

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Nov 13 2024

S.C. SUPREME COURT

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Certiorari to Dorchester County

Honorable Paul M. Burch, Circuit Court Judge  
\_\_\_\_\_

DANIEL JAMAAL LAWRENCE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2024-000696  
\_\_\_\_\_

APPENDIX  
\_\_\_\_\_

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## INDEX

|                                                                                                                                   |     |
|-----------------------------------------------------------------------------------------------------------------------------------|-----|
| TRIAL TRANSCRIPT DATED NOVEMBER 12, 2019 (VOL. 1 OF 2) .....                                                                      | 1   |
| TRIAL TRANSCRIPT DATED NOVEMBER 13, 2019 (VOL. 2 OF 2) .....                                                                      | 54  |
| COURT’S EXHIBIT #3 (JURY NOTE) .....                                                                                              | 274 |
| INDICTMENTS AND SENTENCE SHEETS.....                                                                                              | 275 |
| APPLICATION FOR POST-CONVICTION RELIEF .....                                                                                      | 281 |
| RETURN.....                                                                                                                       | 291 |
| POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED FEBRUARY 8, 2024.....                                                             | 301 |
| EXHIBIT #1 (LETTER).....                                                                                                          | 309 |
| ORDER DISMISSING APPLICATION FOR POST-CONVICTION RELIEF, BUT<br>GRANTING BELATED APPELLATE REVIEW PURSUANT TO WHITE V. STATE..... | 313 |

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF DORCHESTER

2018-GS-18-02104

2018-GS-18-02106

State of South Carolina )

) TRANSCRIPT OF RECORD

-vs-

)

) November 12, 2019-Vol. 1 of 2

Daniel Lawrence )

) St. George, South Carolina

B E F O R E:

The Honorable Maite Murphy, Judge

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

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George Smythe, Esquire  
Attorneys for the State

John Loy, Esquire  
Attorney for the Defendant

Reported By:

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Circuit Court Reporter for the  
First Judicial Circuit

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**EXHIBITS**

| <u>NO</u> | <u>DESCRIPTION</u> | <u>ID</u> | <u>EVIDENCE</u> |
|-----------|--------------------|-----------|-----------------|
| S-1       | Map                | 4         |                 |
| S-2       | Photos             | 4         |                 |
| S-3       | Photos             | 4         |                 |
| S-4       | Photos             | 4         |                 |
| S-5       | Photos             | 4         |                 |
| S-6       | Photos             | 4         |                 |
| S-7       | Photos             | 4         |                 |
| S-8       | Photos             | 4         |                 |
| S-9       | Photos             | 4         |                 |
| S-10      | Photos             | 4         |                 |
| S-11      | Photos             | 4         |                 |
| S-12      | Photos             | 4         |                 |
| S-13      | Photos             | 4         |                 |

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2  
3  
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10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX

| <u>WITNESS</u> | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
|----------------|---------------|--------------|-----------------|----------------|
|----------------|---------------|--------------|-----------------|----------------|

Officer Jenkins

|              |   |  |  |  |
|--------------|---|--|--|--|
| Mr. Sorenson | 5 |  |  |  |
|--------------|---|--|--|--|

|         |  |    |  |  |
|---------|--|----|--|--|
| Mr. Loy |  | 14 |  |  |
|---------|--|----|--|--|

|              |  |  |    |  |
|--------------|--|--|----|--|
| Mr. Sorenson |  |  | 48 |  |
|--------------|--|--|----|--|

|         |  |  |  |    |
|---------|--|--|--|----|
| Mr. Loy |  |  |  | 51 |
|---------|--|--|--|----|

1 (State's Exhibits 1 through 13 were marked for  
2 identification.)

3 THE COURT: Thank you, everyone. Please  
4 have a seat. Counsel, I understand we have several  
5 pre-trial matters we need to consider.

6 MR. LOY: Your Honor, I have what we  
7 discussed in chambers, two motions, and both are for  
8 suppression of evidence seized on the scene of the  
9 arrest of my client. I object to the original seizure,  
10 that is, the traffic stop of the vehicle that my client  
11 was riding in at the time of his arrest, and also then  
12 the search subsequent to the seizure. I believe theirs  
13 is two separate issues.

14 THE COURT: Yes, sir.

15 MR. LOY: I'm prepared if the Court --  
16 however the Court wants to do it, obviously, is what  
17 we'll do. But if you want to just accept all the  
18 testimony on both parts, and then argue them in  
19 conjunction as opposed to sequentially, I'm happy  
20 to do it that way.

21 THE COURT: I think that's an easier way  
22 to do it.

23 MR. LOY: Thank you.

24 THE COURT: You may call your first witness.

25 | MR. SORENSON: State calls Officer Hampton

1 Jenkins.

2 OFFICER HAMPTON JENKINS, was called as  
3 a witness, being duly sworn, was examined and testified  
4 as follows:

5 THE COURT: Your witness.

6 MR. SORENSON: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MR. SORENSON:

9 Q. Officer Jenkins, if you would, please tell  
10 the Court where it is that you're employed.

11 A. North Charleston Police Department.

12 Q. And how long have you been with North Charleston  
13 Police Department?

14 A. I have been with North Charleston for 16 years.

15 Q. Okay. And prior to that, do you have law  
16 enforcement experience prior to North Charleston?

17 A. Yes, I was with the Colleton County Sheriff's  
18 Office for four years.

19 Q. Okay. So about 20 years total in law  
20 enforcement?

21 A. Yes.

22 Q. All right. And, Officer Jenkins, if I could,  
23 I want to turn your attention back to the morning  
24 of October 31st of last year. Were you working that  
25 morning?

1       A.    I was.

2       Q.    Okay.  And did there come a time where you were  
3   dispatched out that morning in reference to something  
4   occurring in the Whitehall subdivision here in  
5   Dorchester County?

6       A.    Yes, I was.

7       Q.    Okay.  And tell the Court what it was -- what  
8   was the nature of that call that you were initially  
9   dispatched out to?

10      A.    I was dispatched to the area of Greggs Landing  
11   in reference to a Black male that was wearing a  
12   camouflaged jacket and grey pants that was acting  
13   suspiciously.  A concerned citizen had advised dispatch  
14   that the subject was walking through the neighborhood  
15   empty handed.  She saw him about 30 minutes later  
16   placing a bag, a black and white stripped, flat-bottomed  
17   bag, placing it behind the neighbor's house across  
18   the street from hers.

19            She then stated that -- as I was in route  
20   to that, I was turning onto, I think, Stone Bridge,  
21   which is a street -- a very short street that connects  
22   Greggs Landing to the main entrance into Whitehall.  
23   As I was turning onto that street, she advised that  
24   the subject had gotten into a silver colored sedan  
25   and was leaving.



1           Almost at the exact same time that that  
2 information was relayed, I had a silver sedan pass  
3 me with paper tags. And I could see that the passenger  
4 was a Black male with a camouflaged jacket.

5           Q. What did you do then at that point in time  
6 based on that information, the initial call that had  
7 come in and then that vehicle description given to you?

8           A. I turned around on the vehicle. I waited until  
9 they got out on Dorchester Road. I initiated a traffic  
10 stop. The vehicle was pulled over onto the median  
11 on Dorchester close to Appian Way.

12          Q. Okay. And I'm showing you ---

13                   MR. SORENSON: May I approach the witness,  
14 Your Honor?

15                   THE COURT: You may.

16 BY MR. SORENSON:

17          Q. And, Officer Jenkins, I'm showing you State's  
18 Exhibits, just for ID purposes at this time, 2 and 3.  
19 Is that the vehicle that you stopped on Dorchester Road?

20          A. Yes, it is.

21          Q. And, if you would, tell the Court how many  
22 occupants were in that vehicle at that time?

23          A. Two.

24          Q. Two. And I'm going to skip forward for  
25 a second here. But is the Defendant in this case,

1 Daniel Lawrence, one of the occupants of that vehicle?

2 A. Yes, sir, he's a passenger.

3 Q. A passenger. And a passenger in the front seat  
4 or back seat?

5 A. Front seat passenger.

6 Q. Okay. And did you have an opportunity at that  
7 point in time to go up to that vehicle?

8 A. Yes.

9 Q. And which side of the vehicle did you go up to?

10 A. Driver's side.

11 Q. Okay. And, if you would, tell the Court your  
12 interaction at that point in time as you approached  
13 the driver's side of that vehicle?

14 A. As I was walking up to the driver's side of  
15 the vehicle, there was an overwhelming odor of burnt  
16 marijuana coming out of it. I made contact with  
17 the driver. He rolled his window down partially.  
18 He refused to roll it down all the way.

19 I advised him of the reason for the stop. I kind  
20 of let him know what was going on. He immediately --  
21 he did give me his driver's license, but he became  
22 very defiant. The passenger, I asked him why he was  
23 in the area. He stated that he was in the area to visit  
24 his girlfriend, Lorell Nixon [ph.], that she lived  
25 there. He said he spent the night with her.

1           I asked him what street she lived on, and he said  
2           that he didn't know, that she ordered an Uber for him.  
3           And at this time, I noticed that he had a blue and white  
4           stripped flat-bottomed bag between his legs on the  
5           floorboard.

6           The top of the bag was even with his knees,  
7           and I could see in the bag. I could see the tops  
8           of some Apple -- I think it was iPhone boxes and  
9           some electronics. I asked him what was in the bag,  
10          and he told me that it was full of his dirty clothes  
11          from the night before. At this point, I requested  
12          other officers to come up and back me up.

13          Q. Okay. Ultimately, the other officers come out  
14          there?

15          A. Yes. The other officers were coming from a good  
16          ways away on the other side of the city. And it  
17          happened, an off-duty officer passed me, and I was able  
18          to flag him down and made contact with the -- at least  
19          they were standing on the passenger side of the vehicle.

20          Q. Okay. Now, at that point in time, based on what  
21          had come over dispatch that you had been dispatched out  
22          to, did Mr. Lawrence, the passenger, fit the description  
23          of that individual that the 911 caller had provided?

24          A. Yes, he did.

25          Q. Okay. And, obviously, you already testified

1 the vehicle that you passed fit the description of  
2 the vehicle that this individual supposedly got into?

3 A. Yes, sir.

4 Q. And in plain view, you described a bag between  
5 Mr. Lawrence's legs. Did that match the description  
6 of the bag that was given over that 911 call also?

7 A. Yes, it did.

8 Q. Okay. At that point in time, did you feel that  
9 you had reasonable suspicion that criminal activity was  
10 afoot at that point in time?

11 A. Yes, sir. I thought that I had several different  
12 reasons to detain the subjects. One was -- everything  
13 was a match with the Defendant's vehicle and then also  
14 with the marijuana coming out of the car -- the odor of  
15 marijuana coming out of the car because I had questioned  
16 the driver about smelling marijuana.

17 At which point, he told me it was a rental,  
18 and there was no smoking allowed in it. And at that  
19 point, I directed his attention to the cup holder --  
20 ashtray that was placed in the cup holder next to him  
21 that was full of ashes. And at that point, he didn't  
22 have a whole lot to say.

23 Q. Okay. And, ultimately, were the two of them,  
24 the driver and -- what was the driver's name?

25 A. Tevin Beaton.

1       Q. Mr. Beaton and also the Defendant in this case,  
2 Daniel Lawrence, both of them were taken out of the  
3 vehicle and detained at that point in time?

4       A. Yes, sir.

5       Q. Okay.

6       A. Mr. Beaton was actually placed under arrest  
7 because dispatch came back and advised that his driver's  
8 license was suspended, and so I pulled him out to place  
9 him under arrest. And then my backup officer pulled  
10 Mr. Lawrence out.

11       Q. Okay. And tell the Court upon Mr. Lawrence  
12 being removed from the vehicle what, if anything,  
13 occurred and/or did you observe at that time?

14       A. Prior to Mr. Lawrence getting out of the vehicle,  
15 the other officer had told him to exit the vehicle.  
16 Prior to him doing that, he removed the camouflaged  
17 jacket he was wearing, and he set it kind of on top  
18 of and next to the white bag. And the moment he got  
19 out of the car, I could see a gun in plain view on top  
20 of everything else in that bag.

21       Q. Okay.

22       A. And he was placed in handcuffs at that point.

23       Q. Okay. And, ultimately, as a result of that,  
24 did you remove that bag out of the vehicle?

25       A. I know that I removed the gun first just to

1    secure it for safety. I don't remember if I took the  
2    bag out at that point, or if we waited. I did remove  
3    the jacket just to see if there was anything else in  
4    it weapon wise.

5        Q.    Okay. And, ultimately, while out there at  
6    the scene, were other officers responded actually  
7    into the neighborhood of Whitehall?

8        A.    Yes, sir, because we didn't have an exact address  
9    as far as an incident location. But once we found the  
10   items in the bag, it appeared to us that it was evidence  
11   of a burglary or some type of theft. Officers went back  
12   into the neighborhood, and they were able to locate the  
13   residence that had forced entry to the back door.

14        Q.    Okay. And, ultimately, did the victims from  
15   that burglary respond out?

16        A.    Yes, sir.

17        Q.    And were they able to identify the items that  
18   were recovered, not only in that stripped bag that was  
19   between Mr. Lawrence's legs, but also any items that  
20   were contained within that camouflaged jacket?

21        A.    Yes, sir.

22        Q.    Okay. And, if I could approach real quick and  
23   show you State's Exhibits 4, 5, and 6. Do you recognize  
24   those photographs?

25        A.    I do. The watches and debit cards, miscellaneous

1 cards, were all in the jacket pocket.

2 Q. Any of those cards belong to the victims in this  
3 case?

4 A. All of them. They all had the victims' names  
5 on it.

6 Q. Okay. How about the bag, State's Exhibit,  
7 I believe, No. 6? Is that the bag -- where was that  
8 bag located initially?

9 A. That was the bag that was located between  
10 the Defendant's knees on the floorboard of the car.

11 Q. And did the victims in this case identify  
12 the items that were found in that bag?

13 A. Yes, sir, they did.

14 Q. And also the bag itself?

15 A. Yes, sir.

16 Q. I'm showing you State's Exhibit No. 4. Is that  
17 the camouflaged jacket that Mr. Lawrence was wearing  
18 initially when you first approached the vehicle?

19 A. Yes, sir.

20 Q. And I'm showing you State's Exhibit No. 7.  
21 Is that Mr. Lawrence?

22 A. Yes, sir.

23 Q. And pants wise, does that fit the description  
24 of the call that came in initially?

25 A. Pants wise. And the caller stated that he had

1 tennis shoes with red bottoms on it.

2 Q. And, Officer, in your experience, did you feel  
3 that you had probable cause at that point in time  
4 when you searched that vehicle?

5 A. Yes, sir.

6 Q. Okay.

7 MR. SORENSON: Beg the Court's indulgence.  
8 That will be all I have as to this issue, Your Honor.  
9 Are you going to use these pictures, John?

10 MR. LOY: If you could leave them there,  
11 I might. They're all labeled?

12 MR. SORENSON: Well, they're just offered  
13 for ID purposes.

14 THE COURT: Cross-examination.

15 MR. LOY: Yes, ma'am. Thank you.

16 CROSS-EXAMINATION

17 BY MR. LOY:

18 Q. And I'm sorry, it's Officer Hampton?

19 A. Jenkins.

20 Q. Officer Jenkins. Officer Jenkins -- and I was  
21 listening. I was trying to keep up. But how long  
22 did you say you had been with -- 16 years you've been  
23 with North Charleston Police Department?

24 A. Yes, sir.

25 Q. And on this particular date, what was your rank?



1 I mean, are you patrol?

2 A. I'm a corporal.

3 Q. A corporal?

4 A. Yes, sir.

5 Q. And you wear a uniform down in the marked unit,  
6 like you are?

7 A. Yes, sir.

8 Q. Dressed something like you are today; is that  
9 right?

10 A. Exact same outfit, yes, sir.

11 Q. Okay. Can you tell me how your car as well  
12 as yourself are equipped with any recording devices,  
13 or how they were on that particular date?

14 A. Yes, sir. My body camera was activated;  
15 my in-car camera was activated.

16 Q. When you say your body cam, just for the purpose  
17 of our record, can you describe what that means?

18 A. Yes, sir. This is the L3 body cam system that  
19 we use. It has -- I'm not going to activate it in  
20 court, but it has to be manually activated, which means  
21 we would press it to the side. It goes back and record  
22 30 seconds prior to what led up to the activation of it.  
23 And that stayed on from the time ---

24 Q. Well, for right now I'm just asking you how  
25 you would equip it.

1       A.   Yes, sir.

2       Q.   And since -- for purposes of our record,  
3   if we could read it on paper, what that is, is it looks  
4   like something about the size of a cigarette box,  
5   or something that's clipped to your front breast pocket.

6       A.   It's on a magnet, yes, sir.

7       Q.   Okay.   Which appears to be on your front breast  
8   pocket; is that right?

9       A.   Yes, sir.

10      Q.   It's got a lens pointing outward and is looking  
11   in the general direction that you look when you wear it;  
12   is that correct?

13      A.   Yes, sir.

14      Q.   The idea being that typically it records most,  
15   if not all, of what you see as you're out on a  
16   particular scene; is that right?

17      A.   Correct.

18      Q.   It doesn't run 24 -- eight hours.   It doesn't  
19   run the whole time of your encounter.   It's something  
20   you have to actually manually activate; is that correct?

21      A.   It stays running 24/7, but it does not record  
22   24/7.   It does have to be manually turned on to start  
23   recording, yes, sir.

24      Q.   And then likewise -- I assume you turn it off  
25   when you ---

1 A. Yes, sir.

2 Q. Okay. And you also referenced dash cam; is that  
3 right?

4 A. Meaning the car camera, yes, sir.

5 Q. Okay. In-car camera?

6 A. Same thing.

7 Q. Again, you educate me. And can you describe  
8 that for me, please?

9 A. That runs off the principal. It is -- when the  
10 car is turned on, that camera is always on, but it is  
11 not always recording. There are several different  
12 things that can activate the recording of it, whether  
13 it's blue lights, certain speed, collisions, things  
14 of that nature, or manual -- turning it on manually.

15 Q. Okay. Do you understand what are the purposes  
16 of these cameras?

17 A. To capture evidence leading up to an alleged  
18 crime; to capture anything that an officer is doing  
19 prior to a collision, and to capture any speeds over  
20 80 miles an hour.

21 Q. Okay. But there are other reasons you have this  
22 also. For example, it's not just used in an offensive  
23 -- I don't mean defensive, but I mean in a prosecutorial  
24 manner. It's also to protect you guys if you're accused  
25 of some sort of misconduct or improper exchange with

1 citizens at large, and your camera is running, you can  
2 certainly play that and show what actually happened;  
3 is that right?

4 A. Correct. Yes, sir.

5 Q. Okay. And it's also for whether in your own case  
6 or not, it's a matter of public policy for the defense  
7 of citizens. Maybe it's a constrain or a governor on  
8 some particular police officers, that is, that their  
9 behavior would be governed by being recorded, as opposed  
10 to just happening in the dark, so to speak. Do you  
11 understand my question?

12 A. Yes.

13 Q. Is that fair also?

14 A. Yes.

15 Q. Okay. And the dash cam, I think you said the  
16 blue lights come on, then it starts recording as well  
17 as other ways also?

18 A. Yes, sir.

19 Q. Okay. So you can hit it with your -- turn it on  
20 manually, or any one of those things that you described  
21 would cause it to begin recording?

22 A. Correct.

23 Q. Okay. To your knowledge, on this particular day,  
24 did that equipment appear to be functional and working,  
25 as far as you know?

1       A.   Yes, sir, it was.

2       Q.   Okay.  When you are on scene or on your radio  
3   exchanging communications with dispatch, or with your  
4   records department, etc, are there other records that  
5   are produced also, separate and apart from the  
6   recordings?

7       A.   As far as?

8       Q.   Well, are you familiar with what's called a CAD  
9   or a Cad?

10      A.   Yes.

11      Q.   Okay.  And can you tell us what that is?

12      A.   CAD notes are what a caller calls into dispatch.  
13   The CAD notes will get put into the computer system,  
14   and will then go from a call taker to the dispatcher  
15   who will then type it in to the officers who have those  
16   CAD notes.  Any information that the officer relays  
17   as well will be typed in.  Everything is time stamped  
18   whether it's -- any information that's coming across  
19   the radio should be stamped into the CAD notes.

20      Q.   Okay.  And so what dispatch says to an officer  
21   on scene is essentially transcribed, the conversation;  
22   is that right?

23      A.   Yes, sir, in their version of shorthand.  
24   Yes, sir.

25      Q.   Okay.  And what the officer says back is also;

1 is that right?

2 A. To an extent, yes, sir.

3 Q. Okay. Do you know if there's a voice recording  
4 also that is preserved of the radio transmissions  
5 themselves?

6 A. Should be. That would be under Consolidated  
7 Dispatch's policies and procedures. But in my  
8 experience in law enforcement, it has always been  
9 recorded, at least if it's on the main channel.

10 Q. Sure. A big hard drive or something,  
11 it's recorded?

12 A. Should be, yes, sir.

13 Q. Unless you have to go to 21 or something like  
14 that?

15 A. Right.

16 Q. Okay. Now have you reviewed the body cam video  
17 from the tape of this encounter in preparation for court  
18 today?

19 A. No, sir.

20 Q. Why would you not do that?

21 A. Because it has not been located.

22 Q. Well, what does that -- okay. The dash cam  
23 at least, have you ---

24 A. No, sir.

25 Q. And when you say it's not been located, is there

1 a system or protocol in place whereby these tapes  
2 are supposed to be preserved? Certainly, it's just  
3 not willy-nilly kind of stuff.

4 A. No, sir. At the end of every shift, you have  
5 to download your vehicle, you have to download your body  
6 camera. If there's an arrest -- I don't remember if it  
7 was at the time of this case, but at the end of every  
8 shift, if there's an arrest, there has to be a DVD made  
9 of any body camera or L3, the in-car camera footage,  
10 done. We do that and have always done that for all  
11 general sessions cases.

12 Q. I don't know what L3 is.

13 A. L3 is the in-car camera.

14 Q. Okay. So you're telling -- a shift like this,  
15 on this particular day, you came on eight or nine  
16 or something like that, in the morning?

17 A. Seven, yes, sir.

18 Q. You came on at seven, and you were going to go  
19 until three or four?

20 A. Five.

21 Q. Five, okay. Well, I will get one right sooner  
22 or later. You were going to go until five. And at  
23 the close of your shift, is it then your responsibility  
24 to preserve this video?

25 A. Yes.

1       Q.   Okay.  And tell me how you go about doing  
2   that just briefly, I mean, if you can.

3       A.   We have three bureaus; we have the north,  
4   south and central.  They all have external antennas.  
5   Any time a vehicle gets within a certain range of that,  
6   it automatically uploads it to the server.  The  
7   body-worn cameras have to be put into a cradle, and the  
8   cradle also serves as a charging station.  They have  
9   those at each bureau as well.  And they accommodate,  
10   I think, up to maybe 20 body cameras at a time.

11       Q.   Okay.  And you say it produces an actual disc?

12       A.   When you put it on there, it then uploads it to  
13   the body cam server, I guess for lack of a better term.  
14   And once it does that, it stores for 90 days.  It's the  
15   officer's -- it's then the officer's responsibility  
16   to log it into evidence.

17               And once you do that -- and you do that through  
18   the computer.  You just go in and you put in the  
19   computer that the body-worn camera was there.  You open  
20   it up in the computer, you view it, and make sure  
21   everything is there.  Then you attach a case number to  
22   it.  Once you do that, it electronically sends a message  
23   down to the evidence locker, and it burns a disc down  
24   there.

25       Q.   Okay.  And I realize you're not an evidence



1 technician -- excuse me -- an evidence custodian.

2 A. Correct.

3 Q. But this is not your first time testifying in  
4 either court of general sessions or municipal magistrate  
5 court; is that right?

6 A. Yes, sir.

7 Q. In the past, you've been able to acquire these  
8 videos if you needed them for prosecution purposes ---

9 A. Yes, sir.

10 Q. --- have you not?

11 A. Yes.

12 Q. So you understand the process as far as going  
13 about getting them and how to retrieve them?

14 A. Yes.

15 Q. Did you follow the procedure in this case?

16 A. Yes.

17 Q. Did you take your body cam video, put it  
18 on the recording device, such as you've described,  
19 and go through the steps to produce the DVD?

20 A. Yes.

21 Q. Okay. And do you know, of your own knowledge,  
22 what evidence of that it produces? Is there a chain  
23 it produces, a sheet it spits out, something that logs  
24 -- you log in when you log in, and someone comes behind  
25 you and sees what happened?

1       A.   Yes.

2       Q.   Okay.  And for whatever reason -- as far as you  
3 know, North Charleston Police Department can't produce  
4 this tape of this stop; is that correct?

5       A.   From the people that would be involved in the  
6 chain of custody that -- not the chain of custody --  
7 in the chain of command that handled that, I'm being  
8 told there is no video period in relation to this case,  
9 whether it's my vehicle or other officers' vehicles  
10 or body cameras.  They cannot find anything.

11      Q.   Okay.  When you were out on the scene that  
12 evening, other officers responded?

13      A.   Yes.

14      Q.   And about how -- you mentioned an off-duty guy  
15 that stopped.  He would not have been equipped with  
16 a body cam if he was off duty, would he?

17      A.   He was off duty -- he was not a dayshift officer,  
18 but he was in uniform.  And, to my knowledge, he had  
19 a body camera on.

20      Q.   Okay.  And what's his name?  If you don't know,  
21 that's fine.  It's in the report.

22      A.   I believe it's Cooper.  I believe it's Officer  
23 Cooper.

24      Q.   And did other officers respond to the scene  
25 itself?

1       A.   To the traffic stop scene?

2       Q.   Yeah, to the scene of the traffic stop.

3       A.   I know for a fact one did, one patrol officer,  
4   and then detectives responded out there as well.

5       Q.   Okay. And the patrol officer, he was similarly  
6   equipped as far as you know?

7       A.   She was, yes, sir.

8       Q.   What you've described is it's just equipment,  
9   standard operating procedure?

10      A.   Correct. Yes, sir.

11      Q.   Your detectives do not wear body cameras,  
12   or do they?

13      A.   They have them, and I'm not sure what their  
14   policy is on wearing them. I don't -- I can't say  
15   that they did or did not have them on that day.

16      Q.   It may be for interview purposes, they turn them  
17   on. It may be other times they don't. You're just not  
18   aware of that?

19      A.   Yes, sir.

20      Q.   Okay. Now, did you have conversations or talk  
21   at all with Officer Cooper and the other patrol officer  
22   who responded on the scene that evening -- that morning?  
23   Excuse me.

24      A.   I don't remember having a lot of conversation  
25   with Officer Cooper when Officer Ruch got there.

1 We placed one of the people -- I think it was one of the  
2 people in her car and one of the subjects in mine just  
3 so Officer Cooper could go about and finish his day,  
4 whatever it was he was doing. She did have her body  
5 camera on as well.

6 Q. Okay. And, well, I guess some of my concerns  
7 could be cleared up with the body cam. So Officer  
8 Cooper and Officer Ruch, since they were both similarly  
9 equipped and on scene of arrest, they would have --  
10 general protocol would be to hit the button and record,  
11 correct?

12 A. Correct. Yes, sir.

13 Q. Okay. Have you attempted to track those videos  
14 down?

15 A. All those videos would go -- everything goes  
16 under the same case number. So once they get  
17 downloaded, and you go into the particular computer  
18 system to set up for it, you type in the case number,  
19 and it will narrate all the videos together, if that  
20 makes sense.

21 Q. I understand. But is there not a record that  
22 would show if Officer Cooper logged in that day after  
23 that shift, or if Officer Ruch logged in that day after  
24 that shift, or that someone else actually logged in and  
25 created this?

1 A. It should, yes, sir.

2 Q. Okay. And you don't have any reason to doubt  
3 the accuracy or the efficacy, I mean, other than  
4 the fact that you say you can't produce these things?  
5 As far as you know, it's worked in the past?

6 A. Always, yes, sir.

7 Q. Okay. Now on this particular occasion,  
8 you say that it was in the morning, I take it ---

9 A. A little bit before lunchtime, 10:50, something  
10 like that.

11 Q. Approaching eleven o'clock; is that right?

12 A. Yes, sir.

13 Q. The weather was clear?

14 A. Yes, sir.

15 Q. I mean, we've got the pictures. It looks like  
16 a nice enough day; is that right?

17 A. Correct.

18 Q. And you were just essentially on I assume what  
19 we would call routine patrol; is that right?

20 A. Yes, sir. We're assigned to different areas,  
21 just increased response times.

22 Q. Okay. So you drive around and see what you see,  
23 and if you get a call you respond to it; is that right?

24 A. Yes.

25 Q. Okay. And you got a call. As best you can

1     remember, what was the initial call that you received?

2         A.   I think that I looked at the CAD notes, in-car  
3     camera before I was even dispatched to it, and I started  
4     in that direction.  And the notes were essentially  
5     saying that there was a Black male wearing a camouflaged  
6     top, grey pants, and shoes with red bottoms, acting  
7     suspiciously in the neighborhood.

8         Q.   Okay.  So at that point in time, did you respond,  
9     driving, like, to the neighborhood?

10        A.   I was not far from the entrance to the  
11   neighborhood when I came out.  I think I was roughly  
12   around the intersection of Ashley Phosphate and  
13   Dorchester, which is about a mile from the entrance  
14   into the Whitehall neighborhood.

15        Q.   You responded in that general direction?

16        A.   Yes.

17        Q.   You got a call.  You said, okay, I'm on it  
18   or something like that; is that correct?

19        A.   Correct.

20        Q.   Okay.  And did further information come in  
21   as you headed toward that section of that neighborhood?

22        A.   Yes, sir.  The caller stated that the subject ---

23        Q.   Now -- I'm sorry.  I apologize for interrupting  
24   you.

25        A.   Okay.

1       Q. But the information, you're saying the caller  
2       stated this, the caller stated that. This is the  
3       information you're receiving through dispatch?

4       A. Yes.

5       Q. Dispatch is saying here is what the caller says.  
6       You weren't patched through or anything; is that  
7       correct?

8       A. Correct.

9       Q. Okay. I'm interested in the information you got,  
10      so please proceed.

11      A. Okay. The information I got was the subject was  
12      seen walking around in the neighborhood empty handed.  
13      Are they at the scene? And the notes came up and said  
14      the subject was seen walking around empty handed about  
15      30 minutes before.

16             He was seen a few minutes later placing a bag.  
17      It looked like it was black and white, or blue and white  
18      stripped bag, behind a residence. About the time that  
19      I turned into the neighborhood, it said that he had  
20      retrieved the bag and was being picked up by a silver  
21      sedan.

22      Q. Okay. And I have -- excuse me one second.  
23      I have -- it's not really signed, but I think it's your  
24      report. It says "additional narrative." Is this the  
25      report that you produced?

1                   MR. LOY: May I approach the witness,  
2 Your Honor?

3                   THE COURT: You may.

4                   THE WITNESS: Yes, sir, that's mine.

5 BY MR. LOY:

6           Q. Do you have a copy of it with you?

7           A. I do.

8           Q. Okay. And you state that -- in your narrative,  
9 a concerned citizen advised he'd been walking through  
10 the neighborhood empty handed. He saw him about  
11 30 minutes later placing a black and white stripped  
12 flat-bottomed bag and placing it behind the house,  
13 and that later he retrieved that bag and was picked  
14 up by a car; is that right?

15          A. Yes, sir.

16          Q. And you specifically noticed a black and white  
17 stripped bag, and that actually matches up with the  
18 one that you discovered in the automobile you stopped;  
19 is that right?

20          A. Yes, sir.

21          Q. Okay. And that's reflected down here where you  
22 say he had a blue and white stripped flat-bottomed bag  
23 between his legs and the floorboard; is that correct?

24          A. Yes, sir.

25          Q. Okay. So at this point in time, what you've



1 heard is there was a guy in the neighborhood, in the  
2 broad daylight, who was seen without anything in his  
3 hands, and some time later a car came to pick him up,  
4 and he picked up a bag that he placed behind a home  
5 and went and got in the car, and they drove away;  
6 is that right?

7 A. That's the information provided, yes, sir.

8 Q. Okay. Now, you didn't have any information  
9 of shots fired or anything like that?

10 A. No, sir.

11 Q. No indication anyone was in trouble or in danger;  
12 is that right?

13 A. Correct.

14 Q. Okay. No burglar alarms going off, nothing like  
15 that ---

16 A. Correct.

17 Q. --- is that right? And it's -- like I said,  
18 it's daylight. It's certainly not anything where  
19 someone is skulking around at two in the morning,  
20 cameras going off, or anything like that. It's broad  
21 daylight?

22 A. Yes, sir.

23 Q. And this person -- a car came in, as far as  
24 you know, abiding by all the traffic signals, doing  
25 everything correct, slowed down, picked the gentleman

1 up and was there on scene, he got in the car and drove  
2 away?

3 A. Correct.

4 Q. And that's pretty much everything you had;  
5 is that right?

6 A. Yes.

7 Q. Okay. Now, do you have -- you said you reviewed  
8 the CAD notes. What does that stand for again?

9 A. It's some type of computer-automated dispatch,  
10 I believe.

11 Q. Okay. That fits anyway. Thank you. Do you have  
12 a copy of those with you?

13 A. I do.

14 Q. Would you look at them with me, please.

15 A. I did. They're on the table behind you.

16 Q. I'm sorry.

17 A. That's okay.

18 MR. LOY: May I approach, Your Honor?

19 THE COURT: Yes, sir.

20 THE WITNESS: Thank you.

21 BY MR. LOY:

22 Q. And you have those in front of you now?

23 A. Yes, I do.

24 Q. They're numbered down at the bottom, on the  
25 bottom right-hand corner. I'm looking at Page 3 of 13.

1       A.   Yes, sir.

2       Q.   Okay.  And it looks like 11:48 DTM, whatever that  
3   is.  You've got -- and I assume this is -- the caps  
4   is someone talking to you, or information that's coming  
5   to you; is that correct?

6       A.   You're talking about the capital ---

7       Q.   The capital letters, yes.

8       A.   I'm not sure.

9       Q.   Well, when we look at Line No. 6 at 11:48,  
10   and it says, thinks suspect -- thinks S-U-S-P, suspect,  
11   put a duffel bag behind a privacy fence.  Do you see  
12   that?

13      A.   Yes, sir.

14      Q.   That's information someone is giving you;  
15   is that correct?

16      A.   That's going to -- that's being put into  
17   the system.  I don't remember if that actually came  
18   on the radio, or if that just came onto the computer  
19   screen I was looking at.

20      Q.   Okay.  Well, what did come over the radio would  
21   be on the CAD notes; is that right?  Isn't that what  
22   you testified to earlier?

23      A.   Yes, sir.  There's some stuff that they  
24   don't always put in there.  But, for the most part,  
25   this is everything that the officer says, and what

1 the dispatcher says.

2 Q. Pretty much transcribes what everybody says, yes?

3 A. Right.

4 Q. Well, what I'm looking at is the part where it  
5 says he put a duffel bag behind the fence. You see  
6 that, right?

7 A. Yes, sir.

8 Q. And then we go down a little further, and we  
9 see the part about no weapons involved, et cetera.  
10 And then it says the person is suspicious because,  
11 and it says he was walking around.

12 One, the person is suspicious because he was  
13 walking around the area. Those two reasons, right?  
14 I mean, I'm looking at it. The person is suspicious  
15 because, colon, male walking around the area. That's  
16 one of the reasons he's suspicious; is that right?

17 A. If that's what it says, yes.

18 Q. Okay. And, two, saw him stash a duffel bag,  
19 correct?

20 A. Yes.

21 Q. Okay. Now, in your report you stated a concerned  
22 citizen advised he's been walking through the  
23 neighborhood empty handed. He saw him later placing  
24 a black and white stripped flat-bottomed bag. You make  
25 a point of that; is that correct?

1 A. Yes.

2 Q. That's not the information you received though,  
3 is it?

4 A. Initially, the first one did say duffel bag.  
5 But as far as black and white stripped bag, no, sir,  
6 I don't see that in the line we're talking about.

7 Q. No, they said duffel bag.

8 A. Yes.

9 Q. And later they repeated duffel bag; is that  
10 correct?

11 A. It is, yes, sir.

12 Q. Okay. Well, you've reviewed it. And, I mean,  
13 if there's somewhere else in these notes -- if you say  
14 it's pretty much a verbatim representation of the  
15 conversation between you and the dispatch, if there's  
16 somewhere else that it says this bag, this blue and  
17 white, other than you maybe saying it after having  
18 discovered it in the car, you could point that out  
19 to me.

20 A. I don't see it in this initial report.

21 Q. Okay. In the CAD report?

22 A. Yes, sir.

23 Q. Okay. But after the arrest, after the situation  
24 had transpired, when you prepared your notes, what you  
25 said was I already knew that he had this person who left

1 with this bag, and it was corroborated when I made  
2 the stop, essentially; is that correct?

3 A. Can you rephrase that?

4 Q. No, I won't. I'm sorry. I'll just withdraw it.  
5 I think it speaks for itself.

6 A. Okay.

7 Q. This is your report, correct?

8 A. Yes.

9 Q. Okay. And you don't deny the accuracy of the  
10 CAD. You say basically it's a transcription of what  
11 takes place between the two of you?

12 A. Correct.

13 Q. Okay. So at this point -- I'm sorry. I'm going  
14 to ask you another question. Your calls are listed by  
15 priority on occasion; is that right? You have a low  
16 priority, a high priority, that sort of thing?

17 A. They're just put into the computer as they come  
18 in.

19 Q. Okay. So if one says priority or whatever,  
20 that doesn't mean it's more or less an emergency  
21 than another; is that right?

22 A. It ---

23 Q. On the front page -- I apologize. On the front  
24 page where it says incident detail report. The third  
25 line on the left where it says priority, LP3. That

1 doesn't mean low priority?

2 A. I have no idea what that is.

3 Q. You see where it says priority and LP3 Charlie,  
4 but you have no idea what that means; is that right?

5 A. Correct.

6 Q. Okay. So you have heard that there was, A,  
7 a male walking around the neighborhood, and, B, someone  
8 picked him up, and apparently, he had a duffel bag with  
9 him?

10 A. Correct.

11 Q. And that's all the information -- I realize later  
12 it was described as a silver sedan. But as far as  
13 anything suspicious going on, any reason why you reach  
14 out your hand and interfere with the citizens of North  
15 Charleston, that's what you had at this point when  
16 you effected the stop; is that right?

17 A. The area that we were in was known for daytime  
18 burglaries. Most of our burglaries are daytime.  
19 And a lot of times if you get someone that people in the  
20 neighborhood don't recognize, they will call them in as  
21 suspicious. Some people are minding their own business;  
22 some people are engaged in criminal activities.

23 Q. Okay. Separate and apart from what you believe  
24 about the neighborhood, my question is as it relates  
25 to this specific incident, someone called in and said,

1    hey, there was a guy, and a guy picked him up.

2    That's essentially it, yes?

3        A.    Yes, after he had put a bag in someone else's  
4    backyard.

5        Q.    Well, in someone's yard.

6        A.    Correct.

7        Q.    All right. And as far as that goes, I mean,  
8    in it of itself, that doesn't mean this guy is a  
9    contractor or a visitor or a surveyor, any number  
10   of reasons he might be there picking up a bag and have  
11   his friend pick him up, separate and apart from criminal  
12   activity. You would agree with that, wouldn't you?

13       A.    Unlikely, but it could be, yes, sir.

14       Q.    You find it unlikely that if a person called for  
15   a ride, and their friend came and got him, they would  
16   pick up their tool bag and go get in the car or their  
17   other supplies. Regardless, it speaks for itself, okay.  
18   What you've had was what we've talked about?

19       A.    Yes, sir.

20       Q.    And then you saw this car; is that right?

21       A.    Yes, sir.

22       Q.    And as far as you could tell, there was nothing  
23   innately illegal about the car itself, that is, it  
24   appeared it had paper tags, but they were up to date,  
25   no equipment violations. If it were not for the report,



1 it wouldn't have attracted your attention at all;  
2 is that correct?

3 A. Correct.

4 Q. Okay. And even after you saw this car, and you  
5 put your blue light on or whatever, there was nothing  
6 else at that -- they didn't try to run?

7 A. When I passed the car on Stone Bridge, I had  
8 to turn around, and that car had expedited its way out  
9 of the neighborhood. And it took me until Dorchester  
10 Road to catch up to them. They did not attempt to run  
11 once I turned on the blue lights. But in order for them  
12 to get the distance from where I turned around on them  
13 to Dorchester Road, they were exceeding the speed limit.

14 Q. And that's reflected in your notes where?

15 A. It's not.

16 Q. No, it's not. So you turned it around. At that  
17 point, when you turned around, you hadn't witnessed any  
18 traffic violation; is that correct?

19 A. Correct.

20 Q. Okay. You're telling us today ---

21 A. Aside from the -- they couldn't have made it  
22 from point A to point B. It would have been a physical  
23 impossibility following the speed limit.

24 Q. Okay. And if we had your dash cam, we could  
25 pretty much confirm how far it was and where they went?

1       A.   Yes, sir, that's a fact.

2       Q.   Okay.  Regardless, you didn't write anybody  
3 a ticket for speeding, did you?

4       A.   No, sir.

5       Q.   You didn't write anybody a ticket for a traffic  
6 violation whatsoever, did you?

7       A.   No, sir.

8       Q.   You didn't stop this car for a traffic violation,  
9 did you?

10      A.   No, sir.

11      Q.   You stopped this car for what you would term  
12 as reasonable suspicion that criminal activity was  
13 afoot; is that correct?

14      A.   Yes, sir.

15      Q.   Okay.  And then you approached the vehicle,  
16 and you said overwhelming odor of marijuana?

17      A.   Correct.

18      Q.   And you looked, and you saw a bag over there  
19 under the passenger seat, under his feet, is that  
20 correct, or under his knees?

21      A.   Yes, I was looking at all of it at the same time;  
22 the driver, the overwhelming smell of marijuana, what's  
23 next to him, the passenger is wearing the same outfit  
24 described by the complainant and the bag.

25      Q.   But you didn't -- now, there are times as

1 a police officer you have conducted a search based  
2 on I smell marijuana; is that right?

3 A. Yes.

4 Q. But you didn't do that in this case, did you?

5 A. I was going to, but the driver refused to exit  
6 the vehicle, and so then I was waiting on additional  
7 officers to get there.

8 Q. Okay. But you didn't search this car based  
9 on I smell marijuana, am I correct?

10 A. No.

11 Q. Okay. And, as a matter of fact, despite your  
12 representation of this overwhelming smell of marijuana,  
13 you didn't discover any marijuana at all, did you?

14 A. I'm not sure if there was any roaches in  
15 the ashtray or not. I don't recall.

16 Q. Would you like a chance to review your notes  
17 to see whether or not any marijuana was recovered,  
18 if it's reflected there?

19 A. No, sir, I wasn't interested in marijuana.

20 Q. So we'll concede for our purposes, it wasn't  
21 there. As far as you know, it wasn't there today?

22 A. Okay.

23 Q. Okay. So -- but did you then attempt to use that  
24 what you purported to smell in an effort to gain access  
25 to the inside of the vehicle, that is, I smell

1 marijuana, do you mind if I look in the car?

2 A. That was going to be my initial approach,  
3 yes, sir.

4 Q. Okay. But it didn't work. I mean, you did not  
5 obtain consent to look in the car; is that right?

6 A. Correct. He refused to exit the vehicle.

7 Q. And then another officer arrived on the scene;  
8 is that right?

9 A. Yes.

10 Q. And the two of y'all talked about the situation  
11 or discussed it behind the car and left these guys  
12 in the car; is that right?

13 A. I don't know that I left the driver's side  
14 of the vehicle.

15 Q. Well, you had obtained the driver's licenses  
16 from both occupants of the car, had you not?

17 A. Yes, sir.

18 Q. And when you obtained the driver's licenses,  
19 what was the purpose of that?

20 A. To identify the people to see who they are,  
21 to see if everything is okay with their driver's  
22 licenses.

23 Q. Okay. And the passenger, just to identify him  
24 and see if ---

25 A. Yes.

1 Q. Okay. And you do that by leaving the driver's  
2 side window and going to your car and either putting  
3 it on the computer or radioing it in or something like  
4 that?

5 A. Radio it in right there standing next to him.

6 Q. Okay. And is that what you did in this case?

7 A. As far as I recall, yes, sir.

8 Q. Okay. And your body cam was activated at this  
9 point; is that right?

10 A. Yes, sir.

11 Q. So there should have been two recordings,  
12 both of the radio, the one you believe is always  
13 recording, based on your 16 years of law enforcement,  
14 the transmission back and forth, as well as your own  
15 body cam; is that right?

16 A. Yes.

17 Q. As well as body cam of the other officers  
18 that had arrived?

19 A. Yes.

20 Q. Okay. Now, eventually, you came back to the car,  
21 and you told the driver, whoops, your license is  
22 suspended; is that right?

23 A. Yes.

24 Q. Now, it turned out his license is not suspended?

25 A. Correct.

1 Q. Okay. But someone from dispatch telling you  
2 this was recorded on the body cam that we don't have?

3 A. Yes, sir.

4 Q. Okay. So based on that, you came back to  
5 the car, and said, well, forget about the marijuana,  
6 you're under suspension. Now, I'm taking you out  
7 of the vehicle; is that correct?

8 A. Yes.

9 Q. Okay. And at that point, that's what you did.  
10 You took him out of the vehicle, correct?

11 A. Yes, sir.

12 Q. Okay. Now, at this point, you still have the  
13 exact same information that you had before, that a guy  
14 had been walking through the neighborhood. You claim  
15 that, at least in your report, that it had been reported  
16 a bag, like the one that was under the passenger's  
17 knees, was seen in his suspicious circumstance,  
18 although, looking at the CAD report, you could see  
19 that's not what was actually told to you. You still  
20 don't have evidence or information this relates to  
21 a burglary, no?

22 A. No, sir.

23 Q. Or an armed robbery or any criminal activity  
24 whatsoever other than the DUS; is that right?

25 A. Yes, sir, and the discrepancies in the story

1     that your client had given me.

2         Q.   He didn't tell you he committed a crime, did he?

3         A.   No, sir.   When I ---

4         Q.   He said -- I'm sorry.   Please proceed.   I didn't  
5     mean to interrupt you.

6         A.   That's okay.   When I asked him what he had in his  
7     bag, because I could clearly see that it was electronics  
8     on boxes, he looked at me, and he said, it was dirty  
9     clothes.

10        Q.   Okay.   Not evidence of a crime.   It could be  
11   dirty clothes, wherein then he threw his boxes on top,  
12   or he had his gismo game toys or whatever in there.  
13   It could have been his dirty clothes were in there  
14   as far as you know; is that correct?

15        A.   That's possible, yes, sir.

16        Q.   Okay.   Sure.   So as far as evidence of a crime,  
17   you took the driver out, and you told him you're under  
18   arrest for driving under suspension ---

19        A.   Correct.

20        Q.   --- based on what my dispatch just told me?

21        A.   Yes.

22        Q.   Okay.   And -- excuse me one moment.   And then  
23   you decided, or someone decided, to remove the passenger  
24   from the vehicle also; is that right?

25        A.   Yes.

1       Q. Now, at this point, like I said, you had a guy  
2 under arrest for DUS, and you had the suspicious  
3 activity of someone being in the neighborhood  
4 and leaving with a bag of some type, yes?

5       A. Yes.

6       Q. Okay. And he got out of the vehicle. And at  
7 that point, as he's exiting the vehicle, you stated  
8 today that you could see a gun?

9       A. When he exited -- prior to him exiting  
10 the vehicle, he took off the camouflaged jacket.  
11 And I think he -- I can't say what his motives were.  
12 But he set the jacket in the area of the top of the bag.  
13 When he exited the vehicle, there was a gun in plain  
14 view on top of everything else.

15       Q. And being the diligent officer you were at that  
16 point in time, you recorded that for courtroom purposes,  
17 leaned over, pointed the camera at it or whatever,  
18 and removed it from the vehicle; is that right?

19       A. Yes.

20       Q. Did that before you ever touched it so you would  
21 be able to come to court and say, you see what I saw;  
22 is that right?

23       A. Yes.

24       Q. Okay. And at that point, you commenced a search  
25 of the vehicle itself; is that right?



1       A.   Yes.

2       Q.   Okay.  Would -- the point where you received  
3   the information, erroneous though it was, that the  
4   driver of this vehicle license was under suspension,  
5   would that be in this CAD report?

6       A.   No, sir, that's on a different channel.  
7   That is through the records department.  I don't know  
8   how to go about obtaining copies of anything from  
9   records.  But it would have been recorded over the  
10  dispatch lines.

11      Q.   All those things we don't have?

12      A.   No, sir, that's not what I'm talking about.  
13  I'm talking about the actual dispatch, the radio  
14  recordings.  I don't know -- I don't work for  
15  Consolidated Dispatch.  I don't know how long they  
16  keep those.  But anything would have been recorded,  
17  any transmissions would have been recorded over the  
18  radio.

19      Q.   Okay.  Regardless, you have not heard that  
20  or aware if that's something that can be produced  
21  here today; is that correct?

22      A.   It's not been brought up.  So, no sir,  
23  I don't know.

24      Q.   Thank you very much.

25               MR. LOY:  May I have just one moment,

1 Your Honor?

2 THE COURT: Yes, sir.

3 (Pause.)

4 MR. LOY: Thank you, Your Honor. I have  
5 no more questions for this witness at this time.

6 THE COURT: Any redirect?

7 MR. SORENSON: Just real briefly.

8 REDIRECT EXAMINATION

9 BY MR. SORENSON:

10 Q. Officer Jenkins, you had an opportunity to  
11 go back and attempt to find out, to look into whether  
12 any of the body cams, in the car, from not only you,  
13 but also any of the other officers that were involved  
14 in this?

15 A. Yes, sir.

16 Q. You've been able to determine what happened  
17 to all those?

18 A. I have sent out two requests to the sergeant  
19 that is in charge of that. And I have received no  
20 answer on the e-mail. When I questioned him about  
21 the e-mail several weeks later, he told me that  
22 he had forgotten about it and asked me to text him  
23 the case number.

24 I did that, and I still have not heard anything  
25 because there's only certain people within our

1 department who have the authority to go in and  
2 essentially research anything dealing with body camera  
3 and car camera. He's one -- he would be the only one  
4 that I can go to on my level.

5 Q. You're aware, through our conversations,  
6 that's something we've attempted to do months prior  
7 to this?

8 A. Very much so, yes, sir.

9 Q. Okay. And you had testified earlier just briefly  
10 about the CAD report. That is kind of a brief, kind of  
11 synopsis of the dispatch putting stuff in that report,  
12 right, that CAD report?

13 A. Yes.

14 Q. And that's not a word for word everything ---

15 MR. LOY: Objection, Your Honor, leading.

16 MR. SORENSON: Describe it.

17 THE COURT: Can you describe it? What is  
18 it?

19 THE WITNESS: Dispatch will give --  
20 when it's coming in from the call taker, the call taker  
21 types it in. It then goes to the officer's computer.  
22 It does that before it even goes to dispatch. There's  
23 a disconnect. There's a little bit of a backward  
24 system. So the call taker is typing it in.

25 And then sometimes it will feed information

1 to dispatch; sometimes it all comes straight to us.  
2 And then whatever we put in the system, I can go and  
3 give a sentence to the dispatcher. The dispatcher,  
4 depending on what that sentence is, might put it word  
5 for word. They might just put it in their version  
6 of shorthand.

7 BY MR. SORENSON:

8 Q. I guess my question is what's in the CAD report,  
9 is that word for word ---

10 A. No.

11 Q. --- everything?

12 A. No, sir.

13 Q. The 911 caller and then also your communication  
14 with the dispatch?

15 A. No, sir, it's not verbatim word for word.

16 Q. It's your testimony that -- were you aware when  
17 you stopped this vehicle the description of the bag that  
18 was supposedly used?

19 A. Yes.

20 Q. In fact, in your report you indicate that it was  
21 a -- let me make sure I got this right here -- a white  
22 and black stripped bag, I believe?

23 A. Yes, sir.

24 Q. In fact, when you described it, it's actually  
25 a blue and white stripped, and you described that later

1 on; is that correct?

2 A. Yes, sir.

3 MR. SORENSON: That's all I have,  
4 Your Honor.

5 MR. LOY: Your Honor.

6 THE COURT: You may.

7 RECROSS EXAMINATION

8 BY MR. LOY:

9 Q. Do you recall a few moments ago telling me  
10 that basically what dispatch says to you, as reflected  
11 in the CAD report, is pretty much a word-for-word  
12 transcription?

13 A. They're letting us know what they are being told.

14 Q. Right. And so the print copy, what we're looking  
15 at and reading here today, is the information that you  
16 received simultaneously with them sending it out?

17 A. They don't do it word for word. So if they're  
18 saying there is a person in an area, they might not  
19 give all the details. They try to, but they might  
20 not give all the details that the call taker -- what  
21 the caller gave them.

22 Q. The two spots on the -- do you get a print?  
23 I mean, you said it comes out to you. Do you get  
24 a lot of time readout from the CAD report?

25 A. Yes, sir.

1       Q.   Okay.  So then the CAD report, it says exactly  
2   what you saw and what they sent you, and what it said  
3   was a duffel bag on two occasions; is that right?

4       A.   That's what's being printed in there.  As far  
5   as the radio recording ---

6       Q.   As far as what's being printed, you've got it  
7   in front of you, and it says it two different times,  
8   and that is a word-for-word transcription of what you  
9   received on scene, duffel bag two times, correct?

10      A.   Yes.

11      Q.   Thank you.

12               THE COURT:  You may step down, Officer.  
13   Thank you.  It is my understanding that the next witness  
14   was told to be here at nine o'clock in the morning.

15               MR. LOY:  That's correct, Your Honor.

16               THE COURT:  So we'll reconvene at nine  
17   to finish the testimony.

18               MR. LOY:  Thank you, Your Honor.

19                       (End of Transcript of Record)

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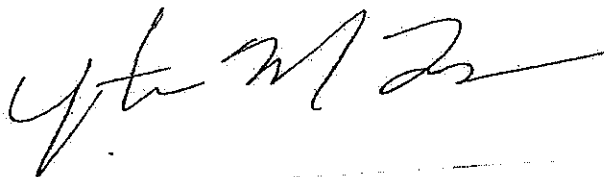
CERTIFICATE OF REPORTER

State of South Carolina                    )  
County of Dorchester                    )

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Circuit Court for Dorchester County, South Carolina, on the 12th of November, 2019.

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

July 21, 2020



Yvestre Torres

Circuit Court Reporter

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF DORCHESTER

2018-GS-18-02104

2018-GS-18-02106

State of South Carolina )

) TRANSCRIPT OF RECORD

-vs- )

) November 13, 2019-Vol. 2 of 2

Daniel Lawrence )

) St. George, South Carolina

B E F O R E:

The Honorable Maite Murphy, Judge

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

Donald Sorenson, Esquire  
 George Smythe, Esquire  
 Attorneys for the State

John Loy, Esquire  
 Attorney for the Defendant

Reported By:

Yvestre Torres, OCR  
 Circuit Court Reporter for the  
 First Judicial Circuit



## EXHIBITS

| <u>NO</u> | <u>DESCRIPTION</u> | <u>ID</u> | <u>EVIDENCE</u> |
|-----------|--------------------|-----------|-----------------|
|-----------|--------------------|-----------|-----------------|

|     |     |  |     |
|-----|-----|--|-----|
| S-1 | Map |  | 131 |
|-----|-----|--|-----|

|     |        |  |     |
|-----|--------|--|-----|
| S-2 | Photos |  | 151 |
|-----|--------|--|-----|

|     |        |  |     |
|-----|--------|--|-----|
| S-3 | Photos |  | 151 |
|-----|--------|--|-----|

|     |        |  |     |
|-----|--------|--|-----|
| S-4 | Photos |  | 151 |
|-----|--------|--|-----|

|     |        |  |     |
|-----|--------|--|-----|
| S-5 | Photos |  | 151 |
|-----|--------|--|-----|

|     |        |  |     |
|-----|--------|--|-----|
| S-6 | Photos |  | 151 |
|-----|--------|--|-----|

|     |        |  |     |
|-----|--------|--|-----|
| S-7 | Photos |  | 158 |
|-----|--------|--|-----|

|     |        |  |     |
|-----|--------|--|-----|
| S-8 | Photos |  | 171 |
|-----|--------|--|-----|

|     |        |  |     |
|-----|--------|--|-----|
| S-9 | Photos |  | 171 |
|-----|--------|--|-----|

|      |        |  |     |
|------|--------|--|-----|
| S-10 | Photos |  | 171 |
|------|--------|--|-----|

|      |        |  |     |
|------|--------|--|-----|
| S-11 | Photos |  | 171 |
|------|--------|--|-----|

|      |        |  |     |
|------|--------|--|-----|
| S-12 | Photos |  | 171 |
|------|--------|--|-----|

|      |        |  |     |
|------|--------|--|-----|
| S-13 | Photos |  | 171 |
|------|--------|--|-----|

|      |        |     |     |
|------|--------|-----|-----|
| S-14 | Photos | 178 | 179 |
|------|--------|-----|-----|

|      |        |     |     |
|------|--------|-----|-----|
| S-15 | Photos | 199 | 200 |
|------|--------|-----|-----|

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## INDEX

| <u>WITNESS</u> | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
|----------------|---------------|--------------|-----------------|----------------|
|----------------|---------------|--------------|-----------------|----------------|

Sergeant Joshua Rank

Mr. Loy 58

Mr. Sorenson 76

| <u>OPENING STATEMENTS</u> | <u>PAGE</u> |
|---------------------------|-------------|
|---------------------------|-------------|

Mr. Smythe 121

Mr. Loy 124

| <u>WITNESS</u> | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
|----------------|---------------|--------------|-----------------|----------------|
|----------------|---------------|--------------|-----------------|----------------|

Kim LaPointe Donoghue

Mr. Smythe 130

Officer Hampton Jenkins

Mr. Sorenson 141

Mr. Loy 158

Officer Louis Smoak

Mr. Sorenson 167

Mr. Loy 174

|    |                          |               |              |                 |                |
|----|--------------------------|---------------|--------------|-----------------|----------------|
| 1  | <u>WITNESS</u>           | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
| 2  | Jackie Ong               |               |              |                 |                |
| 3  | Mr. Smythe               | 176           |              |                 |                |
| 4  | Mr. Loy                  |               | 180          |                 |                |
| 5  | Mr. Smythe               |               |              | 188             |                |
| 6  |                          |               |              |                 |                |
| 7  | Anita Moore              |               |              |                 |                |
| 8  | Mr. Smythe               | 195           |              |                 |                |
| 9  | Mr. Loy                  |               | 202          |                 |                |
| 10 |                          |               |              |                 |                |
| 11 | Jerome Browne            |               |              |                 |                |
| 12 | Mr. Sorenson             | 204           |              |                 |                |
| 13 |                          |               |              |                 |                |
| 14 | Tonda Westbury           |               |              |                 |                |
| 15 | Mr. Sorenson             | 211           |              |                 |                |
| 16 |                          |               |              |                 |                |
| 17 | <u>CLOSING ARGUMENTS</u> |               | <u>PAGE</u>  |                 |                |
| 18 | Mr. Sorenson             |               | 222          |                 |                |
| 19 | Mr. Loy                  |               | 234          |                 |                |
| 20 |                          |               |              |                 |                |
| 21 |                          |               |              |                 |                |
| 22 |                          |               |              |                 |                |
| 23 |                          |               |              |                 |                |
| 24 |                          |               |              |                 |                |
| 25 |                          |               |              |                 |                |

1 THE COURT: Good morning, everyone.  
2 Please have a seat. Ready to proceed with the next  
3 witness.

4 MR. SORENSON: Yes, Your Honor.

5 THE COURT: All right. You may call  
6 your next witness.

7 MR. LOY: Your Honor, I believe that's all  
8 the witnesses the State is going to call. It's my  
9 motion, I will call the next witness. May it please  
10 the Court.

11 THE COURT: Yes, sir.

12 MR. LOY: I will call Sergeant Rank from  
13 the North Charleston Police Department.

14 SERGEANT JOSHUA RANK, was called as  
15 a witness, being duly sworn, was examined and testified  
16 as follows:

17 THE COURT: Your witness.

18 MR. LOY: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. LOY:

21 Q. You are Sergeant Rank with the North Charleston  
22 Police Department, sir?

23 A. Yes, sir.

24 Q. And how long have you been with the North  
25 Charleston Police Department?

1       A.   Fourteen years.

2       Q.   For 14 years.  And how are you currently  
3 employed?  I mean, I know you're with North Charleston,  
4 but what are your duties?

5       A.   My title is technology coordinator, meaning,  
6 I manage all the technology for the department;  
7 body-worn cameras, in-car cameras, computers for cars,  
8 in-car equipment, anything that has any kind of  
9 computing power is what I deal with.

10      Q.   Okay.  And there's quite a bit of that within  
11 the North Charleston computing power, I suspect ---

12      A.   Correct.

13      Q.   --- within the North Charleston PD; is that  
14 correct?

15      A.   Yes.

16      Q.   Okay.  Excuse me.  And you received the subpoena  
17 in this case, specifically, for the case of State versus  
18 Daniel Lawrence; is that correct?

19      A.   Yesterday at 4:00 p.m., yes.

20      Q.   Okay.  Regardless, a subpoena was served,  
21 and you're here in response to that subpoena; is that  
22 correct?

23      A.   Correct.

24      Q.   If you were only made aware of the subpoena  
25 at 4:00 p.m., and there's evidence it was served

1 earlier, did that somehow impede your ability to comply  
2 with the subpoena?

3 A. It did not.

4 Q. Okay. So although short notice may have been  
5 inconvenient, you're saying that the response that  
6 you got is the same as if you had two weeks' notice  
7 or a month; is that correct?

8 A. Had I had a little bit more time to prepare,  
9 I could have brought some documents in reference to  
10 the things that I have done in reference to this case,  
11 as in, provide you with some documents that I have gone  
12 through. But I did not have time to prepare any  
13 documents.

14 I believe the subpoena asked for any records  
15 of video, along those lines. There's just no video  
16 for me to provide you with, or any documents of video,  
17 so. And that's why I just don't have anything in  
18 regards to that subpoena.

19 Q. I understand. I'm looking at that subpoena  
20 now, and it says to bring all videos of body-worn  
21 cameras, dash cameras, in-car cam videos, any other  
22 video or audio recordings relating to the arrest  
23 of Daniel Lawrence and Tevin Beaton. And that's  
24 what you received; is that right?

25 A. Correct.

1       Q.   Okay.  Can you -- this case dates back less  
2   than a year.  Can you tell me at that point in time what  
3   the policy was with North Charleston Police Department  
4   as to the outfitting or equipping of officers as well  
5   as vehicles with cameras or audio recording devices?

6       A.   The policy requires that each officer, sergeant  
7   and below, be issued a body-worn camera.  There is no  
8   policy in regards to in-car video, like, where it has  
9   to be at all times.  It's a practice within the police  
10  department to have a camera in every patrol car that's  
11  doing patrol functions.

12           For example, a school resource officer is not  
13  in their car very often, so we don't put a camera in  
14  their car.  But, for the most part, every car on patrol  
15  has a camera in it.

16       Q.   Okay.  And the officers themselves have ---

17       A.   They're required to have body cameras.  
18  That is in the policy.

19       Q.   Okay.  And the purpose of the body cameras  
20  are multi.  I mean, they're both to record evidence  
21  of crimes, et cetera.  That's one purpose of them;  
22  is that correct?

23       A.   Correct.

24       Q.   Okay.  Maybe in some cases, interviews both with  
25  witnesses or with potential suspects are used for this

1     also; is that right?

2             A.   That's correct.

3             Q.   As far as traffic stops, DUIs, that sort of  
4     thing, they can record evidence of impairment, yes?

5             A.   That's correct.

6             Q.   Okay.  And can you tell me how the videos,  
7     which are obtained during the ordinary course of a day  
8     in law enforcement, are preserved or saved for future  
9     reference?

10            A.   So the process is an officer conducts a traffic  
11   stop, for example, and then comes back at the end of  
12   their shift.  And at the end of their shift, everything  
13   they have done that has been recorded is wirelessly  
14   uploaded from the car into our server, or into the  
15   server that's managed by L3 Mobile Vision.  It's a new  
16   company now, Safe Fleet.

17            But at the time, it was L3 that was managing  
18   our equipment and the server.  The body camera is docked  
19   in the bureau on a docking station, that then downloads  
20   that video to a temporary server at the bureau.

21   This case happened in our north bureau ---

22            Q.   I'm sorry.  If you can speak a little more  
23   slowly.  I'm trying to keep up.

24            A.   Okay.  Sorry.

25            Q.   I'm just not used to it.



1       A.   Body-worn camera videos docked at the bureau.  
2   The bureau has a temporary server that receives the  
3   video.  And then later on when there's less traffic  
4   on the network, the temporary server sends the video  
5   to the main server located at city hall.

6       Q.   Let me -- and I know I asked you to explain it,  
7   but going step-by-step.

8       A.   Okay.

9       Q.   So, initially, if I'm law enforcement, at the  
10   end of my shift, or at the end of my day if I want to  
11   preserve, or I have things on my body cam that I think  
12   need to be preserved, I place my camera -- remove it  
13   from my breast or whatever and place it on a docking  
14   station?

15      A.   Correct.

16      Q.   Now, to your knowledge, if you know, is this  
17   discretionary with me?  Do I do this every shift,  
18   or do I do this only if I've made an arrest or I think  
19   it's important to preserve something that I have done?

20      A.   All videos are treated the exact same from the  
21   get-go.  As I dock my body camera, all videos on that  
22   body cam is transferred, no matter what it's worth.  
23   It could just be me talking to somebody walking their  
24   dogs, saying hi, and I recorded it.  It's getting  
25   transferred the same way as evidentiary video.

1       Q. My question is am I required to do this every  
2 shift?

3       A. Policy requires you to download your video every  
4 shift.

5       Q. Okay. Thank you. Please continue.

6       A. Okay. Once I determine that I have a case,  
7 it is then my responsibility to go into the L3's back  
8 office, to be further known as DES, that's what they  
9 call their server system to officers' access. They sign  
10 in with their unique user ID and password. They find  
11 the video that they need, and then they would assign  
12 that video to a case.

13       Q. In this case, would that be like a warrant number  
14 or a case name?

15       A. A case number. So the case number associated  
16 with this case is 201803, and four more numbers.  
17 It would be attached to that case number. And then  
18 the officer ---

19       Q. Please, just try to slow down. I drink  
20 a lot of coffee, too. So, I go in, I dock my camera  
21 if I'm a law enforcement officer?

22       A. Right.

23       Q. And I hit the buttons, or it does what it does,  
24 and it takes the video of my entire shift and puts  
25 it in some temporary file or something like that?

1       A. A temporary server. It's basically a holding  
2 facility for the videos until it can be transferred  
3 to the main server.

4       Q. Okay. But it goes -- I'm not a computer guy.  
5 It goes to some storage place or a separate file ---

6       A. Correct.

7       Q. --- to be held until I take further action?

8       A. Correct.

9       Q. Now when I put my camera in the slot -- my body  
10 camera in the slot, does that in it of itself initiate  
11 some sort of paperwork, or if not, an actual hard copy  
12 of the paperwork, something that I can go back and say,  
13 okay -- you can come behind me and say, well, John,  
14 didn't dock his camera two days ago? I mean, does  
15 it start right then where you can create some sort  
16 of evidence of my putting the camera in the file?

17       A. When a video is ingested, there's a notation  
18 on the server log that a video was ingested ---

19       Q. Does it have ---

20       A. --- and then where it was ingested, whose it was,  
21 what time it started, what time it stopped, the things  
22 of that nature. They call it metadata. That metadata  
23 is recorded into the server.

24       Q. Okay.

25       A. And attached to the video.

1       Q.   Okay.  So then the answer is -- the short answer  
2   is, yes, it does create some sort of ---

3       A.   You say paperwork, but it's not something that  
4   I can physically access on a piece of paper, unless  
5   I go back and look at it and look for it later.

6       Q.   I understand.  It's not a hard copy.

7       A.   Correct.

8       Q.   And I'm trying to make it general enough?

9       A.   Right.

10      Q.   So it's not paperwork, but it creates a file,  
11   something you can pull up on a computer screen?

12      A.   Correct.

13      Q.   And say, okay, well, here's where John Loy,  
14   myself, his camera was docked on November the 5th?

15      A.   Correct.

16      Q.   Okay.  Now, if I'm the law enforcement officer  
17   again, after have docked my camera, for our purposes,  
18   unless it's wildly wrong, moved to what we call  
19   a temporary server or another file storage, somewhere  
20   where it's held, I could erase my body cam, it could  
21   be lost, and I would still have that video up there  
22   at this other server?

23      A.   You think in terms -- erase is not acceptable  
24   because you cannot erase any video on the system at all,  
25   no matter what you do.

1 Q. My question is once I've docked my camera,  
2 and I have gone through the steps that you've  
3 described ---

4 A. Right.

5 Q. --- the video is preserved somewhere other than  
6 solely on my ---

7 A. Correct. It is no longer on the body camera;  
8 it is solely on the server.

9 Q. It's not copied; it's moved?

10 A. It's moved.

11 Q. So now I have a fresh camera for tomorrow?

12 A. Correct.

13 Q. I understand. Now when it's moved, is there  
14 a time frame or a limit as to how quickly I have to  
15 take the next step that you began to describe?

16 A. Our video is set to purge every 90 days.  
17 If you can imagine the size of our police department,  
18 we have a 100-terabyte server. If we've kept every  
19 video that we had, we would exceed that 100 terabytes  
20 in approximately three months. So every 90 days video  
21 that is not saved as evidentiary value is purged  
22 and deleted. It includes all the metadata that went  
23 along with that video. It's deleted, forever erased,  
24 no longer accessible.

25 Q. So, yes, there is a time limit ---

1       A.    Correct.

2       Q.    --- as to how long I have before I can move  
3 the video; is that correct?

4       A.    Correct.

5       Q.    And you said 90 days or something like that,  
6 but I'm just curious as to whether or not there's  
7 a time limit. But I have time to go and do it.  
8 Now when I take the next step as law enforcement,  
9 I go to a different room or a different spot?

10      A.    No, they can sit at the exact computer they're  
11 typing their report up, pull up the web access to the  
12 server, and do all the activities from the exact same  
13 computer they're sitting at.

14      Q.    Okay. And then when I do this, I'm moving  
15 it to -- from your very large server to some, if not  
16 permanent, I realize nothing is permanent in eternity,  
17 but to some long-term storage?

18      A.    It's all on the same server that we have.  
19 The temporary server downloads the information and sends  
20 it to the main server, and it lives on the main server  
21 until it's purged, whether it's the 90-day retention.  
22 We have never gone in and purged a case that was created  
23 because we haven't needed to. But there's one server  
24 where that video stays. Once it's ingested, it stays  
25 on our main server.

1       Q.   Okay.  By ingested, taken from my body cam  
2   and put into the server?

3       A.   Correct.

4       Q.   And then -- and the purpose of the next step  
5   after it's been ingested, the next step is to do what?

6       A.   You add the video to a case in order for us to --  
7   cases aren't set to purge.  So that's how you save it,  
8   preserve it, to make sure it doesn't get purged after  
9   the 90-day period.

10           Also you have -- once you put the video in  
11   a case, you have the ability to send it to a robotic  
12   DVD printer, who then prints the DVD.  And then it  
13   can be preserved as a hard copy in evidence.

14       Q.   And sent around for discovery or whatever else?

15       A.   That is correct.

16       Q.   I understand.  So then 90-day purge is  
17   a selective purge.  It purges everything that hasn't  
18   been marked or earmarked for saving for future purposes?

19       A.   Correct.

20       Q.   Okay.  And in this case -- well, I'm sorry.  
21   In the second step, does that also create a record?  
22   I mean, I realize it puts the tape out there.  It saves  
23   it, preserves it.  Separate and apart from that, does  
24   it produce some sort of record that shows on this  
25   particular day, at this particular time, this tape

1 was preserved?

2 A. That record, yes, but it is attached to the  
3 video. In the same metadata that shows that the video  
4 was ingested when, where, and how, it also shows where  
5 you added it to a case.

6 Everything that involves that one specific video  
7 is documented on the same essential activity log, if you  
8 will. One activity log, one video. So if the video  
9 goes away, the activity log goes away.

10 Q. Okay. And you're here in response to this  
11 subpoena, as you earlier described, so you didn't bring  
12 anything with you?

13 A. Correct.

14 Q. Why is that, sir?

15 A. Several months ago, Corporal Jenkins contacted me  
16 as they were preparing for this case. They were looking  
17 for the case. They couldn't find the case, so they  
18 asked me to help. Sometimes I'm a little bit better  
19 at searching through and digging through since I've been  
20 doing this for a while, of finding videos that are lost  
21 in space, if you will, or the server -- lost in the  
22 server. So, I started looking for the video.  
23 And Corporal Jenkins is very adamant that he put it  
24 in a case and saved it.

25 Q. And just so I'm clear on this, you stated this



1 was several months ago?

2 A. Whenever -- I don't remember the exact date.  
3 But I have an e-mail chain, if I could, but I left my  
4 phone in the car because I thought I had to. But at  
5 some point in the past few months, he did contact me.

6 Q. Okay. And my question just is where you state  
7 that you didn't -- you have limited time to gather your  
8 resources or whatever, your presentations for the Court,  
9 your compliance with the subpoena since you say you were  
10 just made aware of it yesterday.

11 A. Right.

12 Q. As far as your notice of future issues with this,  
13 you had plenty of time? Time was not the issue as far  
14 as not being able to produce what Officer Jenkins asked  
15 for?

16 A. Correct.

17 Q. Okay. Then, I apologize for interrupting.  
18 Please continue.

19 A. I was looking for the video, and I couldn't find  
20 the video. And based on his adamancy that he created  
21 a case, I then contacted the senior engineer at Mobile  
22 Vision, which is now Safe Fleet, and said, I need  
23 a record of this video, when it was created, do we have  
24 anything about this video, this case, this particular  
25 case. I provided him with all of the particulars

1 involving this case, the -- excuse me -- the officers  
2 involved.

3 Q. Slow down if you can.

4 A. I did everything that I could do. And then  
5 I couldn't find it, so then I passed it on to this  
6 engineer at Mobile Vision.

7 Q. Okay. And is this a person who works on  
8 the server? Is that what -- the engineer you passed  
9 it on to ---

10 A. He's a senior engineer architect -- server  
11 architect and systems manager for Mobile Vision.

12 Q. Which is a contract -- a company or an entity  
13 that North Charleston Police Department contracts with  
14 to provide these computer services?

15 A. They provide the equipment, the software to  
16 run the equipment, and the support for the equipment.

17 Q. So, they're on contract with North Charleston  
18 Police Department?

19 A. Correct.

20 Q. Okay. And so you contacted this person?

21 A. Correct.

22 Q. And tell me what you found.

23 A. He provided me the server logs from the date.  
24 I believe it was October 31, 2018. He provided me  
25 the server logs about everything that was created

1 on that date. And, mind you, this is thousands  
2 of lines of server log where you would have to go  
3 through and individually try and find every item  
4 involved with this case.

5 And because the data was purged, and including  
6 the metadata, we could not find any record, any of these  
7 videos existing at all, which is not unusual, because  
8 when a video purges, the system is designed to remove  
9 its complete existence from the system because even  
10 small amounts of metadata could tie up our server space,  
11 which is limited to, like I said, 100 terabytes.  
12 And if I limit my server space, today's videos have  
13 no room to go. So, there's no record further of this  
14 case being created.

15 MR. LOY: May I inquire what my last  
16 question was from the court reporter?

17 THE COURT: You may.

18 (The court reporter reads back the last question.)

19 BY MR. LOY:

20 Q. Okay. So the answer is, yes, they had some sort  
21 of contract with the North Charleston Police Department?

22 A. Correct.

23 Q. Thank you. And you talked about, in your answer,  
24 about when the video purges. Did I misunderstand  
25 earlier that a video that had been produced and assigned

1 with a case number was set not to purge?

2 A. That is correct. In a perfect system, it would  
3 work correctly all the time. However, this system  
4 is an extremely imperfect system, which is why we're  
5 in the process of moving away from this system because  
6 of the issues we've been having with Mobile Vision.

7 Q. Okay. So, in this case, you could not find any  
8 video that's related to the arrest of Mr. Lawrence  
9 whatsoever?

10 A. That's correct.

11 Q. And there's no evidence of this video, this  
12 evidence -- excuse me -- there's nothing to show that  
13 this evidence, courtroom evidence, was ever uploaded,  
14 saved? It's a complete void within your system?

15 A. That is correct.

16 Q. And there's also within the video -- within  
17 the subpoena that you received names of several other  
18 officers; Officer Key, Officer Smoak, Officer Ruch.  
19 Those videos, if they existed, if they were preserved,  
20 would have been saved to the same case number or file  
21 number, separate and apart, but an individual video?  
22 Do you understand my question? If you don't, I'll try  
23 to rephrase.

24 A. No, I understand. And they should have been.

25 Q. Okay.

1       A. Whether or not they were, I can't testify to.  
2       I've been told by the officers that they swear they  
3       did it. I have a tendency to believe the officer,  
4       which is why I went so far as to contact the engineer  
5       at Mobile Vision to try and help me find it. However,  
6       it's not a perfect system.

7       Q. I understand. And I will -- it's not a perfect  
8       world; it's not a perfect system.

9       A. Correct.

10      Q. I understand. If you could try to just answer  
11      my question, as I get lost in your answers sometimes.  
12      I'm saying you saw that there were other officers  
13      and requests for their videos also?

14      A. Correct.

15      Q. And ---

16      A. I also requested the engineer to look for their  
17      videos as well.

18      Q. Okay.

19      A. And I was notified to find all four officers'  
20      videos.

21      Q. Okay. And it just says any and all audio  
22      recordings, and it lists those four by way of example.  
23      You don't know of any others, and there aren't any  
24      officer videos that were recorded that were saved that  
25      you know of?

1       A. Not on any equipment that I manage.

2       Q. Okay. Thank you. And as far as audiotapes,  
3       that is, exchanges between dispatch and officers in  
4       the street, that sort of thing, tapes back and forth,  
5       is that something that comes under your purview also?

6       A. That is not. Charleston County Consolidated  
7       Dispatch handles all of that.

8       Q. Okay. Thank you.

9               MR. LOY: I don't have any more questions.

10              THE COURT: Cross-examination?

11              MR. SORENSON: Just very, very briefly,  
12       Your Honor.

13                               CROSS-EXAMINATION

14       BY MR. SORENSON:

15       Q. And, Sergeant Rank, who is Lieutenant Tammy Sad?

16       A. She's my lieutenant.

17       Q. Okay. And that is, I believe, the contact person  
18       that my office has when we're requesting body-worn  
19       cameras or in-car videos and things of that nature?

20       A. She was in that position for a while probably  
21       when you were preparing for this case. However,  
22       recently, within the last two weeks, she became my  
23       lieutenant.

24       Q. Gotcha.

25       A. And so Kelly Washburn -- Lieutenant Washburn

1 is who you would deal with now.

2 Q. Okay. So if we had e-mailed Lieutenant Sad back  
3 in May of 2019, she would have been the person that we  
4 would have contacted in an attempt to find any of this  
5 information?

6 A. I believe that is correct.

7 Q. Okay. And you're not aware of any of this  
8 information being provided back, you know, several  
9 months ago either?

10 A. Not that I am aware of, no.

11 Q. And it's your testimony -- just so I understand,  
12 obviously, you have done what you feel is an exhaustive  
13 search in an attempt to find any of the in-car camera  
14 or body-worn cameras related to this case number;  
15 is that correct?

16 A. I have done as much as humanly possible.

17 Q. All right. And part of that was actually talking  
18 to several of these officers involved; is that correct?

19 A. Yes.

20 Q. Okay. And I believe there are four of them  
21 that Mr. Loy laid out to you; that's Officer Hamilton  
22 Jenkins, Louis Smoak, Lyle Key, and Hattie Ruch; is that  
23 all correct?

24 A. That is correct.

25 Q. And all four of them indicated that they

1 downloaded their body-worn cameras?

2 A. That is correct.

3 Q. And any in-car cameras that they had, if they  
4 had a vehicle that was involved in this case?

5 A. Correct.

6 MR. SORENSON: I think that would be all  
7 I have, Your Honor.

8 THE COURT: You may step down, sir.  
9 Thank you. I will be happy to hear your arguments.

10 MR. LOY: Thank you. Your Honor, there  
11 are several cases I rely on, and I'm happy to hand  
12 up copies if that would be helpful to the Court.

13 THE COURT: Certainly.

14 MR. LOY: It's Gant, Narciso, Brown,  
15 Robinson and Pope. Gant being a United States Supreme  
16 Court case and the others being South Carolina cases.  
17 If I may approach?

18 THE COURT: Yes, sir.

19 MR. LOY: Your Honor, I'm also going to  
20 provide the State with copies of the cases I've just  
21 handed up to the Court. Your Honor, it's essentially  
22 a chain of cases that I will try to present sequentially  
23 that I think are important to the Court's ruling here  
24 today.

25 First is the case of United States v. Gant,



1 and that's a 2008 case. It essentially is where the  
2 United States Supreme Court expanded an automobile  
3 search, rules that it was set up in the case of U.S. v.  
4 Belton and Belton v. U.S.

5 In Belton, the rule is initially the spouse  
6 -- that pursuant to a lawful traffic stop or a lawful  
7 arrest of someone in an automobile, officers could  
8 search the contents of the passenger area of the  
9 automobile.

10 The Court rested that position on  
11 essentially officer's safety, and the fiction that  
12 any time a person had been arrested, he had access to  
13 the rest of the passenger compartment of his automobile  
14 and might use that access to gain a weapon or somehow  
15 jeopardize officer's safety.

16 In Gant, that argument was used to -- well,  
17 it was used by the lower court as well as the law  
18 enforcement officer that searched the vehicle, and it  
19 was appealed. And the United States Supreme Court at  
20 that point said, you know, essentially Belton -- our  
21 ruling in Belton has been misconstrued to just allow  
22 unlimited searching of automobiles any time anybody  
23 is stopped for the most minor of traffic violations,  
24 and that was not our ruling -- that was not our  
25 intention, and it wasn't our ruling. It's been

1 misconstrued.

2                   And so they went on in Gant to establish  
3 a new rule. And it was based on essentially their  
4 observation that warrantless searches are, per se,  
5 unreasonable, subject to only a few exceptions,  
6 and further that their ruling in Belton had been used  
7 by law enforcement over the years to basically rummage  
8 through many people's private and personal items without  
9 any real need to do so.

10                   It said that Belton had been interpreted,  
11 as I stated, to just allow unlimited searches. And they  
12 said the fact is it's very rare that a person who has  
13 been arrested, taken into custody, actually has access  
14 to the compartment -- passenger compartment of the  
15 vehicle. They're handcuffed, restrained, they're  
16 in back of law enforcement vehicles, et cetera.

17                   And so it's a pretense to say we're going  
18 to search this vehicle based on officer's safety when  
19 the officer safety issues have been resolved. And so  
20 what they say, and they're very specific about it, is  
21 that police may search pursuant to Belton, apparently,  
22 if you have access to the passenger compartment.

23                   But separate and apart, they say a vehicle  
24 may be searched pursuant to a lawful arrest of a person  
25 in the vehicle, if, if that search is designed and most

1     probably will result in discovery of evidence relating  
2     to the person's arrest.

3             It doesn't just mean random crime out there  
4     that might reveal something. It means the person has  
5     been taken out of the car, charged with possession of  
6     drugs, and there's reason to believe there may be other  
7     drugs or paraphernalia or records, et cetera, which  
8     would support that arrest, the arrest which has already  
9     been executed, the vehicle may be searched for those  
10    items.

11            And it goes on -- again, the reading is  
12    pretty straightforward. Police may search the passenger  
13    compartment of a vehicle incident to a recent occupant's  
14    arrest only if it is reasonable to believe that the  
15    arrestee might access the vehicle at the time of the  
16    search, and that's the old Belton rule.

17            And then it goes forward or restricts it,  
18    or that the vehicle contains evidence of the offense  
19    of arrest. And in this case, of course, at the time  
20    of the traffic stop it is alleged by Officer Jenkins  
21    he arrested the driver for driving under suspension.

22            There's another case I'll address shortly,  
23    which is very parallel, where they say, obviously,  
24    searching the vehicle is not going to produce evidence  
25    of the driving under suspension, and they held that

1     that search was unreasonable and illegal.

2                 Indeed, No. 3 -- excuse me. Apparently,  
3     that was this case because it says, and they note, that  
4     Gant was arrested for driving with a suspended license,  
5     an offense for which police could not reasonably expect  
6     to find evidence in Gant's car. And that's on Page 2,  
7     about halfway down in the first column.

8                 Your Honor, I'll reserve my argument,  
9     but I'll go on. Narciso is a 2013 State Supreme  
10    Court case. And essentially it was a drug case where  
11    they received information, and then corroborated that  
12    a person would be driving the car, that he would be  
13    in possession of drugs, that he would be going to a  
14    particular place at a particular time, and that he would  
15    be driving without a -- he would be driving with license  
16    plates that were indeed expired and suspended.

17                So, law enforcement got behind this vehicle,  
18    and it's in their factual procedural background,  
19    and says that the Defendant had been the focus of a drug  
20    investigation. Police believed he had been involved  
21    in sale, et cetera. They received information he might  
22    be operating a vehicle with expired tags and possibly  
23    no DL. They saw him. They confirmed that his tags  
24    were expired, and they stopped the vehicle.

25                He was arrested. They had a canine dog

1 search the vehicle, and -- excuse me -- walk around  
2 and alert. They then searched the vehicle and found  
3 drugs. Based on that, our Supreme Court says that this  
4 search was illegal. They go on -- they say, "Petitioner  
5 argues that the facts presented by police to the circuit  
6 court did not rise to the level of reasonable suspicion,  
7 and that he was unreasonably seized. Thus, according  
8 to the Petitioner, his Fourth Amendment rights were  
9 violated, and this Court should reverse his conviction.  
10 We agree with the Petitioner that the search incident  
11 to this arrest violated his Fourth Amendment rights."

12 And, Your Honor, that's pretty much what you  
13 need to know about that case. It's a case, if I recall  
14 correctly, they say timing is everything. Mr. Narciso  
15 would certainly agree that timing was everything because  
16 they reversed this case pursuant to Gant.

17 However, they go through an argument,  
18 if I recall, about the application of the exclusionary  
19 rule, and they say that while this was -- I think it was  
20 this case. While this was indeed violative of his  
21 Fourth Amendment rights, that Gant wasn't available  
22 to him at that point in time, so the case stood.

23 Simply put, law enforcement on scene  
24 applied the laws that existed at that point. The law  
25 subsequently changed, and the courts upheld that at

1   that point that law enforcement had done what they  
2   were supposed to do. The exclusionary rule served  
3   no purpose, other than to allow a person to escape  
4   conviction, and it's intended to deter law enforcement  
5   conduct.

6               Regardless, it was held that in that  
7   scenario the search was illegal. They knew the tags  
8   were expired. They had information that he might  
9   be involved in some sort of drug-trafficking activity.  
10   The dog alerted, and they said basically it's not going  
11   to produce evidence of the crime for which he was  
12   arrested, and that was DUS.

13              Your Honor, in Brown, which I also handed  
14   up, it's a case where I think it was in Myrtle Beach,  
15   Horry County, law enforcement sees a man drinking  
16   a can of beer while driving a car. They pulled him  
17   over, have some brief discourse with him as to the can  
18   itself.

19              He eventually admits that, yes, he's  
20   drinking beer. He gets out of the car, and they see  
21   a bag in the car, and they remove the car -- remove  
22   him as well as remove the bag. They have some further  
23   discourse, or exchanges, back and forth. And,  
24   eventually, an officer opens the bag up and says, okay,  
25   well, here's cocaine.

1           Again, he is arrested, he's charged,  
2   and it was found that this is violative, that, in fact,  
3   there's no reasonable suspicions of probable cause  
4   to search this vehicle. They couldn't have accessed  
5   it, and it's not going to provide further evidence  
6   of the crime for which the Defendant had been arrested.

7           Your Honor, Robinson, a case that I've also  
8   cited, goes more to the initial seizure of the  
9   Defendants in this case, as well as the seizure of  
10   the Defendants in the case of Robinson. In Robinson,  
11   there was a robbery, and this is a 2014 case. Again,  
12   I'm trying to present these sequentially.

13           In Robinson, there had been a robbery  
14   in West Ashley, and the police were in possession  
15   of certain information as to what had occurred.  
16   They responded. Witnesses, victims told them four guys  
17   came in. I think it was four African-American men who  
18   robbed this place. They took efforts to hide their  
19   faces. We believe they were armed. They robbed us all,  
20   and they fled together. They didn't have information  
21   as far as what sort of vehicle they left in, or if they  
22   left on foot, et cetera.

23           Sometime subsequent to that, shortly  
24   thereafter, law enforcement was on patrol nearby,  
25   and a police officer saw a vehicle parked in

1 a relatively inaccessible area behind a church.  
2 This officer noted several things about that, thought  
3 it was suspicious, pulled in behind this vehicle,  
4 essentially pinning them in.

5 And the Court takes the position that  
6 at that point the vehicle, as well as its occupants,  
7 had been seized. They note on Page 3, "A person has  
8 been seized within the meaning of the Fourth Amendment  
9 at the point in time when, in light of all the  
10 circumstances surrounding an incident, a reasonable  
11 person would have believed that he was not free to  
12 leave."

13 And the Court in this case says if you're  
14 parked, law enforcement pulls in behind you, essentially  
15 pins you in, gets out and approaches the car, any  
16 reasonable person would believe they are not free  
17 to leave, and so they have been seized.

18 The Defendants in this case moved to  
19 suppress the evidence based on the seizure itself, that  
20 law enforcement pinned them in, stopping them, seizing  
21 them at that point, was unjustified and unreasonable.  
22 The criteria they're required to meet is a reasonable  
23 suspicion. And, in this case, they go on, and they  
24 describe it.

25 They said, "A reasonable suspicion



1 is something more than inchoate and unparticularized  
2 suspicion." It's addressed to something specific.  
3 And on Page 4, they give examples of what this officer  
4 had in mind when he seized the vehicle or when he pinned  
5 them in, and why they think this was justified.

6 They note when he pulled up behind the  
7 car, the officer knew the following: There was a parked  
8 car in a closed and endarkened church parking lot on  
9 a Tuesday night. Two, the car was behind the fence with  
10 its lights off. Three, the car had no reason to be  
11 within the fence at that time of night when the church  
12 was closed. And, four, the area where the car was  
13 parked was not readily opened to the public.

14 And the police officer says at that point  
15 I thought it might be kids and what they referred  
16 to as necking. I thought it might be kids necking,  
17 parked over out of the way, seeking some private spot.  
18 And the Court makes a point of noting that necking on  
19 church grounds is a potential -- I don't think church  
20 grounds is critical to this finding.

21 But, at any rate, apparently necking  
22 is illegal in South Carolina, at least, in public,  
23 and it's a potential misdemeanor under Section  
24 16-11-760. They note that those four factors;  
25 the car parked in an enclosed spot; the car parked

1 behind a fence; the church being closed; no reason  
2 for them to be there; the area not opened to the public.

3 They say that that's okay. It's reasonable  
4 to think that might be happening, this criminal  
5 activity, investigating might be afoot, and that  
6 he was, therefore, justified in seizing the vehicle  
7 or stopping the vehicle.

8 And then it goes on to the search itself.  
9 And it says that when he approached the vehicle,  
10 he learned more information. He learned the police --  
11 he knew the police were looking for four  
12 African-American males in their 20s who had robbed  
13 a bar, and he saw four African-American males  
14 approximately that age in the car.

15 The bar was in close proximity to the church  
16 parking lot. There were four young men in the vehicle  
17 who matched the description of the BOLO. And then he  
18 noted there were four potential suspects and only him,  
19 so he called for more backup.

20 But the thing is, they don't just say  
21 a car parked over there is suspicious in it of itself.  
22 And they don't just say if you park here or you drive  
23 there -- again, parallel to this case where a person  
24 is alleged to have picked up a bag and then caught  
25 a ride. They say it's a particularized suspicion.

1                   In this case, the officer approached  
2 the vehicle thinking this criminal activity I'm  
3 describing, this necking, may be occurring right now,  
4 and that's what I'm investigating, and I have probable  
5 cause, or reasonable suspicion, to think that's what's  
6 happening, not just that something may be happening.

7                   So they approached the vehicle and gather  
8 more information, et cetera. Eventually, the car  
9 is searched, and evidence is seized. The case, like  
10 I said, was to demonstrate what the Court holds to be  
11 a reasonable suspicion to seize the car.

12                  In our case, Officer Jenkins has testified  
13 he received from a source that he doesn't know to be  
14 reliable, it's not a confidential source, someone who  
15 has been proven to be reliable in the past, it's not  
16 quite an anonymous tipster because apparently they had  
17 a name. But -- again no inherent indicia of  
18 reliability, who does not even indicate a crime has  
19 occurred.

20                  There's no information a burglary has  
21 occurred in this vicinity, as there is in Robinson where  
22 a robbery has occurred. There's no reason to think this  
23 vehicle is any way suspicious in it of itself. It's  
24 driving -- when he sees it, it's driving. There's no  
25 traffic violations; there's no equipment violations.

1 The tags appear to be good. He's not stopped for any  
2 traffic infraction whatsoever.

3 Everything appears to be on the up and up,  
4 other than the fact that some person has called law  
5 enforcement, maybe with their own ax to grind or for  
6 whatever reason, and said I saw a person pick up a bag  
7 from behind the house, and he caught a ride out of the  
8 neighborhood.

9 It's not a particularized suspicion.  
10 It doesn't go to any crime whatsoever. You can say  
11 I wanted to know if he had drugs in the bag; I wanted  
12 to know if he had stolen property in the bag; I wanted  
13 to know if he had evidence of some other crime in the  
14 bag; I wanted to know if he killed someone and had,  
15 you know, a child in the bag. It could be anything.

16 There's simply no particularized suspicion  
17 here. There's just an officer acting on unsubstantiated  
18 hunch of a person he's never even actually spoken with.  
19 It's just been filtered through the dispatch at his  
20 office.

21 And they go on, and they cite Gant again  
22 for the proposition that, you know, a search where  
23 the passenger no longer has access to the passenger  
24 compartment of the vehicle, and that is not designed  
25 to reveal evidence of an already executed arrest

1 is, per se, unreasonable, absent, unsearchable.

2 And, in this case, it would have been easy enough  
3 for him to do that, that is, to go and seek a search  
4 warrant.

5 All they had at that point is, well, we  
6 heard a -- I heard that someone had picked up a bag and  
7 left the neighborhood in broad daylight in a completely  
8 legal vehicle, abiding by all the traffic regulations,  
9 with no indication a crime has occurred, no reports  
10 of violence, et cetera, certainly not an emergency  
11 situation.

12 And if you freeze that moment in time  
13 and present that information to a neutral and detached  
14 magistrate, certainly nobody is giving you a search  
15 warrant on that. That doesn't rise to the level  
16 of probable cause, and probable cause for the search  
17 is what matters, as is enunciated in Pope.

18 I will -- Pope goes through -- it's a drug  
19 investigation. And they go through, first, the stop  
20 itself, the seizure, and they note that in this case,  
21 they had essentially a confidential informant or  
22 somewhere between a confidential informant and an  
23 anonymous tipster.

24 They had a person who had been arrested  
25 for drugs, had him in the department. He was trying to

1 negotiate a bond with law enforcement. He essentially  
2 told them I can give you this guy, Pope. He sells  
3 drugs. And so under law enforcement auspicious,  
4 he contacted the person he purported to be Pope  
5 and made arrangements to purchase cocaine.

6 It appears law enforcement was privy to  
7 the conversation, at least present when it occurred.  
8 He then provided law enforcement with information  
9 as to the type of vehicle Mr. Pope would be driving,  
10 the direction from which he would be coming, whether  
11 or not someone else would be in the car with him,  
12 et cetera.

13 That information was then substantiated  
14 by officers on the road who said, okay, you're a CI --  
15 you're an informant for today. Not quite a CI, not  
16 quite eligible for the special consideration those folks  
17 have who have given reliable information in the past,  
18 and who, therefore, may be reliable enough to obtain  
19 a search warrant, so not quite that.

20 But we've got this other information  
21 that does tend to corroborate it or substantiate it;  
22 the vehicle is where he said it would be; it appears  
23 to be traveling in the direction he said it would;  
24 we've witnessed the conversations he claims he had.  
25 And at that point, they found law enforcement had

1 reasonable suspicion to make the stop. But again  
2 it's entirely different.

3 They're not just thinking Pope may be up  
4 to something, let's stop him and search his car to  
5 see if we find anything. They're saying we have reason  
6 to believe Pope is involved in trafficking in illegal  
7 drugs, or the commercial exchange of illegal drugs.

8 I'm not sure if it was trafficking or not.  
9 But we have reason to believe he is involved in this  
10 because we have specific information from a person  
11 who may be deemed somewhat reliable, as he's trying  
12 to negotiate his own way out of a fix that he's in,  
13 and whose information we have substantiated via the  
14 factual scenarios that I've described.

15 So again it's not just let's pull him over  
16 and search and see what he's got, we heard he might  
17 be up to something. They are specifically investigating  
18 the information they have that he's engaged in selling  
19 drugs, he is on his way to sell drugs, he's going  
20 to be in this particular vehicle when he does it,  
21 and I believe it was that someone else would be driving  
22 at that point in time.

23 And this really -- this case really sums  
24 it up, and it's important as far as the search goes.  
25 And this is on Page 5, and they're addressing

1 the probable cause for the search. And they say  
2 pursuant to the automobile exception, if there's  
3 probable cause to search a vehicle, a warrant is not  
4 necessarily -- is not necessary so long as the search  
5 is based on facts that would justify the issuance  
6 of a warrant, even though a warrant has not actually  
7 been obtained.

8 And I think what the Supreme Court  
9 is saying, the probable cause to search a vehicle  
10 is no different than the probable cause to search your  
11 house. This entire line of cases makes a point of going  
12 through, and almost in every case, in saying, you know,  
13 don't downplay the privacy interest that citizens have  
14 in their vehicles.

15 Rummaging through their luggage,  
16 their purses, their backpacks, their bags, their car  
17 is a serious and substantial intrusion on privacy.  
18 It is, in fact, protected by the Fourth Amendment,  
19 and you cannot just do it on a hunch or some wild  
20 suspicion if you are investigating some particularized  
21 crime with reasonable suspicion it has occurred.

22 You can stop that vehicle, and then,  
23 if you have probable cause, you may search it.  
24 But the probable cause, as I pointed out, is the exact  
25 same level of probable cause that would be required



1 to obtain a warrant.

2 So, I think that what you have to do  
3 to apply this case of Pope, which is -- excuse me --  
4 decided in 2014, is at the time the car is on the side  
5 of the road, and before the search commences, you have  
6 to ask yourself if we freeze this moment in time,  
7 right now, and I know we can't do it, but if we freeze  
8 this moment in time, and we are transported to a neutral  
9 and detached magistrate, and we present all the evidence  
10 that we currently have, do we have evidence such that  
11 it would support the issuance of a legal search warrant?

12 In Pope, they said they did. But they  
13 say that's based on, not only the information they  
14 had as far as the drug sale, but on the corroboration  
15 of the information, the description of the vehicle,  
16 the direction, the location, more than one person,  
17 the suspicious activity when they got behind it,  
18 and that person turned and looked at them and appeared  
19 to be hiding things in the car, et cetera. And they  
20 said in light of all of those things, both the seizure,  
21 as well as the search itself, were legal.

22 But in our case, what we've got again  
23 is the car is pulled over, it's stopped. Blue lights  
24 come on, it's stopped. The officer, as he testifies,  
25 knew that a citizen had reported -- he has no idea --

1 someone said that someone in the neighborhood picked  
2 up a bag and caught a ride out of the neighborhood.  
3 That's essentially it, and he acknowledges that's it.

4 Now, the report seems to dress it up  
5 somewhat after the fact. But I think this is stuff  
6 that you could consider -- evidence that you could  
7 consider in weighing the credibility of the police  
8 officer who testified because, in fact, he's the only  
9 evidence you got from the State as to what occurred.  
10 And he says some things that are just not correct.

11 His police report indicates that I received  
12 information that a person had a black and white or  
13 a blue and white stripped bag, that that is what they  
14 had retrieved. The report is written subsequent to the  
15 arrest when law enforcement is in possession of the blue  
16 and white or black and white stripped bag.

17 And, arguably, in light of everything else  
18 that you heard, it's simply written to comport with  
19 what was found because it makes no mention whatsoever of  
20 the evidence they actually do have of what the officer  
21 received on that particular day, and that is pursuant  
22 to the CAD, the C-A-D report, where he acknowledges,  
23 A, it says a person with a duffel bag, which is not  
24 what he recovered. Later it reiterates, and again  
25 says a person with a duffel bag, which is not what

1 he recovered.

2 His report doesn't mention that's what  
3 he heard. His report doesn't indicate that whatsoever.  
4 He ignores that completely, and indeed, contradicts the  
5 information we know that he had by claiming information  
6 that we have no evidence whatsoever that he had.

7 Later, he claims I smelled marijuana when  
8 I approached the car. And he acknowledges again that  
9 no marijuana was discovered. He acknowledges further  
10 that in the past when he smelled marijuana, he has used  
11 that as a basis for a search, and he doesn't do that  
12 in this case, indicates that, indeed, what he did  
13 or intended to do, was to try to -- bootstrap that to  
14 search the vehicle, and that is why I smelled marijuana,  
15 do you mind if I search the car? If you don't have any  
16 marijuana why can't I search the car? And this is what  
17 he indicated his intention was.

18 And again I think it's supportive of the  
19 position that he stopped this car with the predetermined  
20 rationale, a decision in his mind, I'm going to pull  
21 this car over, and I'm going to search it. He did not  
22 obtain permission pursuant to the allegation, or the  
23 accusation that he smelled marijuana.

24 So then there were further conversations  
25 amongst law enforcement. And although he had run

1 the tags and run the license plate, then he came back,  
2 and he said dispatch says your license is suspended.  
3 You're under arrest, get out of the car, and arrested  
4 the driver of the car.

5 Having claimed noncompliance and inability  
6 to remove the driver and the passenger from the car,  
7 when he tells him you're under arrest for DUS, he gets  
8 compliant, removes them. He handcuffs them, and takes  
9 them into custody.

10 And at that point if, in fact, the Court  
11 choses to believe that someone at dispatch told him this  
12 license is under suspension, when he has acknowledged  
13 that it's not, then there's some -- then the only search  
14 that can ensue pursuant to that is a search to try to  
15 uncover further evidence of the driving under  
16 suspension, the arrest which has been made, because  
17 there is no real probable cause to support anything  
18 else.

19 There's no evidence another crime has even  
20 been committed, more or less, that a search of the  
21 vehicle would produce evidence to support the commission  
22 of any criminal activity. So, he gets him out of the  
23 car.

24 Now, you have heard from the officer that  
25 all of his transmissions are recorded back and forth,

1   that's some consolidated system apparently with the city  
2   of Charleston, that anything that dispatch told him  
3   would have been recorded -- excuse me -- would have been  
4   recorded on his recording device, and somehow that's  
5   missing also.

6               So you have the discrepancy between the  
7   bags; what's described, and what he claims is described.  
8   You have then the recording device is missing itself.  
9   There's no evidence it's ever been uploaded or preserved  
10  whatsoever, or that any of the other officers involved  
11  in this case ever uploaded or preserved any evidence  
12  whatsoever.

13              Then further he goes on to say at this  
14  point we removed the passenger from the vehicle.  
15  As we removed the passenger from the vehicle, according  
16  to him, he says I could see a gun.

17              Now, I would ask Your Honor to picture  
18  this firmly in your head because if, as he describes,  
19  the passenger is being removed from the vehicle, he says  
20  I could see a gun, every officer on scene produces  
21  a gun. If the passenger is getting out of the car,  
22  and there's a gun within reach -- he says as he's  
23  getting out, I looked in, and I could see it.

24              If that's the case, everyone of them draws  
25  down, if you will. They're not going to leave a person

1 being arrested or investigated in close proximity  
2 to a firearm without producing their own. Indeed,  
3 it would be violative of any policy whatsoever,  
4 and it doesn't happen.

5           There's no indication any firearms were  
6 drawn, any threatening behavior was ever exhibited,  
7 anything of that -- what they say is they get him out,  
8 and then they searched the vehicle. As a matter of  
9 fact, says when he was getting out, the bag was covered  
10 with a coat itself.

11           Again, the camera, which we don't have,  
12 would supposedly show this information. It doesn't  
13 because we don't have it. The dash cam doesn't show  
14 anything; we don't have it. There's no evidence  
15 whatsoever, however, of any of the officers on scene --  
16 he says there were at least two others there, arguably  
17 more, any of them taking any sort of protective action,  
18 producing firearms, yelling gun, gun, or whatever  
19 it is that they do.

20           The evidence is clear that on this occasion,  
21 he acted on nothing but an unsubstantiated tip directed  
22 towards nothing in particular. The officer decided  
23 to pull this car, alleged to have two African-American  
24 males in it, pull it over, search it, and see what he  
25 could find. It was a phishing expedition. That's what

1    happened.  It was violative of the chain of cases I've  
2    just described.  And based on those, I would ask the  
3    Court to suppress everything seized on that particular  
4    day.

5                    THE COURT:  Thank you, Mr. Loy.  Solicitor.

6                    MR. SORENSON:  Thank you.  May it please  
7    the Court, Your Honor.

8                    THE COURT:  Yes, sir.

9                    MR. SORENSON:  I want to address this,  
10    I guess, kind of chronologically.  The first thing  
11    Mr. Loy objected to is the actual stop of the vehicle.  
12    It's the State's position that Officer Jenkins had  
13    reasonable suspicion at the time that he encountered  
14    that silver sedan coming out of the neighborhood.

15                    If you look at what he testified to,  
16    that at that point in time that he was responding  
17    initially to a neighbor calling in to dispatch,  
18    calling 911, indicating that they had observed a Black  
19    male wearing a camouflaged jacket and grey sweatpants,  
20    initially walking around the neighborhood, and then  
21    seeing that person a short time later.  And at this  
22    point in time, they had a bag that they hid behind  
23    a neighbor's bushes.

24                    A short time after that -- and he is  
25    responding then at that point in time to that

1 neighborhood. And, at that point in time, the call  
2 then -- the caller then updates and indicates that  
3 the person has now gotten into a silver sedan that  
4 is driving slowly through the neighborhood. He then  
5 confronts -- and there's a description of the person  
6 that was seen that is indicated, camouflaged jacket,  
7 Black male, grey sweatpants.

8           Officer Jenkins, at that point in time,  
9 sees that vehicle. He's basically turning onto the road  
10 that the caller is seeing and describing this vehicle  
11 leaving the neighborhood on. Officer Jenkins testified  
12 that they've had a rash, and they're dealing constantly  
13 with daytime residential burglaries.

14           I submit to you that information that  
15 is provided has been corroborated by the fact that  
16 he's now seeing a vehicle matching the description  
17 that the caller gave with a suspect in the vehicle,  
18 in the passenger seat of that vehicle, as it passes  
19 him that also matches the description that caller gave.

20           I think that is a particularized and  
21 objective basis that would lead an experienced law  
22 enforcement officer to believe that criminal activity  
23 is afoot and would justify, at that point in time,  
24 the officer initiating a traffic stop on that vehicle.

25           He also testified that by the time he turned



1 around, the vehicle was all the way out on Dorchester  
2 Road by the time he caught up to it, indicating the  
3 vehicle had to have been traveling above the speed  
4 limit, obviously, having just passed a police officer.

5           So, I think when you look at that whole  
6 picture, and to be honest with you, it would be almost  
7 neglectful for the officer not to make a traffic stop.  
8 I mean, to literally go pass -- you have a call in, they  
9 then found out that this house that they, lo and behold,  
10 determined had been burglarized right down the road from  
11 this 911 caller, and the fact that the person passed  
12 them on the way out. So, I think there's clearly  
13 reasonable suspicion at that point in time to stop  
14 the vehicle.

15           And then you move on to the next question  
16 of whether there was ultimately reasonable probable  
17 cause to search that vehicle. And yet again there  
18 you have to look at kind of the totality of the  
19 circumstances. Officer Jenkins testified when  
20 he approaches this vehicle, it immediately smelled --  
21 the driver wouldn't roll the window all the way down.  
22 He smelled marijuana coming from the vehicle, the  
23 driver's demeanor, he was argumentative and defiant  
24 with Officer Jenkins.

25           At that point in time, he now has an

1 opportunity to see the passenger, and not only does  
2 he have a camouflaged jacket, but he's also got the grey  
3 sweatpants that the caller had described that was  
4 relayed to him.

5           And then you also have to look at  
6 the Defendant's statement then to him. He asked  
7 Mr. Lawrence where they were coming from, and his  
8 comment was that he was coming from a girlfriend's  
9 house. But he couldn't provide an address in the  
10 neighborhood where it was, and indicated that the bag  
11 that was between his legs, in plain view to the officer  
12 at that point in time, contained clothing from -- his  
13 dirty clothes from the night before.

14           And Officer Jenkins testified -- and I don't  
15 know -- I'm not sure if I handed up these pictures.  
16 But ultimately you could see the bag. I mean, there's  
17 nothing but electronics, inconsistent with what  
18 Mr. Lawrence is indicating to him at that point in time.

19           So, I think, at that point in time, this  
20 situation -- you know, they're continuing to kind  
21 of develop this situation at that point in time.  
22 That ultimately leads, at that point in time, he's  
23 waiting for other officers to get there for his safety.

24           Ultimately, at that point in time, I think  
25 he's justified in getting these two individuals out

1 of this vehicle to further investigate what is going  
2 on. Because what they are telling him, the actions  
3 that the caller observed, that are corroborated by  
4 his observation of these two individuals, and then  
5 the Defendant's inconsistent statements to him, coupled  
6 with the driver's demeanor, is creating the probable  
7 cause ultimately to search this vehicle that I submit  
8 finally culminates when they get Mr. Lawrence out  
9 of the vehicle where that gun, Officer Jenkins testified  
10 at that point in time, was in where he could now see.

11 Remember, his testimony is that when he  
12 was sitting, the bag was kind of right at lap level.  
13 And then when he gets out, I mean, he's now --  
14 obviously, the bag is in plain view, and he attempts  
15 to cover it up with the camouflaged jacket. At that  
16 point in time, the gun is in plain view.

17 At that point in time, that is going to give  
18 probable cause to search that bag where the gun was  
19 located, I submit to you the jacket that was put over  
20 it, and ultimately the vehicle itself. That gun  
21 ultimately ends up being our victim's gun, which  
22 is ultimately going to, at that point in time, I mean,  
23 lead to where at the end of the day that vehicle is  
24 going to get searched at that point in time.

25 The bag is in plain view. The victim had

1    come by, and they just showed the victim the bag through  
2    the vehicle. I mean, it's -- he would have identified  
3    it as being his bag and his stuff sitting on top of it.  
4    So, at that point in time, I do feel like they have  
5    probable cause to search the vehicle and also the jacket  
6    and the Defendant. And, ultimately, as you see, in the  
7    items that are found, they're basically all items that  
8    ultimately ended up being our victim's items that were  
9    recovered.

10               Mr. Loy briefly addressed kind of the  
11    lack of the body cams and all that. I submit to you  
12    any of that would go towards the weight of the evidence,  
13    not its admissibility. Obviously, he could argue that,  
14    you know, the credibility of the officers in front  
15    of the jury. But I submit to you does not rise to  
16    the level where Your Honor feels should suppress any  
17    of this evidence.

18               The only other thing I want to just briefly  
19    -- that Mr. Loy touched on was talking about the  
20    descriptions with the bag. And if you recall, Officer  
21    Jenkins's testimony was that he's kind of getting  
22    information twofold. He's getting what's coming over  
23    on his computer, which is that CAD report, which is,  
24    as he said, is the dispatcher kind of typing in  
25    shorthand the information. But that information is also

1 being relayed to him over the radio.

2 I mean, obviously, you have to judge  
3 his credibility. But, I mean, he indicated to you  
4 that he was informed that it was a black and white  
5 stripped-bottom bag that was seen, you know.  
6 It's actually a blue and white stripped bag.

7 So, I submit to you if he was making it up,  
8 I mean, that would have been consistent with his report  
9 and not inconsistent, whereas, you know, the initial  
10 call said, you know -- you see somebody making a mistake  
11 between blue and black from a distance looking at it.

12 But I submit to you if he's going back,  
13 as Mr. Loy is suggesting, just making this up after  
14 the fact, that that's going to be a consistent  
15 description and not an inconsistent description.  
16 And again, I mean, you've had, obviously, an opportunity  
17 to judge his credibility.

18 We would respectfully, Your Honor, ask you  
19 to deny Mr. Loy's motion based on the fact that there  
20 was reasonable suspicion for that stop, and then  
21 ultimately probable cause to search that vehicle  
22 based on the totality of the circumstances. And that  
23 he is charged with unlawful carrying of a pistol.  
24 I mean, that's one of the charges that's before this  
25 Court.

1                   THE COURT: Yes, sir. Do you have anything  
2 further, Mr. Loy?

3                   MR. LOY: Yes, Your Honor, and it will be  
4 brief. I'm not going to reargue the point that I have  
5 made. I think the solicitor misspoke a couple of times  
6 in his early presentment -- I'm subject to correction  
7 -- where he said someone had received a 911 call,  
8 and I think that's incorrect. I think this just came  
9 in on an open mike.

10                  If it were a 911 call, I think it would have  
11 been preserved. We would have had information that  
12 supported it. My understanding is that this was not  
13 a 911 call, not called in as an emergency or anything,  
14 just someone who called in on law enforcement, is my  
15 understanding.

16                  Secondly, he indicated that the officer  
17 had information somebody hid something -- somebody  
18 hid something behind the bushes, and obviously,  
19 it's suspicious. I don't know if it makes any  
20 difference. However, the information as received,  
21 and as reflected in the report, is they know something  
22 was placed near or behind the fence and not up  
23 on someone's bushes, behind a yard, et cetera.

24                  He thinks it's suspicious of Mr. Lawrence  
25 and made a substantiated search of the vehicle and

1 of Mr. Lawrence, that he says, I was visiting my  
2 girlfriend, I don't know her address. You know,  
3 it's possible somebody may have visited Mr. Soreson's  
4 house, at some point in time myself, and doesn't know  
5 the address. That's nothing particularly suspicious  
6 in it of itself and certainly doesn't justify searching  
7 the vehicle.

8 And I think the most telling remark in the  
9 solicitor's argument where he says, well, he's justified  
10 now in stopping this vehicle to see what is going on,  
11 and that's what the courts have said you can't do.  
12 You can't just stop the vehicle to see what they're  
13 doing or what is going on. You need a particularized  
14 reasonable suspicion addressing something in particular.

15 He has no evidence of a crime whatsoever,  
16 unlike Robinson or Pope, where they've got robberies  
17 taking places, these are who we're looking for,  
18 et cetera. He's just not knowing what's going on,  
19 somebody had said this car is out there, and we thought  
20 it was funny, and he decided to stop it to see what  
21 is going on. And that's the crux of the constitution  
22 violated here, Your Honor. Thank you.

23 THE COURT: Thank you, Mr. Loy.  
24 In considering all of the circumstances that has been  
25 presented to the Court, and starting at the reasonable

1 suspicion, I think the officer did have reasonable  
2 suspicion. Officer Jenkins testified to different  
3 factors to give rise to that reasonable suspicion.  
4 We have to look at all the factors.

5 Certainly, Mr. Loy, if we take this one fact  
6 that he's walking in a neighborhood, happens to pick up  
7 a bag and go, that would be a strong argument. However,  
8 there are many other factors that were presented to the  
9 Court which give rise to it. First of all, being in the  
10 area where the day burglaries have been taking place,  
11 and there was concern about that.

12 The person that called in, whether it's  
13 911 or dispatch or whatever it was, certainly relayed  
14 that the person was acting suspiciously, gave the  
15 description. The person first didn't have a bag at all,  
16 and then came back for the bag and then hid the bag,  
17 whether it was behind a bush or a fence. Certainly,  
18 that action is suspicious. It's not as if he was just  
19 walking by and picked up the bag and left again.

20 So looking at the bag itself, and it's clear  
21 that electronics are sticking out of the bag. There's  
22 no clothes in the bag. When the person gets in the car  
23 and leaves, and the call comes in that matches the  
24 description of the suspicious activity, along with  
25 leaving the neighborhood, certainly I think that's an



1 articutable fact that it may be involved in criminal  
2 activity.

3           Upon arriving -- upon seeing the police  
4 officer, the car apparently accelerates speed. And by  
5 the time that he does catch up to them, by then he pulls  
6 over. The odor of marijuana certainly is a factor  
7 to consider. The bag of electronics is in plain view.

8           As far as the description is concerned,  
9 I'm looking at the picture right here, and quite  
10 frankly, I can't tell if it's blue or it's black.  
11 It looks like it's both. It looks like inside is blue.  
12 It looks like the outside is black with white stripes,  
13 and maybe it's navy blue.

14           But as far as the odor, the electronics,  
15 the driver's demeanor, and being somewhat combative,  
16 and the Defendant's demeanor, and obviously hiding  
17 the truth somewhat in his description of what he was  
18 doing, he couldn't tell where he was, what he was doing.  
19 He basically said that he was at his girlfriend's house,  
20 spent the night, and they were clothes. I see no  
21 clothes here, and these items were in plain view.  
22 So that's certainly inconsistent with what is in plain  
23 view.

24           He also had indicated that he didn't know  
25 what the address was. I believe the testimony initially

1 was that she had called an Uber for him. If you have an  
2 Uber, they give the address on your phone, so certainly  
3 would have some sort of indication as to where the home  
4 was.

5 As far as the DUS is concerned, Officer  
6 Jenkins received information regarding the DUS and made  
7 the arrest upon the driver, and asked the Defendant  
8 to get out of the car. At that point, he saw the gun,  
9 again in plain view, which gives rise to the reasonable  
10 suspicion. And based upon seeing the gun in plain view,  
11 that gives rise to the probable cause for the search  
12 of the items.

13 Regarding the discrepancies in the CAD  
14 report, you know, certainly, Mr. Loy, you know it's not  
15 a verbatim transcription under oath like a deposition.  
16 They're talking over the radio, and they're taking down  
17 exactly -- not exactly what they say, but close to relay  
18 information, to give information to proceed with an  
19 investigation, not a transcription -- a word-for-word  
20 transcription. Officer Jenkins testified somewhat  
21 of a shorthand. They do their best to try and put as  
22 much information in there, but it's not a transcribed,  
23 somewhat like a deposition or verbatim, as you had  
24 indicated on cross-examination.

25 So as far as the probable cause for the

1 search, I think certainly there's reasonable suspicion.  
2 There's probable cause based on the totality of the  
3 circumstances. Taking each of those factors, I think  
4 it's also distinguishable from the cases that you have  
5 cited due to the fact that the items were in plain view.  
6 It was reasonable for the officer to arrive where  
7 he was.

8 Because of the reasonable suspicion, the  
9 evidence was viewed, and the character of the Defendant  
10 was immediately apparent. And based upon that,  
11 it's lawful to act -- upon considering the totality  
12 of all the circumstances, your motion is respectfully  
13 denied.

14 MR. LOY: Thank you, Your Honor.

15 THE COURT: As far as the -- I failed  
16 to mention the video. Certainly, there's no evidence  
17 that it was intentionally destroyed or anything of  
18 that nature by the State. Certainly, it's unfortunate  
19 that it's not there. But, certainly, there's no perfect  
20 system, and that would go to the weight of the evidence,  
21 and not the admissibility of the evidence.

22 Anything further before we bring the jury  
23 out?

24 MR. SORENSON: Not from the State,  
25 Your Honor.

1 MR. LOY: No, Your Honor.

2 THE COURT: All right. Let's have our jury,  
3 please.

4 (Jury enters the courtroom at 10:32 a.m.)

5 THE COURT: Good morning, ladies and  
6 gentlemen of the jury. I know you've been waiting  
7 for us for quite a bit, and had a chance to play musical  
8 chairs a little bit. I want to apologize to you for  
9 the delay. We always try to be mindful of your time.  
10 However, sometimes it takes us longer to get some things  
11 done that we need to do before we can start the trial,  
12 and I certainly apologize for that. We're now ready  
13 to begin. Madam Clerk, will you please swear in the  
14 jury.

15 THE CLERK: Yes, ma'am.

16 (Whereupon, the jury panel was duly sworn.)

17 THE COURT: Again, good morning, ladies  
18 and gentlemen of the jury. Thank you for accepting  
19 the important responsibility of jury service and  
20 for your contribution today to our system of justice.

21 What I will now say to you is intended  
22 to serve as an introduction to the trial of this case.  
23 These remarks are not the charge on the law in this  
24 case. I will instruct you on the law applicable to  
25 this case at the end of the trial before you retire

1 to consider your verdict.

2 This is merely an explanation of the  
3 procedure that we will follow, so you may better  
4 understand what is going on during the trial of this  
5 case. You may not take notes during the trial of this  
6 case.

7 The Defendant in this case is charged  
8 by an indictment filed in this court with the charge  
9 of burglary in the first degree, and also with the  
10 charge of unlawful carrying of a handgun.

11 The elements of each of these indictments  
12 will be explained to you at a later time. The  
13 indictments are not evidence in this case. They're  
14 simply the charge by which the case is brought into this  
15 court. And it is not in any sense evidence of any of  
16 the allegations that they contain.

17 The Defendant has pled not guilty to these  
18 indictments. The State, therefore, has the burden  
19 of proving each of the elements of each indictment  
20 beyond a reasonable doubt. It will be your duty,  
21 ladies and gentlemen, to decide whether the State  
22 has met that burden.

23 Your purpose as jurors is to find and  
24 determine the facts. You're the sole judges of the  
25 facts. If at any time I make any comment regarding

1 the facts, you must disregard that.

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

11           On the other hand, and with equal emphasis,  
12 the same law that makes you the judges of the facts  
13 makes me the judge of the law. The law as given by  
14 the Court is the only law that you may consider.  
15 You must accept it and follow it, even though you may  
16 disagree with it. I cannot tell you what the facts  
17 are, and you cannot disagree with me about what the law  
18 is, or what the law should be.

19           Your job is to take the law as I give it  
20 to you and apply it to the facts as you find them from  
21 the testimony of the witnesses and any other evidence  
22 that is introduced. After doing that, you will render  
23 your verdict under the solemn oath that you just took  
24 as jurors.

25           Until I advise you to begin your

1 deliberations, you must not discuss this case with  
2 anyone, including your fellow jurors, your friends,  
3 your family members and anyone involved in this case.  
4 This includes any discussion which are face-to-face,  
5 anything by telephone, e-mail, text, blogs, or any other  
6 method of communication. You may not use a computer,  
7 a cell phone, or any other electronic device with  
8 communication capabilities at any time while you're  
9 in the courtroom, or during your deliberations.

10           During your breaks for meals or for  
11 overnight, if necessary, of course, you may use these  
12 devices. However, you may not use these devices to get  
13 or send information about the case. This includes any  
14 information about the parties, a witness, an attorney,  
15 any court officer, any news accounts about this case,  
16 any research on any topics that may be raised, and any  
17 topics that you think might be helpful in deciding the  
18 case, or any testimony that's presented by any witness.

19           During the trial, do not read, listen to,  
20 or watch any news reports about this case. This would  
21 include anything that would be in the newspaper, TV,  
22 radio or internet. You must not consider anything  
23 that you may have read or heard about this case outside  
24 of this courtroom, whether before or during the trial  
25 of this case.

1           After the case is submitted to you, you must  
2 discuss it only in your jury room with your follow  
3 jurors. The attorneys and the parties in this case  
4 again have been advised not to talk to you. So again  
5 if you see them in the courthouse or coming in and out  
6 and do not speak to you, they're not being rude, they're  
7 following the Court's instructions.

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

17           In just a moment, the solicitor will make  
18 what is called an opening statement, which the solicitor  
19 will explain to you what the issues in this case are,  
20 or at least what the solicitor thinks the issues in this  
21 case are. The attorney for the Defendant may also make  
22 an opening statement, although, he's not required to do  
23 so. What the attorneys tell you here in their opening  
24 statements is not evidence in this case. It is only  
25 their contention as to what the issues are.



1           The evidence in this case will be presented  
2 to you by the testimony of the sworn witnesses from  
3 the witness stand and by any exhibits which are properly  
4 introduced in evidence. From time to time during the  
5 trial, you may hear one of the lawyers say something  
6 like, Your Honor, we have a question of law or a matter  
7 of law, may we approach the bench.

8           Sometimes, I, myself, might find it  
9 necessary to excuse you from the courtroom for a short  
10 while so the attorneys and I can discuss a matter  
11 of law. The reason for this is because you're the  
12 judges of the facts in this case. And sometimes when  
13 I'm discussing matters of law with the attorneys,  
14 it may be necessary for me to make some comments as to  
15 the facts in connection with whether or not a particular  
16 law applies.

17           I'm not supposed to tell you what I think  
18 the facts are, so I will excuse you from the courtroom  
19 for a short while, while these discussions take place,  
20 so that you, in no way, would be influenced by anything  
21 I might say or do in connection with the facts of this  
22 case.

23           In determining what the true facts are in  
24 this case, you must decide whether or not the testimony  
25 of witnesses is believable. It will be my

1 responsibility to rule as a matter of law as to whether  
2 certain testimony is admissible at all or not. But once  
3 a testimony is admitted, whether or not you believe it,  
4 is solely for you to determine.

5 In determining whether to believe a witness,  
6 you have the right to consider the interest of any  
7 witness, the bias of any witness, the prejudice of any  
8 witness, the opportunity for the witness to have seen  
9 the matters and the things about which the witness may  
10 testify, the way that the witness acts on the witness  
11 stand.

12 You have the right to consider anything  
13 that is in the record that will help you evaluate the  
14 testimony of the witnesses. That means it is your duty  
15 to pay close attention to these witnesses, to observe  
16 the witnesses, to listen to the witnesses, to pay close  
17 attention to the attorneys and to the Court.

18 Please, don't let your thoughts wander,  
19 but give strict attention to the testimony in this case,  
20 so that at the end of the trial, after you've heard  
21 the arguments of counsel, and I've instructed you  
22 on the law in this case, you will then be in a position  
23 to render a verdict in the solemn oath that you just  
24 took as jurors.

25 Are there any exceptions or objections

1 to the opening remarks from the State or from the  
2 Defendant?

3 MR. SORENSON: No, Your Honor.

4 MR. LOY: No. Thank you.

5 THE COURT: Solicitor, you may proceed.

6 MR. SMYTHE: Thank you, Your Honor.

7 Good morning, ladies and gentlemen. How are you all?  
8 Thank you for coming back this morning, and thank you  
9 for serving on our jury. My name is George Smythe.  
10 I work for the solicitor's office here in Dorchester  
11 County.

12 We are here in the case of the State  
13 of South Carolina versus Daniel Lawrence. Mr. Lawrence  
14 is charged with burglary in the first degree, as well  
15 as unlawful carrying of a pistol.

16 I want to talk about burglary for a little  
17 bit. Burglary in South Carolina is the unlawful entry  
18 of a dwelling without permission with intent to commit  
19 a crime therein. What makes it a first degree is either  
20 that it happens at night, it happens by a person  
21 carrying a weapon into or out of that dwell, or by  
22 a person with two or more convictions for burglary  
23 or housebreaking in the past.

24 We must prove all these elements, like  
25 the judge said, beyond a reasonable doubt. That does

1 not mean beyond every single doubt you might have,  
2 beyond all doubt, but beyond a reasonable doubt.

3 A good way to think about it is if at the end of our  
4 trial, after all of our evidence and all the witnesses  
5 that me or the defense might have, if you're firmly  
6 convinced of the Defendant's guilt, you must find him  
7 guilty.

8 Let's go back to October 31, 2018, last year  
9 on Halloween. Jerome and Jamie Browne lived in the  
10 Whitehall neighborhood down on Dorchester Road in  
11 Dorchester County. They're not home. It's about ten  
12 o'clock in the morning when their house was broken into.  
13 The door is kicked in. Every room, the closet is  
14 ransacked, turned over. There are items taken.

15 Luckily, somebody sees something; a witness,  
16 a neighbor sees something suspicious in the  
17 neighborhood. She sees a man walking down the street  
18 she doesn't recognize. He's got a big jacket on,  
19 a heavy jacket. It's zipped up, with the hood up  
20 and tied so you can't see his face, so that's strange.  
21 It's 75 degrees outside. All of you know what October  
22 in the Carolinas can be like. He's got this big, heavy  
23 jacket on; that's strange.

24 She doesn't call the police. She goes back  
25 to work. About 30 minutes later, she sees the same

1 person, the same man, big, heavy jacket coming back,  
2 but this time with a white bag in his hand. She watches  
3 this man go up the street, put the bag behind the bush,  
4 sort of disappears behind the house, and reappears  
5 in the street a little while later. Then she sees  
6 a silver sedan come up, go towards where that white bag  
7 is. The man walks up next to it, gets the white bag,  
8 gets in the silver sedan and leaves.

9 She calls 911. She described what she had  
10 seen to the police. Luckily, there's an officer in the  
11 area. He's listening to dispatch, hearing what's coming  
12 over the radio, and sees a silver sedan, two men in the  
13 car, the passenger has got this big, heavy, camouflaged  
14 jacket on. Follows them for a short time, pulls them  
15 over right there outside the neighborhood on Dorchester  
16 Road.

17 In that car, in between the passenger's  
18 legs, a white bag; electronics, jewelry, credit cards,  
19 pictures of the victim's children and a firearm.  
20 Those are the facts of this case. One more fact,  
21 Daniel Lawrence has two prior convictions for burglary.

22 After you've seen all of our witnesses from  
23 that witness stand, after you see all of our evidence,  
24 I'm confident you'll return a verdict of guilty.  
25 Thank you.

1 THE COURT: Counsel.

2 MR. LOY: Thank you, Your Honor.

3 Good morning. I have good news and bad news. The good  
4 news is that this is going to be a relatively short  
5 case. The facts that are going to be presented are not  
6 going to be convoluted, complicated. And, indeed,  
7 I suspect that the witnesses called, et cetera, will go  
8 very smoothly, and the evidence will go fairly quickly,  
9 and we won't take up too much of your time. That's the  
10 good news.

11 The bad news is you guys have a tough job  
12 today. You really do. And I'll tell you more about  
13 that in just a moment. Right now, I'll tell you that  
14 everybody who's brought to court, accused by a crime,  
15 that is, by the State, being prosecuted, is presumed  
16 innocent. That is, there's an active presumption  
17 of innocence. It's not just a title of a book  
18 or a movie, et cetera. It's an actual fundamental  
19 principle in which our whole system is based, our whole  
20 country is based.

21 And what that presumption of innocence does  
22 is it places the burden of proof over here on the State  
23 to produce evidence that will convince you beyond every  
24 reasonable doubt of the guilt of the Defendant.

25 And you see how right there in the opening

1 statement they start back pedalling on that right away.  
2 It doesn't mean every doubt; it doesn't mean every  
3 single doubt; it doesn't mean a shadow -- what it means  
4 is the kind of doubt that would cause you to hesitate  
5 in the execution of the most important personal affairs.  
6 That's what we call a reasonable doubt.

7 Now, there's two things the State has to  
8 do in every single criminal case in order to prevail.  
9 On the one hand, we never try the same case twice.  
10 Everyone has different people, different evidence,  
11 different juries. In the rare case where there's  
12 a mistrial, or a case is required to be tried twice,  
13 it still doesn't come out the same. It's a dynamic.  
14 It's not just like a math problem. So we never try  
15 the same case twice.

16 Still, there's two things the State has  
17 to do every time in order to prevail. One is, first,  
18 they have to prove that the crime alleged in the  
19 indictment, that is, the charging paper that the judge  
20 read earlier and that you'll have in the jury room with  
21 you, they have to prove that this crime occurred.

22 And in some cases, that's the crux of the  
23 defense, and that's the basis for a jury's deliberation,  
24 to decide we don't think the car was stolen, you know,  
25 or we don't think the assault occurred, or we think it

1 was self-defense in a different sort of a case because  
2 in that case it means a crime did not occur.

3 So, first, the State has to present evidence  
4 to convince each of you beyond any reasonable doubt that  
5 the crime, or crimes, alleged in their indictments have  
6 occurred.

7 In this case, they're going to prove the  
8 burglary took place, okay. They're going to go ahead,  
9 and then I suppose show you some pictures, and they're  
10 going to call some people, and they're going to say our  
11 home was broken into or stuff were stolen. And they're  
12 going to prove in spades, hands down that a burglary  
13 occurred, okay.

14 I encourage you to listen to everything  
15 all the way through. But understand this, we're  
16 not claiming that somebody has fabricated or lied  
17 or pretended their home was burglarized and it wasn't.  
18 The burglary occurred, and they'll prove it. That part  
19 is not hard for you guys.

20 Secondly, the State has to prove that the  
21 person they have charged with the crime, in this case  
22 is Mr. Lawrence, is the person who committed the crime.  
23 They have to prove beyond a reasonable doubt that  
24 he was the person who committed the crimes alleged  
25 in the State's indictments. So, in this case, wait



1 for that evidence, okay, because it's not forthcoming.

2           There are circumstances and situations which  
3 may be suspicious, and the judge is going to address  
4 those with you at the close of the trial. She's going  
5 to tell you what to do and what sort of merit and what  
6 to do with those suspicions. But the evidence that the  
7 Defendant in this case committed a burglary is simply  
8 not forthcoming.

9           Now, here's why I say you guys have a tough  
10 job, okay, because in almost every case, evidence of  
11 prior misconduct, criminal or otherwise, of a person on  
12 trial in the court of general sessions is not admissible  
13 at trial. You don't hear that, except with some very  
14 specific and carved out circumstances.

15           Burglary in this case is one of those  
16 situations and circumstances. And our law says that  
17 if a person has been convicted of housebreaking,  
18 burglary, et cetera, then those are what we call  
19 aggravated circumstances when it comes to the  
20 punishment, or when it comes to the elements  
21 of the crime of burglary first.

22           What it means is in this case there's  
23 an exception, and y'all are going to get to hear about  
24 some criminal history of Mr. Lawrence, and he has some.  
25 It's not going to be in dispute. The reason you guys

1 have a tough job is because you took an oath, and myself  
2 and Mr. Lawrence have every reason to believe you will  
3 do your absolute best effort to comply, and, in fact,  
4 that you will comply.

5 Part of that oath is to apply the law as the  
6 judge gives it to you. And what she's going to tell you  
7 at the close of this trial, and the solicitor may well  
8 tell you also at the close of this trial, that evidence  
9 of prior misconduct or prior misbehavior on the part  
10 of the Defendant has nothing to do with proving whether  
11 or not he's guilty of the crime he's charged for today.

12 He's not charged here today with having  
13 a criminal record. If he were, he would plead guilty;  
14 he's got a criminal record. That's not what it goes  
15 to, and it's not to be considered whatsoever in any way,  
16 shape or form with whether or not the State has proven  
17 the guilt of the Defendant beyond a reasonable doubt  
18 in this case. That's hard to do.

19 There's nothing much more prejudicial than  
20 to come to trial in front of 12 citizens in your county,  
21 and have them know that in the past you have been  
22 convicted of a crime or two or three or six or ten,  
23 however many. There's nothing more prejudicial.

24 However, your oath absolutely qualifies  
25 you to set those prejudices aside, to apply that

1 information solely as the judge tells you it is to  
2 be applied, in no other way, shape or form, and then  
3 to put it off the table and look at the evidence that's  
4 presented as to this crime, this burglary, this  
5 indictment, and this charge.

6 I know it goes against human nature.  
7 And outside today, you can judge people on their  
8 history, their past, in your personal lives, in your  
9 own experiences any way you choose. But today, you  
10 raise your right hand and you take an oath, and there's  
11 not many times you have to do that. If you're a  
12 naturalized citizen, you do it; if you're in the Armed  
13 Forces, you do it; if you offer testimony, you do it;  
14 and if you're a juror, you take an oath.

15 It's carved out; it's serious; it's real.  
16 Be true to yourself; be true to the Court, and listen  
17 to the evidence. Apply the law as Your Honor instructs  
18 you to, set aside any predispositions or prejudices  
19 based on their impropriety, and weigh what you hear  
20 that's tending to show that Mr. Lawrence committed  
21 the burglary.

22 And I trust -- and Mr. Lawrence is in  
23 a terribly tight spot, has no choice but to trust that  
24 you will do what I've asked you to do, apply the law.  
25 You do that, your verdict will be not guilty. Thank you

1     very much.

2                   THE COURT:   You may call your first witness.

3                   MR. SMYTHE:   Thank you, Your Honor.   State  
4     calls Kim LaPointe Donoghue.

5                   THE COURT:   Would the parties please  
6     approach.

7                   (Off-the-record conversation held at sidebar.)

8                   (Back on the record.)

9                   MS. KIM LAPOINTE DONOGHUE was called as  
10    a witness, being duly sworn, was examined and testified  
11    as follows:

12                   THE COURT:   Your witness.

13                   MR. SMYTHE:   Thank you, Your Honor.

14                   DIRECT EXAMINATION

15    BY MR. SMYTHE:

16       Q.   How are you doing, ma'am?

17       A.   Fine.

18       Q.   Where do you live?

19       A.   In Whitehall.

20       Q.   And how long have you lived there?

21       A.   About seven years.

22       Q.   Okay.

23                   MR. SMYTHE:   May I approach the witness,  
24    Your Honor?

25                   THE COURT:   You may.

1 BY MR. SMYTHE:

2 Q. I'm showing you what's been marked as State's  
3 Exhibit 1. Do you recognize this?

4 A. I do.

5 Q. And what does that appear to be?

6 A. A diagram of our subdivision.

7 Q. Okay. And this is the subdivision you say  
8 you live in Whitehall?

9 A. Yes.

10 Q. And is it a fair and accurate representation  
11 of your neighborhood based on the time that you lived  
12 there?

13 A. Yes.

14 Q. Both now and back in 2018?

15 A. Yes.

16 MR. SMYTHE: Your Honor, may I have State's  
17 1 admitted into evidence?

18 THE COURT: Any objection?

19 MR. LOY: None.

20 THE COURT: All right, it's in.

21 (State's Exhibit No. 1 was admitted into evidence.)

22 MR. SMYTHE: May I publish to the jury?

23 THE COURT: You may.

24 BY MR. SMYTHE:

25 Q. Could you please, for the jury, point out on this

1 where exactly in the area in which you live in this  
2 neighborhood?

3 A. (Indicating.) I live along this street right  
4 here.

5 Q. Okay. And you live near any intersections  
6 because this is -- what street is this?

7 A. This is Greggs Landing.

8 Q. Okay.

9 A. And this is Stone Bridge, and I lived right along  
10 here in Stone Bridge.

11 Q. Okay. You live in the area of Stone Bridge  
12 and Greggs Landing?

13 A. I do.

14 Q. And you have an advantage point from your --  
15 do you have an advantage point from your house that  
16 you can see both streets?

17 A. I do.

18 Q. Okay. And you've lived there for how long?

19 A. About seven years.

20 Q. And were you at home on October 31, 2018?

21 A. I was.

22 Q. Did you see anything suspicious that day?

23 A. I did.

24 Q. Could you please tell the jury about what you  
25 saw?

1       A. I saw a man walking up Stonehenge here towards  
2       Greggs Landing. And he rounded the corner here,  
3       and walked down Greggs Landing this way.

4       Q. And what was suspicious -- what caught your  
5       interest with this man?

6       A. What caught my eye was the fact that it was  
7       a warm day, and he had on a big, heavy jacket. It was  
8       camo, all pulled down around his face. So it looked  
9       like he was trying to conceal ---

10               MR. LOY: Objection, Your Honor.  
11       Speculation.

12               THE COURT: Sustained.

13               MR. SMYTHE: That's okay.

14       BY MR. SMYTHE:

15       Q. Just what you remember. You remember -- you said  
16       he was wearing a big, heavy jacket?

17       A. It was a winter jacket on a warm day.

18       Q. But you couldn't really see his face ---

19       A. No.

20       Q. --- is that what you just said?

21       A. Correct.

22       Q. And you said that you could see him walking down  
23       Stone Bridge?

24       A. He was walking up Stone Bridge towards Greggs  
25       Landing.

1 Q. Okay. Did you call the police when you saw him  
2 at first?

3 A. I did not.

4 Q. Okay. But, eventually, did you call the police?

5 A. I did.

6 Q. And why was that?

7 A. Because when I saw him enter the sub, he didn't  
8 have anything with him. And when he went to leave  
9 the sub, he was carrying a big bag over his shoulder.

10 Q. So you saw him two different times; is that  
11 correct?

12 A. I did.

13 Q. How long was it between when you first saw him  
14 and then when you saw him, you said, leaving?

15 A. 30 to 45 minutes, I would guess, somewhere  
16 in that neighborhood.

17 Q. So there was a 30-to-45-minute gap when you saw  
18 him come in and you saw him leave?

19 A. Uh-huh.

20 THE COURT: Is that a yes?

21 THE WITNESS: Yes.

22 MR. SMYTHE: I'm sorry.

23 THE WITNESS: Okay, yes.

24 BY MR. SMYTHE:

25 Q. And could you tell the jury about, you know,



1 the circumstances under which he left? What did you  
2 see when you saw him come back into view?

3 A. When I saw him coming back from down Greggs  
4 Landing this way and heading back up to Stonehenge over  
5 here, there was a house over here that has a privacy  
6 fence all along here, and it goes along the back of the  
7 property. But there's, like, a little, I would say,  
8 like, an empty lot between the back of this house here  
9 and where the next house is. And there are some bushes  
10 behind that fence and some trees.

11 So when he came up Stonehenge, he went right  
12 to the back of that fence. And I said, oh, there's  
13 something going on here. I called my husband over to  
14 the window. We witnessed this together. Then, I saw  
15 this person -- he must have left the bag behind this  
16 fence and come back out between a couple of houses that  
17 were over here because now he's back out on Greggs  
18 Landing again.

19 Q. Okay.

20 A. And he was walking up this way.

21 Q. You mentioned a bag that he had when he came back  
22 into view ---

23 A. Yes.

24 Q. --- correct? Can you describe the bag?

25 A. It was ---

1 Q. What color was it?

2 A. It was white, a white bag, maybe with blue  
3 handles, maybe about this big.

4 Q. Okay. And you saw him carrying that, and you  
5 stated that you saw him deposit it or walk up the street  
6 with it, and he came back into view without it?

7 A. Yes. And he came back into view without the bag.

8 Q. And then what did you see?

9 A. (Indicating.) I saw him -- so, like, somewhere  
10 in here, came up between these houses, and he's along  
11 Gregg's Landing again. And he goes down Stonehenge  
12 which leads out of the sub. A car pulled up.

13 Q. What kind of car?

14 A. It was a silver car. There again I was not able  
15 to ascertain anything other than it was a silver  
16 midsize car.

17 Q. When you say midsize, was it a sedan, a station  
18 wagon?

19 A. It was a sedan. It was not a station wagon;  
20 it was not an SUV.

21 Q. Okay.

22 A. It was silver.

23 Q. In which direction did that car come from?

24 A. (Indicating.) It had to have come from over  
25 here.

1 Q. Okay.

2 A. Because Greggs Landing dead ends on both ends.  
3 There's one street that comes through Falling Leaf  
4 that you can get onto Greggs Landing. But he couldn't  
5 come from down here on Greggs Landing or down on the  
6 other end of Greggs Landing because there's no way in  
7 or out. It has to be off of Falling Leaf or Stonehenge.  
8 And with the way his vehicle was pointed to head out  
9 of the sub, I ascertain that he came from this way.

10 Q. Okay. And so what did you see after you saw  
11 this vehicle coming in view?

12 A. I then saw the person that had put the bag behind  
13 the fence go behind the fence, get the bag, and get  
14 in the car.

15 Q. Okay.

16 A. And the car went to leave the sub.

17 Q. And did you -- at some point during all of this,  
18 you had called 911?

19 A. I did.

20 Q. And did you relay to law enforcement everything  
21 that you talked about?

22 A. I did.

23 Q. You relayed the fact that he was -- what he was  
24 wearing and all that?

25 A. I gave a description of what I noticed him

1     wearing.

2             Q.    Okay.

3                   MR. SMYTHE:   If I may approach the witness,  
4   Your Honor?

5                   THE COURT:   You may.

6   BY MR. SMYTHE:

7             Q.    Could you just point out where -- around where,  
8   approximately where, he deposited that bag, where you  
9   remember?   Put an X or a circle.

10            A.    (Indicating.) Yeah.   Actually, it had to  
11   have been somewhere probably like back in here.

12            Q.    Okay.   Perfect.   And is that approximately  
13   the place where the silver sedan picked him up?

14            A.    It is.

15            Q.    And you could see, you know, all of this,  
16   him getting in the car ---

17            A.    Yes.

18            Q.    --- and grabbing the bag and all that?   Were you  
19   able to see who the driver was?

20            A.    No.

21                   MR. SMYTHE:   Beg the Court's indulgence  
22   for one second, Your Honor.

23   BY MR. SMYTHE:

24            Q.    And just going back to what you've told law  
25   enforcement on the phone, can you tell the jury what

1 was the full description you gave?

2 A. I said -- I don't remember my exact words.

3 Q. That's okay. I mean, just approximately what,  
4 you know, he was wearing a jacket.

5 A. I just said that ---

6 MR. LOY: Objection. Leading, Your Honor.

7 THE COURT: If you could remember what you  
8 conveyed to law enforcement as far as the description.

9 THE WITNESS: Sure. I said it was a Black  
10 male in a camo jacket with a hood, grey sweatpants  
11 and red-bottom tennis shoes.

12 MR. SMYTHE: Okay. No further questions.

13 Thank you.

14 THE COURT: Cross-examination.

15 MR. LOY: None. Thank you.

16 THE COURT: You may step down, ma'am.

17 Thank you.

18 THE WITNESS: Thank you.

19 MR. LOY: Your Honor, may we approach  
20 for one moment?

21 THE COURT: Certainly.

22 (Off-the-record conversation held at sidebar.)

23 (Back on the record.)

24 THE COURT: Ladies and gentlemen, I know  
25 that you just got in the courtroom, and we just got

1 started, but we're going to take a very brief recess.  
2 It won't take us but ten minutes, so it'll give you  
3 a chance to stretch your legs, grab a snack, and we'll  
4 be right back with you. Again, please remember my  
5 instructions. You're not to discuss the case amongst  
6 yourselves or with anyone else.

7 (Jury exits the courtroom at 11:05 a.m.)

8 THE COURT: We'll take a short recess.  
9 All right. We'll be at ease for a minute.

10 (Recess taken.)

11 (Back on the record.)

12 THE COURT: Thank you, everyone. Please  
13 have a seat. Ready for our jury?

14 MR. SORENSON: Yes, ma'am.

15 MR. LOY: Yes, Your Honor.

16 THE COURT: All right. Let's have our jury,  
17 please.

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

19 THE COURT: Thank you for your patience,  
20 ladies and gentlemen of the jury. We're ready to  
21 proceed. You may call your next witness.

22 MR. SORENSON: Thank you. State calls  
23 Corporal Hamilton Jenkins.

24 OFFICER HAMPTON JENKINS, was called as  
25 a witness, being duly sworn, was examined and testified

1 as follows:

2 THE COURT: Your witness.

3 MR. SORENSON: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MR. SORENSON:

6 Q. Officer Jenkins, please tell the jury where  
7 you're employed.

8 A. North Charleston Police Department.

9 Q. And how long have you been with North Charleston?

10 A. I've been with North Charleston for 16 years.

11 Q. And what are your current duties there?

12 A. I'm a corporal over a uniformed patrol team.

13 Q. Okay. And prior to going to work for the North  
14 Charleston Police Department, where did you work prior  
15 to that?

16 A. I was with the Colleton County Sheriff's Office  
17 for four years.

18 Q. Okay. And what about prior to Colleton County?

19 A. I was in the United States Marines. I was  
20 a corporal over a weapons company squad.

21 Q. Okay. So some 20 years or so in law enforcement?

22 A. Yes, sir.

23 Q. Okay. I want to turn your attention back to the  
24 morning of October 31st of 2018. Were you working that  
25 morning?

1       A.   Yes, I was.

2       Q.   And what area were you assigned to in North  
3   Charleston?

4       A.   I was assigned to Zone 9, which is from Ashley  
5   Phosphate up to Ladson Road and the Dorchester Road  
6   Corridor, Whitehall, Cedar Grove, Wescott, Coosaw,  
7   those different areas.

8       Q.   Okay.  That area, all of them, basically  
9   in the Dorchester County part of North Charleston?

10      A.   Correct.  Yes, sir.

11      Q.   Okay.  And did there come a time where you  
12   were dispatched out into the Whitehall subdivision?

13      A.   I did.  At 11:10, I was dispatched.

14      Q.   Okay.  And what was the nature of that call  
15   that you were dispatched out for?

16      A.   A caller had called 911 and advised that there  
17   was a Black male wearing a camouflaged jacket and grey  
18   sweatpants in the area of Greggs Landing, acting  
19   suspiciously.

20      Q.   Okay.  And when that call first came out,  
21   was that information sent then to you?

22      A.   Yes, it came in on the computer that I have in  
23   my vehicle.  The notes pop up and then later dispatched  
24   over the radio itself.

25      Q.   And what did you do when that first --



1     that initial information came out about the male --  
2     suspicious male individual with a camo jacket and grey  
3     sweatpants?

4         A.   As that came on, I was at the intersection  
5     of Ashley Phosphate and Dorchester.  So, I was about  
6     a mile from the entrance to the neighborhood,  
7     and I started making my way up there.  While I was  
8     doing that, some of the notes started updating about  
9     his actions.

10        Q.   Okay, what was that additional kind of  
11   information that you were provided as you were  
12   responding to that neighborhood?

13        A.   The complainant stated that he had been walking  
14   in the neighborhood, and that she had later seen him  
15   walking with a black and white stripped flat-bottom bag,  
16   and he got into a silver vehicle.

17        Q.   Okay.  And when that information regarding  
18   the vehicle came out, where were you at at that time?

19        A.   I was turning onto Netherby from Dorchester Road,  
20   which is maybe a half a mile from the entrance to Stone  
21   Bridge, which is one of two main roads going back  
22   to Greggs Landing.

23        Q.   Okay.  And tell the jury at that point in time  
24   what, if anything, you observed?

25        A.   As I was turning onto Stone Bridge that's when

1 it had actually updated, said he had gotten into the  
2 silver sedan, and the sedan was leaving. Within seconds  
3 of getting that information, a silver sedan passed me,  
4 and I could see the passenger was a Black male wearing  
5 a camouflaged jacket.

6 Q. And what did you then do, Corporal Jenkins?

7 A. Instead of trying to find the house or any areas  
8 in there that may have had some issues, I decided to  
9 turn around on that vehicle. As I was turning around --  
10 I turned around on the car as soon as it passed me.  
11 It's just a little bit of a curve on that road.

12 By the time my vehicle turned around, the car was  
13 virtually out of sight. They had escalated at a pretty  
14 high rate of speed. I didn't catch up and make physical  
15 contact with the car until they were at the corner  
16 of Netherby and Dorchester. I waited for the light  
17 to change. They turned right on Dorchester Road,  
18 and I initiated a traffic stop.

19 Q. Okay. The vehicle pulled over at that time?

20 A. He did, pulled over to the median.

21 Q. Okay. Blue lights and siren at that time?

22 A. Yes, sir.

23 Q. Okay. And let me show you State's Exhibit

24 No. 1. Do you recognize this map?

25 MR. SORENSON: May I approach the witness,

1 Your Honor?

2 THE COURT: You may.

3 BY MR. SORENSON:

4 Q. Do you recognize this map, Corporal?

5 A. I do.

6 Q. I'll give you a pointer. If you could kind of  
7 show for the jury kind of where you were talking about.

8 A. (Indicating.) I encountered the vehicle right  
9 here. I turned around on it. I went down a little bit  
10 further. By the time I got turned around, the vehicle  
11 was already up here. They turned right, I initiated  
12 a traffic stop, and it was somewhere in the median,  
13 right around that area.

14 Q. All right. So you indicated the vehicle pulled  
15 over. And, I guess, that part of Dorchester Road has  
16 a pretty wide center median; is that correct?

17 A. Yes, sir.

18 Q. Where did the vehicle pull over?

19 A. Into the center median to the grass.

20 Q. Okay. And what did you do at that time?

21 A. I approached the vehicle to make contact with  
22 the driver. When I did, from the onset of my encounter  
23 with him, he was very defiant, very argumentative with  
24 me. I immediately noticed that the passenger did have  
25 on a camouflaged jacket and grey sweatpants.

1 Q. Okay. So the driver -- do you know what  
2 the driver's name was?

3 A. I believe it was Tevin Beaton.

4 Q. Okay. And you indicated -- how was the passenger  
5 in the vehicle dressed?

6 A. Camouflaged jacket and grey sweatpants.

7 Q. Okay. And who was the passenger that was in the  
8 vehicle?

9 A. Mr. Lawrence.

10 Q. The Defendant in this case?

11 A. Yes.

12 Q. And did you have an opportunity at that point  
13 in time to make contact and talk with both of them?

14 A. I did.

15 Q. Okay. And, specifically, with regards to the  
16 Defendant, Mr. Lawrence, did you ask him any questions?

17 A. Yes, I did.

18 Q. And what was that?

19 A. I explained to both of them why I was in the  
20 area, and I advised them -- I spoke to Mr. Lawrence,  
21 and he stated that his girlfriend, Lorell Nixon [ph.],  
22 lived in the neighborhood, and that he had spent  
23 the night before with her. I asked him the address,  
24 and he told me he didn't know, that she had ordered  
25 an Uber for him.

1           While I'm speaking with him, I noticed that  
2 he has a blue and white stripped bag between his feet,  
3 and it's coming up about knee level. In that bag,  
4 I could observe in plain sight electronic boxes, Apple  
5 iPhone boxes, other electronic equipment. Asked him  
6 what was in the bag, and he told me it was dirty clothes  
7 from the night before.

8           Q. Okay. At some point in time, did -- when you  
9 first stopped the vehicle, were there any other officers  
10 there?

11          A. Not at the initial traffic stop.

12          Q. Ultimately, you were backed up by a couple  
13 of other officers?

14          A. I had one officer back me up initially, and that  
15 was Officer Cooper. He was an off-duty officer that  
16 just happened to be passing by.

17          Q. At some point in time, did you have an  
18 opportunity to get both Mr. Beaton and the Defendant,  
19 Mr. Lawrence, out of the vehicle?

20          A. Yes, I did.

21          Q. Okay. And tell the jury what, if anything,  
22 you observed at that time.

23          A. I had taken the driver out of the vehicle  
24 and placed him into custody for a traffic offense.  
25 When I did that, Officer Cooper was pulling -- asked

1 the Defendant to exit the vehicle. When he asked him  
2 to do this, he took off -- I watched him take off the  
3 camouflaged jacket, and he was trying to put it on top  
4 of the open bag.

5 The second he got out of the vehicle, and Officer  
6 Cooper was pulling him away, I said there was a gun.  
7 In plain view, there was a gun on top of the electronics  
8 in the bag. Officer Cooper then placed Mr. Lawrence  
9 in handcuffs.

10 Q. Did you then have an opportunity to remove that  
11 bag from the front passenger floorboard of the vehicle?

12 A. I removed the gun at first just to secure it  
13 while we could put both of the Defendants in separate  
14 vehicles.

15 Q. Do you remember what kind of gun that was?

16 A. It was a Smith and Wesson M&P Shield.

17 MR. LOY: Your Honor, at this point, I renew  
18 my earlier objection on the grounds I have earlier  
19 annunciated.

20 THE COURT: Yes, sir. And for the reasons  
21 articulated by the Court previously, your motion  
22 is denied.

23 BY MR. SORENSON:

24 Q. That was -- what kind of gun?

25 A. Smith and Wesson M&P Shield.

1 Q. Okay. And was that gun loaded?

2 A. I do not recall.

3 Q. Let me ask you, did you ultimately do a kind  
4 of chain of custody form with items that were recovered  
5 from that vehicle?

6 A. Yes, sir, I did.

7 Q. And would that help refresh your memory to that?

8 A. Yes, sir.

9 MR. SORENSON: May I approach the witness?

10 THE COURT: You may.

11 BY MR. SORENSON:

12 Q. I believe if you look at -- Item 1 I believe  
13 is the item I'm talking about right now.

14 A. Yes, sir, and it was loaded -- it was returned  
15 with a magazine with four rounds.

16 Q. Okay. All right. And so you said initially  
17 you removed that gun from the vehicle from that top  
18 of that bag?

19 A. Yes, sir.

20 Q. Okay. What did you do with the gun initially?

21 A. I put it in my car.

22 Q. Okay. All right. Did you have an opportunity  
23 at that point in time to further search at all?

24 A. Yes, sir. We looked further into the bag, and it  
25 did have the electronics in it. The jacket was removed

1 from the vehicle that the Defendant had been wearing.  
2 Inside the jacket, it had a couple of watches, it had  
3 miscellaneous debit cards. The names on the cards were  
4 Jamie Masson, and that was not the Defendant's name.

5 Q. Okay. Let me show you State's Exhibit ---

6 MR. SORENSON: May I approach the witness,  
7 Your Honor?

8 THE COURT: You may.

9 BY MR. SORENSON:

10 Q. State's Exhibits 2 through 6. Do you recognize  
11 those photographs?

12 A. Yes, sir. This is a picture of the vehicle  
13 that I had stopped. This is another picture of it.  
14 This is the camouflaged jacket that the Defendant  
15 was wearing that had the watches. Everything that  
16 is pictured on this -- the debit cards, everything else  
17 came out of the pockets of the camouflaged jacket.  
18 This is just kind of spread out across the hood of the  
19 car, and that is a picture of the bag that he had stated  
20 had the dirty clothes in it that was between his legs.

21 MR. SORENSON: At this time, we offer  
22 State's 2 through 6 into evidence.

23 THE COURT: Any objection?

24 MR. LOY: No. I have no new objection.

25 THE COURT: All right, sir. They're in.



23           A. Yes, sir. You can see the camouflaged jacket  
24   that's on the hood, the front hood next to the  
25   windshield.

1 Q. And show you State's Exhibit No. 4.

2 A. That would be the camouflaged jacket. That would  
3 also be the two watches, and then it was just a stack  
4 of debit cards, pictures, things of that nature that  
5 came out of the pocket.

6 Q. So all that stuff was inside the pockets of that  
7 camouflaged jacket?

8 A. The jacket that the Defendant took off, yes, sir.

9 Q. So when you first encountered the vehicle,  
10 who was wearing that jacket?

11 A. Mr. Lawrence.

12 Q. Okay. State's Exhibit No. 5 is what?

13 A. That is the same cards that you just -- that were  
14 in the previous pictures. That's just everything kind  
15 of spread out.

16 Q. You indicated that some of them at the end are  
17 credit cards ---

18 A. Yes, sir.

19 Q. --- is that correct? I'm not sure if it's going  
20 to be clear or not, but what name is on those credit  
21 cards?

22 A. Jamie Masson.

23 Q. Did you ultimately learn who that was?

24 A. Yes, sir.

25 Q. And who was that?

1           A.   That was ---

2                   MR. LOY:  Objection, Your Honor.  Hearsay.  
3   There's no foundation.

4                   THE COURT:  He can see what the name on  
5   the credit card is.  And if his investigation led him  
6   to connect it to the crime, I think he can testify about  
7   that.

8   BY MR. SORENSON:

9           Q.  Did you ultimately learn who Jamie Masson was,  
10  M-A-S-S-O-N?

11          A.  Yes, sir.  When some of my teammates responded  
12  to the area we believed the crime had occurred due  
13  to what I had found in the vehicle, those officers  
14  then went to Greggs Landing and were able to ---

15                  MR. LOY:  Objection, Your Honor.  Again,  
16  there's no foundation for him to testify.  He wasn't  
17  present.  This is hearsay, what someone told him  
18  occurred.

19                  MR. SORENSON:  I will jump forward.  
20  It's probably a little more than what I'm trying  
21  to get out of him anyway.

22                  THE COURT:  All right.

23  BY MR. SORENSON:

24          Q.  Ultimately, were those items turned over  
25  to somebody?

1 A. Yes, sir.

2 Q. Did you learn whose items those were?

3 A. Yes, sir.

4 Q. Whose?

5 A. The victims of a burglary.

6 Q. And then, lastly, State's Exhibit No. 6.

7 What is that item?

8 A. That would be the bag that was between the  
9 Defendant's knees and the floorboard of the car that  
10 he had stated had dirty clothes in it.

11 Q. Okay. Did you have an opportunity to ultimately  
12 go through that bag and kind of inventory what was  
13 in there?

14 A. Yes, sir.

15 Q. Okay. And what -- one second. Let me ask  
16 you this. During the course of when you're out there  
17 on the side of Dorchester Road dealing with this  
18 vehicle, were there other officers that responded into  
19 the Whitehall subdivision?

20 A. Yes.

21 Q. Okay. And, at some point in time, did you learn  
22 from those officers about them locating a residence  
23 that appeared to have some forced entry to it?

24 MR. LOY: Again, Your Honor, I don't think  
25 this is -- it's hearsay. Somebody can come in and

1     testify to what they found, if they did. But this  
2     officer wasn't present.

3                 MR. SORENSON: This is merely to explain  
4     what he does with these items.

5                 THE COURT: He can testify to that.

6                 MR. SORENSON: Okay.

7     BY MR. SORENSON:

8         Q. Did you learn that information?

9         A. I did.

10        Q. Okay. And did you ultimately have an opportunity  
11     then to meet with the homeowners from that home?

12        A. I did.

13        Q. Okay. And did you go over and show them any  
14     of the items that had been recovered ---

15                MR. LOY: Objection, Your Honor. This is  
16     leading.

17     BY MR. SORENSON:

18        Q. What did you do with the items that were  
19     recovered out of the vehicle at that time, Officer  
20     Jenkins?

21        A. After responding to the burglary location, it was  
22     determined that certain items had been removed from the  
23     residence. Those happen to be the same items that I was  
24     in possession of in my vehicle. The items that were --  
25     they were some of the things that the victims actually

1 had serial numbers and everything else and were able  
2 to provide me with that.

3 Other things, they were able to just describe  
4 and say this is mine. That happened to be the exact  
5 same things that I had in the bag. A chain of custody  
6 was filled out. They signed the chain of custody,  
7 and all items were returned to them.

8 Q. Okay. And if we were to go through it, is that  
9 the same chain of custody that I handed up to you?

10 A. Yes, sir.

11 Q. What items ultimately were turned back over  
12 to -- who were they turned over to?

13 A. It was turned over to Jerome Browne.

14 Q. Okay. And what items were turned back over  
15 to Mr. Browne then that day?

16 A. The first item was a Smith and Wesson M&P 9-mm  
17 semiautomatic handgun with four rounds. The second item  
18 was a blue and white stripped bag containing an X-Box  
19 360 with accessories, an Apple Mac Book Pro, an iPhone,  
20 a Roku, a SOG knife, a Smith and Wesson M&P holster,  
21 a jewelry box with miscellaneous jewelry and personal  
22 items. There were multiple photographs and credit cards  
23 with Jamie Masson's name on them. There was a black  
24 Citizen's watch, a black Casio watch and a CoolPad cell  
25 phone.

1 Q. All right. And, at that time, Mr. Lawrence was  
2 placed under arrest along with Mr. Beaton; is that  
3 correct?

4 A. Yes, sir.

5 Q. Let me show you ---

6 MR. SORENSON: May I approach the witness?

7 THE COURT: You may.

8 BY MR. SORENSON:

9 Q. State's Exhibit No. 7. Who's depicted in State's  
10 Exhibit No. 7?

11 A. The Defendant, Mr. Lawrence.

12 Q. Okay. And what kind of pants is he wearing?

13 A. Grey sweatpants.

14 Q. Did you have an opportunity to observe  
15 the bottoms of Mr. Lawrence's shoes?

16 A. Yes, sir. He had on red-bottom shoes.

17 MR. SORENSON: Offer No. 7 into evidence.  
18 I'm not sure if I said that.

19 THE COURT: Not yet.

20 MR. SORENSON: Okay. Offer No. 7 into  
21 evidence. I'm sorry. I didn't mean to publish that  
22 without doing that.

23 THE COURT: Subject to previous objection?

24 MR. LOY: No new objections, Your Honor.

25 THE COURT: All right. It's in.

1 MR. SORENSON: Thank you.

2 (State's Exhibit No. 7 was admitted into evidence.)

3 MR. SORENSON: Beg the Court's indulgence.

4 BY MR. SORENSON:

5 Q. So let me ask you, Officer -- Corporal Jenkins,  
6 you had an opportunity to respond over to the Browne's  
7 residence in Whitehall?

8 A. Yes, sir, I did.

9 Q. Okay. And is that residence -- what street  
10 was that on?

11 A. That was on Greggs Landing, and that was 5380  
12 Greggs Landing.

13 Q. Okay. Is that located in Dorchester County?

14 A. In the city of North Charleston, Dorchester  
15 County, yes, sir.

16 MR. SORENSON: Beg the Court's indulgence.  
17 Thank you, Corporal. Please answer any questions  
18 Mr. Loy has.

19 THE COURT: Cross-examination.

20 MR. LOY: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. LOY:

23 Q. You testified that you were essentially on what  
24 we call a routine patrol, to the extent there is such  
25 a thing; is that correct?



1       A.   Yes, sir.

2       Q.   Okay.  And you got the call that you described.  
3   And you stated to the solicitor a moment ago that the  
4   information you received was a black and white stripped  
5   bag was somehow involved in this report; is that  
6   correct?

7       A.   Yes, sir.

8       Q.   Now, you and I have recently gone over what  
9   we call a CAD report; is that correct?

10      A.   Yes.

11      Q.   And that's a printed transmission that's  
12   generated by dispatch describing a conversation between  
13   you and them; is that correct?

14      A.   Yes.

15      Q.   Okay.  And when they type it out, it's not just  
16   a record for their personal purpose.  It's also because  
17   they are communicating with you directly by print;  
18   is that right?

19      A.   Yes.

20      Q.   So they type in, and they say, here's what's  
21   going on, and you can look at it on your screen  
22   and respond accordingly; is that right?

23      A.   Yes, they'll type it shorthand.

24      Q.   I'm sorry.  Is it not in English, algebraic?  
25   Shorthand.  I mean, we can all read it.  I can't read

1 shorthand. We can all read what's typed in, can we not?

2 A. They abbreviate. They use some codes, but yes,  
3 sir.

4 Q. Okay. We've looked at this recently. Do you  
5 have a copy of it with you?

6 A. I do.

7 Q. You would agree with me that it's not really  
8 in code here, Line 6 on Page 3 of 13, thinks suspect  
9 put a duffel bag behind a fence; is that right?

10 A. Correct.

11 Q. I mean, that's not a code. I mean, we can read  
12 that. That's not in shorthand, right? Correct?

13 A. Well, see "COMP" is complainant, so there are a  
14 lot of different things that are in a form of shorthand.

15 Q. I'm sorry. What I'm looking at is Line 6, Page  
16 3 of 13, No. 6 numbered, all in caps, thinks suspect  
17 put a duffel bag behind privacy fence.

18 A. Correct.

19 Q. Okay. If it's code I can read it. It goes  
20 on, it says no known weapons were involved, right?

21 A. Correct.

22 MR. SORENSON: I'm going to object.

23 I mean, basically, it was just published to the jury.  
24 Is he offering it?

25 MR. LOY: I'm impeaching his earlier

1 testimony. He had information about a black and white  
2 stripped bag that was subsequently recovered when he  
3 says the information he is actually getting from  
4 dispatch is contrary to that. I certainly think ---

5 THE COURT: I will allow it.

6 BY MR. LOY:

7 Q. Do you agree with that; is that correct?

8 A. I agree that is what's printed, yes, sir.

9 Q. And you would agree it goes on, it says the same  
10 thing again representing a duffel bag; is that correct?

11 A. It does reference that.

12 Q. And when you say that's what was printed, it also  
13 means that's what showed up in print on your laptop  
14 or whatever it is you had there in the car; is that  
15 correct?

16 A. Right.

17 Q. Okay. And, again, it says no weapon involved.  
18 You stopped the vehicle; is that right?

19 A. Yes.

20 Q. And, at that point, you say you had some degree  
21 of conversation with the driver as well as the  
22 passenger, yes?

23 A. Yes.

24 Q. And the passenger told you I'm coming from my  
25 girlfriend's house. She ordered me an Uber, or she

1 called me an Uber, and I spent the night there; is that  
2 correct?

3 A. Yes.

4 Q. And he told you I have dirty clothes in the bag?

5 A. Yes.

6 Q. Okay. Now, at that time, you state the bag was  
7 under his knees there in the front, whatever. I mean,  
8 you could see some items, you told us you can see some  
9 items. You certainly couldn't see everything in the  
10 bag; is that right?

11 A. Correct.

12 Q. So even at this point, for all you know, it may  
13 have had dirty clothes in it with other items on top;  
14 is that right?

15 A. It's possible.

16 Q. Okay. You didn't see a firearm?

17 A. No, sir.

18 Q. Okay.

19 A. Not at that time.

20 Q. And you testified that at the time that the  
21 Defendant got out of the vehicle, and I think your  
22 report says as he was exiting the vehicle, I saw  
23 a firearm; is that correct?

24 A. Yes.

25 Q. Okay. And can you tell me -- at that point,

1     you drew your firearm?

2           A.   No.

3           Q.   Other officers drew their firearms?

4           A.   There was only one other officer, and he was  
5     removing him from the vehicle.

6           Q.   My question is, as you look into the car and you  
7     see him getting out, and there's a firearm there within  
8     reach of the Defendant, you take no action toward  
9     officer's safety?

10          A.   Well, I'm standing there holding somebody else  
11     that I've just placed in handcuffs. All I can say  
12     is gun to the other officer.

13          Q.   Okay. So then the answer is no. This guy  
14     is within reach of a firearm there on top of the bag,  
15     and you take no action whatsoever, other than to say,  
16     oh, there's a gun; is that right?

17          A.   Crossfire -- something that could be a potential  
18     crossfire situation, there's no reason for it. At that  
19     point, the other officer already had hands on him.

20          Q.   So then your answer is yes, that's right?

21          A.   Yes.

22          Q.   Okay. Now, we looked at the pictures of what --  
23     now, we looked at these pictures, State's Exhibits 3,  
24     4, 5, 6, and 2, or at least looked at some of them,  
25     and perhaps all of them. Can you tell me which one

1 of these records this firearm you described?

2 A. None.

3 Q. So you took pictures of a box and what was in  
4 the bag, but you didn't think the firearm was worth  
5 photographically recording to demonstrate ---

6 A. I didn't take a picture of anything.

7 Q. Excuse me?

8 A. I didn't take a picture of anything.

9 Q. I must have misunderstood your testimony earlier  
10 in a different proceeding. Do you wear a camera on your  
11 breast?

12 A. Yes.

13 Q. And what's the purpose of that?

14 A. To record.

15 Q. Yes, a camera is to record. Can you expand upon  
16 that at all?

17 A. It records evidence; it records any interactions  
18 with the public.

19 Q. Okay. And did you not take pictures with your  
20 camera; video and pictures?

21 A. There was a video from the body camera, yes, sir,  
22 but that's not what's depicted in those pictures.

23 Q. Okay. Forget these pictures. You agree they  
24 don't show it, and you say that you didn't take them?

25 A. Correct.

1 Q. My question is did you take pictures?

2 A. No, my body camera recorded the proceedings.

3 Q. All right. Did your body camera record the  
4 proceedings and showed what took place that particular  
5 day?

6 A. Yes.

7 Q. And would you think it was important to record  
8 photographically, video, otherwise, the items that you  
9 discovered on the side of the road?

10 A. Absolutely.

11 Q. And certainly if there's firearms involved,  
12 those would be something you would want to preserve  
13 so we could show the ladies and gentlemen of the jury  
14 just what you saw; is that right?

15 A. Yes.

16 Q. Okay. And you had your cameras issued to you  
17 by North Charleston Police Department, yes?

18 A. Yes.

19 Q. As far as you know it's working, yes?

20 A. Yes.

21 Q. And you can lean it over and point it at whatever  
22 you want; is that right?

23 A. Correct.

24 Q. Okay. And on this occasion, you certainly made  
25 great effort to record what happened on the side of the

1 road?

2 A. Yes, sir.

3 Q. So you would be able to come in and show us what  
4 took place?

5 A. Correct.

6 Q. Okay. Are we able now to see a picture of this  
7 gun you say you found?

8 A. If there was a copy of that video, then, yes,  
9 sir.

10 Q. Okay. I'm not asking you if or just suppose  
11 or to say, well, if we had. I'm asking you, to your  
12 knowledge, does it exist? Do we have a copy? Do we  
13 have a photograph we can show to people?

14 A. No, sir.

15 Q. Okay. Well -- and you have a camera on your  
16 car dash also; is that right?

17 A. Correct.

18 Q. Okay. So we've got pictures that someone  
19 took that show a watch and some games or something,  
20 but nothing whatsoever to support the contention  
21 photographically any firearm was recovered; is that  
22 correct?

23 A. Yes.

24 Q. Okay. The camera just didn't work or something  
25 that day?



1 A. It worked fine.

2 Q. It worked fine?

3 A. Yes.

4 Q. All right. Thank you.

5 MR. LOY: I have no more questions.

6 THE COURT: Any redirect?

7 MR. SORENSON: No, ma'am.

8 THE COURT: You may step down, sir.

9 Thank you. You may call your next witness.

10 MR. SORENSON: State calls Officer Louis  
11 Smoak.

12 OFFICER LOUIS SMOAK, was called as  
13 a witness, being duly sworn, was examined and testified  
14 as follows:

15 THE COURT: Your witness.

16 MR. SORENSON: Thank you.

17 DIRECT EXAMINATION

18 BY MR. SORENSON:

19 Q. Officer Smoak, if you would, please tell the jury  
20 where you're employed.

21 A. City of North Charleston Police Department.

22 Q. And how long have you been with the city of North  
23 Charleston?

24 A. Twelve years.

25 Q. And what are your current duties there?

1       A.   Patrol duties.

2       Q.   All right.  I'm going to turn your attention,  
3   if I could, Officer, back to October 31st of last year,  
4   of 2018.  Did you have an occasion that morning to  
5   respond out to the Whitehall subdivision in Dorchester  
6   County?

7       A.   Yes, sir, I did.

8       Q.   And what was the nature or the reason why  
9   you responded out there that morning?

10      A.   Initially, suspicious activity.

11      Q.   Okay.  And, ultimately, what role did you then  
12   take in that kind of investigation?

13      A.   Well, at the time, I was training Officer Lyle  
14   Key, and he went -- if I had the map I could explain it.

15               MR. SORENSON:  May I approach?

16               THE COURT:  Yes, sir.

17               THE WITNESS:  Yes, sir.  So Corporal  
18   Jenkins, at this point in time, already had the vehicle  
19   stopped.

20               THE COURT:  You can step down if it's easier  
21   for you.

22               MR. SORENSON:  Come around over here,  
23   Officer Smoak.

24               MR. LOY:  Your Honor, may I so I can see?

25               THE COURT:  Sure.

1                   MR. SORENSON: Basically, you need to make  
2     sure you keep your voice up nice and loud now, okay.

3                   THE WITNESS: Yes, sir. So this is  
4     Dorchester Road here. Corporal Jenkins had the vehicle  
5     pulled over somewhere here on Dorchester. He already  
6     had another officer -- actually, he might have had  
7     two at this point. So we bypassed the traffic stop.  
8     I believe this is Netherby that we came down, and then  
9     we came down Falling Leaf towards Greggs Landing,  
10    and we parked right here.

11                  Initially, we kind of focused in this area  
12    looking for a bag, anybody suspicious, anything like  
13    that. Then, I told Officer Key to take the right side  
14    of Gregg -- excuse me -- the left side of Greggs  
15    Landing, and I took the right side. And we essentially  
16    worked down this way from Stone Bridge.

17                  I didn't find anything. But while we were  
18    checking, Officer Key came to me, and he said he thought  
19    he found the house. And so he took me to -- so he took  
20    me over to 5380 Greggs Landing, and we went around  
21    to the backyard, and it was readily identifiable that  
22    that back door had been kicked in, an obvious burglary.

23                  Q. All right. Let me show you, if I could,  
24    State's Exhibits 8 through 13.

25                  THE COURT: You may sit down. Solicitor,

1 do you mind moving that map?

2 MR. SORENSON: Yes, ma'am. May I approach?

3 THE COURT: You may.

4 BY MR. SORENSON:

5 Q. I'm going to show you, Officer Smoak, State's 8  
6 through 13, and ask you if you recognize those photos.

7 A. Yes sir, I do. Yes, sir, I recognize all  
8 of them.

9 Q. Okay. And is that the house that you and Officer  
10 Key located?

11 A. Yes, sir, it is.

12 Q. Okay. And where -- again in relation to where  
13 you kind of first started -- I believe you pointed out  
14 that you kind of started down here near Stone Bridge ---

15 A. Near Stone Bridge originally, and then we kind  
16 of worked down Greggs Landing.

17 Q. This way, okay. And that residence is which  
18 road?

19 A. Greggs Landing.

20 Q. And what's the address?

21 A. 5380 Greggs Landing.

22 MR. SORENSON: At this time, I would offer  
23 them into evidence.

24 THE COURT: Any objection?

25 MR. LOY: No, Your Honor. Thank you.

1 THE COURT: All right, they're in.

2 (State's Exhibits 8 through 13 were admitted into  
3 evidence.)

4 MR. SORENSON: May I publish them?

5 THE COURT: Yes, sir, you may.

6 BY MR. SORENSON:

7 Q. Showing you State's Exhibit No. 8. Is that the  
8 residence that we're talking about?

9 A. Yes, sir.

10 Q. Tell the jury -- you said earlier that you all  
11 discovered evidence of a burglary. What was that that  
12 you all discovered?

13 A. The back door had been kicked in, and the inside  
14 had been basically ransacked.

15 Q. Okay. State's Exhibit 9. Is that the same  
16 house?

17 A. Same house from the backyard.

18 Q. And where was that back door that we're talking  
19 about?

20 A. (Indicating.) Right here.

21 Q. Let me show you State's Exhibit No. 10.  
22 What part of the house is that?

23 A. That's the backyard, but from the left angle.

24 Q. Okay. Did you notice -- did you find anything  
25 else as far as that backyard -- as far as that picture

1 goes of significance?

2 A. Yeah. Initially, we didn't know if this was all  
3 old damage or new damage. But it looked like someone  
4 had tried to take the screen off in order to get in  
5 through the window.

6 Q. Okay. And then there's also a screen porch  
7 in that backyard?

8 A. Yes, the screen porch is right there.

9 Q. Okay. And was the back door inside the screen  
10 porch?

11 A. (Indicating.) Yes, sir, right here.

12 Q. I'm going to show you then State's Exhibit  
13 No. 11.

14 A. That's the picture of the back door that you can  
15 see that the -- almost kicked the door jam completely  
16 off right there. And that's a picture from the back  
17 porch all the way through the front porch.

18 Q. I'm going to show you State's Exhibit No. 12.  
19 Is that kind of a close up of that what we just saw?

20 A. Yes, sir.

21 Q. And then State's Exhibit No. 13.

22 A. Again the door jam.

23 Q. What direction is that looking?

24 A. So you would have been on the left side  
25 of the back porch taking a picture of the right.

1       Q.   And did you have an opportunity then, Officer  
2   Smoak -- well, tell the jury after discovering that,  
3   what did you and Officer Key do?

4       A.   Well, myself and Officer Key went into  
5   the residence, and there was an obvious burglary.  
6   So we went into the residence and cleared it.  We didn't  
7   locate anybody.  So we attempted to locate any sort  
8   of documents or paperwork with the homeowners' names  
9   on it and telephone numbers so we can get in contact  
10  with them.

11      Q.   And, ultimately, were you able to get in contact  
12  with the homeowners?

13      A.   Yes, sir.  I think initially we made contact with  
14  Jamie Marie Mason or Masson-Browne.  And later I believe  
15  she contacted -- we made contact with Ms. Browne.

16      Q.   Okay.  Ultimately, did Ms. Browne and her husband  
17  come out there to the residence?

18      A.   They did.  Jerome Browne showed up first.

19      Q.   Okay.  All right.  And you briefly kind of talked  
20  about this earlier, but when you kind of had an  
21  opportunity to kind of clear the residence to make sure  
22  anybody was in there, describe for the jury the state  
23  of the inside of that residence.

24      A.   A good portion of the residence had been turned  
25  over, like, ransacked, for lack of a better term.

1       Q.   Okay.  And, at that point in time, did you  
2 interact with Mr. Browne as far as turning any items  
3 over to him at that point in time at the scene?

4       A.   Yes, sir.

5       Q.   Okay.  Did that kind of conclude your involvement  
6 at that point in time?

7       A.   Yes, sir.

8       Q.   All right.  Thank you, Officer Smoak.

9       A.   Yes, sir.

10               THE COURT:  Cross-examination.

11               MR. LOY:  Thank you.

12                       CROSS-EXAMINATION

13 BY MR. LOY:

14       Q.   Well, you did do a little more than what you've  
15 described, did you not, in that you had discovered  
16 a crime scene, yes?

17       A.   Um-huh.

18       Q.   Or what appeared to -- she's got to get a yes  
19 or no.

20       A.   Yes.

21       Q.   So it appeared to be a crime scene.  And you --  
22 for purposes of safety or otherwise, you searched the  
23 home to see whether or not someone was in there, either  
24 a suspect or a person needing aid, something like that,  
25 yes?



1 A. Correct.

2 Q. Okay. And then when you discovered that things  
3 were basically quiet on the scene, you took efforts  
4 to preserve the crime scene for further investigation,  
5 did you not?

6 A. Correct.

7 Q. Okay. By that, I mean either tape it off,  
8 or you don't let people go in and out?

9 A. Yes, correct.

10 Q. Okay. And that's what I'm asking about.

11 A. Okay.

12 Q. So you did that to preserve the crime scene.

13 If you know, what's the purpose of doing that?

14 A. Preserve. I mean, you said it. Preserve  
15 the crime scene, make sure that it's not tampered  
16 with.

17 Q. And that's so that you have a criminal  
18 investigation division or something like that,  
19 so detectives, fingerprint guys, DNA guys, whoever,  
20 if they come in, the scene will not be disturbed,  
21 and they can complete the investigation there to attempt  
22 to determine what happened?

23 A. Correct.

24 Q. And you certainly made those efforts so that  
25 would be available to the ---

1 A. Correct.

2 Q. Thank you very much.

3 MR. LOY: I don't have any more questions.

4 THE COURT: Any redirect?

5 MR. SORENSON: No, Your Honor.

6 THE COURT: You may step down, sir.

7 Thank you. Counsel, please approach.

8 MR. SORENSON: May this witness be excused?

9 THE COURT: Any objection?

10 MR. LOY: None.

11 THE COURT: You are free to go.

12 (Off-the-record conversation held at sidebar.)

13 (Back on the record.)

14 THE COURT: You may call your next witness.

15 MR. SMYTHE: Thank you, Your Honor.

16 State calls Jackie Ong.

17 MS. JACKIE ONG was called as a witness,  
18 being duly sworn, was examined and testified as follows:

19 THE COURT: Your witness.

20 MR. SMYTHE: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. SMYTHE:

23 Q. Good afternoon, Ms. Ong.

24 A. Hello.

25 Q. Where do you work, ma'am?

1       A.   Currently, Charleston County Emergency  
2   Management.

3       Q.   And where were you working back in October  
4   of 2018?

5       A.   North Charleston Police Department.

6       Q.   And what was your role there in North Charleston?

7       A.   I was a police officer assigned to the forensic  
8   unit.

9       Q.   And could you talk about some of the duties that  
10   comes along with the forensic unit?

11      A.   We respond to crime scenes, photograph, identify  
12   evidence, collect evidence, coordinate with outside labs  
13   for further processing.

14      Q.   And how long were you in this capacity in the  
15   forensic unit?

16      A.   About five years.

17      Q.   And where did you work before that?

18      A.   City of Folly Beach Police Department.

19      Q.   So how many years total do you have in law  
20   enforcement?

21      A.   Eight years on the job.

22      Q.   Did you have the opportunity to respond  
23   to a burglary on Greggs Landing in October of 2018?

24      A.   Yes.

25      Q.   And what did you respond to?

1       A.   A burglary.

2       Q.   Can you tell the jury sort of about your  
3 investigation and your involvement in the case?

4       A.   I was called to respond to the burglary. I was  
5 also advised to stop at the traffic stop where Officer  
6 Jenkins had the vehicles -- the vehicle in the median,  
7 photographed, and then proceeded to the residence  
8 for that actual burglary scene.

9               MR. SMYTHE: One moment, Your Honor,  
10 if I may.

11       (State's Exhibit No. 14 was marked for identification.)

12 BY MR. SMYTHE:

13       Q.   Ms. Ong, going back to that house, what do you  
14 remember, you know, first impression when you got to  
15 the scene?

16       A.   When I arrived on scene, I spoke with some  
17 officers. They gave me a brief rundown on what they  
18 had found. And then I proceeded into with my overall  
19 photographs of the scene, walking around the house,  
20 and then overall photographing the interior of the  
21 house.

22       Q.   Did you photograph the exterior of the house  
23 at all; any doors, windows?

24       A.   That's exterior, yes.

25       Q.   And what did ---

1                   MR. SMYTHE: May I approach the witness,  
2 Your Honor?

3                   THE COURT: You may.

4 BY MR. SMYTHE:

5           Q. I'm showing you what's been marked as State's  
6 Exhibit 14. Do you recognize that?

7           A. Yes.

8           Q. What does that appear to be?

9           A. It's a close-up image with a scale of a partial  
10 boot print on a door.

11          Q. And is that a fair and accurate representation  
12 of the photo that you took that day?

13          A. Yes.

14                 MR. SMYTHE: We move State's 14 into  
15 evidence.

16                 THE COURT: Any objection?

17                 MR. LOY: None, Your Honor. Thank you.

18                 (State's Exhibit No. 14 was admitted into evidence.)

19                 MR. SMYTHE: May I publish to the jury?

20                 THE COURT: You may.

21 BY MR. SMYTHE:

22          Q. This is from which door, Ms. Ong?

23          A. The rear door or the back door.

24          Q. And going into the house, what did you do inside?  
25 You took photographs?

1       A. Yes. I initially took photographs over the  
2       entirety of the house, proceeded to process it for  
3       fingerprints or latent fingerprints with black  
4       fingerprint powder.

5       Q. Were you able to obtain any fingerprints --  
6       any latent fingerprints?

7       A. I was able to recover one latent print card.

8       Q. And where did you recover that?

9       A. On a Mac computer -- a Mac Book computer box  
10      that was in the daughter's bedroom on the second floor.

11      Q. And did you examine this fingerprint, or did you  
12      take it -- what did you do with the fingerprint?

13      A. At the completion of the scene, I transported  
14      the fingerprint and my photographs back to the North  
15      Charleston Forensic Unit. At that point, I submitted  
16      the latent print to the latent print examiners for  
17      further analysis.

18               MR. SMYTHE: One moment, Your Honor.  
19      No further questions.

20               THE COURT: Cross-examination.

21                       CROSS-EXAMINATION

22      BY MR. LOY:

23      Q. I'm sorry. I still didn't manage to hear your  
24      name. It's Ms.?

25      A. Ong.

1 Q. Ong?

2 A. O-N-G. It's like long without the L.

3 Q. Got it, Ong. So, Ms. Ong, you were with  
4 the crime scene division; is that correct?

5 A. Yes, sir.

6 Q. Okay. And so when you responded out to the scene  
7 of Gregg's Landing on that particular day, can you  
8 describe for us the type of things, not just in this  
9 case, but generally, what is it you look for as a crime  
10 scene investigator?

11 A. In general?

12 Q. Yes.

13 A. It can be anything from fingerprints, DNA,  
14 physical items.

15 Q. Shell casings, that sort of thing?

16 A. That would fall under physical items, yes.

17 Q. Okay. Bullet holes, tracing them with the little  
18 rods, all sorts of stuff; is that right?

19 A. Yes.

20 Q. Okay. And often what you do is work at the crime  
21 scene itself, gather evidence, whether it's photographs,  
22 physical items we've described or otherwise, for further  
23 analysis or to be turned over and other people take that  
24 evidence and run with it, so to speak, and see what  
25 it shows; is that correct?

1       A.   Yes.

2       Q.   Okay.   For example, fingerprints.   I mean,  
3   if you recover fingerprints, you're not -- for one  
4   of a better term, you're not the fingerprint guy.  
5   You recover them, but someone else analyzes them,  
6   matches them up, runs them through a computer,  
7   or something like that; is that correct?

8       A.   Yes.

9       Q.   And similar with forensics as far as -- in the  
10   event guns are involved, shell casings or bullet  
11   fragments are recovered, you document their recovery,  
12   where they were, et cetera, but they're sent off  
13   somewhere else for analysis; is that correct?

14      A.   Yes.

15      Q.   Okay.   And like the boot print, or what you  
16   described as a boot print on this door, you photograph  
17   that, you preserve that, and, to your knowledge,  
18   there are cases where that's sent off and someone else  
19   makes the comparisons with recovered shoes or boots,  
20   et cetera, and tries to match them up; is that correct?

21      A.   Their capability for that, there are people that  
22   specialize in that.   I have no knowledge if those were  
23   sent off to be analyzed in this case ---

24      Q.   And, again, we're talking -- I'm sorry.   I didn't  
25   mean to cut you off.   Go ahead.



1       A. No, I was just saying in this case I have  
2 no knowledge of that.

3       Q. I understand. And, in this case, we didn't --  
4 and, as a matter of fact, that's a decision someone else  
5 would make at any rate, is it not?

6       A. Yes.

7       Q. But you're aware that if they were going to make  
8 that decision, they would go to SLED, and they have the  
9 tool and die images people or whatever, and that they  
10 make those comparisons; is that correct?

11      A. Or some other available labs they can go to, yes.

12      Q. The resources are available. Okay. And that's  
13 the reason why you took the picture and preserved that  
14 evidence, yes?

15      A. Yes.

16      Q. Okay. And you talked about other fingerprints.  
17 You did recover one fingerprint, and certainly it was  
18 in an area where -- excuse me. Was there a reason you  
19 chose to fingerprint this box itself?

20      A. The victims assisted me with walking through  
21 the house. I'm not familiar with the interior of  
22 anybody's residence, with how they keep their homes.  
23 So, in my opinion, there might be, okay, this is  
24 a little messy or this is ransacked, but it might  
25 just be their daily.

1           So they walked with me through the home,  
2   and pointed out this drawer has been opened, this box  
3   has been opened, this has been moved. They were just  
4   trying to guide me with basically establishing a  
5   baseline of their residence. So, the box was opened,  
6   and the computer was missing, so I processed the box.

7       Q. Okay. So, the reason you processed the box was  
8   because of the people who lived in the home told you  
9   this might be a fruitful place to look for fingerprints  
10   of someone who was involved; is that correct?

11       A. Yes.

12       Q. Okay. And, in fact, you did recover at least  
13   one fingerprint, you stated; is that right?

14       A. One latent card, yes. I don't recall how many  
15   prints were on the one card.

16       Q. One card holds up to five; is that right?

17       A. Depends on how many on the tape part.

18       Q. Is it ---

19       A. Because it could be maybe, like, two fingers,  
20   so it's that part. I don't recall.

21       Q. Is there a range? You can't put more than 50  
22   on a card. I mean, can you ---

23       A. I can't testify to a number, no.

24       Q. I'm sorry?

25       A. I can't say a number.

1 Q. Can you put 50 on a card, maybe?

2 A. I don't know. I have never tried.

3 Q. Okay. In this case, you recovered fingerprints,  
4 latent fingerprints, and you sent them on for analysis,  
5 or you recovered them and turned them over for whatever  
6 purposes someone else might use them?

7 A. Yes.

8 Q. As well as the boot print on the door that you  
9 described, yes?

10 A. Yes.

11 Q. Did you recover anything else that you considered  
12 at that point to be of forensic or investigative value?

13 A. I did not.

14 Q. You talked about DNA a moment ago, that sometimes  
15 y'all recover DNA. Is that something that you do also?

16 A. Yes.

17 Q. And how do you go about doing that?

18 A. It depends on the type of DNA, what you're trying  
19 to recover it from.

20 Q. Well, help me to understand. How does it depend?  
21 Can you walk me through it just a little bit on a very  
22 basic sense?

23 A. If it's hair follicle, I'll put it into  
24 an envelope. If there's blood or semen, I will swab  
25 it, and put it into a box -- a clean, sterile box

1 and seal it.

2 Q. Okay. And then those go off to be analyzed;  
3 is that correct?

4 A. Yes.

5 Q. Or not, if someone else down the pipeline  
6 decides?

7 A. Yes.

8 Q. Now, you also have what we call touch DNA.  
9 You're familiar with this, are you not?

10 A. Yes.

11 Q. You didn't talk about that a moment ago. Can you  
12 tell us about that?

13 A. There's different varieties of touch DNA, like,  
14 there's -- you can pick up, like, little microscopic  
15 particles, if you will, of gunshot residue, for example,  
16 off somebody.

17 Q. Okay. I think I'm phrasing my question poorly.  
18 I'm not looking for gunshot residue. I'm familiar  
19 with the GSR test and the swab essentially looking  
20 at DNA and not the chemical residue. How about this,  
21 if I put my hand here and drag it across there, is it  
22 your understanding in all likelihood I've left some sort  
23 of touch DNA behind?

24 A. You can.

25 Q. And you have the capability to test for that?

1       A.   Yes.

2       Q.   Would you tell us how you go about doing that?

3       A.   You can take a swab and swab the suspected area,  
4   and submit it.

5       Q.   Right.  And then someone else down the pipeline  
6   can do what they think needs to be done; is that  
7   correct?

8       A.   Yes.

9       Q.   By way of analysis, et cetera.  In this case,  
10   you had the box that had been indicated that had been  
11   moved, was out of place, and it was suspicious to the  
12   homeowners.  And you went ahead and took fingerprints,  
13   you took a card off the box itself, and then you did  
14   the DNA swab?

15      A.   No.

16      Q.   Why did you choose not to do that?

17      A.   Because you have to balance the probability of  
18   results because one test for fingerprints can obliterate  
19   or damage the DNA and vice versa.  If I were to swab  
20   the area, it would obliterate the fingerprint.

21      Q.   You had lifted the fingerprints at some point  
22   in time, and did you not swab then?

23      A.   No.

24      Q.   Okay.  But if you had lifted the fingerprints,  
25   and all the fingerprints you lifted were on one card,

1 you were more interested in preserving the card itself.  
2 The box itself was -- you didn't preserve it, you didn't  
3 seal it up, turn it over, and do anything else with it.  
4 You left it right there, right?

5 A. Yes.

6 Q. Because the card that you had produced is what  
7 needed to be preserved, the fingerprints that were taken  
8 off the box itself, yes?

9 A. Yes.

10 Q. Thank you.

11 MR. LOY: No more questions.

12 THE COURT: Any redirect?

13 MR. SMYTHE: Yes, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. SMYTHE:

16 Q. Ms. Ong, do you have your forensic report  
17 with you?

18 A. Yes.

19 Q. I would refer you, if I could, please to Page 3.  
20 If you can examine that for me, please. In talking --  
21 on there, can you just read sort of -- what is this page  
22 of your report document?

23 A. On Page 3 ---

24 Q. Yes.

25 A. --- it indicates the photographs.

1 MR. LOY: Your Honor, may we approach for  
2 a minute?

3 THE COURT: You may.

4 (Off-the-record conversation held at sidebar.)

5 (Back on the record.)

6 THE COURT: You may proceed, Solicitor.

7 MR. SMYTHE: Thank you, Your Honor.

8 BY MR. SMYTHE:

9 Q. Ms. Ong, what is this page document?

10 A. This page recorded the photograph range,  
11 basically, lumping a sequence of photos and giving  
12 a synopsis of what they're of.

13 Q. How many synopses are given?

14 A. I have four written.

15 Q. Could you -- what are those?

16 A. Photos 1 through 30 were of the traffic stop  
17 of the recovered items. Photos 31 through 118 were  
18 the overall of the first-floor residence. Images 119  
19 through 165 were overall images of the second floor  
20 of the residence. And images 166 through 172 were  
21 the shoe mark on the door.

22 Q. And Exhibit 14, Evidence 14, we've already talked  
23 about. Which one of those does this fall under?

24 A. That would fall under 166 through 172.

25 Q. And you said that was?

25 THE COURT: Thank you, everyone. Please



1 have a seat. Parties ready to proceed?

2 MR. LOY: Yes, ma'am.

3 MR. SORENSON: Yes, ma'am.

4 MR. LOY: Your Honor.

5 THE COURT: Yes, sir.

6 MR. LOY: We're ready to proceed, but before  
7 we bring the jury out, it might be a good time to  
8 address one matter. I don't know if we'll have another  
9 break before the State rests.

10 The State has introduced two certified  
11 copies of indictments -- excuse me -- certificated  
12 copies of sentencing sheets that they intend to  
13 introduce during, I assume, in the State's case,  
14 to establish the elements of the burglary first,  
15 that is, two prior convictions for burglary first.

16 I object to the introduction of the  
17 documents. I certainly think that the clerk can  
18 be called. She could testify to the relevant portions  
19 of the sentencing sheet itself. And I don't think the  
20 law gives me a valid objection to that. I will make  
21 an objection in the event the law changes. It could  
22 be my case is the one. It's past due.

23 But in the event that they don't,  
24 then I think she can publish the information. I don't  
25 think the fact that he has pled guilty to offenses,

1    which are checked on the sheet as violent, is anything  
2    that the jury has to consider because it is a prior  
3    burglary charge.

4                I dont think the fact that it's checked as  
5    serious is something that needs to be emphasized to the  
6    jury either, and they are. I don't think the fact that  
7    the Court determined in the past that the sentencing  
8    that was appropriate on these charges was 15 years  
9    is something that they need to be aware of, et cetera.

10               All of this is information that I think  
11    is superfluous and I think is prejudicial. So while  
12    I object on other grounds to the introduction of the  
13    prior convictions as just being unduly prejudicial,  
14    I object to the introduction of the documents themselves  
15    for those reasons.

16               THE COURT: Solicitor?

17               MR. SORENSON: Well, I think we're allowed  
18    to get into -- I mean, I think the case law is pretty  
19    clear. I mean, he actually has three prior burglary  
20    convictions, and I'm only going to get into two.  
21    I know there's some case law dealing with that.  
22    You know, I don't have any objection to redacting  
23    the -- blacking out those lines on there.

24               THE COURT: Why don't we do this. You know,  
25    I agree that the information on the sentencing sheet

1     itself is prejudicial and not an element to the offense  
2     -- elements of the offenses, two or more prior burglary  
3     convictions.

4                 MR. SORENSON:   Right.

5                 THE COURT:   I think the clerk can testify  
6     that there are two burglary convictions and on what  
7     date.   But as far as all the other information, we can  
8     just mark those as -- just not send them back to the  
9     jury because I agree with Mr. Loy.   I think the extra  
10    information is prejudicial.

11                MR. SORENSON:   Okay.   So get out of  
12    Ms. Westbury, I'm assuming, the two prior convictions  
13    for burglary, the date of those convictions, and,  
14    I guess, the incident date also just to show that  
15    they are two separate burglaries and not the same.

16                THE COURT:   Right.   And I think the way  
17    we can handle it is you want to do them as court's  
18    exhibits, so they go up as part of the record.

19                MR. SORENSON:   Okay.

20                THE COURT:   And that way the jury is not  
21    questioning why they don't have it as an exhibit back  
22    in the jury room.   Any objection to that?

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

25                MR. LOY:   No, I don't believe that they'll

1 listen to me anyway, but it won't be part of my  
2 argument, as to why don't we have the indictments.  
3 I mean, we're not going to cross-examine the clerk  
4 on that. That's not going to be an issue or a point  
5 of contention, I don't believe, in our trial.  
6 Thank you, Your Honor.

7 THE COURT: All right. Anything further  
8 before we bring the jury out?

9 MR. SORENSON: So, I don't forget, can I get  
10 these just, I guess, remarked as -- because I have them  
11 marked as State's exhibits -- Court's Exhibits 1 and 2?

12 THE COURT: Sure. While we do that,  
13 I haven't had an opportunity to ask. Obviously,  
14 the State still has some witnesses. But at some  
15 junction you should discuss with your client whether  
16 or not he wishes to testify.

17 MR. LOY: I have, Your Honor.

18 THE COURT: Okay. And, obviously, after  
19 the State rests, will need to be ready to proceed  
20 for that questioning.

21 MR. LOY: Yes, ma'am.

22 THE COURT: Okay. All right.

23 MR. LOY: Your Honor, when they rest,  
24 I would confer with him for just a moment, but it's not  
25 anything we can't do here at counsel table. I know

1     where we left it.

2                   THE COURT:   Okay.

3                   MR. LOY:    And I just want to confirm that's  
4     where we are prior to the Court's questioning and see  
5     if he needs -- if he has any request for conversation  
6     with me prior to the Court's inquiry.

7                   THE COURT:   Okay.   Perfect.   Everybody  
8     ready, then?

9                   MR. LOY:    Yes, ma'am.

10                  THE COURT:   Let's have our jury, please.

11                  (Jury enters the courtroom at 1:45 p.m.)

12                  THE COURT:   Welcome back, ladies and  
13     gentlemen of the jury.   We're ready to proceed with  
14     the trial of this case.   You may call your next witness.

15                  MR. SMYTHE:   Thank you, Your Honor.  
16     State calls Anita Moore.

17                  MS. ANITA MOORE was called as a witness,  
18     being duly sworn, was examined and testified as follows:

19                  THE COURT:   Your witness.

20                  MR. SMYTHE:   Thank you, Your Honor.

21                                 DIRECT EXAMINATION

22     BY MR. SMYTHE:

23         Q.   Ms. Moore, where do you work?

24         A.   I work for the North Charleston Police  
25     Department.

1       Q.   And what is your title with North Charleston  
2 Police Department?

3       A.   I'm a crime scene technician and also a latent  
4 examiner.

5       Q.   And what are some of the duties that come along  
6 with a crime scene technician?

7       A.   My job is to go out to process crime scenes,  
8 collect, document, and preserve physical evidence.  
9 And also, as part of my job, I'm a latent examiner for  
10 the department, which involves processing and analyzing  
11 latent fingerprints that are turned in to our unit.

12       Q.   And with regard to fingerprint examination,  
13 can you go through some of your background education  
14 in that respect?

15       A.   Yes, sir. I have a bachelor's degree in  
16 chemistry. And I also have a forensic science degree --  
17 master's degree. I have been certified through the  
18 International Association for Identification as a crime  
19 scene analyst.

20           Through that education, I've also done training,  
21 examinations by taking individual classes. I've taken  
22 in-house training through a previous examiner. I also  
23 went through it, and did testing through the state law  
24 enforcement division in latent examination and AFIS,  
25 which is the automated fingerprint information system.

1 Q. And how long have you been a fingerprint  
2 examiner?

3 A. I've been doing fingerprint examinations for five  
4 years. And then two years before that of learning to  
5 do the latent examinations. I've been doing crime scene  
6 for almost 19 years, which, you know, includes  
7 collecting and processing items to collect the  
8 fingerprints.

9 Q. Have you ever been qualified as an expert  
10 in fingerprint examination and comparison?

11 A. Yes, sir, I have.

12 MR. SMYTHE: Your Honor, at this time,  
13 I would offer Ms. Moore as an expert in those fields.

14 THE COURT: Any voir dire?

15 MR. LOY: Thank you. No.

16 THE COURT: She's qualified. Ladies and  
17 gentlemen of the jury, normally, a person cannot give  
18 opinion testimony. Normally, when a person testifies,  
19 they must testify as to what they either saw, heard  
20 or sense by smell or something of that nature.

21 However, there is an exception when someone  
22 is qualified because of their education and experience.  
23 They're permitted to give an opinion in certain areas  
24 if the Court qualifies them that way. This expert has  
25 been qualified in the field of expert fingerprint

1 analysis, and to give an opinion testimony in that area.

2 It does not mean that you have to accept  
3 the opinion. But it's evidence for you to use in any  
4 way that you see fit, and give it the weight and  
5 credibility that you believe is appropriate. You may  
6 proceed.

7 MR. SMYTHE: Thank you, Your Honor.

8 BY MR. SMYTHE:

9 Q. Ms. Moore, do you recall analyzing and comparing  
10 fingerprints -- processing fingerprints from a burglary  
11 on Greggs Landing -- from a house in Greggs Landing from  
12 October of last year?

13 A. Yes, sir, I do.

14 Q. And can you tell the jury about what you did  
15 in that case?

16 A. I received a case file which contained  
17 a fingerprint card that was collected from the scene  
18 for analysis. And when we receive the fingerprint  
19 cards, we have to do a certain process to analyze  
20 and compare those prints to see if there's anything  
21 of value on those fingerprint cards. I don't know  
22 how far you want me to ---

23 Q. Just whatever you did. Were you able to compare  
24 the fingerprint cards that you received to any known  
25 standards?



1       A. Yes, sir. When we take our fingerprint cards,  
2 when we look at it, if there's any minutia or detail  
3 on that card that is allowable to be put into a  
4 computerized system to see if we can get any matches,  
5 we do so.

6               We also can do a manual comparison. I was given  
7 several names to compare it to, two different names,  
8 where I take the fingerprint card that I had, and I take  
9 the fingerprints that they gave me, and I do a physical  
10 comparison side by side. And I did that for two  
11 different subject names.

12       Q. And were you able to compare the fingerprint  
13 that you got from the scene with Daniel Lawrence's  
14 fingerprints?

15       A. Yes, sir, I did.

16       Q. And was there any match?

17       A. No, sir. I did not find a comparison or a match  
18 to the known source that I had, which is the fingerprint  
19 card that I received.

20       Q. Okay.

21       (State's Exhibit No. 15 was marked for identification.)

22               MR. SMYTHE: May I approach the witness,  
23 Your Honor?

24               THE COURT: You may.

25       BY MR. SMYTHE:

1 Q. Ms. Moore, I'm showing you what's marked  
2 as State's Exhibit 15. Do you recognize this?

3 A. Yes, sir, I do.

4 Q. And what is that?

5 A. That is a close-up photograph of the bottom  
6 of a shoe that I collected in regards to this case.

7 Q. Is it a fair and accurate representation of that  
8 shoe that you collected in this case?

9 A. Yes, sir, it is.

10 MR. SMYTHE: Move State's 15 into evidence.

11 THE COURT: Any objection?

12 MR. LOY: No, Your Honor. Thank you.

13 THE COURT: All right, it's in.

14 (State's Exhibit No. 15 was admitted into evidence.)

15 MR. SMYTHE: May I publish to the jury,  
16 Your Honor?

17 THE COURT: You may.

18 BY MR. SMYTHE:

19 Q. Did you have any other involvement with this  
20 case, Ms. Moore?

21 A. Yes, sir, I did.

22 Q. And what is that?

23 A. On the day the incident occurred, I was working  
24 on shift, and it was requested that I photograph  
25 a subject that was in an interview room and collect

1 the shoes that he was wearing. I collected the shoes.  
2 And when we collect those items, I also did close-up  
3 photographs, and took photographs of the shoe that  
4 was collected.

5 Q. Okay.

6 MR. SMYTHE: One moment, please.

7 May I approach the witness, Your Honor?

8 THE COURT: You may.

9 BY MR. SMYTHE:

10 Q. This is marked as State's 1. Do you recognize  
11 this?

12 A. This is State's 7.

13 Q. Excuse me. I'm sorry.

14 A. Yes, sir, I do.

15 Q. Is that the photograph that you took?

16 A. Yes, sir, it is.

17 Q. Does that show anybody in this courtroom?

18 A. The Defendant.

19 Q. Is this the shoe from the Defendant sitting right  
20 here?

21 A. That was the shoe that was taken off of the  
22 subject, yes, sir.

23 MR. SMYTHE: No further questions.

24 THE COURT: Cross-examination.

25 CROSS-EXAMINATION

1 BY MR. LOY:

2 Q. Good afternoon.

3 A. Good afternoon, sir.

4 Q. You were talking about the fingerprint ---

5 A. Yes, sir.

6 Q. --- and the comparison that you made. And the  
7 solicitor asked you whether or not you were able to make  
8 a match to known standards. Do you recall that?

9 A. Yes, sir.

10 Q. And your answer, I believe, was no, you were not  
11 able to make a match; is that correct?

12 A. Yes, sir.

13 Q. But, actually, your report was a little stronger  
14 than just that, was it not? Do you understand my  
15 question?

16 A. I can read it if you would like.

17 Q. Well, I'm just asking. There are any number  
18 of reasons you couldn't get a match. It could be  
19 that a fingerprint is insufficient in detail, smeared,  
20 or something like that. But in this case, the  
21 fingerprint was fine for comparison, was it not?

22 A. Yes, sir, it was.

23 Q. So it wasn't just the matter of, as the solicitor  
24 said, you didn't get a match, as it says. As a matter  
25 of fact, you were able to definitively exclude the

1 Defendant as having put that fingerprint on the box;  
2 is that correct?

3 A. Yes, sir.

4 Q. So we know it wasn't his?

5 A. Right.

6 Q. Okay. Thank you. And as far as the shoe print  
7 that you discovered, you said that you've been in this  
8 line of work for how long?

9 A. Almost 20 years.

10 Q. For a long time. You're aware that there are  
11 people in SLED, state law enforcement, etc, who will  
12 match up like shoe prints that are cast in mud or  
13 something like that, prints of those in attempt to  
14 compare them to known samples, that is, shoes, etc;  
15 is that correct?

16 A. Yes, sir, I do.

17 Q. And they do the same thing with die marks, prime  
18 marks, all sorts of things. I think it's the same  
19 department, is it not?

20 A. Yes, sir, it is.

21 Q. Okay. And so as far as shoe prints go or  
22 something like that, they can be taken and compared  
23 under certain circumstances, whether or not this set  
24 of shoes is the ones that made these marks, or whether  
25 or not they can be excluded just like the fingerprints;

1 is that correct?

2 A. Yes, sir, they can.

3 Q. Thank you.

4 MR. LOY: I don't have any more questions.

5 THE COURT: Any redirect?

6 MR. SMYTHE: No, Your Honor.

7 THE COURT: You may step down, ma'am.

8 Thank you.

9 THE WITNESS: Thank you.

10 THE COURT: You may call your next witness.

11 MR. SORENSON: May she be excused?

12 THE COURT: Any objection?

13 MR. LOY: No, Your Honor.

14 THE COURT: You may go, ma'am. Thank you.

15 MR. SORENSON: State calls Jerome Browne.

16 MR. JEROME BROWNE was called as a witness,  
17 being duly sworn, was examined and testified as follows:

18 THE COURT: Your witness.

19 MR. SORENSON: Thank you. May it please  
20 the Court, Your Honor.

21 THE COURT: Yes, sir.

22 DIRECT EXAMINATION

23 BY MR. SORENSON:

24 Q. Mr. Browne, good afternoon.

25 A. Good afternoon.

1 Q. If you could please tell the jury back on October  
2 of last year where you were living?

3 A. 5380 Greggs Landing in North Charleston.

4 Q. Okay. Is that in Dorchester County?

5 A. Dorchester County, yes, sir.

6 Q. All right. And who was living there with you  
7 at that time?

8 A. My wife, Jamie Browne, and our daughter,  
9 Alana [ph.] Browne.

10 Q. You're wife is seated in the second row?

11 A. Yes.

12 Q. Okay. And what's your wife's maiden name?

13 A. Jamie Marie Masson.

14 Q. M-A-S-S-O-N?

15 A. Yes, sir.

16 Q. Okay. And let me ask you to turn your attention  
17 back to Halloween of last year. Do you remember what  
18 time everybody was out of the house that morning?

19 A. I would say everybody was out of the house by  
20 8 a.m.

21 Q. Okay. And let me show you State's Exhibit ---

22 MR. SORENSON: May I approach the witness,  
23 Your Honor?

24 THE COURT: You may.

25 BY MR. SORENSON:

1 Q. I'm showing you State's Exhibits 8, 9, and 10.

2 Is that your home?

3 A. Yes, sir.

4 Q. Okay. And can you kind of briefly describe  
5 for the jury the layout of your house?

6 A. So standing in front of the house, you come  
7 to the front door. To the left would be basically just  
8 a den. Then, there's a formal dining room going to the  
9 kitchen. If you were to go straight back from the front  
10 door, the stairs were to the left, formal living room,  
11 and the back door is straight ahead, which exits onto  
12 a screened porch. To the right of the formal living  
13 room is the master bedroom, bathroom, laundry would be  
14 behind you. Upstairs, there's a bonus room, bathroom,  
15 and two bedrooms.

16 Q. Okay. And you said your daughter was living  
17 with you at that time?

18 A. Yes.

19 Q. How old is your daughter?

20 A. She's 23.

21 Q. And where was her bedroom?

22 A. She was living in the bonus room at that time.

23 Q. Okay. All right. And when y'all left the house  
24 that morning, describe -- was your home secure that  
25 morning when y'all left?



1 A. Yes, sir.

2 Q. Any damage to any of the doors?

3 A. No.

4 Q. Any damage to any of the windows?

5 A. No.

6 Q. Okay. All right. Now, there comes a time  
7 that morning when you were contacted by anybody?

8 A. Yes, sir. I received a phone call from my wife.  
9 I was at work at that time.

10 Q. Okay. And were you aware at that point in time  
11 whether she had been contacted by somebody?

12 A. Yes, she had been contacted by North Charleston  
13 Police Department.

14 Q. Okay. And, ultimately, did you respond to your  
15 house?

16 A. Yes.

17 Q. Did she respond also?

18 A. Yes, she showed up about 15 minutes after I did.

19 Q. Okay. And, if you would, describe for the jury  
20 -- did you have an opportunity, at that point in time,  
21 to basically observe your house, the condition of your  
22 house, any damage to your house?

23 A. Yes, sir. I was allowed to go in the house  
24 with one of the officers, and the back door had clearly  
25 been kicked in. The door frame was shattered. The door

1 was bent to the point we had to replace the whole thing.  
2 Our bedroom closet had been, for lack of a better word,  
3 ransacked. It was tossed. Everything was upside down  
4 in there. Same thing upstairs in our daughter's room.  
5 And I believe the guest bedroom had been rifled through  
6 as well.

7 Q. Okay. Let me ask you, back at that time,  
8 did you have any firearms inside your home?

9 A. Yes, sir.

10 Q. Okay. What firearms did you have there?

11 A. In the nightstand drawer was a Smith and Wesson  
12 M&P Shield 9-mm. There's also a range bag in the closet  
13 with three or four pistols in it. There were six long  
14 guns in the closet. One of those guns -- when I came  
15 in the house, one of the long guns had been removed  
16 from the closet and was leaning against my dresser.

17 Q. Okay. Did you have an opportunity at that time  
18 to determine whether any of those weapons were missing  
19 from your home?

20 A. Yes, sir. Yes, sir.

21 Q. What, if any, were missing?

22 A. The Shield 9-mm was missing.

23 Q. And you've indicated that was in your bedside  
24 table?

25 A. Yes.

1       Q. All right. Let me ask you, did you have an  
2 opportunity to kind of go through the home at that point  
3 in time and determine anything else that might be  
4 missing, initially?

5       A. Not really, no. It was in such a state of  
6 disarray, we couldn't tell what was or wasn't missing.

7       Q. Okay. Let me ask this, did there come a time  
8 where you met with one of the officers out there,  
9 and were shown some items?

10      A. Yes, sir.

11      Q. Okay. And were you able to identify any of those  
12 items?

13      A. Yes, sir.

14      Q. And what was that that you were able to identify?

15      A. First thing we identified was the pistol.  
16 And then we went through the watches, the knife,  
17 random stuff he had taken, all of the debit cards,  
18 credit cards, family photos, phones, my daughter's  
19 computer.

20      Q. I think Officer Jenkins testified about an X-Box?

21      A. Yes, X-Box, yeah.

22      Q. And, ultimately, were all those items turned  
23 back over to you by North Charleston then that day?

24      A. Yes, sir.

25      Q. Okay. Let me ask you, the Defendant here,

1 Daniel Lawrence, do you know Mr. Lawrence?

2 A. No.

3 Q. Okay. How about a young man by the name  
4 of Tevin Beaton? Do you know Mr. Beaton?

5 A. No.

6 Q. Either one of them have permission or consent  
7 to go in your home that morning?

8 A. No.

9 Q. Is there anything that you -- that was taken that  
10 you're aware of that you didn't get back that wasn't  
11 located that you're aware of?

12 A. Not that I'm aware of, no.

13 Q. Okay.

14 MR. SORENSON: May I approach real quick,  
15 Your Honor?

16 THE COURT: Yes, sir.

17 BY MR. SORENSON:

18 Q. You talked about damage to the back of the door.  
19 I'm going to show you State's Exhibit No. 12. Is that  
20 the damage you're talking about?

21 A. Yes, yes, yes. It's actually a little more  
22 extensive than that. Broke one of the 2x4s. I had  
23 to cut out, repair -- replace the whole door frame,  
24 the door, the whole nine.

25 Q. Okay.

1 MR. SORENSON: Thank you, Mr. Browne.

2 Please answer any questions Mr. Loy has.

3 THE COURT: Cross-examination?

4 MR. LOY: No questions. Thank you.

5 THE COURT: You may step down, sir.

6 Thank you.

7 THE WITNESS: Thank you.

8 THE COURT: You may call your next witness.

9 MR. SORENSON: State calls Tonda Westbury.

10 MS. TONDA WESTBURY was called as a witness,  
11 being duly sworn, was examined and testified as follows:

12 THE COURT: Your witness.

13 MR. SORENSON: Thank you. May it please  
14 the Court, Your Honor.

15 THE COURT: Yes, sir.

16 DIRECT EXAMINATION

17 BY MR. SORENSON:

18 Q. Good afternoon, Ms. Westbury.

19 A. Hi.

20 Q. If you would, tell the jury where you're  
21 employed.

22 A. Dorchester County Clerk of Courts Office.

23 Q. How long have you been employed with the clerk's  
24 office?

25 A. January will be nine years.

1 Q. Okay. And what are your current duties  
2 with the clerk's office?

3 A. I'm chief deputy over the general sessions  
4 division, which is also the criminal division.

5 Q. And as part of your responsibilities,  
6 have you been designated by Ms. Graham, the clerk  
7 of courts, as the records custodian for the criminal  
8 division or the general sessions division of the  
9 Dorchester County Clerk of Courts?

10 A. Correct.

11 Q. Okay. And as part of that, are sentencing sheets  
12 from individuals that have come before the Court here  
13 in Dorchester County, are they kept in the ordinary  
14 course of business by the Dorchester County Clerk  
15 of Courts Office?

16 A. They are.

17 Q. Okay. And have you had an opportunity  
18 to research and provide us with some documents relating  
19 to two prior convictions of the Defendant in this case,  
20 Daniel Lawrence?

21 A. Yes, sir.

22 MR. SORENSON: May I approach the witness,  
23 Your Honor?

24 THE COURT: You may.

25 BY MR. SORENSON:

1       Q. I'm showing you what's marked as Court's Exhibits  
2       1 and 2, and ask you are those the documents that you  
3       have been able to provide?

4       A. Yes, sir.

5       Q. Specifically, there's two indictments there that  
6       they reference, 2002-GS-18-0855 and 0856; is that  
7       correct?

8       A. Yes, sir.

9       Q. Okay. And, yet again, those both pertain to this  
10      Defendant, Daniel Lawrence?

11      A. Yes, sir.

12      Q. And do those show two separate convictions  
13      for burglary in the second degree?

14      A. Yes, sir.

15      Q. And what is the conviction date on those two  
16      charges?

17      A. They both have the conviction date of May 19,  
18      2004.

19      Q. And they're both for burglary?

20      A. Yes, sir.

21      Q. Okay. And do they also have the alleged offense  
22      dates on those?

23      A. They do. They have a date range. The first one  
24      for indictment 2002-GS-18-0855 has a date range between  
25      June 28, 2002 to July 2, 2002. And for indictment

1 2002-GS-18-0856, it has a date range between July 4,  
2 2002 to July 5, 2002.

3 Q. Two separate and distinct offenses?

4 A. Yes, sir.

5 Q. Okay.

6 MR. SORENSON: That would be all I have  
7 for Ms. Westbury. Thank you.

8 THE COURT: Any cross-examination?

9 MR. LOY: No, Your Honor. Thank you.

10 THE COURT: You may step down, ma'am.  
11 Thank you. You may call your next witness.

12 MR. SORENSON: At this time, the State would  
13 rest.

14 THE COURT: Ladies and gentlemen of the  
15 jury, the State has rested their case. We must take  
16 a brief recess before we bring you back into the  
17 courtroom. If you would please go into your jury room.  
18 Although, the State has rested, again, remember it's not  
19 the time for you to discuss this case yet. So, please  
20 don't discuss this case amongst yourselves. We'll be  
21 right back with you.

22 (Jury exits the courtroom at 2:05 p.m.)

23 THE COURT: Any motions?

24 MR. LOY: Your Honor, at this time, I make  
25 a motion for a directed verdict. The case is purely



1     circumstantial as far as the burglary itself goes.  
2     I don't think the evidence is such to convince --  
3     the guilt of the Defendant beyond a reasonable doubt.

4                 While the circumstances are suspicious,  
5     that is, being in possession of some of the stolen  
6     property that's alleged to have been stolen, I don't  
7     think it ties him to the home itself. There's not any  
8     evidence he was ever actually in the home. Fingerprint  
9     evidence that has been produced tends to point in the  
10    opposite direction that someone else was involved.

11                So on those grounds, I just don't think  
12    the evidence supports a conviction as to the burglary  
13    charge. As to the firearms charge, I don't have  
14    a motion.

15                THE COURT: Solicitor.

16                MR. SORENSON: Your Honor -- may it please  
17    the Court. Looking at the evidence in the light  
18    most favorable to the State, basically what we have  
19    is a witness that puts it about 10:30 in the morning.  
20    You have the victims leaving their home no later than  
21    eight o'clock or so in the morning.

22                Ten-thirty in the morning, an individual  
23    that I submit ultimately is dressed consistently with  
24    the Defendant, walking in the direction of the victims'  
25    home, nothing in his hands. Seen 30 minutes later,

1 at that point in time with a bag that is later  
2 discovered in that vehicle with the victims' items.  
3 He got not only a bag full of the victims' items,  
4 but also belongings of the victims actually in his coat.

5 I think it's clear from the circumstantial  
6 evidence standpoint, from the time frame, the direction  
7 that he was walking, the direction he came, that the  
8 jury clearly could find the Defendant guilty beyond  
9 a reasonable doubt based on that evidence.

10 Factor in also his, you know, lies to  
11 Officer Jenkins initially, and just kind of the whole  
12 time frame. I mean, they're caught. This isn't  
13 a situation where this Defendant was found with these  
14 items, you know, later on that afternoon.

15 I mean, he's literally in the vehicle  
16 leaving the crime scene after he is observed, not only  
17 with that bag, but hiding that bag and coming back out,  
18 having his getaway driver come, pick him up, get that  
19 bag out of behind the fence, bushes, and then leaving.

20 THE COURT: Thank you, Solicitor. At this  
21 juncture, I would say the Court is concerned with the  
22 existence of evidence. And looking at the evidence in  
23 the light most favorable to the State, there is direct  
24 and circumstantial evidence that establish the guilt of  
25 the Defendant on each of the elements of the indictments

1 charged. Your motion is respectfully denied. Do you  
2 need a second to talk to your client?

3 MR. LOY: No, Your Honor. We did that  
4 at counsel table, and I think we're prepared for the  
5 exchange.

6 THE COURT: All right. Mr. Lawrence,  
7 please stand.

8 (Whereupon, Mr. Daniel Lawrence was duly sworn.)

9 THE COURT: Mr. Lawrence, at this time,  
10 I'm going to explain to you certain of your rights.  
11 If you do not understand anything that I say, please let  
12 me know. If you want me to explain anything in further  
13 detail, please let me know. Do you understand?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: We have now reached the stage  
16 of the trial where you may present your defense.  
17 You have the right to claim the protections given to you  
18 by the Fifth Amendment of the constitution of the United  
19 States. This amendment states, in part, that no person  
20 shall be compelled in any criminal case to be a witness  
21 against himself.

22 This means that you cannot be required  
23 to testify in this case. You have the right to testify  
24 on your own behalf. However, no one can make you  
25 testify. This is a personal right, and no one can waive

1 this right, except for you. If you decide to testify,  
2 you will be subject to the same rules that govern other  
3 witnesses, and you may be examined and cross-examined  
4 on any relevant issue in this case.

5 In addition, if you have any convictions  
6 involving dishonesty or false statement or for crimes  
7 punishable by imprisonment for more than one year,  
8 and I determine that the probative value of admitting  
9 this evidence outweighs the prejudicial effect to you,  
10 the solicitor will be able to introduce your record  
11 and attack your credibility.

12 If you decide not to testify -- if you  
13 decide to testify, the decision on your part must be  
14 made freely, voluntarily, and intelligently, with the  
15 knowledge of the protections given to you by the Fifth  
16 Amendment and the consequence of your decision to  
17 testify.

18 If you decide not to testify, I will  
19 instruct the jurors that they cannot give the fact  
20 that you did not testify any consideration whatsoever,  
21 and that there is to be absolutely no prejudice to you  
22 because you did not testify.

23 It is left entirely up to you as to whether  
24 or not you wish to testify. You may talk with your  
25 attorney, your family, your friends, but ultimately

1 the decision is completely up to you. Do you understand  
2 what I have explained to you?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: You need any more time to talk  
5 to your attorney about whether or not you wish to  
6 testify?

7 THE DEFENDANT: No, ma'am.

8 THE COURT: Do you have any questions  
9 about anything that I've gone over with you?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: Do you wish to testify?

12 THE DEFENDANT: I choose not to.

13 THE COURT: All right. Thank you. You may  
14 have a seat. Mr. Loy, will the defense be presenting  
15 any witnesses?

16 MR. LOY: No, ma'am.

17 THE COURT: All right. Will y'all approach.

18 (Off-the-record conversation held at sidebar.)

19 (Back on the record.)

20 THE COURT: All right. We will be at recess  
21 for a few minutes.

22 MR. LOY: Just so I understand the  
23 procedure, we will recess briefly, we'll bring them  
24 in, I'll rest, and we'll go straight to ---

25 THE COURT: Yes, sir.

1 MR. LOY: --- straight to argument?

2 THE COURT: Yeah. We'll go ahead and print  
3 out the jury instructions. Pam will bring them out  
4 for you real quick. And then if you have any questions,  
5 let me know.

6 Mr. LOY: Otherwise, we'll take 10 or 15,  
7 and then we'll bring them out, rest, and go straight  
8 into closing?

9 THE COURT: Yes, sir.

10 MR. LOY: Can I assume I have last close?

11 THE COURT: Yes.

12 MR. LOY: Thank you.

13 (Recess taken.)

14 (Back on the record.)

15 THE COURT: All right. Counsel, we've had  
16 an opportunity to have a charge conference. It's my  
17 understanding that there are no exceptions or objections  
18 to the proposed jury charges from the State or from the  
19 defense.

20 MR. SORENSON: That's correct, Your Honor.

21 MR. LOY: Correct.

22 THE COURT: Anything further before I bring  
23 the jury out?

24 MR. SORENSON: No, ma'am.

25 THE COURT: He just needs to finish his

1 snack.

2 MR. LOY: I'm sorry. No, ma'am.

3 THE COURT: Okay. Let's have our jury,  
4 please.

5 (Jury enters the courtroom at 2:46 p.m.)

6 THE COURT: Welcome back, ladies and  
7 gentlemen of the jury. Thank you for your patience.  
8 Before we get started back with the trial, sir, on the  
9 end what is your name?

10 THE JUROR: Jordan.

11 THE COURT: That's your last name?

12 THE JUROR: Last name is Kentrus.

13 THE COURT: Mr. Kentrus, since you are  
14 sitting in that chair, I'm going to appoint you as  
15 our foreperson. A very scientific process since you're  
16 sitting in that chair here today. So you will be  
17 our foreperson. And, basically, you'll be responsible  
18 for writing the names, signing the verdict form, and the  
19 indictment.

20 And, again, if you have any questions,  
21 or the jury has any questions, you'll be the liaison  
22 to the Court. Obviously, your vote is as equal  
23 to everyone else's. Now, we are ready to proceed.  
24 Mr. Loy, does the defense intend on calling any  
25 witnesses?

1 MR. LOY: We do not and rest, Your Honor.

2 THE COURT: All right. Thank you,  
3 gentlemen. You may proceed with closing arguments.

4 MR. SORENSON: Thank you. May it please  
5 the Court, Your Honor.

6 THE COURT: Yes, sir.

7 MR. SORENSON: Mr. Foreman, ladies and  
8 gentlemen of the jury, our homes are the one place  
9 in this world where we should feel safe, we should feel  
10 secure. While Mr. and Ms. Browne may have gotten their  
11 items back, they have repaired their broken door frame,  
12 one thing that I submit to you back on October 31st  
13 of 2018 is Daniel Lawrence stole from them that sense  
14 of security and that sense of safety.

15 MR. LOY: Your Honor, objection.  
16 That's inflammatory; it's not in evidence.

17 THE COURT: Your objection is overruled.

18 MR. SORENSON: Thank you, Your Honor.  
19 The security and safety that we all should have in our  
20 own home. He kicked in that back door and ransacked  
21 their house, stole their items, stole their gun, X-Box,  
22 jewelry, watches, pictures of their children, credit  
23 cards.

24 And I'm going to ask you at the close  
25 of my argument here to hold him accountable and wholly



1 responsible, to find him guilty of burglary in the first  
2 degree and unlawful carrying of that pistol that he  
3 stole from that home.

4 What I'm going to do is take a few minutes  
5 now and just talk to you a little bit about the charges  
6 initially, what we have to prove, the elements that  
7 we have to prove, and then talk to you about the facts  
8 that I submit to prove Daniel Lawrence is guilty beyond  
9 any and all doubt.

10 As you heard from the outset, Mr. Lawrence  
11 is charged with two indictments; one count of burglary  
12 in the first degree, and one count of unlawful carrying  
13 of a pistol. Very simply, burglary I'm going to talk  
14 about first. Burglary is the unlawful entry into the  
15 dwelling of another without their consent, with the  
16 intent to commit a crime therein.

17 And to make it a burglary in the first  
18 degree, there has to have an aggravating circumstance.  
19 In this case, there's two of them. The fact that he  
20 became armed with a handgun when he left that home,  
21 and the fact that he has, as you've heard, two prior  
22 convictions for burglary. You have to prove, basically,  
23 one of the two of them. I submit to you there's no  
24 doubt about either one of those.

25 The unlawful entry into the home of another.

1 You don't have to break in. You just have to unlawfully  
2 enter. I submit to you in this case he kicked in the  
3 back door. The intent to commit a crime in this case,  
4 yet again, not in doubt. He's got all the stuff that  
5 were stölen from their home, without their consent.

6 You've heard Mr. Browne testify he had no  
7 idea who Daniel Lawrence is or the guy that was driving  
8 the car that he was stopped in, Tevin Beaton, who  
9 clearly didn't get consent to break into his home that  
10 morning.

11 And then one of those aggravating  
12 circumstances, either the fact that he became armed  
13 with a firearm, in this case, that loaded 9-mm gun that  
14 was taken out of Mr. Browne's bedside table and found  
15 between his knees on top of that bag in that car five  
16 minutes later, or the fact that he's got two prior  
17 convictions for burglary.

18 And the other charge is unlawful carrying  
19 of a pistol, and that's very simple. I mean, you can  
20 possess a pistol two ways. You can actually possess  
21 it by having that pistol, let's just say my glasses,  
22 and actually possessing them at this point in time.  
23 Or I can constructively possess them, which means I have  
24 dominion and control over them.

25 My pen that I've set down right there.

1 It's in my workspace. I don't actually have that  
2 on my possession right now, but I'm still constructively  
3 possessing that. Unlawful carrying of a pistol,  
4 that 9-mm gun that was between his knees, the bag in the  
5 car between his knees that I submit to you he had just  
6 stolen from that home probably less than ten minutes  
7 prior to that. He is constructively possessing.

8 Now, as you've heard from the beginning,  
9 just like in this case, is no different than any other  
10 cases being tried this week around our country.  
11 Every criminal case in the United States of America,  
12 the burden is on the State. Whether it's the state  
13 of South Carolina, the state of Texas, the state  
14 of California, the state of Michigan, the burden  
15 is on us, and that burden we welcome.

16 As Mr. Smythe talked to you in opening,  
17 basically, when you have an opportunity to look at  
18 all the evidence, to weigh the credibility of the weight  
19 of that evidence, the witnesses that came before you,  
20 the physical evidence that was put in, if you're firmly  
21 convinced of Daniel Lawrence's guilt, you have a duty  
22 under the oath that you took this morning to find  
23 Mr. Lawrence guilty.

24 I submit to you if you look at all that  
25 evidence, if you feel there's a real possibility we have

1 the wrong person, he's not guilty, he's not the person  
2 that broke into that home, you have a duty under that  
3 very same oath to find him not guilty.

4 What I'm going to do now is talk to you  
5 about the facts, the facts that I submit to you prove  
6 his guilt, not only beyond a reasonable doubt,  
7 but beyond all doubt, and ultimately what you would have  
8 to find to find him not guilty.

9 Let's look at those facts, okay. And I'm  
10 going to kind of interweave a little bit. But the way  
11 this works is I go, then after I'm done Mr. Loy gets up.  
12 And I don't have an opportunity to come back before you,  
13 so I have to do a little bit of kind of anticipating,  
14 kind of what I think he's going to argue, and try  
15 to address some of those things. But I'm going to try  
16 to kind of weave some of that into it as I talk about  
17 the facts.

18 Look at the evidence that you've heard.  
19 Mr. Loy, I would agree with him in his opening this  
20 morning. This isn't a particularly complicated case.  
21 I mean, you've heard all the evidence in the last six  
22 hours, five hours. Not particularly complicated,  
23 and I submit to you there's a reason for that.  
24 It's because he was caught red handed. But let's look  
25 at the facts which you heard from the witness stand this

1 morning.

2           The first witness that you heard from,  
3 Kim Donoghue, lives on Greggs Landing kind of at the  
4 intersection here of Stone Bridge and Greggs Landing.  
5 And what did she tell us, okay? She's sitting, working  
6 at home, looking out her window, and around 10:30  
7 or so in the morning, she sees an individual that caught  
8 her attention, initially.

9           Didn't recognize him. The fact that he  
10 was -- the way he was dressed, had a heavy camouflaged  
11 jacket on, appeared to have it to where she could not  
12 see his face, didn't recognize him as being somebody  
13 in the neighborhood, enough to catch her attention.  
14 Wasn't enough at that point in time for her to call  
15 911, but enough for her to at least think, hey, that's  
16 kind of weird.

17           Continues to work, and 30 minutes later  
18 or so -- and what's even more important, okay, is that  
19 she sees him, initially. And he's coming down Stone  
20 Bridge, and is taking a right heading this way on  
21 Greggs Landing when she loses sight of him that morning,  
22 10:30 or so in the morning.

23           30 to 40 minutes later, she sees him  
24 again, and he is now coming back from that direction.  
25 Now, he's not empty handed. Now, he's got a white bag,

1 a white bag over his shoulder. You know, in it of  
2 itself, maybe there's nothing unusual about that.

3 But what does she describe that he does  
4 now that raises her suspicions enough where she feels  
5 like she needs to call 911? She sees him turn onto  
6 Stone Bridge, he takes the bag, and he puts it behind  
7 a neighbor's privacy fence and bushes.

8 The next thing we know, he's cutting around.  
9 He's back out here now, walking around on Gregg's  
10 Landing. Is that the action of somebody that hasn't  
11 done something wrong? The actions of just an innocent  
12 person? Or is that the actions of somebody that's just  
13 broken into a home?

14 We know they were at the house around eight  
15 o'clock that morning, so it had to have happened after  
16 that, 10:30 in the morning, somebody that has broken  
17 into that home down -- seven or eight houses down Gregg's  
18 Landing. Then, she sees a car pull up, slowly pull up,  
19 and he goes and gets the bag from behind the bushes,  
20 behind the fence, hops in the car, and she's on  
21 the phone this whole time with 911, relaying what  
22 she is seeing.

23 And, thankfully, Officer Jenkins is in route  
24 from the initial, when she first called, that he's not  
25 that far away. I think he said he was down Dorchester

1 and Ashley Phosphate. Is on his way, and as he is  
2 coming into the neighborhood and turning on Netherby  
3 and turning onto Stone Bridge Drive, basically,  
4 that is when she is relaying the fact that this vehicle,  
5 with the man with the camo jacket, the grey sweatpants,  
6 the red bottom shoes, the white bag that he has just  
7 stowed behind the neighbor's fence, has gotten into  
8 that vehicle, and is heading out of the neighborhood.

9           Officer Jenkins, at that point in time,  
10 sees that vehicle, matches the description of the  
11 silver sedan that he's been told about, got a passenger  
12 that is a Black male with a camouflaged jacket on.  
13 He does what I would expect, I would hope, that the law  
14 enforcement officer responding to that situation would  
15 do, turn around and stop that vehicle.

16           You heard his testimony that it took him  
17 all the way out here to catch up to that vehicle.  
18 Pulls over onto Dorchester Road, comes up to the  
19 vehicle. The driver is uncooperative, defiant,  
20 belligerent with him. Makes contact with the Defendant,  
21 Daniel Lawrence, wearing a camo jacket, grey sweatpants  
22 and red bottom shoes. I mean, there's absolutely  
23 no question that he is the person that Ms. Donoghue  
24 has seen wandering around this neighborhood, saw with  
25 that bag. He's got a bag that matches the description

1     between his knees.

2                   What does he say when Officer Jenkins  
3     asked him where are you coming from?   Coming from  
4     my girlfriend's house that lives in the neighborhood.  
5     Doesn't know where she lives.   What's in the bag?  
6     My dirty clothes.   Ultimately, you know, they searched  
7     that bag.   They searched the bag.   There's no dirty  
8     clothes in there.   There's the victim's X-Box, the  
9     victim's Roku, the victim's knife, the victim's holster,  
10    and the victim's 9-mm pistol.

11                  Yet again, the actions of a person -- of an  
12    innocent man?   Or the actions of somebody who's trying  
13    to hide something and hoping maybe the officer is going  
14    to buy what he's saying, is going to leave them alone,  
15    and let them go?   Those are the facts, ladies and  
16    gentlemen.   When you look at those, there's no doubt.

17                  I mean, what other logical possibility  
18    could there be?   You would have to believe that Daniel  
19    Lawrence at 10:30 in the morning is for some reason  
20    walking around in this neighborhood with a heavy coat  
21    on, hiding his face, somehow happen -- and heading down  
22    Greggs Landing where a burglary just happens to have  
23    happened.   And the burglar just happens to have decided  
24    to leave all of these items.   You heard Mr. Browne.  
25    One of the very last questions I asked him, is there



1 anything you didn't get back? Nope.

2           So, he's just somehow unfortunate enough  
3 to be walking down the road and stubble upon a bag  
4 of stuff that was just stolen from a burglary where  
5 a door was kicked in, including a bunch of electronics,  
6 that he picked that stuff up and decided to take it with  
7 him. But not only that, but actually go in and take  
8 stuff out of the bag, I suppose.

9           You would have to believe -- this isn't  
10 just picking up the bag, and I'm toting the bag along,  
11 because remember when they get and search him,  
12 and search him, remember he gets out of the vehicle,  
13 and he tries to cover up that gun, tries to cover  
14 up that gun with the jacket, even covering it with  
15 his legs while he was sitting there.

16           But when he had to get out of the vehicle,  
17 he knew that gun was going to be -- so what does he do?  
18 No other reason for him to take the jacket off. Tries  
19 to cover the gun up, and he knows what's in the bag.

20           But you would also have to believe that for  
21 some reason -- so he picks up -- just finds this bag  
22 somewhere, picks it up, and decides to take, you know,  
23 two watches, basically, all the small items, the stuff  
24 that if it was just stuff in a bag it would be at the  
25 bottom. But take all the small items and put it in his

1 coat pocket.

2 Ladies and gentlemen, when you came here  
3 this morning you didn't leave your common sense at home.  
4 You didn't check it at the door when you went through  
5 the metal detector downstairs. This all just kind  
6 of boils down to just simple, plain old common sense.  
7 The watches, the baby pictures, the credit cards in  
8 his pocket.

9 And Mr. Loy is going to get up here,  
10 and I'm sure we're going to hear about, you know,  
11 no fingerprints matching my client. I concede there  
12 are none. It's almost mind-boggling, I'll give you  
13 that, that they processed this entire home, and they  
14 found one fingerprint. I mean, that's mind-boggling.

15 There was nothing there that says that that  
16 fingerprint they lifted didn't belong to Mr. Browne,  
17 Ms. Browne, their daughter, the person that sold that  
18 box that the laptop was in. There's nothing in it  
19 of itself that says that one fingerprint they found  
20 has to belong to the person that broke into this home.  
21 That's a red herring to get you to take your eyes off  
22 it, take your attention off of the facts. The facts.

23 Kim Donoghue testified to the time frame.  
24 Where he is seen going; where he is seen coming from.  
25 The items that are found in his possession moments

1 after this burglary, his comments to law enforcement,  
2 his actions out there on the scene with law enforcement,  
3 to get you to take your eyes off of that.

4 I'm sure we're going to hear they could  
5 have compared the footprint. There's no doubt about  
6 it. This door was kicked in. Could have compared  
7 the footprint. Well, you're going to have this picture  
8 back there. Take a look at it. Take a look at it.  
9 It doesn't take a scientist to be able to look at that  
10 and see that you're not going to be able to compare  
11 that to anything.

12 I'm sure we're probably going to hear how  
13 the detective got up here, Ms. Ong, and used the word  
14 boot print. I submit to you there's nothing in here  
15 that says that is a boot. It's a term that she used.  
16 In the report she said shoe print. Yet again, something  
17 to get you to take your eye off of the facts.  
18 Cold, stubborn, hard facts that prove Daniel Lawrence  
19 is guilty beyond all doubt.

20 I told you when I started -- and hopefully  
21 I haven't drummed on that long here. At the close,  
22 I'm going to ask you to do one thing, ladies and  
23 gentlemen. Go back into your jury room, look at the  
24 facts. Look at the facts.

25 If you do that, there's only one verdict

1 in this case. The verdict that holds Daniel Lawrence  
2 accountable and responsible for his actions a year ago,  
3 back on Halloween of 2018 when he kicked in the back  
4 door of Jerome and Jamie Browne, ransacked their home,  
5 stole their items, stole their gun, jewelry, pictures.  
6 That's a verdict of guilty, burglary in the first degree  
7 and unlawful carrying of that pistol. Thank you.

8 THE COURT: Mr. Loy.

9 MR. LOY: Thank you, Your Honor.  
10 Good afternoon. Good afternoon.

11 THE JURORS: Good afternoon.

12 MR. LOY: Mr. Sorenson seems concerned about  
13 a lot of things he thought I might tell you. One thing  
14 I will tell you at the outset is I will certainly take  
15 dispute with his assertion to you that Mr. Lawrence is  
16 caught red handed in a burglary because it didn't happen  
17 like that.

18 Mr. Lawrence, whether or not he was caught  
19 up the road, or you believe he was caught up the road  
20 with stolen property, that's a crime in it of itself,  
21 possession of stolen property. Caught red handed  
22 in a burglary means caught red handed in a burglary,  
23 and that's not what happened in this case.

24 What happened in this case is the exact  
25 opposite of the legal principle you're required to apply

1 as jurors. And, that is, there was a presumption of  
2 guilt applied by everybody from the State's perspective  
3 from the outset.

4 In just a moment, I'll tell you what  
5 I mean by that. I will tell you at the outset that  
6 Mr. Lawrence, exactly as everyone else, is entitled  
7 to your active presumption of innocence at the outset  
8 of this case, throughout the case, at this point in  
9 the trial, and up and until the judge tells you it's  
10 appropriate for you to commence your deliberations.  
11 That means you look at him, and you actively presume  
12 there's an innocent man, nothing has been proven against  
13 him, and then you consider all the evidence.

14 It doesn't mean we wait and see, I don't  
15 know, somebody's got to convince me. It means there's  
16 an innocent guy, okay. State what do you have?  
17 And what they have to do, as I pointed out earlier,  
18 is carry their burden of proof. Burden of proof means  
19 there on that table rests the entire responsibility  
20 to produce evidence during this trial.

21 Mr. Lawrence is never required to testify;  
22 he's never required to call witnesses; he's not required  
23 to prove his innocence. That's absolutely critical.  
24 A lot of times a negative, that is, I didn't do  
25 something, is almost impossible to prove. It's never

1 required. It's not what the law places on him.  
2 It's on the State to prove guilt beyond every reasonable  
3 doubt. And, in this case, that's every reasonable doubt  
4 of the burglary in the first degree, as well as illegal  
5 carrying of a firearm.

6 Now, beyond a reasonable doubt, as Your  
7 Honor will tell you in just a moment, is the kind  
8 of doubt that would cause you to hesitate to act,  
9 that is, to say, oh, wait a minute. What about this?  
10 That is a reasonable doubt. And if you have that kind  
11 of doubt at the close of this case, and pursuant to your  
12 oath, you have to return a verdict of not guilty.

13 Now, the State tries to carry their burden  
14 in this case and every case by presenting evidence,  
15 and there's different types of evidence. There's  
16 physical evidence, which is stuff like these pictures,  
17 these photographs, physical evidence.

18 Then, there's testimonial evidence, things  
19 that you hear from the witnesses. That's evidence also,  
20 the words that you hear. You're required to listen  
21 to the testimonial evidence so that you can judge  
22 the credibility or the believability of what you hear.

23 And there are two distinct types of  
24 evidence. There is what we call direct evidence,  
25 and there's circumstantial evidence. They're both

1 perfectly good. There's nothing wrong with either type  
2 of evidence, and it's appropriate that you hear both  
3 types in any particular case, if it exists, but the  
4 rules are a little different.

5 First, the direct evidence. Direct evidence  
6 is a person who comes in and gives direct evidence  
7 of a chain of events of an event. I was at the fair,  
8 I looked up, and I saw the man fall off the Ferris  
9 wheel. There's direct evidence, okay.

10 Now, in this case, there's no direct  
11 evidence whatsoever that Mr. Lawrence is involved  
12 in any burglary. There's no one to say he was in the  
13 home, whether or not law enforcement officers knocked  
14 on doors, and ask if anyone else had seen him in the  
15 vicinity, whether there was any camera surveillance  
16 nearby. There's nothing whatsoever as far as direct  
17 evidence to say he was in the home. You didn't hear  
18 one person say that.

19 Now, there's also what we call  
20 circumstantial evidence. And different people  
21 and different judges use different examples of what  
22 circumstantial evidence means by way of example.  
23 Circumstantial evidence is proof of a circumstance,  
24 or evidence of a circumstance which tends to point  
25 to a conclusion.

1                   If I go to my mailbox when I get home,  
2 I hope I don't, but if I go to my mailbox when I get  
3 home, when I open it up, and there's a rattlesnake  
4 in my box, I mean, he's -- my box is up on a pole,  
5 it's off the ground, it's a closed metal box.  
6 If I open it up, and there's a rattlesnake in there,  
7 well, I didn't see anybody put a rattlesnake in my box.  
8 I can't say who put a rattlesnake in my box. I can't  
9 really, on my own knowledge, testify that somebody put  
10 a rattlesnake. But that would be pretty strong evidence  
11 that somebody put a rattlesnake in my box.

12                   Circumstantial evidence is different  
13 in that, as Your Honor will tell you, to the extent  
14 that the State relies solely on circumstantial evidence,  
15 and that is this case as far as this burglary goes.  
16 To the extent the State relies solely on circumstantial  
17 evidence, then all the evidence has to be consistent  
18 with itself and point to the guilt of the Defendant  
19 to the exclusion of every other reasonable hypothesis.

20                   And what that means is in the situation we  
21 don't have someone to say I saw it happen, the evidence  
22 better be strong enough to say there's no other way  
23 it could have, that is, to the exclusion of every  
24 reasonable hypothesis.

25                   Now, the reason I say there's a presumption



1 of guilt in this case, which is carried all the way  
2 through, and it has been to Mr. Lawrence's total  
3 detriment. You haven't seen him in the hallway  
4 or in the parking lot. He's been incarcerated since  
5 that day waiting his trial, his chance in court.

6           You have a witness who calls and says,  
7 there's a Black man in my neighborhood, broad daylight,  
8 hadn't heard any alarms go off, didn't see any pistols,  
9 firearms, or anything like that. But there's a Black  
10 guy in my neighborhood, he's wearing a coat. I see  
11 him again, now he's got a bag.

12           Now, this is not evidence of any crime  
13 whatsoever. And I submit to you in certain  
14 circumstances this exact scenario could be presumed  
15 with someone who doesn't look like Mr. Lawrence,  
16 law enforcement doesn't get called. But for whatever  
17 reason when she sees him in broad daylight, carrying  
18 a bag in the neighborhood, he's up to no good and  
19 presumes guilt.

20           Now, you heard Mr. Sorenson talking about  
21 she saw this white bag, she saw this white bag, blah,  
22 blah. Look at the picture. This is -- if she saw  
23 Mr. Lawrence with a bag, this must not be the one.  
24 But it's hard to call this a white bag, it is pretty  
25 clearly stripped. This is not -- if she calls in,

1 as Mr. Sorenson says, there's a suspicious Black guy  
2 in my neighborhood, and he's got a white bag.  
3 What happened to the white bag, and where did that  
4 one come from? Because that's not the one they're  
5 talking about.

6               However, law enforcement, based on nothing  
7 but that alone, initiates a traffic stop. And when they  
8 initiate the traffic stop, and it goes the way that  
9 it goes, he discovered some property in the car.  
10 He follows right up. There's his presumption of guilt  
11 because he looks at it and does nothing, except  
12 to arrest the folks, okay.

13              He says, I got this camera on my chest.  
14 North Charleston gives it to me so I can record  
15 my encounters with citizens so law enforcement  
16 is protected, so that I can show what happened out there  
17 that day. You get nothing at all. Nothing from him,  
18 other than to say, I looked at him, I saw the stuff  
19 in the car. What more do you want? How obvious  
20 can it be? There's been a crime, look at the stuff,  
21 it must be him. End of story.

22              And it doesn't stop there because they  
23 send a crime investigator, Ms. Ong. Highly cooperative,  
24 if anybody ever was from the witness stand. Y'all had  
25 a chance to hear her testimony. It was Ms. Ong who

1 says, I drove out, and on the way there I stopped off  
2 at that traffic stop, and I took pictures, what was  
3 out there, the Defendant, I saw what was going on,  
4 et cetera. And pretty clearly this crime scene  
5 investigator then did just what y'all are sworn not to  
6 do, and that is to say, it is obvious, it's presumption  
7 of guilt.

8                   What kind of investigation is this?  
9 She goes out there and says the entire house has been  
10 ransacked, the door has been kicked in, someone has  
11 tried to get in through the window. She's got another  
12 appointment or something because her testimony is my  
13 investigation, with all this expertise I got, I lifted  
14 fingerprints off of one box, and that was it.

15                   She doesn't say I tried to get other  
16 fingerprints to the house; she doesn't say, I tried  
17 to get DNA; she doesn't say we gathered anything.  
18 She's just, look, there it is. Here's the stuff,  
19 it's obvious what happened. It's the presumption  
20 of guilt, and it's what y'all can't do, okay.  
21 There is no direct evidence whatsoever.

22                   All there is is circumstantial evidence  
23 as to the burglary, and certainly direct evidence  
24 as to this pistol charge. Law enforcement says they  
25 found it on him. It's not in any of these pictures;

1 it's not recorded anywhere. If you believe it, however,  
2 that would tend to be direct evidence.

3 Secondly -- and then they take the  
4 fingerprint lady. She comes in here and what does  
5 she tell you? They asked me to take pictures of  
6 the Defendant, so I walked in, and I took pictures  
7 of the Defendant. Saw him, saw what he looked like,  
8 saw who he was, made my own conclusions. Went out,  
9 I compared these fingerprints.

10 One thing I know for sure, the fingerprint  
11 on this box that the computer got stolen out of didn't  
12 come from Mr. Lawrence. Okay, well, that's kind of  
13 interesting. Did it come from the people in the house?  
14 Easy enough to find out, isn't it? Do you think they  
15 wouldn't cooperate with that investigation and provide  
16 that information? Do you really think there wasn't  
17 any other fingerprints anywhere in the house?

18 She tried to say she didn't want  
19 to contaminate this evidence with searching for touch  
20 DNA to see if someone else had been in there handling  
21 this property. But it doesn't hold up. It's a Q-Tip  
22 is what she said to test for this DNA, and it's too  
23 much trouble because it's obvious to her what happened.  
24 And it went no further.

25 As a matter of fact, you heard from

1 two witnesses from the State that said, yes, there's  
2 a department at SLED that exists to check things like  
3 these footprints to match them up, et cetera. Anybody  
4 arrested and charged with a crime has the right to all  
5 of the evidence, both the evidence which tends to point  
6 towards their guilt, as well as any evidence that the  
7 State could be able to preserve and present which would  
8 tend to show their innocence, or at least to contradict  
9 their guilt.

10 And, in this case, the State never missed  
11 a single chance to fail to gather, to treat the entire  
12 situation as insignificant, not important, in a foregone  
13 conclusion. There is clearly -- it's simply not the  
14 case, ladies and gentlemen.

15 Now, what you're required to do, and this  
16 is the part I told you at the outset I think is the  
17 hardest part of y'all's job today, is to take these two  
18 prior convictions, and use them exactly as the judge  
19 tells you.

20 In effect, what that will mean is erase  
21 them from your mind. Don't consider them. They are  
22 not evidence of what he did on that particular day.  
23 Any one of us may have committed some sort of an act,  
24 said things, whatever, that we regret. It doesn't  
25 mean we behave with the conformity of that in the

1 future, and it doesn't mean Mr. Lawrence does.

2 And it's in violation of your oath to use those to  
3 indict in that manner. I repeat, you cannot do that,  
4 and the judge is going to tell you not to do that.

5 So you set those two aside. As proud as the  
6 State is of them, and as pleased as they were to tell  
7 you at the outset, and they saved it for the very last  
8 witness to stand up and read because we all know what  
9 the tendency is to do that. And that is to prejudge  
10 or to judge this case based on that. Don't do it.

11 Look at what's actually been presented here,  
12 and what's not been presented here. What's not been  
13 presented here -- A, what has definitely not been  
14 presented here is evidence of a fair, impartial,  
15 unbiased investigation that actually sought to determine  
16 whether or not Mr. Lawrence was guilty of this, and  
17 if not, who was. And what else has not been presented  
18 is any evidence whatsoever that Mr. Lawrence was ever  
19 in that home.

20 The State had every opportunity to gather  
21 this. Mr. Lawrence is entitled to the State's best  
22 effort, just as anyone else that is accused of a crime  
23 is entitled to the State's best effort. The burden  
24 of proof is on them. They make decisions every step  
25 of the way, and they have failed totally and completely

1 to prove Mr. Lawrence is involved in any burglary  
2 whatsoever.

3 So as to that burglary charge, ladies  
4 and gentlemen, I ask you to give us a fair and honest  
5 verdict. Hold the State to its burden, come back not  
6 guilty.

7 As for this gun charge, which is not  
8 documented anywhere, which isn't photographed,  
9 which isn't shown, which law enforcement didn't think  
10 was important enough to take a picture and present  
11 it to you, y'all can take their testimony for what  
12 you think it's worth and judge on that.

13 Thank you very much for your attention,  
14 ladies and gentlemen. Thank you.

15 THE COURT: Ladies and gentlemen of the  
16 jury, it's now time for me to charge you on the law  
17 in this case. I remind you that during this trial,  
18 you and I have certain duties to perform. And as the  
19 trial judge, it's my responsibility to preside over the  
20 trial of this case. And I also have the duty to rule on  
21 the admissibility of evidence offered during this trial.  
22 You are to consider only the competent evidence before  
23 you. If there was any testimony ordered stricken from  
24 the record in this case during this trial, you must  
25 disregard it.

1           You are to consider only the testimony,  
2   which has been presented from the witness stand,  
3   and any exhibits, which have been made part of the  
4   record in this case, and any stipulations of counsel.

5           I have the additional duty to charge you  
6   the law applicable to this case. As the presiding  
7   judge, I'm the sole judge of the law of this case.  
8   And it is your duty as jurors to accept and apply  
9   the law as I now state it to you.

10           If you already have an idea as to what  
11   the law is, or what the law ought to be, and it does  
12   not agree with what I now tell you the law is, you must  
13   abandon this idea because you're sworn to accept the law  
14   and apply the law exactly as I state it to you.

15           In every case tried in this courtroom before  
16   a jury, the jury becomes the sole and exclusive judges  
17   of the facts in the case. The trial judge cannot  
18   intimate, state, comment on, or make any statement  
19   to a trial jury about the facts of the case.

20           Since you, the jury, are the sole judges  
21   of the facts in the case, you're not to infer from what  
22   I have said during the progress of this trial in ruling  
23   upon the admissibility of evidence or otherwise,  
24   or anything that I say now during the course of this  
25   instruction to you that I have any opinion about the



1 facts in this case. The law does not allow me to have  
2 an opinion about the facts in this case. This is  
3 a matter solely for you, the jury, to determine.

4 As jurors, it is your duty to determine  
5 the effect, the value, weight, and truth of the evidence  
6 presented during this trial.

7 The indictments charge the Defendant  
8 with the following: Burglary in the first degree  
9 and unlawful carrying of a handgun. I remind you  
10 that the fact that the Defendant was arrested, charged,  
11 and indicted in this case is not evidence in this case,  
12 and it cannot be considered by you as evidence of guilt  
13 in this case. Nor does it create any presumption  
14 or inference of guilt.

15 These documents are simply the formal  
16 written instruments, which contain the charges made  
17 against the Defendant. They are the formal documents  
18 by which the case was brought into this court.  
19 The indictments in this case alleged different offenses  
20 against the Defendant, and the charges are indictment --  
21 the first indictment is burglary in the first degree;  
22 the second indictment is unlawful carrying of a handgun.

23 Each indictment charges a separate and  
24 a distinct offense. You must decide each indictment  
25 separately on the evidence and the law applicable

1 to it, uninfluenced by your decision as to any other  
2 indictment. The Defendant may be convicted or acquitted  
3 on any or all of the offenses charged. You will be  
4 asked to write a separate verdict of guilty or not  
5 guilty on each indictment.

6 The Defendant has pled not guilty to these  
7 indictments, and that puts the burden on the State  
8 to prove the Defendant guilty. A person charged with  
9 committing a criminal offense in South Carolina is never  
10 required to prove himself innocent.

11 I charge you that it is an important part  
12 of the law, the Defendant in a criminal trial, no matter  
13 what the seriousness of the charge may be, will always  
14 be presumed innocent of the crime for which the  
15 indictment was issued, unless guilt has been proven  
16 by evidence satisfying you of that guilt beyond  
17 a reasonable doubt.

18 This presumption of innocence does not end  
19 when you begin your deliberations. But it accompanies  
20 the Defendant throughout the trial until you reach  
21 a verdict of guilty based on evidence satisfying you  
22 of that guilt beyond a reasonable doubt.

23 The presumption of innocence is like  
24 a robe of righteousness placed about the shoulders  
25 of the Defendant, which remains with the Defendant

1 and until it has been stripped from the Defendant  
2 by evidence satisfying you of the Defendant's guilt  
3 beyond a reasonable doubt.

4 The presumption of innocence is not  
5 a mere legal theory; it's not just a legal phrase.  
6 It's a substantial right to which every Defendant  
7 is entitled to, and unless, you, the jury, are satisfied  
8 from the evidence of the guilt beyond a reasonable  
9 doubt. The State has the burden of proving the  
10 Defendant guilty beyond a reasonable doubt.

11 Some of you may have served as jurors in  
12 civil cases where you were told that it's only necessary  
13 to prove that the fact is more likely true than not  
14 true, such as, by the greater weight or the  
15 preponderance of the evidence. In criminal cases,  
16 the State's proof must be more powerful than that.  
17 Again, it must be beyond a reasonable doubt.

18 What is a reasonable doubt in the law?  
19 A reasonable doubt is the kind of doubt that would cause  
20 a reasonable person to hesitate to act. Proof beyond  
21 a reasonable doubt is proof that leaves you firmly  
22 convinced of the Defendant's guilt. There are very  
23 few things in this world that we know with absolute  
24 certainty.

25 And in criminal cases, the law does

1 not require proof that overcomes every possible doubt.  
2 If based on your consideration of the evidence,  
3 you're firmly convinced that the Defendant is guilty  
4 of the crime charged, you must find the Defendant  
5 guilty. If, on the other hand, you think there's a real  
6 possibility the Defendant is not guilty, you must give  
7 the Defendant the benefit of the doubt, and find him  
8 not guilty.

9           There are two types of evidence which  
10 are generally presented during a trial; direct evidence  
11 and circumstantial evidence. Direct evidence directly  
12 proves the existence of a fact, and does not require  
13 deduction. Circumstantial evidence is proof of a chain  
14 of facts and circumstances indicating the existence  
15 of a fact. Crimes may be proved by circumstantial  
16 evidence. The law makes no distinction between  
17 the weight or the value to be given to either direct  
18 or circumstantial evidence.

19           However, to the extent that the State relies  
20 on circumstantial evidence, all of the circumstances  
21 must be consistent with each other, and when taken  
22 together point conclusively to the guilt of the accused  
23 beyond a reasonable doubt. If these circumstances  
24 merely portray the Defendant's behavior as suspicious,  
25 the proof has failed.

1           The State has the burden of proving  
2     the Defendant guilty beyond a reasonable doubt.  
3     The burden rests with the State regardless of whether  
4     the State relies on direct evidence, circumstantial  
5     evidence, or some combination of the two.

6           Necessarily, you must determine  
7     the credibility of witnesses who have testified  
8     in this case. Credibility simply means believability.  
9     It becomes your duty as jurors to analyze and to value  
10    the evidence and determine which evidence convinces  
11    you of its truth.

12           In determining the believability of  
13    witnesses who have testified in this case, you may  
14    believe one witness over several witnesses or several  
15    witnesses over one witness.

16           You may believe a part of the testimony of  
17    a witness and reject the remaining part of the testimony  
18    of that same witness. You may believe the testimony  
19    of a witness in its entirety, or reject the testimony  
20    of a witness in its entirety. You may consider whether  
21    the witness has exhibited to you any interest, bias,  
22    prejudice or other motives in this case. And you may  
23    also consider the appearance and the manner of a witness  
24    while on the witness stand.

25           The rules of evidence ordinarily do not

1 permit witnesses to testify to opinions or conclusions.  
2 An exception to this rule exists for witnesses who  
3 are called expert witnesses. A witness who by education  
4 and experience has become an expert in some art,  
5 science, profession or calling may state an opinion  
6 as to any relevant material matter in which the witness  
7 claims to be an expert, and may also state the reasons  
8 for that opinion.

9           You should consider any expert opinion  
10 received in evidence in this case like any other  
11 evidence and give it the weight that you think that  
12 it deserves. If you decide that the opinion of an  
13 expert witness is not based on sufficient education  
14 and experience, or if you conclude that the reasons  
15 given in support of the opinion are not sound, or that  
16 the opinion is outweighed by other evidence, you may  
17 disregard the opinion entirely.

18           An expert witness's testimony is to be given  
19 no greater weight than that of other witnesses simply  
20 because the witness is an expert. Further, you're not  
21 required to accept the expert's opinion even though  
22 it's not contradicted.

23           I instruct you and emphasize that the fact  
24 that the Defendant did not testify is not a factor to  
25 be considered by you in any way in your deliberations

1 and your considerations of the question of the guilt  
2 or the innocence of the Defendant. It must not be  
3 considered by you in any manner whatsoever.

4 A Defendant has a constitutional right  
5 to remain silent, and the assertion of this right  
6 must not be considered by you in your deliberations.  
7 I repeat, under your oath, you are to draw no  
8 conclusions whatsoever from the fact that the Defendant  
9 in this case did not testify. The fact that the  
10 Defendant did not testify should not even be discussed  
11 in the jury room.

12 The burden of proof, as I have stated it to  
13 you, is on the State, and the Defendant is not required  
14 to prove his innocence. The burden remains on the State  
15 to prove guilt beyond a reasonable doubt.

16 In order to establish criminal liability,  
17 criminal intent is required. For example, the mental  
18 state required to be proven by the State for  
19 a particular crime might be purpose, intent, knowledge,  
20 recklessness, or criminal negligence.

21 Criminal intent must be proven by the State  
22 beyond a reasonable doubt. Criminal intent is always  
23 a matter that must be determined by the jury from  
24 the circumstances surrounding the situation. There's  
25 no way to prove intent by a mathematical certainty.

1     There's no way medical science can dissect a person's  
2     brain and determine what the person had in mind.  
3     So the law says that criminal intent may be inferred  
4     through the circumstances shown to have existed.

5                 This is how you make a determination of  
6     whether or not the element requiring intent was present.  
7     It is not necessary to establish intent by direct  
8     and positive evidence. But intent may be established  
9     by inference in the same as any other fact by taking  
10    into consideration the act of the parties and all  
11    of the facts and circumstances of the case.

12                Criminal intent is a mental state,  
13    a conscious wrongdoing. It is up to you to determine  
14    what the Defendant intended to do based upon the  
15    circumstances shown to have existed. Criminal intent  
16    can arise from action or a failure to act. It may arise  
17    from negligence, recklessness or an indifference to duty  
18    or consequences that is considered by the law to be  
19    equivalent of criminal intent.

20                The Defendant is charged with burglary  
21    in the first degree. The State must prove beyond  
22    a reasonable doubt that the Defendant entered a dwelling  
23    without consent. A dwelling is any building or portion  
24    of a building in which a person ordinarily sleeps.  
25    A building constructed as a dwelling that has never been



1 occupied cannot be considered as a dwelling for the  
2 purposes of a burglary. But a building is a dwelling,  
3 even if the residents are temporarily absent from the  
4 building.

5 In order to prove that the Defendant  
6 entered the dwelling, the State does not have to show  
7 the Defendant's entire body entered the dwelling.  
8 The smallest entry is sufficient. It may be any  
9 part of the body, such as a hand, foot, or even  
10 an instrument, such as a hook or other instrument.

11 In addition, the State does not have to  
12 prove that force was used to gain entry. If a person  
13 enters a building using deception, artifice, trick  
14 or misrepresentation to get consent to enter,  
15 this is an entry without consent.

16 Next, the State must prove beyond  
17 a reasonable doubt that the Defendant intended to commit  
18 a crime, either a felony or a misdemeanor, at the time  
19 of the entry. The mere entry into a dwelling without  
20 consent is not burglary. The intent to commit a crime  
21 is formed after the entry, it is not burglary.

22 On the other hand, if the Defendant  
23 intended to commit a crime at the time of the entry,  
24 it is a burglary, even if the intent was abandoned after  
25 the entry. It does not matter if the intended crime was

1 not completed. Intent may be shown by acts and conducts  
2 of the Defendant and other circumstances from which  
3 you may naturally and reasonably infer intent.

4 Finally, the State must prove beyond  
5 a reasonable doubt that, one, when entering while  
6 in the dwelling or when fleeing, the Defendant  
7 or an accomplice, was armed with a deadly weapon  
8 or explosive.

9 A deadly weapon is any article, instrument,  
10 or substance which is likely to cause death or great  
11 bodily harm. Whether an instrument has been used as  
12 a deadly weapon depends on the facts and circumstances  
13 of each case.

14 The following are examples of instruments  
15 which may be a deadly weapon; a pistol, a shotgun,  
16 a rifle, a dagger, a knife, a slingshot, metal knuckles,  
17 a razor, gasoline, a firebomb, or Molotov cocktail.  
18 A gun may be a deadly weapon, even if it is not  
19 operating.

20 Two, the Defendant has a prior record  
21 of two or more convictions for burglary and/or  
22 housebreaking. Evidence of prior offenses committed  
23 by the Defendant was not offered to prove the Defendant  
24 has a bad character, or to prove that the Defendant  
25 committed the burglary on this occasion.

1           The prior convictions may be considered  
2 by you only for the purpose of determining whether  
3 or not it satisfies the elements of the offense that  
4 makes it a first-degree burglary if you enter  
5 a dwelling without consent and commit a crime,  
6 and you have two prior convictions for burglary  
7 and/or housebreaking.

8           Before you can even consider the evidence  
9 of the Defendant's prior burglary and/or housebreaking  
10 convictions, you must first find that the State  
11 has proved beyond a reasonable doubt that a burglary  
12 was committed by the Defendant. If you find beyond  
13 a reasonable doubt that the burglary was committed,  
14 then you may consider the evidence of the prior  
15 convictions as evidence of one of the circumstances  
16 which would make the burglary first-degree burglary.

17           If you do not find beyond a reasonable  
18 doubt that the Defendant committed these alleged  
19 prior offenses, then you cannot return a verdict  
20 of first-degree burglary.

21           The Defendant is charged with unlawful  
22 carrying of a pistol. The State must prove beyond  
23 a reasonable doubt that the Defendant carried a pistol  
24 about his person, whether concealed or not. A weapon  
25 is about the Defendant's person if it is readily

1 accessible and convenient for immediate use. The pistol  
2 may not be actually touching the person of the  
3 Defendant.

4 Ladies and gentlemen of the jury,  
5 when you go back into your jury room, your jury verdict  
6 must be a unanimous verdict, which of course, means that  
7 all 12 of you must agree on the verdict. Mr. Kentrus,  
8 you will have the verdict form, which is pretty  
9 self-explanatory. It states as to the charge of  
10 burglary in the first degree, we, the jury, unanimously  
11 find the Defendant, and then you circle the appropriate  
12 verdict that the 12 of you agree on, and then it goes  
13 on to the second charge. You then will date it and sign  
14 it as the foreperson.

15 You will also have back in the jury room,  
16 the indictments in this case. On the front of the  
17 indictment, there's a section that says verdict.  
18 You will write the appropriate verdict and also sign  
19 and date it as the foreperson.

20 Before you begin your deliberations,  
21 I'm going to ask you to go to your jury room. When you  
22 receive the verdict form and the indictments, along with  
23 the evidence submitted in this case, then you may begin  
24 your deliberations. When you come to a verdict, please  
25 knock on the door, and we'll bring you back in to

1 receive it. You may go to your jury room.

2 (Jury exits the courtroom at 3:36 p.m.)

3 THE COURT: Any exceptions or objections  
4 to the charge on the law from the State or from  
5 the defense?

6 MR. SORENSON: Nothing from the State.

7 MR. LOY: No. Thank you.

8 THE COURT: All right. If y'all will  
9 get together and make sure we have all the exhibits.  
10 Try not to wander too far so we can find you in case  
11 there's a verdict.

12 MR. SORENSON: Yes, ma'am.

13 THE COURT: And I'm going to go release  
14 the alternates unless anybody has any objections.

15 MR. LOY: No, Your Honor. Thank you.

16 (Recess taken.)

17 (Back on the record.)

18 (Jury enters the courtroom at 5:11 p.m.)

19 THE COURT: Welcome back, ladies and  
20 gentlemen of the jury. I'm in receipt of your note  
21 requesting, obviously, you want to hear the testimony  
22 of both the questioning from the State and the  
23 cross-examination of the defense of Officer Jenkins.  
24 But you also asked if you could take a break.

25 It's after five -- it's ten after five,

1 and I know just about everyone's got a life outside  
2 of the courtroom, so I certainly understand that.  
3 I'm going to ask you, by taking a break are you wishing  
4 to go home and resume your deliberations in the morning?  
5 Raise of hands, or do y'all want to discuss that?

6 Typically, what happens when the jury  
7 deliberates, you come to a verdict. But if you're  
8 tired, and if you need to take a break and come back  
9 in the morning to deliberate, I'm happy to let you  
10 do that as well.

11 Obviously, we want your full concentration  
12 and your attention to your deliberations and not your  
13 mind elsewhere if you're tired. So, I'm happy to do  
14 it either way. We're here to accommodate you and  
15 facilitate whatever of those choices you would like.  
16 Do you need a second to go into the jury room and  
17 discuss that?

18 THE FOREPERSON: I think we'll just like  
19 a 15-minute break and continue.

20 THE COURT: Well, as far as a break  
21 is concerned, when you say a 15-minute break,  
22 like a smoke break for people to go outside?

23 THE FOREPERSON: Yes, ma'am.

24 THE COURT: Okay. That's okay. You must --  
25 while those people take the break, you'll be escorted

1 by one of the bailiffs. You can't discuss the case  
2 at all. And while the people are outside during  
3 the break, the remaining jurors in the jury room  
4 cannot continue the deliberations. All 12 of you  
5 must be present in the jury room for the deliberations  
6 to continue.

7 And again you've been doing an excellent job  
8 of communicating your questions to the Court and not to  
9 have any communication with anyone, including any court  
10 staff or any other personnel, other than through written  
11 communication with the Court, if you have any questions.

12 So, what we'll do is we'll take, say, a 10,  
13 15-minute recess. Those of you that wish to go outside,  
14 can go outside with the bailiff. And if any of you  
15 requests for us to notify any of your family members  
16 that you're going to be a little late, let us know,  
17 and we'll be happy to make those phone calls for you.

18 Again, just write down your requests for  
19 me to consider, all right. So those of you who will  
20 take a break will go with the bailiff. The rest of  
21 you just remain in the jury room and do not deliberate.

22 (Jury exits the courtroom at 5:14 p.m.)

23 (Jury enters the courtroom at 5:37 p.m. to listen  
24 to testimony.)

25 (Jury exits the courtroom at 6:07 p.m.)

1 (Recess taken.)

2 (Back on the record.)

3 THE COURT: Thank you, everyone. Please  
4 have a seat. It's my understanding that we have  
5 a verdict. Anything before I bring the jury out?

6 MR. SORENSON: No, ma'am.

7 MR. LOY: No, Your Honor. Thank you.

8 THE COURT: Let's have our jury, please.

9 (Jury enters the courtroom at 6:18 p.m.)

10 THE COURT: Mr. Foreperson, has the jury  
11 reached a verdict?

12 THE FOREPERSON: Yes, ma'am.

13 THE COURT: Would you please hand it  
14 to the bailiff. Madam Clerk, if you could publish  
15 the verdict.

16 THE CLERK: Yes, ma'am. In the matter  
17 of the State of South Carolina versus Daniel Lawrence,  
18 indictment Nos. 2018-GS-18-2104 and 2018-GS-18-2106,  
19 as to the charge of burglary in the first degree,  
20 we, the jury, unanimously find the Defendant guilty.

21 As to the charge of unlawful carrying of  
22 a handgun, we, the jury, unanimously find the Defendant  
23 guilty. Dated November 13, 2019, signed by foreperson,  
24 Jordan Kentrus.

25 THE COURT: Yes, ma'am. Mr. Loy, would you



1     require pulling of the jury?

2                 MR. LOY:   Yes, ma'am.

3                 THE CLERK:  If I call your juror number  
4     and name, if you'll please stand.  Juror No. 58, Clark  
5     Ferguson.  Was this your verdict in the jury room?

6                 THE JUROR:  Excuse me?

7                 THE CLERK:  Was this your verdict in the  
8     jury room?

9                 THE JUROR:  Yes, ma'am.

10                THE CLERK:  Is it still your verdict?

11                THE JUROR:  Yes, ma'am.

12                THE CLERK:  Thank you.  No. 124, Robert  
13     Montgomery.  Was this your verdict in the jury room?

14                THE JUROR:  Yes, ma'am.

15                THE CLERK:  Is it still your verdict?

16                THE JUROR:  Yes.

17                THE CLERK:  Thank you.  No. 77, Brandon  
18     Herndon.  Was this your verdict in the jury room?

19                THE JUROR:  Yes, ma'am.

20                THE CLERK:  Is it still your verdict?

21                THE JUROR:  Yes, ma'am.

22                THE CLERK:  Thank you.  No. 185, Anthony  
23     Wivell.  Was this your verdict in the jury room?

24                THE JUROR:  Yes, ma'am.

25                THE CLERK:  Is it still your verdict?

1 THE JUROR: Yes, ma'am.

2 THE CLERK: Thank you. No. 117, Milam  
3 Mcglohon. What this your verdict in the jury room?

4 THE JUROR: Yes.

5 THE CLERK: Is it still your verdict?

6 THE JUROR: Yes.

7 THE CLERK: Thank you. No. 81, Kenneth  
8 Hinson. Was this your verdict in the jury room?

9 THE JUROR: Yes, ma'am.

10 THE CLERK: Is it still your verdict?

11 THE JUROR: Yes, ma'am.

12 THE CLERK: Thank you. No. 95, Charlene  
13 Kahn. Was this your verdict in the jury room?

14 THE JUROR: Yes, ma'am.

15 THE CLERK: Is it still your verdict?

16 THE JUROR: Yes, ma'am.

17 THE CLERK: Thank you. No. 78, Albert Hill,  
18 Jr. Was this your verdict in the jury room?

19 THE JUROR: Yes, ma'am.

20 THE CLERK: Is it still your verdict?

21 THE JUROR: Yes, ma'am.

22 THE CLERK: Thank you. No. 46, Beverly  
23 Days. Was this your verdict in the jury room?

24 THE JUROR: Yes.

25 THE CLERK: Is it still your verdict?

1 THE JUROR: Yes.

2 THE CLERK: Thank you. No. 136, Shelby  
3 Pearson. Was this your verdict in the jury room?

4 THE JUROR: Yes, ma'am.

5 THE CLERK: Is it still your verdict?

6 THE JUROR: Yes, ma'am.

7 THE CLERK: Thank you. No. 56, Patricia  
8 Evans. Was this your verdict in the jury room?

9 THE JUROR: Yes, ma'am.

10 THE CLERK: Is it still your verdict?

11 THE JUROR: Yes, ma'am.

12 THE CLERK: Thank you. And No. 99, Jordan  
13 Kentrus. Was this your verdict in the jury room?

14 THE JUROR: Yes, ma'am.

15 THE CLERK: Is it still your verdict?

16 THE JUROR: Yes, ma'am.

17 THE CLERK: Thank you. Thank you, Judge.

18 THE COURT: Thank you, ladies and gentlemen  
19 of the jury. Would you please return to your jury room,  
20 I'll be in there momentarily to release you.

21 (Jury exits the courtroom at 6:21 p.m.)

22 THE COURT: Anything before I release  
23 the jury?

24 MR. SORENSON: Not from the State,  
25 Your Honor.

1 MR. LOY: No, Your Honor. Thank you.

2 THE COURT: Would you please prepare  
3 the sentencing sheet.

4 MR. SORENSON: Yes, ma'am.

5 (Recess taken.)

6 (Back on the record.)

7 THE COURT: Thank you, everyone. Please  
8 have a seat.

9 MR. SORENSON: May I approach?

10 THE COURT: Yes, sir, Solicitor.

11 MR. SORENSON: Thank you. May it please  
12 the Court, Your Honor. As far as -- initially, as far  
13 as a prior record from Mr. Lawrence, as you've heard,  
14 at least partially during the course of the trial,  
15 he had convictions from back in May of 2004 for three  
16 counts of burglary in the second degree. They were --  
17 two of them were violent. All three of them were  
18 dwellings.

19 The two burglaries second violent were  
20 originally burglary first that were pled down to  
21 burglary second violent. He had received a 15-year  
22 concurrent sentence on those three charges. As I have  
23 indicated, that was back in May of 2014 [sic].

24 Subsequent to that, he does -- he has  
25 a little bit of a record, but nothing real substantial

1 after that point in time. He's got a general sessions  
2 level fraudulent check conviction from 2013. He's got  
3 -- and then it looks like just a bunch of kind of  
4 driving offenses, drug paraphernalia, stuff of that  
5 nature.

6 And then it looks like he has a violation  
7 of probation -- violation of probation, pardon and  
8 parole, so I'm not sure. That might be a parole  
9 violation. I'm not sure, but that is in 2017.  
10 And that would be his record, Your Honor.

11 The Brownes -- you have obviously heard  
12 from Mr. Browne on the witness stand. The two of them  
13 are here. They don't wish to address the Court at this  
14 point in time."

15 THE COURT: All right, sir. Anything  
16 further from the State?

17 MR. SORENSON: That would be all from the  
18 State, Your Honor. We'll move on to sentencing at Your  
19 Honor's discretion.

20 THE COURT: Mr. Loy.

21 MR. LOY: Thank you, Your Honor.  
22 Mr. Lawrence tells me he was released from prison  
23 on the charges that you heard, those burglaries in 2011.  
24 And he's tried to improve his circumstance since then.  
25 He was able to mostly stay out of trouble for a good

1 while. He had the one bad check charge. But other  
2 than that, he's got a walking on the wrong side of the  
3 highway or something like that, and a couple of other  
4 magistrate's offenses. I don't believe all of them show  
5 a disposition.

6 He tells me that he was born and raised  
7 in the Charleston area. He has lived here his whole  
8 life, at least, his whole free life. He wasn't a gifted  
9 student, but he did obtain a GED. He went to the  
10 penitentiary on a 15-year sentence and served a very  
11 good piece of that. Again, came out in 2011, and he  
12 really did want to make a turn and make his life better.

13 He's got two children, four and five years  
14 old. He's involved with both of them, and has been  
15 involved in their life. He tried to improve his  
16 circumstance. He got the GED. He enrolled at Trident  
17 Technical College, and he was there for two years.  
18 This is subsequent to his release in 2013 and 2014.

19 He was studying business information  
20 systems. I'm not sure exactly what it is, but it's  
21 an associate's degree -- associate's level that he was  
22 seeking a degree. I think the academics were difficult  
23 for him as well as financial responsibilities.  
24 The two children dictated that he leave that career  
25 track, if you will, and just take employment. He works

1 in restaurants. He's always been in food and beverage.

2 At the time of his arrest on this charge,  
3 he was employed at Hyman's Seaman -- Hyman's Seafood  
4 as a food runner, basically, delivering food, barback,  
5 that sort of thing.' He's worked in food and beverage  
6 in various places. At one point in time, he was a line  
7 cook up at Toast off of Trolley Road. And just,  
8 economically, he's not able to make it work. He hasn't  
9 been able to. Again, he has tried, and he's stayed  
10 out of trouble for a long time, and he's been motivated.

11 He sought education; he sought work.  
12 And it went south on him. He's now convicted of another  
13 crime for which he understands. And he understood going  
14 in if he were, in fact, convicted, it would be for  
15 a long prison sentence. If Your Honor shows him all  
16 the mercy available to him, it's for a long prison  
17 sentence. And I understand with the prior history that  
18 he's got, he's probably not in line for the minimum  
19 sentence in this case.

20 He suffers, he tells me, from a major  
21 depressive disorder, and I understand why that is.  
22 I mean, the last year certainly hasn't done anything  
23 to improve his depressive symptoms. He is medicated  
24 for that.

25 He also has a seizure disorder. He tells

1 me it's not epileptic. He described it as something  
2 I'm not familiar with. But I know that at least during  
3 the time he has been in jail, he has had seizures  
4 a couple of times over there, as recently as last week.  
5 He was briefly hospitalized pursuant to that.

6 Other than those issues, his health is good.  
7 Your Honor, he comes from a hard spot. There's nobody  
8 here on his side of the room for him. He doesn't have  
9 family that are here; he doesn't have folks that are  
10 here for him. He's sort of solo in the world.

11 He has done some bad things. He's been  
12 convicted of victimizing these folks behind me.  
13 I understand that. He doesn't have a history of  
14 violence. He hasn't assaulted anyone. While I'm  
15 certain he has had impact on some people's lives with  
16 the things that he's done, none of it has been of  
17 vicious event, including since he came out of prison,  
18 which I'm sure didn't do anything to improve his --  
19 he still doesn't have crimes of violence; he doesn't  
20 hurt people; he doesn't do those things.

21 Your Honor, he understands, better than  
22 anyone in the courtroom, what the future holds for  
23 him because he's not speculating on what the South  
24 Carolina Department of Corrections is like. He knows  
25 exactly what the South Carolina Department of



1 Corrections is like, having been up the road on  
2 a violent 15-year sentence in the past.

3 I would ask you to show him the mercy that  
4 you can. And, Your Honor, I hope you can realistically  
5 leave some light at the end of the tunnel for him,  
6 something that he can work toward, and try to make  
7 another stab at it if he comes out.

8 I know that in my experience people who  
9 are 50, they don't do crimes. They do crimes --  
10 they don't do burglaries. I mean, it's just impossible  
11 to make a living at it. And that's pretty much his  
12 whole general sessions level of offenses. They outgrow  
13 it; they leave it behind.

14 Your Honor, that's pretty much all I got.  
15 I'm asking to show him -- leave some hope in when he  
16 walks out the door. He's got major depressive disorder,  
17 understandably so. I would be worried about him if he  
18 weren't depressed at this point. I hope you won't just  
19 squelch the light entirely at the end of the tunnel.

20 THE COURT: Mr. Lawrence, certainly,  
21 it's difficult especially considering the fact that  
22 you have a prior history of the same type of conduct.  
23 You received a pretty good break last time. You pled  
24 down from burg first to burg second, and for three  
25 of them, you got a 15-year sentence. And, obviously,

1   that didn't change your behavior or deter your future  
2   misconduct. I understand that maybe academically  
3   you weren't the best student, and you were working  
4   and trying to make a living. But that certainly doesn't  
5   give you any right whatsoever to invade people's homes.  
6   I understand it was daylight, but you took a weapon  
7   and, obviously, didn't learn your lesson while you  
8   were incarcerated the first time.

9                   So, as Mr. Loy stated, it's certainly  
10   not in line with the minimum sentence, as that goes.  
11   But I do take into consideration that it was during  
12   the daytime. And thank goodness these folks weren't  
13   home, and someone could have gotten shot and killed  
14   for -- someone certainly could have gotten hurt.

15                   On indictment 2018-GS-18-2106 for unlawful  
16   carrying of a handgun, you're hereby committed to the  
17   state department of corrections for a period of one  
18   year. That is concurrent to 2018-GS-18-2104, where  
19   you're hereby committed to the state department of  
20   corrections for a period of 40 years. You do get credit  
21   for the time served, and it is concurrent to the other  
22   sentence.

23                   MR. LOY: Thank you, Your Honor.

24                   MR. SORENSON: Thank you, Judge.

25                   (End of Transcript of Record)

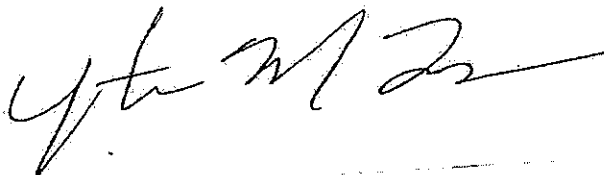
CERTIFICATE OF REPORTER

State of South Carolina                    )  
County of Dorchester                    )

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Dorchester County, South Carolina, on the 13th of November, 2019.

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

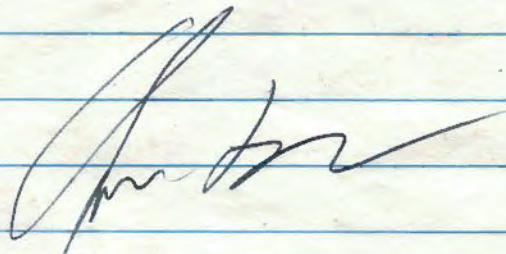
July 21, 2020



Yvestre Torres

Circuit Court Reporter

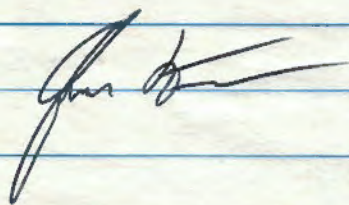
The Jury would like to relisten to the testimony Regarding the police officer recovering the Fire-Arm.



Do you want to listen to the questioning regarding the gun by the prosecutor or the defense attorney, or both?

Marta Murray

Both and could we also take a Break




**WITNESSES**

Gwendolyn O Brazelton

North Charleston Police Department  
2018-032893

**ARREST WARRANT NUMBER**  
2018A1021000941

Arrested: November 1, 2018

**ACTION OF GRAND JURY**  
**TRUE BILL**

*[Signature]*  
Foreperson of Grand Jury  
Date: May 2, 2019

**VERDICT**

**Guilty**

Foreperson of Petit Jury  
Date: 11/13/18 *[Signature]*

**DOCKET NO. 2018GS18-2104**

**The State of South Carolina**  
**County of DORCHESTER**

**COURT OF GENERAL SESSIONS**

**May 6, 2019 TERM**

**THE STATE**  
**vs.**

Daniel Jamaal Lawrence

**Indictment for**  
**Burglary - First Degree**

SC Code: 16-11-311

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.

DORCHESTER COUNTY  
CLERK OF COURT  
JULIA G. WATSON

2019 MAY -2 AM 11:21

FILED-RECORDED

STATE OF SOUTH CAROLINA  
COUNTY OF DORCHESTER

INDICTMENT  
2018GS18-2104

As a Court of General Sessions, convened on May 2, 2019 the Grand Jurors of DORCHESTER County present upon their oath:

**BURGLARY - FIRST DEGREE**

That in Dorchester County, South Carolina, on or about October 31, 2018, the Defendant, Daniel Jamaal Lawrence, did willfully and unlawfully enter the dwelling of Jerome Brown, without consent and with the intent to commit a crime therein and when, in effecting entry or while in the dwelling or in immediate flight, the defendant or another participant in the crime: is armed with a deadly weapon or explosive and/or the burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both; This offense being a violation of Section 16-11-311 of the South Carolina Code of Laws, as amended.

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

A handwritten signature in black ink, appearing to be 'DS', is written over a horizontal line.

Donald N. Sorenson, Solicitor



## STATE OF SOUTH CAROLINA

## IN THE COURT OF GENERAL SESSIONS

COUNTY OF Dorchester  
 STATE VS.  
Daniel Jamaal Lawrence  
 AKA: \_\_\_\_\_  
 Race: BLACK Sex: M Age: 34  
 DOB: [REDACTED] SS#: [REDACTED]  
 Address: 7667 Oldridge Road  
 City, State, Zip: North Charleston, SC 29418  
 DL#: \_\_\_\_\_ SID#: \_\_\_\_\_  
 \*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐  
 In disposition of the said indictment comes now the Defendant who was  
 TO: Burglary - First Degree

2020-CP-18-801  
 INDICTMENT/CASE#: 2018GS18-2104  
 A/W#: 2018A1021000941  
 Date of Offense: 10/31/2018  
 S.C. Code § : 16-11-311 **CERTIFIED COPY**  
 CDR Code #: 0079 5/18/2020 RLB

SENTENCE SHEET  
Clayton Graham  
 Clerk of Court  
 Dorchester County

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079  
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Sorenson, Donald N. 9512 SC Bar# \_\_\_\_\_ Defendant Loy, John Matthew SCB12016  
 Attorney for Defendant SC Bar# \_\_\_\_\_

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
 for a determinate term of 40 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: 11/13/19

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP \_\_\_\_\_

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

Payment Terms: \_\_\_\_\_

☐ Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine: \$ \_\_\_\_\_  
 §14-1-206 (Assessments 107.5 %) \$ \_\_\_\_\_  
 §14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100  
 §14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_  
 §56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
 §56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_  
 Proviso (Public Def/Probation) \$500 \$ \_\_\_\_\_  
 §14-1-212 (Law Enforce. Funding) \$25 \$ 25  
 §14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_  
 §50-21-114(BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
 §56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
 3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Obtain GED ☐  
 Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling ☐  
 Random Drug/Alcohol testing ☐  
 Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: \_\_\_\_\_

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

Clerk of Court/ Deputy Clerk Clayton Graham

Court Reporter: [REDACTED]

Presiding Judge Kaiti Kemp

Judge Code: 2164

Sentence Date: 11/13/19

**WITNESSES**

Gwendolyn O Brazelton

North Charleston Police Department  
2018-032893

**ARREST WARRANT NUMBER**  
2018A1021000943

Arrested: November 1, 2018

**ACTION OF GRAND JURY**  
**TRUE BILL**

*[Signature]*  
Foreperson of Grand Jury  
Date: May 2, 2019

**VERDICT**

*Guilty*

Foreperson of Petit Jury  
Date: 11/13/19 *[Signature]*

**DOCKET NO. 2018GS18-2106**

**The State of South Carolina**  
**County of DORCHESTER**

**COURT OF GENERAL SESSIONS**

**May 6, 2019 TERM**

**THE STATE**  
**vs.**

Daniel Jamaal Lawrence

**Indictment for**

**Unlawful Carrying of a Handgun**

**SC Code: 16-23-20**

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.

DORCHESTER COUNTY  
CLERK OF COURT  
JAN 20 2019

2019 MAY -2 AM 11:22

FILED-RECORDED



STATE OF SOUTH CAROLINA  
COUNTY OF DORCHESTER

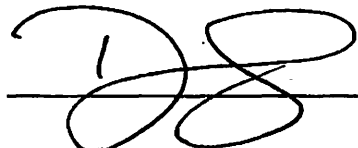
INDICTMENT  
2018GS18-2106

As a Court of General Sessions, convened on May 2, 2019 the Grand Jurors of DORCHESTER County present upon their oath:

**UNLAWFUL CARRYING OF A HANDGUN**

That in Dorchester County, South Carolina, on or about October 31, 2018, the Defendant, Daniel Jamaal Lawrence, did unlawfully carry about his person a pistol in violation of Section 16-23-20, of the South Carolina Code of Laws, as amended.

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

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a series of loops and a horizontal line extending to the right.

Donald N. Sorenson, Solicitor

## STATE OF SOUTH CAROLINA

COUNTY OF Dorchester  
 STATE VS.  
Daniel Jamaal Lawrence  
 AKA: \_\_\_\_\_  
 Race: BLACK Sex: M Age: 34  
 DOB: [REDACTED] SS#: [REDACTED]  
 Address: 7667 Oldridge Road  
 City, State, Zip: North Charleston, SC 29418  
 DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was  
 TO: Unlawful Carrying of a Handgun

## IN THE COURT OF GENERAL SESSIONS

2020-CP-18-801INDICTMENT/CASE#: 2018G SI8-21 06A/W#: 2018A1021000943Date of Offense: 10/31/2018S.C. Code § : 16-23-20CDR Code #: 0044**CERTIFIED COPY**

5/18/2020  
 SENTENCE BY [Signature]  
 Clerk of Court

☒ CONVICTED OF [REDACTED] or ☐ PLEADS

in violation of § 16-23-20 of the S.C. Code of Laws, bearing CDR Code # 0044  
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]  
 Sorenson, Donald R.

9512  
 SC Bar#

Defendant

[Signature]  
 Loy, John Matthew  
 Attorney for Defendant

SCB12016  
 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
 for a determinate term of 1 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: 11/13/19

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP \_\_\_\_\_

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

Payment Terms: \_\_\_\_\_

☐ Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine: \$ \_\_\_\_\_  
 §14-1-206 (Assessments 107.5 %) \$ \_\_\_\_\_  
 §14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100  
 §14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_  
 §56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
 §56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_  
 Proviso (Public Def/Probation) \$500 \$ \_\_\_\_\_  
 §14-1-212 (Law Enforce. Funding) \$25 \$ 25  
 §14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_  
 §50-21-114(BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
 §56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
 3% to County (if paid in installments) \$ 3.75

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

SCCA/217 (04/2018)

Presiding Judge

Judge Code: 2166Sentence Date: 11/13/19

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

## FORM 5

STATE OF SOUTH CAROLINA )

) IN THE COURT OF COMMON PLEAS

County of DORCHESTER )Daniel J. Lawrence, 302187 )2020-CP-18-801 )

Full name and prison number (if any) of Applicant )

v. )

APPLICATION FOR )

State of South Carolina )

POST-CONVICTION RELIEF )

Respondent. )

FILED-RECORDED

5/18/2000 ELBCheryl Graham  
Clerk of Court

Dorchester County

**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Broad River Correctional Institution  
4460 Broad River Rd. Columbia, S. Carolina 29210
2. Name and location of Court which imposed sentence Dorchester County Court  
of General Sessions, St. George, S. Carolina 29477
3. Name(s) of co-defendant(s) (if any) Tevin Beaton
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:  
(a) 2018-GS-18-0214; 2018-GS-18-  
Burglary 1st.; Unlawful Carrying of a Firearm  
40 years 1 year

5. The date upon which sentence was imposed and the terms of the sentence:

(a) November 13<sup>th</sup>, 2019

(b)

(c)

6. Check whether a finding of guilty was made:

(a) after a plea of guilty

(b) after a plea of not guilty XX

(c) after a plea of nolo contendere

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. The South Carolina Court of Appeals

ii.

iii.

(b) the result in each such Court to which you appealed:

i. Dismissed

ii.

iii.

(c) the date of each such result:

i. January 6, 2020

ii.

iii.

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. SEE: Attached EXHIBITS (1-4)

ii.

iii.

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) N/A

(b)

- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) SEE: APPLICANT'S ATTACHMENT TO POST CONVICTION RELIEF \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE: APPLICANT'S ATTACHMENT TO POST CONVICTION RELIEF \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No \_\_\_\_\_
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No \_\_\_\_\_
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No \_\_\_\_\_
- (d) any other petitions, motions or applications in this or any other Court? No \_\_\_\_\_
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N / A \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
- i. N / A \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(c) the disposition thereof:

i. N / A

ii.

iii.

iv.

(d) the date of each such disposition:

i. N / A

ii.

iii.

iv.

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N / A

ii.

iii.

iv.

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. N / A

ii.

iii.

(b) the proceedings in which each ground was raised:

i. N / A

ii.

iii.

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Not appropriate for Direct Appeal

(b) \_\_\_\_\_

(c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? \_\_\_\_\_

(b) your trial, if any? Yes

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?  
No

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. John M. Loy, Esq.

107 W. 6th N. Street, Suite 100, Summerville, S.C. 29483

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(b) the proceedings at which each such attorney represented you:

i. Trial and Sentencing

ii. \_\_\_\_\_

iii. \_\_\_\_\_

19. State clearly the relief you seek in filing this application:

Vacate conviction and sentence and/or grant applicant  
a belated appeal, and/or remand for a new trial.

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA )

County of DORCHESTER )

VERIFICATION

I, Daniel J. Lawrence, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Daniel J. Lawrence

SWORN to and subscribed before me this 15<sup>th</sup>  
 day of May, 2000.

[Signature] (L.S.)  
 Notary Public

My Commission Expires: 7-27-2006



2020-CP-18-801

**APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF**

I, Daniel J. Lawrence, 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.

Daniel J. Lawrence  
Applicant

SWORN or affirmed to and subscribed before me this  
15th day of May, 2020.

[Signature]  
Notary Public

My Commission Expires: 7-27-2026

FILED-RECORDED R1B

5/18/2020  
Cheryl Graham  
Clerk of Court  
Dorchester County

STATE OF SOUTH CAROLINA  
COUNTY OF DORCHESTER

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT

Daniel J. Lawrence,  
Applicant,

C/A No: 2020-CP-18-801

Vs.

ATTACHMENT TO APPLICANT'S  
APPLICATION FOR  
POST CONVICTION RELIEF

State of South Carolina,  
Respondent.

FILED-RECORDED

5/18/2020 RIB

Cheryl Graham  
Clerk of Court  
Dorchester County

PAGE 3, QUESTION 10(A):

Ineffective assistance of counsel prior to and during  
Applicant's criminal proceedings.

STATE vs. DANIEL J. LAWRENCE

2018-GS-18-0214; Burglary 1st.

2018-GS-18-2106; Unlawful carrying of a Firearm.

PAGE 3, QUESTION 11(A):

Applicant was denied effective assistance of counsel as  
guaranteed by the Sixth (6th) and Fourteenth (14th) amendments of  
the United States Constitution; as well as Article 1 § 14 of the  
South Carolina Constitution, in that:

- 1.) Counsel failed to timely file and prefect an appeal on Applicant's behalf, from Applicant's Conviction and Sentence. SEE: Attached "order" dated January 6, 2020; Remittitur dated January 24, 2020; Appellate Case No: 2019-002039; WHITE vs. STATE 208 S.E.2d 35 (19\_\_\_\_).
- 2.) Counsel failed to request a "Competency Examination" of Applicant pursuant to S.C. Code §44-23-410 and a hearing pursuant to S.C. Code §44-23-430 given the nature of Applicant's mental issues. STATE vs BLAIR 273 S.E.2d 536 (1981).
- 3.) Counsel failed to subpoena Ptl. Ruch of the North Charleston Police Department who would have testified that there was "no" Gun/Pistol in plain view to establish cause for a warrantless vehicle search, where evidence was obtained as a result of the unlawful search, was inadmissible. STATE v. YORK, 250 S.C. 30, 156 S.E.2d 326 (1967), STATE v. MOORE, 377 S.C. 299, 659 S.E.2d 256 (2008).
- 4.) Counsel failed to petition the Court to suppress incriminating evidence obtained from the unlawful search of motor vehicle. U.S. Const. 4th and 14th Amendments; Art. I, § 10 of the South Carolina Constitution; STATE v. MOORE, 377 S.C. 299, 659 S.E.2d 256 (2008).

- 5.) Counsel failed to put the State's case (evidence) through a meaningful adversarial testing process. UNITED STATES v. CRONIC, 104 S.Ct. 2039 (1984).

Applicant pursuant to RULE 71.1 et.al. reserves the right for appointed counsel to amend this application to ensure all grounds for relief are included in the application,

DATE: 5-5-2020

Daniel J. Lawrence #302187  
Daniel J. Lawrence, #302187

END OF DOCUMENT

STATE OF SOUTH CAROLINA  
COUNTY OF DORCHESTER

Daniel J. Lawrence, #302187,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE FIRST JUDICIAL CIRCUIT

Case No.: 2020-CP-18-801

**RETURN**

(Counsel Appointed)

The State of South Carolina (Respondent or the State) hereby makes its Return<sup>1</sup> to the post-conviction relief (PCR) action filed by Daniel Lawrence (Applicant) on May 18, 2020. Respondent would respectfully show this court:

#### **I. PROCEDURAL HISTORY**

Applicant is presently confined to the South Carolina Department of Corrections. On May 2, 2019, the Dorchester Grand Jury indicted Applicant for burglary in the first degree (2018-GS-18-2104) and unlawful carrying of a handgun (2018-GS-18-2106). On November 12-13, 2019, Applicant proceeded to a jury trial before the Honorable Maite Murphy. Assistant Solicitors Donald Sorenson and George Smythe prosecuted the case on behalf of the First Circuit Solicitor's Office. Applicant was represented by John Loy, Esquire (Counsel). Applicant was convicted as indicted. Judge Murphy sentenced Applicant to forty (40) years imprisonment for burglary in the first degree and one (1) year for unlawful carrying of a handgun, to be served concurrently.

<sup>1</sup> Respondent's Return was due to be filed within ninety days of receipt. *See* Rule 12(a), SCRCP ("[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within 60 days after service of the application, if it arises out of a guilty plea, and 90 days if it arises out of a trial.") Now, having completed the Return required in this matter, and in light of no demonstrable prejudice to Applicant as a consequence of the delay, Respondent respectfully asks this Court to accept this Return as timely filed. *See* S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond and that "respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application"); *Guinyard v. State*, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the trial court may extend the time for filing and that the time limit prescribed by the statute is not mandatory, but discretionary with the trial court).

On December 9, 2018, a notice of appeal was filed on Applicant's behalf by John Loy. On January 6, 2020, the South Carolina Court of Appeals dismissed Applicant's appeal for failure to timely serve the notice of appeal. *State v. Lawrence*, 20-OR-040 (S.C. Ct. App. Dated January 6, 2020). The Remittitur was sent on January 24, 2020.

## **II. FACTUAL HISTORY**

Kim Donoghue, Victim's neighbor, testified that on October 31, 2018, she saw a man walking up and down the street. (Tr. vol. 2, 132-33). Donoghue testified she was suspicious because the man was wearing a big, heavy jacket on a warm day, and the jacket was pulled down around his face. (Tr. vol. 2, 133). Donoghue testified she eventually called the police because the man did not have anything with him when he entered "the sub," but left carrying a big bag thirty (30) to forty-five (45) minutes later. (Tr. vol. 2, 134). Donoghue observed the man walk to the back of a fence and leave a white bag, with blue handles, behind the fence. (Tr. vol. 2, 135-36). Later, a silver sedan car pulled up, and the man that put the bag behind the fence, got the bag, and got back into the car. (Tr. vol. 2, 136-37). Donoghue called law enforcement and described the man as a Black man in a camo jacket with a hood, grey sweatpants, and red-bottom tennis shoes. (Tr. vol. 2, 139).

Corporal Hamilton Jenkins, North Charleston PD, testified he was dispatched on October 31, 2018, to a call reporting a Black male wearing a camouflaged jacket and grey sweatpants in the area, acting suspiciously. (Tr. vol. 2, 142). Jenkins testified he received information regarding the silver sedan and observed the car pass him, in which Jenkins saw a Black male wearing a camouflaged jacket. (Tr. vol. 2, 143-44). Jenkins initiated a traffic stop, and noticed the passenger was wearing a camouflaged jacket and grey sweatpants. (Tr. vol. 2, 144). Jenkins identified Applicant as the passenger. (Tr. vol. 2, 146). Jenkins testified he observed a blue and white bag

between Applicant's feet containing electronic boxes. (Tr. vol. 2, 147). Jenkins testified he observed a gun, a Smith and Wesson M&P Shield, on top of the electronics in the bag when Applicant was getting out of the car. (Tr. vol. 2, 148). Jenkins testified watches, and debit cards with the name "Jamie Masson" were inside of Applicant's jacket. (Tr. vol. 2, 149-50).

Officer Louis Smoak, North Charleston PD, testified he went to the house, and it was readily identifiable that the back door had been kicked in, and the house was ransacked in an obvious burglary. (Tr. vol. 2, 169; 171). Smoak testified that officers contacted Jamie Masson-Browne and Jerome Browne (Victims), who responded to the house. (Tr. vol. 2, 173). Jerome Browne testified that he was contacted by officers and responded to his house, where he observed the backdoor had been kicked in, and the house was ransacked. (Tr. vol. 2, 107). Browne stated he had a Smith and Wesson M&P Shield 9-mm gun in his nightstand. (Tr. vol. 2, 208).

### III. CURRENT APPLICATION

In his current PCR application, Applicant alleges he is being held unlawfully based on the following:<sup>2</sup>

#### Ineffective assistance of counsel

- a. Failure to timely file and perfect an appeal on applicant's behalf pursuant to *White v. State*.
- b. Failure to request a competency evaluation and *Blair* hearing.
- c. Failure to subpoena "Ptl. Ruch" of the North Charleston Police Department who would have testified that there was not a gun or pistol in plain view.
- d. Failure to move to suppress evidence obtained from unlawful search of motor vehicle.
- e. Failure to put State's case through a meaningful adversarial testing process.

Applicant requests relief as follows: Grant a belated appeal and/or remand for a new trial.

Attached to this Return and incorporated herein are the records of the Dorchester County Clerk of Court records regarding the subject convictions, the trial transcript, Applicant's records

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<sup>2</sup> Unless quoted, Applicant's allegations have been summarized for brevity and clarity.

from the South Carolina Department of Corrections, and the application for post-conviction relief. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

#### IV. RESPONSE TO INEFFECTIVE ASSISTANCE OF COUNSEL ALLEGATION

##### *Ineffective Assistance of Counsel, Generally.*

The Sixth and Fourteenth Amendments to the United States Constitution guarantee criminal defendants the right to “assistance by an attorney, whether retained or appointed, who play a necessary role to ensure the trial is fair. *Strickland v. Washington*, 466 U.S. 668, 685 (1984). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. *See generally* S.C. Code Ann. § 17-27-20(A) (2014) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a prima facie violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a PCR action, Applicant bears the burden of proving the allegations in his application by a preponderance of the evidence. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland*, 466 U.S. at 668; *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. To obtain relief, a PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness, measured under “prevailing professional norms,” and (2) the applicant sustained prejudice as a



result of counsel's performance. *Strickland*, 466 U.S. at 687-88; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Id.* (citing *Strickland*, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 117-18.

#### ***Strategic Decisions of Counsel***

*Strickland* requires that trial counsel be given leeway to make reasonable strategic decisions. *Strickland*, at 688-89 (stating "[n]o particular set of detailed rules for counsel's conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant."). Judicial scrutiny of counsel's performance must be highly deferential. *Id.* at 689.

#### ***Failure to Call a Potential Witness***

"A criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State." *McKnight v. State*, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). "[W]hile the scope of a reasonable investigation depends on a number of issues, at a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case." *Ard v. Catoe*, 372 S.C. 318, 331-32, 642

S.E.2d 590, 597 (2007) (internal quotation marks omitted) (emphasis omitted). However, counsel need only make investigations or interview potential witnesses “when it is reasonable to do so.” *Edwards v. State*, 392 S.C. 449, 457, 710 S.E.2d 60, 65 (2011); *Strickland*, 466 U.S. at 691.

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop. *Harris v. State*, 377 S.C. 66, 75–76, 659 S.E.2d 140, 145–46 (2008) (citing *Jackson v. State*, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998), abrogated on other grounds by *Smalls v. State*, 422 S.C. 174, 810 S.E.2d 836 (2018)). Failure to conduct an independent investigation, or call a particular witness, does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result. *Moorehead v. State*, 329 S.C. 329, 496 S.E.2d 415 (1998). The applicant must further present evidence demonstrating how the discoverable matters or defenses would have resulted in a different outcome. *Harris*, 377 S.C. at 75–76, 659 S.E.2d at 145–46.

#### ***Failure to Request a Competency Evaluation or Blair Hearing***

Applicant alleges Counsel was ineffective for failing to request a competency evaluation or hearing pursuant to *State v. Blair*, 275 S.C. 529, 273 S.E.2d 536 (1981). When an applicant raising issues of competency, the two-prong test in *Strickland* still applies. *Ramirez v. State*, 419 S.C. 14, 20, 795 S.E.2d 841, 844–45 (2017). To establish prejudice, Applicant must show a reasonable probability that he was incompetent at the time of trial. *See Id.* Once an applicant has established counsel was deficient for failing to obtain a mental competency evaluation, he must demonstrate a reasonable probability, sufficient to undermine confidence in the outcome, that he was incompetent at the time of trial. *See Id.* at 22, 795 S.E.2d at 845.

#### ***Failure to Timely File a File and Serve Notice of Appeal***

Applicant alleges Counsel was ineffective for failing to timely file and serve notice of an appeal. Following a trial, counsel is required to make certain the defendant is made fully aware of the right to appeal. *Turner v. State*, 380 S.C. 223, 670 S.E.2d 373 (2008). In absence of an intelligent waiver by the defendant, counsel is required to initiate an appeal or comply with the procedure in *Anders v. California*, 386 U.S. 738 (1967). *Id.*

#### ***Failure to File a Motion to Suppress Evidence***

Applicant alleges Counsel was ineffective for failing to move to suppress evidence obtained from the search of the vehicle Applicant was a passenger in. This allegation is directly refuted by the record. In a pre-trial hearing, Counsel moved to suppress evidence seized at the scene of Applicant's arrest. (Tr. vol. 1, 4). The court held a hearing on the motion, in which testimony was proffered from Officer Hampton Jenkins and Sergeant Rank (Tr. vol. 1, 4-52; Tr. vol. 2, 58-). Counsel examined both officers on the witness stand about the search of the vehicle and the seizure of the evidence obtained. *Id.* Counsel further examined both officers about policies and procedures regarding body camera footage. (Tr. vol. 1, 15-27; Tr. vol. 2, 58-76). Counsel provided thorough legal arguments to the court to support the motion to suppress. (Tr. vol. 2, 78-01). The court found the officers had reasonable suspicion to initiate the traffic stop and probable cause to search the car was established when officers smelled marijuana, observed items from a burglary in plain view, and the driver was driving under suspension. (Tr. vol. 2, 110-13). The court denied the motion, determining the search of the vehicle was lawful, and the evidence seized was obtained lawfully. (Tr. vol. 2, 113). Thus, Applicant cannot meet his burden on this allegation because the allegation is refuted by the record.

#### **V. REQUEST FOR AN EVIDENTIARY HEARING**

Because the record likely does not refute or disprove Applicant's claims, additional testimony is likely needed to resolve Applicant's allegations. Therefore, the State requests an evidentiary hearing to fully resolve the issues. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

#### **VI. ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS**

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Applicant's attorney is required to file amendments to this application, as necessary. Rule 71.1(a), SCRPC; *see* Rule 11, SCRPC. *Pro se* filings should not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State, or alternatively, the State will request a continuance in the matter.<sup>3</sup> If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, the State reserves the right to move to dismiss any claim(s) or allegation(s). S.C. Code Ann. §§ 17-27-10 to -160; Rule 71.1, SCRPC; *see also* Rules 15(a)-(b), SCRPC.

Pursuant to S.C. Code Ann. § 17-27-150 (2014), Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing.

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<sup>3</sup> *See Love v. State*, 428 S.C. 231, 245, 834 S.E.2d 196, 203 (2019) (Kittredge, J., dissenting) ("If, however, the proposed amendment... would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments").

**VII. GENERAL DENIAL**

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

**VIII. CONCLUSION**

WHEREFORE, the State respectfully requests this court convene an evidentiary hearing on the allegation of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON  
Attorney General

DON ZELENKA  
Deputy Attorney General

BRYAN T. HALL  
Assistant Attorney General

By:

  
\_\_\_\_\_  
ATTORNEYS FOR THE STATE  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29212

December 4, 2023

STATE OF SOUTH CAROLINA )

COUNTY OF DORCHESTER )

Daniel J. Lawrence, #302187 )

Applicant, )

vs )

State of South Carolina, )

Respondent, )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS

**2020-CP-18-00801**

CERTIFICATE OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Mr. Christopher R. Geel, Esquire**  
**Geel & Gentry, LLC**  
**PO Box 21771**  
**Charleston, SC 29413**

DATED this the 4<sup>th</sup> day of December, 2023.



\_\_\_\_\_  
 William Corbett Jr,  
 Legal Assistant For Respondent

STATE OF SOUTH CAROLINA     )     SOUTH CAROLINA CIRCUIT COURT 1  
COUNTY OF DORCHESTER        )     DOCKET. NO. 2020-CP-18-00801

|                          |   |
|--------------------------|---|
| DANIEL J. LAWRENCE,      | ) |
| Plaintiff,               | ) |
| versus                   | ) |
|                          | ) |
| STATE OF SOUTH CAROLINA, | ) |
| Defendant.               | ) |

H E A R I N G  
BEFORE THE HONORABLE PAUL M. BURCH

DATE:                   February 8, 2024  
TIME:                   9:34 a.m.  
LOCATION:                South Carolina Circuit Court 1

TRANSCRIBED BY: Natasha Barrientos

LEGAL EAGLE  
Post Office Box 5682  
Greenville, South Carolina 29606  
864-467-1373  
[depos@legaleagleinc.com](mailto:depos@legaleagleinc.com)

1 APPEARANCES:

2

3 CHRISTOPHER R. GEEL, ESQUIRE

4 Geel & Gentry, LLC

5 PO Box 21771

6 Charleston, South Carolina 29413

7 Attorney for the Plaintiff,

8

9 BRYAN T. HALL, ESQUIRE

10 S.C. Attorney General's Office

11 PO Box 11549

12 Columbia, South Carolina 29211

13 Attorney for the Defendant.

14

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## 1 INDEX

2

3 Proceedings..... 4

4 Certificate of Transcriber..... 8

5

## 6 EXHIBITS

7 EXHIBIT DESCRIPTION PAGE

8 PLAINTIFF'S

9 Exhibit 1 Letter 6

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11

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24 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL

25 IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1           THE COURT: I think we've got everybody we need. What  
2 have we got?

3           MR. HALL: Yes, sir. May I please the court?

4           Assistant Attorney General Bryan Hall for the state. Your  
5 Honor, this is the case of Daniel Lawrence versus State of  
6 South Carolina. Docket Number 2022-CP-18-00801. Back in May  
7 of 2019, Mr. Lawrence was indicted by the Dorchester County  
8 grand jury for burglary in the first degree, indictment  
9 number 2018-GS-18-2104, an unlawful carrying of a handgun,  
10 2018-GS-18-2106.

11           He proceeded to a jury trial between November 12th and  
12 13th of 2019 before the honorable Matt Murphy, Donald  
13 Sorensen and George Smy (ph) prosecuted the case. And Mr.  
14 Lawrence was represented by John Lloyd. He was convicted and  
15 sentenced to 40 years burglary first and one year for the  
16 weapons charge.

17           He filed a notice of appeal on December 9th of 2019.  
18 The court of appeals dismissed for failure to timely serve  
19 the notice of appeal, and the remit was sent on January 24th  
20 of 2020. This PCR was filed on May 18th of 2020.

21           Mr. Lawrence is raising allegations of ineffective  
22 assistance to counsel for failure to timely file and perfect  
23 an appeal pursuant to White v. State. Failure to request a  
24 competency evaluation and blair hearing, failure to subpoena  
25 Officer Bruce of the North Charleston police department to

1     testify, failure to move to suppress evidence obtained from  
2     an unlawful search of a vehicle and failure to put the  
3     state's case through a meaningful adversarial process.

4             Mr. Lawrence is waiving all other PCR claims and  
5     proceeding solely on the issue of whether he is entitled to  
6     -- entitled to a belated appeal pursuant to White v. State.  
7     And so this your -- Your Honor, this hearing is limited to  
8     just that one issue.

9             Mr. Lawrence is present and represented by Christopher  
10    Geel. Your Honor, this hearing is simply just to put some  
11    facts on the record. There is -- and counsel can speak to  
12    this more directly, but there is a letter from Mr. Lawrence's  
13    trial counsel essentially admitting to failing to timely file  
14    his notice of appeal.

15            The state will stipulate to the admissibility of that  
16    letter, and we will concede that Mr. Lawrence did not  
17    voluntarily waive his right to a direct appeal. But the  
18    state is ready to proceed and will allow Mr. Geel to clarify  
19    anything that I may have missed.

20            THE COURT: Geel.

21            MR. GEEL: Good morning, Your Honor. Yes, the state is  
22    correct. As -- as Your Honor is aware, Mr. Lawrence has his  
23    pro se PCR application enumerated five issues. The first one  
24    being the belated appeal. He -- we have communicated about  
25    those issues and it is his intention this morning to waive

1 issues two through five and to move forward with the belated  
2 appeal issue.

3 As the state has represented to the court, Your Honor,  
4 I have a letter from Mr. Lawrence's trial attorney, which  
5 I've marked for the purposes of this hearing as applicant's 1  
6 and with tender into evidence at this time and, Your Honor,  
7 can review the letter and its trial counsel plainly admitting  
8 to Mr. Lawrence that it was an oversight from his office was  
9 why the appeal did not get timely filed. So we will enter  
10 that into evidence at this time. I believe this evidence at  
11 this time, I believe it's stipulated, Your Honor.

12 MR. HALL: Yes, sir. No objection.

13 THE COURT: (Inaudible) without objection by  
14 stipulation. All right.

15 (Applicant's Exhibit 1 admitted into evidence.)

16 MR. HALL: One other thing, Your Honor, we would just  
17 like to clarify that applicant understands that he's waiving  
18 all of the claims with prejudice. And perhaps the court can  
19 question him on that just to ensure that he understands what  
20 that means.

21 THE COURT: Mr. Lawrence, do you understand that?

22 THE PLAINTIFF: Yes, sir. I understand.

23 THE COURT: You are waiving it all your claims, except  
24 the one on the belated appeal.

25 THE PLAINTIFF: Yes, Your Honor.

1 THE COURT: And that you've done that on your own.

2 Nobody's forcing you to do that.

3 THE PLAINTIFF: I'm waiving the rest of (inaudible).

4 THE COURT: And -- and that's your decision?

5 THE PLAINTIFF: Yes.

6 THE COURT: All right.

7 MR. HALL: That's all from the state, Your Honor.

8 THE COURT: All right. Who wants to prepare me an

9 order?

10 MR. GEEL: I'd be happy to do it, Judge. I'm sure the  
11 state's pretty busy today. I could -- I have my computer, I  
12 could sit down and type one out right now if you'd like.

13 THE COURT: Okay.

14 MR. GEEL: Okay.

15 THE COURT: That'd be great.

16 MR. GEEL: All right. Thank you, sir.

17 THE COURT: Later, the appeal is granted and we will  
18 sign an order.

19 MR. HALL: All right. Thank you, Your Honor.

20 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT  
21 9:40 A.M.)

22

23

24

25



# Office of the Public Defender

First Judicial Circuit

107 W. 6th North Street  
Suite 100  
Summerville, SC 29483  
(843) 821-9800  
FAX (843) 871-0523



Courthouse, 151 Docket Street, Room 110  
PO Box 1112  
Orangeburg, SC 29116-1112  
(803) 536-4858  
FAX (803) 536-9986

2020-CP-18-801

Please respond to the Summerville Office

February 13, 2020

FILED-RECORDED  
5/18/2020 RIB  
Cheryl Graham  
Clerk of Court  
Dorchester County

Mr. Daniel Jamaal Lawrence, SCDC# 302187  
Kirkland Correctional Institution, C2-0050-B  
4344 Broad River Road  
Columbia, SC 29210

**RE:** State of South Carolina v. Daniel Jamaal Lawrence, Appellant  
Case No.: 2019-002039

Dear Mr. Lawrence, SCDC# 302187:

Enclosed please find a copy of correspondence received from the South Carolina Court of Appeals for your records.

Very truly yours,

John M. Loy  
Deputy Public Defender

JML/nk

# The South Carolina Court of Appeals

The State, Respondent,

v.

Daniel Jamaal Lawrence, Appellant.

2020-CP-18-801

Appellate Case No. 2019-002039

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## ORDER

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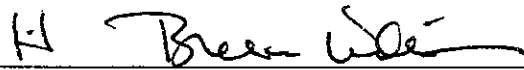
FILED-RECORDED

5/18/2020

Cheryl Graham  
Clerk of Court  
Dorchester County

RIB

This appeal arises out of a criminal trial, with sentencing on November 13, 2019. The notice of appeal was served on December 4, 2019. Accordingly, the appeal is dismissed for failure to timely serve the notice of appeal. *See* Rule 203(b)(2), SCACR ("After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondents within ten (10) days after the sentence is imposed."); *State v. Devore*, 416 S.C. 115, 119, 784 S.E.2d 690, 692 (Ct. App. 2016) ("[I]n the absence of a timely served notice of appeal, this court has no jurisdiction."). The remittitur will be sent pursuant to Rule 221(b) of the South Carolina Appellate Court Rules.

  
\_\_\_\_\_, J.  
FOR THE COURT

Columbia, South Carolina

cc:

John Matthew Loy, Esquire  
Robert Michael Dudek, Esquire  
Donald Neils Sorenson, Esquire  
Alan McCrory Wilson, Esquire  
William M. Blich, Jr., Esquire

**FILED**

January 16, 2020





# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

January 24, 2020

The Honorable Cheryl L. Graham  
5200 E Jim Bilton Blvd  
St George SC 29477-8020

2020-CP-18- 801

## REMITTITUR

Re: The State v. Daniel J. Lawrence  
Lower Court Case No. 2018GS1802104, 2018GS1802106  
Appellate Case No. 2019-002039

FILED-RECORDED  
5/18/2020 RIB  
Cheryl Graham  
Clerk of Court  
Dorchester County

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

Enclosure

cc: John Matthew Loy, Esquire  
Robert Michael Dudek, Esquire  
Donald Neils Sorenson, Esquire  
Alan McCrory Wilson, Esquire  
William M. Blich, Jr., Esquire

# Office of the Public Defender

First Judicial Circuit

107 W. 6th North Street  
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Courthouse, 151 Docket Street, Room 110  
PO Box 1112  
Orangeburg, SC 29116-1112  
(803) 536-4858  
FAX (803) 536-9986

Please respond to the Summerville Office

2020-CP-18-801

April 23, 2020

Mr. Daniel Jamaal Lawrence, SCDC# 302187  
Broad River Correctional Institution, CI MLT-1104  
4460 Broad River Road  
Columbia, SC 29210

FILED-RECORDED

5/18/2020 RLB  
Cheryl Graham  
Clerk of Court  
Dorchester County

**RE:** State of South Carolina v. Daniel Jamaal Lawrence, SCDC# 302187  
Warrant No.: 2018A1021000941; 2018A1021000942; 2018A1021000943 Burglary /  
Burglary (After June 20, 1985) - First degree; Weapons / Sale or delivery of pistol to,  
and possession by, certain persons unlawful; stolen pistol; Weapons / Unlawful carrying  
of pistol

Dear Mr. Lawrence, SCDC# 302187:

I am sending you a complete copy of your file.

I recall in the days leading up to your trial and through your trial your intention to "fight the case on appeal." When we lost, as I told you was most likely I knew you wanted me to file for an appeal and had explicitly asked me to take care of that. I told you that I would. It was my responsibility to do that.

There was a break down in communication in my office and I failed to have this done in a timely manner. It appears your appeal was denied based on that failure.

You can still have an appeal. You need to file for P.C.R. immediately and share this letter with your attorney. He should be able to file the paperwork to show what happened and get your appeal reinstated.

I'm not really the best person to be offering you legal advise, but this is what I think you need to do: Please confer with another attorney as soon as possible.

I am sending you three copies of this letter, so you can share with your attorney or whomever you choose and still keep a copy for yourself. I recommend you do that.

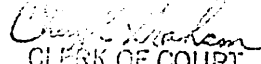
I wish you well.

Very truly yours,

John M. Loy  
Deputy Public Defender

JML/nk

cc: Office of Attorney General, P.C.R. Division

|                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| State of South Carolina<br>Dorchester County <b>CERTIFIED COPY</b><br><br>2024 APR 10 AM 11:11<br><br>Daniel J. Lawrence <br>CLERK OF COURT<br>v.<br>State of South Carolina | In the Court of Common Pleas<br>For the First Judicial Circuit<br><br>Case No.: 2020-CP-18-00801<br><br><b>ORDER DISMISSING APPLICATION<br/>         FOR POST-CONVICTION RELIEF,<br/>         BUT GRANTING BELATED<br/>         APPELLATE REVIEW PURSUANT<br/>         TO <i>WHITE v. STATE</i></b> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

This matter comes before the Court on Daniel J. Lawrence's Application for Post-Conviction Relief. Applicant is presently confined to the South Carolina Department of Corrections. Applicant was convicted by a jury in Dorchester County of one count of burglary in the first degree and one count of unlawful carry of a handgun. Applicant was sentenced to forty years imprisonment for burglary, and one year for unlawful carry of a handgun, to be served concurrently. Applicant filed an application for post-conviction relief on May 18, 2020. The matter was convened for a hearing on February 8, 2024. In his Application for Post-Conviction Relief, the Applicant alleged the following grounds for relief:

1. Counsel failed to timely file and perfect an appeal on Applicant's behalf pursuant to White v. State, 208 S.E.2d 35 (1974).
2. Counsel failed to request a competency evaluation and hearing pursuant to State v. Blair, 273 S.E.2d 536 (1981).
3. Counsel failed to subpoena Ptl. Ruch of the North Charleston Police Department at Applicant's trial.
4. Counsel failed to move for suppression of evidence obtained pursuant to a motor vehicle search.
5. Counsel failed to put the State's evidence through a meaningful adversarial process, in violation of United States v. Chronic, 466 U.S. 648 (1984).

When the Court convened a hearing on these matters, the parties informed the Court that Applicant intended to waive the above-stated issues (and all other cognizable PCR claims) with prejudice, with the exception of his belated appeal claim. The parties informed the Court that they were in agreement that Applicant was entitled to a belated appeal pursuant to White v. State, 208 S.E.2d 35 (1974) due to trial counsel's failure to timely file a notice of appeal on Applicant's behalf. The record before the Court shows that Applicant was convicted on November 13, 2019, and that Applicant filed a *pro se* notice of appeal on December 4, 2019. Trial counsel did not file a notice of appeal within the ten-day window under Rule 203, SCACR. Applicant's direct appeal was ultimately dismissed based on the failure to timely file a notice of appeal. In support of Applicant's belated appeal issue, the parties presented the Court with a letter dated April 23, 2020, written by Applicant's trial attorney. In the letter, trial counsel acknowledged that Applicant never intended to waive his direct appeal, and that trial counsel's failure to timely file a notice of appeal on Applicant's behalf was due to a "break down in communication" in trial counsel's office.

Applicant was present at the hearing and confirmed his desire to move forward on his request for relief pursuant to White v. State. Regarding Applicant's remaining claims for relief, Applicant informed the Court that it was his wish to withdraw and waive all of the remaining grounds for relief in his Post-Conviction Relief application, as well as any other cognizable PCR claims. Applicant informed the Court that he understood the consequences of such a waiver, and that he wished to proceed on that basis.

Based on the foregoing, the Court hereby finds that Applicant is entitled to belated appellate review pursuant to White v. State, and that the failure to timely file a notice of appeal after trial was due to a breakdown in communication in trial counsel's office, and not due to any waiver of appellate review by Applicant. Applicant's request for relief on ground one is therefore **GRANTED**, and Applicant shall be entitled to belated appellate review. Applicant's PCR counsel shall be required to file and serve a notice of appeal

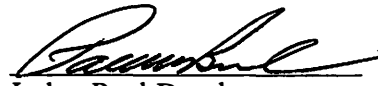
within thirty days from PCR counsel's receipt of written notice of the entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR.

Additionally, the Court hereby finds that Applicant expressed his desire to withdraw and waive the remaining grounds for relief claimed in his PCR application, and further that he wished to waive any other cognizable PCR claims with prejudice. The Court hereby finds that Applicant has knowingly, intelligently, and voluntarily waived all such claims, and that Applicant did so with the assistance and advice of competent counsel. Therefore, Applicant's remaining request for relief are hereby voluntarily **DISMISSED WITH PREJUDICE**, and that any other cognizable PCR claims not raised by Applicant are hereby waived with prejudice.

IT IS THEREFORE ORDERED:

1. Applicant is granted belated appellate review of direct appeal issues pursuant to White v. State;
2. All other allegations in Applicant's post-conviction relief application are hereby dismissed with prejudice;
3. All other cognizable claims under S.C. Code §17-27-10 *et seq* are knowingly, intelligently, and voluntarily waived by Applicant.
4. Applicant shall be remanded to the custody of the State.

SO ORDERED, this 8<sup>th</sup> day of February, 2024.

  
 Judge Paul Burch  
 Presiding Judge  
 First Judicial Circuit