGLARY  
25 SECOND DEGREE AND BURGLARY ---

1 MS. MOBLEY: YOUR HONOR, I WOULD OBJECT WHEN THIS GOES  
2 ON THE RECORD.

3 THE COURT: PARDON ME?

4 MS. MOBLEY: I'M NOT SURE AS TO WHO HE'S INTRODUCING  
5 THESE THROUGH.

6 MR. CATHCART: THESE ARE -- I WOULD POINT OUT RULE 902  
7 SUBSECTION 4, YOUR HONOR. I DON'T HAVE TO INTRODUCE THEM  
8 THROUGH ANYONE. THESE ARE SELF-AUTHENTICATING DOCUMENTS  
9 SEALED BY BARBARA SCOTT, THE CLERK OF COURT. PUBLIC  
10 RECORDS.

11 THE COURT: HAVE YOU SEEN WHATEVER HE'S TALKING ABOUT,  
12 COUNSEL?

13 MS. MOBLEY: IF I MAY TAKE A LOOK.

14 (PAUSE.)

15 MR. CATHCART: YOUR HONOR, AGAIN, I WOULD ALSO NEED TO  
16 MARK THEM FOR IDENTIFICATION ALSO.

17 THE COURT: ALL RIGHT. LET MS. MOBLEY TAKE A LOOK.

18 MR. CATHCART: YES, SIR.

19 (PAUSE.)

20 MS. MOBLEY: YOUR HONOR, MAY WE APPROACH?

21 THE COURT: SURE.

22 (A BENCH CONFERENCE WAS HELD OFF THE RECORD IN THE  
23 PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

24 (TRUE COPY OF INDICTMENT 93-GS-40-9530, 1 PAGE MARKED  
25 FOR IDENTIFICATION AS STATE'S EXHIBIT NO. 42.)

1 (TRUE COPY OF INDICTMENT 93-GS-40-9516, 4 PAGES,  
2 MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT NO. 43.)

3 MR. CATHCART: YOUR HONOR, WITH REFERENCE TO STATE'S  
4 EXHIBIT NO. 42, THIS IS A COPY OF THE FACE OF THE  
5 INDICTMENT 93-GS-40-9530, CONVICTION FOR BURGLARY SECOND  
6 DEGREE AND STATE'S EXHIBIT NO. 43, WHICH IS THE FACE OF  
7 INDICTMENT 93-GS-40-9516, AGAIN, A CONVICTION FOR BURGLARY  
8 SECOND DEGREE.

9 MS. MOBLEY: YOUR HONOR ---

10 THE COURT: LET ME -- BEFORE I NOTE YOU'VE GOT AN  
11 OBJECTION. I KNOW I WANT TO GET THAT ON THE RECORD. AS  
12 FAR AS BEING SELF-AUTHENTICATING, UNDER RULE 902, THEY  
13 WOULD APPEAR TO BE DOCUMENTS THAT FALL WITHIN THE PURVIEW  
14 OF 902. SO THE COURT WOULD PERMIT THAT.

15 BUT, NOW, ANY OBJECTION, I WOULD BE GLAD TO HEAR FROM  
16 YOU.

17 MS. MOBLEY: THANK YOU, YOUR HONOR. I WOULD OBJECT  
18 PRIOR -- I WOULD OBJECT SUBJECT TO MY PRIOR ARGUMENT, YOUR  
19 HONOR.

20 THE COURT: THAT WERE MADE IN PRETRIAL; IS THAT  
21 CORRECT?

22 MS. MOBLEY: YES, SIR.

23 THE COURT: ALL RIGHT. THE STATE'S POSITION WOULD BE  
24 THE SAME, I WOULD ASSUME?

25 MR. CATHCART: YES, SIR.

1 THE COURT: ALL RIGHT. THE OBJECTION THEN IS  
2 OVERRULED. ANYTHING FURTHER BY WAY OF OBJECTION?

3 MS. MOBLEY: NOT AT THIS TIME.

4 THE COURT: ALL RIGHT. THEN THOSE DOCUMENTS WILL BE  
5 ADMITTED AS STATE'S 42 AND 43.

6 MR. CATHCART: THANK YOU, YOUR HONOR.

7 (STATE'S EXHIBIT NOS. 42 AND 43 RECEIVED IN EVIDENCE.)

8 MR. CATHCART: YOUR HONOR, AT THIS TIME, THE STATE  
9 WOULD CALL MS. DECHANTAL COFIELD.

10 DECHANTAL COFIELD, BEING  
11 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 CLERK: THANK YOU. PLEASE HAVE A SEAT IN THE WITNESS  
13 CHAIR AND STATE YOUR FULL NAME FOR THE RECORD.

14 WITNESS: DECHANTAL MEON COFIELD.

15 THE COURT: MS. COFIELD, LET ME JUST TELL YOU --  
16 BECAUSE A LOT OF FOLKS I HAVE TROUBLE HEARING. AND YOU'RE  
17 GOING TO NEED TO SPEAK LOUDLY ENOUGH FOR THE COURT  
18 REPORTER, FOR THE JURY, AND FOR EVERYONE IN THE COURTROOM  
19 TO HEAR YOU. THE MICROPHONE WILL HELP YOU SOME, BUT KEEP  
20 YOUR VOICE UP PLEASE.

21 ALL RIGHT. SOLICITOR.

22 MR. CATHCART: MAY IT PLEASE THE COURT, YOUR HONOR.

23 DIRECT EXAMINATION BY MR. CATHCART:

24 Q GOOD MORNING (SIC).

25 A GOOD MORNING.

1 Q MS. COFIELD, WHERE ARE YOU EMPLOYED?

2 A HOLIDAY INN EXPRESS.

3 Q AND WHAT SHIFT DO YOU WORK AT THE HOLIDAY INN EXPRESS?

4 A THIRD.

5 Q SO YOU ARE NOT NORMALLY AWAKE AT THIS TIME; IS THAT  
6 CORRECT?

7 A NO.

8 Q I APPRECIATE YOU COMING IN. MS. COFIELD, DID YOU USED  
9 TO LIVE -- WHERE DO YOU LIVE NOW?

10 A ON HUNTERS GREEN.

11 Q DID YOU LIVE -- DID YOU USED TO LIVE BACK ON APRIL THE  
12 19TH OF 2005 -- WHERE DID YOU LIVE?

13 A HUNT CLUB VILLAGE.

14 Q WHAT WAS YOUR APARTMENT AT THAT TIME?

15 A addre

16 Q COULD YOU PLEASE TELL THE JURY ON APRIL THE 19TH, 2005  
17 WHAT IF ANYTHING OUT OF THE ORDINARY OCCURRED DURING YOUR  
18 DAY?

19 A WHEN I CAME HOME, I LOOKED AT THE APARTMENT DOOR  
20 ACROSS FROM MINE, AND NOTICED THAT IT WAS WIDE OPEN AND IT  
21 WAS DARK. AND I KNEW THAT THE RESIDENT WAS AT WORK.

22 Q AND WHO WAS THE RESIDENT?

23 A CONQUISTA -- I DON'T KNOW HER LAST NAME.

24 Q OKAY. YOU KNEW SHE WAS NORMALLY AT WORK?

25 A YES.

DECHANTAL COFIELD -- DIRECT BY MR. CATHCART

- 1 Q OKAY.
- 2 A AND ---
- 3 Q PLEASE CONTINUE.
- 4 A AND I LOOKED AT MY DOOR AS I WENT TO PUT THE KEY IN
- 5 IT, AND I SAW THAT IT WAS PARTIALLY OPEN, AND THAT THERE
- 6 WERE SCRATCHES AROUND THE DOOR HANDLE.
- 7 Q IS THAT THE WAY YOU LEFT IT WHEN YOU LEFT BEFORE?
- 8 A NO, IT'S NOT.
- 9 Q DID YOU HAVE THE HOUSE LOCKED UP?
- 10 A YES, I DID.
- 11 Q AND WHAT DID YOU DO WHEN YOU OBSERVED YOUR DOOR IN
- 12 THAT CONDITION?
- 13 A I PUSHED IT OPEN WITH MY KEY, NOT IN THE LOCK, I JUST
- 14 PUSHED ON THE DOOR WITH MY KEY. AND I SAW THE DOOR FRAME
- 15 DOWN IN THE LIVING ROOM. AND I NOTICED THAT MY FUTON WAS
- 16 PULLED AWAY FROM THE WALL, AND I STEPPED BACK OUT OF THE
- 17 APARTMENT. AND I WAS WALKING TOWARDS THE OFFICE. AND I
- 18 RAN INTO THE MAINTENANCE MAN. AND I STARTED TO TELL HIM
- 19 WHAT HAPPENED, BUT HE BEAT ME TO IT. AND HE SAID, DID YOUR
- 20 HOME GET BROKEN INTO ALSO?
- 21 I SAID, YES.
- 22 Q LET ME LET YOU TAKE A LOOK AT WHAT'S BEEN MARKED AS
- 23 STATE'S EXHIBIT NO. 37, 38, 39, 40, AND 41. IF YOU COULD,
- 24 TAKE A LOOK AT THEM AND DESCRIBE WHAT YOU SEE IN EACH?
- 25 A THE FIRST ONE IS ---

STATE V. TERRANCE ADAMS

1 Q DO YOU RECOGNIZE THOSE PICTURES?

2 A YES.

3 Q AND WHAT ARE THEY PICTURES OF?

4 A THE FIRST ONE IS MY DOOR. THE SECOND ONE IS MY DOOR  
5 AND ENTRANCE INTO MY LIVING ROOM. THE NEXT ONE IS ALSO MY  
6 DOOR. AND MY LIVING ROOM WITH PART OF THE DOOR IN IT. AND  
7 FROM THE INSIDE OF MY LIVING ROOM LOOKING OUT THROUGH THE  
8 DOOR.

9 Q AND THOSE ARE NOT THE WAY YOU LEFT THEM WHEN YOU LEFT  
10 THAT MORNING?

11 A NO, THEY'RE NOT.

12 Q WHEN YOU WENT TO -- DID YOU EVER GO INTO YOUR  
13 APARTMENT?

14 A YES.

15 Q WHAT DID YOU FIND WHEN YOU WENT INTO YOUR APARTMENT?

16 A IT WAS IN DISARRAY. MY BEDROOM -- THE CLOTHES WERE  
17 TAKEN OUT OF THE DRAWERS. THERE WERE STUFF THROWN ON THE  
18 BED AND ON THE FLOOR. MY COMPUTER DESK HAD BEEN GONE  
19 THROUGH. AND I NOTICED SOME THINGS THAT WERE MISSING.

20 Q IT WAS JUST ONE SECTION OF YOUR HOUSE GONE THROUGH OR  
21 ALL OF YOUR HOUSE OR WHAT PART OF YOUR HOUSE HAD BEEN GONE  
22 THROUGH?

23 A I JUST HAD THE LIVING ROOM, KITCHEN, AND BEDROOM, AND  
24 BATHROOM. AND HE HAD GONE -- SOMEONE HAD GONE THROUGH THE  
25 LIVING ROOM AND THE BEDROOM.

DECHANTAL COFIELD -- DIRECT BY MR. CATHCART

1 Q THEY WENT THROUGH ALL THE DRAWERS, SOME OF THE  
2 DRAWERS?

3 A MOST OF THE DRAWERS, BECAUSE THEY WERE LEFT OPEN. I  
4 MEAN, I DIDN'T LEAVE THEM OPEN. THEY WERE OPEN WHEN I CAME  
5 HOME.

6 (FOUR LARGE COLOR PHOTOS WERE MARKED FOR  
7 IDENTIFICATION AS STATE'S EXHIBIT NOS. 44 THROUGH 47.)

8 Q I WANT TO GET YOU TO TAKE A LOOK AT WHAT'S BEEN MARKED  
9 AS STATE'S EXHIBIT 44, 45, 46, AND 47. IF YOU COULD, LOOK  
10 AT THESE. TELL ME IF YOU RECOGNIZE THEM?

11 A YES, THIS IS THE ---

12 Q JUST IF YOU RECOGNIZE EACH ONE.

13 A OH, YES, I DO.

14 Q ARE THEY AN ACCURATE REFLECTION OF WHAT -- HOW THIS  
15 STUFF APPEARED AS YOU CAME INTO YOUR APARTMENT?

16 A YES.

17 Q JUST GO AHEAD AND DESCRIBE WHAT EACH ONE OF THESE IS  
18 PLEASE?

19 A THIS IS -- THE FIRST ONE IS MY DRESSER.

20 Q THAT'S NO. 44?

21 A YES.

22 Q OKAY.

23 A NO. 45 IS MY BUREAU, MY NIGHT STAND, AND PART OF THE  
24 BED AND FLOOR.

25 Q AS IT WAS WHEN YOU LEFT IT?

1 A NOT EXACTLY, NO.

2 Q WHAT'S THE DIFFERENCE?

3 A I MEAN, I DID HAVE PAPERS OUT, BUT THEY WEREN'T ALL  
4 SPREAD OUT OR ANYTHING. IT WAS IN A STACK.

5 Q ALL RIGHT.

6 A THE NEXT IS MY BED WITH THE BASKET AND STUFF THAT HAD  
7 BEEN IN THE BASKET, AND CLOTHES ON IT, NO. 46. THAT'S NOT  
8 HOW I LEFT IT; THAT BASKET GOES ON THE DRESSER WITH STUFF  
9 IN IT.

10 Q OKAY.

11 A NO. 47 IS ALSO MY BED WITH STUFF ON IT FROM THE  
12 BASKET, AND THE BASKET IS ON THERE ALSO, WHICH I DID NOT  
13 HAVE IT LIKE THAT.

14 Q AND I GUESS THE DIFFERENCE IN NO. 44, THE DRESSER,  
15 WHAT'S THE DIFFERENCE IN THAT AND HOW YOU LEFT IT?

16 A THE DRAWERS ARE NOT ALL CLOSED, AND THE STUFF IS  
17 SPREAD ALL OVER ON MY DRESSER, AND I DON'T KEEP IT LIKE  
18 THAT. EVERYTHING WAS IN A LITTLE BOX OR A JEWELRY BOX OR A  
19 BASKET.

20 (LARGE COLOR PHOTO MARKED FOR IDENTIFICATION AS  
21 STATE'S EXHIBIT NO. 48.)

22 Q LET ME GET YOU TO LOOK AT WHAT'S BEEN MARKED AS  
23 STATE'S EXHIBIT NO. 48.

24 A THOSE WERE IN THE LIVING ROOM ON THE COUNTER, AND THE  
25 COMPUTER DESK DRAWER IS OPEN, AND THAT HAD BEEN CLOSED, AND

DECHANTAL COFIELD -- DIRECT BY MR. CATHCART

1 ALL THE PAPERS WERE STACKED UNDER THE DESK.

2 Q AND HAD THAT DRAWER BEEN RUMMAGED THROUGH?

3 A YES.

4 Q HAD ALL THE DRAWERS THAT WE'VE TALKED ABOUT, HAVE THEY  
5 BEEN RUMMAGED THROUGH ALSO?

6 A YES.

7 MR. CATHCART: YOUR HONOR, AT THIS TIME THE STATE  
8 SEEKS TO ENTER INTO EVIDENCE STATE'S EXHIBIT NO. 48, 44,  
9 45, 46, AND 47.

10 THE COURT: ANY OBJECTION?

11 MR. SUTHERLAND: NO OBJECTION.

12 THE COURT: THOSE FIVE PHOTOS ARE ADMITTED WITHOUT  
13 OBJECTION.

14 (STATE'S EXHIBIT NOS. 44, 45, 46, 47, AND 48 RECEIVED  
15 IN EVIDENCE.)

16 Q AFTER YOU DISCOVERED THAT YOUR PLACE HAD BEEN BROKEN  
17 INTO AND YOU SAW WHAT HAPPENED IN THERE, WHAT DID YOU DO?

18 A I WENT OUTSIDE TO GO TO THE OFFICE AND REPORT IT. AND  
19 THE MAINTENANCE GUY CAME UP TO ME AND SAID SEVERAL  
20 APARTMENTS HAD BEEN ROBBED AND THAT THE POLICE WERE AROUND  
21 THE CORNER AT THE CONVENIENCE STORE AND THAT I NEEDED TO GO  
22 OVER THERE.

23 Q DID YOU DO SO?

24 A YES, I DID.

25 Q OKAY. AND WHAT DID YOU FIND WHEN YOU WENT DOWN THERE?

STATE V. TERRANCE ADAMS

1 A THERE WERE ALL KINDS OF PERSONAL BELONGINGS ALONG THE  
2 SIDEWALK IN FRONT OF THE STORE, AND THE POLICE WERE THERE.  
3 AND I WAS ASKED TO BRIEFLY LOOK AND SEE IF I RECOGNIZED  
4 ANYTHING BELONGING TO MYSELF, AND I DID.

5 Q OKAY. DID YOU TELL THE POLICE WHAT THOSE THINGS WERE?

6 A YES, I DID.

7 Q LET ME LET YOU TAKE A LOOK AT WHAT'S BEEN MARKED AS  
8 STATE'S EXHIBIT NO. 10. DO YOU RECOGNIZE THOSE TWO ITEMS?

9 A YES, I DO.

10 Q AND WHAT ARE THOSE?

11 A THEY ARE RINGS OF MY MOTHER'S.

12 Q DID YOU -- WERE YOU ABLE TO GET YOUR ITEMS BACK?

13 A YES, I WAS.

14 Q DID YOU KNOW THE DEFENDANT, MR. ADAMS?

15 A NO, I DON'T.

16 Q DID HE HAVE ANY CONSENT TO GO INTO YOUR HOME?

17 A NO, HE DID NOT.

18 Q ALL THE ITEMS THAT WERE TAKEN FROM YOUR HOME, WERE YOU  
19 ABLE TO GET BACK?

20 A YES, I WAS.

21 Q DO YOU FEEL LIKE YOU'VE BEEN MADE WHOLE BY GETTING  
22 THOSE ITEMS BACK?

23 A NO, I DON'T.

24 Q WHAT ELSE WAS TAKEN FROM YOU?

25 A MY SENSE OF SECURITY AND PEACE OF MIND. ONE'S HOME IS

DECHANTAL COFIELD -- DIRECT BY MR. CATHCART

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1 SUPPOSED TO BE THEIR -- THEIR HAVEN, THEIR SAFE PLACE. AND  
2 AFTER THE ROBBERY, I NEVER FELT SAFE THERE.

3 Q AND THAT'S WHY YOU MOVED OUT?

4 A YES, IT IS.

5 MR. CATHCART: NO FURTHER QUESTIONS. PLEASE ANSWER  
6 ANY QUESTIONS FROM MR. SUTHERLAND.

7 THE COURT: GO AHEAD.

8 CROSS EXAMINATION BY MR. SUTHERLAND:

9 Q MS. COFIELD?

10 A YES.

11 Q YOU LEFT APPROXIMATELY 8:30 THAT MORNING; IS THAT  
12 CORRECT?

13 A NO.

14 Q THE INVESTIGATOR TESTIFIED EARLIER THAT YOU LEFT AT  
15 8:22 IN THE MORNING; IS THAT NOT CORRECT?

16 A NO. I WORKED THAT PREVIOUS NIGHT ---

17 Q OKAY.

18 A --- AND I HAD NOT GOTTEN HOME BY THEN.

19 Q ABOUT WHAT TIME DID YOU GET HOME?

20 A IT WAS SHORTLY AFTER NOON. IT WAS BEFORE 12:30 AND  
21 AFTER 12:00.

22 Q YOU WERE AT WORK WHEN THIS INCIDENT OCCURRED?

23 A NO. IF IT HAPPENED -- IT HAPPENED, I UNDERSTAND,  
24 BETWEEN 10:00 AND 12:00 OR SOMETHING. I HAD GONE TO A  
25 DOCTOR'S APPOINTMENT.

1 Q BUT JUST YOU WERE NOT AT HOME ---

2 A NO.

3 Q --- TO SEE WHO HAD DONE THIS?

4 A NO, I WASN'T.

5 MR. SUTHERLAND: NO FURTHER QUESTIONS, MA'AM.

6 MR. CATHCART: NOTHING FURTHER OF THIS WITNESS, YOUR  
7 HONOR.

8 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

9 (THE WITNESS LEAVES THE WITNESS STAND.)

10 THE COURT: ALL RIGHT. LET'S TAKE A SHORT BREAK  
11 BEFORE YOU CALL YOUR NEXT WITNESS.

12 MR. FOREMAN, LADIES AND GENTLEMEN, THIS WILL BE OUR  
13 AFTERNOON BREAK. WE'LL TAKE ABOUT 10, MAYBE 12 MINUTES.  
14 PLEASE DON'T DISCUSS THE CASE, BUT STEP BACK TO YOUR JURY  
15 ROOM. EVERYONE ELSE STAY SEATED PLEASE.

16 (THE JURY RETIRES TO THE JURY ROOM AT 3:34 P.M.)

17 THE COURT: WE'LL TAKE ABOUT 10 MINUTES.

18 (A RECESS WAS TAKEN.)

19 THE COURT: IS THE STATE READY TO PROCEED?

20 MR. CATHCART: YES, YOUR HONOR.

21 THE COURT: IS DEFENSE READY?

22 MS. MOBLEY: YES, SIR.

23 THE COURT: ALL RIGHT. LET'S GET THE JURY BACK  
24 PLEASE.

25 (THE JURY RETURNS TO THE COURTROOM AT 3:53 P.M.)

1 BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

2 THE COURT: THANK YOU.

3 MR. FOREMAN AND LADIES AND GENTLEMEN, I KNOW I GOT A  
4 NOTE FIRST THING THIS MORNING. A COUPLE OF YOU HAVE SOME  
5 TIMING PROBLEMS LATER ON THIS AFTERNOON. WE'LL WORK WITH  
6 YOU AND YOU SHOULD BE OUT OF HERE IN PLENTY OF TIME TO MEET  
7 THOSE OBLIGATIONS.

8 WE'LL CONTINUE. SOLICITOR, CALL YOUR NEXT WITNESS  
9 PLEASE.

10 MR. CATHCART: THE STATE CALLS CHARLES NOTTINGHAM.

11 CHARLES NOTTINGHAM, BEING  
12 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

13 CLERK: HAVE A SEAT IN THE WITNESS CHAIR AND STATE  
14 YOUR FULL NAME FOR THE RECORD.

15 WITNESS: CHARLES WAYNE NOTTINGHAM, JR.

16 THE COURT: ALL RIGHT. MR. NOTTINGHAM, YOU'RE  
17 PROBABLY GOING TO NEED TO GET A LITTLE BIT CLOSER. GET  
18 THAT MICROPHONE RIGHT IN FRONT OF YOUR MOUTH. WE ALL NEED  
19 TO BE ABLE TO HEAR WHAT YOU'VE GOT TO TELL US. OKAY?

20 WITNESS: IS THAT?

21 THE COURT: ALL RIGHT. YES, SIR, THAT'S BETTER.

22 SOLICITOR.

23 MR. CATHCART: MAY IT PLEASE THE COURT, YOUR HONOR.

24 DIRECT EXAMINATION BY MR. CATHCART:

25 Q MR. NOTTINGHAM, WHERE ARE YOU EMPLOYED?

1 A BRADLEY'S (PHONETIC).

2 Q AND DID YOU BACK ON APRIL THE 19TH OF 2005 USED TO  
3 LIVE WHERE?

4 A HUNT CLUB VILLAGE.

5 Q DO YOU STILL LIVE THERE?

6 A YES, SIR.

7 Q ON APRIL THE 19TH OF 2005, WHAT IF ANYTHING OUT OF THE  
8 ORDINARY OCCURRED AT HUNT CLUB VILLAGE?

9 A CAME HOME A LITTLE BEFORE 12:00 AFTER RUNNING ERRANDS,  
10 AND ---

11 Q I'M SORRY. YOU'VE GOT TO SPEAK UP.

12 A CAME HOME AROUND 12:00 O'CLOCK. MY FRONT DOOR WAS  
13 OPEN.

14 Q OKAY. AND IS THAT THE WAY YOU LEFT IT?

15 A NO.

16 Q WHAT DID YOU OBSERVE WHEN YOU FOUND OUT -- OR WHAT DID  
17 YOU DO WHEN YOU FOUND OUT YOUR DOOR WAS OPEN?

18 A IMMEDIATELY WENT IN TO SEE WHAT WAS GOING ON.

19 Q WHAT WAS GOING ON?

20 A I FIND MY HOUSE HAD BEEN RANSACKED.

21 Q WHEN YOU SAY RANSACKED, WHAT DO YOU MEAN?

22 A NOTHING WAS WHERE IT BELONGED. EVERYTHING -- THE  
23 LIVING ROOM WAS TORE UP. WENT IN MY BEDROOM, MY BEDROOM  
24 WAS TORE UP. FILE -- THE FILE CABINETS PULLED OUT. STUFF  
25 OUT OF MY CLOSET WAS SITTING ON MY BED. THE STUFF UNDER MY

1 BED WAS IN THE MIDDLE OF THE FLOOR. MY KITCHEN CABINET HAD  
2 BEEN TORN OUT, AS FAR AS FOOD, HAD BEEN TAKEN OUT OF IT.  
3 STUFF WAS ALL OVER THE FLOOR.

4 Q AND DID YOU OBSERVE ANY ITEMS MISSING FROM YOUR HOME?

5 A SEVERAL ITEMS WERE MISSING.

6 (THREE LARGE COLOR PHOTOS WERE MARKED FOR  
7 IDENTIFICATION AS STATE'S EXHIBIT NOS. 49, 50, AND 51.)

8 Q I NEED YOU TO TAKE A LOOK AT WHAT'S BEEN MARKED AS  
9 STATE'S EXHIBIT NO. 49, 50 AND 51. DO YOU RECOGNIZE THESE  
10 ITEMS OR THESE PICTURES -- OBJECTS IN THE PICTURES?

11 A YES.

12 Q TAKE A LOOK AT THESE PICTURES AND TELL THE JURY WHAT  
13 THESE PICTURES SHOW?

14 A THIS IS MY BEDROOM. THIS IS A PICTURE OF ALL THE  
15 STUFF BEING PULLED OUT. THE CABINETS ARE PULLED OUT. ALL  
16 THE STUFF ON THE FLOOR WASN'T THERE.

17 Q THAT'S STATE'S EXHIBIT NO. 49.

18 MR. CATHCART: I ASK THAT EXHIBIT NO. 49 BE ENTERED  
19 INTO EVIDENCE, YOUR HONOR?

20 THE COURT: ANY OBJECTION?

21 MR. SUTHERLAND: WITHOUT OBJECTION.

22 THE COURT: STATE'S 49 IS IN EVIDENCE.

23 (STATE'S EXHIBIT NO. 49 RECEIVED IN EVIDENCE.)

24 A 50 IS WHERE MY FILE CABINET WAS PULLED OUT EVERYTHING  
25 -- NOT EVERYTHING BUT A LOT OF STUFF WAS PULLED OUT OF IT

1 AND LAID ON THE FLOOR.

2 MR. CATHCART: I ASK THAT STATE'S EXHIBIT NO. 50 BE  
3 ENTERED INTO EVIDENCE, YOUR HONOR.

4 MR. SUTHERLAND: WITHOUT OBJECTION, YOUR HONOR.

5 THE COURT: WITHOUT OBJECTION, STATE'S EXHIBIT 50 WILL  
6 BE ADMITTED.

7 (STATE'S EXHIBIT NO. 50 RECEIVED IN EVIDENCE.)

8 A EXHIBIT 51 IS WHERE ALL THE STUFF HAD BEEN PULLED OUT  
9 OF THE CLOSET AND DUMPED ALL OVER THE BED.

10 MR. CATHCART: I ASK THAT STATE'S EXHIBIT NO. 51 ALSO  
11 BE ENTERED INTO EVIDENCE, YOUR HONOR.

12 MR. SUTHERLAND: WITHOUT OBJECTION, YOUR HONOR.

13 THE COURT: WITHOUT OBJECTION STATE'S EXHIBIT 51 IS  
14 ADMITTED.

15 (STATE'S EXHIBIT NO. 51 WAS RECEIVED IN EVIDENCE.)

16 Q WHAT IF ANYTHING OF VALUE DID YOU DETERMINE TO BE  
17 MISSING FROM YOUR HOME?

18 A KENNETH COLE WATCH, A WEDDING BAND, CHANGE OUT OF -- I  
19 HAD A LITTLE CHANGE BUCKET SITTING ON THE TABLE THAT WAS  
20 GONE. THE BUCKET WAS THERE, THE CHANGE WAS GONE. A BUNCH  
21 OF FOOD OUT OF THE KITCHEN WAS MISSING. A DUFFEL BAG, A  
22 SCREWDRIVER.

23 Q LET ME ASK YOU THIS. WHAT DID YOU DO WHEN YOU  
24 OBSERVED THAT YOUR HOUSE HAD BEEN RANSACKED? WERE YOU ABLE  
25 TO FIND OUT HOW THE GUY GOT IN YOUR HOUSE?

1 A YEAH, HE JIMMIED THE LOCK ON THE SLIDING DOOR, AND IT  
2 WAS LAYING IN THE LIVING ROOM.

3 Q AND THAT WAS SOMETHING THAT YOU WERE ABLE TO OBSERVE  
4 YOURSELF?

5 A YES.

6 Q WHAT DID YOU DO WHEN YOU FOUND OUT ALL THIS OCCURRED?

7 A CALLED 9-1-1.

8 Q OKAY. WHAT HAPPENED AFTER YOU CALLED 9-1-1?

9 A WELL, THE DISPATCHER ALREADY INFORMED ME THAT THE  
10 POLICE WERE OUT THERE ALREADY, AND I WALKED OUT TO THE  
11 FRONT AND THEY WERE OUT THERE. AND ---

12 Q THEN WHAT HAPPENED?

13 A RESPONDING TO A BURGLARY CALL. AND I WENT OUT THERE  
14 AND TOLD THEM MY APARTMENT HAD BEEN ALSO ROBBED.

15 Q DID ANYBODY DIRECT YOU TO SOMEWHERE ELSE?

16 A YES, THE APARTMENT MANAGER CAME OUT AND TOOK ME DOWN  
17 TO THE -- SAID THEY HAD HIM DOWN AT THE STORE DOWN THE  
18 STREET. AND WE WENT DOWN THERE. AND WHEN I OBSERVED HIM,  
19 HE WAS PUT INTO AN AMBULANCE.

20 Q OKAY. DID YOU OBSERVE ANYTHING THAT YOU RECOGNIZED  
21 DOWN THERE WITH YOU?

22 A YEAH, THEY HAD -- THE POLICE HAD ALREADY HAD ALL THE  
23 BELONGINGS THAT, I GUESS, HE HAD GOTTEN AND HAD THEM LAID  
24 OUT ON FRONT OF THE SIDEWALK AND HAD US GO THROUGH THEM TO  
25 SEE WHAT BELONGED TO US AND WHAT NOT.

- 1 Q OKAY. AND DID YOU OBSERVE THINGS THAT DID BELONG TO  
2 YOU?
- 3 A YES.
- 4 Q WHILE YOU WERE LOOKING THROUGH THE STUFF ON THE  
5 SIDEWALK, DID YOU SEE SOMETHING THAT YOU KNEW WAS MISSING  
6 THAT YOU DID NOT SEE THERE?
- 7 A YES, THE RING.
- 8 Q WHAT WAS THE RING?
- 9 A IT WAS A WEDDING BAND.
- 10 Q OKAY. CAN YOU DESCRIBE WHAT IT LOOKED LIKE?
- 11 A IT WAS GOLD WITH A BAND OF DIAMONDS AT THE TIME.
- 12 Q OKAY. DID YOU TELL THE OFFICERS OR ANYONE ABOUT THAT  
13 WEDDING BAND TO BE ON THE LOOK OUT FOR IT?
- 14 A YES, OFFICER HUNT AT THE TIME.
- 15 Q AND AT SOME TIME SUBSEQUENT DID YOU -- WERE YOU ABLE  
16 TO GET THAT BAND BACK?
- 17 A YES.
- 18 Q OKAY. AND WHO WAS ABLE TO RETRIEVE THAT BAND FOR YOU?
- 19 A OFFICER HUNT.
- 20 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT  
21 NO. 12. TELL ME, DO YOU RECOGNIZE ANYTHING IN THAT  
22 PICTURE?
- 23 A YES, THAT'S THE WATCH AND THE RING.
- 24 Q OKAY. AND THAT RING ---
- 25 THE COURT: THAT'S WHAT? I'M CAN'T HEAR. I'M SORRY.

CHARLES NOTTINGHAM -- DIRECT BY MR. CATHCART

1 WITNESS: THE WATCH AND THE RING.

2 THE COURT: ALL RIGHT. THANK YOU.

3 Q AND THAT'S THE WEDDING BAND YOU ASKED THE POLICE  
4 OFFICERS TO LOOK OUT FOR?

5 A YES.

6 Q HOW MUCH WAS THAT RING -- HOW MUCH DID THAT THING  
7 COST?

8 A IT CAME IN A SET. IT WAS LIKE 20 -- NO. I GOT IT  
9 COVERED, SO IT WAS LIKE 1700.

10 Q \$1700. AND THAT WAS ALONG WITH THE OTHER ITEMS THAT  
11 WAS TAKEN OUT OF YOUR HOUSE?

12 A (NODS HEAD.)

13 Q AND LET ME ASK IF YOU RECOGNIZE WHAT'S BEEN MARKED AS  
14 STATE'S EXHIBIT NO. 6?

15 A YES, THAT'S THE SCREWDRIVER I WAS MISSING.

16 Q OKAY. THIS CAME FROM YOUR HOME?

17 A UH-HUH.

18 MR. CATHCART: YOUR HONOR, AT THIS TIME THE STATE  
19 SEEKS TO INTRODUCE STATE'S EXHIBIT NO. 6 INTO EVIDENCE.

20 THE COURT: ANY OBJECTION?

21 MR. SUTHERLAND: WITHOUT OBJECTION.

22 THE COURT: ALL RIGHT. STATE'S 6 IS ADMITTED.

23 (STATE'S EXHIBIT NO. 6 RECEIVED IN EVIDENCE.)

24 MR. CATHCART: BEG THE COURT'S INDULGENCE.

25 (PAUSE.)

STATE V. TERRANCE ADAMS

1 Q DO YOU TERRANCE ADAMS?

2 A NO.

3 Q DID YOU GIVE THAT MAN RIGHT THERE PERMISSION TO GO  
4 INTO YOUR HOME?

5 A NO.

6 Q DID YOU GIVE HIM PERMISSION TO TAKE YOUR ITEMS?

7 A NO.

8 MR. CATHCART: NO FURTHER QUESTIONS. PLEASE ANSWER  
9 QUESTIONS FROM THE DEFENSE COUNSEL.

10 THE COURT: ALL RIGHT. MR. SUTHERLAND.

11 MR. SUTHERLAND: MAY IT PLEASE THE COURT.

12 CROSS EXAMINATION BY MR. SUTHERLAND:

13 Q MR. NOTTINGHAM, YOU WERE AWAY FROM HOME AT THE TIME  
14 THIS INCIDENT OCCURRED, SIR?

15 A YES, I WAS.

16 Q SO YOU WERE NOT THERE TO SEE WHO HAD DONE THIS?

17 A NO.

18 MR. SUTHERLAND: NO FURTHER QUESTIONS, YOUR HONOR.

19 THE COURT: ALL RIGHT. ANY REDIRECT?

20 MR. CATHCART: NO, SIR, THANK YOU.

21 THE COURT: YOU MAY STEP DOWN, SIR.

22 (THE WITNESS LEAVES THE WITNESS STAND.)

23 THE COURT: CALL YOUR NEXT WITNESS PLEASE.

24 MS. FENT: THE STATE CALLS CONQUISTA DRAYTON PLEASE.

25 CONQUISTA DRAYTON, BEING

CONQUISTA DRAYTON -- DIRECT BY MS. FENT

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1 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

2 CLERK: HAVE A SEAT IN THE WITNESS CHAIR AND STATE  
3 YOUR FULL NAME FOR THE RECORD.

4 WITNESS: MY NAME IS CONQUISTA DENISE DRAYTON.

5 DIRECT EXAMINATION BY MS. FENT:

6 Q MS. DRAYTON, BACK ON APRIL 19TH OF LAST YEAR, 2005,  
7 WHERE WERE YOU LIVING?

8 A address

9 Q AND WHICH PARTICULAR APARTMENT DID YOU LIVE IN?

10 A 3-I.

11 Q addre

12 A YES.

13 Q OKAY. DO YOU REMEMBER THAT MORNING ABOUT WHAT TIME  
14 YOU LEFT YOUR APARTMENT?

15 A SOMEWHERE BETWEEN 7:30 AND 8:00 O'CLOCK.

16 Q OKAY. SOMEWHERE BETWEEN 7:30 A.M. AND 8:00 A.M.?

17 A YES.

18 Q OKAY. WHERE DID YOU GO THAT MORNING?

19 A I WAS HEADED TO DROP MY DAUGHTER OFF AT SCHOOL, AND  
20 THEN I WAS HEADED TO WORK.

21 Q OKAY. SO YOU AND YOUR DAUGHTER LIVED IN addre

22 A YES.

23 Q OKAY. WHAT TIME WAS IT THAT YOU RETURNED BACK TO YOUR  
24 APARTMENT THAT DAY?

25 A SOMEWHERE BETWEEN 12:00 AND 12:30.

1 Q OKAY. AND WHY DID YOU GO BACK TO YOUR APARTMENT?

2 A THE APARTMENT MANAGER CALLED ME AND TOLD ME SOMEONE  
3 HAD BROKE INTO MY APARTMENT.

4 Q OKAY. AND YOU THINK THAT WAS AROUND -- SOMEWHERE  
5 AROUND 12:30?

6 A IT MAY HAVE HAPPENED A LITTLE BEFORE THAT, BUT SHE  
7 DIDN'T CALL ME UNTIL ALMOST 12:00.

8 Q OKAY. YOU GO BACK TO YOUR APARTMENT. AND WHAT DO YOU  
9 SEE WHEN YOU GO BACK TO YOUR APARTMENT?

10 A THE FRONT DOOR WAS WIDE OPEN, AND I DID NOTICE THINGS  
11 ON THE FLOOR IN THE LIVING ROOM.

12 Q OKAY. SPEAK UP A LITTLE BIT.

13 A I DID NOTICE THINGS ON THE FLOOR IN THE LIVING ROOM,  
14 AND THE FRONT DOOR WAS WIDE OPEN.

15 Q OKAY. DID YOU NOTICE ANYTHING ELSE ABOUT THE FRONT  
16 DOOR?

17 A THE PANEL ON THE SIDE WAS COMING OFF.

18 Q OKAY. DID IT APPEAR THAT SOMEONE USED A KEY TO GET IN  
19 YOUR APARTMENT?

20 A NO.

21 Q OKAY. WHAT ELSE DID YOU NOTICE ABOUT YOUR APARTMENT  
22 AS YOU WALKED THROUGH?

23 A WHEN I WALKED THROUGH, I SAW CLOTHES ON THE FLOOR THAT  
24 I HADN'T LEFT THERE. MY DRAWERS WERE ON THE FLOOR. THE  
25 DRAWERS TO MY JEWELRY BOX WERE OUT AND ON THE DRESSER AND

CONQUISTA DRAYTON -- DIRECT BY MS. FENT

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1 ON THE FLOOR.

2 Q DID YOU NOTICE IF ANY ITEMS WERE MISSING FROM YOUR  
3 HOUSE?

4 A YES.

5 Q OKAY.

6 (FOUR LARGE COLOR PHOTOS WERE MARKED FOR  
7 IDENTIFICATION AS STATE'S EXHIBIT NOS. 52, 53, 54, AND 55.)

8 Q I'M GOING TO SHOW YOU FIRST WHAT'S BEEN MARKED AS  
9 EXHIBIT 52, 53, 54, AND 55. JUST TAKE A LOOK AT THESE  
10 PHOTOGRAPHS AND SEE IF YOU RECOGNIZE WHAT WAS TAKEN A  
11 PICTURE OF?

12 A YES.

13 Q OKAY. AND DOES THAT ACCURATELY REFLECT WHAT YOUR  
14 HOUSE LOOKED LIKE THAT DAY WHEN YOU RETURNED TO IT?

15 A YES.

16 MS. FENT: I'D OFFER INTO EVIDENCE STATE'S EXHIBITS  
17 52, 53, 54, AND 55.

18 MR. SUTHERLAND: WITHOUT OBJECTION, YOUR HONOR.

19 THE COURT: WITHOUT OBJECTION, STATE'S 52, 53, 54, AND  
20 55 ARE ALL ADMITTED.

21 (STATE'S EXHIBIT NOS. 52, 53, 54, AND 55 RECEIVED IN  
22 EVIDENCE.)

23 Q AS YOU LOOK AT THESE PHOTOGRAPHS, CAN YOU TELL US  
24 BASICALLY WHAT YOU NOTICED OUT OF PLACE IN YOUR HOME?

25 A THE LITTLE DRAWERS ON THE DRESSER WERE IN THE JEWELRY

1 BOX WHEN I LEFT. ALL THE DRAWERS WERE CLOSED. THE CLOTHES  
2 WERE INSIDE. I DIDN'T HAVE THESE CLOTHES ON THE FLOOR.  
3 THESE DRAWERS WEREN'T ON THE FLOOR. THESE DRAWERS WERE  
4 NOT OPEN. THESE CLOTHES WERE ON THE COUCH, NOT ON THE  
5 FLOOR. AND THIS RADIO, IT WAS CLOSED BECAUSE IT ACTUALLY  
6 HAD A C.D. IN IT.

7 Q OKAY. ON THAT LAST ONE YOU WERE LOOKING AT STATE'S  
8 EXHIBIT 55. AND WHAT ROOM IN YOUR HOUSE IS THAT?

9 A THE KITCHEN.

10 Q OKAY. AND WHAT IS IT SPECIFICALLY THAT YOU NOTICED  
11 WAS OUT OF PLACE IN THE KITCHEN?

12 A THE RADIO WAS ACTUALLY OPEN.

13 Q OKAY. AND WHAT DO YOU -- WHY DO YOU KNOW THAT THAT  
14 WAS, YOU KNOW, TAMPERED WITH OR MOVED WHILE YOU WERE GONE?

15 A BECAUSE THE C.D. IS GONE, AND IT'S A C.D. THAT MY  
16 DAUGHTER LISTENS TO EVERY MORNING, AND IT WAS THERE WHEN WE  
17 LEFT.

18 Q OKAY. SHE WAS LISTENING TO THAT C.D. THAT MORNING?

19 A YEAH.

20 Q OKAY. AND YOU CAME BACK AND THAT C.D. PLAYER IS OPEN,  
21 RIGHT?

22 A YES.

23 Q AND 52, YOU TALKED ABOUT THE JEWELRY BOXES. WERE YOU  
24 MISSING ANY JEWELRY?

25 A YES.

1 Q OKAY. AND THE DRAWERS IN THE DRESSER DRAWER HAD BEEN  
2 OPENED AND PULLED OUT?

3 A YES.

4 Q AND IN FACT ONE IS EVEN ON THE FLOOR?

5 A YES.

6 Q OKAY. AFTER YOU GO THROUGH YOUR HOME AND -- I GUESS,  
7 WHAT DID THE INVESTIGATOR HAVE YOU DO WITH REGARDS TO  
8 PROPERTY BEING MISSING OR WHAT HAPPENED NEXT?

9 A WELL, I WENT DOWN TO THE STORE WHERE THEY HAD PROPERTY  
10 DOWN THERE. AND HE JUST TOLD ME TO POINT OUT WHAT BELONGED  
11 TO ME.

12 Q OKAY.

13 A AND I DID.

14 Q AND SO THERE AT THE FOOD FAIR -- RIGHT?

15 A YES.

16 Q OKAY. WERE YOU ABLE TO FIND PROPERTY THAT BELONGED TO  
17 YOU?

18 A YES.

19 Q OKAY. DO YOU RECALL WHAT PROPERTY THAT WAS?

20 A IT WAS A LOT OF JEWELRY. IT WAS A DIAMOND RING I HAD,  
21 MY HIGH SCHOOL RING, A NECKLACE MY MOTHER GAVE ME, AND SOME  
22 OTHER ODDS AND ENDS LITTLE JEWELRY THAT I PURCHASED MYSELF.

23 Q I'M GOING TO SHOW YOU WHAT'S ALREADY IN EVIDENCE AS  
24 STATE'S EXHIBIT 11 AND 14. AND TAKE A LOOK AT THOSE  
25 PHOTOGRAPHS. DO YOU NOTICE ANYTHING IN THOSE PHOTOGRAPHS?

- 1 WHAT DO YOU RECOGNIZE?
- 2 A EVERYTHING.
- 3 Q MEANING?
- 4 A MY JEWELRY AND THE CHANGE THAT WAS ON THE DRESSER. IT
- 5 WAS IN A CUP.
- 6 Q WHAT ABOUT THE C.D.?
- 7 A AND MY DAUGHTER'S C.D.
- 8 Q IS THAT THE C.D. THAT WAS IN THE PLAYER THAT MORNING?
- 9 A YES.
- 10 Q THAT SHE WAS LISTENING TO?
- 11 A YES.
- 12 Q THAT SHE LISTENS TO EVERY MORNING?
- 13 A YES.
- 14 Q HOW OLD IS SHE?
- 15 A SEVEN.
- 16 Q AND YOU GOT THIS PROPERTY BACK FROM INVESTIGATOR HUNT?
- 17 A YES.
- 18 Q DO YOU KNOW THIS MAN SITTING OVER HERE IN THE WHITE
- 19 SHIRT AND THE TIE?
- 20 A NO, I DO NOT.
- 21 Q DO YOU KNOW WHAT HIS NAME IS?
- 22 A NO.
- 23 Q DID YOU GIVE HIM PERMISSION TO COME INTO YOUR HOME ON
- 24 APRIL 19, 2005?
- 25 A NO.

1 Q DID YOU GIVE HIM PERMISSION TO TAKE ANY ITEMS FROM  
2 YOUR HOME APRIL 19, 2005?

3 A NO.

4 Q THINKING ABOUT ALL OF THE PROPERTY THAT WAS TAKEN FROM  
5 YOU ON THAT DAY, CAN YOU ESTIMATE ABOUT HOW MUCH IT WAS  
6 WORTH?

7 A MAYBE ABOUT A THOUSAND DOLLARS.

8 Q OKAY. THE JEWELRY WAS -- KIND OF DESCRIBE THE TYPE OF  
9 JEWELRY THAT WAS TAKEN FROM YOU?

10 A SOME RINGS, LIKE I SAID A CHAIN THAT MY MOTHER HAD  
11 GIVEN ME, MY HIGH SCHOOL RING, AND SOME OTHER COSTUME  
12 JEWELRY.

13 Q OKAY. COSTUME JEWELRY AND A C.D.?

14 A RIGHT.

15 Q AND SOME CHANGE?

16 A RIGHT.

17 MS. FENT: I HAVE NO FURTHER QUESTIONS AT THIS TIME.  
18 THANK YOU. ANSWER ANY QUESTIONS THEY HAVE PLEASE.

19 THE COURT: MR. SUTHERLAND.

20 MR. SUTHERLAND: MAY IT PLEASE THE COURT.

21 CROSS EXAMINATION BY MR. SUTHERLAND:

22 Q MS. DRAYTON.

23 A HELLO.

24 Q YOU WERE NOT HOME AT THE TIME THIS INCIDENT OCCURRED;  
25 IS THAT CORRECT?

1 A NO, I WAS NOT.

2 MR. SUTHERLAND: NO FURTHER QUESTIONS, YOUR HONOR.

3 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

4 (THE WITNESS LEAVES THE WITNESS STAND.)

5 THE COURT: CALL YOUR NEXT WITNESS.

6 MS. FENT: THE STATE CALLS SHAWNETTA BELTON.

7 SHAWNETTA DENISE BELTON,

8 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 CLERK: HAVE A SEAT IN THE WITNESS CHAIR AND STATE  
10 YOUR FULL NAME FOR THE RECORD.

11 WITNESS: SHAWNETTA DENISE BELTON.

12 DIRECT EXAMINATION BY MS. FENT:

13 Q MS. BELTON, BACK ON APRIL 19TH OF 2005 WHERE DID YOU  
14 LIVE?

15 A IN HUNT CLUB APARTMENTS.

16 Q OKAY. OFF address OR ROAD?

17 A ROAD.

18 Q OKAY.

19 A IN APARTMENT 3-D.

20 Q addre

21 A UH-HUH.

22 Q WAS APARTMENT addr ACROSS FROM YOU?

23 A YES.

24 Q OKAY. FIRST THING IS BACK IN 2004, MARCH OF 2004, YOU  
25 HAD A CONVICTION FOR A CRIMINAL CONSPIRACY INVOLVING

1 FORGERY; IS THAT RIGHT?

2 A YES.

3 Q OKAY. HOW LONG DID YOU LIVE AT THE VILLAGE, THE HUNT  
4 CLUB VILLAGE APARTMENTS?

5 A FOR ABOUT FIVE MONTHS.

6 Q FIVE MONTHS?

7 A UH-HUH.

8 Q WHEN DID YOU STOP LIVING THERE?

9 A JUNE -- THE BEGINNING OF JUNE 2004 WE MOVED OUT.

10 Q OKAY. THIS IS 2006. YOU WERE LIVING THERE APRIL 19TH  
11 OF 2005.

12 A OKAY. WE MOVED OUT IN JUNE OF 2005.

13 Q OKAY. SO SHORTLY AFTER THIS HAPPENED YOU MOVED OUT,  
14 MAYBE SIX WEEKS, FOUR WEEKS LATER, SOMETHING LIKE THAT?

15 A YES.

16 MR. SUTHERLAND: YOUR HONOR, I OBJECT TO LEADING.

17 THE COURT: ON THAT LAST QUESTION I OVERRULE. GO  
18 AHEAD. WATCH THE FORM OF YOUR QUESTIONS, COUNSELOR.

19 Q AND YOU SAID YOU WERE LIVING IN APARTMENT addre

20 A YES.

21 Q OKAY. WHO WERE YOU LIVING THERE WITH?

22 A WITH MY BOY FRIEND.

23 Q OKAY. DO YOU REMEMBER ABOUT WHAT TIME IT WAS THAT YOU  
24 LEFT YOUR HOUSE THAT MORNING?

25 A I LEFT THAT MORNING AT ABOUT 4:00 O'CLOCK.

- 1 Q 4:00 A.M.?
- 2 A 4:00 A.M. IN THE MORNING.
- 3 Q AND WHY DID YOU LEAVE AT 4:00 A.M.? WHERE WERE YOU
- 4 GOING?
- 5 A I HAD TO LEAVE TO GO TO THE EMERGENCY ROOM.
- 6 Q OKAY. MOVE THE MICROPHONE A LITTLE BIT. TALK RIGHT
- 7 INTO THAT.
- 8 A OKAY.
- 9 Q YOU WENT TO THE EMERGENCY ROOM WHAT FOR?
- 10 A I WAS PREGNANT, SO I WAS HAVING LABOR PAINS.
- 11 Q LEFT ABOUT 4:00 A.M. WHAT TIME WAS IT THAT YOU
- 12 RETURNED TO YOUR APARTMENT?
- 13 A I RETURNED AT ABOUT BETWEEN 1:00 AND 1:30.
- 14 Q AND WHY DID YOU RETURN TO YOUR APARTMENT?
- 15 A BECAUSE THE APARTMENT MANAGER CALLED AND SHE TOLD ME
- 16 THAT THE APARTMENT HAD BEEN BROKEN INTO, AND I LEFT WORK
- 17 AND CAME HOME.
- 18 Q OKAY. SO AT SOME POINT BETWEEN GOING TO THE EMERGENCY
- 19 ROOM AND THE APARTMENT YOU WENT WHERE?
- 20 A BACK HOME.
- 21 Q WELL, YOU WENT TO THE EMERGENCY ROOM?
- 22 A I WENT TO THE EMERGENCY ROOM FROM 4:00 UNTIL ABOUT
- 23 8:00. I LEFT THE EMERGENCY ROOM AND WENT TO WORK.
- 24 Q OKAY.
- 25 A FROM WORK I WENT HOME.

SHAWNETTA BELTON -- DIRECT BY MS. FENT

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1 Q OKAY. YOU GET THE PHONE CALL THAT YOUR HOME'S BEEN  
2 BURGLARIZED. YOU GET BACK TO YOUR HOME. WHAT DO YOU SEE?

3 A LIKE THE BOX WHERE I KEPT MY JEWELRY WAS OUT OF PLACE,  
4 AND THE MATTRESSES WERE MOVED. THE PILLOWS WERE OUT OF  
5 PLACE. AND THE FOOD FROM THE CABINETS AND STUFF WERE ON  
6 THE FLOOR. AND THE DOOR -- THE FRAME OF THE DOOR WAS  
7 BROKEN OFF.

8 Q WHICH DOOR?

9 A THE FRONT DOOR.

10 Q THE FRONT DOOR TO YOUR APARTMENT?

11 A YES.

12 Q YOU WALKED AROUND YOUR APARTMENT. WHAT IF ANYTHING  
13 DID THE INVESTIGATORS HAVE YOU DO? DID YOU NOTIFY WHAT WAS  
14 MISSING? WHAT HAPPENED?

15 A THEY ASKED ME IF ITEMS WERE MISSING, AND I SAID, YES,  
16 THEY WERE MISSING. AND THEY TOLD ME THAT I COULD ---

17 THE COURT: SPEAK UP. I CAN'T HEAR YOU. THE JURY AND  
18 EVERYONE IN HERE NEEDS TO BE ABLE HEAR YOU, SO SPEAK UP.

19 WITNESS: OKAY.

20 A THEY TOLD -- WHEN I WENT IN, THEY TOOK PICTURES AND  
21 ASKED ME IF ANY ITEMS THAT I CAN SEE WERE MISSING, AND I  
22 DID TELL THEM, YOU KNOW, SOME OF MY JEWELRY WAS MISSING AND  
23 A COUPLE ODD ITEMS WERE MISSING.

24 Q YOU GAVE THEM A LIST OR AS BEST AS YOU COULD TELL THEM  
25 THINGS THAT WERE GONE?

1 A UH-HUH.

2 (SIX LARGE COLOR PHOTOS WERE MARKED FOR IDENTIFICATION  
3 AS STATE'S EXHIBIT NOS. 56, 57, 58, 59, 60, AND 61.)

4 Q I'M GOING TO SHOW YOU SOME PHOTOGRAPHS THAT HAVE BEEN  
5 MARKED STATE'S EXHIBIT 56 THROUGH 61 AND JUST ASK YOU TO  
6 LOOK THROUGH THOSE PHOTOGRAPHS AND TELL ME IF YOU RECOGNIZE  
7 WHAT PHOTOS ARE BEING TAKEN?

8 (PAUSE.)

9 Q WITHOUT GOING THROUGH EACH ONE, DO YOU RECOGNIZE  
10 WHAT'S IN THE PHOTOGRAPH?

11 A YES, I DO.

12 Q IS THAT YOUR APARTMENT, YOUR HOME?

13 A YES.

14 Q OKAY. AND DOES THAT ACCURATELY SHOW WHAT YOU SAW WHEN  
15 YOU RETURNED TO YOUR APARTMENT ---

16 A YES.

17 Q --- THAT AFTERNOON?

18 A YES.

19 Q OKAY.

20 MS. FENT: I OFFER INTO EVIDENCE 56 THROUGH 61.

21 MR. SUTHERLAND: WITHOUT OBJECTION.

22 THE COURT: WITHOUT OBJECTION, STATE'S 56, 57, 58, 59,  
23 60, AND 61 ARE ADMITTED INTO EVIDENCE.

24 (STATE'S EXHIBIT NOS. 56, 57, 58, 59, 60, AND 61  
25 RECEIVED IN EVIDENCE.)

SHAWNETTA BELTON -- DIRECT BY MS. FENT

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1 Q OKAY. 56, WHAT ROOM IN YOUR HOME IS THAT?

2 A THIS IS THE LIVING ROOM.

3 Q OKAY. AND WHAT DID YOU NOTICE ABOUT THE LIVING ROOM?

4 A THE C.D.'S WERE OUT OF PLACE AND MY -- THE LITTLE  
5 CONTAINER THAT I KEPT THE JEWELRY IN, THE JEWELRY WAS GONE  
6 OR MOST OF THE REAL JEWELRY. THE JEWELRY WAS GONE. AND  
7 THE PILLOWS WERE OUT OF PLACE, AND THE FRAME OF THE DOOR  
8 WAS ON THE SOFA.

9 Q OKAY. 57, WHAT ROOM IS THAT? MAKE SURE YOU SPEAK UP.

10 A THIS IS THE BATHROOM AREA.

11 Q OKAY. WHAT DID YOU NOTICE IF ANYTHING THAT WAS OUT OF  
12 PLACE THERE?

13 A WELL, I USUALLY KEPT THE JEWELRY IN THAT AREA, AND THE  
14 JEWELRY WAS GONE. AND THAT WAS -- AND THE PRESCRIPTION  
15 DRUGS WERE ON THE FLOOR.

16 Q OKAY. 58, WHAT ROOM IS THAT?

17 A THIS IS THE BEDROOM.

18 Q OKAY. WHAT DID YOU NOTICE ABOUT WHAT HAD HAPPENED TO  
19 THE BEDROOM?

20 A THE MATTRESS WAS MOVED.

21 Q AS IF SOMEONE'S TRYING TO LOOK BETWEEN THE MATTRESSES?

22 A UH-HUH.

23 Q OKAY. 59 JUST SHOWS THE BED AND THE MATTRESSES. 60?

24 A 60 IS THE -- WHERE THE FOOD WAS ON THE FLOOR, THE FOOD  
25 THAT WAS IN THE CABINETS OR ON THE COUNTER WAS KNOCKED ONTO

1 THE FLOOR.

2 Q OKAY. AND FINALLY 61?

3 A IS THE FOOD AND THE CONTAINERS -- THE FOOD AND THE  
4 CONTAINERS FROM THE CABINET WERE ON THE FLOOR.

5 Q IS THIS HOW YOU LEFT YOUR HOME THAT MORNING?

6 A NO.

7 Q DO YOU KNOW THIS MAN SITTING RIGHT HERE IN THE WHITE  
8 SHIRT AND THE TIE?

9 A NO.

10 Q DO YOU KNOW HIS NAME?

11 A NO.

12 Q DID YOU GIVE HIM PERMISSION TO GO INTO YOUR HOME ON  
13 APRIL 19, 2005?

14 A NO.

15 Q DID YOU GIVE HIM PERMISSION TO TAKE ANY ITEMS FROM  
16 YOUR HOME ON APRIL 19, 2005?

17 A NO.

18 Q DID YOU GIVE HIM PERMISSION TO GO IN YOUR HOME OR TAKE  
19 ANY ITEMS ANY OTHER DAY?

20 A NO.

21 Q I'M GOING TO SHOW YOU WHAT'S ALREADY IN EVIDENCE AS  
22 EXHIBITS 16 AND 17. SPEAK UP INTO THAT MICROPHONE AND TELL  
23 US WHAT YOU RECOGNIZE IN THOSE PHOTOGRAPHS?

24 A THE -- IN 16 IS MY BAG WITH THE CASE OF C.D.'S. AND  
25 17 IS MY JEWELRY, CELL PHONE, D.V.D. PLAYER, FINGERNAIL

SHAWNETTA BELTON -- DIRECT BY MS. FENT

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1 POLISH, DEODORANT, PILLOW CASE, A PACKAGE OF RAMAN NOODLES.

2 Q WERE THOSE ALL ITEMS THAT YOU IDENTIFIED AS BEING  
3 TAKEN FROM YOUR HOME ON THAT DATE?

4 A YES.

5 Q AND YOU GOT THESE BACK WHEN AND WHERE?

6 A I GOT THESE BACK FROM THE SHERIFF'S DEPARTMENT FROM  
7 THE INVESTIGATOR.

8 Q OKAY.

9 MS. FENT: I HAVE NO FURTHER QUESTIONS OF THIS  
10 WITNESS.

11 THE COURT: ALL RIGHT. CROSS EXAMINE.

12 MR. SUTHERLAND: MAY IT PLEASE THE COURT.

13 CROSS EXAMINATION BY MR. SUTHERLAND:

14 Q YOU WERE NOT HOME AT THE TIME OF THIS INCIDENT TO SEE  
15 WHO WAS IN YOUR APARTMENT?

16 A NO.

17 MR. SUTHERLAND: NO FURTHER QUESTIONS, YOUR HONOR.

18 THE COURT: ALL RIGHT. MA'AM, YOU MAY STEP DOWN.  
19 WATCH YOUR STEP.

20 (THE WITNESS LEAVES THE WITNESS STAND.)

21 THE COURT: CALL YOUR NEXT WITNESS PLEASE.

22 MR. CATHCART: YOUR HONOR, MAY WE APPROACH?

23 THE COURT: SURE.

24 (A BENCH CONFERENCE WAS HELD OFF THE RECORD IN THE  
25 PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

1 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN, WE'RE  
2 GOING TO GO AHEAD AND BREAK FOR THE DAY. THAT WILL GIVE  
3 THOSE OF YOU WITH THE TIMING PROBLEMS TIME TO GET THERE AND  
4 CONTINUE WITH THE TRIAL TOMORROW MORNING.

5 WE'RE GOING TO START A LITTLE BIT LATER TOMORROW  
6 MORNING, BECAUSE I'VE GOT ANOTHER HEARING THAT IS SCHEDULED  
7 FOR 9:15.

8 IF YOU WILL BE IN YOUR JURY ROOM AT 10:15, WE WILL  
9 CONTINUE WITH THE TRIAL AT THAT TIME. AGAIN, LET ME  
10 CAUTION YOU AND DIRECT YOU NOT TO DISCUSS THE CASE WITH  
11 FAMILY, FRIENDS, OR ANYONE ELSE. DON'T READ OR WATCH OR  
12 LISTEN TO ANYTHING ABOUT THIS CASE.

13 HAVE A GOOD AFTERNOON, A GOOD NIGHT. WE'LL SEE YOU AT  
14 10 -- WHAT DID I SAY -- 10:15 IN THE MORNING. 10:15 PLEASE  
15 BE ON TIME. YOU'RE EXCUSED. EVERYONE ELSE STAY SEATED  
16 PLEASE.

17 (THE JURY EXITS THE COURTROOM AT 4:26 P.M.)

18 THE COURT: ALL RIGHT. SOLICITOR, YOU INDICATED  
19 YOU'LL HAVE TWO MORE -- A WOMAN AND HER DAUGHTER; IS THAT  
20 RIGHT?

21 MR. CATHCART: THAT'S CORRECT, YOUR HONOR.

22 THE COURT: IS THIS THE OCCUPANT OF ANOTHER APARTMENT,  
23 IS THAT GOING TO BE THE NATURE OF THE TESTIMONY?

24 MR. CATHCART: THAT WAS THE LAST APARTMENT, YES.

25 THE COURT: OKAY. ALL RIGHT. ALL RIGHT. ANY

1 PROPOSED CHARGES, HAVE THEM TO ME WHEN YOU GET HERE IN THE  
2 MORNING.

3 MS. MOBLEY: YES, SIR.

4 THE COURT: ALL RIGHT. SEE YOU ALL AT -- I'VE GOT  
5 THAT BOND HEARING AT 9:15. AND HOPEFULLY WE'LL BE DONE BY  
6 10:15.

7 (COURT IS IN RECESS.)

8 (WEDNESDAY, FEBRUARY 1, 2006.)

9 THE COURT: IS THE STATE READY TO PROCEED?

10 MR. CATHCART: YOUR HONOR, WE WERE. RIGHT BEFORE YOU  
11 GOT ON THE BENCH, OUR FIRST WITNESS ASKED TO USE THE REST  
12 ROOM. SHE'LL BE RIGHT BACK. I APOLOGIZE.

13 THE COURT: WE'VE BEEN WAITING ON A JUROR AND HE  
14 FINALLY GOT HERE, SO WE CAN WAIT ANOTHER MINUTE.

15 DEFENSE READY?

16 MS. MOBLEY: YES, SIR, YOUR HONOR.

17 THE COURT: ANYTHING WE NEED TO TAKE CARE OF BEFORE WE  
18 GET BACK TO THE JURY?

19 MS. MOBLEY: NO, SIR. I KNOW YOU REQUESTED THAT WE  
20 PRESENT ANY ---

21 THE COURT: YES, CHARGES.

22 MS. MOBLEY: --- JURY CHARGES. AT THIS POINT I DON'T  
23 THINK THAT I HAVE ANY.

24 THE COURT: OKAY.

25 MS. MOBLEY: I WOULD ASK FOR A ---

1 THE COURT: WE'LL HAVE A CONFERENCE ABOUT IT.

2 MS. MOBLEY: THANK YOU. THAT'S ALL.

3 (PAUSE.)

4 THE COURT: WHO IS YOUR NEXT WITNESS?

5 MR. CATHCART: NANCY BLANTON AND DOROTHY NELSON IS  
6 AFTER THAT. SHE'S SITTING RIGHT HERE, YOUR HONOR. NANCY  
7 BLANTON IS MS. NELSON'S DAUGHTER.

8 THE COURT: ALL RIGHT.

9 (PAUSE.)

10 MR. CATHCART: WE'RE READY, YOUR HONOR.

11 THE COURT: ALL RIGHT. LET'S GET THE JURY IN PLEASE.

12 (THE JURY RETURNS TO THE COURTROOM AT 10:30 A.M.)

13 BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

14 THE COURT: THANK YOU, SIR.

15 MR. FOREMAN, LADIES AND GENTLEMEN, WE WILL CONTINUE.

16 SOLICITOR, YOU MAY CALL YOUR NEXT WITNESS PLEASE.

17 MR. CATHCART: PLEASE THE COURT, YOUR HONOR. THE  
18 STATE CALLS NANCY BLANTON.

19 NANCY BLANTON, BEING FIRST  
20 DULY SWORN, TESTIFIED AS FOLLOWS:

21 CLERK: THANK YOU. PLEASE HAVE A SEAT IN THE WITNESS  
22 CHAIR AND STATE YOUR FULL NAME FOR THE RECORD.

23 WITNESS: NANCY SHARON BLANTON.

24 DIRECT EXAMINATION BY MR. CATHCART:

25 Q MS. BLANTON, WHERE ARE YOU EMPLOYED?

NANCY BLANTON -- DIRECT BY MR. CATHCART

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- 1 A YES. WHERE AM I EMPLOYED?
- 2 Q YES, MA'AM.
- 3 A BLYTHEWOOD ANIMAL HOSPITAL.
- 4 Q AND WHAT DO YOU DO THERE?
- 5 A I'M A GROOMER.
- 6 Q WHAT IS YOUR CONNECTION WITH THE HUNT CLUB APARTMENTS?
- 7 A MY MOTHER LIVES THERE.
- 8 Q NOW, ON APRIL THE 19TH, 2005, WHAT IF ANYTHING IN
- 9 CONNECTION WITH THE HUNT CLUB APARTMENTS BROUGHT YOUR
- 10 ATTENTION BACK TO THOSE APARTMENTS?
- 11 A THE MANAGER, JILL KNOLL, CALLED ME AND TOLD ME THAT MY
- 12 MOTHER'S APARTMENT HAD BEEN BROKEN INTO, AND I KNEW THAT
- 13 MORNING MY MOTHER WASN'T THERE. SHE WAS VISITING FAMILY IN
- 14 ANOTHER TOWN. AND THE MANAGER ASKED ME TO COME OVER
- 15 BECAUSE THE APARTMENT WAS UNSECURE AND IN QUITE A MESS.
- 16 Q DID YOU GO DOWN THERE?
- 17 A YES.
- 18 Q WHAT DID YOU FIND WHEN YOU GOT THERE?
- 19 A ALL OF HER DRAWERS HAD BEEN TURNED UPSIDE DOWN AND
- 20 THROWN INTO THE FLOOR. ALL OF HER MEDICINE BOTTLES WERE
- 21 ALL OVER THE FLOOR. AND JUST A MESS -- QUITE A MESS,
- 22 RANSACKED. BOTH THE BEDROOM AND THE LIVING ROOM AND THE
- 23 KITCHEN.
- 24 Q SO ALL THE ROOMS OF THE APARTMENT HAD BEEN RANSACKED?
- 25 A YES.

1 Q WAS ANYTHING MISSING OR MOVED OTHER THAN THE  
2 RANSACKING? LIKE WAS THE JEWELRY MOVED OR TOUCHED?

3 A NO. THAT WAS ALL LAYING ON THE FLOOR.

4 Q OKAY. DID YOU NOTICE ANYTHING ABOUT SOME OF HER  
5 KITCHEN AREA? WAS THERE ANYTHING PACKAGED UP IN THERE?

6 A NO. MY MOM HAS A -- SHE LIKES TO BAKE, SO SHE HAS ONE  
7 OF THOSE KITCHEN AID MIXERS THAT WEIGH ABOUT 75 POUNDS.  
8 THAT HAD BEEN MOVED AWAY AND OFF THE COUNTER. HER C.D.  
9 PLAYER THAT I HAD GOT HER FOR MOTHER'S DAY WAS GONE.

10 Q OKAY. WERE YOU ABLE TO DETERMINE THE POINT OF ENTRY  
11 INTO HER HOUSE?

12 A YES, THE WINDOW IN HER BEDROOM HAD BEEN BROKEN INTO.

13 Q WHAT ---

14 A SHATTERED.

15 Q WHAT DID YOU DO BEFORE YOUR MOTHER GOT HOME?

16 A I WENT THERE AND TRIED TO CLEAN IT UP AND PUT  
17 EVERYTHING BACK IN ITS PLACE SO THAT SHE WOULDN'T BE UPSET.

18 MR. CATHCART: PLEASE ANSWER ANY QUESTIONS FROM  
19 DEFENSE COUNSEL.

20 THE COURT: CROSS EXAMINE.

21 CROSS EXAMINATION BY MR. SUTHERLAND:

22 Q MA'AM, I JUST HAVE ONE QUESTION. YOU WERE NOT PRESENT  
23 AT THE APARTMENT AT THE TIME OF THE INCIDENT TO SEE WHO HAD  
24 DONE THIS?

25 A NO, SIR.

DOROTHY NELSON -- DIRECT BY MS. FENT

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1 MR. SUTHERLAND: THANK YOU.

2 THE COURT: ANYTHING FURTHER, SOLICITOR?

3 MR. CATHCART: NOTHING FURTHER FOR THIS WITNESS.

4 THE COURT: MA'AM, YOU MAY STEP DOWN. WATCH YOUR  
5 STEP.

6 (THE WITNESS LEAVES THE WITNESS STAND.)

7 THE COURT: ALL RIGHT. CALL YOUR NEXT WITNESS.

8 MS. FENT: THE STATE CALLS MS. DOROTHY NELSON.

9 DOROTHY NELSON, BEING FIRST  
10 DULY SWORN, TESTIFIED AS FOLLOWS:

11 CLERK: THANK YOU. PLEASE HAVE A SEAT IN THE WITNESS  
12 CHAIR AND STATE YOUR FULL NAME FOR THE RECORD.

13 WITNESS: (NO RESPONSE.)

14 DIRECT EXAMINATION BY MS. FENT:

15 Q CAN YOU STATE YOUR NAME?

16 A DOROTHY NELSON.

17 Q OKAY. MS. NELSON, YOU LIVE AT THE address

18

19 A YES.

20 Q HOW LONG HAVE YOU LIVED THERE?

21 A I HAD BEEN THERE TWO MONTHS WHEN HE BROKE IN ON ME.

22 Q OKAY. SO YOU'VE BEEN THERE MAYBE A YEAR AND A HALF  
23 NOW?

24 A IT'S ABOUT A YEAR.

25 Q ABOUT A YEAR. OKAY. WHICH APARTMENT DO YOU LIVE IN?

- 1 A     ~~addre~~  
          ~~ss~~
- 2 Q            IS THAT A DOWNSTAIRS APARTMENT?
- 3 A            IS IT A WHAT?
- 4 Q            DOWNSTAIRS APARTMENT?
- 5 A            YES.
- 6 Q            OKAY. BACK APRIL 19TH OF LAST YEAR, 2005, WERE YOU AT  
7 HOME THAT MORNING WHEN YOUR HOUSE WAS BROKEN INTO?
- 8 A            NO, MA'AM.
- 9 Q            WHAT TIME DID YOU LEAVE THAT MORNING?
- 10 A           7:00 O'CLOCK.
- 11 Q           OKAY. AND WHERE DID YOU GO THAT MORNING?
- 12 A           I WENT TO WINNSBORO TO SEE AN OLD SISTER WHO'S 93  
13 YEARS OLD THAT WAS DYING, AND I WENT TO SEE HER.
- 14 Q           OKAY. SO YOU WERE OUT OF TOWN THAT DAY?
- 15 A           YES.
- 16 Q           DO YOU REMEMBER WHEN IT WAS YOU CAME BACK TO YOUR  
17 HOME?
- 18 A           IT WAS ABOUT 2:30 WHEN I CAME BACK.
- 19 Q           OKAY. THAT AFTERNOON ON APRIL 19?
- 20 A           (NODS HEAD.)
- 21 Q           OKAY. WHEN YOU GOT BACK TO YOUR HOUSE, WHAT DID YOU  
22 SEE?
- 23 A           EVERYTHING WAS JUST THROWE -- THROWE EVERY PLACE.
- 24 Q           IT WASN'T HOW YOU LEFT IT THAT MORNING?
- 25 A           NO, MA'AM.

DOROTHY NELSON -- DIRECT BY MS. FENT

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1 Q OKAY. WHAT KIND OF THINGS DID YOU SEE THROWN AROUND?

2 A MY MEDICINE, CLOTHES.

3 Q DID YOU LOOK AROUND AND NOTICE IF YOU WERE MISSING  
4 ANYTHING?

5 A NOT AT THAT TIME I DIDN'T. I DIDN'T NOTICE IT UNTIL  
6 LATER.

7 Q OKAY. AND LATER WHEN YOU NOTICED IT, WHAT KINDS OF  
8 THINGS DID YOU SEE THAT YOU WERE MISSING?

9 A C.D. RADIO. AND I HAD THIS BIG 75 POUND MIXER THAT HE  
10 HAD TAKEN OFF OF THE COUNTER, AND IT WAS TOO HEAVY FOR HIM  
11 TO TAKE OUT OF THERE, SO HE HAD TO LEAVE IT SITTING THERE.

12 Q OKAY. AND WHAT DO YOU REMEMBER ABOUT HOW IT WAS  
13 SITTING THERE? WAS IT JUST ON THE FLOOR BY ITSELF?

14 A IT WAS ON THE FLOOR BY ITSELF.

15 Q OKAY. MS. NELSON, I'M GOING TO SHOW YOU A PICTURE.  
16 THIS IS MARKED STATE'S EXHIBIT NO. 18. TAKE A LOOK AT THAT  
17 PICTURE. TELL ME IF YOU RECOGNIZE WHAT'S IN THAT PICTURE?

18 A YES, I RECOGNIZE MY RADIO AND CIGARETTES AND CHEWING  
19 GUM.

20 Q AND WHAT ARE THOSE THINGS IN THAT PICTURE? ARE THOSE  
21 YOUR ITEMS?

22 A THOSE ARE MY ITEMS.

23 Q IS THAT HOW YOU RECOGNIZE THEM?

24 A YES.

25 Q AND WERE THOSE THINGS TAKEN FROM YOUR HOME?

- 1 A YES, THIS IS A PILLOW CASE HE TOOK.
- 2 Q OKAY. THE BLUE PILLOW CASE IN THERE ALSO?
- 3 A UH-HUH.
- 4 Q HOW DID YOU GET THESE THINGS BACK? DO YOU REMEMBER
- 5 WHO YOU GOT THEM BACK FROM?
- 6 A FROM ONE OF THE POLICE OFFICERS.
- 7 Q OKAY. DID YOU GO DOWN TO THE POLICE STATION TO GET
- 8 THEM BACK?
- 9 A YES.
- 10 Q MS. NELSON, DO YOU KNOW THIS MAN SITTING HERE WITH THE
- 11 TIE ON?
- 12 A I'VE SEEN HIM.
- 13 Q OKAY. YOU HAVE SEEN HIM. DID YOU GIVE HIM PERMISSION
- 14 TO COME INTO YOUR HOME?
- 15 A NO, I DID NOT.
- 16 Q DID YOU GIVE HIM PERMISSION TO TAKE ANY ITEMS OUT OF
- 17 YOUR HOME?
- 18 A NO, I DID NOT.
- 19 Q MS. NELSON, ARE YOU USUALLY IN YOUR HOME IN THE
- 20 MORNING?
- 21 A YES, MA'AM.
- 22 Q AND WHAT'S YOUR USUAL PRACTICE? WHAT'S YOUR KIND OF
- 23 ROUTINE IN THE MORNING? WHAT DO YOU DO?
- 24 A FIRST THING I DO IS GET UP AND TAKE ---
- 25 MR. SUTHERLAND: YOUR HONOR, I OBJECT TO THE

DOROTHY NELSON -- DIRECT BY MS. FENT

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1 RELEVANCE.

2 A --- MEDICATION ---

3 THE COURT: WAIT JUST A MINUTE. WHAT IS THE  
4 RELEVANCE?

5 MS. FENT: YOUR HONOR, JUST THAT, YOU KNOW, IF SHE HAD  
6 BEEN AT HOME ---

7 THE COURT: I'LL SUSTAIN THE OBJECTION.

8 Q THE ITEMS THAT YOU SAW IN THIS PICTURE, IN NO. 18,  
9 THOSE ARE THE ACTUAL PHYSICAL ITEMS THAT WERE TAKEN FROM  
10 YOU?

11 A (NODS HEAD.)

12 Q YES. MS. NELSON, WHAT WAS THE WORST THING THAT WAS  
13 TAKEN FROM ME ON THAT DAY?

14 A HE TOOK MY BEDROOM FROM ME.

15 Q YOUR BEDROOM. AND WHAT DO YOU MEAN BY THAT?

16 A I CAN'T GO BACK THERE AND SLEEP IN IT ANY MORE.

17 MR. SUTHERLAND: OBJECT TO RELEVANCE.

18 THE COURT: I'LL SUSTAIN. DISREGARD THAT LAST  
19 QUESTION AND THE STATEMENT BY THE WITNESS, MR. FOREMAN AND  
20 LADIES AND GENTLEMEN, IT'S IRRELEVANT.

21 MS. FENT: I HAVE NO FURTHER QUESTIONS.

22 THE COURT: ALL RIGHT. CROSS EXAMINE.

23 MR. SUTHERLAND: YOUR HONOR, I HAVE NO QUESTIONS.

24 THE COURT: ALL RIGHT. THANK YOU. ALL RIGHT. THE  
25 WITNESS MAY STEP DOWN, COUNSEL, IF YOU WILL HELP MS. NELSON

1 PLEASE.

2 (THE WITNESS LEAVES THE WITNESS STAND.)

3 MR. CATHCART: YOUR HONOR, WE ASK THAT SHE BE EXCUSED.

4 THE COURT: ANY OBJECTION?

5 MS. MOBLEY: WITHOUT OBJECTION.

6 THE COURT: WITHOUT OBJECTION.

7 MR. CATHCART: YOUR HONOR, AT THIS TIME THE STATE  
8 RESTS.

9 THE COURT: ALL RIGHT. MR. FOREMAN AND LADIES AND  
10 GENTLEMEN, AT THIS TIME THE STATE HAS RESTED IN THEIR CASE  
11 IN CHIEF. THERE MAY BE SOME MATTERS OF LAW THAT I'M  
12 REQUIRED TO TAKE UP AT THIS TIME OUTSIDE OF YOUR PRESENCE,  
13 SO I'M GOING TO SEND YOU BACK TO YOUR JURY ROOM. PLEASE  
14 DON'T TALK ABOUT THE CASE WHILE YOU'RE BACK THERE. WE'LL  
15 HAVE YOU BACK IN A FEW MINUTES. IF YOU'LL STEP BACK TO  
16 YOUR JURY ROOM. EVERYONE ELSE STAY SEATED PLEASE.

17 (THE JURY RETIRES TO THE JURY ROOM AT 10:42 A.M.)

18 THE COURT: ALL RIGHT. ANY MOTIONS FROM THE DEFENSE?

19 MS. MOBLEY: YES, SIR, YOUR HONOR. YOUR HONOR, AT  
20 THIS TIME -- I'LL TAKE THIS BY INDICTMENT NUMBER TO TRY TO  
21 MAKE IT EASIER.

22 YOUR HONOR, AT THIS TIME ON INDICTMENT 05-GS-40-3474,  
23 THE PETIT LARCENY INVOLVING KEE CHUNG AND THE SAME NUMBERS,  
24 3478, THE BURGLARY FIRST REGARDING MR. CHUNG, WE WOULD MOVE  
25 FOR A DIRECTED VERDICT ON THOSE TWO ITEMS, YOUR HONOR.

1 THERE HAS BEEN NO TESTIMONY PUT INTO THE RECORD REGARDING  
2 THE ELEMENTS OF THE CRIME. THERE IS NO WAY THAT THE JURY  
3 CAN INFER ANY SORT OF LACK OF INTENT TO WHAT HAPPENED BY  
4 CONSENT TO ENTER, BECAUSE HE HAS NOT TAKEN THE STAND TO  
5 TESTIFY AND THERE HAS BEEN NO EVIDENCE THAT EITHER HE  
6 DOESN'T KNOW MR. ADAMS OR HE DIDN'T ALLOW HIM IN HIS  
7 APARTMENT, WHAT HAVE YOU.

8 WE WOULD REQUEST A DIRECTED VERDICT ON THOSE TWO  
9 WARRANT (SIC) NUMBERS AT THIS TIME, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 MS. MOBLEY: EXCUSE ME, INDICTMENT NUMBERS.

12 THE COURT: LET ME HEAR FROM THE STATE.

13 MR. CATHCART: YOUR HONOR, IN THE LIGHT MOST FAVORABLE  
14 TO THE STATE, THE TESTIMONY WAS THAT MR. CHUNG'S HOME WAS  
15 FORCIBLY ENTERED, THAT THE DOOR HAD BEEN BROKEN INTO, THAT  
16 ITEMS WERE FOUND ON THE DEFENDANT, IN HIS POSSESSION. THIS  
17 IS ALSO IN RELATION TO SIX -- EXCUSE ME, FIVE OTHER  
18 BURGLARIES WHICH HE DID THE EXACT SAME MODE OF BREAKING  
19 INTO THOSE HOUSES.

20 AND THE ITEMS -- ALSO, THE EVIDENCE WAS ALSO THAT THE  
21 ITEMS WERE RETURNED TO MR. CHUNG THAT BELONGED TO HIM THAT  
22 WERE TAKEN WITHOUT HIS PERMISSION.

23 THE COURT: WAS THERE SPECIFIC TESTIMONY AS TO MR.  
24 CHUNG'S APARTMENT?

25 MR. CATHCART: YES, YOUR HONOR. INVESTIGATOR HUNT

1 TESTIFIED THAT HE WENT INTO HIS APARTMENT, THAT HE SAW THAT  
2 THE DOOR HAD BEEN FORCIBLY FORCED, AND THAT HE HAD RETURNED  
3 THOSE ITEMS TO MR. CHUNG; THAT WOULD BE THE SOCKS, THE  
4 CREDIT CARD, AND I BELIEVE A CRYSTAL GLASS BOX WITH CHANGE  
5 IN IT, WAS THE TESTIMONY OF THE ITEMS THAT WERE RETURNED TO  
6 MR. CHUNG AND ALSO HIS TESTIMONY THAT HE OBSERVED MR.  
7 CHUNG'S DOOR HAD BEEN FORCED AS -- JUST AS THE OTHER ONES  
8 HAD AT THAT POINT.

9 AND ALSO INVESTIGATOR MANN INDICATED THAT HE PROCESSED  
10 THAT SCENE AND ALSO SAW FORCIBLE ENTRY.

11 MS. MOBLEY: YOUR HONOR, WE WOULD SUBMIT THAT THIS  
12 STILL PUTS THE JURY IN THE POSITION OF GUESSING AT LACK OF  
13 CONSENT, WHAT HAVE YOU. YOU KNOW, MR. CHUNG DIDN'T COME IN  
14 TO TESTIFY. AND WE WOULD SUBMIT THAT THAT ALLOWS US FOR A  
15 DIRECTED VERDICT ON THIS PARTICULAR SET OF CHARGES.

16 MR. CATHCART: AGAIN, THE STATE WOULD JUST POINT OUT  
17 IN THE LIGHT MOST FAVORABLE TO THE STATE, THE FORCE -- THE  
18 FORM OF ENTRY THAT WAS DONE TO MR. CHUNG'S APARTMENT MAY BE  
19 INFERRED AS TO LACK OF CONSENT. CONSENT, HE WOULDN'T HAVE  
20 TO TAKE A SCREWDRIVER AND BUST THE MAN'S DOOR JAM DOWN.

21 THE COURT: ALL RIGHT. I JUST WANT TO BE SURE. I  
22 FIND IN MY NOTES TESTIMONY ALONG THE LINES OF WHAT YOU'D  
23 INDICATED. FOR THAT REASON, THE MOTION IS DENIED. I THINK  
24 IN THE LIGHT MOST FAVORABLE TO THE STATE, THERE IS  
25 SUFFICIENT EVIDENCE, BEING CIRCUMSTANTIAL EVIDENCE IN THIS

1 CASE, AS TO THIS PARTICULAR DEFENDANT THAT WOULD SUPPORT  
2 THE CHARGES MADE. ALL RIGHT.

3 MS. MOBLEY: THANK YOU, YOUR HONOR. YOUR HONOR,  
4 MOVING ONTO INDICTMENTS 05-GS-40-3941, GRAND LARCENY OF THE  
5 COFIELD APARTMENT. YOUR HONOR, THERE WAS NO TESTIMONY IN  
6 THE RECORD REGARDING THE VALUE OF THE ITEMS TAKEN.

7 THE COURT: WHAT ABOUT THAT, SOLICITOR?

8 MR. CATHCART: YOUR HONOR, TESTIMONY WAS THAT ITEMS  
9 WERE TAKEN. SHE INDICATED IT WAS JEWELRY AND OTHER ITEMS.  
10 SHE DID NOT GIVE A SPECIFIC DOLLAR AMOUNT. IT WOULD NOT BE  
11 SOMETHING FOR A DIRECTED VERDICT, BUT IT WOULD BE IF NOT  
12 GRAND LARCENY, THE STATE HAS DEFINITELY PROVEN A LARCENY  
13 TOOK PLACE. SO IF YOU WISH TO BRING IT DOWN TO A PETIT  
14 LARCENY ---

15 THE COURT: IT WOULD BE SUBMITTED AS A PETIT LARCENY.

16 MR. CATHCART: THAT'S FINE.

17 MS. MOBLEY: THANK YOU, YOUR HONOR.

18 THE COURT: NOT AS A LESSER INCLUDED, BUT THAT WILL BE  
19 THE CHARGE THAT'S SUBMITTED ON THAT PARTICULAR INDICTMENT.  
20 PETIT LARCENY, BECAUSE THERE'S NO EVIDENCE AS TO THE VALUE.

21 MS. MOBLEY: THANK YOU.

22 YOUR HONOR, REGARDING THE REMAINDER OF THE  
23 INDICTMENTS, IN ORDER TO PROTECT THE RECORD AT THIS POINT,  
24 I WOULD HAVE TO MOVE FOR A DIRECTED VERDICT ON THOSE. ON  
25 3477, BURGLARY FIRST, MR. DRAYTON -- MS. DRAYTON, EXCUSE

1 ME; 3548 WITH MR. NOTTINGHAM; 3935 WITH MS. NELSON; AND  
2 4169 WITH MS. BELTON AND THEIR ATTENDANT LARCENIES, YOUR  
3 HONOR.

4 YOUR HONOR, WE WOULD SUBMIT THAT THE STATE HAS FAILED  
5 TO PROVE THAT IT WAS ACTUALLY TERRANCE ADAMS THAT BROKE  
6 INTO THOSE HOMES, IRREGARDLESS OF HIS POSSESSION OF THE  
7 ITEMS LATER, THEY MUST PROVE THAT IT WAS ACTUALLY HE WHO  
8 BROKE INTO THOSE HOUSES. AND THAT WOULD BE THE BASIS FOR  
9 THE DIRECTED VERDICT MOTION.

10 THE COURT: ALL RIGHT. WHILE THERE IS NO DIRECT  
11 EVIDENCE OF ANYONE ACTUALLY SEEING ANYONE GOING INTO THE  
12 HOMES, THERE IS SUFFICIENT CIRCUMSTANTIAL EVIDENCE TO MAKE  
13 IT A JURY ISSUE. FOR THAT REASON, THAT MOTION OR THOSE  
14 MOTIONS ARE DENIED AS TO THOSE INDICTMENTS.

15 MS. MOBLEY: THANK YOU, YOUR HONOR.

16 THE COURT: AND THE ACCOMPANYING LARCENY CHARGES THAT  
17 GO WITH THEM.

18 MS. MOBLEY: YES, SIR. AND, YOUR HONOR, ON INDICTMENT  
19 3549, POSSESSION OF BURGLARY TOOLS, I DO NOT BELIEVE THAT  
20 THE STATE HAS MET THE STATUTORY REQUIREMENTS. THERE ARE A  
21 NUMBER OF ITEMS ACTUALLY LISTED IN THE STATUTE ---

22 THE COURT: WHAT STATUTE IS THAT?

23 MS. MOBLEY: I BELIEVE IT'S 16-11-20, YOUR HONOR.

24 THE COURT: I HAVE IT. GO AHEAD.

25 MS. MOBLEY: YOUR HONOR, I WOULD SUBMIT TO YOU THAT

1 PRESUMABLY THE STATE IS WANTING THE JURY TO INFER THAT THE  
2 SCREWDRIVER IS THE ITEM OF BURGLARY TOOL. YOUR HONOR,  
3 OBVIOUSLY, THAT IS NOT ENUMERATED IN THE SECTION AND  
4 THEREFORE CANNOT BE CONSIDERED, AND REQUEST A DIRECTED  
5 VERDICT ON THAT CHARGE.

6 MR. CATHCART: YOUR HONOR, IT SPECIFICALLY STATES  
7 TOOL. A SCREWDRIVER IS A TOOL. THIS IS UNDER  
8 CIRCUMSTANCES OF EVIDENCE AND INTENT TO USE OR EMPLOY.  
9 YOU CAN USE THE SAME IN THE COMMISSION OF A CRIME. A  
10 SCREWDRIVER IS IMPLICATED BY THE EVIDENCE BEFORE IN  
11 PICTURES AND BY WHAT THE INVESTIGATOR INDICATED -- THE  
12 CRIME SCENE INVESTIGATION AND THE INVESTIGATOR AS THAT  
13 SCREWDRIVER BEING A TOOL THAT WOULD BE USED IN THE  
14 COMMISSION OF A BURGLARY.

15 THE GLOVES -- AGAIN, YOUR HONOR, THE TOOL, AGAIN, THIS  
16 IS A MAN WHO WAS SEEN IN THE VICINITY OF THESE BURGLARIES.  
17 AGAIN, CIRCUMSTANTIAL EVIDENCE OF THE BURGLARIES, THE FACT  
18 THAT HE HAD THOSE TOOLS IN HIS POSSESSION, AGAIN, GIVES  
19 RISE TO THE POSSESSION OF BURGLARY TOOLS. SPECIFICALLY,  
20 ENGINE COMMA MACHINE COMMA TOOL. BOTH OF THOSE ARE TOOLS  
21 THAT THE DEFENDANT USED TO BREAK INTO THIS HOUSE.

22 THE COURT: WELL, I THINK IT'S CLEAR FROM THE STATUTE  
23 THAT THE LIST THAT IS MADE IS NOT ALL INCLUSIVE. AND THE  
24 QUESTION BECAUSE IT DOES AFTER IT LISTS THESE DIFFERENT --  
25 DIFFERENT ITEMS, AND THEN IT SAYS, OR OTHER IMPLEMENTAL

1       THING ADAPTED, DESIGNED, OR COMMONLY USED FOR THE  
2       COMMISSION OF BURGLARY, LARCENY, SAFECRACKING, OR OTHER  
3       CRIME UNDER CIRCUMSTANCES EVINCING AN INTENT TO USE, EMPLOY  
4       OR ALLOW THE SAME TO BE USED OR EMPLOYED IN THE COMMISSION  
5       OF A CRIME.

6                AND THEN THERE'S A CASE THAT'S CITED IN THE -- IN THE  
7       NOTES THAT INDICATES, THE FACT THAT A PARTICULAR TOOL MAY  
8       BE INFREQUENTLY USED TO A LAWFUL USE IS NOT CONCLUSIVE THAT  
9       IT MAY NOT HAVE BEEN IN A GIVEN CASE INTENDED TO BE USED IN  
10      THE COMMISSION OF A CRIME SUCH AS BURGLARY, LARCENY, AND  
11      SAFECRACKING. THAT'S STATE VERSUS PUCKETT.

12              I DON'T HAVE THAT CASE IN FRONT OF ME, BUT I KNOW JUST  
13      FROM MY EXPERIENCE THERE ARE A NUMBER OF TOOLS THAT CAN BE  
14      USED FOR LEGITIMATE PURPOSES THAT CAN ALSO BE USED IN  
15      CRIMES.

16              FOR THAT REASON, I THINK IT'S A JURY ISSUE. THEY'LL  
17      HAVE TO MAKE THAT DETERMINATION. THAT MOTION IS DENIED.

18              MS. MOBLEY: YES, SIR, YOUR HONOR. I BELIEVE THAT  
19      COVERS OUR DIRECTED VERDICT MOTIONS AT THIS TIME. WE WOULD  
20      RENEW ANY AND ALL OBJECTIONS MADE DURING THE TRIAL AND THE  
21      MOTIONS MADE DURING PRETRIAL.

22              YOUR HONOR, SPECIFICALLY, ON MY MOTION TO QUASH, THE  
23      BURGLARY INDICTMENTS WEREN'T PROPER ENHANCEMENTS, NOW THAT  
24      YOU HAVE HEARD THE CASE, YOUR HONOR, AT THIS TIME I MOVE TO  
25      PROTECT THE RECORD AS TO THE IMPOSITION THAT I HAVE TO MOVE

1 FOR A MISTRIAL ON THAT BASIS.

2 THE COURT: ALL RIGHT. THAT MOTION IS DENIED. MY  
3 RULING WOULD REMAIN THE SAME ON THE BASIS THAT WAS BOTH  
4 ARGUED BY COUNSEL PREVIOUSLY AND THE COURT'S RULING. SO  
5 THAT WOULD BE DENIED.

6 MS. MOBLEY: YES, SIR, THANK YOU.

7 THE COURT: ALL RIGHT.

8 MS. MOBLEY: YOUR HONOR, I BELIEVE WE WOULD JUST  
9 REQUEST TO REST ON THE RECORD. I'VE DISCUSSED WITH MY  
10 CLIENT ABOUT WHETHER OR NOT HE WISH TO TESTIFY. I DON'T  
11 KNOW IF YOUR HONOR WISHES TO HAVE A COLLOQUY WITH HIM ABOUT  
12 THAT.

13 THE COURT: I DON'T THINK I'M REQUIRED TO UNLESS HE  
14 DOES DECIDE TO TESTIFY, AND THEN I WANT TO BE SURE THAT HE  
15 UNDERSTANDS THAT HE COULD NOT BE COMPELLED TO. IF HE'S  
16 EXERCISING HIS RIGHT, THEN OBVIOUSLY HE UNDERSTANDS HIS  
17 RIGHT.

18 MS. MOBLEY: YES, YOUR HONOR.

19 THE COURT: AND, OF COURSE, I WILL INSTRUCT THE JURY  
20 THAT THEY CANNOT DISCUSS THAT, CANNOT HOLD THAT AGAINST  
21 HIM, OR ANYTHING LIKE THAT.

22 MS. MOBLEY: YES, SIR. THANK YOU, YOUR HONOR. I  
23 DON'T BELIEVE HE WISHES TO TESTIFY.

24 THE COURT: ALL RIGHT. THAT WILL CLOSE THE RECORD IN  
25 THE TRIAL; IS THAT CORRECT?

1 MS. MOBLEY: YES, SIR.

2 THE COURT: ALL RIGHT. WHY DON'T WE TAKE A BRIEF  
3 RECESS AND TALK ABOUT CHARGES FOR JUST A MINUTE, THEN WE'LL  
4 COME BACK AND GO INTO CLOSING ARGUMENTS AND WHAT NOT.  
5 WE'LL STAND AT EASE FOR A FEW MINUTES.

6 (A RECESS WAS TAKEN.)

7 THE COURT: ALL RIGHT. LET THE RECORD REFLECT THAT I  
8 HAVE HAD A CONFERENCE WITH COUNSEL ABOUT CHARGES. AND AT  
9 THIS TIME I WOULD PLACE ON THE RECORD THAT ONE OF THE  
10 THINGS WE TALKED ABOUT AND WILL PUT ON THE RECORD WHATEVER  
11 WE NEED TO. OF COURSE, EXCEPTIONS WILL BE TAKEN AFTER THE  
12 CHARGE IS GIVEN.

13 ONE REQUEST THAT WAS MADE WAS BY THE DEFENSE FOR A  
14 LESSER INCLUDED OFFENSE OF SECOND DEGREE BURGLARY ON THE  
15 BURGLARY CHARGES. AND THE COURT HAS DECIDED -- I ADVISED  
16 COUNSEL THAT THAT WOULD NOT BE INCLUDED, GIVEN THE NATURE  
17 OF THESE FIRST DEGREE BURGLARY CHARGES, BASED ON THE  
18 DEFENDANT'S PRIOR RECORD OF TWO OR MORE PRIOR CONVICTIONS  
19 FOR BURGLARY. AND AS INDICATED, WE DID HAVE SOME  
20 DISCUSSION OF THAT; THAT WAS A REQUEST THAT WAS MADE THAT  
21 HAS BEEN DENIED.

22 ANYTHING ON THAT POINT ADDITIONALLY THAT YOU'D LIKE TO  
23 PLACE ON THE RECORD, MS. MOBLEY?

24 MS. MOBLEY: NOTHING ADDITIONAL ON THAT POINT, YOUR  
25 HONOR.

1 THE COURT: ALL RIGHT. ANYTHING ELSE WE NEED TO PUT  
2 ON THE RECORD AT THIS TIME?

3 I WILL ADVISE THE JURY WHEN THEY COME IN THAT THE  
4 DEFENSE HAS RESTED AND THAT WE'LL GO INTO THE CLOSING  
5 ARGUMENTS.

6 MS. MOBLEY: THANK YOU.

7 THE COURT: ALL RIGHT. ANYTHING FURTHER FROM THE  
8 STATE?

9 MR. CATHCART: NOTHING FROM THE STATE, YOUR HONOR.  
10 JUST THAT IT'S ON THE RECORD THAT THEY HAVE RESTED.

11 THE COURT: ALL RIGHT. LET'S BRING THE JURY IN  
12 PLEASE.

13 (PAUSE.)

14 THE COURT: WHILE THEY'RE COMING IN, WOULD YOU STEP UP  
15 HERE JUST FOR A MINUTE.

16 (A BENCH CONFERENCE WAS HELD OFF THE RECORD IN THE  
17 PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

18 (THE JURY RETURNS TO THE COURTROOM AT 11:20 A.M.)

19 BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

20 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND  
21 GENTLEMEN, I TOLD YOU I HAD SOME MATTERS OF LAW TO TAKE UP,  
22 AND I HAVE HEARD THOSE ARGUMENTS AND DISCUSSIONS AND HAVE  
23 HANDLED THOSE MATTERS.

24 WHILE YOU WERE OUT THE DEFENSE ALSO ADVISED THE COURT  
25 THAT THEY WERE RESTING, WHICH MEANS THAT ALL THE EVIDENCE

1 IN THE CASE HAS BEEN PRESENTED TO YOU.

2 IF YOU'LL THINK BACK TO WHEN THE TRIAL STARTED, I TOLD  
3 YOU THAT AFTER ALL THE EVIDENCE HAD BEEN PRESENTED, THE  
4 ATTORNEYS WOULD COME BACK AND MAKE THEIR CLOSING ARGUMENTS  
5 TO YOU, AND THEN I WOULD INSTRUCT YOU IN THE LAW. SO  
6 THAT'S WHERE WE ARE. YOU'RE GOING TO HEAR THE CLOSING  
7 ARGUMENTS FIRST FROM THE SOLICITOR AND THEN FROM THE  
8 DEFENSE ATTORNEY. AND AFTER YOU'VE HEARD FROM THE  
9 ATTORNEYS, THEN I WILL GIVE THE INSTRUCTIONS OF LAW. AND  
10 THEN YOU'LL BE SENT BACK TO DELIBERATE IN THE CASE.

11 LET ME JUST POINT OUT TO YOU, I AM SURE THE ATTORNEYS  
12 WILL BE REVIEWING WITH YOU WHAT THE TESTIMONY AND OTHER  
13 EVIDENCE HAS BEEN. THEY HAVE A RIGHT TO DO THAT. BUT IF  
14 YOUR MEMORY HAPPENS TO DIFFER WITH THEIRS, YOU RELY ON YOUR  
15 OWN MEMORY AS TO WHAT THE TESTIMONY AND THE EVIDENCE IS;  
16 THAT IS YOUR JOB TO DETERMINE THE FACTS IN THE CASE.

17 PLEASE GIVE BOTH OF THE ATTORNEYS YOUR FULL ATTENTION  
18 WHILE THEY MAKE THEIR ARGUMENTS TO YOU. AND ONCE THEY  
19 COMPLETE THEIR ARGUMENTS, THEN I WILL INSTRUCT YOU IN THE  
20 LAW.

21 ALL RIGHT. MR. CATHCART.

22 MR. CATHCART: MAY IT PLEASE THE COURT.

23 THE COURT: ALL RIGHT.

24 CLOSING ARGUMENTS BY MR. CATHCART ON BEHALF OF THE STATE:

25 GOOD MORNING. I WANT TO THANK YOU ALL FIRST FOR THE

1 ATTENTION THAT YOU'VE GIVEN ME AND MS. FENT, AND MOST  
2 IMPORTANTLY THE ATTENTION YOU'VE GIVEN TO THE WITNESSES IN  
3 THIS CASE AND THE VICTIMS IN THIS CASE.

4 I SUBMIT TO YOU, THIS IS HIS DAY IN COURT. THIS IS  
5 IT. IT'S THEIR DAY TOO. IT'S THEIR DAY FOR THE POLICE  
6 OFFICERS TO TELL YOU HOW THEY GOT THIS MAN OFF THE STREET.

7 MR. FERGUSON WAS THE FIRST TO TELL YOU HOW HE SAW THIS  
8 MAN, HE LOOKED SUSPICIOUS TO HIM. HE HELPED APPREHEND HIM.

9 NOW, MR. KEYS HELPED THE POLICE EVEN ARREST HIM WHEN  
10 HE FOUGHT THE POLICE.

11 THIS IS ALSO THE VICTIMS' DAY TOO. IT'S THEIR DAY TO  
12 TELL YOU WHAT THIS MAN TOOK FROM THEM, WHAT THEY'RE ABLE TO  
13 GET BACK FROM THE POLICE WHEN THEY ARE ABLE TO APPREHEND  
14 HIM JUST A FEW MOMENTS AFTER HE COMMITTED THESE BURGLARIES,  
15 WHAT ALSO THEY WERE NOT ABLE TO GET BACK. THEY'LL NEVER  
16 GET BACK PEACE OF GOING BACK TO THEIR HOME AND KNOWING ---

17 MS. MOBLEY: OBJECTION, YOUR HONOR. WE HAVE A MATTER  
18 OF LAW THAT WE NEED TO APPROACH.

19 THE COURT: ALL RIGHT.

20 (A BENCH CONFERENCE WAS HELD OFF THE RECORD IN THE  
21 PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

22 THE COURT: YOUR OBJECTION IS SUSTAINED.

23 MR. CATHCART: AND THAT'S WHY WE'RE HERE TODAY, LADIES  
24 AND GENTLEMEN. WE'RE HERE BECAUSE BACK ON APRIL 19, 2005  
25 THAT MAN WAS A VERY BUSY MAN. BETWEEN JUST A FEW HOURS HE

1 HAD BROKEN INTO SIX SEPARATE PLACES, CASED THEM OUT, MADE  
2 SURE NOBODY WAS HOME. WENT TO EACH ONE, BROKE OPEN THE  
3 DOOR, FORCIBLY WORKING THEM, FORCED IN WITH THIS TOOL. AND  
4 AFTER HE GETS INSIDE EACH SEPARATE APARTMENT, HE GOES  
5 THROUGH EACH ROOM, HE GOES THROUGH THE DRAWERS, GOES  
6 UNDERNEATH THE BED, UNDERNEATH THE MATTRESS, IN THE  
7 KITCHEN, IN THE BATHROOM, PICKS AND CHOOSES WHAT HE WANTS.  
8 HE SHOPS AROUND. HE GETS BAGS AND PILLOW CASES FROM THOSE  
9 APARTMENTS AND PACKAGES THEM UP.

10 HE THEN MAKES HIS ESCAPE FROM THAT APARTMENT, AND THEN  
11 HE GOES AND CASES ANOTHER APARTMENT. HE DID THIS SIX  
12 SEPARATE TIMES BETWEEN 8:00 O'CLOCK AND 12:00 O'CLOCK,  
13 UNTIL HE WAS FINALLY STOPPED WHEN AS HE WAS WALKING AROUND  
14 THE BUILDING, BUILDING NO. 3, WHICH HE HAD BROKEN INTO FOUR  
15 OF THOSE APARTMENTS, BUILDING NO. 3. HE WAS JUST WALKING  
16 AROUND THERE WITH THIS LOOT ON HIS SHOULDER, HE SEES  
17 SOMEBODY, THEN HE PULLS BACK. HE'S NOT SURE IF THE GUY SAW  
18 HIM OR NOT. PULLS BACK WITH THE GUILTY KNOWLEDGE THAT  
19 SOMEBODY HAS NOW SEEN HIM.

20 HE HAD TAKEN PAINS TO MAKE SURE HE HAD NOT BEEN SEEN.  
21 HE CHECKS THE DOORS, CHECKS TO MAKE SURE NOBODY'S LOOKING  
22 AT HIM. HE PUTS GLOVES ON HIS HANDS TO MAKE SURE NOBODY'S  
23 ABLE TO IDENTIFY HIM.

24 WHEN THERE'S FINALLY SOMEONE WHO MAY BE ABLE TO  
25 IDENTIFY HIM IS WHEN HE FINALLY LEAVES. HE DID NOT KNOW OR

1 COULD NOT HAVE KNOWN THAT THE PERSON WHO SAW HIM KNEW  
2 SOMETHING WAS GOING ON IN THIS AREA, KNEW TO LOOK OUT FOR  
3 SOMEBODY SUSPICIOUS, KNEW TO LOOK OUT JUST LIKE HIM AS A  
4 CHILD WHO STEALS FROM SOMEBODY UNTIL HE PULLS BACK, HIDES.

5 HE FELT IT SUSPICIOUS, AND HE ALERTED THE POLICE,  
6 ALERTED FIRST THE MAINTENANCE MAN AND THEN THEY ALERTED THE  
7 POLICE.

8 THEY -- THE POLICE CONFRONTED HIM ABOUT THE BURGLARIES  
9 WITHIN MOMENTS AFTER THE LAST BURGLARY OCCURRED -- MOMENTS  
10 AFTER HE WAS SEEN RIGHT THERE AT THE SCENE.

11 AFTER THE POLICE GO DOWN THERE, THEY TALKED TO HIM.  
12 WHAT'S YOUR NAME? WHAT ARE YOU DOING HERE? NOTHING. JUST  
13 LIKE A CHILD WHO'S BEEN CAUGHT WITH HIS HAND IN THE COOKIE  
14 JAR. WHAT ARE THOSE BAGS THERE? OH, THEY'RE NOT MINE,  
15 DESPITE THE FACT ON THE VIDEO TAPE YOU SAW PLAINLY THAT HE  
16 CARRIED THOSE BAGS DOWN WITH HIM.

17 AND WHEN THEY TRIED TO DETAIN HIM, WHAT DOES HE DO?  
18 HE FIGHTS. RESIST ARREST. HE GOES FOR HIS POCKET.

19 AND THEY'RE ABLE TO STILL -- THEY FIND NOT ONLY ON HIS  
20 PERSON AND IN THOSE BAGS ITEMS FROM ALL THESE BURGLARIES.  
21 THE BAGS ARE ITEMS, BUT ALSO ON HIS PERSON, IN HIS POCKET,  
22 ITEMS FROM ONE BURGLARY. ON HIS RING FINGER, ITEMS FROM  
23 THAT SAME APARTMENT. IN HIS POCKETS, CHANGE AND THE  
24 JEWELRY FROM A SEPARATE APARTMENT.

25 IN HIS POCKET THE CREDIT CARD FROM A SEPARATE

1 APARTMENT. THERE'S ALSO ON HIS PERSON RINGS FROM ANOTHER  
2 APARTMENT -- FOUR SEPARATE APARTMENTS ARE ON HIS PERSON AND  
3 ALSO IN THE BAGS THAT HE'S CARRYING.

4 FOR THAT REASON, LADIES AND GENTLEMEN, ALSO FOUND ON  
5 HIM -- EXCUSE ME -- WAS A SCREWDRIVER FOUND -- I THINK HE  
6 HAD WITH HIM. I SUBMIT TO YOU, LADIES AND GENTLEMEN, IF  
7 YOU LOOK AT THE PICTURES, EACH ONE OF THE BURGLARIES AND  
8 LOOK AT THE SCREWDRIVER, YOU KNOW HOW HE MADE HIS ENTRANCE.

9 IN HIS POCKETS, ON HIS PERSON MOMENTS AFTER THE  
10 BURGLARIES OCCURRED, FIND GLOVES.

11 HE RESISTED ARREST. HE FIGHTS THE OFFICERS. AND THEY  
12 FIND THESE BURGLARY TOOLS ON HIM. AND FOR THAT REASON HE  
13 WAS ARRESTED, AND CHARGED WITH BY THE RICHLAND COUNTY GRAND  
14 JURY THAT ARE NOW HERE BEFORE YOU ON SIX COUNTS OF BURGLARY  
15 IN EACH ONE OF THESE APARTMENTS THAT ARE BROKEN INTO DURING  
16 THIS FOUR-HOUR PERIOD.

17 HE'S ALSO CHARGED WITH THE LARCENIES FROM THOSE  
18 APARTMENTS, THE ITEMS THAT WERE TAKEN FROM THE APARTMENTS.

19 HE'S ALSO CHARGED WITH RESISTING ARREST AND POSSESSION  
20 OF BURGLARY TOOLS -- THE ITEMS HE USED TO PERPETRATE THESE  
21 CRIMES.

22 RESISTING ARREST, LADIES AND GENTLEMEN, LET'S JUST GO  
23 DOWN THROUGH THESE ELEMENTS OF EACH ONE REAL QUICK.

24 RESISTING ARREST. IT'S UNLAWFUL FOR YOU TO RESIST A  
25 LAWFUL ARREST. WHEN POLICE OFFICERS ARREST YOU WITH

1 PROBABLE CAUSE, YOU CAN'T FIGHT THEM. YOU CAN'T ACTUALLY  
2 PULL AWAY. BUT YOU CERTAINLY CAN'T FIGHT THEM. YOU CAN'T  
3 STRUGGLE WITH THEM. YOU CAN'T HAVE TWO COPS AND FINALLY A  
4 MAINTENANCE MAN HELP SUBDUE YOU; THAT'S CALLED RESISTING  
5 ARREST.

6 YOU CAN'T HAVE BURGLARY TOOLS. THESE TOOLS ARE JUST A  
7 SCREWDRIVER AND GLOVES. AND IF PEOPLE HAVE THEM AS A  
8 NORMAL TOOL, NOT A PROBLEM. BUT IF YOU USE THEM IN THE  
9 COMMISSION OF A CRIME OR IN RELATIONSHIP TO A BURGLARY,  
10 THEY'RE NOW BURGLARY TOOLS. AND IF YOU'RE FOUND IN  
11 POSSESSION OF BURGLARY TOOLS ALONG WITH ALL THE LOOT YOU  
12 HAVE FROM THOSE BURGLARIES YOU JUST COMMITTED, IT'S  
13 POSSESSION OF BURGLARY TOOLS.

14 THE LARCENIES. LARCENY IS BASICALLY STEALING  
15 SOMETHING. THERE'S TWO TYPES OF LARCENIES, PETIT LARCENY  
16 AND THERE'S GRAND LARCENY. THE DIFFERENCE IN A PETIT  
17 LARCENY AND A GRAND LARCENY IS THE VALUE OF THE GOODS. IF  
18 IT'S OVER A THOUSAND DOLLARS, IT'S A GRAND LARCENY. IF  
19 IT'S BELOW A THOUSAND DOLLARS, IT'S PETIT LARCENY.

20 ANY ITEM -- IF YOU STOLE -- IF SOMEONE STEALS A PIECE  
21 OF PAPER, THAT BECOMES A PETIT LARCENY, BECAUSE IT'S LESS  
22 THAN A THOUSAND DOLLARS, BUT IT'S STILL A PETIT LARCENY.

23 IT'S UP TO YOU ALL TO DETERMINE THE VALUE OF THE GOODS  
24 THAT WAS TAKEN FROM EACH OF THESE APARTMENTS. THERE WILL  
25 BE ONE CHARGE OF GRAND LARCENY BEFORE YOU, AND THAT'S MR.

1 NOTTINGHAM'S APARTMENT, WHERE THE ITEMS WERE TAKEN,  
2 INCLUDING THE DIAMOND RING.

3 MR. NOTTINGHAM TOLD THE POLICE, PLEASE LOOK OUT FOR  
4 THAT. AND THEY FOUND IT ON THAT MAN'S FINGER.

5 MR. ADAMS DIDN'T SAY THAT HE FOUND IT, CAME UPON IT.  
6 HE SAID, IT'S MINE. AND THE POLICE ALREADY KNEW IT WAS  
7 LISTED AS MISSING FROM THOSE APARTMENTS.

8 FINALLY, HE'S CHARGED WITH SIX COUNTS OF BURGLARIES,  
9 SIX SEPARATE APARTMENTS HAD BEEN BROKEN INTO, SIX  
10 DWELLINGS. BURGLARY IS BREAKING -- IS THE ENTERING A  
11 DWELLING WITHOUT THE OWNER'S CONSENT, WITH THE INTENT TO  
12 COMMIT A CRIME THEREIN. YOU DON'T HAVE TO BREAK INTO A  
13 DWELLING, YOU JUST HAVE TO ENTER A DWELLING WITHOUT THE  
14 OWNER'S CONSENT, WITHOUT THEIR PERMISSION.

15 AND IN THIS CASE, THE EVIDENCE IS THAT HE BROKE INTO  
16 THESE PLACES -- THAT YOU BREAK INTO SOMETHING. ALL RIGHT.

17 IF YOU LOOK ON THE EVIDENCE WHAT IS MARKED AS STATE'S  
18 EXHIBIT NO. 39 THAT'S BEEN PLACED INTO EVIDENCE, YOU SEE  
19 THAT HE WORKED HARD ON THOSE DOORS.

20 WHEN YOU BREAK INTO A PLACE WITHOUT THE OWNER'S  
21 CONSENT WITH THE INTENT TO COMMIT A CRIME THEREIN, THAT IS  
22 A BURGLARY. NOW, WHAT MAKES THESE BURGLARY FIRST IS THAT  
23 THERE IS SOME FORM OF AGGRAVATION THAT GOES ALONG WITH THE  
24 BURGLARY. IN THIS CASE, THIS IS THE THIRD TIME. HE HAS  
25 TWO PRIOR CONVICTIONS FOR THE SAME THING.

1           NOW, LADIES AND GENTLEMEN, IT'S OUR JOB AS THE STATE  
2 TO PROVE ALL THESE ELEMENTS BEYOND A REASONABLE DOUBT.  
3 PROOF BEYOND A REASONABLE DOUBT IS NOT A PROOF BEYOND ANY  
4 DOUBT WHATSOEVER. THERE IS A DOUBT THE SUN MAY RISE  
5 TOMORROW, BUT IT'S NOT A REASONABLE DOUBT. IT'S A DOUBT IF  
6 I HIT A LIGHT SWITCH THAT IT WON'T WORK THAT TIME. THAT'S  
7 NOT A REASONABLE DOUBT.

8           PROOF BEYOND A REASONABLE DOUBT IS MERELY DEFINED AS  
9 PROOF THAT LEAVES YOU FIRMLY CONVINCED THAT HE DID IT, THAT  
10 HE COMMITTED THESE BURGLARIES, THAT HE STOLE THESE ITEMS,  
11 THAT HE RESISTED THE ARREST OF THESE OFFICERS, AND THAT HE  
12 HAD THESE TOOLS ON HIM WHEN HE DID IT -- LEAVES YOU FIRMLY  
13 CONVINCED OF THE DEFENDANT'S GUILT.

14           NOW, WE HAVE TO PROVE THIS BY PUTTING FORWARD EVIDENCE  
15 ON THE STAND; THAT'S WHAT WE DID WITH THE WITNESSES ON THE  
16 STAND, WHO TOLD YOU WHAT THEY SAW AND WHAT HAPPENED. WE  
17 PROVED THAT BY DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

18           DIRECT EVIDENCE IS WHAT YOU SEE, WHAT YOU HEAR, WHAT  
19 YOU TASTE, WHAT YOU SMELL. IT'S WHAT YOU USE -- THERE ARE  
20 SENSES TO DISCOVER. LIKE ASIA FERGUSON WHEN HE SAW HIM  
21 HIDING, LIKE MR. KEYS WHEN HE HELPED TACKLE HIM DOWN AND  
22 HOLD HIM DOWN FOR THE POLICE; THAT'S WHAT THEY DIRECTLY  
23 SAW.

24           CIRCUMSTANTIAL EVIDENCE IS WHAT IS NOT SEEN, BUT WHAT  
25 YOU CAN MAKE YOUR CONCLUSIONS FROM. I GUESS AN EXAMPLE OF

1 IT IS IF YOU GO TO BED THE NIGHT BEFORE, YOU LOOK OUT YOUR  
2 WINDOW AND THE GROUND IS CLEAN. IT'S A CLEAR DAY, THE  
3 GRASS IS GROWING. YOU LOOK UP, THE STARS ARE IN THE SKY.  
4 THE MOON IS IN THE SKY. YOU GO TO BED. YOU WAKE UP THE  
5 NEXT MORNING AND THERE'S SNOW EVERYWHERE. YOU DID NOT SEE  
6 IT SNOW LAST NIGHT. YOU DIDN'T HEAR IT SNOW, DIDN'T TASTE  
7 THE SNOW. BUT YOU KNOW IT SNOWED BECAUSE THERE'S SNOW ON  
8 THE GROUND.

9 I GUESS IN A CASE MORE APPROPRIATE WITH THIS ONE, IS  
10 THE FATHER AND THE SON ARE TOGETHER IN THE KITCHEN AND THE  
11 SON IS STANDING BESIDE A GLASS COOKIE JARS AND THERE'S TWO  
12 COOKIES. THE SON ASKS TO EAT A COOKIE. THE FATHER SAYS,  
13 NO. WAIT UNTIL AFTER DINNER.

14 HE LEAVE -- THE FATHER LEAVES THE ROOM. HE COMES BACK  
15 IN A FEW MOMENTS LATER. AS HE WALKS INTO THE ROOM, HE SEES  
16 HIS SON RUN INTO HIS BEDROOM AND CLOSE THE DOOR. THE  
17 GLASS COOKIE JAR NOW HAS ONE COOKIE IN IT. THERE ARE  
18 CRUMBS AROUND THE COOKIE JAR. THERE'S CRUMBS LEADING  
19 TO HIS BEDROOM.

20 AND HE GOES INTO THE ROOM, HE SEES THE BOY SITTING  
21 BESIDE A HALF EATEN COOKIE. HE SAYS, WHAT ARE YOU DOING?  
22 I DON'T KNOW -- LIKE MR. ADAMS. WHAT'S THAT BESIDE YOU?  
23 IT'S NOT MINE -- LIKE MR. ADAMS.

24 THE KID HAS CRUMBS ON HIS MOUTH. THE KID HAS COOKIE  
25 BREATH.

1 THE FATHER DIDN'T SEE HIM EAT THE COOKIE. HE DIDN'T  
2 SEE HIM TAKE THE COOKIE. BUT THERE'S NO DOUBT HE TOOK IT  
3 AND ATE IT; AND THAT'S THE SAME CASE HERE.

4 DEFENSE COUNSEL WHEN THEY CROSSED THESE PEOPLE THEY  
5 ASKED THEM, WELL, YOU DIDN'T SEE HIM IN YOUR HOME, DID YOU?

6 NO, THEY DIDN'T. THEY'RE NOT HERE TO LIE ABOUT WHAT  
7 HAPPENED. THEY'RE HERE TO TELL YOU WHAT HAPPENED TO THEM.  
8 THEY DIDN'T SEE HIM THERE BECAUSE HE MADE SURE OF IT. HE  
9 MADE SURE THE PEOPLE WEREN'T IN THEIR HOMES. HE MADE SURE  
10 HE LEFT NO SIGN THAT HE WAS THERE.

11 BUT REGRETTABLY FOR HIM, MR. FERGUSON KNOW SOMETHING  
12 WAS GOING ON OUT THERE. IF HE WALKED BY MR. FERGUSON AND  
13 DIDN'T HIDE, WE WOULDN'T BE HERE TODAY, BECAUSE HE LEFT NO  
14 OTHER SIGN OTHER THAN HIS GUILTY ACTION TO SAY, LOOK AT ME.  
15 LOOK AT THIS SCENE, SOMETHING'S GOING ON HERE.

16 WHEN YOU ALL GOT UP, YOU ALL CAME FORWARD AND SWORE TO  
17 BRING A TRUE VERDICT ACCORDING TO THE FACTS AND THE LAW,  
18 THE LAW AS IS STATED IS, AND THE FACTS ARE WHAT YOU HEARD  
19 HERE TODAY.

20 THE VICTIMS CAN'T TESTIFY THAT THEY SAW HIM GO INTO  
21 THEIR HOMES, BECAUSE THEY WEREN'T THERE. BUT HE WAS SEEN  
22 THERE. HE WAS SEEN WITH ALL THEIR ITEMS, CAUGHT WITHIN A  
23 SHORT, MOMENTARY TIME AFTER HE COMMITTED THESE CRIMES.

24 THEY DIDN'T SEE HIM COME IN THEIR HOUSE, BUT HE'LL  
25 ALWAYS BE THERE IN THEIR HOUSES, BECAUSE THEY'LL NEVER FEEL

1 THE SAME WAY ABOUT THEIR HOMES AGAIN.

2 MS. MOBLEY: OBJECTION, YOUR HONOR.

3 THE COURT: SUSTAIN, THAT'S PERSONAL OPINION WHICH IS  
4 IMPROPER.

5 MS. MOBLEY: THANK YOU.

6 MR. CATHCART: THANK YOU.

7 THE COURT: ALL RIGHT. MS. MOBLEY.

8 MS. MOBLEY: THANK YOU, YOUR HONOR. MAY IT PLEASE THE  
9 COURT.

10 CLOSING ARGUMENTS BY MS. MOBLEY ON BEHALF OF THE DEFENDANT:

11 LADIES AND GENTLEMEN, YOU HAVE HEARD A LOT OF EVIDENCE  
12 IN THE PAST COUPLE OF DAYS. TERRANCE ADAMS IS NOT GUILTY,  
13 AND LET'S TALK ABOUT WHY.

14 YOU'VE HEARD FROM A BUNCH OF WITNESSES AND WHAT HAVE  
15 YOU. LET'S GO THROUGH IT STEP BY STEP.

16 YOU FIRST HEARD FROM ASIA FERGUSON, THE UPS DRIVER.  
17 HE'S THE ONLY PERSON WHO REALLY MIGHT HAVE SOMETHING TO ADD  
18 HERE. OKAY? HE TESTIFIED THAT HE SEES A GENTLEMAN AT THE  
19 APARTMENT COMPLEX AND THINKS, HUM, YOU KNOW, SOMETHING  
20 WEIRD THERE MAYBE. GOES OVER TO MR. KEYS AND SAYS, YOU  
21 KNOW, THERE'S A GENTLEMAN OVER HERE. OKAY.

22 SO ASIA FERGUSON TESTIFIED THAT HE SEES MR. ADAMS AT  
23 THE APARTMENT COMPLEX. HE DID NOT TESTIFY THAT HE SEES MR.  
24 ADAMS BREAKING INTO ANY APARTMENTS. HE TESTIFIES HE SEES  
25 HIM WITH A BACKPACK; AND THAT'S WHAT WE GET FROM ASIA

1 FERGUSON. AND THEN HE SEES HIM OVER AT FOOD FAIR.

2 NEXT WE HAVE RUFUS KEYS, A VERY NICE GENTLEMAN. YOU  
3 HEARD FROM HIM. HE IS CONTACTED BY ASIA FERGUSON. ASIA  
4 TELLS HIM, YOU KNOW, THERE'S A GUY OVER HERE. THEY RIDE TO  
5 FOOD FAIR AND THEY SEE MR. ADAMS AT THE FOOD FAIR.

6 SO WHAT DO WE GET FROM RUFUS KEYS, CARL KEYS, IS THAT  
7 HE SEES HIM AT FOOD FAIR.

8 WE GO TO INVESTIGATOR HUNT, WHO IS THE INVESTIGATOR ON  
9 THE CASE. HE'S CALLED IN BY THE APARTMENT MANAGER.  
10 INVESTIGATOR HUNT DOES EXACTLY WHAT HE'S SUPPOSED TO DO,  
11 HE, YOU KNOW, GOES AROUND THE APARTMENTS, HE CALLS  
12 FORENSICS. HE GOES TO FOOD FAIR AFTER HE'S SPOKEN WITH  
13 EITHER CARL KEYS OR ASIA FERGUSON -- I BELIEVE IT'S CARL  
14 KEYS. GOES TO FOOD FAIR AND BEGINS SPEAKING WITH MR. ADAMS  
15 ABOUT WHY HE'S THERE AND WHAT HAVE YOU.

16 INVESTIGATOR HUNT DOESN'T SEE HIM BREAK INTO ANY  
17 APARTMENTS. INVESTIGATOR HUNT WHEN ASKED ON CROSS  
18 EXAMINATION IF HE HAD -- IF HE KNEW OF ANY FORENSIC  
19 EVIDENCE AS TO WHY -- YOU KNOW, AS TO WHO IT WAS THAT BROKE  
20 INTO THOSE APARTMENTS, NO.

21 AND THE STATE IS VERY FOCUSED ON THE FINGERPRINT THING  
22 HERE; THAT IS JUST THE TIP OF THE ICEBERG FOR FORENSIC  
23 EVIDENCE. SHOE PRINTS? DNA? THERE'S A NUMBER OF THINGS  
24 THAT CAN BE DONE OTHER THAN FINGERPRINTS, WHICH ARE SORT OF  
25 THE CLASSIC, YOU KNOW, MOMENT FOR THE STATE. OTHER THAN

1 THAT, THERE'S A BUNCH THERE. THERE WERE NO SHOE PRINTS OR  
2 ANYTHING ELSE LINKING MR. ADAMS TO THE BURGLARIES.

3 NOW, YOU ALL HAVE SEEN A NUMBER OF PHOTOGRAPHS. I  
4 BELIEVE 70-SOME-ODD WHAT HAVE YOU. ALL OF THESE PHOTOS  
5 HAVE BEEN SHOWN TO YOU, PASSED AROUND, WHAT HAVE YOU. AND  
6 THAT'S SUPPOSED TO BE VERY IMPRESSIVE TO YOU ALL AND THAT'S  
7 -- IT'S ONE OF THE THINGS THE STATE WANTS YOU TO GLEAN FROM  
8 ALL OF THIS, THE PHOTOGRAPHS OF THE APARTMENTS, THE  
9 PHOTOGRAPHS OF THE PRIED DOORS, WHAT HAVE YOU. THE STATE  
10 WANTS YOU TO GLEAN FROM THE AMOUNT OF EVIDENCE -- NOT  
11 QUALITY, THE AMOUNT THAT OBVIOUSLY THE PERSON THEY HAVE ON  
12 TRIAL IS GUILTY.

13 THE GOVERNMENT HAS EVERY RESOURCE AT THEIR DISPOSAL;  
14 THIS IS PART OF IT. PAPER YOU TO DEATH WITH PHOTOGRAPHS.

15 WE'VE HEARD FROM DEPUTY SOTO. DEPUTY SOTO ARRIVES  
16 WITH INVESTIGATOR HUNT. CAN TELL YOU NOTHING ABOUT ANY OF  
17 THE BURGLARIES. HE ARRIVES, SEES DEPUTY HUNT -- EXCUSE ME,  
18 INVESTIGATOR HUNT. AND HIS TESTIMONY IS THAT THERE WAS A  
19 STRUGGLE WHEN MR. ADAMS WAS ARRESTED FOR THESE CRIMES.

20 AND ALL I WANT YOU TO KEEP IN MIND IS DEPUTY SOTO CAN  
21 REALLY ONLY TESTIFY AS FAR AS THE RESISTING ARREST CHARGE.  
22 PLEASE KEEP IN MIND, WHO WAS IT THAT WENT TO THE HOSPITAL  
23 AFTER THAT CHARGE? IT WASN'T ANY OF THE DEPUTIES. IT WAS  
24 MR. ADAMS.

25 BILL MANN, FORENSICS. TAKES THE STAND AND HE AGAIN

1 WITH MORE PICTURES AND EVERYTHING, HE WENT AND DID HIS JOB,  
2 AND HE DUSTED FOR PRINTS, AND HE CHECKED FOR SHOE PRINTS,  
3 AND HE DID ALL OF THOSE THINGS. NOTHING WAS FOUND. HE  
4 CAN'T TELL YOU ANYTHING ABOUT WHO DID THE BURGLARIES.

5 THE APARTMENT OWNERS. YOU HEARD FROM ALL OF THEM  
6 EXCEPT FOR ONE -- PLEASE KEEP IN MIND, WE DID NOT HEAR FROM  
7 KEE CHUNG. WE HEARD FROM ALL OF THEM, NONE OF THEM WERE  
8 HOME.

9 WE'RE NOT DISPUTING THAT SOMEONE BURGLARIZED THE  
10 APARTMENTS. SOMEONE DID. THEY CAN'T TELL YOU -- BECAUSE  
11 NONE OF THEM WERE HOME -- WHO THAT WAS, WHICH BRINGS US  
12 BACK AT THIS POINT TO ASIA FERGUSON.

13 ASIA FERGUSON SEES MR. ADAMS IN THE APARTMENT COMPLEX  
14 AROUND NOON WAS THE TESTIMONY. THE TESTIMONY FROM THE  
15 INVESTIGATOR IS THAT WE'VE GOT ABOUT A FOUR-HOUR TIME SPAN  
16 HERE THAT WE'RE DEALING WITH. THESE PEOPLE WERE GONE ALL  
17 MORNING.

18 THERE ARE A NUMBER OF THINGS THAT COULD HAVE HAPPENED  
19 IN THAT TIME FRAME. AND LET ME SUBMIT SOMETHING TO YOU,  
20 LADIES AND GENTLEMEN, THE STATE MAY HAVE PROVED A CASE OF  
21 RECEIPT OF STOLEN GOODS, BUT THEY HAVE GIVEN YOU NOTHING  
22 TO REST A VERDICT OF GUILTY ON FOR BURGLARY. THEY WANT  
23 YOU TO SURMISE THAT OBVIOUSLY, WELL, HE HAD THE ITEMS, HE  
24 DID IT.

25 WELL, THERE'S A STORY ABOUT THAT TOO. YOU KNOW,

1 CIRCUMSTANCES CAN BE MISLEADING. CIRCUMSTANCES ARE NOT  
2 ALWAYS WHAT THEY APPEAR. CIRCUMSTANCES -- AND THIS IS AN  
3 ENTIRELY CIRCUMSTANTIAL CASE AS FAR AS THE BURGLARIES GO.  
4 CIRCUMSTANCES DON'T ALWAYS TELL YOU THE WHOLE PICTURE.

5 AND I SUBMIT TO YOU, WE HAVE ABOUT FOUR GOOD HOURS IN  
6 THERE THAT NO ONE CAN ATTEST TO, THAT NO ONE CAN SAY WHAT  
7 HAPPENED. I WASN'T THERE, I DON'T KNOW. BUT NEITHER WAS  
8 ANYONE ELSE.

9 THE ONLY THING THAT THE STATE HAS IS THAT SOMEONE SEES  
10 MR. ADAMS AT THE APARTMENT COMPLEX, AND THEN SOMEONE SEES  
11 HIM LATER AT FOOD FAIR AND HE HAS THE ITEMS. AND THEY WANT  
12 YOU TO GUESS FROM THAT WHAT HAPPENED. THEY'RE ASKING YOU  
13 TO MAKE A HUGE LOGICAL LEAP TO, WELL, I GUESS THAT HE DID  
14 THE BURGLARIES.

15 BUT LET ME TELL YOU WHAT REASONABLE DOUBT ISN'T. IT'S  
16 NOT I GUESS SO. IT'S NOT I THINK SO. IT'S NOT MAYBE.  
17 IT'S NOT PROBABLY. IT'S NONE OF THOSE THINGS.

18 IT IS BEYOND A REASONABLE DOUBT.

19 AND SOLICITOR CATHCART WAS RIGHT, THIS IS MR. ADAMS'  
20 DAY IN COURT. HE PLED NOT GUILTY.

21 THE STATE HAS NOT PROVEN TO ANY OF YOU THAT TERRANCE  
22 ADAMS WAS IN ANY OF THOSE APARTMENTS BEYOND A REASONABLE  
23 DOUBT. THEY PROVED TO YOU THAT HE HAD THE ITEMS. BUT, YOU  
24 KNOW, HE'S NOT CHARGED WITH RECEIPT OF STOLEN GOODS. THEY  
25 HAVE NOT PROVED TO YOU THAT HE IS THE ONE WHO BROKE INTO

1 THIS APARTMENT, BECAUSE LET ME POINT ONE MORE THING OUT,  
2 LADIES AND GENTLEMEN. THIS THAT THEY'RE ALLEGING WAS USED  
3 TO ENTER THE APARTMENTS WAS FOUND IN ONE OF THE BAGS, NOT  
4 IN HIS HAND, IN ONE OF THE BAGS. THAT COULD HAVE BEEN PUT  
5 THERE BY ANYONE.

6 LADIES AND GENTLEMEN, THE ONLY THING THE STATE HAS  
7 PROVED IS THAT HE HAD THE STOLEN PROPERTY. THE STATE HAS  
8 NOT MADE THEIR CASE.

9 WE'RE ASKING FOR A VERDICT OF NOT GUILTY.

10 CHARGE OF THE COURT:

11 ALL RIGHT. MR. FOREMAN AND LADIES AND GENTLEMEN, AT  
12 THIS TIME IT DOES BECOME THE DUTY AND THE JOB OF THE TRIAL  
13 COURT TO INSTRUCT YOU OR CHARGE YOU WITH THE LAW THAT  
14 APPLIES IN THIS CASE. LET ME TELL YOU THAT IN SOME STATES  
15 THE CHARGE THAT I'M ABOUT TO GIVE YOU IS REDUCED TO WRITING  
16 AND GIVEN TO THE JURY TO TAKE BACK IN THE JURY ROOM. WE  
17 DON'T DO THAT IN SOUTH CAROLINA.

18 AND SOME TIMES I THINK THE JURY AFTER THEY GO BACK TO  
19 DELIBERATE THEY'RE THINKING THERE'S GOING TO BE A COPY OF  
20 ALL THIS LAW THE JUDGE HAS JUST TALKED TO US ABOUT WITH US  
21 IN THE JURY ROOM, AND THAT IS NOT THE CASE. THE ONLY TIME  
22 YOU'LL HEAR THIS IS WHEN I GO OVER IT WITH YOU AT THIS  
23 TIME.

24 NOW, WHEN YOU START DELIBERATING, IF YOU NEED  
25 CLARIFICATION, HAVE QUESTIONS ABOUT THE LAW, I'LL BE GLAD

1 TO ATTEMPT TO ANSWER WHATEVER THOSE QUESTIONS MIGHT BE. I  
2 SIMPLY SAY THAT TO EMPHASIZE TO YOU THAT YOU DO NEED TO  
3 LISTEN AND PAY ATTENTION TO WHAT THE INSTRUCTIONS ARE OF  
4 THE LAW AT THIS POINT IN TIME.

5 IT IS YOUR DUTY TO ACCEPT AND APPLY THE LAW AS THE  
6 COURT IS NOW GOING TO EXPLAIN IT TO YOU. AND AS JURORS, IT  
7 IS YOUR EXCLUSIVE DUTY TO DECIDE ALL OF THE ISSUES OF FACTS  
8 IN THIS CASE. AND FOR THAT PURPOSE, TO DETERMINE THE  
9 EFFECT, THE VALUE, THE WEIGHT, AND THE TRUTH OF THE  
10 EVIDENCE THAT HAS BEEN PRESENTED DURING THE TRIAL, FOR BOTH  
11 THE STATE OF SOUTH CAROLINA AND THE DEFENDANT, MR. ADAMS,  
12 HAVE A RIGHT TO EXPECT THAT YOU WILL INDIVIDUALLY AND  
13 COLLECTIVELY CONSCIOUSLY CONSIDER AND EVALUATE THE EVIDENCE  
14 IN THIS CASE AND APPLY THE LAW OF THE CASE TO THAT  
15 EVIDENCE, TO THE END THAT BOTH THE STATE OF SOUTH CAROLINA  
16 AND THE DEFENDANT WILL RECEIVE AND OBTAIN A FAIR AND  
17 IMPARTIAL TRIAL IN THE CASE.

18 NOW, I'M GOING TO REVIEW FOR YOU IN JUST A MOMENT THE  
19 CHARGES THAT ARE MADE IN THESE INDICTMENTS. AGAIN, THE  
20 INDICTMENTS ARE THE DOCUMENTS THAT HAVE PROCESSED THIS CASE  
21 THROUGH THE COURT SYSTEM. THEY CONTAIN THE CASE NUMBER,  
22 THE CASE NAME, AND THEY CONTAIN WHAT THE ALLEGATIONS ARE IN  
23 THE CASE, BUT THEY ARE NOT EVIDENCE OF THESE CHARGES AND  
24 CANNOT BE CONSIDERED BY THE JURY AS EVIDENCE OF THE CHARGES  
25 THAT THEY CONTAIN.

1 I'M NOT GOING TO GO THROUGH THEM IN ANY PARTICULAR  
2 ORDER EXCEPT THE ORDER THAT THEY HAVE BEEN GIVEN TO ME.

3 THE FIRST INDICTMENT 05-GS-40-4169, THE STATE VERSUS  
4 TERRANCE ADAMS, IT IS ALLEGED IN THIS INDICTMENT THAT  
5 TERRANCE ADAMS DID IN RICHLAND COUNTY ON OR ABOUT APRIL THE  
6 19TH, 2005 UNLAWFULLY ENTER THE DWELLING OF SHAWNETTA  
7 BELTON WITHOUT CONSENT AND WITH THE INTENT TO COMMIT A  
8 CRIME THEREIN, AND THE DEFENDANT HAS TWO PRIOR CONVICTIONS  
9 FOR BURGLARY AND/OR HOUSEBREAKING, ALL IN VIOLATION OF CODE  
10 SECTION 16-11-311 OF THE SOUTH CAROLINA CODE OF LAWS.

11 THE NEXT INDICTMENT IS 05-GS-40-3940, STATE VERSUS  
12 TERRANCE ADAMS. IT IS THE IDENTICAL CHARGE THAT I JUST  
13 READ TO YOU IN THE PRIOR INDICTMENT, EXCEPT IN THIS CHARGE  
14 IT IS ALLEGED THAT THE DWELLING WAS ONE OF DECHANTAL  
15 COFIELD. THE OTHER ALLEGATIONS ARE THE SAME.

16 IN THE NEXT INDICTMENT, 05-3935, STATE VERSUS TERRANCE  
17 ADAMS, AN INDICTMENT FOR BURGLARY IN THE FIRST DEGREE. THE  
18 ALLEGATIONS IN THIS INDICTMENT ARE IDENTICAL TO THE  
19 PREVIOUS INDICTMENTS EXCEPT IT IS ALLEGED THAT THE DWELLING  
20 WAS ONE OF DOROTHY NELSON.

21 AND THE NEXT INDICTMENT 05-3548, IT IS AN INDICTMENT  
22 FOR BURGLARY IN THE FIRST DEGREE. THE ALLEGATIONS ARE THE  
23 SAME THAT I HAVE PREVIOUSLY INDICATED TO YOU WITH THE  
24 EXCEPTION THAT IT IS ALLEGED THAT THIS WAS THE DWELLING OF  
25 ONE CHARLES NOTTINGHAM.

1 INDICTMENT 05-GS-40-3477, STATE VERSUS TERRANCE ADAMS,  
2 IT IS AN INDICTMENT FOR THE CHARGE OF BURGLARY FIRST  
3 DEGREE. AGAIN, THE ALLEGATIONS IN THIS INDICTMENT ARE THE  
4 SAME AS THE PREVIOUS INDICTMENTS WITH THE EXCEPTION THAT IT  
5 IS ALLEGED THAT IT WAS THE DWELLING OF CONQUISTA DRAYTON.

6 INDICTMENT 05-3478, STATE VERSUS TERRANCE ADAMS, AN  
7 INDICTMENT FOR THE CHARGE OF BURGLARY FIRST DEGREE. THE  
8 CHARGES ARE THE SAME AS THE PREVIOUS INDICTMENTS WITH THE  
9 EXCEPTION THAT IT IS ALLEGED THAT IT WAS A DWELLING OF ONE  
10 KEE CHUNG.

11 IN INDICTMENT GS-40-3547, IT IS AN INDICTMENT FOR THE  
12 CHARGE OF GRAND LARCENY. SINCE THIS IS ANOTHER CHARGE, I  
13 WILL READ TO YOU IN PART THE INDICTMENT, THE ALLEGATION  
14 THAT IS MADE IN THIS INDICTMENT. IT IS ALLEGED IN THIS  
15 INDICTMENT THAT TERRANCE ADAMS DID IN RICHLAND COUNTY ON OR  
16 ABOUT APRIL THE 19TH, 2005 FELONIOUSLY TAKE OR ATTEMPT TO  
17 TAKE AND CARRY AWAY THE PERSONAL GOODS OF CHARLES  
18 NOTTINGHAM, OF A VALUE OF MORE THAN \$1,000 WITH THE INTENT  
19 TO DEPRIVE THE OWNER PERMANENTLY OF SUCH PROPERTY TO WIT, A  
20 DUFFLE BAG AND/OR A CLOCK AND/OR JEWELRY AND/OR COMPACT  
21 DISKS AND/OR TOOLS, ALL IN VIOLATION OF SECTION 16-13-30 OF  
22 THE SOUTH CAROLINA CODE OF LAWS. AGAIN, THAT IS AN  
23 ALLEGATION OF GRAND LARCENY.

24 IN THESE NEXT INDICTMENTS THE ALLEGATION IS FOR A  
25 CHARGE OF PETIT LARCENY. IT IS ALLEGED IN 05-4170 THAT THE

STATE V. TERRANCE ADAMS

1 DEFENDANT DID IN RICHLAND COUNTY ON OR ABOUT APRIL THE 19TH  
2 FELONIOUSLY TAKE AND CARRY AWAY PROPERTY OF THE VICTIM  
3 SHAWNETTA BELTON OF A VALUE LESS THAN \$1,000 WITH THE  
4 INTENT TO DEPRIVE THE OWNER PERMANENTLY OF SUCH PROPERTY IN  
5 VIOLATION OF SECTION 16-13-30 OF THE SOUTH CAROLINA CODE OF  
6 LAWS.

7 INDICTMENT 05-3936, AGAIN, STATE VERSUS TERRANCE  
8 ADAMS, AND THE ALLEGATION OR THE CHARGE THAT IS MADE IN  
9 THIS INDICTMENT IS A CHARGE OF PETIT LARCENY AS THAT HAS  
10 PREVIOUSLY BEEN EXPLAINED TO YOU OR READ TO YOU IN THE  
11 PREVIOUS INDICTMENT WITH THE EXCEPTION THAT THE ALLEGED  
12 VICTIM IN THIS INDICTMENT IS ONE DOROTHY NELSON.

13 INDICTMENT 05-3474, STATE VERSUS TERRANCE ADAMS IS  
14 ANOTHER INDICTMENT FOR THE CHARGE OF PETIT LARCENY, THE  
15 CHARGE IS THE SAME AS THE PREVIOUS INDICTMENTS WITH THE  
16 EXCEPTION THAT THE ALLEGED VICTIM IS KEE CHUNG.

17 INDICTMENT 05-3475, STATE VERSUS TERRANCE ADAMS, AN  
18 INDICTMENT OR ALLEGATION OF THE CHARGE OF PETIT LARCENY.  
19 THE ALLEGATIONS THAT ARE MADE ARE THE SAME AS IN THE  
20 PREVIOUS INDICTMENT WITH THE EXCEPTION THAT THE ALLEGED  
21 VICTIM IS ONE CONQUISTA DRAYTON.

22 INDICTMENT 05-3941, STATE VERSUS TERRANCE ADAMS, IT IS  
23 A CHARGE OF PETIT LARCENY AS THE ALLEGATIONS OF THE  
24 PREVIOUS INDICTMENTS HAVE BEEN WITH THE EXCEPTION THAT THE  
25 ALLEGED VICTIM IN THE CASE IS ONE DECHANTAL COFIELD.

1 INDICTMENT 05-3550, STATE VERSUS TERRANCE ADAMS, IS AN  
2 INDICTMENT THAT CHARGES RESISTING ARREST. IT IS ALLEGED IN  
3 THIS INDICTMENT THAT THE DEFENDANT DID IN RICHLAND COUNTY  
4 ON OR ABOUT APRIL THE 19TH, 2005 WILLFULLY AND KNOWINGLY  
5 RESIST THE EFFORTS OF DEPUTY HUNT AND/OR DEPUTY SOTO, LAW  
6 ENFORCEMENT OFFICERS OF THIS STATE, TO MAKE A LAWFUL ARREST  
7 OF THE SAID DEFENDANT IN VIOLATION OF SECTION 16-9-320,  
8 SUBSECTION (A) OF THE SOUTH CAROLINA CODE OF LAWS.

9 AND INDICTMENT 05-3549, STATE VERSUS TERRANCE ADAMS,  
10 IT IS A CHARGE OR AN ALLEGATION OF POSSESSION OF BURGLARY  
11 TOOLS. IT IS ALLEGED IN THIS INDICTMENT THAT THE DEFENDANT  
12 DID IN RICHLAND COUNTY ON OR ABOUT APRIL THE 19TH, 2005  
13 HAVE IN POSSESSION CERTAIN TOOLS ADOPTED, DESIGNED, AND  
14 COMMONLY USED FOR THE COMMISSION OF A CRIME, BURGLARY UNDER  
15 CIRCUMSTANCES EVINCING AN INTENT TO USE AND ALLOW THE SAME  
16 TO BE USED IN THE COMMISSION OF A CRIME, ALL IN VIOLATION  
17 OF CODE SECTION 16-11-20 OF THE SOUTH CAROLINA CODE OF LAWS  
18 AS AMENDED.

19 THOSE ARE THE ALLEGATIONS THAT ARE MADE IN THESE  
20 INDICTMENTS. AGAIN, THE INDICTMENTS ARE NOT EVIDENCE OF  
21 THE CHARGES THAT THEY CONTAIN AND CANNOT BE CONSIDERED BY  
22 THE JURY AS EVIDENCE OF THOSE CHARGES.

23 THROUGHOUT THESE INSTRUCTIONS WHEN I USE THE WORD  
24 DEFENDANT, I AM REFERRING TO TERRANCE ADAMS.

25 NOW, TO THE CHARGES THAT HAVE BEEN MADE IN THESE

1 INDICTMENTS THAT I HAVE REVIEWED WITH YOU, THE DEFENDANT  
2 HAS ENTERED A PLEA OF NOT GUILTY. THIS PLEA OF NOT GUILTY  
3 BY THE DEFENDANT PLACES THE BURDEN OF PROOF ON THE STATE TO  
4 PROVE THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT  
5 BEFORE YOU, THE JURY, CAN FIND THE DEFENDANT GUILTY.

6 THE DEFENDANT, MR. ADAMS, IS PRESUMED IN LAW INNOCENT  
7 OF THE CHARGES THAT ARE MADE IN THESE INDICTMENTS. IT IS A  
8 CARDINAL AND A FUNDAMENTAL RULE OF THE LAW OF EVIDENCE OF  
9 THIS STATE THAT A DEFENDANT, REGARDLESS OF THE CHARGE OR  
10 THE CHARGES AGAINST HIM WILL ALWAYS BE PRESUMED INNOCENT OF  
11 THE OFFENSES FOR WHICH HE HAS BEEN INDICTED, UNLESS AND  
12 UNTIL THE GUILT OF THE DEFENDANT HAS BEEN PROVEN BY  
13 EVIDENCE THAT SATISFIES YOU, THE JURY, OF HIS GUILT BEYOND  
14 A REASONABLE DOUBT.

15 THE PRESUMPTION OF INNOCENCE IS NOT JUST A MERE LEGAL  
16 THEORY OR A LEGAL PHRASE. BUT THE PRESUMPTION OF INNOCENCE  
17 IS A SUBSTANTIAL RIGHT TO WHICH EVERY DEFENDANT, INCLUDING  
18 MR. ADAMS, IS ENTITLED.

19 THE SUPREME COURT OF THIS STATE HAS DECLARED THAT THE  
20 PRESUMPTION OF INNOCENCE IS LIKE A ROBE OF RIGHTEOUSNESS  
21 PLACED ABOUT THE SHOULDERS OF A DEFENDANT. IT REMAINS WITH  
22 THE DEFENDANT AND ASSIGNS THE DEFENDANT TO THAT CLASS, THE  
23 INNOCENT, UNTIL THAT PRESUMPTIVE ROBE OF RIGHTEOUSNESS HAS  
24 BEEN STRIPPED FROM THE DEFENDANT'S PERSON BY EVIDENCE THAT  
25 SATISFIES YOU, THE JURY, OF THE GUILT OF THE DEFENDANT

1 BEYOND A REASONABLE DOUBT.

2 THE PRESUMPTION OF INNOCENCE ACCOMPANIES THE DEFENDANT  
3 FROM THE TIME OF HIS ARRAIGNMENT, FROM THE TIME OF HIS  
4 APPEARANCE IN THE COURT, AND THROUGHOUT EVERY STAGE OF THE  
5 TRIAL AND CONTINUES WITH THE DEFENDANT EVEN AFTER YOU  
6 RETIRE INTO THE JURY ROOM TO CONSIDER YOUR VERDICT IN THE  
7 CASE.

8 THE PRESUMPTION OF INNOCENCE CONTINUES TO EXIST TO THE  
9 BENEFIT OF THE DEFENDANT UNTIL YOU, THE JURY, REACH THE  
10 CONCLUSION THAT THE STATE HAS PROVEN THE GUILT OF THE  
11 DEFENDANT BEYOND A REASONABLE DOUBT.

12 I WOULD INSTRUCT YOU NOW, MR. FOREMAN AND LADIES AND  
13 GENTLEMEN, THAT THE FACT THAT THE DEFENDANT IN THE TRIAL OF  
14 A CRIMINAL CASE DOES NOT TESTIFY IN HIS OWN BEHALF IS NOT A  
15 FACTOR TO BE CONSIDERED BY YOU IN ANY WAY IN YOUR  
16 DELIBERATION AND IN YOUR CONSIDERATION ON THE QUESTION OF  
17 THE GUILT OR THE INNOCENCE OF THE ACCUSED. IT MUST NOT BE  
18 CONSIDERED BY YOU IN ANY MANNER AGAINST THE DEFENDANT OR  
19 MITIGATE AGAINST HIM IN ANY RESPECT.

20 A DEFENDANT HAS A CONSTITUTIONAL RIGHT TO REMAIN  
21 SILENT. AND THE ASSERTION OF THAT CONSTITUTIONAL RIGHT  
22 CANNOT AND MUST NOT BE CONSIDERED BY YOU IN YOUR  
23 DELIBERATIONS.

24 SO UNDER YOUR OATH, YOU ARE TO REACH NO INFERENCE AND  
25 DRAW NO CONCLUSION FROM THE FACT THAT THE DEFENDANT IN THIS

1 CASE DID NOT TESTIFY. AGAIN, THE FACT THAT THE DEFENDANT  
2 DOES NOT TESTIFY SHOULD NOT EVEN BE DISCUSSED IN THE JURY  
3 ROOM.

4 THE BURDEN OF PROOF, AS I'VE STATED TO YOU, IS UPON  
5 THE STATE. IT IS NOT INCUMBENT UPON THE ACCUSED TO PROVE  
6 HIS INNOCENCE. THE BURDEN OF PROOF REMAINS UPON THE STATE  
7 TO PROVE GUILT BEYOND A REASONABLE DOUBT.

8 AND, AGAIN, THE FACT THAT A DEFENDANT DOES NOT TESTIFY  
9 IS NOT A FACTOR TO BE CONSIDERED BY YOU IN DETERMINING THE  
10 GUILT OR THE INNOCENCE OF A DEFENDANT.

11 THE STATE IS NOT REQUIRED TO PROVE THE GUILT OF THE  
12 DEFENDANT BEYOND ALL DOUBT OR BEYOND EVERY DOUBT, BUT  
13 BEYOND A REASONABLE DOUBT.

14 WHEN WE SAY THAT PROOF MUST BE ESTABLISHED BEYOND A  
15 REASONABLE DOUBT, THOSE WORDS SHOULD BE GIVEN THEIR PLAIN  
16 AND ORDINARY MEANING. A REASONABLE DOUBT IS THE KIND OF  
17 DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO HESITATE TO  
18 ACT.

19 A REASONABLE DOUBT CAN ARISE FROM THE EVIDENCE  
20 PRESENTED IN THE CASE OR THE LACK OF EVIDENCE IN THE CASE.

21 TO THINK THAT A DEFENDANT IS PROBABLY GUILTY OR THAT  
22 THE CIRCUMSTANCES ARE SUSPICIOUS IS NOT ENOUGH.

23 PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES  
24 YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT.

25 NOW, THERE ARE FEW THINGS IN THIS WORLD THAT WE KNOW

1 WITH ABSOLUTE CERTAINTY. AND IN CRIMINAL CASES THE LAW  
2 DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT.

3 IF BASED ON YOUR CONSIDERATION OF THE EVIDENCE YOU ARE  
4 FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE CRIME  
5 OR THE CRIMES CHARGED, YOU MUST FIND HIM GUILTY.

6 IF ON THE OTHER HAND YOU THINK THERE IS A REAL  
7 POSSIBILITY THAT HE IS NOT GUILTY, YOU MUST GIVE HIM THE  
8 BENEFIT OF THE DOUBT AND FIND HIM NOT GUILTY.

9 YOU ALONE MUST MAKE THE DETERMINATION OF WHETHER OR  
10 NOT REASONABLE DOUBT EXISTS AS TO THE GUILT OF THIS  
11 DEFENDANT.

12 I WOULD INSTRUCT YOU THAT THE DEFENDANT IS ENTITLED TO  
13 EVERY REASONABLE DOUBT ARISING IN THE WHOLE CASE. SO IF  
14 UPON ANY ISSUE OF FACT THAT IS ESSENTIAL TO CONVICTION AND  
15 A VERDICT OF GUILTY IF YOU HAVE A REASONABLE DOUBT AS TO  
16 HOW THAT ISSUE SHOULD BE RESOLVED, IT WOULD BE YOUR DUTY TO  
17 RESOLVE THAT REASONABLE DOUBT IN FAVOR OF THE DEFENDANT.

18 A DEFENDANT, MR. FOREMAN AND LADIES AND GENTLEMEN, IS  
19 NOT REQUIRED TO PROVE HIS INNOCENCE, BUT THE STATE IS  
20 REQUIRED UNDER THE LAW TO PROVE EVERY ESSENTIAL ELEMENT OF  
21 THE OFFENSES CHARGED AGAINST HIM BY EVIDENCE THAT SATISFIES  
22 YOU, THE JURY, OF THE GUILT OF THE DEFENDANT BEYOND A  
23 REASONABLE DOUBT.

24 BEFORE YOU CAN CONVICT A DEFENDANT AND FIND HIM GUILTY  
25 IF THEN UPON THE WHOLE CASE YOU HAVE A REASONABLE DOUBT AS

1 TO THE GUILT OR THE INNOCENCE OF THE DEFENDANT, HE IS  
2 ENTITLED TO THAT REASONABLE DOUBT AND WOULD BE ENTITLED TO  
3 AN ACQUITTAL AND A VERDICT OF NOT GUILTY.

4 ON THE OTHER HAND, IF UPON THE WHOLE CASE YOU FIND  
5 THAT THE STATE HAS PROVEN BY EVIDENCE THAT SATISFIES YOU OF  
6 THE GUILT OF THIS DEFENDANT BEYOND A REASONABLE DOUBT, THEN  
7 IN THAT CIRCUMSTANCE, IT WOULD EQUALLY BE YOUR DUTY TO  
8 CONVICT THE DEFENDANT AND FIND HIM GUILTY.

9 IF YOU FIND THE DEFENDANT GUILTY BUT YOU HAVE A  
10 REASONABLE DOUBT AS TO WHETHER THE DEFENDANT IS GUILTY OF A  
11 GREATER CRIME CHARGED OR A LESSER CRIME CHARGED, THEN YOU  
12 WOULD RESOLVE THAT REASONABLE DOUBT IN FAVOR OF THE  
13 DEFENDANT AND WRITE A VERDICT OF GUILTY ONLY AS TO THE  
14 LESSER CHARGE. BUT, OF COURSE, YOU COULD NOT WRITE A  
15 VERDICT OF GUILTY TO ANY CHARGE UNLESS AS TO THAT  
16 PARTICULAR CHARGE YOU FIND ALL THE ELEMENTS OF THE CHARGE  
17 HAVE BEEN PROVEN BY THE STATE BEYOND A REASONABLE DOUBT.

18 I WOULD INSTRUCT YOU AGAIN THAT THE INDICTMENTS IN  
19 THIS CASE ARE NOT EVIDENCE AND CANNOT BE CONSIDERED BY YOU  
20 AS EVIDENCE OF THE CHARGES THAT THEY CONTAIN.

21 AGAIN, THESE ARE THE DOCUMENTS THAT HAVE PROCESSED THE  
22 CASE THROUGH THE COURT SYSTEM.

23 NOW, DURING THE TRIAL, MR. FOREMAN AND LADIES AND  
24 GENTLEMEN, YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS A  
25 TRIAL JUDGE, IT IS MY RESPONSIBILITY TO PRESIDE OVER THE

1 TRIAL OF THE CASE. I HAVE THE DUTY TO RULE UPON OR PASS  
2 UPON THE ADMISSIBILITY OF THE EVIDENCE THAT WAS OFFERED  
3 DURING THE TRIAL.

4 YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE BEFORE  
5 YOU. AND YOU ARE TO DISREGARD AND DISABUSE FROM YOUR MIND  
6 ANY TESTIMONY THAT WAS ORDERED STRICKEN FROM THE RECORD OF  
7 THE CASE DURING THE PROGRESS OF THE TRIAL IF THERE WAS ANY.  
8 AND YOU ARE TO CONSIDER ONLY THE TESTIMONY THAT HAS BEEN  
9 PRESENTED FROM THE WITNESS STAND, TOGETHER WITH ANY  
10 EXHIBITS THAT HAVE BEEN MADE A PART OF THE RECORD IN THIS  
11 CASE.

12 I DO HAVE THE ADDITIONAL DUTY TO CHARGE YOU OR EXPLAIN  
13 TO YOU THE LAW THAT APPLIES IN THIS CASE. AS THE PRESIDING  
14 JUDGE, I AM THE SOLE JUDGE OF THE LAW OF THE CASE.

15 AND IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE  
16 LAW AS IT IS NOW EXPLAINED TO YOU. AND THAT IS TRUE EVEN  
17 IF YOU DISAGREED WITH THE LAW OR IF YOU HAD SOME  
18 PRECONCEIVED IDEA AS TO WHAT THE LAW IS OR WHAT YOU THOUGHT  
19 IT OUGHT TO BE, AND THAT PRECONCEPTION DOES NOT AGREE WITH  
20 WHAT I'M NOW EXPLAINING TO YOU. YOU ARE OBLIGATED UNDER  
21 THE OATH THAT YOU TOOK WHEN THIS CASE BEGAN TO ABANDON THAT  
22 PRECONCEPTION, BECAUSE YOU ARE SWORN TO ACCEPT AND APPLY  
23 THE LAW PRECISELY AS THE COURT EXPLAINS IT TO YOU.

24 IN EVERY CASE THAT IS TRIED IN THIS COURT BEFORE A  
25 JURY, THE JURY DOES BECOME THE SOLE AND THE EXCLUSIVE JUDGE

1 OF THE FACTS IN A CASE. AND YOU, THE JURY, ARE THE SOLE  
2 JUDGE OF THE FACTS IN THIS CASE. THE COURT, AGAIN, IS THE  
3 JUDGE OF THE LAW IN THE CASE.

4 THE CONSTITUTION OF THIS STATE HAS DECLARED THAT A  
5 TRIAL JUDGE SHALL NOT INTIMATE, STATE, COMMENT UPON, OR  
6 MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN A  
7 CASE.

8 SINCE YOU, THE JURY, ARE THE SOLE JUDGE OF THE FACTS  
9 OF THIS CASE, YOU ARE NOT TO INFER FROM ANYTHING THAT I'VE  
10 SAID DURING THE PROGRESS OF THE TRIAL, IN RULING UPON THE  
11 ADMISSIBILITY OF EVIDENCE OR OTHERWISE, OR ANYTHING THAT I  
12 SAY NOW DURING THE COURSE OF THESE INSTRUCTIONS TO YOU THAT  
13 I HAVE ANY OPINION ABOUT THE FACTS IN THIS CASE. THE LAW,  
14 AGAIN, DOES NOT PERMIT ME TO HAVE AN OPINION ABOUT THE  
15 FACTS IN THIS CASE. THIS IS A MATTER SOLELY FOR YOU, THE  
16 JURY, TO DETERMINE.

17 AS JURORS, THEN IT IS YOUR DUTY AS I'VE INSTRUCTED YOU  
18 TO DETERMINE THE EFFECT, THE VALUE, THE WEIGHT, AND THE  
19 TRUTH OF THE EVIDENCE PRESENTED DURING THE TRIAL. BY  
20 NECESSITY, YOU MUST ASSESS THE CREDIBILITY OF WITNESSES WHO  
21 HAVE TESTIFIED IN THE CASE. CREDIBILITY IS SIMPLY A  
22 LEGALISTIC TERM THAT MEANS BELIEVABILITY.

23 IT BECOMES YOUR DUTY AS JURORS TO ANALYZE AND EVALUATE  
24 THE EVIDENCE AND DETERMINE THAT EVIDENCE WHICH CONVINCES  
25 YOU OF ITS TRUTH.

1 I WOULD INSTRUCT YOU THAT IN DETERMINING THE QUESTION  
2 OF THE CREDIBILITY OR THE BELIEVABILITY OF WITNESSES WHO  
3 HAVE TESTIFIED IN THE CASE, YOU MAY BELIEVE ONE WITNESS AS  
4 AGAINST SEVERAL OR SEVERAL AS AGAINST ONE.

5 YOU MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS  
6 AND REJECT THE REMAINING PART OF THE TESTIMONY OF THAT SAME  
7 WITNESS.

8 YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS  
9 ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS  
10 ENTIRETY.

11 YOU MAY CONSIDER WHETHER ANY WITNESS HAS EXHIBITED TO  
12 YOU ANY MOTIVE, ANY BIAS, ANY PREJUDICE IN THE CASE.

13 YOU MAY CONSIDER THE DEMEANOR OF A WITNESS; THAT IS,  
14 THE APPEARANCE OF A WITNESS FROM THE WITNESS STAND.

15 AND, OF COURSE, YOU MAY CONSIDER THE OPPORTUNITY FOR  
16 KNOWLEDGE CONCERNING THOSE THINGS ABOUT WHICH A WITNESS HAS  
17 TESTIFIED.

18 YOUR OBJECTIVE IS TO SEEK THE TRUTH, REGARDLESS OF ITS  
19 SOURCE. AND IN DOING SO, IN EXERCISING YOUR MENTAL  
20 PROCESSES AND IN DETERMINING WHAT YOU CONSIDER TO BE TRUE,  
21 THE LAW SIMPLY REQUIRES, LADIES AND GENTLEMEN, THAT YOU  
22 EXERCISE YOUR GOOD JUDGMENT AND COMMON SENSE AND YOUR SENSE  
23 OF LOGIC AND REASON, AND YOUR EXPERIENCES IN LIFE, AND YOU  
24 THEN APPLY THESE ATTRIBUTES OF ABILITY TO THE EVIDENCE AND  
25 DETERMINE WHAT YOU, THE JURY, CONSIDER TO BE THE TRUTHFUL

1 EVIDENCE. AND TO THIS STATE OF FACTS AS DETERMINED BY YOU,  
2 THE JURY, YOU THEN TAKE AND APPLY THE LAW AS I NOW STATE IT  
3 TO YOU, AND THUS ARRIVE AT A TRUE VERDICT IN THIS CASE.

4 I WOULD FURTHER CHARGE YOU, MR. FOREMAN AND LADIES AND  
5 GENTLEMEN, THAT THERE ARE TWO TYPES OF EVIDENCE THAT ARE  
6 GENERALLY PRESENTED DURING A TRIAL: DIRECT EVIDENCE AND  
7 CIRCUMSTANTIAL EVIDENCE.

8 DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO  
9 ASSERTS OR CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH  
10 AS AN EYEWITNESS.

11 CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS  
12 AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT.

13 THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE  
14 WEIGHT OR THE VALUE TO BE GIVEN TO EITHER DIRECT OR  
15 CIRCUMSTANTIAL EVIDENCE, NOR IS A GREATER DEGREE OF  
16 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF  
17 DIRECT EVIDENCE.

18 YOU SHOULD WEIGH ALL THE EVIDENCE IN THE CASE. AFTER  
19 WEIGHING ALL OF THE EVIDENCE, IF YOU ARE NOT CONVINCED OF  
20 THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT, YOU  
21 MUST FIND THE DEFENDANT NOT GUILTY.

22 I WOULD FURTHER CHARGE YOU, MR. FOREMAN AND LADIES AND  
23 GENTLEMEN OF THE JURY, THAT THERE WAS ADMITTED INTO THE  
24 RECORD OF THIS CASE EVIDENCE OF AN ALLEGED PRIOR RECORD OF  
25 A WITNESS. AND THIS EVIDENCE WAS ADMITTED FOR A LIMITED

1       PURPOSE -- THIS EVIDENCE WAS ADMITTED AND MAY BE CONSIDERED  
2       BY YOU, THE JURY, IF YOU CONCLUDE IT TRUE AND ONLY FOR THE  
3       PURPOSE OF EVALUATING THE CREDIBILITY OR THE BELIEVABILITY  
4       OF THAT WITNESS. YOU MAY GIVE TO THIS EVIDENCE SUCH WEIGHT  
5       AND SUCH VALUE IF ANY TO WHICH YOU FIND IT IS ENTITLED ON  
6       THE SOLE ISSUE OF THE CREDIBILITY OR THE BELIEVABILITY OF  
7       THE TESTIMONY OFFERED BY THAT WITNESS HERSELF.

8               NOW, IN THIS CASE, AS I'VE INDICATED AND GONE OVER  
9       WITH YOU, THERE ARE A NUMBER OF INDICTMENTS. I THINK THE  
10       TOTAL OF 14 INDICTMENTS. EACH INDICTMENT CHARGES A  
11       SEPARATE AND DISTINCT OFFENSE.

12               YOU MUST DECIDE THE CHARGE IN EACH INDICTMENT  
13       SEPARATELY ON THE EVIDENCE AND THE LAW THAT APPLIES TO IT,  
14       UNINFLUENCED BY YOUR DECISION AS TO ANY OTHER CHARGE IN ANY  
15       OTHER INDICTMENT.

16               THE DEFENDANT MAY BE CONVICTED OR ACQUITTED ON ANY OR  
17       ALL OF THE OFFENSES CHARGED. YOU'RE GOING TO BE ASKED TO  
18       WRITE A SEPARATE VERDICT OF GUILTY OR NOT GUILTY FOR EACH  
19       CHARGE IN EACH INDICTMENT, AND I'LL GO OVER THAT WITH YOU  
20       AT THE CONCLUSION OF THESE INSTRUCTIONS.

21               I WILL FURTHER CHARGE YOU THAT CRIMINAL INTENT IS A  
22       NECESSARY ELEMENT OF EACH CRIME THAT MUST BE PROVEN BY THE  
23       STATE BEYOND A REASONABLE DOUBT.

24               CRIMINAL INTENT IS ALWAYS A MATTER THAT MUST BE  
25       DETERMINED BY THE JURY FROM THE CIRCUMSTANCES SURROUNDING

1 THE SITUATION.

2 THERE IS NO WAY TO PROVE INTENT TO A MATHEMATICAL  
3 CERTAINTY. THERE'S NO WAY THAT MEDICAL SCIENCE CAN OPEN A  
4 PERSON'S BRAIN AND DETERMINE WHAT THAT PERSON HAD IN MIND.  
5 SO THE LAW SAYS THAT CRIMINAL INTENT MAY BE INFERRED FROM  
6 THE CIRCUMSTANCES THAT ARE SHOWN TO HAVE EXISTED. AND THIS  
7 IS HOW THE JURY MAKES A DETERMINATION OF WHETHER OR NOT THE  
8 ELEMENT REQUIRING INTENT WAS PRESENT.

9 CRIMINAL INTENT IS A STATE OF MIND WHICH OPERATED  
10 JOINTLY WITH AN ACT IN THE COMMISSION OF A CRIME. CRIMINAL  
11 INTENT IS A MENTAL STATE, A CONSCIOUS WRONGDOING. SO THAT  
12 IT IS UP TO YOU, THE JURY, TO DETERMINE WHAT THE DEFENDANT  
13 INTENDED TO DO BASED ON THE CIRCUMSTANCES THAT ARE SHOWN TO  
14 HAVE EXISTED.

15 I WILL INSTRUCT YOU THAT THE STATE MUST PROVE CRIMINAL  
16 INTENT BEYOND A REASONABLE DOUBT, JUST AS THE STATE MUST  
17 PROVE EVERY ELEMENT OF THE OFFENSES BEYOND A REASONABLE  
18 DOUBT AS I HAD PREVIOUSLY EXPLAINED THAT TO YOU.

19 NOW, I'M GOING TO GO OVER AND CHARGE YOU NOW THE LAW  
20 THAT PERTAINS TO THE VARIOUS OFFENSES THAT ARE CHARGED IN  
21 THE INDICTMENTS.

22 I'LL START WITH BURGLARY FIRST DEGREE. A PERSON IS  
23 GUILTY OF BURGLARY IN THE FIRST DEGREE IF THE PERSON ENTERS  
24 A DWELLING WITHOUT CONSENT AND WITH THE INTENT TO COMMIT A  
25 CRIME THEREIN AND THE BURGLARY IS COMMITTED BY THE PERSON

1 WITH A PRIOR RECORD OF TWO OR MORE CONVICTIONS OF BURGLARY  
2 OR HOUSEBREAKING OR A COMBINATION OF BOTH. PROOF OF A  
3 BREAK-IN IS NOT REQUIRED.

4 SO THE ELEMENTS MUST BE THAT A PERSON ENTERS A  
5 DWELLING, THAT THE ENTRY IS MADE WITHOUT CONSENT, THAT THE  
6 ENTRY IS MADE WITH THE INTENT TO COMMIT A CRIME THEREIN,  
7 AND THE BURGLARY IS COMMITTED BY A PERSON WITH A PRIOR  
8 RECORD OF TWO OR MORE CONVICTIONS FOR BURGLARY OR  
9 HOUSEBREAKING OR A COMBINATION OF BOTH.

10 THOSE ARE THE ELEMENTS OF THAT OFFENSE, AND EACH OF  
11 WHICH MUST BE PROVEN BEYOND A REASONABLE DOUBT.

12 NOW, I WILL CHARGE YOU THAT THERE HAS BEEN EVIDENCE  
13 INTRODUCED IN THIS MATTER THAT THE DEFENDANT HAS A PREVIOUS  
14 CONVICTION FOR TWO BURGLARIES, HOUSEBREAKING, OR A  
15 COMBINATION OF BOTH IN CONNECTION WITH THE ELEMENTS OF THE  
16 OFFENSE OF BURGLARY IN THE FIRST DEGREE.

17 THOSE CONVICTIONS HAVE NO WEIGHT IN YOUR DELIBERATIONS  
18 ON WHETHER OR NOT HE MAY BE GUILTY OF THE OFFENSE CHARGED.  
19 NO INFERENCE OF ANY KIND MAY BE DRAWN FROM THE FACT THAT HE  
20 HAS THESE PRIOR CONVICTIONS WHEN CONSIDERING WHETHER OR NOT  
21 HE MAY HAVE COMMITTED THE OFFENSE OF WHICH HE IS CURRENTLY  
22 CHARGED.

23 THE PRIOR CONVICTIONS CAN ONLY BE CONSIDERED IF AT ALL  
24 ONCE YOU HAVE MADE A DETERMINATION AS TO THE OTHER ELEMENTS  
25 OF THE CRIME FOR WHICH HE IS CHARGED.

1 THE NEXT OFFENSE THAT I AM GOING TO GO OVER AND REVIEW  
2 WITH YOU -- IN SEVERAL INDICTMENTS THERE IS A CHARGE OF  
3 PETIT LARCENY AND ONE INDICTMENT IS A CHARGE OF GRAND  
4 LARCENY. LET ME EXPLAIN THOSE CHARGES TO YOU.

5 LARCENY IS DEFINED AS THE TAKING AND THE CARRYING AWAY  
6 THE PERSONAL PROPERTY OF ANOTHER WITH THE FELONIOUS INTENT  
7 TO PERMANENTLY DEPRIVE THE OWNER OF HIS OR HER PROPERTY AND  
8 CONVERT IT TO THE USE OF THE TAKER.

9 SO THE ESSENTIAL ELEMENTS OF THE OFFENSE OF LARCENY  
10 ARE AS FOLLOWS: THERE MUST BE A TAKING AND A CARRYING AWAY  
11 OF THE PROPERTY OF ANOTHER, THE PROPERTY MUST BE TAKEN FROM  
12 THE ACTUAL OR THE CONSTRUCTIVE POSSESSION OF THE OWNER BY A  
13 TRESPASS.

14 NEXT, THE TAKER MUST HAVE ABSOLUTE DOMINION AND  
15 CONTROL OF THE PROPERTY TAKEN, WITH SUCH ABSOLUTE DOMINION  
16 AND CONTROL EVEN FOR A MOMENT IS SUFFICIENT.

17 NEXT, THERE MUST BE AN ASPORTATION OR A CARRYING AWAY  
18 OF THE PROPERTY BY THE TAKER. BUT THE SLIGHTEST REMOVAL OF  
19 THE PROPERTY FROM THE PLACE THAT IT OCCUPIED IS SUFFICIENT.

20 AND, NEXT THE PROPERTY MUST BE THE PERSONAL PROPERTY  
21 OF ANOTHER.

22 THE PERSON TAKING THE PROPERTY OF ANOTHER AT THE TIME  
23 OF THE TAKING MUST HAVE HAD THE INTENT TO STEAL THE  
24 PROPERTY; THAT IS TO FELONIOUSLY, UNLAWFULLY, AND  
25 PERMANENTLY DEPRIVE THE OWNER OF HIS OR HER PROPERTY AND

1 CONVERT IT TO THE USE OF THE TAKER.

2 I WILL FURTHER CHARGE YOU, MR. FOREMAN AND LADIES AND  
3 GENTLEMEN, THAT LARCENY WHEN IT IS PROVEN IS DIVIDED INTO  
4 TWO CLASSIFICATIONS ACCORDING TO THE VALUE OF THE PROPERTY  
5 TAKEN. AND THE TWO CLASSES ARE PETIT LARCENY AND GRAND  
6 LARCENY.

7 THE OFFENSE IS PETIT LARCENY IF THE VALUE OF THE  
8 PROPERTY STOLEN IS \$1,000 OR LESS.

9 THE OFFENSE OF GRAND LARCENY IS MADE IF THE VALUE OF  
10 THE PROPERTY IS MORE THAN \$1,000.

11 THE STATE MUST PROVE EACH OF THESE ESSENTIAL ELEMENTS  
12 OF THE CRIME OF LARCENY BEYOND A REASONABLE DOUBT BEFORE  
13 THE JURY CAN CONVICT THE DEFENDANT AND FIND HIM GUILTY.

14 AS TO THE CHARGE OF GRAND LARCENY MADE IN ONE OF THE  
15 INDICTMENTS, IF THE JURY DETERMINES THAT THE DEFENDANT IS  
16 GUILTY OF LARCENY BUT HAS A REASONABLE DOUBT AS TO WHETHER  
17 IT IS GRAND LARCENY OR PETIT LARCENY, WHICH IS A LESSER-  
18 INCLUDED OFFENSE OF GRAND LARCENY, THEN THE DEFENDANT WOULD  
19 BE ENTITLED TO THAT REASONABLE DOUBT AND COULD BE CONVICTED  
20 ONLY OF THE PETIT LARCENY. AGAIN, ONLY IF ALL OF THE OTHER  
21 ELEMENTS OF THAT OFFENSE HAVE BEEN PROVEN BEYOND A  
22 REASONABLE DOUBT.

23 THE NEXT CHARGE THAT I'M GOING TO REVIEW WITH YOU IS  
24 THE OFFENSE OF RESISTING ARREST. THIS IS FOUND IN SECTION  
25 16-9-320 OF THE SOUTH CAROLINA CODE OF LAW. THAT CODE

1 SECTION READS IN PART AS FOLLOWS: IT IS UNLAWFUL FOR A  
2 PERSON KNOWINGLY AND WILLFULLY TO OPPOSE OR RESIST A LAW  
3 ENFORCEMENT OFFICER WHEN THAT OFFICER -- OR TO RESIST AN  
4 ARREST BEING MADE BY ONE WHO THE PERSON KNOWS OR REASONABLY  
5 SHOULD KNOW IS A LAW ENFORCEMENT OFFICER, WHETHER UNDER  
6 PROCESS OR NOT.

7 IN ORDER FOR YOU, THE JURY, TO FIND THE DEFENDANT  
8 GUILTY OF VIOLATING THIS STATUTE, YOU MUST FIND THAT THE  
9 STATE HAS PROVEN EACH OF THE ELEMENTS OF THIS OFFENSE  
10 BEYOND A REASONABLE DOUBT.

11 THE FIRST ELEMENT OF THE OFFENSE CONCERNS THE  
12 DEFENDANT'S STATE OF MIND AT THE TIME THAT HE ALLEGEDLY  
13 COMMITTED THE OFFENSE. THE STATE MUST PROVE BEYOND A  
14 REASONABLE DOUBT THAT THE DEFENDANT KNOWINGLY AND WILLFULLY  
15 COMMITTED THIS OFFENSE.

16 SECONDLY, THE STATE MUST PROVE BEYOND A REASONABLE  
17 DOUBT THAT THE DEFENDANT MUST HAVE OPPOSED OR RESISTED A  
18 LAW ENFORCEMENT OFFICER.

19 NOW, THESE WORDS OPPOSE OR RESIST AS USED IN THE  
20 STATUTE MEAN A REFUSAL BY THE DEFENDANT TO COMPLY WITH A  
21 LAWFUL ORDER AND LAWFUL DIRECTION OF A LAW ENFORCEMENT  
22 OFFICER.

23 THE OPPOSITION OR RESISTANCE MAY BE PASSIVE OR IT MAY  
24 BE ACTIVE. AND IF THE MEANS EMPLOYED BY THE DEFENDANT ARE  
25 SUFFICIENT TO PREVENT THE LAW ENFORCEMENT OFFICER FROM

1 SERVING OR ARRESTING IN A LEGAL FASHION THE DEFENDANT, THEN  
2 THE RESISTANCE OR OPPOSITION BY THE DEFENDANT IS COMPLETE.

3 THE NEXT ELEMENT THAT THE STATE MUST PROVE BEYOND A  
4 REASONABLE DOUBT IS THAT THE DEFENDANT MUST HAVE OPPOSED OR  
5 RESISTED AS I HAVE DEFINED THESE TERMS FOR YOU A LAW  
6 ENFORCEMENT OFFICER WHO WAS IN THE PROCESS OF MAKING A  
7 LEGAL OR LAWFUL ARREST.

8 AND THE FINAL ELEMENT THAT THE STATE MUST PROVE BEYOND  
9 A REASONABLE DOUBT IS THAT THE PERSON WHO WAS ATTEMPTING TO  
10 MAKE THE ARREST WAS A LAW ENFORCEMENT OFFICER, AND THIS  
11 MEANS UNDER THE LAW A DULY APPOINTED OR COMMISSIONED LAW  
12 ENFORCEMENT OFFICER OF THE STATE, COUNTY, OR MUNICIPALITY.

13 IN ORDER TO CONVICT THE DEFENDANT AND FIND HIM GUILTY  
14 OF THIS OFFENSE, THE STATE MUST PROVE TO YOUR SATISFACTION  
15 EACH OF THESE ELEMENTS BEYOND A REASONABLE DOUBT.

16 AND THE OTHER CHARGE THAT I NEED TO REVIEW WITH YOU  
17 THAT'S MADE IN THE OTHER INDICTMENT IS POSSESSION OF  
18 BURGLARY TOOLS; THAT IS FOUND IN SECTION 16-11-20 OF THE  
19 CODE OF LAWS OF THIS STATE WHICH READS IN PART AS FOLLOWS:  
20 IT IS UNLAWFUL FOR A PERSON TO HAVE IN HIS POSSESSION ANY  
21 IMPLEMENT OR THING ADAPTED, DESIGNED, OR COMMONLY USED FOR  
22 THE COMMISSION OF BURGLARY, LARCENY, SAFECRACKING, OR OTHER  
23 CRIME UNDER CIRCUMSTANCES EVINCING AN INTENT TO USE,  
24 EMPLOY, OR ALLOW THE SAME TO BE USED OR EMPLOYED IN THE  
25 COMMISSION OF A CRIME, OR KNOWING THAT THE SAME ARE

1 INTENDED TO BE SO USED.

2 AGAIN, EACH OF THOSE OFFENSE -- EACH OF THOSE ELEMENTS  
3 MUST BE PROVEN BY THE STATE BEYOND A REASONABLE DOUBT IN  
4 ORDER FOR THE DEFENDANT TO BE CONVICTED OF THIS OFFENSE.

5 NOW, MR. FOREMAN AND LADIES AND GENTLEMEN, YOU ARE  
6 GOING TO HAVE A SEPARATE VERDICT FORM FOR EACH OF THE 14  
7 INDICTMENTS THAT ARE PRESENT IN THIS CASE. I WILL GO OVER  
8 WITH YOU GENERALLY HOW THESE VERDICT FORMS HAVE BEEN  
9 PREPARED. PLEASE DON'T ATTACH ANY SIGNIFICANCE TO THE  
10 ORDER OF THE POSSIBLE VERDICTS IN THIS CASE. I'VE GOT TO  
11 GIVE THEM TO YOU IN SOME ORDER.

12 NOW, WHAT WE HAVE DONE ON EACH VERDICT FORM, WE HAVE  
13 PUT THE INDICTMENT NUMBER, WE HAVE PUT WHAT THE CHARGE IS,  
14 WHETHER IT'S BURGLARY FIRST DEGREE, PETIT LARCENY, GRAND  
15 LARCENY. WE HAVE PUT IN PARENTHESES THE NAME OF THE  
16 ALLEGED VICTIM ON THAT PARTICULAR INDICTMENT.

17 ON THE BURGLARY CHARGES, THERE ARE TWO POSSIBLE  
18 VERDICTS ON EACH OF THE BURGLARY CHARGES: ONE, WE, THE  
19 JURY, FIND THE DEFENDANT GUILTY OF BURGLARY FIRST DEGREE.  
20 WE, THE JURY, FIND THE DEFENDANT NOT GUILTY OF BURGLARY  
21 FIRST DEGREE.

22 ON THE GRAND LARCENY CHARGE, THERE ARE THREE POSSIBLE  
23 VERDICTS: WE, THE JURY, FIND THE DEFENDANT GUILTY OF GRAND  
24 LARCENY. OR WE, THE JURY, FIND THE DEFENDANT GUILTY OF  
25 PETIT LARCENY. OR WE, THE JURY, FIND THE DEFENDANT NOT

1 GUILTY.

2 ON THE RESISTING ARREST, TWO POSSIBLE VERDICTS, ONE IS  
3 GUILTY, ONE IS NOT GUILTY.

4 AND ON POSSESSION OF BURGLARY TOOLS, TWO POSSIBLE  
5 VERDICTS: ONE IS GUILTY. ONE IS NOT GUILTY.

6 AND ON THE PETIT LARCENY CHARGES, TWO POSSIBLE  
7 VERDICTS: EITHER GUILTY OR NOT GUILTY.

8 MR. FOREMAN, AFTER THE JURY HAS DELIBERATED AND  
9 REACHED A UNANIMOUS VERDICT ON EACH ONE OF THESE, YOU WILL  
10 SIMPLY SIGN YOUR NAME UNDER WHICHEVER VERDICT IT IS ON EACH  
11 ONE OF THESE SHEETS. I THINK IT WILL BE SELF-EXPLANATORY  
12 WHEN YOU GET THESE WITH YOU.

13 WHATEVER YOUR VERDICT IS, IT MUST BE UNANIMOUS. ALL  
14 12 OF YOU MUST AGREE ON THE VERDICT.

15 ONCE YOU HAVE DELIBERATED, MR. FOREMAN AND REACHED A  
16 UNANIMOUS VERDICT AND HAVE COMPLETED THESE FORMS, THEN YOU  
17 WILL SIMPLY KNOCK ON YOUR DOOR, TELL THE BAILIFF, WE'VE GOT  
18 A VERDICT. YOU DON'T TELL THEM WHAT IT IS. WE'LL BRING  
19 YOU BACK INTO THE COURTROOM AND WE'LL TAKE YOUR VERDICT AT  
20 THAT POINT IN TIME.

21 AGAIN, YOUR VERDICTS MUST BE UNANIMOUS.

22 PERIODICALLY, A JURY WILL HAVE QUESTIONS. IF YOU  
23 HAPPEN TO HAVE A QUESTION, THE WAY YOU WOULD HANDLE THAT IS  
24 TO WRITE THE QUESTION ON A P.IECE OF PAPER, HAND IT TO THE  
25 BAILIFF, HE'LL BRING IT TO ME.

1 IF IT'S A QUESTION THAT DEALS WITH THE FACTS, I CAN'T  
2 ANSWER IT. I CANNOT STATE OR COMMENT UPON THE FACTS OF THE  
3 CASE. YOU HAVE TO MAKE THAT DETERMINATION. IF IT'S A  
4 QUESTION THAT DEALS WITH A MATTER OF LAW, I MAY OR MAY NOT  
5 BE ABLE TO RESPOND TO IT, DEPENDING ON WHAT QUESTION IS.

6 BUT THAT'S HOW YOU HANDLE THAT. MANY TIMES THE JURY  
7 DOES NOT HAVE QUESTIONS ONCE THEY GET BACK AND DELIBERATE.

8 AT THIS TIME I'M GOING TO SEND YOU BACK TO YOUR JURY  
9 ROOM, BUT I'M STILL INSTRUCTING YOU, DO NOT BEGIN  
10 DELIBERATING. I NEED TO GO OVER THE INSTRUCTIONS I HAVE  
11 GIVEN YOU. IF I HAVE OMITTED ANYTHING OR IF I FEEL LIKE I  
12 NEED TO EXPLAIN ANYTHING IN MORE DETAIL, I'LL BRING YOU  
13 BACK IN THE COURTROOM AND WE WILL DO THAT.

14 BUT IF THAT'S NOT NECESSARY, WHEN THE BAILIFF OR THE  
15 CLERK BRING YOU THE EXHIBITS WITH THESE VERDICT FORMS,  
16 THAT'S YOUR SIGNAL TO GO AHEAD AND BEGIN DELIBERATIONS.

17 AND, AGAIN, ONCE YOU'VE REACHED A VERDICT, IF YOU'LL  
18 JUST NOTIFY THE BAILIFF, WE'LL TAKE YOUR VERDICT BACK HERE  
19 IN THE COURTROOM.

20 IF YOU FOLKS AT THIS TIME WILL PLEASE STEP BACK TO  
21 YOUR JURY ROOM. I DO NEED MY ALTERNATE JUROR, MA'AM, IF  
22 YOU'LL STAY HERE WITH ME IN THE COURTROOM. THE REST OF YOU  
23 ARE EXCUSED TO YOUR JURY ROOM.

24 (THE JURY RETIRES TO THE JURY ROOM AT 12:22 P.M.)

25 (THE ALTERNATE JUROR WAS EXCUSED.)

1 THE COURT: ALL RIGHT. ADDITIONS OR EXCEPTS, THE  
2 STATE?

3 MR. CATHCART: NOTHING FROM THE STATE, YOUR HONOR.

4 THE COURT: ALL RIGHT.

5 MS. MOBLEY: YOUR HONOR, I WOULD JUST RENEW MY PRIOR  
6 OBJECTION TO YOUR HONOR'S RULING THAT NOT TO CHARGE  
7 BURGLARY SECOND DEGREE.

8 THE COURT: ALL RIGHT. THAT'S NOTED AND MY RULING  
9 WOULD BE THE SAME.

10 MS. MOBLEY: THANK YOU.

11 MR. CATHCART: YOUR HONOR, AS TO THE EVIDENCE GOING  
12 BACK TO THE JURY ROOM. I BELIEVE YOU HAD AN ISSUE AS TO  
13 THE ORIGINAL INDICTMENTS?

14 MS. MOBLEY: I DO.

15 THE COURT: ON THE PRIOR RECORD; IS THAT RIGHT?

16 MS. MOBLEY: YES, SIR.

17 THE COURT: WE DO NEED TO DISCUSS THAT.

18 MS. MOBLEY: IF YOUR HONOR PLEASES. BEFORE THAT, I  
19 WOULD HAVE A MOTION REGARDING CLOSING ARGUMENTS.

20 THE COURT: ALL RIGHT.

21 MS. MOBLEY: YOUR HONOR, I BELIEVE IN ORDER TO  
22 PRESERVE MY OBJECTION TO MR. CATHCART'S -- MY FIRST  
23 OBJECTION TO HIS ARGUMENT -- MY OBJECTION WAS THAT THE  
24 STATE WAS ASKING TO THE JURY PUT THEMSELVES IN THE SHOES OF  
25 THE VICTIM, YOUR HONOR. I BELIEVE I WAS SUSTAINED ON THAT

1 POINT.

2 YOUR HONOR, AT THIS TIME I WOULD MOVE FOR A MISTRIAL.  
3 THAT PREJUDICED THE CLOSING ARGUMENT IN THE EYES OF THE  
4 JURY.

5 THE COURT: ALL RIGHT. I BELIEVE AS SOON AS THAT  
6 ARGUMENT WAS MADE, THERE WAS AN OBJECTION MADE TO THAT.

7 MS. MOBLEY: YES, SIR.

8 THE COURT: I ADDRESSED THAT HERE AT THE BENCH. THAT  
9 OBJECTION WAS SUSTAINED. AND I DON'T THINK -- I THINK IT  
10 WAS AN IMPROPER ARGUMENT. BUT AT THE SAME TIME, I DON'T  
11 THINK IT RISES TO THE LEVEL OF REQUIRING A MISTRIAL. I  
12 THINK BY SUSTAINING THE OBJECTION, IT WAS CUT OFF, IT  
13 WASN'T GONE IN TO ANY MORE.

14 MS. MOBLEY: YES, SIR.

15 THE COURT: ALL RIGHT. MOTION IS DENIED.

16 MS. MOBLEY: THANK YOU.

17 THE COURT: ALL RIGHT.

18 MR. CATHCART: AS TO THAT ARGUMENT, I'D NEVER ASKED  
19 THE JURY TO BE PLACED -- I NEVER PUT THEM BACK AND FORTH.

20 THE COURT: I DON'T THINK YOU HAD QUITE GOTTEN TO THAT  
21 POINT. I THINK IT COULD HAVE BEEN ARGUED THAT EITHER  
22 THAT'S WHERE YOU WERE HEADED OR WHATEVER. BUT THE  
23 OBJECTION WAS MADE, IT GOT CUT OFF, AND THAT'S WHY I DON'T  
24 THINK IT'S NECESSARY TO DECLARE A MISTRIAL IN THE CASE.

25 MS. MOBLEY: YES, SIR. YOUR HONOR, AS TO THE FORMS

1 GOING BACK TO THE JURY REGARDING CONVICTIONS, I'M NOT  
2 SURE ---

3 THE COURT: LET'S GET THOSE AND TAKE A LOOK AT THEM.  
4 (PAUSE.)

5 THE COURT: 42 AND 43.

6 MS. MOBLEY: YES, SIR.

7 THE COURT: WHY DON'T YOU ALL LOOK AT THEM, SEE IF YOU  
8 CAN AGREE ON SOMETHING. AND IF NOT, THEN I'LL DECIDE.

9 MS. MOBLEY: CERTAINLY, YOUR HONOR.

10 (PAUSE.)

11 MS. MOBLEY: YOUR HONOR, I THINK WE'VE REACHED A  
12 REASONABLE CONCLUSION.

13 THE COURT: ALL RIGHT.

14 MS. MOBLEY: YOUR HONOR, I THINK WE'RE GOING TO TYPE  
15 UP A STIPULATION THAT WE -- THE DEFENSE AGREES THAT HE DOES  
16 HAVE TWO PRIOR CONVICTIONS FOR BURGLARY SECOND ON TWO PRIOR  
17 CONVICTION DATES AND THEN SEND THAT BACK, BECAUSE WE'RE  
18 HAVING TROUBLE TRYING TO ---

19 THE COURT: REDACT ---

20 MS. MOBLEY: --- REDACT IT.

21 THE COURT: --- WHAT THE OFFICIAL RECORD IS. ALL  
22 RIGHT. IF YOU HAVE AGREED TO THAT, I HAVE NO PROBLEM WITH  
23 THAT.

24 MR. CATHCART: THAT'S FINE.

25 THE COURT: YOU NEED TO DO IT QUICKLY, BECAUSE I CAN'T

1 SEND THE REST OF IT BACK THERE UNTIL WE GET THAT.

2 MS. FENT: YES, YOUR HONOR.

3 (PAUSE.)

4 THE COURT: IN ENTERING THAT STIPULATION, THE DEFENSE  
5 IS NOT IN ANY WAY WAIVING ARGUMENTS PREVIOUSLY MADE AND  
6 OBJECTIONS MADE TO THAT. THIS IS SIMPLY A STIPULATION ON  
7 HOW THAT WOULD BE PRESENTED TO THE JURY.

8 MR. CATHCART: YES, SIR.

9 MS. MOBLEY: THANK YOU, YOUR HONOR.

10 THE COURT: WHILE SHE'S DOING THAT, DO YOU ALL WANT TO  
11 TAKE A LOOK AT THESE VERDICT FORMS, BE SURE YOU ARE OKAY  
12 WITH HOW THEY HAVE BEEN PREPARED.

13 (PAUSE.)

14 THE COURT: YOU ALL ARE OKAY WITH THE VERDICT FORMS?

15 MS. MOBLEY: YES, SIR.

16 MR. CATHCART: YES, SIR.

17 THE COURT: ALL RIGHT.

18 (PAUSE.)

19 THE COURT: WAIT A SECOND BEFORE YOU TAKE IT BACK. I  
20 NEED TO HEAR SOMETHING ELSE. HERE ARE THE VERDICT FORMS  
21 THAT GO WITH IT.

22 ALL RIGHT. MS. MOBLEY.

23 MS. MOBLEY: THANK YOU, YOUR HONOR. IF IT PLEASE THE  
24 COURT, YOUR HONOR, I WOULD JUST BRIEFLY ASK, BECAUSE WE  
25 WENT STRAIGHT FROM ARGUMENTS INTO CHARGE, I HAD NOT MADE MY

1 MOTION FOR A MISTRIAL BASED UPON MY SAME OBJECTIONS  
2 BEGINNING WITH MR. CATHCART'S OPENING.

3 I WOULD SIMPLY ASK THE COURT FOR A RULING, THAT THAT  
4 WOULD BE A CONTEMPORANEOUS MOTION FOR MY OBJECTION.

5 THE COURT: ALL RIGHT. IT WAS MADE AND WOULD BE  
6 DENIED. YES.

7 MS. MOBLEY: THANK YOU.

8 THE COURT: ALL RIGHT. ANYTHING FURTHER?

9 MS. MOBLEY: I DON'T BELIEVE SO.

10 THE COURT: ALL RIGHT. THOSE CAN BE DELIVERED TO THE  
11 JURY AND WE'LL STAND IN RECESS UNTIL WE HEAR FROM THE JURY.

12 MR. CATHCART: WE STILL HAVEN'T GOT THE STIPULATION.

13 THE COURT: OH, WE DO NEED TO -- YES, LET'S WAIT ON  
14 THE STIPULATION. LET'S WAIT ON THAT, BE SURE IT GETS  
15 SIGNED, AND SENT BACK.

16 (PAUSE.)

17 THE COURT: YOU ALL BOTH SIGNED IT, YOU'RE OKAY WITH  
18 IT?

19 MR. CATHCART: YES, SIR.

20 MS. MOBLEY: YES, SIR.

21 THE COURT: ALL RIGHT. LET ME JUST READ INTO THE  
22 RECORD THAT THE STATE AND THE DEFENSE HAVE STIPULATED IN A  
23 WRITTEN STIPULATION THAT THE DEFENDANT, TERRANCE ADAMS, WAS  
24 CONVICTED IN CAUSE NO. 93-GS-40-9516 OF THE OFFENSE OF  
25 BURGLARY SECOND DEGREE ON JANUARY THE 8TH, 1997. AND THE

1 DEFENDANT, TERRANCE ADAMS, WAS CONVICTED IN CAUSE NO. 93-  
2 GS-40-9530 OF THE OFFENSE OF BURGLARY SECOND DEGREE ON JULY  
3 12, 1995, SIGNED BY BOTH PARTIES. THAT STIPULATION IS A  
4 PART OF THE RECORD AND WILL BE PRESENTED WITH THE OTHER  
5 DOCUMENTS.

6 WE NEED TO HAVE THIS MARKED AS A COURT EXHIBIT, BUT IT  
7 WILL GO BACK TO THE JURY. IT'S SORT OF UNUSUAL TO DO THAT,  
8 BUT WE'LL DO THAT.

9 MS. MOBLEY: YES, SIR.

10 (STIPULATION PERTAINING TO STATE'S EXHIBIT NOS. 42 AND  
11 43, 1 PAGE, MARKED FOR IDENTIFICATION AS COURT'S EXHIBIT  
12 NO. 1.)

13 THE COURT: AND THAT'S EVERYTHING ON THE RECORD; IS  
14 THAT RIGHT?

15 (NO RESPONSE.)

16 THE COURT: ALL RIGHT. WE WILL RECESS UNTIL WE HEAR  
17 FROM THE JURY.

18 (THE VERDICT FORMS AND EXHIBITS WERE SENT TO THE JURY  
19 AT 12:41 P.M.)

20 (THE COURT IS AT EASE AWAITING A VERDICT OF THE JURY.)

21 THE COURT: ALL RIGHT. I'VE BEEN ADVISED THAT THE  
22 JURY HAS REACHED A VERDICT. OF COURSE, I HAVE NO IDEA WHAT  
23 IT MIGHT BE, BUT I CANNOT TOLERATE ANY EMOTIONAL OUTBURST  
24 WHEN THE VERDICT IS READ.

25 LET'S BRING THE JURY IN PLEASE.

1 (THE JURY RETURNS TO THE COURTROOM AT 1:55 P.M.)

2 BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

3 THE COURT: THANK YOU, SIR.

4 MR. FOREMAN, I'VE BEEN ADVISED THAT THE JURY HAS  
5 REACHED A VERDICT IN THE CASE; IS THAT CORRECT?

6 FOREMAN: THAT IS CORRECT.

7 THE COURT: DID YOU FIND A VERDICT ON EACH INDICTMENT?

8 FOREMAN: YES, SIR.

9 THE COURT: AND IS IT UNANIMOUS ON EACH INDICTMENT?

10 FOREMAN: IT IS.

11 THE COURT: IF YOU'LL HAND THOSE FORMS TO THE BAILIFF,  
12 PLEASE, SIR.

13 (PAUSE.)

14 VERDICT OF THE JURY:

15 THE COURT: ALL RIGHT. I WILL GO OVER THE VERDICT  
16 FORMS.

17 ON INDICTMENT 05-4169, THE CHARGE OF BURGLARY FIRST  
18 DEGREE, WE, THE JURY, FIND THE DEFENDANT GUILTY OF BURGLARY  
19 IN THE FIRST DEGREE, SIGNED BY THE FOREMAN.

20 VERDICT OF 05-3940, THE CHARGE OF BURGLARY FIRST  
21 DEGREE, WE, THE JURY, FIND THE DEFENDANT GUILTY OF BURGLARY  
22 FIRST DEGREE, SIGNED BY THE FOREMAN.

23 ON INDICTMENT 3935, CHARGE OF BURGLARY FIRST DEGREE,  
24 WE, THE JURY, FIND THE DEFENDANT GUILTY OF BURGLARY FIRST  
25 DEGREE, SIGNED BY THE FOREMAN.

1 INDICTMENT 05-3548, CHARGE OF BURGLARY FIRST DEGREE,  
2 WE, THE JURY, FIND THE DEFENDANT GUILTY OF BURGLARY IN THE  
3 FIRST DEGREE, SIGNED BY THE FOREMAN.

4 ON INDICTMENT 05-3477, CHARGE OF BURGLARY FIRST  
5 DEGREE, WE, THE JURY, FIND THE DEFENDANT GUILTY OF BURGLARY  
6 IN THE FIRST DEGREE, SIGNED BY THE FOREMAN.

7 INDICTMENT 05-3478, CHARGE OF FIRST DEGREE BURGLARY,  
8 WE, THE JURY, FIND THE DEFENDANT GUILTY OF BURGLARY IN THE  
9 FIRST DEGREE, SIGNED BY THE FOREMAN.

10 ON INDICTMENT 05-3547, CHARGE OF GRAND LARCENY, WE,  
11 THE JURY, FIND THE DEFENDANT GUILTY OF PETIT LARCENY,  
12 SIGNED BY THE FOREMAN.

13 ON 05-4170, CHARGE OF PETIT LARCENY, WE, THE JURY,  
14 FIND THE DEFENDANT GUILTY OF PETIT LARCENY, SIGNED BY THE  
15 FOREMAN.

16 05-3936, PETIT LARCENY, WE, THE JURY, FIND THE  
17 DEFENDANT GUILTY OF PETIT LARCENY, SIGNED BY THE FOREMAN.

18 05-3474, ANOTHER CHARGE OF PETIT LARCENY. WE, THE  
19 JURY, FIND THE DEFENDANT GUILTY OF PETIT LARCENY, SIGNED BY  
20 THE FOREMAN.

21 05-3475, PETIT LARCENY, WE, THE JURY, FIND THE  
22 DEFENDANT GUILTY OF PETIT LARCENY, SIGNED BY THE FOREMAN.

23 05-3941 CHARGE OF PETIT LARCENY, WE, THE JURY, FIND  
24 THE DEFENDANT GUILTY OF PETIT LARCENY, SIGNED BY THE  
25 FOREMAN.

1           05-3550, CHARGE OF RESISTING ARREST. WE, THE JURY,  
2 FIND THE DEFENDANT GUILTY OF RESISTING ARREST.

3           AND 05-3549, POSSESSION OF BURGLARY TOOLS, WE, THE  
4 JURY, FIND THE DEFENDANT GUILTY OF POSSESSION OF BURGLARY  
5 TOOLS, SIGNED BY THE FOREMAN.

6           MR. FOREMAN AND LADIES AND GENTLEMEN, IF THIS IS YOUR  
7 VERDICT ON EACH OF THESE INDICTMENTS, WOULD YOU INDICATE BY  
8 RAISING YOUR RIGHT HAND?

9           (ALL HANDS RAISED.)

10          THE COURT: ALL 12 JURORS HAVE RESPONDED. DOES THE  
11 DEFENSE WISH TO HAVE THE JURY POLLED?

12          MS. MOBLEY: YES, SIR, YOUR HONOR.

13          THE COURT: YOU WOULD LIKE TO HAVE THE JURY POLLED.

14          MS. MOBLEY: YES, SIR.

15          THE COURT: THE CLERK OF COURT IS GOING TO ASK YOU  
16 INDIVIDUALLY WHETHER THIS WAS YOUR VERDICT AND WHETHER IT  
17 STILL IS YOUR VERDICT. IF YOU WILL ANSWER THAT QUESTION,  
18 SHE WILL ASK THAT AGAIN INDIVIDUALLY CALLING YOUR NAMES OUT  
19 ONE AT A TIME.

20          MADAM CLERK, IF YOU WILL POLL THE JURY PLEASE.

21          CLERK: LAWRENCE PERKINS, WAS THIS YOUR VERDICT?

22          JUROR PERKINS: YES.

23          CLERK: IS IT STILL YOUR VERDICT?

24          JUROR PERKINS: YES, IT IS.

25          CLERK: CANDICE MARTIN, WAS THIS YOUR VERDICT?

1 JUROR MARTIN: YES.  
2 CLERK: IS IT STILL YOUR VERDICT?  
3 JUROR MARTIN: YES.  
4 CLERK: CAROL CUNNINGHAM, WAS THIS YOUR VERDICT?  
5 JUROR CUNNINGHAM: YES.  
6 CLERK: IS IT STILL YOUR VERDICT?  
7 JUROR CUNNINGHAM: YES.  
8 CLERK: GAIL REDFORD, WAS THIS YOUR VERDICT?  
9 JUROR REDFORD: YES.  
10 CLERK: IS IT STILL YOUR VERDICT?  
11 JUROR REDFORD: YES.  
12 CLERK: FRANK CROCKER, WAS THIS YOUR VERDICT?  
13 JUROR CROCKER: YES.  
14 CLERK: IS IT STILL YOUR VERDICT?  
15 JUROR CROCKER: YES.  
16 CLERK: MARGI BUSCH, WAS THIS YOUR VERDICT?  
17 JUROR BUSCH: YES.  
18 CLERK: IS IT STILL YOUR VERDICT?  
19 JUROR BUSCH: YES.  
20 CLERK: LATSON MUNN, WAS THIS YOUR VERDICT?  
21 JUROR MUNN: YES.  
22 CLERK: IS IT STILL YOUR VERDICT?  
23 JUROR MUNN: YES.  
24 CLERK: QUINN BARR, WAS THIS YOUR VERDICT?  
25 JUROR BARR: YES.

1 CLERK: IS IT STILL YOUR VERDICT?  
2 JUROR BARR: YES.  
3 CLERK: SYLVIA THOMPSON, WAS THIS YOUR VERDICT?  
4 JUROR THOMPSON: YES.  
5 CLERK: IS IT STILL YOUR VERDICT?  
6 JUROR THOMPSON: YES.  
7 CLERK: RICHARD SIMS, WAS THIS YOUR VERDICT?  
8 JUROR SIMS: YES.  
9 CLERK: IS IT STILL YOUR VERDICT?  
10 JUROR SIMS: YES.  
11 CLERK: CARL RICKARDS, WAS THIS YOUR VERDICT?  
12 JUROR RICKARDS: YES.  
13 CLERK: IS IT STILL YOUR VERDICT?  
14 JUROR RICKARDS: YES.  
15 CLERK: KATHY COOGLER, WAS THIS YOUR VERDICT?  
16 JUROR COOGLER: YES.  
17 CLERK: IS IT STILL YOUR VERDICT?  
18 JUROR COOGLER: YES.  
19 CLERK: THE JURY'S BEEN POLLED, YOUR HONOR.  
20 THE COURT: ALL RIGHT. THE JURY HAS BEEN POLLED.  
21 ALL RIGHT. THANK YOU VERY MUCH, MR. FOREMAN AND  
22 LADIES AND GENTLEMEN.  
23 ALL RIGHT. OTHER MATTERS AT THIS TIME, I WILL ACCEPT  
24 THE VERDICTS FROM THE JURY.  
25 MS. MOBLEY: YES, SIR, YOUR HONOR, WE WOULD HAVE A

1 MATTER REGARDING POTENTIAL SENTENCING.

2 THE COURT: ALL RIGHT.

3 MS. MOBLEY: YOUR HONOR, THIS IS AN ARGUMENT SIMILAR  
4 TO THE ARGUMENT I MADE PRETRIAL. THIS WOULD BE AN ARGUMENT  
5 REGARDING THE ENHANCEMENT OF THIS CHARGE TO A LIFE WITHOUT  
6 PAROLE CASE, YOUR HONOR.

7 YOUR HONOR, THE STATE SERVED LIFE WITHOUT PAROLE  
8 NOTICE ON THE 9TH OF THIS MONTH, THE 9TH OF JANUARY 2006.  
9 THEY RELIED ON FOUR OF THE PRIOR CONVICTIONS FOR BURGLARY  
10 IN THE FIRST DEGREE IN THEIR LIFE WITHOUT PAROLE NOTICE.

11 YOUR HONOR, THOSE PRIOR CONVICTIONS WERE 05-GS-40 --  
12 EXCUSE ME. PARDON ME, YOUR HONOR. 1993-GS-40-09528, 9520,  
13 9529, AND 9519. YOUR HONOR, AS I STATED BEFORE, THIS WAS  
14 OUT OF THE EXACT SAME STRAND OF BURGLARIES THAT I WAS  
15 DISCUSSING WITH YOU BEFORE.

16 YOUR HONOR, MR. ADAMS WAS CONVICTED AT TRIAL -- PARDON  
17 ME, YOUR HONOR -- AND SENTENCED TO A -- AND SENTENCED ON  
18 7/21/95. YOUR HONOR, AT THAT TIME AFTERWARDS, THESE  
19 CHARGES WERE ALL DISMISSED. THEY WERE NOL PROCESSED  
20 DECEMBER THE 11TH, 1996.

21 YOUR HONOR, LATER ON THEY WERE BROUGHT BACK UP ON THE  
22 SAME DATE AS HIS PLEA DATE, WHICH WAS JANUARY THE 8TH,  
23 1997. THEY WERE RESTORED THE SAME AS THE PLEA.

24 YOUR HONOR, IF I COULD READ THE INCIDENT DATES THAT  
25 THE FOUR INDICTMENTS REFER TO, 9528 REFERS TO AN INCIDENT

1 DATE OF AUGUST THE 12TH, 1993; 9520 REFERS TO AN INCIDENT  
2 DATE OF AUGUST THE 26TH, 1993; 9529 REFERS TO AN INCIDENT  
3 DATE OF AUGUST 26TH, 1993; AND 9519 REFERS TO AN INCIDENT  
4 DATE ON THE SAME DAY, AUGUST 26, 1993.

5 YOUR HONOR, I RELY ON CODE SECTION 17-25-50, WHICH AS  
6 I'VE STATED BEFORE STATE, DETERMINING THE NUMBER OF  
7 OFFENSES FOR THE PURPOSE OF IMPOSITION OF SENTENCE -- AND  
8 THIS IS PART AND PARCEL OF THE LIFE WITHOUT PAROLE STATUTE  
9 -- THE COURT SHALL TREAT AS ONE OFFENSE ANY NUMBER OF  
10 OFFENSES WHICH HAVE BEEN COMMITTED IN TIME SO CLOSELY  
11 CONNECTED IN POINT IN TIME THAT THEY MAY BE CONSIDERED AS  
12 ONE OFFENSE, NOTWITHSTANDING UNDER THE LAW THEY CONSTITUTE  
13 SEPARATE AND DISTINCT OFFENSES.

14 YOUR HONOR -- AND I BELIEVE YOUR HONOR HAS THE CASE.  
15 I'LL GIVE THE CASE CITE AGAIN, STATE V. GORDON IS DIRECTLY  
16 ON POINT WITH THIS ISSUE. THIS IS A 2003 CASE DECIDED AT  
17 356 S.C. 143. IN OVERRULING BENJAMIN, STATE V. GORDON  
18 FIRST OF ALL STANDS FOR THE PROPOSITION THAT 17-25-50 MUST  
19 BE READ IN CONJUNCTION WITH THE 17-25-45, WHICH WAS THE  
20 AMENDED VERSION AFTER THE FIRST ONE I BELIEVE WAS STRUCK  
21 DOWN OF THE LIFE WITHOUT PAROLE STATUTE.

22 YOUR HONOR, IN A FURTHER TRIAL COURT RULING THAT  
23 CONDUCT IN ONE INDICTMENT -- AND THIS IS IN STATE V. GORDON  
24 -- FROM SEPTEMBER 21ST TO 23RD, 1996 AND THEN THE DEFENDANT  
25 WAS TRIED AND CONVICTED. YEARS LATER CONDUCT FOR A

1 SEPARATE INDICTMENT HE WAS TRIED AND CONVICTED FOR CONDUCT  
2 ON SEPTEMBER THE 27TH, 1996.

3 YOUR HONOR, THE TRIAL COURT ALLOWED THE STATE TO  
4 PROCEED ON THE TWO SEPARATE TRIALS. WHAT THEY DID NOT  
5 ALLOW -- THE TRIAL COURT DECLINED TO SENTENCE TO LIFE  
6 WITHOUT PAROLE BECAUSE OF SECTION 17-25-50 BECAUSE THEY  
7 FOUND THAT IT WAS STEMMING FROM REALLY ONE COURSE OF  
8 CONDUCT.

9 IN POINTING OUT JUSTICE WALLER'S DISSENT IN BENJAMIN,  
10 WHICH WAS OVERRULED AND THEREAFTER CITED IN STATE V.  
11 GORDON, THE ESSENCE OF HIS DISSENT IS THAT IT IS -- IT'S  
12 UNFAIR TO SENTENCE A PERSON -- TO SENTENCE A PERSON FOR  
13 CONDUCT OVER AND OVER AGAIN.

14 AND WE SUBMIT TO YOU THAT SENTENCING MR. ADAMS TO LIFE  
15 WITHOUT PAROLE IN THIS CASE WOULD BE JUST THAT TYPE OF A  
16 SITUATION. HE HAS BEEN ENHANCED ALREADY TO A BURGLARY IN  
17 THE FIRST DEGREE, BECAUSE THESE WERE INITIALLY CHARGED AS  
18 BURGLARIES IN THE SECOND DEGREE. HE'S ALREADY BEEN  
19 ENHANCED FOR THIS ONE COURSE OF CONDUCT. AND I CERTAINLY  
20 UNDERSTOOD YOUR HONOR'S RULING ON THAT.

21 YOUR HONOR, THIS IS THE SECOND LEVEL OF ENHANCEMENT TO  
22 A MANDATORY LIFE IN PRISON WITHOUT THE POSSIBILITY OF  
23 PAROLE CASE STEMMING FROM THE EXACT SAME COURSE OF CONDUCT.

24 YOUR HONOR, I SUBMIT TO YOU THAT THE INDICTMENTS THE  
25 STATE IS RULING ON -- OR EXCUSE ME, THE INDICTMENTS THAT

1 THE STATE IS MOVING ON FOR THE LIFE WITHOUT PAROLE NOTICE,  
2 THREE OF THEM WERE COMMITTED ON THE SAME DAY, THEN WE HAVE  
3 THE ONE ON AUGUST THE 12TH. SO WE HAVE A TIME OF REFERENCE  
4 HERE FROM AUGUST THE 12TH TO AUGUST 26, 1993.

5 YOUR HONOR, I SUBMIT THIS IS CERTAINLY ONE CONTINUING  
6 CRIMINAL ENTERPRISE, IT IS ONE COURSE OF CONDUCT.

7 AND I WOULD ALSO POINT OUT AT THIS POINT ONE OF THE  
8 THINGS THAT STATE V. GORDON HIGHLIGHTED WAS THAT THE COURT  
9 MUST CONSTRAIN -- IS CONSTRAINED TO STRICTLY CONSTRUE PENAL  
10 STATUTES IN THE DEFENDANT'S FAVOR.

11 AND I THINK HERE THE DOUBLE ENHANCEMENT WOULD REQUIRE  
12 THAT THE STATE NOT BE ABLE TO HAVE A MANDATORY LIFE WITHOUT  
13 PAROLE PROVISION INSTITUTED HERE. IT IS DOUBLE  
14 ENHANCEMENT. IT IS ONE COURSE OF CONDUCT THAT HE'S BEING  
15 PUNISHED OVER AND OVER AND OVER FOR. AND I WOULD SUBMIT TO  
16 YOU THAT IT WOULD BE FUNDAMENTALLY UNFAIR TO SENTENCE HIM  
17 OVER AND OVER FOR ONE SPREE.

18 THE RECIDIVIST STATUTE CERTAINLY DOESN'T SEEM TO  
19 COMPREHEND -- AND IT WOULD CERTAINLY SEEM TO BE A TORTURED  
20 READING OF IT TO ALLOW FOR THAT KIND OF A CONDUCT -- AND  
21 FOR THAT KIND OF A SENTENCE.

22 THE COURT: ALL RIGHT. SOLICITOR, BEFORE I HEAR FROM  
23 THE STATE.

24 MR. FOREMAN AND LADIES AND GENTLEMEN, THESE ARE  
25 MATTERS THAT WILL CONCERN SENTENCING THAT YOU ARE NOT

1 REQUIRED TO STAY HERE FOR AND IT MAY TAKE ME A LITTLE WHILE  
2 TO HEAR ARGUMENTS. YOUR LUNCH IS OUTSIDE. YOU PROBABLY  
3 SAW IT WHEN YOU CAME IN, AND I'M NOT GOING TO REQUIRE YOU  
4 TO SIT IN HERE IF YOU WOULD LIKE TO GO AND HAVE YOUR LUNCH.

5 WHAT WE NEED TO DO ONCE YOU HAVE COMPLETED YOUR MEAL,  
6 YOU WILL NEED TO GO BACK DOWNSTAIRS TO THE ASSEMBLY ROOM.  
7 IF YOU'D LIKE TO STAY AND HEAR THESE PROCEEDINGS, YOU ARE  
8 CERTAINLY WELCOME TO DO SO.

9 IF ANYONE WOULD LIKE TO EXCUSE THEMSELVES AT THIS TIME  
10 AND GO ONTO THE JURY ROOM WHERE THEY WILL SERVE YOU YOUR  
11 LUNCH, YOU MAY DO SO. I WILL NOT REQUIRE YOU TO STAY IN  
12 HERE. SO IF ANY OF YOU WOULD LIKE TO GO EAT, YOU MAY DO  
13 SO.

14 (PAUSE AS JURORS EXIT THE COURTROOM.)

15 THE COURT: ALL RIGHT. SOLICITOR, I'LL BE GLAD TO  
16 HEAR FROM YOU.

17 MR. CATHCART: YOUR HONOR, THIS IS A TWO-STRIKE  
18 VIOLATION OF THE LIFE WITHOUT PAROLE. THE DEFENDANT WAS  
19 CONVICTED AT TRIAL TO BURGLARY IN THE SECOND DEGREE. HE  
20 SUBSEQUENTLY LATER ON WAS CONVICTED OF SOME MORE BURGLARY  
21 SECOND DEGREES ALONG WITH SOME BURGLARY IN THE FIRST  
22 DEGREES.

23 AS YOU HAVE ALREADY MADE AN EARLIER RULING, THOSE ARE  
24 TWO SEPARATE AND DISTINCT CONVICTIONS, HENCE THE  
25 ENHANCEMENT TO BURGLARY IN THE FIRST DEGREE.

1           FURTHER, THERE'S A GUILTY PLEA ON JANUARY THE 8TH,  
2           1997 WAS TO FOUR SEPARATE BURGLARY IN THE FIRST DEGREE  
3           CONVICTIONS. EACH ONE OF THEM -- SHE'S ARGUING THAT YOU  
4           CAN'T TAKE THEM SEPARATELY. I MAY AGREE WITH HER AS TO  
5           ENHANCEMENT FOR THREE STRIKES, BUT THIS IS A TWO STRIKE  
6           VIOLATION.

7           HE HAS A PRIOR CONVICTION FOR BURGLARY IN THE FIRST  
8           DEGREE. HE HAS BEEN CONVICTED OF THAT. SUBSEQUENT TO THAT  
9           CONVICTION, 10 YEARS LATER HE GOES AND COMMITS SIX MORE  
10          BURGLARIES, EACH OF WHICH NOW IS A BRAND NEW CONVICTION FOR  
11          BURGLARY IN THE FIRST DEGREE, HIS SECOND STRIKE.

12          I THINK THE CASE LAW IS CLEAR THAT I CAN USE ACTUALLY  
13          THE SAME BURGLARY AS AN ENHANCEMENT AND AS A STRIKE. BUT  
14          IN THIS CASE I DIDN'T EVEN DO THAT. WE USED TWO BURGLARY  
15          SECONDS AS THE ENHANCEMENT, AND A SEPARATE BURGLARY FIRST,  
16          WHICH HE PLED GUILTY TO YEARS AFTER AS THE BURGLARY FIRST  
17          ENHANCEMENT, ONE OF FOUR THAT WE HAVE A CHOICE OF.

18          HE HAS A CONVICTION OF A MOST SERIOUS OFFENSE. HE HAS  
19          NOW BEEN CONVICTED OF A MOST SERIOUS OFFENSE. THE STATE  
20          HAD NO OPTION BUT TO SEEK LIFE WITHOUT PAROLE IN THIS CASE  
21          AS THE PROPER CONVICTION.

22          THE COURT: ALL RIGHT. MS. MOBLEY.

23          MS. MOBLEY: I HAVE NOTHING FURTHER ON THIS POINT,  
24          YOUR HONOR.

25          THE COURT: ALL RIGHT. THE NOTICE THAT THE STATE GAVE

1 TO THE DEFENSE ON JANUARY 9, 2006 MAKES REFERENCE TO THE  
2 CONVICTIONS. I MEAN, IT SPEAKS FOR ITSELF. THEY WERE  
3 BURGLARY FIRST; IS THAT CORRECT?

4 MS. MOBLEY: YES, SIR.

5 THE COURT: AS I READ THE LAW, IF YOU'RE USING MOST  
6 SERIOUS OFFENSES, IT IS ON THE SECOND STRIKE THAT SUBJECTS  
7 ONE TO LIFE WITHOUT PAROLE. IF IT'S SERIOUS OFFENSES, IT  
8 TAKES THE THIRD STRIKE TO GET THERE.

9 MS. MOBLEY: YES, SIR.

10 THE COURT: BECAUSE IT WAS A BURGLARY FIRST AND THIS  
11 IS THE SECOND -- I UNDERSTAND YOUR ARGUMENT -- BUT THE  
12 STATE HAS GIVEN NOTICE USING AN APPROPRIATE PRIOR  
13 CONVICTION OF BURGLARY FIRST. THIS IS A CONVICTION ALSO  
14 FOR BURGLARY FIRST.

15 AND I WOULD FIND THAT THE NOTICE AS GIVEN BY THE STATE  
16 WOULD THEN SUBJECT THE DEFENDANT TO LIFE WITHOUT PAROLE ON  
17 THE BURGLARY FIRST.

18 MS. MOBLEY: THANK YOU, YOUR HONOR.

19 THE COURT: ALL RIGHT. ANYTHING FURTHER?

20 MS. MOBLEY: BRIEFLY, YOUR HONOR.

21 THE COURT: ALL RIGHT.

22 MS. MOBLEY: I CERTAINLY AM NOT GOING TO STAND BEFORE  
23 THE COURT AND SAY THAT THESE POSITIONS HAVE ALL BEEN STRUCK  
24 DOWN BY -- PARDON ME, OVERRULED OR WHAT HAVE YOU BY THE  
25 SUPREME COURT.

1           YOUR HONOR, WE WOULD ALSO SUBMIT FOR THE RECORD JUST  
2           IN CASE IT EVER BECOMES AN ISSUE LATER, THAT THE LIFE  
3           WITHOUT PAROLE STATUTE ITSELF IS -- VIOLATES THE SEPARATION  
4           OF POWERS. IT VIOLATES EQUAL PROTECTIONS. AND IT VIOLATES  
5           THE EIGHTH AMENDMENT TO CRUEL AND UNUSUAL PUNISHMENT.

6           AND AS I SAID, THESE POSITIONS HAVE ALL BEEN TAKEN UP  
7           BY THE SUPREME COURT BEFORE AND DENIED.

8           THE COURT: ALL RIGHT. I WOULD THEN RULE THAT THERE  
9           IS NO VIOLATION FROM EITHER SEPARATION OF POWERS, EQUAL  
10          PROTECTION, OR THE EIGHTH AMENDMENT BASED ON PRIOR RULINGS  
11          BY THE SUPREME COURT.

12          MS. MOBLEY: YES, SIR, YOUR HONOR.

13          THE COURT: ALL RIGHT. ANYTHING FURTHER?

14          MS. MOBLEY: NOTHING FURTHER.

15          THE COURT: SOLICITOR, ANYTHING FURTHER? ARE YOU ALL  
16          READY TO PROCEED WITH SENTENCING?

17          MS. MOBLEY: I APOLOGIZE YOUR HONOR.

18          THE COURT: OKAY.

19          (PAUSE.)

20          MS. MOBLEY: YOUR HONOR, I APOLOGIZE. THERE WAS  
21          ANOTHER HOUSEKEEPING MATTER. AT THIS TIME I WOULD MOVE FOR  
22          A NEW TRIAL. LARGELY IN PART, I WOULD ASK YOU TO REVISIT  
23          YOUR INITIAL RULING ON THE ENHANCE -- THE TWO-PART  
24          CONVICTIONS USED FOR ENHANCEMENT. AND WE WOULD BE  
25          REQUESTING A NEW TRIAL AT THIS TIME BASED ON THAT BEING THE

1 CONVICTIONS BEING SUBMITTED TO THE JURY.

2 THE COURT: ALL RIGHT. MY RULING WOULD REMAIN THE  
3 SAME ON THAT. BUT YOUR POSITION IS CERTAINLY PROTECTED IN  
4 THE RECORD, I BELIEVE.

5 MS. MOBLEY: THANK YOU, SIR.

6 THE COURT: ALL RIGHT. IS THERE ANYTHING FURTHER FROM  
7 THE STATE PRIOR TO SENTENCING? AND THEN I'LL BE GLAD TO  
8 HEAR FROM MS. MOBLEY, FROM YOU AND ANYTHING YOUR CLIENT  
9 WOULD LIKE TO SAY?

10 MR. CATHCART: YOUR HONOR, I WOULD ASK THAT WE SUBMIT  
11 THESE CERTIFIED TRUE AND CORRECT PRIOR CONVICTIONS AS A  
12 COURT'S EXHIBIT FOR THE RECORD AS TO HIS PRIOR CONVICTIONS  
13 THAT WE ARE RELYING ON FOR THE TWO-STRIKE LAW.

14 THE COURT: THESE ARE THE ONES THAT WERE MENTIONED IN  
15 YOUR NOTICE; IS THAT RIGHT?

16 MR. CATHCART: THAT'S CORRECT, YOUR HONOR.

17 THE COURT: ALL RIGHT. BECAUSE THE OTHER TWO ARE  
18 ALREADY IN THAT WE USED FOR ---

19 MR. CATHCART: THOSE TWO THAT ARE ALREADY IN ARE  
20 BURGLARY SECONDS.

21 THE COURT: THOSE ARE SECOND.

22 MR. CATHCART: THESE ARE CONVICTIONS FOR BURGLARY  
23 FIRST.

24 THE COURT: THESE ARE FIRST. I UNDERSTAND. ALL  
25 RIGHT. THOSE WILL BE MADE A PART OF THE RECORD.

1 MR. CATHCART: THANK YOU, YOUR HONOR.

2 THE COURT: ALL RIGHT. ANYTHING FURTHER FROM THE  
3 STATE?

4 MR. CATHCART: NO, SIR.

5 THE COURT: ALL RIGHT. MS. MOBLEY, ANYTHING FROM THE  
6 DEFENSE? ANYTHING YOUR CLIENT WOULD LIKE TO SAY?

7 (PAUSE.)

8 MS. MOBLEY: YOUR HONOR, I DON'T BELIEVE MY CLIENT  
9 WISHES TO ADDRESS THE COURT.

10 THE COURT: ALL RIGHT.

11 SENTENCE OF THE COURT:

12 AS I UNDERSTAND THE STATUTE THERE REALLY IS NO  
13 DISCRETION ONCE THE CRITERIA HAS BEEN MET AND NOTICE HAS  
14 BEEN GIVEN. FOR THAT REASON, ON EACH OF THE BURGLARY  
15 FIRST, THE SENTENCE OF THE COURT IS THAT THE DEFENDANT BE  
16 CONFINED TO THE DEPARTMENT OF CORRECTIONS FOR LIFE WITHOUT  
17 THE POSSIBILITY OF PAROLE.

18 ALL THE LARCENIES ARE RETURNED GUILTY AS PETIT  
19 LARCENIES, WOULD BE 30 DAYS.

20 RESISTING ARREST, 1 YEAR.

21 WHAT DOES THE BURGLARY TOOLS, I THINK CARRIES 5; IS  
22 THAT RIGHT?

23 MS. MOBLEY: YES, YOUR HONOR.

24 THE COURT: 5 YEARS. IT WILL ALL RUN CONCURRENTLY.

25 MS. MOBLEY: THANK YOU, YOUR HONOR.

1 THE COURT: ALL RIGHT.

2 MR. CATHCART: THANK YOU, YOUR HONOR.

3 (TRUE COPY INDICTMENTS 93-GS-40-9519, 93-GS-40-9520,  
4 93-GS-40-9528, 10 PAGES, MARKED FOR IDENTIFICATION AS  
5 COURT'S EXHIBIT NO. 2.)

6 --- END OF TRANSCRIPT OF RECORD ---

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1 I, THE UNDERSIGNED DIANNE A. RUTLEDGE, OFFICIAL COURT  
 2 REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF  
 3 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A  
 4 TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL  
 5 THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF  
 6 THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT  
 7 COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE 30TH AND  
 8 31ST DAYS OF JANUARY AND THE 1ST DAY OF FEBRUARY 2006.

9 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,  
 10 COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

11 JULY 1, 2006

12   
 13 \_\_\_\_\_

14 COURT REPORTER

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WITNESSES

(S) DALE HUNT, JR - RCSD (S)

ARREST WARRANT NUMBER

1971837

ACTION OF GRAND JURY

**TRUE BILL**

*Sandra Pherigo*  
Foreperson of Grand Jury

Date: JUL 22 2005

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2005-GS-40-3477

**The State of South Carolina**  
**County of Richland**

**COURT OF GENERAL SESSIONS**

**JULY TERM 2005**

67

**THE STATE**  
**vs.**

**TERRANCE ADAMS**

**Indictment for**

**BURGLARY/(AFTER 6/20/85)**  
**1<sup>ST</sup> DEGREE**

SC Code: 16-11-311  
CDR Code: 079  
Class FEL-EXM(V)

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

Defendant

Witness:

C.C.C. PLS. AND G.S.



WITNESSES

(S) DALE HUNT, JR - RCSD

ARREST WARRANT NUMBER

1971836

ACTION OF GRAND JURY

**TRUE BILL**

*Jandra Pherigo*  
Foreperson of Grand Jury  
Date: JUL 22 2005

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2005-GS-40-3478

**The State of South Carolina**  
**County of Richland**

**COURT OF GENERAL SESSIONS**

**JULY TERM 2005**

67

**THE STATE**  
**vs.**

**TERRANCE ADAMS**

Indictment for

**BURGLARY/(AFTER 6/20/85)**  
**1<sup>ST</sup> DEGREE**

SC Code: 16-11-311  
CDR Code: 079  
Class FEL-EXM(V)

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )

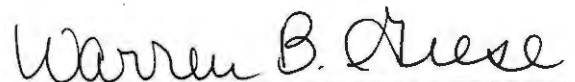
INDICTMENT

At a Court of General Sessions, convened on July 20, 2005, the Grand Jurors of Richland County present upon their oath:

**BURGLARY/(AFTER 6/20/85) - 1ST DEG**

That Terrance Adams did in Richland County on or about April 19, 2005, unlawfully enter the dwelling of Kee Chung, without consent and with the intent to commit a crime therein and the defendant has two prior convictions for burglary and/or housebreaking all in violation of Code Section §16-11-311, Code of Laws of South Carolina (1976, as amended).

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

  
 Warren B. Giese, SOLICITOR

WITNESSES

(S) DALE HUNT, JR - RCSD (S)

ARREST WARRANT NUMBER

1971825

ACTION OF GRAND JURY

TRUE BILL

*Sandra Pherrigo*  
Foreperson of Grand Jury

Date: JUL 22 2005

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2005-GS-40-3548

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

JULY TERM 2005

67

THE STATE  
vs.

TERRANCE ADAMS

Indictment for

BURGLARY/(AFTER 6/20/85)  
1<sup>ST</sup> DEGREE

SC Code: 16-11-311  
CDR Code: 079  
Class FEL-EXM(V)

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
 COUNTY OF RICHLAND )

INDICTMENT

At a Court of General Sessions, convened on July 20, 2005, the Grand Jurors of Richland County present upon their oath:

**BURGLARY/(AFTER 6/20/85) - 1ST DEG**

That Terrance Adams did in Richland County on or about April 19, 2005, unlawfully enter the dwelling of Charles Nottingham, without consent and with the intent to commit a crime therein and the defendant has two prior convictions for burglary and/or housebreaking all in violation of Code Section §16-11-311, Code of Laws of South Carolina (1976, as amended).

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

  
 Warren B. Giese, SOLICITOR

WITNESSES

(S) DALE HUNT, JR - RCSD (S)

ARREST WARRANT NUMBER

1971881

ACTION OF GRAND JURY

**TRUE BILL**

*Sandra Pherigo*  
Foreperson of Grand Jury

Date: JUL 22 2005

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2005-GS-40-3935

**The State of South Carolina**

**County of Richland**

**COURT OF GENERAL SESSIONS**

**JULY TERM 2005**

67

**THE STATE**

vs.

**TERRANCE ADAMS**

Indictment for

**BURGLARY/(AFTER 6/20/85)  
1<sup>ST</sup> DEGREE**

SC Code: 16-11-311

CDR Code: 079

Class FEL-EXM(V)

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )

## INDICTMENT

At a Court of General Sessions, convened on July 20, 2005, the Grand Jurors of Richland County present upon their oath:

**BURGLARY/(AFTER 6/20/85) - 1ST DEG**

That Terrance Adams did in Richland County on or about April 19, 2005, unlawfully enter the dwelling of Dorothy Nelson, without consent and with the intent to commit a crime therein and the defendant has two prior convictions for burglary and/or housebreaking all in violation of Code Section §16-11-311, Code of Laws of South Carolina (1976, as amended).

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

  
 Warren B. Giese, SOLICITOR

WITNESSES

(S) DALE HUNT, JR - RCSD (S)

ARREST WARRANT NUMBER

1971883

ACTION OF GRAND JURY

**TRUE BILL**

*Sandra Pherigo*  
Foreperson of Grand Jury

Date: **JUL 22 2005**

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2005-GS-40-3940

**The State of South Carolina**  
**County of Richland**

**COURT OF GENERAL SESSIONS**

**JULY TERM 2005**

67

**THE STATE**  
**vs.**

**TERRANCE ADAMS**

Indictment for

**BURGLARY/(AFTER 6/20/85)**  
**1<sup>ST</sup> DEGREE**

SC Code: 16-11-311  
CDR Code: 079  
Class FEL-EXM(V)

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

Defendant

Witness:

C.C.C. PLS. AND G.S.



WITNESSES

(S) DALE HUNT, JR - RCSD (S)

ARREST WARRANT NUMBER

1972162

ACTION OF GRAND JURY

**TRUE BILL**

*Sandra Pherigo*  
Foreperson of Grand Jury  
Date: JUL 22 2005

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2005-GS-40-4169

**The State of South Carolina**

County of Richland

**COURT OF GENERAL SESSIONS**

JULY TERM 2005

67

**THE STATE**

vs.

**TERRANCE ADAMS**

Indictment for

**BURGLARY/(AFTER 6/20/85)  
1<sup>ST</sup> DEGREE**

SC Code: 16-11-311

CDR Code: 079

Class FEL-EXM(V)

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

Defendant

Witness:

C.C.C. PLS. AND G.S.



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland  
STATE Terrance Adams VS.

2005 -GS- 40 - 3477  
INDICTMENT/CASE#: 3477  
AW#: 1971837  
Date of Offense: 4-19-2005  
S.C. Code §: 16-11-311  
CDR Code #: 0, 0, 7, 9

AKA: \_\_\_\_\_  
Race: B Sex: M Age: \_\_\_\_\_  
DOB: [REDACTED] SS#: [REDACTED]  
Address: [REDACTED]  
City, State, Zip \_\_\_\_\_  
DL# \_\_\_\_\_ SID# \_\_\_\_\_

CASE RESTORED  
SENTENCE  
 PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
TO: Burglary 1st  
in violation of 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0, 0, 7, 9  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.  
ATTEST:

\_\_\_\_\_  
Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
for a determinate term of Life w/o parole days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,  
which are incorporated by reference.  
 CONCURRENT or  CONSECUTIVE to sentence on: 2-1-06  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State  
Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_  
days/hours Public Service Employment  
Obtain GED \_\_\_\_\_  
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling \_\_\_\_\_  
Random Drug/Alcohol Testing \_\_\_\_\_  
Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund  
Other: \_\_\_\_\_

Recipient: \_\_\_\_\_  
\*Fine: \$ \_\_\_\_\_  
\$14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_  
\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ \_\_\_\_\_  
\$14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_  
\$56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
§ 35.13 (Public Def/Prob) \$500 \$ \_\_\_\_\_  
§73.3, 1B TP (Law Enforce. Funding) \$25 \$ \_\_\_\_\_  
§33.7, 1B TP (Drug Court Surcharge) \$100 \$ \_\_\_\_\_  
\$50-21-114(BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
3% to County (if paid in installments) \$ \_\_\_\_\_  
TOTAL \$ \_\_\_\_\_

Appointed PD or appointed other counsel, §35.13 TP  
Requires \$500 be paid to Clerk during probation.

Barbara A. Scott  
Clerk of Court/Deputy Clerk  
Court Reporter: Ruffledge

PRESIDING JUDGE \_\_\_\_\_  
Judge Code: 2001515  
Sentence Date: 2-1-06

STATE OF SOUTH CAROLINA )  
 COUNTY OF Richland )  
 STATE Terrace Adams VS. )  
 AKA: )  
 Race: B Sex: M Age: 44 )  
 DOB: [REDACTED] SS#: [REDACTED] )  
 Address: [REDACTED] )  
 City, State, Zip )  
 DL# \_\_\_\_\_ SID# \_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS

2005 -GS- 40 - 3478  
 INDICTMENT/CASE#: 3478  
 A/W#: 1971836  
 Date of Offense: 4-19-2005  
 S.C. Code §: 16-11-311  
 CDR Code #: 0, 0, 7, 9  
 CASE RESTORED  
 SENTENCE  
 PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
 TO: Burglary 1st  
 in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0, 0, 7, 9  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.  
 ATTEST:

Solicitor

Defendant

Attorney for Defendant

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

CONCURRENT or  CONSECUTIVE to sentence on: 2-1-06  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State  
 Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_ days/hours Public Service Employment  
 Obtain GED \_\_\_\_\_  
 Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling \_\_\_\_\_  
 Random Drug/Alcohol Testing \_\_\_\_\_  
 Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: \_\_\_\_\_

Recipient:	
*Fine:	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ _____
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§ 35.13 (Public Def/Prob)	\$500 \$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ _____
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ _____
TOTAL	\$ _____

Appointed PD or appointed other counsel, §35.13 TP  
 Requires \$500 be paid to Clerk during probation.

Barbara A. Scott  
 Clerk of Court/ Deputy Clerk  
 Court Reporter: Rutledge

PRESIDING JUDGE \_\_\_\_\_  
 Judge Code: 2005 15 15  
 Sentence Date: 2-1-06

STATE OF SOUTH CAROLINA )  
 COUNTY OF Richland )  
 STATE Terrance Adams VS. )  
 AKA: )  
 Race: B Sex: M Age: 44 )  
 DOB: [REDACTED] SS#: [REDACTED] )  
 Address: )  
 City, State, Zip )  
 DL# \_\_\_\_\_ SID# \_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS

2005 -GS- 40 - 3548  
 INDICTMENT/CASE#: 2005  
 A/W#: 1971825  
 Date of Offense: 4-19-2005  
 S.C. Code §: 16-11-311  
 CDR Code #: 0 / 0 / 7 / 9  
 CASE RESTORED  
 SENTENCE  
 PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Burglary 1st  
 in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0 / 0 / 7 / 9  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.  
 ATTEST:

\_\_\_\_\_  
 Solicitor Defendant Attorney for Defendant

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

CONCURRENT or  CONSECUTIVE to sentence on: 2-1-06  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

RESTITUTION:  Heard,  Waived,  Ordered  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_  
 \*Fine: \_\_\_\_\_ \$  
 §14-1-206 (Assessments 107.5%) \_\_\_\_\_ \$  
 §14-1-211(A)(1) (Conv. Surcharge) \$100 \$  
 §14-1-211(A)(2) (DUI Surcharge) \$100 \$  
 §56-5-2995 (DUI Assessment) \$12 \$  
 § 35.13 (Public Def/Prob) \$500 \$  
 §73.3, 1B TP (Law Enforce. Funding) \$25 \$  
 §33.7, 1B TP (Drug Court Surcharge) \$100 \$  
 §50-21-114(BUI Breath Test Fee) \$50 \$  
 §56-5-2942(J) (Vehicle Assessment) \$40/ea \$  
 3% to County (if paid in installments) \$ \$  
 TOTAL \$ \$

SPECIAL CONDITIONS:

PTUP \_\_\_\_\_ days/hours Public Service Employment  
 Obtain GED \_\_\_\_\_  
 Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling \_\_\_\_\_  
 Random Drug/Alcohol Testing \_\_\_\_\_  
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: \_\_\_\_\_

Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

Barbara A. Scott  
 Clerk of Court/ Deputy Clerk  
 Court Reporter: Butledge

PRESIDING JUDGE [Signature]  
 Judge Code: 2 1 0 1 5 1 5  
 Sentence Date: 2-1-06

STATE OF SOUTH CAROLINA )  
 COUNTY OF Richland )  
 STATE Terrence Adams VS. )  
 AKA: )  
 Race: B Sex: M Age: 44 )  
 DOB: [REDACTED] SS#: [REDACTED] )  
 Address: )  
 City, State, Zip )  
 DL# SID# )

IN THE COURT OF GENERAL SESSIONS

2005 -GS- 40 - 3935  
 INDICTMENT/CASE#: 2005 -GS- 40 - 3935  
 A/W#: I911881  
 Date of Offense: 4-19-2005  
 S.C. Code §: 16-11-311  
 CDR Code #: 0 / 0 / 7 / 9  
 CASE RESTORED SENTENCE  
 PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Burglary 1st  
 in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0, 0, 7, 9  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.  
 ATTEST:

Solicitor

Defendant

Attorney for Defendant

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

CONCURRENT or  CONSECUTIVE to sentence on: 2-1-06  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms:  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_ days/hours Public Service Employment  
 Obtain GED \_\_\_\_\_  
 Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling \_\_\_\_\_  
 Random Drug/Alcohol Testing \_\_\_\_\_  
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: \_\_\_\_\_

Recipient:	_____
*Fine:	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ _____
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§ 35.13 (Public Def/Prob)	\$500 \$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ _____
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ _____
TOTAL	\$ _____

Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

Barbara A. Scott  
 Clerk of Court/Deputy Clerk  
 Court Reporter: Butledge

PRESIDING JUDGE [Signature]  
 Judge Code: 2001515  
 Sentence Date: 2-1-06

STATE OF SOUTH CAROLINA )  
 COUNTY OF Richland )  
 STATE Terrance Adams )  
 VS. )  
 AKA: )  
 Race: B Sex: M Age: 44 )  
 DOB: [REDACTED] SS#: [REDACTED] )  
 Address: )  
 City, State, Zip )  
 DL# \_\_\_\_\_ SID# \_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS

2005 -GS- 40 - 3940  
 INDICTMENT/CASE#: 3940  
 A/W#: 1971883  
 Date of Offense: 4-19-2005  
 S.C. Code §: 16-11-311  
 CDR Code #: 0 / 0 / 7 / 9  
 CASE RESTORED  
 SENTENCE  
 PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
 TO: Burglary 1st  
 in violation of 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0, 0, 7, 9  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.  
 ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
 for a determinate term of Life w/o Parole days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,  
 which are incorporated by reference.  
 CONCURRENT or  CONSECUTIVE to sentence on: 2-1-06  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State  
 Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_ days/hours Public Service Employment  
 Obtain GED \_\_\_\_\_  
 Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling \_\_\_\_\_  
 Random Drug/Alcohol Testing \_\_\_\_\_  
 Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: \_\_\_\_\_

Recipient: _____	
*Fine: _____	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§56-5-2995 (DUI Assessment)	\$12 \$
§ 35.13 (Public Def/Prob)	\$500 \$
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$
§50-21-114(BUI Breath Test Fee)	\$50 \$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$
TOTAL	\$

Appointed PD or appointed other counsel, §35.13 TP  
 Requires \$500 be paid to Clerk during probation.

Barbara A. Scott  
 Clerk of Court/Deputy Clerk  
 Court Reporter: Rutledge

PRESIDING JUDGE [Signature]  
 Judge Code: 2101515  
 Sentence Date: 2-1-06

STATE OF SOUTH CAROLINA )  
 COUNTY OF Richland )  
 STATE Terrance Adams VS. )  
 AKA: )  
 Race: B Sex: M Age: 44 )  
 DOB: [REDACTED] SS#: [REDACTED] )  
 Address: )  
 City, State, Zip )  
 DL# \_\_\_\_\_ SID# \_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS

2005 INDICTMENT/CASE#: 4169  
 -GS- 40  
 A/W#: 1972162  
 Date of Offense: 4-19-2005  
 S.C. Code §: 16-11-311  
 CDR Code #: 0, 0, 7, 9  
 CASE RESTORED  
 SENTENCE  
 PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
 TO: Burglary 1st  
 in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0, 0, 7, 9  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.  
 ATTEST:

Solicitor

Defendant

Attorney for Defendant

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

CONCURRENT or  CONSECUTIVE to sentence on: 2-1-06  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State  
 Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms:  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_  
 days/hours Public Service Employment  
 Obtain GED \_\_\_\_\_  
 Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling \_\_\_\_\_  
 Random Drug/Alcohol Testing \_\_\_\_\_  
 Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: \_\_\_\_\_

Recipient: _____	
*Fine:	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ _____
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§ 35.13 (Public Def/Prob)	\$500 \$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ _____
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ _____
TOTAL	\$ _____

Appointed PD or appointed other counsel, §35.13 TP  
 Requires \$500 be paid to Clerk during probation.

Barbara A. Scott  
 Clerk of Court/Deputy Clerk  
 Court Reporter: Butledge

PRESIDING JUDGE \_\_\_\_\_  
 Judge Code: 2001515  
 Sentence Date: 2-1-06

*2016 CR-40-3401*

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Terrance G. Adams, #229165,  
Name of applicant and Inmate number (if applicable)

OR

IN THE INTEREST OF ACCESS TO JUSTICE

Juvenile

v.

State of South Carolina

Respondent,

) IN THE COURT OF (Select one)  
)  GENERAL SESSIONS  
)  FAMILY COURT  
) JUDICIAL CIRCUIT

) APPLICATION FOR  
) FORENSIC DNA TESTING

) ORIGINAL INDICTMENT NO.  
) 2005-GS-40-3548, *1971825*

) ~~2005-GS-40-3940,~~  
) 2005-GS-40-3935,

) ~~2005-GS-40-3478,~~  
) ~~2005-GS-40-3477, #4169.~~

) ORIGINAL PETITION NO.

) -JU-  
)

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may continue an answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken *in forma pauperis*, it shall include an affidavit (attached at the end of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted or adjudicated.

I understand that DNA testing is only available if I have been convicted or adjudicated of an offense listed in S.C. Code Ann. § 17-28-30, that I am currently incarcerated for that offense, and that I am asserting that I am innocent of the offense. Further, if the conviction or adjudication was the result of a plea of guilty or nolo contendere, the application must be filed within seven years of the date of sentencing.

- 1. Identify the proceedings in which the applicant was convicted or adjudicated:

Trial by jury. In the Court of General Sessions for the  
Fifth Judicial Circuit in Richland County, Columbia, S.C.



2016 MAY 31 39  
RICHLAND COUNTY

2. Give the date of the entry of the judgment and sentence: Feb. 1st., 2006, sentenced  
to Life without the possibility of parole for burglary 1st.(B)

and current place of incarceration: Lieber Correctional Institution in  
Ridgeville, S.C.

3. Identify all previous or ongoing proceedings, together with the grounds therein asserted, taken by the applicant to secure relief from his conviction or adjudication:

(a) S.C. Court of Appeals- Direct Appeal

(b) Court of Common Pleas for the Fifth Judicial Circuit (PCR).

(c) S.C. Supreme Court- Petition for Writ Certiorari.

4. Make a reasonable attempt to identify the physical evidence or biological material that should be tested: Clothing, shoes, gloves, fingerprint, hair, blood,  
video tapes, and skin tissue. or tools used to commit such.

Identify the specific type of DNA testing being sought:

Serology Testing.

5. Explain why the identity of the applicant was or should have been a significant issue during the original court proceedings, notwithstanding the fact that the applicant may have pled guilty or nolo contendere or made or is alleged to have made an incriminating statement or admission as to identity:

The identity of the Applicant should have been an significant

issue during the original proceedings. Counsel for the

Applicant rendered inadequate service. Applicant pled not

guilty and claims actual innocence. Is entitled to challenge

DNA Testing in pursuant to S.C. Code of laws §17-28-30(a).

6. Explain why the physical evidence or biological material sought to be tested was not previously subjected to DNA testing, or if the physical evidence or biological material sought to be tested was previously subjected to DNA testing, provide the results of the testing and explain how the requested DNA test would provide a substantially more probative result:

Counsel for the Applicant helped the State bolster the case

against her client. Physical evidence is the main issue

that counsel should have challenged and chain of custody.

Physical evidence and biological material was not previously

because either the counsel did not know about DNA testing

the Applicant understands that he have a right to redress

7. and that there is no statute of limitations for DNA testing.  
 Explain why if the DNA testing produces exculpatory results, the testing will constitute new evidence that will probably change the result of the applicant's conviction or adjudication if a new trial is granted and is not merely cumulative or impeaching:

DNA Testing would produce exculpatory results that could  
exonerate or help prove my innocence for the offense in which  
the Applicant was convicted and adjudicated. This new evidence  
would change the results of Applicant's case.

8. I assert that I am actually innocent of the listed offense, that this offense is listed in S.C. Code Ann. § 17-28-30 and that I am currently incarcerated for the listed offense. I attest that this application is made to demonstrate innocence and not solely to delay the execution of a sentence or the administration of justice. Yes.

9. If DNA testing is conducted and results are determined to be inculpatory by the Court, I understand that:

- (a) The Court may hold me in contempt of court if it determines that my assertion of actual innocence was intentionally false;
- (b) The Court may assess the cost of any DNA testing against me;
- (c) The South Carolina Department of Corrections may use this determination to deny good conduct credit; and,
- (d) The Department of Probation, Parole, and Pardon Services can use this determination to deny parole.

Terrance G. Adams, #229165

Print Applicant Name

Terrance Adams

Signature of Applicant

STATE OF SOUTH CAROLINA

)  
)  
)

VERIFICATION

County of RICHLAND

I Terrance G. Adams, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; and that the matters and allegations set forth are true.

Terrance Adams  
Signature of Applicant

SWORN to and subscribed before me this 24<sup>th</sup>  
day of May, 2016.

Ludhean Bryant (L.S.)  
Notary Public

My Commission Expires: May 26, 2020

**APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF**

I, Terrance G. Adams, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Terrance Adams  
Signature of Applicant

SWORN to and subscribed before me this 24<sup>th</sup>  
day of May, 2016.

Ludrean Bryant (L.S.)  
Notary Public

My Commission Expires: May 26, 2020

2016 MAY 31 PM 4:45  
FILED

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )

Terrance G. Adams )  
 )  
 -vs- )  
 )  
 )  
**The State,** )  
 )  
 Respondent. )

IN THE COURT OF GENERAL SESSION

**State's Response to Defendant's Motion For Post Conviction DNA Testing**

Indictment No(s): 2005-GS-40-3548, 2005-GS-40-3940, 2005-GS-40-3935, 2005-GS-40-3478, 2005-GS-40-3477, 2005-GS-40-4169

2016 AUG 19 AM 11:34  
 FILED  
 RICHLAND COURT  
 S.C.P. 8.03

On May 31, 2016 Terrance Adams (Petitioner), pursuant to S.C. Code Ann. §17-28-40, made an application for post-conviction relief in which the Petitioner moved the Court to order the DNA analysis of evidence recovered in the Petitioner's case. While the Petitioner was convicted and sentenced for a qualifying crime, burglary in the first degree, it is the State's position that the Petitioner is not eligible for relief under the Post-Conviction DNA Testing and Preservation of Evidence statute (hereinafter "The Statute"), because the Petitioner has not shown by a preponderance of evidence that exculpatory evidence exists. Further, the identity of the applicant was not a significant issue during the original court proceedings and the DNA testing will not constitute new evidence that will probably change the result of the applicant's conviction. For the foregoing reasons, the State submits that Petitioner's Motion should be denied.

**I. Petitioner has failed to show that evidence exists to be tested**

Petitioner contends that physical evidence is available for testing and will exculpate him of the crime. In order for the court to order DNA testing the Petitioner must establish by a preponderance of evidence that the biological material "is available and is potentially in a condition that would permit the requested DNA testing ... [and] has been subject to a chain of

custody sufficient to establish it has not been substituted, tampered with, replaced, or altered”<sup>1</sup> and is material to applicants identity.

The Petitioner has not shown any untampered evidence exists nor has the Petitioner shown that the evidence has been kept in a chain of custody sufficient under S.C. Code Ann. § 17-28-90(B)(2). All of this physical evidence was handled at trial by the Jury and others, so the evidence no longer exists within a chain of custody sufficient to ensure it has not been tampered with. Further, all stolen items which would be additional physical evidence were returned their rightful owners, so these items too were not kept in a proper chain of custody for testing. Proving the existence of physical evidence in a testable state falls on the Petitioner, not the state.<sup>2</sup>

Further, the Petitioner states that DNA testing needs to be completed on “Clothes, shoes, gloves, fingerprints, hair, blood, video tapes and skin tissue... or tools.”<sup>3</sup> A blanket request of this nature does not provide the state a reasonable indication of what is necessary to be tested, nor does petitioner explain how all or any of these nine items will exonerate him, nor has the Petitioner shown that these items exist.<sup>4</sup> Therefore, the motion for further DNA testing under the Access to Justice Post-Conviction DNA Testing Act must be denied.

## **II. Identity was not at Issue and DNA will not be Exculpatory**

Petitioner claims that identity was a significant issue during the original court proceedings. This claim is false and the State contends that DNA testing would not provide exculpatory results. Petitioner was convicted of burglary in the first Degree after a jury trial on January 30, 2006. Petitioner’s charges arose from an incident that occurred on April 19, 2005. Petitioner did enter without consent and took items from six separate dwellings at the Hunt Club

<sup>1</sup> S.C. Code Ann. § 17-28-90 (2014).

<sup>2</sup> S.C. Code Ann. § 17-28-90 (B) (2014).

<sup>3</sup> Petitioner’s SCCA DNA 101, p. 2 (May 31, 2016).

<sup>4</sup> S.C. Code Ann. § 17-28-90 (B) (2014).

Village. The Richland County Sheriff's Department responded shortly after the burglaries and the Petitioner resisted the Sheriff's Department's arrest. Ultimately, law enforcement detained the Petitioner and found on his person multiple stolen items belonging to all six victims of his spree and two large bags were found next to his person containing the rest of the stolen items belonging to the victims.

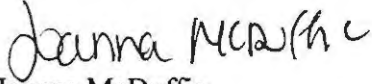
Any DNA tested from these crimes could not be exculpatory to the Petitioner as the weight of all the other evidence is overwhelmingly in favor of the State. Further, the likelihood that any DNA evidence exists from this crime scene is diminished by the fact the Petitioner wore gloves during the commission of the crime and so any DNA pulled would be not probative or at best the results would be cumulative to the States case. Therefore Petitioner's motion should be denied.

### **III. Conclusion**

The State's submits that the Petitioner has not proven by a preponderance of evidence that there exists DNA with proper chain of custody to be tested and further the Petitioner has not shown how any of this DNA will provide exculpatory results related to the identity of the perpetrator. Therefore DNA testing of evidence in the Petitioner's case lacks probative value, is a waste of time, and will be cumulative as identity is not an issue.

For the foregoing reasons the State requests that Petitioner's Motion under §17-28-40 of The Statute should be DENIED.

Respectfully Submitted,



Joanna McDuffie  
Assistant Solicitor, Fifth Judicial Circuit

This 17<sup>th</sup> day of August, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	Indictment No.: 2005-GS-40-3548, 3940, 3935
Terrance G. Adams,	)	3478, 3477, and 4169
	)	
Petitioner,	)	<b>NOTICE OF MOTION AND MOTION FOR</b>
vs.	)	<b>APPOINTMENT OF CUSTODIAN</b>
	)	<b>OF EVIDENCE PURSUANT TO §17-28-70</b>
State of South Carolina,	)	
	)	
Respondent.	)	

YOU WILL PLEASE TAKE NOTICE that Petitioner by and through his undersigned counsel, will move before the Court on the tenth day hereafter or as soon thereafter as counsel for the Defendant can be heard, for an Order appointing custodian of evidence pursuant to §17-28-70(a). This motion is made regarding Petitioner's Application for Forensic DNA Testing filed May 31, 2016.




---

Jonathan D. Waller, Esquire  
 SC Bar Number: 76290  
 Angell Molony, LLC  
 210 Newberry Street NW  
 Aiken, South Carolina 29801  
 803-335-1449

ATTORNEY FOR PETITIONER

Aiken, South Carolina  
 Dated: October 25, 2022

2022 OCT 25 11:45

**ANGELL  
MOLONY**  
ATTORNEYS AT LAW

October 25, 2022

The Honorable Jeanette W. McBride  
Clerk of Court, Richland County  
PO Box 2766  
Columbia, SC 29202-2766

Re: DNA Petition,  
CIA No: 2005-GS-00-3548

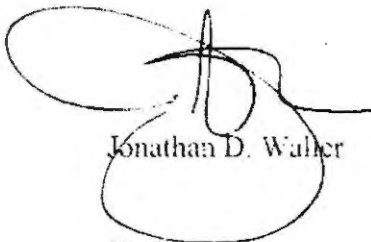
2022 NOV - 2 11:45

Dear Ms. McBride:

Please find enclosed one (1) original and one (1) copy of Petitioner's Notice of Motion and Motion for Appointment of Custodian of Evidence Pursuant to §17-28-70. Please file the original and return the clocked copy to me in the enclosed envelope.

By copy of this letter, I am serving a copy of the motion on counsel for the Respondent. If you have any questions, please do not hesitate to ask. My telephone number is 803-335-1449.

Sincerely,



Jonathan D. Walher

Enclosures

Cc: Daniel R. Goldberg, Esquire  
Terrance G. Adams

Aiken Office  
210 Newberry St. N.W.  
Aiken, SC 29801  
(P) 803.335.1449  
(F) 803.335.5422

[www.AngellMolony.com](http://www.AngellMolony.com)

Greenville Office  
18 E. North St., Suite 302  
Greenville, SC 29601  
(P) 864.248.4708  
(F) 864.752.1422

State of South Carolina	)	Court of General Sessions
	)	Fifth Judicial Circuit
County of Richland	)	Case No. 2005-GS-40-03548
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
Terrance G. Adams,	)	
	)	
Defendant.	)	
	)	

---

November 30, 2022  
Columbia, South Carolina

B E F O R E:

The Honorable DeAndrea G. Benjamin, Judge

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

April Sampson, Esquire  
Attorney for the State

Jonathan Waller, Esquire  
Attorney for the Defendant

Proceedings taken down electronically

Transcribed by:  
Krystal J. Smith  
Official Circuit Court Reporter III

I N D E X

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<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
Motion to Appoint Custodian of Evidence/DNA Testing..	4
Ruling.....	12
Court Reporter Certification.....	15

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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(No Exhibits Presented)

COURT REPORTER LEGEND

dashes --	intentional or purposeful interruption or change in thought
ellipses . . .	trailing off
[ph]	phonetically written
[sic]	written as said
[inaudible]	unable to hear or understand due to audio quality or volume

1 NOVEMBER 30, 2022

2 (WHEREUPON, the proceedings began at 11:01 a.m.)

3 MS. SAMPSON: The State calls Terrance Adams.

4 THE COURT: Yes, ma'am.

5 MS. SAMPSON: Thank you, Your Honor. May it please the  
6 Court.

7 This is Terrance Adams, with his attorney, Jonathan  
8 Waller. We are here today on the defense's motion. Mr.  
9 Waller knows way more about this than I do, Your Honor, but  
10 specifically, Mr. Adams was -- went to trial and convicted on  
11 burglary first degree and received a life sentence. It's my  
12 understanding he's asking the Court for DNA testing to be done  
13 on the evidence.

14 For the record, I was not involved in the prosecution or  
15 the defense of this case but have taken it in order to get it  
16 to this point of showing up on the docket. We have confirmed  
17 with the sheriffs -- with the law enforcement that they don't  
18 have any evidence left because once this case -- this case was  
19 from 2005. It has gone through the appellate court through  
20 PCRs, etc. So they destroyed anything they had.

21 I have confirmed with the clerk's office that what was  
22 turned in into evidence, they do still have, but none of it  
23 was physical. It was photographs. There were two  
24 screwdrivers. Mr. Pruett -- Truitt is coming right now to  
25 bring me a list to show the Court, if the Court needs it, that

1 there is no evidence to test that they have. Everything that  
2 they have was out and the jurors would have touched it,  
3 everybody would have touched it, but there was no clothing or  
4 anything to test. So the State's position is there is nothing  
5 to test for DNA.

6 THE COURT: All right. Yes, sir?

7 MR. WALLER: Judge, Ms. Sampson is correct. I think the  
8 -- I think the procedure would be that -- I've also filed a  
9 motion for the appointment of a custodian of evidence. I think  
10 the appropriate procedure is controlled by Section 17-28-  
11 70(d), really (b), (c), and (d), but, Your Honor, if there's  
12 nothing -- if there's nothing physical left to test, I think  
13 the custodian of evidence has to perform a search is how it's  
14 termed and report back that there is nothing, nothing  
15 available to test.

16 I know there is one piece of physical evidence, but that  
17 would not be -- you know, the chain of custody is not  
18 established any longer. So that would take that piece out.

19 Judge, it's my understanding that the items -- the items  
20 that were taken from these residences were either inventoried  
21 and returned on the scene or were returned shortly after to  
22 their owners. I don't believe that any of those items were  
23 placed into evidence at the trial. So, Your Honor, I don't  
24 know if there's anything left to physically test, but  
25 certainly, we think that there should be some sort of

1 investigation done to see if there is anything available.

2 THE COURT: Okay. So I'm trying to remember the last  
3 time I -- what evidence is it that he -- I think you have to  
4 put forth a *prima facie* case as to what evidence is it he --  
5 that may be exculpatory if it was tested, if it had a DNA  
6 test.

7 MR. WALLER: That's correct, Your Honor. I think the  
8 items that were physically removed from these residences, Mr.  
9 Adams was -- the State's position is slightly different than  
10 mine. Mr. Adams was accused and ultimately convicted of  
11 burglarizing five or six apartments in an apartment complex.  
12 While he was apprehended the same day very close to the scene,  
13 he was not -- in possession of a bunch of items, he was not  
14 observed or, you know, caught in any of the locations.

15 So the State contends that identity is not a factor, that  
16 none of this will go to the identity of a perpetrator. He  
17 wasn't caught in any of the residences. He was not, you know,  
18 observed going in or outside. So I do think identity is a  
19 factor.

20 So that's what those items, if they're still available,  
21 would be -- potentially be exculpatory items if they contained  
22 other DNA evidence of someone else who could have perpetrated  
23 this crime -- these crimes. That would be what's exculpatory.

24 THE COURT: But I think you said the evidence was  
25 returned to the owners?

1 MR. WALLER: That's my understanding, Your Honor. At  
2 this point, I --

3 THE COURT: I don't know. I mean, so you won't be -- I  
4 mean, you wouldn't be able to test. You're talking about  
5 2005.

6 MR. WALLER: Yes, Your Honor. If it doesn't exist, I  
7 mean, certainly we can't get past, you know, factor number  
8 one, but that's --

9 (WHEREUPON, there was a pause in the proceedings for the  
10 defendant and counsel to confer, after which the  
11 proceedings resumed as follows.)

12 THE COURT: I guess I just -- I don't know what I would  
13 be sending a custodian of evidence to look for. I mean, like,  
14 is there -- do you have in your -- and your motion is pretty  
15 brief. Is there a list of things that -- I mean, we just  
16 can't send somebody and say, oh, go look and see. I need a  
17 list of what it is that may be exculpatory if it was tested,  
18 DNA tested. If it was returned to the owners, I'm not sure  
19 how you can test that.

20 MR. WALLER: I agree with you, Your Honor. I mean, I --  
21 quite honestly, I filed the motion to appoint a custodian of  
22 evidence to try to get back into court. This is an old  
23 application that's been filed, and I know there have been  
24 several different members of the Solicitor's Office that have  
25 had it and have moved on to other things, and so I think it

1 just has kind of drug on through no -- through no one's fault,  
2 but it's just -- it's getting quite old.

3 THE COURT: All right. So what were the allegations and  
4 -- I mean, is there -- how was he connected to it?

5 MS. SAMPSON: So, as Mr. Waller had said, there were  
6 burglaries at several apartments. Someone saw someone leaving  
7 the area and described what they had on. This defendant was  
8 found at a food fair not very far from where the apartment  
9 was. They took -- it was a show-up ID. They took the  
10 custodian -- he was a custodian literally, and he said, yes,  
11 that's the guy that I saw coming from that area and he had on  
12 the clothing and everything that I saw that person in. When  
13 they go to talk to him, he had all -- he had a lot of items on  
14 him and in bags that people came and identified that had just  
15 gotten stolen from their house.

16 THE COURT: So he did have stuff on him?

17 MS. SAMPSON: Right. And they gave it back to them.  
18 Just as Mr. Waller said, they took photographs. Even at the  
19 trial, all they introduced were the photographs of the items.

20 THE DEFENDANT: I did not have anything on me, Your  
21 Honor. They found it in the bag. I don't know. I was at a  
22 food fair, and they came to me. They didn't ask me nothing  
23 literally. They picked me up and charged me with burglary  
24 first. You know what I'm talking about? I'm trying to figure  
25 out what did I do to get charged with burglary first, but the

1 man who wrote the warrant, the police warrant, he never signed  
2 the warrant. He had somebody else sign the warrant. So I'm  
3 trying to say how could he say that I did this when he never  
4 signed a warrant and said -- verified this as a fact.

5 MR. WALLER: And, Your Honor, I don't -- I don't know  
6 that it's specifically before the Court today, but I think Mr.  
7 Adams's confusion there is he was charged with several  
8 burglary seconds. They were then -- based on his prior record  
9 were enhanced to burglary first, and then he was LWOP'd based  
10 on that. So it was kind of a double enhancement almost.

11 THE COURT: Yeah, yeah, but that's not -- I mean, the  
12 only thing I have to consider is if there is any evidence, and  
13 it sounds like there's no evidence.

14 MR. WALLER: Yes, Your Honor.

15 THE COURT: I mean, so we would be sending a custodian of  
16 records -- I mean, a custodian of evidence out on kind of a  
17 wild goose chase when we know that there's no --

18 THE DEFENDANT: Your Honor?

19 THE COURT: There is no evidence.

20 THE DEFENDANT: Your Honor?

21 THE COURT: Hold on. Mr. Truitt, since you're here?

22 MR. TRUITT: Yes, Your Honor.

23 THE COURT: Can you come on down?

24 MS. SAMPSON: And, Your Honor, I only had him make one  
25 copy, but I can hand you a copy of the exhibit list.

1 THE COURT: Okay.

2 MS. SAMPSON: The only thing that was kept by the Clerk's  
3 Office was a large screwdriver, several photographs, a diagram  
4 of the area, and a smaller screwdriver. That's it. So  
5 there's no physical evidence. They were -- it was photographs  
6 of the things that were taken off of his person, out of his --

7 THE DEFENDANT: It was not.

8 MS. SAMPSON: -- pockets and out of a bag. That's it.  
9 That's literally what the indictment says.

10 THE DEFENDANT: That's fabricated, Your Honor.

11 THE COURT: Shhh.

12 MS. SAMPSON: That's what the incident report says. In  
13 the transcript, that's what it says. I'm not arguing with him  
14 about what happened. I only have the transcript, so I can  
15 tell you what the transcript says, and I can tell you what the  
16 report says.

17 So there's nothing to test because it's gone. I mean, if  
18 they had of taken anything, it would have been destroyed by  
19 Richland County, but they didn't. Per what's in the  
20 transcript and per what's in the report, they didn't take  
21 anything but his phone and his bag off of him. So, of course,  
22 that would have his DNA, but they didn't keep any items that  
23 were taken from the burglary, nor did they spot anything at  
24 the apartments that were burglarized.

25 THE COURT: So they didn't take any -- do any DNA

1 testing?

2 MS. SAMPSON: No.

3 THE COURT: Yeah. I mean, I can't -- I will -- Mr.  
4 Truitt, is that -- and is that the only thing that you have?

5 MR. TRUITT: Yes, Your Honor. I can double check, but  
6 that's all I pulled.

7 THE COURT: Which is on the evidence list?

8 MR. TRUITT: Right.

9 THE COURT: Okay. Let me see.

10 MS. SAMPSON: I will say, Your Honor, because it's a copy  
11 of a copy, it's a little hard to read, but Mr. Truitt can  
12 bring it in here. It's literally in a small box. It's  
13 probably 30 photographs, two screwdrivers, a videotape, like a  
14 -- literally, a VHS videotape and an envelope with nothing in  
15 it. I mean, it's got paperwork with it, but no physical  
16 evidence that could be swabbed because -- the screwdrivers  
17 might could have been swabbed, but they've been touched by  
18 everybody, the jurors, the lawyers, everyone touched those.  
19 They're not sealed. They're literally just sitting in the  
20 box.

21 THE COURT: I didn't hear you say he used a screwdriver  
22 to get in.

23 MS. SAMPSON: There was -- there was an allegation that  
24 two screws were removed in one of the invasions -- in one of  
25 the apartment invasions, and he had screwdrivers on him, but

1 again, since the time period of when this happened, they  
2 weren't in a sealed envelope. They are literally in the box  
3 open, and so jurors could have touched them. This was a  
4 trial. So the solicitors could have. I don't know who  
5 touched them, but --

6 THE COURT: Okay.

7 MS. SAMPSON: There's a chain of custody issue for sure,  
8 even if you swabbed those.

9 THE COURT: All right. Anything else, Mr. Waller?

10 MR. WALLER: Nothing further, Your Honor.

11 THE COURT: All right. I mean, in looking at the  
12 statute, I am going to deny the motion to appoint a custodian  
13 of evidence.

14 I'm not sure -- unless we can come up with what it is  
15 that we're going to send a custodian of evidence out to look  
16 for, it doesn't sound like there's anything except for photos.  
17 There was no -- there's nothing that can be. The only thing  
18 on here are photos and the screwdrivers that apparently Mr.  
19 Truitt did not bag, I mean.

20 MR. TRUITT: I did not bag them, but I --

21 THE COURT: So you're not going to --

22 MR. TRUITT: That's the way I received them.

23 THE COURT: You're not going to be able to get a DNA  
24 sample off the screwdrivers. So there's nothing where you  
25 would be able to -- that we would be able to test.

1 THE DEFENDANT: What about the statement that the police  
2 made?

3 THE COURT: That's -- that's not DNA, sir.

4 THE DEFENDANT: I mean --

5 THE COURT: All right. Thank you.

6 MR. WALLER: Your Honor, as far as the overall  
7 application, is your ruling going to cover -- I mean, if  
8 there's no -- there's nothing to test, then I don't think the  
9 application can go forward.

10 THE COURT: I would agree.

11 MR. WALLER: Okay.

12 THE COURT: All right.

13 MR. WALLER: All right. Thank you, Your Honor.

14 THE COURT: All right. Thank you.

15 THE DEFENDANT: Well, Your Honor --

16 THE COURT: You want to get me an order?

17 THE DEFENDANT: Your Honor?

18 MR. WALLER: Yes, Your Honor.

19 THE DEFENDANT: But I do have the application still open  
20 by he's still representing me on the application I put in with  
21 the civil pertaining to --

22 THE COURT: I don't know what you're talking about.

23 THE DEFENDANT: Pertaining to this --

24 MR. WALLER: I don't know either, Your Honor.

25 THE DEFENDANT: Pertaining to my conviction that I

1 appealed the conviction and sentence, which y'all got me  
2 illegally paying for.

3 THE COURT: I don't know anything about that. That's not  
4 --

5 MR. WALLER: I'll talk to Mr. Adams about that.

6 THE COURT: All right. Thank you.

7 MS. SAMPSON: Thank you.

8 (WHEREUPON, the proceedings ended at 11:16 a.m.)

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10 --- END REQUESTED TRANSCRIPT ---

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3550). Applicant was convicted, as indicted, of all charges and was sentenced to life imprisonment.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Petitioner contends that physical evidence is available for testing and will exculpate him of the crime. In order for this Court to order DNA testing the Petitioner must establish by a preponderance of evidence that the biological material "is available and is potentially in a condition that would permit the requested DNA testing ... [and] has been subject to a chain of custody sufficient to establish it has not been substituted, tampered with, replaced, or altered" and is material to applicant's identity. SC Code Ann §17-28-90 (2014).

After review of the facts and circumstances surrounding Applicant's claims and the availability of testable evidence, this Court finds that Application for post-conviction DNA testing must be denied at the outset. The Petitioner has not shown any untampered evidence exists nor has the Petitioner shown that the evidence has been kept in a chain of custody sufficient under S.C. Code Ann. § 17-28-90(B)(2). All of the physical evidence introduced at trial was handled at the trial by the Jury and others, so the evidence no longer exists within a chain of custody sufficient to ensure it has not been tampered with. A representative of the Clerk of Court for Richland County appeared before the Court and represented that the physical evidence is still in the possession of the Clerk, but that the items in possession were handled by persons during and after the trial and were not kept in any sort or manner that would comply with a chain of custody. He further stated that the Clerk of Court maintained no additional items which were not introduced as exhibits during Applicant's trial.


Further, all stolen items which would be additional physical evidence were returned their owners prior to the trial, so these items too were not kept in a proper chain of custody for testing. Items recovered following Applicant's arrest were documented and returned to their owners, with

no physical evidence being retained to allow for testing. Proving the existence of physical evidence in a testable state fall on the Petitioner, not the state. Id.

This Court finds that there is simply no evidence available for potential testing, a required factor to be proven by Applicant. Therefore, the motion for further DNA testing under the Access to Justice Post-Conviction DNA Testing Act must be denied. Further, because no testable evidence exists, the remaining allegations in Applicant's Application are moot.

**IT IS THEREFORE ORDERED** that Applicant's application for post-conviction DNA analysis, pursuant to S.C. Code Ann. §17-28-40, filed May 31, 2016, is hereby denied and dismissed with prejudice.

**AND IT IS SO ORDERED** this 13 day of Jan, 2023.

  
DEANDREA G. BENJAMIN  
Presiding Judge  
Fifth Judicial Circuit

Columbia, South Carolina.