
The State of South Carolina

In the Supreme Court

APPEAL FROM SPARTENBURG COUNTY
Court of Common Pleas

J. Mark Hayes II, Circuit Court Judge

Case No. 2012-213146

ISAAC J. WALKER,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

APPENDIX

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Victim Notification Information
SPARTANBURG COUNTY SHERIFF'S OFFICE



AGENCY I.D. SCO 420000

Victim Information

Case # 2006090312

Name of Victim: Irby Sumner

Victim is ☐ deceased or ☐ minor

Emergency # _____

Relative or Contact Person: _____

Mailing Address: _____

Telephone #: (H) _____

(B) _____

Emergency # _____

Additional Information or Comments: _____

In order for Law Enforcement to make a reasonable attempt to contact you of the arrest or detention and of the appropriate bond or other pretrial release hearing or procedure, it is your responsibility to notify the appropriate agency of any change in your address or phone number.

The information given on this form will be provided to the jail, prison, detention or holding facility having physical custody of the defendant. It will also be made available to the prosecuting agency and the Department of Juvenile Justice System, if the defendant is a juvenile.

Court Date Information (if available at time of report)

State vs _____ Warrant # / Ticket # _____

Date and Time: _____

Location: _____

An arrest or juvenile detention can occur anytime during a 24 hour period. Arraignment may take place within several hours of the arrest. A juvenile detention hearing is usually held within 48 hours of the detention, excluding holidays and weekends. Please check the boxes below if you do or do not wish to be notified.

I do ☐ I do not ☒ wish to be notified when the defendant is arrested and when arraignment or juvenile detention hearing may take place, anytime day or night.

I do ☐ I do not ☒ wish to be contacted when bond is set, anytime day or night.

I do ☒ I do not ☐ wish to be contacted when the defendant is released from jail, anytime day or night.

As a victim of crime I have received a copy of the Victim Notification Information Form provided to me by the Spartanburg County Sheriff's Office and I agree that the victim information is correct. I have also received a copy of the 1997 Victims and Witness Services Statute.

Signature of person receiving information: Irby Sumner

Date: 9-5-06

Signature of Reporting Officer: L. Murray

Date: 9-5-06

WARRANT/DETENTION SCREENING/GREEN COPY OF TRAFFIC TICKET

AGENCY I.D.
SC0420000

INCIDENT REPORT

CASE NUMBER

NCIC

2006090312

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. Grand Larceny		☒ YES ☐ NO	☐ YES ☒ NO	Residence		☐ Individual ☐ Business ☐ Financial Inst ☐ Government ☐ Rptg. Org. ☐ Soc. Public ☐ Other ☐ Unknown ☐ Police Off
2.		☐ YES ☐ NO	☐ YES ☐ NO			
3.		☐ YES ☐ NO	☐ YES ☐ NO			
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE	WEAPON TYPE	
311 Henningston Road Sptbg SC				29302		
INCIDENT DATE		24 HR. CLOCK	TO	DATE	TO	HR. CLOCK
9-5-06		17:30		9-5-06	17:40	17:57
DISPATCH DATE		DISPATCH TIME	TIME ARRIVED	DEPART TIME		
9-5-06		17:57	18:05	19:15		
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.
VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
HEIGHT		WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.	
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.
VISIBLE INJURY (VICT. 1) ☐ YES ☒ NO		EXPLAIN		COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☒ NO		
VICTIM INFO. 1) USING: ALCOHOL ☐ YES ☒ NO		DRUGS: ☐ YES ☒ NO		TYPE		
TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED ☐ J - This Jurisdiction		S - State		O - Out of State		
U - Unknown						
SUSPECT NAME (LAST, FIRST, MIDDLE)		RACE		SEX	AGE	ETH.
FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.
JAIL		SUBJECT INFO. 1) USING: ALCOHOL ☐ YES ☒ NO		ARRESTED NEAR OFFENSE SCENE ☐ YES ☒ NO		DATE/TIME OF OFFENSE
SUMMONS		DRUGS: ☐ YES ☒ NO		TYPE: CRACK		DATE/TIME OF ARREST
						18:07
NARRATIVE						
On 9-5-06 at 18:05 hrs. I responded to 311 Henningston Rd. in reference to a robbery. Mr. Sumner stated that about 17:30 hrs. he was sitting on his front porch when a black male and a white female pulled up in his front yard in an older burgandy cadillac. Mr. Sumner stated that the black male walked up to him and told him that someone had robbed him down the road, so Mr. Sumner asked him why did he come back down the road. Mr. Sumner stated that the white female got out of the vehicle and asked him if she could use the bathroom and he told her ok but she was						
TYPE (GROUP)		Guns		TOTAL VALUE		
STOLEN		3000		3000		
DAMAGED						
BURNED						
RECOVERED		3000		3000		
SEIZED						
SUBJECT IDENTIFIED ☐ YES ☐ NO		SUBJECT LOCATED ☐ YES ☐ NO		☐ ACTIVE ☐ AOM. CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 18 ☐ EX-CLEAR UNDER 18
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED		4. ☐ VICTIM DECLINES COOPERATION
5. ☐ JUVENILE IN CUSTODY		REPORTING OFFICER(S)		DATE		UNIT NUMBER
J. Murray		9-5-06		584		
FOLLOW-UP INVESTIGATION ☐ YES ☐ NO		OFFICER		DATE		UNIT NUMBER

VICTIM NOTIFICATION OF ARREST/BOND HEARING/RELEASE

WARRANT # K164391 VICTIM Summer, Irby SUSPECT Walker, Isaac

ARREST/DETENTION

DATE 9-5-86 TIME NOTIFIED 2134 BY Brown PERSON CONTACTED _____

ATTEMPTS:

DATE _____ TIME NOTIFIED _____ BY _____ PERSON CONTACTED _____

DATE _____ TIME NOTIFIED _____ BY _____ PERSON CONTACTED _____

DATE _____ TIME NOTIFIED _____ BY _____ PERSON CONTACTED _____

COMMENTS: Victim did not wish to be notified.

BOND HEARING/JUVENILE DETENTION HEARING

DATE OF BOND HEARING _____ TIME _____ LOCATION _____

RESET DATE _____ TIME _____ LOCATION _____

DATE OF JUVENILE DETENTION HEARING _____ TIME _____ LOCATION _____

RESET DATE _____ TIME _____ LOCATION _____

ATTEMPTS:

DATE _____ TIME NOTIFIED _____ BY _____ PERSON CONTACTED _____

DATE _____ TIME NOTIFIED _____ BY _____ PERSON CONTACTED _____

DATE _____ TIME NOTIFIED _____ BY _____ PERSON CONTACTED _____

COMMENTS: _____

RELEASE/TRANSFER/ESCAPE

DATE _____ TIME NOTIFIED _____ BY _____ PERSON CONTACTED _____

ATTEMPTS:

DATE _____ TIME NOTIFIED _____ BY _____ PERSON CONTACTED _____

DATE _____ TIME NOTIFIED _____ BY _____ PERSON CONTACTED _____

COMMENTS: _____

VICTIM NOTIFICATION FORM

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

STATE OF SOUTH CAROLINA

vs.

Walker, Isaac

Check and complete one of the following:

- ☒ A representative of the Spartanburg County Detention Facility, (the facility having custody of the Defendant), acknowledges that a reasonable attempt was made to notify the victim(s) sufficiently in advance of the bond hearing.

Name of Victim(s)

OR

- ☒ A representative of the Spartanburg County Detention Facility, (the facility having custody of the Defendant), * indicates the victim(s) did not wish to be notified of the bond hearing.

Name of Victim(s)

Sumner, Irby

(Representative's Signature)

(Judge's Signature)

* Or the arresting officer if Defendant is brought directly before the Judge.

AGENCY I.D.
SC0 420000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

2006090312

NCIC

IND ENTD

☒ ORIGINAL REPORT ☐ MODIFIES ORIGINAL	☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE	☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY	PAGE <u>2</u> OF <u>3</u> PAGES

D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT		RESIDENT		ETH		
	☐ VICTIM #	Walker, Isaac Jerome								
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				
	☐ RUNAWAY	ADDRESS								
☐ WANTED	CITY		STATE		ZIP CODE		LOCATION NO.		DAY PHONE	EVENING PHONE

VICT/SUBJ	☐ ARREST	☐ VICTIM NO. <u>1</u> VISIBLE INJURY ☐ NO ☒ YES	☐ COMPLAINT OF NON-VISIBLE INJURIES ☐ NO ☒ YES	☐ VICTIM USING ALCOHOL ☐ NO ☒ YES	☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMT. ☐ ALONE	
	☐ JAIL	EXPLAIN.			☐ DRUGS: ☐ NO ☒ YES TYPE <u>crack</u> ☐ UNK.	☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED
	☐ SUMMONS	☐ SUBJECT NO. <u>1</u> USING ALCOHOL: ☐ NO ☒ YES				
	☐	USING DRUGS: ☐ NO ☒ YES TYPE <u>crack</u> ☐ UNK.				

VICT/SUBJ, I.O. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT		RESIDENT		RACE		SEX	AGE	D.O.B.	ETH	
	☐ VICTIM #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	☐ SUBJECT #	ADDRESS		CITY		STATE		ZIP CODE		LOCATION NO.		DAY PHONE		EVENING PHONE
	☐ RUNAWAY	CITY		STATE		ZIP CODE		LOCATION NO.		DAY PHONE		EVENING PHONE		
☐ WANTED	CITY		STATE		ZIP CODE		LOCATION NO.		DAY PHONE		EVENING PHONE			
☐ WARRANT	CITY		STATE		ZIP CODE		LOCATION NO.		DAY PHONE		EVENING PHONE			
☐ ARREST	☐ VICTIM NO. <u>1</u> VISIBLE INJURY ☐ NO ☒ YES	☐ COMPLAINT OF NON-VISIBLE INJURIES ☐ NO ☒ YES	☐ VICTIM USING ALCOHOL ☐ NO ☒ YES	☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMT. ☐ ALONE										
☐ JAIL	EXPLAIN.			☐ DRUGS: ☐ NO ☒ YES TYPE <u>crack</u> ☐ UNK.	☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED									
☐ SUMMONS	☐ SUBJECT NO. <u>1</u> USING ALCOHOL: ☐ NO ☒ YES													
☐	USING DRUGS: ☐ NO ☒ YES TYPE <u>crack</u> ☐ UNK.													

taking too long, so he went to check on her, but the black male told him "she will be right back." Mr. Sumner found the female in his bedroom, and told her to get out. Mr. Sumner states they went outside and he sat down; then the black male asked him if he could have some money to buy food, and Mr. Sumner told him "no, I don't have any." Mr. Sumner states that the white female then asked him if she could get a drink of water, and he told her "yes, but go to the sink and no where else." Mr. Sumner

VEH./GUN/ETC. 1	STATUS	TYPE	VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG NO.		
	☐ STOLEN	☐ VEHICLE					
	☐ RECOVERED	☐ GUN	SERIAL AND/OR OWNER APPLIED NO.		STATE		
	☐ FOUND	☐ BOAT	YEAR OF REGISTRATION		YEAR OF EXPIRATION	YEAR	
☐ TOWED	☐ LICENSE PLATE	MODEL		STYLE	COLOR	MAKE	TYPE
☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS	NIC NO.		DENOMINATION	ISSUER	BRAND NAME	CALIBER
☐ VICTIM	☐ ARTICLE	MISCELLANEOUS					

PROPERTY EST.	TYPE (GROUP)							TOTAL VALUE	
	STOLEN								
	DAMAGED								
	BURNED								
	RECOVERED								
SEIZED									

ADMINISTRATIVE	SUBJECT IDENTIFIED ☐ YES ☒ NO	SUBJECT LOCATED ☐ YES ☒ NO	☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ☐ EX-CLEAR UNDER 18	
	REASON FOR EXCEPTIONAL CLEARANCE: 1 ☐ OFFENDER DEATH 2 ☐ NO PROSECUTION 3 ☐ EXTRADITION DENIED 4 ☐ VICTIM DECLINES COOPERATION 5 ☐ JUVENILE - NO CUSTODY		☐ ARRESTED 18 AND OVER ☐ EX-CLEAR 18 AND OVER		
	REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	
	<u>L. Murray</u>	<u>9-5-06</u>	<u>584</u>	<u>[Signature]</u>	
FOLLOW-UP INVESTIGATION ☐ YES ☒ NO		OFFICER		DATE	UNIT NUMBER

SUPPLEMENTARY REPORT

CASE NUMBER

20,000,000,31,2

NCIC

INFO ENTO

☒ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE <u>3</u> of <u>3</u> PAGES.
☐ MODIFIES ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	

NARRATIVE

states that she was taking ten long, and the black male said again that "she will be back in a minute", but when he went into his trailer he did not see her, so he went back to his bedroom and saw that his Browning shotgun and 22 pump rifle was gone. By the time he walked back outside, the vehicle with the black male and white female was gone. Mr. Summer's granddaughter, Mrs. Guy, lives on the same street, and saw the vehicle and got a good look at the white female, when they turned around in her driveway. While I was taking this report, the city called out with the suspect's vehicle, found the guns, and placed the suspects under arrest, until B39/Pittinger arrived and took possession of the vehicle, and transported the suspects, along with the city, to the sheriff's office, to speak to I-23/Smith. I-56/Shaffer responded and took the guns into evidence. The vehicle was towed to the county shop by the county wrecker.

ADMINISTRATIVE

SUBJECT IDENTIFIED ☐ YES ☐ NO		SUBJECT LOCATED ☐ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE-NO CUSTODY						
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE
X. Munay		9-5-06	584			
FOLLOW-UP INVESTIGATION ☐ YES ☐ NO				OFFICER		

Isaac Wacker

K164381

Name of Defendant

Warrant/Ticket No.

County of Spartanburg

Charges: B27,000

Trial Court:

hll

CHECKLIST FOR MAGISTRATES AND MUNICIPAL JUDGES

Directions: Magistrates and municipal court judges must use this checklist for ALL GENERAL SESSIONS and for ALL MAGISTRATE AND MUNICIPAL COURT CASES IN WHICH BOND HAS BEEN SET BY A JUDGE. The judge should attach this checklist to the charging document (arrest warrant or uniform traffic ticket) when the defendant first appears before a judge for a bond hearing or first appearance; and complete the appropriate sections. Defendant must be provided a completed copy of this form.

BAIL PROCEEDING

1. Form used at bail proceeding:

- ☒ a. Bond Form I (personal recognizance)
- ☒ b. Bond Form II (surety, cash, percentage)
- ☐ c. None (Non-Bailable Offense)

2. For cases in which bond was set, defendant was informed:

- ☒ a. Warrant for arrest will be issued for violation of any condition of bail bond order.
- ☒ b. His right and obligation to be present at trial and that trial will proceed in his absence if he fails to attend.
- ☒ c. Failure to appear in court as required will result in the issuance of a warrant for defendant's arrest, as well as loss of any posted bond.

3. For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days:

- ☒ a. Orally
- ☒ b. In writing.

(NOTE: Defendant must be informed of right both orally and in writing.)

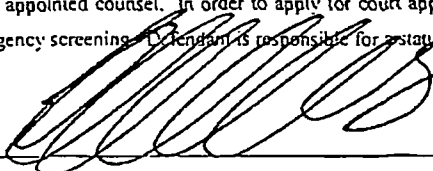
☒ 4. Defendant was informed of the right to trial by jury.

5. In all general sessions cases, in all criminal domestic violence cases, and in all magistrate or municipal cases in which a prison sentence is likely to be imposed, defendant was informed of the following:

- ☒ a. Charges against defendant and nature of the charges.
- ☒ b. Right to counsel and right to court-appointed counsel if financially unable to employ counsel.
- ☒ c. Defendant was informed orally and provided a copy of this form advising him of his right to obtain court appointed counsel if indigent (must meet federal poverty guidelines) and instructions on how to obtain court appointed counsel. In order to apply for court appointed counsel, defendant is required to appear before Public Defender located at 258 N. Church St. for indigency screening. Defendant is responsible for a statutory fee of \$40 for indigency screening.

Appearance or
Hearing Date:

9/6/06



Judge's Signature

000012

2006 OCT 30 P 4:58

SPARTANBURG COUNTY SHERIFFS DEPARTMENT
Spartanburg, South Carolina

CASE NUMBER

2006090317

PRE-INTERROGATION WAIVER FORM

Name Lisa T. Godfrey Address 13 County Rd. Spartanburg, SC 293
Age 44 Date 9/5/06 Time 1940
Location Sheriff's Office

1. I have the right to remain silent.
2. Anything I say can and will be used against me in a court of law.
3. I have the right to talk to a lawyer and to have him present with me while I am being questioned.
4. If I cannot afford to hire a lawyer, one will be appointed to represent me before any questioning, if I so wish.
5. I have the right to stop answering questions at any point in the questioning.

The above rights have been read to me by Det. Doug Smith

I have read same and I understand my rights fully.

Witness _____ Signed Lisa Godfrey

I waive (give up) my rights as explained above and agree to talk to officer Det. Doug Smith

in reference to Grand Larceny and any statement that I may

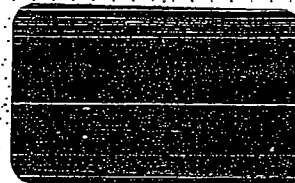
make is of my own free will, without fear, threat or promise or favor or reward of any kind.

I am able to read and write the English Language and finished 12 years in school.

Witnessed L. Murray Signed Lisa Godfrey

Notarized W. Smith

Expiration Date 5/18/2014



State's C

A copy was given to Lisa

Computer

2164381

STATE OF SOUTH CAROLINA
COUNTY OF Spina
STATE OF SOUTH CAROLINA

Ticket or Warrant No.:
IN THE COURT OF GENERAL SESSIONS
() MAGISTRATE'S COURT
() MUNICIPAL COURT OF

Isaac Jerome Walker
Name of Defendant

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE
(Bail Proceeding Form 2)

Offense Charged:

Grand Larceny > 1000
At a bail proceeding conducted by undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- ☐ The release of the defendant on recognizance will not reasonably assure his appearance as required.
☐ The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact:

NO CONTACT WITH TERRY SUMNER

(Considerations: Nature and circumstances of the offense charged, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.)

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows (check one):

CASH IN LIEU OF BOND

- ☐ The defendant, acknowledging himself to be indebted to the State of South Carolina, deposits \$_____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

- ☐ The defendant acknowledges himself to be indebted to the State of South Carolina in the sum of \$_____, his release to be obtained by payment to the court of _____ (%) of this bond in cash, this amount being \$_____. The defendant will be obligated to the State in the full amount of \$_____, such sum to be levied on his real and personal property for the use of the State, should he fail to perform the conditions of this Order.

APPEARANCE RECOGNIZANCE WITH SURETY

- ☒ The defendant will provide good and sufficient surety approved in the court, in the form set forth on the reverse side, acknowledging an indebtedness to the State in the amount of \$5000.

3. That the defendant shall appear at (check one):

☒ the term of the court of general sessions beginning on (Date): 11-21-06 at (Time): 9:00 o'clock, A.M., at (Place): 80 Magnolia St, 2nd fl

and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

- ☐ the session of magistrate/municipal (circle one) court beginning on (Date): _____ at (Time): _____ o'clock, _____ M., at (Place): _____. If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

Initials of Defendant [Signature]

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described on the reverse side which are marked.

[Signature]
Signature of Judge

9-6-06
Date

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, including any conditions included on the reverse side of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, an additional criminal charge will be instituted against me. If the failure to appear is in connection with a felony charge, or while awaiting sentence, or pending appeal or certiorari after conviction, the penalty is a fine of not more than \$5,000 or imprisonment for not more than five years, or both; if I fail to appear in connection with a misdemeanor charge, the penalty is a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

I acknowledge the receipt of a copy of this Order and understand the conditions of my release and the penalties applicable to me in the event I violate any condition of the Order or fail to appear as required.

131 Atterbury Blvd A
Address

B. Spring SC 29316
City/State/Zip

247-27-2838, 578-3631

Social Security Number/Telephone No.

[Signature]
Signature of Defendant

10/15/06
Date

Attorney Representing Accused (If known)

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED.

Original copy for the Trial Court - Copy for the Defendant

SCCA/511 (3/90)

FORM CONTINUES ON BACK

SPECIAL CONDITIONS OF RELEASE:

a. ☐ Placement in custody. The defendant is placed in the custody of: _____
 _____ Name of person or organization
 _____ Address _____ City _____ State/Zip _____ Telephone _____

who agrees (1) to supervise the defendant in accordance with conditions set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

 Signature of Custodian (If Appointed) _____ Date _____

b. ☐ Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions:

c. ☐ Part-time Release. The defendant will be released from custody from _____ o'clock, _____ M. to _____ o'clock, _____ M. on _____ on condition that he return to the custody of _____ as designated.

d. ☐ Other Conditions. The defendant will comply with the following other conditions of release:
YOU MUST APPEAR FOR YOUR INITIAL
SPARTANBURG COUNTY JUDICIAL CENTER.
180 MAGNOLIA STREET, 2ND FLOOR.
EAST COURTROOM, ON.

11-21-06 @ 99/m

APPEARANCE RECOGNIZANCE WITH SURETY

On the 15 day of OCT, 2006, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of \$ 2500 such sum to be levied on his real and personal property for the use of the State, if the within named defendant shall fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

R & R Bail Bonding
 Name of Surety (Printed or Typed)

P.O. Box 3332
 Address of Surety

Spartanburg, SC 29304
 City/State/Zip

864-266-1456

Linda Martin
 Signature of Surety

[Signature]
 Signature of Judge

10-15-06
 Date

It is unlawful to print this form without
written consent of home office.

POWER OF ATTORNEY
INTERNATIONAL FIDELITY INSURANCE COMPANY Power No. ID-954885

Bond Department - 1-800-935-2245
P.O. Box 9810, Calabasas, CA 91372-9810

THIS POWER OF ATTORNEY NULL AND VOID
UNLESS USED BEFORE 12/31/06

KNOW ALL MEN BY THESE PRESENTS, that INTERNATIONAL FIDELITY INSURANCE COMPANY, a corporation duly organized and existing under the laws of the State of New Jersey has constituted and appointed, and does hereby constitute and appoint,

its true and lawful attorney-in-fact, with full power and authority to sign the company's name and affix its corporate seal to, and deliver on its behalf as surety, any and all obligations as herein provided, and the execution of such obligations in pursuance of these presents shall be as binding upon the company as fully and to all intents and purposes as if done by the regularly elected officers of said company at its home office in their own proper person; and the said company hereby ratifies and confirms all and whatsoever its said attorney-in-fact may lawfully do and perform in the premises by virtue of these presents.

THIS POWER OF ATTORNEY IS VOID IF ALTERED OR ERASED, THE OBLIGATION OF THE COMPANY SHALL NOT EXCEED THE SUM OF ELEVEN THOUSAND DOLLARS (\$11,000.00) AND MAY BE EXECUTED FOR RECOGNIZANCE ON CRIMINAL BAIL BONDS ONLY.

NOT VALID FOR IMMIGRATION BONDS

Bond Amt \$ 2500 Case # K164381
Defendant Walker, Isaac Jerome
Appearance Date 11/21/06 DIV GS
Court City 180 Magnolia Street
Court County SPH State SC
Offense Grand Larceny 71000
Date Filed 10/15/06
Atty in fact Linda Martin
SIGNATURE / If applicable, add your COURT assigned Agent #
FORM ID (Rev. 8/05)

NOTICE
STACKING
OF POWER
IS STRICTLY
PROHIBITED!
No more than
one power
from this
Surety may
be used to
execute any
one bond.

IN WITNESS WHEREOF, said INTERNATIONAL FIDELITY INSURANCE COMPANY, by virtue of authority conferred by its Board of Directors, has caused these presents to be sealed with its corporate seal, signed by its President and attested by its Secretary, this 1st day of August, 2003.

Francis Mitterhoff, Chairman of the Board

Norman Konvitz, Secretary



1. A separate Power of Attorney must be attached to each bond executed.
2. Powers of Attorney must not be returned to attorney-in-fact, but should remain a permanent part of court records.
3. The authority of such attorney-in-fact is limited to appearance bonds and cannot be construed to guarantee for failure to provide payments, back alimony payments, fines or wage law claims.

ENTER SURETY-ASSIGNED EXECUTING AGENT CODE # HERE:

ARREST WARRANT

K- 164381

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

SPARTANBURG COUNTY

THE STATE

against

WALKER, ISAAC JEROME

Weight:

DL State: DL#:

Agency ORI#:

Prosecuting Agency:

Prosecuting Officer: SMITH, D/SO

Offense: LARCENY / GRAND LARCENY, VALUE

MORE THAN \$1,000

Offense Code: 0478

Code/Ordinance Sec. 16-13-0030(B)(1)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to law.

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant

on 9/5/06

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

JOHN POOLE

180 MAGNOLIA STREET

SPARTANBURG, SC 29306

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

SPARTANBURG COUNTY

Personally appeared before me the

affiant duly sworn deposes and says

that defendant

did within this county and state on

State of South Carolina (or ordinance of

in the following particulars:

DESCRIPTION OF OFFENSE: LARCENY / GRAND LARCENY, VALUE MORE THAN \$1,00

16-13-0030(B)(1)

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID TAKE, STEAL AND CARRY AWAY A SHOTGUN AND A RIFLE, VALUED IN EXCESS OF \$1000. BELONGING TO IRBY SUMNER, INTENDING TO PERMANENTLY DEPRIVE THE OWNER OF THE PROPERTY

AFFIANTS BELIEF BASED ON POLICE INVESTIGATION

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

SPARTANBURG

Affiant's Address P O BOX 771

SPARTANBURG, SC 29301

Affiant's Telephone 000-0000 000-0000

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that, on 09/05/06, defendant

did violate the criminal laws of the State of South Carolina (ordinance of) WALKER, ISAAC JEROME

☐ County/ ☐ Municipality of

SPARTANBURG

DESCRIPTION OF OFFENSE:

LARCENY / GRAND LARCENY, VALUE MORE THAN \$1,00

16-13-0030(B)(1)

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

Sworn to and subscribed before me

on SEPTEMBER 05, 2006

Signature of Issuing Judge

Judge Code: 015

Judge's Address

180 MAGNOLIA STREET

Judge's Telephone

SPARTANBURG, SC 29306

Issuing Court:

Magistrate

Municipal

Circuit

JOHN POOLE ORIGINAL

AFFIDAVIT

CASE # K164381

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618FILED
CLERK OF COURT
2006 SEP -7 PM 2
MARC KITCHEN

Spartanburg County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Burch, Paul M.
 TRIAL TYPE : Criminal
 PANEL ID : 2006GS04027
 COURTROOM : WB

DESCRIPTION : STATE VS WALKER

Sorted by: Random Nbr
 Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1. Gilbert, Susan H	61	W	F	()	()	()	<u>Foreperson</u>
2. Parkkonen, Aaron J	112	W	M	()	()	()	
3. Barton, David S	8	W	M	()	()	()	
4. Hannon, Justin J	70	A	M	()	()	()	
5. Edberg, Kathleen M	53	W	F	()	()	()	
6. Danesi, Reynold J	43	W	M	()	()	()	? <u>Excused Doctor exc.</u>
7. Lynch, John T	99	W	M	()	()	()	
8. Durham, Orville F	49	W	M	()	()	()	
9. Jameson, Jeremy P	80	W	M	()	()	()	
10. Thomas, Buffy M	147	W	F	()	()	()	
11. Peters, Robert A	117	W	M	()	()	()	
12. Vinesett, Marc D	156	W	M	()	()	()	
13. Kuemper, William L	96	W	M	()	()	()	
14. Brown, Kimberly S	19	W	F	()	()	()	<u>Preplace #43</u>

Total Number of Jurors:

14

** END OF REPORT **

Spartanburg County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Burch, Paul M.
 TRIAL TYPE : Criminal
 PANEL ID : 2006GS04027
 COURTROOM : WB

DESCRIPTION : STATE VS WALKER

Sorted by: Random Nbr
 Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1. Pettit, Gerald E	119	W	M	(X)	()	()	
2. Gilbert, Susan H	61	W	F	()	()	(1)	
3. Parkkonen, Aaron J	112	W	M	()	()	(2)	
4. Burdette, Amanda R	25	W	F	()	(X)	()	
5. Barton, David S	8	W	M	()	()	(3)	
6. Dunagin, Terry W	48	W	M	()	(X)	()	
7. Emory, John E	55	W	M	()	(X)	()	
8. Hannon, Justin J	70	A	M	()	()	(4)	
9. Edberg, Kathleen M	53	W	F	()	()	(5)	
10. Stadterman, Kevin R	142	W	M	(X)	()	()	
11. Danesi, Reynold J	43	W	M	()	()	(6)	
12. Maynard, William T	102	W	M	()	(X)	()	
13. Ablett, Diana B	1	W	F	()	(X)	()	
14. Bennett, John D	9	W	M	()	(X)	()	
15. Lynch, John T	99	W	M	()	()	(7)	
16. Durham, Orville F	49	W	M	()	()	(8)	
17. Jameson, Jeremy P	80	W	M	()	()	(9)	
18. Arledge, James B	4	B	M	(X)	()	()	
19. Justice, James M JR	88	W	M	()	(X)	()	
20. Trotter, Carol H	151	W	F	()	(X)	()	
21. Griffin, Linda J	66	W	F	()	(X)	()	
22. Thomas, Buffy M	147	W	F	()	()	(10)	
23. Peters, Robert A	117	W	M	()	()	(11)	
24. Cecil, Charles C	30	W	M	()	(X)	()	

**Spartanburg County Courthouse
RANDOM STRIKE SHEET**

JUDGE NAME: Burch, Paul M.
TRIAL TYPE: Criminal
PANEL ID: 2006GS04027
COURTROOM: WB

Sorted by: Random Nbr
Trial

DESCRIPTION: STATE VS WALKER

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
25 Vinesett, Marc D	156	W	M	()	()	(12)	
26 Kuemper, William L	96	W	M	()	()	(Alt)	
27 Crow, James K	38	W	M	()	(X)	()	
28 Brown, Kimberly S	19	W	F	()	()	(Alt)	
29 Wilkins, Rakim L	161	B	M	()	()	()	
30 Eason, Ricky R JR	51	B	M	()	()	()	
31 Wright, Carl J	163	B	M	()	()	(X)	
32 Waddell, Lydia H	157	W	F	()	()	()	
33 Thompson, Brandy L	148	W	F	()	()	()	
34 Smola, James R	140	W	M	()	()	()	
35 Cannon, Cecilia S	27	W	F	()	()	(X)	

Total Number of Jurors:

35

END OF REPORT

ARREST WARRANT

K- 164381

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

SPARTANBURG COUNTY

THE STATE
against

WALKER, ISAAC JEROME

Phone: _____ SSN: _____

Sex: _____ Race: _____ B Height: _____ Weight: _____

DL State: _____ DL #: _____

Agency ORI#: _____

Prosecuting Agency: _____

Prosecuting Officer: SMITH, D/SG

Offense: LARCENY / GRAND LARCENY, VAL

MORE THAN \$1,000 Offense Code: 0473

Code/Ordinance Sec. 16-13-0030(B)(1)

This warrant is CERTIFIED FOR SERVICE in the

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

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to

defendant WALKER, ISAAC JEROME

on 9/5/06

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

JOHN POOLE
180 MAGNOLIA STREET
SPARTANBURG, SC 29306

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

SPARTANBURG COUNTY

Personally appeared before me the affiant SMITH, D/SG who
being duly sworn deposes and says that defendant WALKER, ISAAC JEROME
did within this county and state on 09/05/06 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of SPARTANBURG
in the following particulars:DESCRIPTION OF OFFENSE: LARCENY / GRAND LARCENY, VALUE MORE THAN \$1,000
16-13-0030(B)(1)I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:THE DEFENDANT DID TAKE, STEAL AND CARRY AWAY A SHOTGUN AND A RIFLE, VALUED
IN EXCESS OF \$1000. BELONGING TO IRBY SUMNER, INTENDING TO PERMANENTLY
DEPRIVE THE OWNER OF THE PROPERTY

AFFIANT'S BELIEF BASED ON POLICE INVESTIGATION

Signature of Affiant

Affiant's Address P O BOX 771

SPARTANBURG, SC 29306

Affiant's Telephone 000-0000 000-0000

ARREST WARRANT

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

I am appearing from the above affidavit that there are reasonable grounds to believe that
defendant WALKER, ISAAC JEROME☐ County/ ☐ Municipality of SPARTANBURG
as set forth below:

DESCRIPTION OF OFFENSE:

LARCENY / GRAND LARCENY, VALUE MORE THAN \$1,000

16-13-0030(B)(1)

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

Sworn to and subscribed before me

on SEPTEMBER 05, 2006

Signature of Issuing Judge

Judge Code: 015

JOHN POOLE ORIGINAL

Judge's Address 180 MAGNOLIA STREET

SPARTANBURG, SC 29306

Judge's Telephone 803-596-2500

Issuing Court: ☐ Magistrate ☐ Municipal ☐ C. JustForm Approved by
SC Attorney General
April 21, 2003
SCCA 818

AFFIDAVIT CASE # K164381

Computer

Jail

RECEIVED
SEP 08 2006
BY: K6FILED
CLERK OF COURT
2006 SEP -7 PM 2
MARC KITCHEN

0. *

0. *

83.18 +
116.16 +
199.34 *

WAL*MART

ALWAYS LOW PRICES.

Always

SUPERCENTER WAL*MART

WE SELL FOR LESS

MANAGER PAUL TEODORI

(864) 529 - 0156

SPARTANBURG, SC

ST# 1281 OP# 00004016 TE# 22 TR# 04978
STEREO 004431950392 79.22 X

SUBTOTAL 79.22

TAX 1 5.000 % 3.96

TOTAL 83.18

CASH TEND 100.00

CHANGE DUE 16.82

ITEMS SOLD 1

TC# 5959 7319 6268 1558 6846



* Rollback Season.

10.16.49

4-26-06 14:16:49

Fourth Generation
Lock Smith
Michael J. Ellis
President

864-583-1150



Ellis Repair Service, Inc.
199 John B. White Sr. Blvd.
Spartanburg, S.C. 29306-6043

Fax 577-9562

Lock Supplies
Sales & Service
Automotive
Residential
Commercial
Institutional
Safes

60652

CUSTOMER'S ORDER NO.		PHONE		DATE <u>10/2/06</u>	
NAME					
ADDRESS					
SOLD BY <u>MS</u>	CASH	C.O.D.	CHARGE	ON ACCT.	MOSE. RET'D.
PAID OUT					
QTY.	DESCRIPTION				PRICE
1	Master padlock Hasp #720				30.00
1	master padlock #1				15.39
	Trip Charge & labor				68.50
Price Quote					113.89
TAX					2.27
RECEIVED BY					TOTAL 116.16

All claims and returned goods
MUST be accompanied by this bill

Thank You

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

CERTIFICATE OF SERVICE

STATE OF SOUTH CAROLINA)

Indictment No.:

-v-

Warrant No.: K164381

ISAAC WALKER

Personally appeared before me, Shelia Childers, who being duly sworn, deposes and says that she is employed by the Spartanburg County Public Defender's Office, and is a person of such age and discretion as to be competent to serve papers.

That on 9-14-06, she served a copy of the Notice Of Appearance And Request For Discovery, by delivering a copy of same to the person hereinafter named at the address given below:

ADDRESSEE: Trey Gowdy
Solicitor, Seventh Judicial Circuit
Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, SC 29301

Sworn to before me this

14 day of Sept, 2006

Leesa Lambert

NOTARY PUBLIC FOR SOUTH CAROLINA
Office:

My Commission expires:

July 19, 2016

I ACCEPT SERVICE:

Sanj Sultana

Seventh Judicial Circuit Solicitor's

9-14-06

Date

2006 SEP 14 AM 9:35
SPARTANBURG COUNTY
CLERK OF COURT
MARC KITCHENS

OFFICE USE ONLY:

47743

KATHLEEN HODGES

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
)
)
 -v-)
)
 ISAAC WALKER)

NOTICE OF APPEARANCE AND REQUEST FOR DISCOVERY

Indictment No.:

Warrant No.: K164381

The Defendant respectfully requests that the Solicitor produce or otherwise make available to the Defense statements of the Defendant, the Defendant's prior record, all documents, tangible objects, reports of examination and tests, witness statements, physical evidence and any other information subject to disclosure pursuant to Rule 5 and 6 of the South Carolina Rules of Criminal Procedure.

The Defendant further requests the Solicitor to produce all evidence favorable to the Defendant subject to disclosure pursuant to Brady v. Maryland, 373 U.S. 83 (1963), Kyles v. Whitney, 514 U.S. 419 (1995), and their progeny. This includes all information which may tend to exculpate the Defendant and which may tend to mitigate any punishment should he be found guilty.

This request is a continuing request for all such discoverable information as it becomes known to the prosecution or any prosecution agents or which, by the exercise of due diligence, may become known to the prosecution.

The Defendant hereby asserts his Fifth Amendment right to remain silent and does not wish to be questioned in the absence of counsel, pursuant to McNeil v. Wisconsin, 111 S. Ct. 220 (1991) and Edwards v. Arizona, 451 U.S. 477 (1981).

Furthermore, pursuant to Rule 6 of the South Carolina Rules of Criminal Procedure, Defendant objects to the introduction of a chemist's or analyst's report without such person being personally present at trial. Defendant also requests the appearance in Court of all persons within the chain of custody of all physical evidence.

Respectfully Submitted,

KATHLEEN HODGES
Spartanburg County Public Defender's Office

Spartanburg, South Carolina

Dated: September 13, 2006

OFFICE USE ONLY:
47743
KATHLEEN HODGES

State of South Carolina



Spartanburg County Court House
180 Magnolia Street
Spartanburg, S.C. 29306
Phone (864) 596-2575
Fax (864) 596-2386
WTR

Cherokee County Court House
Floyd Baker Blvd.
Gaffney, S.C. 29340
Phone (864) 487-2576
Fax (864) 487-2753

TREY GOWDY

Solicitor, Seventh Judicial Circuit

VICTIM IMPACT STATEMENT

Defendant Joseph J. Walker, Jr.
Charge(s) Grand Larceny
First-Degree Burglary

Warrant # K114381-K164381
Indictment # 08-GS-42-4027
Juvenile Petition # _____

NAME Arbit Sumner TO BE COMPLETED BY VICTIM OR BY REPRESENTATIVE

(Work) _____
(Other) Doris Wilson

WORK ADDRESS _____

Contact: _____

NOTE: IT IS YOUR RESPONSIBILITY TO INFORM THE SOLICITOR'S OFFICE, OF ANY CHANGES IN YOUR ADDRESS AND TELEPHONE NUMBER.

FINANCIAL LOSS: COPIES OF RECEIPTS, BILLS, ESTIMATES AND OTHER DOCUMENTS MUST BE ATTACHED, IF AVAILABLE.

Medical Expenses \$ _____
Funeral \$ _____
Counseling \$ _____
Property Loss \$ 199.34
Other/Lost Wages \$ _____

Recovery Amounts From:

Insurance \$ _____
(Deductible Amount \$ _____)
Victim Compensation \$ 200.00
TOTAL \$ 399.34

PLEASE CHECK AND ANSWER THE FOLLOWING QUESTIONS:

☐ I WANT TO BE NOTIFIED FOR ALL COURT PROCEEDINGS PERTAINING TO THIS CASE.
☒ I WOULD NOT LIKE TO BE NOTIFIED, UNLESS NEEDED.
(However, I would like to receive a letter upon disposition of this case.)

Please describe how this crime has affected you, your family situations, or your close relationships. (Please attach any additional comments, if necessary.)

Please see attached page.

Thank you for completing this Victim Impact Statement. This will guarantee that your voice will be heard by the criminal justice system. With your signature, you attest that the above statements are true.

Signature of Victim or Responsible Party Doris Wilson

Date 10-02-06

Judge: Paul Birch
Date of Sentence: 1-23-2008
Sentence: 25 yrs.

Total restitution ordered to victim: _____

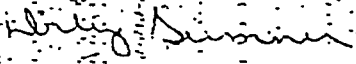
Irby Sumner

October 02, 2006

Spartanburg County Court House
Trey Gowdy / Solicitor
Angela Meadows / Victim Advocate
180 Mannolia Street
Spartanburg, SC 29306

Dear Mr. Gowdy and Ms. Meadows

This crime has made me feel even more vulnerable than I did. I am 97 years old I live alone and I try to do for myself. Its hard for me because of my age. I don't hear very well and I am loosing my eyesight. My health is not good and I have a hard time sleeping. When you try every day just to make it one more day, Then 2 people come along that want something for nothing and take a part of what little I had it makes me loose heart in what kind of people we have in this world. Now when I go feed my goat and dog I lock the door to the house because I don't want someone else to come in and take something else. All I can tell you is it makes me sick in more ways than one.


Irby Sumner
dkg/is

Ms. Hodges:

OCT 11 RECD

I have pulled the two files that we talked about, and I have copied the files for you. My offers in these cases are as follows:

-Issac Walker – My offer is to allow him to plea straight up as charged. If he does not wish to plea straight up to grand larceny \$1-5K, I will be direct indicting this case as a burglary 1st.

-Jessie Bales – I had already indicted this case before I spoke with you. I have pulled it out of the grand jury box in the event that your client wishes to enter a plea. I will offer for him to plea straight up and I will make a recommendation that the sentences run concurrent.

These offers will remain open until Wednesday, October 25th. Please let me hear from you at your earliest convenience.

-William

Rhodes, William

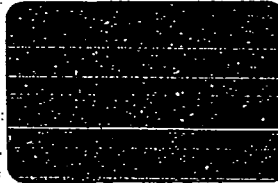
From: Hodges, Kathleen
Sent: Wednesday, October 11, 2006 4:06 PM
To: Rhodes, William
Subject: Bales and Walker

William,

Didn't mean to be rude earlier today – had to help the boss prevent a small fire turning into a forest fire. Thanks for the paperwork and offers – I will relay offers and review files with clients and let you know something as soon as I can – certainly before 10/25!! I am going to spend quality time at jail tomorrow – so if I need to have either put on jail chain, I'll let you know.

Thanks again!

Kathleen J. Hodges
Assistant Public Defender
Spartanburg County Public Defender Office
864-596-2561



State's F

10/11/2006

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

STATE OF SOUTH CAROLINA)

VS.)

Isaac Walker)

TO: DEFENDANT AND HIS ATTORNEY Kathy Hodges:

Pursuant to Rule 5, Rules of Criminal Procedure, the State in the above captioned matter requests the disclosure of the following evidence to the State by the Defendant:

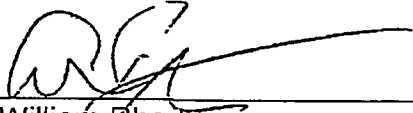
1) That the Defendant permit the prosecution to inspect and copy books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the possession, custody or control of the Defendant and which the Defendant intends to introduce as evidence in chief at the trial;

2) That the Defendant permit the prosecution to inspect and copy any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the Defendant, which the Defendant intends to introduce as evidence in chief at the trial or which were prepared by a witness whom the Defendant intends to call at trial when the results or reports related to his testimony.

3) The prosecution requests that the Defendant serve upon the prosecution a written notice if he intends to offer an alibi defense, stating the specific place or places at which the Defendant claims to have been on September 5, 2006, the names, address, and birthdays of the witnesses upon whom he intends to rely to establish such alibi.

The State further requests that the Defendant notify the State of the Defendant's intention to rely upon the defense of insanity or plea of guilty but mentally ill at the time of the crime.

These requests are continuing requests for disclosure and any relevant matters arising subsequent to the date hereof should be regarded as included in this request.


William Rhodes
Assistant Solicitor
Seventh Judicial Circuit

Spartanburg, South Carolina

Dated: October 26, 2006

Rhodes, William

From: Rhodes, William
Sent: Wednesday, November 01, 2006 9:33 AM
To: Hodges, Kathleen
Cc: Rhodes, William
Subject: Re: Isaac Walker

Re: Isaac Walker

Dear Ms. Hodges:

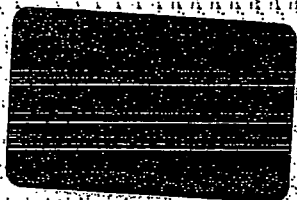
I hope you are doing well. I extended an offer in this case a couple of weeks ago. Mr. Walker was charged with Grand Larceny; however, since trickery was used to gain access to the victim's home, and since firearms were stolen from the victim, I can indict this case as a Burglary 1st. My offer was to allow Mr. Walker to plea straight up to Grand Larceny as charged. This offer was set to expire on October 25th. Because you were trying to get ready for a trial, I was willing to extend the offer. The purpose of this letter is to set a deadline of Wednesday, November 15th for Mr. Walker to accept this offer.

I will be extending the same offer to the co-defendant, Lisa Godfrey, who is being represented by Josh Schultz. Please let me hear from you. With kindest regards, I am,

Yours very truly,

William Rhodes

William H. Rhodes
Assistant Solicitor
Seventh Judicial Circuit Solicitor's Office
180 Magnolia Street, 3rd Floor
Spartanburg, SC 29306
864-596-2575



State's E

11/1/2006

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

WHR
IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

INDICTMENT NOS:

WARRANT NOS: 14164381

THE STATE OF SOUTH CAROLINA

AFFIDAVIT

VS:

Isaac Walker

PERSONALLY APPEARED BEFORE ME the undersigned deponent who being duly sworn, says that he/she copied the following materials:

- ☐ - Warrant or Ticket
- ☐ - Investigation Report
- ☐ - Voluntary Statement
- ☒ - Sol. Rule 5 Request
- ☐ - Sol. Rule 5 Request Mailed

- ☐ Incident Report
- ☐ Supplemental Reports
- ☐ Witnesses Written Statement
- ☐ Defendant's Rap Sheet (NCIC)
- ☐ Drug Report

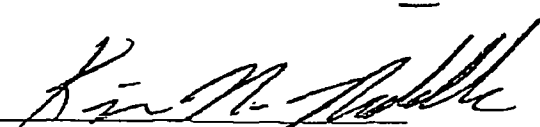
Other:

pgs 1-48, 10-30-06

Copied Number of Pages: _____

I, K. Hodges, attorney for the defendant(s) or his/her designee, have reviewed copies of the above referenced documents and accept them as the response to the Rule 5/Brady Motion in this matter. I also accept service of the Solicitor's Reciprocal Rule 5.

Signed / Accepted this 3 day of November, 2006.


Representative or designee for Attorney

Kathy Hodges
Attorney-At-Law

Sworn to before me this _____ day of _____, 2006

Notary Public for South Carolina
My Commission Expi

WITNESSES

Spartanburg County Sheriff's Office

Deputy Floyd Lerley

1. SENTENCE MADE ☒

2. REPORT ENTERED ☒

3. CARD FILLED ☒

4. INDEXED ☒

5. CHECKED WARRANTS ☒

ARREST WARRANT NUMBER

6. CHECKED SIGNATURE ☒

K164381

7. ASSESSMENT AND ☒

FINE CARD MADE

8. TRAFFIC VIOLATIONS CODE ☒

ACTION OF GRAND JURY

Bill

Amey E. Cr...
Foreperson of Grand Jury

Date: 12-28-06

VERDICT

Guilty

Lisan Y. Hilt...
Foreperson of Petit Jury

Date: 1/23/2008

DOCKET NO.

06-GS-42-4027

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JAN 08 2007

TERM

THE STATE

VS.

ISAAC JEROME WALKER

Indictment for

BURGLARY, FIRST DEGREE

(Dwelling)

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

FILED 12-28-06

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on DEC 28 2006, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

(DWELLING)

The Defendant, Isaac Jerome Walker, did in Spartanburg County, on or about September 5, 2006, willfully and intentionally and without consent enter the dwelling belonging to [redacted] located at 211 [redacted] Road, Spartanburg, South Carolina, with the intent to commit a crime therein, and the defendant when effecting entry or while in the dwelling, he or another participant in the crime either:

- (1) entered in the nighttime; and/or
- (2) became armed with a deadly weapon; and/or
- (3) caused physical injury to any person who is not a participant in the crime; and/or
- (4) used or threatened to use a dangerous instrument; and/or
- (5) displayed what is or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm

In violation of Section 16-11-311 of The Code Laws of South Carolina (1976) as amended.

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



ASSISTANT SOLICITOR

Hodges, Kathleen

From: Hodges, Kathleen
Sent: Wednesday, December 19, 2007 11:06 AM
To: Coler, Bob
Subject: RE: Isaac Walker

Mr. Walker respectfully declines the State's offer and requests a jury trial. I'll need color copies of the photos and Lisa Godfrey's rap sheet if she testifies. Thanks!

Kathleen J. Hodges
Assistant Public Defender
Spartanburg County Public Defender Office
864-596-2561

-----Original Message-----

From: Coler, Bob
Sent: Tuesday, December 18, 2007 2:59 PM
To: Hodges, Kathleen
Subject: Re: Isaac Walker

Sounds fair.

-----Original Message-----

From: Hodges, Kathleen
To: Coler, Bob
Sent: Tue Dec 18 14:38:39 2007
Subject: RE: Isaac Walker

So does that mean that he doesn't have to accept and plead by tomorrow? I can give you a definitive answer by Friday, January 4th and I will expect that if he has not accepted the offer by then, that he is subject to call the week of January 7th.

I expect he is close at hand but I need to get him in to go over the discovery and have a face to face talk re the facts and law. He is not going to acquiesce on the telephone. I will keep you posted.

-----Original Message-----

From: Coler, Bob
Sent: Tuesday, December 18, 2007 2:34 PM
To: Hodges, Kathleen
Subject: RE: Isaac Walker

Kathy,

No urgency. I just figured since he reported this week, he would be close at hand. I know you will do what you can. I know you are swamped.

Thanks.

From: Hodges, Kathleen
Sent: Tuesday, December 18, 2007 2:30 PM
To: Coler, Bob
Subject: RE: Isaac Walker

Bob,

This is the first time he has appeared on the docket for some of these charges. I will do my best to convey it to him. I have a ton of stuff to get organized and cleared in order to have my entire office packed up the end of the day Friday since the movers will be here first thing on the 27th. I have been pulled from pillar to post by the Solicitor's office the last several terms. Since tomorrow is the last day to do pleas and Walker is out of jail, I'm not sure that I see the urgency at this point.

Kathleen J. Hodges

Assistant Public Defender

Spartanburg County Public Defender Office

864-596-2561

-----Original Message-----

From: Coler, Bob

Sent: Tuesday, December 18, 2007 2:25 PM

To: Hodges, Kathleen

Subject: Isaac Walker

Kathy,

I am faxing over an offer on both of Mr. Walkers charges. Will you please convey it to him. I put a deadline of this week on the offer since he is on the docket this week.

Thanks.

Bob.

Cherokee County Courthouse
Floyd Baker Blvd.
Gaffney, S.C. 29340
Phone (864) 487-2576
Fax (864) 487-2753

12/18/07

KATLY HODGES

Re: State v. ISAAC WALKER
Warrant# K-164
Charge: Burglary 1st (06-4027) and Burglary 2nd non-violent (04-4549)

Dear KATHY

This offer is good until 12/19/07 (because Δ is on docket this week)

If your client accepts this offer, please let me know by the above noted deadline so I can schedule a convenient time for the guilty plea during the week of court of 12/17/07

If your client rejects this offer or I fail to get a response to this letter, I will put the case on the TRIAL DOCKET for the week of 1/8/08.

Thank you for your attention to this matter, I look forward to working with you to resolve this case. Please do not hesitate to call me with any questions.

Bob Coler
Assistant Solicitor
Seventh Judicial Circuit

State of South Carolina)

County of Spartanburg)

The State of South Carolina)

v.)

Isaac Walker)
Defendant.)

In the court of General Sessions
Seventh Judicial Circuit
06-GS-42-4027

Prospective Witnesses for the
State of South Carolina

The State may call the following witnesses in its case in chief.

1. Lu Murray, Spartanburg County Sheriffs Office
2. Doug Smith, Spartanburg County Sheriffs Office
3. Chad Ingle, Spartanburg County Sheriffs Office
4. Robert Shaffer, Spartanburg County Sheriffs Office
5. Tim Pittinger, South Carolina Highway Patrol
6. Donna Guy
7. Irby Sumner
- 8.

Respectfully Submitted,

Robert Coler
Assistant Solicitor

January 7, 2008
Spartanburg County

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG)

THE STATE OF SOUTH CAROLINA)

V.)

Isaac J. Walker)

Defendant.)

Order for Video Taped
Testimony

Indictment: 06-GS-42-4027

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2008 JAN -7 AM 10:30
MARC KITCHENS

This matter comes before the Court upon Motion of the State, by and through Robert Coler, Assistant Solicitor, for an Order allowing for the video taped testimony of Irby Sumner. This matter was filed by the State because Irby Sumner is a material witness in the trial of the above noted Defendant.

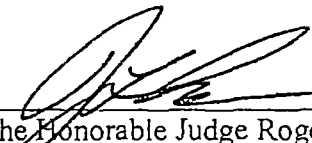
Mr. Irby was the victim of a Burglary 1st Degree at his home on September 9, 2006 for which the Defendant has been charged and faces trial. Mr. Irby is 98 years of age, lives permanently at the Oakmont Assisted Living Facility in Union, SC, and receives medical treatment, including prescription medicines and bottled oxygen daily. It would be an extreme hardship for Mr. Irby to travel to the Spartanburg County Courthouse to testify.

The Defendant, his attorney of record, the Assistant Solicitor, a videographer, and a notary public shall be present at the taking of the testimony. The taking of the testimony shall occur on Monday January 7, 2008 or as soon thereafter as possible.

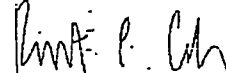
This Court finds that the taking of video taped testimony of Irby Sumner is appropriate in light of the above noted circumstances.

THEREFORE, IT IS THE ORDER OF THIS COURT, that Mr. Irby Sumner's testimony be video taped for presentation in the above noted Defendant's jury trial.

IT IS SO ORDERED.


The Honorable Judge Roger Couch
Circuit Court Judge

On the Motion of



Robert Coler
Assistant Solicitor

January 4, 2008
Spartanburg, SC



OAKMONT OF UNION

Assisted Living

709 Rice Avenue Ext.

Union, SC 29379

(864) 427-0315 Phone

(864) 427-0823 Fax

FILED
CLERK OF COURT
SPARTANBURG COUNTY

RECEIVED
FEB 10 10:30 AM

Oakmont of Union Proven Leader In Patient Outcomes

- ♥ Onsite Assisted Living
- ♥ Admissions 24 hours a day, 7 days a week
- ♥ Physical, Occupational & Speech Therapies
- ♥ Rehabilitative & Restorative Programs
- ♥ Therapeutic Recreation
- ♥ Social Services
- ♥ Employment & Volunteer Opportunities
- ♥ Onsite Skilled Nursing available

To: Bob Collier

From: Lynne

Fax #: 810-5916-2386

Date: 1-4-08

Re:

of Pages: _____ (including cover sheet)

- ☐ Urgent ☐ For Review
☐ Please Comment ☐ Please Reply

Message:

CONFIDENTIALITY NOTICE: The information contained in this facsimile message may be privileged and confidential and is intended only for the use of the individual(s) or entity named above who have been specifically authorized to receive it. If the reader is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this in error, please notify us immediately by telephone and return all pages to the address shown above.

Oakmont of Union
709 Rice Ave. Ext.
Union, SC 29379
864 427-0306
864 429-0557 Fax

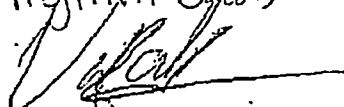
HCR ManorCare

FILED
CLERK OF COURT
SPARTANBURG COUNTY
008 JAN -7 AM 10:31
MARC KITCHENS

Bob Cohen

At the care given of Mr. Lily
Summer feel that it is in
his best interests because of
his age and health that you
come here to take his statements.

Thank you,
Lynne Summer
On-site Res Care
Asst. Supervisor

Virginia Babb

ALF Supervisor

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

CASE NO. 06-GS-42-4027

THE STATE,)
PLAINTIFF,)
VERSUS)
ISAAC JEROME WALKER,)
DEFENDANT.)

COPY

VIDEOTAPE TESTIMONY OF

IRBY SUMNER

PURSUANT TO NOTICE OF DEPOSITION AND/OR AGREEMENT
IN THE ABOVE-ENTITLED CASE, THE VIDEOTAPE TESTIMONY OF **IRBY
SUMNER** WAS TAKEN ON THE **8TH DAY OF JANUARY, 2008**, COMMENCING
AT THE HOUR OF 12:03 P.M., AT A NURSING HOME IN UNION, SOUTH
CAROLINA.

REPORTED BY: ROSALIND WALTERS, CERTIFIED VERBATIM REPORTER.
VIDEOTAPED BY: TERRY DAVIS, VIDEOGRAPHER.

FREELANCE REPORTING SERVICES
CERTIFIED VERBATIM REPORTERS
POST OFFICE BOX 170637
SPARTANBURG, SOUTH CAROLINA 29301
(864) 587-7050 OR (864) 706-1241
FreelanceRpt@charter.net

APPEARANCES:

**ROBERT COLER, ESQUIRE
ASSISTANT SOLICITOR
SPARTANBURG COUNTY**

180 MAGNOLIA STREET
SPARTANBURG, SOUTH CAROLINA 29306

ATTORNEY FOR THE STATE,

**KATHLEEN J. HODGES, ESQUIRE
ASSISTANT PUBLIC DEFENDER
SPARTANBURG COUNTY**

366 NORTH CHURCH STREET
SUITE 3000
SPARTANBURG, SOUTH CAROLINA 29303

ATTORNEY FOR THE DEFENDANT.

ALSO ATTENDING:

ISAAC WALKER
LUCILLE MCINTYRE
CHRISTIE BEALL

INDEX

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CERTIFICATE OF REPORTER.....	20

EXHIBITS

(NONE MARKED)

1 STIPULATIONS:

2 IT IS AGREED BY AND BETWEEN THE COUNSEL FOR THE PARTIES AS
3 FOLLOWS:

- 4 1. THAT THIS TESTIMONY IS BEING TAKEN PURSUANT TO ANY AND
5 ALL APPLICABLE RULES OF THE STATE OF SOUTH CAROLINA;
6 2. THAT THIS TESTIMONY IS BEING VIDEOTAPED.

7 *****

8 IRBY SUMNER, AFTER HAVING TESTIFIED, WAS DULY SWORN TO
9 HAVING TOLD THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
10 TRUTH OF HIS OWN KNOWLEDGE CONCERNING THE MATTER HEREIN,
11 STATING HE HAD DONE SO WHEN HE TESTIFIED AS FOLLOWS:

12 *****

13 EXAMINATION BY MR. COLER:

14 Q. WILL YOU STATE YOUR FULL NAME FOR THE RECORD, PLEASE?
15 TELL US YOUR FULL NAME, MR. SUMNER.

16 A. FULL NAME?

17 Q. YES, SIR.

18 A. IRBY SUMNER. THAT'S MY FULL NAME.

19 Q. AND BEFORE YOU CAME TO LIVE HERE IN UNION---

20 A. WELL, I JUST TOLD YOU A STORY. IT'S IRBY E. SUMNER.

21 Q. IRBY E. SUMNER?

22 A. I DON'T KNOW WHAT THE E STANDS FOR, BUT THAT'S WHAT IT
23 IS.

24 Q. BEFORE YOU CAME TO LIVE HERE IN UNION DID YOU USED TO

1 A. YEAH.

2 Q. HUNTINGSTON ROAD IN SPARTANBURG?

3 A. THAT'S RIGHT.

4 Q. HOW LONG DID YOU LIVE THERE FOR?

5 A. WELL, I MOVED THERE IN 1949.

6 Q. OKAY. AND HOW OLD ARE YOU?

7 A. HOW OLD I AM?

8 Q. HOW OLD ARE YOU?

9 A. WELL, THE BEST I CAN COUNT IT, I'LL BE 99 WHEN I SEE MY
10 NEXT BIRTHDAY. I WAS BORN IN 1909, THE FIRST DAY OF
11 DECEMBER. YOU CAN COUNT IT FOR YOURSELF.

12 Q. DO YOU REMEMBER THE INCIDENT WHEN YOUR GUNS WERE
13 STOLEN?

14 A. YEAH.

15 Q. OKAY. I WANT YOU TO DESCRIBE FOR ME WHAT HAPPENED THAT
16 DAY, STARTING WITH WHERE YOU WERE IN YOUR HOUSE.

17 A. I'LL TELL YOU EVERY WORD --

18 Q. OKAY.

19 A. -- THAT I CAN RECOLLECT. THERE'S ONE THING I -- I
20 DON'T RECOLLECT WHEN THAT MAN CALLED ME ABOUT MY GUNS
21 AND TOLD ME HE WAS GOING TO BRING THEM DOWN THERE THE
22 NEXT DAY, BUT I THINK HE BROUGHT THEM THAT SAME DAY
23 BECAUSE I TOLD HIM, I SAID, UH-UH, I GOT TO HAVE MY
24 GUNS NOW. I SAID, THAT MAN KNOW I AIN'T GOT NO GUNS
25 AND HE'S LIABLE TO COME BACK.

1 Q. ALL RIGHT, LET'S START WITH THE BEGINNING. START WITH
2 WHERE YOU WERE WHEN THE PEOPLE APPROACHED YOU AND YOUR
3 GUNS GOT TAKEN.

4 A. YOU MEAN---

5 Q. WERE YOU HOME ON YOUR PORCH?

6 A. I WAS SITTING ON THE PORCH.

7 Q. OKAY. WHAT HAPPENED?

8 A. AND A CAR WENT DOWN THE ROAD, AND I DIDN'T PAY IT NO
9 ATTENTION, BUT IT'S A DEAD-END ROAD. THERE'S A GATE
10 ACROSS IT, AND THE GATE GOES FURTHER ON DOWN TO THE
11 STATE PARK. AND WASN'T BUT A FEW MINUTES AND HE COME
12 BACK AND HE STOPPED. HE SAID, I'VE BEEN ROBBED. I
13 SAID, IMPOSSIBLE. BECAUSE IT'S A DEAD-END ROAD AND
14 AIN'T A CAR BEEN DOWN THERE. AND HE GOT OUT AND HIM
15 AND THAT WHITE WOMAN COME UP ON THE PORCH. SHE SAID,
16 CAN I USE YOUR BATHROOM? I SAID, YES, MA'AM. I SAID,
17 GO IN THERE AND GO RIGHT UP THE HALL. IT'S ON THE
18 LEFT. SHE WENT IN THERE AND GONE A LITTLE BIT LONGER
19 THAN I THOUGHT SHE OUGHT TO BE, AND I GOT UP AND
20 STARTED. HE SAYS, OH, SHE'LL BE BACK IN A MINUTE. I
21 WENT IN THERE AND I FOUND HER IN THE BACK ROOM. SHE
22 WAS IN THE BACK ROOM. I SAID, WHAT YOU DOING IN HERE?
23 I'M JUST A-LOOKING. I SAID, YOU GET BACK OUT ON THE
24 PORCH. YOU DIDN'T COME IN HERE TO INSPECT. SHE WENT
25 BACK OUT ON THE PORCH. AND IN JUST A FEW SECONDS SHE

1 SAID, I WANT A DRINK OF WATER. YOU GOT ANY COLD WATER?
2 I SAID, I AIN'T GOT NOTHING BUT SPIGOT WATER. I DIDN'T
3 TELL HER I HAD WATER IN THE FRIGIDAIRE. AND SHE GOT UP
4 AND WENT BACK IN THE HOUSE. AND WHEN SHE WENT BACK IN
5 THE HOUSE I SAT THERE A FEE OF MINUTES. HE WAS TRYING
6 TO ENTERTAIN ME TO SIT THERE AND LISTEN TO WHAT HE HAD
7 TO SAY. AND I GOT UP. HE SAID, OH, SHE'LL BE BACK IN
8 A MINUTE. AND I WENT BACK, AND JUST AS I WENT BACK SHE
9 COME IN THE BACK DOOR. THAT'S WHEN SHE STOLE MY RADIO
10 OR MY SHOTGUN, ONE, AND TOOK THEM OUT ON THE BACK.

11 Q. OKAY.

12 A. I SAID, I THOUGHT YOU WANTED WATER, AND SHE NEVER SAID
13 NOTHING. SHE COME ON OUT ON THE PORCH AND HE SAID, I'M
14 GOING AROUND HERE TO THE BACK OF THE HOUSE. HE WENT
15 AROUND TO THE BACK OF THE HOUSE. SHE GETS UP AND GOES
16 BACK IN THE HOUSE. AND WHEN SHE WENT BACK IN THE HOUSE
17 I WENT BACK IN THERE. I SAID, WHAT YOU LOOKING FOR? I
18 AIN'T A-LOOKING FOR NOTHING. I'M JUST SEEING WHAT YOU
19 -- HOW YOU GOT IT ARRANGED AND NOBODY HERE BUT YOU.
20 AND WHEN HE COME BACK HE SAID, WE BETTER GO. HE ASKED
21 ME, DO YOU WANT -- I WANT TO BORROW SOME MONEY. I
22 SAID, I AIN'T GOT NO MONEY TO LOAN NOBODY. I AIN'T GOT
23 NONE. HE SAID, WELL, I'LL PAY YOU BACK TOMORROW. I
24 SAID, I AIN'T GOT NO MONEY. AND I SAID, I'M LIKE THEM
25 LITTLE FELLOWS OVER IN VIETNAM WHERE THEY'LL FIGHT YOU.

1 I SAID, I GOT A BOMB ON ME, AND I SAID, IF YOU TOUCH ME
2 YOU'RE LIABLE TO GET BLOWED UP. HE JUST LAUGHED. HE
3 GOT UP AND WENT OUT THERE AND GOT IN THE CAR AND THEY
4 LEFT, WENT DOWN THE ROAD RIGHT WHERE THEY HAD COME
5 FROM, TO MY GRANDDAUGHTER'S HOUSE. WELL, IT'S ABOUT
6 THREE-TENTHS OR NOT QUITE THREE-TENTHS OF A MILE. SHE
7 GOT THE DESCRIPTION OF THE AUTOMOBILE AND WHO WAS IN
8 IT. SHE WAS OUT IN THE YARD. AND I CALLED HER AND SHE
9 WENT BACK OUT. WELL, WHEN SHE WENT BACK OUT HE
10 HOLLERED SOMETHING. I DON'T KNOW WHAT HE SAID, AND SHE
11 COME ON. AND I SAID -- TOLD HER WHAT I'VE BEEN TELLING
12 YOU. AND I SAID, MY SHOTGUN'S GONE AND MY LITTLE OLD
13 RADIO IS GONE. I HADN'T BEEN DOWN TO THE MILK HOUSE AT
14 THAT TIME. OF COURSE, HE DIDN'T GET NOTHING DOWN
15 THERE. HE COULDN'T GET IN THE DOOR. (INDECIPHERABLE)

16 Q. LET ME ASK YOU A QUESTION, MR. SUMNER. WHEN THEY
17 PULLED UP IN THE CAR DO YOU REMEMBER WHAT COLOR CAR IT
18 WAS?

19 A. YES, SIR.

20 Q. WHAT COLOR?

21 A. A RED ONE.

22 Q. AND THE TWO PEOPLE THAT CAME OUT, WAS THE WOMAN A WHITE
23 WOMAN OR A BLACK WOMAN?

24 A. SHE WAS A BLACK -- WHITE WOMAN, THE WOMAN THAT GOT OUT,
25 AND THE MAN WAS A BLACK MAN.

1 Q. OKAY. AND---

2 A. A LITTLE BIT BIGGER THAN YOU.

3 Q. ALL RIGHT. AND---

4 A. A GOOD BIT BIGGER THAN YOU.

5 Q. ALL RIGHT. DID BOTH OF THE -- BOTH OF THEM GO IN YOUR
6 HOME OR DID JUST ONE GO IN YOUR HOME?

7 A. ONE AT THE TIME. SHE'D GO IN AND INVESTIGATE AND COME
8 GET WHAT SHE COULD, TAKE IT ON THE BACK AND COME BACK,
9 AND THEN SHE'D GO -- WANT TO GO BACK IN THE HOUSE, AND
10 I FOLLOWED HER. I KNOWED WHAT WAS GOING ON, BUT I HAD
11 SENSE ENOUGH TO HOLD IT DOWN BECAUSE ONE MAN DON'T DO
12 MUCH FOR HISSELF.

13 Q. RIGHT.

14 A. AND---

15 Q. NOW, DID THE MAN -- DID THE BLACK MAN EVER GO INSIDE
16 YOUR HOUSE?

17 A. NO, HE NEVER DID GO INSIDE OF THE HOUSE.

18 Q. WHAT DID HE DO ON THE PORCH WHILE THE WOMAN WAS INSIDE
19 THE HOUSE?

20 A. HE JUST SAT THERE.

21 Q. OKAY. DID YOU TALK TO HIM?

22 Q. YEAH, I TALKED TO HIM.

23 Q. WHAT DID HE SAY TO YOU?

24 A. EVERY -- JUST OLD RAMBLING TALK. HE MADE LIKE HE GOT
25 ROBBED DOWN THE ROAD, AND HE DIDN'T GET ROBBED.

1 Q. WHAT DID HE SAY TO YOU WHEN YOU WERE WORRIED ABOUT HER
2 BEING INSIDE THE HOUSE?

3 A. WELL, HE WAS TRYING TO GET ME NOT TO GO IN THERE.
4 SHE'LL BE BACK IN A MINUTE. SHE'LL BE BACK IN A
5 MINUTE.

6 Q. WHEN YOUR GRANDDAUGHTER CAME OVER DID YOU TELL HER WHAT
7 HAPPENED?

8 A. I TOLD HER WHAT HAPPENED. SHE SAID, I'M THINKING THERE
9 WAS SOMETHING GOING ON --

10 MS. HODGES:

11 OBJECTION.

12 EXAMINATION RESUMED BY MR. COLER:

13 A. -- BECAUSE SHE SAID---

14 Q. OKAY. DON'T -- DON'T SAY WHAT YOUR GRANDDAUGHTER SAID.
15 DID YOU DESCRIBE TO HER THE PEOPLE IN THE CAR? DID YOU
16 TELL---

17 A. YEAH, SHE SEE'D TWO PEOPLE IN THE CAR.

18 Q. LET ME ASK YOU THIS, MR. SUMNER. DID YOU OR HER CALL
19 THE POLICE?

20 A. I HAD HER TO CALL THEM. I COULDN'T SEE --

21 Q. OKAY.

22 A. -- TO DIAL THE PHONE. AND THE POLICE WAS THERE IN JUST
23 A FEW MINUTES. AND HE LISTENED TO ME, WHAT I HAD TO
24 TELL HIM, AND HE WAS TALKING TO ANOTHER POLICE AT THE
25 POLICE -- AT THE STATION, WHEREVER. AND HE SAID, HOLD

FREELANCE REPORTING SERVICES (864) 587-7050

1 IT. HOLD IT.

2 Q. OKAY.

3 A. HE SAID, WE GOT HIM. HE'S DONE---

4 Q. HANG ON A SECOND. DON'T SAY -- DON'T SAY WHAT SOMEBODY
5 ELSE SAID. DID YOU DESCRIBE FOR THE POLICE OFFICER THE
6 PEOPLE AND THE CAR THAT HAD COME TO YOUR HOUSE?

7 A. RIGHT. RIGHT.

8 Q. THIS HOME THAT YOU WERE AT, IS THAT THE HOME WHERE YOU
9 SLEPT, WHERE YOU ATE, WHERE YOU LIVED?

10 A. THAT'S WHERE I LIVE AT. THAT WAS MY LAND, MY PLACE.

11 Q. DID YOU GIVE EITHER OF THE TWO PEOPLE PERMISSION TO GO
12 IN YOUR HOUSE OTHER THAN TO GET WATER OR A DRINK OR GO

13 --

14 A. NO.

15 Q. -- TO THE BATHROOM?

16 A. NO.

17 Q. ALL RIGHT. WHERE WERE THE GUNS THAT GOT STOLEN?

18 A. THE GUNS WAS IN THE HALLWAY. THAT LITTLE OLD TRAILER
19 HAS A HALLWAY, AND THIS WAS THE KITCHEN AND THE LIVING
20 ROOM, AND UP THE HALL RIGHT AT THE END OF IT WHERE YOU
21 GO UP THE HALL I HAVE A RACK THERE, AND THE SHOTGUN AND
22 THE RIFLE WAS A-LAYING IN THAT RACK.

23 Q. CAN YOU DESCRIBE FOR US WHAT KIND OF SHOTGUN AND WHAT
24 KIND OF RIFLE?

25 A. IT WAS A GOLD TRIGGER BROWNING SHOTGUN, 12-GAUGE.

1 Q. OKAY.

2 A. AND IT -- I HAD PUT A PLUG IN IT WHERE YOU COULDN'T PUT
3 BUT FIVE IN IT WHEN YOU BUY THEM. I TOOK THE PLUG OUT
4 AND I HAD SIX IN IT. AND WHEN THAT MAN BROUGHT IT BACK
5 I SAID, HOLD IT. I SAID, THAT SHOTGUN, THE SAFETY IS
6 OFF OF IT. THE POLICE. AND HE SAID, HERE, TAKE THAT
7 THING. SAID, YOU KNOW MORE ABOUT IT THAN I DO.

8 Q. ALL RIGHT. WELL, LET'S -- DESCRIBE FOR ME THE RIFLE,
9 IF YOU WOULD, BEFORE WE GET TO THAT.

10 A. I JERKED EVERY ONE OF THEM OUT WITH THE EJECTOR AND
11 FIVE OF THEM FELL ON THE FLOOR. I SAID, HE SHOT IT ONE
12 TIME. SOMEBODY HAD. I SAID, I HAD SIX IN IT. HE
13 SAID, I DON'T KNOW ABOUT THAT GUN. I SAID, IT WAS A 22
14 RIFLE, SHOOT LONGS OR THE SHORT.

15 Q. OKAY.

16 A. EITHER ONE.

17 Q. ALL RIGHT.

18 A. I REJECTED ALL THE BULLETS OUT OF IT, AND I SAID, HE
19 DIDN'T SHOOT THE RIFLE. AND I SAID, THAT LITTLE RADIO
20 THAT HE GOT OR SHE GOT AND HE PUT IT IN THE CAR HAD ONE
21 LITTLE JOHNNY CASH TAPE IN IT. SAID, THAT WAS THE ONLY
22 TAPE THAT WAS IN IT.

23 Q. OKAY. I'M GOING TO STAND OVER HERE, MR. SUMNER, SO THE
24 REPORTER CAN UNDERSTAND AND HEAR YOU. IF I UNDERSTAND
25 CORRECTLY, IT WAS A 12-GAUGE SHOTGUN AND A 22-CALIBER

1 RIFLE?

2 A. THAT'S RIGHT.

3 Q. DID YOU KEEP THOSE GUNS LOADED INSIDE YOUR HOUSE?

4 A. YES, I DID. I ALWAYS KEPT MY GUNS LOADED.

5 Q. DID YOU GET THOSE GUNS BACK FROM THE POLICE AT SOME
6 TIME AFTER THIS INCIDENT?

7 A. YES.

8 Q. WHO BROUGHT THEM TO YOU? DO YOU REMEMBER?

9 A. NO, I DON'T KNOW. HE TOLD ME HIS NAME.

10 Q. WAS HE A POLICEMAN?

11 A. YEAH, HE WAS A VERY NICE FELLOW. HE WAS KINDLY A
12 LITTLE HEAVIER THAN YOU ARE, BUT HE DIDN'T KNOW TOO
13 MUCH ABOUT SHOTGUNS HE SAID. I DON'T IMAGINE HE EVER
14 HUNTED MUCH.

15 Q. WHEN HE GAVE YOU THE GUNS WERE YOU POSITIVE THEY WERE
16 YOUR GUNS THAT HE GAVE YOU?

17 A. I KNOWED THEY WAS MY GUNS. I BOUGHT THEM BRAND NEW
18 MYSELF.

19 Q. OKAY, MR. SUMNER, THAT'S ALL THE QUESTIONS I HAVE TO
20 ASK YOU. MS. HODGES IS GOING TO ASK YOU A COUPLE OF
21 QUESTIONS.

22 A. OKAY.

23 Q. IF YOU'LL LISTEN TO HER AND ANSWER HER. THANK YOU.

24 EXAMINATION BY MS. HODGES:

25 Q. MR. SUMNER, DO YOU REMEMBER ABOUT WHAT TIME ALL THIS

1 HAPPENED AT YOUR HOUSE?

2 A. WHAT TIME THEY COME TO MY HOUSE?

3 Q. YES, SIR.

4 A. I DO NOT RECOLLECT WHAT TIME IT WAS.

5 Q. WAS IT---

6 A. IT WAS A LITTLE AFTER DINNER TIME. I WOULDN'T SAY
7 WHETHER IT WAS ONE OR TWO O'CLOCK.

8 Q. OKAY.

9 A. GUESSING AT IT.

10 Q. ALL RIGHT. SO IT WAS -- BUT IT WAS LIGHT OUTSIDE? I
11 MEAN, IT WAS DAYLIGHT OUTSIDE?

12 A. HUH?

13 Q. IT WAS DAYLIGHT OUTSIDE?

14 A. OH, YES, IT WAS DAYLIGHT.

15 Q. AND AS I UNDERSTOOD WHAT YOU TOLD MR. COLER, THE BLACK
16 MAN NEVER WENT INSIDE YOUR HOUSE?

17 A. HE NEVER WENT INSIDE OF THE HOUSE.

18 Q. OKAY.

19 A. NO.

20 Q. JUST THE -- JUST THE WHITE FEMALE?

21 A. THE WHITE WOMAN WENT IN.

22 Q. SHE WENT IN A COUPLE OF TIMES. RIGHT?

23 A. SHE WENT IN A COUPLE OF TIMES. HE TRIED TO ENTERTAIN
24 ME WITH OLD FOOL TALK, I CALLED IT. I DIDN'T PAY IT NO
25 ATTENTION. I DON'T EVEN KNOW WHAT HE WAS TALKING

1 ABOUT.

2 Q. OKAY.

3 A. AND EVERY TIME SHE'D COME OUT HE'D GO AROUND TO THE
4 BACK OF THE HOUSE AND SHE'D GO BACK IN. I'D GO IN AND
5 BACK HER BACK OUT, BECAUSE I KNOWED WHAT SHE WAS DOING
6 BUT -- THERE'S ONE THING I DIDN'T TELL THAT MAN. HE
7 DIDN'T ASK ME, AND I WAS -- I HAD JUST SOLD MY TRUCK,
8 AND I WAS TAKING CARE OF NUMBER ONE. I HAD \$2500, WHAT
9 I GOT FOR MY TRUCK. I HAD IT IN MY POCKET.

10 Q. OKAY.

11 A. AND I DIDN'T INTEND FOR HIM TO GET IT.

12 Q. ALL RIGHT. NOW---

13 A. NOW, THAT'S PLAIN TALK.

14 Q. WHEN YOU SAY THAT YOU HAD JUST SOLD YOUR TRUCK, WAS IT
15 THAT DAY OR A DAY --

16 A. OR BASICALLY BEFORE THAT.

17 Q. -- PRIOR TO THAT?

18 A. BUT I HADN'T -- I DIDN'T HAVE NO DRIVING LICENSE. I
19 DIDN'T HAVE NO TRUCK TO GO WITH IT. I HADN'T HAD NO
20 WAY TO GET TO THE BANK.

21 Q. OKAY. YOUR GRAND -- IT WAS YOUR GRANDDAUGHTER THAT
22 CAME DOWN AND CALLED THE POLICE FOR YOU? IS THAT -- IS
23 THAT RIGHT?

24 A. MY GRANDDAUGHTER COME OUT THERE WHEN HE TURNED AROUND
25 OUT THERE IN HER DRIVEWAY.

1 Q. OKAY. AND DO YOU REMEMBER THAT SHE WROTE -- WROTE DOWN
2 A STATEMENT FOR YOU THAT -- THAT WAS GIVEN TO THE
3 POLICE? DO YOU REMEMBER HER DOING THAT?

4 A. YES, SHE CALLED THE POLICE. I SAID, GIVE ME THE PHONE
5 AND I'LL TALK TO HIM, AND SHE GIVE ME THE PHONE AND I
6 WAS TALKING TO HIM.

7 Q. AND WHEN THE POLICEMAN GOT TO YOUR HOUSE DO YOU
8 REMEMBER HER WRITING A STATEMENT FOR THE POLICE
9 OFFICER?

10 A. I DON'T RECOLLECT HER GIVING NO WRITTEN STATEMENT.

11 Q. OKAY.

12 A. I DON'T THINK SHE DID BECAUSE SHE DIDN'T HAVE NO PENCIL
13 ON HER, I KNOW, AND SHE DIDN'T GO IN THE HOUSE TO GET
14 NOTHING.

15 Q. OKAY. IF SHE HAD WRITTEN SOMETHING DOWN, WOULD YOU
16 HAVE HAD A CHANCE TO READ IT AT THAT POINT TO MAKE SURE
17 WHAT SHE WROTE DOWN WAS CORRECT?

18 A. IF SHE WROTE ANYTHING DOWN I DON'T RECOLLECT IT.

19 Q. OKAY. DO YOU THINK IT'S POSSIBLE THAT WHEN THE BLACK
20 MAN GOT OUT OF THE CAR THAT HE MAY HAVE SAID TO YOU
21 SOMETHING LIKE, WE'RE NOT HERE TO ROB YOU? IS THAT---

22 A. OH, NO.

23 Q. DO YOU REMEMBER WHAT HE SAID?

24 A. NO. HE DIDN'T -- HE DIDN'T MENTION THAT, OR HE WAS
25 TRYING TO BORROW MONEY FROM ME AND I WOULDN'T LET HIM

1 HAVE NONE. I TOLD HIM I DIDN'T HAVE NONE.

2 Q. OKAY. HOW LONG WOULD YOU SAY THEY WERE AT YOUR HOUSE?

3 A. I'D SAY AROUND CLOSE TO A HOUR.

4 Q. CLOSE TO AN HOUR?

5 A. SOMETHING LIKE THAT.

6 Q. OKAY.

7 A. HE WASN'T DOING ANYTHING AT ALL BUT TRYING TO ENTERTAIN
8 ME WHILE SHE WAS IN THE HOUSE. HE KNEW -- IT WAS A
9 PLANNED THING. SHE KNEWED WHAT SHE WAS DOING.

10 Q. IF YOU'D HANG ON JUST A SECOND. I WANT TO MAKE SURE I
11 DON'T HAVE ANY OTHER QUESTIONS FOR YOU. OKAY? BUT
12 I'LL BE RIGHT BACK. MR. SUMNER, YOU MENTIONED THAT --
13 THAT MR. WALKER HAD GONE AROUND OUT BACK WHERE?

14 A. DO WHAT?

15 Q. YOU SAID SOMETHING ABOUT -- ABOUT THE BLACK MAN GOING
16 OUT BACK?

17 A. OUTSIDE. HE WAS SITTING ON THE PORCH.

18 Q. SITTING ON THE PORCH OUTSIDE---

19 A. PRETENDING---

20 Q. IN FRONT OF YOUR HOUSE?

21 A. PRETENDING THAT HE HAD TO STEP OUT AROUND THE BACK OF
22 THE HOUSE. AND THEN SHE'D GO IN THE HOUSE, AND I'D GO
23 IN THERE AND BRING -- AND MAKE HER COME OUT, AND---

24 Q. I'VE NOT BEEN TO YOUR HOUSE, SO I DON'T KNOW THE ANSWER
25 TO THIS QUESTION. IS THE -- IS THE PORCH ON YOUR HOUSE

1 ON THE FRONT OF YOUR HOUSE OR---

2 A. THERE'S A PORCH ON THE FRONT AND A PORCH ON THE BACK.

3 Q. OKAY. WHICH PORCH WERE YOU SITTING ON WHEN THE MAN
4 CAME UP?

5 A. I WAS ON THE FRONT PORCH.

6 Q. AND WHEN YOU WERE SITTING AND TALKING WITH HIM WERE YOU
7 SITTING AND TALKING WITH HIM ON THE FRONT PORCH?

8 A. NO. I WAS ON THE FRONT PORCH.

9 Q. OKAY.

10 A. I DIDN'T GO ON THE BACK PORCH.

11 Q. OKAY. OKAY. DID YOU ACTUALLY SEE HIM GO TO THE BACK
12 OF THE HOUSE, OR -- OR DID IT JUST LOOK TO YOU LIKE
13 THAT'S THE WAY HE WAS GOING?

14 A. IT WASN'T NOTHING BUT JUST ORDINARY STUFF AROUND.

15 Q. OKAY.

16 A. WHO IS THAT MAN OVER THERE THAT YOU WERE TALKING TO?

17 Q. THAT'S MY CLIENT.

18 A. YOUR CLIENT?

19 Q. YES, SIR. ARE YOU ABLE TO -- DO YOU RECOGNIZE HIM
20 TODAY? ARE YOU ABLE TO -- ARE YOU ABLE TO SEE HIM?

21 A. NO, I DON'T RECOGNIZE HIM. I JUST KNEWED YOU WENT OVER
22 THERE AND TALKED TO HIM.

23 Q. DO YOU REMEMBER THE POLICE COMING AND BRINGING YOU A
24 GROUP OF PICTURES TO LOOK AT?

25 A. DO I HAVE THE PICTURES I HAVE?

1 Q. DO YOU REMEMBER THE POLICE BRINGING SOME PICTURES FOR
2 YOU TO LOOK AT TO SEE IF YOU RECOGNIZED THE PEOPLE?

3 A. HE NEVER BROUGHT NO PICTURES.

4 Q. OKAY. THANK YOU, MR. SUMNER. THAT'S ALL I HAVE.

5 A. ONE OF THEM POLICE COME UP, HE HAD A WOMAN WITH HIM
6 AND---

7 MR. COLER:

8 MR. SUMNER, IF YOU'D JUST HANG ON ONE MINUTE. IF
9 YOU'LL JUST HOLD ON ONE SECOND WE'LL BE RIGHT WITH YOU.

10 MS. HODGES:

11 MR. SUMNER, THERE'S ONE OTHER THING THAT WE DIDN'T DO
12 AT THE VERY BEGINNING OF THIS. I NEED YOU TO RAISE
13 YOUR RIGHT HAND FOR ME.

14 (THE WITNESS IS SWORN BY THE COURT)

15 MS. HODGES:

16 THANK YOU, MR. SUMNER. THAT'S ALL WE HAVE FOR YOU.

17 MR. COLER:

18 THANK YOU, MR. SUMNER.

19 (THERE BEING NO FURTHER QUESTIONS AT THIS TIME, THE
20 TESTIMONY WAS CONCLUDED AT 12:25 P.M.)
21
22
23
24
25

CERTIFICATE OF REPORTER

I, ROSALIND P. WALTERS, A NOTARY PUBLIC IN AND FOR THE
STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE
FOREGOING 19 PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT
OF THE TESTIMONY OF IRBY SUMNER, WHICH WAS TAKEN BY ME ON
THE 8TH DAY OF JANUARY, 2008.

THAT THE WITNESS WAS FIRST DULY SWORN TO TELL THE
TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH OF HIS OWN
KNOWLEDGE CONCERNING THIS MATTER.

THAT I AM NOT RELATED TO NOR THE EMPLOYEE OF ANY OF THE
PARTIES HERETO, NOR RELATED TO OR EMPLOYED BY ANY ATTORNEY
OR COUNSEL EMPLOYED BY THE PARTIES HERETO, NOR INTERESTED IN
THE OUTCOME OF THIS ACTION.

Rosalind Walters

ROSALIND POOLE WALTERS, CVR

NOTARY PUBLIC FOR S.C.

COMMISSION EXPIRES: 12-18-2016

WITNESSES

[Signature]
Spartanburg County Sheriff's Office

ARREST WARRANT NUMBER

1295

ACTION OF GRAND JURY

RESEARCH DIVISION

person of Grand Jury

4. INDEXED VERDICT

5. CHECKED WARRANTS

6. CHECKED SIGNATURES

7. RESEARCH DIVISION

8. CASE CARD MAPS

9. TRAFFIC VIOLATIONS CHECK

person of Petit Jury

DOCKET NO.

08-GS-42-0108

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JAN 07 2008

TERM

THE STATE
vs.

Lisa Tallent Godfrey

State's B

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2008 JAN 11 PM 2:30

MARC KITCHENS

A CERTIFIED COPY

[Signature]

CLERK OF COURT

SPARTANBURG COUNTY

BY [Signature]

DATED 12-5-10

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

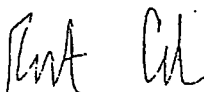
INDICTMENT

At a Court of General Sessions, convened on JAN 04 2008, the
Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, SECOND DEGREE
(Dwelling)

That Lisa Tallent Godfrey, did in Spartanburg County, on or about April 4, 2007,
willfully and unlawfully enter without consent and with intent to commit a crime therein,
the dwelling of Spartanburg South Carolina
in violation of §16-11-312, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as
amended.

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

INDICTMENT NO: 2006-GS-42-4027

V.)

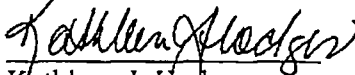
CHARGE: BURGLARY, FIRST DEGREE

ISAAC JERMOME WALKER,)
DEFENDANT.)

DEFENDANT'S REQUESTED VOIR DIRE

1. Have you or any close relatives or friends been a victim of a Burglary or Larceny? If so, what was the nature of that crime? Would you be able to put that experience aside and consider the evidence in this case fairly with an open mind and without any prejudice towards the Defendant?
2. Are you related to or close friends with anyone in law enforcement or the Seventh Circuit Solicitor's Office? If so, what is the nature of that relationship? Would you be able to put that relationship aside and consider the evidence in this case fairly with an open mind and without any prejudice towards the Defendant?
3. Have you or any close relatives or friends been represented by or are you or any close relatives or friends currently represented by the Solicitor's Office as a victim of or a witness to a crime? If so, what is or was the nature of the case? Would you be able to put that experience aside and consider the evidence in this case fairly with an open mind and without any prejudice towards the Defendant?
4. Do you volunteer or donate to organizations such as MADD, CAVE, Safe Homes, South Carolina Law Enforcement Officers Association, Fraternal Order of Police, South Carolina Troopers Association or any similar group?

Respectfully submitted,



Kathleen J. Hodges
Attorney for Defendant

Spartanburg, South Carolina
January 22, 2008

COUNTY OF SPARTANBURG
STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS
) SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

V.

CASE NUMBER: 2006-GS-42-4027

ISAAC JEROME WALKER,
DEFENDANT.

CHARGE: BURGLARY, FIRST DEGREE

DEFENDANT'S POTENTIAL LIST OF WITNESSES

1. Isaac Jerome Walker

COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA) SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,)
)

V.)

CASE NUMBER: 2006-GS-42-4027

ISAAC JEROME WALKER,)
DEFENDANT)

CHARGE: BURGLARY, FIRST DEGREE

DEFENDANT'S MOTIONS IN LIMINE

Comes now, the Defendant, Isaac Jerome Walker, through counsel, and makes the following Motions in Limine:

1. That the State of South Carolina through the Solicitor's office and any and all witnesses called by the State be prohibited from referring to the current physical health conditions and living arrangements of Irby E. Sumner, the alleged victim in this case. Any reference to Mr. Sumner's current physical health conditions and living arrangements are irrelevant to the issues to be determined by the jury in this case and therefore inadmissible pursuant to South Carolina Rules of Evidence, Rule 402. Even if the physical health conditions and living arrangements were relevant to the issues to be tried by the jury in this case, the probative value of that evidence is substantially outweighed by the danger of unfair prejudice to the Defendant, and therefore should be excluded pursuant to South Carolina Rules of Evidence, Rule 403.

2. That the State of South Carolina through the Solicitor's office and any and all witnesses called by the State be prohibited from making any reference to:

A. any alleged drug and/or alcohol use by the Defendant prior to or on the date alleged in the indictment;

B. any allegations of stolen property other than the two firearms alleged to be have been recovered from the Defendant's vehicle;

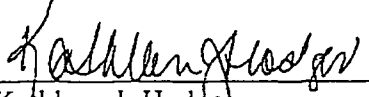
C. any allegations that the Defendant has been seen prior to the date in the indictment taking "things from houses and vehicles"

All of the testimony designated above is irrelevant to the issues to be determined by a jury in this case and therefore inadmissible pursuant to South Carolina Rules of Evidence, Rule 402. Even if the testimony designated above was relevant to the issues to be tried by the jury in this case, the probative value of that evidence is substantially outweighed by the danger of unfair prejudice to the Defendant, and therefore should be excluded pursuant to South Carolina Rules of Evidence, Rule 403.

3. The Defendant objects to any evidence and/or testimony being introduced by the State that has not been disclosed prior to the call of the case for trial pursuant to the Defendant's Motion for Discovery pursuant to South Carolina Rules of Criminal Procedure, Rule 5; Brady v. Maryland, 373 U.S. 83 (1963); Kyles v. Whitney, 514 U.S. 419 (1995) and their progeny.

Should the State not consent to the exclusion of the evidence referred to above the Defendant requests a hearing outside the presence of the jury on these Motions in Limine and a ruling from the Court regarding the admissibility of each item.

Respectfully submitted,


Kathleen J. Hodges
Attorney for the Defendant

January 22, 2008
Spartanburg, South Carolina

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF: SPARTANBURG
STATE: ISAC VS J. Walker

AKA: _____

DL# _____

City, State, Zip: Boiling Springs SC 29316

DL# _____ SID# _____

INDICTMENT/CASE#: 06 -GS- 42 - 4027
AW#: Direct Ind.
Date of Offense: 9-5-06
S.C. Code §: 16-11-311
CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Burglary 1st Degreein violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 25 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 State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient: _____

*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§35.13 (Public Def/Prob)

§73.3-1B TP (Law Enforce. Funding)

§33.7, 1B TP (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$	
\$	
\$100	\$ 100.00
\$100	\$
\$12	\$
\$500	\$ 500.00 TSC
\$25	\$ 25.00
\$100	\$
\$50	\$
\$40/ea	\$
\$	\$ 3.75
\$	\$ 128.15

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP

Requires \$500 be paid to Clerk during probation.

Court Reporter: _____

Clerk of Court/ Deputy Clerk

PRESIDING JUDGE

Judge Code: _____

Sentence Date: _____

SCCA/217-(9/2006)

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

INDICTMENT NO: 2006-GS-42-4027

V.)

CHARGE: BURGLARY, FIRST DEGREE

ISAAC JERMOME WALKER,)
DEFENDANT.)

DEFENDANT'S MOTION FOR NEW TRIAL

Now comes the Defendant, Isaac Jerome Walker, and moves, pursuant to Rule 29, South Carolina Rules of Criminal Procedure, for a new trial on the above-referenced indictment number. In support of this Motion, the Defendant alleges that the State failed to prove the Defendant's guilt beyond a reasonable doubt and that there was insufficient evidence for the jury to find the Defendant guilty. Specifically, in support of his Motion the Defendant avers that:

1. The State failed to produce sufficient evidence to prove beyond a reasonable doubt the Defendant's identity at the scene of the Burglary.
2. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant entered the dwelling of Irby Sumner, the victim alleged in the Burglary.
3. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant entered the dwelling of Irby Sumner, without consent or that he entered by means of trick, artifice, deceit or misrepresentation.
4. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant entered the dwelling of Irby Sumner without consent and that at the time of entering, the entering was done with the intent to commit a crime.
5. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant or another participant in the crime, when entering, while inside, or when in immediate flight from the dwelling, became armed with a deadly weapon.

The State is required to prove all of the elements of first degree burglary beyond a reasonable doubt. State v. Simmons, 352 S.C. 342, 573 S.E.2d 856 (S.C. App. 2002). The Defendant argues that the State did not produce sufficient evidence on any one of the elements of first degree burglary and therefore renews his Motion for Directed Verdict

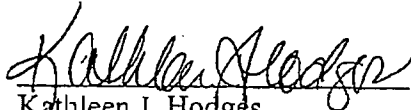
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CLERK OF COURT
SPARTANBURG COUNTY
2008 JAN 28 PM 3:30
MARCI HART

raised at the close of the State's case on the above grounds and upon any and all grounds articulated orally at the time of the Motion for Directed Verdict. Furthermore, the Defendant makes this Motion for a New Trial on the above grounds and reserves the right to raise further grounds at any hearing that may be held by the Court on this motion.

The Defendant respectfully requests the Court to hold a hearing on this Motion for New Trial and to grant a New Trial and any other relief that may be appropriate.

Respectfully submitted,


Kathleen J. Hodges
Attorney for Defendant

Spartanburg, South Carolina
January 28, 2008

MARC KITCHENS
2008 JAN 28 PM 3:30
CLERK OF COURT
SPARTANBURG COUNTY
FILED
1081

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

INDICTMENT NO: 2006-GS-42-4027

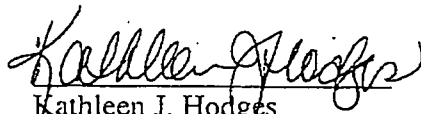
V.)

ISAAC JEROME WALKER,
DEFENDANT.)

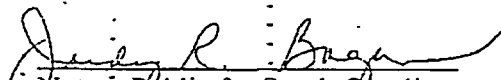
CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Defendant's Motion for New Trial on opposing counsel by hand delivery addressed to:

Robert P. Coler
Assistant Solicitor
Solicitor's Office, Seventh Judicial Circuit
Spartanburg County Courthouse
180 Magnolia Street
Spartanburg, South Carolina 29301


Kathleen J. Hodges
Attorney for Defendant

Sworn to before me this
28 day of January, 2008.

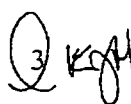

Notary Public for South Carolina

My commission expires: 1-18-2015

Received by Seventh Circuit Solicitor's Office:


Date: 1-28-08

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2008 JAN 28 PM 3:30
MARC KITCHENS



OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Spartanburg
 STATE VS.
Lisa Godfrey
 AKA:
 Race: W Sex: F Age: 45
 DOB: [REDACTED] SS#: [REDACTED]
 Address: 13 County Rd
 City, State, Zip: Spartanburg SC 29301
 DL#: [REDACTED] SID# [REDACTED]

INDICTMENT/CASE#: 06 -GS- 42 - 4888
 AWW#: 2164380
 Date of Offense: 9-5-06
 S.C. Code §: 16-11-321(B)
 CDR Code #: 0086

SENTENCE SHEET

Disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
 TO: Burglary 2nd violent
 in violation of § 16-11-321(B) of the S.C. Code of Laws, bearing CDR Code # 0086 State: SC
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC ☐ \$17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, _____ (Defendant initial)
 The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State
 ATTEST: [Signature] Solicitor Lisa Godfrey Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of _____ 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 State
 Department of Corrections. 329 days
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
☐ set by SCDCPPPS
 Recipient: _____
 Fine: \$ _____
 \$14-1-206 (Assessments 107.5%) \$ _____
 \$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
 \$14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
 \$56-5-2995 (DUI Assessment) \$12 \$ _____
 \$35-13 (Public Def/Prob) \$500 \$ _____
 \$73-3-1B TP (Law Enforce. Funding) \$25 \$ 25.00
 \$33-7-1B TP (Drug Court Surcharge) \$100 \$ _____
 \$50-21-114 (BUI Breath Test Fee) \$50 \$ _____
 \$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
 3% to County (if paid in installments) \$ 3.75
 TOTAL \$ 128.75

PTUP _____ days/hours, Public Service, Employment
 Obtain GED
 Attend Voc. Rehab. or Job Corp.
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol Testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: NO contact with the Victim
FTV while in the DOC
☐ Appointed PD or appointed other counsel, \$35.13 TP
 Requires \$500 be paid to Clerk during probation.

T. Camp
 Clerk of Court/Deputy Clerk
 Court Reporter: M. Woods

PRESIDING JUDGE [Signature]
 Judge Code: _____
 Sentence Date: 2/4/08

SCCA/217 (9/2006) White - Clerk Green - Corrections Canary - Probation Pink - Defendant

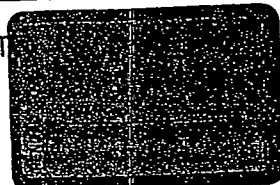
SOUTH CAROLINA

CY OF SpartanburgE. Lisa Gudfrey vs. 45JA: W Sex: F Age: 45JOE: [REDACTED] SS#: [REDACTED]Address: 13 County RdCity, State, Zip: Spartanburg SCDL# SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 08 GS-42-108A/W#: K201291Date of Offense: 4-4-07S.C. Code §: 16-11-312(a)CDR Code #: 0080

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Bury 2 non-violentin violation of § 16-11-312(A) of the S.C. Code of Laws, bearing CDR Code # 0080 State's A☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ \$17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, ☐ (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the StateATTEST: [Signature] Solicitor [Signature] Defendant [Signature] Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 2 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 State Department of Corrections. 32 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

☒ RESTITUTION: ☐ Heard, ☐ Waived, ☒ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ set by SCDPPPSRecipient: *Fine: \$14-1-206 (Assessments 107.5%) \$14-1-211(A)(1) (Cony. Surcharge) \$100 \$100.00\$14-1-211(A)(2) (DUI Surcharge) \$100 \$\$56-5-2995 (DUI Assessment) \$12 \$\$35-13 (Public Def/Prob) \$500 \$\$73-3, 1B TP (Law Enforcement Funding) \$25 \$25.00\$33-7, 1B TP (Drug Court Surcharge) \$100 \$\$50-21-114 (BUI Breath Test Fee) \$50 \$\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$3% to County (if paid in installments) \$ 3.13TOTAL \$ 128.13J. Camp Clerk of Court/Deputy ClerkCourt Reporter: M. WoodsPTUP: days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning \$ paid to Public Defender FundOther: ATV while in the DOC☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation:

 PRESIDING JUDGE: [Signature]Judge Code: Sentence Date: 2/4/08

06-402

Isaac Jerome Walker
#269962 Sumter North #2220
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina
29010

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2008 JUN 11 PM 12:33
MARC KITCHENS

SPARTANBURG COUNTY PUBLIC DEFENDERS OFFICE
Honorable Kathleen J. Hodges, Esquire
Assistant Public Defender
366 North Church Street, Suite 3000
Spartanburg, South Carolina
29303

RE: State v. Isaac Jerome Walker, #2006-GS-42-4027.

Dear Ms. Hodges,

I am writing you to discuss some issue's that I have discovered pertaining to my case that require addressing. First, being the defendant in this case I protest my innocence in this crime and hold no claims to guilt. I state this position in light of the following facts:

There is no forensic evidence. I requested that the arresting/investigating officer have finger-print analysis done on the stolen firearms due to the fact that my co-defendant's prints were on them, and not mine. Three different officers handled the firearms without the use of gloves prior to the forensic officer's arrival at the scene and arrest location. In addition, the forensic officer handled the firearms at the arrest location without the use of gloves, thus destroying any evidence that would have substantiated innocence.

It is my belief and position that, had the fingerprint analysis been performed, my innocence would have been established. A fact that cannot be merely overlooked. There exists a manner of proving this theory, but it will require the stores surveillance video from the camera facing the parking lot at the arrest scene. This will definitely show that the officers handled the firearms and relocated them from their original location in order to stage probable cause so the arrest warrant would issue.

There exists evidence that the firearms were relocated by the arresting officers. Just before the actual arrest, I was pulled over on a traffic stop by a City Police Officer. During this stop, the City Police Officer exited his vehicle and approached mine. He stated that my vehicle matched the description of a vehicle used in a burglary in that area. The City Police Officer obtained my information and conducted a visual surveillance of the driver, passenger and rear windows into the interior of my vehicle. I was eventually permitted to leave.

Later at trial, this City Police Officer gave sworn testimony stating ~~[he] never approached my vehicle~~ and looked into the windows. I am requesting the video from this City Police Officers [in-dash] video. That will prove that the Police Officer committed extrinsic fraud. See Chewning v. Ford Motor Co., 354 S.C. 72, 579 S.E.2d 605 (2003). The very act of the prosecution not disclosing or offering the video footage to establish their case demonstrates the type of fraud that is deemed "extrinsic". They have hidden evidence that would have beneficial to the defense and this heightens the allegation to one of a malicious prosecution charge, i.e., an invidiously discriminatory act or practice. Relief cannot be granted for perjury, i.e. intrinsic fraud ... but, it can be granted for extrinsic fraud.

The next issue is that of my indictments. It is my position that the prosecution should have tried them together. I believe this is my substantive right as consistent with State v. Smith, 263 S.C. 290, 210 S.E.2d 298 (1974).

Also, there is a lack of evidence supporting the allegations due to the following facts:

The granddaughter of the victim; gave a statement that should have been suppressed pursuant to State v. Lyles, due to the fact that there was not clear and convincing proof substantiating her statement, and its admission prejudice me in the jury proceedings where it shifted the burden of proof to my shoulders. The jury verdict when weighed against the evidence clearly demonstrates this allegation exists. She wrote a statement on behalf of the victim, her grandfather. There is nothing in the statement given at the scene, by the victim, on the day of the alleged incident that implicates me in the criminal act. The statements only identifies my co-defendant as the perpetrator whom entered the victim's dwelling, not once, but twice.

My co-defendant is the only suspect implicated by the victim's statement ~~as relates to the actual burglary~~. My position rests in support of my defense:

"The power of a court to declare a mistrial ought to be used with the greatest of caution under urgent circumstances and for very plain and obvious causes stated into the record by the trial judge." State v. Kirby, 269 S.C. 25, 28, 236 S.E.2d 33, 34 (1977); State v. Beckham, 334 S.C. 302, 513 S.E.2d 606 (1999) ("Grant of motion for mistrial is an extreme measure which should be taken only where incident is so grievous that prejudicial effect can be removed in no other way").

My position can also be substantiated in my defense:

Patterson v. State, 337 S.C. 227, 522 S.E.2d 851 -
mistrial. Police and Procedures: under constitutional

requirement, the court and solicitor enhanced the original charge, circumstances, and method.

I am entitled relief. I am of a belief that I should have taken the stand in my defense as is my due process right. Relief should be granted. The solicitors office has committed a Brady violation for failure to disclose the [in-dash] video footage. There was a failure to preserve and analyze finger-print evidence on the firearms and/or the victim's dwelling. There was not follow up investigation to ensure the facts and evidence were properly obtained and acquired. I am of a position that the arresting officers staged the firearms, at the point that they claimed were acquired, to support an Affidavit for probable cause to arrest. Now we must be mindful that this search was done without a search warrant nor my consent.

My discovery materials were incomplete in the fact that I was not allowed to view pictures that should have been included in the original disclosure. This invades the essence of Rules 5, of the South Carolina Rules of Criminal Procedures, SCRCrimP. I was not allowed reasonable and sufficient enough time to discuss these matters with my attorney nor examine them with my attorney. I requested to view and examine them with my attorney, but there was no response to my request.

I am of a belief that the finger-print analysis was vital to my case and defense; and establishes negligence on behalf of the investigating agency for failing to do so. State v. Proctor, 358 S.C. 424, 595 S.E.2d 480 (2004) ("There is a reasonable probability that the result would have been different had the information been disclosed").

The question is not whether the defendant would have more than likely been acquitted had this impeachment evidence been brought forth, and this would have guaranteed a fair trial.

I would further request that your office keep me informed as to the progress of this process now pending. I

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understand that the court has the discretion as to how much it will take to provide an adjudication of the merits of the post-trial motion. It seems that we have a lack of communication between us, and this causes me serious concerns. If you would take note, I have included a copy that will be served upon the Clerk of Courts office so that a record of our communication will be established.

Furthermore, I would request that you examine the following standards:

IMPEACHING WITH PRIOR STATEMENT ... While prior statements can be found from almost any source, there are some limits. Matters that usually cannot be used as a source of prior inconsistent statement include: 1). opinions; 2). an accused's silence; and 3). bond forfeitures.

CONFRONTATION OF WITNESS WITH PRIOR STATEMENT ... The confrontation can be made during the foundation showing. In the case of a written statement, confrontation can also be made by showing or reading the statement to the witness. It is not necessary to introduce a written statement into evidence before reading it to a witness for impeachment purposes. In fact it is not even necessary to show the written statement to the witness before questioning him or her about it.

COMPLETE IMPEACHMENT WITH PROOF OF PRIOR STATEMENT ... The cross-examiner must complete the impeachment by proving the prior statement. If the witness admits the prior statement, the impeachment is completed. Also, if the prior statement were in writing, the written statement would not be admissible. If the witness denies the prior statement, the impeachment is completed through the use of extrinsic evidence, such as a contradicting witness, or even a written statement used as an exhibit. But when the witness denies the statement, proof of it must be made through other evidence before the statement is admissible. Evidence that no statement was made can establish a contradiction.

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MARCO KITCHENS

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MARCO KITCHENS

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However, if there is no evidence at all relating to the other statement, there is nothing for the statement at trial to be inconsistent with. An answer of, "I do not remember", is probably a sufficient denial to allow the writing to go into evidence as a prior inconsistent statement. If the witness neither directly admits nor denies the act or declaration, as when he merely says that he does not recollect, or, as it seems, gives another indirect answer not amounting to an admission, it is competent for the adversary to prove the affirmative, for otherwise the witness might in every such case exclude evidence of what he done or said by answering that he did not. Whether only a portion of a prior inconsistent statement is introduced for impeachment, the entire statement is generally admissible to explain the inconsistency. After the witness has been confronted with the prior statement, he or she may explain it, however, the explanation cannot go into the details. The right to explain the variance also applies to omissions. The credibility of the witness and the conflicting statements are for the jury.

PRIOR STATEMENT NOT A COLLATERAL MATTER ... In addition, collateral evidence may be admissible for impeachment in three other situations: 1) conviction of a crime under 609 (§5.11 infra); 2) specific bad conduct involving no conviction under 608(b) (§5.12 infra); and 3) bad character for truth and veracity under Rule 608(a) (§5.13 infra).

OTHER USES OF PRIOR INCONSISTENT STATEMENTS ... Prior inconsistent statements can be used for purposes other than impeachment: 1) bringing out the statement on direct examination and explaining it to try to take some of the sting out of it; 2) refreshing the witness's recollection; 3) using the prior statement to allow the witness to correct a mistake in his or her direct testimony; 4) after the witness has been impeached, the party offering the witness can use the rule of completeness to require the cross-examiner to bring out any other matters that

2008 JUN 11 PM 12:33

ought in fairness to be considered with prior statement.

IMPEACHMENT WITH CONVICTION OF A CRIME - GENERAL RULE

[§5.11] ... At common law, a witness could be impeached by showing that he or she was convicted of a crime of moral turpitude: 1) evidence that a witness other than an accused has been convicted of a crime shall be admitted (Rule 403, South Carolina Rules of Evidence, SCRE); 2) evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty of false statement, regardless of the punishment.

I would like for you to take this into consideration, and review it for use in the upcoming motion. Or if a new trial is ordered, then to provide insight and guidance as to how best defend this matter. I only ask for a fair shake. Nothing more, nothing less. I believe that my innocence will prevail in the end.

Thank you for your time and attention in these matters. I ask that you examine these matters and get back to me in the very near future. It is imperative that I learn, as soon as practical, of every stage of this matter.

June 10, 2008

rs/IJW

cc: FILE
CLERK
HODGES

Respectfully Submitted,

Isaac J. Walker

Isaac Jerome Walker
#269962 Sumter North #2220
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina
29010

MARC KITCHENS

2008 JUN 11 PM 12:33

-7-

FILED
JUN 11 2008
CLERK

June 11, 2008

MR. WALKER,

WE E ARE IN RECIEPT OF YOUR LETTER REQUESTING VARIOUS ITEMS AND INFORMATION ABOUT WHAT HAPPENED IN YOUR TRIAL. WE CAN NOT PROVIDE YOU WITH THE VIDEO TAPE OF WHEN YOU WERE PULLED OVER. HOWEVER, YOU OR YOUR ATTORNEY CAN REQUEST THE VIDEO FROM THE CITY. IN REFERENCE TO HAVING YOUR INDICTMENT TRIED TOGETHER THAT WAS UP TO YOUR ATTORNEY TO HAVE THAT DONE. IT IS NOT OUR DUTY TO KEEP YOU INFORMED ON YOUR PENDING CASES. YOU MAY NEED TO ADDRESS YOUR CONCERNS WITH YOUR ATTORNEY NOT OUR OFFICE. IF WE MAY BE OF FURTHER ASSISTANCE TO YOU IN MATTERS THAT CONCERN OUR OFFICE PLEASE LET US KNOW.

TSC/DEPUTY CLERK

* Forwarded to
Public Defender

2006-4027

Mr Marc Kitchens

I want this letter to be filed
with the Clerk of Court Office.
I want a copy sent to my Lawyer,
and a copy sent back to me.
I request that all copies be
Notarized and True Copy stamped.

To my Lawyer Mrs Kathleen Hodges
I want to know why I was not
informed, that my Co-defendant had
already pleaded guilty to this Charge
on 3-12-2007. The Solicitor over my
case lied to the Judge Under Oath
Saying that my Co-defendant had not
been tried yet and will be dealt with
at a later date and time. When I asked
you Mrs Hodges on Jan 23 at my trial
have my Co-defendant been convicted
of this charge. You told me NO.
I want to know why I was lied to?
And if I had knew that she pleaded
guilty to the charge I would have
took the stand on my behalf to
plead my INNOCENCE.

I also want to know why Paul Porter was NO
Subpoena to trial. He was the first one that reach in car.

and moved the Guns around in car
to stage the Charge. He left before
the analyst came to the scene to performed
the test take prints. He search the car as
I was coming out of the store. They
were not in plain view. Improper search. Violation
of Rights.

Isaiah Walker
6-12-08

Thank you.

Please Respond as soon as poss.

Also I need my Court sentencing paper
sent to me. I never got them from you.

Disposed

K 164381

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
V.)
ISAAC JEROME WALKER,)
DEFENDANT.)

INDICTMENT NO: 2006-GS-42-402

CHARGE: BURGLARY, FIRST DEGREE

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2008 SEP 22 PM 3:25
MARC K. CHENS

**ORDER DENYING DEFENDANT'S MOTION FOR NEW TRIAL
AND GRANTING DEFENDANT'S MOTION FOR RECONSIDERATION**

This matter is before the Court pursuant to the Defendant, Isaac Jerome Walker, through his counsel, Assistant Public Defender Kathleen J. Hodges, making a motion pursuant to Rule 29, South Carolina Rules of Criminal Procedure, for a new trial on the above-referenced indictment number.

The Court makes the following findings of fact:

The Defendant was tried before a jury on January 22 – 23, 2008. He was found guilty of Burglary in the First Degree and sentenced by this Court to serve twenty-five (25) years with credit for time that he had already served on this charge.

Within ten days of the conviction, the Defendant, through counsel, made a Motion for New Trial, alleging that the State failed to prove the Defendant's guilt beyond a reasonable doubt and that there was insufficient evidence for the jury to find the Defendant guilty. Specifically, in support of his Motion the Defendant alleged that:

1. The State failed to produce sufficient evidence to prove beyond a reasonable doubt the Defendant's identity at the scene of the Burglary.
2. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant entered the dwelling of Irby Sumner, the victim alleged in the Burglary.
3. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant entered the dwelling of Irby Sumner, without consent or that he entered by means of trick, artifice, deceit or misrepresentation.
4. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant entered the dwelling of Irby Sumner without consent and that at the time of entering, the entering was done with the intent to commit a crime.

[Signature]

5. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant or another participant in the crime, when entering, while inside, or when in immediate flight from the dwelling, became armed with a deadly weapon.

On July 10, 2008, the Court held a hearing on Defendant's Motion for New Trial. Present at the hearing were the Defendant, Defendant's counsel, and Assistant Solicitor General Robert P. Coler for the State of South Carolina. The Court heard argument from Defendant's counsel, the Defendant, and the State. In addition to the Motion for New Trial, the Defendant also requested that the Court reconsider the sentence of twenty-five (25) years and impose a lesser sentence on the Defendant.

The Court has considered the arguments of counsel for the Defendant and the State and the argument of the Defendant. The Court has considered the evidence produced at trial and at sentencing, as well as the law applicable to this case.

IT IS THEREFORE ORDERED THAT The Defendant's Motion for New Trial is denied on each and every ground enumerated above. The Court finds that the Defendant has preserved the objections and issues raised at trial and at the hearing on the Motion for New Trial for the purposes of appeal.

IT IS FURTHER ORDERED THAT the Defendant's Motion to Reconsider his sentence is granted. The Defendant's sentence is hereby reduced to a term of twenty-two (22) years. All other terms and conditions originally ordered shall remain in effect. The reduced sentence of twenty-two (22) years shall be effective upon receipt of this Order by the South Carolina Department of Corrections.

AND IT IS SO ORDERED.


Paul M. Burch
Judge, Circuit Court

Spartanburg, South Carolina
September 22, 2008

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2008 SEP 22 PM 3:25
MARCO CHENS

SPARTANBURG COUNTY PUBLIC DEFENDER OFFICE

CLAY T. ALLEN
CHIEF PUBLIC DEFENDER



366 NORTH CHURCH STREET
Suite 3000
SPARTANBURG SC 29303

TELEPHONE (864) 596-2561

FAX (864) 596-2284

September 24, 2008

The Honorable Marc Kitchens
Clerk of Court for Spartanburg County
180 Magnolia Street
Spartanburg, S.C. 29306

Re: State v. Isaac Walker
Case No. 2006-GS-42-4027

Dear Mr. Kitchens:

Enclosed for filing is the Notice of Appeal in the above case.

Thank you very much.

Sincerely yours,


Kathleen J. Hodges
Assistant Public Defender

encl: Notice of Appeal, Proof of Service

cc: Bob Coler, Esq.
Assistant Circuit Solicitor
Seventh Judicial Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, S.C. 29306
(864) 596-2575
Attorney for Respondent

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2008 SEP 30 AM 10:08
MARC KITCHENS

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

Paul M Burch, Circuit Court Judge

Case No. 2006-GS-42-4027

The State Respondent,

v.

Isaac Walker Appellant.

NOTICE OF APPEAL

Isaac Walker appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Paul M Burch on January 23, 2008. This appeal is taken from this conviction and sentence and the order of the Honorable Paul M Burch of September 22, 2008, which denied appellant's motion for a new trial.

September 24, 2008


Kathleen J. Hodges
Assistant Public Defender
Spartanburg County Public Defender
366 North Church Street, Suite 3000
Spartanburg, S.C. 29303
(864) 596-2561
Attorney for Appellant

Other Counsel of Record:

Bob Coler, Esquire
Assistant Circuit Solicitor
Seventh Judicial Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, S.C. 29306
(864) 596-2575
Attorney for Respondent

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2008 SEP 30 AM 10:08
MARC KITCHENS

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

Paul M Burch, Circuit Court Judge

Case No. 2006-GS-42-4027

The State Respondent,

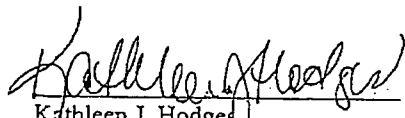
v.

Isaac Walker, ... Appellant.

PROOF OF SERVICE

I certify that I served the Notice of Intent to Appeal on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on September 24, 2008 addressed to its attorney of record, Bob Coler, Esq., Assistant Circuit Solicitor, 180 Magnolia Street, Spartanburg, S.C. 29306.

September 24, 2008


Kathleen J. Hodges
Assistant Public Defender
Spartanburg County Public Defender
366 North Church Street
Spartanburg, S.C. 29303
(864) 596-2561
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MARC KITCHENS

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ISAAC WALKER,

APPELLANT

RECORD ON APPEAL

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ORIGINAL

STATE OF SOUTH CAROLINA)
) Court of General Sessions
COUNTY OF SPARTANBURG)

State of South Carolina,)
)
 PLAINTIFF,)
)
 -VS-) TRIAL
) 2006-GS-42-4027
)
 Issac Jerome Walkers,)
)
 DEFENDANT.)
)
 _____)

BEFORE THE HONORABLE PAUL M. BURCH, JUDGE
JANUARY 22, 2008
SPARTANBURG, SOUTH CAROLINA

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

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Seventh Judicial Circuit
For the State

Kathleen J. Hodges, Esq.
For the Defendant

REMA K. GANTT THOMAS
CIRCUIT COURT REPORTER

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FOR THE COURT:

1. Jury question

1 Tuesday, January 22, 2008

2 (The defendant, together
3 with counsel, was personally present in the
4 courtroom.)

5 THE COURT: Ladies and gentlemen, the State
6 has called to trial the case entitled State vs. Issac
7 Walker, charged with those indictments by the Grand
8 Jury of Spartanburg County for the offense of
9 burglary, first degree.

10 Mr. Walker, at this time I need for you to
11 stand and face the jury so I can ask them some
12 questions.

13 (The defendant complied.)

14 Thank you, sir. You may be seated.

15 (Whereupon, the Court
16 proceeded with voir dire, after which a jury was
17 seated for the trial of this case.)

18 All right, I'm going to stop now and
19 release you for lunch. We need you back here at
20 2:20.

21 Any problem with that counsel?

22 THE COURT: No, Your Honor.

23 MS. HODGES: No, Your Honor.

24 THE COURT: Don't discuss the case. When
25 you come back we'll swear you and have a foreman

1 selected by then.

2 (Whereupon, the jury left
3 the courtroom at 2:20 p.m., after which the following
4 proceedings were had:)

5 THE COURT: Anything before we break?

6 MR. COLER: Nothing from the State.

7 MS. HODGES: Your Honor, Mr. Walker is out
8 on bond. All of his family is here, his mother, his
9 brother, he has been able to meet all of his court
10 appearances and meet with me. We ask that he be able
11 to stay out the remainder of the afternoon.

12 THE COURT: Any objection?

13 MS. HODGES: I leave that to your
14 discretion, Your Honor. I have gotten no indication
15 he was not going to show, but I wouldn't--

16 THE COURT: I don't mind let him stay out
17 on it to be with his family and talk to you.

18 Just keep in mind, now, sir, that the trial
19 will go on and you don't want to be tried in your
20 absence. You'd have a right for us to go but you
21 don't want that. If I were in your situation I'd
22 make sure that I was here. Be warned, the trial will
23 go on in your absence.

24 Now, the finders of the facts have now been
25 chosen and you've got a good idea who is going to be

1 hearing your case. If there is any room for you all
2 to possible negotiation a resolution of this case now
3 is the time. So take a little time and talk it over
4 one more time. And if not, we'll see you at 2:20.

5 Court is in recess until 2:20.

6 (Recess taken.)

7 THE COURT: We've got all the jury here.
8 One of the things that I think you all agreed to up
9 here on the bench, did you want to get that on the
10 record or is everything okay?

11 MS. HODGES: Judge, just briefly, I would
12 like to put a couple things on the record from our
13 bench conference if that's all right with the Court.

14 We had -- I had filed a motion in limine --
15 actually several. First one is dealing with the
16 physical condition of Mr. Irby Sumner who is the
17 victim alleged in this case.

18 Mr. Sumner, from the court's information,
19 is currently in an assisted living nursing home in
20 Union County and we had taken his testimony by video
21 earlier this month.

22 There is no reference to Mr. Sumner's -- I
23 think the only reference in terms of where Mr. Sumner
24 is currently located is in the video basically says
25 that he's currently living in Union County, prior to

1 that did he live in Spartanburg.

2 Our concern is that Mr. Sumner is -- is
3 about to be 99 years old. He is on oxygen. He does
4 take medications. He is in a nursing facility. None
5 of those issues are really relevant.

6 I think the solicitor has agreed that he's
7 not going to mention his current conditions, his
8 physical conditions and where he is. There may be an
9 issue regarding his eyesight. His eyesight was poor
10 at the time of the incident. I think that was --
11 that that's certainly fair for the solicitor to
12 inquire into at the time and we don't have any
13 objections to that.

14 But I think the solicitor has agreed that
15 he's not going to talk about where he currently is in
16 terms of attaching (sic) the jury.

17 The other issue was dealing with -- there
18 was a statement given by a person -- I guess -- we'll
19 consider her a codefendant. She's not on trial.
20 From my understanding she's not to be called for
21 trial.

22 We filed a motion in limine that anything
23 -- anything in any reference to any statements that
24 she had made in terms of any alleged drug use or
25 alcohol use by the defendant prior to that date or on

1 that date is not going to be mentioned.

2 And any allegations of any stolen property,
3 other than the firearms that are alleged to have been
4 taken in this case, would not be mentioned.

5 And that there would be no comment about
6 the fact the codefendant had made any statement about
7 having seen my client take anything from other houses
8 or vehicles. It's my understanding the State isn't
9 going to get into any of that. And that's not going
10 to be an issue. But if it is an issue we would ask
11 that it be heard on at that time.

12 I think all the -- the only other question
13 I would have is I think all the discovery has been
14 made available to us. Just if in the course of the
15 trial something comes up that has not been disclosed
16 to us, we would like to be heard about -- on that
17 issue. We'll bring that to the Court's attention.

18 But -- you know -- at this point anything
19 that has not been disclosed to us, we would consider
20 to be objectionable both under Rule Five, as well as
21 Brady and Kyles. I think that was our discussion at
22 the bench.

23 MR. COLER: Judge, I agree with what Ms.
24 Hodges said. The only thing I would add is one other
25 thing. The defendant was stopped in a routine

1 speeding stop by the officers. I've agreed to have
2 the officer say that it was a routine traffic stop.
3 He was then released and re-stopped for the be on the
4 look out that was an issue.

5 MS. HODGES: And the only other thing Mr.
6 Coler and I talked about, but not mentioned to the
7 judge, I think one of those witnesses is sick. Has
8 the flu. I have no objections to Mr. Coler calling
9 the witnesses he has available to him today.

10 I think it may be a little bit out of
11 order, in terms of what would have been the
12 chronological flow of the case. But I have no
13 objection to him calling the witnesses he has
14 available for him today.

15 THE COURT: Okay, good. All right, we'll
16 get started.

17 Bring them in.

18 (Whereupon, the jury
19 returned to the courtroom at 2:35 p.m., after which
20 the following proceedings were had:)

21 THE COURT: Ms. Gilbert, if you will just
22 take the first chair there. I'm going to appoint you
23 foreperson.

24 All jurors are accounted for.

25 Madame Clerk, would you put them under

1 oath?

2 CLERK OF COURT: Please stand, and raise
3 your right hand. Do you solemnly swear and affirm, in
4 the case about to be tried about to be tried, that
5 you will try the issues that are joined in this case
6 and a true verdict rendered according the law and the
7 evidence, so help you God?

8 CLERK OF COURT: You may be seated.

9 THE COURT: Madame Forelady and ladies and
10 gentlemen of the jury, we will now begin this trial
11 and I'm going to make an opening statement to you
12 just to outline how we're going to proceed. Then
13 I'll turn it over to council for the trial of the
14 case.

15 This is a criminal case. We will proceed
16 as follows. We will, first, have opening statements,
17 if each side so desires to do that. Opening
18 statements are just basically an outline of what they
19 will be presenting to you.

20 After that, will be the evidentiary portion
21 of the case where you will receive the evidence.
22 Evidence may take different forms. It may be
23 testimony from the witness stand. It may be
24 previously recorded testimony that has been preserved
25 in writing or by video. It may be documents,

1 photographs, physical type items.

2 Whatever the evidence is, it is important
3 and crucial that you listen and observe the evidence,
4 because you are going to have to weigh that evidence.
5 Because you are the finders of the facts in this
6 case. No one else in this courtroom, including
7 myself, will be allowed to find the facts. That is
8 the province solely of the jury.

9 Now, as you are the finders of the facts, I
10 am the judge of the law. The end result of any trial
11 is to reach a verdict. Verdict is a Latin derivative
12 word which means, in effect, a true saying. So that
13 it can be said that a trial is a search for the
14 truth.

15 How do you reach a verdict? You find and
16 weigh the evidence, find the facts as we say, apply
17 those facts to the law that the court will provide to
18 you during the judge's charge of the law, and thus
19 reach a verdict.

20 Now, the burden of proof, of course, is on
21 the State to prove the guilt of the defendant beyond
22 a reasonable doubt. Every defendant in this country
23 comes into a court of law presumed innocent.

24 It is the burden of the State to prove
25 guilt beyond a reasonable doubt. I'll give you a

1 full charge concerning that later on during the
2 judge's charge that I spoke of.

3 The next phase of the trial will be closing
4 arguments, where both sides will make arguments to
5 you to try to persuade you to try to see the evidence
6 as they see it. Arguments are not evidence. They
7 may quote the evidence, may refer to the evidence,
8 but they are basically arguments to try to persuade
9 you.

10 After that will come the judge's charge of
11 the law, where I will give you the law of the case.
12 Only after all those phases are completed will you be
13 asked to deliberate this case. So in saying that, I,
14 in effect am saying, do not discuss this case amongst
15 yourselves, do not allow anybody else to approach you
16 during court or during a recess and discuss this case
17 with you.

18 Immediately notify court staff or myself,
19 if it's during court hours, should anybody try to
20 attempt that. If it is after hours, notify the
21 Sheriff's Department in case somebody were to try to
22 call you or contact you in some fashion.

23 You can keep notes if you want to. Some
24 judges don't like that. Personally, if I was a juror
25 I wouldn't do it, because you'll be making a note and

1 you will miss something that's said while you've got
2 your mind set on what you're recording on the note.
3 I honestly say, I wouldn't do it.

4 Now, if you do keep notes, you've got a
5 rule you've got to abide by. You can't share them
6 with anybody else. That's for your own personal
7 reference. When you are asked to reach a verdict, it
8 will have to be an unanimous verdict. All 12
9 deliberating jurors will have to be in agreement on
10 the verdict.

11 Alright, that's all I've got to say. I'll
12 turn it over to the solicitor for opening statements.

13 OPENING STATEMENT

14 MR. COLER: Thank you, Your Honor, may it
15 please the court.

16 Good afternoon, ladies and gentlemen. Back
17 on September fifth of 2006, the defendant, Issac
18 Walker, along with a woman named Lisa Godfrey,
19 approached a man named Irby Sumner.

20 Irby was an elderly gentleman sitting on
21 his porch after supper like a lot of people do. They
22 pulled up and the approached him -- got out of their
23 car and said, hey we've just been robbed. And Mr.
24 Sumner said that doesn't sound right, this is a dead
25 end street. That doesn't make any sense.

1 Then they proceeded to start asking him
2 questions. Can we have a drink of water? Can we go
3 inside and use your bathroom? Thinks like that.
4 Irby, out of the kindness of his heart, allowed Lisa
5 Godfrey, Mr. Walker's friend who was with him, to go
6 inside the home.

7 Well, she'd go in and Mr. Walker would stay
8 on the porch with Irby Sumner, and Irby would get to
9 thinking, she's been gone too long. Something's not
10 right. This doesn't make sense. Mr. Walker would
11 say, oh she'll be back. She'll be back.
12 Everything's fine. Don't worry about it, no problem.

13 Finally Mr. Sumner, who I said was an
14 elderly gentleman, trusting, got suspicious and he
15 went inside. And brings Ms. Godfrey out and say
16 you're not supposed to be in here. You're not near
17 the bathroom. You're in the wrong place.

18 And -- and finally he did it enough to
19 chase them away. To get them out of his place. The
20 problem is, the defendant, Issac Walker, the driver
21 of the car and his friend Lisa Godfrey didn't leave
22 Mr. Sumner's house empty handed.

23 They left with two loaded guns that
24 belonged to Mr. Sumner that were inside his home.
25 And Mr. Sumner was suspicious -- was concerned enough

1 to call the Sheriff's deputies.

2 Also, his grand-daughter who is here in the
3 courtroom, in the green sweater, Donna Guy, lives
4 down the street. She had seen some of this going on
5 and was a little suspicious. Thought it just didn't
6 look right.

7 Her concern wasn't raised enough to call
8 the police right away, but she goes down and checks
9 on her elderly grand-father and, of course, also
10 realizes that these people weren't supposed to be
11 there.

12 They had stolen stuff from inside the
13 house. So together, they called the Sheriff's
14 Department. The incident occurred somewhere between,
15 approximately, 5:30 and 5:40 in the evening. The
16 Sheriff's deputies get out there about 6:00.

17 While Deputy Lu Murray, who is now an
18 investigator with the Sheriff's Office, in the
19 leather jacket on the end, is there at Irby Sumner's
20 house taking the report, she gets word that a car has
21 been stopped. It's a car that matches the
22 description given by Irby Sumner and his grand-
23 daughter of the people who just stole the guns.

24 It is a black male with a white female
25 driving a burgundy-colored vehicle. A sheriff's --

1 and that car was stopped, actually, by a city police
2 officer in city limits. It was a routine traffic
3 stop, but the officer was alert enough -- paying
4 attention enough to say, wait a minute, there's a be
5 on the look out -- it's like a -- an all points
6 bulletin.

7 It's information that goes out on the
8 radio, be on the look out for this vehicle. He puts
9 that together with this car he just stopped and knows
10 that that's the suspect vehicle from the burglary of
11 Mr. Sumner's house.

12 A Sheriff's deputy is dispatched out to the
13 scene of the car stop. Ultimately, Mr. Walker,
14 along with Ms. Godfrey, are taken into custody.
15 They are arrested and charged with burglary of Mr.
16 Sumner's home. The Sheriff's Department also sends
17 an officer to look at and examine the car that Issac

18 Walker was driving that had Lisa Godfrey in
19 it. And that's Robert Shaffer, the man in the orange
20 shirt there, second over from the -- my left. As
21 Officer Shaffer is examining the vehicle, he comes
22 across a .12 gauge shotgun and a .22 caliber long
23 rifle.

24 Of course, as an officer he takes those
25 into custody. He puts those into the evidence

1 locker. The next day, Investigator Doug Smith, the
2 man all the way to my left next to Officer Shaffer,
3 takes those guns, brings them to Irby Sumner, and
4 asks him to look at these guns.

5 Immediately, Irby Sumner says those are the
6 guns that were taken from inside my house. And you
7 know that those were the guns that were found in the
8 burgundy car, driven by Issac Walker with Lisa
9 Godfrey in it.

10 They matched the description of the two
11 people who had just burglarized Mr. Sumner's home.
12 For the crime, Issac Walker has been indicted for
13 burglary in the first degree.

14 I want to talk to you briefly about
15 burglary. Judge Burch is the expert on the law in
16 this case, and at the end of this trial he's going to
17 explain to you in detail law and the law surrounding
18 burglary. But I want to mention a couple of things.

19 Burglary is probably exactly what you
20 thought it was. You go into somebody's home and you
21 do something illegal. That's burglary. It's defined
22 by the law as entering into a dwelling without
23 consent with the intent to commit a crime therein
24 armed with a weapon.

25 And I want to talk about entering a

1 dwelling, briefly. There's no question this was Irby
2 Sumner's home. And there's no question the guns were
3 inside of it. That's how we know that Walker and
4 Godfrey go into the home and take the guns. Entering
5 without consent.

6 Now, Lisa Godfrey and Issac Walker were
7 able to convince -- tug on the heart strings -- the
8 sympathy of Irby Sumner to convince him to let them
9 go in. But the law says that entering without
10 consent is a bit wider definition -- a little bit
11 broader.

12 If you enter using trickery, artifice,
13 deceit, that's entering without consent. When Lisa
14 Godfrey and Issac Walker went into that home under
15 the guise -- under the pretend notion that they were
16 just going in there to use the bathroom or get some
17 water, they entered using trickery.

18 They were able to convince, or trick, Mr.
19 Sumner into letting them go in. And of course,
20 burglary is entering without consent with the intent
21 to commit a crime inside. We know that guns were
22 stolen from inside. That's the crime. That's how we
23 know they intended to commit a crime, because they
24 did.

25 They took guns. And finally, doing so

1 armed with a deadly weapon. Well the law makes no
2 difference whether you armed yourself before or while
3 inside the dwelling. The minute Lisa Godfrey or
4 Issac Walker possessed or took into possession those
5 guns, they armed themselves for the purposes of the
6 law.

7 And Judge Burch will tell you this -- will
8 say say that armed means the principle defendant or
9 any accomplice was armed. Couple of other things I
10 want to talk about. In South Carolina, the law has a
11 notion of -- it's call the hand of one is the hand of
12 all.

13 And essentially -- it essentially means
14 that the hand one criminal conspirator is the hand of
15 all criminal conspirators. The doings of one is
16 attributed to all. So it makes absolutely not
17 difference whether Lisa Godfrey or Issac Walker went
18 inside the dwelling.

19 The hand of Lisa Godfrey is attributed to
20 Issac Walker just as the hand of Issac Walker is
21 attributed to Lisa Godfrey. They were acting
22 together to commit a crime. So the hand of one is
23 the hand of all. You are the judges of the fact.
24 Nobody in this courtroom can tell you what decision
25 to come to.

1 The only thing I can ask you to do is -- is
2 the same thing I've asked every jury to do that I've
3 ever stood in front of, use your God give common
4 sense. Just use your common sense. Pay attention to
5 the evidence as it's presented. And if you do that,
6 you've done everything I could possibly hope and ask
7 you to do.

8 But as you do, I submit to you that you
9 will come to the conclusion that Issac Walker is
10 guilty of burglary. And at the end of this trial,
11 I'm going to stand up here and ask you for that
12 verdict.

13 Right now, I simply thank you for your
14 attention that you've paid to me during this opening
15 statement, your attention I know you'll pay Ms.
16 Hodges, and your attention you'll pay to the evidence
17 as it's presented. Thank you very much.

18 OPENING STATEMENT

19 MS. HODGES: Thank you, Your Honor, may it
20 please the court.

21 Ladies and Gentlemen, if Mr. Coler and I
22 agreed with everything that he just said, we wouldn't
23 need you to be here to resolve this -- the issues
24 that you've just been sworn to resolve. We don't
25 agree with everything that Mr. Coler just said.

1 The State goes first because the State has
2 the burden of proof. The burden is upon them to
3 prove to you the facts of the case that the judge
4 will then give you the law to apply to those facts as
5 you find them, for you to find the verdict, the
6 truth, beyond a reasonable doubt.

7 A lot of times, jury trials hinge almost
8 entirely upon the facts that the state presents to
9 you and the evidence that they present to you. And
10 you're going to have things like, in some cases,
11 you're going to have things like DNA evidence, or
12 you'll have things like fingerprints, or you'll have
13 things like -- you know -- forensics that -- that --
14 and we've all see CSI shows, we've all seen Law and
15 Order, we've watched A and E, we've watched Discovery
16 Channel.

17 We've seen all the shows talk -- really
18 talking about the science of criminal justice. Well
19 this isn't one of those cases, ladies and gentlemen.
20 You're not going to have a lot of physical evidence
21 for you to go back and look at for you to be able to
22 examine. You're not going to have the guns.

23 There are no fingerprints that were found.
24 No fingerprints either found on the car. No
25 fingerprints found on the gun -- guns. No

1 fingerprints found in Mr. Sumner's house. You're
2 going to have some photographs. You're going to see
3 some testimony, both live and on video.

4 And then it's going to be up to you to
5 determine from what basically you see either coming
6 from that scene or being talked about from that
7 witness stand. It's going to be up to you to
8 determine what the truth is in this case.

9 And this is a case, ladies and gentlemen,
10 that is unlike a lot of the cases we see on t.v. or
11 we read about in the newspapers, because this is a
12 case that hinges upon what facts you don't have. It
13 hinges upon what evidence you're not going to see.
14 You're not going to hear.

15 And I submit to you that it's that very
16 evidence that you don't see, that you don't hear,
17 that you can't take back in the jury room, put your
18 hands on and examine and look at, that's where the
19 real crux of this case is.

20 Because that's this case, ladies and
21 gentlemen, where the reasonable doubt comes in. And
22 I submit to you that the State is not going to be
23 able to prove to you that Mr. Walker went into that
24 house.

25 You're going to hear from the victim, and

1 you're going to hear the victim's testimony. And I
2 submit to you that the victim is never going to tell
3 you that Mr. Walker actually went inside the house.

4 The victim is never going to tell you that
5 the people that were out there said can we have a
6 glass of water? Can we come in and use the bathroom?
7 He's going to tell you that it was the white woman.

8 I'm going to swear to you, he is not going
9 to tell you that the defendant in this case, Issac
10 Walker, ever went inside that home. That's critical,
11 ladies and gentlemen, because one of the things that
12 you have to determine is whether the State has proven
13 to you that the defendant used some sort of trickery,
14 or artifice, or deceit to overcome Mr. Sumner's
15 consent to allow Lisa Godfrey to go into the home.

16 You're not going to hear any evidence that
17 somebody actually saw the guns in Issac Walker's
18 hands. You're not going to hear any testimony that
19 his fingerprints were found on anything.

20 Why? Because he didn't commit the crime of
21 burglary in the first degree, ladies and gentlemen,
22 that's why. And when you hear all the evidence --
23 when you hear what the facts of the case truly are,
24 apart from the spin that's given to it by the State -
25 - when you hear what the facts truly are and you

1 apply the law as the judge charges you, you're sworn
2 duty is what you need to find the truth.

3 And I submit to you that the truth that
4 you're going to find is Issac Walker is not guilty.
5 And at the end of this case, I'll ask you to render a
6 verdict that actually speaks the truth. Thank you.

7 MR. COLER: Yes, sir, may it please the
8 court?

9 THE COURT: State calls Lu Murray.

10 CLERK OF COURT: Place your left hand on
11 the Bible and raise your right hand.

12 (The witness complied.)

13 CLERK OF COURT: Do you solemnly swear and
14 affirm that the testimony you are about to give with
15 be the truth, whole truth, so help you God?

16 MS. MURRAY: I do.

17 CLERK OF COURT: You may be seated.

18 MS. MURRAY: Thank you.

19 LU MURRAY, having first been
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. ROBERT COLER:

23 Q State your full name for the record, if you
24 would.

25 A Lu Murray.

1 Q Tell us who you work for.

2 A Spartanburg County Sheriff's Office.

3 Q How long have you been with the Sheriff's
4 Office?

5 A Nine years.

6 Q What is your present assignment?

7 A I'm the domestic violence investigator.

8 Q How long have you been doing that?

9 A A little over a year.

10 Q Prior to that what was your assignment with
11 the Sheriff's Office?

12 A Highway Patrol.

13 Q Just generally describe for use the duties
14 of an officer on uniformed patrol with the Sheriff's
15 Office.

16 A We answer calls.

17 Q And were you dispatched to calls such as
18 the one we're here about today?

19 A Yes, sir.

20 Q On a regular basis?

21 A Yes.

22 Q You recall from your memory or from your
23 report the incident of September 5, 2006 at Mr.
24 Sumner's home?

25 A Yes, I do.

1 Q Tell us who you work for.

2 A Spartanburg County Sheriff's Office.

3 Q How long have you been with the Sheriff's
4 Office?

5 A Nine years.

6 Q What is your present assignment?

7 A I'm the domestic violence investigator.

8 Q How long have you been doing that?

9 A A little over a year.

10 Q Prior to that what was your assignment with
11 the Sheriff's Office?

12 A Highway Patrol.

13 Q Just generally describe for use the duties
14 of an officer on uniformed patrol with the Sheriff's
15 Office.

16 A We answer calls.

17 Q And were you dispatched to calls such as
18 the one we're here about today?

19 A Yes, sir.

20 Q On a regular basis?

21 A Yes.

22 Q You recall from your memory or from your
23 report the incident of September 5, 2006 at Mr.
24 Sumner's home?

25 A Yes, I do.

1 generally located?

2 A It's the south side, off of 295.

3 Q Okay, for the record, it is in Spartanburg
4 County?

5 A Yes, it is.

6 Q Do you recall anything about the
7 neighborhood and the -- Mr. Sumner's -- the
8 resident's home?

9 A It's a dead-end street. I believe it is
10 the second or third house from the end.

11 Q What type of structures? Do you recall, of
12 the homes? Single-family --

13 A Single-family homes.

14 Q Did you have an occasion to meet with Mr.
15 Sumner, there?

16 A Yes, I did.

17 Q Was there anybody else there with him?

18 A His grand-daughter.

19 Q What, if anything, can you describe about
20 his emotional state, his physical condition, when you
21 encountered him?

22 A He was -- He was angry that his guns had
23 been stolen.

24 Q Okay.

25 A But he was, you know, perfectly coherent

1 and able to give me descriptions and tell me exactly
2 what happened.

3 Q In all fairness, he's an elderly gentleman?

4 A Yes, he is.

5 Q Did that prevent him from speaking to you -
6 - describing for you what happened?

7 A No.

8 Q Do you recall his grand-daughter being
9 there?

10 A Yes, I do.

11 Q Ms. Guy?

12 A Yes.

13 Q Did she assist him? Or did you speak to
14 both of them as you were trying to ascertain what
15 happened?

16 A Yes, I asked for a written voluntary
17 statement. He told her what to write and she wrote
18 it for him.

19 Q Did he have an occasion to review it?

20 A Yes, I let him read over it.

21 Q Did he appear to understand it?

22 A Yes.

23 Q Describe for us what a -- what a BOLO is --
24 a B-O-L-O.

25 A It's a be on the look out for --

1 Q Okay, what is it and what is it used for?

2 A It's used for all kinds of crimes -- urban
3 crimes. It's a -- it was given out as an older,
4 burgundy Cadillac.

5 Q Okay, is a BOLO information that you put
6 our through the central dispatch to all officers?

7 A Right. They give it out through the city
8 as well.

9 Q Okay, and what are you as an officer
10 instructed to do if you encounter a suspect or a
11 vehicle that's subject to that B-O-L-O.

12 A We stop it.

13 Q While you were on the scene, a -- tell me
14 what the BOLO was given out in this case. Do you
15 know?

16 A An older burgundy, Cadillac --

17 Q Okay.

18 A With a black, male driver and a white
19 female passenger.

20 Q Okay. While you were still on the scene
21 did you receive any information about the success of
22 that BOLO?

23 A Yes, communications informed me that a city
24 officer had stopped the vehicle in the City of
25 Spartanburg.

1 Q Did you go to that scene where the vehicle
2 was stopped or was another officer with your
3 department sent there?

4 A Another officer was sent there, because I
5 was still taking the report.

6 Q Was that Officer Pittinger?

7 A Yes, it was.

8 MR. COLER: I beg the Court's
9 patience, one minute, Your Honor. I believe that's
10 all I have for this witness.

11 That's all I have investigator. Thank you
12 for being here, please answer any questions Ms.
13 Hodges has.

14 CROSS-EXAMINATION

15 BY MS. HODGES:

16 Q Investigator Murray, you said that Mr.
17 Sumner was able to describe to you what happened --

18 A Yes.

19 Q Was he able to describe it to you in
20 detail?

21 A Yes.

22 Q And, was he able to give you a physical
23 description of the people that were involved in this
24 case?

25 A He gave me a tall, skinny, black man and a

1 short, blond-headed, white female.

2 Q Was he able to give you anything more
3 specific than that?

4 A No.

5 Q Did he talk to you about any sort of, like,
6 hairstyle? Short hair? Long hair?

7 A Not that I recall.

8 Q Thank you. You've got the report there --

9 A Yes.

10 Q Do you see anything regarding any further
11 suspect description --

12 A Well, I -- After the -- After the car was
13 stopped and the male and female was taken to the
14 Sheriff's Office and I got their information and put
15 it on my report.

16 Q So you fill in any details in terms of
17 hairstyle, moustache, goatee, anything like that?

18 A Yes, I do.

19 Q So the victim was able to tell you it was a
20 tall, skinny, black male and a white female with
21 blonde hair?

22 A Yes.

23 Q Okay, was he able to tell you that it was a
24 burgundy Cadillac?

25 A Yes. He said an older, burgundy Cadillac.

1 Q Okay, was he able to give you a tag number?

2 A No.

3 Q The guns that were stolen, did he give you
4 any identifying description of them?

5 A You mean as far as serial numbers?

6 Q Right.

7 A No, because before we could even get to
8 that, I was told the city officers were out with the
9 suspects.

10 Q Okay, so you never even got the serial
11 numbers to be able to check with what the city
12 officers --

13 A No, ma'am.

14 Q Okay, did he give you any sort of physical
15 description of his guns?

16 A Just --

17 Q I mean like a black shotgun or a brown
18 revolver or --

19 A I got a -- just a Browning shotgun and 22
20 pump rifle.

21 Q Did he tell you anything in terms of what
22 brand they were or model they were?

23 A No.

24 Q And when -- Did you take a statement from
25 Mr. Sumner separate from his grand-daughter?

1 A His grand-daughter wrote his statement for
2 him.

3 Q Right, but did you talk to him separately
4 from here --

5 A Yes.

6 Q -- before she wrote the statement?

7 A Yes.

8 Q Was the statement that he gave you
9 separately from his grand-daughter consistent with
10 the statement that she wrote for him?

11 A Definitely, yes.

12 Q Okay. Any changes -- I mean, anything
13 different from the two statements that you remember?

14 A Not that I recall, no.

15 Q Okay, and you said that he had an
16 opportunity to review the statement that he gave his
17 grand-daughter.

18 A Right. He read it.

19 Q He read it?

20 A Yes.

21 Q Did he actually sign it?

22 A I believe that he did.

23 Q Are you sure about that?

24 A No, Ms. Guy signed it for him.

25 Q Okay, but it's your testimony that he

1 reviewed that statement and basically adopted it as
2 his own?

3 A Yes, ma'am.

4 Q Did you -- When you answer calls on patrol
5 -- I assume you're the initial responding officer --

6 A Yes.

7 Q Do you do anything in terms of any sort of
8 further investigation, on scene, as the initial
9 responding officer? Other than taking statements and
10 kind of getting a general idea of what happened?

11 A Like what?

12 Q Well, did you take any photographs at his
13 house?

14 A No.

15 Q Did you have access to a camera?

16 A I could have. I could call I.D. to come.

17 Q But did you call I.D. to come out to the
18 house --

19 A No, because there was nothing to take
20 pictures of.

21 Q Okay, so you didn't take pictures of the
22 house where the guns supposedly had been before they
23 were stolen?

24 A No.

25 Q Did you ask -- in terms of fingerprints

1 would you do that or would I.D. do that?

2 A I.D. would do that.

3 Q Okay, and did you call I.D. to come out to
4 take any sort of fingerprints?

5 A No, because when the city officers called
6 out, I.D. went out to the car.

7 Q There's more than one I.D. officer in
8 Spartanburg, isn't there?

9 A Not working at one time.

10 Q Not working at one time. So you only have
11 one I.D. officer working at a time?

12 A A lot of times, yes.

13 Q Okay, so the I.D. officer responded to the
14 car first. Would it have been possible for the I.D.
15 officer to then, once finished with the car, come out
16 to Mr. Sumner's residence?

17 A Yes.

18 Q That would be possible?

19 A Yes.

20 Q Okay, but that wasn't done in this case?

21 A No.

22 Q Okay, and the two guns were the only things
23 that were reported as being stolen, correct?

24 A Yes.

25 Q How were you able to determine what time

1 the incident itself occurred?

2 A Because that Mr. Sumner and his grand-
3 daughter called us right after they left.

4 Q Did the call the Sheriff's Office directly
5 or did they call 9-1-1, or do you know?

6 A They called 9-1-1.

7 Q Did you obtain the 9-1-1 phone call as part
8 of your case file?

9 A No, I did not.

10 Q Was that something that the patrol officer
11 would ordinarily do?

12 A No.

13 Q When -- you -- You put down that this
14 happened somewhere between 5:30 and 5:40, is that
15 right?

16 A As a best guess, yes.

17 Q And you were dispatched at 5:57 --

18 A Yes.

19 Q Per your incident report, and got there at
20 --

21 A At 6:05.

22 Q At 6:05. Okay, and then stayed on scene
23 about an hour and ten minutes or so?

24 A Maybe.

25 Q You left about 19 -- well it says 19:15,

1 which I'm assuming is 7:15, is that --

2 A Yes.

3 Q Okay, was it light outside at the time?

4 A It was light when I arrived.

5 Q Okay, and so it would have been light when
6 the incident occurred?

7 A Yes.

8 Q Okay. How large a home is Mr. Sumner's
9 home?

10 A It's not very large.

11 Q Do you remember how many bedrooms,
12 bathrooms?

13 A I'm thinking two, maybe three, bedrooms at
14 the most.

15 Q Okay, two, maybe three, bedrooms at the
16 most, and then how many bathrooms?

17 A One.

18 Q A common living area?

19 A Yes.

20 Q And the kitchen?

21 A Yes.

22 Q Was there also an additional dining room,
23 to your memory?

24 A I don't believe so.

25 Q Okay. And do you know where the guns were

1 stored in the home.

2 A I believe there were in the top of his
3 closet.

4 Q In the top of his closet?

5 A That's my memory. Yeah.

6 Q And that would be based on what he told
7 you?

8 A Yes.

9 MS. HODGES: I beg the Court's
10 indulgence for a moment.

11 Q Was this a trailer or a house? Or do you
12 remember?

13 A I believe it's a trailer.

14 Q Okay, thank you. That's all I have for
15 this witness.

16 MR. COLER: Just a couple, Your
17 Honor, briefly.

18 REDIRECT EXAMINATION

19 BY MR. COLER

20 Q Ms. Hodges asked you about any specific
21 description of the guns by Mr. Sumner. Tell us how
22 he described the 12 gauge shotgun, from your memory
23 or from your report.

24 A I believe he said it had a --

25 Q I'm talking about what was in your report.

1 If you'll refer to page three. If that helps you
2 refresh your memory. You've got something in your
3 report. Just trying to help you. What's the name of
4 the shotgun-- the brand name of the shotgun?

5 A Browning.

6 Q Mr. Sumner described it as a Browning
7 shotgun?

8 A A Browning shotgun and a .22 pump rifle.

9 Q Okay, and was that information given to
10 your before or after you and he became aware of the
11 car stop?

12 A Before.

13 MR. COLER: That's all I have, thank
14 you.

15 MS. HODGES: Nothing further, Your
16 Honor.

17 THE COURT: Watch your step down,
18 thank you.

19 MR. COLER: If there's no objection,
20 Your Honor, I'd ask that the officer be excused from
21 the subpoena.

22 MS. HODGES: I have no objection

23 THE COURT: Witness is excused, thank
24 you.

25 MR. COLER: If it please the Court,

1 Your Honor, my next witness to show is going to be
2 the video tape. It should take one second to get
3 that set up.

4 THE COURT: Alright.

5 Slide down to where you all can see.

6 (Whereupon, the video
7 testimony of Witness Irby Sumner was presented to the
8 jury.)

9 MR. COLER: Your Honor, that's the
10 presentation of Mr. Sumner. At this point, the State
11 would offer to move into evidence State Exhibit two.
12 That's the DVD and State's Exhibit number one.
13 That's a transcript of his testimony.

14 MS. HODGES: We have no objection,
15 Your Honor.

16 (State's exhibit Number One,
17 DVD video testimony of Mr. Sumner was received in
18 evidence.)

19 (State's exhibit Number Two,
20 transcript of DVD testimony of Mr. Sumner, was
21 received in evidence.)

22 THE COURT: Okay.

23 MR. COLER: Thank you, Your Honor.
24 Another witness.

25 THE COURT: Is everybody okay? Anybody

1 need a brief recess?

2 Go ahead.

3 MR. COLER: Donna Guy.

4 CLERK OF COURT: Place your left hand
5 on the Bible and raise your right hand. Do you
6 solemnly swear and affirm that the testimony you are
7 about to give will be the truth, whole truth, and
8 nothing but the truth, so help you God?

9 MS. GUY: Yes.

10 CLERK OF COURT: Thank you, you may be
11 seated.

12 DIRECT EXAMINATION

13 DONNA GUY, having first been
14 duly sworn, testified as follows:

15 Q State your name for the record, if you
16 would, ma'am.

17 A Donna Guy.

18 Q And tell us where you live.

19 A Pennington Road.

20 Q And how long have you lived there?

21 A Over 10 years.

22 Q Okay, describe for us your relationship to
23 the victim, Irby Sumner.

24 A He's my grandfather.

25 Q Where is your home in relation to the home

1 he used to live in on Pennington Road?

2 A Below.

3 Q About how far?

4 A I'd say 200-- 215 feet, maybe.

5 Q Okay, you could see his former home from
6 your home?

7 A You could at that time, yes, sir.

8 Q Back in September of '06, who lived at the
9 home with Mr. Sumner?

10 A Nobody.

11 Q And do you recall the incident -- what
12 happened on September 5?

13 A Yes, sir.

14 Q Would you describe for us what you remember
15 seeing and doing starting at about 5:30 PM that
16 evening?

17 A I had been home, probably, about 20
18 minutes. I was feeding some animals out in the yard,
19 checking on the fish pond, and I heard him talking --
20 which he talks pretty loud. I heard him talking and
21 looked to see what was going on. And saw a white
22 female with him on the front porch.

23 At the time, I didn't see a male figure. I
24 just saw him and her standing there talking. And I
25 went on at what I was doing because I thought, maybe,

1 it was somebody he had called to come clean his
2 house, or something.

3 So I didn't really think that much about
4 it. And then I came around the house and looked and
5 saw a black male standing there at the porch. And my
6 grandfather and the lady got up and went in the house
7 and I never did see them anymore.

8 The next time I saw anybody, I saw the man
9 walk to the door and open the door and step inside
10 the door. Now, I never did see him come back out,
11 but I saw him open the door and then step inside the
12 door.

13 Q What happened next?

14 A I didn't think too much about that, because
15 the man who actually owns that property, he sends
16 different ones down at different times to, maybe, get
17 the keys to the shop. The cabinet shop out there
18 that they use for a meeting hall for their hunting
19 club.

20 And sometimes he sends the guys down to do
21 some cleaning or something around the building there
22 and he'll send them to get a key. So, I didn't think
23 too much about that, you know.

24 But after I got back in my house, a car --
25 a burgundy Cadillac came down the road, turned around

1 in my driveway, and went tearing off back down the
2 road. And I recognized that it was the top of the
3 car that I had seen out there in front of his house.
4 So I knew something was wrong. It wasn't but just a
5 second the phone rang and it was him. He said he had
6 been robbed.

7 MS. HODGES: Objection, on hearsay,
8 Your Honor.

9 MR. COLER: Don't testify what someone
10 else said. After you got the phone call from him,
11 what did you do?

12 A I went out there. --

13 Q Okay. You went out --

14 A He asked me to come out there and I went
15 out there.

16 Q To Irby's home?

17 A Yes, sir.

18 Q What happened when you got to --

19 THE COURT: Wait just a minute, let me
20 interject. I never got to rule on the objection, but
21 I'm going to overrule it, because of an exception. I
22 won't go into it, but go ahead.

23 MR. COLER: Yes, sir. Thank you, Your
24 Honor.

25 Q Tell us, what you -- what you did after you

1 got the phone call from Irby.

2 A I went out to see if he was okay, and he
3 asked me to call the police. And I called 9-1-1 and
4 gave them a description of the car and what had
5 happened.

6 Q Were you there when the police officers
7 arrived?

8 A Yes.

9 Q Do you remember Officer Murray that was
10 just in here? Do you remember her?

11 A Yes, sir.

12 Q About how long did it take her to get out
13 to your grandfather's residence?

14 A Maybe, five -- ten minutes. I mean, it
15 didn't seem like it was long.

16 Q Did you stay there with your grandfather
17 during that time?

18 A Yes, sir. I did.

19 Q What can you describe for the jury about
20 his physical condition, his emotional state, while
21 you were with him?

22 A He was very upset. I had managed to calm
23 him down some by the time she got there. He was
24 upset because his guns was gone. But, I mean, he was
25 very aware of what was going on.

1 Q What was his eyesight like back in
2 September '06?

3 A He could see better then than he can now.
4 He could probably see maybe four -- five foot in
5 front of him. And it might -- depending on what time
6 of the day it was -- if it was real bright outside he
7 might could see better than in the evening. In the
8 evening it just looked like a shadow to him.

9 MR. COLER: That's all the questions I
10 have for you, Ms. Guy. Thank you for being here.
11 Please answer any that Ms. Hodges has.

12 CROSS-EXAMINATION

13 Q Ms. Guy, do you remember giving a written
14 statement to the police officer when she came out?

15 A Yes, I did.

16 Q Alright, and it was a short statement,
17 wasn't it?

18 A Yes, ma'am.

19 MS. HODGES: May I approach the
20 witness, Your Honor?

21 THE COURT: Sure.

22 Q I'm going to ask if you recognize that
23 piece of paper.

24 A Yes, ma'am.

25 Q Okay, is that your statement?

1 A That's my writing.

2 Q Okay, have you had a chance to look at your
3 statement since that night and today?

4 A No, not really. That's been over a year
5 ago.

6 Q Okay, well go ahead and read it and make
7 sure that -- I mean -- make sure that that is your
8 statement.

9 A Yeah.

10 Q No where in that statement do you mention
11 seeing another man open the door and step inside --

12 A Nobody had ever asked me that.

13 Q Okay, the police officer didn't ask you
14 that?

15 A No, ma'am.

16 Q She didn't ask you what you saw that day or
17 what happened?

18 A No. Nobody asked me anything about what I
19 saw.

20 Q Okay. Why do you think you were writing
21 the statement for the police officer.

22 MR. COLER: Your Honor, I'm going to
23 object to that. That's -- could it be just why she
24 thinks she's doing something for an officer. I think
25 that's speculation, Your Honor, on this witness'

1 part. She doesn't know why officers may or may not
2 have asked her to write a statement.

3 THE COURT: Please rephrase the
4 question.

5 Q Did you know -- you knew the officers were
6 investigating the incident, is that right?

7 A Yes, ma'am.

8 Q Okay, what did the officer ask you to do in
9 writing your statement?

10 A My statement or his statement?

11 Q Your statement.

12 A She just told me to write down what I saw
13 of the car.

14 Q Okay, did she ask you write down just what
15 you saw about the car or did she ask you to write
16 down what you saw about the entire incident?

17 A Nothing was ever said about the entire
18 incident.

19 Q And you didn't volunteer that information
20 to her that evening?

21 A I didn't think about it. Everything was so
22 -- and he was upset. His guns was gone and it just
23 didn't cross my mind, at the time.

24 Q Okay. When you wrote the statement for
25 your grandfather, was it basically word for word as

1 he was telling it to you?

2 A Yes, ma'am.

3 Q And you wrote it for him because of his age
4 and it was easier for you to write it than for him.

5 A Yes, ma'am, because he can't see up close
6 very well.

7 Q Okay, so he has difficulty in seeing up
8 close as well as some distances, right?

9 A Well, writing. He can't write because of
10 his sight.

11 Q Okay. Have you had an opportunity to
12 review the statement you wrote for your grandfather?

13 A No.

14 MS. HODGES: May I approach the
15 witness, Your Honor?

16 Q I'm going to ask you to just take a couple
17 minutes to make sure that's -- that I've got the
18 right statement.

19 A Yes.

20 Q Is there anything in the statement that you
21 wrote for your grandfather that indicates that he saw
22 the black man walk into the back of the house?

23 MR. COLER: I object, this is hearsay,
24 if she's testifying to another witness' statement.

25 This -- this is not a statement

1 attributed to her, Your Honor. To ask the content of
2 it or lack of content in it makes it a hearsay
3 situation.

4 THE COURT: Can you think of any
5 examples --

6 MS. HODGES: Prior inconsistent
7 statement, Your Honor.

8 MR. COLER: Not with this -- I'm
9 sorry -- not with this witness, Your Honor.

10 THE COURT: Can you think of
11 anything else?

12 MS. HODGES: Excited utterance, Your
13 Honor, res gestae.

14 THE COURT: Pose the question again
15 now.

16 MS. HODGES: The question was, in the
17 statement that was made did the grandfather tell her
18 anything -- was there anything written in the
19 statement regarding seeing a black man go to the back
20 of the house?

21 THE COURT: Well, I overrule that.

22 You can answer.

23 A I thought -- I'm sorry -- you were
24 finished?

25 Q I'm sorry. The question is, is there

1 anything in your grandfather's statement that you
2 wrote that says anything about seeing a black man
3 going to the back of the house?

4 A No, I did not write anything about him
5 going to the back of the house.

6 Q And if he had mentioned that, would you
7 have written it in the statement?

8 A He was talking 90 miles an hour. I could
9 have missed it. That's -- that's as honest as I can
10 be. I might have left it out, and that would be my
11 fault.

12 Q Do you remember him saying anything about
13 it?

14 A Yes, ma'am. I do.

15 Q Okay, but you didn't put it in the
16 statement?

17 A No, ma'am.

18 Q And did he get a chance to read the
19 statement?

20 A He looked at it. I don't know if he read
21 it, but I did go over it with him. And Officer
22 Murray was standing there. So that's why I signed
23 his name, and signed my name with his name. But I
24 signed his name.

25 Q Were you ever brought a photographic line-

1 up to look at by any of the police officers?

2 MS. HODGES: Just a minute, Your Honor.

3 Thank you, Your Honor. I have nothing further.

4 MR. COLER: Nothing further from the

5 State, Your Honor.

6 THE COURT: You may step down. Thank you.

7 MR. COLER: The State calls Tim Pittinger.

8 CLERK OF COURT: Place your left hand on
9 the Bible and raise your right hand. Do you solemnly
10 swear that the testimony you are about to give will
11 be the truth, whole truth, and nothing but the truth
12 so help you God?

13 MR. PITTINGER: Yes, ma'am.

14 CLERK OF COURT: Thank you. You may be
15 seated.

16 TIM PITTINGER, having first been duly
17 sworn, testified as follows:

18 DIRECT EXAMINATION

19 Q Trooper, if you would, state your full
20 name.

21 A Timothy E. Pittinger.

22 Q And you work for the South Carolina Highway
23 Patrol?

24 A Yes, sir.

25 Q How long have you worked for the Highway

1 Patrol?

2 A Been with them since March of the-- 2007.

3 Q And who did you work for prior to that?

4 A Spartanburg County Sheriff's Office.

5 Q How long have you been in law enforcement?

6 A Seven years.

7 Q Back in September -- September 5, 2006 were
8 you on duty with the Sheriff's Department?

9 A Yes, sir.

10 Q And you had the occasion to participate
11 briefly in the case, is that correct?

12 A That's correct, sir.

13 Q And you and I talked a week ago. Did you
14 not -- you did not prepare a report outlining your
15 participation.

16 A That's correct.

17 Q And it would be fair to characterize it as
18 a very brief participation?

19 A Yes, sir.

20 Q Were you -- from your memory, where you
21 dispatched or sent to the car stop involving Mr.
22 Walker and another woman Lisa Godfrey?

23 A That is correct.

24 Q Were they in custody of the police officers
25 when you got there?

1 A Yes, by the City of Spartanburg.

2 Q And did you transport one or two -- either
3 of the two individuals to the Sheriff's office?

4 A Yes, I did.

5 Q Do you remember which one you transported?

6 A The female suspect.

7 Q And she was under arrest?

8 A That is correct.

9 Q In your custody?

10 A Yes, sir.

11 MR. COLER: That's all the questions
12 I have for you, Trooper, please answer any that Ms.
13 Hodges has.

14 CROSS-EXAMINATION

15 Q Your only role in this was just to transfer
16 Ms. Godfrey to the Sheriff's office?

17 A That is correct.

18 MS. HODGES: Nothing further, Judge.

19 THE COURT: You may step down, thank you.

20 MR. PITTINGER: Thank you.

21 MR. COLER: We ask that he be excused if
22 there are no objections.

23 MS. HODGES: No objections.

24 THE COURT: Witness is excused.

25 Thank you, sir.

1 MR. PITTINGER: Thank you, sir.

2 MR. COLER: The State calls Robert Shaffer.

3 CLERK OF COURT: Do you solemnly swear and
4 affirm that the testimony you are about to give will
5 be the truth, whole truth, and nothing but the truth,
6 so help you God?

7 MR. SHAFFER: I do.

8 CLERK OF COURT: Thank you, you may be
9 seated.

10 ROBERT SHAFFER, having first
11 been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 Q State your name for the record, if you
14 would.

15 A Robert L. Shaffer.

16 Q And tell us who you work for.

17 A I work for Spartanburg County Sheriff's
18 Office.

19 Q What is your present title or assignment
20 with the Sheriff's office?

21 A I'm an investigator with Spartanburg County
22 Forensics Department.

23 Q How long have you been in the Forensics
24 Department?

25 A It will be two years this February coming

1 up.

2 Q How long have you been in law enforcement
3 all together?

4 A Approximately nine and a half years.

5 Q Were you dispatched to one of the two
6 locations in this case? Either Mr. Sumner's home or
7 the car stop?

8 A I was dispatched to the car stop on John B.
9 White Boulevard.

10 Q And describe for us the location of the
11 place you responded to. Was it a convenience store?

12 A Yeah, it was a convenience store. It was
13 201 John B. White Boulevard.

14 Q When you got up to that -- it was a gas
15 station too, right?

16 A Yes, it was.

17 Q When you got up there, what did you see?

18 A There was a city police officer, I believe
19 there was two county units, and there was a red in
20 color nineties model Cadillac by the fuel pumps.

21 Q From your memory or from your report,
22 approximately what time did you arrive at that car
23 stop?

24 A I arrived there at 18:42 hours or 6:42 PM.

25 Q Is it standard or normal for an officer

1 with the forensics team to respond sometime after the
2 incident or sometime after the car stop?

3 A Yes, it is.

4 Q Fair -- It's fair to say that it takes you
5 time to get out there.

6 A Yeah, if we're on other calls too.

7 Q Did you have occasion to examine the
8 vehicle that was the subject of the car stop?

9 A Yes, I did.

10 Q Did you take pictures of it?

11 A Yes, I did.

12 Q Look around in it?

13 A Yes, I did.

14 Q What type of vehicle was it?

15 A It was a '92 Cadillac. It was red in
16 color.

17 Q What was done with the vehicle after you
18 were done looking at it in the parking lot of the gas
19 station and convenience store?

20 A Can you say that again?

21 Q What happened to the vehicle after you were
22 done looking at it?

23 A It was towed by patrol.

24 Q Where was it taken to?

25 A I couldn't tell you. I don't know.

1 Q Prior to it being towed by the patrol, did
2 you recover any of the pieces of evidence from the
3 vehicle?

4 A Yes, I did.

5 Q Describe what you recovered -- Well, let me
6 ask you specifically. Did you recover two guns?

7 A Yes, I did.

8 Q Describe where those guns were located in
9 the vehicle.

10 A In the back seat behind the driver's seat
11 standing up was a Browning one-twelve semi-automatic
12 shotgun and laying on the floor on the passenger and
13 the driver's seat laying this way, was a .22 pump
14 rifle.

15 Q Did you take pictures of those two guns in
16 the vehicle before removing them?

17 A Yes, I did.

18 Q In that case, some pictures that were pre-
19 marked. Investigator, I'm going to hand you what's
20 been pre-marked as State's Exhibit number three,
21 State's Exhibit number four, and State's Exhibit
22 number five. Tell me first if you recognize those
23 photographs.

24 A Those are the photographs I took on-scene.

25 Q Okay, do they accurately portray the scene

1 and the vehicle in the condition as it existed when
2 you encountered it on September 5, 2006?

3 A Yes, they do.

4 MR. COLER: Your Honor, we'd offer State's
5 number three, four, and five into evidence.

6 MS. HODGES: I have no objection, Your
7 Honor.

8 THE COURT: Without objection.

9 (State's Exhibit Number
10 Three, photograph, was received in evidence.)

11 (State's Exhibit Number
12 Four, photograph, was received in evidence.)

13 (State's Exhibit Number
14 Five, photograph, was received in evidence.)

15 Q After photographing the vehicle and the
16 guns, did you take possession of the guns?

17 A Yes, I did.

18 Q What did you do with the guns after taking
19 possession of them?

20 A I took possession. I did -- made sure the
21 weapons were safe, cleared them, and I transported
22 them to the Sheriff's office.

23 Q Do you recall, from your memory or from
24 your notes, whether the guns were loaded, whether
25 they had ammunition in them?

1 A Yes, they were. The .22 was a pump .22
2 Rossy. It had one round in the chamber with 13 in
3 the two magazines and the shotgun had one in the
4 chamber and one in the tube down.

5 Q Alright. Hang on just very quickly just to
6 make sure -- make sure I follow that. Describe how
7 the shotgun was loaded.

8 A The shotgun was loaded. There was one in
9 the chamber and one in the tube on the bottom.

10 Q Alright, tell the jury what you mean when
11 you say one in the chamber.

12 A There was one in the -- the firearm was
13 loaded and ready to fire.

14 Q Okay, and there were additional, live
15 rounds in that shotgun?

16 A Yeah, there was one more round in there.

17 Q Okay, and then the 22 caliber long rifle?

18 A Yeah, there was -- it was loaded, ready to
19 fire with 13 additional rounds ready.

20 Q Okay, I got you. Did you prepare an
21 evidence sheet?

22 A Yes, I did.

23 Q I'm going to put some of these pictures on
24 the overhead, Investigator, and ask you to describe
25 for the jury what we're looking at, and the reason

1 you took the picture.

2 A Okay.

3 Q Now, before we look at those pictures on
4 the overhead -- are you ready? Now, before we look
5 at those pictures on the overhead let me show you
6 what's been pre-marked as State's Exhibit Number Six.
7 Is that the evidence sheet you prepared when you took
8 the two guns into custody?

9 A Yes, it is.

10 Q And that shows the guns and the ammunition.

11 A Yes, it does.

12 MR. COLER: Your Honor, we'd offer State's
13 number six into evidence also, if there's no
14 objection.

15 MS. HODGES: No objection.

16 MR. COLER: Thank you.

17 (State's Exhibit Number Six,
18 photograph, was received in evidence.)

19 Q Let me put some of these pictures on the
20 overhead to start with.

21 State's Exhibit number three -- actually,
22 let's start with number -- State's Exhibit number
23 four.

24 What's this a picture of and why did you
25 take it?

1 A That was the vehicle that the City pulled
2 over.

3 Q Is that another shot of the vehicle?

4 A Yes, it is.

5 Q Is that another shot of it?

6 A Yes, it is.

7 Q Is that another picture of it?

8 A Yes.

9 Q On State's Exhibit number three on the
10 overhead, what is that a picture of and why did you
11 take it?

12 A That was a picture of the shotgun behind
13 the driver's seat.

14 Q Also, State's number three, is that also a
15 picture of the shotgun?

16 A Yes, once I opened the door, it showed a
17 full view of it.

18 Q Is this the shotgun right here?

19 A Yes, it is.

20 Q Can you see that picture? Can you see that
21 picture?

22 A No, I can't.

23 Q If you'll step down here, maybe that'll
24 help.

25 (The witness left the

1 witness stand.)

2 A Yeah, that's the other gun on the
3 passenger's side of the shotgun, in the back seat
4 it's showing you.

5 Q I can't get the light back -- looking at
6 the shotgun here?

7 A Yeah, the shotgun.

8 Q Is that another picture?

9 A Yes, it is. Another picture kind of
10 showing a little bit of the .22 rifle sitting on the
11 floor there, but that's a shotgun.

12 Q Did you move or alter the way the shotgun
13 was found, before taking these photographs?

14 A No, I didn't.

15 Q That's exactly how you found it?

16 A Yeah.

17 Q That's another picture of the shotgun?

18 A Yes, it is.

19 Q And again, was there anything obstructing
20 your view from outside the vehicle looking at the
21 shotgun?

22 A No.

23 Q If you were standing at the driver's seat
24 of this vehicle, would there be anything obstructing
25 the view of seeing that shotgun?

1 A What was that again?

2 Q If you were at the driver's door of the
3 vehicle --

4 A Yeah, over here -- over here, yeah --

5 Q Could you see?

6 A Yeah, you could see the shotgun.

7 Q I'm going to show you State's Exhibit five,
8 if we can get the light right. What's that a picture
9 of and why did you take that?

10 A That's a picture of a .22 pump rifle.

11 Q Right here?

12 A Yes, that is.

13 Q Did you move or alter that rifle in anyway
14 before taking this picture?

15 A No, I didn't.

16 Q Was there anything obstructing your view of
17 it when standing outside the vehicle looking into the
18 car?

19 A No.

20 Q Is that a close up of that pump rifle?

21 A Yes.

22 Q Same thing, can you see the rifle in that
23 picture?

24 A Yes, the barrel's down here.

25 Q Right here?

1 A Yeah.

2 Q Alright, you can retake your seat. Just so
3 I'm clear, as you were standing outside the vehicle
4 was there anything that obstructed your view or
5 prevented you from seeing those two guns?

6 A No, they were in plain view.

7 Q I'm putting on the overhead State's Exhibit
8 number six. This is the evidence sheet you prepared
9 when you took possession of those two guns.

10 A Yes, it is.

11 Q Alright. Let me just walk through this.
12 This first line, right here, it says item one
13 quantity one. What is that describing?

14 A The Rossy model 62A, serial number G499363
15 .22 long rifle -- pump rifle.

16 Q Alright, what's item number 2 one quantity?

17 A Yeah, that was the .22 round from the
18 chamber.

19 Q The chamber is --

20 A Is the actual bullets that it's ready to
21 fire.

22 Q Item number three.

23 A Was 13 22 long rifle rounds from the
24 magazine tube --

25 Q Go ahead.

1 A That was Rossy.

2 Q The magazine was inserted in the --

3 A It's a tube. It runs along the barrel.

4 You take the cap off and you drop some bullets in
5 there.

6 Q Got you. Item number four.

7 A Was Browning Light 12, serial number
8 72G22170 12 gauge semi-auto shotgun.

9 Q Item number five was on --

10 A It was a federal game load number six 12
11 gauge from the chamber of the Browning. It was ready
12 to fire.

13 Q That was a live round in the shot gun?

14 A Live round.

15 Q And item number six?

16 A It's a federal 12 gauge shell from the
17 magazine tube of the Browning.

18 Q Another live round in the shot gun?

19 A Yes, it was.

20 Q That shotgun was ready to fire?

21 A Yes, it was.

22 Q The .22 caliber was ready to fire?

23 A Yes, they were.

24 MR. COLER: That's all the questions I have for
25 you, Investigator, please answer any that Ms. Hodges

1 has.

2 CROSS-EXAMINATION

3 Q Investigator Shaffer, is there any evidence
4 that you saw, when you saw these weapons, that they
5 had been recently fired?

6 A No.

7 Q And you said that the firearms -- that you
8 photographed them in place where -- placed in place
9 where you found them, correct?

10 A Yes.

11 Q You arrived on scene, you said 18:42?

12 A It was 18:42, yes.

13 Q So you're there at 6:42 in the evening, but
14 two city officers -- was it one city officer and two
15 county units, I think you said?

16 A I believe there was two -- two of the two,
17 I don't -- I know it was a few.

18 Q Other police were out there?

19 A What was that?

20 Q Other police officers were out there --

21 A Yes, there were.

22 Q -- before you?

23 A Yes.

24 Q Alright, and they had actually stopped the
25 car and then -- and -- and you don't know what

1 happened on scene prior to your arriving there, do
2 you?

3 A No.

4 Q Okay, so you don't know if that was
5 actually where the weapons were found when the police
6 officers arrived, you just know that that's where you
7 saw them when you arrived to take photographs?

8 A Like I said, normally they tell us if they
9 moved anything or touched anything. They did not
10 indicated that.

11 Q Okay, they didn't indicated that, but it's
12 possible that they could have?

13 A Yeah.

14 Q Okay, did you fingerprint these weapons?

15 A No, I did not.

16 Q Alright, is that something that you would
17 be able to do in your capacity as a forensics
18 officer?

19 A When it comes to firearms and stuff,
20 because we have to destroy the weapon to be
21 fingerprints, I like to wait for the detective who is
22 working the case to tell me to go ahead to do that.

23 Q Okay, so you did not fingerprint them
24 because the detective who was working the case did
25 not ask you to do that?

1 A Yeah.

2 Q Did you do any sort of other processing --
3 fingerprinting of the vehicle in this case?

4 A Yeah, I did the exterior of the vehicle. I
5 finger printed it.

6 Q Okay, and when you said you did the
7 exterior, do you remember where exactly you tried to
8 put the fingerprint dust?

9 A They go along the doors, where people have
10 touched, along the side, hood, glass.

11 Q And those are the surfaces that if
12 somebody's been touching it that the most likely a
13 fingerprint's going to actually been left--

14 A Yeah.

15 Q -- is that correct?

16 A Yes.

17 Q Did you find any fingerprints?

18 A No, I did not.

19 Q Were you ever asked by the detective
20 investigating the case to go to the home of Mr.
21 Sumner to take any fingerprints?

22 A No, I was not dispatched.

23 Q Is that something that you would do in the
24 normal course of your duties as a forensics officer?

25 A Yes and no.

1 Q Okay.

2 A Yeah, if there was another unit on that day
3 I don't know what--

4 Q Alright, another unit or you would have
5 been -- it would have been based within your
6 abilities to do that within your basic job
7 description and job duties to do that.

8 A We normally wait for the officer to ask us
9 to come out.

10 Q Okay --

11 A Because they --

12 Q And let's understand, like you say, it's
13 something that -- that -- I mean, if -- If I was
14 going to send a guy -- and I'm with -- an
15 investigator with the Spartanburg County Sheriff's
16 Office and I'm going to send a guy to go take
17 fingerprints from somebody's house, are you the guy
18 I'd send?

19 A Yes.

20 Q Okay, and you weren't asked to do that in
21 this case?

22 A No, because sometimes officers, they
23 evaluate the scene to see if there's a printable
24 surface, and if it isn't, they normally don't call
25 for us.

1 Q Okay, things like door facings, doors,
2 things like that are printable surfaces usually,
3 right?

4 A Usually metal surfaces and bare metal
5 surfaces and some that's chalky, usually like
6 corroded that's not normally a printable surface,
7 wood surfaces.

8 Q Okay, wood surfaces are or are not?

9 A Normally, they are not.

10 Q Normally, they are not, but to your
11 knowledge, nobody was sent out to make an evaluation
12 as to -- to print the scene or not.

13 A No.

14 Q Okay. You cleared the weapons, and when I
15 say cleared you actually took the ammunition out of
16 the weapons -- ejected the ammunition from the
17 weapons there on scene?

18 A Yes.

19 Q And that's when you did the catalogue on
20 the -- that's the property evidence sheet?

21 A Yes.

22 Q Okay, and then you turned it in to evidence
23 --

24 A Yes, I did.

25 Q Did you have anything else to do with the

1 shotgun, the rifle, or the ammunition after you
2 turned it in to evidence?

3 A No, I did not.

4 Q Okay. Did you have anything to do in terms
5 of inventorying the car for it to be towed?

6 A No, I did not.

7 Q And you said that the car was towed by
8 patrol. Did you mean, like, by a patrol unit from
9 the Sheriff's Office?

10 A Yeah, I believe it was --

11 Q Okay. Okay. I just wanted to be sure it
12 wasn't highway patrol that -- that towed it. It was
13 a patrol unit from the Sheriff's Office.

14 A Yes, ma'am.

15 Q Okay. Were you ever given any sort of
16 serial numbers to compare with the serial numbers
17 from the firearms that you took into -- into
18 possession there at the gas station?

19 A Can you say that again?

20 Q Were you ever given any serial numbers to
21 compare with those serial numbers that -- that you
22 were -- You know, obtained there at the gas station?

23 A No, I wasn't.

24 Q Okay. Anything particularly unique about
25 these weapons? Are they a typical 12 gauge shotgun

1 and .22 pump rifle?

2 A Typical.

3 Q Okay.

4 MS. HODGES: I have nothing further,
5 Your Honor.

6 MR. COLER: Just one, Your Honor.

7 REDIRECT EXAMINATION

8 Q Expand a little bit on your statement that
9 dusting for fingerprints or fumigating a gun for
10 fingerprints could ruin a finish or potentially ruin
11 a perfectly good shotgun.

12 A Yes, it does. We take superglue, we heat
13 it up, and it gets in the action. It's not usually
14 done unless we're asked to do that, because the
15 potential destroying property.

16 Q You make superglue into a gaseous state --

17 A Yeah.

18 Q -- and that coats the weapon and then you
19 possibly lift fingerprints from that --

20 A Yeah.

21 Q -- It lands on the gun?

22 A Yeah.

23 Q And that's not good for a shotgun?

24 A No, it's not.

25 MR. COLER: That's all I have. That's

1 all the questions, Your Honor.

2 THE COURT: Anything else?

3 MS. HODGES: Nothing further, Your
4 Honor.

5 THE COURT: You may step down, thank
6 you.

7 Can we take a brief recess?

8 MR. COLER: If we approach -- approach
9 real quickly?

10 THE COURT: Yes.

11 (Conference at the bench
12 between counsel and the Court after which the
13 following proceedings were had:)

14 MR. COLER: We call Doug Smith to the
15 stand.

16 CLERK OF COURT: Place your left hand
17 on here and raise your right hand. Do you solemnly
18 swear and affirm that the testimony you are about to
19 give will be the truth, whole truth, and nothing but
20 the truth so help you God?

21 MR. SMITH: I do.

22 CLERK OF COURT: You may be seated.

23 DOUG SMITH, having first
24 been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. COLER:

2 Q State your name for the record, if you
3 would.

4 A Doug Smith

5 Q Tell us who you work for.

6 A I work for the Spartanburg County Sheriff's
7 Office.

8 Q What is your present title or assignment
9 with the Sheriff's Office?

10 A I'm a senior investigator assigned to
11 Property Crimes Division.

12 Q How long have you been with the Sheriff's
13 Office?

14 A Nineteen years.

15 Q Investigator Smith, did you participate
16 briefly in this case?

17 A Yes, I did.

18 Q I want to ask you in particular, did you
19 have occasion to take possession of the two guns from
20 the evidence locker at the Sheriff's Office?

21 A I did.

22 Q What did you do with those guns after you
23 took them out of the evidence locker?

24 A I took those guns out to Pennington Road
25 and showed them to the victim.

1 Q Okay, was Mr. Sumner able to identify them
2 as his guns when you showed them to him?

3 A Yes, he was.

4 Q And according to this evidence sheet that
5 I've got on the overhead -- State's Exhibit number
6 six -- you took them out of evidence on September 6,
7 2006 at about 1:15 in the afternoon. If you can see
8 that.

9 A Yes, sir.

10 Q That would be one day after this incident?

11 A Yes, sir.

12 Q Based on Mr. Sumner's statements to you,
13 did you return -- turn over the guns to him?

14 A Yeah, when he identified them as his, I
15 returned them to him.

16 MR. COLER: That's all the questions I
17 have Investigator, thank you for being here. Please
18 answer any Ms. Hodges has.

19 CROSS-EXAMINATION

20 BY MS. HODGES:

21 Q Investigator Smith, you were the actual
22 investigating officer assigned to this case -- the
23 actual investigator assigned to this case, weren't
24 you?

25 A Yes, ma'am.

1 Q And so, you were the one who was basically
2 in charge of determining, basically, the direction in
3 which this investigation went.

4 A Yes, I follow-up.

5 Q Okay, and in making that determination you
6 had Investigator Murray's incident report available
7 to you.

8 A Yes.

9 Q And you had Investigator Shaffer's findings
10 and or photographs and or description of what he saw
11 out on scene.

12 A Yes.

13 Q Okay, and your decision not to fingerprint
14 anything at the victims home.

15 A I didn't ask anybody, no I didn't.

16 Q Okay, you didn't ask anybody to try and get
17 any fingerprints or anything off of the weapons.

18 A No, ma'am.

19 Q Did you actually respond to the scene at --
20 where -- where the car was stopped?

21 A No.

22 Q Did you ever go out to the home, other than
23 to take the weapons back to Mr. Sumner? Did you ever
24 go out to the home any other time?

25 A No, just took them back.

1 Q Did you ever talk to Mr. Sumner -- take
2 any further detail statements from him about the
3 incident?

4 A I don't recall taking any other statements.

5 Q So you relied on what Investigator -- what
6 now Investigator Murray, but then Parole Officer
7 Murray, had provided you from the night before?

8 A Yes, ma'am.

9 Q Did you take any -- Did you prepare a
10 photographic line-up of the two people who suspected
11 to be the persons involved in this?

12 A I don't remember everything. Have you got
13 my write-up?

14 Q Investigator Smith, I'm going to approach
15 you with what I believe is what you are referring to.

16 A Yes, ma'am. Yes, it does indicate that I
17 prepared a line-up.

18 Q Okay, you prepared a line-up of both of a
19 black male including the suspect that you had as your
20 black male as one of the photographs in that line-up
21 as well as a photo -- a picture line-up of the white
22 female you had as one of your suspects, is that
23 correct?

24 A Yes, ma'am.

25 Q Was Mr. Sumner able to identify anybody

1 from those line-ups?

2 A No, none of them. The report indicates
3 that he was not able to pick any of the suspects out.

4 Q Okay, and was Ms. Guy ever shown the line-
5 up?

6 A I don't --

7 Q His grand-daughter.

8 A I don't think so, no.

9 Q Okay. Was there a reason why Ms. Guy
10 wasn't shown the line-up?

11 A I don't recall other than that she only
12 seen them from a distance.

13 Q Okay, so you didn't even try to get them
14 identified?

15 A I don't -- don't remember doing that, no,
16 ma'am.

17 MS. HODGES: Thank you, that's all I have,
18 Your Honor.

19 MR. COLER: Just one question.

20 REDIRECT EXAMINATION

21 BY MR. COLER:

22 Q In your almost 20 years experience in law
23 enforcement, do you find that unusual that a victim
24 is unable to pick out individuals that perpetrated
25 the crime?

1 A No, that's not unusual at all.

2 MS. HODGES: Judge, just brief recross.

3 REXCROSS-EXAMINATION

4 BY MS. HODGES:

5 Q Investigator Smith, it's just as easily --
6 I mean, you have just as many cases where people do
7 identify somebody from the line-up as those who
8 don't, don't you?

9 A I don't know the statistics, but I do have
10 pick them out of line-ups, yes, ma'am.

11 Q Okay, thank you.

12 THE COURT: Is that it?

13 MR. COLER: That's it, Your Honor.

14 THE COURT: Next witness in the
15 morning?.

16 MR. COLER: Yes, sir.

17 THE COURT: Alright, we're going break
18 for the afternoon. I need you back here at 9:30 in
19 the jury room. We'll continue from there.

20 (The jury was dismissed from
21 the courtroom at 4:14 p.m.)

22 THE COURT: All right, we'll recess
23 until in the morning.

24 --End of Day--

25 Wednesday, January 23, 2008

1 (The defendant, together
2 with counsel, was personally present in the
3 courtroom.)

4 THE COURT: As I told you back in
5 chambers, we have a juror problem. We are going to
6 go to the two alternates. Their names will be placed
7 back in the computer either in the capsule and we'll
8 draw from that. See who will step up.

9 CLERK OF COURT: Juror 19, Kimberly
10 Brown.

11 THE COURT: Anything before we bring
12 the jury in?

13 MR. COLER: Not from the State, Your
14 Honor.

15 MS. HODGES: None from the defense,
16 Your Honor.

17 THE COURT: Okay, we're ready for
18 them.

19 (The jury returned to
20 the courtroom at 9:43 a.m., after which the following
21 proceedings were had:)

22 THE COURT: Kimberly Brown?

23 CLERK OF COURT: Kimberly Brown.

24 THE COURT: Good morning.

25 JURY: Good morning.

1 THE COURT: Unfortunately we lost one
2 of the jurors to sickness, but he's going to be okay.
3 We have gone back to the box.

4 Juror Kimberly Brown, you will step up
5 and be one of the original 12.

6 Alright, Solicitor, you can call your
7 next witness.

8 MR. COLER: Thank you, Your Honor.
9 State calls Chad Ingle.

10 CLERK OF COURT: Do you solemnly swear
11 and affirm that the testimony you are about to give
12 with be the truth, whole truth, and nothing but the
13 truth, so help you God?

14 MR. INGLE: Yes.

15 CLERK OF COURT: You may be seated.

16 CHAD INGLE, having first been duly
17 sworn, testified as follows:

18 DIRECT EXAMINATION

19 MR. COLER: May it please the court, Your
20 Honor.

21 THE COURT: Yes, sir.

22 Q State your full name for the record.

23 A Chadwick Dwayne Ingle.

24 Q And you work for the Sheriff's Department?

25 A Yes, sir.

1 Q How long have you been with the Sheriff's
2 Department?

3 A For approximately four months.

4 Q Before working for the Sheriff's
5 Department, who did you work for?

6 A I worked for Spartanburg Public Safety
7 Department for approximately 10 years.

8 Q What was your title or position with the
9 City Police Department back in September of '06?

10 A I was a senior patrol officer assigned to
11 the Traffic Division.

12 Q Specifically, on September fifth of 2006,
13 were you on duty?

14 A Yes, sir.

15 Q Working Traffic Division?

16 A Yes, sir.

17 Q Okay, did you have an occasion to make a
18 car stop -- a routine traffic infraction on a vehicle
19 driven by Mr. Walker, the defendant?

20 A Yes, sir. I did.

21 Q Do you recall if he had a passenger with
22 him?

23 A He did.

24 Q Okay, can you describe the gender and race
25 of that individual?

1 A It was a white, female.

2 Q And tell us what you did upon stopping Mr.
3 Walker for that routine traffic infraction.

4 A I stopped Mr. Walker at West Main and John
5 B. White. The infraction was speeding and
6 disregarding a control device, which is running a red
7 light. Mr. Walker got out of the vehicle and
8 approached me. I spoke to Mr. Walker. I gave him a
9 warning at that time and sent him on his way.

10 Q What happened next?

11 A A couple of seconds later, the dispatch
12 gave out a BOLO, which is a be on the look out for
13 the vehicle, which was a burgundy Cadillac, I
14 believe, that Mr. Walker and his passenger were in.
15 Excuse me, I'm fighting the flu here.

16 Q Do you need some water?

17 A Please. That -- Sorry. They said that
18 that BOLO -- that vehicle and those subjects had just
19 been involved in a burglary in the County.

20 Q Alright, what did you do?

21 A Myself and several other officers from the
22 city found that vehicle not even an eighth of a mile
23 down the road at the old Red Diamonds.

24 Q Okay, was it the same vehicle you had just
25 stopped?

1 A Yes, sir, it was.

2 Q Were the same occupants in it?

3 A Yes, sir.

4 Q Same person driving?

5 A Yes, sir.

6 Q That would be Mr. Walker?

7 A Yes, sir.

8 Q And the same passenger, in the same spot,
9 in the vehicle?

10 A They were both out of the vehicle. I think
11 they were getting gas.

12 Q Okay, what did you do when you approached
13 them?

14 A I detained them and notified the Sheriff's
15 Office.

16 Q Alright, from your memory or from your
17 notes, approximately what time did you make the
18 traffic stop? You were looking at the --

19 A I can refer to the tickets, yes, sir. It
20 was about five minutes to six in the afternoon, 5:55
21 p.m.

22 Q After stopping them and notifying the
23 county, did you have any other participation in the
24 case?

25 A All I did was stand by and wait on the

1 county to arrive.

2 Q Alright, and the individual that you issued
3 the routine traffic infraction tickets to was, in
4 fact, Issac Walker?

5 A Yes, sir.

6 Q Okay.

7 MR. COLER: That's all the questions I
8 have for you, Deputy. Thank you for being here.
9 Please answer any that Ms. Hodges has.

10 CROSS-EXAMINATION

11 Q You said that the -- when you made the car
12 stop, there were two folks in the vehicle a white
13 female and a black male, correct?

14 A Yes, ma'am.

15 Q And at that point you actually just issued
16 a warning to the driver --

17 A Correct.

18 Q -- and let them go on?

19 A Correct.

20 Q Okay, later you actually wrote tickets to
21 the driver.

22 A Yes, ma'am.

23 Q Okay, and that was after you'd already been
24 detained there at the -- I guess this convenience
25 store -- gas station.

1 A Correct.

2 Q And where on John B. White is that
3 convenience store?

4 A It's right at the intersection of John B.
5 White and Hickory Street.

6 Q Okay.

7 A Going toward Pickens.

8 Q Going toward Pickens, and they were getting
9 gas?

10 A Yes, ma'am.

11 Q Did they try to run?

12 A No.

13 Q Didn't jump in the car or take off from the
14 gas pump?

15 A No, ma'am.

16 Q Didn't do anything on the scene to try to
17 evade having any contact with you at that point?

18 A No, ma'am.

19 Q Didn't do anything to evade having any
20 contact with any of the other Sheriff's Office
21 deputies?

22 A Not to my knowledge.

23 Q Do you have any recollection of how many
24 other officers responded once you had the car pulled
25 over? There at the convenience store.

1 A There were several. I'm not sure.

2 Q Okay, more than four or five?

3 A Probably.

4 Q Okay, what were those other officers doing?

5 A Probably, initially just responding for
6 backup. And then --

7 Q There wasn't really any need for backup at
8 that point.

9 A No.

10 Q What did they do after confirming that you
11 were not in an unsafe situation?

12 A I honestly don't remember. I know we
13 waited on the Sheriff's Office to arrive.

14 Q Okay, was it just city officers or city
15 officers and county deputies that got there at first?

16 A I know deputies were there fairly quickly,
17 but I don't know if they were there --

18 Q Okay.

19 A -- immediately.

20 Q And when you say you were waiting on the
21 Sheriff's Office to arrive, are you talking about any
22 particular person from the Sheriff's Office or just
23 somebody from the Sheriff's Office?

24 A Somebody from the Sheriff's Office.

25 Q Just somebody, okay. Were you still there

1 when the forensics officer, Investigator Shaffer, got
2 on scene?

3 A I don't recall.

4 Q Okay, did you at any point go look in the
5 car?

6 A No.

7 Q So you didn't even look in the car, you
8 just saw black man, a white woman, and a burgundy
9 Cadillac and detained them?

10 A Yes, ma'am.

11 Q How did you detain them?

12 A They were taken into investigative custody
13 first --

14 Q What --

15 A -- and then the Sheriff's Office arrived.

16 Q Okay, you and I know what you mean
17 investigative custody, these folks in the jury box
18 don't know. What do you mean by that?

19 A They were not under arrest but they were
20 not free to leave.

21 Q So you handcuffed them?

22 A Right.

23 Q Put them in the back of a patrol car?

24 A Yes, ma'am.

25 Q Together or separately?

1 A Separately, I believe.

2 Q You believe or you don't remember?

3 A I don't remember.

4 Q Over a year ago --

5 A Right.

6 Q -- lots of cases in between --

7 A Right.

8 Q -- then and now. Okay, so you never
9 actually went and looked in the vehicle itself to see
10 if the guns were in there or to see if there was
11 anything in there that was reported to you in the
12 BOLO?

13 A No, ma'am.

14 Q Okay, did the lookout -- did it have any
15 sort of description other than burgundy Cadillac,
16 black male, white female?

17 A That's all I can remember.

18 Q Okay, do you know if any -- did you see any
19 of the other officers go and look in the car?

20 A No, not to my memory, no.

21 Q Okay, so you don't know if there were guns
22 in that car or not.

23 A No.

24 Q Okay, and you didn't know that then. You
25 don't know that today.

1 A Right.

2 Q How long did it take deputies to get on
3 scene?

4 A I honestly don't remember. It wasn't that
5 long.

6 Q Matter of seconds? Matter of minutes?

7 A Minutes, probably.

8 Q Five minutes? Ten minutes?

9 A I honestly don't remember.

10 Q And you don't have any idea what any of the
11 other deputies or other police officers did on scene?
12 You were pretty much just focused on the folks that
13 you had taken into investigative custody?

14 A We just secured the scene for the Sheriff's
15 Office.

16 Q Okay, and when you say we that's you and --

17 A That's the city officers combined that were
18 there.

19 Q Do you know how many city officers there
20 were?

21 A Probably more than four.

22 Q Do you remember who they were.

23 A I remember Russell Porter an investigator
24 for the city was there. And I honestly don't
25 remember any of the rest of them.

1 Q Other than the traffic citations that you
2 wrote, did you do any sort of other kind of write-up
3 or supplemental report or anything for this case?

4 A Not to my knowledge, no.

5 MS. HODGES: I beg the Court's
6 indulgence for just one moment.

7 Q Did you see what Detective Porter did, once
8 he got on scene? Did you see him go into the car,
9 look into the car, anything like that?

10 A No.

11 Q Not saying that he didn't, you just didn't
12 see him.

13 A Right. I didn't see him, no.

14 MS. HODGES: That's all I have, thank
15 you, Your Honor.

16 MR. COLER: Nothing further, Your
17 Honor.

18 THE COURT: Thank you.

19 MR. COLER: If there's no objection,
20 we ask that Deputy Ingle be excused.

21 MS. HODGES: I have no objection.

22 THE COURT: Hope you get to feeling
23 better.

24 MR. COLER: That's the State's case,
25 Your Honor. The State rests.

1 MS. HODGES: I have a matter for the
2 Court, Your Honor.

3 THE COURT: Ladies and gentlemen of
4 the jury, if you could step back to your room. Let
5 me take up some matters of law.

6 (Whereupon, the jury
7 left thee courtroom at 9:54 a.m., after which the
8 following proceedings were had:)

9 THE COURT: Alright.

10 MS. HODGES: Thank you, Your Honor.
11 May it please the court, Your Honor, we would move,
12 at this time, for a directed verdict of acquittal on
13 the indictment on the sole charge of burglary in the
14 first degree.

15 Your Honor, just looking at the
16 elements that are in the indictment and are required
17 by statute to be proven in order to show a person
18 guilty of burglary -- We argue first, and foremost,
19 that the State has failed to prove that the defendant
20 in this case, Mr. Walker, was actually at the home
21 of Mr. Sumner on the date that's alleged in the
22 indictment.

23 There's been no identification of Mr.
24 Walker as being the actual person that was at the
25 home. The best that we have, in terms of

1 description, is a tall, skinny, black male. The
2 State's produced no evidence whatsoever that he was
3 actually a part of this crime.

4 Forensics, through eye-witness
5 testimony, in any -- in any shape or form, would
6 argue that there has been no evidence that he
7 actually entered the dwelling with the intend to
8 commit a crime therein. There's been no evidence of
9 any sort of plan, or scheme, or conspiracy between
10 the white female and the black male.

11 The white female in this case has not
12 been identified through any sort of testimony or
13 evidence. And has not been called as a witness so
14 there's absolutely no evidence whatsoever showing
15 that there is some sort of intent to either trick the
16 victim into allowing her into the home, trick the
17 victim into allowing both her and him into the home.

18 There has been no evidence of the
19 consent issue that needs to be proven, or without
20 consent. There has also has been no evidence that
21 they had the intent to commit a crime -- that the two
22 of them had intent to commit a crime therein, and
23 certainly no intent that Mr. Walker, who's on trial,
24 had an intent to commit a crime therein.

25 Nor has there been any evidence that

1 Mr. Walker, himself, actually became armed while
2 leaving the residence. We do have evidence that the
3 home -- that guns were taken out of the home, we have
4 evidence that guns were recovered in the vehicle Mr.
5 Walker was driving. We would ask that the Court
6 direct the verdict in this case on those grounds.

7 MR. COLER: Briefly, Your Honor. I
8 submit to the court that considering the evidence in
9 the light most favorable to the State at this point,
10 the State has presented evidence to satisfy each and
11 every one of the elements of burglary in the first
12 degree.

13 I can get into specifics, if the Court
14 wants me to, but I think we have satisfied that there
15 was entering of a dwelling without the person in
16 lawful possession's consent, there was a crime
17 committed in the dwelling, and that the defendant or
18 another participant in the crime armed themselves
19 during the commission of the burglary or during the
20 flight from the scene of the burglary. That would be
21 the State's position, Your Honor.

22 THE COURT: Alright, based on what's
23 before the court, what I understand is our definition
24 of circumstantial evidence, I'll have to deny the
25 motion.

1 MS. HODGES: Thank you, Your Honor. I
2 do have the near presence charge for the court.

3 THE COURT: Thank you, I appreciate
4 that.

5 MS. HODGES: The one I just passed out
6 is actually the general charge. This is what, I
7 guess, would just kind of be considered a little
8 addendum in terms of the evidence that has been
9 presented in terms of the other -- the presence of a
10 co-conspirator.

11 THE COURT: Okay.

12 MS. HODGES: For the record, I have
13 reviewed Mr. Coler's charges that he handed to the
14 Court back in chambers per the definition of armed,
15 the definition of burglary without consent, and how
16 it's the hand of one hand of all. And we have no
17 objection to those charges. While we don't agree
18 with them completely.

19 THE COURT: Right.

20 MR. COLER: I've got no objections to
21 her submitting the charges, Your Honor.

22 THE COURT: Alright, we may can save
23 playing musical chairs here with the jury. Does your
24 client intend to take the stand?

25 MS. HODGES: He does not, Your Honor.

1 From our discussions previously --

2 THE COURT: You want me to talk with
3 him about that?

4 MS. HODGES: Yes, sir.

5 THE COURT: Mr. Walker, let me speak
6 with you just briefly about your Fifth Amendment
7 rights. You have a right to invoke the protection
8 given to you by the Fifth Amendment to the
9 Constitution of the United States and a similar
10 counterpart provision in the Constitution of the
11 State of South Carolina.

12 The Fifth Amendment to the
13 Constitution of the United States provides a part
14 that no person shall be compelled in any criminal
15 case to be a witness against himself. This provision
16 of constitutional law means that you cannot be
17 compelled or required to testify in this case.

18 This is a personal right and privilege
19 which the law extends to you and no one can waive
20 this right except you. You have a right not to
21 testify, but you also have a right to testify. I
22 will grant you the right to consult with your
23 attorney before you make a final decision in this
24 regard.

25 If you elect not to testify, this

1 cannot be used by the State as an inference of guilt
2 and your election not to testify cannot be considered
3 by the jury in it's deliberations. If you elect to
4 testify and waive the privilege extended to you by
5 the Fifth Amendment, I advise you now that you will
6 then assume the role of a witness in this case and
7 that you will, therefore, waive or give up your
8 constitutional privilege against self-incrimination.

9 This means that if you voluntarily
10 take the witness stand and testify, you will then
11 subject yourself to the same rules that govern other
12 witnesses and you may be examined and cross-examined
13 on any relevant issue in this case and you may be
14 impeached to the same extent as any other witness.
15 All of which is subject, however, to the rules of
16 evidence and procedure.

17 I further advise you that if you elect
18 to take the witness stand and testify, this decision
19 on your part must be made freely, voluntarily,
20 intelligently, and with knowledge of the protection
21 given to you by the Fifth Amendment to the
22 Constitution of the United States, and with knowledge
23 of the consequences of your election to testify.

24 Do you wish to consult with your
25 attorney one last time concerning this issue?

1 MR. WALKER: No, sir.

2 THE COURT: Have you discussed with
3 your attorney whether you should or should not
4 testify?

5 MR. WALKER: Yes, sir.

6 THE COURT: Do you understand what she
7 has explained to you?

8 MR. WALKER: Yes, sir.

9 THE COURT: Do you understand what I
10 just went over with you?

11 MR. WALKER: Yes, sir.

12 THE COURT: And you do not -- well,
13 first of all let me ask you, you got any questions?

14 MR. WALKER: No, sir.

15 THE COURT: Do you wish to testify?

16 MR. WALKER: No, sir.

17 THE COURT: Okay, any other witnesses
18 to be called?

19 MS. HODGES: No sir, thank you, Your
20 Honor.

21 THE COURT: Thank you, you may be
22 seated. Alright, that's it then. That shifts the
23 arguments, because no evidence has been presented by
24 the defense, right?

25 MS. HODGES: That's correct, Your

1 Honor.

2 THE COURT: Do you need a minute or
3 two to rest?

4 THE COURT: Ready?

5 MR. COLER: Yes, sir.

6 THE COURT: Okay, counselor.

7 CLOSING ARGUMENT

8 MR. COLER: Thank you, Your Honor.

9 May it please the court.

10 Good morning, ladies and gentlemen.

11 This is the last chance I get to speak to you, and I
12 am going to be relatively brief, because this has
13 been a relatively brief trial. But please don't
14 confuse or misinterpret the brevity of this trial
15 with the importance of it. It is an important trial
16 to everybody involved, and just because it was short
17 doesn't mean anything about the importance of it.

18 One thing I do want to do, before I forget,
19 is to thank each and every one of you. I told you at
20 the end of my opening statement, the only thing I can
21 ask you to do is pay attention and use the common
22 sense that God gave when you came here.

23 And every time I had a chance to look over
24 here during this trial, every single one of you was
25 focused on that witness stand. You were paying

1 attention to the person sitting there or the
2 overheads we had on the screen.

3 And that -- for that I sincerely appreciate
4 your attention. You have performed your job
5 commendably up till now. You have a little bit more
6 work to do. Thank you very much.

7 I want to talk to you about a couple of
8 things. I want to talk to you about the facts of
9 this case and then the law. As Judge Burch told you
10 at the beginning of this trial, you and you alone are
11 the triers of the facts. There is nobody else in
12 this universe that gets to tell you 12 people what
13 the facts are in this case. You and you alone
14 decide.

15 That being said, I just want go back and
16 touch on a couple of things, but it's you and you
17 alone that decide the facts of this case. What we
18 heard from the witness stand and what we saw from the
19 exhibits and the overheads was relatively simple. We
20 heard that about -- at about 5:30 to 5:40 p.m. on
21 September fifth of 2006, Irby Sumner 97 years old was
22 sitting on his porch.

23 He was approached by two people who drove
24 their car up to his house, got out, and came to talk
25 to him. We know from his testimony and his grand-

1 daughter's there was a white female and a tall, black
2 male. We know they stayed there for a short time.

3 The female went in and out of the house,
4 according to Mr. Sumner's testimony. And at some
5 point in the course two of his guns got stolen. We
6 know something very specific about those guns. He
7 told the police it was a Browning shotgun and it was
8 a .22 caliber long rifle.

9 Now remember, he told them that before --
10 way before a car matching the description of the
11 assailants was stopped with a Browning shotgun and a
12 .22 caliber long rifle in the car. It's important
13 that he told them that before. We know, of course,
14 from Deputy Ingle who came in here last and testified
15 that he stopped the car.

16 It was a routine traffic infraction --
17 speeding infraction. He stops them, gives them a
18 warning. Seconds later he gets the information from
19 the radio -- that BOLO -- that be on the look out,
20 and he puts two and two together pretty quickly. He
21 says, that's the car the Sheriff's deputies are
22 looking for.

23 He immediately pursues them, stops them --
24 he told you about an eighth of a mile later. Catches
25 up with the same car, no question in his mind-- no

1 question in anybody's mind the same driver, Issac
2 Walker, the same passenger, we know -- we know was
3 Lisa Godfrey. He is working at that point for the
4 City Police Department, but he calls the Sheriff's
5 deputies.

6 They send some deputies out who take the
7 two individuals into custody. They also send Robert
8 Shaffer, remember the crime scene investigator who
9 came out and investigated and processed the car. Two
10 things he took out of Mr. Walker's car -- remember
11 the burgundy Cadillac with the white female and the
12 black male matching the description of the burglars -
13 - two things he took out of that car: a Browning
14 shotgun and a .22 caliber long rifle.

15 And of course, those guns were placed into
16 evidence and the next day brought to Mr. Irby. You
17 saw his videotape. You can watch it again if you
18 have any questions. You were given a transcript of
19 that that's in the record for you to look at if you
20 have questions.

21 If it's hard for him -- for you to
22 understand what he's saying. But he said those were
23 my guns. I know those guns. I bought them new.
24 Brand firing new, he said. No question about it,
25 those are the guns that are mine. The guns that came

1 out Issac's -- Issac Walker's car at about 6:00 p.m.
2 on the fifth of September.

3 Those are the essential facts. And again,
4 it's your job. You and you alone decide what the
5 facts are. You and you alone will deliberate and
6 make decisions.

7 What I would really like to talk about now
8 is the law in South Carolina. For this incident, Mr.
9 Walker's charged with burglary in the first degree.

10 I'll let you look at this. Judge, if we
11 could move some of those jurors down so that --

12 THE COURT: Can everybody see?

13 MR. COLER: If we could dim the lights.

14 MR. COLER: Judge Burch is going to
15 instruct you on the law. He is the expert on the
16 law. He's going to tell you what the law is. But I
17 believe he's going to tell you essentially what the
18 elements of burglary in the first degree are.

19 What elements are required, by the State,
20 to be proven before you can return a verdict of
21 guilty. I think he's going to tell you that burglary
22 first is the entering of a dwelling and, in this
23 case, there is no question on that element. No
24 question, this small little home on Pennington Road
25 belonged to Irby Sumner since 1949.

1 Entering the dwelling of another person --
2 this wasn't the dwelling of Issac Walker and Lisa
3 Godfrey, this was the dwelling of Irby Sumner, no
4 question about that. Entering without consent, and
5 this is where I want to talk to you a little bit
6 about.

7 You may think of a typical burglary as
8 somebody sneaking in a window in the middle of the
9 night without asking permission to come in.
10 Obviously that's entering without consent, but the
11 law goes a little bit further and it describes for
12 you two examples of when someone enters without
13 consent.

14 The law says, one, you enter without
15 consent if you don't get the -- the permission of the
16 lawful owner. If you don't ask Irby Sumner, may I
17 come in your house, and you go in, that's entering
18 without consent. the law also says -- I want to make
19 sure I get this right, because Judge Burch is going
20 to instruct you on this -- if you use deception,
21 artifice, trick, or misrepresentation to gain
22 consent.

23 When Lisa Godfrey and or Issac Walker said
24 can we go in your house to a 97 year old man to get a
25 drink of water, to use the bathroom, they were using

1 artifice, trick, deception, and misrepresentation,
2 any one of those. They were misrepresenting the
3 reason they were in there.

4 Irby Sumner was a trusting soul. He
5 probably did what most of us wouldn't do if someone
6 knocked on our door and said, can we use your
7 bathroom. He let them go in and he gave them -- the
8 only reason he let them in is because they tricked
9 him in gaining his consent. That is entering without
10 consent, when they used that -- that
11 misrepresentation.

12 The state also has to prove, of course,
13 that they entered with the intent to commit a crime
14 there. Well, there is no way to cut open the mind of
15 Issac Walker or Lisa Godfrey to figure out what they
16 intended to do when they went in. So the law tells
17 you what you can do. You look at the circumstances
18 surrounding the incident.

19 How do we know they intended to do
20 something. The best example of knowing that somebody
21 intended to do something is what they did. They
22 actually stole the guns. That is the best evidence -
23 - the best example of the intent they had, because
24 they did it. They stole guns from inside Mr. Irby
25 Sumner's house.

1 And then finally, the last element of
2 burglary first is committing the burglary while armed
3 with a deadly weapon. And again Judge Burch is going
4 to instruct you on the law, and I think he's going to
5 specifically tell you that in South Carolina the law
6 is one of two things: if you enter with a gun
7 already in your possession or if while in a dwelling,
8 or in the immediate flight from the dwelling you arm
9 yourself.

10 And that even includes taking an armed
11 weapons from inside the home. Let me just point out
12 the language I think Judge Burch is going to tell
13 you, but this is important.

14 I think the Judge is going to tell you, to
15 be armed with a deadly weapon under the meaning of
16 the burglary code, a person or another participant in
17 the crime -- Lisa Godfrey -- need only have physical
18 control over a deadly weapon in affecting entry, or
19 while in the dwelling, or in the immediate flight
20 therefrom.

21 Issac Walker or Lisa Godfrey need only have
22 physical control over a weapon while in the dwelling
23 or while in the immediate flight therefrom. It
24 matters not how the person acquired the deadly weapon
25 or for what purpose the person took possession of the

1 deadly weapon.

2 For the purposes of first degree burglary
3 the person can become armed with a deadly weapon,
4 even if the weapon is one taken during the course of
5 the burglary. During the course of this burglary,
6 Lisa Godfrey armed herself with a shotgun and a .22
7 caliber.

8 When she did that, she's another
9 participant. Everybody involved in the burglary is
10 responsible for everybody else's actions. Again
11 Judge Burch is the expert. He's going to read the
12 law to you, but I think he's going to essentially
13 read you that specific language. I just want to take
14 a minute to point it out. Each and every one of the
15 elements of burglary has been satisfied.

16 There's one other thing I want to touch on,
17 and I mentioned in my opening statement. I talked to
18 you about the law of the hand of one is the hand of
19 all. I think Judge Burch is going to instruct you
20 essentially -- what I'm talking about basically is
21 that everything that Issac Walker did during this
22 incident, Lisa Godfrey is responsible for.

23 And everything that Lisa Godfrey did Issac
24 Walker is responsible for. The hand of one is the
25 hand of all participants. And if you look at the law

1 -- if you read the language that Judge Burch is going
2 to instruct you on, I think you'll see that. It
3 says, when several persons in pursue of a common
4 design to commit an unlawful act, whether it be a
5 felony or misdemeanor, set out together or in small
6 parties and each takes part -- takes a part agreed
7 upon or assigned them, some to commit the act, others
8 to watch the act at proper distances in stations to
9 prevent interference, or surprise, or to encourage
10 the commission of the unlawful act, or to favor, if
11 necessary, the escape of those immediately engaged in
12 the commission of the unlawful act, under these
13 circumstances, if the unlawful act is committed, the
14 act of one is the act of all and all are presumed to
15 be present and guilty.

16 The law is that when two or more persons
17 aid, encourage, and abet each other in the commission
18 of a crime all being present, all are principles, and
19 all are equally guilty.

20 Issac Walker didn't go in the house, but
21 his role was just as important to this crime as Lisa
22 Godfrey's. He was on the porch. Mr. Godfrey -- Mr.
23 Sumner knew what was going on. He was on the porch
24 to keep him occupied -- to keep him preoccupied, to
25 keep him out of the house.

1 Let Godfrey go in, case the place out, get
2 the stuff, get it back in the car. There is no other
3 reason he was on the porch. Remember, Irby Sumner
4 didn't know these people, had never met them. They
5 came up to his porch and the first thing they said is
6 something about them being robbed, and then they're
7 talking about borrowing money, and can they have
8 money, and can they use the bathroom, and can they
9 get a drink of water.

10 They were a team. They were working
11 together in concert. His participation was every bit
12 as important as hers. Don't worry about Lisa
13 Godfrey. On another day, in another courtroom, she
14 will have her day. You don't have to worry about
15 that. Today, you are simply asked to consider Issac
16 Walker's role, but it was as important as Lisa
17 Godfrey's.

18 You may be sitting there thinking, like I
19 was when I first looked at this case, why in the
20 world would Irby Sumner let these two people come on
21 his porch, hang around in his house? But if you start
22 to think about it, he was 97 years old. His mind
23 probably wasn't as sharp as it used to be.

24 Certainly his physical abilities weren't.
25 And he told you, I'm looking out for number one at

1 this point. I had 2,500 dollars cash in my pocket.
2 I didn't want to upset the apple cart.

3 I just wanted to go along until I could--
4 things were safe and call the police. He knew what
5 was going down. But if you also look at it, Irby
6 Sumner came up in a completely different era.

7 He was born in a different time, a more
8 trusting time. Maybe he just trusted people more,
9 but for whatever reasons he let these people come up
10 and mill around, take advantage of him, and they
11 stole from him. The burglarized his home.

12 So for that -- because of that, on behalf
13 of the -- the three most -- three important people in
14 this case, on behalf of the State, who I represent,
15 on behalf of the Sheriff's office who investigated
16 this case, and most importantly on behalf of Irby
17 Sumner, I'm asking each and every one of you to
18 return a guilty of burglary in the first degree for
19 Mr. Walker for his role in this case, which was
20 equally as important as Ms. Godfrey's.

21 Thank you.

22 CLOSING ARGUMENT BY THE DEFENSE

23 MS. HODGES: There's a young boy, lives in
24 the village. Goes to his village elder, and he tells
25 his village elder, Elder, I have bird in my hand,

1 what do you tell me to do? And the boy's thinking
2 when he goes to his elder and asks him that question
3 that if the elder says let the bird go that the boy
4 will crush it.

5 But if the elder tells him to let it go --
6 I mean, if the elder tells him to crush the bird then
7 the boy will let it go. And he does that because he
8 thinks that he can outsmart his elder.

9 Well, the elder looks at the boy and
10 considers him. considers what the boy has in his
11 hands, and he tells the young boy, that, my son, is
12 up to you. that ladies and gentlemen is where you
13 are at this point.

14 You're holding Issac Walker in your hands,
15 and the decision of what happens -- just like the
16 decision of what happened to that bird in that boy's
17 hand -- is up to you. Looking at the elements that
18 you just saw on the screen, there was one very
19 important element that the State did not talk to you
20 about.

21 And that most important element is that the
22 person who has actually been charged with the crime
23 is actually an element that the State has to prove.
24 They have to prove the identity of the person that
25 committed the crime.

1 Now I want to spend the next couple of
2 minutes talking about that and how they have not
3 proved there case in terms of the identity of the
4 black male at that home, in September, on Pennington
5 Road here in Spartanburg County.

6 How they have not proved beyond a
7 reasonable doubt that that person was Issac Walker.
8 The victim never identified him. He was able to tell
9 the detective that it was a black male -- or a black
10 male who's tall and skinny.

11 He says in his testimony that you saw that
12 the guy is a little bit bigger than Mr. Coler. He's
13 not able to give them any sort of facial descriptions
14 in terms of facial hair. He's not able to give them
15 any sort of description in terms of what his hair
16 style is like.

17 He's not able to give any description in
18 terms of is this a light-skinned black male? Is it a
19 dark-skinned black male? Is he older? Is he younger?
20 Does he have pockmarks on his face? Does he have a
21 clear complexion? Does he have scars? He's not able
22 to give them any of those details. He's 97 years
23 old. His eyesight is poor.

24 But the investigating officer -- the first
25 person who arrives on scene doesn't even bother to

1 try to get any more details. He's not able to be
2 identified -- the black male's not able to be
3 identified by Ms. Guy, Mr. Sumner's grand-daughter.
4 She's not asked any questions based on her testimony
5 yesterday from the stand.

6 She's basically told, write down what you
7 saw -- write down your grandfather's statement, and
8 that's it. There's no identification of the black
9 male on scene as Mr. Walker. Alright, we're not able
10 to get a physical description. There's other ways we
11 can identify people. We know that. The Sheriff's
12 Office knows that.

13 The forensics officer told you that one of
14 his jobs -- part of his job and if he was directed to
15 do so by the lead investigator that he would have
16 gone out and taken fingerprints.

17 He would have looked to see if there was
18 anything on the scene that could actually have -- a
19 surface that could have been finger printed. If
20 Issac Walker had walked into that house he would have
21 had to touch something to do it. He'd have had to
22 open a door.

23 He'd had to touch a gun rack to take the
24 guns off the rack. He'd had to done something in
25 that house. They didn't even bother to look. They

1 just took a rush to judgement because they claim that
2 they somebody driving a similar car with the guns in
3 the car.

4 This is not a case where you can rush to
5 judgement, ladies and gentlemen. It's not a case
6 where you can speculate. The State has the burden of
7 proof -- of proving that the black man on that porch,
8 in that driveway, in that car, at that time, in the
9 afternoon, on Pennington Road was Issac Walker. It's
10 there burden to prove it.

11 Issac Walker walks in here presumed
12 innocent. You cannot speculate about somebody's
13 guilt. It has to be proven to you beyond a
14 reasonable doubt. The State hasn't done that.

15 There's no tag number. We don't even know
16 if the burgundy Cadillac that was in the driveway is
17 necessarily the same burgundy Cadillac that was
18 stopped at the convenience store.

19 Yeah, it's a burgundy Cadillac, but we
20 don't know that is the same car. There's no tag
21 number. There not even proof that that car's Mr.
22 Walker's car. Did they bother to run the car to see
23 who it came back to? Did they bother to check the
24 title or the registration? We don't know.

25 Several police officers got on this witness

1 stand -- testified yesterday and today about this
2 whole investigation of this most heinous burglary
3 first incident. They don't even bother to run a tag
4 to prove the car is his.

5 Did they check to see if maybe it might
6 have been another Browning .12 gauge shotgun and .22
7 pump rifle? Investigator Shaffer tells you that they
8 look just pretty much like any other .12 gauge
9 shotgun or .22 rifle. It's the State's burden to
10 prove the case to you, ladies and gentlemen, not to
11 ask you to make speculations and guesses.

12 The second element about entering the
13 dwelling. The black male never entered the dwelling.
14 Mr. Sumner was clear about that. He never entered
15 the dwelling. The law requires that he has to enter
16 the dwelling with the intent -- without consent and
17 with the intent to commit a crime therein.

18 He never entered the dwelling. Ms. Guy
19 says -- and only until yesterday was the first time
20 that anybody heard her say that, oh, I saw a guy open
21 a door and step inside. Now, the day of the crime
22 she doesn't tell police that. She's more focused on
23 telling them it's a burgundy Cadillac, she got a good
24 look at the white female, and writing down
25 grandfather's statement.

1 Grandfather's statement never says that the
2 black male went into the home. Ms. Guy wants to
3 blame it on the fact that the Sheriff's office didn't
4 ask. Nobody bothered to ask her what happened.
5 Well, they asked her to write a statement. There was
6 no investigation that was done by the Sheriff's
7 Office to search to see if he actually entered the
8 dwelling.

9 The State wants to rest on this concept of
10 deceit, artifice, trickery, in terms of showing that
11 they entered -- that this white woman and this black
12 man supposedly entered without consent. The State
13 from the very beginning has couched this whole thing
14 as we.

15 I submit to you ladies and gentlemen,
16 that's deceit in and of itself. We never asked to go
17 into the house for a drink of water. We never asked
18 to go into the house to use the bathroom. We were
19 never found in the backroom where we weren't supposed
20 to be, checking the house out to see how it was
21 arranged.

22 The only person that you have heard any
23 evidence is this mysterious white female. The white
24 female went into the house. The white female was
25 found in the backroom where she wasn't supposed to

1 be.

2 The white female was the one who went back
3 to the house looking for a glass of water. The white
4 female was the one that out the back door and was
5 supposedly seen coming back in the back door when Mr.
6 Sumner went to check on where she was getting her
7 drink of water.

8 We never did anything. There is no proof
9 whatsoever of any relationship between this white
10 female and this black male that they had a plan, that
11 they had conspired together, that the black male knew
12 what the white female was doing, that the white
13 female know what the black male was doing. There is
14 no evidence whatsoever that has been submitted to
15 you, ladies and gentlemen.

16 The State wants to stand up here and tell
17 you that that white female's name is Lisa Godfrey.
18 Where's the evidence? Where's the evidence that that
19 white female was Lisa Godfrey? The fact that the
20 State's attorney stands up here and tells you her
21 name is Lisa Godfrey is not evidence.

22 Where's the evidence? Where is the
23 evidence that that black male was Issac Walker? It's
24 not there. It's the State's own smoke and mirrors
25 that they're trying to tell you. If they say it loud

1 enough -- if they say it long enough, that it just
2 has to be so.

3 Well you're smarter than that, ladies and
4 gentlemen. You're asked to use your common sense
5 when you come into this box to evaluate the evidence
6 as it's presented to you. The State doesn't prove to
7 you that the white female is Lisa Godfrey, don't take
8 their word for it. Require them to do their job.

9 There is no evidence of criminal intent on
10 Issac Walker's part this entire day. None
11 whatsoever. No evidence that he intended to commit a
12 crime. This white female very well may have had
13 criminal intent to go in and take the guns.
14 Apparently she did. Guns got missing. No evidence
15 that the black male, that they want you to assume is
16 Issac Walker, had any criminal intent.

17 There's no evidence that Issac Walker was
18 ever armed with a deadly weapon in the house, when
19 entering the house -- because we have no evidence
20 that he was either in the house or entered the house
21 -- nor is there any evidence that he was armed with a
22 deadly weapon in immediate flight from that house --
23 immediate flight from the house.

24 Not an hour later, immediate flight from
25 the house. No evidence that the black male was

1 armed, and certainly no evidence that Issac Walker
2 was armed.

3 Let's talk about the Sheriff's Office
4 investigation. Investigator Murray -- she's now
5 Investigator Murray, she was then Officer Murray or
6 Deputy Murray -- didn't do any follow-up on the
7 scene. Didn't think it was important. Rushed to
8 judgement and assumed that okay, car was stopped,
9 therefore didn't have to do anything to investigate
10 the case.

11 Looking into -- over to the State for
12 answers yesterday when she was testifying. No
13 follow-up by Investigator Smith, the lead detective
14 in this case. All he really did was just get the
15 guns out of evidence and send them back to the
16 victim. Didn't ask for the house to be processed.
17 Didn't ask for the guns to be processed.

18 I mean, I can understand to an extent if
19 you don't want to destroy somebody's property. And
20 the process of fingerprinting weapons is messy. It's
21 going to gum them up.

22 The concept of not destroying another
23 person's property so that other people can just be
24 left to speculate about the fact that that person was
25 involved in a crime, that I can't understand, ladies

1 and gentlemen, and you shouldn't either.

2 You should hold the Sheriff's Office
3 responsible for properly processing evidence and
4 crime scenes. If they were truly concerned about
5 this burglary, they would have done everything they
6 could to make an air-tight, solid case against the
7 persons that they thought actually perpetrated the
8 crime.

9 Not engaging in this rush to judgement,
10 this speculation, this -- you know -- kind of tangled
11 weave of inferences and-- and deductive reasoning.
12 He never -- Detective Smith never questioned this
13 guy. Never went back to follow up. She was upset on
14 September the fifth. That's understandable.

15 Don't you think that if you're trying to
16 make an air-tight, solid case against somebody, you'd
17 follow up, you'd ask some additional questions.
18 You'd come back the next day and say, you know what,
19 I understand, you were upset yesterday. Let me just
20 ask you some more questions.

21 Let me do some follow up questions and we
22 can make sure that there's nothing that maybe you
23 forgot to tell us yesterday. Or maybe that there's
24 not a question that somebody, maybe, forgot to ask
25 because she wasn't a detective yet. Didn't do that.

1 He never showed the lineups -- the
2 photographic lineups. He showed them to Mr. Sumner,
3 claiming, supposedly, that -- you know -- the persons
4 that -- you know -- to see if there was anybody in
5 those lineups -- you know -- that he recognized. He
6 didn't recognize them.

7 He didn't go and show them to Ms. Guy, a
8 woman much younger. Able to be able to see somebody,
9 remember a description of them. She's only 200 feet
10 away. Didn't even bother to ask her to see if she
11 recognized anybody in the photographic lineup.
12 Didn't testify to any relationship between this white
13 female and black male.

14 Didn't testify to any -- any evidence that
15 he was able to discern as the lead detective in the
16 case about any artifice, trickery, deceit,
17 misrepresentation. None of that. And yet he's the
18 lead detective. The only thing he did was just give
19 guns back to Mr. Sumner.

20 We spent a lot of time yesterday looking at
21 pictures about the car that was stopped at the gas
22 station. We spent a lot of time looking at the
23 placement of the guns in the car. Let's think about
24 that. You've got a .12 gauge shotgun standing up in
25 your back seat and a .22 rifle laying down kind of in

1 the footwell area.

2 Investigator Shaffer tells us that that's
3 exactly where he found them and those other police
4 officers would have told him if they moved those
5 weapons. And nobody told him that they moved
6 weapons, so they must not have been moved.

7 If you just stole two long guns from a 97
8 year old man by tricking him to getting into his
9 house, do you think you're going to sit there and
10 have one standing up that's visible through the back
11 window of a car when you're standing outside of the
12 car, for all Spartanburg to see going driving around
13 the city, speeding, drawing attention to yourself?

14 The State tells you to look to see for
15 criminal intent at the actions that the people did.
16 Well if Issac Walker had just stole guns out of the
17 house, or knew that guns were just stolen out of the
18 house, do you think that he would have been riding
19 around with a shotgun basically hanging out the
20 window for all the world to see? Twenty minutes
21 after? No.

22 We heard evidence yesterday that there were
23 maybe two city officers maybe two county Sheriff's
24 deputies on scene when Investigator Shaffer gets
25 there. Today we hear there are at least four or five

1 city officers, four or five county deputies, plus a
2 city investigator. Who knows what all was happening
3 in that car during the time that it was stopped and
4 during the time -- and -- and the time that
5 Investigator Shaffer, an hour after the incident
6 supposedly occurs, is processing it.

7 Who knows? Each and every single one of
8 those city officers and county officers know. They
9 were there. They can come in and tell you exactly
10 what happened. It might be boring as heck to hear
11 eight county officers tell you, no I didn't touch any
12 of the guns in that car.

13 But you know what? That's there
14 responsibility to tell you that. It's the State's
15 responsibility to tell you that that's exactly how
16 those guns were found in that car, if that's what
17 their testimony is. And they didn't do it. We don't
18 know who those officers were. We don't know what did
19 they do.

20 We don't know whether they moved the guns
21 or not. We have no proof that the car is not --
22 actually belongs to Issac Walker. Deputy Ingle,
23 who's then Officer Ingle, stops the car once, let's
24 it go. If there's anything that had alerted his
25 suspicion, don't you think he would have done a

1 little bit more investigation the first time he sees
2 them? He just lets them go with a warning.

3 Two seconds later, he says, he then hears
4 the look-out posted. Finds the car and stops it
5 again. Now, if you had just stolen two long guns
6 from an elderly man's house, had already been stopped
7 by the police, and let go with a warning, are you
8 just gonna drive an eighth of a mile down the road to
9 get gas? Or are you going to continue to get on out
10 of town to get rid of the evidence that you just
11 stole?

12 Maybe they thought, okay we'll stop and get
13 some gas. Well, all of a sudden here comes another
14 police officer and more police officers ringing in,
15 because all of a sudden they've got some sort of
16 armed and dangerous suspect. Got to have backup
17 coming in.

18 Issac Walker doesn't flee. He doesn't jump
19 in his car and take off. He doesn't resist arrest.
20 He doesn't do anything on scene that gives rise to
21 the fact that the man has any idea that he has just
22 been involved in a crime. None whatsoever.

23 And yet, the State wants you to speculate
24 about his criminal intent. Oh, guns got stolen
25 therefore he must have had criminal intent to steal

1 the guns. Well, look at what he does within the hour
2 after the guns were stolen, and that doesn't rise to
3 the level of showing he's got any sort of criminal
4 intent, at all.

5 I want to talk to you about this situation
6 on the south side. This white female, who's
7 supposedly Lisa Godfrey. We don't know that she's
8 Lisa Godfrey.

9 The only person that says she's Lisa
10 Godfrey is the State's attorney. There's no proof
11 that she's Lisa Godfrey. She didn't testify today.
12 No proof that they actually had some sort of scheme
13 together.

14 This white female and the black male.
15 Certainly no evidence that she and Mr. Walker had any
16 sort of scheme together. We have no -- no connection
17 between this white female and black male. Never
18 heard any evidence about that.

19 Haven't heard any proof between this white
20 female and Mr. Walker. And we have even less
21 evidence between those two. No evidence of any sort
22 of plan, conspiracy, deceit, trickery,
23 misrepresentation.

24 The judge is going to charge you that you
25 must find that the State has proved their case beyond

1 a reasonable doubt. They have to prove each and
2 every element of burglary in the first degree to you,
3 beyond a reasonable doubt.

4 If you have just one unanswered question in
5 your mind, ladies and gentlemen, that is going to be
6 sufficient for your to find that the State has not
7 proved their case beyond a reasonable doubt. Issac
8 Walker's liberty interest is at stake.

9 The question is this, ladies and gentlemen,
10 what are you going to do about it? The decision is
11 up to you. Your sworn duty, based on the failure of
12 the State to prove this case beyond a reasonable
13 doubt, is to find him not guilty.

14 Thank you.

15 CHARGE OF THE COURT

16 THE COURT: Ladies and gentlemen of the
17 jury, anybody need a brief recess? I am going to
18 proceed with the charge in just a few minutes. It's
19 probably going to take anywhere from 35 to 45
20 minutes. So if we need to take a recess we'll take
21 ten minutes and come back. If you tell me not, we'll
22 go ahead and get started. Is everybody ok?

23 I want to thank both the counselors for the
24 State and the defense for their able presentation of
25 the cases, and I want to thank the jury for listening

1 attentively to the case.

2 It is now my duty as trial judge under our
3 Constitution of South Carolina to charge and instruct
4 you of the law applicable to the case. It is your
5 duty as jurors to accept and apply the law as the
6 court now states it to you. As jurors it is your
7 exclusive duty to decide all the issues of fact in
8 this case and, for that purpose, to determine the
9 effect, the value, the weight, and the truth of the
10 evidence.

11 Both the State and the defendant have a
12 right to expect that you will conscientiously
13 consider and evaluate the evidence and apply the law
14 of the case thereto, to the end that both the State
15 of South Carolina and the defendant will receive a
16 fair and impartial trial in this case.

17 The State of South Carolina, by the bill of
18 indictment in this case, charges the defendant with
19 the offense of burglary in the first degree. To this
20 charge and to the indictment the defendant has
21 entered a plea of not guilty.

22 This plea of not guilty by the defendant
23 places the burden of proof on the State to prove, by
24 evidence, the guilt of the defendant beyond a
25 reasonable doubt before you the jury can find the

1 defendant guilty.

2 The defendant, Mr. Issac Jerome Walker, is
3 presumed in law innocent of the charges contained in
4 an indictment. It is a cardinal and fundamental rule
5 of the law of evidence that a defendant, irrespective
6 of enormity of the charge against him, will always be
7 presumed innocent of the crime for which he is
8 indicted unless and until the guilt of the defendant
9 has been proved by evidence that satisfies you the
10 jury of his guilt beyond a reasonable doubt.

11 The presumption of innocence is not a mere
12 legal theory and it is not just a legal phrase. The
13 presumption of innocence is a substantial right to
14 which every accused is entitled. Our Supreme Court
15 has declared that the presumption of innocence is
16 like a robe of righteousness placed about the
17 shoulders of a defendant and it remains with him and
18 assigned to him that class, the innocent, until that
19 presumptive robe of righteousness has been stripped
20 from his person by evidence satisfying you the jury
21 of the guilt of the defendant beyond a reasonable
22 doubt.

23 The presumption of innocence accompanies
24 the defendant from the time of his arraignment and
25 appearance in the court and continues with the

1 defendant throughout every stage of the trial and
2 continues with the defendant after you retire to the
3 jury room to deliberate your verdict.

4 The presumption of innocence continues in
5 existence to the benefit of the defendant until you,
6 the jury, reach the conclusion that the State has
7 proved the guilt of the defendant beyond a reasonable
8 doubt.

9 The State is not required to prove the
10 guilt of a defendant beyond all doubt, or beyond
11 every doubt, but beyond a reasonable doubt. Some of
12 you may have served in jurors in civil cases where
13 you were told that it is only necessary to prove that
14 a fact is more likely true than not true.

15 In criminal cases, the government's proof
16 must be more powerful than that. It must be beyond a
17 reasonable doubt. Proof beyond a reasonable doubt is
18 proof that leaves you firmly convinced of the
19 defendant's guilt.

20 There are very few things in this world
21 that we know with absolute certainty, and in criminal
22 cases the law does not require proof that overcomes
23 every possible doubt. If based on your consideration
24 of the evidence, you are firmly convinced that the
25 defendant is guilty of the crime charged, you must

1 find him guilty.

2 If on the other hand, you think there's a
3 real possibility that he's not guilty, you must give
4 him the benefit of the doubt and find him not guilty.
5 A defendant is entitled to every reasonable doubt
6 arising in the case. If upon any issue of fact is
7 central to conviction and a verdict of guilty you
8 have a reasonable doubt as to how that issue should
9 be resolved, it would be your duty to resolve that
10 reasonable doubt in favor of the defendant.

11 A defendant,, ladies and gentlemen, is not
12 required to prove his innocent, but the State is
13 required in law to prove every essential element of
14 the offense charged against the defendant by evidence
15 which satisfies you, the jury, of the guilt of the
16 defendant beyond a reasonable doubt before you can
17 convict the defendant and find him guilty.

18 The indictment, which I have up here, is
19 the formal instrument by -- written instrument by how
20 the court process gets the case before the court. It
21 is not evidence and it cannot be considered by you,
22 the jury, as evidence in the case. During the trial
23 each of us, you and I, have certain duties to
24 preform.

25 As the trial judge, it is my responsibility

1 to preside over the trial. I also have the duty to
2 rule upon or pass upon the admissibility of the
3 evidence offered during the progress of the trial.
4 You are to consider only the competent evidence
5 before you and you are to disregard and disabuse from
6 you mind any testimony ordered stricken from the
7 record during the progress of the trial, if there be
8 any.

9 And you are to consider only the testimony
10 which has been presented from the witness stand
11 together with any exhibits admitted into the record
12 of this case and any stipulations of council made
13 into the record, if there be any. Now, I have the
14 additional duty to charge you the applicable law of
15 the case as the presiding judge I am the sole judge
16 of the law it is your duty to accept and apply the
17 laws I stated to you.

18 If you have a preconceived idea as to what
19 the law is or what the law ought to be in this case
20 and should not agree with what I tell you the law is,
21 you are obligated under your oath to abandon this
22 preconception on your part, because you are sworn to
23 accept the law precisely as I state it to you. In
24 every case tried in this court before a jury, the
25 jury becomes the sole and exclusive judge of the

1 facts of the case.

2 You the jury are the sole judge of the
3 facts in this case and the court is the judge of the
4 law in the case. The Constitution of this state has
5 declared that a trial judge shall not intimate,
6 state, comment upon or make any statement to a trial
7 jury about the facts of the case.

8 Since you are the sole judge of the facts,
9 you are not to infer from anything that I've said
10 during the progress of this trial in ruling upon
11 admissibility of evidence or otherwise or anything
12 that I say to you during the course of this charge to
13 you that I have an opinion about the facts.

14 The law does not permit me to have an
15 opinion about the facts. That is a matter solely for
16 you the jury. As jurors then it is your duty to
17 determine as I have stated to you the effect, the
18 weight, the value, and the truth of the evidence
19 presented during the course of the trial.

20 Necessarily then, you must assess the
21 credibility of the witnesses who have testified in
22 this case. Credibility is simply a legalistic term
23 which means believability. It becomes your duty
24 then to analyze and evaluate the evidence and
25 determine that evidence which convinces you of its

1 truth.

2 I charge you that in determining the
3 question of the credibility or believability of
4 witnesses. You may believe one witness against
5 several witnesses or several witnesses against one
6 witness. You may believe a part of the testimony of
7 a witness and reject the remaining part of the
8 testimony of that same witness.

9 You may believe the testimony of a witness
10 in its entirety or reject the testimony of a witness
11 in its entirety. You may consider whether any
12 witness has exhibited any interest, any bias, or any
13 prejudice in the case. You may consider the demeanor
14 of a witness and the appearance of a witness from the
15 witness stand.

16 And you may consider the opportunity for
17 knowledge concerning those things about which a
18 witness testified. In doing so, in exercising your
19 mental processes in determining what you consider to
20 be true, the law simply requires that you exercise
21 your good judgement, your common sense, your sense of
22 logic, and your experiences in life.

23 In other words, now you determine this case
24 from the facts presented in court. This has nothing
25 to do with anything that you may have seen on some

1 t.v. program, any movie, or any play.

2 You are not to base any decision on
3 something that you may have heard or seen in the
4 past. I'm not saying you can't use your common
5 sense. Everybody's blessed with common sense, but
6 you have got to apply your common sense to the
7 evidence that's properly before you in the court.

8 Now you apply all those attributes of
9 ability to the evidence and determine what you
10 consider the truthful evidence. Do these truths
11 state the facts as determined by your the jury. You
12 take and apply the law as I state it to you and thus
13 arrive with a true verdict in the case.

14 Now there are two types of evidence which
15 are generally presented during a trial. That is
16 direct evidence and circumstantial evidence. Direct
17 evidence is the testimony of a person who asserts or
18 claims to have actual knowledge of the facts, such as
19 an eye witness.

20 Circumstantial evidence is a proof of a
21 chain of facts and circumstances indicating the
22 existence of a fact. The law makes absolutely no
23 distinction between the weight or value to be given
24 to either direct or circumstantial evidence. Nor is
25 a greater degree of certainty required of

1 circumstantial evidence than of direct evidence.

2 You should weigh all evidence in the case.

3 After weighing all the evidence, if you are not
4 convinced of the guilt of the defendant beyond a
5 reasonable doubt, you must find the defendant not
6 guilty.

7 Let me speak with you about the election of
8 the defendant not to testify. I emphasize to you
9 that the election of a defendant in trial of a
10 criminal case not to testify in his own behalf is not
11 a factor to be considered by you in any way in your
12 deliberation in your consideration in your on the
13 question of the guilt or the innocence of the
14 accused.

15 It must not be considered by you in any
16 manner whatsoever against the defendant or mitigate
17 against him in any respect whatsoever. A defendant
18 has a constitutional right to remain silent, and the
19 assertion of such Constitutional right cannot and
20 must not be considered by you in your deliberations.

21 Under your oath then, you are to reach no
22 inference and draw no conclusion whatsoever from the
23 fact that the defendant in the case did not, himself,
24 testify. This should not even be discussed in the
25 jury room. And once again, as I told you the burden

1 of proof is upon the State. It is not incumbent upon
2 the accused to prove his innocence.

3 I'm now going to charge you on the specific
4 law of burglary. It's burglary in the first degree.
5 Under Section 16-11-311 of the South Carolina Code of
6 Laws of 1976 as amended, burglary in the first degree
7 is defined the entering of the dwelling house of
8 another without consent with the intent to commit a
9 crime therein as I will define for you which is
10 accompanied by one of the following circumstances.

11 When entering or while in the house or in
12 fleeing the defendant or his accomplice is armed
13 with a deadly weapon or explosive. There are four
14 essential elements to the requirement that the
15 defendant enter into the dwelling house of another
16 without consent and with intent to commit a crime.

17 There are that one, there must be an
18 entering. The State must prove that there was an
19 entering. That is the defendant actually went inside
20 the house or some part of it.

21 It is not necessary, however, that the
22 entire body of the defendant enter the house. The
23 smallest entry is sufficient. And it may be of any
24 part of the body, as a hand or foot, or even an
25 implement such as a hook or other instrument.

1 No force need be used to gain entry. The
2 entry must be made without consent. Aside from the
3 usual and normal understanding of the phrase without
4 consent the term entry also means to enter a building
5 by using deception, artifice, trick, or
6 misrepresentation to gain consent to enter from the
7 person in lawful possession.

8 Three, the place entered must be a dwelling
9 house. The term dwelling house means any building
10 inhabited by a person or persons in which they
11 customarily sleep. A building constructed as a
12 dwelling that has never been occupied cannot be
13 considered as a dwelling in this definition, but a
14 temporary absence of the inhabitant or inhabitants
15 does not affect the building's character as such.

16 The term dwelling also means the living
17 quarters of a building used, or normally used, for
18 sleeping, living, or lodging by a person. All
19 houses, outhouses, buildings, sheds, and erections
20 that are within 200 yards of a dwelling shall be
21 considered a part of it.

22 Four, the defendant must have the intent to
23 commit a crime. The mere entry into a dwelling house
24 without consent is not a violation of this burglary
25 statute. It is only where there is an intent to

1 commit a crime, whether it be a felony or a
2 misdemeanor, that the crime is complete.

3 Proof of content necessarily rests on
4 inference from conduct. It is essential that the
5 felonious intent exist at the time of the entry. It
6 is not sufficient that the felonious intent is formed
7 afterwards. On the other hand, where the intent
8 exists at the time of entry , it is no defense that
9 the intent was abandoned after the entry. It does
10 not matter that the intended crime was not completed.

11 I charge you that to be armed with a deadly
12 weapon means that a person or another person in the
13 crime need only have physical control over a deadly
14 in effecting entry or while in the dwelling, or in
15 the immediate flight therefrom, such that the weapon
16 is readily available for the person to use.

17 Let me repeat that, because there's a word
18 left out of here. To be armed with a deadly weapon
19 means that a person or another person in the crime
20 need only have physical control over a deadly weapon
21 in effecting entry, or while in the dwelling, or in
22 the immediate flight therefrom, such that the weapon
23 is readily available for the person to use.

24 It matters not how the person acquired the
25 deadly weapon or for what purpose the person took the

1 possession of the deadly weapon. For purposes of a
2 burglary first degree statute, a person can become
3 armed with a deadly weapon even if the weapon is one
4 taken during the course of the burglary.

5 Speak with you about mere presence. If you
6 find from all the evidence that the defendant was
7 merely present at or near the scene of this alleged
8 crime on the date in question, you are instructed
9 that such presence at or near the scene of the crime
10 will not support a finding of guilty.

11 Mere presence can only create a suspicion
12 and you cannot find the defendant guilty because of
13 suspicion. Mere presence at or near the scene of the
14 crime does not of itself permit an inference to be
15 drawn by you that the defendant had knowledge of any
16 criminal plan which might have been formed.

17 Nor does mere presence support an inference
18 of intent to engage in or to aid criminal conduct.
19 Suspicious circumstances like mere presence are not
20 sufficient for a finding of guilt against any
21 defendant. A defendant's presence where a crime is
22 being committed or mere association with persons who
23 commit a crime does not make a defendant a
24 coconspirator who has agreed to join in the
25 commission of the crime.

1 Hand of one. When several persons in
2 pursuance of a common design to commit an unlawful
3 act, whether it be a felony or a misdemeanor, set out
4 together, or in small parties, and each takes a part
5 agreed upon or assigned him, some to commit the
6 crime, others to watch the act at proper distances
7 and stations to prevent interference, or surprise, or
8 to encourage the commission of the unlawful act, or
9 to favor, if necessary the escape of those
10 immediately engaged in the commission of the unlawful
11 act.

12 Under these circumstances if the unlawful
13 act is committed, the act of one is the act of all
14 and all are presumed to be present and guilty. The
15 law is that when two or more persons aid, encourage,
16 and abet each other in the commission of a crime, all
17 being present, all are principles, and equally
18 guilty.

19 Now, these are the principles of our law,
20 that I've provided to you. You have to weigh and
21 decide the facts and apply these laws as you see fit,
22 as the jury.

23 Ladies and gentlemen of the jury, you are not
24 partisans or advocates for the State of South
25 Carolina or the defendant. You do not serve as

1 jurors to reward friends or punish enemies.

2 Obviously such a perverted system of justice would be
3 intolerable.

4 You have been selected by both the State
5 and the defendant to be fair and impartial jurors.
6 It is your duty, then, by your joint deliberations to
7 determine the truth in this case, giving to the
8 defendant the benefit of every reasonable doubt on
9 each and every issue. Then to the facts which you
10 determine to be true, you then take and apply the law
11 which has been given to you be the court, and thus
12 arrive at a verdict, which does speak to the truth in
13 the case.

14 For the word verdict, which as a Latin
15 derivative word, means a true saying. And when you
16 have accomplished these responsibilities, you will
17 have satisfied your oath as jurors and you will have
18 discharged your duty to the court.

19 There are two possible forms of verdict in
20 this case. If the State has failed to prove the
21 guilt of the defendant beyond a reasonable doubt,
22 your verdict would be two words: not guilty. If the
23 State has proved the guilt of this defendant beyond a
24 reasonable doubt, your verdict will be one word:
25 guilty.

1 at 11:03 a.m. to deliberate their verdict.)

2 THE COURT: Anything for the record that
3 you can think of?

4 MR. COLER: Not from the State, Your Honor.

5 MS. HODGES: Your Honor, the only thing
6 regarding the indictment going back to the jury, I
7 know that the Court just read the one aggravating
8 circumstance that is applicable to this case. The
9 indictment does include other aggravating
10 circumstances.

11 THE COURT: It does.

12 MS. HODGES: Would the Court prefer to do a
13 verdict --

14 THE COURT: Let's just do a copy of the
15 back for the verdict form.

16 MS. HODGES: A copy of the back would be
17 fine, or if there's any way that we can --

18 THE COURT: We can conform it.

19 MS. HODGES: That will probably look
20 chopped up and messy.

21 THE COURT: Yeah, let's just do the back.
22 Can you run us a copy of the back and then we can
23 conform it we they reach a verdict.

24 MS. HODGES: Thank you.

25 THE COURT: Thank you, for pointing that

1 out.

2 Counsel I want to thank you for working
3 with the Court to get the case presented. It sure
4 makes my job a lot easier when I've got professional
5 counsel that work together to get the case presented
6 without, you know, jumping on each other, fussing
7 with each other, and causing my hair to fall out.

8 It's always a pleasure to have a case tried
9 by very competent councils who do the job, get the
10 case presented, and leave all that peripheral
11 nonsense off.

12 MR. COLER: Yes, sir. Thank you, Your
13 Honor.

14 MS. HODGES: Thank you, Your Honor. Judge,
15 one of the issues that I recommend is that Mr. Coler
16 mentioned the transcript that will be available for
17 the jurors. I would ask that it not go back as an
18 exhibit.

19 THE COURT: We'll just let them ask for it.

20 MS. HODGES: It is in evidence, but ---

21 THE COURT: We'll keep it out here.

22 MS. HODGES: Thank you.

23 THE COURT: Do you want to check off your
24 exhibits and make sure everything's here?

25 MR. COLER: Yes, sir.

1 COURT REPORTER: One through six to go
2 back, Your Honor.

3 THE COURT: Okay, everything is there.
4 Sent it back. They may begin their deliberations.

5 MR. COLER: Judge, I can check with our
6 office, see what else we've got for you.

7 THE COURT: Okay, we're going to stand at
8 ease and you can let me know back in chambers if
9 there's anything else before lunch.

10 MR. COLER: Yes, sir. Thank you, Your
11 Honor.

12 (Recess awaiting the verdict
13 of the jury whereupon other matters were heard by the
14 Court.)

15 MS. HODGES: Thank you, Your Honor.

16 THE COURT: I need you to approach, we've
17 got a question of the jury of the burglary first
18 degree element of the law. I can repeat that to
19 them, no problem, but second was the transcript.

20 They're wanting that transcript that you
21 have. If both of you can agree -- will agree to it,
22 I can send it back. Otherwise, they'll have to come
23 out and listen to it again.

24 MR. COLER: Well, I moved it into evidence.
25 I told them in my closing statement that it was in.

1 So, I presumed that it was available for them to look
2 at.

3 MS. HODGES: Well, I think the reason why
4 it goes into evidence so that the court report --
5 that it's already been transcribed so the court
6 reporter doesn't have to transcribe a video.

7 THE COURT: That's right. I cannot send it
8 back there unless both of you agree to it.

9 MS. HODGES: And, I can't agree to it, Your
10 Honor.

11 THE COURT: Alright, then what we'll do,
12 you set your machine up and we'll have to replay it
13 for them.

14 MR. COLER: Yes, sir. Okay, I'll do that.

15 THE COURT: Have they got the disk?

16 MR. COLER: What's that? They do, they have
17 the disk.

18 MR. COLER: I have to get a computer to
19 play this. My secretary, Christy took it back
20 upstairs.

21 THE COURT: Okay. The jury's coming in
22 now.

23 (The jury returned to the
24 courtroom at 11:58 a.m., after which the following
25 proceedings were had:)

1 THE COURT: Ladies and gentlemen, I'm in
2 receipt of your request. I can take care of your
3 request, but I have to be proper in how I do it. I
4 cannot send the transcript back into the jury room.

5 So what I've done, I've arranged for you to
6 watch that testimony again out here. That's the way
7 that we have to handle that.

8 If we get to a point that you have seen
9 what you want to see, Madame Forelady, you let me
10 know and we can stop it at any time that you request,
11 alright? I've also got the request about the burglary
12 charge.

13 I can very quickly go over that with you.
14 I can't send a written charge there back to you
15 either. So I have to handle that, but it won't take
16 but a minute or so.

17 Burglary in the first degree, under Section
18 16-11-311 of the Code of South Carolina. Burglary in
19 the first degree is defined as the entering of the
20 dwelling house of another without consent, with the
21 intent to commit a crime therein.

22 As I will define for you and which is
23 accompanied by one of the following circumstances.
24 When entering, or while in the house, or while
25 fleeing, the defendant or his accomplices is armed

1 with a deadly weapon or explosive.

2 There are four essential elements to the
3 requirement that the defendant enter into the
4 dwelling house of another without consent with the
5 intent to commit a crime. They are, one, there must
6 be an entering.

7 The State must prove that there was an
8 entering. That is the defendant actually went inside
9 the house, or some part of it. It is not necessary,
10 however, that the entire body of the defendant enter
11 the house.

12 The smallest entry is sufficient and it may
13 be any part of the body, as a hand or foot, or even
14 an implement such as a hook or other instrument. No
15 force need to be used to gain entry.

16 Two, the entry must be without consent.
17 Aside from the usual and normal understanding of the
18 phrase, without consent, the term entry also means to
19 enter a dwelling -- or enter a building by using
20 deception, artifice, trick, or misrepresentation to
21 gain control to enter from the person in lawful
22 possession.

23 The place entered must be a dwelling house.
24 The term dwelling house means any building inhabited
25 by a person or persons and in which they customarily

1 sleep. A building constructed as a dwelling, but has
2 never been occupied, cannot be considered as a
3 dwelling within the definition.

4 But a temporary absence of the inhabitant
5 or inhabitants does not affect the building's
6 character as such. The term dwelling also means the
7 living quarters of a building used or normally used
8 for sleeping, living, or lodging by a person. All
9 houses, outhouses, buildings, sheds, and erections
10 that are within 200 yards of a dwelling shall be
11 considered a part of it.

12 Four, the defendant must have an intent to
13 commit a crime. The mere entry into a dwelling house
14 without consent is not a violation of this burglary
15 statute. It is only where there is an intent to
16 commit a crime, whether it be a felony or a
17 misdemeanor, that the crime is complete.

18 Proof of intent necessarily rests on
19 inference from conduct. It is essential that the
20 felonious intent exist at the time of entry. It is
21 not sufficient that the felonious intent is formed
22 afterwards. On the other hand, when the intent
23 exists at the time of entry, it is no defense that
24 the intent was abandoned after the entry. It does
25 not matter that the intended crime was not completed.

1 To be armed with a deadly weapon means that
2 a person or another person in the crime need only
3 have physical control over a deadly weapon in
4 affecting entry, or while in the dwelling, or in the
5 immediate flight therefrom, such that the weapon is
6 readily available for the person to use.

7 It matters not how the person acquired the
8 deadly weapon, or for what purpose the person took
9 possession of the deadly weapon. For purposes of a
10 burglary first degree statuted, a person can become
11 armed with a deadly weapon, even if the weapon is one
12 taken during the course of the burglary.

13 Alright, I will not go into the other mere
14 presence and the hand of one hand of all unless you
15 specifically request that. That covers that.

16 Solicitor, if you will start that
17 testimony.

18 (Whereupon, the requested
19 testimony was played to the jury.)

20 THE COURT: Madame Forelady, you may
21 return to the jury room to continue deliberations.
22 It normally takes us a minimum of 45 minutes to
23 arrange some lunch. If you would, poll the jury in
24 respect to that and we need to know in the next 10 to
25 15 minutes, or it will be way over in the afternoon.

1 If you will just let us know what your desire for
2 that will be, okay?

3 THE COURT: Anything for the record
4 concerning any of that?

5 MR. COLER: Not from the State, Your Honor.

6 MS. HODGES: Nothing from the defense.

7 (The jury left the courtroom
8 to continue deliberations at 12:28 p.m.)

9 (Recess awaiting the verdict
10 of the jury.)

11 THE COURT: You may be seated, thank you.
12 Have we got everybody?

13 THE BAILIFF: Yes, sir.

14 THE COURT: Okay, bring them in.

15 (The jury returned to the
16 courtroom at 2:29 p.m. with their verdict, after
17 which the following proceedings were had:)

18 THE COURT: Madame Forelady, has the
19 jury reached a verdict?

20 MADAME FORELADY: Yes, we have.

21 THE COURT: If you'll pass it up, Mr.
22 Bailiff.

23 Mr. Bailiff, if you will hand this back to
24 Madame Forelady. I need a date put on it. Today is
25 the twenty-third.

1 question. The question being, is this your verdict,
2 still your verdict? Juror number 61, Susan Gilbert.
3 Is this your verdict, still your verdict?
4 MS. GILBERT: Yes, ma'am.
5 CLERK OF COURT: Juror number 112, Aaron
6 Parkkonen. Is this your verdict, still your verdict?
7 MR. PARKKONEN: Yes.
8 CLERK OF COURT: Number eight, David
9 Barton.
10 MR. BARTON: Yes, ma'am.
11 CLERK OF COURT: Number 70, Justin Hannon.
12 MR. HANNON: Yes.
13 CLERK OF COURT: Number 53, Kathleen
14 Edberg.
15 MS. EDBERG: Yes.
16 CLERK OF COURT: Number 99, John Lynch.
17 MR. LYNCH: Yes.
18 CLERK OF COURT: Number 49, Orville Durham.
19 MR. DURHAM: Yes.
20 CLERK OF COURT: Number 80, Jeremy Jameson.
21 MR. JAMESON: Yes.
22 CLERK OF COURT: Number 147, Buffy Thomas.
23 MS. THOMAS: Yes.
24 CLERK OF COURT: Number 117, Robert Peters.
25 MR. PETERS: Yes.

1 CLERK OF COURT: Number 156, Marc Vinesett.

2 MR. VINESETT: Yes, ma'am.

3 CLERK OF COURT: Number 19, Kimberly Brown.

4 MS. BROWN: Yes, ma'am.

5 CLERK OF COURT: Your Honor, the jury has
6 been polled.

7 THE COURT: Madame Clerk, if you would step
8 over to the jury box, I'm going to ask Madame
9 Forelady, if she would, to conform from the copy over
10 to the original. Anything further of the jury?

11 MR. COLER: Not from the State, Your Honor.

12 MS. HODGES: Not from the defense, Your
13 Honor.

14 THE COURT: Ladies and gentlemen of the
15 jury, at this time, we move on into what we call
16 mitigation and sentencing. You are welcome to stay
17 and watch if you would like. In other words, I'll
18 hear from both sides concerning any mitigation. And
19 then we'll proceed with sentencing.

20 If you would like to leave, that will fine,
21 too, but I don't want you to leave until I get to
22 thank you for your service. I want to thank you for
23 your patience with the Court. I don't know exactly
24 what time your reached a verdict but we had released
25 the other court personnel for lunch and we had to get

1 them rounded back up. So, sorry if we kept you
2 waiting.

3 As far as matters of law that I have to
4 hear sometimes that require us to send you back into
5 the jury room and we have to keep you there until I
6 can resolve those matters of law. So we appreciate
7 you working with us on that. If I'm not mistaken, I
8 think I heard Judge Lockemy say the jury panels other
9 than ours had been released.

10 CLERK OF COURT: Yes.

11 THE COURT: We're stopping a little early
12 this week because of the mandatory class that all of
13 the judges have got to go to. So, we will do other
14 matters tomorrow that will not require a jury.
15 That's good news for you. Their checks will be
16 mailed to them?

17 CLERK OF COURT: Yes.

18 THE COURT: If you don't get a check within
19 10 weeks -- I mean within two weeks. Ten days to two
20 weeks. Please call and let them trace that out for
21 you, okay? Once again, if you'd like to stay and
22 watch the rest of these proceedings, you're more than
23 welcome to.

24 If you'd like to go ahead and leave, if
25 you'll hand your badges in to the bailiff, you can

1 exit through that door over there, behind Mr.
2 Bailiff.

3 Sheriff, if you'll take -- the defendant is
4 secured?

5 All those who would like to leave can go.
6 If you'd like to stay and you'd feel more
7 comfortable, you can just sit right there behind
8 where Mr. Bailiff is.

9 Is the State ready?

10 MR. COLER: Yes, sir, Your Honor.

11 THE COURT: Defense ready?

12 MS. HODGES: We are, Your Honor. We need
13 to have the sentencing sheet signed.

14 THE COURT: If he so desires.

15 MS. HODGES: Thank you, Your Honor. May I
16 approach?

17 THE COURT: Thank you.

18 MR. COLER: If it please the court, Judge,
19 the only thing the State would add, you've heard the
20 facts of the case. The only thing I have to add is
21 prior record.

22 THE COURT: Alright, let me hear it.

23 PRIOR RECORD OF THE DEFENDANT

24 MR. COLER: A 1988 conviction for driving
25 under the influence. A 1999 -- 1991 convictions for

1 driving under the influence, driving under
2 suspension, and failure to surrender a driver's
3 license.

4 In 1992, 19 counts of fraudulent check
5 admission. In 1993, shoplifting conviction. A 1994
6 burglary in the third degree and petty larceny
7 convictions. A 1997 possession of cocaine
8 conviction.

9 A 1997 financial transaction card fraud --
10 no, financial transaction card theft conviction. A
11 1991 malicious injury of personal property
12 conviction. A 1999 driving under suspension, failure
13 to stop for a blue light, and possession of a stolen
14 vehicle less than 5,000 dollar convictions.

15 In 2000, petty larceny conviction. In
16 2000, simple assault conviction. In 2000, driving
17 under suspension conviction. Also in 2000, operating
18 an uninsured vehicle, false information to police,
19 possession of drug paraphanelia, driving under
20 suspension, and operating an uninsured motor vehicle
21 convictions.

22 In 2001, receiving stolen goods more than
23 \$5,000 conviction. In 2002, 18 counts of fraudulent
24 check convictions. In 2003, shoplifting conviction.
25 In 2004, habitual traffic offender convictions. And

1 one 1987 out of state conviction from Hendersonville,
2 NC, a misdemeanor larceny conviction.

3 Those are his previous convictions, Your
4 Honor.

5 THE COURT: Thank you, sir.

6 MS. Hodges?

7 MS. HODGES: Thank you, Your Honor. Your
8 Honor, as to Mr. Walker's record the only thing that
9 we actually have any dispute with is, in 2002 the
10 solicitor read out fraudulent checks, 18 counts. It
11 actually was 15 counts.

12 The last three if you look at the rap sheet
13 carefully are actually under the name of a Rita
14 Travers who is not Mr. Walker.

15 I can tell the Court, at some point some
16 checks were stolen from his vehicle and while they
17 are showing his convictions for fraudulent checks, I
18 think there may have been some issues, that could
19 have been dealt with at that time, that may have not
20 led to those being actual convictions.

21 I can tell the Court that I have letter
22 from the -- Mr. Walker had asked his current
23 probation agent, Agent Curtis Lee Dill (PH)
24 to -- he sent -- he wrote a letter today.

25 And the defendant is currently on probation

1 in Spartanburg County. He is reporting as instructed
2 and in compliance with the sentence at this time.

3 I can tell the Court that Mr. Walker has a
4 twelfth grade education. As the Court knows, his
5 family has been with him. Seated directly behind us
6 are his mother and his aunt and his brother.

7 His pastor was with us this morning, left
8 after the closing arguments. And yesterday, Mr.
9 Walker's sister and brother-in-law were with him. He
10 does have a strong family support. He's a native of
11 Spartanburg, South Carolina, Your Honor.

12 Unfortunately, the jury viewed evidence
13 that Mr. Walker and I did. We respect the jury
14 process. We would simply ask that the Court be as
15 lenient as possible on Mr. Walker, at this time.

16 THE COURT: Mr. Walker, anything you'd like
17 to add?

18 MR. WALKER: I'd like to add that I'm
19 sorry for what happened, and -- you know -- that if I
20 could go back and change it, I would. But I been
21 dealing with this for a while, and -- you know -- I'm
22 in church and -- you know -- I turned from my ways.
23 Gave my life to Christ. I attend church every
24 Wednesday, Friday, Sundays.

25 And, that I made some mistakes. I got off

1 drugs. I've been on probation five years -- almost
2 five years. I always reported. I always paid my
3 fines off. I didn't want to take the stand on my
4 behalf, because of my record.

5 But I wish I could have, but I figured the
6 jury would look at my record and convict me on my
7 past mistakes. And -- you know -- I would ask God to
8 put it on your heart for leniency. I'm so used to
9 being around my mamma and them, that it's going to be
10 hard, but -- you know-- God got a plan. Got a
11 purpose for me and that -- And you know I was on
12 drugs.

13 I was in sin -- you know -- I turned my
14 life to Christ and everything was wonderful. But
15 sometimes sin come back to haunt you. I just feel
16 like my probation officer helped me get a long ways.
17 I'm depending on him. And -- you know -- my
18 probation officer encouraged me that -- that to
19 continue to serve God and continue to report.

20 Everything I ever did, I place it upon
21 myself. But I always went and paid all my fines off,
22 even when the guy hit me in the head and car jacked
23 me. My check and everything was in there. I took my
24 insurance check I got and went and paid all them
25 checks off.

1 You know, that ain't nothing I can say -- I
2 just ask you to have mercy. And I have come to court
3 -- you know -- come to the court. If they could tell
4 you, I have walked from Boiling Springs to down here
5 to the court house and roll call. I tell you if he
6 could he tell you, he done picked me up walking at
7 the interstate to make my reports.

8 And that -- you know -- I got a lot of
9 people out there. I got kids out there and I got --
10 and I got people from my church love me. You know, I
11 got a lot of people supporting me because -- you know
12 -- I tried to give back to the ones in my church.
13 The ones that out there in the world that don't even
14 need to live the life that I lived.

15 You know, I feel like if God can test me
16 and change me, he can change anybody. You know, I'm
17 going -- I'm going to be straight forward to you. I
18 can pass any drug test or anything. Because I know
19 what the power of God has done in my life, regardless
20 of the situation.

21 And you are very fair. Considering last
22 week when I was here -- when the other judge was in
23 here. He was like, just -- just. That's all I have,
24 Your Honor.

25 THE COURT: Alright, travelling around the

1 State there has been a rash of crime committed
2 against elderly and disabled people --

3 MR. WALKER: Yes, sir.

4 THE COURT: -- being preyed upon. And
5 society demands that the justice system react to it.
6 So therefore, I can't treat something like this too
7 lightly. When you take a 97 year old man trying to
8 live at home alone like that and he becomes prey
9 under circumstances like this, that is serious
10 business.

11 The only -- the only good thing I can think
12 about this whole scenario is, thank goodness you did
13 not harm him in any way.

14 MR. WALKER: Can I say something?

15 THE COURT: -- other than the property
16 offense.

17 Yes, sir?

18 MR. WALKER: Can I -- it wasn't brought
19 up. I know it was brought up too late, but she
20 actually knew him, but him being old and he did
21 because she took me way out there and promised to pay
22 me and then I got out there. I didn't go in the man
23 house.

24 I asked the man can I borrow 500 dollar I
25 showed him my towel (PH). He looked at it. He said

1 he didn't have it. I said okay. I went to the car.

2 She come out around back to the car with the
3 guns. She told me that one of the victims they got
4 them from the storage building. That's what really
5 happened.

6 But I didn't want to go on with my record -
7 - with what my record was. I mean, yes it's -- okay,
8 I'm sorry, Your Honor.

9 THE COURT: Well, you did something unusual
10 -- both of you did something unusual was going down a
11 dead end road. Normally, that doesn't happen.

12 MR. WALKER: Well, I went straight to top
13 end when I went to turn around I turned around, but
14 the road like next door -- the road, like, right next
15 door I turned around there. Because we I pulled up
16 in his yard it was on the side. It was in front of
17 his house.

18 THE COURT: Okay, burglary first, minimum
19 of 15 years, maximum life. I do not think that life
20 would be appropriate here. Just on the basis that
21 you did not physically harm the victim.

22 But on the other hand society -- I know
23 over my way, people are really upset with the flim-
24 flam, and the con-artists, and the burglaries, and
25 the larcenies and all that are set this way, and

1 innocent people -- elderly people are preyed on.
2 I can't afford to let you back out on the street any
3 time soon.

4 SENTENCE OF THE COURT

5 Sentence of the court is that you Issac
6 Walker be confined in the State Department of
7 Corrections for a period of 25 years.

8 You will get credit for any jail time that
9 the Department of Corrections calculates that you are
10 entitled to.

11 Thank you very much.

12 --End of Transcript of Record--

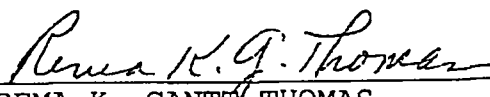
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2 STATE OF SOUTH CAROLINA)
3 COUNTY OF LEXINGTON)
4

5 COURT REPORTER'S CERTIFICATION

6 I, REMA K. GANTT THOMAS, OFFICIAL COURT
7 REPORTER, AND NOTARY PUBLIC IN AND FOR THE STATE OF
8 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING
9 IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD
10 OF THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE
11 ABOVE-CAPTIONED CASE ON JANUARY 22, 23, 2008, IN
12 SPARTANBURG, SOUTH CAROLINA.

13 I FURTHER CERTIFY THAT I AM NEITHER OF COUNSEL
14 NOR KIN TO ANY OF THE PARTIES TO THIS CAUSE OF
15 ACTION, NOR AM I INTERESTED IN ANY MANNER IN ITS
16 OUTCOME.

17 IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND
18 AND SEAL AT CHAPIN, SOUTH CAROLINA, THIS THE FIRST
19 DECEMBER, 2008.
20

21
22 
23 REMA K. GANTT THOMAS
24 OFFICIAL COURT REPORTER
25 NOTARY PUBLIC FOR SOUTH CAROLINA
26 MY COMMISSION EXPIRES 11/21/2013
27

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS
3
4 The State,)
5 -vs-) TRANSCRIPT OF RECORD
6 Isaac Walker,) 2006-GS-42-4027
7 Defendant.) July 10, 2008
8 Spartanburg, South Carolina
9
10
11

12 B E F O R E:

13 HONORABLE PAUL M. BURCH, JUDGE
14

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

16 ROBERT PATRICK COLER, ESQ.
17 Attorney for the State

18 KATHLEEN HODGES, ESQ.
19 Attorney for the Defendant
20
21
22

23 Margaret A. Woods
24 Circuit Court Reporter
25

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NO EXHIBITS INTRODUCED

1 THE COURT: All right.

2 MS. HODGES: Thank you, Your Honor. May it please the
3 Court. Your Honor, we're here today on the State of South
4 Carolina vs. Isaac Jerome Walker. This is Indictment
5 No. 2006-GS-42-4027. Um, he was indicted, tried and convicted
6 for burglary in the first degree, um, and this trial was
7 actually held before this court back in January of this year.
8 The -- after the jury rendered its verdict and the Court
9 sentenced Mr. Walker and I went back to file the notice of
10 appeal, I could not remember whether I'd actually made an oral
11 motion on the record as to, um, ask for motion for a new trial
12 so instead I actually filed the written motion for a new trial
13 within our 10-day time period, served to the state. We are
14 asking the Court to, and and just a little bit of background,
15 this is a case where a Mr. Irby Sumner owned a home here in
16 Spartanburg County. Um, Mr. Sumner due to his age was, in
17 physical health was -- is currently living in Union, um, in a
18 nursing home facility. There was a deposition taken or video
19 testimony taken of -- for him, um, we played that testimony as
20 his part of the record in this case. There was also then live
21 testimony from police officers and a -- and Mr. Sumner's
22 granddaughter, I believe, about what she observed that day.
23 There was a co-defendant originally charged in this case, a
24 woman named Lisa Godfrey, but she was not tried along with
25 Mr. Walker. Um, it's our position in support of the motion

1 for a new trial that the state did not produce sufficient
2 evidence to prove beyond a reasonable doubt Mr. Walker's
3 identity at the scene of the burglary. There was no photo
4 lineup, no indication, um, that Mr. Walker actually was
5 physically present there. The granddaughter was not able to
6 identify him and she just says, contrary to her written
7 statement in the case, she said that she saw a black man at
8 her grandfather's home. She says she saw him go inside, that
9 directly contradicts Mr. Sumner's testimony that, um, that the
10 black man that came to his house did not go inside the home,
11 but there's no actual identity of Mr. Walker being the person
12 that that was at Mr. Sumner's home. That actually goes to
13 No. 1 as well as to No. 2 that there was insufficient evidence
14 to prove beyond a reasonable doubt that the defendant entered
15 the building or the dwelling of Mr. Sumner. One of the
16 allegations in this case was that some guns were stolen from
17 the home, that's what made it a burglary first, it actually
18 occurred in the daytime. Um, they were, Mr. Walker was
19 stopped by police with Ms. Godfrey in the car. The testimony
20 was that the guns were found in the backseat of the car. Um,
21 we would argue that because of -- based on the police
22 procedures in the case they didn't fingerprint the guns,
23 there's no indication that Mr. Walker touched the guns, um,
24 that they were unable to show that he, that Mr. Walker had
25 actually either been a party to the crime either in aiding

1 Ms. Godfrey in committing the crime or, um, you know, any part
2 of the crime at all other than driving a car that happened to
3 have the guns, um, that that were apparently taken out of the
4 home, there's been really no ident -- identification of the
5 guns being Mr. Sumner's. It was claimed by the state that
6 Mr. Walker entered the home, um, by means of trick or
7 artifice or deceit or misrepresentation. There really wasn't
8 any, again, there was no testimony that he entered the home at
9 all but for the surprise testimony of the granddaughter at
10 trial that he even entered the home but there's certainly no
11 evidence of trick or deceit or misrepresentation and there's
12 no indication that that Mr. Sumner, um, entered the home with
13 the intent to commit a crime or and again, that he became
14 armed in flight from the home. So we're basing our our
15 request for for the motion for new trial based on all of our
16 objections we raised in the trial, motion for directed verdict
17 that we made as well as, um, you know, the argument today.
18 And then there's actually a second motion regarding
19 Mr. Walker's sentence that he ask -- would ask me to to ask
20 the Court to argue for him and I'll do that after Mr. Coler
21 has response -- responded to my motion for a new trial.

22 THE COURT: Solicitor.

23 MR. COLER: Thank you, Your Honor, briefly. Judge, if
24 you'll recall the testimony from the elderly victim,
25 99-year-old Sumner Irby, was that he was on his porch and he

1 was approached by a black man and a white female, uh, they
2 distracted him, got his attention, asked to go in and get some
3 water, they ran out of the house, he noticed two shotguns, I
4 mean, a shotgun and a rifle were missing when they left. They
5 were stopped by the police a short time lighter in their their
6 car Mr. Walker and his co-defendant Ms. Godfrey, a white
7 female, he's a black male, with guns belonging to
8 Mr. Irby. Based on that the charges were brought against
9 them, they were tried on burglary first charges and, uh, and
10 convicted by a jury of his peers. Uh, there was testimony
11 that he did enter the dwelling ever slightly but there was
12 also ample testimony that he was acting in concert with the
13 other woman who did go in, so under the hand of one, hand of
14 all theory, clearly the jury had sufficient evidence to
15 consider whether to convict him of burglary or not. So
16 that's -- that would be the state's argument on that.

17 THE COURT: Okay. Next motion.

18 MS. HODGES: Your Honor, um, the only -- the other matter
19 that we'd like to raise to the Court is well, I mean,
20 essentially, in the current forum motion for a new trial is
21 ordered for all at the same time but essentially, you know, we
22 disagree with the the fact that there was sufficient evidence
23 to prove beyond a reasonable doubt. We did not present any
24 testimony. I think that given that fact we probably are are
25 safe on the record and under recent case law that, you know,

1 but I wanted to make sure that that those issues were raised
2 and preserved for appeal so ---

3 THE COURT: All right.

4 MS. HODGES: Um, Mr. Walker is currently housed, Your
5 Honor, under a a sentence of 25 years?

6 DEFENDANT: (Nodded in the affirmative)

7 MS. HODGES: And, Your Honor, he is present in the
8 courtroom with his mother today. She was present during the
9 trial. He has, um, a father who is very ill. His mother is
10 not doing well either in terms of her health. He is
11 respectfully requesting the Court to consider reducing his
12 sentence. My understanding is that the co-defendant in this
13 case pled guilty to a reduced charge of burglary second
14 non-violent, received a sentence of 15 years. He is
15 respectfully requesting that the Court would consider reducing
16 his sentence in this case, um, given the the health of his
17 parents and then the fact that he would need to be at home
18 with them, um, and we respectfully request the Court to
19 consider that at this time.

20 THE COURT: All right.

21 MR. COLER: Just briefly Your Honor. Like I do in many
22 cases both Mr. Walker and his co-defendant Ms. Godfrey were
23 given an opportunity to accept a plea bargain. We offered
24 both of them burglary in the second degree which would have
25 limited their exposure. Not that Mr. Walker should be

1 punished for taking a trial but he chose to reject the state's
2 offer in the burglary second, took a trial on burglary first
3 degree and was convicted by his peers, uh, Your Honor
4 sentenced him to 25 years.

5 His prior record, uh, if I can refresh the Court's
6 recollection, 1988 driving under the influence, 1991 driving
7 under suspension, DUI and failure to surrender a suspended
8 license, 1992 nineteen counts of fraudulent check, 1993
9 shoplifting, 1994 burglary in the third degree and petit
10 larceny, 1997 possession of cocaine and FTC theft, 1999
11 malicious injury to property, driving under suspension,
12 failure to stop for a blue light, possession of stolen
13 vehicle, 2000 petit larceny and assault, possession of drug
14 paraphernalia, false information to police, a seatbelt
15 violation, driving under suspension, operating uninsured motor
16 vehicle and no vehicle license, 2001 receiving stolen goods,
17 2003 shoplifting, now that that is his prior record.

18 MS. HODGES: Your Honor, the only thing that that I would
19 let the Court know is that, um, my understanding is that
20 Ms. Godfrey was allowed to plead to burglary second
21 non-violent as opposed to the offer which was extended to
22 Mr. Walker which was burglary second violent. While the
23 exposure is the same there are collateral consequences that
24 are are different in both of those cases and, you know, we
25 respectfully disagree that that they were actually offered the

1 same deal. Um, I don't know if my client wants to say
2 anything to the Court, Your Honor, at this point.

3 DEFENDANT: Yes, sir. May I address, Your Honor. How
4 you all doing today?

5 THE COURT: Fine.

6 DEFENDANT: Um, I understand the circumstances and
7 everything. To make a long story short, to pay for 15 years
8 violent for me and 15 years non-violent for me and he said in
9 your courtroom that she hadn't been tried yet. She was tried
10 prior to that. If I knew that I would have took the stand and
11 fought for my innocence of actually going in the house and
12 committing a burglary. Like -- I I know this or I can say
13 this but I know that it is not 'cause Mr. McCall asked for a
14 lie detector test to prove my innocence that I didn't go in
15 the house, they wouldn't grant that because they said it would
16 not work in court. I wanted a polygraph test to prove my
17 innocent that I didn't go in the man's house and I asked for
18 that but I couldn't get that. And other than that I did not
19 threaten that man, I did not harm that man, I did not take
20 that man gun. The only reason I didn't take the the stand is
21 because my past record was bad. I admit all of them
22 convictions if I was guilty I pledded guilty on them. On
23 them --, all them charges there he read off my past I was
24 guilty, I plead guilty. I'd like for you to take that in
25 consideration. When I was guilty, I I didn't fought but, yes,

1 sir, I was guilty. I come to court and told the judge I was
2 guilty. I had prior drug -- I had a past use cocaine, that's
3 what got me all the convictions. I changed my life and I'm
4 down at at that -- at, uh, in prison working with the sick
5 people and the hostile peo -- I had a guy die in my arms the
6 day before yesterday in the hospital. I prayed for him that
7 he'd accept Jesus Christ his personal Lord and savior and I
8 know he in heaven. And I also know if I come over there and
9 stand before you and tell you the truth not based on my past
10 but based on speaking from my heart that I tell ya I didn't
11 take that man's guns. I can tell ya what me and that man
12 talked about. That woman took them guns, come to my car and I
13 freaked and I was in the car when she come out, run out and
14 get in the car. I didn't -- I couldn't tell ya in court due
15 to the fact my my past record. I figured my past record was
16 gonna put me in a a world of trouble, that's why I didn't take
17 the stand, Your Honor, not to hide nothing.

18 I asked the, I asked the cops to take fingerprints and
19 let me go and look at the scene 'cause she brought 'em to the
20 car. They did -- they didn't -- I asked 'em I asked for them
21 to put the store surveillance video, I asked them to take the
22 video, put it into evidence at the at the station where they
23 handle those guns without the glove 'cause I knew my
24 co-defendant's prints was on 'em. I knew my prints wasn't on
25 'em. And I freaked out when she come out to my car with 'em

1 and the defendant said I didn't go in that house, that that
2 his granddaughter I feel like she said that 'cause she was mad
3 at me 'cause I let that woman took the man's gun, that's what
4 I'd like to say to Your Honor. And I know I got a bad past
5 but I have changed my life and I was doing God's will when I I
6 doing God's will I did not go in the man house. I'd like to
7 take a lie detector test to prove to to the state that I
8 didn't take the guns from the man. I freaked out when she
9 come to my car with the guns. That's the God honest truth.
10 I'm serving 25 years for a crime she committed and got 15
11 years non-violent, just 'cause my past I feel I got 25 years
12 violent. I'm down there with people in prison that deserve to
13 be there so, I mean, I feel like I don't but I can't do
14 anything, but I'm asking you to take in consideration when I'm
15 speaking from my heart to you. I miss my mom and I miss 'em
16 dearly and they know I did not harm that man. They know I
17 didn't take them guns from that man. I had to have my mom and
18 dad come up down that road three hours away for a crime that I
19 didn't do that I got caught up in what she did and and I wish
20 she had came to court and testified on what she done and
21 that's what I'd like to say to Your Honor.

22 THE COURT: All right. Solicitor, if you'll pass me a
23 copy of his past record up. I'm gonna review this and I'll
24 get back with ya'll in a week or two not beforehand.

25 MR. COLER: Yes, sir. I actually read it off on my file.

1 If I can just make a copy and hand it to the Court in a few
2 minutes I'll get it back to you.

3 THE COURT: If you'll ---

4 MS. HODGES: I have ---

5 THE COURT: --- take a look at it.

6 MS. HODGES: --- no objection to that, Your Honor. I
7 believe I have an extra copy of his rap sheet and I can
8 get, provide to the Court ---

9 THE COURT: All right.

10 MS. HODGES: --- that the solicitor provided to me.

11 THE COURT: Ya'll pass it up when it's convenient.

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1
2
3 CERTIFICATE OF REPORTER
4

5 I, Margaret A. Woods, Court Reporter and Notary Public in
6 and for the State of South Carolina at Large, hereby certify
7 that I reported the preceding case on July 10, 2008 at the
8 time and place heretofore set forth; and that the foregoing
9 pages numbered from 3 through 12, inclusive, constitute a true
10 and accurate transcription of my stenographic notes of the
11 said proceeding.

12 I further certify that I am neither attorney nor counsel
13 for, nor related to or employed by any of the parties
14 connected to the action, nor am I financially interested in
15 the action.

16 WITNESS MY HAND AND SEAL at Greenville, South Carolina,
17 this 21st day of November, 2008.

18
19 

20 Margaret A. Woods, Notary Public

21 in and for the State of South Carolina at Large.

22 My commission expires: 06/09/2009.

23
24
25 ORIGINAL

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG) SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
) INDICTMENT NO: 2006-GS-42-4027
V.)
) CHARGE: BURGLARY, FIRST DEGREE
ISAAC JERMOME WALKER,)
DEFENDANT.)

DEFENDANT'S MOTION FOR NEW TRIAL

Now comes the Defendant, Isaac Jerome Walker, and moves, pursuant to Rule 29, South Carolina Rules of Criminal Procedure, for a new trial on the above-referenced indictment number. In support of this Motion, the Defendant alleges that the State failed to prove the Defendant's guilt beyond a reasonable doubt and that there was insufficient evidence for the jury to find the Defendant guilty. Specifically, in support of his Motion the Defendant avers that:

1. The State failed to produce sufficient evidence to prove beyond a reasonable doubt the Defendant's identity at the scene of the Burglary.
2. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant entered the dwelling of Irby Sumner, the victim alleged in the Burglary.
3. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant entered the dwelling of Irby Sumner, without consent or that he entered by means of trick, artifice, deceit or misrepresentation.
4. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant entered the dwelling of Irby Sumner without consent and that at the time of entering, the entering was done with the intent to commit a crime.
5. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant or another participant in the crime, when entering, while inside, or when in immediate flight from the dwelling, became armed with a deadly weapon.

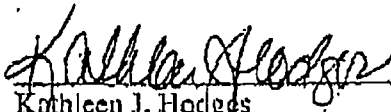
The State is required to prove all of the elements of first degree burglary beyond a reasonable doubt. State v. Simmons, 352 S.C. 342, 573 S.E.2d 856 (S.C. App. 2002). The Defendant argues that the State did not produce sufficient evidence on any one of the elements of first degree burglary and therefore renews his Motion for Directed Verdict

① kgm

raised at the close of the State's case on the above grounds and upon any and all grounds articulated orally at the time of the Motion for Directed Verdict. Furthermore, the Defendant makes this Motion for a New Trial on the above grounds and reserves the right to raise further grounds at any hearing that may be held by the Court on this motion.

The Defendant respectfully requests the Court to hold a hearing on this Motion for New Trial and to grant a New Trial and any other relief that may be appropriate.

Respectfully submitted,


Kathleen J. Hodges
Attorney for Defendant

Spartanburg, South Carolina
January 28, 2008

RECEIVED
2008 JUN 28 PM 3:30

CLERK OF COURT
FILED
JUN 28 2008

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG) SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
V.) INDICTMENT NO: 2006-GS-42-40
) CHARGE: BURGLARY, FIRST DEGREE
ISAAC JEROME WALKER,)
DEFENDANT.)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2006 SEP 22 PM 3:25
MARC K. CHENS

**ORDER DENYING DEFENDANT'S MOTION FOR NEW TRIAL
AND GRANTING DEFENDANT'S MOTION FOR RECONSIDERATION**

This matter is before the Court pursuant to the Defendant, Isaac Jerome Walker, through his counsel, Assistant Public Defender Kathleen J. Hodges, making a motion pursuant to Rule 29, South Carolina Rules of Criminal Procedure, for a new trial on the above-referenced indictment number.

The Court makes the following findings of fact:

The Defendant was tried before a jury on January 22 – 23, 2008. He was found guilty of Burglary in the First Degree and sentenced by this Court to serve twenty-five (25) years with credit for time that he had already served on this charge.

Within ten days of the conviction, the Defendant, through counsel, made a Motion for New Trial, alleging that the State failed to prove the Defendant's guilt beyond a reasonable doubt and that there was insufficient evidence for the jury to find the Defendant guilty. Specifically, in support of his Motion the Defendant alleged that:

1. The State failed to produce sufficient evidence to prove beyond a reasonable doubt the Defendant's identity at the scene of the Burglary.
2. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant entered the dwelling of Irby Sumner, the victim alleged in the Burglary.
3. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant entered the dwelling of Irby Sumner, without consent or that he entered by means of trick, artifice, deceit or misrepresentation.
4. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant entered the dwelling of Irby Sumner without consent and that at the time of entering, the entering was done with the intent to commit a crime.

5. The State failed to produce sufficient evidence to prove beyond a reasonable doubt that the Defendant or another participant in the crime, when entering, while inside, or when in immediate flight from the dwelling, became armed with a deadly weapon.

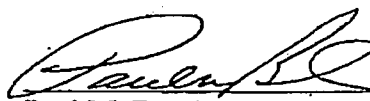
On July 10, 2008, the Court held a hearing on Defendant's Motion for New Trial. Present at the hearing were the Defendant, Defendant's counsel, and Assistant Solicitor General Robert P. Coler for the State of South Carolina. The Court heard argument from Defendant's counsel, the Defendant, and the State. In addition to the Motion for New Trial, the Defendant also requested that the Court reconsider the sentence of twenty-five (25) years and impose a lesser sentence on the Defendant.

The Court has considered the arguments of counsel for the Defendant and the State and the argument of the Defendant. The Court has considered the evidence produced at trial and at sentencing, as well as the law applicable to this case.

IT IS THEREFORE ORDERED THAT The Defendant's Motion for New Trial is denied on each and every ground enumerated above. The Court finds that the Defendant has preserved the objections and issues raised at trial and at the hearing on the Motion for New Trial for the purposes of appeal.

IT IS FURTHER ORDERED THAT the Defendant's Motion to Reconsider his sentence is granted. The Defendant's sentence is hereby reduced to a term of twenty-two (22) years. All other terms and conditions originally ordered shall remain in effect. The reduced sentence of twenty-two (22) years shall be effective upon receipt of this Order by the South Carolina Department of Corrections.

AND IT IS SO ORDERED.



Paul M. Burch
Judge, Circuit Court

Spartanburg, South Carolina
September 22, 2008

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2008 SEP 22 AM 3:25
J. HENS

WITNESSES

Spartanburg County Sheriff's Office

Deputy Floyd D. Dyer

1. SENTENCE MADE

2. REPORT ENTERED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANT NUMBER

6. CHATLAIN SIGNATURE

K164381

7. ASSESSMENT AND

FINE CARD MADE

8. TRAFFIC VIOLATIONS CODE

ACTION OF GRAND JURY

Isaac Bell

Abby E. Givens

Foreperson of Grand Jury

Date: 12-28-06

VERDICT

guilty

Isaac Y. Bell

Foreperson of Petit Jury

Date: 1/23/2008

DOCKET NO.

06-GS-42-4027

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JAN 08 2007

TERM

THE STATE

VS.

ISAAC JEROME WALKER

Indictment for

BURGLARY, FIRST DEGREE

(Dwelling)

SC Code: 16-11-0311

CDR Code: 0079

Class: FELJEXM (V)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on DEC 28 2006, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE**(DWELLING)**

The Defendant, Isaac Jerome Walker, did in Spartanburg County, on or about September 5, 2006, willfully and intentionally and without consent enter the dwelling belonging to Irby E. Sumner, i Spartanburg, South Carolina, with the intent to commit a crime therein, and the defendant when effecting entry or while in the dwelling, he or another participant in the crime either:

- (1) entered in the nighttime; and/or
- (2) became armed with a deadly weapon; and/or
- (3) caused physical injury to any person who is not a participant in the crime; and/or
- (4) used or threatened to use a dangerous instrument; and/or
- (5) displayed what is or appeared to be a knife; pistol, revolver, rifle, shotgun, machine gun, or other firearm

In violation of Section 16-11-311 of The Code Laws of South Carolina (1976) as amended.

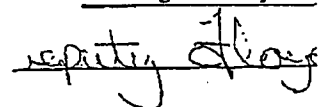
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

WITNE

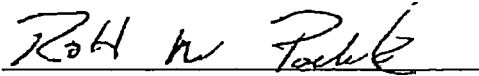
Spartanburg County Sh



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 8th, 2009



Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ISAAC WALKER,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

ROBERT M. PACHAK
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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<u>Sandsstrom v. Montana</u> , 442 U.S. 510, 99 S.Ct. 2450 (1979).....	6
<u>State v. LaBarge</u> , 275 S.C. 168, 268 S.E.2d 278 (1980).....	6

STATEMENT OF ISSUE ON APPEAL

Whether the trial judge erred in giving a jury charge on accomplice liability that diluted the presumption of innocence in violation of due process of law?

STATEMENT OF THE CASE

Appellant was convicted of first degree burglary after a jury trial held before the Honorable Paul M. Burch in Spartanburg County on January 22, 2008. A sentence of twenty-five (25) years was imposed. After a motion for a new trial and a motion to reconsider the sentence a new sentence of twenty-two (22) years was imposed.

This appeal follows.

ARGUMENT

The trial court erred in giving a jury charge on accomplice liability that diluted the presumption of innocence in violation of due process of law.

Appellant was tried for burglary in the first degree under the theory of accomplice liability. The State's theory of the case was that appellant and Lisa Godfrey drove up to Irby Sumner's house. Godfrey asked to go inside the house to use the bathroom and/or get some water while appellant stayed outside on the front porch with Sumner. After appellant and Godfrey left, Sumner noticed that a shotgun and rifle were missing. The police soon found the weapons in the back of a burgundy Cadillac with appellant and Godfrey in the car. Appellant's defense was a denial of any participation in the burglary or any knowledge of it. He was merely present at the scene.

In instructing the jury on accomplice liability the trial judge gave the following charge:

Hand on one. When several persons in pursuance of a common design to commit an unlawful act, whether it be a felony or a misdemeanor, set out together, or in small parties, and each takes a part agreed upon or assigned him, some to commit the crime, others to watch the act at proper distances and stations to prevent interference, or surprise, or to encourage the commission of the unlawful act, or to favor, if necessary the escape of those immediately engaged in the commission of the unlawful act. Under these circumstances if the unlawful act is committed, the act of one is the act of all and all are presumed to be present and guilty. The law is that when two or more persons aid, encourage, and abet each other in the commission of a crime, all being present, all are principals, and equally guilty (ROA p. 142, lines 1-18, emphasis supplied)

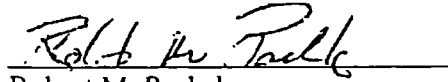
Such a jury charge as above dilutes the presumption of innocence. State v. LaBarge, 275 S.C. 168, 268 S.E.2d 278 (1980). Presumptions relieve the State of their burden of

proof in violation of due process of law. Sandstrom v. Montana, 442 U.S. 510, 99 S.Ct. 2450 (1979); Lowry v. State, 376 S.C. 499, 657 S.E.2d 760 (2008).

CONCLUSION

Appellant's conviction should be reversed.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robert M. Pachak", is written over a horizontal line.

Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

This 24th day of June, 2009.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ISAAC WALKER,

APPELLANT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Isaac Walker states:

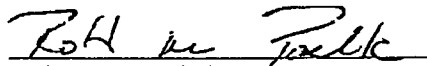
1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.

2. He has reviewed the record of appellant's trial before Judge Paul M. Burch, which was held on January 22-23, 2008, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.

3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Isaac Walker.

Respectfully submitted,


Robert M. Pachak
Appellate Defender

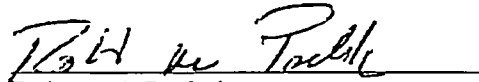
ATTORNEY FOR APPELLANT

This 24th day of June, 2009.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 24th, 2009

A handwritten signature in dark ink, appearing to read "Robt M Pachak", is written over a horizontal line.

Robert M. Pachak
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

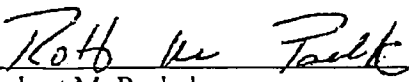
v.

ISAAC WALKER,

APPELLANT

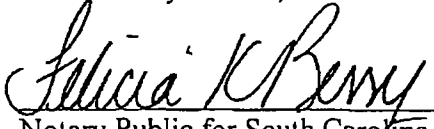
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Final Anders Brief of Appellant and Record on Appeal has been served on Isaac Walker, #269962 at Lee Correctional Institution, 990 Wisacky Highway, Bishopville, SC 29010; this 24th day of June, 2009.


Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 24th day of June, 2009.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: August 15, 2010

Close SE

The South Carolina Court of Appeals

OCT 23 2009

The State,

Respondent,

v.

Isaac Walker,

Appellant.

The Honorable Paul M. Burch
Spartanburg County
Trial Court Case No. 2006-GS-42-04027

ORDER of DISMISSAL AND REMITTITUR

The above entitled case is pending on appeal in this Court. It appears that Appellant, with full understanding of all possible consequences of this action and with agreement of counsel, wishes to withdraw the appeal and moves the Court for an Order dismissing the appeal.

IT IS ORDERED that the above captioned appeal be and hereby is dismissed. This case is REMITTED to the Clerk of Court for Spartanburg County

KAYE G. HEARN, CHIEF JUDGE

BY *J. Hearn*

Clerk

Columbia, South Carolina
10/22/2009

Original to: The Honorable Marcus W. Kitchens

cc: Appellate Defender Robert M. Pachak
Isaac Walker #269962

Assistant Deputy Attorney General Salley W. Elliott,
The Honorable Marcus W. Kitchens



November 6, 2009

HENRY MCMASTER
ATTORNEY GENERAL

The Honorable Harold W. Gowdy, III
Solicitor, Seventh Judicial Circuit
County Courthouse
180 Magnolia Street, 3rd Floor
Spartanburg, South Carolina 29306-2335

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2009 NOV -9 PM 4:34
MARC KITCHENS

RE: State v. Walker, Isaac #269962
2006-GS-42-04027

Dear Solicitor Gowdy:

In its Order, filed October 22, 2009, the South Carolina Court of Appeals granted the appellant's motion to withdraw and dismissed the above appeal. The Remittitur has been sent to the Spartanburg County Clerk of Court. Therefore, with this letter, we are closing our direct appeal file in this matter.

This Office has verified through the South Carolina Department of Corrections' computer that Mr. Walker is presently incarcerated. Please ensure that the conviction and sentence have been carried out.

Sincerely,

Salley W. Elliott
Assistant Deputy Attorney General

SWE/bd
Enclosure

cc: The Honorable Marcus W. Kitchens
David M. Tatarsky, Esquire
Ms. Trisha Allen, Victim Services

The South Carolina Court of Appeals

OCT 23 2009

The State,

Respondent,

v.

Isaac Walker,

Appellant.

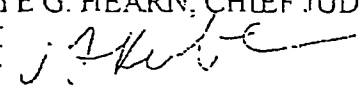
The Honorable Paul M. Burch
Spartanburg County
Trial Court Case No. 2006-GS-42-04027

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IT IS ORDERED that the above captioned appeal be and hereby is dismissed. This case is REMITTED to the Clerk of Court for Spartanburg County

KAYE G. HEARN, CHIEF JUDGE

BY 

Clerk

Columbia, South Carolina
10/22/2009

Original to: The Honorable Marcus W. Kitchens

cc: Appellate Defender Robert M. Pachak

Isaac Walker #269962

Assistant Deputy Attorney General Salley W. Elliott

The Honorable Marcus W. Kitchens

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SPARTANBURG COUNTY
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MARG KITCHENS

State of South Carolina
County of Spartanburg

ISACC Jerome Walker

In the Court of
Common Pleas

Case **2010-CP-42-562**

V

Summons

State of South Carolina
Respondent

To Respondent:

You are hereby summoned and required to service upon the Applicant's ISACC Jerome Walker #269962, whose address is listed below an answer to the Post-conviction Relief which is herewith served upon you, within (90) days after service of this summons upon you exclusive of the day of service if you fail to do so a judgment by default will be taken against you in this cause of Action.

Date 10-10 2010

Isaac J. Walker
306 Redmont Way
McCombs
Spartanburg County
SOUTH CAROLINA
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OCT 20 AM 11:26
CLERK OF COURT

FORM 5

STATE OF SOUTH CAROLINA

County of Spartanburg

Isaac Jerome Walker

Full name and prison number (if any) of Applicant

v.

Attorney General

State of South Carolina

IN THE COURT OF COMMON PLEAS

2010-CP-42-

5623

APPLICATION FOR

POST-CONVICTION RELIEF

S.C. Code 17-27-45 (c)

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 McCormick Correctional Inst
386 Redemption Way
2. Name and location of Court which imposed sentence Spartanburg Court
of General Sessions
3. Name(s) of co-defendant(s) (if any) Lisa Godfrey
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2006-GS-42-4027
 - (b) _____

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SPARTANBURG COUNTY
2010 OCT 20 AM 11:26
M. HOPE BLACKLEY

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) Jan 22, 23, 2008
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty Yes
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Withdraw Appeal
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. N/A
- iii. _____
- (c) the date of each such result:
- i. N/A
- 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) Withdraw appeal
- (b) _____

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SPARTANBURG COUNTY

(c)

State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a)

see Attachment support Law

(b)

(c)

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a)

Newly Discovery Evidence

(b)

S.C. Code 17-27-45 (c)

(c)

MISCARRIAGE of Justice

12. Prior to this application have you filed with respect to this conviction:

(a)

any petition in a State Court under South Carolina Law? NA

(b)

any petition in State or Federal Courts for habeas corpus or post-convictions relief? NA

(c)

any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NA

(d)

any other petitions, motions or applications in this or any other Court? NA

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a)

the specific nature thereof:

i.

ii.

iii.

iv.

(b)

the name and location of the Court in which each was filed:

i.

ii.

iii.

iv.

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SPARTANBURG COUNTY
M. HOPE BLACKLEY

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(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

N/A

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. _____

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SPARTANBURG COUNTY
M. HOPE BLACKLEY

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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) ~~_____~~
(b) Timely Filed:
(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
(b) your trial, if any? Yes
(c) your sentencing? Yes
(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NA
(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. Kathleen J. Hodges S.C. Bar of
Public Defenders 366 North Church
ii. Street, Suite 3000 Spring S.C. 29303
iii. _____

(b) the proceedings at which each such attorney represented you:

- i. trial
ii. _____
iii. _____

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

19. State clearly the relief you seek in filing this application:

Vacate conviction and sentence

20. Are you now under sentence from any other court that you have not challenged?

N/A

STATE OF SOUTH CAROLINA)

County of McCormick)

VERIFICATION

I, Isaac Jerome Walker, 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.

Isaac J. Walker

SWORN to and subscribed before me this 16th day of October, 2010.

Stephane Marshall (L.S.)
Notary Public

My Commission Expires: April 11, 2011

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CLERK OF COURT
SPARTANBURG COUNTY
2010 OCT 20 AM 11:26
M. HOPE BLACKLEY

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, ISD Jerome Walker, 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.

ISD Jerome Walker
Applicant

SWORN or affirmed to and subscribed before me this

16th day of October, 2011.

Stephanie Marshall
Notary Public

My Commission Expires: April 11, 2011

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 OCT 20 AM 11:26
M. HOPE BLACKLEY

State of South Carolina
County of Spartanburg
ISAAC JEROME WALKER

v.s

State of South Carolina
Respondent

To Respondent:

In the Court of
Common Pleas

Memorandum of
Law Support Post
Conviction Relief

Case
2010-CP-42-5123

Now comes the Applicant's before this
Honorable Court on the following grounds:
Pursuant to S.C. Code of Law 17-27-45
(C): Newly discovery evidence:

1. Applicant's has Newly discovery Evidence
Pursuant S.C. Code 17-27-45 (C): of
testimony of LISA GEDFREY;
2. Ineffective Assistance of Counsel Attorney
Kathleen Hodges.
3. LACK of subject matter Jurisdiction
4. Ineffective Assistance of Counsel Attorney
to call co-defendant and Victim witness,
5. Miscarriage of Justice

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SPARTANBURG COUNTY
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M. HOPE

conclusion

Wherefore these issue "must" be addressed on Post-conviction Relief and the issues has genuine material fact which cause for a hearing and vacate the conviction and sentence.

Date 10-18 2010

Isaac Walker
386 Redemption Way
McCormick S.C. 29899

FILED
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SPARTANBURG COUNTY
2010 OCT 20 AM 11:26
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
Isaac Jerome Walker, #269962,	)	2010-CP-42-5623
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

In response to the post-conviction relief application filed on October 20, 2010, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the January 2007 term of General Sessions for burglary – 1st degree (2006-GS-42-4027). Kathleen Hodges, Esquire, represented the Applicant. On January 23, 2008, the Applicant was convicted of this charge by a jury. The Honorable Paul M. Burch sentenced the Applicant to confinement for twenty-five years for burglary – 1st degree. After a Motion for New Trial and a Motion to Reconsider were both filed by Counsel, Applicant's sentenced was reduced to twenty-two years.

A timely Notice of Appeal and an Anders brief were filed on Applicant's behalf. However, Applicant voluntarily withdrew his appeal. Therefore, the appeal was dismissed and the Remittitur issued by the South Carolina Court of Appeals on October 22, 2009.

II.

In his application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel, in that;
 - a. Counsel failed to call co-defendant and victim as witnesses,
2. Newly discovered evidence, in that;
 - a. The testimony of his co-defendant, Lisa Godfrey;
3. Lack of subject matter jurisdiction; and
4. "Miscarriage of justice."

For the purpose of this Return, the Respondent incorporates the trial transcript, the Clerk of Court records, Applicant's appellate records, and the South Carolina Department of Corrections' records. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent asserts that the Applicant's allegation of ineffective assistance of trial counsel is without merit. Respondent asserts that the Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S. Ct. 2052. The Applicant must overcome this

presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland v. Washington. Second, counsel's deficient performance must have 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, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV

The Applicant also claims that newly discovered or after discovered evidence exists in the form of his co-defendant's testimony. A defendant requesting a new trial based on after discovered evidence must show that the evidence:

(1) Is such as would probably change the result if a new trial was had; (2) Has been discovered since the trial; (3) Could not by the exercise of due diligence have been discovered before the trial; (4) Is material to the issue of guilt or innocence; and (5) Is not merely cumulative or impeaching. Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983).

The Applicant has not shown that the alleged evidence meets *any* of the requirements for

after-discovered evidence. Most importantly, the "new evidence" offered by the Applicant is not "material to the issue of guilt or innocence," could have been discovered prior to trial, and probably would not "change the result if a new trial was had." Hayden, Id. The Court should summarily dismiss this allegation.

V.

The Applicant has claimed that the trial court lacked subject matter jurisdiction; however, he fails to state with specificity why the trial court lacked jurisdiction. An Applicant may challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. See Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001), overruled in part by Gentry, 363 S.C. 93, 610 S.E.2d 494. However, "[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters." Gentry, 363 S.C. at 101, 610 S.E.2d at 499; See also S.C. Const. Art. V, § 7. Thus, Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Applicant's conviction involved a criminal charge in General Sessions Court. Thus, the circuit court had subject matter jurisdiction. Therefore, this claim should be summarily dismissed.

VI.

Applicant also alleges that there has been a "miscarriage of justice." However, the Respondent submits that the applicant's allegation is without merit because the applicant has failed to specifically set forth the grounds upon which his application is based in accordance with S.C. Code Ann. §17-27-50. The respondent moves for summary dismissal pursuant to South Carolina Code Ann. §17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that this allegation should be dismissed as a matter of law.

Furthermore, it appears that this allegation might raise a direct appeal issue that is procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). The Applicant could have raised this issue at trial or on appeal. His failure to do so has waived this allegation as a ground for relief. Therefore, the Court should summarily dismiss this allegation.

VII.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VIII.

WHEREFORE, the Respondent requests an evidentiary hearing solely for the purpose of determining whether the Applicant's trial counsel was ineffective.

Respectfully submitted,

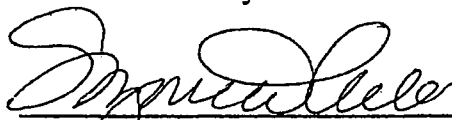
ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

By:



Attorneys for the Respondents
P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

May 3, 2011.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT

Isaac Jerome Walker,

2010-CP-42-5623

)
)
) Applicant,

)
) v.

) 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 Respondent's Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Ransome A. Coleman, Esquire
Johnson Smith Hibbard & Wildman, LLP
P.O. Drawer 5587
Spartanburg, South Carolina 29304-5587



Anne A. Mueller
Legal Assistant for the Respondent

DATED this 3rd day of May, 2011.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Isaac J. Walker, 269962,

Applicant,

vs.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2010-CP-42-5623

**FIRST AMENDMENT TO
APPLICATION FOR
POST-CONVICTION RELIEF**

Applicant, amending his Application for Post-Conviction Relief dated October 16, 2010, further alleges as additional grounds regarding his claim of ineffective assistance of counsel as follows:

1. Applicant's Counsel, Kathleen J. Hodges with the Office of the Seventh Circuit Public Defender, failed to investigate Applicant's claim that police performed an illegal search and seizure of Applicant's vehicle and the guns allegedly stolen from the victim and/or subpoena the following which was critical to Applicant's claim:

- a. 911 call made by the victim regarding the alleged theft of victim's guns;
- b. dispatch issued by authorities describing the vehicle alleged to have been at victim's home at the time of the alleged theft;
- c. officers' dash cam recordings made at the traffic stop and at the scene of the arrest;
- d. store surveillance tapes at the scene of Applicant's arrest.

2. Counsel failed to investigate, interview witnesses or properly prepare for trial. Applicant informed Counsel of numerous issues to investigate.

3. Counsel failed to notify Applicant of his indictment on the charge of Burglary First Degree rather than Grand Larceny until approximately one month prior to trial which deprived Applicant of his due process rights and prejudiced his ability to respond to the charges in the indictment. Applicant was arrested on September 5, 2006, and charged with Grand Larceny, but was indicted on December 28, 2006, for Burglary First Degree.

4. Counsel failed to request exclusion from evidence of the guns seized from Applicant's vehicle based upon Applicant's claim of an illegal search and seizure.

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5. Counsel did not show the Applicant the State's photographic evidence until the trial had started thereby prejudicing Applicant's ability to respond. If Counsel was not provided the photos prior to trial, the same was a violation by the State of Rule 5 of the SC Rules of Criminal Procedure and was prejudicial in that there was no time left to investigate or interview any witnesses as to what the photos depicted and Counsel's failure to request to suppress the same was error.

6. Counsel failed to object to the absence at trial of Detective Russell Porter who affected a warrantless search of Applicant's automobile and tampered with the evidence.

7. Counsel failed to properly impeach the State's witnesses. Counsel had a copy of the 'BOLO' from dispatch which merely stated "red car" yet allowed each officer to claim the 'BOLO' was for a "burgandy Cadillac."

8. Counsel failed to properly question Detective Shaffer about finger-printing the guns and alternative methods of finger-printing that would not have destroyed the guns.

9. Co-Defendant Lisa Godfrey, like Applicant, was also represented by the Office of the Seventh Circuit Public Defender and that a conflict of interest prejudicial to Applicant materialized that affected Applicant's defense regarding his intent or his knowledge of Godfrey's reasons for going to, or her activities within, the home of the victim. Counsel or Godfrey's attorney knew or should have known by the time of Applicant's trial that Godfrey had struck a deal with the State to plead guilty to Burglary Second Degree and that Applicant had no intent or knowledge of Godfrey's planned criminal activity.

10. Counsel failed to properly argue Counsel's motion for a directed verdict at the close of the State's case. Counsel failed to properly point out that not only did the State fail to establish that the Applicant had any intent or foreknowledge of the crime, but that the State failed to even offer any evidence or testimony of intent or foreknowledge, both essential elements of the charged indictment. Other than Applicant, only Co-Defendant, Lisa Godfrey, could testify as to Applicant's intent or knowledge that Applicant or Godfrey planned to steal anything. Counsel should have asked the Court to review Godfrey's testimony. No direct evidence or testimony was presented as to Applicant's intent or knowledge.

11. Regarding the State's opening and closing arguments, Counsel failed to object, and/or request a mistrial, due to the State's use of hearsay and facts not in evidence or to the State's numerous, improper and prejudicial uses of the pronouns "they" or "we" or "themselves" when referring to the Applicant and Co-Defendant Lisa Godfrey, or to State's reference to Godfrey as Applicant's "friend" or to State's speculation as to Applicant's role in the crime.

12. Counsel's closing argument was poorly thought out and was harmful to the Applicant. Counsel's statements about the State's failure to identify the Applicant created suspicion with the jury regarding anything else Counsel had to say. In light of the circumstantial evidence allowed at trial, Counsel should have stipulated that the Defendant was merely present at the crime and not a willing participant.

13. The failure of the investigating officers to get a positive identification should have been used to impeach Investigator Smith and the others for their shoddy police work. However, based upon the evidence admitted at trial, Counsel should not have implied in closing arguments that the Applicant was not at the scene of the crime.

14. Counsel also failed in her closing to point out that Co-Defendant Lisa Godfrey was the only one that could have testified as to any involvement by the Applicant in the crime. Counsel failed to point out that this was a crime of opportunity for Godfrey and that Godfrey was the only person who could point a finger at the Applicant as to his part in the crime.

15. Counsel should have stressed to the jury the culpability of Co-Defendant Lisa Godfrey.

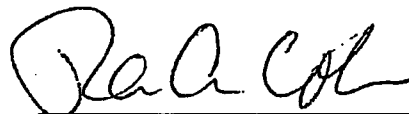
16. The voir dire is conspicuously missing from the Transcript. Applicant asserts that Counsel failed to object to the apparent racial bias in the State's jury strikes. There were eleven (11) whites and one (1) black empaneled.

17. The Court erred in its charge to the jury on accomplice liability, and Counsel failed to object thereto. The charge included the statement that "the act of one is the act of all and all are presumed to be present and guilty." This diluted the presumption of innocence in shifting the burden of proof to the Applicant, in violation of due process of law.

18. Counsel failed to object at the post-trial hearing to the disparity in sentence and sentencing between co-defendants. Applicant believes the disparity was gender and racially biased. From the victim's testimony, the State knew that Godfrey was the only one who could have stolen the guns, yet the State offered Godfrey a reduced sentence even though it knew Godfrey was lying in her statements to the police. Applicant is male and black. Godfrey is female and white.

Respectfully submitted by the undersigned on behalf of Applicant.

June 17, 2011



Ransome A. Coleman
Attorney for Applicant
P.O. Drawer 5587
Spartanburg, SC 29304
(864)582-8121

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
2010-CP-42-5623

Isaac Jerome Walker,

Applicant,

v.

State of South Carolina,

Respondent.

CERTIFICATE OF SERVICE BY MAIL

I, Helen Henderson, in my capacity as legal assistant for Ransome A. Coleman, attorney for Applicant, do hereby certify that on the 17th day of June, 2011, I served the within *First Amendment to Application for Post-Conviction Relief* upon the Respondent, by depositing a copy of the same into the United States Mail, postage prepaid, in the correct amount and addressed as follows:

Suzanne H. White
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

Helen Henderson

Helen Henderson
Legal Assistant to Ransome A. Coleman

FILED
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SPARTANBURG COUNTY
2011 JUN 20 AM 10:07
HOPE BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Isaac J. Walker, 269962,

Applicant,

vs.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2010-CP-42-5623

**SECOND AMENDMENT TO
APPLICATION FOR
POST-CONVICTION RELIEF**

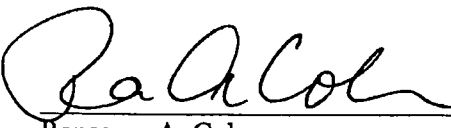
Applicant, further amending his Application for Post-Conviction Relief dated October 16, 2010, further alleges as additional grounds regarding his claim of ineffective assistance of counsel as follows:

1. Applicant is informed and believes that on or about October 11, 2006, his Counsel, Kathleen J. Hodges with the Office of the Seventh Circuit Public Defender, received an offer from the Solicitor's Office allowing Applicant to plead straight up to the original charge of Grand Larceny which if not accepted would result in the direct indictment of Applicant on the charge of Burglary First Degree; that this offer was never communicated to Applicant; and that Applicant would have accepted this offer in order to avoid indictment on charges of Burglary First Degree.

2. The State's failure to produce at trial Detective Russell Porter who Applicant witnessed affecting a search of Applicant's automobile and handling of the evidence presented at trial was a violation by the State of Rule 5 of the SC Rules of Criminal Procedure and Counsel's failure to raise the issue was prejudicial to Applicant's case.

Respectfully submitted by the undersigned on behalf of Applicant.

August 23, 2011


Ransome A. Coleman
Attorney for Applicant
P.O. Drawer 5587
Spartanburg, SC 29304
(864)582-8121

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SPARTANBURG COUNTY
2011 AUG 24 PM 12:46
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT
) 2010-CP-42-5623

Isaac Jerome Walker,

)
)
) Applicant,)

v.)

State of South Carolina,)

)
) Respondent.)
)
)
)
)

CERTIFICATE OF SERVICE BY MAIL

I, Helen Henderson, in my capacity as legal assistant for Ransome A. Coleman, attorney for Applicant, do hereby certify that on the 23rd day of August, 2011, I served the within *Second Amendment to Application for Post-Conviction Relief* and this *Certificate of Service by Mail* upon the Respondent, by depositing a copy of the same into the United States Mail, postage prepaid, in the correct amount and addressed as follows:

Suzanne H. White
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

Helen Henderson
Helen Henderson
Legal Assistant to Ransome A. Coleman

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SPARTANBURG COUNTY
2011 AUG 24 PM 12:46
M. HOPE BLACKLEY

I, Lisa Godfrey was with Isaac Walker on 9/5/06 and stopped at Mr. Sumner's residence. Mr. Sumner was sitting on his porch. I ask to get a drink of water and saw 2 rifles on the wall. I took the firearms out the back door and placed them in the vehicle. Isaac Walker did not take the guns.

I'm giving this statement freely and intelligently without anyone forcing or offering any kind of deals.

Lisa Godfrey

Lisa Godfrey

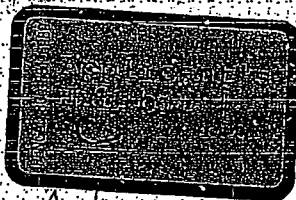
Date: 9/6/11

Witness:

Print Name: _____

Date: _____

Sworn and Subscribed to me
This 6 day of September 2011
Sean B. Binsley
Notary Public of South Carolina
My Commission Expires 04-14-2015



Applied

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COMMON PLEAS COURT
3 Isaac Jerome Walker,)
4 Applicant,) TRANSCRIPT OF RECORD
5 -vs-) 2010-CP-42-5623
6 The State.) December 6, 2011
7 Spartanburg, South Carolina
8
9
10

11 B E F O R E :
12 HONORABLE J. MARK HAYES, II, JUDGE
13
14

15 A P P E A R A N C E S :
16 RANSOME A. COLEMAN, ESQUIRE
17 Attorney for the Applicant
18 SUZANNE H. WHITE, ESQUIRE
19 Attorney for the State
20
21

22 Linda D. Moffitt
23 Circuit Court Reporter
24
25

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
A-A	Letter		9
A-B	Email		
A-C	Affidavit		34

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
S-A	Copy of sentence		48
S-B	Copy of indictment		48
S-C	Preinterrogation waiver form		48
S-D	Copy of sentence		57
S-E	Email		78
S-F	Email		78

1 THE COURT: We are going to go on the record in the
2 matter of Isaac Jerome Walker vs. the State.

3 I believe that this is an application for post
4 conviction relief.

5 MS. WHITE: Yes, Your Honor. Isaac Walker vs. the
6 State of South Carolina. He is represented today by
7 Mr. Randy Coleman.

8 Mr. Walker was indicted in December '06, January '07
9 for burglary first degree, ultimately proceeded to trial
10 represented by Ms. Kathy Hodges and was found guilty
11 January 23rd of 2008 and received a sentence of 25 years.

12 A motion for reconsideration, a motion for new trial
13 was filed. The sentence was ultimately reduced to 22
14 years.

15 An appeal was filed on Mr. Walker's behalf. An Anders
16 brief was filed. And Mr. Walker voluntarily withdrew his
17 appeal. The remittitur was submitted October 22nd of 2009,
18 and this application was filed October 20th of 2010.

19 There have been two amendments. And, Your Honor, I'm
20 going to pass up -- I believe for some reason the first
21 amendment is not in your packet. So if you can if you'll
22 allow me, I'm going to pass this up.

23 But I do believe that Mr. Coleman and Mr. Walker have
24 gone through and clarified some issues. So I will turn it
25 over if it's okay to Mr. Coleman at this time to let him

1 speak as to what they're proceeding on today.

2 THE COURT: All right.

3 MR. COLEMAN: Thank you, Your Honor.

4 Your Honor, there were quite a few issues raised in
5 both the initial application, the first amendment and the
6 second amendment.

7 We've investigated and researched, and we have
8 narrowed it basically down to I'll say two issues, the main
9 issue being an offer of guilty plea that the applicant
10 alleges he never received and would have taken had he been
11 given it.

12 The second issue is really just an issue as to one of
13 the charges to the jury on the hand of one being the hand
14 of all. And those are the two issues we have, Your Honor.

15 THE COURT: All right. Thank you for providing that
16 to the Court.

17 Are you ready to call your first witness?

18 MR. COLEMAN: I'd like to make sure the record is
19 complete, Your Honor.

20 MS. WHITE: Your Honor --

21 MR. COLEMAN: Your Honor, I just want to make sure the
22 record is complete and preserved.

23 We have a transcript of the trial, the trial on the
24 burglary first. We also have a transcript from a video
25 deposition of a Mr. Irby Sumner that was -- we finally was

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 able to locate it. But I just want to make sure that's in
2 there as well.

3 THE COURT: I do have the transcript of the proceeding
4 below, and then I also have a video testimony of Irby
5 Summers [sic] that's been transcribed.

6 MR. COLEMAN: Yes, Your Honor. I will call Isaac
7 Walker.

8 ISAAC JEROME WALKER, having
9 been first duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. COLEMAN

11 Q To begin with, Isaac, I'd like for you to -- it can be
12 a good thing for the Court to know a little bit of the
13 history of this case.

14 I believe you were arrested on September 6th of 2006;
15 is that correct?

16 A Yes. I was.

17 Q And you were incarcerated, is that correct?

18 A Yes, I were.

19 Q And you were charged. What were you charged with?

20 A My original charge was grand larceny.

21 Q All right. And these charges on grand larceny, they
22 arose out of an incident at the home of Mr. Irby Sumner, is
23 that correct?

24 A Yes, it did.

25 Q And as a result of the incident there some guns were

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 taken, were they not?

2 A Yes, there was.

3 Q All right. Now, when was the first time you met with
4 your public defender?

5 A It was around December the 18th of 2007 if I'm not
6 mistaken, because he called me on the phone and told me I
7 needed to come to the office.

8 Q All right. Let's not get too far ahead of ourself.
9 But you're sure in your date of 2007, because the arrest
10 was 2006, is that correct?

11 A That's the first time I ever met her.

12 Q All right. Had you had any discussions or
13 conversations with your public defender before that?

14 A Never until she called me on the phone.

15 Q Now, in this case you never went to a preliminary
16 hearing in this matter, I don't believe.

17 A I was never -- I put in for a preliminary hearing at
18 the county for the charge of grand larceny that I waited on
19 after I made bond. I was never given one.

20 Q All right. Let's -- let me just clarify another
21 thing.

22 When did you make your request for a public defender?

23 A When I went to court and the judge set me a bond. I
24 mean, when I went to court he told me what the bond was.
25 Right?

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 Q Uh-huh.

2 A And then he asked me did you want to put in for a
3 public defender. I said I'd like to have one in case I
4 can't afford a lawyer on the grand larceny charge.

5 Q All right. Now, from September 6th -- you bonded out
6 when?

7 A I bonded out Sept -- October the 15th of 2006.

8 Q 2006. All right.

9 MR. COLEMAN: Now, Your Honor, I would like to mark
10 this I guess as Exhibit A.

11 (Letter marked Applicant's Exhibit A.)

12 Q Let me ask you something. Why don't you tell me what
13 this is, Isaac?

14 A This is an affidavit. I mean, this is a letter
15 apparently that Ms. Hodges had received from the
16 solicitor's office on October 11th of 2006.

17 Q All right. Let me ask you something. So when is the
18 first time you saw that offer or, well, saw that piece of
19 paper?

20 A The first time I saw this piece of paper is when I
21 talked to you. I asked if -- I asked you. I said,
22 "Mr. Coleman, I need you to subpoena my case file from
23 Ms. Hodges." Because I wrote Ms. Hodges and I asked for my
24 case file. The only thing she sent me was a Rule 5. And I
25 asked her. I said I want my statements that I brought to

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 your office and that I gave you and I'd like to have my
2 complete case file to find out why I was indicted on first
3 degree burglary when I was out on bond on grand -- grand
4 larceny.

5 Q All right. Just one matter.

6 A Okay.

7 Q We don't have a sound man here.

8 A Okay.

9 Q So I think if you just sit up straight and talk --

10 A Okay.

11 Q -- everybody can hear you.

12 A Talk into the mic like. Okay.

13 Q There you go.

14 A I'm nervous a little bit. That's all.

15 Q I want to clarify.

16 MR. COLEMAN: This has already been entered in as
17 Exhibit A, correct? There you go.

18 Q Okay. Well, let me read to you what it says. And
19 this is -- by the way, it says October, but it has no date,
20 is that correct?

21 A Yes, but --

22 Q Okay. And it is to Ms. Hodges. And I'm just going to
23 read the relevant -- the part relevant to you.

24 "I had pulled the two files that we talked about and I
25 have copied the files for you. My offers in these cases

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 are as follows: Isaac Walker. My offer is to allow him to
2 plead straight up as charged. If he does not wish to plead
3 straight up to grand larceny one to five K, I will be
4 direct indicting this case as a burglary first."

5 A Yes.

6 Q Okay. At any time did your public defender contact
7 you to discuss this offer?

8 A She never did. Like I say, again, I got that from --
9 when I got my case file from you this year I saw it in
10 there, and I notified you of that fact.

11 Q All right. Your indictment is in the file, Isaac.
12 And according to your indictment you were indicted -- you
13 were indicted on first degree burglary. And that
14 indictment was handed down, true billed, on
15 December 28th of 2006.

16 A Uh-huh.

17 Q Did you receive any notice from anyone that you had
18 been indicted?

19 A No, I did not.

20 Q When was the first time that you heard or received any
21 notice or any news that you had been indicted on burglary
22 first degree?

23 A When I found out I was indicted on burglary first
24 degree I was sitting at home in my bed. My mama come in
25 there and got on -- got me on the phone and told me it was

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 a lawyer from the public defender's office wanted to talk
2 to you. I got on the phone.

3 she told me who she was, introduced herself, told me
4 that I had her as a public defender. "I will represent you
5 on a charge of burglary in the first degree."

6 At that time I told her on the phone, "Ma'am, you need
7 to check your books. I do not have a burglary charge. I'm
8 out on bond on grand larceny. Ruby Rice got me out on a
9 \$2,500 bond that my mama paid her. I do not have a
10 burglary charge." And then again I told her. I said,
11 "Ma'am" -- I'm going to tell you what I told Ms. Hodges.
12 She'll tell you right what I told her.

13 I said, "Ma'am, don't mistake me to do what I asked
14 you to do not -- what I want you to do, but do what I need
15 you to ask me to do because I do not have a burglary charge
16 in the first degree. I have a grand larceny charge."

17 THE COURT: Mr. Walker, if you would, if you could sit
18 back.

19 THE WITNESS: Oh.

20 Q You can just sit straight up.

21 A Okay. All right.

22 Q All right. So you were completely caught off guard
23 about this burglary first.

24 A I was.

25 Q We can hear you.

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 A Oh, I was completely caught off guard.

2 Q All right. And, in fact, you were so caught off guard
3 that you -- you argued with the public defender.

4 A We -- we argued. We argued because I told her. I
5 told her.

6 I said, "Ma'am, I'm out on bond for grand larceny. I
7 do not have a burglary charge."

8 Then she told me. She said, "Solicitor directly
9 indicted you for first degree burglary. You need to come
10 to my office. You got -- he offered you a plea. You
11 got -- he offered you a plea on the 18th and give you one
12 day to accept the plea."

13 He said -- and she said, "If you don't accept the
14 plea -- accept these two pleas to two different
15 burglaries -- you will go to trial on a burglary first
16 degree, Mr. Walker." She said, "You could possibly face 25
17 or life."

18 I said, "Ma'am, again, I do not have a grand larceny
19 charge."

20 We argued on the phone. She got mad at me.

21 I told her. I said, "Ma'am, the state pays you to do
22 what I need you to do. I do not have these charges. I'm
23 out on bond for grand larceny."

24 She said, "Well, Mr. Walker -- Mr. Walker, the
25 solicitor directly indicted you for burglary."

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 I said, "Well, ma'am, I'm out on a grand larceny
2 charge. How can I have a charge of burglary in the first
3 degree?" And that's what I told her on the phone and we --

4 Q All right. I understand.

5 A Okay.

6 Q Clear that you are upset.

7 A Just --

8 Q But try to remain calm.

9 A Yes.

10 Q And we're going to -- so that we can clearly and
11 precisely and concisely let the judge --

12 THE WITNESS: Yes. Sorry, Your Honor.

13 Q I want to -- I want to clarify. All right. So you've
14 testified from when you were arrested until you bonded out
15 you did not hear from your public defender.

16 A No. I did not.

17 Q All right. From the time you bonded out until, let's
18 say, January when this indictment was handed down you
19 didn't hear from your -- January -- January of 2007, is
20 that correct?

21 A I -- January. I heard from her in December of 2007
22 when she said I was indicted for burglary in the first
23 degree.

24 Q And that's the first time.

25 A That's the first time. And I have it in my paperwork

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 marked. I got everything in my paperwork marked.

2 And if I pull it out I can show you in an email that
3 when she talked to the solicitor -- this is the first --
4 she told the solicitor, "well, this is the first time
5 Mr. Walker appeared on the docket for some of these
6 charges."

7 She told Bob Coler in his email. She said, "well,
8 Mr. Walker is not going to understand this whatsoever. I
9 will try my best to convey this to him."

10 And she told the solicitor, "Mr. Walker is not going
11 to understand this over the phone." And I didn't
12 understand it then, but I understand it now.

13 The reason I understand it now is when you sent me my
14 case file I searched it, and I found the truth. And I
15 found that plea offer that I was never given. And I would
16 have took that plea offer before I'd face a charge of 25
17 years to life.

18 Q Okay. well, let's --

19 A I hate -- okay, okay.

20 Q Let's go back to this plea offer to plead straight up
21 to grand larceny that you were arrested for.

22 This is the question. Would you have taken that plea?

23 A I'd have run to the courthouse and pleaded to it, Your
24 Honor. I'd have walked down here just to plead to it
25 before I face a charge of 25 years to life. Anybody in

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 their right mind would've. I would would've.

2 Q Well, we might as well get into this right now,
3 because you have been convicted in the past.

4 A Yes, I have.

5 Q And when you were convicted of burglary first on this
6 indictment there's quite a long list of things that were
7 read at your sentencing phase.

8 A Yes.

9 Q I'm looking at page 159 --

10 A Yes.

11 Q -- of the trial transcript.

12 A Yes.

13 Q There's actually beginning on 158. You've got back
14 from 1988 -- you've got a conviction for driving under the
15 influence.

16 A Yes.

17 Q 1991, convictions for driving under the influence,
18 failure to surrender driver's license. There's a whole
19 litany here.

20 A Yeah. And I was guilty and I pled guilty.

21 Q And these are all here. That's my question.

22 A Yes.

23 Q Are all of these guilty pleas?

24 A All of them guilty pleas, every one of them, every one
25 of them.

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 Q Now, Mr. Walker, I think you were pretty adamant
2 around the circumstances of this incident at Mr. Sumners'
3 house.

4 A Yes.

5 Q There were two of you.

6 A Yes.

7 Q And it was you and a woman named Lisa Godfrey.

8 A Yes, it was.

9 Q All right. It's my understanding Lisa said that you
10 stole the guns.

11 A Yes.

12 Q And of course you were adamant that she stole the
13 guns.

14 A Yes.

15 Q All right. Now, someone would think that if you knew
16 you didn't steal anything --

17 A Uh-huh.

18 Q -- that you'd be slow to plead guilty. But tell --
19 tell this Court. Explain to the Court why you would have
20 pled guilty to grand larceny in this case --

21 A Uh-huh.

22 Q -- and why.

23 A The reason I would have pled to grand larceny is
24 because I took her out there. Got out there, she didn't
25 want to give me my gas money, and I didn't have no gas

1 money.

2 I asked the man. I said, "Well, I mean, I'm going to
3 go." I actually walked up to the man. I said, "Hey, how
4 you doing?" I said "How are you doing, sir? Any way
5 possible that I could borrow \$5 for gas?"

6 I said, "I'll leave you my car title and I'll come
7 back and I'll pay you." That's what I told him.

8 Q All right.

9 A And I got to say this for the record. They said I
10 walked up to the man and told him I had been robbed and
11 this and that, and all of this and that.

12 What the truth of the matter is during all of that
13 brief conversation -- he was a nice man. We talked. I
14 told him. I said -- I introduced myself and told him who I
15 was, and my driver's license.

16 I said Mr. So and So. When he told me who he was, and
17 said, well, hey. Well, I showed him my driver's license.

18 I said, "Mr. Sumner, I could leave you my car title to
19 my car, and I'll come back and I'll pay you \$5." I said --
20 I was thanking him for letting me borrow.

21 During our -- during our brief conversation we had
22 been talking.

23 I said, "Well, well, man," I was -- this is what we
24 was talking and what it led up to, me telling him I had
25 been robbed, and we was talking. I said I didn't know, you

1 know, on nothing like that.

2 And we was sitting there talking and started briefly
3 again, and I said, "Well, man I was just recently robbed
4 and carjacked."

5 Q Okay.

6 A And-but -- but can I say this right fast?

7 Q If you would.

8 A Then I said I was just recently robbed and carjacked,
9 recently. I said well. I was telling him. I said, "The
10 cop put the man in jail and, you know, just thank God he
11 didn't kill me."

12 Then we laughed and joked a little, and then she got
13 outta the car. She said she going to go in there and ask
14 could she go to the bathroom.

15 And she -- and he told her yeah. She went in the
16 bathroom. About six or seven minutes later he went in
17 there to see what's taking her so long.

18 So they come back out on the porch. And she -- I was
19 talking to them for a minute, and then she was standing
20 there.

21 I said, "Well, Mr. Sumner, you have a nice day." And
22 I went out there and got in my car. Then we got to go.
23 Then she said, "Can I get some water?"

24 I went out there and got in the car, and she goes in
25 to get water. I'm thinking she's coming right out. I'm

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1 out there sitting playing with my C.D. player in my car.

2 She goes in and gets water.

3 And he goes in there where she was. I didn't see him
4 any more; I didn't see her any more.

5 Ten minutes later I saw her walking from the back
6 right side of the yard carrying two guns to my car. Opened
7 the back door and put them in the car. I freaked out, and
8 I left.

9 If I'm guilty of anything I'm guilty of panicking and
10 leaving when she brought them out there to the car. But I
11 did -- I'd like to say this for the record. I have to,
12 because I been down four -- almost four and a half years to
13 tell this story.

14 And I left. Like I was telling them, she lied and put
15 the guns in my car and lied. And I saw guns. I'm freaking
16 out, and I left.

17 Q All right. So --

18 A Huh?

19 Q Let me ask you a few questions.

20 A Yeah.

21 Q The reasons for you -- that you would have pled guilty
22 to grand larceny -- you and Lisa Godfrey went to the house
23 together.

24 A Yes.

25 Q You were there together.

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1 A Yes.

2 Q You left together.

3 A Yes.

4 Q And you left with guns.

5 A Yes.

6 Q You were -- the solicitor gave you an offer for grand
7 larceny.

8 A Yes.

9 Q To plead guilty straight up to grand larceny.

10 A Yeah.

11 Q One to five thousand.

12 A Yes.

13 Q Or he was going to direct indict you for first degree
14 burglary. Do you know what first degree burglary carries?

15 A Yes. It carries 25 to life, because that's what she
16 told me. I said, "What? why am I going to plead to 25 to
17 life?"

18 She said, "Mr. Walker, do you understand what
19 indictment is? You've been direct indicted."

20 Q Okay. Well, let's go back --

21 A Okay.

22 Q -- to October of 2006 when the offer, this offer, was
23 made.

24 Had you -- had it been explained to you that you were
25 facing 25 to life if convicted for first degree burglary?

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1 A I got to tell you this. I was never charged with
2 burglary. I never knew anything about a first degree
3 burglary, period.

4 All I know is I was out on bond from Ruby Rice Bail
5 Company for \$2,500 bond for grand larceny.

6 And I'm going to say this. I asked for a preliminary
7 hearing on a grand larceny charge, and I never got it. But
8 I got to say this. I went to roll call on October -- on
9 11/21/2006 I went to roll call.

10 When I went to roll call I stood out there in line for
11 grand larceny in line. Went up to the things, because I
12 know I didn't want no bench warrant, so I know I'm coming
13 to court. I didn't want to go to jail on no bench warrant.

14 So when I went in the other courtroom over there I
15 went up to the solicitor and told him who I was and said
16 I'm here for roll call. He looked at the paperwork and
17 checked me off and said we're going to reschedule it and
18 you'll be notified when to come back to court for the next
19 roll call. I said okay.

20 When I done that I went over there and told my
21 probation officer. I said, "Thank God, I didn't have to go
22 today." And I did tell my probation officer. I said,
23 "Man, I might have to get you to write me something
24 because, boy, I go in there and plead to this and take a
25 trial on this grand larceny charge, they're going to throw

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1 the book at me. If I go in there and plead -- I'm going to
2 go in there and plead and that way get you to write
3 something on my behalf and that way the judge might give me
4 zero to ten. He might not give me the whole ten. But,
5 what, I'm going to go plead to something?"

6 Q Back to the question. So you would have taken the
7 plea of grand larceny.

8 A Yes. I would have run to the courthouse and accepted
9 the plea from the solicitor if I'd been notified. I can't
10 plead to nothing I wasn't notified of.

11 Q Thank you.

12 Now, you were offered another plea.

13 A Yes, I was.

14 Q Let me find that one.

15 MR. COLEMAN: Your Honor, I guess we will mark this
16 Exhibit B.

17 MS. WHITE: No objection from the state, Your Honor.

18 THE COURT: Without objection. Exhibit B is what?

19 MR. COLEMAN: Well, this is a correspondence, sir.

20 (Email marked Applicant's Exhibit B.)

21 Q This is -- all right. Exhibit B. I'm going to show
22 you this, and if you will confirm for me --

23 A Uh-huh.

24 Q -- these are some emails.

25 A Yes.

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Direct examination by Mr. Coleman

- 1 Q A string of emails from your public defender, Kathleen
2 Hodges --
- 3 A Yes, it is.
- 4 Q -- and Mr. Coler with the solicitor's office. Let's
5 see. Between December 18th of 2007, now.
- 6 A Yes.
- 7 Q All right. To December 19th.
- 8 A Yes.
- 9 Q All right. Attached to this is a letter from the
10 solicitor's office.
- 11 A Yes, it is.
- 12 Q It's dated 12/18/07.
- 13 A Uh-huh.
- 14 Q It is to Kathy Hodges.
- 15 A Yes.
- 16 Q And it is in your case. It is an offer --
- 17 A Uh-huh.
- 18 Q -- for you to plead guilty to burglary first on the
19 indictment that you were tried on and also to burglary
20 second nonviolent.
- 21 A Uh-huh.
- 22 Q And an indictment from '04 -- from 2004.
- 23 A Yes.
- 24 Q Indictment 04-4549.
- 25 A Uh-huh.

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1 Q And you were given -- this is dated 12/18. You were
2 given until 12/19 to accept.

3 A I was given one day, yes.

4 Q All right. Now, is this the time period in which you
5 first spoke with your public defender?

6 A Yes, it is.

7 This went -- this is what I'm going to go back when
8 she called me on the phone in December and told me who she
9 was and told me that I -- I had a first degree burglary.
10 "Mr. Walker, you got one day to accept this plea. If you
11 accept this plea to burglary second and burglary second
12 nonviolent -- two different burglaries on two different
13 cases."

14 Q Okay.

15 A Do you want me to tell you what I told her?

16 Q If it's -- if it please the Court, yes, sir.

17 A I told her. I said, "Ma'am, I do not have no burglary
18 charges. You want me to -- you say I'm indicted for first
19 degree burglary. But I got one day to decide to accept two
20 pleas for two different other burglaries in order to
21 avoid -- to avoid going to trial for a first degree
22 burglary. First off, ma'am" -- I told her -- "First off I
23 do not have a first degree burglary." And I told her, "I
24 don't have a second degree burglary and I don't have a
25 burglary second nonviolent."

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1 I told her that I went to the preliminary hearing with
2 my mama in 2004. Christopher Brough was my public defender
3 at my prelim that day. He had give me that time when I
4 couldn't afford to do it.

5 Christopher Brough told me and my mama after he told
6 the solicitor -- the Christopher Brough told the judge
7 that's doing -- doing my preliminary hearing. He said,
8 "How can you charge this man with burglary when he don't
9 even fit the description? The man that you -- the man
10 described is 130 pounds to 135 pounds, 5'6" to 5'7"."

11 Christopher Brough said, "Mr. Walker don't even fit
12 the description. Mr. Walker is clearly 6'6" about
13 195 pounds."

14 The judge dismissed the charge. He told me I was free
15 to go.

16 Q Let me --

17 A And let me know --

18 Q And that was in '04.

19 A That was in '04.

20 Q And it was dismissed at the preliminary hearing.

21 A It was dismissed at the preliminary hearing.

22 Q Did you hear anything more about that before -- before
23 this?

24 A I -- no. I ain't heard one word about that. I didn't
25 even think it exists.

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 Q But they -- the solicitor offered that you -- a guilty
2 plea of burglary second violent and burglary second
3 nonviolent.

4 A And I rejected it.

5 Q Okay.

6 A What I -- now, I'm going to say this for the record.

7 Yeah. They offered me this, and it's -- and it's in
8 paperwork that I rejected it. It ain't nothing in
9 paperwork that I rejected the -- the open plea in court to
10 grand larceny.

11 Like I say, again, for the record, I would have
12 accepted this plea. Ain't no way around it considering the
13 circumstances of the case. I took her out there. She
14 brought them guns. I was in my car.

15 I'm going to say this for the record. I did not aid
16 and abet her no matter what the -- what the inmate say. I
17 was sitting in my car listening to my C.D. player.

18 When she brought the guns out to the car -- I'm going
19 to say this for the record. I freaked out and I panicked
20 and I left.

21 If I'm guilty of anything, I'm guilty of accessory
22 after the fact or pleading to a lesser included offense of
23 grand larceny. Even though I never committed a larceny, I
24 would have pleaded to it before I'll face a charge to 25
25 years to life and being placed on the 11-degree yard -- oh,

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1 I'm sorry.

2 Q That's all right. If you'd just --

3 A But can I say something about that email also?

4 Q The email, yes.

5 A Can I say something about this email? Will you let me
6 see it for a second?

7 Q This is Exhibit B.

8 A Exhibit B.

9 Q All right. What are you looking at?

10 A Let me -- let me show you something in this email.

11 Now, from what I'm reading and understanding
12 Ms. Hodges was surprised about this email because she told
13 the solicitor herself. I got to read it.

14 Q Why don't you read it?

15 A I want to read it for the sec -- for the jury and for
16 her and for the judge if I may.

17 Q Please.

18 A She was even surprised herself. She told the
19 solicitor this is the first time he has appeared on the
20 docket for some of these charges.

21 She told him. She said, "I will do my best to convey
22 this to him." She said, "I have a ton of stuff to get
23 organized and cleared in order to have my entire office
24 packed up the end of the day since the movers -- movers
25 will be here the first thing on December the 27th."

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1 she said, "I have been pulled from pillar to post by
2 the solicitor's office for the past several terms of court.
3 Since tomorrow is the last day to do pleas and Mr. Walker
4 is out of jail, I'm not sure that I see the urgency at this
5 point."

6 Now, I want to read this.

7 Q well, before you do --

8 A Okay.

9 Q -- so we can clarify for the record --

10 A Okay.

11 Q Can -- will you also read the date of that email --

12 A Okay. Yes.

13 Q -- from Kathleen Hodges to Bob Coler? What's that
14 date?

15 A Okay. Ms. Kathy Hodges sent this to Bob Coler. He's
16 not going to understand this. He's not going to understand
17 this and -- and he's not going to understand this over the
18 phone what -- like Bob Coler said, "well, try your best to
19 convey this to him the best you can."

20 she said, "well, he's going to have come to my office
21 for me to try to make him understand it," when I never
22 understand it to this day.

23 But I'd like to say this. The day she sent this to
24 Bob Coler was December 18th of 2007.

25 Q All right. Now, you had a codefendant --

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1 A Yes, I did.

2 Q -- that we mentioned here, Lisa Godfrey.

3 A Yes, I did.

4 Q And there was back and forth. She claimed that you
5 went in the house. You denied that.

6 A Yes, she claimed that I went in the house and done
7 this and done that and the other.

8 She even -- she even stated to the cops that she even
9 seen me break in six or seven houses, break in four or five
10 cars, but yet I didn't have any stolen things in my car
11 whatsoever except for these guns she brought out to my car.
12 I'm sorry for talking in the mic so loud.

13 Q Thank you.

14 All right. You've obtained, have you not, a sworn
15 statement from Ms. Godfrey?

16 A Yes, I have.

17 MR. COLEMAN: Your Honor, I'd like to mark this
18 Exhibit C.

19 MS. WHITE: Your Honor, I am going to object to this
20 statement coming in as hearsay.

21 Ms. Godfrey is not here to authenticate any of this
22 statement. They are offering it for the truth of the
23 matter, and I would object to it being entered at this
24 time.

25 MR. COLEMAN: Your Honor, we're -- well, I'll let you

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1 read it if without objection. I think it's -- or at least
2 to get it on the record pending your ruling on whether it
3 will be admitted -- have Mr. Walker read it to identify it
4 and to get it in the record.

5 MS. WHITE: I mean, he can look at it to identify that
6 that's the statement that he had received.

7 MR. COLEMAN: Your Honor, let me -- yes, please.

8 Let me -- Lisa Godfrey is incarcerated in Greenwood,
9 South Carolina, down at Leith. All I have as proof of that
10 is what I printed out this morning on the website for the
11 South Carolina Department of Corrections. She's still down
12 there. So her presence here today would have been possible
13 but certainly not convenient for anyone.

14 Your Honor, I will just rely upon the judge's
15 discretion based upon the P.C.R. statute allowing cases to
16 be heard by affidavit and somewhat -- I submit this is an
17 affidavit being a sworn statement and --

18 MS. WHITE: Well, Your Honor, I would note too that
19 she doesn't swear under penalty or perjury or law. It says
20 it's sworn and subscribed. A notary signed it. We have no
21 knowledge that this is something that she actually signed.

22 I mean, there's really no authentication that this is
23 a statement from her. She's not here to say anything in
24 support of it.

25 They're offering it for the truth of the matter.

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1 She's not an unavailable witness under any of the
2 exceptions.

3 THE COURT: All right. Well, lay a foundation for it,
4 and let me hear what it is that you're trying to do with
5 this thing.

6 MR. COLEMAN: Your Honor, one of my other arguments
7 will be the hand-of-one, hand-of-all charge that was given
8 to the jury.

9 This case is really pretty much very circumstantial.
10 There was no eye witness identification of the parties at
11 the scene, the evidence tying these two individuals to the
12 house where the guns were found in their car.

13 There was circumstantial evidence as to the roles of
14 the party in this matter. The jury was kind of left
15 with -- with testimony that, okay, we've got two
16 individuals, a man and a woman that were talking to a man.

17 The -- there was conflicting testimony at the trial.
18 One -- the victim testified that, no, Mr. Walker did not go
19 into the house.

20 His daughter who was 200 feet away next door at her
21 house, she got on the stand and she testified that she saw
22 Walker step into the house.

23 I think that Ms. Hodges did a good job of impeaching
24 that witness based upon prior inconsistent statements. So
25 there was reasonable doubt there about him having gone into

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1 the house and having stolen the gun.

2 THE COURT: I think he -- I guess what I meant -- can
3 you -- are you going to have anybody to testify as to how
4 this statement was gathered and --

5 MR. COLEMAN: Oh, no, no. All I have is the stamped,
6 sealed stamp, of the notary, Your Honor.

7 That's -- this was a statement that was -- was
8 solicited and sent to me notarized and stamped and sealed
9 by the notary.

10 THE COURT: Did you solicit it from her, or did the
11 witness?

12 MR. COLEMAN: I did not -- I did not solicit. This
13 particular document was originally handwritten. I simply
14 typed it up exactly as it was handwritten and sent it back
15 down to her at Greenwood.

16 THE COURT: Where did you get the handwritten
17 document?

18 MR. COLEMAN: The handwritten document was provided by
19 Mr. Walker's mother. And that original has been lost.

20 THE COURT: All right. I will allow you to proffer it
21 into evidence. So I would not consider it for the truth of
22 the matters asserted in the statement, but I would allow it
23 to be proffered into evidence where it can be used for some
24 other purpose.

25 THE WITNESS: Your Honor, can I -- can I go with my

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1 lawyer?

2 MR. COLEMAN: Let's -- should I mark it?

3 THE COURT: Yes, sir. You may mark it.

4 MR. COLEMAN: The next exhibit please.

5 (Affidavit marked Applicant's Exhibit C.)

6 Q And this is what's been marked Exhibit C, and this
7 is -- can you confirm that that's a statement of Lisa
8 Godfrey?

9 A It says --

10 Q Hold on.

11 MR. COLEMAN: May he read it just for proffer?

12 A May I read it? It says --

13 Q Wait a minute. Hold on. Let the judge rule.

14 THE COURT: Is he going to identify it as being her
15 statement?

16 MR. COLEMAN: Yes, sir.

17 THE WITNESS: Yes, sir.

18 THE COURT: Well, let's --

19 MR. COLEMAN: Of course he cannot testify to that
20 first hand other than --

21 THE COURT: I'm going to let him read it --

22 THE WITNESS: But --

23 THE COURT: -- because it's --

24 MS. WHITE: Your Honor, I mean, this is directly --
25 it's a statement against her interest. It's actually

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1 directly opposing what she testified at trial.

2 THE WITNESS: She never testified at trial.

3 MS. WHITE: Excuse me. What her statement said --

4 MR. COLEMAN: Hold on.

5 MS. WHITE: -- that she provided prior to trial. But,
6 you know, that's -- you know, it is a statement against
7 interest as well, I would submit, but --

8 THE COURT: All right. Okay. We'll let him read it.
9 It's a short statement.

10 THE WITNESS: Thank you, sir.

11 Q Read it real quick.

12 THE WITNESS: Thank you so much, Your Honor.

13 THE COURT: Give it what --

14 THE WITNESS: This is a statement from my codefendant
15 but I'm -- I'm --

16 THE COURT: Just read the statement.

17 Q Just read it.

18 A Okay, okay. Said, "I, Lisa Godfrey, was with Isaac
19 Walker on 9/5/06 and stopped at Mr. Sumner's residence.
20 Mr. Sumner was sitting on his porch." She said, "I asked
21 to get a drink of water and saw two rifles on the wall."
22 She said -- she said -- she said she saw two rifles on the
23 wall. "I took -- I took the filed [sic] one out the back
24 door and placed them in the -- in the vehicle." She said,
25 "Isaac Walker did not take -- take these guns." She said,

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1 "I'm giving this statement. I'm giving this statement
2 freely and intelligently without anyone forcing or offering
3 me any -- any kind of deal."

4 Q All right.

5 MR. COLEMAN: Your Honor, our last argument really
6 goes to the transcript and what's in the transcript as far
7 as the charge of the jury and to the transcript, although
8 there's really nothing for Mr. Walker to testify to.

9 Q Mr. Walker, is there anything else you'd like to tell
10 the Court?

11 A Yeah. I'd like to say that if I could go back and
12 change this, I could, if I would. But being on a level-3
13 yard with 22 years and having to wake up every day and
14 knowing that I didn't take these guns and knowing that I
15 panicked when she brought them guns out to the car and got
16 all of this time for a crime that I did not commit and
17 everything I had to go through, I ask that Your Honor see
18 the truth in this matter.

19 And I'd also like to say -- I'm a little nervous --
20 but I'd like to say I considered the circumstances of me
21 panicking and leaving when she brought them guns over to my
22 car and put them in there and I helped to get them in the
23 car, I would have accepted the plea again to grand larceny
24 if she had of informed me.

25 I even wrote the county jail from Spartanburg County.

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1 I asked would they send me a log sheet from the mail room
2 of any letter that she could have, may have, sent me to the
3 county jail. They said they didn't have anything on file
4 that she sent me. And I said, well, do you have a log book
5 of where she visited me. They said it is not to be found.

6 She was not around October 11th when she -- when she
7 got this plea, October 11th of 2006 -- I was in the county
8 jail. I didn't make bond until October 15th. And I made
9 bond three -- after she got the charge on October the
10 15th and according to the solicitor-offer he had until
11 October the 25th of 2006 to accept this plea. If he does
12 not accept this plea he will be indicted for first degree
13 burglary.

14 And, again, I'm going to say for the record that when
15 I got out of jail Ms. Hodges had ten days to notify me by
16 October 25th, at that which I never heard anything from
17 her.

18 And I am going to tell you again, when I made bond one
19 stipulation the judge made when I signed my bond -- I am --
20 he told me you make sure you show up at roll call on this
21 grand larceny charge, do, there will be a bench warrant on
22 you and you'll forfeit your bond with Ruby Rice.

23 I told him again. I said I'm going to make sure I
24 show up at roll call and I'm going to make sure I show up
25 at this bond hearing because I don't want no bench warrant

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1 because my mama ain't going to get me out of jail again.

2 And I went to roll call, like I said. And I'm telling
3 you. The solicitor told me. He checked me off. He put --
4 I said make sure you put a star by my name, because I don't
5 want no bench warrant, I can't get you of jail on no bench
6 warrant. He put a star by my name and checked me off. He
7 said I'll notify you letter when to come back to court, the
8 court date has not come up yet.

9 And all of a sudden, December, she called me and
10 telling me I got a burglary charge. Man, I'm sorry. But
11 she knows I been having on the phone. She know it. We
12 argued. And it ain't right.

13 Q Let me ask you. All right. Have you anything else
14 that you haven't already testified to?

15 A For the record, again, I accepted the plea. I'd have
16 walked to the courthouse to accept this plea before I be
17 back there doing 25 years to life.

18 I want Your Honor to know if you had'a came to me and
19 said Mr. Walker if you don't accept this plea to zero to
20 ten nonviolent for grand larceny you will face 25 years to
21 life -- anybody in their right mind with common sense would
22 have walked to the courthouse just to be here to take that
23 plea and been happy to have took this plea.

24 Q Answer any questions Ms. White has.

25 A Okay.

Isaac Jerome Walker
Cross-examination by Ms. White

1 MS. WHITE: Thank you.

2 CROSS-EXAMINATION

3 BY MS. WHITE

4 Q I guess one of my first questions is you're very
5 adamant that you would have taken a plea to zero to ten.
6 But you turned down a zero to 15.

7 A I turned down zero to 15? No.

8 Q Is that not correct? Burglary second violent.

9 A No. I did not turn down a zero to 15. She told me --
10 I'm doing -- I be going to prison doing 15 years. I didn't
11 know nothing about no zero to 15. And basically when they
12 said burglary, she said, well, Mr. Walker you going to
13 plead to burglary. You've got two burglaries. And she
14 said, ma'am, you're going to plead to burglary, you going
15 to plead to burglary second, and I want you to plead to
16 burglary second nonviolent.

17 Q All right. Let me ask you real quick.

18 You testified earlier that you were offered the plea
19 and you went over the plea statement in Exhibit B where Mr.
20 Coler offered you burglary second violent on the burglary
21 first charge, is that right?

22 A Yes, ma'am.

23 Q Okay. And burglary second nonviolent on the burglary
24 second nonviolent --

25 A From '04.

Isaac Jerome Walker
Cross-examination by Ms. White

1 Q -- indictment, is that right? Just answer yes or no.

2 A Yes, yes, it was.

3 Q Okay. So those two pleas were offered to you December
4 of '07, is that right?

5 A December the, I think, 18th or 19th when she called
6 me.

7 Q Right. And --

8 A And I rejected them.

9 Q Exactly. And that's my question. You rejected those
10 pleas in December of 2007. A burglary second degree
11 violent ranges from zero to 15, is that right?

12 A Ma'am, I don't -- at that time she -- 15 years. She
13 said you're going to do 15 years. I thought 15 years is 15
14 years. I did not know nothing about no zero to 15. The
15 reason I know now is because I've been studying law but --

16 Q But my question is you would have been willing to
17 take -- you're very adamant now that zero to ten you would
18 have taken, the potential for ten. But the five years
19 you're -- that was a no-deal, that was a deal breaker?

20 A A what?

21 Q A difference between ten and 15 years was a deal
22 breaker for you?

23 A The burglary -- any burglary, I was not going to plead
24 to, because I wasn't charged with burglary. I was charged
25 with grand larceny, and that's what I was going to plead

Isaac Jerome Walker
Cross-examination by Ms. White

1 onto.

2 Q Okay. So it wasn't necessarily at the time. You
3 didn't like the fact that it was a burglary charge?

4 A At the time of the burglary I didn't have a burglary
5 charge. I couldn't understand what happened to my grand
6 larceny charge.

7 But I knew. I know what happened to my grand larceny
8 charge. I wasn't informed of the plea, and the solicitor
9 indicted me because I was -- I didn't, did not, know about
10 the plea. I was -- I did not know about the plea. I'd
11 have never had either of these charges but the grand
12 larceny charge if -- if I'd been informed.

13 Q Okay. And you were originally indicted for -- you
14 were directly indicted for this burglary first
15 December 28th of 2006, is that right?

16 A Yes, ma'am.

17 Q Okay. And your testimony is that you didn't hear from
18 your attorney until a year later?

19 A Until she called me. Until she called me on the
20 phone. We was arguing. It was December. It was about two
21 weeks before I even went to -- I think it was around the
22 18th or 19th before I even went to -- be -- before. She
23 said, "Mr. Walker, you got one day to accept this plea."
24 And it blew my mind.

25 She said, "Well, Mr. Walker, you've been indicted for

Isaac Jerome Walker
Cross-examination by Ms. White

1 first degree. Mr. Walker, if you don't accept this -- I
2 got a plea and the solicitor give me one day to accept this
3 plea. He said we got one day to accept it.

4 He said if you accept these two pleas two different
5 burglaries -- burglary second violent and burglary second
6 nonviolent -- I said man --

7 Q So the answer to my questions, yes, that you were
8 directly indicted in December of 2006. And your testimony
9 is that you didn't hear from your attorney until a full
10 year later, December of 2007.

11 A Yes.

12 Q Okay. And you are testifying today that you didn't
13 have any information about these charges or anything.

14 Did you ever when you met with Ms. -- Ms. Hodges about
15 this -- did you ever go over any of the discovery of the
16 case?

17 A Ma'am, when I went to her office Ms. Hodges went over
18 my discovery about the burglary.

19 Q Okay.

20 A I said what happened to my grand larceny charge. I'm
21 out on bond for grand larceny.

22 She said, "Mr. Walker, the solicitor -- do you not
23 understand what a direct indictment is?" She said, "The
24 solicitor directly indicted you for first degree burglary.
25 If you accept these two pleas, well, go to trial and face

Isaac Jerome Walker
Cross-examination by Ms. White

1 25 to life." She said, "Don't come crying to me later if
2 you don't take these pleas and you -- and you get sentenced
3 to 25 years to life." She said, "Do not come crying to me
4 later." She said, "Mr. Walker, the bottom line, take this
5 plea." And I told her I was not going to take these pleas.

6 Q And you were pretty adamant about your innocence at
7 the time, is that right?

8 A Yes, ma'am.

9 Q Okay. And are you still adamant about your
10 innocence --

11 A Ma'am --

12 Q -- other than the fact that you, as you said --

13 A Ma'am, I would have pleaded to grand larceny. I would
14 have pleaded to grand larceny.

15 I would not -- like I said, I would not have went to
16 trial on grand -- on burglary first or been offered
17 burglary second or a burglary second nonviolent if I'd been
18 informed about my plea.

19 This would have -- I would never have been in your
20 courtroom today, ma'am. I would not have been here because
21 I'd have accepted the plea, and I'd have never have been
22 indicted for burglary.

23 The reason I got indicted for burglary is because
24 Ms. Hodges did not come to the county jail. She did not
25 send me any letters. She did not notify me of this plea.

Isaac Jerome Walker
Cross-examination by Ms. White

1 If she'd have notified me of the plea I wouldn't be seeing
2 her today. I'd have took this plea.

3 You look at my record, ma'am. I pleaded guilty.

4 Q And you've pled guilty to burglary third in the past,
5 is that right?

6 A Yes, I -- yes, I have.

7 Q And you've pled guilty to numerous shoplifting
8 charges.

9 A I pled guilty to everything that I did, ma'am. I pled
10 guilty. I have no problem --

11 Q I'm just going to ask -- Mr. Walker, I'm just going to
12 ask you to answer yes or no to me for a couple of things.
13 Okay?

14 A Yes.

15 Q You pled guilty to at least -- at least -- I think
16 there was some discussion maybe about whether or not the
17 number was accurate. But at least the state said 19 counts
18 of fraudulent check back in the 90's. You disputed that,
19 right?

20 A Okay. Let me say this for the record, ma'am. My mama
21 here to vouch for me. She's not going to lie for anybody.
22 My car was stolen at the gas station and --

23 THE COURT: I can hear you.

24 THE WITNESS: Okay.

25 A My car was stolen at the gas station in Gaffney.

Isaac Jerome Walker
Cross-examination by Ms. White

1 During that time I had all of my checkbooks and everything
2 in it. And when the police found my car it was way down
3 there in North Charleston. So my insurance paid my car
4 off, and I went and paid all of these checks off. I went
5 and paid them off even though I didn't write them.

6 Like Ms. Hodges -- Ms. Hodges said, "Well, during
7 trial he's -- these check charges is in somebody else's
8 name." The one that stole my car, they got arrested and --
9 and that still went on my record.

10 Q And you pled guilty to them?

11 A And I pled guilty to it and I --

12 Q Didn't you testify earlier that you pled guilty to all
13 of these things and you admitted you were guilty to all of
14 them?

15 A Yes. But Ms. Hodges right there -- can tell you right
16 there. She told the judge -- look on the record and look
17 in my transcript. She told the judge these checks is in
18 somebody else's name.

19 Q Okay. The shoplifting, burglary in the third, petty
20 larceny, possession of cocaine, driving under suspension,
21 possession of a stolen vehicle, petty larceny, false
22 information to police -- those in the early 2000's -- did
23 you plead guilty to those?

24 A Yes, ma'am.

25 Q Okay. And were you guilty of those?

Isaac Jerome Walker
Cross-examination by Ms. White

1 A I was guilty, ma'am.

2 Q Okay. I just wanted to make sure.

3 Now, in regards to the plea, again, you went over with
4 her the discovery. Did you ever have a chance to see Ms.
5 Godfrey's statement that she had written to the police?

6 A What statement? What?

7 Q Ms. Godfrey's statement.

8 A Talking about this right here? Talking about what she
9 told me at office?

10 Q When you met with Ms. Hodges --

11 A Uh-huh.

12 Q -- did she review with you discovery materials from
13 the state?

14 A She went -- she went over my Rule 5 after she -- when
15 I went in her office and when she told me I was charged
16 with direct indictment for burglary, she went over that
17 thing with me.

18 Q And did one -- were some of the materials -- did they
19 include that the statement that your codefendant, Lisa
20 Godfrey, had given the police at the time of her arrest --

21 A Say what, ma'am? Repeat that.

22 Q Did the discovery include the statement that Lisa
23 Godfrey, your codefendant, had given the police at the time
24 of her arrest?

25 A Yes, it did.

Isaac Jerome Walker
Cross-examination by Ms. White

1 Q Okay. I'm going to show you.

2 MS. WHITE: If I can approach, Your Honor.

3 A Uh-huh.

4 Q I just want to let you look at this and see if this
5 looks familiar. Don't read anything, but just kind of look
6 at it and see if this looks familiar.

7 A Yes. It do.

8 Q You remember looking at -- at that?

9 A I remember looking at it.

10 Q Okay. And do you recall that she actually accused you
11 of doing some of the things?

12 A Yes.

13 Q Okay.

14 MS. WHITE: And, Your Honor, if I could, I would like
15 to mark this as State's Exhibit 1 or A, I guess, on the
16 state's side.

17 THE COURT: Without objection?

18 MR. COLEMAN: Without objection.

19 THE COURT: It will be admitted as State's 1 without
20 objection.

21 MS. WHITE: And at the same time, Your Honor, I
22 believe cocounsel or counsel also want -- wanted to put in.
23 This is a certified copy of Ms. Godfrey's sentencing sheet
24 and the indictment for her charges as well.

25 MR. COLEMAN: Without objection.

1 THE COURT: Without objection.

2 (Copy of sentence marked State's Exhibit A; copy of
3 indictment marked State's Exhibit B; preinterrogation
4 waiver form marked State's Exhibit C.)

5 THE WITNESS: Your Honor, am I allowed to ask her any
6 questions?

7 THE COURT: Sir, please do not.

8 THE WITNESS: Oh, okay. Good.

9 Q All right. Now, now, we've got -- we actually put
10 in -- we've got the sentencing sheet as A, the indictment
11 as B and her statement as C.

12 I just want to ask you a couple of questions. First
13 of all, Ms. Godfrey pled guilty to burglary second
14 nonviolent, is that right?

15 A I think that's what she pleaded to. I don't know.
16 And the only reason I know she pleaded to that, my lawyer
17 told me, and he showed me.

18 Q Okay. And for a while you thought that she had pled
19 guilty prior to your trial, is that right?

20 A At that time I thought that.

21 Q But you understand now that she pled on February the
22 4th of 2008.

23 A That's what they told me.

24 Q Okay. And she received a sentence of 15 years.

25 A Because she stole them guns and brought them to my

Isaac Jerome Walker
Cross-examination by Ms. White

- 1 car, ma'am.
- 2 Q And that was for burglary second degree?
- 3 A Yes, it was.
- 4 Q Nonviolent.
- 5 A Nonviolent?
- 6 Q okay.
- 7 A Was it nonviolent? Oh, okay.
- 8 Q And, now, I'm going to -- we've -- you read the
- 9 statement that she's allegedly put in or that she's sent
- 10 you. I'm going to read something to you from this.
- 11 A It wasn't produced at trial. They didn't use it at
- 12 trial. It was excluded as evidence, so how in -- how can
- 13 you use that whenever it was excluded as evidence? Because
- 14 when he took Ms. Godfrey's testimony, ma'am, that -- she's
- 15 lying in her statement, they had her -- they had -- the
- 16 state had her as a witness to testify against me.
- 17 The reason they didn't bring her to court to testify
- 18 against me, they did not use nothing in the statements
- 19 because they was a bunch of lies.
- 20 Q Mr. Walker --
- 21 A They was a bunch of lies, ma'am.
- 22 Q -- I'm going to have you look at this while I read it.
- 23 And just make sure I'm reading this accurately.
- 24 A Uh-huh.
- 25 THE WITNESS: Your Honor, may I object on this?

Isaac Jerome Walker
Cross-examination by Ms. White

1 THE COURT: No, sir.

2 THE WITNESS: Okay. But, Your Honor, I've got to ask
3 you something. See, I object to --

4 THE COURT: Sir, you do not -- you're on the witness
5 stand.

6 THE WITNESS: Okay. But, Your Honor.

7 THE COURT: You need to have to answer.

8 THE WITNESS: But, Your Honor, they excluded this,
9 sir, as evidence.

10 THE COURT: Sir --

11 THE OFFICER: Stop talking while he's talking.

12 THE WITNESS: Okay, okay.

13 THE COURT: Sir, we have a court reporter, the lady
14 sitting over here.

15 THE WITNESS: Oh, okay.

16 THE COURT: You cannot talk when someone else is
17 talking the same --

18 THE WITNESS: Okay.

19 THE COURT: -- way that the lawyers know that they
20 cannot talk whenever you're speaking.

21 THE WITNESS: Yes. Okay. All right.

22 THE COURT: Please answer the questions.

23 THE WITNESS: Yes.

24 BY MS. WHITE

25 Q Mr. Walker, she actually told the police originally

Isaac Jerome Walker
Cross-examination by Ms. White

1 that you stopped at the house. She asked an old man if she
2 could use the bathroom. "We went into the house." Is that
3 correct from her statement?

4 A Yes.

5 Q Okay. She also said she went back out. "Isaac was
6 with me. We waited on the porch." Then she asked the old
7 man if she could have a drink of water.

8 A No.

9 Q That's what she says in her statement.

10 A That -- that statement --

11 Q I'm not asking you if -- I'm not asking you if you
12 agree with it.

13 A You missed a line.

14 Q Mr. Walker, I read, "The old man" --

15 A Slow it down and read to me -- slow it down and read
16 to me and let me see what it say too, ma'am.

17 Q "The old man followed me down the hall. Isaac had
18 told me to get out of the car. Me and the old man came
19 back out and Isaac was" -- there's a blank and then the
20 word me.

21 A It didn't say gone.

22 Q "We waited on the porch. I asked the old man if I
23 could have a drink of water. I went inside and got a drink
24 of water. I went back outside and did not see Isaac.
25 Isaac had followed the old man inside when I went to the

1 bathroom."

2 A Uh-huh.

3 Q "The old man went into the house. Isaac came from
4 around the corner of the house. He told me to come on,
5 let's go. He told me to run, damn it. We got into the car
6 and Isaac took off."

7 A Uh-huh.

8 Q "He was driving fast. We were driving around. The
9 police got behind us."

10 A Uh-huh.

11 Q That's where she goes on. And then she says, "There
12 were two guns."

13 A "Two long guns."

14 Q "Two long guns. I put some stuff over the guns."

15 A See, that's the first time she had seen them guns too
16 also. You left that out.

17 Q Right.

18 A Okay.

19 Q I just wanted to clarify.

20 A Okay.

21 Q This is the statement that she originally gave police
22 when she was arrested, is that right?

23 A Yes, it is. But you left out the part where this is
24 the first time she say she saw these guns when she covered
25 them up in my car too, ma'am. You left out that. If you

Isaac Jerome Walker
Cross-examination by Ms. White

1 read it, read everything, please. Thank you, ma'am. Thank
2 you, ma'am. Thank you.

3 Q And I'll read that. I don't believe that necessarily
4 helps your case, Mr. Walker, but I will read that.

5 A Well, I understand, ma'am. If you read it, read it,
6 please read it all. But I know what the statement said. I
7 been reading that statement ever since my lawyer sent it to
8 me, ma'am.

9 Q Okay. So your lawyer sent it to you. And she didn't
10 read it over. You didn't read it over with Ms. Hodges?

11 A Ms. Hodges -- let me rephrase you again. Ms. Hodges
12 spoke with me. I went to her office. She give me one day
13 to accept a plea and told me if I did not accept a plea I'm
14 going to trial for first degree burglary.

15 Q My question is did you review this statement in her
16 office.

17 A Yes, ma'am. And I told her she was lying. And I give
18 statements to what happened and what she did and when
19 she -- what surprised her is when she went to the nursing
20 home and took his statement.

21 Mr. Sumner said it wasn't Mr. Walker, it was
22 Ms. Godfrey, Ms. Godfrey stole my gun, Ms. Godfrey done
23 this to me. Mr. Walker said -- and Ms. Godfrey said in
24 statements three or four times that Mr. Walker did not go
25 in my house, Mr. Walker did not take anything from me.

Isaac Jerome Walker
Cross-examination by Ms. White

1 I told you I was sitting in my car when Lisa Godfrey
2 brought them guns out to my car and I had to get them in
3 the car, ma'am.

4 I would have pleaded -- I would have pleaded to grand
5 larceny, ma'am, if she'd of done her job and told me about
6 the plea. I'd have took the plea. I wouldn't be here
7 trying to tell you, ma'am. I would have accepted the plea
8 if she'd of told me, ma'am. That's the truth of the
9 matter. I'd have accepted plea.

10 I'll plead right now today to zero to ten years if --
11 like I want and like she gave it to me, I'd have took the
12 plea, ma'am.

13 Q Mr. Walker, isn't it true that you went to trial
14 because you were professing your innocence and you wanted
15 to prove your innocence?

16 A I went to trial because I did not commit a first
17 degree burglary. I would have accepted the plea to grand
18 larceny, ma'am.

19 Q But you also would not have accepted the plea to
20 burglary second degree.

21 A Ma'am, I would have not the accepted a plea to
22 burglary second or first degree. I would have accepted my
23 original plea offer to grand larceny. That was not --
24 there would not have been neither burglary, what I'm
25 telling you.

Isaac Jerome Walker
Redirect examination by Mr. Coleman

1 MS. WHITE: That's all the questions I have, Your
2 Honor.

3 THE WITNESS: Your Honor, there would not have been a
4 burglary if she'd have told me about the plea. I'd have
5 accepted the plea, Your Honor. I'd have took the grand
6 larceny charge, Your Honor. It's plain as day.

7 THE COURT: Any redirect limited to what she went
8 into?

9 MR. COLEMAN: Just one clarification, Your Honor.

10 MS. WHITE: And I might have -- I'm sorry.

11 MR. COLEMAN: Okay. Thank you.

12 REDIRECT EXAMINATION

13 BY MR. COLEMAN

14 Q I just wanted to pull Exhibit B, Applicant's Exhibit
15 B.

16 A Yes.

17 Q Now, this offer was not just to plead to burglary
18 second, was it --

19 A No.

20 Q -- or just one burglary second?

21 A No.

22 Q They wanted you to plead to a burglary second violent
23 and a burglary second nonviolent. This was -- this was the
24 offer in -- on 12/18/07.

25 A Yes, it was. They wanted me to plead to two

1 burglaries.

2 Q Was there any recommendation by the solicitor's office
3 either -- either for a sentence or whether it should be
4 concurrent or consecutive?

5 A No. It was not. He wanted me to plead to two
6 burglaries -- two burglaries.

7 Q Okay. And I just want to clarify, because I'm looking
8 at the State's Exhibit -- is it A? Yes, A -- A. This is
9 the sentence sheet for Lisa Godfrey. They allowed her to
10 plead to one count of burglary second nonviolent and --

11 A What?

12 Q Yes.

13 A Nonviolent? Oh, my goodness.

14 Q I'm sorry. That's the wrong indictment.

15 MS. WHITE: Oh, I am.

16 MR. COLEMAN: I'm sorry. Your Honor, we have the
17 wrong indictment entered into evidence for Ms. Godfrey.

18 MS. WHITE: She pled to two on the same day.

19 MR. COLEMAN: Is that what she did? All right. This
20 is the one --

21 MS. WHITE: Yes.

22 MR. COLEMAN: -- which was based upon --

23 MS. WHITE: Yeah. They pulled it for me this morning.
24 Yeah. She pled to two burglary second degrees on the same
25 day unfortunately, and one was violent and one was

Isaac Jerome Walker
Redirect examination by Mr. Coleman

1 nonviolent. It was burglary second degree violent, is what
2 she pled to.

3 MR. COLEMAN: All right. Do you have any objection?

4 MS. WHITE: I do not, no. Can we swap out? I don't
5 know how that works. Just put it as a new exhibit.

6 MR. COLEMAN: I guess I would ask for this to be --

7 THE COURT: Let's make it a --

8 MR. COLEMAN: -- an applicant's exhibit. It's not
9 certified. It's a copy of the indictment that she pled to
10 on the same day.

11 THE COURT: Let's make it the state's exhibit and make
12 it the number -- is the next number available?

13 (Copy of sentence marked State's Exhibit D.)

14 MR. COLEMAN: Your Honor, that's all I have on
15 redirect.

16 THE COURT: Thank you, sir. You may step down.

17 THE APPLICANT: Thank you, Your Honor.

18 THE COURT: Okay. Applicant have any other witnesses?

19 MR. COLEMAN: I'd like to call Lucille McEntyre,
20 please.

21 THE COURT: Come on around up here and let me swear
22 you in.

23

24

25

Lucille McEntyre
Direct examination by Mr. Coleman

1 LUCILLE MCENTYRE, having been
2 first duly sworn, testified as follows:

3 THE COURT: Have a seat in the red chair.

4 DIRECT EXAMINATION BY MR. COLEMAN

5 Q Your name for the record, please.

6 A Lucille McEntyre.

7 Q Ms. McEntyre, your relation to Isaac Walker?

8 A I'm his mother.

9 Q Now, I won't ask you how long you have known him to
10 establish how long you've known him, but I believe Isaac
11 while he was -- prior to the time of this, of this
12 incident, and while he was out on bond was he living with
13 you?

14 A Yes, sir.

15 Q Okay. And I'm going to take you back and ask you to
16 think back to December of 2007.

17 A Yes, sir.

18 Q At your home were you present? Do you recall Isaac
19 receiving a phone call, just receiving a phone call?

20 A Yes, sir.

21 Q All right. And that particular phone call, Isaac
22 answered the phone.

23 A Yes.

24 Q All right. And what was his reaction to that phone
25 call?

Lucille McEntyre
Direct examination by Mr. Coleman

1 A Basically, like what you heard today because his voice
2 is loud, and it traveled. And my home that I live in, when
3 Isaac's on the phone you can be in the kitchen and you
4 could still heard Isaac.

5 Q And Isaac was -- so he was talking loud. And was --
6 was he upset?

7 A He was ranting and raving and talking to Ms. Hodges
8 basically like what he did today.

9 Q And in his ranting and raving did you -- what did he
10 utter?

11 A How can it be a first degree burglary when I was
12 arrested on grand larceny and I hadn't been back for -- I
13 think it's something like a prelim. They got to take you
14 back in order to get -- change, whatever I heard. So it
15 was just on -- she would say one thing and he would go back
16 and forth basically like what we heard today.

17 Q Is it your impression that he was surprised by this?

18 A Yes. And he was -- he was just, like I say, he was
19 upset and he was -- he was walking and going back and
20 forth. He was just practically hysterical saying to
21 Ms. Hodges about what she had to call to tell him.

22 Q All right. And you know -- did he mention Ms. Hodges'
23 name in his excited state?

24 A Yes.

25 Q So he knew it was Ms. Hodges.

Lucille McEntyre
Direct examination by Mr. Coleman

- 1 A Yes.
- 2 Q Okay. Now, and this -- again, I think I did ask you.
- 3 This was in December of 2007.
- 4 A Yes, sir.
- 5 Q All right. Now, do you recall when Isaac was
- 6 arrested?
- 7 A Yes, sir, I do.
- 8 Q And that was in 2006?
- 9 A Yes, sir.
- 10 Q Okay. And I think you assist him in bonding him out.
- 11 A Yes, sir.
- 12 Q Do you recall the date of that when he bonded out?
- 13 A That date I was told by Isaac, and I verified it with
- 14 somebody else. It was around October if I'm correct.
- 15 Q All right.
- 16 THE DEFENDANT: October 15th.
- 17 Q We can verify that for the record.
- 18 A Okay.
- 19 Q And he was -- he came home and stayed with you.
- 20 A Yes, sir.
- 21 Q All right. It's just simply probative. Do you pick
- 22 up the mail every day at your house?
- 23 A Yes, sir. Well, not -- it could be either my husband
- 24 or either Isaac. It didn't matter as long as somebody went
- 25 to the mailbox.

Lucille McEntyre
Direct examination by Mr. Coleman

1 Q But did you see any mail from the public defender's
2 office come to your house?

3 A No, sir, no, sir, I didn't.

4 Q All right. Now, let me ask you this. We are -- you
5 are aware and you will verify that Isaac has had a troubled
6 past.

7 A Yes, sir.

8 Q Have you been involved with Isaac during these
9 troubled years?

10 A Yes, sir, I have.

11 Q All right. And during this time -- I guess as a son
12 is he -- has he confided in you or has he simply stayed to
13 himself and had nothing to do with you? How would you
14 describe that?

15 A Well, I have three boys, and Isaac is my child that --
16 he have a good heart. He just have a weakness. He's --
17 sometime I think he's too soft. And then when you too
18 soft, sometime you can be led astray or either -- he
19 realizes afterwards sometime what he should have done
20 instead of what he did. But he have a good heart and he's
21 a loveable person. He's a caring person.

22 Q But, well, let me ask you this. So would you say you
23 were closely involved or just distantly involved with his
24 court troubles?

25 A I was on top of everything. I was -- and you can ask

Lucille McEntyre
Direct examination by Mr. Coleman

1 Ms. Hodges. I was with him every time -- I was with him
2 every time he met with her except for when my
3 brother-in-law took him to her office the first time.

4 Q And with these troubles did -- I won't say usually. I
5 said were all of when he got in trouble -- did Isaac plead
6 guilty or did he -- how did he react? How did he respond
7 to these charges?

8 A Well, you know, he told the truth. And when -- and,
9 see, you know, whether Isaac realized it or not, I knew
10 Isaac better than Isaac knew himself. I knew when he was
11 guilty. And he told me he was guilty. And I just know my
12 child. That's all I can say.

13 Q Thank you. And so as knowing Isaac like you knew him
14 and his past troubles in your opinion would he have pled
15 guilty to a grand larceny charge if facing first degree
16 burglary?

17 A No, sir. You saying would he have pleaded --

18 Q I'm saying would he have pled guilty to grand larceny
19 rather than face first degree burglary.

20 A Yes, sir.

21 MR. COLEMAN: Your Honor, that's all I have for this
22 witness.

23 Q Please answer any questions Ms. Hodges has.

24 MS. WHITE: Ms. White. I'm sorry. I just want to
25 make sure. Ms. Hodges is seated right here.

Lucille McEntyre
Cross-examination by Ms. White

1 Just briefly.

2 MR. COLEMAN: I'm sorry.

3 MS. WHITE: That's all right.

4 CROSS-EXAMINATION

5 BY MS. WHITE

6 Q Were you with your son whenever he would meet with his
7 attorneys for any cases?

8 A Just this case or other cases?

9 Q Just in general. Did you go with him to all of his
10 appointments to meet with his attorneys?

11 A Yes, ma'am.

12 Q Every single appointment?

13 A Not every single appointment. I had a job, but I
14 went. If I didn't go, somebody in the family would take
15 him, because a lot of times he didn't have transportation.

16 Q Okay.

17 A But I did visit with him with Ms. Hodges. In fact, I
18 talked with Ms. Hodges probably more about the case than
19 Isaac did.

20 Q Okay. Did you ever meet with Ms. Hodges before
21 December of 2007 or talk with her about this case?

22 A No, sir. I mean no, ma'am.

23 Q So your testimony is too that you didn't hear from Ms.
24 Hodges about this case until more than a year after he was
25 actually indicted and two years after his actual arrest or

1 a year and a half after his arrest?

2 A I -- I -- first I knew about Ms. Hodges was in
3 2000-07, I mean 2007.

4 Q Okay. And that's December of 2007, is your testimony?

5 A Yes, ma'am.

6 Q And you said that you talked with her and met with her
7 sometimes even more than Isaac would. And in talking with
8 her your son's defense was generally innocence, is that
9 right?

10 A Well, in my opinion innocent is when you didn't really
11 commit the crime. But they got that hand-in-one thing
12 going, said that made him guilty because he was with the
13 defendant, Ms. Lisa Godfrey.

14 So based on what Mr. Sumner, the victim, said -- see,
15 I was at that hearing when they interviewed him. Isaac had
16 been saying before they even interview Mr. Sumner that he
17 didn't go in Mr. Sumner's house. And the old man verified
18 that in front of Ms. Hodges and the D.A. and everybody
19 else.

20 They was recording that on record. The old man -- he
21 was old, but he had his wit about him, because like that
22 day he told some things that made me feel better about what
23 he was saying, because, see, he had no -- he didn't even
24 have a fear of Isaac, because when he went to the nursing
25 home -- Isaac was there too. Mr. Sumner didn't have no

1 fear of Isaac.

2 Q And Mr. Sumner gave a pretty -- I mean, he could
3 recollect what happened that day pretty well, couldn't he?

4 A I felt like he did, because, see, they said he had
5 poor eyesight, but I don't -- I can't question that because
6 I don't know about the eyesight. But I do know what he
7 said, and I feel like he might have had his age on him but
8 he still knew. And I feel like he nailed the nail on the
9 head when he said that white lady did it.

10 Q Okay. But he also said some things that kind of
11 contradicted what your son said, didn't he?

12 A Not that I remember.

13 Q Now, maybe some things that contradict what your son
14 has said in here today.

15 A But it didn't contradict what Lisa Godfrey said, what
16 she said, because, see, Mr. Sumner told them what happened.

17 Q And --

18 A And -- and they was going to use -- from what I
19 understand, they was going to use Lisa to testify against
20 Isaac. But when they found out what the old man said --
21 that he couldn't use her to testify against him because he
22 put her in -- he put her as being guilty.

23 Q But -- but your son today has testified -- and you
24 heard him -- say that he, you know, didn't say he was
25 robbed. But he said later, oh, I was robbed at the time

Lucille McEntyre
Cross-examination by Ms. White

1 before, and I offered him my car title. Mr. Sumner never
2 said thing about that, did he?

3 A He said that in his statement but when they -- he
4 said --

5 Q The car title?

6 A Yes. And the lady that was recording, she wrote towel
7 or something, whatever Mr. Sumner said or the words,
8 whatever Isaac and them said. A lot of words got messed
9 up, when they recorded it, what was said. See, Isaac have
10 a clear-speaking voices. And a lot of things that he said
11 was interpreted and was wrote down as a different statement
12 from what he had actually said.

13 Q Oh, so you're saying that the transcript does not
14 actually reflect what Mr. Sumner said?

15 A Yes, ma'am. Some of them had errors in it because,
16 see, now, my voice -- my speaking voice ain't as good as
17 Isaac's, and plain. But when he say something it's loud
18 and you can understand what he's saying. But I'm just
19 saying some of the things that Isaac said himself was
20 misinterpreted when it went on paper. That's all I'm
21 saying.

22 Q So I just want to -- in the transcript of Mr. Sumner
23 said that your son had come up and said I been robbed. He
24 got out. And when the white woman, as he said, went
25 inside, your son kept saying, oh, she'll be back in a

Lucille McEntyre
Cross-examination by Ms. White

1 minute, she'll be back in a minute.

2 A Ma'am, a lot of that stuff was hearsay. And I'm not
3 saying it shouldn't have been said that way. All I'm
4 saying is -- is they can believe him on one thing, they
5 should be able to believe him on the other thing. If he
6 said that he didn't go in his house, I felt like he knew
7 what he was saying.

8 Q And are you saying that if they believe Mr. Sumner
9 that the white woman went in the house and Mr. Walker
10 didn't, then should they believe him on all of the things
11 he said?

12 A On whose? Make sure I understand.

13 Q Mr. Sumner, the victim. If you believe him about the
14 things he said about Lisa Ann Godfrey, then should they not
15 believe him about the things he said about your son as
16 well?

17 A Well, it depends on what it is, ma'am.

18 Q Okay. So the things about your son may not be
19 correct, but the things about Lisa Godfrey are?

20 A No. I'm just saying what I observed at the nursing
21 home where Mr. Sumner was at, that he verified what Isaac
22 had been saying all along, that he didn't enter the man's
23 house.

24 Q Okay. Now, in regards to the mail, you did say that
25 you didn't pick up the mail every day at the house, that

Lucille McEntyre
Redirect examination by Mr. Coleman

1 you had also your son and your husband that lived there
2 that might pick up mail.

3 A That's correct.

4 Q Okay.

5 A Whoever goes first see the mail person, whoever..

6 Q Okay. And when it came to conversations on the phone
7 maybe with his attorney would you be on the phone with him?

8 A Well, not necessarily on the phone. But, like I say,
9 the house I live in if somebody's on the phone you can
10 basically hear the conversation.

11 Q And you heard your son's side, but you would not hear
12 what his attorney or what the person on the other side was
13 saying, is that right?

14 A No. But based on what I heard I knew it was -- he was
15 talking to Ms. Hodges.

16 Q Okay.

17 MS. WHITE: That's all I have, Your Honor.

18 THE COURT: Any redirect limited to what she went
19 into?

20 MR. COLEMAN: Your Honor, just for clarification.

21 REDIRECT EXAMINATION

22 BY MR. COLEMAN

23 Q Ms. McEntyre, I'm going to read to you from the
24 transcript of Mr. Ernest Sumner. And you tell me if this
25 is what you're talking about.

Lucille McEntyre
Redirect examination by Mr. Coleman

1 THE COURT: If you would for the record, is there a
2 page number?

3 MR. COLEMAN: Yes. I will. Page nine, line --
4 starting on line 15 really, I guess.

5 THE COURT: Okay.

6 BY MR. COLEMAN

7 Q The question was, "Now, did the man, did the black
8 man, ever go inside your house?"

9 And the answer was, "No. He never did go inside the
10 house."

11 And then he goes on. "What did he do on the porch
12 while the woman was inside the house?"

13 Answer, "He just sat there."

14 Also page 14 -- page 14, line 17. Again, Mr. Sumner
15 on cross-examination. Page 14, line 17. Or excuse me.
16 Line 15.

17 The question was, "And I understand what you told
18 Mr. Cole that the black man never went inside your house."

19 And Mr. Sumner answered, "He never went inside of the
20 house."

21 Is that what you are talking about --

22 A Yes, sir.

23 Q -- in your testimony?

24 A Yes, sir.

25 MR. COLEMAN: Nothing further, Your Honor.

Yolanda Foster Black
Direct examination by Mr. Coleman

1 THE COURT: Thank you, ma'am. You may step down.

2 MR. COLEMAN: Your Honor, I would like to call Yolanda
3 Foster Black.

4 YOLANDA FOSTER BLACK, having
5 been first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. COLEMAN

7 Q Your name for the record, please.

8 A Yolanda Foster Black.

9 Q And your relationship to Isaac Walker?

10 A Isaac and I share a son together.

11 Q All right. And you were not present on this December
12 date that Ms. McEntyre --

13 A No, sir.

14 Q No. But how involved have you been as far as Isaac
15 and his past troubles?

16 A I've been deeply involved. Like I said, we share a
17 son together. And he has -- y'all see the checkered past
18 that Isaac has.

19 I don't see all of that. I just see the part he
20 played in our son's life, which he's a great father. My
21 son's now in college. He's in his fourth year of college
22 and is going to law school.

23 Q Well, let me ask you this. Now, how involved were you
24 with Isaac as far as his trips to the courthouse and his
25 dealings with the court system and his different troubles

Yolanda Foster Black
Direct examination by Mr. Coleman

1 with the law?

2 A Isaac has shared with me several occasions. I've
3 never spoken with his public defender or anything like
4 that, but I have spoken with him. In speaking with him
5 we've talked greatly about it.

6 And as far as his troubled past, like I said, I -- I
7 don't see that. I know he's had his troubles and a history
8 in the past and all of that but --

9 Q Have you known him to -- when he's charged, when he's
10 caught, when he's accused -- have you known him to do
11 anything but plead guilty?

12 A No, sir. He's always pled guilty. He'll let you
13 know, yes, I did it.

14 Q All right.

15 MR. COLEMAN: Thank you, Your Honor. I have no
16 further questions.

17 MS. WHITE: The state has nothing, Your Honor.

18 THE COURT: Thank you, ma'am. You may step down.

19 MR. COLEMAN: Your Honor, the only other thing I
20 have -- and I'm looking -- will refer to the transcript
21 here -- is the charge given the jury by the Court on page
22 142 of the transcript.

23 Now, I've already alluded to this, and I will state it
24 again if I may. This case when you read the transcript was
25 one where there was no identification on scene. There

1 was -- you see how contentious it was about who went in the
2 house and who did what.

3 Mr. Sumner was -- unequivocally stated that, no, Isaac
4 didn't go in the house, that the woman in the house -- but
5 if you look through the record you'll see that his daughter
6 did say in her testimony that she saw the black man walk in
7 the house, step into the house.

8 This was again on cross-examination Ms. Hodges, I
9 think based upon prior written statement by the daughter --
10 did as good as she could as far as the daughter had never
11 said this before. This was a surprise at trial.

12 But it was a case that the jury had, and there was a
13 question -- not only a question of -- of who did what.
14 They were both there. There was circumstantial evidence.
15 The guns were found in the car with them. But there was --
16 of course they had to guess the intent of the parties.

17 And the charge given by the Court was when several
18 persons in pursuance of a common design to commit an
19 unlawful act -- whether it be a felony or a misdemeanor --
20 set out together or in small parties and each part -- each
21 takes part and agreed upon or assigned him some -- to
22 commit the crime, others to watch the act at proper
23 distance and in stations or surprise or to encourage the
24 commission of the unlawful act or the failure, if
25 necessary, to escape those immediately engaged in the

1 commission of the unlawful act -- under these circumstances
2 if the unlawful act is committed, the act of one is the act
3 of all. And I emphasize. And all are presumed to be
4 present and guilty.

5 Goes on to say the law is that when two or more
6 persons aid, encourage and abet each other in the
7 commission of a crime all present -- all being present --
8 excuse me -- all are principals and, I emphasize, equally
9 guilty.

10 Your Honor, I would just contend, Your Honor, that
11 this shifted the burden, especially in a case like this
12 where intent was so circumstantial that failure to object
13 or to allow this charge prejudiced Mr. Walker. And that's
14 all we have, Your Honor.

15 THE COURT: All right. Do you have any case law to
16 support that position?

17 MR. COLEMAN: All I have, Your Honor, is -- I'm not
18 even sure I have a copy. I'm not sure I made a copy. Is
19 the old case of State vs. LaBarge, 268, S.E., 2d., 278.
20 And I apologize. I think it's probably one of the only
21 cases I didn't bring with me today.

22 THE COURT: What? State vs. what?

23 MR. COLEMAN: I'm sorry. State vs. LaBarge.

24 THE COURT: Could you spell that last name?

25 MR. COLEMAN: It's L-A, capital, B-A-R-G-E, 268, S.E.

Kathleen J. Hodges
Direct examination by Ms. White

1 2nd, 278.

2 THE COURT: All right.

3 MR. COLEMAN: 1980. Other than that, on the issue of
4 the failure -- well, that's all. We have no more evidence.

5 THE COURT: Any other witnesses by the applicant --
6 any other witnesses by the applicant?

7 MR. COLEMAN: I'm sorry, Your Honor.

8 THE COURT: Any other witnesses by the applicant?

9 MR. COLEMAN: No, Your Honor. That's all.

10 THE COURT: All right. We're going to step down just
11 for a few minutes. We'll come back for the state.

12 MS. WHITE: Thank you, Your Honor.

13 (Whereupon, a recess was taken.)

14 THE COURT: Is the state ready to call their
15 witnesses?

16 MS. WHITE: Yes, Your Honor. We would call Kathy
17 Hodges to the stand.

18 KATHLEEN J. HODGES, having
19 been first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MS. WHITE

21 Q Ms. Hodges, if you can, tell us how long or I guess
22 how long you've been practicing law in the state of South
23 Carolina. Just give us a little background.

24 A I practiced law for 17 years, a little over 17 years,
25 in the state of South Carolina. It has been since May of

Kathleen J. Hodges
Direct examination by Ms. White

1 2000.

2 Q And what has your experience been mostly in your
3 practice? Has it been criminal, civil?

4 A For 16 and a half years I was a criminal practitioner
5 either as a prosecutor -- I first started as a prosecutor
6 in Georgia. I've worked for the attorney general's office
7 in South Carolina doing post conviction relief. Also
8 prosecuted in the Anderson solicitor's office, was a public
9 defender for six years here in Spartanburg. I now
10 currently work for the Anderson County Department of Social
11 Services.

12 Q And in what forum was your representation of Mr.
13 Walker in this case?

14 A I was appointed to represent him in September of 2006
15 on the charges that are here on the P.C.R. I had inherited
16 the case from Chris Brough who was a former public defender
17 when he left the office.

18 There was a case file that dealt with a burglary
19 charge that was dismissed at a preliminary hearing. And so
20 I actually had that charge -- had inherited that case from
21 Mr. Brough.

22 Q And just for clarification, is that the 2004 charge
23 that we've had some discussion about, I believe?

24 A Yes. I don't remember clearly the -- the date, but it
25 was a -- it's the -- what's been referred to as the 2004

1 charge.

2 Q And you said that was dismissed at one point at a
3 preliminary hearing.

4 A That's correct. Mr. Brough's notes indicate that on
5 September -- excuse me -- July the 29th of 2004 those
6 charges were dismissed at a preliminary hearing.

7 In July of 2006 I had been notified by Melissa
8 Milliken, a former prosecutor, that that charge was on the
9 docket. And I obtained discovery on that case in July of
10 2006.

11 Q And so that was just told to you, that the case had
12 been reindicted. Is that what happened?

13 A I'd been informed that it had been directly indicted.
14 And then I think I actually have a copy of the indictment
15 in the file that shows that that case had been directly
16 indicted by the solicitor's office.

17 Q Okay. Now, in regards to the charges we are
18 specifically here about today, the September of 2006
19 arrest, you don't dispute that he was arrested originally
20 for grand larceny.

21 A That is correct.

22 Q Okay. And is that what you were understanding your
23 original appointment was for?

24 A Yes. My original appointment was on the grand larceny
25 warrant.

Kathleen J. Hodges
Direct examination by Ms. White

1 Q Okay. And do you have any notes as to what kind of
2 work you did on the case or how you started working on the
3 case, I guess, or what kind of involvement you did?

4 A I actually do not have in the file any sort of
5 detailed notes in terms of what I did first when I received
6 discovery.

7 Based on the exhibits that have been entered I can
8 tell you -- and I have some recollection of talking to
9 Mr. William Rhodes who is the original assistant solicitor
10 on the case -- having conversation with him in his office
11 about two clients, one of whom was Mr. Walker.

12 Mr. Rhodes had pulled those cases, made copies of
13 discovery for me, had actually sent an offer to allow
14 Mr. Walker to plead to the grand larceny.

15 There is a stamp, a date stamp, that says
16 October 11th, received, in the top right-hand corner of
17 that exhibit. That's the date stamp that I used. I
18 subsequently have now started adding the actual year, so.
19 But I have no reason to assume that I did not receive that
20 in 2006.

21 Q And that was the -- I believe Exhibit A of the plea
22 offer for grand larceny.

23 A That's correct.

24 Q Okay.

25 MS. WHITE: If I may approach, Your Honor.

Kathleen J. Hodges
Direct examination by Ms. White

1 Q Ms. Hodges, if you can look just at these and see if
2 you know, kind of recognize what those items are.

3 A Yes. These appear to be emails from Mr. Rhodes. One
4 is dated October the 11th of 2006 and one is dated
5 November the 1st of 2006 from Mr. Rhodes to me regarding
6 Mr. Walker's case.

7 Q Okay.

8 MS. WHITE: And, Your Honor, I would like to place
9 those into evidence as the state's exhibits E and F, I
10 believe.

11 MR. COLEMAN: No objection, Your Honor.

12 THE COURT: Without objection.

13 (Email marked State's Exhibit E; email marked State's
14 Exhibit F.)

15 Q Now, if you can, if you wouldn't mind reading for us
16 the -- just the body of the e-mails.

17 A I'll be happy to.

18 The first one is State's Exhibit F. It is -- was sent
19 on Wednesday, October the 11th of 2006, at 4:06 p.m.

20 My e-mail -- apparently it is my email to him in which
21 I indicated -- it reads specifically, "Didn't mean to be
22 rude earlier today. Had to help the boss prevent a small
23 fire turning into a forest fire. Thanks for the paperwork
24 and offers. I will relay offers and review files with
25 clients and let you know something as soon as I can,

Kathleen J. Hodges
Direct examination by Ms. White

1 certainly before October 25. I am going to spend quality
2 time at the jail tomorrow. So if I need to have either put
3 on jail chain, I will let you know. Thanks again."

4 Q And that was October the 11th, you say?

5 A Yes, that was October the 11th.

6 Q Okay. And the second email.

7 A The second email is from William Rhodes to me. It's
8 dated Wednesday, November the 1st of 2006, at 9:33 a.m.

9 William just writes, "I hope you're doing well. I
10 extended an offer in this case a couple of weeks ago.
11 Mr. Walker was charged with grand larceny. However, since
12 trickery was used to gain access to the victim's home and
13 since firearms were stolen from the victim, I can indict
14 this case as burglary first. My offer was to allow Mr.
15 Walker to plead straight up to grand larceny as charged.
16 This offer was set to expire on October the 25th. Because
17 you're trying to get ready for a trial I was willing to
18 extend the offer. The purpose of this letter is to set a
19 deadline of Wednesday, November the 15th, for Mr. Walker to
20 accept this offer. I will be extending the same offer to
21 the codefendant, Lisa Godfrey, who is being represented by
22 Josh Schultz. Please let me hear from you. With kindest
23 regards I am sincerely yours, William Rhodes."

24 Q Okay. Now, do you have any recollection of any
25 conversation with Mr. Walker about this plea offer for

Kathleen J. Hodges
Direct examination by Ms. White

1 grand larceny?

2 A I have a vague recollection of talking to Mr. Walker
3 about -- on several occasions about his case. And those
4 were on the telephone.

5 In terms of specifically talking to him about the
6 grand larceny, I do not have any notes. I can tell you
7 that my practice would have been that if I'd received an
8 offer I would have relayed that offer to the client. If
9 the solicitor gave me a deadline I'd either get it relayed
10 to the client and an answer back to the solicitor by the
11 deadline or, you know, have something in terms of asking
12 for some sort of additional extension, which apparently is
13 what I did in this case from the 25th of October asking for
14 some more time to be able to relay it to him.

15 You know, certainly given the type of sentencing
16 structure that Mr. Walker would have been facing, the
17 difference between a grand larceny to, you know, a
18 potential life sentence on a burglary first, I certainly
19 would have relayed that offer to him.

20 Q And in your conversations with and your interactions
21 with Mr. Walker, how did that proceed, I guess? How was
22 the interactions.

23 A Mr. Walker --

24 Q How were they in general, I guess?

25 A Mr. Walker -- and understandably so -- is impassioned

Kathleen J. Hodges
Direct examination by Ms. White

1 about this case and these charges.

2 He adamantly and consistently indicated to me that
3 when he and Lisa Godfrey went to Mr. Sumner's residence
4 that Ms. Godfrey had told him that she was going to this
5 man's residence who she claimed was her grandfather, that
6 she was going to try and get the rifles from him, that they
7 were hers.

8 He indicated to me that he was not guilty. He
9 indicated to our office from the first day that we
10 interviewed him that he was not guilty and that he wanted a
11 trial.

12 Q And obviously we've had some evidence put in in
13 regards to the second plea offer and the burglary second
14 charge.

15 Do you recall discussing that with him or do you --
16 based on the evidence? Does that refresh your memory or
17 anything?

18 A I have a much better recollection of a telephone
19 conversation that was closer to the time of trial.

20 It was a -- I don't know if heat is the right word,
21 but, again, Mr. Walker was very concerned and upset that he
22 had been indicted as burglary first since he was out on
23 bond for grand larceny.

24 I did my best to try and explain the ability of the
25 solicitor's office to directly indict someone for charges.

Kathleen J. Hodges
Direct examination by Ms. White

1 He -- I did extend the offer to him that Mr. Coler had
2 provided. The email that is in evidence actually indicates
3 that I had asked Mr. Coler again for some additional time
4 to try and relay the offer because Mr. Coler only gave me
5 essentially a day's notice of the offer. He sent it to me
6 on December the 18th. He wanted me to give him an answer
7 by December the 19th.

8 Because the solicitor had put me under that deadline I
9 was -- was very concerned because this was not the type of
10 case based on my past experience in talking with Mr. Walker
11 on the telephone that I felt that he was going to be able
12 to properly talk with me about the issues, the evidence and
13 be able to make his decision in that short of timeframe.

14 And so I actually asked Mr. Coler for additional time.
15 Our office was moving from our old -- the old location to a
16 new location. And, you know, I simply needed to be able to
17 have the time to, you know, to talk to Mr. Walker about
18 what the ramifications were of any decision he might make.

19 Q Now, the conversation you're talking about was
20 referenced to being in December of '07. Was that your
21 first time ever talking with Mr. Walker about this case?

22 A No. I had talked had him previously about it. I do
23 not have any notes in my file that indicate what days or
24 times or -- you know, that I had spoken with him.

25 The majority of my conversations with him were on the

Kathleen J. Hodges
Direct examination by Ms. White

1 telephone. Shortly -- and I think I actually maybe met
2 with him in person soon after that, but I had spoken with
3 him directly on the telephone prior to December the 18th of
4 2007.

5 Q And to your understanding what was his desire?
6 Obviously, he declined the burglary second offer.

7 A Right.

8 Q What was his plan, I guess, or desire in regards to
9 proceeding to trial? Was it to try to get a better offer?
10 What were your conversations in that vein?

11 A The -- the decision and conversations were that he
12 felt that he had not committed a burglary. He felt that he
13 had actually not committed any crime at all and that he --
14 and that he certainly wasn't going to plead to a burglary.
15 And so our goal at trial was to -- was to have him
16 acquitted.

17 Q And did you talk with him about the potential sentence
18 ranges for the burglary second plea offer as well as the
19 burglary first if he proceeded to trial?

20 A Yes.

21 Q In regards to the jury charge, the hand-of-one,
22 hand-of-all, did you recall thinking anything, or was there
23 anything during that jury charge that you felt or found
24 objectionable?

25 A At the time I did not find the charge objectionable

1 and did not raise an objection to it.

2 I believe that I had requested a charge of mere
3 presence, and-but I do not -- I did not -- don't recall.
4 And obviously the transcript did not raise an objection to
5 the Court regarding the hand-of-one, hand-of-all charge.

6 Q And in regards to your mere presence charges, were
7 those issued by the judge? Do you recall?

8 A I have to rely on the transcript. I honestly don't
9 remember.

10 Q And I do believe just in referring to the
11 transcript -- I believe we were on page 150 if I can go
12 right back.

13 MS. WHITE: 141, Your Honor. The judge offered the
14 jury charges on mere presence right prior to the
15 hand-of-one, hand-of-all charges, page 141.

16 THE COURT: Thank you.

17 Q Okay. Ms. Hodges, at this point I think that is all I
18 have for you. Thank you.

19 MR. COLEMAN: Thank you.

20 CROSS-EXAMINATION

21 BY MR. COLEMAN

22 Q Ms. Hodges, do you have your files with you here
23 today?

24 A I do.

25 Q Now, in 2006, in October of 2006, and between then and

1 the -- what kind of case load did you have?

2 A It would vary, but it would average somewhere between
3 probably in terms of actual charges 280 to 300 cases.

4 Q At one time?

5 A Uh-huh.

6 Q I'm going to ask you if you can produce for me from
7 your file anything from the date of October 11th of 2006,
8 Mr. William Rhodes -- Mr. William Rhodes' offer -- anything
9 in your file -- notes, letters, anything -- until December
10 of 2007 when you wrote and notified Mr. Walker that he --
11 his case was coming up for the term of court. Can you?

12 A That this case was coming up for the term of court
13 in --

14 Q That was the two things, that Mr. Rhodes -- his offer
15 of October of 11th of 2006 -- and I think there was a
16 letter that I saw, the first letter I saw, where you wrote
17 Mr. Walker advising him that the solicitor had let you know
18 that his case was coming up.

19 A The -- what is already in evidence is a copy of the
20 plea offer from Mr. Rhodes.

21 Q That's the one I'm talking about.

22 A Yes.

23 Q And that would be Exhibit A.

24 A Right.

25 Q That's right. I'm just asking you if there's anything

Kathleen J. Hodges
Cross-examination by Mr. Coleman

1 in your file -- notes, letters, correspondence, anything --
2 between you and Mr. walker, anybody, about this case in
3 that file.

4 A There is nothing written in --

5 Q Nothing written in that file.

6 A That's correct.

7 Q And you said you had how many cases?

8 A Probably somewhere between 280 and 300 cases.

9 Q And you claim you talked to your client and you made
10 no notes? How did you keep up with all of these cases and
11 all of these clients and you made no notes?

12 Isn't it true you didn't talk to him, you never
13 contacted him about either his offer or even when he was
14 indicted? And I'm assuming maybe you knew about the
15 indictment.

16 Rather, you would like to tell this Court that you had
17 all of these conversations or you talked to him with all of
18 these other clients that you've got and you made no notes.
19 You didn't --

20 A I --

21 Q Let me ask you this.

22 A I was going to answer your question if you would ask
23 me one at a time.

24 MS. WHITE: Your Honor, I --

25 THE COURT: If you would, let her answer.

1 MR. COLEMAN: Yes, sir, Your Honor. And my apologies.

2 A Which of the several questions would you like for me
3 to answer first, Mr. Coleman?

4 Q All right. You have no handwritten notes, no
5 correspondence, nothing in the file.

6 A That is correct. There's nothing in the file that I
7 have.

8 The assumption however that I took no notes I don't
9 think is necessarily accurate. As you and I have had a
10 conversation recently about this case, I was very bad in
11 terms of getting documentation into files contemporaneously
12 with the time that I was talking with people and putting it
13 in there.

14 There is nothing in the file now. All I can tell you
15 is that I have a recollection of talking with Mr. Walker on
16 the phone several times prior to December 18th of 2007 and
17 that there is no written documentation in the file to give
18 you any further assurance of that.

19 Q Petitioner's Exhibit B is a written response to Mr.
20 Coler to his plea offer.

21 A That's correct.

22 Q Is there any written response in your file to
23 Mr. Rhodes to his plea offer?

24 A There is not.

25 Q You've testified that based on your experience this is

Kathleen J. Hodges
Cross-examination by Mr. Coleman

- 1 the kind of case definitely if a client was offered
2 grand -- a plea to plead to grand larceny rather than face
3 first degree burglary -- this is the kind of case you would
4 definitely convey to a client.
- 5 A That's correct.
- 6 Q Would you not also -- be important enough to convey a
7 response to the solicitor?
- 8 A More than likely it would have been, yes, sir. I
9 don't know whether I told Mr. Rhodes in person.
- 10 Q Could you check in your -- can you see -- do you have
11 the original indictment of the 2006 indictment, a copy, in
12 your file?
- 13 A Of the 2006?
- 14 Q 2006 indictment. That would be this indictment.
- 15 A Do you want a copy of the 2006 indictment prior to the
16 jury verdict being written on it?
- 17 Q Yes.
- 18 A Yes, sir.
- 19 MR. COLEMAN: Your Honor, if I may approach?
- 20 THE COURT: Yes, sir.
- 21 Q You testified that you used a date stamp.
- 22 A Quite often.
- 23 Q Is this one date stamped?
- 24 A It's not.
- 25 Q In your experience -- and it's a very impressive

Kathleen J. Hodges
Cross-examination by Mr. Coleman

1 history of experience -- do you find there are other
2 reasons besides guilt for people to plead guilty to a
3 charge?

4 A Yes, sir.

5 Q Reasons such as being convicted of a crime that
6 carries 25 years to life as opposed to, say, 10 to 15
7 depending on the aggravating circumstances, I guess, for
8 grand larceny?

9 A Yes. The motivation to want to plead guilty to crimes
10 that carry less time are very definitely present. My
11 understanding of the burglary first statute is it carries
12 15 years to life.

13 Q Burglary first.

14 A Yes, sir.

15 Q Okay. You know, I think you're right. I apologize.
16 I think you are -- you are the expert. I will --

17 A No. I --

18 Q I will concede to that. But let me tell you. So, but
19 your testimony is -- do you think Isaac Walker would have
20 taken such a plea?

21 A No.

22 Q All right. Do you think he would have had a good
23 reason to take such a plea?

24 A Yes.

25 MR. COLEMAN: No further questions.

Kathleen J. Hodges
Redirect examination by Ms. White

1 MS. WHITE: Just brief, Your Honor.

2 THE COURT: Limited to what he went into.

3 REDIRECT EXAMINATION

4 BY MS. WHITE

5 Q You mentioned that you have definite recollection of
6 conversations with Mr. Walker although you don't have
7 anything written down.

8 What makes you so sure or what makes you remember the
9 conversations you had with Mr. Walker?

10 A The tenor and tone and volume of conversations with
11 Mr. Walker were consistent with what his initial testimony
12 was like today in terms of his impassioned presentation and
13 volume.

14 Q So you were constantly having a very -- you're using
15 the word impassioned -- maybe would you say kind of an
16 argument type conversation with him?

17 A I think that it would be fair to characterize our
18 conversations as argumentative, not to the extent that --
19 oftentimes clients, criminal defense clients, have
20 difficulty -- and difficulty is not to say there's anything
21 wrong with that -- but they often do not understand the
22 authority and ability of the state to enhance charges
23 without taking them back to court either through some sort
24 of motion or charging them with another warrant,
25 rearresting them, the ability for the solicitor to directly

Kathleen J. Hodges
Redirect examination by Ms. White

1 indict is, you know, clearly a bone of contention that many
2 criminal defense clients have with the state and its
3 abilities and authority.

4 That coupled with Mr. Walker's adamant denial of any
5 guilt or wrongdoing in this case, you know, I think foments
6 his -- you know, his desire to have you to have somebody
7 understand and hear him in terms of what actually happened
8 that day.

9 Q And just in regards, you said you had a pretty
10 substantial case load, 280 to 300 charges. And is that
11 referring to like warrant numbers or --

12 A Yeah. Warrants themselves are probably closer in the
13 four or five or six hundred range.

14 The public defender's office primarily looks at a case
15 as an incident. For example, one person could, you know,
16 be charged with four or five warrants from -- stemming from
17 one series of actions and activities and actually one
18 incident.

19 We would consider that as one -- one case, those four
20 or five different warrants. So, you know -- so it's kind
21 of -- so we're talking about 280 to 300 actual incidents,
22 crime, crime activities. That is how we count our cases.

23 Q And in your cases did you specialize in any type of
24 cases, have any kind of division? Did you represent
25 everyone from misdemeanor to felony? How did they break

Kathleen J. Hodges
Redirect examination by Ms. White

1 that down?

2 A Primarily, I was eligible to be -- to represent
3 somebody on anything from, again, a misdemeanor that would
4 carry over 30 days.

5 We had two people that were -- no. Two people
6 specifically assigned to deal with the magistrate-court
7 warrants, level cases. But I could do anything from any
8 misdemeanor that's not in magistrate's court up through
9 death penalty. At that time I was death penalty qualified,
10 so.

11 Q Okay. Thank you.

12 MS. WHITE: That's all I have, Your Honor.

13 THE COURT: Anything else?

14 MR. COLEMAN: No, Your Honor.

15 THE COURT: Thank you, ma'am. You may step down.

16 THE WITNESS: Yes.

17 MR. COLEMAN: Let me speak with my client.

18 MS. WHITE: The state has no other witnesses, Your
19 Honor.

20 THE COURT: All right. Anything in reply?

21 (Pause.)

22 MR. COLEMAN: Your Honor, I am going to recall
23 Mr. Walker.

24 THE COURT: Mr. Walker, I need to remind you -- Mr.
25 Walker, I need to remind you that you remain under oath.

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 Do you understand that?

2 THE APPLICANT: Yes, sir.

3 THE COURT: Please have a seat in the chair.

4 You need to limit it to what she went into on --

5 THE APPLICANT: Okay.

6 MR. COLEMAN: I am, Your Honor.

7 ISAAC JEROME WALKER, having
8 been previously duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. COLEMAN

10 Q Let me show you if I may -- and if I may approach.

11 I'm sorry. These two letters have been marked and entered
12 as State's Exhibits E and F.

13 A Uh-huh.

14 Q They are around the time of November 1st. And
15 actually they are out of order. F is October 11th; E is
16 November 1st.

17 A Uh-huh. Okay.

18 Q Let's extend. So you were given until November 15th,
19 or she was given until November 15th. During these periods
20 of time did you receive any communications with Ms. Hodges?

21 A No, sir, no, I haven't. And when I got my case file
22 this wasn't even in my case file.

23 Q All right.

24 A I -- I never saw this. I never. And for the record,
25 I only talked to Ms. Hodges one time. That was in December

Isaac Jerome Walker
Direct examination by Mr. Coleman

1 of 2007. If I talked to Ms. Hodges I would have asked her
2 to tell me what she said to me. I never met her or talked
3 to her until she called me on the phone and told me who she
4 was and told me she -- that she had been hired to represent
5 me from the public defender's office. I will not sit up
6 here and lie. If Ms. Hodges had've talked to me any time
7 before 2007 -- the reason she remembers me is in 2007 when
8 I was screaming through the phone at her, and which I do
9 apologize for that. But I really do, Ms. Hodges, but when
10 you told me that and I kept asking you, no, ma'am, I'm out
11 on bond, I'm supposed to plead to grand larceny. I
12 supposed to be going to court for grand larceny.

13 MR. COLEMAN: No further questions, Your Honor.

14 THE APPLICANT: Okay.

15 MS. WHITE: Nothing, Your Honor.

16 THE COURT: Thank you, sir. You may step down.

17 THE APPLICANT: Thank you, sir.

18 MR. COLEMAN: That's all, Your Honor.

19 THE COURT: All right. Did -- now, the applicant made
20 an argument in regards to the charge.

21 Does the state wish to make an argument on the charge?

22 MS. WHITE: Your Honor, we would argue that the burden
23 was not shifted in this matter.

24 The charge was complete. I think that in looking at
25 the totality of the charges with the combination of the

1 ability for the mere-presence charge, he was not charged
2 with any -- with aiding and abetting necessarily. It was
3 the actual -- he was charged as a principal in the charge.

4 I think the case that Mr. Coleman has is specifically
5 kind of referencing someone that's charged as an accomplice
6 moreso. And I think that is a distinguishing factor in
7 this matter, is that he's actually charged as a principal
8 in this case.

9 And that's the difference in the hand-of-one,
10 hand-of-all matter in this, in that when someone's charged
11 as an accomplice versus an actual principal that the
12 difference in the charge may -- may make a difference. But
13 in this matter I think they did offer the mere-presence
14 charge. He was -- they were given that.

15 But then he was also charged as a principal under the
16 hand-of-one, hand-of-all theory. And so we would submit
17 that there was nothing that shifted unfairly the burden to
18 the applicant at that point.

19 THE COURT: Okay.

20 MR. COLEMAN: That was aiding and abetting case.
21 She's correct.

22 THE COURT: All right. Okay. I will take a look at
23 it.

24 MS. WHITE: Thank you, Your Honor.

25 MR. COLEMAN: Your Honor, all I have is the case of

1 Davey vs. State, recent case on P.C.R.s. And it's not --
2 well, it's not really recent, that recently any more. It
3 was 2009 but --

4 MS. WHITE: Your Honor, I would -- if he's going to --
5 I would like to make an argument for the state in regards
6 to specifically the plea offer if we can --

7 THE COURT: Okay.

8 MS. WHITE: -- since -- since we are -- since that was
9 the other main issue.

10 Your Honor, I think that in this matter -- I think
11 it's an issue of credibility and one factor and to whether
12 or not the applicant would have actually accepted the plea
13 when he actually turned down a plea of zero to 15 and was
14 facing a plea of zero to ten as to whether or not he would
15 have actually accepted a plea.

16 The applicant, you know, is afforded constitutional
17 rights to a fair trial. He chose to proceed to trial. He
18 had turned down a previous offer.

19 He had a fair trial with an option or with the Court's
20 option or the jury's option rather to actually find him and
21 acquitted him, find him not guilty, and receive zero time
22 or find him guilty.

23 He was sentenced by the judge fairly after the trial,
24 and unfortunately the regret now I believe is indicated by
25 him attempting to come back and claim that he would have

1 taken a plea offer that now -- that he previously rejected.

2 So the state would argue that the credibility is a
3 huge factor in this issue and that the plea offer -- his
4 constitutional rights were not violated in any manner with
5 this because he did receive a fair trial. And
6 unfortunately for him, it was not in his favor.

7 And I think that's all I have at this point for this.

8 MR. COLEMAN: Your Honor, I think whether or not a
9 plea offer was rejected in this case is very much at the
10 heart of all of this. It is indeed an issue of
11 credibility.

12 And, Your Honor, my client says he never was conveyed
13 the plea offer offered by the solicitor Rhodes. And of
14 course Ms. Hodges claims she has some recollection of a
15 telephone -- of a conversation with him.

16 And of course also there are other people who
17 testified here who were present when -- or another person
18 who was present when Mr. Walker received the telephone call
19 that upset him so terribly to find out that he had been
20 indicted on first degree burglary.

21 I think one other thing the state -- the state is
22 leaving out is the offer in 2007 was to plead guilty to two
23 charges of burglary second, one violent and one nonviolent.
24 And there was no recommendation for concurrent or
25 consecutive or any other -- any other kind of

1 recommendation here. So I would just want to point that
2 out, Your Honor. Thank you.

3 And I'm sorry. I was going to cite Davey vs. State
4 for Your Honor. It's 675, S.E. 2nd, 416. This case unlike
5 the -- in the Davey case there's actually a plea -- a plea
6 at trial. So this case is unlike the Davey case in that
7 there was actually a trial by a jury after the offer of a
8 guilty plea, so.

9 THE COURT: Do you want to leave me a copy?

10 MR. COLEMAN: I'll be happy to leave you this copy.
11 You're welcome to have this copy along with my notes.

12 THE COURT: All right. I will take a look at it.

13 Mr. Walker, I need to ask you a question.

14 THE APPLICANT: Yes, sir.

15 THE COURT: Let's assume just for purposes of what I'm
16 about to ask you -- assume that I come to the conclusion
17 that you've met your burden of proof today.

18 Do you understand that you could potentially face a
19 life sentence on this charge?

20 THE APPLICANT: Yes, sir. But I would like to accept
21 the plea. I would accept a plea.

22 THE COURT: Sir, do you understand that --

23 THE APPLICANT: Yes, sir.

24 THE COURT: Will you let me finish?

25 THE APPLICANT: Yes, sir.

1 THE COURT: Do you understand that my -- if I find
2 that you have met your burden of proof that my decision
3 will not be that there is some plea offer extended to you?
4 It's simply that you have to go back and start over with
5 the burglary first charges. Do you understand that?

6 THE APPLICANT: Yes, sir.

7 THE COURT: And you understand that the charge of
8 burglary first if you are convicted or if you end up
9 pleading guilty to that charge, that you could face a life
10 sentence in jail?

11 THE APPLICANT: Yes, sir.

12 THE COURT: And you understand that you according to
13 the information that I have received -- that your sentence
14 for this burglary first charge presently is only a 22-year
15 sentence.

16 THE APPLICANT: Yes, sir.

17 THE COURT: And so you're willing to put your liberty
18 at jeopardy for even a greater length of time?

19 THE APPLICANT: Yes, sir, because --

20 THE COURT: All right.

21 THE APPLICANT: Okay. Yes, sir.

22 THE COURT: All right. I will take a look at it.

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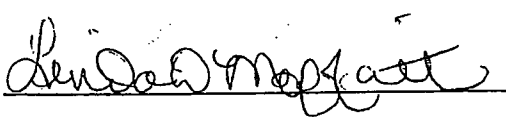
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 6th day of December 2011.

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

February 1, 2013



Linda D. Moffitt
Circuit Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Isaac Jerome Walker, #269962,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2010-CP-42-5623

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed October 18, 2010, and amendments filed June 17, 2011, and August 23, 2011. The Respondent made its Return on or about May 3, 2011. An evidentiary hearing into the matter was convened on December 6, 2011, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by Ransome A. Coleman, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Applicant's mother, Lucille McIntyre, and mother of his child, Yolanda Foster Black, also testified on his behalf. Kathleen Hodges, Esquire, also testified. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court's office, Applicant's records from the South Carolina Department of Corrections, the Return, the trial transcript, and exhibits introduced by Applicant and Respondent at the hearing.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the January 2007 term of General Sessions for

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burglary – 1st degree (2006-GS-42-4027). Kathleen J. Hodges, Esquire, represented the Applicant. On January 23, 2008, the Applicant was convicted of this charge by a jury. The Honorable Paul M. Burch sentenced the Applicant to confinement for twenty-five years for burglary – 1st degree. After a Motion for New Trial and a Motion to Reconsider were both filed by Counsel, Applicant's sentenced was reduced to twenty-two years.

A timely Notice of Appeal and an Anders brief were filed on Applicant's behalf. However, Applicant voluntarily withdrew his appeal. Therefore, the appeal was dismissed and the Remittitur issued by the South Carolina Court of Appeals on October 22, 2009.

ALLEGATIONS

In his initial application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel, in that;
 - i. Counsel failed to call co-defendant and victim as witnesses,
2. Newly discovered evidence, in that;
 - i. The testimony of his co-defendant, Lisa Godfrey;
3. Lack of subject matter jurisdiction; and
4. "Miscarriage of justice."

In the filed amendments, Applicant raised an additional twenty allegations of ineffective assistance of counsel; however, at the hearing, the Applicant and his PCR Counsel asserted that Applicant was proceeding solely on the grounds of ineffective assistance of counsel for failure to convey a plea offer for Applicant to plead to grand larceny in October 2007 and failure to object to the improper jury charge regarding the law of "hand of one, hand of all," waiving all other grounds raised in the application and amendments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the

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opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have 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

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sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Failure to Convey Plea Offer

The Applicant testified that Counsel was ineffective for failing convey a plea offer made by the State in October 2007 for Applicant to plead to grand larceny and cited for support Davie v. State, 381 S.C. 601, 675 S.E.2d 416 (2009). The Applicant asserted that he was never told of the offer by Counsel and testified that had he known of the offer, he would have definitely plead to the grand larceny charge, which carried a possible ten year sentence, to avoid a trial on the burglary – 1st degree charge, which carried a potential sentence of fifteen years to life if Applicant were convicted. Applicant testified that he only first became aware of the offer when his PCR Counsel obtained a copy of the offer email from the Solicitor’s file.

Counsel acknowledged that plea offers are substantial and material matters which must be discussed with clients. However, Counsel has no independent recollection that she discussed the offer with the Applicant and has no notes or other documentation which memorializes any discussion with the Applicant about that particular offer. Counsel testified that it has always been her customary practice to discuss such offers with clients and explained that she was a poor record keeper when it came to documenting client discussions in her files contemporaneously with the discussions.

Applicant claimed that he had absolutely no contact with Counsel until December 2007, by which time he was out on bond for the grand larceny charge that he was originally arrested on. Applicant was adamant and very passionate during the present testimony as to the content of this alleged first discussion with Counsel, continuing to assert that he would have accepted the October 2007 plea, but yet also continuing to assert his limited role in the crime. Applicant

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offered in support of his claim the fact that he had previously pled guilty to all of his previous charges in Spartanburg County. Counsel denied that her first contact with the Applicant was in December 2007, but acknowledged that the Applicant spoke with the same passionate and sometimes argumentative demeanor during her conversations with him prior to the October 2007 plea discussion, in particular as it pertained to his lack of involvement with the crime.

This Court notes that in a PCR hearing, the Applicant has the burden of proof. When Counsel has no documentation in her file and no independent recollection of an actual conversation about the offer with Applicant, the burden is made easier to meet. Although the facts related to the October 2007 plea offer were concerning to the Court, this Court finds that it is more likely than not that the offer was made known to the Applicant at the time the offer was made by the State. Counsel appeared to be credible as to deficiencies of her customary record keeping practices, plus she had documentation indicating that she had communications with the Solicitor's office to discuss a subsequent offer concerning the Applicant and his rejection of a plea offer to two burglary - 2nd degree charges. Counsel testified that she had been a practicing criminal attorney for over sixteen years and although there were no notes, she had definite recollections of some conversations with Applicant given that the Applicant was fairly memorable. Counsel also testified that when she met with the Applicant and discussed the case, Applicant was adamant that he was innocent and wanted a trial and she does not believe that Applicant would have accepted any offer in this case.

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Although the Applicant testified passionately that he would have accepted the October 2007 plea had he known about it, this Court does not find it credible and is not convinced that the Applicant would have accepted the offer based upon his equally passionate testimony regarding his limited involvement with the facts associated with the crime. Given the Applicant's

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demeanor, the fact that he rejected the pleas to burglary – 2nd degree, and his very strong position concerning his role in the crime, this Court finds that it is more likely than not that the Applicant would not have accepted the plea to the grand larceny charge if were offered to him at any point. This Court also does not find the Davie case applicable in this matter. Applicant was not prejudiced by pleading guilty to another offer with a higher sentence without knowledge of an earlier offer to a lesser charge or sentence. Rather, Applicant chose to proceed with a fair jury trial, which is his right provided by the Constitution. Therefore, this Court finds that the Applicant has failed to meet his burden of proof in proving that Counsel was ineffective as to this claim. This allegation is denied and dismissed.

Failure to Object to the Jury Charge Related to the "Hand of One, Hand of All"

As to the second issue related to Counsel's failure to object to the jury charge, the Applicant argued that Counsel should have objected to the trial court's jury charge regarding the "hand of one, hand of all," as it shift the burden unfairly to the Applicant, citing State v. L. L. L. 275 S.C. 168, 268 S.E.2nd 278 (1980). This Court finds that the charge did not shift the burden unfairly to Applicant and that the charge was justified based upon the acknowledged testimony of the victim's granddaughter. However, even if one discredits the granddaughter's testimony and agrees solely with the victim's testimony, the record read sufficiently to warrant the charge as given by the trial judge. When reviewing a jury charge for alleged error, appellate courts consider the "charge as a whole in light of the evidence and issues presented at trial." Keaton ex rel. Foster v. Greenville Hosp. Sys., 334 S.C. 488, 497, 514 S.E.2d 570, 575 (1999). "A jury charge is correct if '[w]hen the charge is read as a whole, it contains the correct definition and adequately covers the law.'" Id. at 496, 514 S.E.2d at 574 (quoting State v. Johnson, 315 S.C. 485, 487 n. 1, 445 S.E.2d 637, 638 n. 1 (1994)). A jury charge which is substantially correct and

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covers the law does not require reversal. *Id.* at 496-98, 514 S.E.2d 570, 514 S.E.2d at 575.

Counsel was not ineffective for failing to object when the charge given was correct law based on the evidence presented at the trial. Therefore, this Court finds that this allegation has no merit and should be denied and dismissed.

Summary

This Court finds that in regards to the allegations of ineffective assistance of counsel, Counsel's testimony was more credible than Applicant's testimony. This Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in her representation, and that Counsel's conduct does not fall below the objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in her representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See Frasier *supra*. Therefore, this allegation is denied.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

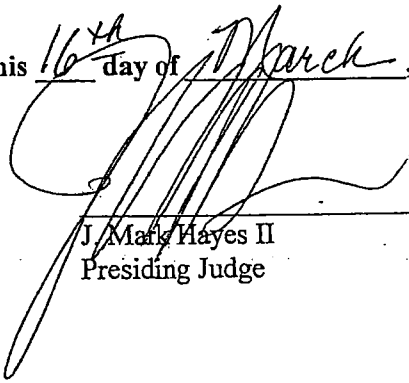
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This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 16th day of March, 2012.


J. Mark Hayes II
Presiding Judge

Spartanburg, South Carolina

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STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Isaac Jerome Walker,

☒ Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

CASE NO.

2009-CP-42-5623

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

☐ Defendant.

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Address: P.O. Box 11549

Columbia, South Carolina 29211

phone: 803-734-3737 fax:

e-mail: other:

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Rule 59, SCRPC

Estimated Time Needed: 15 min. Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

R A Coleman
Signature of Attorney for ☒ Plaintiff / ☐ Defendant

March 29, 2012

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT:

☒ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☒ Indigent Status

☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act

☒ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication

☐ Motion for Execution (Rule 69, SCRPC)

☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter:

☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

Collected by: _____

Date Filed: _____

☐ MOTION FEE COLLECTED: _____

☐ CONTESTED - AMOUNT DUE: _____

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR -3 PM 4:02
M. HOPE BLACKLEY

IN THE COURT OF COMMON PLEAS

C.A. No.: 2010-CP-42-5623

**MOTION FOR NEW TRIAL AND/OR
RECONSIDERATION
(RULE 59, SCRCp)**

VS.

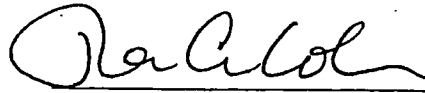
Respondent.

-420-

3. The Court fails to address Court's ruling to deny admission into evidence the affidavit of Lisa Godfrey.

Respectfully submitted by the undersigned on behalf of Applicant.

March 29, 2012



Ransome A. Coleman
Attorney for Applicant
P.O. Drawer 5587
Spartanburg, SC 29304
(864)582-8121

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR -3 PM 4:02
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT
) 2010-CP-42-5623

Isaac Jerome Walker,

)
)
) Plaintiff,

CERTIFICATE OF SERVICE BY MAIL

v.

State of South Carolina,

)
)
) Defendant.
)
)
)
)

I, Helen Henderson, in my capacity as legal assistant for Ransome A. Coleman, attorney for Applicant, do hereby certify that on the 29th day of March, 2012, I served the within *Motion for New Trial and/or Reconsideration* upon the attorneys of record and to the judge, by depositing a copy of the same into the United States Mail, postage prepaid, in the correct amount and addressed as follows:

Suzanne H. White
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

Hon. J. Mark Hayes II
180 Magnolia Street
Spartanburg, SC 29306

Helen Henderson
Helen Henderson
Legal Assistant to Ransome A. Coleman

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR -3 PM 4:02
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

Isaac Jerome Walker,
☒ Applicant

v.

State of South Carolina

CASE NO.
2009-CP-42-5623

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

☐ Defendant.

Plaintiff's Attorney:
Ransome A. Coleman
Address: Post Office Drawer 5587
Spartanburg, South Carolina 29304
phone: 864-582-8121 fax: 864-585-5328
e-mail: rcoleman@jshwlaw.com other:

Defendant's Attorney:
Suzanne H. White, Bar No.
Address: P.O. Box 11549
Columbia, South Carolina 29211
phone: 803-734-3737 fax:
e-mail: other:

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and II)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

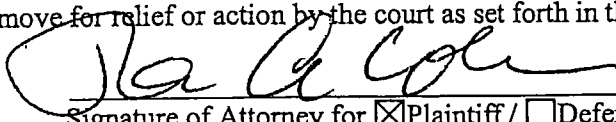
Nature of Motion: Rule 59, SCRC

Estimated Time Needed: 15 min. Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for ☒ Plaintiff / ☐ Defendant

March 29, 2012
Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT:

☒ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support
(check reason) ☐ Domestic Abuse or Abuse and Neglect
☒ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☒ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRC)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.
☐ Other:

JUDGE

CODE: Date:

CLERK'S VERIFICATION

Collected by: _____

Date Filed: _____

☐ MOTION FEE COLLECTED: _____

☐ CONTESTED - AMOUNT DUE: _____

also irrelevant to the allegations that Applicant proceeded with at the hearing. The Order of Dismissal reflects the desire of the Applicant and his Counsel to proceed only on two claims and the affidavit was irrelevant to either of the two claims.

However, Respondent concedes that there are scrivener's errors, in that each place in the Order that the original plea offer is referenced, it is incorrectly referred to as the "October 2007" plea offer, when the testimony and evidence presented were clear that it should say "October 2006," and the Order of Dismissal should be amended to reflect the accurate date.

II.

WHEREFORE, having made its Return to the motion, the State requests that the relief requested in the Motion as it relates to the corrections of the scrivener's errors only be granted, but that all other relief should be denied and that said Motion be dismissed.

Respectfully submitted,

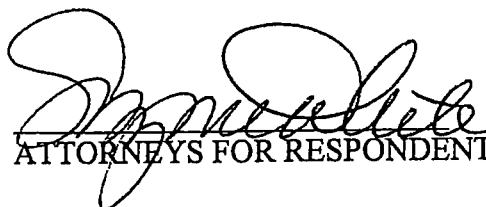
ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

BY:


ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-3737

April 17, 2012.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT

Isaac Jerome Walker,

2010-CP-42-5623

Applicant,

v.

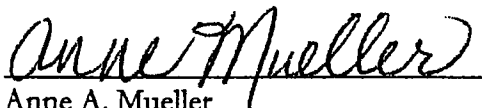
CERTIFICATE OF SERVICE BY MAIL

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 Respondent's Return to Applicant's Motion for New Trial and/or Reconsideration in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Ransome A. Coleman, Esquire
Johnson Smith Hibbard & Wildman, LLP
P.O. Drawer 5587
Spartanburg, South Carolina 29304-5587


Anne A. Mueller
Legal Assistant for the Respondent

DATED this 17th day of April, 2012.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SPARTANBURG	)	C.A. No.: 2010-CP-42-5623
	)	
Isaac J. Walker, 269962,	)	
	)	AMENDMENT TO MOTION FOR
Applicant,	)	
	)	NEW TRIAL AND/OR
vs.	)	
	)	RECONSIDERATION
State of South Carolina,	)	
	)	DATED MARCH 29, 2012
Respondent.	)	
	)	(RULE 59, SCRPC)

TO: Respondent

PLEASE TAKE NOTICE that Applicant, by and through his understand attorney, hereby moves to amend his Motion for relief pursuant to Rule 59, SCRPC, dated March 29, 2012, by the addition of the following:

4. Applicant respectfully requests the Court reconsider its decision in light of recent decisions by United States Supreme Court in *Missouri v. Frye*, 566 U.S. ____, 132 S. Ct. 1399, __ L. Ed. 2d ____ (2012) and of *Lafler v. Cooper*, 566 U.S. ____, 132 S. Ct. 1376, __ L. Ed. 2d ____ (2012) both of which were decided March 21, 2012. In *Frye* the United States Supreme Court held that, as a general rule, defense counsel has the duty [emphasis added] to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused. See *Frye*, 132 S. Ct. at p. 1408. Frye's trial counsel, much like Applicant's trial counsel, testified he could not recall whether he had communicated the offer to Frye, that there was no correspondence in his file to indicate an effort was made to mail the offer to Frye and that he could not recall speaking with, seeing or ever attempting to contact Frye during which the window for accepting the offer was open. *Frye v. State*, 311 S.W. 3d 350, at pp. 352 and 355 -356 (Mo. App. 2010). Unlike Frye, Applicant's trial counsel did testify that although she had no direct recollection that it was her custom to discuss all plea offers with defendants, a claim that the Applicant adamantly denied. The Missouri Court of Appeals found that the efforts of Frye's trial counsel was deficient, a finding confirmed by the U.S. Supreme Court. See *Frye*, 132 S. Ct. at p.1410. Applicant contends that trial counsel's mere testimony regarding her customary practice to discuss plea offers with clients is no longer sufficient in light of the level to which plea

negotiations have been elevated, and the duty imposed on trial counsel, by the U.S. Supreme Court in *Frye* and that the testimony when taken as a whole should result in a finding that trial counsel was ineffective.

As regards whether this breach of duty resulted in prejudice where the defendant proceeded to trial, the Court in *Lafler v. Cooper*, 566 U.S. ___, 132 S. Ct. 1376, ___ L. Ed. 2d ___ (2012) held that if a plea bargain has been offered, a defendant has the right to effective assistance of counsel and if that right is denied, prejudice can be shown if loss of the plea opportunity led to a trial in a conviction on more serious charges or the imposition of a more severe sentence. See *Lafler*, 132 S. Ct. at page 1387. *Frye* and *Lafler* both reaffirmed, however, that in order to complete a showing of prejudice, defendants who plead guilty to charges (and defendants who are convicted at trial) that result in a greater penalty, still must show a reasonable probability they would have accepted the lesser plea. In addition, they each held that such defendants must also show that if the prosecution had the discretion to cancel it or the trial court had the discretion to refuse to accept it, there is a reasonable probability neither the prosecution nor the trial court would have prevented the offer from being accepted or implemented. See *Frye*, 132 S. Ct. at p.1409 and *Lafler*, 132 S. Ct. at p.1385.

With regards to whether or not Applicant would have accepted the plea offer, Applicant contends that in light of *Frye* and *Lafler* his testimony and that of his other witnesses of his prior history of guilty pleas should be given greater weight and that when taken as a whole the testimony at the hearing should result in a finding that Applicant would have accepted the offer to plead guilty to grand larceny as charged. With regards to the probability that neither the prosecution nor prosecution would not have canceled the offer or that the trial court would not have accepted Applicant's plea, the South Carolina court has not yet adopted the criteria but instead has adopted a case by case approach. *Davie v. State*, 38 S.C. 691, 695 S.E. 2d 416 (2009). Applying for argument's sake the criteria set forth in *Frye* and *Lefflar*, "[i]t has long been established in South Carolina that state prosecutors 'are obligated to fulfill the promises they make to defendants when those promises serve as inducements to defendants to plead guilty.' *Sprouse v. State*, 355 S.C. 335, 338, 585 S.E.2d 278, 279 (2003) (citing *Santobello v. New York*, 404 U.S. 257, 92 S. Ct. 495, 30 L. Ed. 2d 427 (1971))." *State v. Dingle*, 376 S.C 643, 651, 659 S. E. 2d 101, 105 (2008). Had the Applicant accepted the offer by the Solicitor to plead guilty to grand larceny as charged on or before November 15, 2006 [see State's Exhibit E], it would have therefore been incumbent on the Solicitor to

honor the offer and submit the plea to the trial court. With regards to the trial court's acceptance or rejection, it is granted that judges have broad discretion in these matters. However this plea agreement was one to plead straight up to grand larceny as charged in the arrest warrant without any recommendation or promise regarding a lesser charge or sentencing. Applicant contends that it is reasonably probable that the trial court would have found that Applicant's plea was voluntary and freely made and would have accepted Applicant's plea.

Regarding whether or not the plea would have resulted in a lesser sentence than that received at trial, Applicant was charged under Sec. 16-13-30(B)(1), SC Code of Laws, which is a Class F Felony (Grand Larceny less than \$1,000) that carries a maximum sentence of five (5) years. Assuming his record of prior convictions supported sentencing as a Class E Felony under Sec. 16-1-57, SC Code of Laws, his maximum sentence still would not have exceeded ten (10) years. Applicant was convicted by a jury of Burglary First Degree which carried a minimum sentence of fifteen (15) years and which due to its status as violent and most serious restricted Applicant's eligibility for parole. Applicant eventually received a sentence of twenty two (22) years for Burglary First Degree.

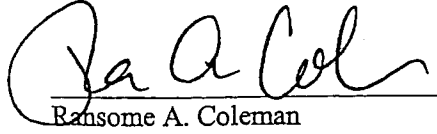
Applicant also notes for this Court the remedy granted in *Lafler* ordering the State to reoffer the plea agreement with leave by the state court in its discretion to either vacate the conviction and sentence Lafler pursuant to the plea agreement or to leave the conviction and sentence from the trial undisturbed. See *Lafler*, 132 S. Ct. at p. 1391. Applicant would argue, however, that the latter (leave the conviction and sentence from the trial undisturbed) would be an empty and illogical remedy based upon the plea agreement offered by the Solicitor.

In summary, Applicant contends that these recent U.S. Supreme Court rulings created standards by which a review of the evidence in light thereof would result in a finding that (1) trial counsel failed in her duty to communicate the formal offer of the Solicitor to plead guilty to a less serious charge, (2) Applicant would have accepted the offer had it been communicated to him, (3) neither the Solicitor nor the trial court would have prevented the plea from being accepted and implemented, and (4) the loss of the plea opportunity led to a trial and conviction on more serious charges and the imposition of a more severe sentence than Applicant would have subject under the plea offer.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR 23 PM 2:33
M. HOE-FLAHERTY

Respectfully submitted by the undersigned on behalf of Applicant.

April ____, 2012



Ransome A. Coleman
Attorney for Applicant
P.O. Drawer 5587
Spartanburg, SC 29304
(864)582-8121

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR 24 PM 2:33
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
2010-CP-42-5623

Isaac Jerome Walker,

Plaintiff,

v.

State of South Carolina,

Defendant.

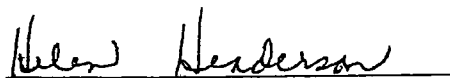
CERTIFICATE OF SERVICE BY MAIL

I, Helen Henderson, in my capacity as legal assistant for Ransome A. Coleman, attorney for Applicant, do hereby certify that on the 24th day of April, 2012, I served the within *Amendment to Motion for New Trial and/or Reconsideration dated March 29, 2012* upon the attorneys of record and to the judge, by depositing a copy of the same into the United States Mail, postage prepaid, in the correct amount and addressed as follows:

Suzanne H. White
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

Hon. J. Mark Hayes II
180 Magnolia Street
Spartanburg, SC 29306

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR 24 PM 2:33
M. HOPE BLACKLEY



Helen Henderson
Legal Assistant to Ransome A. Coleman

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF COMMON PLEAS
3
4 Isaac Jerome Walker,)
5 Applicant,) TRANSCRIPT OF RECORD
6 -vs-) 2010-CP-42-05623
7 The State,)
8 Respondent.) June 14, 2012
9 Spartanburg, South Carolina
10

11 B E F O R E:

12 HONORABLE J. MARK HAYES, II, JUDGE
13
14

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

16 RANSOME ALEXANDER COLEMAN, ESQUIRE
17 Attorney for the Applicant

18 SUZANNE H. WHITE, ESQUIRE
19 Attorney for the Respondent
20
21
22

23 Margaret A. Woods
24 Circuit Court Reporter
25

ORIGINAL

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
D-1	Brief in support of motion for a new trial	7	

1 THE COURT: Alright, we'll go on the record on the matter
2 of Walker vs. the State of South Carolina. We're here on a
3 motion for new trial and/or for reconsideration as been filed
4 by the applicant, we're here to receive the arguments. Be
5 more than happy to hear from ya.

6 MR. COLEMAN: Thank you, Your Honor. We have a motion
7 for a new trial and/or con -- reconsideration from the Court's
8 Order of March 16th in the, in the matter P -- for
9 post-conviction relief. Just a moment, my client just handed
10 me somethin'.

11 (Pause.)

12 MR. COLEMAN: One more moment, sir.

13 (Whereupon, a discussion was held off the record.)

14 MR. COLEMAN: Your Honor, I think it's in our motion for
15 new trial, we raised the error in the Order regarding a offer
16 to plead guilty to grand larceny issued by the solicitor to
17 the trial attorney. The Order states it was in October of
18 2007, I think the evidence is clear that it was in October of
19 2006 and I I don't think that's in dispute with the AG's
20 office. Our our contention is, Your Honor, that in the
21 Court's mind if it was thinking that this offer was presented
22 in '07 immediately prior to the trial in January of '08, that
23 the fact that it was actually offered a year earlier in
24 October of 2006 would have a bearing on Court's view of the
25 evidence especially in light of the trial attorney's

1 testimony. She couldn't recall, the only thing she -- her her
2 testimony regarding whether she had conveyed the offer to the
3 applicant was that she couldn't recall. She had no evidence
4 in her file, she couldn't recall discussin' with him and her
5 her basis of her opinion was that as a general rule she always
6 talks, she always conveys them which gives rise to recent
7 Supreme Court cases just ruled in March of this year, *Frye* and
8 *Lefler* [sic] which are briefed in my amended motion for new
9 trial. We contend that *Lefler* and, these two cases *Lefler* and
10 *Frye* held that it is now a -- the duty of trial counsel to
11 convey plea offers and based upon this duty goes along a
12 responsibility to be able to evidence a transmittal or
13 communication of the plea. We also -- that's that's that's
14 the main gist of those two cases. I don't think it really
15 goes to change state law about other things, I think South
16 Carolina had al -- already held that it was a right to
17 effective counsel at the, at the plea bargaining phase of
18 proceedings so that much is but they've gone a step further
19 and said it's a duty and so we're emphasizin' this duty which
20 is cited in the in *Frye* and in *Lafler* that her -- the evidence
21 was insufficient to prove that to overcome I should say the
22 testimony of Mr. Walker that he never received a plea offer.
23 The other issue's regarding whether or not he would accept it
24 goes to the issue of the Order and the lack of anything in the
25 Order about the weight of the testimony of the Mr. Walker's

1 mother Mrs. MacEntyre (phonetic), that she had accompanied him
2 to all of his prior proceedings that he had been previously
3 convicted of and that all those, at all of those he had pled
4 guilty so regarding that issue, Your Honor, it's it's all in
5 in our motion for new trial. Mr. Walker also has a brief in
6 support of his motion setting forth his view of of the
7 evidence that he would like to present the Court and I've
8 already provided a copy but another copy to the AG ---

9 MS. WHITE: Thank you.

10 MR. COLEMAN: --- and we would offer this a brief in
11 support.

12 (Whereupon, counsel handed the document to the Court.)

13 MR. COLEMAN: I have extra copies.

14 THE COURT: Do you have an extra copy so that the court
15 reporter can make it part of the record?

16 MR. COLEMAN: I -- she can do that original if she like.
17 Well ---

18 THE COURT: I I I I'll let her have the original ---

19 MR. COLEMAN: Alright,

20 THE COURT: --- but that ---

21 MR. COLEMAN: There you go.

22 THE COURT: --- 'cuz I usu -- I usually mark on these.

23 MR. COLEMAN: Good. If I may, if you'll -- any
24 objection?

25 MS. WHITE: No objection, Your Honor.

1 MR. COLEMAN: Alright, here you are.

2 COURT REPORTER: Thanks.

3 MR. COLEMAN: Thank you.

4 (Brief in support of motion for a new trial marked
5 Defendant's Exhibit No. 1 for identification.)

6 MR. COLEMAN: Your Honor, without quoting from *Leflor*
7 [sic] or from *Frye* which the Court certainly I'm s -- ha -- I
8 can have an extra copy of that for the Court for its
9 convenience you'd like one.

10 THE COURT: Well if you've got one, yeah, 'cuz I I have
11 not read those so I have to read them ---

12 MR. COLEMAN: Absolutely.

13 THE COURT: --- so if you've already got those.

14 MR. COLEMAN: I'll ju --, you know, I I won't rehash the
15 language in here in their holdings.

16 (Whereupon, counsel handed the document to the Court.)

17 MR. COLEMAN: Thank Your Honor, but in sum, you know, as
18 a general rule had the plea offer been communicated to him and
19 had there been any communication or even an explanation of
20 what charges were and and the, um, of course the the threat of
21 the solicitor was that if he didn't take it he was gonna
22 direct indict him in -- on the first degree burglary and had
23 he been explained, you know, the the elements of first degree
24 burglary including the, uh, including the elements of the hand
25 of one is the hand of all that he would've accepted that plea

1 and he was of course because of the differences in the
2 sentencing between grand larceny and first degree burglary he
3 was prejudiced, Your Honor.

4 THE COURT: So you believe that the new Supreme, United
5 States Supreme Court cases, uh, ---

6 MR. COLEMAN: Right.

7 THE COURT: --- alters the decision of ---

8 MR. COLEMAN: I think it ---

9 THE COURT: --- this court due to the fact that the
10 trial counsel or plea counsel all that she could testify
11 during the PCR was that I really don't remember one way or the
12 other but my customary thing that I do is that I convey these
13 offers.

14 MR. COLEMAN: Exactly and, Your Honor, I'm I'm looking
15 at, you know, once you read the factual situations in *Frye* and
16 and in *Lafler*, I'm I'm reading from *Frye*, I -- the Westlaw,
17 I'm lookin' at page 11 of 16 and it it's key notes 9 and 10
18 where they discuss and and hold that, As a general rule,
19 defense counsel has the duty to commit [sic] formal offers
20 from the prosecution to accept a plea on term and conditions
21 that may be favorable to the accused.

22 THE COURT: But she testified it's her customary
23 practice ---

24 MR. COLEMAN: I ---

25 THE COURT: --- to do so.

1 MR. COLEMAN: --- understand, Your Honor, but I think
2 we've got a duty become responsibility over to at least
3 adequately evidence that communication.

4 THE COURT: Does that -- do those cases, I, again I have
5 not read those cases, ---

6 MR. COLEMAN: Um, ---

7 THE COURT: --- do those cases address that aspect of it
8 that it -- that the, that plea counsel or trial counsel
9 act -- actually has to put it in writing or do somethin'?

10 MR. COLEMAN: --- they just weighed on this evidence and
11 in this evidence it was clear that there was absolutely no
12 com -- abs -- absolutely no communication so there was not
13 even, not even the the what you say the e -- testimony that
14 what was customarily done so and distinguishes at least one
15 distinguishing ---

16 THE COURT: Alright, okay. Alright, it it because that
17 whether it was 2006, 2007, 2008, 9, 10, that did not affect my
18 determination of the case.

19 MR. COLEMAN: Right.

20 THE COURT: I felt like that during a prior PCR hearing
21 that we did that a -- that trial counsel or plea counsel that
22 she was believable, you know, I judged her credibility based
23 on the way she testified, the way she answered questions and
24 also the the substance of the quest -- that or substance of
25 her answers. I thought she could very easily, you know, if

1 she wanted to lie and and make herself look better she
2 could've just simply said of course I made that offer and she
3 didn't, I thought she was quite honest, but so I -- anyway,
4 but you feel like that those cases ---

5 MR. COLEMAN: I I think these cases actually shift the
6 burden a bit ---

7 THE COURT: Okay, I ---

8 MR. COLEMAN: --- uh, I went ahead ---

9 THE COURT: --- I look forward to reading them 'cuz
10 it, ---

11 MR. COLEMAN: --- had this ---

12 THE COURT: --- I noticed that when you wrote your
13 amendment.

14 MR. COLEMAN: Well you might wanna read the dissenting
15 opinions there, they're very interesting too.

16 THE COURT: Alright. Okay, well let me hear from the
17 State.

18 MR. COLEMAN: Thank you.

19 MS. WHITE: Thank Your Honor. Obviously the State does
20 agree that there was a scrivener's error in the, in the Order
21 and that acknowledges that the testimony was that the plea
22 offer was, original plea offer was 2006 and not 2007, excuse
23 me, so we have no problem in in addressing that and amending
24 the Order to reflect that. In particular just to make a note,
25 you know, the the rules regarding 59(e) say that that a new

1 argument can't be raised in, you know, or new issues can't be
2 raised and although this is kind of along the same line we
3 would argue that this case, these cases were decided March
4 21st 2012 so if by chance there was a new duty created, this
5 is obviously well past the time that that counsel she can't
6 have ability to look into the future, you know, and know
7 exactly what to do but I would argue that, you know, the duty
8 already existed for counsel to be effective by conveying a
9 plea offer and in this situation by the testimony presented we
10 agree that it was credible that she did as her standard
11 practice communicate that with him and based on his as -- you
12 know, assertions of his innocence he had turned that down just
13 like he did the later plea offers as well. In particular
14 regarding *Missouri v. Frye* and *Lafler v. Cooper*, *Lafler*
15 involves a case that specifically counsel advises the client
16 to reject a plea deal, the client goes to trial and then
17 is -- receives a stan -- substantially larger sentence so I
18 think that one is is ina -- inapplicable to this case.
19 *Missouri v. Frye* I think that it doesn't shift the burden, the
20 the law even it says there that the applicant must show to
21 show prejudice that they were not aware of an offer because of
22 the counsel's deficient performance, that they would have
23 reasonably, um, there's a reasonable probability they would've
24 accepted the offer had they known about it and that also
25 couns -- that the trial court would have accepted that plea

1 and it would not have been withdrawn or anything by the State,
2 um, so I think the burden still exists on the applicant even
3 throughout that case to show deficient performance and
4 subsequent prejudice so I don't believe that those affect the
5 outcome in this at all.

6 Um, just briefly on the testimony of Mr. -- the
7 applicant's mother, I think there, you know, there's no issues
8 potentially of credibility with that but it's just their, the
9 testimony was not relevant to the issue of whether counsel
10 communicated a plea offer to the applicant being that the, um,
11 the mother was never present in any conversations, never heard
12 any phone conversations on both sides, never saw any, you
13 know, written communication or or talked with her about that
14 so however, you know, if Your Honor needs to make a a finding
15 as to that, you know, the State would have no objection to
16 amending the Order including that as well.

17 THE COURT: Let me ask the State a question.

18 MS. WHITE: Yes, Your Honor.

19 THE COURT: Um, you you the -- understand the State's
20 position is that the two new Supreme Court, United States
21 Supreme Court decisions of this *Frye* and this *Lefler* [sic]
22 that they're not applicable to this case because they were
23 decided subsequent to when the events of this case transpired,
24 would that be -- we had a case as to the applicability whether
25 it was retroactive or simply at that moment established a duty

1 in those cases that dealt with the, uh, having to with
2 immigrants or people who have questionable immigration status
3 having to make a record of are they aware that by entering the
4 plea are you aware of the consequence to your immigration
5 status and that's an -- that that issue whether it's
6 retrospective or just pro -- per -- prospective is still up in
7 the air to a degree and there was actually a test ---

8 MS. WHITE: Yes, Your Honor.

9 THE COURT: --- that I had to apply to determine that it
10 was just prospective, do you remember what that test was?

11 MS. WHITE: It is, Your Honor, and I'm gonna pull it up
12 just so I'm a little more accurate, I think it's the
13 *Teague* ---

14 THE COURT: *Teague*, yeah.

15 MS. WHITE: --- *Teague* test, it's *Teague v. Lane* if I'm
16 correct that was a Supreme Court case and essentially looks at
17 whether or not a new case establishes a new law or simply
18 changes an existing law, makes a change in existing law and I
19 think, um, and if you'll give me just a moment, Your Honor, I
20 wanna to be more accurate, I think it says generally that new
21 rules of of procedure are not applicable to those cases which
22 have become final before the new rules are announced, it's
23 only when the case it's either a watershed rule or it's a case
24 that makes like a substantial change to a current rule that
25 would, you know, affect how people view things. Obviously in

1 o -- in our situation or our our opinion these cases don't
2 really establish a new rule or make a substantial change to an
3 existing rule, they just simply explain and reaffirm what
4 counsel is supposed to do and then define a little more as if
5 counsel rejects, you know, if they advise us to the rejection
6 of a plea deal, um, in particular so but it is and I can give
7 you it's 489 U.S. 288 is the *Teague v. Lane* citation.

8 THE COURT: Okay. Thank you.

9 MS. WHITE: You're welcome.

10 THE COURT: Anything in reply? I think your client wants
11 to speak to you.

12 MR. COLEMAN: Um, yeah.

13 THE COURT: I'll I -- no, he wants to talk ---

14 MR. COLEMAN: I think he wants to speak to you, uh, ---

15 THE COURT: I'm ---

16 MR. COLEMAN: --- and I understand.

17 THE COURT: --- I'm not gonna allow that ---

18 MR. COLEMAN: Yes.

19 THE COURT: --- not at this stage.

20 MR. COLEMAN: Your Honor, I, first of all, let me state
21 she's absolutely correct I I think it's *Lefler* [sic] was was
22 just bad advice, just flat out bad advice as as recommending
23 not plead guilty ---

24 THE COURT: Um-hum.

25 MR. COLEMAN: --- and, uh, in my previous argument I I

1 was thinking of the one where it was, where there was a la --
2 no communication at all. These were companion cases, one was
3 a guilty plea, he actually pled guilty to the more serious
4 charges without knowing about the previous guilty plea and the
5 other one was his counsel had advised him they'll never
6 convict you of this and he went to trial and got convicted,
7 uh, that's correct but, you know, I will just argue, Your
8 Honor, and and I haven't read *Teague* but, you know, I would, I
9 would say that right now this case is still ongoing and so
10 raising at point -- at this point is these recent cases I
11 think are within the time frames that are allowed.

12 THE COURT: Okay. Well I've got a lotta work to do then,
13 I've got to review these things so, uh, be patient with me and
14 but I will take a look at it. Thank ya'll very much.

15 MS. WHITE: Thank Your Honor.

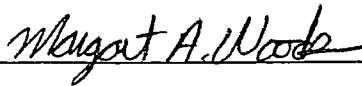
16 THE DEFENDANT: Thank you, Your Honor.
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CERTIFICATE OF REPORTER

I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on June 14, 2012 at the time and place heretofore set forth; and that the foregoing pages numbered from 4 through 15, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties connected to the action, nor am I financially interested in the action.

June 24, 2013



Margaret A. Woods, Court Reporter
in and for the State of South Carolina at Large.

BM

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Isaac Jerome Walker, #269962,

2010-CP-42-5623

Applicant,

v.

AMENDED
ORDER OF DISMISSAL

State of South Carolina,

Respondent.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed October 18, 2010, and amendments filed June 17, 2011, and August 23, 2011. The Respondent made its Return on or about May 3, 2011. An evidentiary hearing into the matter was convened on December 6, 2011, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by Ransome A. Coleman, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Applicant's mother, Lucille McIntyre, and mother of his child, Yolanda Foster Black, also testified on his behalf. Kathleen J. Hodges, Esquire, also testified. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court's office, Applicant's records from the South Carolina Department of Corrections, the Return, the trial transcript, and exhibits introduced by Applicant and Respondent at the hearing.

Following the filing of a Motion to Alter or Amend and Amended Motion to Alter or Amend by the Applicant, this Court heard arguments and instructed that the Order of Dismissal be amended to reflect additional findings. All amended findings are underlined and italicized.

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PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the January 2007 term of General Sessions for burglary – 1st degree (2006-GS-42-4027). Kathleen J. Hodges, Esquire, represented the Applicant. On January 23, 2008, the Applicant was convicted of this charge by a jury. The Honorable Paul M. Burch sentenced the Applicant to confinement for twenty-five years for burglary – 1st degree. After a Motion for New Trial and a Motion to Reconsider were both filed by Counsel, Applicant's sentenced was reduced to twenty-two years.

A timely Notice of Appeal and an Anders brief were filed on Applicant's behalf. However, Applicant voluntarily withdrew his appeal. Therefore, the appeal was dismissed and the Remittitur issued by the South Carolina Court of Appeals on October 22, 2009.

ALLEGATIONS

In his initial application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel, in that;
 - i. Counsel failed to call co-defendant and victim as witnesses,
2. Newly discovered evidence, in that;
 - i. The testimony of his co-defendant, Lisa Godfrey;
3. Lack of subject matter jurisdiction; and
4. "Miscarriage of justice."

In the filed amendments, Applicant raised an additional twenty allegations of ineffective assistance of counsel; however, at the hearing, the Applicant and his PCR Counsel asserted that Applicant was proceeding solely on the grounds of ineffective assistance of counsel for failure to convey a plea offer for Applicant to plead to grand larceny in October 2006 and failure to object to the improper jury charge regarding the law of "hand of one, hand of all," waiving all other

grounds raised in the application and amendments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e) SCRPC). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms."

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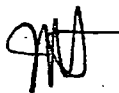
Cherry, 300 S.C. at 117, 385 S.E.2d at 625, *citing Strickland*. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Failure to Convey Plea Offer

The Applicant testified that Counsel was ineffective for failing convey a plea offer made by the State in October 2006 for Applicant to plead to grand larceny and cited for support Davie v. State, 381 S.C. 601, 675 S.E.2d 416 (2009). The Applicant asserted that he was never told of the offer by Counsel and testified that had he known of the offer, he would have definitely pleaded to the grand larceny charge, which carried a possible ten year sentence, to avoid a trial on the burglary - 1st degree charge, which carried a potential sentence of fifteen years to the Applicant were convicted. Applicant testified that he only first became aware of the offer when his PCR Counsel obtained a copy of the offer email from the Solicitor's file.

Counsel acknowledged that plea offers are substantial and material matters which must be discussed with clients. However, Counsel has no independent recollection that she ever discussed the offer with the Applicant and has no notes or other documentation which memorializes any discussion with the Applicant about that particular offer. Counsel testified that it has always been her customary practice to discuss such offers with clients and explained that she was a poor record keeper when it came to documenting client discussions in her files contemporaneously with the discussions.

Counsel denied that her first contact with the Applicant was in December 2007, but



acknowledged that the Applicant spoke with the same passionate and sometimes argumentative demeanor during her conversations with him prior to the October 2006 plea discussion, in particular as it pertained to his lack of involvement with the crime.

This Court notes that in a PCR hearing, the Applicant has the burden of proof. When Counsel has no documentation in her file and no independent recollection of an actual conversation about the offer with Applicant, the burden is made easier to meet. Counsel testified that she had been a practicing criminal attorney for over sixteen years and although there were no notes, she had definite recollections of some conversations with Applicant given that the Applicant was fairly memorable. Counsel also testified that when she met with the Applicant and discussed the case, Applicant was adamant that he was innocent and wanted a trial and she does not believe that Applicant would have accepted any offer in this case.

Although Counsel appeared to be credible as to deficiencies of her customary record keeping practices, and the continuing communications with the Solicitor's office to discuss a subsequent offer concerning the Applicant and his rejection of a plea offer to two burglary - degree charges, this Court finds that the Applicant met his burden of proof of establishing that Counsel was deficient for failing to convey the October 2006 plea offer. This Court finds that although Counsel is also credible that her customary practice is to convey all offers and this is the basis for her opinion that she made the offer to the Applicant, the lack of other supportive documentation or evidence supports the reasonable inference that the October 2006 offer was not conveyed to the Applicant.

However, although this Court finds that the Applicant has met his burden of proof as to Counsel's deficiency in failing to convey the October 2006 plea offer, this Court finds that the Applicant failed to establish the second prong of prejudice. Although the Applicant testified

passionately that he would have accepted the October 2006 plea had he known about it, this Court does not find it credible and is not convinced that the Applicant would have accepted the offer based upon his equally passionate testimony regarding his limited involvement with the facts associated with the crime. Given the Applicant's demeanor, the fact that he rejected the pleas to burglary - 2nd degree, and his very strong position concerning his role in the crime, this Court finds that it is more likely than not that the Applicant would not have accepted the plea to the grand larceny charge if were offered to him at any point. This Court also does not find the Davie case applicable in this matter. Applicant was not prejudiced by pleading guilty to another offer with a higher sentence without knowledge of an earlier offer to a lesser charge or sentence. Rather, Applicant chose to proceed with a fair jury trial, which is his right provided by the Constitution. Therefore, this Court finds that the Applicant has failed to meet his burden of proof in proving that Counsel was ineffective as to this claim. This allegation is denied and dismissed.

Failure to Object to the Jury Charge Related to the "Hand of One, Hand of All"

As to the second issue related to Counsel's failure to object to the jury charge, Applicant argued that Counsel should have objected to the trial court's jury charge regarding the "hand of one, hand of all," as it shift the burden unfairly to the Applicant, citing State v. Labarge, 275 S.C. 168, 268 S.E.2nd 278 (1980). This Court finds that the charge did not shift the burden unfairly to Applicant and that the charge was justified based upon the acknowledged testimony of the victim's granddaughter. However, even if one discredits the granddaughter's testimony and agrees solely with the victim's testimony, the record read sufficiently to warrant the charge as given by the trial judge. When reviewing a jury charge for alleged error, appellate courts consider the "charge as a whole in light of the evidence and issues presented at trial." Keaton ex

rel. Foster v. Greenville Hosp. Sys., 334 S.C. 488, 497, 514 S.E.2d 570, 575 (1999). "A jury charge is correct if '[w]hen the charge is read as a whole, it contains the correct definition and adequately covers the law.'" Id. at 496, 514 S.E.2d at 574 (quoting State v. Johnson, 315 S.C. 485, 487 n. 1, 445 S.E.2d 637, 638 n. 1 (1994)). A jury charge which is substantially correct and covers the law does not require reversal. Id. at 496-98, 514 S.E.2d 570, 514 S.E.2d at 575. Counsel was not ineffective for failing to object when the charge given was correct law based on the evidence presented at the trial. Therefore, this Court finds that this allegation has no merit and should be denied and dismissed.

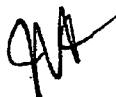
Summary

This Court finds that in regards to the allegations of ineffective assistance of counsel, Counsel's testimony was more credible than Applicant's testimony. This Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in her representation, and that Counsel's conduct does not fall below the objective standard of reasonableness.

This Court also finds the Applicant has failed to prove the second prong of Strickland that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See Frasier supra. Therefore, this allegation is denied.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.



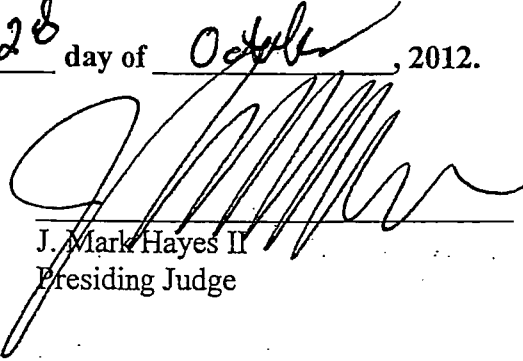
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This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 28 day of October, 2012.


J. Mark Hayes II
Presiding Judge

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Spartanburg, South Carolina