

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Bamberg County

Honorable Edward W. Miller, Circuit Court Judge

RANDY CHESTNUT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-000536

APPENDIX

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1 State of South Carolina) In the Court
2 County of Aiken) Of General Sessions

3
4 Indictment Number: 2019GS0500024

5
6 State of South Carolina,)
Plaintiff.)

7
8 vs.)

Transcript of Record

9
10 Randy D. Chestnut,)
Defendant.)

11
12 April 23-24, 2019
13 Bamberg, South Carolina

14
15 B E F O R E:

16 The Honorable Thomas L. Hughston, Judge, and a jury.

17
18 A P P E A R A N C E S:

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24 Brenda J. Sigwald, Circuit Court Reporter
25 To The Honorable Courtney Clyburn Pope
P.O. Box 206, Jackson, South Carolina 29831

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1 MONDAY, APRIL 22, 2019

2 MR. COOPER: Randy Chestnut.

3 Your Honor, before the Court is Mr. Randy D.
4 Chestnut, Indictment 2019GS0500024, an indictment which has
5 been true billed by the Bamberg County Grand Jury for
6 burglary in the first degree. Your Honor, this is a case
7 that we plan on picking a jury for and beginning a trial on
8 in the morning; however, before we do that, there is
9 something that I would like to put on the record and we
10 would also be holding a Denno hearing for a statement made
11 by the defendant that we plan on putting into evidence.

12 THE COURT: All right.

13 MR. COOPER: The first thing I'd like to put on the
14 record, Your Honor, is that Mr. Chestnut was served with a
15 notice of intent to seek life without parole on March 5th,
16 2019 by our investigator, Mr. Kenny Bamberg. His attorney
17 was also served with the notice of intent to seek life
18 without parole.

19 During the discussions and preparing for this trial
20 and this case, Mr. Hayes and I have gone back and forth on
21 what a possible plea resolution would be. And we came down
22 to our final offer being a 15 year negotiated sentence for
23 burglary first degree to be followed by a consecutive 2
24 year sentence under the repeat offender statute, which is
25 SC Code 16-1-120.

1 It is our understanding that Mr. Chestnut is
2 refusing to accept that offer.

3 THE COURT: Wait a minute, an offer of 15 years and
4 then a consecutive two years on another charge?

5 MR. COOPER: No, sir, it's a, the SC Repeat
6 Offender Statute. He has committed this offense within 270
7 days of his release from prison on his armed robbery
8 conviction.

9 THE COURT: Wait a minute. I'm not aware of that
10 statute. Okay.

11 MR. COOPER: Yes, Your Honor.

12 THE COURT: You familiar with it?

13 MR. HAYES: Yes, sir.

14 THE COURT: Okay.

15 MR. COOPER: Yes, sir, it's a statute that staggers
16 a consecutive penalty for a felon to have been convicted of
17 a Class A felony and then commit another felony within X
18 amount of days of being released from prison.

19 THE COURT: Okay.

20 MR. COOPER: And his falls in the section of that
21 statute which would be --

22 THE COURT: So that would be 17 years.

23 MR. COOPER: Yes, Your Honor.

24 THE COURT: All right.

25 MR. COOPER: It's our understanding he has refused

1 that offer and I have informed Mr. Hayes that we are
2 revoking the plea offer once we begin the Denno hearing.

3 THE COURT: And that hearing is for the purpose of
4 what?

5 MR. COOPER: Your Honor, it's --

6 THE COURT: Jackson v Denno or whatever the name of
7 the case is, what that's about and the admissibility of
8 some statement he made --

9 MR. COOPER: The voluntariness of a confession he
10 gave to Lieutenant Quan Linder.

11 THE COURT: Okay.

12 MR. COOPER: It's not a recorded statement so
13 should be --

14 THE COURT: It's not?

15 MR. COOPER: No, sir.

16 THE COURT: It's just what he says he said?

17 MR. COOPER: Yes, sir.

18 THE COURT: All right.

19 MR. COOPER: So at this time, Mr. Michael Emmer
20 will --

21 THE COURT: Well, let's see --

22 Mr. Chestnut, I'm looking at you, Randy D.
23 Chestnut; is that your name?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. You can just stay seated.

1 Okay. Now, did you hear what the solicitor just
2 said?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Okay. So as I understand it they've
5 made you this offer that they would recommend to me, ask me
6 to impose a sentence of what amounts to 17 years; 15 on one
7 and 2 on another situation for a total of 17 years that I
8 would sentence you to if I went along with this as far as
9 this is concerned. And they say they're making you this
10 offer now and that if you refuse it and we get started with
11 this hearing about whether or not your confession would be
12 admissible in a trial, this offer goes away.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: They're not going to make you that
15 offer anymore.

16 THE DEFENDANT: Yes, sir, I understand.

17 THE COURT: Okay. So you need any time now to talk
18 with your lawyers about this anymore?

19 THE DEFENDANT: No, sir.

20 THE COURT: What do you want to do?

21 THE DEFENDANT: I'll go to trial, sir.

22 THE COURT: All right.

23 **JACKSON V DENNO HEARING**

24 THE COURT: Solicitor, call your first witness.

25 MR. EMMER: Thank you, Your Honor. Your Honor, at

Laquana Linder - Direct Examination by Mr. Emmer

1 this time we'll start the Jackson v Denno hearing. The
2 State is going to call Lieutenant Quan Linder with the
3 Denmark Police Department.

4 LAQUANA LINDER, was duly sworn

5 **DIRECT EXAMINATION**

6 BY MR. EMMER:

7 Q Lieutenant Linder, how are you today?

8 A I'm fine. How are you?

9 Q Good. Could you do us a favor and please spell
10 your first and last name for the record?

11 A First name, L-A-Q-U-A-N-A, last name, L-I-N-D-E-R.

12 Q And Lieutenant Linder, what do you do for a living?

13 A I'm a police officer with the Denmark Police
14 Department.

15 Q And how long have you been there?

16 A Nine years.

17 Q What was your previous law enforcement experience?

18 A I started out in Denmark in 2001, went to the
19 Orangeburg County Sheriff's Department, Rock Hill Police
20 Department, St. George Police Department and came back to
21 Denmark Police Department.

22 Q And you're a lieutenant now with the Denmark Police
23 Department?

24 A That's correct.

25 THE COURT: When did you start?

Laquana Linder - Direct Exam ation by Mr. Emmer

1 THE WITNESS: 2001.

2 THE COURT: 2001. So you've been in law
3 enforcement 18 years?

4 THE WITNESS: Yes, sir.

5 BY MR. EMMER:

6 Q As a lieutenant, what are your current duties?

7 A I investigate any incident reports that come
8 through the police department. I also respond to calls for
9 myself, calls for service within the city limits of
10 Denmark.

11 Q Do you investigate cases as well?

12 A Yes, sir.

13 Q And were you employed in that capacity on December
14 6 of 2018?

15 A Yes, sir, I was.

16 Q And how were you brought into this case?

17 A I actually received a call through dispatch to
18 respond to [REDACTED] Avenue, which is in the city limits of
19 Denmark.

20 THE COURT: [REDACTED] Avenue?

21 THE WITNESS: [REDACTED].

22 THE COURT: [REDACTED]?

23 THE WITNESS: Yes, sir.

24 BY MR. EMMER:

25 Q And did you begin an investigation on that case?

Laquana Linder - Direct Exam ation by Mr. Emmer

- 1 A Yes, sir.
- 2 Q What kind of case was it?
- 3 A It was a burglary case.
- 4 Q And how did you proceed with your investigation?
- 5 A The owners of the residence, they had some footage
- 6 that they showed to me. I pretty much just started asking
- 7 around, just checking into a few other things to see if I
- 8 could identify the person that I saw on the video.
- 9 Q So you had video footage of this?
- 10 A Yes, sir.
- 11 Q Did you ever formulate a suspect?
- 12 A No, sir.
- 13 Q Okay. Did you have an opportunity to speak with
- 14 the defendant in this case?
- 15 A Yes, sir.
- 16 Q All right. Did you speak with him prior to being
- 17 in custody?
- 18 A Yes, sir.
- 19 Q Did he give you a statement regarding the burglary
- 20 you were investigating that happened at that incident
- 21 location?
- 22 A Yes, sir.
- 23 Q When was that statement made?
- 24 A December 19th, 2018, around 10:15 that morning.
- 25 Q Okay. Did you question him or did he just

Laquana Linder - Direct Examination by Mr. Emmer

1 volunteer that information?

2 A He volunteered the information.

3 Q And do you remember who was present during that
4 questioning, or well, that information being relaid to you?

5 A Myself, Mr. Chestnut, and behind Mr. Chestnut,
6 sitting down, was another gentleman, but I don't know his
7 name.

8 THE COURT: Well, let's back up and, I want to get
9 a complete picture of what happened and everything. So
10 you're talking about the morning of the 19th of December,
11 as I understand it.

12 THE WITNESS: That's correct.

13 THE COURT: Where were you?

14 THE WITNESS: I was in my patrol car.

15 THE COURT: And what happened? Just start -- tell
16 me what happened.

17 THE WITNESS: I was doing routine patrol and I went
18 over to the Denmark grocery store. I pretty much was
19 pulling up to speak with the gentlemen as I normally do
20 when I'm on patrol.

21 THE COURT: Who were you going to speak to?

22 THE WITNESS: Just the guys that sit out there.
23 There's different guys that sit there pretty much every
24 day.

25 THE COURT: Okay.

Laquana Linder - Direct Examination by Mr. Emmer

1 THE WITNESS: When I pulled up, Mr. Chestnut was
2 there and he turned around and he told me, said, Hey, my
3 sister told me you needed to talk to me.

4 And I said, Yes, I do. When you're ready, come
5 holler at me.

6 He said okay.

7 And then he proceeded to tell me about the
8 burglary.

9 THE COURT: Was he just standing out on the
10 sidewalk, or...

11 THE WITNESS: Yes, sir.

12 THE COURT: He was standing out there on the
13 sidewalk, you were in your car? Or did you get out or
14 what?

15 THE WITNESS: No, sir, I was sitting in my car.

16 THE COURT: You were sitting in your car, He's
17 right outside the window where you're sitting in your car?

18 THE WITNESS: Yes, sir.

19 THE COURT: Window down?

20 THE WITNESS: Yes, sir.

21 THE COURT: And then he just started talking to
22 you?

23 THE WITNESS: He just started talking to me, yes,
24 sir.

25 THE COURT: What did he say?

Laquana Linder - Direct Examination by Mr. Emmer

1 THE WITNESS: Well, you want me to --

2 THE COURT: Solicitor, do you want to ask her
3 anything else?

4 MR. EMMER: Yes, sir.

5 BY MR. EMMER:

6 Q How did you -- how would his sister have known
7 about the burglary?

8 A There was the footage that was caught on the
9 victim's camera; they actually put it on the news.

10 Q Okay. And then what happened from there? She gets
11 this video?

12 A She saw it, she speaks with the chief of North. He
13 made contact with me. And then he gave me her number and I
14 ended up going down to speak with her.

15 Q Okay. When you made contact with Mr. Chestnut or
16 rather he made contact with you, to your knowledge was he
17 under the influence of alcohol or drugs at that time.

18 A To my knowledge, he wasn't.

19 Q Did he have any physical or mental disability that
20 would have impaired his ability to understand what he was
21 doing?

22 A To my knowledge, no, sir.

23 Q Did you ever say anything to him?

24 A Just speaking that when he said that his sister
25 said that I needed to talk to him. And I told him yes, I

Laquana Linder - Direct Exam ation by Mr. Emmer

1 did and when he was ready to come holler at me.

2 Q And once you said that, what did he say?

3 A He stated, okay. Then he started saying, Those
4 people did me wrong. They think they can just take my
5 stuff and not pay me for it. Mr. Chestnut then stated --
6 went onto state that he knew they had been going around
7 showing a video and people were saying it was him. Mr.
8 Chestnut stated that he had been asking the husband and
9 telling him that he needed his money. Mr. Chestnut stated,
10 so he went and took what was his. He stated that they had
11 cameras up and he started to take --

12 THE WITNESS: There's a profanity word, Judge. May
13 I use it?

14 THE COURT: Yeah.

15 THE WITNESS: Okay. He said he knew they had
16 cameras up and he started to take them shits too. He
17 stated he wasn't working so he couldn't just let them not
18 pay him because they owed him approximately \$3,000.
19 Chestnut stated that the people were on pills and all and
20 he just wanted his money. Chestnut stated one day the
21 man's wife sick their dog on him when he was asking them
22 for his money.

23 Mr. Chestnut stated that -- one second.

24 Okay. Mr. Chestnut stated that had the dog bit
25 him, that he actually, the young lady, which is

Laquana Linder - Direct Examination by Mr. Emmer

1 Ms. Jeffcoat, was actually getting bags -- she had just
2 gotten home and was getting bags out of her car. He stated
3 that a Denmark officer, which was a black guy who was
4 sitting at the flea market eating a salad. He went and
5 told him, but the officer didn't do anything, but told him
6 that other people had been complaining about the people's
7 dogs.

8 Mr. Chestnut stated they just talked a lot of shit
9 to him, to include calling him a nigger and just was very
10 nasty to him. He stated there wasn't -- they wasn't going
11 to pay him his money -- if they wasn't going to pay him
12 his money, they shouldn't have never got his shit.

13 Chestnut stated the husband offered him to fuck his
14 wife and he told them that he didn't want his nasty ass
15 wife. He wanted his money.

16 Chestnut stated that he wasn't the only one that
17 they had called a nigger and had their dogs chase or bite.

18 Mr. Chestnut also stated that the husband pulled a
19 gun on him one day and at the end, Mr. Chestnut stated to
20 me that he wasn't going to do any running. If something
21 came about what he did for me to just get in contact with
22 his sister or mother and he would come and turn himself in.

23 Mr. Chestnut advised me that she wasn't going to
24 have -- that I wasn't going to have anymore trouble out of
25 him and that he was you just going to leave the people

Laquana Linder - Direct Examination by Mr. Emmer

1 alone, although he was out of a lot of money.

2 BY MR. EMMER:

3 Q He wasn't under arrest when he made that statement
4 to you?

5 A No, sir.

6 Q He wasn't detained?

7 A No, sir.

8 Q You didn't threaten or promise him anything?

9 A No, sir.

10 Q Now, usually when somebody gives you a statement,
11 you give them Miranda; correct?

12 A That's correct.

13 Q Did you do so in this incident?

14 A No, sir.

15 Q No? And why not?

16 A Pretty much I wasn't expecting him to be there and
17 I wasn't questioning him.

18 Q Because he just walked up on you and started
19 talking or...

20 A That's correct.

21 Q Now, also usually when you take a statement, you've
22 usually got the body cam on; correct?

23 A That's correct.

24 Q Why wasn't it on this time?

25 A Pretty much the same. I wasn't expecting to see

Laquana Linder - Cross-Examination by Mr. Hayes

1 him there at the store and I was just doing my routine
2 patrol.

3 Q Is [REDACTED] Avenue also known as [REDACTED] Street?

4 A Yes, sir.

5 Q Okay. No further questions. Please answer any
6 questions the defense may have.

CROSS-EXAMINATION

7
8 BY MR. HAYES:

9 Q Lieutenant Linder, you're on patrol, do you have
10 any kind of cameras in your vehicle?

11 A No, sir, I don't.

12 THE COURT: Any kind of what? Cameras?

13 MR. HAYES: Camera.

14 THE WITNESS: No, sir, I don't.

15 BY MR. HAYES:

16 Q Video?

17 A No, sir.

18 Q Do you have a body worn camera?

19 A Yes, sir, I do.

20 Q Do you not have it on the whole time you're on
21 patrol?

22 A No, sir.

23 Q Why would -- what was the reason for going by the
24 Denmark grocers?

25 A That's -- I was doing routine patrol and I normally

Laquana Linder - Cross-Examination by Mr. Hayes

1 go through by the grocery store and when I do see the guys
2 out there, I stop and speak to them and talk to them for a
3 few minutes and then I'll continue on.

4 Q Okay. Can I ask why? Is there a particular reason
5 you're stopping to talk to them?

6 A No, pretty much I'm familiar with a lot of the
7 citizens in Denmark, so when I see them, if I do have the
8 time, I will stop and speak to them for a few minutes. And
9 that particular grocer, sometime the guys, some of the guys
10 that hang out there, they actually drink alcohol, so I try
11 to come through as much as possible so I can stop that.

12 Q So you tell them to disperse or what happens?

13 A If I do catch them with alcohol, I'll get them to
14 pour it out.

15 Q Okay. When Mr. Chestnut came up to you, could you
16 have turned on your body camera at that time?

17 A I could have.

18 Q How -- you said you spoke with his sister. How did
19 you end up speaking with Mr. Chestnut's sister if there was
20 no suspects.

21 A The chief of North Police Department, Chief Lin
22 Shirer, he actually made contact with me.

23 Q What happened with that?

24 A When he contacted me, he informed me that there was
25 a video that was being shown on the news in reference to a

Laquana Linder - Cross-Examination by Mr. Hayes

1 burglary to a resident that we had in the city limits of
2 Denmark and that some of the people were saying this
3 gentleman, his sister actually worked for him.

4 Q Okay. So as a result of that you went and
5 interviewed Mr. Chestnut's sister?

6 A I wouldn't say I interviewed, I just actually went
7 to talk with her, just to see what she could tell me...

8 Q And as a result of that interview, did that change
9 your pool of suspects?

10 A Not at the time. It changed pretty much the next
11 day when I made contact with Mr. Chestnut and he admitted
12 it to me.

13 Q So this, the meeting with the sister would have
14 been on the 18th?

15 A Sounds about right. The day I talked to her, I
16 know the next day I saw Mr. Chestnut and that's when we
17 spoke.

18 Q Prior to this, did you have any meetings with Mr.
19 Chestnut?

20 A No, sir.

21 Q Did you know Mr. Chestnut?

22 A Yes, sir.

23 Q How did you know Mr. Chestnut?

24 A Just by, the apartment complex where his mother
25 stay, I went to a call there and there were other people

Laquana Linder - Cross-Examination by Mr. Hayes

1 that live out there and after I completed the call we were
2 just out there talking and that's when I found out who he
3 was. And then after that would see him we would both wave
4 at each other and pretty much that's it.

5 Q When was that? When did you meet him?

6 A I'm not sure.

7 THE COURT: About how long before this?

8 THE WITNESS: Maybe two or three months earlier.

9 THE COURT: Two or three months earlier.

10 THE WITNESS: Yes, sir.

11 THE COURT: Before that you didn't know anything
12 about him?

13 THE WITNESS: Pretty much knowing who he was; no,
14 sir, that's it.

15 THE COURT: You did know who he was?

16 THE WITNESS: I did know who he was.

17 BY MR. HAYES:

18 Q Did you tell Mr. Chestnut's sister that you wanted
19 to talk to him?

20 A I told her if she spoke to him, but she say they
21 didn't hardly speak, just to tell him I wanted to talk to
22 him.

23 THE COURT: Can I interrupt a second?

24 MR. HAYES: Yes, sir.

25 THE COURT: The sister sent word she wanted to talk

Laquana Linder - Cross-Examination by Mr. Hayes

1 with you; is that right?

2 THE WITNESS: No, sir, actually the chief contacted
3 me and then after I spoke with him I called him back and
4 asked him could he ask the sister could she talk with me.
5 And so he gave me her number and he said he thought she
6 would, but gave me her number and I made contact with her
7 and she said she would.

8 THE COURT: And so you did talk with her?

9 THE WITNESS: Yes, sir.

10 THE COURT: And what did she tell you?

11 THE WITNESS: Pretty much she told me, looking at
12 the video she couldn't say that that was her brother and
13 that was pretty much it.

14 THE COURT: She couldn't say that it was her
15 brother.

16 THE WITNESS: Correct.

17 THE COURT: Okay.

18 BY MR. HAYES:

19 Q Did you know that other people were saying that it
20 was Randy Chestnut? Is that why you went to North?

21 A No, sir.

22 Q All right. Did you know that there was other
23 people saying it was Randy Chestnut?

24 A I've been hearing that other people said it was.

25 Q So you know that. Was that the basis for going to

Laquana Linder - Cross-Examination by Mr. Hayes

1 North?

2 A No, sir.

3 Q What was the basis for going to North then?

4 A Because the chief of police, Mr., Chief Lin Shirer
5 made contact with me in reference to the video and saying
6 that Mr. Chestnut's sister worked there.

7 Q Did you consider Mr. Chestnut a suspect prior to
8 talking to his sister?

9 A No, sir.

10 MR. HAYES: Beg the Court's indulgence.

11 BY MR. HAYES:

12 Q Lieutenant Linder on December 6 when you responded
13 to the incident location, isn't it true you that the
14 homeowner told you that they were told it was Randy
15 Chestnut?

16 A Not that I recall.

17 Q When was the first time that you heard the name
18 Randy Chestnut in connection with this?

19 A After I responded to -- that I can recall, after I
20 responded to the call the day of the, when the burglary was
21 reported.

22 Q Okay. Tell me how did Mr. Chestnut's name come up?

23 A Pretty much Ms. Jeffcoat made contact with me and
24 stated that they had been showing the video and that people
25 were telling her that's who it was.

Laquana Linder - Cross-Examination by Mr. Hayes

1 Q Were any of these people found or questioned?

2 A No, sir. One -- a few gentleman her husband spoke
3 with and she spoke with, they didn't know their names, but
4 they would kind of recognize them when they see them. And
5 so pretty much what I told her, when they made contact with
6 them, find out their names and where I could find them, let
7 them know I needed to talk with to them if that's what they
8 were saying.

9 Q Did -- did the Jeffcoats indicate to you at any
10 time that they knew Mr. Chestnut or had a connection with
11 Mr. Chestnut?

12 A No, sir.

13 Q Both?

14 A Both.

15 Q Did not know?

16 A No.

17 Q Did not have a connection?

18 A No, sir.

19 Q And about two weeks later is when you came across
20 Mr. Chestnut at the grocery store? December 6th to
21 December 19th?

22 A Yes.

23 Q And he just walked up to you and started telling
24 you that he took this stuff?

25 A Yes, sir.

Laquana Linder - Cross-Examination by Mr. Hayes

1 Q He say exactly what?

2 A No, he just said he went in and took what was his.

3 Q Well, when he was referring to the individuals, did
4 he ever state the Jeffcoats?

5 A No, sir.

6 Q What was he -- what did he say exactly?

7 A He said those people.

8 Q Those people?

9 A Those people.

10 Q Did you have any evidence to support what you're
11 alleging was said and that he was owed money?

12 A Can you repeat the question.

13 Q Did you have any evidence to support that he was
14 owed any money?

15 A No, sir.

16 Q Or there was any kind of connection prior to this
17 burglary?

18 A No, sir.

19 THE COURT: Wait a minute, if I could.

20 Have you since learned anything about any
21 connection he may have had with them? Working for them?
22 Doing anything for them since he told this.

23 THE WITNESS: No, sir.

24 THE COURT: You haven't talked with the Jeffcoats
25 or anything about that?

Laquana Linder - Cross-Examination by Mr. Hayes

1 THE WITNESS: I have.

2 THE COURT: Well what --

3 THE WITNESS: They pretty much still saying that
4 they're not familiar with him.

5 BY MR. HAYES:

6 Q When you say they, are you talking about each
7 individual? Are you talking about Mr. Jeffcoat?

8 A Mr. Jeffcoat and Ms. Jeffcoat.

9 Q And that has been since the arrest?

10 A Yes, sir.

11 Q When did you obtain the warrant for Mr. Chestnut?

12 A The warrant was signed on January 22nd of this
13 year.

14 Q Why such a gap in the time of this confession to
15 January?

16 A Having other cases being worked on; getting with
17 the solicitor's; and that's pretty much it. Looking into a
18 few other things just to make sure I looked into everything
19 I could look into.

20 Q What else did you look into?

21 A Seeing if there was someone that would come forward
22 and could actually identify him on the video. I submitted
23 a latent print from the day I responded to the call. I
24 also submitted a large jar from another burglary, not the
25 one I worked, but -- yeah.

Laquana Linder - Cross-Examination by Mr. Hayes

1 Q So this wasn't the first time this house had been
2 burglarized?

3 A No, sir.

4 Q Was anybody arrested in connection with that one?

5 A No, sir.

6 Q This was before this burglary?

7 A Yes, sir.

8 Q Do you know the date?

9 A No, sir.

10 MR. HAYES: Beg the Court's indulgence.

11 (There was a pause in the proceedings.)

12 BY MR. HAYES:

13 Q When you were in your car, did you tell him he
14 could not leave at any time?

15 A No, sir.

16 Q Did you call him over to you?

17 A No, sir.

18 Q The only thing that you asked him was to come
19 holler at me or yeah I do, in response to his question?

20 A That's correct.

21 Q How long was this encounter?

22 A I'm not sure.

23 Q Five minutes? Less than five minutes? More?

24 A I wasn't keeping track of the time.

25 Q At any time did you ask if he was referring to the

Laquana Linder - Cross-Examination by Mr. Hayes

1 Jeffcoats and clarify what burglary he's talking about?

2 A No, sir.

3 Q Any time did he mention their name?

4 A No, sir.

5 Q Did you ask any questions while this was going on?

6 A No, sir.

7 Q When it was done, what did you do?

8 A Pulled off.

9 Q What did Mr. Chestnut do?

10 A He stayed where he was standing.

11 Q And you --

12 THE COURT: How many other people were there with
13 him? Do you know?

14 A I wouldn't necessarily say with him. There was a
15 gentleman sitting against the wall.

16 THE COURT: One other person?

17 THE WITNESS: Yes, sir.

18 THE COURT: You know who that was.

19 THE WITNESS: I know him if I see him. I don't
20 know his name.

21 THE COURT: Okay. Thank you.

22 BY MR. HAYES:

23 Q Earlier you said individuals that are sitting out
24 there drinking you would go pour out a drink. Did you see
25 any alcohol on this day?

Laquana Linder - Redirect Examination by Mr. Emmer

1 A No, sir.

2 Q Did the gentleman that was sitting behind have
3 anything to drink?

4 A No, sir.

5 Q Could you smell alcohol on Mr. Chestnut?

6 A No, sir.

7 Q How close were y'all?

8 A About two or three feet.

9 Q So if he'd been drinking you would have been able
10 to smell it?

11 A Yes, sir.

12 MR. HAYES: Judge, I have no more questions.

13 THE COURT: Anything else from anyone else?

14 MR. EMMER: Your Honor, just briefly.

15 THE COURT: All right.

16 **REDIRECT EXAMINATION**

17 BY MR. EMMER:

18 Q Lieutenant Linder, can you just explain a little
19 further how you knew that Randy, Mr. Chestnut was talking
20 about the burglary of the Jeffcoat house?

21 A He talked about the dogs and --

22 THE COURT: Did they have a dog.

23 THE WITNESS: Yes, they have more than one dog,
24 yes, sir.

25 BY MR. EMMER:

Laquana Linder - Redirect Examination by Mr. Emmer

1 Q Did he also mention that there were video cameras
2 at this house?

3 A Yes, sir.

4 Q Now, at this point when you talked to him, that
5 camera footage, where is it? Is it on the news?

6 A Yes, it had already been on the news.

7 Q Okay. And you said that you got a call from the
8 chief in North?

9 A That's correct.

10 Q Okay. You went there to talk with him --

11 A Well, I just spoke with the chief of North on the
12 phone.

13 Q Okay.

14 A And then I called him back, asking him would the
15 young lady that he said that worked with him, did he think
16 she would talk to me.

17 Q Okay.

18 A And he said he believed she would and he would send
19 me her number and I can actually call and talk to her.

20 Q And based on the conversation you had with her, you
21 got an arrest warrant for Mr. Chestnut?

22 A No. Pretty much I just told her when and if she
23 spoke with her brother just to tell him that I wanted to
24 talk to him.

25 Q Okay. What else did he mention when he was on

Randy Chestnut - Direct Examination by Mr. Hayes

1 scene that made you think this was the Jeffcoat burglary?

2 A When he was saying about the cameras and when he
3 mentioned about the dog.

4 Q He's also mentioned that there's a wife, a husband
5 and wife relationship; is that correct?

6 A Somewhat, yes.

7 Q And he also comes and approaches you saying that
8 his sister told you that he wanted you -- you wanted to
9 talk to him, correct?

10 A Yes.

11 Q And you knew his sister was in North, the North
12 Police Department?

13 A Correct.

14 Q And what burglary had you talked to her about?

15 A The December 6th burglary.

16 Q This one?

17 A Yes.

18 THE COURT: Anything else from the State?

19 MR. EMMER: No, sir.

20 THE COURT: Anything you want to put up?

21 MR. HAYES: Judge, we would call Mr. Chestnut.

22 THE COURT: Come on up, Mr. Chestnut.

23 RANDY CHESTNUT, was duly sworn.

24 **DIRECT EXAMINATION**

25 BY MR. HAYES:

Randy Chestnut - Direct Examination by Mr. Hayes

1 Q Mr. Chestnut, say and spell your name for the
2 record?

3 A Randy Chestnut, R-A-N-D-Y, C-H-E-S-T-N-U-T.

4 THE COURT: Keep your voice up real good sir, so
5 that I can hear you. Talk so that lady sitting in the back
6 can hear you.

7 THE WITNESS: Randy Chestnut, R-A-N-D-Y,
8 C-H-E-S-T-N-U-T.

9 THE COURT: Good.

10 BY MR. HAYES:

11 Q That's better.

12 Mr. Chestnut, do you recall this conversation that
13 Lieutenant Linder has spoken about today?

14 A No, sir.

15 Q Did you ever have a conversation with Lieutenant
16 Linder?

17 A No, sir.

18 Q Had you ever had any other contact with Lieutenant
19 Linder?

20 A No, sir.

21 Q Do you -- did you ever recall meeting Lieutenant
22 Linder?

23 A I seen her one time.

24 Q What do you mean?

25 A I seen her around, just riding around.

Randy Chestnut - Direct Examination by Mr. Hayes

1 Q All right. What was the circumstances on that?

2 A Just being out and about and seeing her ride by.

3 Q Okay. Did you ever see the video that Lieutenant
4 Linder was, mentioned?

5 A Yes, sir.

6 Q Were you aware that she was looking for you?

7 A No, sir.

8 Q Did you ever talk to your sister about Lieutenant
9 Linder?

10 A No, sir.

11 MR. HAYES: Beg the Court's indulgence.

12 (There was a pause in the proceedings.)

13 MR. HAYES: Judge, I have no more questions at this
14 time.

15 THE COURT: Any questions you want to ask him?

16 MR. EMMER: Nothing, Your Honor. Thank you.

17 THE COURT: Thank you very much. You may return to
18 your place in the courtroom.

19 Anything else from the defendant?

20 MR. HAYES: No, Your Honor.

21 THE COURT: Any in reply?

22 MR. EMMER: No, sir.

23 THE COURT: All right. Well, I'm going take a
24 short break in regard to ruling in regard to this. So I'm
25 going to go back here for a few minutes and we'll be back,

1 I'll be back.

2 (A brief recess was observed.)

3 THE COURT: All right. Anything from either side
4 before I make my ruling?

5 Solicitor, you want to say anything.

6 MR. EMMER: Your Honor, just briefly just to site
7 the law and what we're here to determine is the
8 voluntariness of the statement. Jackson v Denno
9 essentially lays out two factors to determine whether you
10 need to determine voluntariness, those being custody and
11 interrogation. Your Honor, in this case, Mr. Chestnut
12 walks up to Quan. He's not in custody. He then proceeds
13 to talk to her. I think she said all but five words to
14 him, not even in a question format. There is no
15 interrogation. Interrogation is synonymous with
16 questioning and there was no questioning from Ms. Linder.

17 Your Honor, therefore, I feel like we don't even
18 make it to the voluntariness question and the factors that
19 the Courts have since laid out to decide whether it's
20 voluntary or not. It's just by default.

21 THE COURT: All right. Thank you very much.

22 Anything y'all would like to say?

23 MR. HAYES: Judge, I think it comes down to a
24 credibility issue. The officer does not have a camera on.
25 It is not recorded. She admits that she could have cut the

1 camera on during this conversation. She couldn't nail down
2 exactly how long this conversation took place, but
3 obviously, it took some time because there was quite a bit
4 that was said in that conversation. And my client also
5 denies the conversation even happened.

6 THE COURT: All right. Well, is there anything
7 else y'all want to say about whether it would be admissible
8 or not?

9 MR. HAYES: Your Honor, if you were to rule that it
10 was --

11 THE COURT: Okay. I'll go ahead and rule as far as
12 what's been presented to me at this point and everything.
13 I don't think -- he was not in custody. There was no
14 interrogation of him. What was testified to was testified
15 that it was a voluntary statement on his part and all and I
16 would so find and I would allow her testimony to be
17 presented to the jury, what he told her on that occasion.
18 So I think it's admissible and I would -- I would so find.
19 So any other reason why I shouldn't let it in?

20 MR. HAYES: Judge, I would ask the Court, one under
21 401 for relevance or whether it was relevant that, as you
22 heard the testimony that none of the information was
23 supported by the information that they had. She's alleging
24 that Mr. Chestnut said he was selling drugs, he was owed
25 \$3,000 --

1 THE COURT: All right. Well, let me break in and
2 tell you I believe at this point -- I've ruled in regards
3 to the issue as far as presented in the Jackson v Denno
4 kind of case and everything.

5 MR. HAYES: Yes, sir.

6 THE COURT: And all. So I've made my ruling there.
7 Now, when it comes up during the course of the trial, if
8 y'all want to object on the basis of relevancy and also it
9 being -- any possible relevancy being outweighed by
10 prejudice and those kind of things, I'll rule on that at
11 that time.

12 But as far as the pretrial motion is concerned,
13 it's just as far as Jackson v Denno as far as I'm
14 concerned.

15 MR. HAYES: Yes, sir.

16 THE COURT: So y'all raise that objection and I'll
17 rule on it at the time in the trial, but the only thing I'm
18 ruling on now is whether it would be admissible under the
19 law.

20 MR. HAYES: Yes, sir, I wouldn't have anything
21 further then --

22 THE COURT: Okay.

23 MR. HAYES: -- as for Denno.

24 THE COURT: All right. So we're ready to go ahead
25 with the trial tomorrow then?

1 MR. COOPER: Yes, sir.

2 THE COURT: All right. I'll give this back to the
3 clerk then and Mr. Chestnut, we'll see you tomorrow
4 morning.

5 THE DEFENDANT: Yes, sir.

6 (Court was in recess for the day.)

7 MR. HAYES: Judge?

8 THE COURT: Yes?

9 MR. HAYES: May we approach?

10 THE COURT: Sure.

11 (There was a bench conference outside of the
12 hearing of the jury panel and the court reporter.)

13 THE COURT: All right. We're going to take about a
14 five minute recess. I do need you to leave the courtroom.
15 I've got to discuss something with the lawyers. I can't
16 have you in here while I'm doing that. So if the jury,
17 everybody on the jury, if you would go out, don't go too
18 far. Be back in about five minutes. If you would,
19 everybody on the jury go out.

20 (The jury pool left the courtroom.)

21 (The defendant entered the courtroom.)

22 THE COURT: All right. Whoever is in charge, we
23 can bring the jury back in. Solicitor don't you do it.

24 MR. COOPER: I was going to tell the bailiff to.

25 (The jury pool entered the courtroom.)

1 THE COURT: All right. Ladies and gentlemen of the
2 jury, if you would please give me your attention. We're
3 about to pick a jury for the trial of the case of the State
4 of South Carolina --

5 THE CLERK: Judge, we're missing two.

6 THE COURT: Oh, I'm sorry.

7 THE BAILIFF: Judge, we have two more.

8 THE COURT: All right. We'll wait until we have
9 everybody.

10 (There was a pause in the proceedings.)

11 JURY VOIR DIRE

12 THE COURT: All right. Now we think we have
13 everybody.

14 We're about to pick a jury for the trial of the
15 case of the State against Randy D. Chestnut.

16 Mr. Chestnut, if you would, please stand so that
17 the jury can see you.

18 Thank you, you can be seated.

19 Mr. Chestnut is the defendant in this case. The
20 State claims that he did on or about, here in Bamberg
21 County, on or about December 6th, 2018 willfully and
22 unlawfully enter without consent and with the intent to
23 commit a crime therein, the dwelling of Debbie Jeffcoat.
24 Debbie Jeffcoat, located at [REDACTED] Street in
25 Denmark, South Carolina.

1 That's the charge that the State makes against Mr.
2 Chestnut. That is a charge of what we call burglary in the
3 first degree. Burglary in the first degree, that's the
4 charge that the State has made against Mr. Chestnut and to
5 that charge, Mr. Chestnut has said, I'm not guilty; and
6 that places the burden of proving him guilty on the State.
7 A person is never required to prove himself innocent. The
8 burden of proof is on the State to convince twelve jurors
9 beyond any reasonable doubt of his guilt or he's entitled
10 to a verdict of not guilty. Really that's what this case
11 is about.

12 At the end of the case, you will answer the
13 question, has the State met the burden of proof of proving
14 him guilty of this charge.

15 You've met Mr. Chestnut, who's the defendant in
16 this case.

17 The lawyers that are involved in the case are
18 Mr. Cooper, if you would please stand so the jury can see
19 you.

20 And Mr. Emmett.

21 MR. EMMER: Emmer.

22 THE COURT: Emmer, excuse me, who is the other
23 solicitor or the prostituting attorney. We refer to the
24 prosecuting attorneys as solicitors in this state. They
25 represent the office of the solicitor, Mr. Thurmond who is

1 the elected solicitor of this circuit. They are two of his
2 associate attorneys, solicitors, and they represent the
3 State in this case.

4 And on the other side, we have Mr. Hayes, who is
5 the public defender; and Ms. Alves, public defender also,
6 who represents Mr. Chestnut.

7 So those are the lawyers that are involved in this
8 case. Is anybody related by blood or marriage or do you
9 know in any way any of the lawyers who are involved in this
10 case? If so, please stand. Anybody related by blood or
11 marriage or do you know in any way any of the lawyers that
12 are involved in the case?

13 How about the defendant, Mr. Chestnut? Anyone on
14 the panel related by blood or marriage or do you know him
15 in any way, socially, business, whatever, any way, Mr.
16 Chestnut? If so, please stand.

17 Yes, ma'am, we'll start with the young lady that,
18 first up. Tell me your name and number.

19 THE JUROR: Brittany O'Berry, Number 117.

20 THE COURT: 117.

21 THE JUROR: Yes, sir.

22 I know Randy. I went to school with him.

23 THE COURT: All right. And when you say you went
24 to school with him, were you in the same grade or just the
25 same school or what?

1 THE JUROR: I'm like a year or two older than him.
2 I know his family also.

3 THE COURT: All right. You know him, his family
4 also.

5 THE JUROR: Yes, sir.

6 THE COURT: All right. Thank you very much.

7 Number --

8 What was her number again?

9 THE CLERK: 117.

10 THE COURT: Just stay where you are for the time
11 being.

12 And can you give me an idea, when was the last time
13 you saw him, had any conversation, anything of that sort?
14 I'm just trying to establish what your relationship is with
15 him now. Do you were consider him a close friend, a family
16 close friend? Or what?

17 THE JUROR: Family close friend.

18 THE COURT: All right. Thank you very much, just
19 have a seat.

20 All right. Yes, ma'am, tell me your name and
21 number.

22 THE JUROR: Tracie Davis. I don't remember my
23 number.

24 THE COURT: All right. Ms. Davis.

25 THE CLERK: Number 40.

1 THE COURT: 40?

2 THE CLERK: Yes, sir, 40.

3 THE JUROR: That's my cousin.

4 THE COURT: I'm sorry?

5 THE JUROR: He's my cousin.

6 THE COURT: All right. Thank you very much for
7 that information.

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

9 THE JUROR: Ashley Thurman, I don't know my number.

10 THE CLERK: 159.

11 THE COURT: 159, I believe.

12 THE CLERK: Yes, sir, 159.

13 THE COURT: All right. What would you like to tell
14 me, Ms. Thurman?

15 THE JUROR: I'm -- we're from the same hometown.
16 I'm a couple of grades under him and his mother served as
17 one of my teachers when I was in school.

18 THE COURT: And I didn't understand exactly what
19 you said at the start.

20 THE JUROR: Oh, I said we're from the same
21 hometown. I'm a couple of grades behind him.

22 THE COURT: Okay.

23 THE JUROR: And his mother served as one of my
24 teachers when I was in school.

25 THE COURT: Okay. Thank you very much for that

1 information.

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

3 THE JUROR: My name is Tiesha Washington, and my
4 Number is 168.

5 THE COURT: All right.

6 THE JUROR: And I'm also from the same town as
7 Randy. We went to high school together and him and my
8 brother were friends and whatnot.

9 THE CLERK: That's 168, Your Honor.

10 THE COURT: All right. Thank you very much for
11 that information.

12 All right. Yes, sir, your name and number?

13 THE JUROR: Anthony Rice. I don't remember my
14 number.

15 THE COURT: Rice?

16 THE CLERK: Rice. Number 132.

17 THE COURT: Rice, okay, I see it.

18 Yes, sir, Mr. Rice.

19 THE JUROR: Neighbors.

20 THE COURT: I'm sorry?

21 THE JUROR: We're neighbors.

22 THE COURT: Neighbors. And what do you mean by
23 that?

24 THE JUROR: I live three houses down from him.

25 THE COURT: Three houses down?

1 THE JUROR: Yes, sir.

2 THE COURT: Thank you very much for that
3 information.

4 All right.

5 THE CLERK: Judge, do you want those removed or
6 what do you want to do with them?

7 THE COURT: No, just hold on for right now.

8 THE JUROR: All right.

9 THE COURT: All right. Now, I've been given a list
10 of potential witnesses that the State may call in this case
11 and I'm just going to call out the names --

12 Well, I'm going to ask the solicitor, whoever, one
13 of y'all out there, you stand up. I like to get you
14 involved in the case.

15 Mr. Cooper, why don't you stand up and call out the
16 names. You got the list?

17 MR. COOPER: Yes, sir.

18 THE COURT: All right. Call out the names of
19 potential witnesses that the State may call. We might not
20 hear from all of these people, but they were potential
21 witnesses in this case. So I want to ask about those right
22 now. So the solicitor is going to call out those names.
23 At the end of that, I want to know, again, are you related
24 by blood or marriage, or you know in any way any of these
25 potential witnesses.

1 Go ahead, Solicitor.

2 MR. COOPER: SJ [REDACTED]

3 THE COURT: If you would, please stand, if you're
4 here.

5 All right.

6 MR. COOPER: Ms. Debbie Jeffcoat

7 THE COURT: All right.

8 MR. COOPER: Robert Jeffcoat.

9 THE COURT: He's not here.

10 MR. COOPER: Mr. Petie Hiers, Bamberg County Clerk
11 of Court; Lieutenant Laquana Linder, Denmark Police
12 Department; Captain Latarcha Wilson, Bamberg County
13 Detention Center; Corporal Seth Wolfe, of Orangeburg
14 Department of Public Safety; Lieutenant Carl Shultz, of the
15 Orangeburg Department of Public Safety; Chief Deputy Ben
16 Hay, of the Bamberg County Sheriff's Office; Officer Anita
17 Chestnut, of the North Police Department; Chief Lin Shirer,
18 of the North Police Department.

19 THE COURT: All right. Anyone on the jury panel
20 related by blood or marriage, or you know in any way any of
21 those potential witnesses whose names were just called out
22 to you by the State.

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

24 THE JUROR: Latria Anderson, I believe my number is
25 2.

1 THE CLERK: Number 3.

2 THE COURT: 3. All right.

3 THE JUROR: I'm related to Laquana.

4 THE COURT: I'm sorry?

5 THE JUROR: I'm related to the deputy there.

6 THE COURT: To Ms. Linder?

7 THE JUROR: Yes.

8 THE COURT: Is that right? And what -- you say
9 you're related and all, how are you related to her?

10 THE JUROR: That's my second cousin.

11 THE COURT: Would you describe your relationship to
12 her as being a close family friend or just somebody that
13 you're related to, you know who she is, or how would you
14 describe your relationship to her.

15 THE JUROR: She's a relative. My mother is her
16 aunt.

17 THE COURT: All right. But again, you and her,
18 when was the last time you saw her before today?

19 THE JUROR: Since the last dinner we had,
20 Thanksgiving.

21 THE COURT: So maybe once a year.

22 THE JUROR: Well, I guess...

23 THE COURT: Okay. I'm just trying to get an idea.
24 So you see her, have a conversation with her, say hey or
25 whatever. Of course, you'd do that if you just saw her

1 anywhere on the street, I'm sure and all, but as far as
2 talking to her anything like that, it's more or less once a
3 year?

4 THE JUROR: No, I just saw her in Denmark also.
5 That was recently. I don't know what day.

6 THE COURT: And why was that.

7 THE JUROR: I was visiting Denmark at the store.

8 THE COURT: Okay. All right. Thank you very much
9 for that information.

10 All right. Yes, ma'am, your name and number?

11 THE JUROR: Hey, Anne Linder, 99. My son did an
12 internship at the sheriff's office about 12 years ago, and
13 so I did meet Been Hay.

14 THE COURT: That was your son.

15 THE JUROR: He did an internship, yes, sir.

16 THE COURT: With the police department?

17 THE JUROR: Yes, sir.

18 THE COURT: And is he employed there now or
19 anything?

20 THE JUROR: No, sir. That's been about 10 years
21 ago.

22 THE COURT: All right. And now you just knew of
23 her or knew her through that.

24 THE JUROR: No, I knew Ben, Ben Hay.

25 THE COURT: Oh, you knew who?

1 THE JUROR: Chief Deputy --

2 THE COURT: Oh, I see, Mr. Hay. You now of him
3 then.

4 THE JUROR: So we're just acquaintances. We are
5 not social friends or anything.

6 THE COURT: All right. Thank you very much for
7 that information. Appreciate that.

8 Anyone else?

9 No one else standing.

10 I'm not sure if I -- I want to make sure I ask
11 about -- that I included the defendant directly in this
12 question. I may have already asked this question. You may
13 have already respond. But I just wanted to make sure I
14 asked you about Mr. Chestnut directly. Anyone on the jury
15 panel who's related by blood or marriage or know in any
16 way, Mr. Chestnut? If so, please stand, unless you've
17 already stood and I've already heard from you. If you've
18 already told me that, you don't have to stand again, but I
19 just want to make sure I ask you about that. If so, please
20 stand.

21 No one else standing.

22 All right. Does anyone on the jury panel have any
23 knowledge of anything at all to do with this case? If so,
24 please stand. Anyone have any knowledge of anything at all
25 to do with this case? If so, please stand and come down

1 front and I'll discuss that with you. I'll let you know if
2 you need to know something.

3 Come up here, please, sir.

4 THE CLERK: This is Number 68.

5 THE COURT: Tell me your name and number.

6 THE JUROR: Mr. Hallman.

7 THE COURT: Mr. What?

8 THE JUROR: Hallman.

9 THE COURT: Hallman. What did want to tell me?

10 THE JUROR: Just what I read in the paper.

11 THE COURT: You've read something about it?

12 THE JUROR: Yes, sir. I mean I saw it on the news.

13 THE COURT: That's fine. Have a seat. I

14 appreciate you telling that.

15 Is any member on the jury panel aware of any bias
16 or prejudice, either in favor of or against either side of
17 this case? Anybody on the jury panel that's aware of any
18 bias or prejudice either in favor of or against either side
19 in this case? If so, please stand.

20 No one standing.

21 Has any member of the jury panel formed or
22 expressed an opinion about any matter or issue that may be
23 involved in the trial of this case? If so, please stand.

24 (No one stood.)

25 THE COURT: Does any member of the jury panel know

1 of any reason why you should not be picked and serve as a
2 juror in this case? If so, please stand.

3 All right. Ma'am, come down front and I'll discuss
4 that with you.

5 Tell me your name and number, please, ma'am.

6 THE JUROR: Number 3 Latria Anderson.

7 THE COURT: All right. Ms. Anderson, what would
8 you like to tell me?

9 THE JUROR: I work for LI Enterprises in
10 Orangeburg. I work third shift. That's from 8 p.m. to 6
11 a.m. in the morning. I leave home approximately 6:50 in
12 the evening. I have relatives up there and they also go in
13 a little earlier.

14 THE COURT: Okay. Why do you say that, that you
15 shouldn't be picked because of that? I mean, why are you
16 telling me that?

17 THE JUROR: Because I have to get rest.

18 THE COURT: Oh, you're talking about you don't
19 think you should serve on the jury at all because of that?
20 On any jury because of that.

21 THE JUROR: Well, I have to get rest.

22 THE COURT: You're talking about your, your work
23 and so forth being a reason why you shouldn't serve; is
24 that what you're saying?

25 THE JUROR: Yes, sir.

1 THE COURT: I forgot to ask about that earlier,
2 really.

3 Tell me what's her name and number.

4 THE CLERK: Number 3.

5 THE COURT: Number 3. Have a seat. Thanks for
6 telling me about that. I'll tell you later.

7 That was Number 3?

8 THE CLERK: Yes, sir, Anderson.

9 THE COURT: All right. What's your name, please,
10 ma'am?

11 THE JUROR: Griffin.

12 THE COURT: Griffith.

13 Okay. Number 64, what you want to tell me?

14 THE JUROR: I'm former law enforcement.

15 THE COURT: You're former law enforcement.

16 THE JUROR: Yeah.

17 THE COURT: Okay. But you think for that reason,
18 what would you favor the State? In regard to this favor
19 the prosecution and be against the defendant; is that what
20 you're telling me?

21 THE JUROR: No, but.

22 THE COURT: You think you could be fair and
23 impartial -- inspite of the fact that you're former law
24 enforcement.

25 THE JUROR: Yeah.

1 THE COURT: Okay. You think you could be fair and
2 impartial.

3 THE JUROR: Uh-huh.

4 THE COURT: Okay. Thank you, have a seat.

5 THE CLERK: Judge you've got one more.

6 THE JUROR: Lucas Huggins.

7 THE CLERK: Number 76.

8 THE COURT: Okay. What do you need to tell me?

9 THE JUROR: My reason is it's the last two weeks of
10 school. I go to O.C. Tech and I got finals.

11 THE COURT: You're in school now?

12 THE JUROR: Yes, sir.

13 THE COURT: Let me tell you the situation. I can
14 transfer you to another term of court. I can't excuse you,
15 but I can transfer you where you wouldn't be in something
16 or something. If you want, this trial would -- I don't
17 know if you would be picked or not, we still have got to
18 pick the jury. If you were picked it would probably be
19 only two days like today and tomorrow at the most and then
20 you'd be free. So if you want to take a chance and stay
21 just to get it out of the way, you would only be on the
22 jury, it would be today and tomorrow. So whichever way you
23 want to go. I can let you go.

24 THE JUROR: I want to go.

25 THE COURT: I can let you go, but you'd be

1 transferred to another term of court and you'd have to come
2 back again and go through this process again.

3 THE JUROR: I think it would be best because I've
4 got finals next week, but I think I'll go ahead and get it
5 out of the way.

6 THE COURT: Okay. Thank you.

7 Okay, I'll talk with the lawyers about all that.

8 MR. COOPER: Your Honor, may we approach?

9 THE COURT: Sure. Just a second.

10 Okay. Come on up.

11 (There was a bench conference on the record out of
12 the hearing of the jury.)

13 MR. COOPER: I guess this is the best time to tell
14 you. There's another individual out there. His name is
15 Rakeem Glover and he's Number 69. I'm prosecuting him
16 right now for a case and Ms. Alves represented him. I just
17 wanted to let you know.

18 THE COURT: Okay. You may need -- that's probably
19 -- I'll probably excuse him and let's just see how the list
20 goes and I'll tell you all this stuff, all their
21 information I got before you do your striking or whatever.

22 MR. COOPER: Okay.

23 MR. HAYES: Okay.

24 THE COURT: But let's just hold that, okay?

25 MR. COOPER: Okay. Thank you.

1 (The bench conference was finished.)

2 THE COURT: All right. I'm going to ask some other
3 questions to you. These are questions that I've been
4 requested to ask and I will ask some of these questions to
5 you.

6 Have you or a member of your family ever been the
7 victim of a burglary of any type? Anyone on the jury panel
8 or member of your immediate family, and I would define
9 immediate family to be your mother, father, and your
10 brother, sister, any child or children. Anyone on the
11 panel or member of your immediate family been the victim of
12 a burglary of any type? If so, please stand.

13 All right. We'll start down here with the young
14 lady that just stood there. Tell me your name and number.

15 THE JUROR: Lafaye Bias, Number 13.

16 THE COURT: All right. What's your response to
17 that?

18 THE JUROR: Yes, sir, we've had two break-ins.

19 THE COURT: To your home?

20 THE JUROR: Yes, sir.

21 THE COURT: Okay. And when was that?

22 THE JUROR: It was December 15, 2018.

23 THE COURT: All right. Just a little over a year
24 ago.

25 THE JUROR: Yes, sir and then --

1 THE COURT: Or a year ago or whatever. December of
2 18? Just this past December?

3 THE JUROR: Yes, sir.

4 THE COURT: So not a year ago, just this past
5 December. All right. Anything else?

6 THE JUROR: And we just had another one.

7 THE COURT: Oh, okay. Thank you. You can be
8 seated.

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

10 THE JUROR: Faron Mixon, Number 110.

11 THE COURT: All right.

12 THE JUROR: I had my house broken into three times.
13 One in 2013. Kicked in the back door, stole all our guns
14 and TVs. Again the following year in 2013. This is when I
15 lived in Orangeburg County. They came in the sliding glass
16 door with a knife, stole a bunch of stuff and ransacked my
17 house and the third time, same house in the other door and
18 these were all different people.

19 THE COURT: All right. Thank you very much for
20 that information.

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

22 THE JUROR: Okeller Ransom, 2000 and I think '7, my
23 house was robbed and they came back maybe two weeks later
24 and came back and stole my car.

25 THE COURT: And how long ago was that?

1 THE JUROR: In 2007, but I'm still feeling some
2 type of way.

3 THE COURT: Thank you very much for that
4 information.

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

6 THE JUROR: Kristi Sease, 2005, my brother and
7 my...

8 THE COURT: I couldn't understand you.

9 THE JUROR: 2005, my parents were held at gunpoint
10 in a burglary.

11 THE COURT: All right. Thank you very much for
12 that information.

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

14 THE JUROR: Devon Furr, Number 54, probably 5 to 6
15 years ago my house was robbed. I wasn't home. Don't know
16 who did it, but...

17 THE COURT: All right. Thank you very much for
18 that information.

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

20 THE JUROR: Tonya Reddish, Number 131.

21 Not sure of the exact year, but my parents' house
22 was burglarized.

23 THE COURT: All right. Thank you very much for
24 that information.

25 Yes, sir, your name and number?

1 THE JUROR: Ronnie Salley, I don't have my number.
2 I had somebody try to break in my shed and they took a shot
3 at me.

4 THE CLERK: 137.

5 THE COURT: 137, thank you for that information.

6 THE CLERK: I'm sorry 136.

7 THE COURT: 32?

8 THE CLERK: 36, 136.

9 THE COURT: Okay. Thank you. I see it.

10 Thank you very much for that information.

11 All right. Is there anyone on the jury panel who
12 has a family member who is employed in law enforcement in
13 any type, either as a police officer, deputy sheriff,
14 working for SLED, anybody who has a family member who is
15 employed with any law enforcement agency of any type. If
16 so, please stand.

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

18 THE JUROR: Faron Mixon, 110, my mother works for
19 Chesterfield Sheriff's Office and my father is a
20 dispatcher.

21 THE COURT: Thank you.

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

23 THE JUROR: Okeller Ransom, I don't remember my
24 number. I have several cousins, family members, close kin.

25 THE COURT: All right. Who they work for?

1 THE JUROR: Bamberg, well, they have worked for
2 Bamberg, I'm not sure, Denmark, I think one is in Hampton
3 now.

4 THE COURT: All right. Thank you very much for
5 that information.

6 Yes, sir, your name and number?

7 THE JUROR: Steve Cornforth, Number 35, I think.
8 My son is not working for Orangeburg Public Safety anymore,
9 but he did a year and a half ago. Now he's employed with
10 security at Savannah River Plant. My father retired from
11 Bamberg County deputy sheriff.

12 THE COURT: Thank you very much for that
13 information.

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

15 THE JUROR: Mine?

16 THE COURT: Well, we'll go with you.

17 THE JUROR: I have a nephew that is a SLED agent
18 out of Charleston.

19 THE COURT: All right. Thank you. We'll come down
20 to the lady on the first row there.

21 Tell me your name and number, I'm sorry.

22 THE JUROR: Nancy Crider, Number 36.

23 THE COURT: 36, thank you.

24 Yes, ma'am, these two ladies.

25 THE JUROR: My number is 3, Latria Anderson. My

1 sibling, my oldest sibling, he works for corrections, but
2 not anymore. He's working for LI Enterprises in
3 Orangeburg, South Carolina.

4 THE COURT: Formerly he worked for department of
5 corrections.

6 THE JUROR: And I have Laquana Linder, that's my
7 family member.

8 THE COURT: Okay. Thank you. You have told us
9 that before, right?

10 THE JUROR: Yes.

11 THE COURT: Okay. Good.

12 Your name and number?

13 THE JUROR: 64, Rhonda Griffin, I have a lot of
14 family in law enforcement and --

15 THE COURT: Where are they in law enforcement?

16 THE JUROR: Orangeburg, Bamberg.

17 THE COURT: All around this area?

18 THE JUROR: Yes.

19 THE COURT: All right. How many people would you
20 say that is?

21 THE JUROR: A couple.

22 THE COURT: Okay. A couple. Is that two?

23 THE JUROR: More than that.

24 THE COURT: More than two?

25 THE JUROR: Yes.

1 THE COURT: All right. Thank you very much for
2 that information.

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

4 THE JUROR: Mary Brandt, 17, I have two brothers
5 that previously were in law enforcement, but neither one of
6 them is now.

7 THE COURT: All right. Thank you.

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

9 THE JUROR: Devon Furr, Number 54. I have a nephew
10 that works for DNR.

11 THE COURT: A nephew who works for who?

12 THE JUROR: Department of Natural Resources.

13 THE COURT: Good. All right. What we used to call
14 the game warden.

15 THE JUROR: Right.

16 THE COURT: Something like that anyway. All right.
17 Thank you very much.

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

19 THE JUROR: 13. I want to make sure I got the
20 question right. Did you want to know about previous?

21 THE COURT: Yeah, anybody who has worked or is
22 working or whatever. Family members anyway in law
23 enforcement of any type.

24 THE JUROR: Yes, sir. I worked for Bamberg County
25 sheriff's office and I also worked for highway patrol.

1 THE COURT: What were you doing?

2 THE JUROR: Dispatch.

3 THE COURT: Good. Thank you very much for that
4 information. But that's in the past?

5 THE JUROR: Yes, sir.

6 THE COURT: All right. Good, thank you very much
7 for that information.

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

9 THE JUROR: Sylvia Irons, I am Number 80, and I
10 have a son works as the correction officer over in Hampton.

11 THE COURT: Good. Thank you thank you very much
12 for that information.

13 Anybody else with a response? Having a family
14 member or you involved in law enforcement of any type.

15 Yes, sir, your name and number?

16 THE JUROR: My name is Will Priester, I forgot my
17 name and number, but I had a cousin that was recently in
18 law enforcement, a cop here in Bamberg.

19 THE COURT: A police officer here in Bamberg?

20 THE JUROR: Yes, sir.

21 THE CLERK: That's 127.

22 THE COURT: All right. Thank you very much for
23 that information.

24 All right. I asked this question earlier, but I'm
25 going to make sure I've asked this to make sure we're clear

1 on this. Anyone on the jury panel have any knowledge of
2 anything at all to do with this case. Mr. Hallman, Number
3 68 told me he had heard something about it, read something
4 about it, something of that nature, but anyone else who
5 knows anything at all, have any knowledge at all to do with
6 this case? If so, please stand. Other than Mr. Hallman
7 who told me he had some knowledge of it from an outside
8 source. If so, please stand.

9 No one else standing.

10 All right. Now, I've asked these questions, but
11 I'm going to ask them again just to make sure after I've
12 gone over the particularized questions that I've asked you,
13 I want to ask you some general questions again, you know,
14 just to make sure we're, everybody's on the same page.

15 Is there anyone on the jury panel who has formed or
16 expressed an opinion about any issue or matter that may be
17 involved in the trial of this case? If so, please stand.

18 No one standing.

19 Is any member of the jury panel aware of any bias
20 or prejudice either in favor of or against either side in
21 this case? If so, please stand.

22 No one standing.

23 Anyone on the jury panel think you cannot give both
24 sides a fair and impartial trial in this case? If so,
25 please stand, and tell me your name.

1 THE JUROR: My name is Tiesha Washington, I'm
2 Number 168.

3 THE COURT: You're number is what?

4 THE JUROR: 168.

5 THE COURT: All right. You told me you knew him
6 through school and was a family friend; is that right?

7 THE JUROR: Yes, and also, I just realized who she
8 was. I used to work for her as Roses. Debbie Jeffcoat. I
9 just --

10 THE COURT: You talking about the lady whose house
11 is involved in this case?

12 THE JUROR: Yeah, I worked with --

13 THE COURT: So you know her?

14 THE JUROR: Uh-huh.

15 THE COURT: And you used to work for her?

16 THE JUROR: Yes. She was my manager at Roses.

17 THE COURT: And you don't think you should sit as a
18 juror in this case?

19 THE JUROR: I don't.

20 THE COURT: All right. Thank you very much for
21 that information.

22 All right. The other lady standing now.

23 THE JUROR: Ashley Thurman.

24 THE COURT: I'm sorry?

25 THE JUROR: Ashley Thurman.

1 THE COURT: Yeah, your number 159. And you said
2 that you knew him and his mother, family friends?

3 THE JUROR: Yes.

4 THE COURT: And you don't think you should serve as
5 a juror in this case?

6 THE JUROR: No, sir.

7 THE COURT: Thank you very much for that
8 information.

9 All right. Tell me your name and number.

10 THE JUROR: 64, Rhonda Griffin.

11 THE COURT: Griffin.

12 THE JUROR: Yeah, 64.

13 THE COURT: I see you. All right. You told me
14 that you were -- that something to do with, formerly law
15 enforcement?

16 THE JUROR: Yes.

17 THE COURT: All right. And you don't think you can
18 be fair and impartial as a juror in this case?

19 THE JUROR: I know Debbie.

20 THE COURT: All right. You're talking about the
21 lady whose house was involved?

22 THE JUROR: Yes. From inside the stores and --

23 THE COURT: All right. I understand that, but I'm
24 asking you could you be a fair and impartial in this case?

25 THE JUROR: Yeah.

1 THE COURT: You could?

2 THE JUROR: (Witness nodded head.)

3 THE COURT: All right. Thank you very much for
4 that information.

5 All right. I'm going to ask the jury, if you
6 would, again, I've got to discuss some matters with the
7 lawyers and everything. And at this point I need you to go
8 outside in the hallway again. All the jury go outside.
9 I'll be back with you as soon as I can.

10 (The jury pool left the courtroom.)

11 THE COURT: We've got 46?

12 THE CLERK: Yes, sir.

13 THE COURT: And so I'm going to take off two, so
14 that's 44.

15 THE CLERK: Which two are you taking off, sir?

16 THE COURT: I'll tell you in a second. All right.
17 Looking at the list now. So I'm going to excuse, based
18 upon their last answers to the questions, I'm going excuse
19 Number 159 and 168. Now, they both said they couldn't sit
20 on this case and all. So we've got those off, so that
21 leaves us with 44 on the main list. Number 159 and 168 are
22 excused based on the answers to those last questions they
23 asked.

24 Now, I go down the notes that I made, so I'll tell
25 y'all the little notes that I made relative to anybody that

1 responded or came down front for whatever. In regard to
2 Number 3, I think she said she was a relative of Ms. Linder
3 or second cousin and I forgot if she told me anything else.
4 I don't recall anything else at this point, but that was
5 the information I have about her.

6 Then number 40, Ms. Davis, I wrote out here that,
7 cousin, a cousin -- I don't recall if it was a cousin of
8 who -- the defendant.

9 All right. And then Number 59, is that the one you
10 told me has a pending charge?

11 MR. COOPER: Yes, Your Honor, I'm prosecuting him
12 and Ms. Alves represents him.

13 THE COURT: What is the charge.

14 MR. COOPER: I believe it's PWID marijuana and
15 discharging a firearm within the city limits, as well as a
16 possession of codone; that correct.

17 MS. ALVES: I don't remember if it was codone, but
18 it was a controlled substance.

19 THE COURT: A pending charge.

20 MR. COOPER: Three pending charges, yes, sir. And
21 Lieutenant Linder is the officer on that case as well. I
22 failed to disclose earlier.

23 THE COURT: Well, y'all want to argue how that
24 cuts?

25 All right. I'm going to take him off due to that.

1 THE CLERK: Which one is that, sir?

2 THE COURT: That's Number 59.

3 THE CLERK: That puts us down the 43.

4 THE COURT: So that brings us down to 43. That's
5 for cause.

6 Then Number 64 said that she formerly worked in law
7 enforcement, I believe. And then Hallman told me that he
8 had heard about this, read about this in the paper. That
9 was all he told me was that he had read something about
10 this case in the paper and that he had knowledge of it.

11 Then 76 said, what I gathered was in school with
12 the defendant and then Ms. Linder, you know, said that her
13 son was an intern with the police department at one time
14 years ago.

15 Then we had Mixon, who had three break ins at her
16 home. And we had Number 117, said she knows the defendant
17 in some way and then we had a neighbor, Mr. Rice, Number
18 132 lives three doors down from his family, from him. And
19 then we had -- I'm taking Number 159 off and 168 off for
20 cause.

21 Now, y'all want to talk about any of these or any
22 others before we take a list, get a list that y'all can
23 then strike from.

24 MR. COOPER: Your Honor, the State would move to
25 strike Number 40 for cause as she is --

1 THE COURT: 40?

2 MR. COOPER: Yes, sir. She stated she is a cousin
3 of the defendant. I would also move to strike Number
4 117 --

5 THE COURT: Wait a minute, we got to talk about
6 that.

7 MR. COOPER: Okay.

8 THE COURT: All right. A cousin of the defendant.
9 And I'm not sure -- do you oppose that, Mr. Hayes?

10 MR. HAYES: Judge, I think we could ask her more
11 questions about what the nature of her relationship is and
12 if she could be fair or not.

13 THE COURT: Well, I asked about the fairness and
14 she didn't stand up and say she couldn't be fair, but...

15 MR. COOPER: Your Honor, I think her failing to
16 stand up and say whether or not she could be fair is an
17 insinuations as to which way --

18 THE COURT: Now, that was a positive if she could.
19 All right. I may make further inquiry about that. I'm
20 going to put a question mark by that. I haven't made a
21 decision. I'm going to think about how to deal with that.

22 Any others on there that you want to think on?

23 MR. COOPER: Yes, sir. Number 117 for cause.

24 THE COURT: 117. Brittany O'Berry and that was
25 just in regard to basically that she knew him in some

1 capacity.

2 MR. COOPER: Knew him and his family, I believe is
3 what she said.

4 THE COURT: All right. Any others?

5 MR. COOPER: Yes, sir, one more. Number 132. He's
6 the gentleman that stated he was the neighbor.

7 THE CLERK: Anthony Rice.

8 MR. COOPER: Oh, and if I could go back to 117,
9 Your Honor?

10 THE COURT: Right.

11 MR. COOPER: Lieutenant Linder has pending juvenile
12 charges against her daughter and I think she's in DJJ right
13 now.

14 OFFICER LINDER: Not right now.

15 MR. COOPER: Oh, she's not in DJJ, but she has
16 juvenile charges against her daughter.

17 THE COURT: Well, I don't think that's for cause,
18 but anyway. You got strikes or whatever. So there's three
19 that you want me to take off for cause.

20 MR. COOPER: That's correct, Your Honor.

21 THE COURT: All right. And what about you?

22 MR. HAYES: Your Honor, I'd start with Number 3.
23 She is a family relative to the investigating officer in
24 this case. I would say that's too close to home.

25 THE COURT: All right. What else? Any others?

1 MR. HAYES: Yes, sir. And I believe she came up
2 and spoke with you when you asked about being fair.

3 THE COURT: I don't remember that. All I got here
4 is --

5 MR. HAYES: Any reason --

6 THE COURT: Oh yeah. What she told me. I did make
7 a note about that. What she told me was she wanted to be
8 off because of her work and all. That's what she told me
9 when she came up and I didn't let her off because of that.
10 She said she had problems with her work, in regard to her
11 work schedule and everything. She works at night and so
12 forth. So she didn't want to be on the jury because of
13 that and I didn't let her off for that reason. So that was
14 what she told me. In addition to being related to
15 Ms. Linder, she had a problem with work and I'm not going
16 to let her off for work.

17 All right. Any other ones?

18 MR. HAYES: Number 64, to a former law enforcement.
19 She also came up during that line of questioning about
20 being fair I believe it was situation. And then at the end
21 she stood up and acknowledged that she knew the victim from
22 being in stores and when you asked her about being fair,
23 her answer was I believe, I guess, kind of under her
24 breath. Wasn't real reassuring.

25 THE COURT: All right.

1 MR. HAYES: Number 128 said that she shad been
2 burglarized and that they were still upset about it and I
3 think her exact words were they still feel some kind of way
4 about it.

5 THE COURT: 128?

6 MR. HAYES: Yes, sir.

7 THE COURT: I didn't have her down regarding that.
8 Did you make a note of that?

9 MR. COOPER: She did say that, Your Honor:

10 THE COURT: 128?

11 MR. HAYES: Yes, sir. She had said she had been a
12 victim of two. And before she sat down was, I believe the
13 exact quote was something of the nature of, We feel or
14 feels some kind of way about it.

15 THE COURT: All right.

16 MR. HAYES: The other one I would go for would be
17 Number 110. She had been a victim -- I'm sorry, 13. She
18 had been a victim this year, within the year, December was
19 the first burglary and she did not give a date but the way
20 she was answering the question, it sounded like it as more
21 recently than that.

22 THE COURT: That was a burglary?

23 MR. HAYES: Yes, sir.

24 MR. COOPER: What number was that?

25 MR. HAYES: I believe it was 13.

1 THE COURT: I'm sorry. I thought you were talking
2 about 110.

3 MR. HAYES: I'm sorry, I skipped over, Judge, the
4 one I was thinking of was 13.

5 THE COURT: Okay. It was not 110.

6 All right. So which was the one that you're
7 talking about?

8 MR. HAYES: Ms. Bias. She said that -- that's
9 Number 13. Said that she was a victim in December of 2018
10 and just had another one.

11 THE COURT: Okay. All right. So let me make sure
12 I've got a list here of the ones that maybe I want to talk
13 to some further and all. Number 3, Number 13, Number 40,
14 Number 64, Number 68, Number 117, Number 128, and Number
15 132. Those are the ones that I've got a question mark by
16 at this point, that either one side or the other wants know
17 take off at this point; is that a complete list? I'll go
18 over it again.

19 MR. COOPER: That includes all from the State.

20 THE COURT: All right. Number 3, 13, 40, 64, 68,
21 117, 128, and 132.

22 MR. HAYES: I'm sorry, Judge, to ask you this,
23 could you do it one more time.

24 THE COURT: That's all right. All right. 3, 13,
25 40, 64, 68, 117, 128, and 132. Is that everybody?

1 MR. HAYES: Judge, there was 110 was also -- I
2 started on it and went to 13. I skipped --

3 THE COURT: So you want to go back to 110?

4 MR. HAYES: Yes, sir.

5 THE COURT: What did 110 say.

6 MR. HAYES: 110 indicated they had been victimized
7 three different times under burglary.

8 THE COURT: All right. So I'll put that on the
9 list to.

10 MR. HAYES: And 136 said he was shot at when
11 somebody was trying to break into his shed.

12 THE COURT: I didn't make any note of that, I'm not
13 going to ask him anything further about that.

14 Well, I'll put him on the list.

15 All right. Bring the jury back in just a minute.
16 Maybe that's the easiest way to do it.

17 (The jury pool returned to the courtroom.)

18 THE COURT: Got everybody?

19 All right. Now, I'm going to call out the names of
20 some people that I need to talk to a little bit further and
21 all. When I call your name, if you would come forward.
22 And I'm going to ask you to go in the jury room right over
23 here for just a few minutes. I need to ask these people
24 some more questions based on the responses that I've
25 received up to this point in time.

1 Number 3 Latria Anderson, Ms. Anderson. If you
2 would come forward. Come on through here.

3 And let them go into the jury room right there, if
4 you would.

5 And then Lafaye Bias, B-I-A-S, Number 13. If you
6 would come forward and we'll let you go in the jury room.

7 And Number 40, Tracie Davis, if you would come
8 forward.

9 Rhonda Griffin, Number 64, if you would come,
10 please.

11 Richard Hallman, Number 68; Number 110; Faron
12 Mixon; Number 117 Brittany O'Berry; Number 128, Okeller
13 Ransom; Number 132 Anthony Rice; Number 136, Ronnie Salley.

14 All right. Now, the balance of the jury panel
15 that's seated, now, I'm going to ask you to go back outside
16 in the hallway. I'll be back with y'all soon as we can.
17 Giving y'all some exercise this morning.

18 (The jury pool left the courtroom.)

19 THE COURT: All right. We've got all the jury out
20 now and the door is closed.

21 All right. Bring Ms. Anderson, Juror Number 3 out.
22 Bring Ms. Anderson out, Latria Anderson.

23 Come on, Ms. Anderson.

24 Shut that door, if you would, please.

25 All right. Swear Ms. Anderson if you would.

1 LATRIA ANDERSON, was duly sworn

2 THE COURT: Thank you, you can just stand right
3 there, Ms. Anderson. The reason I wanted to talk to you a
4 little further, you told us that I believe Ms. Linder, who
5 is one of the witnesses in this case, that she's a second
6 cousin, a relative of yours; is that right?

7 THE JUROR: Yeah.

8 THE COURT: All right. And you also told me, I
9 believe, about a work problem that you had, some problem
10 that you had about being able to go to work or whatever
11 while you're serving on the jury.

12 THE JUROR: Yeah.

13 THE COURT: All right. Where do you work?

14 THE JUROR: LI Enterprises, in Orangeburg, South
15 Carolina.

16 THE COURT: Okay. And you work the night shift?

17 THE JUROR: Yeah.

18 THE COURT: Okay. All right. But I'm primarily
19 interested in your reason with Ms. Linder and all. I asked
20 the question about bias or prejudice or whether or not you
21 favored one side or the other and whether or not you could
22 be a fair juror in this case. That's what I want you to
23 direct your attention to and ask you further questions
24 about is, would the fact that you're kin to Ms. Linder and
25 she's testifying -- she's going to testify in this case

1 about some important facts, you know, as far as this case
2 is concerned. Would you take the attitude, Well, she's my
3 cousin, you know, she's my relative, I'm going to believe
4 what she says, as opposed to anybody else. Is that the way
5 you think about this?

6 THE JUROR: No, Judge, because this here have
7 anything to do with it, I have worked for the county
8 treasurer's office in Walterboro, South Carolina and I look
9 at things as fairly -- I don't judge most things.

10 THE COURT: Well, the important thing is, would you
11 be comfortable serving on the jury and making your decision
12 based on how you see the facts and the law as I tell you
13 the law is in regard to a case like this? Would you do
14 your duty as a juror, be fair and impartial in this case?

15 THE JUROR: Yes.

16 THE COURT: So the fact that she's your cousin,
17 that's not going to be part of influencing you as part of
18 your decision; is that right?

19 THE JUROR: That's right.

20 THE COURT: Okay.

21 Any questions you want to ask her, Solicitor?
22 Solicitor, any questions y'all want to ask her?

23 MR. COOPER: No, sir.

24 THE COURT: All right. Y'all want to ask any
25 questions?

1 MR. HAYES: No, sir.

2 THE COURT: Well, actually, you can go out in the
3 hallway now. Okay. You can go out in the hallway. We'll
4 be back with you in just a few minutes. Thank you very
5 much.

6 THE JUROR: All right.

7 THE COURT: All right. Bring Number 13, Lafaye
8 Bias out, B-I-A-S.

9 LAFAYE BIAS, was duly sworn

10 THE COURT: All right. Ms. Bias, let me just ask
11 you about this, what we're interested in is based upon some
12 of your responses. I believe that you said something about
13 that you or your family had been a victim of a burglary in
14 the past, is that right.

15 THE JUROR: Yes, sir.

16 THE COURT: One? Two?

17 THE JUROR: Two.

18 THE COURT: Two. And how long was that?

19 THE JUROR: The first one was 2017. I said '18,
20 but it was '17.

21 THE COURT: '17.

22 THE JUROR: And then we had another one last year.

23 THE COURT: Okay. Two recent burglaries and
24 everything.

25 THE JUROR: Yes, sir.

1 THE COURT: Of course, this case is about a
2 burglary and all. Would the fact that your home has been
3 burglarized two times in the last few years, would that be
4 a factor that would influence you if you were seated as a
5 juror in this case?

6 THE JUROR: I wouldn't think so.

7 THE COURT: You wouldn't think so. You think you
8 could be fair and impartial in judging whether or not the
9 State had proven him guilty beyond a reasonable doubt even
10 though you have suffered two burglaries, yourself?

11 THE JUROR: I'm not sure.

12 THE COURT: You're not sure?

13 THE JUROR: I'm not sure.

14 THE COURT: Okay. Thank you very much for your
15 honesty in this case then. I'm going to excuse you and all
16 then with that. All right. Thank you very much for your
17 honesty in regard to it. You just have a seat out there in
18 the courtroom.

19 THE CLERK: Number 13.

20 THE COURT: All right. Bring out Number 40, Tracie
21 Davis.

22 Just have a seat at the end down near the end and
23 I'm going to let you go in a little while. Just sit right
24 there. I hope I don't forget about you.

25 TRACIE DAVIS, was duly sworn

1 THE COURT: All right. Ms. Davis, let me ask you
2 some questions here. You told us about, I believe, that
3 you were a cousin -- what was that answer that you gave me?
4 I made a little note about cousin out beside there. Tell
5 me about that.

6 THE JUROR: About we're related?

7 THE COURT: Yes. You're kin to who.

8 THE JUROR: Randy Chestnut.

9 THE COURT: You're kin to him. And you said cousin
10 and all. Is this somebody that you see every month, every
11 once a year, how -- what's your relationship to him.

12 THE JUROR: I haven't seen Randy in a long time.

13 THE COURT: All right. But you say -- I'm trying
14 to figure out you're cousin. That means that your mother
15 or father is brother or sister to his mother or father? Is
16 that right?

17 THE JUROR: No.

18 THE COURT: What is it? How are you related to
19 him?

20 THE JUROR: His mother and my mom or first cousins.

21 THE COURT: I see, so this would be a second
22 cousin.

23 THE JUROR: Yes.

24 THE COURT: Okay. All right. Your parents are
25 cousins. All right. And would the fact that he's your

1 cousin as you've described him and all, would that cause
2 you to believe him against the witness for the State or how
3 do you feel about that? Tell us how you feel about that.

4 THE JUROR: No I wouldn't be bias in the situation.

5 THE COURT: I'm sorry?

6 THE JUROR: I said I wouldn't be bias in the
7 situation.

8 THE COURT: You would not be bias in the situation.
9 You think you could be fair to both the State and the
10 defendant in this case?

11 THE JUROR: Yes, sir.

12 THE COURT: All right. Any questions y'all want to
13 ask her?

14 MR. COOPER: No, sir.

15 THE COURT: All right. Any questions you want to
16 ask her?

17 MR. HAYES: No, sir.

18 THE COURT: All right. Thank you very much go back
19 in the room there. I'm going to let her go in there.

20 THE CLERK: All right.

21 THE COURT: All right. Didn't I send the first one
22 in there.

23 THE CLERK: No, you sent her to the hall.

24 THE COURT: Bring her out. I can't keep up with
25 the traffic.

1 Come on out, Ms. Davis.

2 Let her out in the hallway.

3 All right. Next up is Rhonda Griffin, Number 64.

4 RHONDA GRIFFIN, was duly sworn

5 THE COURT: Ms. Griffin, the reason I wanted to
6 talk to you a little bit further, I think you told us
7 something about being a former law enforcement officer; is
8 that right?

9 THE JUROR: Yes.

10 THE COURT: And how long ago was that.

11 THE JUROR: 2016, I retired.

12 THE COURT: Not that long then. How long were you
13 in law enforcement?

14 THE JUROR: 20 years.

15 THE COURT: 20 years. And who all did you work
16 for.

17 THE JUROR: New York City correction officer.

18 THE COURT: I see. Not anybody local here, but up
19 in New York?

20 THE JUROR: Yes.

21 THE COURT: Okay. So would that -- you know the
22 fact that you worked in law enforcement like that, do you
23 think that would influence you, you know, in any way if you
24 were seated as a juror in this case? Would that be a fact
25 that would lead you one way or the other as far as this

1 case is concerned?

2 THE JUROR: No, sir, I was subpoenaed before on
3 different cases.

4 THE COURT: Okay. You think you could be fair and
5 impartial to both sides in this case?

6 THE JUROR: Yes.

7 THE COURT: So the fact that you worked in law
8 enforcement, that would not lead you to, you know, think
9 that the law enforcement officer's testimony is worth,
10 automatically worth more than somebody else's testimony?
11 You look at everybody individually?

12 THE JUROR: Yes.

13 THE COURT: Okay. Any questions you want to ask
14 her?

15 MR. COOPER: No, sir.

16 THE COURT: Any questions you want to ask her?

17 MR. HAYES: Judge, I would just ask more about the
18 relationship or how did she know the victim in the case.

19 THE COURT: I didn't know about that.

20 Did you say you knew the, I can't remember the
21 name --

22 MR. HAYES: Jeffcoat.

23 THE COURT: Did you say you know her?

24 THE JUROR: Oh, just by going in the store.

25 THE COURT: Just by seeing her in the store. What

1 store is that?

2 THE JUROR: CVS.

3 THE COURT: I'm sorry?

4 THE JUROR: CVS.

5 THE COURT: CVS Drugstore?

6 THE JUROR: Yes.

7 THE COURT: Okay. Any other questions?

8 MR. HAYES: Would that influence her ability to be
9 fair and impartial, Judge?

10 THE COURT: You feel like you ought to rule in her
11 favor?

12 THE JUROR: No.

13 THE COURT: Again, you could be fair and impartial?

14 THE JUROR: Yes.

15 THE COURT: All right. Anything else?

16 MR. HAYES: No, sir.

17 THE COURT: Thank you thank you very much.

18 We'll let her go in the hall also.

19 Number 68, Richard Hallman.

20 RICHARD HALLMAN, was duly sworn

21 THE COURT: All right. Mr. Hallman, you told me,
22 again, told me something about reading about this case, you
23 think, in a newspaper.

24 THE JUROR: On social media.

25 THE COURT: Actually social media. Not the

1 old-fashioned newspaper. Tell me what you read about it.

2 THE JUROR: That somebody broke into Brad's house.

3 THE COURT: That's -- you read that somebody broke
4 into the Jeffcoat's house?

5 THE JUROR: Yes, sir.

6 THE COURT: Did it name who it was or anything.

7 THE JUROR: I don't think so, no.

8 THE COURT: Okay. So you just -- all you really --
9 your knowledge is that it was on social media that somebody
10 broke into this home?

11 THE JUROR: Yes, sir.

12 THE COURT: Anything else that you know about it?

13 THE JUROR: No, sir.

14 THE COURT: Of course, the question is whether or
15 not you could be a fair and impartial juror in regard to
16 this case. In other words, you're going to hear testimony
17 from the State that they think proves that he's guilty.
18 You're going to probably hear -- of course, the burden of
19 proof is always on the State, as I said, to convince you
20 and the other members of the jury that he's guilty beyond a
21 reasonable doubt. Do you think he's guilty just because
22 he's been charged?

23 THE JUROR: I don't know, sir. I'd have to -- I'd
24 have pray about it.

25 THE COURT: I'm sorry.

1 THE JUROR: I said I'd have to pray about it and
2 let the Lord help me with my decision, I guess.

3 THE COURT: All right. Thank you very much for
4 that answer. We'll let you have a seat on that front row
5 next to that lady right there, if you would, stay right
6 there.

7 All right. Next is Number 110, Faron Mixon.

8 FARON MIXON, was duly sworn

9 THE COURT: Thank you.

10 All right. Ms. Mixon, the reason I wanted to talk
11 to you a little further, you indicated, I believe, that you
12 had had three break ins, burglaries at your home, whatever
13 you want to call them at your home; is that right?

14 THE JUROR: Yes, sir.

15 THE COURT: In the last few years.

16 THE JUROR: First in 2012, right after I had my
17 first child. Two years later, two years later.

18 THE COURT: Okay. All right. So I can understand
19 how that would be upsetting and everything. I mean I had,
20 one time I had someone break, you know, come in my house
21 and that upset me. It upset my wife a lot more than me.
22 But anyway, so I'm kind of used to hearing about these kind
23 of things.

24 Anyway, what I want to know is, basically, would
25 that fact, the fact that you've had those burglaries, would

1 that make you more likely to convict somebody whose been
2 accused of that, you know, or could you be a fair and
3 impartial juror, you know, inspite of the fact that you've
4 had those incidents in your life?

5 THE JUROR: I would want to be fair, but it would
6 be very hard for me to be fair.

7 THE COURT: All right. I appreciate your honesty.
8 You have a seat there on the front row, if you would.

9 All right. Number 117.

10 117 is O'Berry, Brittany O'Berry, excuse me.

11 BRITTANY O'BERRY, was duly sworn

12 THE COURT: All right. Thank you, Ms. O'Berry.
13 The reason I wanted to ask you some more questions, you can
14 stay right there. That's all right. I believe you said,
15 one of your answers to my questions and everything was that
16 you knew Mr. Chestnut; I believe that's right --

17 THE JUROR: Yes, sir.

18 THE COURT: Did you make that note -- tell me about
19 that again. You know, how do you know him?

20 THE JUROR: I went to school with him. Me and his
21 sister, we were classmates. I also know his mom. My aunt
22 is his mom's cousin, so we are family.

23 THE COURT: Okay. The point of all these questions
24 and asking and everything is to find out whether or not you
25 would be a fair and impartial both to the State and to the

1 defendant, you know, inspite of the fact that you know him
2 and the relationship of the families and that sort of
3 thing. Can you be fair and impartial to both the State and
4 the defendant in sitting as a juror in this case? What's
5 your answer to that?

6 THE JUROR: No, sir.

7 THE COURT: You don't think you can?

8 THE JUROR: No, sir.

9 THE COURT: All right. Thank you very much for
10 your honesty. We'll have you have a seat on that front row
11 right out there. Just have a seat out there with those
12 other people in the courtroom in that front row.

13 That was number, what ever it is, O'Berry.

14 THE CLERK: 117.

15 THE COURT: O'Berry, 117.

16 All right. Let's see, Okeller Ransom.

17 THE CLERK: That's number 128.

18 OKELLER RANSOM, was duly sworn

19 THE COURT: They also tell you to put your left
20 hand on the Bible and raise your right, but either one
21 works with me. Either one is just as good.

22 Okay. All right. Let's see, Ms. Ransom, you
23 answered the question about -- you said something about
24 that y'all -- you've been a victim of a burglary before, I
25 believe that's what I wrote down. Is that correct?

1 THE JUROR: Yes, it is.

2 THE COURT: How long ago was that?

3 THE JUROR: I think 2007.

4 THE COURT: All right. And of course this case
5 involves a charge of burglary and so the reason I'm asking
6 you more and want to talk to you a bit further is, you
7 know, would the fact that you have had this burglary in
8 your life, would that be very important to you in judging
9 whether or not the State has met the burden of proof of
10 proving him guilty or not beyond a reasonable doubt, or
11 could you be fair and impartial inspite of the fact that
12 you've had this burglary in your life?

13 THE JUROR: I think it would -- being that it
14 happened to me and the way that it happened to me, it would
15 cause me to...

16 THE COURT: You think it would influence you in
17 this case then?

18 THE JUROR: Yes.

19 THE COURT: All right. I appreciate your honesty
20 in regard to that and I'll let have a seat out there on
21 that front row out there.

22 132, Anthony Rice.

23 THE COURT: Okay. Let him swear you in, Mr. Rice.

24 ANTHONY RICE, was duly sworn

25 THE COURT: All right. Mr. Rice, you told me, I

1 believe that you were a neighbor to Mr. Chestnut that you
2 live three doors down from where he lives; is that right?

3 THE JUROR: Yes, sir.

4 THE COURT: Okay. And so now I want to go a little
5 further in regard to this. I've asked you about being, you
6 know, about him being, you having any bias or prejudice or
7 whether or not you could be fair and impartial, that sort
8 of thing, but being a neighbor of his is -- can be a pretty
9 important fact. So what I want to know is, you know, would
10 you automatically, you know, regardless of what the
11 testimony was that comes in during the trial, would you
12 favor him or be against him or whatever based on the fact
13 that y'all are neighbors?

14 THE JUROR: I'll be honest with it.

15 THE COURT: What's your honest answer to that.

16 THE JUROR: Yes.

17 THE COURT: Yes, what.

18 THE JUROR: I would be honest with him.

19 THE COURT: You would be honest with him. You
20 could disregard the fact that y'all are neighbors and make
21 a decision based on the testimony as you find it and the
22 law from this Court?

23 THE JUROR: Yes.

24 THE COURT: So you wouldn't favor the State, you
25 wouldn't be in favor of him, you wouldn't be against the

1 State. You wouldn't be against him?

2 THE JUROR: Right.

3 THE COURT: You'd listen to the testimony, make
4 your decision based on an honest evaluation of the
5 testimony and evidence; is that right?

6 THE JUROR: Yes, sir.

7 THE COURT: All right. Any questions y'all want to
8 ask him?

9 MR. COOPER: No, sir.

10 THE COURT: Any questions y'all want to ask him.

11 MR. HAYES: How long have they been neighbors?

12 THE COURT: How long have y'all been, how long have
13 you known --

14 THE JUROR: I've been there 17 years.

15 THE COURT: 17 years. How long would say you've
16 known about him?

17 THE JUROR: They been there before I been there.

18 THE COURT: Before you. So he was a young person
19 when you first met him and everything?

20 THE JUROR: Yes.

21 THE COURT: All right. Anything else?

22 MR. HAYES: No, sir.

23 THE COURT: All right. Thank you very much. You
24 can go back in the jury room then. Or out in the hallway.
25 Out in the hallway.

1 All right. Ronnie Salley, 136.

2 RONNIE SALLEY, was duly sworn

3 THE COURT: Mr. Sally, you answered some questions
4 that I asked, I don't remember exactly what it was, but
5 something you said, you said something about you've been
6 shot at by somebody that was trying to do something at your
7 property or something like that.

8 THE JUROR: Yes, sir.

9 THE COURT: Could you tell me about that?

10 THE JUROR: Yes, sir, 1:30 at night, I was locking
11 the door and I looked through to the door and the neighbors
12 was sitting on my wife's car, so I asked him what's he
13 doing out there. He kept looking to me and looking to the
14 side.

15 So I asked my wife, I said get my stuff. So by the
16 time I went and got my stuff, and cocked it, and went to
17 the back door, they shot at me, pow pow. So I backed up
18 and called the police and the police officer said, you
19 should have shot him. I said -- he did a report, but
20 nothing happened.

21 THE COURT: Didn't find out who it was or anything?

22 THE JUROR: Well, the neighbor said it was --

23 THE COURT: Well, don't go into that.

24 THE JUROR: Yeah.

25 THE COURT: Nothing else happened as far as that's

1 concerned then?

2 THE JUROR: No, prior to that, a couple of years
3 back, I had my house broke in and somebody stole a radio
4 out of my house.

5 THE COURT: I see, I see. Okay. All right. You
6 didn't get -- where did the bullet go.

7 THE JUROR: I don't know, they found two 40 caliber
8 shell cases in my backyard. I didn't see any scratches on
9 the house or anything like that, but...

10 THE COURT: Maybe just fired up in the air.

11 THE JUROR: It sounded like a cannon.

12 THE COURT: Shook you up pretty good.

13 THE JUROR: Yes.

14 THE COURT: Well, what this case is -- I don't
15 think this case is about any shooting or anything like
16 that, but it's about a burglary. The State claims that he
17 committed burglary at this house here in Bamberg County,
18 but we're wanting to know, would this incident, what's
19 happened to you in the past, would that influence you in
20 deciding whether the State has met its burden of proof in
21 this case.

22 Now, would you be against or in favor of either
23 side of the other because of that?

24 THE JUROR: Any time there's burglaries and stuff
25 like that, but if it's -- I feel, okay, somebody try to

1 steal something from me, you know, I lean to one side, you
2 know.

3 THE COURT: So you think you would favor the State
4 in this case just based on what's happened to you in the
5 past. Is that fair to say?

6 THE JUROR: Yes.

7 THE COURT: I don't want to put words in your
8 mouth.

9 THE JUROR: I understand. Something I work hard
10 for and somebody stealing, it would take --

11 THE COURT: The question is whether the State
12 proves that he did it or not.

13 THE JUROR: I understand.

14 THE COURT: But you think that you maybe would be
15 leaning more to the State and not be fair if you had to be
16 a juror on this case?

17 THE JUROR: Yes, Your Honor.

18 THE COURT: All right. I appreciate your honesty
19 then in regards to it. I will let you have a seat out
20 there on the first row, if you would.

21 THE CLERK: Number 136.

22 THE COURT: Ready? All right.

23 To recap, it looks like I have excused Number 13.
24 Of course, I've already said I've excused Number 59; I've
25 excused Number 60 -- I'm not sure what that is,

1 Mr. Hallman.

2 THE CLERK: 68.

3 THE COURT: All right. 68. Number 110, I believe
4 that is.

5 THE CLERK: Mixon.

6 THE COURT: Mixon. Number 117, O'Berry; Number
7 118, Ransom.

8 THE CLERK: 128.

9 THE COURT: 128, Ransom. And Number 136, is that
10 it?

11 THE CLERK: Salley.

12 THE COURT: And then, of course, I'd already
13 excused Number 159 and 168.

14 So that leave us with how many?

15 THE CLERK: 37.

16 THE COURT: 37. That's still enough hopefully.

17 THE CLERK: Yes, sir, we need 31.

18 THE COURT: All right. Anything else before we
19 bring the jury in and pick the jury.

20 MR. COOPER: Your Honor, could we take a quick 5
21 minute bathroom break.

22 THE COURT: Sure:

23 All right. Now, the people that we have still
24 seated out here that I've excused, I can let y'all go at
25 this time and ask them to call back after six o'clock. Is

1 that correct, Mr. Clerk?

2 THE CLERK: Yes, sir.

3 THE COURT: Make sure they have the number.

4 Call back after six o'clock and find out whether
5 you need to come back raise your hand if you need the
6 number.

7 Give them the number, Mr. Hires.

8 After y'all get your number and everything and
9 understand what you're supposed to do, call back in this
10 evening after six o'clock to receive a recorded message
11 about coming back or whatever. Thank you very much, you're
12 free to go once you get a number.

13 All right. Now y'all can take a 5 minute break and
14 we can go ahead and get the list for them.

15 MR. EMMER: Your Honor, you want to bring jury on
16 in?

17 THE COURT: Yes.

18 MS. ALVES: Judge, there are three people that you
19 have excused who are still outside the door.

20 THE COURT: Which ones?

21 MS. ALVES: 59, 168, and 158.

22 THE COURT: 59 --

23 MS. ALVES: 168.

24 THE COURT: 159 and 168.

25 MS. ALVES: Yes, sir.

1 THE COURT: That's all right. I'll deal with them
2 when we get back.

3 Let's see, wait just a second. Let me ask you to
4 bring in Number 168, Washington, Number 159, Thurman --

5 And what was the next one?

6 MS. ALVES: 59 is Glover.

7 THE COURT: Glover, yeah.

8 Glover, Thurman, and Washington.

9 THE BAILIFF: All right.

10 THE COURT: Let's see, what's your name?

11 THE JUROR: Tiesha Washington.

12 THE COURT: Washington, okay.

13 And your name?

14 THE JUROR: Ashley Thurman.

15 THE COURT: Thurman, okay.

16 We're waiting on Glover. I'm looking for Glover.

17 Okay. Good, we got Mr. Glover; is that right?

18 THE JUROR: Yes, sir.

19 THE COURT: We've got Ms. Thurman and

20 Ms. Washington. All right. I've excused y'all from this

21 case and everything based on your answers and all. And

22 Mr. Glover, I believe you have some pending business before
23 this Court; is that right?

24 THE JUROR: Yes, sir.

25 THE COURT: So that's why I'm excusing you; from

1 serving on the jury in this case.

2 So the three of y'all are free to go and
3 Mr. Glover, you're free for the rest of the week, but the
4 two ladies and all because of your pending business with
5 the Court, but you two ladies. I want y'all to get a
6 telephone number from the clerk here and y'all call back
7 after six o'clock today to get a recorded message about
8 coming back tomorrow or the next day or whatever. So
9 you're free to go today. You can go out this door here.
10 You're free to go today, but call in this evening after six
11 o'clock.

12 Mr. Glover, you don't have to call. You don't have
13 to come back. Thank you for being here.

14 All right. It looks like we'll have time to do
15 opening statements and then break for lunch. Is that how
16 y'all would like to do that?

17 MR. COOPER: Whatever you want, Judge.

18 THE COURT: Come on up and get your lists.

19 We'll probably take a lunch break and do the
20 openings after that then.

21 MR. COOPER: It is after twelve.

22 THE COURT: Yeah, it's after twelve now. I'll give
23 y'all time to look over that.

24 All right. Bring the jury on in.

25 (The jury pool entered the courtroom.)

1 THE COURT: All right. I believe we have all the
2 jury back with us now. I appreciate your patience and all.
3 Some Counties have big jury assembly rooms and all where I
4 can manage the jury that way by using the jury assembly
5 room. Here we don't have that. We just have the hallway.
6 I appreciate your cooperation, though in going out there
7 and letting me deal with the lawyers and talk about things
8 here that are not related to the case exactly, for you to
9 be listening on while I'm doing that with the lawyers,
10 sometimes I have to have some conversations with them and
11 things you don't need to be exposed to. So that's what
12 we've been doing for the last 30 minutes or so.

13 Now, we've gotten to where everybody that's seated
14 out there is qualified, I think, to serve on the jury.
15 I've got all your names. We've got a list. I've got your
16 -- the lawyers now have the list of names that have been
17 drawn to possibly serve on the jury and I'm going to give
18 them a little while to look over the list and then there's
19 a procedure that we'll follow, now we're down to 31
20 people --

21 No, sir, how many do we have?

22 THE CLERK: 37.

23 JURY SELECTION

24 THE COURT: 37 that are still out there that are
25 potentially qualified jurors in this case and I'm going to

1 have the lawyers look at this list a little bit and then
2 we'll follow a procedure to pick the actual twelve jurors
3 and one alternate juror will asked to be seated as the
4 trial jury in this case.

5 So bear with us a little bit more while the lawyers
6 are looking over the list and then we'll proceed to pick
7 the actual twelve, plus one alternate to hear this case.
8 So bear with us a little while longer. We'll get it done
9 just as soon as we can.

10 Let me interrupt your -- Lawyers, listen to me just
11 a minute. I'm going do go ahead, I told you, I think I
12 told you -- and I will do this, I'm going to go ahead and
13 call out the names on this list that we have and that is
14 all -- actually it's been narrowed down to 31 now and all,
15 but so I'm going to call out the names on that list and
16 have them stand briefly so you can put a face with the name
17 on the list.

18 So pay attention if you want to, I'm going to call
19 out the names of the people and all and you remember I told
20 you, you know, I'm going to call your name --

21 So members of the jury, if I call your name, if you
22 would, please, stand from where you're seated, this just
23 allows the lawyers to put a name and a face together. You
24 know, they don't know y'all, y'all don't know them, you
25 know. That will give them an opportunity look at you, see

1 the names and everything, for what that's worth.

2 So I'm going to ask the first one, if you would,
3 stand, and you know, just mentally count to five, one, two,
4 three, four, five, and then you can sit back down, all
5 right? So if you would cooperate with us, give the lawyers
6 a chance to put a face with the name on the list.

7 This is Number 61, Lillie Gordon.

8 If you would, please stand, Ms. Gordon. Thank you
9 very much.

10 Rhonda Griffin

11 THE CLERK: 64.

12 THE COURT: We don't need the numbers. Let me do
13 it. That's all right.

14 Number -- well, just Latria Anderson, thank you.

15 Sara Griffith, Peter Boineau. Thank you.

16 Dondra Glover, Valerie Carrigg, Sylvia Irons, April
17 Aikens, Kathy Lyons, Sally Crosby, Pamela Toomer, Donna
18 Hindman, Anne Linder, William Priester, Austin Jones, John
19 Jennings, Beverly Holman, Tracie Davis, Shandika Stroman,
20 Lenell Raysor, Mary Brant, Charles Birt, Devon Furr,
21 Margaret Wheeler, Gregg Clark, Steve Cornforth, Lucas
22 Huggins, Karen Johnson, John Johnson, Kristi Sease.

23 All right.

24 THE JUROR: My name wasn't called.

25 THE COURT: I'm sorry.

1 THE JUROR: Marion Seymore.

2 THE COURT: Okay. I didn't call everybody's name.

3 THE JUROR: Oh. I thought you did.

4 THE COURT: That's all right. I appreciate you
5 letting me know.

6 There are a few of you out there that are not on
7 the list now. If your name wasn't called, you're not on
8 the perspective list at this point. Breathe a sigh of
9 relief or whatever, if you want to.

10 If your name wasn't called, don't go out and buy a
11 lottery ticket this week.

12 (There was a pause in the proceedings.)

13 THE COURT: All right. Let's pick the jury. Y'all
14 can talk a little bit more as we go along, if you need to,
15 but let's get started with picking the jury.

16 All right. Now give me your attention. All right.
17 Will the State accept or excuse Number 1? Will the State
18 accept or excuse Juror Number 1?

19 MR. COOPER: State accepts.

20 THE COURT: Defendant?

21 MR. HAYES: We would excuse.

22 THE COURT: All right. Would the State accept or
23 excuse Juror Number 2?

24 MR. COOPER: State accepts.

25 THE COURT: Defendant?

1 MR. HAYES: Please excuse Number 2.

2 THE COURT: Number 3.

3 MR. COOPER: State accepts.

4 MR. HAYES: Please seat the juror, Your Honor.

5 THE COURT: All right. Number 4.

6 MR. COOPER: State would excuse this juror.

7 THE COURT: By the way members of the jury panel,
8 the number that you hear called out in no way corresponds
9 to a juror number, so don't try to figure out if they're
10 talking about you by the numbers we use. It does not
11 correspond. These numbers are numbers that have been
12 assigned by the computer down here. We do this all by
13 computer at this point. So the numbers don't correspond to
14 anything that you've heard before.

15 All right. Number 5, State?

16 MR. COOPER: State accepts.

17 THE COURT: Defendant.

18 MR. HAYES: Please seat the juror, Your Honor.

19 THE COURT: Number 6.

20 MR. COOPER: State accepts.

21 MR. HAYES: Please seat the juror, Your Honor.

22 THE COURT: Number 7.

23 MR. COOPER: Please excuse the juror.

24 THE COURT: That's the second for the State. All
25 right.

1 Number 8.
2 MR. COOPER: Please accept the juror.
3 MR. HAYES: Please excuse the juror.
4 THE COURT: Number 9?
5 MR. COOPER: Please accept the juror.
6 MR. HAYES: Please seat the juror, Your Honor.
7 THE COURT: Number 10?
8 MR. COOPER: Please accept the juror.
9 MR. HAYES: Please seat the juror, Your Honor.
10 THE COURT: Number 11?
11 MR. COOPER: Please accept the juror.
12 MR. HAYES: Please excuse the juror, Your Honor.
13 THE COURT: Number 12?
14 MR. COOPER: Please accept the juror.
15 MR. HAYES: Please excuse the juror, Your Honor.
16 THE COURT: Number 13?
17 MR. COOPER: Please excuse this juror.
18 THE COURT: Number 14?
19 MR. COOPER: Please accept this juror.
20 MR. HAYES: Please seat the juror, Your Honor.
21 THE COURT: 15?
22 MR. COOPER: Please accept this juror.
23 MR. HAYES: Please seat the juror, Your Honor.
24 THE COURT: Number 16?
25 MR. COOPER: Please accept this juror.

1 MR. HAYES: Please seat the juror, Your Honor.
2 THE COURT: 17?
3 MR. COOPER: Please accept this juror.
4 MR. HAYES: Please excuse this juror, Your Honor.
5 THE COURT: 18?
6 MR. COOPER: Please excuse this juror.
7 THE COURT: All right. We've got four for the
8 State.
9 Number 19?
10 MR. COOPER: Please accept this juror.
11 MR. HAYES: Please seat the juror, Your Honor.
12 THE COURT: 20?
13 MR. COOPER: Please accept this juror.
14 MR. HAYES: Please seat the juror, Your Honor.
15 THE COURT: 21?
16 MR. COOPER: Please accept this juror.
17 MR. HAYES: Please seat the juror, Your Honor.
18 THE COURT: 22?
19 MR. COOPER: Please accept this juror.
20 MR. HAYES: Please seat this juror, Your Honor.
21 THE COURT: All right. I believe that's twelve.
22 Everybody agree? We've got twelve.
23 MR. HAYES: Yes, sir.
24 THE COURT: All right. We'll proceed now to pick
25 an alternate, one strike and two strikes. The State accept

1 or excuse Juror Number 23 as an alternate?

2 MR. COOPER: State would accept?

3 THE COURT: Defendant?

4 MR. HAYES: Please seat the juror, Your Honor.

5 THE COURT: All right, sir. I believe that's it,
6 then. Twelve jurors and one alternate.

7 All right. I'm going to call out the numbers I
8 have serving. Everybody check your roles and make sure I
9 have recorded this correctly. We have serving Number 3,
10 Number 5, Number 6, Number 9, Number 10, Number 14, 15, 16,
11 19, 20, 21, 22 those are the twelve regular jurors; and 23
12 as the alternate. Everybody agree on that?

13 MR. COOPER: Yes, sir.

14 THE COURT: All right. Mr. Clerk, you want to call
15 them out or you want me to call them out.

16 THE CLERK: It doesn't matter.

17 THE COURT: I'll let the clerk call you forward.
18 If your name is called, bring any personal belongings you
19 may have. Come down here and have a seat over here in the
20 jury box.

21 THE CLERK: Karen Johnson; Steve Cornforth, Gregg
22 Clark, Charles Birt, Mary Brant. Beverly Holman, John
23 Jennings, Austin Jones, Donna Hindman, Pamela Toomer, Sally
24 Crosby, Kathy Lyons. The alternate will be April Aikens.

25 THE COURT: All right. The first thing I'm going

1 to ask this jury to do is, if you would, come out of the
2 jury box right there and go through that door into the jury
3 room, I'll be back with you in just a few minutes. If you
4 would, the jury in there, please.

5 (The jury left the courtroom at 12:33 p.m.)

6 THE COURT: All right. We have the jury out now
7 and the door is closed. Any challenge to the jury as it is
8 presently constituted by from the State?

9 MR. COOPER: No challenges from the State.

10 THE COURT: From the defendant?

11 MR. HAYES: No, Your Honor.

12 THE COURT: All right. Thank you very much. And
13 all the members of the jury panel that are still sitting in
14 the audience, I can release you at this time. You should
15 have, if you haven't already gotten it, we need to give
16 these people a telephone number for you to call in this
17 evening after six o'clock to receive a recorded message
18 about coming back tomorrow, calling back, or whatever. So
19 you're free to go. I'd would be glad to have you stay with
20 us if you want to observe the trial of this case today, but
21 you don't have to. You're free to go. Call that number
22 this evening after six o'clock to receive a recorded
23 message about coming back, calling back, or whatever.

24 That's the jury panel, thank you very much, you're
25 free to go.

1 (The jury pool left the courtroom.)

2 THE COURT: All right, sir. I think the best thing
3 to do is take a lunch break and then we'll come back with
4 y'all's opening statements after lunch, okay?

5 MR. COOPER: Yes, sir.

6 MR. HAYES: Yes, sir, Your Honor.

7 THE COURT: Let's bring the jury in. It's 12:30,
8 we'll be back at two.

9 (The jury entered the courtroom at 12:37 p.m.)

10 THE COURT: All right. You can go ahead and be
11 distributing the notepads to the jury.

12 (The jury members received notepads from the
13 clerk.)

14 THE COURT: All right. Every juror has a notepad
15 and a pen. I'd ask the clerk to go ahead and swear the
16 jury.

17 (The jury was sworn at 12:38 p.m.)

18 THE COURT: Thank you. The jury's been sworn and
19 every juror now has a notepad and a pen.

20 OPENING REMARKS BY THE COURT

21 THE COURT: I do allow jurors to take notes during
22 the trial. Some people don't think that's a very good
23 idea. Some people think it may distract you from what is
24 actually being said and done here in the presentation of
25 the testimony and evidence to you. If you do take notes,

1 do not allow your note taking to distract you. Notes are
2 to be used only as memory aids. Notes are not entitled to
3 any greater weight than the recollection and impression of
4 each juror as to what the testimony or evidence actually
5 was. Those are your notes and your notes only. No one
6 will be looking at them, checking on them, anything of that
7 sort.

8 At the conclusion of the trial, I'd ask you to tear
9 off the notes that you've made, take them with you, tear
10 them up, whatever you want to do. As I said, those are
11 your notes and your notes only. And notes are not entitled
12 to any greater weight than the recollection or the
13 impression of each juror as to what the testimony or
14 evidence actually was.

15 The oath that you just took was an oath whereby you
16 swore you would decide this case based on the testimony and
17 the evidence that was being presented to you from this
18 witness chair and my instruction to you on the law. I
19 really don't know much more about this case at this point
20 in time than you do. All I know is what I told you earlier
21 and that's what I read from this piece of paper, which we
22 call an indictment. It's never proof of the facts or the
23 claims that are made in the indictment, it's just the
24 formal way that we have of notifying a person of what
25 charge they are to face, what the State is claiming in

1 regard to this case.

2 And in this case, as I told you, the State claims
3 that he did on or about December 6, 2018, Mr. Randy D.
4 Chestnut over here that I introduced to you, they claim
5 that he went in the dwelling of Debbie Jeffcoat without
6 permission and with the intent to commit a crime once he
7 got in there. That's called burglary. That's the way we
8 define burglary in this State, in the State of South
9 Carolina. That he committed the crime of burglary, and
10 this case is called burglary in the first degree.

11 Now, he said, I'm not guilty of that charge. As I
12 said, that places the burden of proving him guilty on the
13 State. A person is never required to prove himself
14 innocent. The burden of proof is on the State to convince
15 you by the evidence presented here in court that he's
16 guilty beyond a reasonable doubt.

17 The real question that you'll answer at the
18 conclusion of this case when you go back in the jury room
19 for the twelve of you to deliberate, that's exactly what
20 the question will be, has the State met the burden of proof
21 of proofing Mr. Chestnut guilty of this crime that they've
22 charged him with in this case beyond a reasonable doubt.

23 Keep in mind what your job is going to be at the
24 conclusion of this case.

25 Now, we've just about taken up the morning, we have

1 taken up the morning with the selection of the jury in this
2 case. We're going to take a lunch break now and then we'll
3 come back and we'll hear from the, the opening statements
4 from the State and from the defense. That's the first
5 thing we'll do. The lawyers will explain a little bit more
6 about this case, what the State claims and any response to
7 that claim by the defendant.

8 That's not evidence; that's not evidence. The only
9 testimony and evidence will be coming from this witness
10 chair, people who come up here and tell you what they know
11 about this case. The State will call all the witnesses
12 that they wish for you to hear from and then the defense
13 has an opportunity to call any witness, if he wishes to
14 call any witnesses.

15 As I said, he doesn't have to prove he's innocent.
16 The burden of proof is on the State to prove him guilty
17 beyond a reasonable doubt. That's the way we go about
18 hearing and that's the way we go about learning about this
19 case. Opening statements, witnesses, then we'll have
20 closing arguments then I'll explain to you more fully what
21 your duties and responsibilities are as a jury in this case
22 and you'll deliberate and you'll answer the question, has
23 the State met the burden of proof in this case.

24 Now, I'm going to let you go the lunch. You've
25 already been sworn as the jury in this case. You cannot

1 discuss the case even among yourselves until you've heard
2 all the testimony, all of the evidence has been presented,
3 you've heard the closing arguments, you've had my
4 instructions on the law. That's when you'll discuss the
5 case amongst yourselves. And certainly don't talk with
6 anyone else outside of this courtroom about the case.
7 You're on the jury. If somebody says something to you,
8 wants to stop you, wants to talk to you or whatever, in so
9 far as this is concerned, you let them know you're on the
10 jury. Don't talk to them. Anybody tries to do that, tries
11 to influence you in any way except through the testimony
12 and evidence that comes from this witness stand, you let me
13 know about it and I'll deal with them after that.

14 So no one should influence you in your decision in
15 this case except through the testimony, except through the
16 evidence presented and then your deliberations, the twelve
17 of you after the conclusion of everything that's been
18 presented to you and you're in the privacy of the jury
19 room.

20 So that instruction goes throughout this trial.
21 Keep that in mind. Now, one other thing. Sometimes I'll
22 appoint a foreperson of the jury, other times I let the
23 jury elect a foreperson. I'm going to let you elect your
24 foreperson. When you come back after lunch, y'all just sit
25 down in the jury room and -- well, actually there's another

1 door where they can come in and go out -- I'm going to ask
2 you do that right now. Go back in the jury room and talk
3 about it and decide who you want to be your spokesperson.
4 Really the vote of the foreperson of the jury counts no
5 more than anybody else's vote, all the foreperson does is
6 he or she presides over your deliberations at the end of
7 the case when you're considering your verdict, gets the
8 discussion going, keeps it on track, tries to help out in
9 regard to discussion of the case and also if there's any
10 need for you as a jury to communicate with me about any
11 matter during the course of the trial, the foreperson will
12 be the jury spokesperson for that purpose. So elect a
13 presiding officer, somebody to preside over your
14 deliberations and when you do that you can then leave and
15 go to lunch and be back in here at two o'clock.

16 Come into the jury room, not in --

17 They can come in through a door out there --

18 Is that the best way for them to come in?

19 THE CLERK: They can come up the back steps.

20 THE COURT: Come in -- they'll show you how to get
21 in and out. You don't need to come in the courtroom (sic).
22 Reassemble in the courtroom by two o'clock. We'll get
23 started just as soon as we can after that.

24 So with that I'll let you go. Leave your notepad,
25 put your name on your notepad if you haven't already done

1 so. Leave your notepads in the jury room, bring them back
2 with you after lunch.

3 Let the jury get out.

4 (The jury left the courtroom at 12:46 p.m.)

5 THE COURT: All right. And Mr. Chestnut, is he in
6 custody?

7 MR. HAYES: Yes, sir.

8 THE COURT: He is. So he'll remain with us then
9 over the lunch break then and we'll be back at two o'clock.
10 I appreciate your cooperation. It's about as long as it's
11 taken me to pick a jury in I don't know when. Small
12 Counties have a lot of things. You don't usually have all
13 those issues that came up in picking this jury.

14 Thank you for your cooperation. Two o'clock.

15 (A recess for lunch was observed.)

16 THE COURT: All right. We have Mr. Chestnut back
17 with us and the attorneys are present and we have all the
18 jury.

19 Bring the jury in.

20 (The jury entered the courtroom at 2:06 p.m.)

21 THE COURT: All right. We have all the jury.
22 Did you select a foreperson? You're it?

23 THE JUROR: Yes, sir.

24 THE COURT: Okay. Tell me your name.

25 THE JUROR: Gregg Clark.

1 THE COURT: Clark?

2 THE JUROR: Yes, sir.

3 THE COURT: Okay. I see you on the list here.

4 THE JUROR: 32.

5 THE COURT: All right. Good. And that is the seat
6 that we reserve for the foreperson.

7 And then the alternate juror back there, Ms. Aiken,
8 that's your seat.

9 The rest of you are free to sit anywhere in this
10 jury box you wish to sit. We don't have any reserved seats
11 other than the foreperson sits there, the alternate sits
12 back there. So when you come in, you know, you can pick
13 out a seat if you want to for your particular seat or, you
14 know, you can sit anywhere you want to. There's no
15 reserved seats other than the foreperson and the alternate
16 back there.

17 All right. The jury has been sworn and we'll now
18 proceed with opening statements from the State. Go right
19 ahead.

20 **OPENING STATEMENTS**

21 MR. COOPER: May it please the Court, Your Honor,
22 Counsel, ladies and gentlemen of the jury, this case is
23 about a burglary. It's about a burglary. On December 6th
24 of 2018 **SJ** the young lady right there on that
25 front row, was coming home from school. As she drove to

1 [REDACTED] Street, which is her home, she drove around to
2 the backyard and went towards the back door, as she always
3 does. But something was off. Something was different.
4 The back door was open. And this panicked her because she
5 knew that her parents always kept it dead bolted and
6 locked.

7 She was flustered and she ran to the CVS pharmacy
8 where her mom, Debbie Jeffcoat works and together they
9 called 9-1-1 and went back out to the scene, their home, to
10 meet law enforcement.

11 When they met law enforcement, the first thing they
12 did was explain what happened and then they provided law
13 enforcement with security video footage. This crime was
14 captured on video. And you're going to see that video
15 today. And they're going to explain to you why they had
16 security video, but this video shows two things. It's
17 really in two different files. And the first video,
18 because the camera is motion activated, the first video
19 shows someone who looks like the defendant, albeit, you
20 cannot positively identify him from this video, it's poor
21 quality. But it shows that person breaking into the door
22 and going into this house at [REDACTED] Street in Denmark,
23 South Carolina.

24 The camera cuts off. The camera cuts back on and
25 it shows the subject running out holding a 65 inch

1 television. It's a big flat screen TV. It wasn't easy to
2 carry, but he did. It also showed something of interest.
3 It show that had the person committing this crime had on
4 gloves. And later in this trial, you're going to
5 understand why that's important.

6 But the truth of the matter is, after December 6,
7 this case was at a dead end. As I stated earlier, you
8 couldn't identify the person in the video. It's grainy,
9 it's from a distance. It's a wide angle lens. So the
10 video looks like it's further than it actually is. But you
11 can see the crime being committed. And there's no doubt
12 that a burglary was committed by the person on that video.

13 But like I said earlier, the crime ceased to be an
14 active investigation until Lieutenant Quan Linder of the
15 Denmark Police Department was contacted by the chief of
16 North Police Department. He told Ms. Linder that she
17 needed to speak with one of his officers.

18 MR. HAYES: Objection, hearsay.

19 THE COURT: I'll deal with that.

20 But you can go ahead with your opening statement,
21 just move on from that and what he did.

22 MR. COOPER: Chief Shirer of the North Police
23 Department contacted Quan Linder. Quan Linder, as a result
24 of that went and met with Ms., Officer Anita Chestnut. As
25 a result of that, Lieutenant Linder still didn't believe

1 that she had enough to get a warrant and she was right.

2 It wasn't until December 19th, 2018 when the man
3 sitting right over here, Randy Chestnut, walked up to her
4 patrol car while she was on routine patrol and he confessed
5 that he had committed this crime. He confessed that he had
6 committed this crime. He confessed to this burglary.

7 Now, that confession is not video recorded either,
8 but you're going to hear a good explanation from Lieutenant
9 Linder why it was not. She was on routine patrol. She
10 wasn't actively investigating anything.

11 You're also going to hear testimony from Mr. Karl
12 Schultz, who is retired from the Orangeburg Department of
13 Public Safety. He's a fingerprint expert. You see while
14 Lieutenant Linder was processing this crime scene, she
15 actually found a fingerprint on the doorknob of the door
16 that was busted into by the person on that video. She
17 collected that latent print. She sent it to the Orangeburg
18 Department of Public Safety for processing. There was no
19 value for comparison.

20 However, while this investigation was taking place,
21 before the results came back from that latent print, Mr.
22 Chestnut made a phone call from the Bamberg jail. That
23 phone call was recorded. And you're going to hear that
24 phone call. And in that phone call he says something
25 that's really interesting. I would even call it a second

1 confession. He says, I know the fingerprint isn't going to
2 be mine because I had on gloves. And there ain't no case
3 against me because the conversation with Lieutenant Linder
4 wasn't even recorded.

5 Now, this case is going to take several witnesses.
6 I'm not exactly sure how many, but you're going to hear
7 testimony from that stand and you're going to have evidence
8 that we submit through those witnesses, hopefully presented
9 to you, and there's going to be times where pieces of their
10 answers or what they say or some of that evidence, there's
11 going to be times when it doesn't quite make sense. I just
12 ask that you pay attention throughout the trial because
13 they work and sometimes we have to call witnesses out of
14 what I would call chronological order, you know.

15 This case is like a puzzle. You are not going to
16 be able to listen to one witness and know that the
17 defendant is guilty. The burden of proof on us. We're the
18 State of South Carolina, sitting right here at this table.
19 And we have to prove to you beyond a reasonable doubt of
20 the defendant's guilt. But each of those witnesses, their
21 testimony, this evidence that you're going to see, those
22 are all pieces of the puzzle and it's going to be your job
23 as jurors to put these pieces of the puzzle together.

24 And I am positive that once you review everything
25 and once you have seen the entire case, there is going to

1 be no doubt in your mind that the defendant is guilty of
2 burglary in the first degree. And at the end of this trial
3 I'm going to come back and ask that you return such a
4 verdict of guilty. Thank you.

5 THE COURT: Thank you.

6 Mr. Hayes.

7 MR. HAYES: May it please the Court, Mr. Cooper,
8 ladies and gentlemen, you're here for a jury trial. And as
9 the State in his opening explained to you it is a puzzle.
10 You're going to hear from multiple witnesses, you may have
11 items of evidence introduced and put into the record and
12 from that is what you're going to derive what y'all believe
13 the story to be. And then y'all will listen to the law as
14 the judge will instruct.

15 Now, I'm not here to tell you there wasn't a
16 burglary. Y'all are going to see it on film. Can't argue
17 that. But what we can argue is they have to prove who did
18 it. Can the State beyond a reasonable doubt prove to you
19 that the individual, my client, that they're claiming did
20 it, is that person. And they have to do it beyond a
21 reasonable doubt. And as the State indicates to you in his
22 opening, there wasn't a whole lot to this case.

23 Now, there's a quote from Colin Powell years ago
24 and I can't remember the exacts of it, but it was something
25 to the nature like this, Sometimes the home gets complacent

1 and sometime the visitors have to come and the visitors
2 then have to make the home team bring it. In this case
3 that's the State. They're the home team. We are the
4 visitors.

5 Your job is to make sure that they bring it. That
6 I have bring to you everything that they're telling you
7 they're going to bring. Bring to you the evidence that you
8 require to be beyond a reasonable doubt.

9 You also are the judge of the facts. Your Honor is
10 judge of the law. As that, you will decide credibility.
11 And I believe this judge is going to instruct you in the
12 end, you can believe one witness, you can believe some of
13 every witness, or you can believe none of them. That being
14 said, that means that you can listen to somebody and
15 totally disregard what they say. You can listen to
16 somebody and you can take everything that they say as true,
17 or you can say I don't believe this part and I don't
18 believe this part; but I believe this, and I believe that
19 and that's what you put together from each witness.

20 I agree with the solicitor that this is a puzzle
21 and that you're going to have to pay close attention to
22 every witness.

23 Ladies and gentlemen, at the end of the trial, I'm
24 going to come back to you and I'm going ask you about it.
25 I'm going to tell you what I took from it and I'm going to

SJ [REDACTED] Direct Examination by Mr. Emmer

1 ask you for a not guilty.

2 THE COURT: Call your first witness.

3 MR. EMMER: Thank you, Your Honor, the State calls

4 SJ [REDACTED]

5 SJ [REDACTED] was duly sworn.

6 DIRECT EXAMINATION

7 BY MR. EMMER:

8 Q SJ [REDACTED] can you please state your name for the
9 court and spell it out?

10 A SJ [REDACTED] SJ [REDACTED].

11 Q SJ [REDACTED] how old are you?

12 A I'm 16.

13 Q And where do you currently live?

14 A I live on [REDACTED] Street, Denmark, South
15 Carolina, in Bamberg County.

16 Q And how long have you lived there?

17 A Probably about 7 years, I would say.

18 Q You live with your parents?

19 A I do.

20 Q What are their names?

21 A Robert Brad Jeffcoat and Debbie Jeffcoat.

22 Q You live in Denmark. You go to Bamberg County
23 schools?

24 A I do not.

25 Q Which school do you go to?

SJ - Direct Examination by Mr. Emmer

- 1 A Orangeburg Preparatory.
- 2 Q And what grade are you in?
- 3 A I'm in tenth grade.
- 4 Q You have any extracurricular activities you like to
5 do there?
- 6 A I don't participate in sports, but I do have a job
7 that I go to after school from Monday to Thursday.
- 8 Q What's your job?
- 9 A I tutor two little girls from the lower campus.
- 10 Q December of last year, were you taking part in any
11 school activities?
- 12 A I was, I was working by then.
- 13 Q You were working by then?
- 14 A Yes.
- 15 Q And that's that same job?
- 16 A Yes.
- 17 Q Do you remember an incident that occurred on
18 Thursday December 6th?
- 19 A I do.
- 20 Q 2018?
- 21 A Yes.
- 22 Q And why do you remember that day?
- 23 A Because that was the day that the second robbery to
24 my home had been committed.
- 25 Q What exactly did you do that day?

SJ [REDACTED] - Direct Examination by Mr. Emmer

1 A I came home and the way I drive, the way our house
2 sits is on the corner. So I drove to the road and I pulled
3 in to the backyard. And when you pull in, you can see our
4 kitchen window and you can kind of see our back door which
5 is a little bit covered by a bush, depending on the way you
6 park.

7 So I parked closer to where you couldn't see the
8 door completely, but I could tell that it was open. So I
9 pulled up a little bit more to see if it was open and it
10 was. And I just, immediately, I was so scared I didn't
11 know what do to, so I flew straight up to CVS.

12 Q Were you coming home from school or activity?

13 A Activity.

14 Q And what time do you think you were coming back?

15 A Probably like 4:30'ish maybe.

16 Q Approximately?

17 A Approximately.

18 Q What did you do after you saw the door was cracked?

19 A I flew straight up to CVS.

20 Q Did you go inside?

21 A To CVS?

22 Q No, into the house?

23 A No, I did not, I didn't even get out of the car.

24 Q Okay. When you got up to CVS -- and why are you
25 going to CVS again?

SJ [REDACTED] - Direct Examination by Mr. Emmer

1 A That's where my mom, Debbie Jeffcoat works.

2 Q And when you got there, what did you do?

3 A I parked my car and I just ran straight into CVS
4 back towards the pharmacy.

5 Q Did you go and tell your mom?

6 A I did. At first she wasn't there, she was in the
7 break room, so I told her co-workers and they paged her
8 from the intercom.

9 Q So you ultimately were able to speak with your
10 mother?

11 A Yes.

12 Q And what did she do? What did y'all do?

13 A We, she didn't even clock out. She -- we both got
14 in our vehicles and drove straight home and not only did we
15 call 9-1-1, but so did some of her co-workers.

16 Q Okay. You went back home, who did you meet there?

17 A Law enforcement, Lieutenant Linder.

18 Q Okay. Do you remember if law enforcement, they
19 began collecting evidence?

20 A Yes, Lieutenant Quan did.

21 Q Okay. What did you do after you got back home?

22 A I, I really didn't go inside until law enforcement
23 got there out of fear that there could still be somebody in
24 there because I don't think we had checked the security
25 yet. So I just waited until it was okay to go in there.

SJ - Cross-Examination by Mr. Hayes

1 Q Okay. And how has this incident affected you?

2 A It's been pretty rough because --

3 MR. HAYES: Objection, relevance.

4 THE COURT: Maybe ask her what did you do --

5 I agree with you. I sustain the objection.

6 You can tell about what you did there at the scene
7 there.

8 Anything further?

9 BY MR. EMMER:

10 Q Was there any video of this burglary?

11 A There is.

12 Q Okay. Have you had a chance to review that video?

13 A I have.

14 Q Were you able to identify who it was in that video?

15 A No, I am not.

16 Q Okay. Did I provide that video to law enforcement
17 or your mother?

18 A It was from my mom's phone, but I was the one who
19 e-mailed it to the cops because my mom wasn't entirely sure
20 how do that.

21 Q And this is one of those home security systems?

22 A It's Arlo, so yeah. Security.

23 Q No further questions. Thank you.

24 THE COURT: Any cross?

25 **CROSS-EXAMINATION**

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 BY MR. HAYES:

2 Q Ms. Jeffcoat, do you know Randy Chestnut?

3 A Not personally, no.

4 Q Do you know if your parents know him?

5 A No, they do not.

6 Q Do you know if anybody owed Mr. Chestnut any money?

7 A No.

8 Q You don't know or they didn't?

9 A I'm very close with my parents and they tell me a
10 lot that goes on regarding to out lives and, no, they do
11 not.

12 MR. HAYES: Nothing further.

13 THE COURT: Thank you very much, you can return to
14 your place in the courtroom.

15 Call your next witness.

16 MR. COOPER: State would call Ms. Debbie Jeffcoat.

17 DEBBIE JEFFCOAT, was duly sworn.

18 **DIRECT EXAMINATION**

19 BY MR. COOPER:

20 Q Would you please state your name for the record?

21 A Debra Ann Jeffcoat.

22 Q Ms. Jeffcoat, where do you live?

23 A At [REDACTED] Street or Avenue as I call it.

24 Q It's called both, isn't it?

25 A It is. Denmark, South Carolina, in Bamberg County.

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 Q Okay. And where do you work?

2 A CVS Pharmacy.

3 Q Who lives there with you?

4 A My husband and my daughter.

5 Q And this is your full-time residence?

6 A Correct.

7 Q Is this house in Bamberg County?

8 A Yes.

9 Q How long have you and your family lived there?

10 A Approximately seven to eight years.

11 Q Do you remember an incident that occurred on
12 December 6, 2018?

13 A Yes.

14 Q Why do you remember that day?

15 A Because when my daughter came into the store where
16 I work, you could hear her hysterically crying and then
17 when they paged me, when I went back to the pharmacy,
18 because I work in the pharmacy, they are -- my co-workers
19 already knew what was going on. So she knew to come
20 immediately up there to me when she just said the back door
21 was open, I immediately just grabbed my keys and my boss
22 called 9-1-1 and we called 9-1-1 on the way out.

23 Q Once you were made aware of your home being
24 burglarized, what did you do?

25 A I told her to follow me home and I think they, law

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 enforcement arrived maybe four minutes after we got there.

2 Q Quickly?

3 A Quickly.

4 Q Do you recall, who in law enforcement met you at
5 your residence?

6 A Lieutenant Quan and Chief Grimes both pulled up at
7 the same time.

8 Q Anybody else?

9 A Sheriff Darnell did come back maybe about 15, 20
10 minutes later, stayed while Lieutenant Quan was there.
11 Chief Grimes had to go to another call.

12 Q And did law enforcement begin collecting evidence?

13 A They did.

14 Q Did you actually witness what was collected by
15 chance or --

16 A We --

17 Q -- just saw that they were processing the scene?

18 A We offered what we thought needed -- what -- that
19 had happened prior to that, we had had a break in a week
20 earlier prior to this break in on the 6th of December and
21 when I mentioned this to Lieutenant Quan, asked her if it
22 was possible for her to take fingerprints as well in other
23 parts of the house that had been disturbed, so yes, we
24 offered her areas or objects to take that we found would
25 have had fingerprints on them.

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 Q In regards to only the second incident, what
2 specifically was stolen from your home?

3 A Short of using the catchall phrase of everything,
4 but all jewelry --

5 Q If I may, on camera, what was stolen from your home
6 on December 6th?

7 A On the 6th, I'm sorry. My husband's 65 inch
8 television.

9 Q Okay. Do you have security footage or security
10 cameras up at your house?

11 A We do.

12 Q And why did you -- why do you have security cameras
13 around your house?

14 A Because we had been previously discussing what kind
15 of cameras since October. Our dog was shot and law
16 enforcement was called out that time, but they never
17 discovered who did that. We were in the process of
18 purchasing the cameras when we were burglarized on the 24th
19 of last year, which is a Saturday. And so then we had the
20 cameras bought and put up on December 5th, which is
21 Wednesday, the day before the second burglar occurred.

22 Q Did your cameras or did a camera capture anything
23 during the December 6th, 2018 incident?

24 A It shows an individual walking and jiggling and
25 jimmying the door, getting inside the door.

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 MR. HAYES: Objection, that's not in evidence yet.

2 THE COURT: Well, I can -- I'm going to let her
3 tell what she saw. Go ahead.

4 THE WITNESS: I see the individual enter and then
5 it cuts off because it's motion sensed.

6 BY MR. COOPER:

7 Q Can you also hear on it as well.

8 A If you're listening close enough, our dogs are
9 barking wildly and then the person comes back out, almost
10 as if they might know the cameras are there, I don't know.
11 I mean, we had just put them up. And then they just
12 abscond through the backyard.

13 Q Did the person that you saw on that security camera
14 have consent to go in your home?

15 A No.

16 Q Do you know the defendant in this case?

17 A I do not.

18 Q Have you ever met the defendant?

19 A I have not.

20 Q Talking about the video, can you positively
21 identify who it is committing this burglary?

22 A No, I cannot.

23 Q And why is that?

24 A I've never met the individual. I -- the quality of
25 the video, I mean, I don't --

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 Q It's not a high definition video, is that a fair
2 statement?

3 A I need to get a new security system in.

4 Q Who put up the cameras?

5 A My husband did.

6 Q Did you help him in any way?

7 A We discussed location. A friend had to help with
8 the ladder and his truck. There's three cameras involved.

9 Q And you watched them put the cameras up?

10 A Yes, I did.

11 Q How many cameras in all were put around your house?

12 A There's three total. And we made sure we tested
13 each one.

14 Q Did all the cameras capture this crime?

15 A No. Just the one on the back door.

16 Q Where was the camera that captured the back door,
17 where was that camera actually located?

18 A On that giant pecan tree in the middle of the side
19 yard.

20 Q And how far would you say that tree is from your
21 home?

22 A Probably the distance between you and I.

23 Q And what part of your house, again, does that
24 camera face?

25 A Our back door, off of, it's a great room, it's a

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 big added on great room and there's just one door.

2 Q Are these cameras constantly recording or are they
3 motion activated?

4 A They're motion activated,

5 Q Do you know the name of the system or program that
6 you all use or your cameras use in recording?

7 A It's Arlo. It's also on our phone so we can, we
8 can keep in contact with our home at any time.

9 Q So does it trigger your phone?

10 A Yes, if it's turned up on our phone to hear it.

11 Q Okay. Did the camera on your backyard pecan tree
12 capture this incident?

13 A Yes.

14 Q Do you recall about what time or time frame the
15 incident actually occurred according to your camera system?

16 A It's roughly about like 2:36 p.m. in the afternoon.

17 Q Did you, your husband, or your daughter provide
18 this to law enforcement?

19 A I would -- the three of us -- like SJ said I'm
20 not that computer savvy, so she's the one that sent all the
21 digital to Lieutenant Quan.

22 Q Did anybody provide this security footage to the
23 local news stations?

24 A My husband did.

25 Q I'm going to be showing you what's going to be

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 marked State's Exhibit Number 1. Can you tell the Court
2 and the jury what that is?

3 A That should be the coverage of, the video from our
4 security system.

5 Q How do you know that's what that is?

6 A I've initialed it.

7 Q Have you had an opportunity to review that disk
8 before you initial it?

9 A I have. Plus I reviewed it several times prior to
10 that also.

11 Q And what exactly does this disk show?

12 A It shows someone with no permission entering my
13 home or breaking into and entering my home and walking out
14 with a 65 inch television that was less than 5 days olds.

15 Q Now, is it broken up into two files or is it one
16 video file?

17 A It should probably be two files because --

18 Q Because --

19 A -- it's motion activated.

20 Q Right. So once the subject went inside, the camera
21 shut off?

22 A It shuts off.

23 Q Does this disk fairly and accurately depict the
24 security footage from your system, at your home, located at
25 [REDACTED] Street in Denmark, South Carolina?

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 A Yes, it does.

2 MR. COOPER: Your Honor at this time, the State
3 would ask to admit this into evidence.

4 THE COURT: Any objection?

5 MR. HAYES: No, Your Honor.

6 THE COURT: All right. Go ahead and play it.

7 MR. COOPER: Yes, sir.

8 THE COURT: It's in evidence without objection.

9 (State's Exhibit Number 1 was entered into
10 evidence.)

11 THE COURT: Can we cut the lights off so we can see
12 it a little bit better.

13 (The video was playing.)

14 MR. COOPER: Your Honor, would you mind if we
15 replayed it because it's brief.

16 THE COURT: I'll let I do it again. And if you
17 want to tell us what you see there as far as your --
18 explain any, Ms. Jeffcoat, you can.

19 That's the back of your house?

20 THE WITNESS: That's the back of my house. Like
21 Mr. Cooper had asked, the tree is a huge old pecan tree,
22 probably -- it's -- where the camera is located is probably
23 about as high as the roof of the house which is what, 8
24 feet? And it's no more than the distance between
25 Mr. Cooper and I. So it's really a lot closer than what it

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 appears to be on the video that you're seeing here. Even
2 looking at it on my phone, you can see it a little bit more
3 clearly.

4 But again it's motion sensored. So it doesn't
5 start until something moves. A bird can set it off. The
6 dog, a million times day sets it off unless he's in the
7 house. And sometimes the wind. Basically anything could
8 set it off. That's just how touchy I guess you could say
9 it is.

10 That's the man -- it looks like a man to me, so I
11 say that's him leaving. And then that is also our back
12 area, that whole back area is ours and it appears that
13 person went to the left because if he went that way, to the
14 right, it's to the street, it's to the road.

15 BY MR. COOPER:

16 Q Let me ask you something. Is there a reason you
17 had your trash cans situated that way?

18 A We keep it there kind of as a deterrent. My
19 husband travels and a lot of times it's just my daughter
20 and I home by ourselves. So we generally keep noise making
21 items around that back door because the bedrooms are
22 situated on the front side of the house.

23 Q And in hopes that if someone were to break in, they
24 may have to touch or move a trash can?

25 A Or we hear something as well.

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 Q Yeah.

2 (The video is over.)

3 BY MR. COOPER:

4 Q All right. Ms. Jeffcoat, I'm going to show you a
5 series of still shots that are from this video. This is
6 State's Exhibit --

7 THE COURT: Give the video back to the court
8 reporter then wherever it is.

9 MR. COOPER: Yes, sir.

10 BY MR. COOPER:

11 Q I'm showing you what has been marked as State's
12 Exhibit Number 2, State's Exhibit Number 3, and State's
13 Exhibit Number 4?

14 A Yes.

15 Q Ms. Jeffcoat, I'm showing you what's been marked as
16 State's Exhibits 2, 3, and 4. That's Number 4, that's
17 Number 3 and this one's Number 2. Do you recognize what
18 these are?

19 A The back of my house. Still shots from my security
20 system from the --

21 Q From the video --

22 A -- video.

23 Q From the video that we have just watched.

24 A Right.

25 Q Which has been previously admitted into evidence?

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 A Right.

2 Q Would you mind just explaining to the jury what
3 this picture shows?

4 THE COURT: Is that like Number 2?

5 MR. COOPER: Number 2.

6 THE WITNESS: I just see an individual walking up
7 to the rear door. Having -- I know this is a still shot,
8 but they're going to have to move around the garbage cans
9 and the empty blue bin that we have there. Sometimes
10 there's a propane tank, but the propane tank, we'd moved.

11 BY MR. COOPER:

12 Q Is there anything significant about his hands in
13 that picture?

14 A I don't see his hands.

15 Q And why is that? What is that?

16 A It appears to be that there's gloves on them, but
17 I'm not 100 percent sure, so I can't say that.

18 Q And looking at Exhibit Number 3, it's the same
19 person. Up at -- at this point they're at the door?

20 A I mean, I don't know -- they're touching, either
21 they're having to touch the handle or push the door,
22 they've got to do something to jimmy the door. You know I
23 watch enough television, I mean credit card, I don't know,
24 but --

25 Q But you got the door locked?

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 A The door is locked and bolted.

2 Q And bolted?

3 A Uh-huh.

4 Q And what does this picture show?

5 A Of them leaving -- of that person leaving. You can
6 clearly see the gloves in this picture with my husband's
7 65-inch television.

8 Q And are these pictures, are they a fair and
9 accurate depiction of the video which has been previously
10 admitted?

11 A Yes.

12 MR. COOPER: Your Honor, at this time, the State
13 would ask to admit Exhibits 2, 3, and 4 into evidence.

14 THE COURT: Any objection to those?

15 MS. ALVES: No, Your Honor.

16 THE COURT: All right. So it's admitted into
17 evidence.

18 (State's Exhibit Number 2, Number 3, and Number 4
19 was admitted into evidence.)

20 THE COURT: And you can pass them around now or the
21 jury will have them at the end of the case, whatever you
22 want to do.

23 MR. COOPER: Sure, I'll pass them out now.

24 THE COURT: As I said, you will have those with you
25 at the end of the case when you're considering your

Debbie Jeffcoat - Direct Examination by Mr. Cooper

1 verdict, but you can pass them around now.

2 BY MR. COOPER:

3 Q As we had previously discussed, Ms. Jeffcoat, the
4 quality of this video footage, I wouldn't call it poor
5 myself, but it's not high definition, is it?

6 A I don't have anything to compare that with. I'm
7 not the person to...

8 Q And again, you're not able to positively identify
9 the person in the video?

10 A No.

11 Q Have you ever had any dealings with Mr. Jeffcoat --
12 I mean, Mr. Chestnut?

13 A No.

14 Q Never seen him a day in your life?

15 A I know who the person is. I'm not the one that
16 said that's who's in the video or in the picture.

17 Q Yes, ma'am. Thank you Ms. Jeffcoat, please answer
18 any questions the defense has for you?

19 THE COURT: Now, you can wait or pass that around
20 or whatever you want to do.

21 MS. ALVES: Judge, I'll wait until they're finished
22 looking at them.

23 THE COURT: All right.

24 (There was a pause in the proceedings.)

25 THE COURT: All right. Any cross-examination?

Debbie Jeffcoat - Cross-Examination by Ms. Alves

1 MS. ALVES: Yes, sir.

2 CROSS-EXAMINATION

3 BY MS. ALVES:

4 Q Ms. Jeffcoat, you said that your house was
5 burglarized about -- at the end of November?

6 A Correct.

7 Q Okay. Is that before or after Thanksgiving?

8 A It was on a Saturday.

9 Q After Thanksgiving?

10 A After Thanksgiving.

11 Q Okay. But that was before you brought the TV home
12 or after?

13 A We had two TVs since then. The first TV was stolen
14 and then we had to buy a new one. After the first
15 burglary, we had just bought a new TV.

16 Q And that was the burglary -- that was the TV that
17 was stolen in the video?

18 A No. That was the second television that was
19 stolen.

20 Q I'm sorry?

21 A Oh, wait a minute there was --

22 THE COURT: Take your time.

23 BY MS. ALVES:

24 Q Yeah.

25 A The first burglary occurred on the Friday night

Debbie Jeffcoat - Cross-Examination by Ms. Alves

1 after Thanksgiving, between Friday and Saturday night
2 because I was away on vacation and my husband was out of
3 town. The only thing not taken from the house on that
4 particular burglary was the 65-inch television. All the
5 other televisions were removed from the home, along with
6 numerous other items.

7 Q Okay.

8 A That video shows the TV that was not taken at the
9 first burglary, that shows the person coming back and
10 getting the only thing left to take after that first
11 burglary a week prior to December 6.

12 Q Okay. So on the time stamp for this video, it
13 looks like this burglary occurred around, I don't remember
14 exactly what time, it was about 2:40, you said?

15 A I said 2:36, roughly.

16 Q Okay.

17 A Estimation. Roughly.

18 Q Between the -- maybe that's between the two
19 cameras. So about 2:36?

20 A Sure. I mean I can probably bring it back up on my
21 phone if I need to.

22 Q No, that's fine. I just wanted to get an
23 approximate.

24 Now, what time did your daughter come to get you at
25 CVS?

Debbie Jeffcoat - Cross-Examination by Ms. Alves

1 A I don't even remember the time when it happened.
2 I'd have to go back and look at my time card. I believe it
3 was 4:43, 4:45, approximately, I don't know the exact time.

4 Q Okay.

5 A It wasn't relevant.

6 Q Okay. So it was about two hours -- I'm not going
7 for an exact to the minute, but it's about two hours
8 between the time the burglar left and the time your
9 daughter would have gotten home?

10 A I mean it's possible. I mean, I'd have to look at
11 the time frame exactly, which can be done. I can find out
12 the exact time. My concern at the time was my daughter --

13 Q I understand.

14 A -- so I wasn't paying attention to what time the
15 clock said.

16 Q I understand. Okay.

17 And going back to that first burglary right after
18 Thanksgiving, when did y'all discover that burglary?

19 A When my husband came home from Atlanta that morning
20 at ten o'clock.

21 Q Saturday morning?

22 A Correct.

23 Q On the 24th of November of 2018. So somebody --

24 A -- about ten o'clock, approximately.

25 Q So somebody had robbed y'all on Friday night and

Debbie Jeffcoat - Cross-Examination by Ms. Alves

1 taken everything except for the 65-inch TV?

2 A They took the frame or the mounting unit that we
3 were going to mount the 65-inch television, but they
4 neglected to take the television.

5 Q And the police came out that time?

6 A There was a police officer that came that day.
7 Brad's the one that handled that that time. My husband
8 handled that at that time. I had to drive from Charlotte
9 to come home.

10 Q Okay. And do you know if the police took
11 fingerprints and did -- collected evidence?

12 A I don't know. From what I understand, no, nothing
13 was really done at that time.

14 Q Okay. Well, do you know what police officers came?

15 A I don't -- there was one officer. I don't know --
16 I wasn't here. I wasn't there when he came out, so I don't
17 know his name.

18 Q Okay.

19 A I just know that he didn't do anything really.

20 Q Okay.

21 A So there wasn't much followup to it until, of
22 course, I went and saw Chief Grimes and started asking
23 questions and --

24 Q Okay. And when you had this burglary happen on the
25 6th of December and you and your daughter went home and met

Debbie Jeffcoat - Cross-Examination by Ms. Alves

1 the police there, you told them that -- you told them
2 pretty shortly after they arrived that you had video?

3 A Actually SJ [REDACTED]'s the one that mentioned the video.

4 Q Okay.

5 A It had kind of slipped my mind at the time because
6 like I said my concern was my daughter's welfare at the
7 time.

8 Q Yes, ma'am. And so she told about the video?

9 A Correct. And she had it pretty much e-mailed to
10 Lieutenant Quan within 30 minutes.

11 Q So right then. And then she was able to pull it up
12 and send it?

13 A Correct.

14 Q Okay.

15 A We all sat and watched it.

16 Q By all, you mean?

17 A It was me, my daughter, Sheriff Ed Darnell was
18 there -- he's a family friend -- and Lieutenant Quan.

19 Q And you didn't recognize the person on the video?

20 A No.

21 Q Did you and your husband -- did your husband ever
22 look at the video?

23 A He saw it immediately. In fact, he stopped and
24 pulled over his own vehicle to look at his phone at the
25 time because you could pull it up on our phones and watch

Debbie Jeffcoat - Cross-Examination by Ms. Alves

1 the video.

2 Q Okay.

3 A I mean if we had been watching it like live
4 television, we could have actually seen it happening and
5 maybe my daughter would have avoided having to come home to
6 any of that at all.

7 Q Do you know if your husband recognized the person
8 on the video?

9 A No.

10 Q He did not or you don't know?

11 A No, I would not be able to tell who that person
12 was.

13 Q Did you know Mr. Randy Chestnut?

14 A Never met him.

15 Q Had you ever heard his name before?

16 A Never.

17 Q Okay. So you never seen him before as far as you
18 know?

19 A As far as I know, I've never seen him.

20 Q Do you know if anybody in your family knows him?

21 A Nobody in my family that I'm aware of knows him
22 either.

23 Q Okay. So you're -- you know for certain that your
24 husband does not know him?

25 A Correct.

Debbie Jeffcoat - Cross-Examination by Ms. Alves

1 Q And did you or your husband ever owe him money?

2 A No.

3 Q Okay. Did you or your husband -- did you ever --
4 and I apologize for asking this, but did you ever have sex
5 with him or offer to have sex with Mr. Chestnut?

6 A No.

7 Q No. Okay. Have you ever been told that -- have
8 you been told that -- have you been asked these questions
9 before about that?

10 A No.

11 Q Nobody's ever asked you if you knew Mr. Chestnut?

12 A No.

13 Q Or if you owed Mr. Chestnut any money?

14 A No.

15 Q Did anybody ever ask you before -- before I just
16 asked you have you ever offered to have sex with Mr.
17 Chestnut -- and I'm not saying you did at all. Please
18 don't think I'm just saying, I'm just asking the questions.
19 Nobody's ever asked you this question before?

20 A No.

21 Q And do you know if your husband owes Mr. Chestnut
22 any money?

23 A I know he doesn't.

24 Q Okay. And has anybody ever asked you, or as far as
25 you know your husband, about any debts owed Mr. Chestnut?

Laquana Linder - Direct Examination by Mr. Cooper

1 MR. COOPER: Objection, asked and answered.

2 MS. ALVES: I'm asking whether she --

3 THE COURT: I think it's pretty close, but go
4 ahead.

5 BY MS. ALVES:

6 Q Did anybody ever before -- I've just asked you if
7 you or your husband owe any debt to Mr. Chestnut?

8 A No, we don't owe any debt to anybody.

9 Q Yes, ma'am. Thank you. You don't have any further
10 questions.

11 THE COURT: Anything on redirect?

12 MR. COOPER: No, Your Honor.

13 THE COURT: Thank you very much, you can return to
14 your place in the courtroom.

15 Call your next witness.

16 MR. COOPER: At this time, Your Honor, the State
17 would call Lieutenant Laquana Linder.

18 LAQUANA LINDER was duly sworn.

19 **DIRECT EXAMINATION**

20 BY MR. COOPER:

21 Q Lieutenant, where are you currently employed?

22 A Denmark Police Department.

23 Q And how long have you worked there?

24 A Nine years.

25 Q What other prior law enforcement experience have

Laquana Linder - Direct Examination by Mr. Cooper

1 you had?

2 A I actually started out at Denmark Police Department
3 in 2001. I went to the Orangeburg County Sheriff's
4 Department, Rock Hill Police Department, St. George Police
5 Department and came back to Denmark.

6 Q Have you had any training in law enforcement?

7 A Yes.

8 Q Can you explain what training you've had?

9 A When I worked for the Orangeburg Sheriff's
10 Department, I was actually in investigations.

11 Q Were you working for the Denmark Police Department
12 on December 6, 2018?

13 A Yes, sir.

14 Q Do you recall being dispatched to [REDACTED] Street
15 or [REDACTED] Avenue on that date?

16 A Yes, sir.

17 Q Do you recall about what time?

18 A Looking at my report, the call came out about 4:50.

19 Q And is that location within Bamberg County?

20 A Yes, sir.

21 Q And who lives there?

22 A Ms. Debbie Jeffcoat, her husband, and her daughter.

23 Q And when you got to that scene, who did you meet
24 upon your arrival?

25 A Ms. Debbie Jeffcoat and her daughter SJ [REDACTED]

Laquana Linder - Direct Examination by Mr. Cooper

1 Q What was the nature of the call?

2 A It was in reference to a burglary.

3 Q What was reported to have been stolen from this
4 location?

5 A A large screen television.

6 Q And were you provided with a serial number for that
7 television?

8 A Yes.

9 Q What did you do with that serial number?

10 A With that serial number, I had it entered into the
11 system NCIC, as stolen.

12 Q What is NCIC?

13 A It's a nationwide data base where serial numbers,
14 model numbers are entered, pretty much if law enforcement
15 runs that number, regardless of where in the nation, it
16 will come up as stolen out of Denmark.

17 Q And has that television ever been recorded -- I'm
18 sorry, I mean recovered, to your knowledge?

19 A No, sir.

20 Q Did anyone provide you with a video from a security
21 camera?

22 A Yes.

23 Q At the location?

24 A Yes.

25 Q And you reviewed it and you just saw it in the

Laquana Linder - Direct Examination by Mr. Cooper

1 courtroom as well; is that right?

2 A That's correct.

3 Q And in reviewing this video, what do you see?

4 A A male approached the door. He used force to get
5 inside, in there a few minutes and then comes out with a
6 television.

7 Q And in watching that video, were you able to
8 positively identify the defendant as the suspect in that
9 video?

10 A No, sir.

11 Q In fact, you weren't even able to develop a
12 potential suspect really --

13 A No, sir.

14 Q -- at this time with this evidence that you had?

15 A No, sir.

16 Q How did you determine the defendant to be the
17 subject on that video?

18 A I was contacted by the North City, Chief Lin
19 Shirer, in reference to a possible person that Anita seen
20 in the videos.

21 Q And without testifying as to what Chief Shirer
22 said, after speaking to him, what did you then do?

23 A I asked him if he thought that the young lady that
24 worked with him, if she would speak with me. He provided
25 me her number and I made contact with her.

Laquana Linder - Direct Examination by Mr. Cooper

1 Q Who did you make contact with?

2 A Anita Chestnut.

3 Q Is she an officer at the City of North?

4 A Yes.

5 Q And you met with her?

6 A That's correct.

7 Q And after speaking with her, what did you do?

8 A After speaking with her, I pretty much asked her if
9 she had spoken with her brother, just to let her know that
10 I wanted to talk to him.

11 Q And she had seen the video?

12 A Yes.

13 Q Did you show it to her or had she seen it
14 previously?

15 A She had seen it previously.

16 Q Do you know how she saw it?

17 MR. HAYES: Objection.

18 THE COURT: Well, unless she was there to start
19 with or whatever, to --

20 Ask another question.

21 MR. COOPER: Yes, sir.

22 BY MR. COOPER:

23 Q Lieutenant, while processing the scene, did you
24 collect any other evidence other than the video?

25 A Yes, a latent print off the door.

Laquana Linder - Direct Examination by Mr. Cooper

1 Q Do you recall the case number you assigned to this
2 case, Officer?

3 A 18-0394.

4 Q Do you know what this is?

5 A Yes.

6 Q What is it?

7 A It's the bag that I placed the latent card in.

8 Q So that card is currently in there?

9 A Yes, sir.

10 Q And what did you do with this piece of evidence?

11 A I made contact with Orangeburg Public Safety to see
12 if they would assist in processing that latent print.

13 Q And you took this to them?

14 A Yes, sir.

15 Q Yourself?

16 A Yes, sir.

17 Q So do you remember what day it was that you met
18 with Officer Anita Chestnut?

19 A It probably would have been around December 18th.

20 Q And had you ever had the opportunity to meet with
21 the defendant himself?

22 A Yes.

23 Q And what day was that?

24 A That was December 19th.

25 Q How did that occur?

Laquana Linder - Direct Examination by Mr. Cooper

1 A I was doing routine patrol. I pulled up to the
2 Denmark grocery store and I saw the guys sitting on the
3 side of the grocery store. So pretty much I was pulling up
4 to speak with those guys.

5 Q That something you normally do?

6 A Yes, sir.

7 Q Why do you do that?

8 A Like I said just routine patrol and normally, I'm
9 very familiar with the citizens in Denmark, so if I see
10 them, I get out and talk to them or pull up to them and
11 speak to them and...

12 Q See what the rumors in Denmark are, see what's
13 going on kind of thing?

14 A Yes, sir.

15 Q When you approached this group of individuals, did
16 you know that the defendant would be there?

17 A No, sir, I didn't.

18 Q And had you had any prior dealings with him?

19 A No, sir.

20 Q How did you know who he was?

21 A Just from going to other calls, just knowing that
22 that's who he was.

23 Q I got you. So you never had any prior -- you never
24 had any prior dealings with him being in trouble, but you
25 knew who he was being around town?

Laquana Linder - Direct Examination by Mr. Cooper

1 A Yes.

2 Q And so you know what he looked like?

3 A Yes.

4 Q Knew who he was?

5 A Yes.

6 Q You just never had personally met him?

7 A Correct.

8 Q And did a person that you identify as the defendant

9 approach your vehicle?

10 A Yes.

11 Q And when he approached, where were you at that

12 time?

13 A I was sitting in my patrol car.

14 Q Was your window down?

15 A Yes.

16 Q And where was he?

17 A He was standing on the sidewalk on the side of the

18 grocery store.

19 Q Did he walk up to you?

20 A Yes.

21 Q And about how close did he get to you?

22 A I would say about two or three feet.

23 Q Did -- before we get into any conversation that may

24 or may not have been, did you have your security camera on

25 you?

Laquana Linder - Direct Examination by Mr. Cooper

1 A Yes.

2 Q But was it recording?

3 A No, sir.

4 Q Why not?

5 A Pretty much when I'm on routine patrol, I don't
6 have it.

7 Q It's not on?

8 A I get out on a call or I'm interviewing someone,
9 I'll turn it on.

10 Q On this day, did you ever place the defendant in
11 handcuffs or detain him or put him under arrest?

12 A No, sir.

13 Q What did he say to you?

14 A He turned around and he said --

15 MR. HAYES: I'm going to have an objection that we
16 probably need to take up outside the presence of the jury.

17 THE COURT: Members of the jury panel, I need you
18 to go to the jury room for just a few minutes. I'll be
19 back with you just as soon as I can. If you would go to
20 the jury room while I hear from the lawyers.

21 (The jury left the courtroom at 3:05 p.m.)

22 THE COURT: All right. We have the jury out, the
23 door closed. I believe the question was something like
24 what did Mr. Chestnut, the defendant, say to you.

25 You have an objection to that?

Laquana Linder - Direct Examination by Mr. Cooper

1 MR. HAYES: Yes, sir, there are portions of his
2 statement and I would renew my objection from yesterday.

3 THE COURT: All right.

4 MR. HAYES: But, Your Honor, I have a three tiered
5 objection to portions of this statement. One is 401 --

6 THE COURT: Let me say I've already ruled in regard
7 to the voluntary nature of it, it was not compelled and he
8 wasn't under arrest. It was voluntarily given, it was
9 admissible as far as any objection like that is concerned.
10 So that ruling would carry forward at this point. Anything
11 else?

12 MR. HAYES: Yes, sir, under 403 and 404.

13 THE COURT: All right. What you want to say about
14 that.

15 MR. HAYES: Portions of the statement allude to Mr.
16 Chestnut stating that he was owed money from what appears
17 to be drug dealing, I believe that the issue of drug
18 dealing or being owed money because of that would be --

19 THE COURT: I didn't hear anything that I
20 interpreted it in any way implying drug dealing or
21 anything. There was reference about -- some money
22 reference about owed money or something, but there was
23 nothing as far as any drugs were mentioned.

24 MR. HAYES: The statement is, they think they can
25 just get my stuff and not pay me for it.

Laquana Linder - Direct Examination by Mr. Cooper

1 THE COURT: Okay.

2 MR. HAYES: Judge, I see that as allude to drugs.
3 I believe that is irrelevant. It is prejudicial it would
4 be improper character evidence.

5 THE COURT: Of course, if he said that that's what
6 he said.

7 MR. HAYES: Judge, but --

8 THE COURT: You think that that somehow is more
9 prejudicial than worth any probative value?

10 MR. HAYES: Yes, sir. It would be painting him as
11 a drug dealer. I wouldn't have an issue with that he just
12 owed money.

13 THE COURT: Well, I appreciate that, but I overrule
14 that objection. Anything else?

15 MR. HAYES: Beg the Court's indulgence.

16 (There was a pause in the proceedings.)

17 MR. HAYES: Judge, I also think there was no
18 connection between this particular statement and this
19 burglary. She admitted that yesterday on the stand and
20 there was no further questioning as to that it belonged to
21 this, in this situation, that it was speculation that is
22 connected to the Jeffcoats.

23 THE COURT: I appreciate that, but I overrule that
24 objection.

25 Bring the jury back in.

Laquana Linder - Direct Examination by Mr. Cooper

1 (The jury entered the courtroom at 3:08 p.m.)

2 THE COURT: All right. We have the jury back with
3 us and I believe the question was something like, what did
4 Mr. Chestnut say to you. Is that what you're asking?

5 MR. COOPER: Yes, Your Honor.

6 THE COURT: You may answer that question.

7 THE WITNESS: Mr. Chestnut pretty much stated, Hey
8 Quan, my sister told me you needed to talk to me. And I
9 told him, I said yes, I do. When you're ready come holler
10 at me.

11 You want me to go further.

12 THE COURT: Keep on going.

13 MR. COOPER: Yes, ma'am, go ahead.

14 THE WITNESS: Okay. There's some profanity.

15 THE COURT: You've got permission to say exactly
16 what he said.

17 THE WITNESS: Okay. I told him yeah, when your
18 ready come holler at me.

19 Mr. Chestnut stated, those people did me wrong.
20 They think they can just take my stuff and not pay me for
21 it. Mr. Chestnut then went onto state that he knew they
22 had been going around showing a video and people were
23 saying it was him. Mr. Chestnut state that had he had been
24 asking the husband and telling that I mean he wanted and
25 needed his money. Mr. Chestnut stated he went and took

Laquana Linder - Direct Examination by Mr. Cooper

1 what was his. He stated that he knew they had them cameras
2 up and he started to take them shits too. He said that he
3 wasn't working so he couldn't just let them not pay him
4 because they owe him approximately \$3,000. Mr. Chestnut
5 stated that there on pills and all and he just wanted his
6 money.

7 Mr. Chestnut stated that one day the man's wife
8 sicked their dog on him while he was asking them for his
9 money. Mr. Chestnut stated that the day the man's wife
10 made the dog bite him that she had just gotten home and was
11 getting bags out of her car. Mr. Chestnut stated he
12 actually talked to a Denmark officer which was a black guy
13 who was sitting at the flea market eating a salad, but the
14 officer about didn't do anything, but told him that other
15 people had been complaining about the dogs.

16 Mr. Chestnut stated that they just talked a lot of
17 shit to him, to include calling him a nigger and was just
18 very nasty to them. He stated that if they wasn't going
19 the pay him his money, they should have never gotten his
20 shit. Mr. Chestnut stated that the husband offered him to
21 fuck his wife and he told him that he didn't want his nasty
22 wife he wanted his money.

23 Mr. Chestnut stated that he wasn't the only one
24 that they have called and had their dog chase or bite. Mr.
25 Chestnut also stated that the husband pulled a gun on him

Laquana Linder - Direct Examination by Mr. Cooper

1 one day. Then Mr. Chestnut stated to me that he was going
2 -- he was not going to do any running and if something came
3 about what he did, to just get in contact with his sister
4 or mother and he would come turn himself in to me.

5 Mr. Chestnut advised me that I wasn't going to have
6 any more trouble out of him and that he was going to leave
7 the people alone, although he was out of a lot of money.

8 BY MR. COOPER:

9 Q During this conversation, what was Mr. -- what was
10 his demeanor?

11 A He was just standing there talking.

12 Q Calm?

13 A Calm.

14 Q So did he ever specifically admit to taking the
15 television?

16 A No, he didn't say what he took.

17 Q But he stated that he took something?

18 A Yes.

19 Q And he did admit that he saw the cameras there?

20 A Correct.

21 Q Did he also -- you stated earlier he would turn
22 himself in eventually, did he ever do that?

23 A No, sir.

24 Q Did you have, or do you at this time, have any
25 reason to believe that the victims in this case have bought

Laquana Linder - Direct Examination by Mr. Cooper

1 anything from the defendant?

2 A No, sir.

3 Q Lieutenant Linder, I'm going to be showing you what
4 is marked as State's Exhibit Number 4. I'm sorry, 5. I'm
5 showing you what's been marked as State's Exhibit Number 5.
6 Can you tell the jury what that is?

7 A This is a disk of a jail phone call.

8 Q How are you able to recognize that?

9 A It has my initials on it.

10 Q Have you had an opportunity to review it?

11 A Yes, sir.

12 Q And is it a fair and accurate -- is what's on this
13 disk a fair and accurate description of the phone call made
14 by the defendant on February 13th 2019?

15 A Yes, sir.

16 Q And --

17 MR. HAYES: Objection. I don't know what her basis
18 is for knowing about the phone call.

19 THE COURT: Well, ask questions to establish how
20 she listened to it, why she got to listen to it, whatever.

21 MR. COOPER: Yes, sir.

22 THE COURT: Give us some background.

23 BY MR. COOPER:

24 Q Lieutenant Linder, you've investigated this case
25 that we're here for today in trial; isn't that right?

Laquana Linder - Direct Examination by Mr. Cooper

1 A That's correct.

2 Q And preparing for your testimony today, you had an
3 opportunity to work with other agencies, including the
4 solicitor's office, and including the Bamberg County
5 Sheriff's Office in reviewing the evidence in this case?

6 A That's correct.

7 Q And --

8 THE COURT: Well apparently Mr. Chestnut was
9 arrested and put into the jail at some point; is that
10 right?

11 THE WITNESS: That's correct.

12 THE COURT: Okay. Go ahead.

13 BY MR. COOPER:

14 Q And in sitting together, you had an opportunity to
15 review this disk?

16 A That's correct.

17 Q And you --

18 THE COURT: Where did you get it?

19 BY MR. COOPER:

20 Q Where did you get this disk?

21 A From you.

22 Q The solicitor's office?

23 A Yes.

24 Q And when you listened to it, what did you hear?

25 A I heard a male voice that I recognized to be Mr. --

Laquana Linder - Direct Examination by Mr. Cooper

1 MR. HAYES: Judge, I object to this.

2 THE COURT: Members of the jury panel, I need you
3 to go to the jury room, please.

4 (The jury left the courtroom at 3:16 p.m.)

5 THE COURT: We're going to take a short break at
6 this time, a mid afternoon break. Tell them they're going
7 to have a 10 minute mid-afternoon break.

8 All right. Let's -- the door's closed, the jury's
9 out. Now, let's go ahead and play it and let her testify
10 what she can about it after she's heard it and we'll see
11 what objections come then or whatever. But go ahead and
12 play it and let's see.

13 (The jail phone call is playing.)

14 THE COURT: Well, I must say, I can't understand
15 about 90 percent of whatever is being said on there myself,
16 you know, but did you ever think about trying to produce
17 maybe a transcript of what that was to help me and the jury
18 understand what was going to be said?

19 MR. COOPER: Your Honor, my plan was not to admit
20 this piece of evidence through Lieutenant Linder. My plan
21 is to admit it through Chief Deputy Ben Hay. And I only
22 planned on publishing about minute 2 to about minute 3:30
23 to the jury. The reason for that is --

24 THE COURT: Well, that's what I was going to get
25 around to. What is it on there -- like I said, I can't

Laquana Linder - Direct Examination by Mr. Cooper

1 understand about 90 percent or more of what's being said,
2 but what is on there that you think is relevant to this
3 case?

4 MR. COOPER: Your Honor, he says at about minute
5 2:10, quote, I already know it ain't -- he's referencing
6 the fingerprint analysis and waiting on those results. He
7 says, quote, I already know it ain't mine, I had gloves on,
8 unquote. And then he goes into discussing the case and
9 says, quote, it's her word against mine and she ain't got
10 nothing on record.

11 THE COURT: Okay. Well, that -- all that can come
12 in -- would be relevant and would be admissible I think.
13 You know I'll be glad to hear from the other side, but, you
14 know, it's difficult to deal with. A lot of stuff on there
15 would not be admissible or whenever, but I think those
16 statements are. But I'll be glad to hear from you about
17 what your objections are. And you don't have to tell me
18 anything about it, but we have to figure out some way to
19 deal with it.

20 MR. HAYES: Judge --

21 THE COURT: I have to figure it out. I think the
22 statement, I already know it ain't mine, I had gloves on,
23 with a little bit leading up to that, I think that would be
24 admissible. But go ahead.

25 MR. HAYES: I have to concede with the Court on

Laquana Linder - Direct Examination by Mr. Cooper

1 that point. My objection is, is that there's an improper
2 foundation and she's testifying about something that is not
3 in evidence yet.

4 THE COURT: Well, okay. You know, I assume, she's
5 got to tell where she got it. But I think she's already
6 testified that she recognized that that is his voice on the
7 -- on it, didn't you say that?

8 THE WITNESS: Yes, sir.

9 THE COURT: And do you know who the other person
10 is?

11 THE WITNESS: No, sir.

12 THE COURT: Well, anyway, a phone call he made from
13 the jail and you recognize that as his voice, right?

14 THE WITNESS: That's right.

15 THE COURT: Okay. And anyway, the phone call was
16 made, according to the records on 2/13/19. Okay. So let's
17 try to deal with what the situation is.

18 MR. HAYES: My objection is proper authentication
19 of the tape, Judge.

20 MR. COOPER: Your Honor, she doesn't have to
21 authenticate it, we're not putting it into evidence yet.

22 THE COURT: Well, what are you wanting to do at
23 this point?

24 MR. COOPER: I want her to testify that she has
25 reviewed this disk and she identified that voice as

Laquana Linder - Direct Examination by Mr. Cooper

1 belonging to the defendant.

2 THE COURT: Okay. If that's all it is --

3 MR. COOPER: That's all it is.

4 MR. HAYES: I believe that's premature. It's not
5 authenticated yet and entered into evidence.

6 THE COURT: Well, you know, I mean, I'll allow him
7 to lay a foundation for it. Apparently he wants to get it
8 in some time later, but I think she can say she reviewed
9 what's on there and that it's his voice.

10 MR. HAYES: Your Honor, I also object to her
11 ability to authenticate his voice, being that she just
12 testified she did not know him, had no experience with him
13 and only had just ran into him in the streets in Denmark.

14 THE COURT: You can bring that out on
15 cross-examination.

16 MR. COOPER: And Your Honor, that was December
17 19th. She has since --

18 THE COURT: All right. I'm going to take a short
19 break and we'll come back and you can use it for those
20 purposes like you say you want to.

21 MR. COOPER: Thank you, Your Honor.

22 (A brief recess was observed.)

23 THE COURT: All right. You go ahead and proceed
24 the way you want to and you object and I'll rule.

25 Bring the jury in.

Laquana Linder - Direct Examination by Mr. Cooper

1 MR. HAYES: I'm sorry, Judge, could you say that
2 one more time --

3 THE COURT: I just told him to proceed how he wants
4 to and you object to anything you want to and I'll rule.
5 At this point, I'm going to let him proceed.

6 (The jury entered the courtroom at 3:40 p.m.)

7 THE COURT: All right. We have the jury back with
8 us and Mr. Chestnut is present along with his attorney. Go
9 ahead.

10 BY MR. COOPER:

11 Q Lieutenant Linder, previously you testified that on
12 December 19th, the defendant approached you. And that was
13 really the first time you had a conversation with him?

14 A Yes, sir, about this incident, yes.

15 THE COURT: About any -- had you ever talk ed to
16 him before at all.

17 THE WITNESS: Not directly to him, but me and a
18 group of other people were standing around talking.

19 THE COURT: And you heard him or what?

20 THE WITNESS: Yes.

21 BY MR. COOPER:

22 Q So you've heard his voice?

23 A Yes.

24 Q About how long was that conversation you had with
25 him on December 19th?

Laquana Linder - Direct Examination by Mr. Cooper

1 A I'm not really sure.

2 Q 10 minutes? 20 minutes? Do you have a guess?

3 A About 20 minutes.

4 Q Okay. Have you ever talked to him after that?

5 A After December 19th.

6 Q Yeah. After December 19th until today, have you
7 ever spoken to him?

8 A Yes.

9 Q How many times?

10 A I would say twice.

11 Q And would you say that you are familiar with his
12 voice?

13 A Yes.

14 Q And have you had an opportunity to review the phone
15 call that I showed you on State's Exhibit Number 5.

16 A Yes.

17 Q When you reviewed or listened to this recorded
18 conversation, were you able to identify the male voice?

19 A Yes, sir.

20 MR. HAYES: Judge, I want to renew my objections.

21 THE COURT: All right. You said yes, you were able
22 to identify the voice on the disk; is that right?

23 THE WITNESS: That's correct.

24 THE COURT: What's your objection.

25 MR. HAYES: Proper authentication, proper

Laquana Linder - Cross-Examination by Mr. Hayes

1 foundation for the information.

2 THE COURT: All right. I appreciate that. I
3 overrule the objection. Go ahead.

4 BY MR. COOPER:

5 Q Lieutenant Linder, who do you recognize as the male
6 voice on this phone call?

7 A The defendant, Randy Chestnut.

8 Q And one more thing I'd like to clarify before I,
9 before we end our testimony here. December 18th, you met
10 with Officer Chestnut?

11 A That's correct.

12 Q And when did you meet with the defendant?

13 A The next day.

14 Q And that's when he gave you his statement?

15 A That's correct.

16 Q And he said that my sister told me that I needed to
17 talk to you or something to that effect?

18 A Yes, sir.

19 Q Thank you. Please answer any questions the defense
20 has.

21 THE COURT: Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. HAYES:

24 Q Lieutenant Linder, how long total have you an
25 officer?

Laquana Linder - Cross-Examination by Mr. Hayes

1 A 17 --

2 Q A lieutenant, I'm sorry. You have a proper title,
3 lieutenant.

4 A 17 years.

5 Q As lieutenant now for Denmark, what are your
6 duties?

7 A Respond to calls for service; investigations that
8 we don't involve SLED; I pretty much handle that.

9 Q What did you say? I'm sorry.

10 A Any investigation that we don't involve SLED in, I
11 will handle that.

12 Q You handle the investigation if SLED is not called
13 in?

14 A Yes.

15 Q What training have you had as to crime scene
16 documentation and photographs, collecting of evidence, et
17 cetera?

18 A Just throughout the years working in investigation,
19 just going through the different protocol.

20 Q Have you had any formal training?

21 A As far as?

22 Q Investigations.

23 A No, sir.

24 Q How long did you work at Orangeburg as an
25 investigator?

Laquana Linder - Cross-Examination by Mr. Hayes

1 A I think I worked with the sheriff's office
2 approximately 3 years, let's say 2 and a half because I
3 only did 6 months on the road and after that I went to
4 investigation.

5 Q Six months on the road and?

6 A Then I went to investigations.

7 Q For a total of 2-and-a-half years?

8 A Yes.

9 Q Do you have access to a camera?

10 A Yes.

11 Q Was there photographs taken and documentation of
12 this crime scene?

13 A No photos. Just the video footage from when I
14 arrived on scene, no photos.

15 Q But you have a body camera?

16 A That's correct.

17 Q Are you able to take photographs with the body
18 camera?

19 A Yes, sir.

20 Q You have a cell phone?

21 A Yes, sir.

22 Q Are you able to take photographs with your cell
23 phone?

24 A I am, but I try not to use my cell phone.

25 Q So you have a personal cell phone?

Laquana Linder - Cross-Examination by Mr. Hayes

- 1 A That's correct.
- 2 Q Do you have a company provided cell phone?
- 3 A No, sir.
- 4 Q Did you process any of the items outside? The
5 trash cans?
- 6 A No, sir.
- 7 Q What items did you process inside?
- 8 A The doorknob and where they, Ms. Jeffcoat, stated
9 the TV was located, which was like a stand.
- 10 Q Was there any shoe impressions taken?
- 11 A No, sir.
- 12 Q Was any of the neighbors talked to?
- 13 A No, sir.
- 14 Q And once you collected the fingerprints, did you
15 lift them yourself?
- 16 A Yes, sir, I did.
- 17 Q Now, you testified that on the 18th, you talked to
18 Officer Chestnut, then on 12/19, you talked to Mr.
19 Chestnut?
- 20 A That's correct.
- 21 Q On 12/19, were you wearing a body cam?
- 22 A Yes, sir.
- 23 Q Were you in a patrol car?
- 24 A Yes, sir.
- 25 Q Did it have a camera?

Laquana Linder - Cross-Examination by Mr. Hayes

- 1 A No, sir.
- 2 Q How do you turn on your body cam?
- 3 A There's a button.
- 4 Q How long does that take?
- 5 A A couple of seconds.
- 6 Q Do you have it on now?
- 7 A No, sir.
- 8 Q Where's the buttons at on the body cam?
- 9 A On the side.
- 10 Q Is it just a one push, let go?
- 11 A No, you've got to hold it. It's not even a full
- 12 second.
- 13 Q So less than a second?
- 14 A Yes.
- 15 Q And let go?
- 16 A Yes.
- 17 Q Understanding that Mr. Chestnut gave this
- 18 statement, how long were you in conversation?
- 19 A I'm not sure.
- 20 Q Two minutes? Three minutes?
- 21 A I would say longer than two minutes. I'm not
- 22 exactly sure. I wasn't timing it.
- 23 Q Approximate? Five minutes?
- 24 A I can't really say.
- 25 Q Longer than it takes to cut on the camera though,

Laquana Linder - Cross-Examination by Mr. Hayes

1 correct?

2 A Yes.

3 Q Did you do any investigation as to the statement
4 that you're alleging that Mr. Chestnut gave you? Did you
5 try to corroborate any of it?

6 A To who?

7 Q You said that he referred to those people, did he
8 state the Jeffcoat's name's specifically?

9 A No, sir, he didn't.

10 Q Did he ever state that he went inside?

11 A He just said he went and took what was his.

12 Q There was a statement that they owed him money.
13 Did you ever ask the Jeffcoats about them owing him money?

14 A No, sir.

15 Q Did you ever ask Mr. Jeffcoat if he offered his
16 wife up as a actual compensation?

17 A No, sir.

18 Q The TV in question, was it ever recovered?

19 A No, sir.

20 Q Did anybody canvas the area that we saw in the
21 individual's going off to the left behind the woods?

22 A Yes, sir.

23 Q Was anything found?

24 A No, sir.

25 Q Any shoe impressions?

Laquana Linder - Cross-Examination by Mr. Hayes

- 1 A No, sir.
- 2 Q Items of clothing?
- 3 A No, sir.
- 4 Q As to your relationship with Mr. Chestnut, how long
- 5 have you known Mr. Chestnut?
- 6 A I really can't say I know him.
- 7 Q Y'all don't go to Christmas parties?
- 8 A No, sir.
- 9 Q Y'all don't hang around the same friends?
- 10 A He knows -- he probably knows a few people that I
- 11 know, but we don't hang out.
- 12 Q Together y'all have never hung out together?
- 13 A That's correct.
- 14 Q You ever talk to him on the telephone?
- 15 A No, sir.
- 16 Q You said that you've gone to a few calls and he was
- 17 there and you just recognized him. Did y'all talk and have
- 18 conversations at these calls?
- 19 A Yes.
- 20 Q How long?
- 21 A I actually responded to a call in the area where he
- 22 was and pretty much we talked some there. So however long
- 23 that I was on the call and when I cleared it up. I'm not
- 24 sure. I would have to actually get that pulled.
- 25 Q Did you spend 30, 40 minutes with him? Less?

Laquana Linder - Cross-Examination by Mr. Hayes

1 More?

2 A Less.

3 Q Less than 30 minutes?

4 A Yes, sir.

5 Q You ever had an opportunity to speak with him on
6 the telephone -- I may have already asked?

7 A No, sir.

8 Q And when this call that you said that you spoke
9 with him, when was that? Approximately?

10 A I would say over two, three months ago. Prior to
11 me responding to the burglary.

12 Q So maybe sometime in October, September?

13 A Possibly.

14 Q You had less than a 30-minute conversation with Mr.
15 Chestnut?

16 A That's correct.

17 Q The only other time you've had conversation with
18 him is when you were talking about it here at the grocery
19 store?

20 A No. I've been driving and seen him and pretty much
21 I throw up my hand, he throw up his hand.

22 Q No conversation?

23 A No conversation.

24 Q Let's go back to the grocery store. You said you
25 were on routine patrol. While you're on patrol, you don't

Laquana Linder - Cross-Examination by Mr. Hayes

1 have your body cam on?

2 A No, sir.

3 Q You only cut it on, I believe you testified, when
4 you have an interview or you respond to a call?

5 A That's correct.

6 Q You were not responding to a call at the time you
7 went by the grocery store?

8 A No, sir.

9 Q What was the purpose of going by the grocery store?

10 A Just on routine patrol. That grocery store, the
11 gentleman like, they like to sit out along the side and
12 drink alcohol, so as much as possible I try to come through
13 there to make sure they're not sitting out there drinking.

14 Q Did you see any alcohol on the day in question?

15 A No, sir.

16 Q How many people were out there on the day in
17 question?

18 A There was one gentleman sitting beside the wall and
19 to the right. Across from the grocery store, there's a
20 furniture store. I'm not sure how many people were over
21 there, but it was more than two.

22 Q I want to go over to the phone call questions that
23 we had. Do you keep or store the records for the phone
24 calls from the jail?

25 A No, sir.

Laquana Linder - Cross-Examination by Mr. Hayes

1 Q Do you review them on a regular basis?

2 A No, sir.

3 Q Did you make or -- did you make this copy of this
4 phone call?

5 A No, sir.

6 Q Where did you get this phone call? Where was the
7 first place you heard this phone call?

8 A When Mr. Cooper provided it for me.

9 Q When the State let you hear it?

10 A Yes.

11 Q The solicitor?

12 A Yes.

13 Q Approximately when was that?

14 A Earlier today.

15 Q Are you able to identify the person that you see in
16 the video that we watched?

17 A No, sir.

18 Q You're unable to identify the individual in the
19 video as Mr. Chestnut?

20 A That's correct.

21 MR. HAYES: Beg the Court's indulgence.

22 (There was a pause in the proceedings.)

23 BY MR. HAYES:

24 Q After meeting with Ms. Chestnut and Mr. Chestnut,
25 when did you obtain a warrant?

Laquana Linder - Cross-Examination by Mr. Hayes

1 A January 22nd of this year.

2 Q Which is over a month from the time you had the
3 conversation with Mr. Chestnut?

4 A That's correct.

5 Q Is it a true statement that you didn't believe he
6 was a suspect at that time?

7 A At that time.

8 Q Until that time. Until this statement?

9 A From the time of the statement and me getting a
10 warrant?

11 Q Yes, ma'am.

12 A Once he admitted it to me, I knew he was a suspect,
13 yeah.

14 Q Did you corroborate or believe that the Jeffcoat's
15 owed Mr. Chestnut any money?

16 A No, sir, I didn't check with them.

17 Q Didn't check with them, or you didn't believe it?

18 A I didn't check with them. I didn't --

19 MR. COOPER: Objection, calls for speculation.

20 THE COURT: I'll allow the question. Ask another
21 question.

22 BY MR. HAYES:

23 Q Do you believe that Mr. Jeffcoat or the Jeffcoats
24 owed Mr. Chestnut \$3,000?

25 A I can't say.

Laquana Linder - Cross-Examination by Mr. Hayes

1 Q So you don't know?

2 A I don't know.

3 Q Do you believe that they were purchasing drugs or
4 anything from Mr. Chestnut?

5 A I don't know, I don't know.

6 Q You don't know. Was there any investigation into
7 these allegation?

8 A No, sir.

9 Q Did you question the Jeffcoat's about these
10 allegations?

11 A No, sir.

12 Q What made you go one month later, or just over a
13 month later and get the warrant?

14 A It was like I said, I investigate everything that
15 SLED is not involved with, so with me investigating other
16 incidents, dealing with calls when I am working court and
17 different things like that, they just -- that's when I had
18 the opportunity to get that warrant.

19 Q Just so I understand, I'm going to paraphrase it
20 and -- the short answer is you didn't have time to get the
21 warrant?

22 A You could say that.

23 Q So just to clarify, you're saying that you did not
24 get the warrant until January 22nd just because you didn't
25 have time to get that warrant?

Laquana Linder - Redirect Examination by Mr. Cooper

1 A That's correct.

2 MR. HAYES: Judge, I have no more questions at this
3 time.

4 THE COURT: Anything on redirect?

5 MR. COOPER: Briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. COOPER:

8 Q Lieutenant Linder, you got the warrant on January
9 22nd, 2019; isn't that right?

10 A That's correct.

11 Q And what day did you arrest Mr. Chestnut?

12 A I think -- actually when he was served this
13 warrant, he was already arrested, when he was served this
14 warrant.

15 Q And you got to see him and interact with him again
16 at that time, correct?

17 A I spoke with him. I wasn't around when the officer
18 read him the warrant.

19 Q Okay. Thank you.

20 MR. COOPER: Nothing further.

21 THE COURT: Thank you very much, you can return to
22 your place in the courtroom.

23 Call your next witness.

24 MR. EMMER: State calls Charles Schultz.

25 CHARLES SCHULTZ, was duly sworn.

Charles Schultz - Direct Examination by Mr. Emmer

DIRECT EXAMINATION

BY MR. EMMER:

Q Mr. Schultz, can you please state for the Court your full name?

A Charles Wayne Schultz, S-H-U-L-T-Z.

Q And where were you previously employed?

A With the Orangeburg Department of Public Safety.

Q Did you recently retire from there?

A I retired in January.

Q What was your title when you retired?

A I was a forensic services supervisor, a lieutenant.

Q So as a lieutenant forensic services supervisor, what were your duties?

A I supervised the crime scene unit, the DNA lab, and the fingerprint analysis lab. Part of my secondary duty, I was a latent print examiner.

Q And how long were you employed there?

A About 12 years in that capacity.

Q As a latent print examiner?

A As a latent print examiner, probably 15 to 18 total.

Q And what's your educational background and training as it relates to fingerprint analysis?

A I've had hundreds of hours of advanced training, most of it through Hershey, North Carolina, some through

Charles Schultz - Direct Examination by Mr. Emmer

1 State Law Enforcement Division fingerprint analysts, I
2 think her name is Asalia Baylor, she's been in it forever.
3 I've also been through the criminal justice academy. And
4 when doing so, we have to examine and look at multiple
5 prints.

6 Q Have you ever testified as an expert in the State
7 of South Carolina?

8 A I have. I've been in Orangeburg County, Calhoun
9 County, most recently Beaufort County in February, and
10 Barnwell County.

11 Q As a fingerprint analysis expert?

12 A I have.

13 Q And about how many times do you think you've
14 qualified as an expert in that field?

15 A Five or six.

16 Q Okay.

17 MR. EMMER: Your Honor, at this time, the State
18 would move to declare Mr. Schultz in the field of
19 fingerprint analysis.

20 THE COURT: Any questions you want to ask him about
21 his qualifications?

22 MR. HAYES: No, sir, and no objection.

23 THE COURT: Okay. Go ahead.

24 BY MR. EMMER:

25 Q Mr. Schultz, did you have an opportunity to examine

Charles Schultz - Direct Examination by Mr. Emmer

1 a latent print that was collected by Denmark Police
2 Department assigned to Case Number 18-0394?

3 A I did.

4 Q Did your agency also assign a lab number?

5 A We did. We assigned Lab Number 18-000730.

6 MR. HAYES: I'm sorry what?

7 THE COURT: Say the number again.

8 THE WITNESS: L 18-000730.

9 BY MR. EMMER:

10 Q Is that a standard procedure to identify?

11 A It is. Every piece of evidence that comes through
12 our lab, whether it be outside agency or inside agency is
13 given a unique lab number.

14 Q Now, this print, did you conduct analysis on it?

15 A I did.

16 Q And what type of examination did you perform?

17 A Once a latent print comes into me, I open it up,
18 obviously. This one is still sealed with my initials. But
19 what I do is I look at it and look at the characteristics
20 to see if it's potentially identifiable to an individual.

21 Q Potentially identifiable to an individual?

22 A Yes.

23 Q From these tests and looking at it; were you able
24 to form an expert opinion as to whether or not it could be
25 identifiable?

Charles Schultz - Direct Examination by Mr. Emmer

1 A I was. And it did not contain enough detail to be
2 analyzed or compared and identified to an individual.

3 Q So you couldn't identify who this print belonged
4 to?

5 A I could not.

6 Q Is it possible that it was a print belonging to the
7 homeowners?

8 A It is possible.

9 Q Mr. Schultz, what are some reasons why an
10 individual may or may not leave a valuable latent print
11 behind at a crime scene?

12 A Fingerprints are left by the oil and perspiration
13 of the skin. They come from -- everyone has ridges on
14 their hands, fingers, and feet; and when you touch an
15 object, you transfer from those ridges, you transfer the
16 oils and the sweat.

17 Oftentimes, you can have a situation where it's a
18 textured surface and you don't -- you don't get any
19 transfer. Sometimes an individual is not sweating. And
20 then sometimes, perhaps they could have their hands
21 covered. They could be wearing gloves or have some sort of
22 object on their hands.

23 Q Any other reasons?

24 A Either that or they didn't touch it. That's the
25 only other reason.

Charles Schultz - Cross-Examination by Mr. Hayes

1 Q No further questions. Please answer any questions
2 the defense may have?

3 THE COURT: Any cross-examination?

4 CROSS-EXAMINATION

5 BY MR. HAYES:

6 Q The fingerprint. You said you look at them for
7 identifiable markers of identification?

8 A Correct.

9 Q Were you able to find any markers in what you had
10 there before you?

11 A No, sir. It was of no value. That means there
12 were no characteristics that could move forward to the next
13 stage of identification.

14 Q So no ridges, no valleys, no peaks?

15 A No bifurcations, no ridges, correct.

16 Q So that print was unable to even be put through
17 AFIS?

18 A That is correct.

19 Q Would it be able to have been compared to a known,
20 if you had a known?

21 A It would not.

22 Q Were your findings confirmed by a second --

23 A Yes. That would have been the crime scene
24 investigator under me, Seth Moore.

25 Q And y'all do that as a check?

Charles Schultz - Cross-Examination by Mr. Hayes

1 A Yes, we do a check and balance. The entire lab
2 does that peer review.

3 Q Are you able to tell from the fingerprint how old
4 they are?

5 A No.

6 Q Do you know if there was DNA from --

7 A I do not.

8 Q Did -- were you given knowns for exclusions? Were
9 you given the homeowners' fingerprints?

10 A No, I was not.

11 Q Why would that be important?

12 A That would be important to rule that fingerprint
13 either to an unknown individual as to a known, or to the
14 person that lives there. In this particular case -- and
15 what we particularly do, I would examine it to see if it
16 had value to move to the next step to see if it was
17 identifiable and then I would go request the known
18 standards from any homeowners or even officers. But in
19 this particular case, that wasn't needed because there was
20 not enough there to continue.

21 Q In this case were you given any other prints?

22 A In this particular case, no, sir. It was just that
23 Item Number 1, which was this latent.

24 Q You're not the officer that collects the print?

25 A No, sir, I was not.

Ben Hay - Direct Examination by Mr. Cooper

1 Q You were relying on the investigator or other
2 officers to collect the prints?

3 A Correct.

4 MR. HAYES: Your Honor, I have no more questions.

5 THE COURT: Anything on redirect?

6 MR. EMMER: No, Your Honor.

7 THE COURT: Thank you very much. You can return to
8 your place in the courtroom or be excused.

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: Call your next witness.

11 MR. COOPER: At this time, the State calls Chief
12 Deputy Ben Hay.

13 BEN HAY, was duly sworn.

14 **DIRECT EXAMINATION**

15 BY MR. COOPER:

16 Q Please state your name for the record?

17 A Ben, last name Hay.

18 Q Where do you currently work?

19 A Bamberg County Sheriff's Office.

20 Q And how long have you worked there?

21 A I've been at the sheriff's office 19 years in
22 September.

23 Q What is your title at the Bamberg County Sheriff's
24 Office?

25 A Chief deputy.

Ben Hay - Direct Examination by Mr. Cooper

1 Q As chief deputy, what do your duties include?

2 A What doesn't it include. A little of everything.

3 Q Do your duties include reviewing jail phone calls
4 made from the Bamberg County jail?

5 A From time to time.

6 Q Is this something you do on a regular basis or
7 periodically?

8 A Somewhere in between.

9 Q Okay. Why might you be -- why might you begin
10 reviewing someone's jail phone calls?

11 A Great intel, great information.

12 Q Are you familiar with the company that actually
13 provides this access to the inmates?

14 A Securus Technology, out of Texas.

15 Q What is Securus Technologies?

16 A It's a secure call platform. They're in most jails
17 and prisons across the whole country.

18 Q And does the county pay for that?

19 A No, the county actually receives a little bit of
20 money from that. The inmates pay for the service and then
21 they imply some kind of fee back.

22 Q Are these phone calls recorded?

23 A They are.

24 Q Is this a secure system?

25 A Absolutely.

Ben Hay - Direct Examination by Mr. Cooper

1 Q Is it password protected?

2 A Absolutely.

3 Q Who has access to it?

4 A I'm not sure. There's about ten users presently
5 for the Bamberg County site.

6 Q That's limited to law enforcement?

7 A Yes.

8 Q And the solicitor's office is also given access to
9 it?

10 A Absolutely.

11 Q Can these phone calls be altered or manipulated in
12 any way?

13 A No.

14 Q Doesn't every one of these phone calls begin with
15 informing the inmates that they are --

16 MR. HAYES: Objection leading.

17 BY MR. COOPER:

18 Q How do each one of these phone calls begin?

19 A It starts with a prerecorded recording that states
20 that these calls are recorded.

21 Q And anything else?

22 A It states the prisoner may usually, in this case it
23 didn't, but it tells them that theses calls relationship
24 record.

25 Q Are they also monitored?

Ben Hay - Direct Examination by Mr. Cooper

1 A They are.

2 Q And when an inmate is taken into custody at the
3 jail, how does that inmate get access to the jail phone
4 call system?

5 A They're given a four digit PIN number.

6 Q Is each inmate assigned an account -- or an account
7 number?

8 A Well, what happens is when you go in -- the first
9 time you ever go in, you're assigned an account number.
10 And then that day you're given a PIN number and a year
11 later if you're rearrested, you still have the same account
12 number, but you've got a new PIN number. And the account
13 number follows you for life in the Bamberg County system,
14 but the PIN number changes every time you come to the jail.

15 THE COURT: How is it paid for?

16 THE WITNESS: The inmate's pay it through their
17 canteen fund. It's actually tied to their canteen fund.

18 THE COURT: In other words, they put their money in
19 their account then they draw on that for the phone calls?

20 THE WITNESS: Exactly.

21 BY MR. COOPER:

22 Q Is it possible for an inmate to use another inmates
23 accounts?

24 A It is possible.

25 Q Does the jail try to do anything to deter this?

Ben Hay - Direct Examination by Mr. Cooper

1 A They try to deter it and it's not in the inmate's
2 best interest because if you had an inmate's phone number,
3 when you're making phone calls, you're taking funds from
4 the inmate.

5 Q So if I got arrested, and Lieutenant Linder got
6 arrested and I use her account, she'd lose money?

7 A Exactly.

8 Q So she would try to prevent me doing that?

9 A Exactly.

10 Q So when I want to listen to or monitor a inmate's
11 spoken calls, how do you do that?

12 A It's about six different ways I can do it. I can
13 set it up to where it just calls my phone call every time
14 inmate you A picks up the phone. I can also just sit at my
15 desk and monitor it as this call is online. I can come in
16 after being off for the weekend and I want to see what
17 suspect A said over the weekend, I can look for it by his
18 name; I can look for it by his PIN number; or I can search
19 using his account number.

20 Q So you personally have an accounts or user name
21 account where you can access it?

22 A Yes.

23 Q And do you have a password?

24 A I do.

25 Q And once you're in the system, then you conduct the

Ben Hay - Direct Examination by Mr. Cooper

1 -- then you're able to conduct the search you were just
2 talking about by searching different ways?

3 A Exactly.

4 Q And you can narrow it down even to specific dates?

5 A Dates and times, to the second.

6 Q And when you conduct this search, let's say that
7 you search by a defendant's name?

8 A Yes, sir.

9 Q What pops up on your computer?

10 A A spreadsheet of every phone call that he'd made,
11 basically in that search parameter. Like if I tell it to
12 look from January 1st to present or July 1st to present, it
13 will just give me a breakdown of every phone call that he's
14 made.

15 Q So within each phone call, does it also have other
16 identifying information?

17 A It does.

18 Q Account number, PIN number, number of calls,
19 duration? And the date?

20 A And the date.

21 Q And what triggered you to make -- what triggered
22 you to make a search of the phone calls against the
23 defendant?

24 A I was made aware of it by the solicitor's office
25 that there was a phone call of interest.

Ben Hay - Direct Examination by Mr. Cooper.

1 Q And did you have an opportunity to search the
2 defendant's phone calls?

3 A Yes.

4 Q And did you determine what his PIN number is?

5 A Yes.

6 Q And what is that PIN number?

7 A The PIN number that he was using at the time on
8 that date was 2632.

9 Q Is there a number this front of that?

10 A There is and that's the account number. It would
11 be 0883.

12 Q So just to clarify so they understand, so there's
13 an account number and a PIN number?

14 A Yes.

15 Q And that shows up for that person's phone calls
16 every time you conduct a search?

17 A Exactly.

18 Q And did the defendant make a large number of phone
19 calls in the time that he was in jail?

20 A Yes, sir.

21 Q And reviewing these phone calls, it's labor
22 intensive?

23 A Incredibly.

24 Q It takes a lot of your time?

25 A Exactly.

Ben Hay - Direct Examination by Mr. Cooper

1 Q Because it goes by realtime, you can't really speed
2 it up you, can you?

3 MR. HAYES: Objection.

4 THE COURT: Why.

5 MR. HAYES: Lack of question.

6 THE COURT: Ask another question.

7 MR. COOPER: Yes, sir.

8 BY MR. COOPER:

9 Q Did you review a phone call of the defendant in
10 this case?

11 A I did.

12 Q That was of particular interest to you regarding
13 the charge that he is now on charge for?

14 A Yes, sir.

15 Q And what is the date and time of that phone call?

16 A February 13th at 11:11 and 54 seconds.

17 Q And that was this year?

18 A Of 2019.

19 Q Do you know what phone number he dialed?

20 A I do.

21 Q What was that phone number?

22 A 803-709-2259.

23 Q And have you been able to identify who that number
24 belongs to?

25 A Yes.

Ben Hay - Direct Examination by Mr. Cooper

1 Q In listening to the call, does it sound like a male
2 or female he's speaking to?

3 A It sounds like a female.

4 Q And what PIN number is associated with that phone
5 call?

6 A That PIN number of 2632.

7 Q The same PIN number of the defendant; isn't that
8 right?

9 A During that time frame, yes. He was issued a new
10 one later on.

11 Q Okay. Chief Hay, I'm going to be showing you what
12 has been marked as State's Exhibit Number 5. Can you
13 please tell the jury what that is?

14 A That is a CD.

15 Q A CD of what?

16 A Of the audio recording of the phone call in
17 question.

18 Q How are you able to recognize that?

19 A Because I initialed it in the top right corner.

20 Q And you've had an opportunity to review it?

21 A I did.

22 Q Is it a fair and accurate copy?

23 A Yes.

24 Q Of the phone conversation that you actually
25 searched for and found yourself?

Ben Hay - Direct Examination by Mr. Cooper

1 A Yes.

2 Q That the defendant made on February 13th, 2019?

3 A Yes.

4 MR. COOPER: Your Honor, at this time the State
5 would move to admit State's Number 5 into evidence.

6 MR. HAYES: Judge, I renew my objections to
7 anything past 3 minutes.

8 THE COURT: I'm sorry?

9 MR. HAYES: Anything past 3 minutes, I'm renewing
10 my objection as to relevance. Anything past 3 minutes.

11 THE COURT: All right, sir. Members of the jury,
12 if you would, I need you to go to the jury room for a
13 minute, please.

14 (The jury left the courtroom at 4:16 p.m.)

15 THE COURT: All right. Now, the part that you want
16 to really get in is where he said, I already know it ain't
17 mine, I had gloves on; is that correct? I mean that's
18 what's relevant as far as this case is concerned.

19 MR. COOPER: Yes, sir. Later in the phone call
20 there is conversation regarding him wanting to escape or
21 run and I believe that that's consciousness of guilt and
22 I --

23 THE COURT: I didn't hear that, but anyway as I
24 say, I couldn't understand most of what was being said.
25 Anyway. You think there's something -- I certainly would

Ben Hay - Direct Examination by Mr. Cooper

1 let in that part of the phone call where he says, I already
2 know it ain't mine, I had gloves on. I let that in and
3 that comes in the first 3 minutes of the phone call.

4 MR. COOPER: Your Honor, if I may, I would also ask
5 that the jury hear the very beginning where it states this
6 phone call is subject to monitoring and recording.

7 THE COURT: Sure, sure. I'll let you do that.
8 Like I said I think I heard something like you're talking
9 about not too far in it. So I'll admit the phone call
10 through when he says that. Anything else that have you
11 want the get in?

12 MR. COOPER: Your Honor, I --

13 THE COURT: You said something about escaping or
14 something like that, but I don't think I'll let that in.
15 Anything else.

16 MR. COOPER: No, sir, I'll let that go.

17 THE COURT: All right. Limit the phone call or
18 play the phone call through where he says that.

19 MR. HAYES: And I would also add, Your Honor,
20 because we're NOT publishing or -- because we're agreeing
21 to only admit a portion of the phone call that the disk not
22 be allowed to go back to the jury room.

23 THE COURT: Well, anything like that, I don't send
24 it back to the jury room. If they want to listen to it
25 again, I bring them back out and let them listen to it in

Ben Hay - Direct Examination by Mr. Cooper

1 open court. Same thing as far as the video. I don't send
2 that back to the jury room with them.

3 MR. COOPER: Yes, sir.

4 THE COURT: If they want to secure it or see it,
5 I'll let them do it in open court.

6 THE COURT REPORTER: So the disk is admitted?

7 THE COURT: I'm going to admit it into evidence and
8 let them play through that statement that you're talking
9 about.

10 MR. COOPER: Subject to the defense objections.

11 THE COURT: I'm going to allow it up to there.

12 All right. So y'all have already -- ready to cut
13 it off after they -- okay.

14 MR. COOPER: Yes, sir.

15 THE COURT: All right. Bring them back in.

16 (The jury entered the courtroom at 4:20 p.m.)

17 THE COURT: Let's get the speakers as close to the
18 jury, however y'all want to do it, but let's get it to
19 where they can hear as best they can. Do you need to put
20 it over there or what do you need to do?

21 MR. COOPER: No, sir. It should be good.

22 THE COURT: All right. So over objection, I'm
23 going to allow the phone call to be played for the jury up
24 to the point where I said -- where we cut it off.

25 All right. Go ahead.

Ben Hay - Cross-Examination by Mr. Hayes

1 (The phone call was playing.)

2 THE COURT: All right. Anything else?

3 MR. COOPER: Chief, please answer any questions the
4 defense has.

5 THE COURT: Okay. Cross.

6 **CROSS-EXAMINATION**

7 BY MR. HAYES:

8 Q Chief, how often do you pull calls?

9 A Depends on what's going on.

10 Q Once a week? Once a month?

11 A Sometimes a lot one month and sometimes a couple of
12 months go by.

13 Q Why, specifically, did you pull this for this case?

14 A Because I was made aware of it.

15 Q How?

16 A Through the solicitor's office.

17 Q How? How were you made aware of a phone call by
18 the solicitor's office?

19 A They would want someone to authenticate the
20 recording, so they gave me the date and time and I was able
21 to go back and look for it. Then I listened to their
22 recording of it and it was the same recording. I searched
23 for it on four different, four different ways and was able
24 to find it all four times and was able to review it.

25 Q What four ways did you search?

Ben Hay - Cross-Examination by Mr. Hayes

1 A By name, by account and PIN, by the phone number,
2 and then just by PIN alone. And that recording is still on
3 the database and can still be reproduced.

4 Q You said you searched by name?

5 A Yes, sir.

6 Q That name is then tied through to an account/PIN,
7 correct?

8 A Yes.

9 Q You searched by PIN?

10 A Yes.

11 Q And then phone number?

12 A Again --

13 Q How do you search by a phone number?

14 A The number that was dialed. You can type in the
15 number that the inmate dialed, 803-709 --

16 Q Okay. And then again by PIN, which is tied to the
17 account/PIN?

18 A Exactly.

19 Q Slash name?

20 A Yeah, that's it. Well, those two searches are very
21 similar.

22 Q Well name the -- what I'm getting at is name the
23 very dependent upon account number and PIN number?

24 A Yes.

25 Q Okay. You testified earlier that inmates swap PIN

Ben Hay - Cross-Examination by Mr. Hayes

1 numbers?

2 A Yes.

3 Q And information for honey buns so they can make a
4 phone call?

5 A Well, they -- like I say, they try not to because
6 you give somebody your PIN, you're probably going to lose
7 your entire account.

8 Q But it happens?

9 A It can.

10 Q Now, you said that he had a different PIN number
11 issued to him. When?

12 A There was a PIN number issued on 4/10 and then
13 there was a PIN number issued on 2/11 of 2019.

14 Q All right. 2/11/19, he was issued a PIN number?

15 A Yes.

16 Q Another PIN number was issued on 4/10/19?

17 A Yes.

18 Q Because somebody else had his PIN number?

19 A I'm not sure why.

20 Q Is there any other reason that you're aware of to
21 get a new PIN number?

22 A I'm not sure.

23 Q All right. You testified earlier that some, if
24 somebody got your PIN number though, they had access to
25 your account?

1 A Yes.

2 Q That means your money?

3 A It could be.

4 Q That means your ability to make phone calls under
5 your name?

6 A Yes.

7 Q And you said usually in the beginning of the phone
8 call it says who it is?

9 A Yes.

10 Q This case it doesn't?

11 A No.

12 MR. HAYES: Beg the Court's indulgence.

13 (There was a pause in the proceedings.)

14 MR. HAYES: I have no more questions, Your Honor.

15 THE COURT: All right. Anything on redirect?

16 MR. COOPER: Nothing from the State.

17 THE COURT: All right. Thank you, thank you very
18 much, you may return to your place in the courtroom or be
19 excused.

20 Call your next witness.

21 MR. COOPER: Your Honor, at this time the State
22 would wish to publish to the jury, a fact which has been
23 stipulated to by both the defense and the State's
24 attorneys.

25 THE COURT: Do you know what he's talking about?

1 MR. HAYES: I do, Your Honor.

2 THE COURT: Go ahead then.

3 Ladies and gentlemen, they want to -- they're just
4 going to tell you about a fact that both sides agree is
5 accurate, true.

6 Go ahead.

7 MR. COOPER: Your Honor, the State of South
8 Carolina and the defendant stipulate to the following
9 facts: The defendant Randy Chestnut was convicted of
10 burglary in Bamberg County on April 7th 2008 and on April
11 14th, 2010. Thank you, Your Honor.

12 THE COURT: The reason for that is that that's part
13 of the statute in regard to possible punishment and so
14 forth as far as this case is concerned. It has nothing to
15 do with the actual facts as far as whether or not he did
16 this crime itself, but it has to do with what punishment
17 and the State is required to prove that as part of this
18 case that's being made before you. It doesn't have
19 anything to do with whether or not he committed the crime
20 that he's charged with today, but it has to do with how
21 much punishment he can receive at the end of this case if
22 he's convicted. That's why it has -- that's the best
23 explanation I can give for you as to why they have to prove
24 that he'd been convicted of two prior offenses like that.

25 All right. Anything else?

1 MR. COOPER: The State rests, Your Honor.

2 THE COURT: All right. So that's all we're going
3 to hear from the State in regards to it. I need to talk to
4 the lawyers about how we're going to proceed from here. So
5 I need you to go to the jury room for just a few minutes,
6 please.

7 (The jury left the courtroom at 4:30 p.m.)

8 THE COURT: You read from that, it's in the record.
9 I don't know if you need that.

10 MR. COOPER: No, Your Honor. I would like -- I
11 know that it probably isn't proper to put it into evidence,
12 but I would like to make it a court's exhibit.

13 THE COURT: All right. That's fine. No problem
14 with that.

15 MR. HAYES: I have to objection to that.

16 THE COURT: It's not going to the jury.

17 MR. COOPER: Correct.

18 THE COURT: Was that information okay that I gave?
19 Anybody object to that?

20 MR. HAYES: I don't object to that, but we do have
21 an instruction that it's not to be used for credit as to
22 credibility as a person, only as to whether the element was
23 met.

24 THE COURT: Well, you write out something you want
25 me to tell them and I'll consider it when I charge them,

1 okay. You don't have to give it to me right now. If you
2 want to write out something else you want me to --

3 MR. HAYES: I think Ralph King Anderson had a --

4 THE COURT: No, you give me what you want me to
5 give them.

6 MR. HAYES: Yes, sir.

7 THE COURT: Okay. Now, so, they've finished then,
8 as I understand it. Are you going to put up anything?

9 MR. HAYES: May I have a few minutes, Judge.

10 THE COURT: Sure, go ahead.

11 (There was a pause in the proceedings.)

12 MR. HAYES: Judge, do you need a decision tonight
13 as to whether he's going to testify or not? Or can we give
14 it in the morning?

15 THE COURT: Well, we can stop tonight. We'll stop
16 now and you can have over the evening recess to decide.

17 Bring them back in.

18 MR. HAYES: You want to hear our motions in the
19 morning?

20 THE COURT: Yeah, well, maybe we'll hear from you
21 or whatever.

22 (There was a pause in the proceedings.)

23 THE COURT: All right. We have Mr. Chestnut back
24 with us and his attorneys are present and as I understand
25 it, the State has finished its case, now we switch to the

1 defense and all.

2 You say you want to talk with your client before
3 you decide to put up any witnesses or anything, so I'll
4 give you over the evening recess to discuss how y'all are
5 going to proceed and you can let me know in the morning.

6 The State's through, so I'll give you to tomorrow
7 morning to decide how you want to agree.

8 MR. HAYES: Yes, sir.

9 THE COURT: Is that agreeable?

10 MR. HAYES: Would that be okay as well for my
11 motion?

12 THE COURT: Well, we're going to take up any
13 motions, if you've got any to make at this point, I'll go
14 ahead and take up any motions now and everything. So go
15 ahead.

16 **MID-TRIAL MOTIONS**

17 MR. HAYES: Judge, I would, at this time move for a
18 directed verdict. Taking the evidence most favorable to
19 the nonmoving party and prior motions and arguments to
20 objections, Judge I would say that the State has failed to
21 bring sufficient evidence before the Court that
22 Mr. Chestnut is the individual in question and prove that
23 there's a connection between the individual and the video
24 and the individual that is here today.

25 THE COURT: All right. I appreciate that, but I

1 think it's a jury issue at this point and also I deny your
2 motion.

3 MR. HAYES: Yes, sir.

4 THE COURT: All right. Bring the jury in.

5 (The jury entered the courtroom at 4:46 p.m.)

6 THE COURT: All right, sir. We do have all the
7 jury back with us and Mr. Chestnut is present, along with
8 his attorneys. As I believe I mentioned and all, the State
9 has rested. They have presented all the testimony and the
10 evidence that the State wishes you to consider in
11 connection with this case, but we still have the other side
12 to hear from if Mr. Chestnut wishes to present anything.
13 As I said, the burden of proof is on the State and remains
14 with the State at all times. But I'm going to give them
15 over the evening recess to just talk it over with their
16 client and decide how they want to proceed.

17 So we're going to stop for now and we'll come back
18 tomorrow morning about 9:30 and we'll get started just as
19 soon as we can after 9:30 tomorrow morning.

20 Again, I will tell you, do not discuss the case
21 with family, friends, or anyone else. If they want to know
22 what you're doing, you tell them that you're involved in
23 the trial of a case. You're actually on the jury that's
24 hearing the case. It's not over, it's still going on. You
25 can tell them all about it once it's over, but it would be

1 a violation of your oath that you took earlier, at the
2 start of the case to discuss the case with anyone. So keep
3 that in mind. Don't discuss with anyone over the even
4 recess. If anybody wants to talk with you about it,
5 insists on talking with you about it or anything of that
6 nature, you let me know about it and I'll deal with them
7 after that. For as I've said, no one should influence you
8 in this case except through the testimony and the evidence
9 as presented from this witness stand. Keep that in mind.

10 Be back tomorrow morning in the jury room, not out
11 here --

12 Madam Clerk, I want you to take up the notebooks.
13 We'll keep them secure over the evening recess.

14 THE CLERK: Yes, sir.

15 THE COURT: Go ahead and get those now from them,
16 and the pens.

17 We'll give them back to you tomorrow morning. So
18 get your note pads and let the clerk lock them up over the
19 evening recess. All right. We've got those and the clerk
20 will lock them up and give them back to you tomorrow.

21 And with that, I'll let you go and be back in the
22 jury room tomorrow morning by 9:30. We'll get started as
23 soon as we can after that.

24 Have a nice evening.

25 (The jury left the courtroom at 4:50 p.m.)

1 THE COURT: All right. Let's give the jury plenty
2 of a chance to clear the courthouse before any of us go
3 out. So y'all wait in here about 5 minutes or whatever.
4 Make sure the jury's all gone before you let any of the
5 crowds go, okay.

6 THE BAILIFF: All right.

7 THE COURT: So if you have any special requests for
8 me to charge, I never have dealt with a case like this with
9 the two prior conviction part, you know, but that's part of
10 the offense; that's part of the way it's defined.

11 MR. HAYES: Judge, I believe there's a standard
12 charge.

13 THE COURT: Well, you can give me what you want me
14 to say about that, okay. That will give something to do
15 this evening. Get me anything special tomorrow morning.

16 And Madam Clerk, I'm going to let you keep this
17 indictment so I don't lose it, okay?

18 THE CLERK: Yes, sir.

19 THE COURT: All right. As I said, just make sure
20 the jury is cleared of the courthouse so y'all won't be
21 mixing up with them. I'll be here at 9 o'clock for a bond
22 hearing and then we can take this up at 9:30.

23 (Court was in recess for the day.)

24 **WEDNESDAY, APRIL 24, 2019**

25 THE BAILIFF: The jury is here, Your Honor.

1 THE COURT: All right. Good.

2 All right. Mr. Hayes, what's the plan?

3 MR. HAYES: Judge, first off, I have an objection
4 to law enforcement sitting directly behind and right next
5 to him.

6 THE COURT: Well, we certainly can let one, you
7 know, there's one that can be there. You know, I hadn't
8 taken any note of that and everything, but anyway that's
9 fine.

10 MR. HAYES: One officer, Your Honor?

11 THE COURT: Y'all need to have two there for any
12 particular reason?

13 CHIEF HAY: We can back off a little bit for
14 now.

15 THE COURT: Okay.

16 MR. HAYES: Thank you, Your Honor.

17 The second matter is that we're going to close in
18 front of the jury and delve right into --

19 THE COURT: Okay. So you're not going to put up
20 any evidence, any witnesses or anything of that sort?

21 MR. HAYES: No, sir, we're going to rest.

22 THE COURT: All right. Is that correct, Mr.
23 Chestnut?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. And you've talked this

1 over, discussed it with your lawyers?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: That what you want to do?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. That's fine. So anything
6 else before we bring the jury out and close?

7 MR. COOPER: Your Honor, I would just ask that the
8 defense rest in front of the jury.

9 THE COURT: Oh, yeah, they will, they will. And
10 then as far as the order of arguing and all after that, so
11 how -- we know how that's going to go?

12 MR. COOPER: Yes, sir, I'm going to close in full
13 and then Mr. Hayes will go last and close in full.

14 THE COURT: All right. And what did you have --
15 did have anything in terms of any particular charge you
16 want me to give rather than to -- than the charge he's
17 facing.

18 MR. HAYES: I have nothing further than what the
19 solicitor e-mailed you yesterday.

20 THE COURT: I didn't get any e-mails, so you got to
21 give me whatever you want to give me in paper form.

22 MR. COOPER: Your Honor, I can give you an informal
23 hard copy.

24 THE COURT: Okay.

25 MR. COOPER: This is the -- Mr. Hayes has already

1 viewed it.

2 MR. HAYES: Yes, sir.

3 MR. COOPER: This is only the first degree burglary
4 charge and I believe this is the entire charge.

5 THE COURT: All right. Hand it to me.

6 MR. COOPER: And Element Number 5 would be the
7 charge that we request to go under. It's the aggravated
8 circumstance of two prior convictions.

9 THE COURT: Okay. Just reading over it to start
10 with ready, it looks like it would be a good instruction
11 that I will give the jury.

12 MR. COOPER: And just to clarify, Judge, that's
13 only the first degree burglary charge. We would also, I
14 guess, expect, you know, it would be necessary to have all
15 the other normal charges like statement of --

16 THE COURT: Oh, sure, sure. And I'm looking at
17 this last one, Number 6 that they entered and remained in
18 the dwelling in the nighttime, that doesn't apply to this
19 case.

20 MR. COOPER: Correct, Your Honor, only Number 5.

21 THE COURT: Okay. That's what I wanted to make
22 sure. I hadn't read it all yet, but that's not something
23 that needs to be said to the jury. I'll look over the rest
24 of it.

25 But you think it's okay?

1 MR. HAYES: Yes, sir. The language I was looking
2 for is in there.

3 THE COURT: Okay.

4 MR. HAYES: As to only the two priors of as an
5 element.

6 THE COURT: Good, good.

7 All right. We'll bring the jury out and we'll
8 proceed to -- rest, the defense rests and then we'll
9 proceed to closing.

10 Bring the jury out.

11 (The jury entered the courtroom at 9:43 a.m.)

12 THE COURT: All right. We have all the jury with
13 us and Mr. Chestnut is present, along with his attorney.

14 I appreciate you being on time this morning. And
15 we have been occupied out here with a few other matters
16 before we could bring you out. And so we finished with the
17 State's case yesterday and now we switch to the defense.

18 You wish to call any witnesses or present any
19 evidence on behalf of Mr. Chestnut?

20 MR. HAYES: Your Honor, the defense would rest.

21 THE COURT: All right. So that completes all the
22 testimony and evidence then that will be presented to you
23 in this case. Now we'll move on to the part of the trial
24 where the attorneys can argue or close to you. Argue, that
25 is try to persuade you as to what version or view you

1 should take of the facts and testimony in this case.

2 So the way we'll go about hearing from the
3 attorneys is first of all, the solicitor, the prosecuting
4 attorney in this case, Mr. Cooper, I believe, will give the
5 closing for the State and then we'll switch over to the
6 other side and --

7 Mr. Hayes, you'll give the closing for the
8 defendant; is that correct?

9 MR. HAYES: Yes, sir.

10 THE COURT: All right. You may proceed.

11 **CLOSING ARGUMENTS**

12 MR. COOPER: Thank you, Your Honor.

13 Ladies and gentlemen of the jury the devil is in
14 the details. Now, this is the part of the case where we
15 conduct closing arguments. And this is going to be the
16 last time that you hear from me. And I'm going to explain
17 the law, the evidence in this case, and then you're going
18 to hear from Mr. Hayes and then, at that time, you're going
19 to be charged by the judge on the law. And the judge is
20 going to instruct you on what the law is for first degree
21 burglary, and he's going to provide you with a lot of other
22 information that's going to be helpful in you rendering you
23 verdict. At that point, you're going to go back to that
24 jury room and you're going to begin your deliberations.

25 The law for burglary in the first degree is this:

1 Breaking and entering into a dwelling with the intent to
2 commit a crime therein by a person who has been convicted
3 of two prior burglaries. That's first degree burglary.

4 So briefly, what, what can we agree on in this
5 case? You heard after we finished with all of our
6 witnesses that the defense and the State agree that Mr.
7 Chestnut was convicted of burglary in 2008 and in 2010.
8 That element is met. We all agree on.

9 What else can we agree on? Well, they don't deny
10 that a burglary was committed. And that's because it's on
11 video and they can't deny it. Somebody broke into that
12 house at [REDACTED] Street. They stole a TV. And that
13 house is a dwelling because the Jeffcoats live there. It's
14 their permanent residence. So that we can agree on. So
15 what's the only thing left to decide? Is the person on
16 that video the defendant? That's the only thing left to
17 decide. That's what we're arguing about.

18 Here is how we know that that man sitting at that
19 table is the person on that video: We're going to go
20 through this evidence a little bit together and we're going
21 to start with the security footage because I believe it's
22 important and I think --

23 Are we going be able to slow it down? Okay.

24 We're not going to be able slow it down and I know
25 that it's quick. You know, as we, as was testified, it's a

1 motion activated camera and it cuts on when something walks
2 in front of it and it cuts off when movement ceases. So
3 when you watch this video, keep in mind that, when you go
4 back to your room to deliberate, you're going to be able,
5 if you ask and would like to see it again, you can always
6 come back out and watch it again.

7 THE COURT: If I might interject, what he just said
8 is the way, the procedure, that we follow is that we don't
9 send the video back to the jury room with you to look at it
10 back there. If you want to see it again during the course
11 of your deliberations, you let me know and we'll bring you
12 back out here and we'll play it for you. Okay? It's in
13 evidence, but we don't send it to the jury room. We let
14 you come back out and view it where everybody can see it.
15 All right.

16 (The video was played for the jury.)

17 MR. COOPER: Listen to the door pop. That's
18 breaking and entering.

19 That's the stealing of the TV. That's the crime
20 committed therein.

21 So that's a short video, there's not a whole lot
22 there, but it shows the burglary. So what we did in an
23 effort to help everybody understand a little bit about the
24 case is we put these still shots in evidence. And you've
25 already passed them around, but I'll show them to you

1 again, and you'll be able to actually take these back there
2 with you.

3 But here's the subject with something on his hand.
4 This is the subject looking back and this is the one that I
5 find the most important. This is Exhibit Number 4, and his
6 arms are outstretched and he's holding that TV, and I would
7 struggle to told that TV. It's a big TV, it's a 65-inch
8 TV. But when he does that, he's holding it with his hands
9 where? And what do you see? Something green on the left
10 and something white on the right. Gloves. Maybe a sock on
11 his right hand, I don't know, but he's got covers.

12 Let's go back to the facts of the case and how
13 Mr. Chestnut was determined to be a suspect. What do we
14 know from the testimony?

15 We know this: On December 18th, Lieutenant Linder
16 met with Officer Chestnut of the North Police Department.
17 We know that on December 19th, Lieutenant Linder was
18 approached by the defendant. And the defendant gave his
19 statement.

20 And before we go into the facts of that statement,
21 what can you deduce from the meeting and the defendant
22 approaching Lieutenant Linder? I submit to you, ladies and
23 gentlemen, that you can deduce this: Randy spoke with his
24 sister between the meeting of Lieutenant Linder and his
25 sister and him meeting his sister. At that point, he

1 believed that he was caught. He thought that he was
2 caught. You see, his sister -- we don't know what was said
3 between Lieutenant Linder and officer Chestnut. We know
4 they met; we know they discussed this case; and we know
5 that the next day, the defendant approached her.

6 So he knew that he was caught. So what did he do?
7 He said, Lieutenant Linder, my sister says I need to talk
8 to you. Okay. What about? She doesn't know. She doesn't
9 think that he's caught yet. At this time, he thinks that
10 he is caught. She still doesn't have a real suspect.
11 That's why she doesn't turn her body cam on. And if she
12 had, what would the defendant have done? Stopped talking.
13 He would have seen that. But she said, what do we need to
14 talk about? Well, he went into confessing the case.
15 Confessing what he did. He took what was his.

16 But what did he have to do? He knew that he was
17 caught and he knew that he had to come clean so he had to
18 come up with a story. He had to justify what he did. He
19 had to make an excuse for what he did. He came up with
20 this story of how the Jeffcoats are owing him; and his
21 wife, Ms. Jeffcoat is being used as a payment. And he
22 called them racists. And he came up with all these
23 terrible, terrible things -- by the way, none of which have
24 been substantiated because you heard Ms. Jeffcoat testify
25 that she had never owed him money, that her husband never

1 owed him money. SJ testified. That's why he came up
2 with that story. He knew that he was caught. So he had to
3 come up with something to justify his conduct.

4 His bad act.

5 So let's talk about that statement a little bit.
6 What did he say? I took what was mine. How do we know
7 that he's talking about the Jeffcoats? The devils in the
8 details. He knew that it was a married couple. He saw
9 cameras. He should have took them shits too. He knew
10 about the dog. The devils in the details.

11 So remember that in listening to this phone call
12 and that too, you're going to be able, if you ask, to come
13 back out and listen to it again.

14 Ready when you are.

15 (The phone call was played for the jury.)

16 Wait this shit out until April. What month is it
17 now? That's right. I had gloves on. There ain't no case
18 was the conversation with her. He didn't say her name. He
19 didn't say Lieutenant Linder, he didn't say Quan. But he
20 did say she. The conversation with her was not recorded.
21 There ain't no case. That's what he said.

22 And I'll submit to you, ladies and gentlemen, that
23 it would have been a difficult case to prosecute until he
24 made that phone call. The devil is in the details.

25 At the beginning of this trial -- well, before I go

1 into that, aside from the fact, aside from the details in
2 that phone call, what else do we know that was testified
3 too by Chief Hay of the account name on that phone call was
4 Randy Chestnut; the PIN number for that account on that
5 phone call was the defendant's PIN number. That's two ways
6 to identify who made that phone call. But the devil's in
7 the details.

8 At the beginning of this trial, I told you that
9 this case was like a puzzle and you weren't going to be
10 able to listen to one witness's testimony or to look at
11 just one piece of evidence and know who did it. This case
12 requires you all to put everything together. And the way
13 that you know that the defendant is guilty is by Lieutenant
14 Linder's testimony about his statement accompanied with
15 that phone call. When you put those two pieces of evidence
16 together, there is no other person who could have committed
17 this crime other than the defendant.

18 At the end of the day, this case is a confession
19 case. I submit to you that there's two confessions.
20 There's the confession to Lieutenant Linder, there's the
21 implicit confession in that phone call. I know the
22 fingerprints ain't mine, I had gloves on. So I'm just
23 going the wait it out until April.

24 Now, the burden of proof as I told you before, is
25 on us, the State of South Carolina. And we have to prove

1 to you beyond a reasonable doubt of the defendant's guilt.
2 So what is beyond a reasonable doubt? What does that
3 actually mean? Everybody hears it on TV. It's fancy
4 terminology. There is no real definition. But it can be
5 explained. And the judge may or may not explain it to you
6 this way. It is evidence that leaves you firmly convinced
7 of the defendant's guilt. Firmly convinced. It's not
8 beyond any doubt. It's evidence that leaves you firmly
9 convinced of the defendant's guilt.

10 Ladies and gentlemen, you've seen the evidence.
11 You have heard the testimony. It's time to put it all
12 together. It's time to make a decision. And the only
13 verdict in this case is a verdict of guilty of burglary in
14 the first degree.

15 I appreciate your time and effort. I know not
16 everybody wants to be here for jury service and I've
17 enjoyed working with you over the past two days. Thank
18 you.

19 THE COURT: Mr. Hayes.

20 MR. HAYES: May it please the Court, Mr. Cooper.

21 Before I get into what I have planned to say, I
22 want to address directly the solicitor's close. The devils
23 in the details. Here's the details. Quan goes to the
24 burglary. She alleges she speaks with the sister and then
25 on the very next day gets a confession. He's not arrested.

1 The details of that confession don't fit. The victim
2 denies owing any money to Randy Chestnut, denies knowing
3 Randy Chestnut, denies having sex with Randy Chestnut,
4 denies ever being offered sex with to Randy Chestnut. A
5 month goes by from this alleged confession and there's no
6 warrant. Why?

7 The big detail here is maybe Quan was under
8 pressure. The victim told you from the stand, they're
9 personal friends of the sheriff. They've been burglarized
10 once, the dog has been shot; they're burglarized again and
11 nobody is arrested. Y'all are local, how many times did
12 you see it on the local news out of Augusta or Columbia,
13 Barnwell, Bamberg, or Denmark on the news for a regular
14 house break in. There's murders that happen here that
15 don't get put on the news. This case was on the news.
16 How? Why? Because they wanted something done.

17 She testified the first time it happened nobody got
18 arrested. They didn't even investigate. She testified
19 that had she even gave items to Lieutenant Linder to take
20 from the first burglary because nobody had been arrested.
21 Their dog had been shot. No investigation, just a report
22 taken. They'd had it. I sympathize for them. I
23 absolutely do. It's frustration.

24 He talks body camera. Well, if somebody comes
25 walking up, one, they're just going to start confessing to

1 you? Oh, I did this. Not to one crime, but multiple?
2 Because in that confession, the way it reads, he's selling
3 drugs too.

4 And I don't know about not noticing somebody's
5 walking up and meeting you and your sitting in the car,
6 click, when you see him coming. Less than a second is what
7 she said. Click. Anybody walking up and seeing that
8 camera is going to assume it's on any way. Why else wear
9 it? Devils in the details.

10 Now, he also said it's like a puzzle. Well, have
11 y'all ever had a friend when they'd go buy something and
12 they have to put it together, a kids toy at Christmas or
13 trying to work on their car and they don't have experience
14 or knowledge of what's going on with it and they take it
15 apart and they put it back together and they look over and
16 there's parts laying on the table? Or you got those extra
17 parts and you're like, where do they go. That's where
18 you're at right now. That's what you've got given. You
19 got given a toy that was half put together. You don't have
20 all the parts. You don't have what you need. There's
21 holes if you start looking at this whole project from the
22 outside as a whole, there's parts that should have been put
23 in there that you don't have.

24 When I opened, I gave you a quote that I pretty
25 much butchered from Colin Powell. But the basics of it is

1 this: The home team expects to win. And they get
2 complacent because they have home field advantage. And
3 when I say home team advantage, say the solicitor's office,
4 I mean all law enforcement because the solicitor's office,
5 the individuals sitting right here can only do with what
6 they're given, the same as what the defense.

7 So where does it come from? It comes from the
8 patrol, the investigation out in the field. The rest of
9 that quote goes onto say that visitors shouldn't be
10 complacent with expecting that the home team is going to
11 win, you should bring it. Make them bring it. Make the
12 home team earn that victory. What that means here and the
13 way I would convert it over is this: As a jury, you are to
14 be given everything you need for a guilty verdict. I
15 submit to you, you have not been given that. There's
16 holes. It hasn't been done in this case.

17 Let's go through the case. **SJ** I feel sorry
18 for her. She came home and found her home broke into. But
19 she can't identify the individual in the video.

20 Ms. Jeffcoat, again, I sympathize as a parent, as a
21 homeowner. Your home is your sanctity and it was
22 burglarized. But she can't identify who is on the video.
23 She denies knowing Mr. Chestnut. She denies owing anybody,
24 not just Mr. Chestnut, but anybody, any money. She denies
25 offering sex. She denies ever being asked before yesterday

1 about these details. The details of the statement that
2 they're alleging is a confession. She was surprised when
3 Ms. Alves asked her these questions. You can see that.

4 Next thing, fingerprint. No usable details from
5 the investigator that came from Orangeburg to testify. It
6 was useless. Also what he told you is that he retired in
7 January. What does that mean? That fingerprint report was
8 done before January because he sure didn't do a report
9 after he retired.

10 The phone call. This phone call is in February.
11 That fingerprint report was done before January, before
12 this man retired. I also heard that in the beginning of
13 the phone call they're supposed to tell you who it is. Not
14 on this phone. There's no name. You also heard that a PIN
15 is attached to an account and an account is attached to a
16 name. Well, their talking about multiple ways of verifying
17 that this phone call is his. Well every way that you just
18 said is attached to one thing, a name. The PIN is attached
19 to the same name. An account is attach today the same
20 name. It doesn't matter if you search PIN or if you search
21 account, you're going to come to the same name. That's not
22 double authentication. Is the same authentication.

23 You also hear that his PIN number was changed.
24 Why? You heard PIN numbers get taken, used, swapped.
25 Honey buns are getting involved. You can't say who's

1 making the phone call.

2 Another detail, who's the person on the other side
3 of the phone? They had a phone number. They don't know
4 who they called? Why not put them on the stand? Who were
5 you talking to? There was no names in that phone call.
6 That phone call, you only got a little snippet of, taken
7 out of context. Why not go find the person that, you know,
8 alledgedly called? Have them testify. Put any effort in
9 the back end in doing the investigation. There's a phone
10 number there. I mean logically, the first step would be to
11 call it. See if they answer. See if they'll come in for
12 an interview.

13 They then had Lieutenant Linder say that's him on
14 the phone call. Well, you heard from her testimony, she
15 met him sometime in September or October at a call and they
16 had this mess that's going on for whatever call that she's
17 in, interviewing witnesses and seeing people and she just
18 sees him. Knows who he is now. Occasionally they ride by
19 and they throw a hand up. No other contact and then
20 supposedly this confession and now you're wanting to say
21 that's him on the phone? Never have talked to him on the
22 phone; never never had more than about 20 minutes worth of
23 conversation.

24 My grandmother -- my grandfather and my mother both
25 have passed in the recent, would still to this day mess me

1 and my brother up on the phone. We are not twins. We are
2 two years apart. I've talked to my mother. I've lived
3 with my mother for 20 years. I have moved out, went to
4 school and never went back, but I still call my mother and
5 my father about, at least once a week, sometimes even daily
6 just to see how she's doing. My brother did the same thing
7 and there was times that I would call and my mom would be
8 talking to me and it would be blatantly clear after about 3
9 minutes into the call, she thinks I'm my brother, Nick.
10 And, of course, I have to say, Whoa, Mama, no, sir, I'm the
11 good one. But it happens. This was my own mother that I
12 spent 20 years of my life in her home and then still spent
13 another 13 calling about every other day, checking on her,
14 seeing her. She gave birth to me and my brother and she
15 still messed us up on the phone.

16 My grandfather, I'd be talking to him. It would be
17 10 minutes into the conversation before somebody actually
18 says a name because my brother and I both call him poppy,
19 Pop, what are you doing? And then it would come up, just
20 as clear as day, he thinks I'm Nick. No, I'm not Nick,
21 it's Dave. You need me to come over and cut your grass, or
22 whatever. But that's my own flesh and blood. And I'm sure
23 there's cases where each one of you have had the same thing
24 happen. You get into a conversation, you get a few minutes
25 in and then you become aware that they think you're talking

1 to you, your sister, your mother, a cousin, or some other
2 relative? And you're like, Oh, wait, you want -- Mama,
3 hang on, Mama and give up this phone.

4 That's not a credible ID. The only thing the State
5 can tell you that they've proved is somebody made a phone
6 call from his PIN number.

7 And they also said there's many phone calls. Why
8 even start looking at the phone calls? Who started looking
9 at the phone calls? The State did. You heard the
10 solicitors did. Why? Because we're going to trial and
11 they've got nothing.

12 Now, officer Linder's been on the force in one
13 shape, form, or another in what I believe she said is about
14 17 years. She had held the title of investigator as well
15 officer in Orangeburg. There's been no formal training.
16 And she handles all the investigations in Denmark unless
17 SLED's is called in. This is a burglary. There's not even
18 photographs of the crime scene. She responds to this
19 burglary. She finds out this horrific set of events from
20 burglary, to dog being killed, to now a second burglary.
21 The victims are upset. The sheriff even comes out to their
22 house and you hear they're friends. You also hear that
23 nothing was done in the prior cases. She is under pressure
24 at this point. You also heard her tell you there's no
25 suspects. She even testified that there was no suspects

1 after he gave a confession.

2 What's the chances of her going to talk to
3 Ms. Chestnut and then on the very next day just randomly
4 run into Mr. Chestnut in what walks up and just starts
5 vomiting a confession? It doesn't make any sense. And
6 then if you get a confession, why not cuff him right there
7 on the spot, take him in, and get the warrant. Why wait
8 that month? Well, it's one or two things: It either
9 didn't happen or she didn't believe him. But then waits a
10 month and goes and gets a warrant; never followed up on any
11 of the details. Never called Ms. Jeffcoat and said, Hey,
12 this is what I'm being told. Can you confirm or deny any
13 of these details. None of that was done.

14 I want to leave you with, again, going back to
15 Colin Powell. Make them bring it. They didn't bring it.
16 I submit that the State has failed to give you what you
17 need to be convinced beyond a reasonable doubt that the
18 person in the video or on that phone call is Randy
19 Chestnut. And that's falling short of convincing you
20 beyond a reasonable doubt and y'all should find him not
21 guilty.

22 THE COURT: All right. You've been sitting for
23 about 30 or 45 minutes, if you want to stand up and stretch
24 for a minute, you got the listen to me a few minutes more.
25 I don't know if any of you have any stiffness or whatever,

1 do so. I do.

2 **JURY CHARGE**

3 THE COURT: You've heard and seen the evidence
4 presented to you in this case and you've also heard the
5 closing arguments from the attorneys. It's now my duty and
6 responsibility under the constitution and laws of this
7 state to discuss with you what your duties and
8 responsibilities are and the law that's involved in this
9 case and then you'll go to the jury room and you will
10 deliberate and you'll give us your verdict, your decision
11 as far as this case is concerned.

12 The State claims that Randy D. Chestnut, who I
13 introduced to you earlier, who will be referred to as the
14 defendant; Mr. Randy D. Chestnut committed the crime of
15 what's called burglary in the first degree. That's defined
16 by the legislature of this State in one of the sixth of the
17 Code of Laws of this State in three degrees of burglary,
18 burglary first degree, burglary second degree, burglary
19 third degree. And I'll go over the elements in regard to
20 burglary, first degree.

21 But you can think about burglary as being the most
22 serious, less serious and then the least serious as far as
23 the laws of this state is concerned. But here we're only
24 concerned with a charge of what's called burglary in the
25 first degree. The most serious type of burglary that a

1 person can commit in the State of South Carolina.

2 Now, to that charge of burglary in the first
3 degree, if and that's -- the elements of it, by the way,
4 all of the elements of burglary in the first degree are
5 written out and contained on this piece of paper, which we
6 refer to as the indictment. And as I said that's -- this
7 is not proof of anything in regard to the charge Mr.
8 Chestnut, but it's just the way that we require the State
9 notify him of the charge made against him. But it does
10 contain in writing all of the elements of the offense in
11 this case.

12 This is what it says, it says that on December 6,
13 2018, Mr. Chestnut did willfully and unlawfully enter,
14 without consent, and with the intent to commit a crime
15 therein, the dwelling of Debbie Jeffcoat, located at [REDACTED]
16 [REDACTED] Street in Denmark, South Carolina, here in Bamberg
17 County. And that he had two or more prior convictions for
18 burglary. That's the definition right there. That's the
19 definition of burglary in the first degree as is involved
20 in this case. All of the elements of that crime are stated
21 right there in this indictment. Your job is to decide
22 whether the State has met the burden of proof in regard to
23 proving all of those elements that define the crime of
24 burglary in the first degree, and that Mr. Chestnut did
25 things alleged in that indictment.

1 But to that charge, of course, he said, I'm not
2 guilty. And as I told you earlier, that places the burden
3 of proving him guilty on the State. A person who's charged
4 is never required to prove himself or herself innocent.
5 The burden of proof is on the State throughout the trial
6 until you, the jury in the jury room have reached the
7 conclusion that the State had proven him guilty beyond a
8 reasonable doubt.

9 No, what do we mean when we say that the State must
10 prove someone guilty beyond a reasonable doubt? The term
11 reasonable doubt may be best understood by giving it its
12 plain and ordinary meaning. A reasonable doubt is the kind
13 of doubt that would cause a reasonable person to hesitate
14 so act. If after hearing all the evidence, you hesitate to
15 convict Mr. Chestnut on this charge, on this evidence, then
16 he's entitled to a verdict of not guilty. Reasonable doubt
17 may arise from evidence which is in the case or from the
18 lack or absence of evidence in the case.

19 You alone must make the determination of whether
20 reasonable doubt exists as to the guilt of Mr. Chestnut.
21 You are the finders of facts in this case. You are the
22 judges of the credibility of the witnesses who have
23 testified. You have to decide who and what to believe.
24 You can believe all of a witness's testimony or you can be
25 believe part of it, disregard the other part, you have to

1 make the determination of who and what to believe in regard
2 to all of the testimony and the evidence that has been
3 presented to you in this case.

4 .If I've said or done anything during the course of
5 the trial that you interpreted in any way as an opinion
6 that I might have about the facts from the witnesses or the
7 witness or the testimony. Please disregard it, for I've
8 intended to be fair and impartial to both sides in this
9 case.

10 In deciding who and what to believe, I would
11 suggest you go about doing that in much the same way you
12 decide that issue in your every day life. You and I have
13 to decide every day whether to believe what someone tells
14 us. It's so much a part of every day life that we
15 oftentimes don't think about any mental process that we may
16 go through, but you do it every day, whether at home, on
17 the street, on the job, wherever. When someone comes up to
18 you and makes a factual statement to you and someone says
19 something like such and such just happened and such and
20 such is about to happen; or you should do this because; or
21 you should do that because; when a person makes that type
22 of statement to you, you have to decide, do I believe what
23 that person tells me? How much trust, how much faith do I
24 put in what that persons telling me. As I said, I would
25 suggest you go about deciding who and what to believe in

1 regard to the testimony and the evidence in this case in
2 much the same way you decide that issue in your every day
3 life.

4 Some of the things that you may want to consider,
5 and this is by no means an exhaustive list, but some of the
6 things that you may want to consider are such things as:
7 The demeanor or manner of the witness who testified;
8 whether the witness had reason to be biased or prejudiced,
9 whether a witness's testimony was contradicted on the one
10 hand or supported and corroborated on the other hand. You
11 certainly do not determine the truth or credibility or
12 believability merely by counting the number of witness who
13 may have testified as to some fact or issue in the case.

14 As I said, you may believe a small portion of a
15 witness's testimony and disregard the larger or vice versa.
16 You may believe one witness against many or many against
17 one. You should consider all of these things, bearing in
18 mind that you should give the defendant the benefit of
19 every reasonable doubt.

20 Now, the fact that Mr. Chestnut did not testify
21 should in no way weigh in your decision in this case.
22 That's not a fact to be held against him. As I've told
23 you, under the constitution and laws of this State, a
24 person is never required to prove himself innocent. The
25 burden of proof is always on the State. I told you that at

1 the start, really the question that you'll answer, as I
2 said, when you go into the jury room is, has the State met
3 the burden of proof.

4 So that's the way the law is. That's the way the
5 constitution, that's the way the laws of this state say
6 that this trial will be conducted and that's the way you
7 should conduct your deliberations in this case.

8 Now, the charge in this case is a charge of
9 burglary in the first degree and as I said, that's
10 contained, the definition of burglary in the first degree
11 is contained in this indictment. And that's the charge
12 that you must consider and the only charge that you would
13 consider in deciding your decision in this case.

14 Now, what are the elements of it? The defendant is
15 charged with burglary in the first degree. The State must
16 prove beyond a reasonable doubt that the defendant, Mr.
17 Chestnut, entered a dwelling without consent.

18 What is a dwelling? That's a building where a
19 person ordinarily sleeps. So that's the charge that the
20 State makes against Mr. Chestnut. That he entered a
21 dwelling where people, a person, one or more persons
22 ordinarily sleeps, without consent, he didn't have consent
23 to go in, and with the intent to commit a crime once he got
24 in there. That's the definition of burglary and it applies
25 in all those instances that I talked about. Next, entered

1 a dwelling without consent and with the intent to commit a
2 crime, in this case steal something once he got in there.

3 Now, what makes this a burglary in the first degree
4 beyond that particular situation? There are five different
5 elements, five different things that could be involved, but
6 none of these are involved, such as use of a deadly weapon
7 or hurting somebody really bad or infliction of a bad
8 injury, those are not involved in this case. The only
9 thing added to the definition of burglary that would make
10 this burglary in the first degree is this: That when he
11 entered -- excuse me -- that he has a prior record of two
12 or more convictions for burglary. That's what would make
13 this burglary in the first degree as opposed to burglary in
14 the second degree or burglary in the third degree. Entered
15 the dwelling without consent and with the intent to commit
16 a crime once he got in there and he'd been convicted on two
17 occasions prior to this of burglary.

18 That's why that testimony or that stipulation came
19 in yesterday. That's one of the elements of the offense of
20 burglary in the first degree as defined by the legislature
21 that could be found to be applicable in this case.
22 Evidence of prior offenses by him was not offered to prove
23 that he has a bad character or to prove that he committed
24 this particular burglary. The prior convictions may be
25 considered by you only for determining whether the State

1 has met its burden of proof of proving the offense of
2 burglary in the first degree as I've defined that for you
3 by having committed and being convicted of two prior
4 burglaries prior to this.

5 Before you can even consider the evidence of his
6 prior burglaries, you must first find that the State has
7 proved beyond a reasonable doubt that he committed a
8 burglary as I've defined that for you and then the other
9 element, as I said that makes it into a burglary first
10 degree is that he'd been convicted on two prior occasions
11 of burglary.

12 Again, the State must prove all the elements of
13 burglary in the first degree beyond a reasonable doubt as I
14 have defined that for you.

15 Now, you were selected in this case as, both by the
16 State and the defendant as fair and impartial jurors. You
17 took an oath that you would decide this case based on the
18 facts as you find them to be, from the testimony and the
19 evidence that's been presented, and your full and fair
20 evaluation of that. When you comply with your oath to do
21 so, no one will have the right to criticize your verdict,
22 regardless of what that verdict may be.

23 There are two possible verdicts. If after
24 considering all of the testimony all of the evidence, you
25 decide that the State has not proven beyond a reasonable

1 doubt that Mr. Chestnut committed burglary that's been
2 charged against him, then, of course, you would simply
3 write on this indictment, Mr. Foreman, the words not
4 guilty, sign your name down there at the bottom and we know
5 that's your verdict.

6 On the other hand, if you conclude that the State
7 has proven beyond a reasonable doubt the charge, that he's
8 committed the crime as charged in this indictment, then you
9 would simply write the words guilty on the back of the
10 indictment, sign your name as foreman, date it, and return
11 it to us and we'll know that that's your verdict in this
12 case.

13 You have no friends to reward or enemies to punish.
14 Your job is to do what you said you would do at the start
15 of this case, decide this case based on your full and fair
16 evaluation of the testimony and evidence that's been
17 presented to you from this witness stand and my
18 instructions to you on the law. When you do that, as I
19 said, no one will have the right to criticize your verdict
20 regardless of what that verdict is.

21 As I said, you'll have with you any physical --

22 Was there anything that was introduced into
23 evidence other than the video?

24 MR. COOPER: Yes, sir, the photographs.

25 THE COURT: The photographs. You'll have that with

1 you in the jury room and you'll also have this indictment,
2 this piece of paper. And again, I would ask that you use
3 this to let us know what your verdict is. You see there's
4 a space here on the back of it that says verdict, blank
5 lines and a place for you to sign and to date it down
6 there.

7 So, again, the two possible verdicts are, not
8 guilty or guilty depending upon your evaluation of the
9 testimony and the evidence. Your verdict must be
10 unanimous. All twelve of you must agree on what the
11 verdict is before you can come back and tell us that you've
12 reached a verdict. We don't have majority verdict ins
13 South Carolina. All twelve of you must agree.

14 Now, I'm going to ask you to go to the jury room.
15 Don't start your deliberations yet. I've been looking over
16 some notes. You can probably tell I've been reading from
17 some notes as I've been talking to you. I need to look
18 over my notes to make sure I've told you everything I need
19 to tell you. If I have, I'll send the indictment along
20 with the pictures to the jury room and you will know at
21 that time you can begin your deliberations. If I've
22 overlooked something, I'll bring you back to tell you what
23 I've over looked.

24 (The jury left the courtroom at 10:23 a.m.)

25 THE COURT: All right. Any exception to the charge

1 from the State?

2 MR. COOPER: Your Honor, I was just discussing with
3 Mr. Hayes, I don't believe I heard you give the expert
4 witness charge and I don't believe --

5 THE COURT: Expert witness charge? I don't know
6 what expert witness charge you're talking about. What
7 expert witness did we have that needs to be charged?

8 MR. COOPER: Well, Mr. Schultz was charged as an
9 expert an there's a charge stating that, you know, he's
10 allowed to give opinion testimony whereas a lay witness
11 isn't necessarily allowed to.

12 THE COURT: I agree. He just said that the
13 fingerprint was not identifiable or whatever. It didn't do
14 anything for the case one way or the other. Why do I need
15 to give that?

16 MR. COOPER: I just wanted to make sure I check all
17 the boxes.

18 THE COURT: Okay. I don't think I need to give
19 that.

20 MR. COOPER: Okay. And the last one, I don't know
21 if they heard it -- I don't know if I heard a statement of
22 the defendant charge; there's a charge --

23 THE COURT: It wasn't -- I made the finding that it
24 wasn't, he wasn't in custody there wasn't any kind of
25 interrogation. You know, if it was -- the testimony was

1 that this is what he said, but I don't think I need to give
2 any kind of confession charge.

3 MR. COOPER: Can I show it to you and then we just
4 decide?

5 THE COURT: Okay. Let me look at this for just a
6 second.

7 MR. COOPER: And I don't know if this is necessary
8 either, Your Honor, but --

9 THE COURT: Well, let me just look at it a second.

10 MR. COOPER: Yes, sir.

11 THE COURT: I mean -- well, I mean, the reason I
12 don't think it's necessary to charge on this, there's no
13 question in my mind, I don't think or anybody's mind, that
14 he was not in custody and it was not an interrogation. So
15 I don't think I need to say anything about that.

16 MR. HAYES: Judge, the only thing about that is
17 that they would have to prove that it was voluntary and
18 that it is also, they get to judge the credibility.

19 THE COURT: Well, I gave the credibility charge.

20 MR. COOPER: You did.

21 MR. HAYES: Yes, sir.

22 THE COURT: I mean, I don't think I need to give
23 anything about -- there's no question that he was not in
24 custody and there's no question it was not an
25 interrogation.

1 MR. COOPER: Yes, sir. I understand.

2 THE COURT: So I don't think I need to say anything
3 about that. I'm going to take a chance on that anyway. I
4 don't think we need to confuse it -- anyway, I don't think
5 I need to give it.

6 All right. So get the pictures and here's the
7 indictment and we'll send it back and -- get the alternate
8 out also.

9 MR. COOPER: Yes, sir.

10 (The exhibits were gathered and the judge took the
11 exhibits and the indictment back to the jury room.)

12 (Deliberations began at 10:38.)

13 (The alternate was dismissed.)

14 (It was reported to the Court, the jury reached a
15 verdict at 10:47 a.m.)

16 **VERDICT**

17 THE COURT: All right. We have Mr. Chestnut back
18 and his attorneys. The jury sent word that they have a
19 verdict, so bring them in.

20 (The jury entered the courtroom at 10:50 a.m.)

21 THE COURT: You get that indictment and hand it to
22 me.

23 All right. We do have the jury with us and Mr.
24 Chestnut is present, along with his attorneys. The jury
25 has returned a verdict of guilty, signed by the foreman of

1 the jury.

2 Anything prior to the discharge of the jury from
3 the State? Nothing from the State.

4 Anything from the defendant?

5 MR. HAYES: We would ask to poll the jury.

6 THE COURT: All right. What that means is that
7 under the procedures under the law, once a verdict is
8 returned in open court, then we do have a procedure for
9 what's called polling the jury. And what that means is I'm
10 going to call each one of your names and if you would, when
11 I call your name if you would raise your hand so I can see
12 that you are answering to that name because I don't know
13 you and all.

14 **POLLING OF THE JURY**

15 THE COURT: So I'm going to call each one of your
16 names and the questions that I'm asking you is this: Was
17 the verdict of guilty as has been reported here in court
18 and is signed by the foreman of the jury, was that your
19 verdict when you last voted in the jury room and is it
20 still your verdict here in open court. So that's the
21 question that I'm asking you. Was the verdict of guilty,
22 was that your verdict when you last voted in the jury room
23 and is it still your verdict here in open court. If it was
24 simply say yes. If it was not, simply say no. So that's
25 what I want to know. That's what we mean by polling the

1 jury.

2 So the first person on the list is Karen Johnson.
3 Where's Ms. Johnson? Was that your verdict when you last
4 voted in the jury room?

5 THE JUROR: Yes.

6 THE COURT: And is it still your verdict here in
7 open court?

8 THE JUROR: Yes.

9 THE COURT: Steve Cornforth. Was that your verdict
10 when you last voted in the jury room and still your verdict
11 here in open court?

12 THE JUROR: Yes, sir.

13 THE COURT: Gregg Clark as to the verdict, was this
14 your verdict and is it still your verdict?

15 THE JUROR: Yes, Your Honor.

16 THE COURT: Charles Birt. As to the verdict, was
17 this your verdict and is it still your verdict?

18 THE JUROR: Yes, sir.

19 THE COURT: Mary Brant. Was this your verdict when
20 you last voted in the jury room and still your verdict here
21 in open court?

22 THE JUROR: Yes, sir.

23 THE COURT: Beverly Holman. As to the verdict, was
24 this your verdict and is it still your verdict?

25 THE JUROR: Yes, sir.

1 THE COURT: John Jenkins. As to the verdict, was
2 this your verdict and is it still your verdict?

3 THE JUROR: Yes, sir.

4 THE COURT: Austin Jones, as to the verdict, was
5 this your verdict and is it still your verdict?

6 THE JUROR: Yes, Your Honor.

7 THE COURT: Donna Hindman. As to the verdict, was
8 this your verdict and is it still your verdict?

9 THE JUROR: Yes, sir.

10 THE COURT: Pamela Toomer. As to the verdict, was
11 this your verdict and is it still your verdict?

12 THE JUROR: Yes, sir.

13 THE COURT: Sally Crosby. As to the verdict, was
14 this your verdict and is it still your verdict?

15 THE JUROR: Yes, sir:

16 THE COURT: Kathy Lyons, as to the verdict, was
17 this your verdict and is it still your verdict?

18 THE JUROR: Yes, Your Honor.

19 THE COURT: All right. I believe that completes
20 the polling of the jury.

21 All right. Would you present your client then?

22 Mr. Chestnut, come up for sentencing.

23 And ladies and gentlemen, that does, that does
24 finish your service as far as your jury duty in regard to
25 this case is concerned and actually it's finished your jury

1 duty for the week. We don't have anymore cases for trial
2 this week --

3 Is that correct, Solicitor?

4 MR. COOPER: That's correct.

5 THE COURT: Nothing else for trial. We will be
6 occupied with some other work. Bond proceedings and
7 possibly some guilty pleas where we don't need the jury.
8 So, you are free to go, but we just want you to know that
9 you can stay if you want to, but you don't have to stay if
10 you don't want too. And by the way, you can pass your --

11 Go ahead and get their notepads back from them.

12 Thank you very much for your service. You're free
13 to talk about the case if you want to. Give those notepads
14 back to the clerk.

15 (The jury left the courtroom at 10:55 a.m.)

16 THE COURT: All right. Solicitor, what would you
17 like to tell me as far as Mr. Chestnut is concerned?

18 MR. COOPER: Your Honor, I guess first I would
19 provide you with the sentencing sheet.

20 THE COURT: Okay.

21 MR. COOPER: I would also make the Court aware of
22 his prior criminal record.

23 THE COURT: All right.

24 MR. COOPER: In 2008, he was convicted of burglary
25 in the third degree first offense. In 2010, he was

1 convicted of two counts of burglary second degree,
2 nonviolent, as well as armed robbery, as well as possession
3 with intent to distribute marijuana.

4 On March 5th, 2019, the State notified him of the
5 intent to seek a life without parole sentence as this would
6 be his second most serious strike. I would like to provide
7 both of those, the one to his attorney and the one to Mr.
8 Chestnut as court's exhibits.

9 THE COURT: All right.

10 MR. COOPER: I would also like to mark a court's
11 exhibit, which is a cover letter, which included those
12 certificates of service as well as the sentencing sheets
13 for his prior record and the purpose of it was to inform
14 Mr. Chestnut of the nature of the charge against him prior
15 to the indictment being true billed by the grand jury in
16 April 2019 Bamberg County Grand Jury. I would also like to
17 make that a court exhibit.

18 THE COURT: All right. Give those -- let her mark
19 them or whatever:

20 MR. COOPER: And pursuant to Carolina code --

21 THE COURT: Let her mark those.

22 (Exhibit Number 2, Number 3, and Number 4 was
23 marked for identification.)

24 THE COURT REPORTER: Those are Court's Exhibits 2,
25 3, and 4, Your Honor.

1 THE COURT: All right. Go ahead.

2 MR. COOPER: Your Honor, pursuant to South Carolina
3 Code 17-25-45, the State of South Carolina seeks a sentence
4 of life without parole.

5 THE COURT: All right, sir. Do you have a copy of
6 that?

7 MR. COOPER: The code?

8 THE COURT: Yeah.

9 MR. COOPER: No, sir.

10 THE COURT: Look it up on your computer. I want to
11 make sure exactly what it says.

12 So what is -- this section that has been pointed
13 out to me here, do you want to do?

14 So it's the first section of 17-25-45 says,
15 notwithstanding any other provision of law, except in cases
16 for which the death penalty is imposed, upon a conviction
17 for a most serious offense as defined by this section, a
18 person must be sentence today a term of imprisonment for
19 life without the possibilities of parole if that person has
20 and then it spells out the other things as far as that's
21 concerned.

22 And so that's the section you say applies in this
23 case?

24 MR. COOPER: Yes, sir, he was convicted in 2010 of
25 armed robbery, which is a most serious offense, and

1 burglary in the first degree is also a most serious
2 offense.

3 THE COURT: All right. So I don't have any
4 discretion under this provision, I must sentence him to
5 life without parole?

6 MR. COOPER: That's correct, Your Honor.

7 THE COURT: All right. That's what I thought, but
8 I wanted to make sure. All right. Give this back. Thank
9 you for having that.

10 SENTENCE

11 THE COURT: And I'll be glad to hear from you,
12 anything you would like to tell me.

13 MS. ALVES: Judge, at first, I'd like the put on
14 the record. I know what the statute says, I'm very
15 familiar with that statute; however, I would say argue
16 against that statute, Mr. Chestnut being sentenced under
17 that statute.

18 Judge, historically our constitution and our law
19 has always given the judges discretion in sentencing a
20 defendant at the bar. And in this situation and with that
21 statute, I believe that statute is unconstitutional and I
22 would make an argument on that basis. In this situation,
23 all discretion has been taken away from Your Honor to even
24 consider the factors of the case. And in this situation, I
25 think that sentence would be overly harsh considering the

1 charge that Mr. Chestnut stands convicted of.

2 THE COURT: All right. Mr. Hayes, anything else
3 you'd like to say?

4 MR. HAYES: Judge, we also would renew our directed
5 verdict motion from when we rested our case and I would
6 also move for a new trial based on our previous objections
7 and earlier motions.

8 THE COURT: All right.

9 MR. HAYES: And the evidence of the case.

10 THE COURT: I appreciate that. I deny your motion.

11 Mr. Chestnut, anything that you would like to say?
12 You don't have to, but you always have the opportunity to
13 say anything.

14 THE DEFENDANT: Yes, sir, I just ask you to be
15 lenient. I'm innocent.

16 THE COURT: Well, I appreciate your request for
17 leniency, but as I've indicated and your lawyer is arguing
18 against that, but I think that under the law adopted by the
19 legislature, I don't have any room for leniency or mercy or
20 anything. The law requires on your conviction of burglary
21 in the first degree under these circumstances that I
22 sentence you to a term of imprisonment for the balance of
23 your natural life. That's the sentence. Good luck to you.

24 PROBATION AGENT: Your Honor, if I may, Mr.
25 Chestnut is also on community supervision by our

1 department.

2 THE COURT: Just terminate that on getting a new
3 conviction.

4

5 * * * * * END OF TRANSCRIPT * * * * *

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1 State of South Carolina)
2 County of Aiken) **Certificate of Reporter**

3
4
5
6 I, Brenda J. Sigwald, Official Court Reporter for
7 the Second Judicial Circuit of the State of South Carolina,
8 do hereby certify that the foregoing is a true, accurate,
9 and complete Transcript of Record of the proceedings had
10 and evidence introduced in the trial of the captioned case,
11 relative to appeal, in the Court of General Sessions in and
12 for the State of South Carolina on the 22nd through the
13 24th days of April 2019.

14 I FURTHER CERTIFY that I am neither kin, counsel,
15 nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 seal at Aiken County, this 29th day of October 2019.

18
19
20
21
22 *Brenda J. Sigwald*
23 Brenda J. Sigwald,
24 Court Reporter and Notary Public
25 For the State of South Carolina
 My commission expires
 January 4, 2020.

WITNESSES

Denmark Police Department

Laquana D Linder

Law Enforcement Case #: DPD-18-0394

RJC

ARREST WARRANT NUMBER

2019A0510100018

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: April 18, 2019

VERDICT

Guilty

Foreperson of Petit Jury
Date:

4-24-19

DOCKET NO. 2019GS0500024

The State of South Carolina

County of Bamberg

COURT OF GENERAL SESSIONS

APRIL TERM 2019

THE STATE

vs.

RANDY D. CHESTNUT

CDR #: 0079

Indictment for

BURGLARY
FIRST DEGREE

§ 16-11-0311

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF BAMBERG)
)

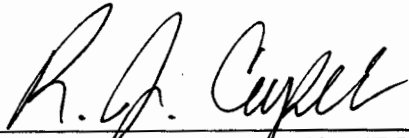
INDICTMENT FOR
BURGLARY FIRST DEGREE

§ 16-11-0311

At a Court of General Sessions, convened on April 22, 2019, the Grand Jurors of Bamberg County present upon their oath:

That **RANDY D. CHESTNUT** did in Bamberg County on or about December 6, 2018, wilfully and unlawfully enter, without consent and with the intent to commit a crime therein, the dwelling of Debbie Jeffcoat located at [REDACTED] Street, Denmark, South Carolina, and the defendant has two or more prior convictions for burglary. All in violation of §16-11-311, Code of Laws of South Carolina (1976), as amended.

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



J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Bamberg
STATE VS.
Randy Chestnut

AKA:
Race: Black Sex: M Age: 28
DOB: SS#:
Address: Hwy
City, State, Zip: Denmark, SC 29042
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 / Burglary (After June 20, 1985) - First degree

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☒ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: R. J. [Signature] 102677
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of NATURAL LIFE 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:
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the 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: _____ Obtain GED ☐

☐ Set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ Substance Abuse Counseling ☐

§ 14-1-206 (Assessments 107.5 %) \$ _____ Random Drug/Alcohol testing ☐

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal, consecutive weekly/monthly

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____ pmts. of \$ _____ beginning _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ paid to Public Defender Fund

§ 56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

Proviso (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Joyce H. [Signature]

Court Reporter: Brand J. [Signature]

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS0500024
A/W#: 2019A0510100018
Date of Offense: 12/6/2018
S.C. Code § : 16-11-0311
CDR Code #: 0079

SENTENCE SHEET

LWOP

☒ CONVICTED OF or ☐ PLEADS

☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees. T.L. Hughton, Jr.
Presiding Judge
Judge Code: 2008
Sentence Date: 4/24/19.

FORM 5

STATE OF SOUTH CAROLINA)

County of Bamberg)Randy Chestnut # 727615)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2022-CP-05-00105JAMES C. JONES
CLERK OF COURT
BAMBERG, SC

2022 APR 18 PM 3:29

FILED
BAMBERG COUNTY

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Bamberg County
2. Name and location of Court which imposed sentence 2873 main
Highway Bamberg S.C.
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2019G5050021 Burglary 1st degree
 - (b) _____

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 4/22/19
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
- yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina court of appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Appeal Dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. July 7, 2021
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- 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) IN ADEQUATE ASSISTANCE OF COUNSEL
 (b) OUR PROCESS / Miscarriage of Justice
 (c) FRIBTIED ARREST WARRANT

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) SEE ATTACHED PAGE 'A'
 (b) SEE ATTACHED PAGE 'N'
 (c) WAS ARRESTED WITHOUT PROBABLE CAUSE.

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? DIRECT APPEAL
 (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. DIRECT APPEAL
 ii. _____
 iii. _____
 iv. _____

(b) the name and location of the Court in which each was filed:

- i. S.C. Ct. of Appeal, Columbia, SC 29202
 ii. _____
 iii. _____
 iv. _____

(c) the disposition thereof:

- i. Denied
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. July 7 2021
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. Anders v. California
- 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) N/A
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? N/A
 (b) your trial, if any? ✓
 (c) your sentencing? ✓
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? ✓
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? ✓

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. C. David Hayes, Deputy Public Defender
Walter A. Alves, Assistant Public Defender

ii. _____
 iii. _____

(b) the proceedings at which each such attorney represented you:

i. _____
 ii. _____
 iii. _____

19. State clearly the relief you seek in filing this application:

Vacate all Criminal

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)

County of Bamberg)

VERIFICATION

I, Randy Chestnut, 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.

Randy Chestnut

SWORN to and subscribed before me this 8th
day of April, 2022.

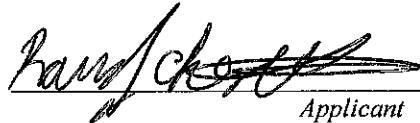
Linda K. B. (L.S.)
Notary Public

My Commission Expires: 6-20-26

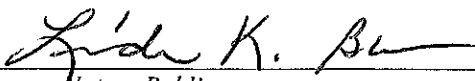
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Randy Chestnut, 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.


Applicant

SWORN or affirmed to and subscribed before me this
8th day of April, 2022.


Notary Public

My Commission Expires: 6-20-26

FILED
BAMBERG COUNTY

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF BAMBERG 2022 JUL 20 PM 3:06 THE SECOND JUDICIAL CIRCUIT

Randy Chestnut, SCDC #327615, JANINE C. JOHNSON Case No.: 2022-CP-05-00105
CLERK OF COURT

Applicant, BAMBERG, SC

v.

State of South Carolina,

Respondent.

**RETURN TO THE APPLICATION
FOR POST-CONVICTION RELIEF
AND MOTION FOR A MORE
DEFINITE STATEMENT
(Counsel Already Appointed)**

Respondent the State of South Carolina, in response to the application for post-conviction relief filed by Applicant Randy Chestnut, on April 18, 2022, and received by Respondent on April 19, 2022, makes the following return to the application and requests that Applicant, through his appointed counsel, file an amended application for post-conviction relief in compliance with the Uniform Post-Conviction Procedures Act (S.C. Code Ann. § 17-27-10 et seq.) and the South Carolina Rules of Civil Procedure, prior to an evidentiary hearing being scheduled in this matter.

I. PROCEDURAL AND FACTUAL HISTORY

Procedural History

Applicant is presently confined within the South Carolina Department of Corrections. On December 6, 2018, Applicant entered a home in Demark, South Carolina, without consent, and stole personal property from inside. The home invasion was captured on motion activated-surveillance cameras around the home. Applicant later admitted to law enforcement that he entered the home and carried away personal property but claimed that he was owed money by the homeowners for drugs he had previously provided.

Applicant was arrested and subsequently indicted by the Bamberg County Grand Jury for first-degree burglary (2019-GS-05-0024). The State subsequently served Applicant with its notice of intent to seek life without parole pursuant to S.C. Code Ann. § 17-25-45 based on Applicant's

prior conviction for armed robbery (2010-GS-05-0001). Applicant was represented by Deputy Public Defender C. David Hayes and Assistant Public Defender Wallis A. Alves of the Second Circuit Public Defender's Office. The case was prosecuted by Assistant Solicitors R Jackson Cooper and Michael H. Emmer, III, of the Second Circuit Solicitor's Office.

On April 23, 2019, the State called the matter to trial before the Honorable Thomas L. Hughston, circuit court judge, and a jury. Following a two-day trial, the jury convicted Applicant as indicted. Judge Hughston sentenced Applicant to life imprisonment without the possibility of parole pursuant to Section 17-25-45.

Applicant filed a timely notice of appeal. Appellate Defender David Alexander of the South Carolina Commission on Indigent Defense-Office of Appellate Defense perfected Applicant's appeal by filing a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967) with the Court of Appeals on the following issue:

Whether the trial judge erred in admitting allusions to selling drugs made in appellant's statement in violation of Rule 403 and 404, SCRE?

Appellate counsel simultaneously submitted a petition to be relieved as counsel for Applicant. Following an *Anders* review¹, the South Carolina Court of Appeals dismissed the appeal. *State v. Randy Chestnut*, Unpub. Op. No. 2021-UP-255 (Ct. App. filed July 7, 2021). The remittitur was issued on July 26, 2021.

II. ALLEGATIONS RAISED IN THE APPLICATION FOR POST-CONVICTION RELIEF

In his application for post-conviction relief, Applicant sets forth the following claims of ineffective assistance of counsel:

10 (a) Ineffective assistance of counsel

¹ Despite being notified by the Court of Appeals that he could submit his own *pro se* brief, Applicant elected not to do so.

11(a) "See attached Page A"

10 (b) Due Process/Miscarriage of Justice

11(b) "See attached Page A"

10 (c) Falsified arrest warrant

11(c) "was arrested without probable cause"

See PCR Application (question #10 and #11).²

Applicant failed to provide any specific allegations or facts to support these generic claims. Based on this, Respondent addresses ineffective assistance of counsel generally, but also moves for a more definite statement and requests that Applicant, though his appointed counsel, file an amended application clearly delineating the specific grounds for relief with supporting facts as required under the applicable rules and statutes.

As requested relief, Applicant states he is seeking, "vacate all criminal."

Attached to this return and incorporated into this response to the application are the Bamberg County Clerk of Court records regarding the general sessions proceeding, Applicant's records from the South Carolina Department of Corrections, the entire direct appeal record (including the record on appeal which includes the transcript from Applicant's trial, and brief, the order affirming his convictions, and the remittitur), and the current application for relief. Respondent reserves the right to amend this return based upon receipt of additional relevant information.

III. RESPONSE TO ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

In his application, Applicant raises generic claims of ineffective assistance of counsel without any specificity or facts to support such allegations. Accordingly, Respondent addresses

² Upon receipt of the application, Respondent checked with the Bamberg County Clerk of Court, who confirmed that no attachments were submitted with the application.

this general allegation and Respondent submits the record establishes Applicant will not be able to prove any ineffectiveness of counsel as to these claims. However, as set forth below, Respondent requests that Applicant, through his counsel, file an amended application with specific grounds for relief so that Respondent may file an amended return specifically addressing all claims.

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to “assistance by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair.” *Strickland v. Washington*, 466 U.S. 668 (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) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel’s conduct “was so ineffective as to require reversal” of the applicant’s conviction or sentence. 466 U.S. at 687. To obtain reversal of a conviction, the applicant must prove that (1) their attorney’s performance fell below an objective standard of reasonableness (the performance prong) and (2) the deficient performance prejudiced the defense to the degree that it deprived the defendant of a fair trial (the prejudice prong). *Id.* at 690–95; *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. The defendant's burden for proving both of these components is heavy in light of the strong

presumption that counsel's conduct fell within the range of reasonable professional legal assistance. *Strickland*, 466 U.S. at 690. Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Id.* at 700.

The first prong—constitutional deficiency—is “necessarily linked to the practice and expectations of the legal community.” *Padilla v. Kentucky*, 559 U.S. 356, 366 (2010). In order to prove deficient performance, the applicant must show counsel's representation fell below an objective standard of “reasonableness under prevailing professional norms.” *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland, however, “does not guarantee perfect representation[—]only a ‘reasonably competent attorney.’” *Harrington v. Richter*, 562 U.S. 86, 110 (2011) (quoting *Strickland*, 466 U.S. at 687). Representation is constitutionally ineffective only if counsel's conduct “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair proceeding. *Strickland*, 466 U.S. at 686. Just as there is “no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities.” *Harrington*, 562 U.S. at 110.

Accordingly, “[j]udicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel's assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.” *Strickland*, 466 U.S. at 689; see also *Yarborough v. Gentry*, 540 U.S. 1, 6 (2003) (“The Sixth

Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Thus, a fair assessment of attorney performance requires every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time. *Strickland*, 466 U.S. at 689. Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a “strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance.” *Butler*, 286 S.C. at 445, 334 S.E.2d at 816. The applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

A reviewing court “must judge the reasonableness of counsel’s challenged conduct on the facts of the particular case, viewed at the time of counsel’s conduct.” *Strickland*, 466 U.S. at 690. An applicant making a claim of ineffective assistance “must identify the acts or omissions of counsel that are alleged *not* to have been the result of reasonable professional judgment.” *Strickland*, 466 U.S. at 690 (emphasis added). The reviewing court must then “determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance.” *Id.*

The *Strickland* standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689-690; *see also Harrington*, 562 U.S. at 105 (cautioning that an ineffective assistance of counsel claim could potentially function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial). Even under *de novo* review, the standard for judging counsel’s representation is a most deferential one. *Harrington*, 562 U.S. at 105. Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an

attorney's representation amounted to incompetence under "prevailing professional norms," *not* whether it deviated from best practices or most common custom. *Id.* (quoting *Strickland*, 466 U.S. at 690) (emphasis added).

The second, or "prejudice" prong of *Strickland* is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. *Id.* at 691–92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. In determining prejudice, the reviewing court must consider the totality of the evidence before the jury. *Id.* at 695.

Thus, it is not enough "to show the errors had some conceivable effect" on the outcome of the proceeding—counsel's errors must be "so serious as to *deprive the defendant of a fair trial.*" *Id.* at 687 (emphasis added). "An error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." *Id.* at 668. Moreover, the South Carolina Supreme Court has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice. *Bannister v. State*, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998).

The performance and prejudice standards, however, "do not establish mechanical rules; [t]he ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." *Strickland*, at 696. Moreover, "there is no reason for a court deciding an

ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one.” *Id.* at 697. The court “need not determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. *Id.* If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, the court may evaluate the prejudice prong only. *Id.*

As set forth above, it is impossible to discern what specifically Applicant is raising on post-conviction relief based on his generic claims of ineffectiveness without specific allegations or supporting facts.

Respondent submits Applicant cannot satisfy either requirement of the *Strickland* test, as the record establishes he was represented by competent counsel who diligently represented him. However, without specific allegations of ineffective assistance of counsel, it is impossible to respond to the claim of ineffective assistance of counsel precisely. Accordingly, Respondent requests Applicant, through his appointed counsel, amend his application to include the specificity required to support an allegation of ineffective assistance of counsel.

IV. MOTION FOR MORE DEFINITE STATEMENT

In his application, Applicant fails to list specific allegations or any facts to support his vague allegations. *See* PCR Application (question #10 and #11).

The Uniform Post-Conviction Procedure Act requires that the Applicant must “. . . specifically set forth the grounds upon which the application is based.” S.C. Code Ann. Section 17-27-50. In an application for post-conviction relief, it is incumbent upon Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v.*

State, 245 S.C. 385, 140 S.E.2d 784 (1965). *See also* Rule 8(a)(2), SCRCPP (requiring all civil pleadings to include “a short and plain statement of the facts showing that the pleader is entitled to relief”); Rule 71.1(d), SCRCPP (“Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary.”). “[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the [applicant] that he was deprived of adequate and effective assistance of counsel is insufficient.” *Coardes v. State*, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Applicant has failed to state with any specificity the allegations he wishes to pursue on post-conviction relief beyond vague allegations. Respondent moves pursuant to Rule 12(e), SCRCPP, to require Applicant, through his appointed counsel, to provide a more definite statement of his allegations by filing an amended application **before** the scheduling of any hearing(s) in this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the application.

V. 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. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRCPP. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *Id.*, 428 S.C. at 245, 834 S.E.2d at 203 (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.”).

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 this allegation or claim. S.C. Code Ann. §§ 17-27-10 to -160; Rule 71.1, SCRCPP; *see also* Rules 15(a)-(b), SCRCPP. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. *See* Rule 15(a), SCRCPP.

Pursuant to S.C. Code Ann. § 17-27-150, 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. The State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State.

VI. GENERAL DENIAL

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

VII. CONCLUSION

WHEREFORE, Respondent respectfully requests Applicant, through appointed counsel, file an amended application with specific allegations and supporting facts, prior to the scheduling of any evidentiary hearings in this matter so that Respondent may file an amended return specifically responding to these amended, specific allegations.

Respectfully submitted,

ALAN WILSON
Attorney General

W. Jeffrey Young
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

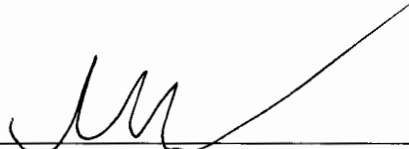
July 18, 2022

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BAMBERG	)	
	)	2022-CP-05-105
	)	
RANDY CHESTNUT, #327615	)	
	)	
Applicant,	)	
	)	
vs	)	CERTIFICATE OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent,	)	
_____	)	

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 to the Application for Post-Conviction Relief and Motion for More Definite Statement in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Ashley A. McMahan, Esquire
McMahan Law, LLC
Post Office Box 50536
Columbia, South Carolina 29250

DATED this 18th day of July, 2022.


 Joshua Osborne, Legal Assistant
 For Respondent

FILED
 BAMBERG COUNTY
 2022 JUL 20 PM 3:16
 JANIE O. JOHNSON
 CLERK OF COURT
 BAMBERG, SC

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	FOR THE 2 nd JUDICIAL CIRCUIT
COUNTY OF BAMBERG	)	Case No.: 2022-CP-05-00105
 Randy Chestnut, #327615	)	
	)	
Applicant,	)	AMENDED POST-CONVICTION
	)	RELIEF APPLICATION
v.	)	
	)	
State of South Carolina.	)	
_____	)	

The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on April 18, 2022

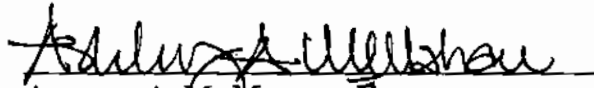
to add the following:

1. Ineffective assistance of counsel of Charles David Hayes:
 - a. Failing to object to the underlying warrants as falsified.
 - b. Failing to object to malicious prosecution.
 - c. Failing to object to violation of due process.
 - d. Failing to object to perjury by a witness.

Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. See Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006); see also Love v. State of South Carolina, 428 S.C. 231, 834 S.E.2d 196 (2019).

FILED
BAMBERG COUNTY
2023 JAN -6 AM 9:54
CLERK OF COURT

Respectfully submitted,



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SC Bar No. 71676

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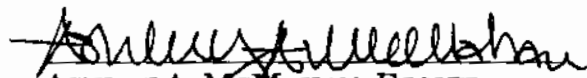
January 3, 2023

CERTIFICATE OF SERVICE

I certify that I have served this document via email to:

Zachary Jones
Assistant Attorney General
zacharyjones@scag.gov

This 3rd Day of January, 2023.



ASHLEY A. MCMAHAN, ESQUIRE

Attorney for Applicant

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF BAMBERG	)	2022-CP-05-105
	)	
	)	
	)	
	)	
RANDY CHESTNUT,	)	
APPLICANT,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
RESPONDENT.	)	
_____	)	

January 17, 2023
Aiken, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE.

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

ASHLEY A. MCMAHAN, ESQ.
Attorney for the Applicant

ZACHARY JONES, ESQ.
Attorney for the Respondent

Penny M. Johnson
Court Reporter III

I N D E X

(PW) - Denotes Plaintiff's Witness
(DW) - Denotes Defense Witness

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<u>(RW) DAVID HAYES:</u>	
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E X H I B I T S

(There were no exhibits submitted.)

P R O C E E D I N G S

1
2 MR. JONES: Thank you, Your Honor. This next matter we
3 have here this morning is the matter of Randy Chestnut vs.
4 The State of South Carolina. That's case number
5 2022-CP-05-105.

6 Mr. Chestnut was indicted by Bamberg County Grand Jury
7 for first degree burglary, indictment number 2019-GS-05-24.
8 The State served him with notice of its intent to seek life
9 without parole based on his prior convictions. He was
10 represented by Deputy Public Defender David Hayes and
11 Assistant Public Defender Wallis Alves of the Second Circuit
12 Public Defender's Office.

13 On April 23rd, 2019, the matter came to trial before
14 the Honorable Thomas Houston, Circuit Court Judge.
15 Following a two-day trial, Applicant was convicted as
16 indicted and Judge Houston sentenced Applicant to life
17 imprisonment without the possibility of parole.

18 Mr. Chestnut filed a timely notice of appeal. That
19 appeal was, ultimately, dismissed by the South Carolina
20 Court of Appeals following an Anders review. The remittitur
21 was issued on July 26th, 2021 and this PCR application was
22 filed on April 18th, 2022.

23 At this point, I'll turn it over to Ms. McMahan.

24 MS. MCMAHAN: Your Honor, the Applicant calls Mr.
25 Chestnut to the stand.

1 THE COURT: I'm sorry. You've got to speak up a little
2 bit.

3 MS. MCMAHAN: The Applicant calls Randy Chestnut to the
4 stand.

5 THE CLERK: Raise your right hand, please.

6 RANDY CHESTNUT,

7 after being duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. MCMAHAN:

10 Q Mr. Chestnut, did you file this PCR application?

11 A Yes, ma'am.

12 Q Let me back up. Would you state your name for the
13 record?

14 A Randy Chestnut.

15 Q And spell your last name.

16 A C-H-E-S-T-N-U-T.

17 Q Just like the tree?

18 A Yes, ma'am.

19 Q And we've had discussions about your case and I let you
20 know that if you win your PCR, you cannot get a time cut,
21 you start over from the beginning. Do you understand that?

22 A Yes, ma'am.

23 Q And knowing that, do you wish to go forward here today?

24 A Yes, ma'am.

25 Q Who was your attorney on your charges?

1 A Mr. David Hayes.

2 Q How many times would you say you met with him?

3 A I'm not sure, probably three, probably three or four.

4 Q Where did you meet with him when you met with him?

5 A Bamberg County.

6 Q At the courthouse or his office?

7 A At the jailhouse, detention center.

8 Q Okay, at the jail?

9 A Yes, ma'am.

10 Q So you were in jail the whole time?

11 A Yes, ma'am.

12 Q So did you ever have a bond hearing?

13 A Yes, ma'am.

14 Q What happened at that?

15 A My bond was denied.

16 Q How long were you in the detention center?

17 A Before I went to the bond hearing?

18 Q Yeah.

19 A Two weeks.

20 Q How long were you in the detention center before your
21 trial started?

22 A Two and a half months.

23 Q Did you ask him if he could file anything about having
24 your bond reviewed again or anything like that?

25 A No, ma'am. I wasn't aware. I was just expressing to

1 him my innocence and that I wanted to go to trial.

2 Q So the whole time you guys were talking, you were just
3 letting him know you wanted a trial?

4 A Yes, ma'am.

5 Q You never wanted to have a guilty plea?

6 A No, ma'am.

7 Q The times you met with him, what did y'all talk about?
8 Do you remember?

9 A Just the details of the case and he had expressed to me
10 that -- well, at the time, the State didn't have anything
11 and that we was headed to trial. But towards the end of the
12 trial, I think, or two days before the trial, they come up
13 with a videotape, a recording and he had brought that to my
14 attention.

15 Q So there was a videotape of what, someone entering a
16 home?

17 A It was two videos. One was the video of the incident.
18 You have a male entering the Jeffcoats' home and leaving out
19 with a 62-inch TV. The second was a voice recording of a
20 phone conversation from the Bamberg County Detention Center.
21 And he had made me aware of the phone conversations.

22 Q And what was allegedly in the phone conversation?

23 A Just, basically, in the phone conversation, the
24 Solicitor argued that the person said that they had on
25 gloves. The phone conversation didn't give any specific

1 details of the incident. It didn't say -- the person didn't
2 say that they committed a crime or why they had on gloves or
3 anything. It was just a phone conversation saying I had on
4 gloves.

5 But my issue was proper identification because the
6 officer testified that she did not know me. She had no
7 dealings with me. She never met me. She never heard me
8 talk on the phone. We don't have the same friends. So how
9 can you authenticate my voice?

10 Q Let's back up a second. So the issue was the solicitor
11 was using this recorded jail conversation --

12 A Yes, ma'am.

13 Q -- and submitted to the Court that this was your voice
14 on that recording?

15 A Yes, ma'am.

16 Q And in order to authenticate that was your voice, they
17 had --

18 A Officer Linder testified that it was my voice.

19 Q And you felt like your attorney did not adequately
20 address that situation or object to it?

21 A Yes, ma'am, because how could she authenticate my voice
22 when she never met me, never had any dealings with me, just
23 knowing who I am? Never heard me speak, talk on the phone,
24 no dealings with me, no run-ins with or nothing, but you can
25 authenticate my voice.

1 And Mr. Hayes had cross-examined her and asked her
2 well, when was the first time you been aware of this phone
3 conversation and she said the morning of the trial. So the
4 morning of the trial was her first time ever hearing the
5 phone conversation, but you can authenticate my voice when
6 you've never met me, never heard me speak not one time. And
7 that was an issue.

8 Q So let's back up a little bit. Earlier in the trial,
9 her testimony is that she walked up to some people at a
10 grocery store, you happened to be one of them and she talked
11 to you and you admitted you did this?

12 A Yes, ma'am. She gave a statement saying December the
13 18th -- my sister had worked for North Police Department.
14 So she went to North Police Department and questioned my
15 sister to see if she can identify me.

16 Now, there was a video footage of the burglary being
17 showed on the news. No one identified me. The officer goes
18 to North on the 18th and she questioned my sister. She
19 couldn't identify me.

20 Now, coincidence, the next day, this officer says she
21 seen me at a grocery store and I just flagged down her car
22 and I just go to confessing to not one, but numerous crimes.
23 She's saying that I'm drug dealing, that the Jeffcoats owed
24 me money for drugs, approximately \$3,000. She never
25 questioned the Jeffcoats not one time. She failed to do any

1 investigation. She admitted on the stand she did not
2 investigate the case whatsoever.

3 Q So let's stop there. So your allegation is that Mr.
4 Hayes was ineffective in addressing the investigator, which
5 was Ms. Linder?

6 A Yes, ma'am.

7 Q And how she handled the case?

8 A Yes, ma'am.

9 Q What she didn't know?

10 A She failed to do any investigation. She failed to meet
11 the grounds of probable cause.

12 Q And that Mr. Hayes did not properly, kind of, I guess,
13 flush all that out during the trial?

14 A To challenge -- like, really, just to challenge the
15 warrant. They went 41 days -- Officer Linder, she's saying
16 that this confession, alleged confession happened on the
17 19th. Now, in this confession, I wasn't -- which she
18 alleged I gave her, which I deny, and in this situation, a
19 person was never detained. There was no warrant put out for
20 this person's arrest. She went 41 days, 41 days. And I had
21 got arrested on, I think, assault and battery third and then
22 the next day, they brought me the warrant for the burglary.

23 Q So you felt like Mr. Hayes didn't adequately object to
24 or address that issue?

25 A Yes, ma'am.

1 Q So when she got the warrant, was that before or after
2 the voice recording from the jail?

3 A It was before.

4 Q So did you have any discussions with Mr. Hayes about
5 the issues related to the warrant?

6 A I really can't recall, but I do recall I have spoke
7 with Mr. Hayes, I think, in, like, our second meeting that I
8 wanted him to retrieve my medical records from Orangeburg
9 Hospital. I had been in an ATV rollover, like, the end of
10 November where I fractured my collarbone, my elbow, a chest
11 contusion, head trauma. And I wanted him to get my medical
12 records and have an expert testify, like, how could I pick
13 up a 62-inch TV and carry it with my injuries. I couldn't
14 hold a cup of water.

15 Q So when was the ATV accident?

16 A It was, like, the end of November.

17 Q And when was this alleged incident?

18 A On December the 6th.

19 Q So how many weeks between your ATV accident and this,
20 the TV being stolen? Would that have been about two, three?

21 A That would have been about three at the most.

22 Q Were you in any kind of physical therapy during that
23 time?

24 A My arm was in a sling. I was taking some strong
25 medicine for my pain.

1 Q Were you living on your own? Were you living with
2 people at this time?

3 A Well, at the time, my girlfriend was with me to help
4 me. Because, like I said, I couldn't feed myself. I
5 couldn't move my left arm, period.

6 Q And when you talked to Mr. Hayes about that, what did
7 he indicate to you?

8 A He told me that he would retrieve the medical records,
9 which he did, but he failed to argue and to bring up the
10 medical records.

11 Q So he did get your medical records?

12 A Yes, ma'am.

13 Q And he didn't bring them up. Did you have any
14 conversations with him about why he didn't bring them up?

15 A No, ma'am, he did not tell me.

16 Q Did you ask him during the trial why he didn't?

17 A No, ma'am.

18 Q Did you testify at the trial?

19 A No, ma'am, I did not.

20 Q Did you have any conversations about that with Mr.
21 Hayes?

22 A I remember him asking me did I want to take the stand
23 and I told him no. I really didn't see a point. Now, I
24 know, like, if I would have gotten on the stand, I could
25 have expressed my innocence. I really did not know. I

1 thought being silent was the right thing to do because it
2 was up to the State to prove without a reasonable doubt that
3 I committed the crime, which I know that there wasn't enough
4 evidence.

5 It was clearly that the Court was prejudiced because --
6 like, I argue with -- the officer prejudiced me, like, her
7 whole testimony, she gave a statement saying that on this
8 day, these specific events happened, but she failed to
9 question any witnesses. She failed to do any investigation.
10 She never asked the Jeffcoats to verify any connection or
11 confirm or deny anything she alleged that been said. I
12 mean, there was nothing.

13 Q Did the Jeffcoats testify?

14 A SJ [REDACTED] testified what happened that morning.
15 She testified that she could not identify me out the video
16 footage, that her mother and family did not owe me any
17 money, that their family did not know me.

18 Ms. Debbie Jeffcoat, she stated the same thing, that
19 she never met me a day in her life, she never seen me. She
20 could not identify me as the person in the video. Which
21 nobody identified me as the person in the video, by the way.
22 That they had no relations with me. The husband never
23 offered the wife for sex. Everything that the officer
24 alleged had been said didn't match none of the details that
25 the Jeffcoats testified.

1 Q Now, let's just go back a little bit. You said you
2 didn't testify and if you knew then what you know now, you
3 could have professed your innocence?

4 A Yes, ma'am.

5 Q Would you have, also, discussed maybe your medical
6 issues at that time?

7 A Yes, ma'am. I really thought that -- I really thought
8 getting my medical history and putting it to -- you know,
9 like, just bringing it to the attention and having an expert
10 get on the stand and say well, okay, well, with his
11 injury -- just with my collarbone fracture, it takes three
12 to six months before it starts healing. It was just the
13 injuries. Like, there's no way possible I could have picked
14 up a 62-inch TV with my injuries, period.

15 Q So how long after the incident were you arrested?

16 A The incident happened on December 6th. I got arrested
17 for assault and battery third on January the 22nd.

18 Q And then you went to trial on the burglary two months
19 later?

20 A Yes, ma'am.

21 Q So how were your injuries at that point on the day of
22 trial?

23 A Well, I was still going to see the nurse everyday
24 complaining because I was still in pain. I was still
25 hurting. I was just being able to move my arm. It was

1 still in a sling.

2 Q Were you sitting at the table with your arm in a sling
3 or anything?

4 A No, ma'am.

5 Q So when you met with Mr. Hayes, what did he say his
6 strategy was related to your case?

7 A He really didn't have a strategy. He really didn't
8 have a strategy. He said once the phone conversation had
9 occurred, it was, basically, over. And I'm like, well, how
10 could you say that when on this phone conversation, it
11 doesn't have a name to match this account. No name. Can't
12 place who made this call, you can't place where this call
13 came from. You can't -- he didn't argue that how could
14 Officer Linder authenticate my voice when she never met me.
15 So, I mean, it was just too many things that he could have
16 did that he didn't do.

17 Q So let's go through, sort of, your application again
18 and the amended application. Was part of that he didn't
19 object to malicious prosecution based on all this?

20 A Yes, ma'am.

21 Q So what would you say the malicious prosecution is,
22 like, them prosecuting you just based on just the videos
23 that didn't look like you?

24 A No, it was based on hearsay evidence. It was based on
25 Lieutenant Linder's testimony, which was false. She had no

1 sufficient evidence to prove what she was alleging. She
2 failed to do any investigation. She brought forth no facts.

3 And I just feel like me being arrested was wrong. It
4 was a false arrest because the officer, she gave false
5 testimony. She couldn't prove nothing that she said --
6 alleged that I said was true. She did not one time
7 investigate nothing. She was asked inside the transcript.
8 She did no investigation.

9 Q You're talking about at trial, she didn't testify about
10 anything?

11 A Yes, ma'am.

12 Q But we don't know what she said, basically, to get the
13 underlying warrant out, right?

14 A Right.

15 Q Other than what's written on the warrant?

16 A Right.

17 Q And you're not aware that your attorney ever brought
18 that up or objected to anything like that or, ultimately,
19 adequately crossed Ms. Linder these issues?

20 A Probably later on during the trial, he did. I asked
21 him -- like, my whole thing was Linder.

22 Q Did you want him to move to quash that warrant? Did
23 you have a preliminary hearing?

24 A Yes ma'am.

25 Q Okay. And, ultimately, that was, I guess, bound over?

1 A Yes, ma'am.

2 Q So what was your issue with Mr. Hayes and your due
3 process rights?

4 A Well, the fact of my sentencing, it was very cruel and
5 -- it was very harsh, life without parole for the offense.
6 And it was just the fact that he didn't argue that I wasn't
7 supposed to be locked up. I was innocent. They had no
8 probable cause for no warrant. Nobody identified me. This
9 video been showed on the news.

10 This same family has had numerous incidents that
11 happened before this, burglaries to their dog being shot,
12 all type of incidents. Not one time did the police do any
13 investigation. Nobody was never caught. So in this case,
14 they just wanted something done. So they put it on the
15 news.

16 Okay, I really feel sorry for the family, but it's
17 clear that the Jeffcoats admitted -- they said they don't
18 know me. They never bought any drugs from me. They don't
19 have any connection with me. They never seen me a day in
20 their life.

21 Q Did you guys have a conversation about the strikes
22 rules in South Carolina, about three strikes for serious and
23 most serious offenses and two strikes?

24 A No, ma'am. After that -- I mean, when they brought it
25 up, it was already too late. I was already in trial. You

1 know, I was just committed to going to trial. Yes, they did
2 serve me the notice with intent to seek life without parole,
3 but I did not know that if you had prior burglaries, you
4 know, you can get life.

5 Q And you guys didn't have a conversation about, you and
6 Mr. Hayes?

7 A Yeah, we did, we did.

8 Q Do you think he explained it to you well enough?

9 A I just wanted to go to trial, ma'am. I just wanted to
10 prove my innocence.

11 Q But you did have -- did you have any discussions with
12 Mr. Hayes about you testifying with these prior convictions
13 on your record?

14 A No, ma'am.

15 Q Do you remember what Mr. Hayes told you about
16 testifying on your behalf, anything?

17 A I really don't remember. I don't want to say. I'm not
18 sure.

19 Q So you have another allegation that Mr. Hayes didn't
20 adequately object to the witness's perjury, is that an
21 elusion to Ms. Linder again?

22 A Yes.

23 Q And her testimony?

24 A Yes, ma'am.

25 Q Anything else you want the Court to know today that we

1 haven't discussed about your PCR?

2 A Just on the rulings, the rulings that the Judge made, I
3 felt like I was entitled to a direct [sic] verdict because
4 they didn't -- the State didn't provide any substantial
5 evidence to prove that I committed any crime and I was
6 entitled to a direct verdict, which I didn't get.

7 Q Okay. Anything else?

8 A No, ma'am.

9 MS. MCMAHAN: Answer any questions Mr. Jones may have
10 for you.

11 MR. JONES: Thank you. I don't believe I have any
12 questions of this witness.

13 THE COURT: Okay. Thank you, sir. You may step down.

14 MS. MCMAHAN: At this point, the Applicant rest.

15 THE COURT: Okay.

16 State?

17 MR. JONES: Thank you, Your Honor. The State would
18 call Mr. David Hayes.

19 DAVID HAYES,

20 after being duly sworn, testified as follows:

21 THE WITNESS: David Hayes, H-A-Y-E-S.

22 DIRECT EXAMINATION

23 BY MR. JONES:

24 Q Mr. Hayes, do you recall this case?

25 A I do.

1 Q Can you briefly go over the factual background of this
2 case?

3 THE COURT: Let's get a little background on him for
4 this record, please.

5 MR. JONES: Yes, Your Honor.

6 BY MR. JONES:

7 Q How long have you been practicing criminal law?

8 A Almost 14 years.

9 Q And has that been in the criminal defense realm?

10 A All of it in criminal defense.

11 Q How did you come to be involved in this case?

12 A I was appointed and I opened a file on February 4th of
13 2019.

14 Q And in between that point and the trial, can you
15 describe your investigation and preparation for trial?

16 A In the very beginning, I went and met with Mr.
17 Chestnut. I told him don't talk on the phone, don't send
18 out letters. Everything is recorded that comes in or out of
19 the jail. We filed for a bond hearing. The bond hearing
20 was held and denied March 5th of 2019.

21 In looking at the case, I was thinking that we actually
22 had a pretty decent case because the only thing they had was
23 the statement that Quan said he walked up to him and
24 confessed at the gas station -- or the grocery store.

25 Q And Quan is?

1 A Lieutenant Linder.

2 Q Thank you.

3 A And I told him don't say anything, don't do anything.
4 That's not a whole lot. There was the video that had played
5 on the news and was part of the discovery of a black male
6 going into a house and carrying out a large TV, but you --
7 trying to identify was hard.

8 So we met probably north of ten times, from looking at
9 my notes here, if you count, like, the bond hearing and the
10 prelim. He did talk to me about going and getting his
11 medical records. I did get the medical records. However,
12 the dates didn't match and didn't line up to be able to go
13 forward with that. When I met him in jail, he didn't have
14 on a brace or anything.

15 He asked that I go talk with his sister over in North.
16 I went and talked to his sister in North. The sister in
17 North, it was abundantly clear that she wasn't going to lie,
18 that she was going to identify him as the person in the
19 video. And I believe she is the one that, actually, tipped
20 off Linder that that was her brother in the video and that's
21 why Linder was questioning him. She was under subpoena.
22 She was in court. We did not put her on the stand because I
23 believe she would have identified him.

24 He had a girlfriend. He said he had an alibi. I
25 hunted her down and found her. She said that he's a liar

1 and she wasn't going to lie for him and hung up on me. So I
2 hunted down the witnesses. I hunted down all the
3 information that we were looking for.

4 One of the other things was he was talking about all
5 the police reports for the victim's location. I pulled up
6 all the police reports, which ended up showing a lot of
7 domestic or assault and battery between her and her husband
8 and some children, maybe some items that were taken at
9 different dates. But his allegation was that it was drug
10 dealing and they owed him money for drugs and that he was
11 getting sex in return.

12 So part of the trial strategy was when we crossed the
13 victim, I asked that Ms. Alves sit with me, being a female,
14 and we were going to cross the victim as to that she was
15 angry because she owed him money for the sex and drugs. She
16 denied it.

17 Q Do you recall making an objection to the authentication
18 of the phone call from the jail?

19 A I do not remember if I did or didn't. However, when I
20 was given the information about the phone call, I went to
21 the jail and, actually, went into the jail to their computer
22 system and asked that they show me where the phone call had
23 come from. They were actually able to pull the phone call
24 up on his account under his pin and show me the exact date
25 and time it was made.

1 So Lieutenant Wilson -- I can't remember if Lieutenant
2 Wilson got on the stand -- I don't remember how it was
3 authenticated. I don't remember thinking there was an issue
4 with it, plus, I had already ran down that it was where it
5 said it came from and was what it said it was.

6 Q Do you have a copy of the transcript?

7 A I do not. For some reason, it had not been attached to
8 my original file.

9 MR. JONES: Your Honor, may I approach the witness?

10 THE COURT: Yes.

11 BY MR. JONES:

12 Q If you could just -- does that refresh your memory at
13 all?

14 A Yes.

15 Q Okay.

16 A It appears that I did object to Officer Linder,
17 Lieutenant Linder being able to authenticate the audio tape
18 as well as it looks like I objected to her being able to
19 authenticate that that was his voice.

20 Q All right. Did you see any problem with the legality
21 of the warrants?

22 A No.

23 Q And, I suppose, could we go over once again briefly the
24 evidence the State had against him. You mentioned the
25 confession that Officer Linder said he gave her at the

1 grocery store?

2 A In the beginning, there was a video of the actual
3 burglary happening as well as a black male walking out the
4 back of the house carrying a TV.

5 Later -- from that time -- that was around Christmas or
6 a little before. I remember seeing it on the news. Later,
7 I don't know exactly for sure, I think the sister, I think
8 Randy's sister, actually, turned him in. As he indicated,
9 she worked for the police department in North. At that
10 point, I believe Linder made contact with Mr. Chestnut and
11 she claims that he confessed.

12 At that point, he was arrested later and appointed to
13 me and that's all we had at that point. I told him to stop
14 talking and don't get on the phone and don't tell anybody
15 anything. And I thought it would be a good trial. And I
16 thought it was excessive that they gave him an LWOP, but he
17 does have priors that qualify.

18 Well, right before trial, I was given an audio tape of
19 him confessing that he did it and they ain't got no prints
20 or nothing because he wore gloves. At that point, it was
21 like he got cut off at the knees. There was a confession
22 and it was coming in and there was no way to stop it.

23 Q And that was the jail phone call that we've heard
24 about?

25 A Yes.

1 Q Do you recall arguing the identification of who was
2 talking on the phone in closing arguments?

3 A I don't remember. I know that I would have addressed
4 it.

5 Q Do you recall discussing the State's notice to seek
6 life without parole and the basis for that and the two
7 strikes?

8 A That would have been done, I'll tell you the date, it
9 was in our first appointment. Every time I get a case that
10 is either serious or most serious, violent or nonviolent, I
11 go over in the first appointment with everybody, I tell them
12 what the charge is, what it carries, what the elements are
13 the State would have to prove. And it if is violent,
14 nonviolent, whether it was a serious or most serious and the
15 85 percent no parole or any of the other classifications
16 that go along with it.

17 And that discussion would have been on 2/4. We talked
18 about A&B third being 30 days, resisting arrest, one year,
19 burglary, 15 to life, most serious, violent, 85 percent, no
20 parole, 17-25-45, which is your serious and most serious,
21 two most serious or three serious or any combination to
22 equal three. We talked about 16-160, violent versus
23 nonviolent and we talked about 24-13-100, which is 20 years
24 or more, you're mandatory 85 percent, no parole. Then you
25 would have community supervision.

1 We, also, talked about he was on community supervision
2 at that date and time and that he would have to deal with
3 that as well. That we could ask about a bond hearing
4 because his bond was denied. And we talked about speedy
5 trial and that I would like to have discovery in hand before
6 I filed and asked for a speedy trial because at that point,
7 I'm saying I'm ready for trial.

8 Q Do you recall -- or did you believe during the trial
9 that a directed verdict motion was meritorious?

10 A No, I had this discussion multiple times with him. He
11 was arguing about Linder was lying, that he didn't see her
12 at the gas station. His story changed to me a little bit
13 whether he ever saw her and confessed or whether he never
14 saw her at all and never met her and didn't confess.

15 And my explanation to him is that's a question of fact.
16 Credibility goes to the jury. The jury gets to listen to
17 your testimony, listen to the testimony of Linder. We get
18 to cross-examine her and confront her. But whether they
19 believe her or not, that goes to the jury.

20 Q Nonetheless, you did make a motion for directed verdict
21 in trial?

22 A Yes.

23 Q And you renewed the motion at the end of trial?

24 A Trying to preserve issues for appeal later.

25 Q You went into the credibility of Officer Linder's

1 version of the confession that she claimed to have perceived
2 during your closing argument, correct?

3 A I believe so. That was a big thing, part of attacking
4 what she said and whether she said it or not. Because all
5 officers now have body cameras. She's saying that this
6 confession happened and she was in her car. So not only
7 would she have had a body camera, she would, also, have dash
8 cam. Neither one of them was activated.

9 Q All right.

10 A And I believe that was my point in closing, too, that
11 she's saying this happened, but, yet, you've got two video
12 cameras and none of them were playing.

13 Q Looking back at the trial, is there anything you wish
14 you had done differently?

15 A No.

16 MR. JONES: Mr. Hayes, thank you. I believe that's all
17 the questions I have at this time.

18 THE COURT: Okay.

19 CROSS-EXAMINATION

20 BY MS. MCMAHAN:

21 Q You said you opened the file on February 4th, 2019 and
22 then you had a trial two months later; is that correct?

23 A It looks like it was opened 2/4 of '19 and the e-mail
24 was sent requesting a Rule 5.

25 Q But then the trial was in April of that year, about two

1 months later?

2 A It appears so.

3 Q Y'all move quick in Bamberg County?

4 A When they get slam dunks, the solicitor wants to move
5 forward. The solicitor at the time, also, I think was
6 making a move to try to run for solicitor.

7 Q How often do y'all have General Sessions terms in
8 Bamberg County?

9 A About once a month, once every other month.

10 Q So earlier, you talked about the medical records and
11 how the days didn't line up. How did the dates not exactly
12 line up?

13 A I'm looking here. I can't -- it's not attached. It's,
14 actually, probably in the actual trial paper file.

15 Q Okay.

16 A But I remember, it did not support what he was telling
17 me.

18 Q That a few weeks earlier, he --

19 A It was more like months.

20 Q And you said when you met with him at the jail, he
21 didn't have a brace or anything on?

22 A No.

23 Q Did he ever complain of, like, pain or anything to you?

24 A No. He told me the same story, that he couldn't have
25 lifted and that his collarbone had been broken and that he

1 had an alibi and he was somewhere else.

2 Q And the alibi was the girlfriend or the --

3 A Yes, the girlfriend.

4 Q And that was the person that hung up on you?

5 A Yes.

6 Q You said you went to the jail and they were able to
7 pull up Mr. Chestnut's phone account and his pin?

8 A Yes.

9 Q And it showed that he called and where he called from?

10 A Yes.

11 Q Was there any video of him, actually, calling or
12 anything?

13 A I don't think there was a video. The only thing I saw
14 was the actual phone call itself, the digital audio.

15 Q And do pins get shared at the jail among inmates?

16 A Yes.

17 Q Did you ever make an argument that it's possible --

18 A I believe I closed on that, that they couldn't -- they
19 have an audio recording, they can't say who was, actually,
20 making the phone call.

21 Q Did you think that the phone call sounded like him?

22 A When he was asked about whether to get on the stand, my
23 thought to him and discussion was you're going to give the
24 jury a chance to hear your voice and let them decide whether
25 it's you or not. And he chose not to take the stand.

1 And his sister believed it was him. I played it for
2 her when I went and met with her at the police department in
3 North. And that's why I didn't put her on the stand.

4 Q You had subpoenaed her, though?

5 A Yes. She was present with his mother.

6 Q Did you discuss with him about testifying in other
7 ways, too, like, maybe his prior record or anything like
8 that?

9 A Yes. That would come in potentially. However, I made
10 a motion to suppress his prior burglary.

11 Q And what was, actually, said in the jail call?

12 A I don't remember. It was something about I did it and
13 I wore gloves and they can't prove it or something along
14 those lines. He was talking to his girlfriend or baby
15 mother and it was I did it and I wore gloves and they ain't
16 got nothing or something like that.

17 Q As far as the video goes, the person in the video, did
18 they match like his height or anything?

19 A You couldn't -- the video was a cheaper home security
20 and the camera was across the yard up, I believe, in a tree
21 aimed at the back door. You could tell it was a black male
22 and you could tell it was a TV. In my opinion, anything
23 beyond that, it would have to be a family member that knows
24 you very well to say definitely whether it was you or not.

25 Q So you felt that was his sister giving that

1 information?

2 A Yes.

3 Q So since it was two months prior to his bond when you
4 got appointed to him, could you move for another bond
5 hearing during that time?

6 A No change of circumstances and it hadn't been six
7 months. As a matter of fact, the State served him with life
8 notice right after that.

9 Q And you had alluded to him discussing Linder's
10 testimony being falsified. To that extent, do you recall --
11 let me back up. The victim testified they didn't know him,
12 right?

13 A I believe that's correct -- no, Ms. Alves, actually,
14 did the cross of the victim.

15 Q And so what were your discussions with him regarding
16 Ms. Linder and her testimony? Did you get a chance to have
17 any?

18 A Yeah, I met with him several times, especially right
19 before trial when we were prepping. That we could
20 cross-examine her and whether or not anybody believes her or
21 not is a jury question.

22 Q Did you -- when you were pulling the jury, how did you
23 feel about the jury that you guys had been selected?

24 A I felt we selected a good jury.

25 Q And his issue with the warrant, did you have any

1 discussions with him about, like, what could happen if a
2 warrant is dismissed at a prelim or even if they dismiss it
3 that they could reindict it?

4 A I remember doing the prelim. It looks like it was done
5 right before the trial, the week before. If it was
6 dismissed, we could have discussed that a Grand Jury could
7 revisit the issue.

8 MS. MCMAHAN: Court's indulgence, Your Honor.

9 (Pause.)

10 BY MS. MCMAHAN:

11 Q Do you recall Ms. Linder testifying that she had spoken
12 to his sister and that she said she couldn't identify her
13 brother in that video?

14 A I don't recall.

15 Q If the record reflects that on Page 22, do you dispute
16 that?

17 A I don't dispute the record, no.

18 MS. MCMAHAN: I don't have any further questions, Your
19 Honor.

20 THE WITNESS: I wanted to -- can I finish answering
21 that question?

22 MS. MCMAHAN: Oh, I'm sorry.

23 THE COURT: Yeah, go ahead.

24 THE WITNESS: You had asked about the sister and you
25 were asking about what Quan said in the report. I went and

1 visited the sister on April 16th of 2019. At 9:00 p.m., I
2 put my notes in after meeting with her in North. And her
3 statement to me was that her mother told her about the video
4 that was on the news and brought her into this. That she
5 looked at the video and then told her chief about the video
6 because she was letting him know their family member was
7 involved in criminal activity.

8 And it was apparent to me that she was not going to lie
9 and would ID him as the phone call if asked. She told her
10 mother that she was not losing her job for him. Her mother
11 was, also, present for that meeting. And that she did not
12 want to be brought into this, but her mother had to call
13 her. And I talked to his mother.

14 MS. MCMAHAN: I have nothing further, Your Honor.

15 THE COURT: Anything else?

16 MR. JONES: Nothing else from the State, Your Honor.

17 THE COURT: Okay. You can step down.

18 MR. JONES: Beg the Court's indulgence?

19 THE COURT: Yeah.

20 (Pause.)

21 MR. JONES: Your Honor, no further witnesses from the
22 State. The State rest.

23 THE COURT: Anything in reply?

24 MS. MCMAHAN: No, Your Honor.

25 THE COURT: Anything y'all want to tell me?

1 MS. MCMAHAN: I believe there was some testimony in the
2 transcript about the pin number being changed a few times
3 for Mr. Chestnut. You know, otherwise, the Applicant feels
4 as though Ms. Linder was not adequately cross-examined on
5 her statements, her fairly poor investigation of this case
6 and feels that Mr. Hayes, because of his ineffectiveness,
7 the outcome of the trial would have been different.

8 MR. JONES: Thank you, Your Honor. Mr. Hayes did
9 object to the confession purported by Officer Linder at the
10 pretrial Jackson V. Denno hearing. He objected to her
11 authentication of the phone call on the grounds that she
12 couldn't have recognized his voice. The video, that was
13 enough evidence to defeat the directed verdict motion. He
14 then, to his credit, went ahead and argued, I thought, very
15 effectively in closing arguments given what he had to
16 pointing out the pin number issue and other issues with the
17 credibility of Officer Linder with the authentication of the
18 jail phone call.

19 Ultimately, however, I believe the transcript reflects
20 the jury was out for nine minutes before they returned with
21 a guilty verdict. So, ultimately, despite his best efforts,
22 he was unsuccessful. The State submits that Applicant has
23 not met his burden to prove that any error of counsel
24 occurred or that the result of this trial would have been
25 different.

1 With that, the State concludes.

2 THE COURT: Anything?

3 MS. MCMAHAN: Nothing further, Your Honor.

4 THE COURT: I think you did set forth the issues that
5 were available to you.

6 Mr. Chestnut, as you've probably heard before, the
7 burden is with the moving party and in this case, you are
8 the moving party. You have to show that your attorney at
9 the trial fell below an objective standard of reasonableness
10 and that failure resulted -- it prejudiced you to the point
11 that a jury would have ruled in a different manner.

12 So this is tough, but I think -- I can take it under
13 advisement, but it's clear to me that you have not met that
14 burden and that Mr. Hayes, certainly, met an objective
15 standard of reasonableness in his representation. So I'm
16 going to deny your application for Post-Conviction Relief.

17 I wish you the best.

18 Have the State prepare an order to that effect and send
19 it to counsel before sending it to me.

20 MR. JONES: Thank you, Your Honor.

21

22

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

I, PENNY M. JOHNSON, Official Court Reporter for the
Second Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate, and
complete Transcript of Record of the proceedings had and the
evidence introduced in the hearing of the captioned case,
relative to appeal, in the Court of Common Pleas for Aiken
County, South Carolina, on the 17th day of January, 2024.

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

July 19, 2024

Penny M. Johnson
Penny M. Johnson
Official Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF BAMBERG

Randy Chestnut, #327615,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT

Case No. 2022-CP-05-00105

ORDER OF DISMISSAL

FILED
BAMBERG COUNTY
2024 FEB 26 PM 9:28
CLERK OF COURT
BAMBERG, SC

INTRODUCTION

The matter before this Court arises from an application for post-conviction relief (“PCR”) commenced by Randy Chestnut (“Applicant”) on April 18, 2022, and amended on January 13, 2023. On January 17, 2023, a hearing into the matter was convened before the Honorable Edward W. Miller at the Aiken County Courthouse. Applicant was present and represented by Ashley A. McMahan, Esquire. Assistant Attorney General Zachary W. Jones represented the State. After hearing the testimony at the PCR hearing and upon full review of the record, this Court finds all of Applicant’s allegations are without merit. For the reasons discussed below, this Court denies and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined within the South Carolina Department of Corrections. On December 6, 2018, Applicant entered a home in Demark, South Carolina, without consent, and stole personal property from inside. The home invasion was captured on motion activated-surveillance cameras around the home. Applicant later admitted to law enforcement that he entered

the home and carried away personal property but claimed that he was owed money by the homeowners for drugs he had previously provided.

Applicant was arrested and subsequently indicted by the Bamberg County Grand Jury for first-degree burglary (2019-GS-05-0024). The State subsequently served Applicant with its notice of intent to seek life without parole pursuant to S.C. Code Ann. § 17-25-45 based on Applicant's prior conviction for armed robbery (2010-GS-05-0001). Applicant was represented by Deputy Public Defender C. David Hayes ("Counsel") and Assistant Public Defender Wallis A. Alves of the Second Circuit Public Defender's Office. The case was prosecuted by Assistant Solicitors R Jackson Cooper and Michael H. Emmer, III, of the Second Circuit Solicitor's Office.

On April 23, 2019, the State called the matter to trial before the Honorable Thomas L. Hughston, circuit court judge, and a jury. Following a two-day trial, the jury convicted Applicant as indicted. Judge Hughston sentenced Applicant to life imprisonment without the possibility of parole ("LWOP") pursuant to Section 17-25-45.

Applicant filed a timely notice of appeal. Appellate Defender David Alexander of the South Carolina Commission on Indigent Defense-Office of Appellate Defense perfected Applicant's appeal by filing a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967) with the Court of Appeals on the following issue:

Whether the trial judge erred in admitting allusions to selling drugs made in appellant's statement in violation of Rule 403 and 404, SCRE?

Appellate counsel simultaneously submitted a petition to be relieved as counsel for Applicant. Following an *Anders* review¹, the South Carolina Court of Appeals dismissed the appeal. *State v. Randy Chestnut*, Op. No. 2021-UP-255 (S.C. Ct. App. filed July 7, 2021). The

¹ Despite being notified by the Court of Appeals that he could submit his own *pro se* brief, Applicant elected not to do so.

remittitur was issued on July 26, 2021.

CURRENT APPLICATION

Applicant timely commenced his first PCR application on April 18, 2022. In his application, Applicant raised the following claims of ineffective assistance of counsel:

10 (a) Ineffective assistance of counsel

11(a) "See attached Page A"

10 (b) Due Process/Miscarriage of Justice

11(b) "See attached Page A"

10 (c) Falsified arrest warrant

11(c) "was arrested without probable cause"

Despite the reference to "attached Page A," no additional pages appear to have been attached to the application. On July 20, 2022, the State made its Return and Motion for More Definite Statement, claiming it had reached out to the Bamberg County Clerk of Court, who confirmed that no attachments were submitted with the application. Subsequently, on January 13, 2023, Applicant filed an amended PCR application, raising the following grounds:

1. Ineffective assistance of counsel of Charles David Hayes:
 - a. Failing to object to the underlying warrants as falsified.
 - b. Failing to object to malicious prosecution.
 - c. Failing to object to violation of due process.
 - d. Failing to object to perjury by a witness.

Applicant also requested leave to amend his application to conform to the evidence presented at the evidentiary hearing. Based on the original and amended applications and the testimony presented at the hearing, the Court interprets the following issues to have been raised:

1. Ineffective Assistance of Counsel
 - a. Failure to Challenge Arrest Warrants, Malicious Prosecution, and Perjury Based on the Testimony of Lieutenant Laquana Linder;
 - b. Failure to Object to Authentication of Jail Phone Call;

- c. Failure to Present Medical Evidence;
- d. Failure to Challenge LWOP Sentence; and
- e. Failure to Adequately Move for a Directed Verdict.

FINDINGS OF FACT & CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the PCR hearing, observed the witnesses, passed upon their credibility, and weighed their testimony accordingly. Before the Court are the original and amended applications for post-conviction relief, Applicant's records from the South Carolina Department of Corrections, the records of the Bamberg County Clerk of Court concerning the subject conviction, the records of Applicant's trial, and Applicant's appellate records. After hearing the testimony presented and considering the legal arguments and pleadings, this Court finds all of Applicant's allegations are without merit. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings of facts and conclusions of law based upon all of the probative evidence presented:

Ineffective Assistance of Counsel, Generally

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); Rule 71.1(e), SCRPC. Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel's performance was deficient. *Strickland*, 466 U.S. at 687; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its

“reasonableness under prevailing professional norms.” *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). 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). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also* *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”).

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.” *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 694). “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111–12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112.

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on

the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696–97.

Failure to Object to Falsified Arrest Warrants/Malicious Prosecution/Perjury

Applicant contends Counsel was ineffective for failing to object to the arrest warrants, which Applicant contends were based upon false statements by Lieutenant Laquana Linder. Lieutenant Linder had testified at Applicant's trial that, while investigating the burglary, she spoke to Applicant, who confessed to her that he had entered the victims' home and taken their property. Applicant claims Lieutenant Linder's account was false and that, as a result, he was prosecuted without probable cause. Applicant also contends Linder's testimony at his trial was perjured, and Counsel should have objected on that basis and attacked Linder's credibility. The Court finds these allegations are without merit.

Prior to Applicant's trial, Counsel made a *Jackson v. Denno* motion in an attempt to keep out any evidence of Applicant's confession to Lieutenant Linder. (R.pp.8–35). Linder testified that, while she was doing a routine patrol, Applicant approached her vehicle and said, "Hey, my sister told me you needed to talk to me." (R.p.12, line 17–p.13, line 3). Linder agreed to talk to him, and Applicant told her that the victims of the burglary owed him \$3000 and refused to pay, so he went to their house "and took what was his." (R.p.14, line 24–p.15, line 20). After Linder had finished testifying, Applicant took the stand and denied ever having such a conversation with Linder. (R.p.32, lines 12–20). Ultimately, the trial court denied Counsel's motion, finding that Applicant's confession was voluntary. (R.p.35, lines 11–17).

Linder testified about Applicant's confession during the State's case-in-chief. (R.p.158, line 19–p.159, line 6). Counsel objected, renewing his objection based on the voluntariness of the statement and also objecting that the references to the money owed to Applicant by the victims implied Applicant was a drug dealer and that the statement did not identify the victims by name. (R.pp.155–57). The trial court overruled the objections. (R.pp.156–57). Applicant did not testify before the jury.

At the evidentiary hearing, Applicant again claimed Linder was lying about him confessing to her. He also argued Linder should have performed more investigation, including talking to the victims and other witnesses, before seeking a warrant. Applicant argued Counsel was deficient for failing to attack Linder's credibility on the ground she did not question other witnesses.

Counsel testified at the evidentiary hearing that Applicant kept changing his story as to whether he had ever had a conversation with Lieutenant Linder. He testified that he discussed Linder's story with Applicant several times and told him Linder's credibility was a jury issue.

The Court finds Counsel's testimony credible, and Applicant's testimony not credible, as to this issue. As for the malicious prosecution and falsified warrant issue, the Court finds that Applicant has failed to prove Lieutenant Linder obtained the warrant on false pretenses. Linder's account of Applicant's confession, which was highly detailed and consistent from the *Jackson v. Denno* hearing to the State's case-in-chief, was only contradicted by Applicant's own self-serving testimony. Applicant has the burden of proving his PCR allegations by a preponderance of the evidence. *Butler*, 286 S.C. 441, 334 S.E.2d 813; Rule 71.1(e), SCRPC. The Court finds Applicant's bare denial that the conversation between Lieutenant Linder and himself ever took place is not credible and does not meet his burden of proof. As Applicant has failed to show that there was any meritorious objection Counsel could have made regarding his prosecution or

warrants, the Court finds Counsel was not ineffective. Therefore, Applicant's allegations related to malicious prosecution and falsified warrant are denied and dismissed with prejudice.

As to the allegation that Counsel failed to effectively challenge Linder's supposed perjury, the Court again finds that Applicant has not met his burden of proving that Linder's testimony was false. However, Counsel expended considerable effort in trying to exclude the evidence of Applicant's confession, first by a *Jackson v. Denno* challenge and then based on prior bad acts and lack of explicit connection to the victims. The transcript reveals that Counsel also attacked Linder's credibility during closing arguments to the jury based on the lapse of time between the confession and Linder's decision to seek a warrant:

A month goes by from this alleged confession and there's no warrant. Why? . . . And then if you get a confession, why not cuff him right there on the spot, take him in, and get the warrant. Why wait that month? Well, it's one or two things: it either didn't happen or she didn't believe him.

(R.p.223, lines 4–6; p.230, lines 2–9). Therefore, the Court finds Counsel adequately challenged the truth of Linder's testimony during Applicant's trial. Accordingly, Applicant has failed to prove either deficiency or prejudice as to this allegation, and this claim is denied and dismissed with prejudice.

Failure to Object to Authentication of Jail Phone Call

At the evidentiary hearing, Applicant argued Counsel was ineffective for failing to challenge the admissibility of a recorded jail phone call as not being properly authenticated. Applicant asserted the officer who authenticated the phone call did not know Applicant and, therefore, could not have properly identified Applicant as the person who made the call. The Court finds this allegation is without merit.

At Applicant's trial, the State sought to introduce a recording of a phone call Applicant

made from jail in which Applicant stated law enforcement could not have found his fingerprints at the crime scene because he was wearing gloves. (R.p.161, line 3–p.164, line 10). Counsel objected that the recording had not been properly authenticated. (R.p.165, lines 18–19; p.168, line 20–p.169, line 1). The trial court overruled the objection, and the State elicited from Lieutenant Linder that she recognized the voice on the phone call as belonging to Applicant. (R.p.169, lines 2–7). The State also elicited from Chief Deputy Ben Hay that every recorded phone call at the jail placed by an inmate is connected to that inmate’s account number and four-digit PIN, and the phone call in question was associated with Applicant’s PIN number. (R.pp.190–97). On cross-examination, Counsel elicited from Hay that inmates sometimes swap PIN numbers. (R.p.201, line 25–p.202, line 9). Counsel argued to the jury in closing that Hay’s identification of Applicant based on his four-digit PIN was unreliable because “PIN numbers get taken, used, swapped . . . You can’t say who’s making the call.” (R.p.226, line 14–p.227, line 1). He further argued Linder’s identification of Applicant’s voice on the recorded call was unreliable because she did not have sufficient contact with Applicant to recognize his voice. (R.p.227, line 13–p.229, line 6).

The transcript reflects that Counsel *did* object to the authentication of the phone call. Moreover, after Counsel’s objection was overruled by the trial court, Counsel continued to attack the identification of Applicant as the caller through cross-examination and argument. The Court finds Applicant has not met his burden of proving Counsel was deficient as to this allegation.

In addition, although Applicant claims Linder could not have recognized his voice because he never spoke to her, the Court once again finds Applicant’s self-serving testimony on this point not credible. Furthermore, Linder’s knowledge of Applicant’s voice would not affect the method of authentication Hay employed: connecting the phone call to Applicant’s PIN number. Applicant has provided no explanation as to how this method of authentication was unreliable or could have

supported a meritorious objection. Therefore, Applicant has not met his burden of proving prejudice either. Accordingly, this allegation is denied and dismissed with prejudice.

Failure to Present Medical Evidence

At the evidentiary hearing, Applicant testified he was recovering from injuries due to an ATV accident at the time the burglary occurred. He claimed his arm was immobilized in a sling and he needed his girlfriend's help even to feed himself; therefore, he argues he could not have carried away a 62" TV as depicted on the surveillance video. Applicant claims Counsel was ineffective for failing to introduce evidence, such as medical records, that would have established Applicant's disability at the time of the crime. The Court finds this allegation is without merit.

Counsel testified he investigated Applicant's medical records and decided they did not support Applicant's claim that he was incapacitated at the time of the crime. Counsel believed the dates did not line up. Counsel also noted that, when Counsel met Applicant in jail, Applicant was fine and did not have a sling or brace on. Counsel testified he spoke to Applicant's sister and girlfriend, both of whom said Applicant was lying and they were not going to perjure themselves on his behalf.

The Court finds Counsel's testimony credible, and Applicant's testimony not credible, as to this issue. Counsel took reasonable steps to investigate Applicant's injury as a potential defense and, based on inconsistencies between Applicant's story and the witnesses' accounts and medical evidence, reasonably decided not to pursue that defense. Furthermore, Applicant has not provided the medical records or witness testimony to substantiate his claim that the evidence would have been favorable to him. Therefore, the Court finds Applicant has not met his burden of proving either deficiency or prejudice as to this allegation, and this claim is denied and dismissed with prejudice.

Failure to Challenge LWOP Sentence

At the evidentiary hearing, Applicant claimed his due process rights were violated because the LWOP sentence he received was harsh. He testified he was not aware he could be sentenced to LWOP for burglary based on the strike rule. However, he admitted the State had served him with LWOP notice, and he remembered having a discussion about the strike rule.

Counsel testified he discussed the strike rule in his first meeting with Applicant. In addition, the transcript reflects that, before Applicant's trial began, the solicitor informed the trial court that both Applicant and Counsel had been served with LWOP notice, and he stated Applicant was offered a negotiated plea for an aggregate sentence of 17 years that would expire once the trial began. (R.p.5, lines 13–25). The trial court asked Applicant if he heard what the solicitor just said, and Applicant replied in the affirmative. (R.p.8, lines 1–3). The trial court then asked Applicant whether he wanted more time to discuss the matter with Counsel, and Applicant responded, "No, sir . . . I'll go to trial." (R.p.8, lines 17–21).

The Court finds Applicant was properly served with LWOP notice and his sentence does not violate due process. The Court also finds Applicant has not met his burden of proving Counsel was ineffective for failing to object to the LWOP sentence. Applicant has not articulated any legal or factual argument that the strike rule should not apply in his case. Therefore, the Court finds this allegation is meritless and must be denied and dismissed with prejudice.

Failure to Adequately Move for a Directed Verdict

Finally, Applicant claims Counsel failed to obtain a directed verdict where the State did not put up any evidence. The Court finds this allegation is without merit. The State put up substantial evidence of Applicant's guilt, including a surveillance video of the burglary, Lieutenant Linder's testimony about Applicant's confession, and the incriminating phone call Applicant made

from the jail. There was no basis for making a directed verdict motion in this case. Counsel testified he believed the State had presented sufficient evidence to create a question of fact for the jury, and the transcript reveals that Counsel ably attacked the State's evidence through cross-examination and argument. The Court finds Applicant has failed to prove either deficiency or prejudice as to this allegation, and this claim is, therefore, denied and dismissed with prejudice.

[conclusion and signature on following page]

CONCLUSION

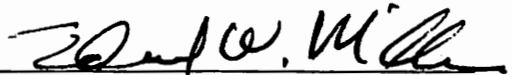
Based on the foregoing, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Accordingly, this application must be denied and dismissed with prejudice.

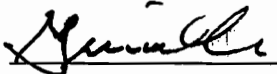
Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This PCR application is denied and dismissed with prejudice; and
2. Applicant shall be remanded to the custody of the State.

AND IT IS SO ORDERED this 14 day of February, 2024.


 THE HONORABLE EDWARD W. MILLER
 Presiding Judge
 Second Judicial Circuit

, South Carolina