

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**May 30 2025**

**S.C. SUPREME COURT**

\_\_\_\_\_  
Certiorari to Spartanburg County

Honorable Heath P. Taylor, Circuit Court Judge

\_\_\_\_\_  
DOMINICK ANTONIO THOMPSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-002125

\_\_\_\_\_  
APPENDIX  
\_\_\_\_\_

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## INDEX

|                                                                   |     |
|-------------------------------------------------------------------|-----|
| INDEX .....                                                       | i   |
| TRIAL TRANSCRIPT (VOLUME I) DATED JUNE 10, 2019.....              | 1   |
| TRIAL TRANSCRIPT (VOLUME II) DATED JUNE 11, 2019.....             | 63  |
| TRIAL TRANSCRIPT (VOLUME III) DATED JUNE 12, 2019 .....           | 214 |
| TRIAL TRANSCRIPT (VOLUME IV) DATED JUNE 13, 2019 .....            | 337 |
| APPLICATION FOR POST-CONVICTION RELIEF .....                      | 440 |
| RETURN.....                                                       | 449 |
| AMENDED APPLICATION FOR POST-CONVICTION RELIEF .....              | 462 |
| POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED MAY 20, 2024..... | 466 |
| ORDER OF DISMISSAL WITH PREJUDICE .....                           | 522 |
| INDICTMENTS AND SENTENCING SHEETS .....                           | 558 |

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

IN THE COURT OF GENERAL SESSIONS  
FOR THE SEVENTH CIRCUIT  
2016A4210203988  
-3993

|                            |   |                            |
|----------------------------|---|----------------------------|
| -----X                     | : |                            |
| STATE OF SOUTH CAROLINA,   | : |                            |
|                            | : |                            |
| Plaintiff,                 | : |                            |
|                            | : |                            |
| vs.                        | : | TRANSCRIPT OF JURY TRIAL . |
|                            | : | VOLUME 1                   |
| DOMINICK ANTONIO THOMPSON, | : | PAGES 1 - 62               |
|                            | : |                            |
| Defendant.                 | : |                            |
| -----X                     | : |                            |

June 10, 2019  
Spartanburg, South Carolina

B E F O R E

THE HONORABLE J. DERHAM COLE, Judge Presiding.

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## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

## I N D E X

|                       |    |
|-----------------------|----|
| PROCEEDINGS           | 3  |
| PROCEEDINGS CONTINUED | 62 |

## E X H I B I T S

(NONE OFFERED)

7

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 P R O C E E D I N G S

2 \* \* \*

3 MONDAY, JUNE 10, 2019

4 \* \* \*

5 SPARTANBURG, SOUTH CAROLINA

6 \* \* \*

7 THE COURT: Good morning, ladies and gentlemen. My  
8 name is Durham Cole. I am a resident Judge here in the  
9 Seventh Judicial circuit that you reside in. In circuit  
10 court we handle both criminal and civil cases. When the  
11 Court is sitting and disposing of civil cases, they are  
12 are commonly referred to as the Court of Common Pleas.

13 When the Court is sitting and disposing of criminal  
14 cases as we are this week, it's referred to as a Court  
15 of General Sessions. In the event you are qualified to  
16 serve as a juror, and in the event you are selected to  
17 participate in the trial of any given case, it will be  
18 one of a criminal nature; that is, someone is going to  
19 be accused of having committed some type of criminal  
20 offense.

21 When that person enters a plea of not guilty, a  
22 jury is selected for the purpose of deciding the facts  
23 and applying the law and determining whether or not that  
24 person's guilt has been proven beyond a reasonable  
25 doubt.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1           Before we can begin the jury selection in any case,  
2           you have to be qualified to serve as a juror. In order  
3           for you to be qualified to serve as a juror, you have to  
4           meet certain statutory qualifications. In order for me  
5           to determine whether or not you meet those statutory  
6           qualifications, I have got to ask you questions. The  
7           purpose of the questions are designed to find out if you  
8           meet those qualifications.

9           So as these questions are asked of you and should  
10          you need to respond, I would ask you to please stand  
11          where you are and provide me with that information in  
12          response to the question.

13          If you prefer not to answer the question in front  
14          of an audience, then you can step down here if you would  
15          like. If you don't even want the audience to know what  
16          question you are responding to, wait until the end of  
17          this process, and I will provide you with an opportunity  
18          to give the information in response to a question. But  
19          you have to do it this morning during the course of this  
20          process, because this is the time that I determine  
21          whether or not you are qualified to serve as a juror.  
22          It will be too late to make that determination after you  
23          have been selected in the case. So you must respond to  
24          the questions, but I will give you those options as to  
25          how you wish to do it.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1           The first question simply is, is any juror not  
2           summoned by your correct or proper name? In other  
3           words, have you had a name change by reason of a  
4           marriage, a divorce, or otherwise, and your name is not  
5           correctly reflected on the juror summons and you have  
6           not already provided the clerk with that correct name.

7           If so, please stand.

8           (No indication)

9           THE COURT: Is any juror not now a citizen and  
10          resident of the United States as well as a citizen and  
11          resident of Spartanburg County? If you are not now each  
12          of those, I would ask that you please provide me with  
13          that information.

14          THE PROSPECTIVE JUROR: Melinda Tapia, 158. I  
15          currently live in Conway.

16          THE COURT: Yes, ma'am. What does it say on your  
17          driver's license?

18          THE PROSPECTIVE JUROR: 151 Wick Street, Boiling  
19          Springs.

20          THE COURT: We will excuse you on that basis, but  
21          you have got to change your driver's license. When you  
22          have a change of address on a public document, you have  
23          to notify everyone within 30 days of the change of  
24          address; otherwise, they won't know where you are and it  
25          won't be a valid license.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1           158 is excused.

2           Is any juror not registered to vote and you are not  
3           qualified to register as a voter. If that is the case,  
4           I need you to let me know of that fact.

5           THE PROSPECTIVE JUROR: I am not registered to  
6           vote.

7           THE COURT: Are you qualified to register?

8           THE PROSPECTIVE JUROR: Yes, sir.

9           THE COURT: Then that would not disqualify you if  
10          you are qualified to register to vote.

11          Does any juror not have a valid South Carolina  
12          Driver's License or an identification card issued by the  
13          Department of Public Safety? If so, I need you to  
14          provide me with that information.

15          (No indication)

16          THE COURT: Is any juror unable to read, write,  
17          understand, or speak the English language? If you are  
18          unable to do any one or more of those things, I need you  
19          to provide me with that information.

20          Does any member of the jury panel have less than a  
21          sixth grade education or its equivalent? If so, I need  
22          you to provide me with that information.

23          (No indication)

24          THE COURT: Does any juror suffer from any type of  
25          mental and/or physical infirmity which would prevent you



## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 from being able to render efficient jury service? Do  
2 you suffer from any type of a disability and that  
3 disability would prevent you from being unable to carry  
4 out your duties as a juror if called upon to serve in a  
5 case? If so, please stand.

6 THE PROSPECTIVE JUROR: I fell off a 75-foot  
7 waterfall a year-and-a-half ago. I broke my spine, both  
8 hands, I keep blacking out. I am going to a  
9 neurosurgeon tomorrow at 1:00 to find out why.

10 THE COURT: What is your name and number, please,  
11 sir?

12 THE PROSPECTIVE JUROR: Cody Barra, Number 9.

13 THE COURT: What we can do is since you are going  
14 to whoever you are seeing tomorrow, we will transfer you  
15 to go find out what the issue is and if it's going to be  
16 resolved. Then you can call in and let the clerk know,  
17 and we will defer your service to another term of  
18 court.

19 Number 9 is transferred.

20 Has any member of the jury panel been convicted,  
21 either by a jury or by your having entered a plea of  
22 guilty, to any type of criminal offense for which you  
23 could have received more than one year in jail and your  
24 civil rights have not been restored by way of amnesty or  
25 pardon or otherwise?

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1           If you do have such a conviction but you don't  
2           know what penalty was, then you need to let me know that  
3           fact and we will make that determination.

4           (No indication)

5           THE COURT: Is any member of the jury panel a Clerk  
6           or a Deputy Clerk of Court, a State Constable, a Sheriff  
7           or a Deputy Sheriff or the approximate equivalent of  
8           that position? Are you a Probate Judge, a County  
9           Commissioner, or a Magistrate, or are you any other  
10          County official, or are you employed within the walls of  
11          the courthouse?

12          If you fit into any one or more of those  
13          categories, that would also disqualify you from serving  
14          as a juror.

15          (No indication)

16          THE COURT: State law also provides that a juror or  
17          a person may only serve as a Circuit Court juror once  
18          during the course of the calendar year. If anyone has  
19          already served as a Circuit Court juror at some other  
20          term of court this year, that will disqualify you from  
21          serving this year. If you have already served this  
22          year, either in the Court of Common Pleas or the Court  
23          of General Sessions or both, let me know that fact and  
24          we will excuse you.

25          (No indication)

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1           THE COURT: Has any juror served as a member of the  
2           Spartanburg County Grand Jury during last year or this  
3           year? If so, please stand.

4           In addition to disqualifications, there are also  
5           what are referred to as exemptions from jury service.  
6           An exemption is not a disqualification. A  
7           disqualification means you cannot serve under any  
8           circumstances whether you want to or not. An exemption  
9           from jury service allows you a choice or an option as to  
10          whether or not you will serve.

11          If an exemption applies to you and you want to be  
12          excused, then I have to let you be excused. I can't  
13          require you to serve. So if you have an exemption and  
14          you still want to stay, you are welcome to do that,  
15          just stand and we can have that discussion. If an  
16          exemption applies to you notwithstanding that fact and  
17          you want to stay, you don't have to talk to me about it.

18          One is if you have served as a Circuit Court juror  
19          during one of the previous two years, 2018, 2017. If you  
20          served as a Circuit Court juror either in Common Pleas  
21          or in General Sessions, that would serve as an exemption  
22          and you would not have to serve this week.

23          Has anyone served during one of the previous two  
24          years and you do not wish to serve this week? If so,  
25          please stand so we can verify that service.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 (No indication)

2 THE COURT: If you are 65 years of age or older and  
3 you don't want to serve, I can't require it. No reason  
4 why you can't, but if you don't want to, I can't make  
5 you. So if you are 65 years of age or older and you do  
6 not wish to serve this week, please stand and let me  
7 know that fact so we can verify your birthdate.

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

9 THE PROSPECTIVE JUROR: Sheila Spagnolo, 154.

10 THE COURT: You are 65 years of age or older?

11 You just made it.

12 THE PROSPECTIVE JUROR: I just made it.

13 THE COURT: Okay. Thanks. You are excused.

14 Your name and number, sir.

15 THE PROSPECTIVE JUROR: R. Steven Blackwell, Juror  
16 Number 13.

17 THE COURT: You do not want to stay this week?

18 THE PROSPECTIVE JUROR: No, Your Honor.

19 THE COURT: You may be excused. Thank you. Number  
20 13.

21 If you are a person who is a guard, keeper,  
22 officer, or other employee of the State penitentiary,  
23 you may be exempt from jury service.

24 Does that apply to any juror?

25 (No indication)

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1           THE COURT: The General Assembly has also provided  
2           for certain circumstances that they deem is a good  
3           reason why you should not have to serve as a juror. If  
4           any of these apply to you and you don't want to serve,  
5           I can't make you stay. You can if you want to, but I  
6           can't make you if you don't want to.

7           If you have legal custody of a child or children  
8           who are less than seven years of age and you are the  
9           person who provides care and supervision for that child  
10          or those children during the day and you don't have  
11          somebody else who can provide adequate care while you  
12          are here in the courthouse serving as a juror, then  
13          under those circumstances, you may be exempt.

14          In order to be exempt under this particular  
15          provision, you have to have legal custody of the child.  
16          The child has to be less than seven years of age, and  
17          you have to be the person who provides care and  
18          supervision to the child.

19          If that is the case and you wish to be excused, let  
20          me know.

21          Tell me your name and number, please.

22          THE PROSPECTIVE JUROR: Meka Scott, 142.

23          THE COURT: You have a child or children less than  
24          seven?

25          THE PROSPECTIVE JUROR: Yes, sir. I have a

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 six-year-old.

2 THE COURT: You don't work outside the home?

3 THE PROSPECTIVE JUROR: I do work outside the home,  
4 but I don't have someone to watch him when I have to go  
5 to work.

6 THE COURT: So you do have someone that can look  
7 out for him?

8 THE PROSPECTIVE JUROR: As of this week, I won't.  
9 As of today, my son has to start going to summer  
10 school.

11 THE COURT: We will excuse you from service. You  
12 don't need to come back. Juror 142 is excused.

13 THE PROSPECTIVE JUROR: Elizabeth Wheeler, 169.

14 THE COURT: You have a child under seven years of  
15 age?

16 THE PROSPECTIVE JUROR: I have a one-year-old.

17 THE COURT: Do you work outside the home?

18 THE PROSPECTIVE JUROR: I work at the school, so we  
19 are off during the summertime.

20 THE COURT: But you don't have anybody to look  
21 after your children now?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: We will excuse you from serving. You  
24 won't need to stay.

25 Name and number.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 THE PROSPECTIVE JUROR: Takedda Pullen, 135.

2 I have a six-year-old on Sunday.

3 THE COURT: You don't work outside the home?

4 THE PROSPECTIVE JUROR: I do work outside the home,  
5 but I work at nights.

6 THE COURT: And you don't have anyone to take care  
7 of her during the day?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: I will excuse you. 135 is excused.

10 The State law also provides that if you are the  
11 primary caretaker for a person over the age of 65 years  
12 or of any other person of any age who is severely  
13 disabled and unable to care for himself or herself and  
14 that person cannot be left unattended without there  
15 being some significant risk arising from that lack of  
16 assistance where you are that person's caretaker, you  
17 may be exempt from jury service.

18 Does that apply to any juror? If so, please  
19 stand.

20 (No indication)

21 THE COURT: If you are a person who performs  
22 services for a business, whether it be a commercial or  
23 an agricultural enterprise and where the services that  
24 you perform are so essential to the operations of that  
25 business that it must cease to function or close its

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 doors in your absence, then under those circumstances,  
2 you may be exempt.

3 THE PROSPECTIVE JUROR: Marshall Blackwell, Number  
4 12.

5 I am a sole proprietor of a psychotherapy business.  
6 I am the only one there.

7 THE COURT: So what I can do is postpone your  
8 service. You can have your service transferred to a  
9 different date.

10 THE PROSPECTIVE JUROR: Thank you.

11 THE COURT: Juror 12 is transferred. Juror Number  
12 17.

13 THE PROSPECTIVE JUROR: Chandler Brazell. I am  
14 self-employed. I wasn't sure if that qualified. I am a  
15 cosmetologist.

16 THE COURT: If you don't have to schedule anything,  
17 I can give you the same option I gave the last one. We  
18 can transfer you to a different term.

19 THE PROSPECTIVE JUROR: Thank you.

20 THE COURT: Number 17 is transferred.

21 Anybody else want to talk to me about that  
22 particular exemption?

23 (No indication)

24 THE COURT: The State law also provides that any  
25 juror's service may be postponed to a later date where



## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1       you are a full-time student at a college or university  
2       where your jury service comes during the school term,  
3       we can postpone your service outside the term.

4             If you are a full-time student, a school teacher,  
5       school bus driver, or a certified person at the minimum  
6       level and you need to be transferred to another term,  
7       please stand and let me know.

8             THE PROSPECTIVE JUROR: 109. I have summer school.

9             THE COURT: When is your school out?

10            THE PROSPECTIVE JUROR: The last day is August 6.

11            THE COURT: 109 is transferred.

12            THE PROSPECTIVE JUROR: 73, Nancy Jacobs.

13            THE COURT: Juror 73 is transferred. Anyone else  
14       want to talk to me about a school postpones?

15            The State also provides that any juror may have his  
16       or her service postponed to a later date or excused  
17       entirely based up what is referred to as good and  
18       sufficient cause. It's not just any reason that you can  
19       come up with if I give you enough time to think about  
20       it. It's why you think you don't have to stay and serve  
21       as a juror. The law recognizes that there may be some  
22       circumstances that applies to you, and that circumstance  
23       would result in an unreasonable hardship or an  
24       unreasonable inconvenience being imposed upon you if you  
25       were required to stay and serve as a juror. I am

1       permitted to consider those circumstances. If I  
2       determine they pass the good and sufficient test, like  
3       something that is temporary, we can postpone your  
4       service where your inconvenience would not be as great  
5       or a hardship.

6               Does anyone have a circumstance that you want to  
7       talk to me about; that you have in your service either  
8       postponed to a later date or excused entirely.

9               If so, please stand.

10              THE PROSPECTIVE JUROR: William Conley, Number 36.  
11       I have a trip for my job to leave tomorrow that will  
12       take me out of town for two weeks.

13              THE COURT: Can you get it transferred to a  
14       different date?

15              THE PROSPECTIVE JUROR: No, sir.

16              THE COURT: Juror 36 is transferred.

17              Juror 112.

18              THE PROSPECTIVE JUROR: Chase McGraw. With my  
19       job -- I am a heavy equipment operator. It's a  
20       financial hardship being here. I basically need to be  
21       at work every single day or I can't pay my bills or  
22       live.

23              THE COURT: Are you married?

24              THE PROSPECTIVE JUROR: Yes.

25              THE COURT: Do you have any kids?

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 THE PROSPECTIVE JUROR: One child. Four years old.

2 THE COURT: Some other time, you would like to  
3 come back?

4 THE PROSPECTIVE JUROR: Yes, sir. I can come back.

5 THE COURT: We will transfer you. 112 is  
6 transferred.

7 THE PROSPECTIVE JUROR: 74. No reliable source of  
8 transportation.

9 THE COURT: We can provide you with  
10 transportation. Just let me know.

11 THE PROSPECTIVE JUROR: Number 47. I care for my  
12 grandchildren. Their mother broke her foot, and there  
13 is no one to help with the daycare this week.

14 THE COURT: We will transfer you to another week.

15 THE COURT: Anyone else want to talk to me about a  
16 circumstance that you believe should allow you to be  
17 excused from serving or have your service postponed? If  
18 so, please stand.

19 All right. Those are all the questions that I have  
20 for you. If a question was asked and you have not  
21 responded to it yet, now is the time to do that.  
22 Anybody need to respond to any other question that has  
23 been asked previously. If so, please stand.

24 (No indication)

25 THE COURT: It appears, ladies and gentlemen, you

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1       should have received one of these pamphlets when you  
2       showed up in the jury assembly room. If you did not get  
3       one, raise your hand, and we will provide you with one.  
4       it contains a lot of information that will benefit you  
5       as you carry out your service this week. When you have  
6       the opportunity, please, take the chance to read the  
7       information. You might need some reading glasses. You  
8       will have the phone numbers to call in for further  
9       information.

10       If you have not been selected, you will be  
11       excused. You can go back home or go back to your place  
12       of employment. You will simply be asked to return when  
13       and if we need you for additional jury selection in  
14       another case or the next day. We thank you for your  
15       service this week.

16       Now I have got some matters I need to address first  
17       with some lawyers in the first few cases so we can try  
18       to schedule and get things coordinated so we can operate  
19       efficiently.

20       Right now, I will ask you to please go back to the  
21       jury assembly room. You will be brought in for the  
22       selection of this first case. I will be with you  
23       shortly to provide you with the next information you  
24       will have for your service this week.

25       (Whereupon, the prospective jury venire exited the

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 courtroom.)

2 (Whereupon, the prospective jury venire exited the  
3 courtroom.)

4 THE COURT: We will take a 10-minute recess.

5 (Whereupon, a recess was held.)

6 (Whereupon, the following proceedings  
7 were held in open court. The defendant  
8 was present with his attorney, along with  
9 counsel for the State.)

10 THE COURT: Call your case.

11 MR. SMITH: At this time, Your Honor, the State  
12 calls Dominick Antonio Thompson as the next case up for  
13 trial.

14 THE COURT: Mr. Smith is here on behalf of the  
15 State. Mr. Brown is here on behalf of the State. Mr.  
16 Schultz is here on behalf of the defendant. Mr.  
17 Thompson is present. I have before me four indictments,  
18 Burglary in the first degree; armed robbery; attempted  
19 murder, and assault and batter in the first degree. Is  
20 that what the State is calling to go forward on?

21 MR. SMITH: Assault and battery, high and  
22 aggravated.

23 THE COURT: On the attempted murder indictment.  
24 Mr. Schultz, have you talked to your client about  
25 whether he wants to go forward or enter a plea?

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 MR. SCHULTZ: Yes, Your Honor.

2 THE COURT: What has he communicated to you with  
3 regard to this matter?

4 MR. SCHULTZ: At this time, he wishes to go to  
5 trial.

6 THE COURT: Have there been numerous offers by the  
7 prosecution?

8 MR. SMITH: There have been numerous negotiations  
9 pretrial, the last being a 15-year active sentence for  
10 Burglary in the first degree, followed by a probationary  
11 sentence. Consecutive with the armed robbery, we have  
12 the ABHAN reduced to assault and battery first, and the  
13 other assault and battery in the first degree, he would  
14 get a ten-year sentence concurrent with the burglary  
15 first active sentences.

16 THE COURT: Mr. Schultz, does that comport with  
17 your understanding of the offer?

18 MR. SCHULTZ: It does, Your Honor.

19 This offer was given recently by Mr. Smith, just a  
20 couple of hours ago. I conveyed that offer to Mr.  
21 Thompson. Mr. Thompson, from my understanding, has  
22 rejected that. Now, the offer, as I understand it,  
23 would be a 15-year active sentence followed by some term  
24 of probation in the Court's discretion.

25 He is 26 years old. We have calculated the time in

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1       that respect to approximately two-and-a-half years in  
2       jail on these charges that he is statutorily required to  
3       get. Time credit. I have done the math. Assuming that  
4       the legislature keeps the sentence at 85 percent, he  
5       would have to do approximately 12.5 half years with no  
6       credit for time served.

7             He has credit for one hundred some-odd days. I  
8       have discussed that with my client. He has rejected  
9       that. He is well aware of the consequences if the jury  
10      comes back with a guilty verdict on one of the violent  
11      charges. So burglar I, armed robbery, or the other  
12      charge. This could make this case a life-without-parole  
13      charge. I have talked with him about this. I have  
14      talked to his mother about this, with the client's  
15      permission.

16            My understanding is that unless that is changed  
17      over the course of the past couple of minutes here, he  
18      has rejected that offer.

19            THE COURT: So he has a previous criminal history  
20      that subjects him to a sentence of life without parole  
21      if he is convicted of burglary in the first degree or  
22      armed robbery.

23            MR. SMITH: The ABHAN would do it as well. He has  
24      a burglary in the first degree, violent, 2011; two  
25      attempted murders in 2015; he has a most serious and

1           serious.

2           THE COURT:  So any of those would result in a  
3           mandatory life sentence.

4           MR. SMITH:  Yes, Your Honor.

5           THE COURT:  Mr. Schultz, have you talked to Mr.  
6           Thompson about that?

7           MR. SCHULTZ:  I have, Your Honor.

8           THE COURT:  Do you believe he understands?

9           MR. SCHULTZ:  I do believe he understands it.

10          THE COURT:  Mr. Thompson, you have heard what the  
11          solicitor and your lawyers has told me about the charges  
12          and about the offer that they have made, as well as the  
13          consequences to you in the event that you went to trial  
14          and the jurors were to find you guilty.

15          Do you understand what is being said here?

16          THE DEFENDANT:  Yes, sir.

17          THE COURT:  Do you understand that if you are found  
18          guilty by the jury of burglary or armed robbery or  
19          aggravated assault and battery, you must be sentenced to  
20          a term of imprisonment of life without the possibility  
21          of parole?

22          THE DEFENDANT:  Yes, sir.

23          THE COURT:  You understand that they have made an  
24          offer which is substantially less than that?

25          THE DEFENDANT:  Yes, sir, I do.



## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1           THE COURT: Have you had plenty of time to talk  
2           with Mr. Schultz about your decision as to how you would  
3           like to proceed?

4           THE DEFENDANT: Yes, sir.

5           THE COURT: Do you want to talk to him anymore?

6           THE DEFENDANT: No, sir.

7           THE COURT: You have made a decision about what you  
8           want to do?

9           THE DEFENDANT: Yes, sir.

10          THE COURT: What is that decision?

11          THE DEFENDANT: I want to proceed to trial.

12          THE COURT: You are rejecting the State's offer?

13          THE DEFENDANT: Yes, sir.

14          THE COURT: Do you understand that once the jury is  
15          selected, if you wish to plead guilty, you will be  
16          pleading on your own without any recommendation.

17          THE DEFENDANT: Yes, sir.

18          THE COURT: Do you wish to proceed with the trial  
19          and reject the State's offer?

20          THE DEFENDANT: Yes, sir.

21          THE COURT: Are there any matters that we need to  
22          address before the jury panel is brought in?

23          MR. SCHULTZ: I do, Your Honor. Your Honor, as Mr.  
24          Smith and Mr. Brown told you back in chambers there,  
25          this case was tried in front of a jury back in August of

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1       2018 in front of Judge Alford. It was tried back in  
2       August of 2018. It resulted in a hung jury. The jury  
3       could not reach a unanimous decision of guilty or not  
4       guilty of my client.

5           I have looked at the transcript of the record, the  
6       court reporter, Linda Moffitt, was kind enough to give  
7       me the transcript of the previous trial, which, again  
8       was in August of 2018. My understanding per the rules  
9       of evidence is that neither party can bring up the fact  
10      that there was a prior trial that was done at some  
11      previous date, but that if a witness for the State or in  
12      that case the witness for the defense contradicted what  
13      they said in the prior trial, either the State or the  
14      defense can bring up the fact that the witness  
15      contradicted themselves.

16           My understanding of what can happen is that the  
17      State or the defense can reference the fact that there  
18      was a prior trial. I can refer to the fact, for  
19      instance, Sir, you said A. today, but in a prior hearing  
20      of sworn testimony, you said W.

21           I just want to make sure that each side is aware of  
22      that. I am well-aware of it. I want to make sure of  
23      that. I don't want to mistry the case, nor does the  
24      State. I just want to make sure that neither the State  
25      nor the defense can reference a prior trial. I think

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1           that would have the possibility of tainting the jury.

2           THE COURT: I can't think of any reason why that  
3           would be necessary to disclose. Unless it is shown to  
4           be necessary, I would suggest it cannot be done.

5           MR. SCHULTZ: Thank you, Judge.

6           MR. SCHULTZ: Your Honor, from my understanding,  
7           the eyewitnesses to this incident last time -- the  
8           eyewitnesses that were presented by the State in the  
9           prior proceedings were Summer Hall, Brandon Logan,  
10          Christine Richard, Russell Donnahoo, and Makayla  
11          Richard.

12          My understanding is that the State is going to  
13          present Summer Hall and not Brandon Logan. They are  
14          going to present Makayla Richard, Christine Richard,  
15          Danielle Krind. I would ask for the State to reveal,  
16          number one, in reference to Makayla Richards -- I would  
17          ask that the State reveal any deals that were made to  
18          Ms. Richards prior to the hearing here today and the  
19          trial here today.

20          Makayla Richard is what I would classify as the  
21          corroborating witness for the State.

22          THE COURT: Mr. Smith, do you have any plea  
23          negotiations or bargains or offers with regard to  
24          Makayla Richard, Christine Richard, and/or Summer Hall?

25          MR. SMITH: Your Honor, the only person that would

1       actually be looking for a potential deal would be  
2       Makayla Richard. There will be no negotiation with  
3       her.

4               She is testifying without -- there is nothing that  
5       has been promised to her. The others are victims or a  
6       friend of Ms. Richard, who was not charged.

7               THE COURT: Is Ms. Makayla Richard represented?

8               MR. SMITH: She is, Your Honor.

9               THE COURT: By who?

10              MR. SMITH: Andy Johnston represents her. There is  
11       no deal between the other individuals who are just  
12       witnesses.

13              The defendant should be aware he has two prior  
14       burglary convictions. That is one of the ways we are  
15       trying to enhance. We do intend to call somebody from  
16       the Clerk of Court's office. Assuming that is not  
17       stipulated to, that is an element that we are pursuing.

18              THE COURT: You don't have to stipulate to that.

19              Any other matters to be addressed by the State?

20              MR. SMITH: No, Your Honor.

21              (Whereupon, the prospective jury venire entered the  
22       courtroom.)

23              THE COURT: Good afternoon, ladies and gentlemen,  
24       of the jury panel. We are ready to begin with jury  
25       selection in the first case. This is going to require

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1       some of your participation. The title of that case is  
2       State v. Dominick Antonio Thompson. Mr. Thompson has  
3       been accused by the prosecutor by way of several  
4       indictments with having committed several separate  
5       distinct criminal offenses, although they are alleged to  
6       have arisen out of one particular event or a course of  
7       events, which the State alleges occurred back on  
8       November 24, 2016. For purposes of the jury's  
9       consideration, they are separate and distinct criminal  
10      offenses.

11           Mr. Thompson has been accused by the prosecutor  
12      with having committed the crime of burglary in the first  
13      degree and possession of a weapon during the commission  
14      of a violent crime. The State alleges by way of that  
15      indictment that the defendant, Dominick Antonio  
16      Thompson, did here, in Spartanburg County on or about  
17      November 24, 2016, enter a dwelling located at [REDACTED]  
18      Mobile Drive, Room 249, in Spartanburg County, South  
19      Carolina without consent and entered with the intent to  
20      commit a crime therein, and that the defendant, did  
21      while entering the dwelling or while inside or while in  
22      the immediate flight therefrom, did enter in the  
23      nighttime and/or armed himself with a deadly weapon  
24      and/or used or threatened the use of a dangerous  
25      instrument and/or caused physical injury to a person who

1        was not participating in the crime of burglary and/or  
2        displayed what appeared to be a handgun or other firearm  
3        and/or the defendant has two or more prior convictions  
4        for burglary.

5                Count II to the indictment alleges that Mr.  
6        Thompson did, during the commission of that burglary,  
7        visibly display a firearm or what appeared to be a  
8        firearm. A separate indictment charges Mr. Thompson  
9        with the charge of armed robbery. The State alleging,  
10       again on November 24, 2016, Mr. Thompson did while armed  
11       with a deadly weapon, take, steal, and carry away from  
12       the person or presence of a Brandon Logan, by the use of  
13       force or violence or by way of intimidation, certain  
14       property or monies belonging to Mr. Logan; being, a  
15       wallet, a driver's license, and U.S. currency, and that  
16       Mr. Thompson took the items with the intent to steal  
17       them.

18               A separate indictment charges Mr. Thompson with the  
19       crime of assault and battery of a high and aggravated  
20       nature. Again, the State alleges that on or about  
21       November 24, 2016, Mr. Thompson did unlawfully injure  
22       one Christine Michelle Richard and that great bodily  
23       injury to her did result or the act was accomplished by  
24       means likely to produce death or great bodily injury.

25               The remaining indictment charges Mr. Thompson with

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1       the crime of assault and battery in the first degree,  
2       alleging that on or about November 24, 2016, during the  
3       commission of an armed robbery of Brandon Logan, Mr.  
4       Thompson did commit an assault and battery against Mr.  
5       Logan by injuring him, and that the act occurred during  
6       the commission of a robbery and/or burglary and/or  
7       kidnapping and/or theft or he did offer to attempt to  
8       injure the victim with the present ability to do so and  
9       that the act was accomplished by means likely to produce  
10      great bodily injury or death, or it did occur during the  
11      commission of a robbery, burglary, kidnapping, or theft.

12           It is specifically alleged that Mr. Thompson  
13      repeatedly struck Mr. Logan in the head with a handgun.  
14      Now, as to those allegations and as to each of those  
15      charges, the defendant has entered a plea of not guilty.  
16      A plea of not guilty places upon the State the burden of  
17      proving the allegations that they have made by  
18      allegations of each of those indictments, the State has  
19      the burden of proving each of the essential elements of  
20      the crimes that they allege the defendant has committed;  
21      therefore, the burden is on the State to establish the  
22      defendant's guilt to the satisfaction of 12 jurors  
23      beyond a reasonable doubt before any verdict of guilty  
24      could be returned as to any of the separate charges  
25      contained in those separate indictments.

1           Therefore, we are going to be selecting 14 of you  
2           to participate in the trial of this case. There are 12  
3           primary jurors, and then there are two additional jurors  
4           to serve as alternates, so that if, during the trial,  
5           something occurs that prevents one of the original 12  
6           from being able to continue to serve as a juror, one or  
7           both of those alternates will be called upon to become  
8           the 12th juror.

9           By way of your participation, you are simply going  
10          to be called upon to listen to testimony, to consider  
11          other evidence introduced. When you go back to  
12          deliberate, the jury will be called upon to determine  
13          the facts where you can as it relates to the  
14          allegations.

15          Once you decide the facts, the jury will be called  
16          upon to apply the law that I have provided, and the jury  
17          will determine whether or not the defendant's guilt has  
18          been proven beyond a reasonable doubt. Before we begin  
19          with the actual jury selection, I have some folks that I  
20          will be introducing to you. The purpose of these  
21          introductions is to find out if you have any connection  
22          with any of the people that are going to be involved or  
23          potentially involved in the trial of this case.

24          I need to find out if you have any connection with  
25          anybody by way of blood or marriage. Do you have any



## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 connection because you attend church with them. Do you  
2 go to school with them or you have gone to school with  
3 them. Do you work at the same place they work. Have  
4 you previously worked at that same place. Are you  
5 socializing with them. That would also include whether  
6 or not you have any connection with any members of their  
7 respective families.

8 So if you do, then I will ask you to please stand  
9 and identify what person that you happen to have a  
10 connection with. We will determine whether or not that  
11 connection will have any bearing upon your ability to be  
12 fair and impartial if you were called upon to serve as a  
13 juror in the case.

14 First of all, as I have told you, the defendant,  
15 the person who is accused of having committed these  
16 various offenses, is Dominick Antonio Thompson.

17 Please stand and face the jury panel so that they  
18 may see who you are.

19 Thank you be seated. Seated with Mr. Thompson at  
20 the defense table is Josh Schultz. Mr. Schultz is Mr.  
21 Thompson's lawyer. He will be assisting him during the  
22 course of this trial.

23 Presenting the case on behalf of the State are  
24 Spencer Smith and Lauren Brown. They are each Assistant  
25 Circuit Court Solicitors for the 7th judicial circuit.

1           One person who is alleged to be a victim of armed  
2 robbery and assault and battery is Brandon Logan. He is  
3 not present at this time. We will have him here  
4 shortly.

5           I am going to recite a list of potential witnesses  
6 to be called during the trial. The purpose is to find  
7 out if you have any connection with them. If so, please  
8 stand when that witness' name is called.

9           These were formerly with the Sheriff's Department.  
10 Thomas Clark, Jonathan McGill. The rest of them are  
11 currently with the Sheriff's Department, until I stop:  
12 Tim Davis, Kim Parnell, Jason Hilton, Wesley Bennett,  
13 Robert Talanges, Steven Horton, Joseph Guffey, Marilyn  
14 Roman, Mark Gaddy.

15           Also, additional potential witnesses include:  
16 Summer Hall, Brandon Logan, Danielle Krind, April  
17 Richard, Christine Richard, Joseph Blackwell, Russell  
18 Donnahoo, Makayla Richard, Kenshawn Goode, Timothy  
19 Mills-Fernanders. James Armstrong, with the Greenville  
20 Sheriff's Department, Gail Moffitt, who is with Clerk of  
21 Court's Office.

22           Cassandra Foster, who is a resident of Bellflower  
23 Court in Spartanburg; Dietra Mills, a resident of  
24 Lincoln Drive in Spartanburg; Dimentia Stevenson, a  
25 resident of Crestview Drive in Spartanburg; Sherrill

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 Mills, also Lincoln Drive in Spartanburg; LaToya  
2 Thompson, Prince Hall Lane in Spartanburg.

3 Any other witnesses on behalf of the State or the  
4 defense, other than my witness list, those I have  
5 already called out?

6 MR. SCHULTZ: That is all I have.

7 THE COURT: Does any juror know anybody who has  
8 been introduced to you? Do you know anybody employed  
9 with the 7th Circuit Solicitor's Office, or do you know  
10 anybody else employed in the Spartanburg County  
11 Sheriff's Department? If so, please stand.

12 THE PROSPECTIVE JUROR: Kelly Camp, Juror Number  
13 23.

14 THE COURT: How does that relate to you?

15 THE PROSPECTIVE JUROR: I used to work with the  
16 guys in the Sheriff's Office.

17 THE COURT: Would that have any bearing in your  
18 decision in this case if you were selected?

19 THE PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: We will Excuse juror 23.

21 THE PROSPECTIVE JUROR: My name is Lauri Willard  
22 Richards, Number 176. I went to college with Spencer  
23 Smith. My husband was in his fraternity.

24 THE COURT: Would that have any bearing in your  
25 decision in this case if you were selected.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: Juror 176 is excused from service in  
3 this case.

4 THE PROSPECTIVE JUROR: Christian Owens, Juror 127.

5 My dad retired from the Spartanburg County Police  
6 Department, and I know a good many of the Spartanburg  
7 officers.

8 THE COURT: Would that have any bearing in your  
9 decision in the case if you were selected?

10 THE PROSPECTIVE JUROR: Yes, sir.

11 THE COURT: You are excused too then.

12 Anybody else?

13 (No indication)

14 THE COURT: As I have indicated by reading the  
15 indictments, the State alleges this occurred back on  
16 November 24, 2016. It allegedly occurred at the  
17 Crossland Studios Motel, which is located off of  
18 Asheville Highway in Spartanburg. They allege that Mr.  
19 Thompson committed the crimes as alleged in the  
20 indictments.

21 Is there any member of the jury panel who thinks  
22 you might have heard, seen, or read something that  
23 relates to this particular case?

24 In other words, has any juror been exposed to any  
25 type of information that relates to this particular case

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 from any source, television, radio or newspaper? If so,  
2 please stand.

3 (No indication)

4 THE COURT: Has any many member of the jury panel  
5 or has any member of your immediate family -- let me  
6 define any immediate family member: As a parent, a  
7 spouse, a child, or a sibling. Have you or any members  
8 of your immediate families, as I just defined it, ever  
9 been the victim of any type of any type of criminal  
10 offense that might be classified as violent, as well as  
11 have you or a family member ever been accused of having  
12 committed any type of criminal offense which might be  
13 classified as a violent offense.

14 Included in that definition of violent offenses  
15 might be: Murder, manslaughter, burglary, armed robbery  
16 criminal sexual conduct, domestic violence of a high and  
17 aggravated nature, attempted murder, aggravated assault  
18 and battery, or any other similar type of an offense?

19 Have you or an immediate family member ever been  
20 the victim of such or have you or that family member  
21 ever been accused with having committed such?

22 If so, please stand.

23 Now, I will ask you to identify yourself by name  
24 and number. If you would rather come down here, you are  
25 permitted to do that.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 THE PROSPECTIVE JUROR: 47, Lakeisha Smith.

2 Tanesha Dowling. My brother was murdered.

3 THE COURT: Will that affect your judgment in this  
4 case?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: Have a seat. Juror 47 excused from  
7 service in this case.

8 Is there anything about the nature of the charges  
9 here that have been made for the defendant -- the nature  
10 of the charges themselves -- that would prevent any  
11 juror from being able to be fair and impartial if you  
12 were selected as a juror in this particular case? If  
13 so, please stand.

14 (No indication)

15 THE COURT: Has any member of the panel already  
16 formed an opinion as to what you think the outcome ought  
17 to be, based upon what you have heard up to this point  
18 or based upon any other consideration? Have you already  
19 made up your mind as to the outcome? If so, please  
20 stand.

21 (No indication)

22 THE COURT: Does any juror know of any reason  
23 whatsoever why you think you could not be fair and  
24 impartial if you were called upon to serve as a juror in  
25 this particular case? I will ask that you please stand.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 Any other questions requested by the State?

2 MR. SMITH: No, Your Honor.

3 THE COURT: By the defendant?

4 MR. SCHULTZ: No, sir.

5 The way the jury is selected, the names have been  
6 selected randomly by the computer. They have been  
7 placed on the list. As they are drawn, you will be  
8 asked to come forward. The bailiff will be standing out  
9 in the middle of the floor. Just come and stand by the  
10 bailiff and turn and face the back of the courtroom.  
11 Each side has an opportunity to have you excused from  
12 service in the case, or both may agree to have you  
13 accepted for service in the case.

14 If either side asks that you be excused, just go.  
15 back and have a seat where you are now. If both agree  
16 to have you accepted for service in the case, you will  
17 sit in the jury box to my right and your left.

18 Please come forward as your name is called, you  
19 will be instructed whether you have been accepted from  
20 service in the case or excused from serving in the  
21 case.

22 THE CLERK: Juror Number 19, Alford Bright.

23 What says the State?

24 MR. SMITH: Please present the juror.

25 THE CLERK: What say the defense?

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 MR. SCHULTZ: Please seat the juror.

2 THE CLERK: Juror Number 107, Brooke Maratos.

3 What says the State?

4 MR. SMITH: Please present the juror.

5 THE CLERK: What say the defense?

6 MR. SCHULTZ: Please excuse the juror in this case.

7 THE CLERK: Juror Number 61, Paul Gilliam.

8 What says the State?

9 MR. SMITH: Please present the juror.

10 THE CLERK: What say the defense?

11 MR. SCHULTZ: Please excuse the juror in this case.

12 THE CLERK: Juror Number 166, Loretta Walsh.

13 What says the State?

14 MR. SMITH: Please present the juror.

15 THE CLERK: What say the defense?

16 MR. SCHULTZ: Please excuse the juror in this case.

17 THE CLERK: Juror Number 45, Jennifer Diehn.

18 What say the State?

19 MR. SMITH: Please present the juror.

20 THE CLERK: What say the defense?

21 MR. SCHULTZ: Please seat the juror.

22 THE CLERK: Juror Number 165, Timothy Wallace.

23 What says the State?

24 MR. SMITH: Please present the juror.

25 THE CLERK: What say the defense?



## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 MR. SCHULTZ: Please seat the juror.

2 THE CLERK: Juror Number 160, Taylor Threatt.

3 What says the State?

4 MR. SMITH: Please present the juror.

5 THE CLERK: What say the defense?

6 MR. SCHULTZ: Please seat the juror.

7 THE CLERK: Juror Number 55, Ashley Faltermeier.

8 What says the State?

9 MR. SMITH: Please present the juror.

10 THE CLERK: What say the defense?

11 MR. SCHULTZ: Please seat the juror.

12 THE CLERK: Juror Number 153, Megan Somero.

13 What says the State?

14 MR. SMITH: Please present the juror.

15 THE CLERK: What say the defense?

16 MR. SCHULTZ: Please seat the juror.

17 THE CLERK: Juror Number 1, Byron Abt.

18 What says the State?

19 MR. SMITH: Please present the juror.

20 THE CLERK: What say the defense?

21 MR. SCHULTZ: Please seat the juror.

22 THE CLERK: Juror Number 47, Megan Emma

23 Gogolevskiy.

24 What says the State?

25 MR. SMITH: Please present the juror.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 THE CLERK: What say the defense?

2 MR. SCHULTZ: Please excuse the juror.

3 THE CLERK: Juror Number 70, Ryan Harper.

4 What says the State?

5 MR. SMITH: Please present the juror.

6 THE CLERK: What say the defense?

7 MR. SCHULTZ: Please seat the juror.

8 THE CLERK: Juror Number 27, Taylor Cartee.

9 What says the State?

10 MR. SMITH: Please present the juror.

11 THE CLERK: What say the defense?

12 MR. SCHULTZ: Please seat the juror.

13 THE CLERK: Juror Number 125, Heyward Nettles.

14 What says the State?

15 MR. SMITH: Please present the juror.

16 THE CLERK: What say the defense?

17 MR. SCHULTZ: Please excuse the juror.

18 THE CLERK: Juror Number 80, Marissa Holst.

19 What says the State?

20 MR. SMITH: Please present the juror.

21 THE CLERK: What say the defense?

22 MR. SCHULTZ: Please excuse the juror.

23 THE CLERK: Juror Number 179, Derek Young.

24 What says the State?

25 MR. SMITH: Please present the juror.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 THE CLERK: What say the defense?

2 MR. SCHULTZ: Please seat the juror.

3 THE CLERK: This is for the alternate. Juror

4 Number 32, Anne Coleman.

5 What says the State?

6 MR. SMITH: Please present the juror.

7 THE CLERK: What say the defense?

8 MR. SCHULTZ: Please seat the juror.

9 THE CLERK: Juror Number 28, William Carver.

10 MR. SMITH: Please present the juror.

11 THE CLERK: What say the defense?

12 MR. SCHULTZ: Please excuse the juror.

13 THE CLERK: Juror Number 184, Arista Edwards.

14 What says the State?

15 MR. SMITH: Please present the juror.

16 THE CLERK: What say the defense?

17 MR. SCHULTZ: Please seat the juror.

18 THE COURT: Those who have been selected, I will

19 ask you to please go with the bailiff go back to the

20 jury room, and I will bring you back shortly.

21 (Whereupon, the jury exited the courtroom.)

22 THE COURT: Are there any matters that need to be

23 addressed regarding the jury selection, by the State?

24 MR. SMITH: No, Your Honor.

25 THE COURT: By the defendant?

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 MR. SCHULTZ: No, sir.

2 THE COURT: Those not selected, you are excused for  
3 the balance of the afternoon. Please call back to the  
4 number that you have on the juror information pamphlet.  
5 Call that number after 6:00 this evening to receive  
6 further information. If you call that number, just be  
7 sure you follow the instructions.

8 Have a good afternoon. Thank you for your  
9 participation.

10 (Whereupon, the unselected jury venire exited the  
11 courtroom.)

12 THE COURT: 166 will be the foreperson.

13 (Whereupon, the jury entered the courtroom.)

14 THE COURT: Ladies and gentlemen, we are ready to  
15 begin with the trial of the case. For each of you who  
16 have been selected -- Ms. Walsh, Number 166, I will ask  
17 you to serve as the foreperson of jury. As the  
18 foreperson, you have got three specific duties that none  
19 of the other jurors will have. First, you will be asked  
20 to serve as a spokesperson for the jury. That means if  
21 something arises during the course of the trial that  
22 needs to be brought to my attention, if you or a fellow  
23 juror has some difficulty, problem, or question, you  
24 will be the person to let me know that fact. You can do  
25 that directly here in the courtroom, do it through the

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1       bailiff, if you are outside the courtroom.

2               Secondly, you will be called upon to preside over  
3       jury deliberations when that time comes at the trial's  
4       conclusion. After all the evidence has been received  
5       and I have instructed you on the law and you have been  
6       instructed to go back to begin deliberations, you will  
7       preside over that process in the jury room, simply to  
8       ensure that those deliberations are carried out in some  
9       orderly fashion.

10              Thirdly, you will write the verdicts or the  
11       decisions of the jury. You will do that on the verdict  
12       forms that I will provide you at the trial's conclusion,  
13       on which you will indicate the jury's unanimous decision  
14       as it relates to each of the separate indictments and  
15       charges contained therein.

16              The foreperson has those duties that I have just  
17       indicated. That does not mean that he is any more  
18       important than any of the other jurors. That is because  
19       the decision of a jury is the unanimous consensus  
20       opinion of all 12 jurors. So all of you and each of you  
21       will have an equal say and an equal vote of what the  
22       ultimate decisions will be in this case.

23              Someone has to be delegated those responsibilities  
24       that I have just indicated, and I have delegated Mr.  
25       Wallace and am appointing him as the foreperson. All of

1       you jurors are equally important as far as the ultimate  
2       decisions in this case are concerned. As I have stated,  
3       the verdicts have to be unanimous. All of you must be  
4       in agreement.

5             Ms. Coleman and Ms. Edwards, each of you have been  
6       selected as alternate jurors. The function of an  
7       alternate juror is to take the place of one of the  
8       original 12. If during the 12 one of these original 12  
9       cannot continue to serve, then one or both of you will  
10      called upon to become the 12th. That means you will  
11      participate throughout the trial, including the jury's  
12      deliberations at the trial's conclusion.

13            If, however, when the time does come for jury  
14      deliberations, if the original 12 are able to perform  
15      that function, then your service as alternate jurors  
16      will end, and you will not be permitted to participate  
17      in the deliberations. That is because the decision of  
18      the jury is that of 12. No more than 12 are permitted  
19      to engage in that deliberation process.

20            It is important that each of you pay just as  
21      careful attention as we ask of all of the jurors in the  
22      case, because it does occur from time to time for one  
23      reason or another that one of these 12 may be unable to  
24      continue. In that event, one or both of you will be  
25      called upon to become the 12th.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1           So we do appreciate your participation as alternate  
2           jurors, just as we appreciate the participation of each  
3           of the jurors who have been selected for the purpose of  
4           deciding the verdicts in this particular case. You may  
5           swear the panel.

6           (Whereupon, the jury was duly sworn and impaneled.)

7           THE COURT: As you know, you have been selected to  
8           decide the verdicts in the case of the State v. Dominick  
9           Antonio Thompson. As you also know, Mr. Thompson has  
10          been accused of a number of criminal offenses; although,  
11          they are alleged to have arisen out of one event or a  
12          course of events, which the state alleges occurred back  
13          on November 24, 2016. As far as your consideration is  
14          concerned, they are separate and distinct criminal  
15          offenses. You will be called upon to render separate  
16          and distinct verdicts as to those decisions, and your  
17          verdicts may be the same as to each charge or they may  
18          be different.

19          That obviously will depend upon your determination  
20          of the facts as it relations to the allegations in the  
21          charge, then your application of the law, as I will have  
22          provided it to you, in order to arrive at your decision.

23          Mr. Thompson has been charged with the crimes of  
24          burglary in the first degree and possession of a weapon  
25          during the commission of that crime. He is also charged

1       with the crime of armed robbery with assault and battery  
2       of a high and aggravated nature in the 1st degree.

3           As I have told you, as to those allegations and as  
4       to each of those charges, Mr. Thompson has entered a  
5       plea of not guilty. The plea of not guilty places upon  
6       the State, because they made the accusation, they  
7       brought the charge, to establish the allegations that  
8       they have made by each of the indictments. The State  
9       has the burden of proving each of the essential elements  
10      of the crimes that are alleged in each of those  
11      indictments. Therefore; the burden is upon the State to  
12      establish the defendant's guilt to the satisfaction of  
13      you 12 jurors beyond a reasonable doubt before any  
14      verdict of guilty could be returned as to any of the  
15      separate charges brought against the defendant.

16           Every person accused of a crime -- and it doesn't  
17      matter how serious the offenses might be for which that  
18      person stands charged. A person accused of a crime is  
19      always presumed innocent of the charge. That  
20      presumption of innocence remains with every defendant,  
21      as it does with this defendant, from the time that he is  
22      placed under arrest, and throughout the course of the  
23      criminal process and even throughout the course of the  
24      actual trial in the case.

25           That presumption of innocence will be with Mr.



## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 Thompson until the trial's conclusion. When you go back  
2 to begin your deliberations in this case, that  
3 presumption of innocence will be with him in that jury  
4 room, and it will be with him forever unless you 12  
5 jurors determine that he is no longer entitled to that  
6 presumption of innocence.

7 In other words, after you have carefully examined  
8 all of the evidence in the case and after you have  
9 evaluated the credibility of each witness that has  
10 provided information to you and after you have been able  
11 to decide the facts as they relate to the allegations  
12 made and applied the law as I have provided it to you,  
13 if you 12 jurors unanimously determine his guilt as to a  
14 particular charge has been proven beyond a reasonable  
15 doubt, then he would no longer be entitled to the  
16 presumption of innocence as it relates to that  
17 particular charge. It's only unless and until you are  
18 satisfied of his guilt beyond a reasonable doubt that  
19 the presumption of innocence would no longer be  
20 applicable.

21 Now, the way the trial will proceed is that in a  
22 moment, the lawyers are going to address you in what we  
23 call opening statements. There are two occasions in the  
24 trial of a case where lawyers are permitted to address  
25 the jury directly. That is at the beginning of the

1 trial before any evidence has been introduced. And then  
2 again, it's at the conclusion of the trial after all of  
3 the evidence has been received.

4 Keep in mind, as I have just indicated, the  
5 lawyers' statements are not evidence. They are not to  
6 consider the lawyers' statements as being any evidence  
7 upon which you will base your decision. That is because  
8 the lawyers don't know anything about this case from  
9 their own personal knowledge or perceptions like  
10 witnesses will be testifying to when they take the  
11 witness stand and testify before you.

12 The lawyers will not take the witness stand. They  
13 are not going to be placed under oath. They are not  
14 going to be subjected to direct and cross-examination  
15 like each witness will be that testified during the  
16 trial; therefore, what the lawyers tell you is not to be  
17 construed as any evidence on which you will base your  
18 decision. But you should listen to what the lawyers  
19 have to say, because those statements do serve a  
20 purpose.

21 The opening statements serve to provide you with a  
22 basic understanding of what this case is about from both  
23 the perspective of the State as well as the defense, so  
24 that you will have some context in which to place the  
25 evidence that we will be receiving shortly thereafter.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1           The closing statements occurs after the evidence has  
2           been received. Again, although those statements are not  
3           evidence, it does afford the lawyers an opportunity to  
4           discuss with you the evidence that you have seen and  
5           heard during the course of the trial. Each will have an  
6           opportunity to try to persuade you or to convince you  
7           that the evidence in the case does or does not support a  
8           particular decision.

9           It's between those opening and closing statements  
10          that we actually receive the evidence upon which you  
11          will decide the facts and base your decision. The State  
12          has the burden of proof. As I have said, they have got  
13          to prove the defendant guilty beyond a reasonable doubt.  
14          So the State will go forward first in its presentation  
15          of evidence.

16          Once the State has concluded with that  
17          presentation, any person accused of a crime has an  
18          opportunity to take the witness stand and testify or to  
19          call a witness or to introduce evidence. Please  
20          understand that the burden is never upon the person  
21          accused of a crime to prove that they are not guilty or  
22          to prove that they are innocent, because in some cases  
23          that might not be possible; therefore, in the trial of a  
24          criminal case, there is no obligation for a defendant to  
25          take the witness stand and testify or to call any

1 witness or to produce any evidence.

2 The burden is not upon a defendant to prove  
3 anything, as I have stated. Should a defendant not take  
4 the witness stand and testify or not call any other  
5 witness or introduce evidence, that is not a  
6 circumstance that the jury may consider to the slightest  
7 degree against the defendant, nor may you allow it to  
8 influence your decision in the case, nor may you even  
9 discuss that fact while you are deliberating in the jury  
10 room at the trial's conclusion. Every person accused of  
11 a crime is always afforded an opportunity to testify or  
12 to present evidence, in the event he or she wishes to do  
13 so.

14 After the evidence has been received and you hear  
15 the final summations of the lawyers, I will then  
16 instruct you fully on the law, as it relates to the  
17 criminal law generally, and as it relates to these  
18 particular crimes specifically. Then you will be asked  
19 to go back and begin your deliberations. Through that  
20 process and in the exercise of good judgment and common  
21 sense and conscientiously applied to the testimony and  
22 the evidence received during the trial, you will be  
23 called upon to decide the facts as they relates to the  
24 allegations where you can and where you are able to  
25 decide the facts related to the allegations, you will

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1       then apply the law that I will have provided you, and  
2       you will determine whether or not the State has proven  
3       the defendant to be guilty of a particular crime beyond  
4       a reasonable doubt.

5             If they have, then the verdict will be guilty as to  
6       that charge. If they have not, then the verdict would  
7       be not guilty as to that particular charge.

8             All we will ask you to do is pay very careful  
9       attention throughout the course of the trial. There are  
10      a number of witnesses who may be called to testify. You  
11      never know when one is more important than another or  
12      what portion of a witness' testimony is more important  
13      than another.

14            So it's important that you give every witness the  
15      same degree of attention as they testify from start to  
16      finish. Often, there are conflict in testimony. If  
17      there are conflicts in testimony and they relate to a  
18      material fact that has to be decided by you before you  
19      can reach a decision, you are the people who have been  
20      tasked with that responsibility. It's your prerogative  
21      prerogative to assess the credibility of a witness'  
22      testimony.

23            So you may believe everything that the witness  
24      testified to. You may choose to believe none of it.  
25      You may believe some portion of a witness' testimony and

1 reject some other portion of that same witness'  
2 testimony. You could believe one witness as opposed to  
3 several or several as opposed to one. Whatever your  
4 good judgment and common sense tells you is the most  
5 credible and believable testimony is the testimony you  
6 should accept. You should reject any testimony or other  
7 evidence that you find not to be credible or believable.

8 In order to be in a proper position to be able to  
9 fairly evaluate a witness' testimony and not just that  
10 witness' testimony but all the evidence received in the  
11 trial, you have to give them the same degree of  
12 attention, so that when you do go back, you will be in  
13 that position to fairly evaluate the testimony in light  
14 of all of the evidence received during the course of the  
15 trial.

16 It's also important that you keep an open mind  
17 throughout the course of the trial. That means you are  
18 not to begin making up your minds or formulating your  
19 opinions as to what you think the ultimate decisions in  
20 this case ought to be until all of the evidence has been  
21 received, until I have instructed you on the law that is  
22 applicable in the case, and until you have been asked to  
23 go back and begin with your deliberations in order to  
24 arrive at your decision.

25 That is the process that has been designed over the

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1       last 240 some-odd years in order to ensure that you can  
2       arrive at a fair and impartial decision in the  
3       case.

4             I do want to thank you in advance for your  
5       participation as well as for your careful attention. I  
6       will ask that you give the lawyers your attention now as  
7       they give you their opening statements?

8             Ms. Brown.

9             MS. BROWN: Thank you, Your Honor.

10                             \* \* \*

11                    OPENING STATEMENT BY MS. BROWN

12             BY MS. BROWN: Ladies and gentlemen of the jury, I  
13       want you to go back with me to Thanksgiving Day of 2016.  
14       That is November 24. If you are like me, you are  
15       getting ready to watch a bunch of football. The  
16       football game is a day or two away. Maybe watch the  
17       Thanksgiving Day parade. You have your day planned  
18       about what kind of food you want to eat that day. You  
19       are preparing to see some family members, maybe you  
20       don't want to. Whether they are coming to your house or  
21       you are going to their house, it's a big day for a lot  
22       of people. A lot of people have a lot of plans on that  
23       day.

24             I will tell you that no one in Spartanburg County  
25       had bigger plans than that man right there. While we were

1 planning what food we were going to eat that day, he was  
2 planning to rob someone. What is that saying for you?

3 Just after midnight Thanksgiving morning, Christine  
4 Richard, who you will meet, she is hanging out at a  
5 hotel on Mobile Drive with some friends and her  
6 boyfriend Brandon Logan.

7 She gets a text message from her cousin, Makayla  
8 Richard, who you will also meet. Makayla asked her if  
9 she could buy some weed. Christine said, "Come over and  
10 we will get you some."

11 So Christine gets a text from Makayla that she is  
12 there. Christine tells people in the room, "I will be  
13 right back."

14 She goes outside, and she sees her cousin pull up  
15 in a black hoodie, she said. She meet her cousin  
16 outside. They start to chit-chat a little bit, nothing  
17 seems off. They are walking up to the room, when all of  
18 a sudden three more people from that black car with  
19 hoods on. They come out with guns out. They come up to  
20 Christine. They point a gun at her. They rip the  
21 necklace off of her neck, and they say, "Take me to this  
22 room."

23 They go up to the hotel room, Room 249. They knock  
24 on the door. The door opens. They bust in there. They  
25 are telling everyone, "Give me all your stuff." They



## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1       are dumping out book bags and getting the stuff. They  
2       pushed Brandon Logan down, and one of them starts to  
3       pistol whip him repeatedly. While they are doing that,  
4       that gun goes off, and it hits Christine Richards just  
5       below her stomach. After that, the people in that car,  
6       including Makayla Richards, flee the scene.

7               Just a few minutes later, law enforcement arrives.  
8       Summer Hall, who you will meet, she calls 911. She said  
9       that they had just robbed her. They shot her. Within  
10      minutes, about 12:46 a.m., law enforcement is there on  
11      scene, and Christine Richard has been rushed to the  
12      hospital.

13             They talked to her at the hospital. They asked  
14      her, "Who did this to you?" She said, "It has to be one  
15      of those guys with my cousin, Makayla."

16             It doesn't take law enforcement long to talk to  
17      Makayla. They find her at her mother's house about 4:00  
18      that morning. They asked her what had happened. She is  
19      not immediately forthcoming about her involvement or  
20      what she knew. I want you to keep in mind that she is  
21      18 years old. She has just seen someone get shot. She  
22      don't know what these guys that she is with -- she  
23      doesn't know what they are capable of.

24             It doesn't take her long to come clean with law  
25      enforcement about what she knows and her involvement.

1        Within hours she tells him that the defendant called her  
2        earlier that day looking for drugs. He was at my house  
3        earlier that day looking for drugs, and she went with  
4        him and his friends to this hotel. She also admitted  
5        that she heard the gun go off. She even admits that she  
6        knew that they could possibly steal some drugs from  
7        someone. She admits that.

8                She said, "I didn't know they were going to shoot  
9        anybody." That has been her story there from that day  
10       on. She has not changed her story.

11               That story makes sense. There are several things  
12       that corroborate that.

13               We also have another witness, Danielle Krind, who  
14       you will also meet, Makayla's best friend. Again, she  
15       is not immediately forthcoming about what she knows. She  
16       is also scared. She admits that she saw the defendant.  
17       She admits that she saw them leave together. She also  
18       admits she saw them going back there in the early  
19       morning hours of that day.

20               The defendant himself corroborates this story.  
21       You will hear some jail calls that he made. One of the  
22       first jail calls he makes when he is booked into the  
23       jail is, not a family member, it's to April Richard's  
24       mother. He tells her that she cannot, cooperate with  
25       them, with law enforcement.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1                   He also tells her that he hopes she didn't get  
2       scared and tell them anything. He keeps asking, "Did  
3       your cousin say anything about me?"

4 ' He won't let it go. You will hear from several  
5 people in this trial a couple of different pieces. You  
6 heard Judge Cole say this defendant is before you  
7 charged with several charges. Assault and battery of a  
8 high and aggravated nature, possession of a weapon  
9 during the commission of a burglary, first degree?

10           The most important thing that brings you in here  
11           with you is your common sense. You see only one version  
12           of events that makes sense in this case. We will come  
13           back at the end of all of this to recap everything you  
14           have seen. Again, you will see there is only one  
15           version that makes sense; that the defendant is guilty  
16           of everything he is charged with. We will be asking  
17           that you return guilty verdicts at the end.

18                      Thank you.

19 THE COURT: Mr. Schultz.

20 MR. SCHULTZ: Thank you, Your Honor.

21 \* \* \*

22 OPENING STATEMENT BY MR. SCHULTZ

23 MR. SCHULTZ: Ladies and gentlemen, thank you again  
24 for coming here to participate in this trial. I know  
25 that some of you didn't want to be here today. Some of

1       you may. At the same time, I would like to thank you  
2       and so would my client like to thank you for your  
3       service today; not only today, but probably, possibly,  
4       Wednesday. This may go into Thursday. It's an  
5       interesting case, and I hope that everybody will pay  
6       close attention to what is going on.

7               Some of you may have already served on a jury  
8       before; some of you may not have. I am going to ask you  
9       to remember some concepts, such as, reasonable doubt. I  
10      am sure, probably, we have heard what reasonable doubt  
11      is. At least we have heard of the two words there,  
12      what reasonable doubt is.

13             Also, in this situation, my client, Dominick  
14      Thompson, does not have to prove a single thing. That  
15      is not my burden. That is these folk's burden. They  
16      have to prove my client guilty beyond a reasonable  
17      doubt. They have to do that. If you have one  
18      reasonable doubt as to the guilt of my client, Dominick  
19      Thompson, then Judge Cole will instruct you that you  
20      have to return a verdict of not guilty.

21             Reasonable doubt. You probably have some idea of  
22      some sort what it means in reality. The Judge is going  
23      to instruct you in the next couple of days about what it  
24      means. Reasonable doubt is what would cause a  
25      reasonable person some hesitation to act. It is the

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1 highest standard of proof that we have in our court  
2 system all over the country. Also, the Federal  
3 government has that.

4 ' In civil cases we have a -- it's usually about  
5 money. They are usually about a car accident. Some of  
6 you may have been involved in litigation. Maybe you  
7 served downstairs as jurors in Magistrate court. In a  
8 civil case, the party that is seeking damages wants  
9 money. All they have to do is prove their case by a  
10 preponderance of doubt. If you don't understand  
11 preponderance of doubt, that is it. It's a fairly low  
12 standard. It's about what would quantify as about 51  
13 percent or more likely than not.

14 . In a criminal case, which is what we are all here  
15 for today, is 12 jurors and the two alternates who are  
16 here today have a much higher standard. It's beyond a  
17 reasonable doubt. That is highest standard that we have  
18 in a court of law. We are not talking about money. We  
19 are not talking about who injured whom or trying to get  
20 some kind of settlement or things like that.

21 What we are talking about here is freedom. That is  
22 why the burden on them is so high. They have to prove  
23 each and every element of the case against my  
24 client, and if they don't, you have no choice but to  
25 return a verdict for my client of not guilty.

1           Use your common sense experience that you have had  
2           in your life. You can look at the witnesses and ask  
3           yourselves, are they telling the truth? That is a very  
4           important part of this. That is why we selected you  
5           here as jurors to determine whether or not these people,  
6           who you are going to see in here in the next couple of  
7           days, are telling the truth.

8           At the end of the testimony and the evidence, then  
9           you will hear from me after the State examines them.  
10          What I am going to do is poke holes in the story that  
11          they are going to tell you; what they said when this  
12          first occurred and then what they say now.

13          Folks, a great president once said, honesty is the  
14          best policy.

15          Again, ladies and gentlemen, it's a very high  
16          standard that you must hold the State to, these folks  
17          right over here. My client does not have to prove a  
18          single thing. We are going to present to you that my  
19          client was somewhere else when this happened. You will  
20          hear witnesses testify to the accuracy of the that act.

21          He did not rob these individuals. He did not  
22          burglarize these other individuals. He did not assault  
23          anybody that morning. I, like a lot of other people  
24          that day, was preparing for Thanksgiving.

25          In the next couple of days, there are going to be

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1       folks who will stand up here and tell you really what  
2       happened. Certainly something happened that night at  
3       the hotel that night. If you have a reasonable doubt as  
4       to what the State has shown you, plus, if believe -- and  
5       I think you will believe -- that he was in another  
6       place, the case is over. You go back there, and you  
7       return a verdict of not guilty on all counts.

8       Thank you.

9       THE COURT: Ladies and gentlemen, we will begin  
10      with the testimony in the morning. Let me talk to you  
11      now that you have been selected.

12      You can't talk about the case. You are only  
13      permitted to do that during jury deliberations. You  
14      can't discuss the case with family members or friends or  
15      anyone. You can't even discuss it among yourselves,  
16      unless and until you are involved in jury deliberations  
17      at the trial's conclusion, no discussions.

18      Also, you cannot conduct any search or do your own  
19      investigation into any issue that might relate to the  
20      case. No media exposure, television, no internet  
21      searches. You have to base your decision upon what you  
22      see and hear during the trial of the case. You cannot  
23      share your wealth of knowledge talking about the case or  
24      conducting outside research, because information you  
25      might find somewhere else could be totally inaccurate.

## STATE OF SOUTH CAROLINA v. DOMINICK ANTONIO THOMPSON - 2016A210203988

1           No media exposure. Have a good evening. Please  
2           report to your jury room at 9:30 in the morning. Have a  
3           good evening.

4           (Whereupon, the jury exited the courtroom.)

5           THE COURT: We will be in recess until 9:30.

6           (Whereupon, the proceedings concluded at 5:11 p.m.,  
7           with the proceedings to be continued the next day  
8           without interruption.)

9                               \* \* \*

10                           END OF VOLUME I

11

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STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

IN THE COURT OF GENERAL SESSIONS  
FOR THE SEVENTH CIRCUIT  
2016A4210203988  
-3993

|                            |   |                          |
|----------------------------|---|--------------------------|
| -----X                     | : |                          |
| STATE OF SOUTH CAROLINA,   | : |                          |
|                            | : |                          |
| Plaintiff,                 | : |                          |
|                            | : |                          |
| vs.                        | : | TRANSCRIPT OF JURY TRIAL |
|                            | : | VOLUME II                |
| DOMINICK ANTONIO THOMPSON, | : | PAGES 63 - 213           |
|                            | : |                          |
| Defendant.                 | : |                          |
| -----X                     | : |                          |

June 11, 2019  
Spartanburg, South Carolina

B E F O R E

THE HONORABLE J. DERHAM COLE, Judge Presiding.

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## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

|    |                                  |  |     |
|----|----------------------------------|--|-----|
| 1  | I N D E X                        |  |     |
| 2  | PROCEEDINGS                      |  | 65  |
| 3  | PROCEEDINGS CONTINUED            |  | 213 |
| 4  | WITNESS: SUMMER HALL DONOHOO     |  |     |
|    | Direct Examination               |  | 74  |
| 5  | Cross-Examination                |  | 90  |
| 6  | WITNESS: CHRISTINE RICHARD       |  |     |
|    | Direct Examination               |  | 102 |
| 7  | Cross-Examination                |  | 112 |
|    | Redirect Examination             |  | 120 |
| 8  | WITNESS: JASON HILTON            |  |     |
| 9  | Direct Examination               |  | 122 |
|    | Cross-Examination                |  | 130 |
| 10 | Redirect Examination             |  | 139 |
| 11 | WITNESS: MAKAYLA RICHARD         |  |     |
|    | Direct Examination               |  | 140 |
| 12 | Cross-Examination                |  | 166 |
|    | Redirect Examination             |  | 178 |
| 13 | WITNESS: DANIELLE KRIND          |  |     |
| 14 | Direct Examination               |  | 181 |
|    | Cross-Examination                |  | 186 |
| 15 | Redirect Examination             |  | 194 |
| 16 | WITNESS: ROBERT CHARLES TALANGES |  |     |
|    | Direct Examination               |  | 195 |
| 17 | Cross-Examination                |  | 203 |
|    | Redirect Examination             |  | 208 |
| 18 | Further Re-cross Examination     |  | 210 |
| 19 | WITNESS: GAIL MOFFITT            |  |     |
|    | Direct Examination               |  | 211 |

|    |                 |                |      |
|----|-----------------|----------------|------|
| 21 | E X H I B I T S |                |      |
| 22 | NO.             | DESCRIPTION    | PAGE |
|    | S1-6            | PHOTOS'        | 80   |
| 23 | S-7             | CD OF 911 CALL | 85   |
|    | S9 - 13         | PHOTOS         | 89   |
| 24 | S14             | PHOTO LINEUP   | 162  |
|    | S15             | PHOTO          | 198  |
| 25 | S16 - 33        | PHOTOS         | 198  |

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 P R O C E E D I N G S

2 \* \* \*

3 TUESDAY, JUNE 11, 2019

4 \* \* \*

5 SPARTANBURG, SOUTH CAROLINA

6 \* \* \*

7 THE COURT: Anything before we bring in the jury?

8 MR. SMITH: Your Honor, with regard to Summer Hall,  
9 we believe the defense will ask her about a prior drug  
10 charge, possession of meth.

11 The State is admitting with regard to this trial,  
12 there was a drug deal present. It's the State's  
13 position that addressing a prior drug charge by this  
14 witness will only serve to be prejudicial to the jury.

15 THE COURT: Has it been expunged?

16 MR. SMITH: She completed the discharge on her  
17 treatment program, but it's still on her rap sheet.

18 THE COURT: Mr. Schultz, are you going to ask  
19 about that?

20 MR. SCHULTZ: I am, Your Honor, especially if it's  
21 not expunged.

22 THE COURT: Mr. Smith.

23 MR. SMITH: Your Honor, I don't understand what  
24 probative value it has. It's a different drug than what  
25 is being alleged. It's just an attempt to sully her

1 reputation. It has nothing to do with the case.

2 THE COURT: Mr. Schultz.

3 MR. SCHULTZ: Thank you, Your Honor.

4 I would believe -- especially if it's not expunged  
5 or pardoned or anything like that. Possession of meth  
6 -- it's my understanding that it carries up to three  
7 years. I think, obviously, it would meet the definition  
8 of something that could be brought up under 403.

9 THE COURT: Subject to 403. Tell me what the  
10 probative value is.

11 MR. SCHULTZ: The probative value, at least in my  
12 opinion, would be that there had been some evidence of  
13 drug use at the room that night. So I would believe  
14 that would be the probative value of the introduction of  
15 the prior conviction.

16 THE COURT: How so?

17 MR. SCHULTZ: Well, I think that if either Mr.  
18 Smith or I were to elicit testimony that there was at  
19 least some consumption of some illegal substances in  
20 that hotel room on night or they were waiting for  
21 someone to delivery drugs to them at the same time. If  
22 there was no evidence of any kind of drug use  
23 whatsoever, I would say that maybe the State would have  
24 a point as to the probative nature of it, but there was.  
25 I think I will elicit testimony that there was some kind

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           of drug use there.

2           THE COURT: The event that led to the conditional  
3           discharge is totally unrelated to this, is it not?

4           MR. SMITH: She was charged with the drugs before  
5           this incident happened. She was actually on bond before  
6           this incident happened.

7           THE COURT: The charge that resulted in a  
8           conditional discharge was unrelated to this event?

9           MR. SMITH: Yes. She had already been charged at  
10          the time of this event. Not pled yet, but she had been  
11          charged.

12          THE COURT: Anything else?

13          MR. SCHULTZ: My thinking on it -- I think it is  
14          relevant. In the last proceeding that we did, I, at  
15          least, elicited testimony that there was some possession  
16          of loud, which is more potent form of marijuana. I am  
17          not sure if that will come up again. It probably will.

18          THE COURT: What was going on during the event is  
19          one thing. Ordinarily, most everything is part of the  
20          res gesta that is admissible. But something that  
21          occurred prior to and is unrelated, is a different issue  
22          altogether.

23          MR. SCHULTZ: I still think I should be allowed to  
24          impeach her on that. Just because of the nature of the  
25          charges.

1           THE COURT: That is what it makes it prejudicial,  
2           the nature of the charge unrelated to this case.

3           MR. SCHULTZ: I think it does bear some relation to  
4           the case.

5           I think that there will be evidence of drug use by  
6           the parties in the room.

7           THE COURT: How does that conviction tend to prove  
8           that?

9           MR. SCHULTZ: It tends to prove that she, at least,  
10          got arrested and convicted of a drug charge back in  
11          2017.

12          THE COURT: Anything else?

13          You will agree with me, would you not, that it has  
14          nothing to do with credibility or the likelihood of  
15          truth. It's not a crime of dishonesty or false  
16          statement or deceit.

17          I don't believe it falls under those exceptions.  
18          I do believe that either me or Mr. Smith will elicit  
19          testimony that there had been drug use at the hotel.

20          THE COURT: That is a different issue altogether.  
21          I am not excluding that. I am just talking about a  
22          prior conviction.

23          MR. SCHULTZ: It comes out of the truthfulness. If  
24          it comes out of truthfulness, I will agree with the  
25          Court.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           THE COURT: It doesn't make her testimony more or  
2           less likely to be true because of that conviction.

3           Is that what I am understanding you to agree with?

4           MR. SCHULTZ: That would be my understanding of the  
5           way the evidence rules are drafted.

6           THE COURT: Okay. So then, otherwise, it's  
7           admissible if the probative value is not substantially  
8           outweighed by the advantage of unfair prejudice.

9           MR. SCHULTZ: Then I would believe the probative  
10          value would outweigh that way because of the prejudicial  
11          nature of it. There was drug use or about to be drug  
12          use at the hotel room that night. That would be my  
13          argument there.

14          THE COURT: Without more, I do find that the  
15          probative value of that testimony is substantially  
16          outweighed by the nature of unfair prejudice. So it  
17          will be excluded unless there are other circumstances  
18          that will otherwise make that more probative than  
19          prejudicial.

20          MR. SMITH: Your Honor, the next witness that the  
21          State would be calling also has some prior record. This  
22          one I don't believe we are going to oppose it coming  
23          in.

24          THE COURT: Which witness is that?

25          MR. SMITH: Christine Richard. She will be going

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 after Ms. Hall. She two shopliftings, one from 2013 and  
2 one from 2014 that are convictions on her rap sheet.

3 THE COURT: Even under a broad analysis, that is a  
4 crime of dishonesty.

5 MR. SMITH: Yes, sir, within ten years. We are  
6 not disputing that. The only other charge she has is  
7 neglect -- legal custodian child neglect charge. That  
8 is one that we would object to getting into.

9 She has a shoplifting conviction from 2017 as well.  
10 She has three shoplifting convictions in the last ten  
11 years. We do not have an argument against those. I  
12 think they come in under the rules, but the child  
13 neglect charge, we would ask that that be excluded.

14 THE COURT: All right.

15 Mr. Schultz.

16 MR. SCHULTZ: Thank you, Your Honor. The child  
17 neglect, if it's not under Magistrate Court carries up  
18 to ten years. So I would ask that the Court allow me to  
19 impeach on that.

20 THE COURT: Again, if the probative value cannot be  
21 substantially outweighed by the advantage of unfair  
22 prejudice, the convictions, at least for impeachment,  
23 are those that bear upon a person's likelihood and  
24 ability to tell the truth.

25 What do you perceive the probative value to be for



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 a conviction for child neglect?

2 MR. SCHULTZ: If it's child neglect that involved  
3 -- I am not sure of the facts of the case, but if the  
4 child neglect involved any consumption of illegal drugs,  
5 that can be a reason to bring it up.

6 THE COURT: I understand. I will address these  
7 issues in the event that the witness testifies in a  
8 fashion that would make those convictions relevant, but  
9 until that has been shown -- number one, I don't think  
10 they are relevant. If even if they are, the probative  
11 value is substantially outweighed by the danger of  
12 unfair prejudice.

13 So we might have to address that again. I am not  
14 certain. Nevertheless, right now, the shoplifting  
15 charges are probative on the issues of credibility and  
16 truth telling, because they are crimes of dishonesty. I  
17 will allow those in.

18 MR. SCHULTZ: We just confirmed that she has three  
19 shoplifting convictions: One in 2013, 2014, and one in  
20 2017.

21 All of those can be used.

22 THE COURT: That is true.

23 All right anything else?

24 MR. SMITH: No.

25 MR. SCHULTZ: I don't know if the State is going to

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 present anybody else with records this morning.

2 MR. SMITH: That should get us through the  
3 morning, Your Honor, unless Makayla Richard has pending  
4 charges other than the charges that arise out of this  
5 event that we will be covering in direct.

6 THE COURT: All right. Bring the jury in.

7 (Whereupon, the jury exited the courtroom.)

8 Good morning, ladies and gentlemen. I had some  
9 matters that came up this morning that I had to address.  
10 It took a little bit longer than I expected it would be.

11 We are ready now ready to begin with the trial of  
12 the case for which each of you has been selected. As  
13 I said yesterday, the opening statements have been  
14 completed, but we have not yet begun receiving evidence  
15 in the case, so we are now going to proceed with the  
16 State's presentation of evidence.

17 Mr. Smith.

18 MR. SMITH: The State calls Summer Hall, now Summer  
19 Donahoo.

20 \* \* \*

21 SUMMER HALL DONNAHOO,

22 called as a witness by and on behalf of  
23 the State to testify, being first duly  
24 sworn was examined and testified as follows:

25 \* \* \*

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 DIRECT EXAMINATION

2 BY MR. SMITH:

3 Q Will you please state your name for the jury.

4 A Summer Donahue.

5 Q Were you Summer Hall, on November 24, 2016?

6 A Yes, sir.

7 Q Have you been married since then?

8 A Yes, sir.

9 Q Summer, are you a Spartanburg native?

10 A Yes, sir.

11 Q You have lived here your whole life?

12 A Yes, sir.

13 Q How old are you?

14 A Twenty-seven.

15 Q Let's talk about November 24, 2016.

16 Where were you on that day?

17 A I was at Crossland Studios.

18 Q I mean, November 23 going into the 24th.

19 A I was at Crosslands Studios in Room 249.

20 Q Where is Crosslands Studios?

21 A Right off of Herron Circle.

22 Q So it's a circle --

23 A It's a roundabout.

24 Q Is that in Spartanburg County?

25 A Yes, sir.

1 Q What were you doing at the Crossland Studios?

2 A It was me, my husband, my sister-in-law Christine,  
3 my brother-in-law Brandon, and our friends and Joseph.  
4 We were just sitting there hanging out. They had just  
5 gotten there a few hours before.

6 Q What is your husband's name?

7 A Russell.

8 Q You were all just hanging at the room?

9 A Yes, sir.

10 Q What ended up happening as the night progressed?

11 A Christine got a Facebook message, and she said that  
12 her cousin Makayla was looking for weed; that she wanted  
13 a half-ounce of mid or a whole ounce of loud.

14 We told her that we didn't have any, but that  
15 there was somebody else in the hotel in another room  
16 that could get it for her. She would have to come sit  
17 in our room and give that person her money. Then they  
18 would go get wherever they have to get it for her.

19 Q How is this communication occurring?

20 A Christine was telling us by mouth. She was talking  
21 to Makayla on her Facebook on her phone.

22 Q You said some mid or some loud. Is that different  
23 types of marijuana?

24 A The potency. It's just stronger or not as strong.

25 Q There is a difference in price, I assume?

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       A     Right.

2       Q     So what happened as they talked? Did she agree to  
3       come over?

4       A     She said that she was going to come. I am not  
5       sure. It was probably 30, 40 minutes later, Christine  
6       said that she was there; that she was going to go  
7       downstairs to get her. She was on the top floor.  
8       Christine left the room. We were all still sitting  
9       there. It looks like -- inside the room, we were  
10      talking like, dang. Where is Christine at? She has  
11      been gone longer than it would take to go downstairs and  
12      get her.

13           At that time we heard a knock on the door. It was  
14      like a panic knock. My husband Russell went to look out  
15      the hole in the door. He turned around and he said,  
16      "There is a lot of people over there. It's Christine,  
17      but there is a lot of people."

18           She knocked again harder and faster, and Brandon --  
19      that's Christine's boyfriend -- told Russell to open the  
20      door. Open the door. There is something wrong. So  
21      Russell opened the door, and three black guys pushed  
22      Makayla and Christine. The only reason I knew it was  
23      Makayla is because he had shown us a picture on  
24      Facebook. She told us what she was going to look like.

25      Q     Makayla is not someone that you had met before?

1       A     I didn't know her. I didn't know her name before.  
2       This is the first time that I had heard about her, seen  
3       her, or anything.

4       Q     Let's stop one second.

5             Can you describe how the building is? Is this  
6       something that you go into, and then you access the  
7       rooms from inside?

8       A     It's an outside motel. It's two buildings. Both  
9       buildings have rooms on each side. There is a balcony  
10      outside, and then you entered our room. There is no  
11      other way out than our door.

12      Q     Is there a central breezeway with a staircase that  
13      goes?

14      A     Right. There is a staircase that goes in between  
15      the buildings. It's separated. It's one long building,  
16      but it's two separate sides. The staircase goes up in  
17      between them.

18      Q     So each room you access from the balcony. You are  
19      standing when you walk into the room?

20      A     Yes, sir.

21      Q     Continue on.

22      A     The guys pushed Makayla Christine in, but it was  
23      almost like they were joking and laughing. We didn't  
24      understand what was going on right then. I stood up. I  
25      was sitting. I am laying in the bed, and I was sitting

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       on the side of the bed. Then I stood up. I thought  
2       they were joking. They were laughing.

3               When I stood up, Dominick grabbed me by my throat  
4       and put a gun in my mouth. He laid me on the bed. I  
5       was still standing right in front of the bed. He was on  
6       top of me with his hands on my throat. He moved the gun  
7       from my mouth to my head and smiled.

8               I closed my eyes. He lifted the gun off of my  
9       head. Another guy was beating Brandon in the head with  
10      a gun. They had him in the corner on the other side of  
11      the bed. I thought he was going to pistol whip me,  
12      because that is what they were doing to Brandon.

13              When he lifted the gun up, my husband hollered. He  
14      was still standing at the same place he was. He  
15      hollered. He said he hollered, because he didn't want  
16      him to hit me in the head.

17              As soon as my husband hollered, he got off of me  
18      and went to my husband. His stuck his hand in his  
19      pocket. He said, "I already gave somebody my wallet. I  
20      don't have anything else."

21              So he stuck his hand in his pocket, and he got his  
22      hand stuck in his pocket. He said, "Get your hand out  
23      of your pocket."

24              Russell said, "You got your hand stuck. You get it  
25      out."

1           I sat up after he got off of me. I am sitting on  
2           the bed. Anna is in a chair. She was sitting not right  
3           in front of me, but off to the side, at the corner of  
4           the bed. Joseph was sitting at the foot of the bed in  
5           another chair.

6           Somehow, Brandon ended up from the other side of  
7           the bed in the corner, over there behind Joseph and  
8           beside his brother, Russell. The other guy was running  
9           around the room and dumping bags out. They kept  
10          hollering, "Where is the dope? Where is the dope?"

11          We didn't have anything. We told them that they  
12          were going to have to wait anyway. They started beating  
13          Brandon again. They hit Brandon so hard that the gun  
14          went off. As soon as we heard the gunshot, everybody  
15          stopped. It was almost like we all froze.

16          My husband opened the door and said, "Somebody has  
17          been hit. You all have to go."

18          Everyone runs out the door.

19          Q     Is that everybody the people who did the robbery?

20          A     The three guys and Makayla. Makayla was the first  
21          one. Then me and Christine locked eyes. At this time,  
22          she is at the foot of my bed staring at me.

23          She said, "I have been shot." I looked down, and  
24          all I could see was, like, fuzzy on her pants where it  
25          ripped through her pants. So Brandon was still on the



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 ground. The minute Christine said, "I have been shot,"  
2 Brandon jumps up. You can tell he is dizzy. He picks  
3 Christine up and runs out the door with her. Then I  
4 called 911.

5 Q State's Exhibits 1 through 6. Tell me what these  
6 pictures show.

7 A This is the air-conditioning unit.

8 Q Don't show them to the jury. Just look through all  
9 of them and tell me what those represent -- what that  
10 is.

11 A These are pictures of the room after everything  
12 happened.

13 Q That is what the room looked like after the robbery  
14 had happened?

15 A Yes.

16 MR. SMITH: Your Honor, at this time we move to  
17 enter State's Exhibits 1 through 6 into evidence.

18 MR. SCHULTZ: No objection.

19 THE COURT: Admitted.

20 (Whereupon, State's Exhibits 1 - 6 were admitted  
21 into evidence.)

22 THE COURT: He will be showing you some pictures.  
23 When you respond to the questions, you have to turn back  
24 and answer into the microphone. Don't look at the  
25 photographs while you are answering.

1 THE WITNESS: Okay.

2 BY MR. SMITH:

3 Q State's Exhibit 2. Where is this a view from?

4 A That is the door. You walk straight in. That is  
5 the chair Brandon was sitting in.

6 Q This is State's Exhibit 1. How is this taken in  
7 relation to that last picture?

8 A The air-conditioner is right beside the door. When  
9 you walk in the door, it's to the left.

10 Q The person turned and left when that last picture  
11 was taken?

12 A Yes, sir.

13 Q Who was sitting in that chair? I think you  
14 described that someone was sitting there.

15 A Anna was sitting there that chair. It was right  
16 here (indicating).

17 Q How did it get moved?

18 A When she got up when they left, they left to go out  
19 the door.

20 Q State's Exhibit 5. Can you describe where  
21 Christine was standing during this incident?

22 A Christine was standing right here, between the  
23 air-conditioner and the door. Right beside the air-  
24 conditioner, and Makayla was standing right beside her.

25 Christine was standing. There is the door, and my

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 husband would be right behind the door on the other  
2 side.

3 Q This is State's Exhibit 6. What is that a picture  
4 of?

5 A The air-conditioner unit beside the door.

6 Q There are people lined up alongside the  
7 air-conditioning unit?

8 A Right here would be standing Makayla, and right  
9 beside Makayla is Christine.

10 Q Russell is a little further back by the door.  
11 This is State's Exhibit 3. This is another  
12 picture. You said Joseph was sitting in this chair?

13 A Yes, sir.

14 Q You were on the bed. This is State's Exhibit 1.  
15 Where were you when they came in?

16 A I was sitting right there. When they came to the  
17 door, I stood up. When he grabbed me by my throat, he  
18 laid me right back down on the same spot on the bed.

19 Q I believe you said that three black males came in.  
20 Do you remember what they were wearing -- how they  
21 were?

22 A They had dark-colored hoodies on, black, and blue  
23 jeans. They had their hoods up. The strings were  
24 pulled, but they were not tied. The more they were  
25 moving around, the more they were loose. I seen his

1 face in my face. He was, like, right here in my face  
2 with a gun (indicating).

3 When they came through the door, you could see that  
4 they were trying to pull their hoodies tighter.

5 Q When they initially came in, what would you have  
6 been able to see?

7 A Right here (indicating).

8 Q Mostly nose and mouth?

9 A When they initially came in, right outside the  
10 door, right before they come in, they were pulling the  
11 strings, I guess, to pull their hoodies up.

12 Q Did they have weapons out when they entered the  
13 room?

14 A Yes. They had guns.

15 Q So you immediately saw the guns?

16 A Yes.

17 Q Did you know who any of these people were? I  
18 believe you said you knew Makayla because of the  
19 circumstances. The other three people, did you know  
20 them?

21 A No.

22 Q You said that after the gun goes off and they were  
23 escorted out, you called 911?

24 A Yes. It took me, like, 30 to 45 seconds to -- my  
25 whole body was shaking. They took my cell phone. It

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           was laying in front of me.

2           He took his cell phone and put it in his pocket.

3           It took me a second to remember there is a room phone.

4           I remember saying to Russell, "How am I supposed to call  
5           911? They have my phone." I forgot that there was a  
6           room phone.

7           I was worried about Christine. I saw that she was  
8           shot at.

9           Q     In the process of what happened in the room, did  
10          you see items taken from yourself or others inside the  
11          room?

12          A     Yes. They got my phone. I had a white Samsung  
13          Galaxy. They took the money out of my husband's  
14          wallet. They searched Brandon's pants. They were --  
15          there was electronics and cell phones all over the bed.  
16          They had laptops. They took a few cell phones from the  
17          bed. They were just putting a whole bunch of random  
18          things that they had in the bag.

19          Q     You saw them taking something out of Brandon's  
20          pants?

21          A     Yes.

22          Q     What was the condition of your phone at the time it  
23          was taken?

24          A     It had a couple of cracks in it.

25          Q     I will show you State's Exhibit 25. We will not

1 show this to the jury yet.

2 Is your cell phone in that picture?

3 A Yes, sir.

4 Q You described it as a white phone with a cracked  
5 screen?

6 A Yes.

7 Q You said that you called 911 when?

8 A Within 30 seconds. It was probably shorter than  
9 that. It felt like they were in there forever. It  
10 seemed like time slowed down the whole time they were  
11 there, and shortly after they were there.

12 Q Have you heard your recording of the 911 call?

13 A Yes, sir.

14 Q I will hand you State's Exhibit 7. I will ask you  
15 if you can identify what this is.

16 A This is the 911 call.

17 Q You have listened to it previously?

18 A Yes, sir.

19 MR. SMITH: Your Honor, at this time we would move  
20 State's Exhibit 7 into evidence.

21 MR. SCHULTZ: No objection.

22 THE COURT: It's admitted.

23 (Whereupon, State's Exhibit 7 was admitted into  
24 evidence.)

25 MR. SMITH: Permission to publish.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 THE COURT: You may.

2 (Whereupon, State's Exhibit 7 was published to the  
3 jury.)

4 BY MR. SCHULTZ:

5 Q What did you do after you hung up with 911?

6 A I walked into the door of the hotel room. The  
7 police officers came up and got me and Russ. They put  
8 him in an SUV. They put me in another SUV. I sat in  
9 the SUV for a good amount of time.

10 Q Did you talk with them about what had happened?

11 A Yes. My mind was going faster than my mouth  
12 could. I wasn't getting all my words out the way I  
13 needed them to. I was more worried about Christine  
14 getting to the hospital. I had seen where they had shot  
15 her at. I knew she would bleed out before she made it  
16 to the hospital.

17 The officer gave me about 30 minutes. He turned  
18 his radio up in the car. I heard him from across the  
19 radio that the gunshot victim made it to the hospital.

20 I don't remember exactly what they said, but it  
21 indicated to me that she still breathing. After that, I  
22 told the officer what was going on. He wrote my  
23 statement for me. Then he let me out of the car and  
24 then went back to my husband. They put us on the bottom  
25 floor under our room, under the balcony, and told us to

1 sit down on the asphalt sidewalk.

2 Q You didn't know who the defendant was? You hadn't  
3 told the police who had done this crime?

4 A No.

5 Q Did you tell them about Makayla? Do you remember?

6 A I did tell him why she was there; that we were  
7 supposed to help her get weed. I told them her name. I  
8 told them that it was Christine's cousin.

9 Q Did you end up attempting to try to figure out who  
10 these other people were?

11 A Yes, sir. They wouldn't let us go to the  
12 hospital. The police were still talking to Christine  
13 and trying to make sure she was stable. Me and my  
14 husband went back to his mother's house. We got on  
15 Facebook. We started with Makayla, Makayla's Facebook.  
16 I can't tell you the process of clicks of how we came  
17 across Facebooks of theirs, but we came across their  
18 Facebook.

19 The next day -- when we talked to Christine on the  
20 phone that night, she looked them up. The next day we  
21 went to the hospital, and we talked about it. I can't  
22 tell you the other two. I can't identify the other two  
23 face-to-face. I can say that he was the one on top of  
24 me.

25 Q That is because you didn't have an opportunity to



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 look at the other two?

2 A No. When they came in, he grabbed me first, and I  
3 went straight to the bed. I was on my back on the bed.

4 THE COURT: Ma'am, when you refer to the pronoun  
5 "He," you need to identify the person you are referring  
6 to.

7 THE WITNESS: Dominick took me straight from where  
8 I was standing up and put me on my bed on my back.  
9 Brandon was at my head at the other corner of the bed,  
10 but I couldn't turn to see him. The only people I got  
11 to make eye contact with, other than Dominick in my face  
12 was Christine and my husband Russell.

13 The angle I was sitting at the bed, I could see  
14 him. I couldn't see the other two.

15 BY MR. SMITH:

16 Q Did you see Brandon after this event and any  
17 injuries he sustained?

18 A Yes. He had a big gash on his head and a couple of  
19 scrapes. I could hear him fighting back. He wasn't  
20 going down very easy. It was like as soon as the three  
21 guys came into the room, Dominick grabbed me, and the  
22 other two went that way, towards Brandon. Somehow  
23 Brandon got from the bottom-left corner of the bed to  
24 the top-left corner of the bed.

25 Q There is State's Exhibits 8 and 9. I will ask you

1 if you can identify what that is.

2 A I can.

3 Q What is that?

4 A That is Brandon, and that is his head.

5 MR. SMITH: At this time, Your Honor, we move

6 State's Exhibits 8 and 9 into evidence.

7 MR. SCHULTZ: No objection.

8 THE COURT: They are admitted.

9 (Whereupon, State's Exhibits 8 - 9 were admitted  
10 into evidence.)

11 BY MR. SMITH:

12 Q Do you know if that is his blood on his leg?

13 A That is Christine's blood.

14 Q He carried her out?

15 A He carried her out, and he was holding her in the  
16 car.

17 Q This is State's Exhibit 9. Did the police ever  
18 have you identify a photo lineup and attempt to identify  
19 the defendant?

20 A No, sir. The only time I talked to the police was  
21 right after. They never contacted me or anything. They  
22 took my statement, and that was it.

23 MR. SMITH: Please answer any questions, Mr.  
24 Schultz has.

25 \* \* \*

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 CROSS-EXAMINATION

2 BY MR. SCHULTZ:

3 Q Is it Summer Hall or Summer Donahue?

4 A Summer Donahue now.

5 Q You are married now; correct?

6 A Yes, sir.

7 Q What is the name of your husband?

8 A Russell Donahue.

9 Q Was Russell there that night as well?

10 A Yes, sir.

11 Q So he witnessed this as well; correct?

12 A Yes, sir.

13 Q You gave a statement to the police; is that  
14 correct?

15 A Yes, sir.

16 Q When you gave that statement to the police, you  
17 swore to tell the truth; correct?

18 A Yes, sir.

19 Q Did you put everything into that statement that you  
20 needed to at the time?

21 A Probably not. I couldn't get all the words out of  
22 my mouth that I was trying to say. I couldn't write my  
23 own statement. I was out of breath. I couldn't talk  
24 clearly.

25 Everything that I could get out of my mouth at that

1           time was what I got out of my mouth. My whole body was  
2           still shaking hours after it happened.

3           Q     Are you saying that somebody else wrote that  
4           statement for you?

5           A     Somebody else wrote that statement.

6           Q     Not you?

7           A     No. I did not write the statement.

8           Q     Did you give any other statements to the police  
9           that night or any other statements whatsoever?

10          A     The last time I talked to the police -- the first  
11          time I saw them was that night. The first and the last  
12          time that I spoke with the police was that night.

13          Q     You haven't spoken to the police since then;  
14          correct?

15          A     No.

16          Q     You made referenced in direct examination to  
17          something called loud.

18                 Can you explain that to the jury?

19          A     It's the higher potency of marijuana. It's more  
20          expensive than normal weed.

21          Q     Explain higher potency.

22                 MR. SMITH: Your Honor, objection; relevancy.

23                 THE COURT: What is the relevance?

24                 THE COURT: The relevancy in this case would be  
25          that at the very least is that illegal drugs were

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 consumed at the hotel.

2 THE COURT: That has been testified to. I will  
3 sustain the objection.

4 BY MR. SCHULTZ:

5 Q Did you consume any type of illegal drugs at the  
6 hotel room that night?

7 A No. We were waiting. The person hadn't even  
8 brought any weed. We told them that we didn't have  
9 anything; that another person that was in another room  
10 at the hotel would have to take Makayla's money and go  
11 and get it.

12 Q So you were waiting for drugs to be delivered; is  
13 that correct?

14 A For Makayla, yes. He didn't have the money. She  
15 had the money. We were waiting on Makayla to bring the  
16 money in order to get her the drugs that she wanted.

17 Q Would it be fair to say that your memory of this  
18 occurrence was better in the past than what it is now,  
19 almost two-and-a-half years later?

20 A Yes. It was clear a few hours after it happened.  
21 It was easier to explain a few hours after it happened.  
22 My anxiety was through the roof. I could barely speak.

23 Q You answered that question "Yes"; correct? -- the  
24 question that I just asked you?

25 A Yes.

1 Q In a prior proceeding, I asked you that question  
2 under sworn testimony. You said "no"; is that correct?

3 A Can I see?

4 Q Line 15. There is my question.

5 A That was a year ago.

6 Q You said "no" to that question.

7 A It has been a year since then. I don't try to  
8 remember. I try to forget what happened.

9 MR. SMITH: Can we at least read the statement  
10 rather than just imply what it is?

11 THE COURT: Yes, of course.

12 BY MR. SCHULTZ:

13 Q Starting on Line 15 down to Line 21.

14 "QUESTION: Would it be fair to say that your  
15 memory of it happening is better in the past than it is  
16 now almost two years later; is that correct?

17 "ANSWER: No. There were things that I started to  
18 remember after I gave my statement. It was a lot of  
19 commotion, and my whole body was shaking. I couldn't  
20 even speak."

21 Q When you remembered these things, did you go back  
22 to the police at any time since that date?

23 A No. Christine was the one talking back and forth  
24 with the detective.

25 Q I didn't ask you about Christine. I asked you

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           about you.

2                   Did you go back to the police and tell them more  
3           details about it?

4           A     I said, no, but I was explaining why. I didn't  
5           feel the need that I had to.

6           Q     You remember this. This was not Thanksgiving  
7           night, but Thanksgiving morning; correct?

8           A     It was right before 12:00 Thanksgiving morning.

9           Q     Do you remember when you gave your statement to the  
10          police?

11          A     Yes. I remember giving my statement to the police.

12          Q     You told the truth, the whole truth, and nothing  
13          but the truth; correct?

14          A     Yes, as far as I can remember..

15          Q     Now, how do you know Christine Richard again?

16          A     She is my brother-in-law's girlfriend.

17          Q     At the time of this --

18          A     She was my brother-in-law's girlfriend.

19          Q     Brandon Logan is your husband's brother?

20          A     Yes.

21          Q     I am interested in knowing this.

22                   Had you ever seen Makayla Richard before?

23          A     No.

24          Q     This was the first time you had ever seen or  
25          heard --

1           A     That was the first time I had ever heard of her or  
2           seen her.

3           Q     Nobody referenced Makayla Richard to you ever  
4           before; right?

5           A     No.

6           Q     This whole deal to provide drugs to the room that  
7           night, how was that facilitated again?

8           A     What do you mean, how? Makayla messaged  
9           Christine. Christine said, "My cousin Makayla says that  
10          she needs weed; that she wants a half-ounce of mid or a  
11          whole ounce of loud."

12          We tell her, "we" as in the rest of us in the room,  
13          my husband, me, Brandon. My husband knows somebody that  
14          stays in another room at the hotel that can get it for  
15          her, but she had to come to the room.

16          He would have to come and get her money and go get  
17          it for her, and then he would bring it back to her. She  
18          would have to sit there, because we didn't have the  
19          money to go get it for her and wait for her to get  
20          there.

21          Q     You said in your direct testimony that two of the  
22          black males jumped over the bed and started hitting  
23          Brandon and shoving Brandon in the corner; correct?

24          A     Yes. He was at the corner at the end of the bed  
25          and ended up at the opposite corner. He was at the



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 corner. If you are sitting in the bed, the left-bottom  
2 corner is where he was standing when they came in. He  
3 ended up at the head of the bed in the corner on the  
4 same side.

5 Q Did you identify my client on November 24, 2016?

6 A No. I didn't identify him.

7 Q How did you arrive at this identification without  
8 any police assistance?

9 A We went back home. We were going through Makayla's  
10 friends. I can't tell you the clicks that we made, but  
11 somehow we arrived at a picture with him two other guys  
12 in it. I can't say if it was on his Facebook or  
13 somebody else, but he was tagged in it. We clicked the  
14 picture. It started with Makayla's Facebook. Somebody  
15 posted on her Facebook saying, "My little shooter" or  
16 something.

17 We clicked that person's Facebook, and I can't tell  
18 you how many other people we clicked from there. We was  
19 clicking mutual friends, clicking comments, scrolling  
20 through posts.

21 Q Was Makayla friends with Dominick on Facebook?

22 A I can't tell you that now. I don't remember.

23 I don't remember how we got to his Facebook, but  
24 it started with Makayla's and that post.

25 Q That is how you identified Mr. Thompson?

1           A     That is how I found him on Facebook.

2           Q     Let me ask you this:  You had a positive  
3           identification; correct -- at that point?

4           A     Yes.

5           Q     At least what you perceived it to be?

6           A     Yes.

7           Q     Why didn't you go to the police at that point?

8           A     Christine was talking to the detective.  Christine  
9           found him as well.  I didn't think I had to talk to the  
10          police too.  She was already talking to the detective.  
11          She was relaying the information.

12          Q     I am not asking about Christine.  I am asking you  
13          about you.

14          A     I just told you.  I did not think I had to talk to  
15          the police anymore or that I needed to get ahold of the  
16          police anymore.  She was relaying the same information.

17          Q     You just testified that somebody grabbed you by  
18          your throat and put a gun to your head.  Then a couple  
19          of days later -- or a couple whatever it was -- you are  
20          saying that you never went to the police to tell them  
21          who did this to you.

22                 Is that what you are saying?

23          A     So you are saying that more than one person needs  
24          to tell the police?  She was already telling the police  
25          who.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q That is not my question. Did you ever go to the  
2 police?

3 A No. I did not think I had to.

4 Q Why did you not think you had to?

5 A Because she was talking to the detective. He was  
6 contacting her. None of them ever contacted me or my  
7 husband. I can't speak to the other two, but they never  
8 contacted me or my husband.

9 After the police came to the hotel, we never had to  
10 talk to them again. They came to her room at the  
11 hospital.

12 Q You testified in a prior proceeding that Makayla  
13 was friends with Dominick Thompson on Facebook at that  
14 time; correct?

15 A That is what I said?

16 Q Would like to see it?

17 A Sure.

18 Q Read that. Lines 19 through 22.

19 A QUESTION: She was friends with Dominick Thompson  
20 on Facebook at that time."

21 Q That is your testimony here today; right?

22 A No. I did not say that for sure that they were  
23 friends today. I can't remember all the clicks that I  
24 made. That was three years ago almost. I don't  
25 remember. I started with Makayla's Facebook, scrolling

1 through her Facebook. I found a post on her Facebook by  
2 someone saying that she was their little shooter.

3 I clicked on that post, the person who made that  
4 post. I ended up viewing a picture of Dominick and two  
5 other guys. Dominick's Facebook was tagged in it, so I  
6 clicked on Dominick's Facebook.

7 Q Moving on. Do you remember talking to the police  
8 on the breezeway there outside of the door to your room?

9 A I remember talking to a lot of police that night.

10 Q When you talked to the police there -- I know it  
11 was difficult to talk to the police at that point, but  
12 do you remember saying these exact words: "All I could  
13 see was their nose"?

14 A Yeah. I do remember saying that. How exactly  
15 would they see if all I could see was their nose? My  
16 mind was completely crazy at that point. Like I said  
17 before, everything that I could get out of my mouth was  
18 what I could get out of my mouth at that time.

19 I couldn't think straight. I couldn't breathe. I  
20 couldn't control my body. My whole body was shaking. I  
21 was terrified.

22 Q Your testimony here today is that you couldn't  
23 think straight at that time?

24 A I couldn't get my words out straight.

25 Q You did say to the police, "All I could see was

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           their nose?"

2           A     Probably. I probably did say that.

3           MR. SCHULTZ: Your Honor, may I show her the  
4           bodycam footage?

5           THE COURT: Do you need for her to refresh her  
6           memory with that?

7           MR. SCHULTZ: That is exactly what I am doing.

8           THE COURT: Do you contend it is different from  
9           what she testified to?

10          MR. SCHULTZ: Your Honor, she said, probably. I  
11          want to clarify this.

12          THE COURT: All right.

13 BY MR. SCHULTZ:

14          Q     "All I could see was their nose"; correct?

15          A     Yes.

16          Q     Now you are coming into court pointing at my client  
17          when two-and-a-half years ago, you said, "What?"

18          A     Your client was in my face with a gun, an inch away  
19          from my face and smiling at me with a gun into my  
20          temple.

21          Q     You said, "All I can see was their nose" when this  
22          happened; correct?

23          A     Yeah. That came out of my mouth. I think you are  
24          taking it out of the context that I was meaning it.

25          Q     If all you could see was their nose and you are

1       taking that literally, all I could see was their nose  
2       how -- so they covered their mouth and their eyes? They  
3       did this robbery blindly?

4       A     No.

5       Q     Nevertheless, you said, "I didn't say it."

6       A     I am telling you, you are taking it out of the  
7       context that I was meaning it.

8       Q     Nevertheless, you can't change what you said to the  
9       police.

10      A     I didn't say I was trying to change it.

11      Q     You said within minutes of it happening -- you  
12      said, "All I could see was their nose."

13      A     You are taking it out of context.

14      Q     What do you mean, I am taking it out of context? I  
15      don't understand that.

16      A     You are implying that when I said that, all I could  
17      see was their nose, is that all I could see was their  
18      nose.

19            He was in my face, within inches of my face. Our  
20      noses were almost touching. If all I could see was  
21      their nose and you are taking it in a literal sense, how  
22      did they say to do anything? How did he even see to put  
23      the gun in my mouth or to my head?

24            How did I see him smile at me? You are taking it  
25      in a very, very literal sense. Like I told you before,

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       my whole world was turned upside down. I couldn't get  
2       words out that were in my head. I couldn't communicate  
3       the way I needed to communicate.

4       Q     I have to take it in the literal sense, because  
5       that is what you said.

6       A     I am now explaining it to you -- you are taking it  
7       out of the context that I meant it.

8       Q     Then what happened? Again, you didn't contact the  
9       police after you apparently figured out who did this;  
10      correct?

11      A     No, I did not. I have already explained to you  
12      why.

13           MR. SCHULTZ: That is all I have, Your Honor.  
14      Thank you.

15           MR. SMITH: I don't have anything else, Your Honor.

16           THE COURT: You may step down.

17           (Whereupon, the witness exited the witness stand.)

18           MR. SMITH: The State calls Christine Richard.

19                               \* \* \*

20                   CHRISTINE RICHARD,  
21           called as a witness by and on behalf of  
22           the State to testify, being first duly  
23      sworn was examined and testified as follows:

24                               \* \* \*

25                   DIRECT EXAMINATION

1 BY MR. SMITH:

2 Q Please state your name for the jury.

3 A Christine Richard.

4 Q Christine, how are you related to Summer?

5 A My boyfriend is her husband's brother.

6 Q Who is your boyfriend?

7 A Brandon Logan.

8 Q That is the person you see a picture of up here?

9 A Yes, sir.

10 Q Who is Summer married to?

11 A Russell Donahue.

12 Q Were you hanging out with that group of people on  
13 November 23, 24, 2016?

14 A Yes, sir.

15 Q Where were you?

16 A Crosslands Studios, Room 249.

17 Q Is that in Spartanburg County?

18 A Yes.

19 Q What were you-all doing throughout the day of 23rd  
20 going into the 24th?

21 A Hanging out in her room, listening to music on  
22 laptops, on my phone.

23 Q Have you been convicted of shoplifting in 2013,  
24 2014, and 2017?

25 A Yes, sir.



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

- 1 Q Do you have a cousin named Makayla Richard?
- 2 A Yes, sir.
- 3 Q How are you related to her?
- 4 A On my dad's side. Her mom is my dad's sister.
- 5 Q Were you close with Makayla at the time of this
- 6 incident on November 24?
- 7 A No, sir.
- 8 Q Did you see her often? How would you describe the
- 9 last time you had seen her.
- 10 A On holidays is the main time I seen her.
- 11 Q Did she make contact with you on the 23 or 24?
- 12 A Yes.
- 13 Q How did she do that?
- 14 A On Facebook Messenger. She messaged me.
- 15 Q What did she ask you?
- 16 A If I could find her some weed. I told her, yeah,
- 17 but she would have to come to me. I asked her how much
- 18 did she want. She told me a half-ounce of mid or an
- 19 ounce of loud.
- 20 Then I talked to Russell in the room about it. He
- 21 told me he could get it, but it would be somebody in
- 22 another room who would get it for him.
- 23 She would have to bring me the money, and he would
- 24 go give it to the guy, and he would get it.
- 25 Q Did you-all agree to do this deal?

1           A     Yes.

2           Q     What happened next?

3           A     She told me she would message me when she was on  
4               her way. She messaged me and said that she was there.  
5               I walked out. I told them that I was going to go meet  
6               her downstairs. I walked out of the room and walked  
7               down the stairs.

8               I stood there. I tried to call her on my Facebook,  
9               but she didn't answer. I stood there for a couple more  
10              minutes, thinking she would pull up. A black car passed  
11              me when I was standing in the breezeway. She called  
12              me. I said, "Was that you?"

13              She said, "Yes. I will go over here and park. I  
14              will meet you at the steps."

15              So I walked over there to the steps. She walked up  
16              to me. She hugged me. She said she missed me. We  
17              walked up the stairs. We got to the top of the stairs,  
18              and three black guys were running up the stairs. I  
19              didn't know they was running from me.

20              I moved out of the way. They were pulling up their  
21              hoodies. They didn't have their hoodies pulled up  
22              hardly at all. I saw all of their faces. They were  
23              pulling up their hoodies.

24              They got the gun and came to me and told me -- they  
25              got my necklace off and took my phone. They told me if

1 I didn't take them to the room, they were going to shoot  
2 me. They pushed Makayla away from me and said that if I  
3 didn't take them to the room, they were going to shoot  
4 me and everyone else.

5 The gun was pointed to my back and stomach. I  
6 couldn't move. They were around me. There was a lot of  
7 people in that room. I said, "You have to move so I can  
8 walk and take you to them."

9 They went to the back of me. They all had the  
10 guns. I walked to the door, knocked on my door, nobody  
11 came to the door. I knocked again, really, really  
12 hard. Russell finally came to the door and opened it.

13 When he opened it, they pushed me and Makayla in,  
14 and they just went where I was in the room. Dominick,  
15 who was the first one in, ran up on me and pointed the  
16 gun at me outside of the room. I saw his face clearly  
17 He was the one that took my phone and my necklace. He  
18 yanked my necklace around my neck off.

19 We went to the room, and he went straight to  
20 Summer. He pointed the gun to her. The other two guys  
21 went the other way. One went towards a kitchen area.  
22 They were dumping bags, jumping around like  
23 this (indicating) -- like it was his first time ever  
24 doing it. One of them hollered over, "What do you want  
25 me to do or get?"

1           One them was over towards Brandon, pistol-whipping  
2           him. He got around to me.

3           Q     I have pictures here.

4           State's Exhibit 3. You saw the other pictures.  
5           What is this?

6           A     This was the kitchen that I was talking about. One  
7           was jumping around, jumping back like this. I was  
8           standing over here near the air-conditioner. All I can  
9           remember is there was one guy who was pistol-whipping  
10          Brandon on the edge of the bed over here.

11          The guy in the kitchen was the one who hollered,  
12          "Dominick what do you want me to get?"

13          I was so terrified. I didn't know what really was  
14          going on. I was trying to figure out what was going  
15          on. Everyone was jumping around. I didn't really see  
16          how everybody ran everywhere.

17          Dominick got off of Summer. He started  
18          pistol-whipping Brandon. The gun went off went through  
19          the chair and shot me. Everybody froze. I don't know  
20          how to explain it. It's like time stopped. Russell  
21          opened the door. Makayla went out of it, and they ran.  
22          Brandon saw I was shot and started running with the guy  
23          down the stairs. Then he put me in the car. That is  
24          when they took me to the hospital and I was checked  
25          out.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q Did you look down and saw you were shot?

2 A I looked down at my pants and saw that there was  
3 some fuzzy stuff where the bullet had went through my  
4 pants. Then I had looked at Summer and said, "They shot  
5 me."

6 Q Look at these collectively and tell me what they  
7 all are, and we will put them all there at once.

8 A Those are my pants.

9 Q That is what you were wearing when you got shot?

10 A Yes, sir.

11 MR. SMITH: Your Honor, at this time I will move  
12 State's Exhibits 10 through 13 into evidence.

13 MR. SCHULTZ: No objection.

14 THE COURT: Admitted.

15 (The aforementioned items were marked as  
16 State's Exhibits 10 to 13 for identification and were  
17 admitted into evidence.)

18 BY MR. SMITH:

19 Q Did the bullet go through you?

20 A Yes. It went completely through me.

21 Q Do you know where the bullet exited out of you?

22 A Right there (indicating).

23 Q State's Exhibit 11 and State's Exhibit 12.

24 Does this show the fuzzies that you are referring  
25 to?

1           A     Yes.

2           Q     Torn denim or something like that.

3                     State's Exhibit 13.  So the bullet went in and out

4     of you?

5           A     Yes.

6           Q     Where did it go in on your body?

7           A     My lower stomach.

8           Q     Where did it exit out?

9           A     The back of my butt cheeks.

10          Q     Do you have any scarring from the result of this?

11          A     Yes.

12          Q     What type of medical procedures did you have to

13     do?  How long were you at the hospital and things like

14     that?

15          A     I think almost a week.  I had to have surgery.

16          Q     Other than the scarring, were there any

17     complications from this?

18          A     Yes.  I can't be around any guns or any loud stuff

19     that sounds anything like that.

20          Q     So emotional in nature.  Was there anything

21     physical that was wrong with you?

22          A     Yes.

23          Q     Did you think you were pregnant?

24          A     I had taken a home pregnancy test.

25          Q     Did you find out ultimately if you were pregnant or

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 not?

2 A I was not.

3 Q Did you speak with law enforcement about this case?

4 A I did.

5 Q Where were you when this conversation took place?

6 A In the hospital.

7 Q Were you thinking clearly at that time?

8 A Are you talking about before I had surgery?

9 Q Yes. When you were talking to law enforcement.

10 A Yes.

11 Q Did you tell them what had happened in this

12 incident?

13 A Yes.

14 Q Do you know Dominick Thompson? I know you have

15 referred to him as Dominick. Did you know who he was

16 prior to this?

17 A No, sir.

18 Q The other people, do you know who they are?

19 A Other than Makayla, no. I did not know anyone.

20 Q So you would have not known the name of Dominick

21 Thompson when you were talking with the police on that

22 day?

23 A No, sir.

24 Q Did you make attempts to identify any of the

25 people involved in this case?

1 A Yes, I did.

2 Q How did you do that?

3 A When I was in the hospital, I looked on Facebook.  
4 Makayla's Facebook picture had a comment, "My little  
5 shooter."

6 I clicked on that guy's profile. I somehow ended  
7 up at Dominick's Facebook. I knew right then when I saw  
8 this picture, that was him.

9 Q You know this because he had his hoodie pulled  
10 down?

11 A Yes. They pulled them up. They were trying to  
12 pull them up before they ran up on me. They ran up on  
13 me way too fast.

14 Q The guns were up when the hoodies were down?

15 A Yes. As soon as they were up on me.

16 Q Do you remember if you told law enforcement after  
17 you had found the picture on Facebook about Dominick?

18 A I did.

19 Q Did you also tell them about Makayla and how she  
20 was known to you?

21 A Yes.

22 Q Were you pretty quickly able to get that  
23 information, as far as who Makayla was, to law  
24 enforcement?

25 A Yes.



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q Did that involve Facebook as well, trying to find  
2 her?

3 A I had a lady officer came in there. I had told  
4 her -- it's actually Makayla Logan on her Facebook. I  
5 told the lady that I looked her up, and I identified her  
6 through that.

7 Q You were giving her a name, and she was trying to  
8 find a Facebook profile that you mentioned?

9 A Yes. Makayla Richard is -- they didn't find her  
10 like that. She came back in there and asked me, and I  
11 said that her Facebook is Makayla Logan.

12 Q That would have been way before you had the  
13 opportunity to be looking up Dominick, isn't that right?

14 A Yes.

15 Q You did pass it on, and she did whatever she did  
16 with that information?

17 A Yes.

18 Q Thank you. Please answer any questions  
19 Mr. Schultz has for you.

20 \* \* \*

21 CROSS-EXAMINATION

22 BY MR. SCHULTZ:

23 Q You kept talking about something on your jeans.  
24 What did you call it again?

25 A Fuzzy.

1 Q That is where you said the bullet went through your  
2 pants?

3 A Yes.

4 Q Please explain to me and the jury what fuzzies are  
5 again?

6 A It was the particles of my pants that the bullet  
7 had messed up. It was just fabric laying on my jeans  
8 there where a hole had been put through them.

9 Q You were treated at the hospital soon thereafter;  
10 right?

11 A Yes.

12 Q What hospital was it?

13 A Spartanburg Regional.

14 Q Did you talk to Detective Parnell?

15 A I talked to a detective. I don't remember her  
16 name.

17 Q It was a her?

18 A Yes.

19 Q I know you had just been shot. I know it probably  
20 would have been difficult for you to talk to officer at  
21 that that point.

22 Did you ever identify my client or anybody else  
23 when you talked to that detective that night at the  
24 hospital or that morning?

25 A Not when she first talked to me after I had looked

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       at on Facebook. I had to identify it. I hadn't  
2       identified him that night. The same night I identified  
3       Makayla, the same night they were in there, I looked on  
4       my Facebook and I found him there. I identified him to  
5       law enforcement.

6       Q     When you got out of the hospital, you did a verbal  
7       statement?

8       A     Yes.

9       Q     Do you remember who that was who took your  
10      statement?

11      A     It was a guy. I don't remember his name.

12      Q     It could have been Tommy Clark?

13      A     Yes.

14      Q     He worked for the Sheriff's Office at the time?

15      A     Yes.

16      Q     Did you ever give a written statement to Detective  
17      Clark?

18      A     No. It was verbal.

19      Q     No written statements at all; correct?

20      A     Not that I remember.

21      Q     Your surgery. How long did that last,  
22      approximately?

23      A     I am not sure how long the surgery lasted. I was  
24      sedated.

25      Q     You received anesthesia?

1       A     Yes.

2       Q     Were you still under the influence of anesthesia  
3     after you talked to the police?

4       A     I didn't have to have surgery until my blood  
5     pressure and stuff kept dropping after that. I had  
6     talked to law enforcement then, and then also after I  
7     had the surgery.

8       Q     When you first talked to the officer, you stated  
9     that Makayla told you that she needed to find a ride;  
10    correct?

11      A     Yes.

12      Q     She left that message on Facebook; correct?

13      A     Yes.

14      Q     So for lack of a better sentence, the drug  
15    transaction was facilitated on Facebook?

16      A     Yes.

17      Q     So Makayla was facilitating this with her Facebook  
18    account, not another person?

19      A     Yes.

20      Q     With you?

21      A     Yes.

22      Q     Do you sell marijuana?

23      A     Like I said before, I told her I could get it for  
24    her. I wasn't selling it to her. It was being got  
25    through somebody from somebody else. When it got back

State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           to me, I had just had the marijuana.

2           Q     Nevertheless, you were involved in the transaction?

3           A     I was involved in the transaction.

4           Q     You were the go-between?

5           A     Yes.

6           Q     Would that be fair?

7           A     Yes.

8           Q     You stated to the officer you saw a black car?

9           A     Yes.

10          Q     You don't know the make and model of that car;

11          right?

12          A     I think it was a Ford something. Not year. It was

13          a newer black Ford car.

14          Q     Newer black Ford car?

15          A     Yes.

16          Q     Did you ever tell the police that it was a Ford?

17          A     No, I didn't. I said it was a black car.

18          Q     So this is the first time that I heard you mention

19          a Ford car; is that correct?

20          A     I guess.

21          Q     Speak up?

22          A     Yes.

23                MR. SCHULTZ: Permission to approach the witness.

24                THE COURT: Okay.

25   BY MR. SCHULTZ:

1 Q Read that. You also stated that you saw a black  
2 car now. You don't know the make or model of the car;  
3 right?

4 A No. It is a black car.

5 Q You said nothing in a prior proceeding that it was  
6 a Ford; correct?

7 A Yes.

8 Q Did you tell the police that it was a Ford car?

9 A No.

10 Q Do you think that is important to the  
11 investigation of this case?

12 A I just got shot. I wasn't thinking straight. I  
13 said it was a black car.

14 Q I understand that. Later on when you had  
15 recovered, two-and-a-half years later -- during that  
16 two-and-a-half-year time period, did you ever tell the  
17 police it was a Ford car?

18 A No.

19 Q The day that you said you identified my client,  
20 Mr. Thompson. Do you remember?

21 A Not that night.

22 Q Do you remember when that was?

23 A It was early morning. It wasn't at night, I don't  
24 think.

25 Q You said you identified him through Makayla's

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Facebook; correct?

2 A Yes, sir.

3 Q Was Makayla friends with Dominick on Facebook? Yes  
4 or no?

5 A I think he was. We went through so many Facebooks.  
6 I am really not sure. I think they were.

7 Q You think they were?

8 A Uh-huh.

9 Q How positive were you at that time back in November  
10 of 2016?

11 A 70 percent.

12 Q More than halfway; correct?

13 A Yes.

14 Q You told them -- at least you said you made some  
15 identification of my client; correct?

16 A Yes.

17 Q Did you go to the police and say, "This is the  
18 guy?"

19 A They came to the room, and I said, "This is the  
20 guy."

21 Q Off of a Facebook picture?

22 A He ran up on me.

23 Q You were never presented a photo lineup or  
24 anything?

25 A I didn't need one.

1 Q You testified that they were holding their hoodies  
2 up; correct?

3 A They had not tied them whenever they got to me.

4 Q You could point out every single one of them?

5 A Yes.

6 Q Let me ask you a question. Did you identify  
7 anyone else?

8 A I can identify them if you wanted me to.

9 Q Nobody asked you to?

10 A No.

11 Q The police didn't ask you to identify anyone else  
12 that night or in the last two-and-a-half years.

13 A No. They haven't. If they need me to, I can.

14 Q So a six-pack photo lineup was never presented to  
15 you?

16 A No. I didn't need one.

17 Q That was your identification, correct, the Facebook  
18 post, wherever it was?

19 A Yes.

20 Q Again, you are saying now that you can identify  
21 everyone else; correct?

22 A I can, yes.

23 Q You never identified anybody else?

24 A I wasn't asked to.

25 Q Did you ever identify anybody else? Yes or no.



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           A     No.

2           Q     For sure it was on Makayla's Facebook?

3           A     Through her Facebook.

4           MR. SCHULTZ: Thank you. That is all I have.

5                                 \* \* \*

6                                 REDIRECT EXAMINATION

7   BY MR. SMITH:

8           Q     You did not know any of the three black males that  
9                 came into the room, isn't that right?

10          A     No, sir. I did not.

11          Q     When we are talking about identifying them, you  
12                 mean that you could possibly recognize their face, but  
13                 you don't know who they were?

14          A     Yes.

15          Q     Are you certain it was a black Ford?

16          A     Looked like a black Ford. It was a black car. I  
17                 am certain of that. It looked like a black car,  
18                 possibly a Ford. I am not sure. I know it was a black  
19                 Ford.

20          Q     We talked before about the car. Were you able to  
21                 see Makayla in the car as they drove past you?

22          A     No.

23          Q     Were you able to see if she was driving?

24          A     No, she wasn't driving. I could see that she was  
25                 in the backseat. She was not driving.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q The three black males who ran up on you, did you  
2 see where they came from --

3 A No. ,

4 Q -- when you walked up the steps?

5 A There was a wall on the side that they came. I  
6 just saw them when they were running up to the steps to  
7 me.

8 Q You did not witness them come out of that black  
9 car?

10 A No.

11 MR. SMITH: I don't have any further questions.

12 THE COURT: You may step down.

13 We will take the break now. I will ask the jury to  
14 please go to the jury room. Do not discuss the case. I  
15 will bring you back after that break.

16 (Whereupon, the jury exited the courtroom.)

17 THE COURT: We will be at ease for 15 minutes.

18 (Whereupon, a recess was held.)

19 (Whereupon, the following proceedings were  
20 held in open court. The defendant was  
21 present with his attorney, along with  
22 counsel for the State.)

23 THE COURT: Are we ready for the jury?

24 MR. SMITH: Yes, sir.

25 MR. SCHULTZ: Yes, sir.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 THE COURT: Bring them in. Who is next?

2 MR. SMITH: Jason Hilton from the Sheriff's  
3 Office.

4 MR. SMITH: Ms. Brown?

5 MR. SMITH: The State calls Jason Hilton.

6 \* \* \*

7 JASON HILTON,  
8 called as a witness by and on behalf of  
9 the State to testify, being first duly  
10 sworn was examined and testified as follows:

11 \* \* \*

12 DIRECT EXAMINATION

13 BY MS. BROWN:

14 Q Officer Hilton, please introduce yourself to the  
15 jury.

16 A Jason Hilton.

17 Q Where do you work?

18 A Spartanburg County Sheriff Office.

19 Q How long have you been employed there?

20 A I have been there since 1995.

21 Q What do you do there?

22 A Currently, I am an SRO at Norman Freshman Campus.  
23 At the time of the incident, I was a sergeant on night  
24 shift control.

25 Q Were you working as a sergeant on night shift

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 patrol on November 24, 2016.

2 A Yes.

3 Q Did you eventually go to [REDACTED] Mobile Drive that  
4 night?

5 A Yes. I heard a shots fire call, a shooting call,  
6 go out to that address. I responded to that location  
7 with several of my deputies.

8 Q Do you know what time that call came in to 911?

9 A Yes, ma'am. The call came in around -- after  
10 midnight at 1243, 0043 hours.

11 Q What time did you get there?

12 A I arrived on scene per dispatch records at 1:18. My  
13 mental recollection is that the guys were responded to  
14 the scene, and I was responding with them. So it was  
15 between that time frame, between their arrival at 0047  
16 and my actually calling on the radio and telling them I  
17 was there one 118.

18 Q You were there within minutes of the first  
19 responders?

20 A I would have been on the coat tails of my officer,  
21 depending on where I was when the call came out.

22 Q Why we would see that discrepancy from when the  
23 call went out.

24 A Sometimes when there is a scene that is very  
25 active. In my opinion, it's not important that I tell

State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       them that I am arriving on the scene at that time if I  
2       am the third officer or fourth officer on the scene. It  
3       was more important for them to have access to the radio  
4       then it was' for me to tell them that I was there.

5       Q     But you got there within minutes of the 911 call?

6       A     Yes, ma'am.

7       Q     What happens when you get there?

8       A     When I arrived, the deputies were trying to take  
9       control of the scene. I noticed the primary deputy,  
10      McGill was up at the door where the incident occurred at  
11      the room. I noticed there was a blood trail on the  
12      stairs that had been described. It's a stairwell that  
13      was in between the middle of the building.

14            I appointed a Deputy Shields at that location to  
15      keep them from being any traffic that might disrupt any  
16      evidence.

17      Q     After you secured the scene, did you talk to  
18      anyone?

19      A     Yes, ma'am. I spoke with the young lady that was  
20      the renter of the room. Primary, I was asked by Deputy  
21      McGill if I could secure her in his vehicle. She was  
22      very upset and very emotional.

23      Q     You mean Summer Hall?

24      A     Yes, ma'am. We wanted to get her in a place that  
25      was safe and secured to give her some time to try to

1 settle down and calm down so that we could ascertain to  
2 try to get more information from her.

3 Q Did you talk to anyone else while you were there?

4 A I also talked with Russell Donnahoo.

5 Q Russell Donnahoo?

6 A Yes. Donnahoo. There is kind of after the scene  
7 has settled a bit. We feel like we have control of the  
8 scene. The shooters are no longer in there in the  
9 immediate area.

10 He came up and approached me and had a cell phone  
11 with a picture on it that was an indicator of the  
12 location for a stolen cell phone. He is telling me that  
13 Ms. Hall stole his cell phone. He has an app that has  
14 an indicator on his phone, the one he had in his hands.  
15 He is telling me that the phone is close by.

16 He shows that to me, and I along with an ID deputy  
17 who was taking up evidence go in search of this phone.  
18 The picture indicates that it was on the backside of  
19 this motel room. It's the same building, the picture  
20 indicates the dot, the pinpoint on the backside. I went  
21 in search of that cell phone.

22 Q Was Christine Richards there at that point?

23 A You have to forgive me with the names. I want to  
24 confirm that name. Christine Richard.

25 Q The lady who had just been shot.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 MR. SCHULTZ: I will object to this as leading.

2 THE COURT: Overruled. Go ahead.

3 THE WITNESS: The young lady who got shot was no  
4 longer on the scene. She left the scene immediately  
5 after the occurrence in a privately owned vehicle and  
6 went to the hospital.

7 BY MS. BROWN:

8 Q Eventually after you secure the scene, you  
9 eventually go to [REDACTED] Shaw avenue, right?

10 A A little later in the morning I went to [REDACTED] Shaw  
11 avenue I had a couple of deputies that were also back-up  
12 deputies at the scene that left the scene and did some  
13 investigation. During their investigation, they  
14 determined a possible address for one of the involved  
15 parties.

16 Q Let me stop right there. Did you actually find the  
17 phone?

18 A No we never located the phone. We moved through  
19 that breezeway and looked in shrubs that were on the  
20 other side of the building. We looked at all the  
21 vehicles that were on the other side of the building.  
22 There were a couple of apartments that were not locked,  
23 so we went through those apartments thinking somebody  
24 might have put in the phone in there for whatever  
25 reason.

1           In the process of making that search, the ping that  
2           he had on his phone went dead, as if the phone battery  
3           from the stolen phone expired or had been turned off or  
4           disconnected. So he no longer had the ping during the  
5           search. It went away.

6           Q     You said you went to [REDACTED] Shaw Avenue. Why did you  
7           go there?

8           A     I left the scene of the shooting around 3:54 in  
9           it's morning. It's in the middle of the night. I later  
10          responded to Shaw Avenue with a couple of deputies that  
11          had developed a lead in one of the parties that might  
12          have been involved. So we went to [REDACTED] Shaw Avenue about  
13          4:18 that morning.

14          Q     Who was there when you get there?

15          A     Deputy Hubbard and Deputy Bennett were the ones  
16          that went to the scene. When I get there, there are a  
17          couple of folks at the house. Makayla Richard, being  
18          one. That was the one that was a person of interest  
19          from the incident. There were two other folks that I  
20          spoke with at the scene. I am looking at my report just  
21          to confirm their names.

22                 I spoke with a Daniel Krind and an April Richard.  
23          I understood it to be a mother/daughter combination at  
24          that address.

25          Q     Describe that scene for us when you got there.



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       A     It's in the middle of the night. We are  
2       approaching a location where we think it's possible  
3       there could be shooting suspects. It's a neighborhood,  
4       houses on both sides, cars parked along the street some.

5             We make an approach to the house and make contact  
6       with Makayla. Deputy Hubbard was primarily looking for  
7       her, because of her correlation with her incident.

8             Deputy Bennett and I -- after he makes contact with  
9       her after at front door, we do a search of the residence  
10      to make sure that it's clear and safe; that there is  
11      nobody armed or no chance of danger. In the process,  
12      that is when I was talking to these two other females,  
13      the mother and daughter.

14      Q     You are referring to April and Danielle Krind;  
15      right?

16      A     Yes, ma'am.

17      Q     At any point did you ask either of them who had  
18      been there that day?

19      A     Yes, ma'am. We were still in investigation mode.  
20      We were still trying to determine any information we  
21      can. So I am asking pretty much open-ended questions.  
22      Just trying to figure out if they know anything about  
23      the incident or perhaps even know the parties that were  
24      involved.

25             Pretty generally, as is the case, I just feel like

1       we were being hedged on. Not entirely being given the  
2       entire truth of what the two individuals that I was  
3       talking with knew. I just felt like they were being  
4       untruthful.

5       Q     What do you mean when you said they were hedging?

6       A     I believe that they knew some of the folks that we  
7       were looking for from the incident. I believe they knew  
8       some of the acquaintances and maybe even names. They  
9       provide me with a nickname of Little Jay or something as  
10      someone that they were hanging with and spending time  
11      with.

12       To me, I think if I spend time with someone or hang  
13      with someone, you will know who they are.

14      Q     So were you able to determine their names and  
15      faces when you spoke to them at that time?

16      A     No. Their answers were very vague. I was told  
17      that they had been -- that their friend had been out  
18      with three black males in a black car. There were no  
19      specifics to that.

20       I basically tried to get her to tell me anything  
21      she would, I felt like she was not really willing to  
22      give me any information.

23      Q     How far away is Shaw Avenue from Mobile Drive?

24      A     Mobile Drive is right here near the circle, and  
25      Shaw Avenue is just to the south side of the city. If

State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       you are familiar with the railroad tracks just before  
2       you get to Arkright, going down 221, it would be back  
3       off to the left.

4 Q How long do you think it would take to get --

5       A       Minutewise, probably a 15-minute drive.

6 Q How long were you on the scene at Shaw Avenue in  
7 total?

8           A     At Shaw Avenue, the CAD system shows that my  
9           deputies arrived there at 4:18 in the morning. I know  
10          that I left when second shift came on, which would have  
11          been at 7:00. So we released -- it may have been a  
12          little bit after that. But we released that scene to  
13          second shift and called ID out to obtain evidence at  
14          that location.

15 Q Please answer any questions Mr. Schultz may have  
16 for you.

\* \* \*

CROSS-EXAMINATION

19 BY MR. SCHULTZ:

20 Q Officer, how long have you been with the Sheriff's  
21 Office.

22           A       Since 1995.

23 Q You have been there almost 25 years?

24           A     Yes, sir.

25 Q Was that your first job in law enforcement?

1 A Yes. Before that, I was a teacher?

2 Q Other than what you have said here, did you take  
3 any statements from any witnesses that night or the  
4 following day?

5 A Yes, sir. I was dictated a statement by Ms. Hall  
6 at Mobile Drive. I transcribed from her words a  
7 statement on paper.

8 Q That was Summer Hall; correct?

9 A Yes, sir.

10 Q Did you get any other statements dictated to you,  
11 other than Ms. Hall's?

12 A Also, Ms. Richards dictated a statement to me that  
13 I would have written at her words.

14 Q Christine Richards?

15 A Yes, sir.

16 Q Deputy Hilton; correct?

17 A Yes, sir.

18 Q Did you complete a supplemental report in your  
19 investigation in this?

20 A Yes, sir. In fact, that is what I am referencing  
21 when I try to make sure I have the names correctly.

22 Q What you are referencing right here, this is the  
23 only piece of written documentation that you have in  
24 this case?

25 A Yes, sir, other than the two voluntary statements

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       that were dictated to me.

2       Q     That is from Christine Richards and from Ms. Summer  
3       Hall -- Summer Hall at the time; correct?

4       A     Yes, sir.

5       Q     You arrived approximately when to the scene of the  
6       incident?

7       A     At Mobile Drive I would have been following the  
8       first arrival of our responding deputies McGill and  
9       Bennett and Shields. It would have been right after  
10      0046.

11      Q     So that is 12:46 in the morning -- Thanksgiving  
12      morning?

13      A     Yes, sir.

14      Q     Does you state that you were responding at that  
15      time in your supplemental report there?

16      A     I don't believe I notated the time. I just said  
17      that I responded there to assist the deputies in my  
18      supplemental.

19      Q     When you write an incident report, it's very  
20      important that you right the time that you arrive at the  
21      scene, is that correct?

22      A     Well, the original report would have the time  
23      stamps. It wouldn't entirely be necessary. Any extra  
24      documentation you can put down is always good.

25      Q     Did you go into the room there to do further

1 investigation of the incident?

2 A I might have responded just to the doorway for a  
3 brief second. Primarily, my attention was Ms. Hall in  
4 securing her in McGill's patrol vehicle and giving her  
5 some time, and also assisting with the search of the  
6 phone and then taking a statement from Ms. Hall.

7 Q In your supplemental report, you said that -- at  
8 the time you said that -- were you equipped with a  
9 bodycam?

10 A Yes, sir.

11 Q Was it running then?

12 A I did not activate my body-worn camera at Mobile  
13 Drive. I did activate it at Shaw Avenue.

14 Q Is there any explanation you have why your bodycam  
15 wasn't activated at the incident?

16 A Other than just arriving after primary deputies  
17 and know their bodycams were going. I was arriving as a  
18 supervisor after their arrival.

19 Q You are positive that your bodycam was not  
20 activated on Shaw --

21 A Yes, sir. I made notations of that. My BWC wasn't  
22 activated at the scene.

23 Q Was there any explanation for that?

24 A Other than just being a third officer on the  
25 scene. Not activating it because I was backing them up.

State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q Is it your choice to activate your bodycam?

2 A Yes, sir. The way bodycams work, you have a button  
3 that you push when you arrive on the scene.

4 Q You arrived on the scene that night at  
5 approximately 12:46, but you just didn't feel it was  
6 important enough to activate the bodycam?

7 A I just didn't activate it that night at that scene.

8 Q Any explanation for that that you can give the  
9 jury?

10 A No, other than being the third one on the scene and  
11 not the primary deputy.

12 Q You also said that Russell Donahoo presented with  
13 the phone; correct?

14 A Yes, sir.

15 Q He said to you that that is where the phone should  
16 be. He mentioned a blue dot. Do you remember that?

17 A Yes, sir. I remember him showing me the picture of  
18 a locator app of some sort that indicated there is a  
19 ping dot that would have been right on the backside of  
20 the apartment building that we responded to for the  
21 scene.

22 Q You did a thorough search of the surround area?

23 A I don't know what you mean by thorough. We didn't  
24 go through people's cars. We did go into a couple of  
25 apartments that were not secured. They were vacant, but

1 not secured.

2 We did go through shrubs and look under cars and  
3 look through windows of vehicles and look around where  
4 we could.

5 Q You did not locate that phone; correct?

6 A Did not locate the phone.

7 Q To your knowledge, did anybody every locate that  
8 phone?

9 A I don't know.

10 Q Whose phone was it?

11 A The indication was that it was Ms. Hall's phone.

12 Q After that you went through [REDACTED] Shaw Avenue,  
13 correct?

14 A Yes, sir.

15 Q And you met Deputy Hubbard and Deputy Bennett who  
16 were there; right?

17 A Yes, sir.

18 Q This time your bodycam was activated; correct?

19 A Yes, sir.

20 Q Did you take any statements from April Richard or  
21 Danielle Krind?

22 A Yes, sir.

23 Q You said in your direct testimony that they were  
24 not entirely forthcoming; is that correct?

25 A Yes, sir. That was my feeling.



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q Why was that your feeling?

2 A Because they are telling me that a black male known  
3 as Little Jay and two other black males had been on an  
4 excursion with Makayla, but they don't have any names  
5 yet. They tell me they are acquaintances with them and  
6 spending time with them.

7 Q Little Jay -- did you do any further investigations  
8 about Little Jay or who Little Jay was?

9 A Yes, sir. During this conversation Ms. Richards  
10 stated that she had received a text from Little Jay and  
11 provided a number for it. I made a notation of that  
12 number. I thought it might be important for  
13 backtracking.

14 She also said that she received another message  
15 from an additional number. She mentioned that that was  
16 Little Jay's motel, so I made a notation of that as  
17 well. I asked Comp Center to backtrack that number and  
18 tell me an address for it. They indicated that that was  
19 at 462 East Main Street in Spartanburg, which is The  
20 Villager Inn.

21 Q Did you interview, Danielle Krind at that time?

22 A There would have been a little interaction as I was  
23 present and entered into the house and talked with her  
24 some.

25 Q Did she give you any nicknames or anything like

1           that, other than Little Jay?

2           A     I don't recollect.

3           Q     Did she give you a nickname of Saquez (phonetic)?

4           A     I don't recall it.

5           Q     Did you ask her about the car that night or  
6           anything?

7           A     Sure. We were interested in the car, even to the  
8           point that it was mentioned that it was a black car.

9           Q     They were not entirely truthful with you, correct?

10          A     It was my sense that they were not being entirely  
11          truthful with me, yes, sir.

12          Q     They said several times, at least Krind did, that  
13          she was asleep, is that correct?

14          A     I remember a reference that she wouldn't have known  
15          any of the details because she would have been asleep  
16          during part of it.

17          Q     Do you process fingerprints?

18          A     No, sir.

19          Q     Do you do anything involving fingerprints?

20          A     Generally, as a sergeant, we would be on the scene  
21          trying to make sure that we collect all the evidence  
22          that is at a scene and ask questions as to where they  
23          might be.

24                 That is just a general reference to how we try  
25          locate fingerprints.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q Do you know if anyone collected fingerprints at the  
2 hotel or at [REDACTED] Shaw Avenue?

3 A I know that ID was called to the scene. That  
4 primarily falls under their purview.

5 Q You said in your supplemental report that you had  
6 to get a search warrant. Explain to the jury why you  
7 had to get a search warrant.

8 A While we were at the scene on Shaw Avenue, a  
9 wallet was produced. I am not sure exactly how it  
10 happened. It might have been through Deputy Bennett  
11 that he came into possession of a wallet, which was one  
12 of the victim's wallet from the robbery scene. So ID  
13 would have been called to Shaw Avenue in reference to  
14 taking evidence, and then detectives were notified so we  
15 could get a search warrant and do a complete search of  
16 the residence.

17 Q Ms. Richards dictated a statement to you, correct?

18 A Yes, sir.

19 Q Again, your bodycam was activated, correct?

20 A Yes, sir.

21 Q Was there follow-up investigation to Little Jay's  
22 motel?

23 A I can't testify to what all the follow-up  
24 investigation was to that. I just included that in my  
25 supplemental report and turned it over to second shift

1           at that time. Any follow-up investigation would be  
2           written up in supplemental reports.

3           Q     You were not involved in the follow-up?

4           A     No, sir. I wasn't.

5           Q     It would be safe to say that you responded to the  
6           incident location; correct?

7           A     Yes, sir.

8           Q     You went over to Shaw Avenue?

9           A     Yes, sir.

10          Q     That was the end of your involvement with this  
11          case?

12          A     Yes, sir.

13               MR. SCHULTZ: Thank you. That is all I have,  
14          Judge.

15               THE COURT: Ms. Brown.

16                               \* \* \*

17                       REDIRECT EXAMINATION

18 BY MS. BROWN:

19          Q     Deputy Hilton, when you were talking to April  
20          Richard, did you believe she was under the influence of  
21          some sort of drug or intoxicant?

22          A     My recollection was that the mother might have  
23          been under the influence of something, just because she  
24          was kind of twitchy and unable to control her body  
25          motions.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           Q     When you said that they had called ID to the scene,  
2           a wallet had been found at the scene, correct?

3           A     Yes, ma'am.

4           Q     Was it your understanding that that wallet was one  
5           of the items from the burglary?

6           A     Yes, ma'am. It certainly was.

7           MS. BROWN: No further questions, Your Honor.

8           THE COURT: You may step down.

9           MR. SCHULTZ: Your Honor, I may recall Deputy  
10          Hilton in my case in chief.

11          THE COURT: Okay.

12          MR. SMITH: We call Makayla Richard.

13                                 \* \* \*

14                         MAKAYLA RICHARD,  
15                         called as a witness by and on behalf of  
16                         the State to testify, being first duly  
17                         sworn was examined and testified as follows:

18                                 \* \* \*

19                         DIRECT EXAMINATION

20   BY MR. SMITH:

21          Q     Please state your name for the jury.

22          A     Makayla Richard.

23          Q     Makayla, I will go over how you are connected to  
24          some people. How do you know Christine Richard?

25          A     She is my cousin.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q Do you know Summer Hall, Russell Donahoo, or  
2 Brandon Logan?

3 A I know Mr. Logan and Mrs. Hall, but not closely. I  
4 just know them from being around my cousin.

5 Q Would you have known them back on November 24,  
6 2016, or is it something since then?

7 A No, sir. I wouldn't have been able to identify  
8 them.

9 Q As far as the people that had been in the hotel  
10 room on November 24, 2016, is Christine Richard the only  
11 person you would have known in that room?

12 A Yes, sir.

13 Q How do you know Dominick Thompson?

14 A I met him from a mutual friend.

15 Q Do you know when you met him?

16 A On my birthday, [REDACTED].

17 Q Of what year?

18 A [REDACTED]

19 Q About tree weeks prior to this incident, you met  
20 him.

21 A Yes, sir.

22 Q How much did you all interact and hang out leading  
23 up until this incident?

24 A He came over, like, every other day, every couple  
25 of days at his mom's. He would come over a couple of

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1        days, and then we wouldn't see him for a day or two.

2        Then he could come back.

3        Q     Are you referring to Shaw Avenue?

4        A     Yes, sir.

5        Q     Who lived at Shaw Avenue back at this time frame?

6        A     Me and my brother and boyfriend at the time.

7        Q     What was your mother's name?

8        A     April Richards.

9        Q     What was her boyfriend's name?

10       A     Michael Godwin?

11       Q     Is your mother still alive?

12       A     No, she is not.

13       Q     When did she pass away?

14       A     August 13 of last year.

15       Q     You said Dominick would come by. Are you saying  
16       that he would stay at the Shaw Avenue house and hang out  
17       for a couple of days?

18       A     He would hang out for the day and leave at night  
19       and come back the next day and hang out.

20       Q     What was the purpose of hanging out? What would  
21       you all do? Why was he coming around.

22       A     Just hanging out at the house.

23       Q     Who is Danielle Krind?

24       A     My best friend.

25       Q     Did she ever stay at the Shaw Avenue house?

1           A     Yes, sir.

2           Q     Does she know Dominick?

3           A     Yes. We met him on the same day.

4           Q     You were with Danielle when you met Dominick?

5           A     Yes, sir.

6           Q     Did Dominick have any interest in Danielle?

7           A     I don't believe so?

8           Q     Like a sexual type of interest?

9           MR. SCHULTZ: Your Honor, I object to this

10          speculation.

11          THE COURT: Just answer if you know. If you don't

12          know, don't speculate.

13          THE WITNESS: I believe he wanted to pursue her

14          interest in a relationship with her.

15          Q     Do you know how many times you would have seen

16          Dominick up until this incident happened since meeting

17          him?

18          A     I had seen him a good amount of time.

19          Q     What was Dominick's relationship with your mother?

20          A     She knew him from coming over.

21          Q     Would they talk? Would he just walk in?

22          A     It would be like a casual talk. Not them just

23          going off and talking.

24          Q     Tell us about what happened on November 23, the day

25          before this incident happened a little bit after



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 midnight.

2 What were you doing that day?

3 A I was at my house with Mr. Thompson and Daya  
4 (phonetic), my mom and Michael. We were just hanging  
5 out until later that night.

6 Q What happened later that night?

7 A Mr. Thompson showed up with a guy named Swisher and  
8 a guy named Zuke.

9 Q Had you met these two people ever before?

10 A No, sir.

11 Q Was he introduced to you as Swisher?

12 A That is what they called him.

13 Q What happened once they came to the house?

14 A We were there for a little while just hanging out  
15 in our sun room in the back of the house. A  
16 conversation came up about going to get some weed. I  
17 was texting people that I knew. I texted my cousin.

18 Q About trying to find weed? Were you all smoking  
19 weed at the house or were you out?

20 A At the house.

21 Q You all were smoking and planning on getting more;  
22 isn't that right?

23 A Yes, sir.

24 Q Were you able to make contact with Christine?

25 A Yes, sir.

1 Q What did you all arrange?

2 A She told me to meet her at the hotel room on  
3 Asheville Highway.

4 Q In order to buy marijuana from her?

5 A Yes, sir.

6 Q Did you understand how the deal was going to go  
7 down, as far as where you went once you got there?

8 A Could you rephrase that.

9 Q What was going to happen once you got there? How  
10 was the deal -- if it was worked out, how was it going  
11 to function?

12 A It wasn't really a deal. It was just a petty  
13 thing. We were going to go and meet her at the car and  
14 get the weed and pull off and leave.

15 Q You are talking about what you and Dominick's  
16 intention were. You didn't tell Christine that we are  
17 going to steal weed?

18 A No, sir.

19 Q As far as the conversation between you and  
20 Christine, it's just going to be a drug deal, cash for  
21 marijuana?

22 A Yes, sir.

23 Q What was the other part that Chris didn't know  
24 about that was talked about at the Shaw Avenue house?

25 A We didn't have intentions to pay for it.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

- 1 Q What were the plans supposed to be?
- 2 A We were going to meet her at the car and pick the  
3 weed up and pull out without paying for it.
- 4 Q You were going to do this knowingly to your own  
5 cousin?
- 6 A Yes, sir.
- 7 Q Did she agree to sell you the weed?
- 8 A Yes, sir.
- 9 Q Did you end up going to that hotel?
- 10 A Yes, sir, I did.
- 11 Q How did you get there?
- 12 A Swisher was driving a black car. That is the car  
13 that was used to go to the hotel.
- 14 Q Where was everybody sitting in the car?
- 15 A Swisher was driving. I can't remember if Lucca or  
16 Dominick was up front, or who was in the front with  
17 Dominick. I was sitting behind the driver seat.
- 18 Q Did you tell them where you were going? Is this a  
19 place that you all were familiar with?
- 20 A They knew how to get there. I didn't.
- 21 Q Did you see any weapons or anything like that on  
22 the drive there or when you were at Shaw before you  
23 left?
- 24 A No, sir. I did not.
- 25 Q Do you remember what they were wearing?

1       A     I know they had on hoodies. I don't remember what  
2       they had on.

3       Q     All three of them had hoodies?

4       A     Yes, sir.

5       Q     What happens when you get to the Crossland Studio  
6       Hotel?

7       A     It's dark, so I couldn't see the actual room  
8       numbers. I had called her, and she was trying to direct  
9       me to which one she was at. We eventually just ended up  
10      parking in the back of the parking lot.

11      Q     Was the marijuana supposed to come out, or were you  
12      going to get out of the car?

13      A     No. I thought she was going to come to the car.

14      Q     What ended up happening?

15      A     She told me to come upstairs with her. So I got  
16      out of the car. I met her at the bottom of the steps  
17      and started talking and walking.

18      Q     What happened as you all were talking?

19      A     As we get to the top step, we hear a bunch of car  
20      doors slamming. She turned, and she was trying to look  
21      down the steps. She said, what is that? I didn't know,  
22      because I wasn't looking. Before I know it, Dominick  
23      and the other two dudes were running up. They had guns  
24      pointed at us.

25      Q     There was surprising to you?

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           A     Yes, sir.

2           Q     Was this ever discussed with you that it was going  
3           to go down like it appeared it was now going down?

4           A     No, sir.

5           Q     How could you see that it was Dominick and the  
6           other two people?

7           A     He had a bandanna like over his face right here. I  
8           knew it was him.

9           Q     How? From what you were able to see?

10          A     Yes, sir.

11          Q     And your familiarity with them?

12          A     Yes, sir.

13          Q     Did the other people have anything obscuring their  
14          face -- the other two?

15          A     Yes, sir.

16          Q     What did they have?

17          A     One of them had a jacket hood over their face, and  
18          the other one had on a bandanna as well.

19          Q     What did they do as they approached you and  
20          Christine?

21          A     Luke pointed a gun towards my side, and Dominick  
22          and Swisher had a gun pointed at my cousin, Christine.  
23          He was like, take us to the room. Take us in the room,  
24          and stuff like that.

25          Q     Did you all go to the room?

1           A     Yes, sir, we did.

2           Q     What ended up happening once you got to the room?

3           A     My cousin, Christine, knocked on the door. Someone  
4 realized it was her and opened the door. That is when  
5 we were pushed into the room, and they closed the  
6 door.

7           Q     What happened once you and Christine were pushed  
8 into the room and the door closes?

9           A     Christine is standing. This is the door, the  
10 entrance into the room.

11          Q     State's Exhibit 3. What happened when you go into  
12 the room?

13          A     When we go into the room, we are to the left of the  
14 door. My cousin is to the left of me. I am directly  
15 beside the door. As we are standing there, Mr. Dominick  
16 and the other two guys are going through book bags and  
17 looking through drawers and going through the little  
18 clothes thing on the back wall.

19          Q     Are they saying anything during this?

20          A     Just, let me see this, or give me that. Did you  
21 look in here, or something like that.

22          Q     All things related to committing a robbery?

23          A     Yes, sir.

24          Q     What ended up -- what happened as that continued  
25 on?

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       A     As it was going on, Mr. Logan --

2       Q     State's Exhibit 8, is this him?

3       A     Yes, sir.

4       Q     What happened with him?

5       A     He was reaching into a book bag that he had between  
6       his legs under the chair that he was sitting in. He  
7       goes to pull out a gun.

8             That is when someone is, like, I think it was Luke.  
9       He told Dominick that he was grabbing a gun. I  
10      honestly can't remember who came over there or who got  
11      to Mr. Logan first. I just remember seeing one of them  
12      take the gun and hit him across the head.

13            Then I heard a gunshot go off. Everyone started  
14      scrambling around the room. I seen that the door was  
15      open, so I ran out.

16      Q     Did you see if anybody was hit?

17      A     No, sir.

18      Q     Your intention was just to get out of the room?

19      A     Yes, sir.

20      Q     Where did you end up going, once you got out of the  
21      room?

22      A     As I was coming out of the room and I was going  
23      around the corner, I was going down the steps. That is  
24      when I heard footsteps behind me. I turned around, and  
25      I looked over my shoulder. Mr. Dominick and Luke and

1 Swish were coming down the steps behind me with their  
2 guns out.

3 Q Where did you go?

4 A To the car.

5 Q Did you get back in the same seat you were in  
6 before?

7 A Yes, sir.

8 Q You got into the car with the people who just  
9 robbed your cousin and your family?

10 A Yes, sir.

11 Q Where did you go after that?

12 A We went down the highway, near the hotel room.  
13 Somehow we ended up behind Spartanburg High School on  
14 the back streets, the neighborhood over there.

15 Q On the east side of Spartanburg?

16 A Yes, sir. We were going down all kinds of roads  
17 and stuff. They were throwing stuff out the window and  
18 looking through bags and stuff like that.

19 Q When you are saying stuff, were they cleaning the  
20 car up of stuff that is taken?

21 A It was stuff that was taken from the hotel room.

22 Q If you saw, what were they throwing out of the  
23 window?

24 A Little baggies with substance in it. Throwing that  
25 out the window. They threw a bowl out the window.



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1        Stuff they wouldn't find useful.

2        Q     Did they give anything to you?

3        A     Some kind of credit card and some kind of EBT  
4        card.

5        Q     What did you do with those items?

6        A     I put it in my bra, because I didn't know what else  
7        to do. I didn't have pockets or anything like that.

8        Q     So did you all end up dividing up what they found?

9        A     Yes, sir.

10       Q     Did you see any other items, other than the ones  
11       you listed already?

12       A     There were some cell phones. That is all that I  
13       can actually remember seeing.

14       Q     Did you say anything during this about what had  
15       just happened or why did that happen or anything like  
16       that?

17       A     No, sir. I was scared to say anything.

18       Q     What were you thinking after, as you were in the  
19       car driving around?

20       A     I want to go home. What just happened was crazy.  
21       I was just in shock. I had never been around a gun that  
22       has been shot like that before.

23       Q     Do you know how long you drove around in the car?

24       A     No, sir. I know it was at least 30 minutes or  
25       longer.

1 Q Where did you end up going eventually?

2 A They eventually ended up driving to my house that I  
3 was staying at on Shaw Avenue. When we got there, we  
4 all got out of the car. I opened the door and went in.  
5 They come in. I was sitting there, because I was trying  
6 to stay calm.

7 About 15 minutes later, they end up leaving.  
8 Dominick said that they were going to the store. They  
9 were going to come back. After that is when the police  
10 showed up.

11 Q The police show up in between Dominick leaving and  
12 coming back?

13 A Yes, sir.

14 Q He never came back.

15 A No, sir.

16 Q You are saying that all three individuals: Blue  
17 Swisher, and Dominick came into the house at Shaw after  
18 the robbery had happened?

19 A Yes, sir.

20 Q Do you have an area at the Shaw Avenue house that  
21 is kind of like your own? I think you called it the sun  
22 room.

23 A Yes. I have my own bedroom. There is the sun  
24 room in the back.

25 Q Did you hang out in the sun room?

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 A Yes.

2 Q Did you see any items that were taken in the  
3 robbery that were placed in the sun room?

4 A I seen a cell phone. At least two or three cell  
5 phones. I seen the wallet that they were talking about.  
6 That is it.

7 Q Those items were left in the sun room whenever they  
8 left to go to the store?

9 A I know a phone was. I don't remember what all was  
10 left. I know I remember seeing a phone.

11 Q What happened when the police arrived?

12 A When they got there, they knocked on the door. My  
13 mom opened it. I came through the kitchen to go to the  
14 door. That is when they were questioning me. I didn't  
15 tell them the truth, because I was scared.

16 Q Did you tell your mom what had happened?

17 A No, sir. I didn't get a chance to tell her what  
18 had actually happened.

19 Q Did you tell her generally that something had  
20 happened, or you just acted like everything was normal?

21 A I told her that we went up there. Basically robbed  
22 Christine.

23 Q Your mom knew that you had just been with  
24 Christine.

25 A Yes.

1 Q So she kind of knew what had gone down. Maybe not  
2 the full details, but she understood what had happened?  
3 A Yes, sir.  
4 Q What about Danielle? Was she out and about in the  
5 house?  
6 A No, sir.  
7 Q Where was she?  
8 A She was still asleep.  
9 Q Where does she sleep if she was there?  
10 A She was in the sun room. I don't know if she had  
11 moved from my room to the living room.  
12 Q Did you witness her sleeping or she wasn't out?  
13 A She was asleep when we left. When we got back, I  
14 seen -- I didn't see. I figured she was asleep still.  
15 We didn't talk to her. She never came back there.  
16 Q Did you witness her being asleep when you all left?  
17 A Yes, sir.  
18 Q You physically saw her?  
19 A Yes, sir.  
20 Q You said that you were not honest with police.  
21 What did you initially tell them?  
22 A I told them that I was with a friend of mine; that  
23 I was on the opposite side of town.  
24 Q This is to the law enforcement at Shaw Avenue?  
25 A Yes, sir.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       Q     The first officers that you interact with after the  
2       robbery?

3       A     Yes, sir.

4       Q     Did they take you somewhere after you gave that  
5       information?

6       A     They took me to the Spartanburg County -- I am not  
7       sure if it was the Sheriff's Office or the actual main  
8       jail.

9       Q     Were you under arrest at that time, or did they  
10      just transport you?

11      A     I think I was just being detained. They didn't  
12      actually say I was under arrest for anything at that  
13      moment.

14      Q     You were going with them essentially?

15      A     Yes, sir.

16      Q     So you were free to go.

17      A     Yes, sir.

18      Q     Did you end up talking with a detective when you  
19      were at the Sheriff's office once you were in their  
20      custody? Did you talk to another investigator?

21      A     I believe so. I believe that is what it was.

22      Q     Did you end up giving a written statement? You  
23      didn't give a written statement at Shaw Avenue, did you?

24      A     No, sir.

25      Q     You did give a written statement?

1       A     Yes, sir.

2       Q     What did you say in that initial written statement

3       that you gave?

4       A     I don't remember the first statement that I wrote

5       down.

6       Q     Was it what you told to the jury here today?

7       A     I believe so.

8       Q     You think so -- the first statement that you told

9       to the investigator?

10      A     I think it was the same thing that I told the

11      police when they showed up to the house.

12      Q     The story about being with a friend?

13      A     Yes, sir.

14      Q     I will hand you a document. Can you identify that?

15      A     That is my written statement.

16      Q     What time was the written statement given? It's at

17      the bottom of the page, before you signed it?

18      A     4:55.

19      Q     What date?

20      A     November 24.

21      Q     Do you remember when you got pulled out of the Shaw

22      Avenue house?

23      A     Like what time it was?

24      Q     Yes.

25      A     It was late in the morning, around 3:00 or 4:00

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1        maybe.

2        Q     In this statement, what information did you give to  
3        the police?

4        A     That I was with one of my friends. I made up the  
5        name Michelle; that I was on the west side of town.

6        Q     Did the officer believes you?

7        A     No, sir.

8        Q     Did you end up giving another statement, written  
9        statement, to law enforcement?

10       A     Yes, sir, I did.

11       Q     I will hand you another document and ask if you can  
12       tell me what that is.

13       A     It's another written statement of mine.

14       Q     When was that one given?

15       A     I believe this says 6:55.

16       Q     In this statement, what information did you provide  
17       to law enforcement?

18       A     That I was with a friend. I put his name as Mall.  
19       I knew my cousin had some, so he picked me up. I  
20       basically gave a statement of what happened at the hotel  
21       room. It was very vague.

22       Q     In that statement, do you admit that you were  
23       present at the hotel?

24       A     Yes.

25       Q     You would give a name of Mall as the person who was

1 with you?

2 A Yes, sir.

3 Q Did you tell law enforcement if you knew who that  
4 individual was?

5 A At a later time.

6 Q This statement is given at 6:55 in the morning, or  
7 at least signed?

8 A Yes, sir.

9 Q It generally -- while it may be more vague than  
10 what you have done today, it generally gives what  
11 happened without identifying people other than yourself?

12 A Yes, sir.

13 Q Did you end up ultimately identifying the defendant  
14 as Mall?

15 A Yes, sir.

16 Q Do you remember how that came about or what caused  
17 that?

18 A How it came up?

19 Q Yes. How did it get up that you were finally  
20 giving up that final piece of information?

21 A I seen my mom when I was locked up. She had got  
22 locked up. I didn't know that she was. She was upset,  
23 and she was crying. She was like, you have to be honest  
24 and tell them what happened, or you are going to be in  
25 here forever. She was like, it's not worth it.



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q So your mom encouraged you to talk with law  
2 enforcement?

3 A Yes, sir.

4 Q Did you end up talking to Detective Clark about  
5 this, a male?

6 A Yes, sir.

7 Q Did you ultimately tell him who Mall was?

8 A Yes, sir.

9 Q Who was that?

10 A Dominick.

11 Q Did he present you a photo lineup to see if you  
12 could identify Dominick out of the photo lineup?

13 A Yes, sir, he did.

14 Q State's Exhibit 15. Can you identify what this is?

15 A It's an affidavit.

16 Q What is on the other side?

17 A Photos.

18 Q Are your initials on that?

19 A Yes, sir.

20 Q Is that the lineup that was presented to you by  
21 Detective Clark?

22 A Yes, sir.

23 MR. SMITH: Your Honor, at this time we would move  
24 State's Exhibit 15 into evidence.

25 MR. SCHULTZ: No objection.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 THE COURT: Admitted.

2 MR. SMITH: Permission to publish.

3 THE COURT: You may. .

4 (The aforementioned item was marked as  
5 Plaintiff's Exhibit 15 for identification and was  
6 admitted into evidence.)

7 BY MR. SMITH:

8 Q Did you indicate when this identification was made?

9 A 8:30 a.m.

10 Q On November 24?

11 A Yes, sir.

12 Q Are you saying that you had seen your mom between  
13 then? Were you booked in jail after giving those  
14 initial false statements?

15 A Yes, sir.

16 Q This conversation with Detective Clark, do you  
17 reach out to him?

18 A Yes, sir, I believe so.

19 Q Did you also come clean with an employee at the  
20 jail about items that you had on you from the robbery?

21 A Yes, sir, I did.

22 Q I am referring to the things that you said you put  
23 in your bra earlier. Is that what you are talking  
24 about?

25 A Yes, sir.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q I will hand you State's Exhibit 14. Tell me what  
2 those are.

3 A Two EBT cards and a Paypal card.

4 Q Is that what you provided to law enforcement?

5 A Yes, sir.

6 MR. SMITH: Your Honor, I would move State's  
7 Exhibit 14 into evidence.

8 MR. SCHULTZ: No objection.

9 THE COURT: Admitted.

10 (The aforementioned item was marked as  
11 Plaintiff's Exhibit 14 for identification and was  
12 admitted into evidence.)

13 BY MR. SMITH:

14 Q Were you also charged as a result of this case?

15 A Yes, sir I was.

16 Q What charges?

17 A Burglary First, Assault and Battery First,  
18 Attempted Murder, possession of a firearm during a  
19 violent crime. I believe there is one more. Assault  
20 and Battery First.

21 Q Armed robbery?

22 A Yes.

23 Q Are those charges still pending?

24 A Yes, sir, they are.

25 Q So at some point you anticipate going to court on

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       those charges?

2       A     Yes, sir.

3       Q     Do you have a deal worked out, as far as what is  
4       going to happen on those charges?

5       A     No, sir, I don't.

6       Q     Are you hopeful that something beneficial will  
7       happen as a result of what you are saying here today?

8       A     I am hopeful, yes, sir.

9       Q     Had you ever talked to an attorney or a solicitor  
10      at the time that you identified Dominick Thompson on  
11      that photo lineup?

12      A     No, sir, I did not.

13      Q     Did you talk to anybody about what to do, other  
14      than your mom?

15      A     Only my mom. Yes, sir.

16      Q     Why did you not -- why did you give up your own  
17      involvement in this case prior to giving up Dominick  
18      Thompson's involvement?

19      A     Because I was scared of what was going to happen if  
20      I did tell on him or the other people.

21      Q     Explain that to the jury.

22      A     Just the community that I lived in, and the people  
23      surrounding my house and stuff like that. I just know  
24      when your name comes back that you said something or  
25      told something, it's usually not good.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           Q     This is not necessarily some direct -- you don't  
2           have any threat from Mr. Thompson.  It's like a  
3           community -- it's not wise to talk to police?  Is that  
4           what you are talking about, like just general pressure?

5           A     Yes, sir.

6           Q     What ultimately made you decide to name him?

7           A     I just thought it was the right thing to do.

8           Q     Did you have any sort of animosity toward Mr.  
9           Thompson?  Did you have some sort of beef or anything  
10          prior to this happening?

11          A     No, sir.

12          Q     What has this done, as far as your relationship  
13          with Christine?

14          A     It broke our family up.  I haven't been able to  
15          contact her or my other cousin, her brother.  It's  
16          just -- it has separated us, like really far from what  
17          we were.

18          Q     I know we discussed that you were not aware when  
19          anybody was shot when you left the room.

20                 Did you later find out that someone was shot?

21          A     Yes, sir, I did, when the police showed up at my  
22          house they told me.

23          Q     Did you know it was your cousin?

24          A     Yes, sir.

25                 MR. SMITH:  Please answer any questions Mr. Schultz

1           may have.

2           THE COURT: We will do that after lunch. Before we  
3           break for lunch, keep in mind my cautions. No  
4           discussions about the case. No research. No  
5           investigation.

6           Have a good lunch. Report to your jury room at  
7           2:30 this afternoon.

8           (Whereupon, the jury exited the courtroom.)

9           THE COURT: Ms. Richard, you can step down from  
10          the stand. You cannot discuss your testimony with  
11          anybody during the lunch recess, because you are still  
12          on the witness stand. That would not be permissible.  
13          So no discussions with anybody about your testimony.  
14          You will need to be back before 2:30.

15          THE COURT: Court is in recess until 2:30.

16          (Whereupon, a luncheon recess was held.)

17          (Whereupon, the following proceedings were  
18          held in open court. The defendant was  
19          present with his attorney, along with  
20          counsel for the State.)

21          THE COURT: Ms. Richard, come back around to take  
22          your place on the witness stand. Any matters to address  
23          before the jury is brought in?

24          MR. SMITH: No Your Honor.

25          MR. SCHULTZ: No, sir.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 (Whereupon, the jury entered the courtroom.)

2 THE COURT: Good afternoon, ladies and gentlemen.

3 We are now going to continue with the examination of the  
4 witness by defense counsel.

5 Mr. Schultz.

6 \* \* \*

7 CROSS-EXAMINATION

8 BY MR. SCHULTZ:

9 Q Your name is Makayla Richard?

10 A Yes.

11 Q You know Dominick Thompson; right?

12 A Yes, sir.

13 Q You have known him for a little bit of time;  
14 correct?

15 A Yes, sir.

16 Q He has been over at your house before, correct?

17 A Yes, sir.

18 Q Where is your house?

19 A I was staying at [REDACTED] Shaw Avenue.

20 Q I believe you said that -- you told Mr. Smith that  
21 he was over the your house several times, is that  
22 correct?

23 A Yes, sir.

24 Q Was he up in your bedroom?

25 A He has been in my room, in the sun room, in the

1 living room.

2 Q He has been a lot of places in your house, correct?

3 A Yes, sir.

4 Q What is the address for your house, at your house  
5 at the time in November of 2016?

6 A I'm sorry. What was that?

7 Q What was the address of your house in November of  
8 2016.

9 A [REDACTED] Shaw Avenue.

10 Q At the time, who else lived there?

11 A My mother, April Richard, and her boyfriend Michael  
12 Godwin.

13 Q What about Danielle Krind?

14 A She was just over a lot. She is my best friend.

15 Q Being that you just testified to the fact that Mr.  
16 Thompson was in your house several times, could he have  
17 touched things in your house and left fingerprints  
18 there?

19 A Yes, sir.

20 Q Makayla, you went over this with Mr. Smith. You  
21 have the same charges that my client has, correct?

22 A Yes, sir.

23 Q Do you know what those charges are?

24 A Yes, sir.

25 Q What are they?



State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           A       Armed robbery; burglary first degree; assault and  
2       battery, first degree; attempted murder and possession  
3       of a weapon.

4 Q You have agreed to cooperate against my client, is  
5 that correct?

6 A Yes, sir.

7 Q Has the State made you any promises in this case?

8           A     No, sir.

9 Q Has the State made you any guarantees in this case?

10           A     No, sir.

11 Q You know you are facing jail time; correct?

12           A     Yes, sir.

13 Q A lot of jail time?

14           A     Yes, sir.

15 Q Are you hoping for a good result by testifying here  
16 today?

17           A     I would hope so.  Nothing has been promised to me  
18           or told to me or anything like that.

19 Q I understand nothing has been promised to you. At  
20 the same time are you hoping for a good result?

21           A     Yes, sir.

22 Q By testifying?

23           A     Yes, sir.

24 Q Have you gone over this with your lawyer?

25           A       Which part?

1 Q Everything. Your testimony, any promises or  
2 guarantees that were made to you?

3 A Yes, sir.

4 Q You have a lawyer in this case, correct?

5 A Yes, sir.

6 Q How many times have you met with him?

7 A About three times, three or four times.

8 Q You met with Mr. Smith, right.

9 A Prior to this?

10 Q Yes, sir.

11 Q Prior to the previous proceedings; correct?

12 A Yes, sir.

13 Q Was your lawyer present when you talked to Mr.  
14 Smith?

15 A One time he was.

16 Q Only one time?

17 A Yes, sir.

18 Q You have agreed to cooperate against my client,  
19 correct?

20 A Yes, sir.

21 Q Again, you are hoping for a good result?

22 A Yes, sir.

23 Q What would be a good result for you, in your  
24 opinion?

25 A I am not sure. I don't know what they would plan.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q You have no idea?

2 A No, sir.

3 Q Are you hoping to avoid going to jail?

4 A In my case, I don't think that would be an option.

5 Q Are you hoping to avoid going to prison?

6 A I would want to avoid it. Yes, sir.

7 Q What you are trying to do is cut your time by

8 testifying here in today, is that correct?

9 A Yes or no.

10 Q Why no?

11 A I am not testifying just because -- to cut my

12 time. I just wanted to put what happened out there.

13 Q That is part of it, isn't it?

14 A Yes, sir.

15 Q To hope you get a better deal at the end of the

16 line, right?

17 A Yes, sir.

18 Q That provides a motivation for someone like you to

19 lie, doesn't it?

20 A No, sir.

21 Q Not at all?

22 A No, sir.

23 Q What about for the average person? If somebody is

24 looking at jail time, somebody would say, I am just

25 going to lie to get my way out of it.

1           Would you agree that is a reasonable statement to  
2       make?

3       A     In some cases, yes, sir.

4       Q     What about in your case?

5       A     No, sir.

6       Q     No. It's not reasonable to think?

7       A     No, sir, not for me.

8       Q     Have you ever been in trouble before?

9       A     No, sir.

10      Q     Have you ever been to jail before?

11      A     No, sir.

12      Q     Have you ever been to prison before?

13      A     No, sir.

14      Q     You are trying to do everything you can to stay out  
15      of prison, right?

16      A     No, sir.

17      Q     You are not?

18      A     I am not lying.

19      Q     That is not what I asked. My question is, you are  
20      trying to avoid prison, is that correct?

21      A     Yes, sir.

22      Q     You lied to the police, didn't you?

23      A     Yes, sir.

24      Q     You lied to them several times.

25      A     Yes, sir.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q The first statement that was given within hours of  
2 this incident happening, you just said you were  
3 somewhere else, is that correct?

4 A Yes, sir.

5 Q What does the bottom of that say? Please read that  
6 statement?

7 A I swear that the statement that I have just given  
8 is the truth, the whole truth, and nothing but the  
9 truth.

10 Q This first statement that you gave is a lie,  
11 right?

12 A Yes, sir.

13 Q Then you give another statement. It's hard to  
14 keep track of them. Then you give another statement,  
15 right?

16 A Yes, sir.

17 Q Now, you give one at 6:55. Then two hours later,  
18 you give another one, is that correct?

19 A Yes, sir.

20 Q I am giving you these things right here. Are those  
21 your signatures?

22 A Yes, sir.

23 Q So you gave two statements. First of all, the  
24 first one was a bald-faced lie, correct?

25 A Yes, sir.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q The second one, is that the truth?

2 A Part of it.

3 Q Part of it. Then you partly told the truth?

4 A Yes, sir.

5 Q Then this one right here, this is the whole

6 truth, right? At least what you are saying is the

7 truth?

8 A Yes, sir.

9 Q You were here in the hotel. Did you hear a

10 gunshot?

11 A Yes, sir.

12 Q Then you told the police in your statement, I swear

13 I didn't know anybody got shot? How could that be

14 possible?

15 A When I heard the gunshot and I seen at the door, no

16 one was standing in front of it. I just ran out of the

17 door.

18 Q You gave a statement to Investigator Clark; is that

19 correct?

20 A Yes, sir.

21 Q You were re-initiating contact with him. Detective

22 Clark made several statements to you. Now is the time

23 to help yourself. Do you remember him saying that to

24 you?

25 A Yes, sir.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       Q     I think he also presented you with the six-pack  
2       photo lineup, isn't that correct?

3       A     Yes, sir.

4       Q     State's Exhibit 15. This is where you allegedly  
5       identified Mr. Thompson, correct?

6       A     Yes, sir.

7       Q     When you talked to Detective Clark there,  
8       two-and-a-half years ago, you said, I will be in  
9       tomorrow to sign the affidavit for photo identification,  
10      is that correct?

11      A     Yes, sir.

12      Q     You told Detective Clark that the next day you  
13      would be there to sign the affidavit of photo  
14      identification?

15      A     No, sir. It was the same morning.

16      Q     It was the same morning?

17      A     Yes, sir.

18      Q     You told Detective Clark that you would be in later  
19      to sign the affidavit of photo identification, on the  
20      back of this, right?

21      A     Yes, sir.

22      Q     So what happened?

23      A     I didn't sign it.

24      Q     You told him that you were going to come back and  
25      sign the affidavit, correct?

1       A     Yes, sir.

2       Q     You never did. So that is another lie, even when

3       you said you are telling the truth?

4       A     They never came back to get me.

5       Q     It doesn't matter if the police came back to get

6       you. You told them that you were going to come in here

7       and sign the affidavit for the photo identification, and

8       you didn't, is that correct?

9       A     Yes, sir.

10      Q     Where is your signature?

11      A     It is not on here.

12      Q     Where is the case number?

13      A     It's not on there.

14      Q     Where is the notary?

15      A     Not on there.

16      Q     Left completely blank. You didn't sign this. You

17      knew that Dominick Thompson wasn't there, right?

18      A     He was there.

19      Q     If he was there, why didn't you sign the affidavit?

20      A     Because I was scared to.

21      Q     You weren't scared enough to put your initials

22      right there, right?

23      A     No, sir.

24      Q     It's easy. The cat is out of the bag. All you

25      have to do is sign affidavit for the photo



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 identification, but you didn't. You lied to the police  
2 again. Even when you told the police you were being  
3 truthful on your third and final statement?

4 A Yes, sir.

5 Q It was a scam you were running that night, weren't  
6 you?

7 A Yes, sir. You could say that.

8 Q Can you extrapolate on that? Mr. Smith got that  
9 from you. What you were trying to do is you were trying  
10 to just get money from them without giving them any  
11 weed, is that correct?

12 A We were going to get weed, yes, sir.

13 Q Explain to the jury what scam you were trying to  
14 pull that night?

15 A We were going to go get the weed and leave without  
16 paying.

17 Q That was your plan?

18 A It was all of ours.

19 Q It was all of yours?

20 A Yes, sir.

21 Q It was mostly yours. You are the one that designed  
22 this whole thing; right?

23 A No, sir. Mr. Dominick asked me, did I know anyone  
24 that had some weed for us to go get.

25 Q Did you take the EBT card?

1       A     I didn't take it. It was handed to me in the car  
2       on the ride off from the motel.

3       Q     Where was that EBT card found eventually?

4       A     It was in my bra.

5       Q     Did you tell the police that immediately when you  
6       got arrested?

7       A     No, sir. I forget that they were in there until we  
8       were at the jail. Then that is when the lady asked me,  
9       did I have anything on me. Then I pulled them out.

10      Q     That was the items that you had in your bra that  
11      were taken during your robbery, right?

12      A     No, sir.

13      Q     You were not involved in a robbery? Is that what  
14      you are saying?

15      A     I was there. Yes, sir. I didn't know that it was  
16      going to be an actual robbery like that.

17      Q     Nevertheless, you admitted that you were trying to  
18      scam these folks?

19      A     Yes, sir.

20      Q     After that you talked to investigator Clark again?

21      A     Yes, sir.

22      Q     Do you remember the day that it happened looking at  
23      pictures of potential people that had participated in  
24      the crime with you?

25      A     Yes, sir.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Q That was on November 24?

2 A Yes, sir. I believe so.

3 Q Let me ask you this, Makayla: We have heard  
4 testimony about Facebook. Were you present here?

5 A No, sir. I wasn't.

6 Q Were you friends with Dominick Thompson on  
7 Facebook?

8 A I don't believe so. No, sir.

9 Q You are positive about that?

10 A I am not positive. I am not sure if we were  
11 friends on Facebook, but I don't believe so.

12 MR. SCHULTZ: That is all, Your Honor. Thank you.

13 \* \* \*

14 REDIRECT EXAMINATION

15 BY MR. SMITH:

16 Q When Mr. Schultz asked you about, you didn't drive  
17 up to go sign the affidavit, where were you when this  
18 was happening? Were you able to drive?

19 A No, sir.

20 Q Where were you?

21 A I was at the Spartanburg County Detention Center.

22 Q Did you have any ability to leave the Spartanburg  
23 Detention Facility?

24 A No, sir.

25 Q So a police officer would have had to come back to

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       you in order to get that signed?

2       A     Yes, sir.

3       Q     What was your reason for not signing the photo  
4       affidavit?

5       A     I was scared to. I didn't want people to know that  
6       I told on him.

7       Q     At any point, did you ever contact law enforcement  
8       and tell them that this was a big mistake; that it  
9       wasn't Dominick. Did you ever recant?

10      A     No, sir.

11      Q     Had you talked to an attorney or me or anybody  
12      representing the State, other than law enforcement at  
13      the time that you identified Dominick Thompson?

14      A     No, sir.

15      Q     Would you testify against somebody that you knew  
16      wasn't there; was not there in order to potentially save  
17      yourself?

18      A     No, sir.

19      Q     Why not?

20      A     Because it would just make it worse for me in the  
21      end when they found out that they wasn't there.

22      Q     In your own words, why did you tell law  
23      enforcement what you told them on November 24, as far as  
24      Dominick's role and why you are here today?

25      A     Why did I tell them what happened?

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           Q     Why did you tell them that Dominick had  
2           participated in this, and why are you testifying today?

3           A     Because what happened that night was not supposed  
4           to happen like that. I didn't intentionally go there  
5           for that. I just wanted them to know what happened  
6           that night; like what actually happened from my point of  
7           view.

8           Q     Do you feel guilty about what happened to your  
9           cousin or family?

10          A     Yes, sir.

11          Q     Is that part of your reason for testifying, to try  
12          to mend whatever fence?

13          A     I would hope that she would forgive me or try to  
14          fix things between us.

15          Q     You said that Dominick would have touched items in  
16          your house. Do you own a .45 pistol?

17          A     No, sir.

18          Q     Do you have .45 ammunition in your sun room?

19          A     No, sir. Not that belonged to me.

20          Q     Did your mom or anyone else in that house have an  
21          .45 and ammunition there?

22          A     No, sir.

23                 MR. SMITH: Thank you.

24                 THE COURT: You may step down.

25                 MS. BROWN: The State calls Danielle Krind.

1 \* \* \*

2 DANIELLE KRIND,

3 called as a witness by and on behalf of

4 the State to testify, being first duly

5 sworn was examined and testified as follows:

6 \* \* \*

7 DIRECT EXAMINATION

8 BY MS. BROWN:

9 Q Ms. Krind, introduce yourself to the jury.

10 A Daniel Krind.

11 Q How old are you?

12 A Twenty.

13 Q How old were you on November 24, 2016?

14 A Eighteen.

15 Q Where were you that morning?

16 A [REDACTED] Shaw Avenue.

17 Q What had you been doing there?

18 A Hanging out with Makayla. I was staying the night  
19 with Makayla.

20 Q How did you know Makayla?

21 A I met her in middle school.

22 Q Were you all good friends?

23 A Best friends.

24 Q How much time would you say you spent at her house?

25 A We were with each other almost every day. I would

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           be at her house. She would come to my house a few days.

2           It would be back and forth.

3           Q     Had you been there a lot in the weeks, days before  
4           that?

5           A     Yes.

6           Q     Do you remember early that morning two officers  
7           talking to you about a shooting and who had been at the  
8           house that day.

9           A     I remember talking to an officer, I think.

10          Q     You do remember talking to the officers?

11          A     Yes.

12          Q     What did you originally tell them when they asked  
13          you who had been at the house that day?

14          A     I think I had told them someone named Cue was  
15          there was there. I told them I was asleep. I didn't  
16          know about what happened. There wasn't really much for  
17          me to tell them.

18          Q     When they asked you if there were any guys at the  
19          house that day, what did you tell them?

20          A     I honestly don't remember.

21          Q     Did you ever tell them that you had seen someone  
22          there with Makayla earlier that day?

23          A     Yes. I did see someone there with Makayla.

24          Q     Did you tell them that originally?

25          A     I believe so. I think I told them someone was

1           there, I just didn't say the name.

2           Q     So you were not being totally forthcoming at first  
3           were, you?

4           A     No.

5           Q     Why?

6           A     I was never in a situation like that. I was  
7           scared. I didn't know how to react to it.

8           Q     What was the truth? What did you eventually tell  
9           them happened that day?

10          A     I eventually told them how I seen Dominick at the  
11          house with Makayla. That is all the information I could  
12          give them, being that I was sleeping.

13          Q     When did you see Dominick there?

14          A     Earlier that day, they were together. Before I  
15          went to sleep they were together.

16          Q     How did you know the defendant?

17          A     I met him through a mutual friend.

18          Q     Were you dating at any point? Anything like that?

19          A     No.

20          Q     You said before you go to sleep that the defendant  
21          is there with Makayla, right?

22          A     Yes.

23          Q     Where were they?

24          A     They were back and forth between the sun room and  
25          the front room. Before I went to sleep, I know they



## State of South Carolina v. Dominick A. Thompson -- 2016AA4210203988, -3993

1       were in the front room. I remember hearing them  
2       talking.

3       Q     Do you remember them leaving at any point?

4       A     After I dozed off, I remember them walking out the  
5       side door. That was just an on-and-off thing. They did  
6       leave.

7       Q     What time did they leave?

8       A     I have no clue.

9       Q     Do you remember if it was dark outside?

10      A     It was dark.

11      Q     What is the next thing you remember after you went  
12      to sleep?

13      A     I remember waking up and looking out the window. A  
14      red car had drove by. There were gunshots. I dropped  
15      back down. Not too long after that, Makayla and  
16      Dominick had walked in. I had looked out the front  
17      window. There was a black car.

18      Q     They came up in a black car?

19      A     Yeah. I walked to Makayla's room or I went to the  
20      rest room. I remember leaving out of the back room.

21      Q     You saw Makayla and the defendant come into the  
22      house?

23      A     Yes.

24      Q     Do you remember what time it was?

25      A     No.

1 Q Was it dark outside?

2 A Still dark.

3 Q How long did the defendant stay there once they

4 came back in?

5 A Honestly, I don't know how long he was there.

6 Q Was he there when the police arrived?

7 A No.

8 Q How soon after they returned did the police get

9 there?

10 A Maybe 15 or 20 minutes, I would say.

11 Q And the defendant left before the police got there?

12 A Yes.

13 Q You said you knew the defendant. When exactly did

14 you meet him?

15 A Makayla's birthday.

16 Q Which was when?

17 A [REDACTED]

18 Q That same year, [REDACTED]?

19 A Yes. I don't know how many days, if it was the

20 same day as Makayla's birthday or if it was the day

21 after. I know it was around that time. It was probably

22 November 3 or November 5 that I met him.

23 Q Do you know him super well?

24 A Not super well, no.

25 Q Did you hang out?

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           A     He was at the house a good amount of time. I know  
2           of him, but personal things, no, I didn't know anything  
3           personal about him.

4           Q     Was he at the house a lot in the time you met him  
5           from when this happened?

6           A     Yes. He was at the house a good bit.

7           Q     You said you had gone to the side room to go to  
8           sleep and that they had left at some point. Did you see  
9           them leave?

10          A     No. I didn't get up. The noise woke me up out of  
11          my sleep, and that is how I knew they left. I never  
12          really got up to see where she was going or what car she  
13          was getting into or anything.

14                THE COURT: Speak up. We can't hear you.

15                THE WITNESS: I know for a fact they left.

16 BY MS. BROWN:

17          Q     Together?

18          A     Yes.

19                MS. BROWN: No further questions at this time.

20                               \* \* \*

21                               CROSS-EXAMINATION

22 BY MR. SCHULTZ:

23          Q     Danielle, do you know Dominick Thompson?

24          A     Yes.

25          Q     How long have you known him for?

1           A     I met him the year of 2016. I have known him since  
2           then.

3           Q     How old are you now?

4           A     Twenty.

5           Q     Do you remember the date of the incident?

6           A     It was Thanksgiving Day.

7           Q     Thanksgiving morning?

8           A     Thanksgiving morning.

9           Q     What year?

10          A     2016.

11          Q     Your memory of this incident or the events that  
12          were involved in this incident, would you say it's  
13          better now, or was it better then?

14          A     It was better then.

15          Q     Now, you were living at the time at [REDACTED] Shaw Avenue  
16          or somewhere else?

17          A     I lived somewhere else at that time.

18          Q     Were you staying there with some frequency at Shaw  
19          Avenue?

20          A     Yes. I would spend the night's there. I never  
21          lived there.

22          Q     You would stay there at the time you knew Dominick.  
23          Would that be a fair statement?

24          A     Yes.

25          Q     Is Makayla still your best friend?

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       A     Yes.

2       Q     Still is, after all of this?

3       A     Yes.

4       Q     Never went your separate ways after that?

5       A     We went our separate ways for a little while.

6       Q     Would it be fair to say that you don't really talk  
7       to her much anymore?

8       A     No. I talk to her.

9       Q     At the time in 2016, you were her best friend,  
10      right?

11      A     Yes.

12      Q     The night before Thanksgiving, you talked to  
13      Makayla, correct?

14      A     The night before Thanksgiving.

15      Q     The morning before?

16      A     Earlier that day, the 23. Yes.

17      Q     You said that she gets in a mood sometimes.

18      A     Yes. We are best friends. We have disagreements.  
19      We are not always talking to each other every second of  
20      the day.

21      Q     Why would her mom aggravate her?

22      A     That is what moms do. She was getting on her  
23      nerves.

24      Q     I am particularly interested in the timeline here.  
25      When did you go to sleep that night; the day before

1 Thanksgiving?

2 A You want a time.

3 Q Yes.

4 A I can't give you a time. I don't remember?

5 Q Did the police ask you for a time?

6 A I don't remember.

7 Q Would it be fair to say you were asleep on and off  
8 the whole day?

9 A Yeah. I would say that. Yes.

10 Q Is it also fair and accurate to say that you were  
11 not feeling good that night and going into the morning?

12 A Yes. I was agitated, I guess. I mean, healthwise  
13 I was fine.

14 Q Healthwise you were fine?

15 A Yeah.

16 Q In prior testimony you said that you had a  
17 headache, and you were feeling nauseous. Did you say  
18 that?

19 A I could have said that. Can you read that, 17  
20 through to 22. Could you read that.

21 "Q The whole day you were asleep.

22 "A I wasn't feeling good at all.

23 "Q You weren't feeling good. What was wrong?

24 "A I don't know what was wrong with me. I just  
25 had a headache, and I was feeling nauseous. I wasn't

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 feeling good that day."

2 Q So you did feel sick that day, right?

3 A I guess I did.

4 Q You said something rather interesting a couple  
5 minutes here. You said that a red car shot at the  
6 house?

7 A Yes.

8 Q Which house was that?

9 A [REDACTED] Shaw Avenue.

10 Q You said that is where you were staying the morning  
11 of this incident?

12 A Yes. But that didn't happen that morning.

13 Q When did that happen?

14 A I don't know if it was late night. It was after  
15 Makayla left. I know it was before they got back.

16 Q So a red car shoots at your house or the house that  
17 you were staying at, correct?

18 A Yes.

19 Q You were not sleeping at the time, correct?

20 A No. I had just got up. I looked out the window.  
21 As soon as I looked out the window, the red car was  
22 driving by shooting.

23 Q Shooting?

24 A Yes.

25 Q At you?

1           A     No. At the house. Through the window. The shades  
2           weren't closed. They were sheers. I could see through  
3           it, but no one could see me from the outside.

4           Q     Did you tell the police that when they first  
5           arrived at the scene?

6           A     I believe I did.

7           Q     Do you know if any investigations were done with  
8           this?

9           A     I don't know.

10          Q     Did you tell the police, here is the bullet holes?

11          A     I didn't go outside to see if there were any bullet  
12          holes or anything. It didn't come through.

13          Q     You are saying that you don't remember what time  
14          this happened?

15          A     No. I don't remember a time. I was sleeping on  
16          and off.

17          Q     You were sleeping on and off.

18          A     Yes.

19          Q     You see, when you are sleeping on and off, you  
20          don't really know what time you are going in and out,  
21          right?

22          A     Yes. That is why I said I didn't know the times.

23          Q     Could it be accurate, or could it be possible that  
24          the people that you said that came to the house that  
25          night, you don't know what time they came, because you



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           were in and out all day?

2           A     I don't know a time that they came.

3           Q     Not only that, you had a headache and you felt  
4           nauseous, correct.

5           A     Yes. But what does that have to do with anything?

6           Q     The fact that you were sick.

7           A     Yes.

8           Q     Your memory of the events that morning may not be  
9           as accurate as if you were feeling fine?

10          A     I don't think it affected my memory.

11          Q     Not in the slightest?

12          A     No.

13          Q     Did you ever give a written statement to the police  
14          about this red car shooting?

15          A     I believe I did mention it in the statement, but I  
16          am not too sure.

17          Q     I will just show you. Could you read lines 11 down  
18          to 16.

19                "Q   Did you ever give a statement to the police  
20          about this, about the red car?

21                "A   Not other than telling them. I didn't write  
22          anything down.

23                "Q   You didn't write any written statement?

24                "A   No.

25                Does that refresh your memory?

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           A     Yes.

2           Q     So you never gave a written statement whatsoever  
3           about a red car shooting?

4           A     No.

5           Q     Would you agree that that is pretty important? I  
6           know I would if somebody went down my street?

7           A     I told them about it.

8           Q     So what you are saying is, what you want the jury  
9           to believe, is nobody did any other investigation on  
10          this, right?

11          A     I don't know if they did an investigation or not.  
12          I can't say that.

13          Q     Your recollection now is a lot worse than what it  
14          was in 2016, correct?

15          A     Yes.

16          Q     On top of all of that, you just told the jury you  
17          were in and out pretty much all day because you were  
18          feeling sick, right?

19          A     Yes.

20          Q     One last question. You can't really establish a  
21          timeline of when people came to the house or not that  
22          day, right, because you were not looking at the clock  
23          every minute, right?

24          A     No. I was not.

25               MR. SCHULTZ: Thank you.

State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 ★ ★ ★

2 REDIRECT EXAMINATION

3 BY MS. BROWN:

4 Q Danielle, you said that the defendant had been at  
5 the house that afternoon?

6 A Yes.

7 Q Was it light outside?

8 A Yes. It was still light out.

9 Q He was still there until the later evening when it  
10 was dark outside?

11           A       Yes.

12 Q When you woke up to the defendant and Makayla  
13 coming back, it was in the early morning, right?

14           A     It was still dark out.  I knew it was early  
15           morning.  When I went up to sleep -- I got up to use the  
16           rest room.  I think it was like 11-something.  I went  
17           back to sleep.  I know it had to be early.

18 Q You said that when they returned, the defendant  
19 and Makayla came back in a black car, correct?

20           A     Yes.

21 Q Was that black car still there on the scene when  
22 the police got there?

23 A No.

24 MS. BROWN: No further questions.

25 THE COURT: You may step down.

1 MS. BROWN: The State calls Robert Talanges.

2 \* \* \*

3 ROBERT CHARLES TALANGES,

4 called as a witness by and on behalf of

5 the State to testify, being first duly

6 sworn was examined and testified as follows:

7 \* \* \*

8 DIRECT EXAMINATION

9 BY MS. BROWN:

10 Q State your name for the record.

11 A Robert Charles Talanges.

12 Q Where do you work?

13 A Spartanburg County Sheriff's Office.

14 Q How long have you worked there?

15 A Going on 15 years.

16 Q What do you do?

17 A I am a -- they call us the CID unit. We are a  
18 crime scene unit that processes any and all crime scenes  
19 that we are called to. We execute search warrants. We  
20 attend autopsies. Anything to do with the collection  
21 and preservation of evidence.

22 Q Were you working in that capacity on Thanksgiving  
23 Day of 2016?

24 A Yes, ma'am.

25 Q You executed a search warrant on [REDACTED] Shaw Avenue,

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 right?

2 A That's correct.

3 Q What does it actually mean to execute a search  
4 warrant? What are you doing?

5 A A search warrant was drawn up for [REDACTED] Shaw Avenue  
6 by investigators. Evidently they compiled enough  
7 information to secure a search warrant for that  
8 residence upon statements and evidence that they had and  
9 evidence that we were looking for to a particular  
10 crime.

11 Q What time did you get there to Shaw Avenue?

12 A It was 8:00 in the morning, roughly.

13 Q What do you do when you get there?

14 A I met with Sergeant Guffy and Investigator Parnell  
15 at the time. They told me what had conspired over the  
16 night. They had a search warrant for the residence, and  
17 they wanted it executed for what they were looking for.  
18 My first step is documentation where we are at. Then we  
19 enter the residence, and they proceeded to search.

20 Q Describe the scene.

21 A The scene was for a residence. It was a  
22 single-story residence. It was like a room, like a  
23 carport. Lot of glass windows, couches. It wasn't a  
24 bedroom, per se. It was more like a living room.

25 Q You looked through the whole premises; right?

1           A     Correct.  Yes.

2           Q     What did you find in that residence?

3           A     After they searched, they pointed out key specific  
4           things that were wanted in the search warrant, as in  
5           clothing, cell phones.  Any item that they deemed was  
6           going to be used for evidence for prosecution.

7           Q     What kind of clothes did you find?

8           A     We are talking blue hoodie jacket, black  
9           long-sleeved shirt on the couch.

10                  I photographed a black wallet containing an ID  
11           with orange duct tape on it belonging to a --

12           Q     Brandon Williams?

13           A     Dustin Logan (phonetic).  Several cell phones;  
14           cigarette packs; also, ammunition; a box with ammunition  
15           and a .45 caliber.

16           Q     These are Exhibits 16 through 33.  Do you know what  
17           these are?  Also, State's Exhibit 34.

18           A     Photographs of all items that were collected from  
19           the scene.

20           Q     Did you take these pictures?

21           A     Yes, I did take the pictures.

22           Q     Is that a fair and accurate depiction of what you  
23           saw when you executed that search warrant?

24           A     Yes, they are.  Some of them were taken back to the  
25           lab and processed for latent prints.  Those are in those

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           photos as well.

2           MS. BROWN: Your Honor, the State moves to admit  
3           State's Exhibits 16 through 33 into evidence.

4           MR. SCHULTZ: No objection.

5           THE COURT: They are admitted.

6           (The aforementioned items were marked as  
7           (Whereupon, State's Exhibits 16 to 33 for  
8           identification and were admitted into evidence.)

9 BY MS. BROWN:

10          Q     Also in there is State's Exhibit 34. Do you know  
11          what that is?

12          A     Yes. That was the wallet of Mr. Logan.

13          Q     You collected that wallet?

14          A     Yes, I did.

15          Q     Is it in the same or substantially the same  
16          condition as it was when you found it that day?

17          A     Yes, it is, except being for being processed after  
18          collection for latent prints.

19          MR. SMITH: The State moves to enter into evidence  
20          State's Exhibit 34.

21          MR. SCHULTZ: No objection. .

22          THE COURT: It's admitted.

23          (The aforementioned item was marked as  
24          State's Exhibit 34 for identification and was  
25          admitted into evidence.)

1 BY MS. BROWN:

2 Q What we are seeing right here?

3 A A box of ammunition. This is the plastic tray that  
4 comes inside of it, so it's an ammunition tray. It was  
5 inside a Monarch box, and there were 31 cartridge cases  
6 in it of .45.

7 Q Are these the cell phones that you found?

8 A Yes.

9 Q State's Exhibit 16.

10 A That is the cigarette pack. Empty inside the Spinx  
11 bag at that location. The two cell phones as well in  
12 the package.

13 Q State's Exhibit 18. Tell us what we are seeing  
14 here.

15 A That is the wallet that belonged to Mr. Logan with  
16 the orange duct tape on it.

17 Q What about this one?

18 A That is the Spinx bag with the contents of the two  
19 cell phones.

20 Q That is how they were found?

21 A Yes. That is how they were found.

22 Q This is Exhibit 17.

23 A This is a cloth. Underneath it, I believe it was a  
24 box of ammunition underneath there.

25 Q This is State's Exhibit 27.



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       A     That is after being processed. That is the  
2       ammunition there.

3       Q     This is State's Exhibit 22. What we are seeing  
4       here?

5       A     Black bandanna. There was a pillow on one of the  
6       couches.

7       Q     You found that object on one of the couches?

8       A     Yes, ma'am.

9       Q     This is State's Exhibit 23. Is this also in that  
10      side room?

11      A     Yes. That is the television. That is the Spinx  
12      bag that had the contents of the two cell phones and the  
13      cigar package.

14      Q     You mentioned earlier you dust for fingerprints  
15      when you are called out to a scene, is that correct?

16      A     There was no dusting done at the location.  
17      Anything that was collected was taken back to the lab  
18      and processed in-house. That is correct.

19      Q     You do check for fingerprints?

20      A     Yes, I do.

21      Q     What does that tell you?

22      A     Trying to find ownership to a specific individual.

23      Q     Did you find anything at the scene?

24      A     Some of the items I did find prints.

25      Q     Which ones?

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       A     I found some on the .45 caliber Monarch APC box.  
2       The plastic ammo tray, some were located. The cigarette  
3       package some were found. Also, cell phones as well.

4       Q     This is State's Exhibit 35.

5       A     This will be a latent print card that I lifted on  
6       11-24. It came from the side on the ammo tray, which is  
7       from inside the ammo box.

8       Q     That is in essentially the same condition as when  
9       you were there?

10      A     Except for being identified by AFIS; that's  
11      correct.

12           MS. BROWN: Your Honor, the State moves to admit  
13      Exhibit 35 into evidence.

14           MR. SCHULTZ: Your Honor, may we approach?

15           (Whereupon, a bench conference was held off the  
16      record and out of the presence of the court reporter.)

17           THE COURT: Do you want to mark this for  
18      identification? That is all for now.

19           MS. BROWN: Thank you, Your Honor.

20   BY MS. BROWN:

21      Q     You showed me the latent print. You said that you  
22      lifted it off of the box of ammo, correct?

23      A     Correct.

24      Q     What is a latent print?

25      A     A fingerprint. It's comprised of oils and water

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       when you touch an object that you leave evidence  
2       behind. It could be a good surface or a bad surface.  
3       If you touch a piece of glass and you leave a  
4       fingerprint behind, the water and whatever will be  
5       expelled from your pores. You will leave it on the  
6       object that you touch.

7       Q     When you say a good surface, what do you mean by  
8       that?

9       A     Well, a good surface -- a cloth is not a good  
10      surface. Anything that is non-textured. Flat, hard  
11      surfaces are great. Automotive glass or exterior of  
12      cars. Sometimes you can get latent prints off of wood.  
13      Different techniques are used.

14      Q     When you execute a search warrant, you are not  
15      looking for anything in particular necessarily, right?

16      A     Items -- if you read the search warrant, it says  
17      items that are going to be sought or searched for --  
18      they should be listed on there. Clarification of what  
19      we are looking for.

20      Q     You were not necessarily looking for anything?

21      A     Correct.

22      Q     Explain the process that you mainly collected  
23      evidence from this room instead of entire house?

24      A     That was a decision on the investigators.

25           MS. BROWN: No further questions at this time.

1 \* \* \*

2 CROSS-EXAMINATION

3 BY MR. SCHULTZ:

4 Q Officer, how long have you been with the County?

5 A Going on 15 years.

6 Q You have done plenty of crime scenes, incident  
7 scenes, houses, homes?

8 A Yes, sir.

9 Q You mentioned something interesting with the  
10 search warrant. Were you the one that asked the Judge  
11 for the search warrant?

12 A No, sir.

13 Q That was somebody else, correct?

14 A That's correct.

15 Q You helped them to execute the search warrant?

16 A Once they got the search warrant, it was handed  
17 over to my location. So I am the one who executed the  
18 filling out the return. My responsibilities are to  
19 leave a copy for the residence. After leaving the  
20 residence, my responsibilities is taking it back to the  
21 Judge and have it signed in. Copies are made and given  
22 to the investigator?

23 Q The jury may not be entirely familiar with what  
24 execution of a search warrant means. Explain that a  
25 little bit.

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       A     Simple terms. They hand me a paper, and we get  
2       started. Once we take control of the house, is what we  
3       do, they started searching for the evidence that they  
4       needed. No one else was allowed inside the house except  
5       for police personnel who would do the search. The  
6       people who lived there were contained in a specific room  
7       when the search was being done or they are outside of  
8       the residence. We took physical control of the house.

9       Q     The physical control or the physical house that you  
10      took control of was [REDACTED] Shaw Avenue.

11     A     It was.

12     Q     [REDACTED] Saw Avenue.

13     A     Yes.

14     Q     Did you respond to off the hotel room off Asheville  
15      Highway?

16     A     No. I did not.

17     Q     The scene that you were able to survey, I guess,  
18      would be the house on Shaw Avenue, correct?

19     A     That's correct.

20     Q     How many pieces of material there or physical  
21      objects did you test for fingerprints?

22     A     I know the cell phones were done. Cigar package,  
23      the ammo box, the ammo tray, I would say. The wallet.  
24      Maybe 10 to 12 objects.

25     Q     What is this a picture of?

1       A     That is a Spinx bag next to the television that  
2       contained the two cell phones and the cigar package in  
3       it.  
4       Q     The cigar package was in that bag?  
5       A     Correct.  
6       Q     What is that?  
7       A     Blue bandanna.  
8       Q     This is a silly question. No fingerprints can be  
9       found on a bandanna?  
10      A     Correct. Cloth material.  
11      Q     Could DNA be found on a bandanna?  
12      A     It's possible.  
13      Q     Do you know if it was tested for DNA?  
14      A     No. I do not know that.  
15      Q     Above your pay grade, correct?  
16      A     If it was submitted, there would have been an  
17      analysis report submitted for it.  
18      Q     What is this again?  
19      A     That is the box of ammunition, .45 Monarch.  
20      Q     What is this ruler right there -- or part of a  
21      ruler?  
22      A     That is called scale tape. When I locate a latent  
23      print, that is what I put on the object to show the  
24      location where it came from.  
25      Q     Referring to State Exhibit 17 here.

State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

- 1           Where was that ammunition box found?
- 2           A     Underneath the cloth.
- 3           Q     What cloth?
- 4           A     The black object right there.
- 5           Q     Just point to that. I don't want the jury to be
- 6           confused there.
- 7           A     This area here.
- 8           Q     Found on top of the stereo system, correct?
- 9           A     Correct.
- 10          Q     These were the items found in the Spinx bag,
- 11          correct?
- 12          A     Correct.
- 13          Q     It looks like two cell phones and a cigar box,
- 14          right?
- 15          A     That's correct.
- 16          Q     Can fingerprints be lifted from cell phones?
- 17          A     The surface can be.
- 18          Q     It can be?
- 19          A     Yes.
- 20          Q     Did you dust these cell phones?
- 21          A     Yes, I did.
- 22          Q     Were you able to lift any latent prints from the
- 23          cell phones?
- 24          A     I sure did.
- 25          Q     This is another view of the cartridge box?

1       A     It's a plastic tray inside a cartridge box.

2       Q     That is a wallet right there?

3       A     Yes, and its contents.

4       Q     Is it possible to lift any latent fingerprints off

5       this wallet?

6       A     I attempted.

7       Q     What was the result of your attempt?

8       A     There was no latent prints lifted off of

9       it.

10      Q     So just to summarize, you lifted the fingerprints

11      from the ammunition box, correct?

12      A     Correct.

13      Q     You also lifted fingerprints from the cell phones

14      or one cell phone?

15      A     A pair of cell phones.

16      Q     You are not qualified to assess whose fingerprints

17      are on the material that you lifted it from, right? You

18      are not qualified?

19      A     What do you mean?

20      Q     You can't compare a fingerprint to something in a

21      database as compared to something that you lifted?

22      A     Yes, I can.

23      Q     The fingerprints that you found, you sent them off

24      to a lab?

25      A     The latent print operation machine is called AFIS.



## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 Automated Fingerprint Identification System. We have it  
2 in-house at the office. Once I lift these prints, they  
3 are packaged into an envelope and submitted to the AFIS  
4 operator. The latent print examiner.

5 From there she will qualify or disqualify a print.  
6 If it has enough ridge detail to be entered into the  
7 system, she will enter it. If not, it will be called  
8 non-AFIS quality. I don't know how many prints were  
9 entered into AFIS. I haven't seen her report. That is  
10 how the system works.

11 Q Did you collect any other evidence from the house  
12 on Shaw Avenue that day?

13 A Nothing else, other than what would be on the  
14 evidence sheet.

15 Q Did you make a thorough search of the house?

16 A The investigator did.

17 Q You didn't, you were just given this stuff?

18 A They searched. What they located, I photographed.  
19 Then it was collected.

20 Q That is all I have. Thank you.

21 \* \* \*

22 REDIRECT EXAMINATION

23 BY MS. BROWN:

24 Q When you got to Shaw Avenue to execute the search  
25 warrant, you didn't know anything about the case really

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 at this point, right?

2 A No, ma'am, I did not.

3 Q You are not one of the investigators on scene that  
4 talks to the witnesses on the scene, right?

5 A No, ma'am, I didn't.

6 Q You don't really know exactly what you are looking  
7 for?

8 A That's correct.

9 Q Is it fair to say you are mainly there to document?

10 A We do photo documentation. While the investigators  
11 search, they will locate any evidence that they deem as  
12 evidence. They will call us over. We will photograph  
13 it's location, what it is, and then we will collect it  
14 or preserve it. Take it with us and document it on the  
15 search warrant.

16 When we get back to the lab, it will be processed  
17 or it's not going to be processed.

18 Q I know you mentioned that you collected the latent  
19 prints and sent it off to AFIS. So whatever prints that  
20 you collect, you send it off to AFIS; right?

21 A That's correct.

22 Q What is AFIS?

23 A Automated Fingerprint Identification System.

24 Q Why do you send to AFIS?

25 A That is who does all of our latent prints. What

State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1       the system does, it has a database throughout the State  
2       of South Carolina. We also FBI files we can go to as  
3       well. When she enters the latent print that is of AFIS  
4       quality, it's entered into the computer system. Then it  
5       is compared for a positive match.

6               MS. BROWN: No further questions.

7               MR. SCHULTZ: Just a couple more questions on  
8       recross.

9                               \* \* \*

10                           RE CROSS-EXAMINATION

11 BY MR. SCHULTZ:

12       Q     And how long have you been working for the  
13       Spartanburg County Sheriff's Office collecting  
14       fingerprints, Officer?

15       A     Since 1997.

16       Q     What does AFIS stand for again?

17       A     Automated Fingerprint Identification System.

18       Q     Thank you.

19               THE COURT: You may step down.

20               We will take a break. Ladies and gentlemen of the  
21       jury, please go to the jury room. Do not discuss the  
22       case. We will bring you back after you take a 15-minute  
23       break.

24               (Whereupon, a recess was held.)

25               THE COURT: All right. Are we ready for the jury?

1 MR. SMITH: The State is the ready.

2 MR. SCHUTZ: Defense is ready.

3 (Whereupon, the jury entered the courtroom.)

4 THE COURT: All right. Mr. Smith.

5 MR. SMITH: The State calls Gail Moffitt.

6 \* \* \*

7 GAIL MOFFITT,

8 called as a witness by and on behalf of

9 the State to testify, being first duly

10 sworn was examined and testified as follows:

11 \* \* \*

12 DIRECT EXAMINATION

13 BY MR. SMITH:

14 Q Will you please state your name for the jury.

15 A Gail Moffitt.

16 Q Where are you employed, Ms. Moffitt?

17 A Clerk of Court's Office, Spartanburg County.

18 Q What is your position there?

19 A Assistant Clerk of Court.

20 Q What does the Clerk of Court's office?

21 A One of our responsibilities is maintaining the  
22 records. Criminal, civil, and family court records.

23 Q Records of all --

24 A That's correct.

25 Q Actions that happen in court?

## State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1           A     That's correct.

2           Q     How are convictions -- whether they come through  
3           guilty pleas or trial -- how are they documented in your  
4           system?

5           A     We enter the data on the computer.

6           Q     Is there something called a sentencing sheet?

7           A     There is.

8           Q     What is that?

9           A     That is the sentence that the defendant gets in  
10          court.

11          Q     You keep records of all guilty pleas entered in  
12          Spartanburg County?

13          A     We do. That is our responsibility.

14          Q     I will hand you what has been marked as State's  
15          Exhibit 36 and 37. I will ask if you can tell me what  
16          those are.

17          A     These are sentencing sheets from Dominick Antonio  
18          Thompson.

19          Q     What are the offenses to which he pled guilty to  
20          on those sheets?

21          A     The first one is burglary violent, 2nd Degree. The  
22          second one is burglary, non-violent, 3rd Degree.

23          Q     Is it reflected on the sentencing sheet when those  
24          pleas were entered?

25          A     Yes. The first one, burglary violent, was May 24,

1           2011. The second one, burglary non-violent, was

2           February 28, 2013.

3           Q     Are these certified copies of the sentencing sheets  
4           associated with those two convictions?

5           A     They are.

6           MR. SMITH: Your Honor, at this time we move State's  
7           Exhibits 36 and 37 into evidence.

8           MR. SCHUTZ: No objection.

9           THE COURT: They are admitted.

10          (The aforementioned items were marked as  
11          State's Exhibits 36 to 37 for identification and were  
12          admitted into evidence.)

13          MR. SMITH: Please answer any question Mr. Schultz  
14          has.

15          MR. SCHUTZ: I don't have any, Judge.

16          THE COURT: You may step down. Is that it for the  
17          afternoon?

18          MR. SMITH: Yes, sir.

19          THE COURT: Ladies and gentlemen, we are going to  
20          recess for the day. Keep in mind my cautions previously  
21          given. No discussions, no media exposure, no research,  
22          no investigation. Have a good evening. Report to your  
23          jury room at 9:30 in the morning.

24          (Whereupon, the jury exited the courtroom.)

25          THE COURT: Court is in recess until 9:30 in the

State of South Carolina v. Dominick A. Thompson – 2016AA4210203988, -3993

1 morning.

2 (Whereupon, at 5:18 p.m., the proceedings were  
3 continued to be resumed the following day without  
4 interruption.)

5 \* \* \*

6 END OF VOLUME II

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STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

IN THE COURT OF GENERAL SESSIONS  
FOR THE SEVENTH CIRCUIT

2016A4210203988

-3993

|                            |   |                          |
|----------------------------|---|--------------------------|
| -----X                     | : |                          |
| STATE OF SOUTH CAROLINA,   | : |                          |
|                            | : |                          |
| Plaintiff,                 | : |                          |
|                            | : |                          |
| vs.                        | : | TRANSCRIPT OF JURY TRIAL |
|                            | : | VOLUME III               |
| DOMINICK ANTONIO THOMPSON, | : | PAGES 214 - 336          |
|                            | : |                          |
| Defendant.                 | : |                          |
| -----X                     | : |                          |

June 12, 2019  
Spartanburg, South Carolina

B E F O R E

THE HONORABLE J. DERHAM COLE, Judge Presiding.

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## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

## 1 I N D E X

|    |                             |     |
|----|-----------------------------|-----|
| 2  | PROCEEDINGS                 | 217 |
| 3  | PROCEEDINGS CONTINUED       | 337 |
| 4  | WITNESS: MICHAEL JONES      |     |
|    | Direct Examination          | 219 |
| 5  | WITNESS: MARILY ROMAN       |     |
| 6  | Direct Examination          | 226 |
|    | Cross-Examination           | 244 |
| 7  | Redirect Examination        | 255 |
|    | Recross-Examination         | 257 |
| 8  | WITNESS: DIMITRIA STEVENSON |     |
| 9  | Direct Examination          | 273 |
|    | Cross-Examination           | 278 |
| 10 | Redirect Examination        | 283 |
| 11 | WITNESS: SHERILL MILLS      |     |
|    | Direct Examination          | 285 |
| 12 | Cross-Examination           | 289 |
| 13 | WITNESS: LATOYA THOMPSON    |     |
|    | Direct Examination          | 298 |
| 14 | Cross-Examination           | 303 |
|    | Redirect Examination        | 310 |
| 15 | WITNESS: DIMITRIUS MILLS    |     |
| 16 | Direct Examination          | 311 |
|    | Cross-Examination           | 316 |
| 17 | WITNESS: DANIELLE KRIND     |     |
| 18 | Direct Examination          | 328 |
|    | Cross-Examination           | 331 |
| 19 | Redirect Examination        | 333 |

## 20 E X H I B I T S

|    |     |                          |      |
|----|-----|--------------------------|------|
| 21 | NO. | DESCRIPTION              | PAGE |
| 22 | 38  | Call log                 | 222  |
|    | 39  | DVD                      | 224  |
| 23 | 35  | Print card               | 241  |
|    | 36  | AFIS print card analysis | 241  |

25

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 WEDNESDAY, JUNE 12, 2019

2 SPARTANBURG, SOUTH CAROLINA

3 \* \* \*

4 PROCEEDINGS

5 \* \* \*

6 (Whereupon, the following proceedings were  
7 held in open court. The defendant was  
8 present with his attorney, along with  
9 counsel for the State.)

10 THE COURT: Are there any matters we need to  
11 address before we bring in the jury?

12 MR. SMITH: Your Honor, the next witness we intend  
13 to call is Deputy Mike Jones from the jail and then  
14 introduce several jail calls. The State is prepared to  
15 submit a transcript of those calls to aid the jury by  
16 showing them that a transcript has been prepared and  
17 that that transcript has been shared with the defense.

18 We would just ask to hand that transcript to the  
19 jury at the appropriate time. It's not to be sent back  
20 as an exhibit. It is just aiding them during the course  
21 of the trial.

22 THE COURT: Mr. Schultz.

23 MR. SCHULTZ: I would object to it going back to  
24 the jury. I think the Court agrees that it shall not be  
25 entered into evidence.

1           As far as its being marked as a State's exhibit, I  
2           believe that is correct. But, at the same time, Your  
3           Honor, I know there has been the question, that I will  
4           present to the Court as far as the impartiality or the  
5           partiality in this case of the transcriptionist, who  
6           would be Mr. Smith.

7           He works with the Solicitor's office. He is not  
8           impartial. The accuracy of it -- I have heard the tapes  
9           several times. I reviewed them last night. The  
10          transcription is accurate, as far as I can tell. The  
11          accuracy is really not the issue here. My pertinent  
12          objection would be for it to go back to the jury and in  
13          deliberations, obviously. I think the Court will agree  
14          with me on that.

15          So my objection would be for it to go to the jury  
16          to aid them in hearing the tape.

17          THE COURT: All right. So you are objecting to the  
18          assistance of the transcript by the jury in any form?

19          MR. SCHULTZ: Yes.

20          THE COURT: You have heard the tapes?

21          MR. SCHULTZ: I have.

22          THE COURT: You have read the transcript that he  
23          proposed to you?

24          MR. SCHULTZ: Yes.

25          THE COURT: You are saying that you agree that the

1 transcript that is prepared is accurate as it relates to  
2 what is on the tape?

3 MR. SCHULTZ: I do, Your Honor.

4 THE COURT: All right. I will overrule the  
5 objection. As far as it relates to the use of it by the  
6 jury while the tapes are being played, they will be  
7 permitted to have a transcript of those jail calls while  
8 those calls are being played for their benefit in the  
9 courtroom. The transcript will not be an exhibit to go  
10 back during jury deliberations.

11 MR. SCHULTZ: Thank you, Your Honor.

12 (Whereupon, the jury entered the courtroom.)

13 THE COURT: Good morning, ladies and gentlemen.  
14 As you know, we when we recessed yesterday, the State  
15 was continuing their presentation. We will continue  
16 with that presentation this morning.

17 MR. SMITH: The State calls Deputy Michael Jones.

18 \* \* \*

19 MICHAEL JONES,  
20 called as a witness by and on behalf of  
21 the State to testify, being first duly  
22 sworn was examined and testified as follows:

23 \* \* \*

24 DIRECT EXAMINATION

25 BY MR. JONES:

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q Mr. Jones, please state your name for the jury.

2 A Michael Jones.

3 Q Where are you employed?

4 A Spartanburg County Sheriff's Department Detention  
5 Center.

6 Q How long have you been employed with the  
7 Department's Detention Center?

8 A Thirty-five years.

9 Q What is your current role at the detention center?

10 A I am a lieutenant over logistics. One of those  
11 roles is dealing with the phone records for the inmate  
12 phone calls.

13 Q Were you doing a similar role back on November 24,  
14 2016?

15 A Yes, sir.

16 Q Can you explain how the jail call system works, at  
17 least the one that was employed at the time of this  
18 incident?

19 A When someone comes to the jail, they get a PIN  
20 number. It's given on the armband. That is how they  
21 make their phone calls. They have to use that PIN  
22 number to make phone calls, call anybody on the  
23 outside.

24 Q Does the jail make recordings of the phone calls  
25 that are made?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

- 1       A     All the inmates' calls are recorded.
- 2       Q     Are the inmates aware of that?
- 3       A     Yes. There is a prompt on the phone that tells you  
4       that it's being recorded.
- 5       Q     Is it also posted in the booking areas?
- 6       A     Yes, it is. The same for the Pods too.
- 7       Q     Do inmates have a PIN at the time that they are in  
8       booking?
- 9       A     Yes.
- 10      Q     So as soon as you get in the jail, any call you  
11      make will be linked with your name?
- 12      A     Yes.
- 13      Q     In addition to making recordings, does the jail  
14      have a log of information about the calls?
- 15      A     Yes.
- 16      Q     That is prepared with every inmate in the jail for  
17      the duration of the time they are in there?
- 18      A     Yes.
- 19      Q     Is that something that you can print out?
- 20      A     Yes.
- 21      Q     I will show you State's 38. I will ask you if you  
22      can identify what this is.
- 23      A     It has the inmate's name, PIN number, who he called  
24      and the number he called from, the time he called, and  
25      the date and the time.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q Are these call logs from Dominick Thompson?

2 A Yes.

3 Q Are they in the December of 2016 range?

4 A Yes, they are.

5 Q Is this a document that was prepared in the  
6 ordinary course of business at the Sheriff's Office?

7 A Yes.

8 MR. SMITH: Your Honor, at this time, we move  
9 State's Exhibit 38 into evidence.

10 THE COURT: Admitted.

11 (The aforementioned item was marked as  
12 State's Exhibit 38 for identification and was  
13 admitted into evidence.)

14 MR. SMITH: Permission to publish?

15 THE COURT: You may.

16 BY MR. SMITH:

17 Q Where it says Booking 1, what would that be?

18 A The phone in the booking area.

19 Q The number to the left of it that is the same --

20 A That is the number where he is calling from.

21 Q This number would be --

22 A Who he is calling to.

23 Q You have the inmate's name?

24 A Yes.

25 Q Right here?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           A     Yes.

2           Q     Date and the time?

3           A     Yes.

4           Q     This number here, what is that?

5           A     That is the computer system. That is how they log

6           it.

7           THE COURT: Let me ask you to use that microphone

8           when you respond.

9   BY MR. SMITH:

10          Q     Is that like a file name that has the actual call

11          on it?

12          A     Yes.

13          Q     There are four calls that have been highlighted.

14          What do those signify?

15          A     That he has called out four times. These are

16          calls that he made out.

17          Q     State's Exhibit 39. What is that?

18          A     This is the four calls he made.

19          Q     Does this contained the four highlighted calls that

20          are shown on State's Exhibit 38?

21          A     Yes.

22          Q     That is an accurate copy of those calls?

23          A     Yes, sir.

24          MR. SMITH: Your Honor, at this time, we move

25          State's Exhibit 39 into evidence.



State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 MR. SCHULTZ: No objection.

2 THE COURT: It's admitted.

3 MR. SMITH: Permission to publish to the jury.

4 THE COURT: Permission granted.

5 (The aforementioned item was marked as

6 Plaintiff's Exhibit 39 for identification and was

7 admitted into evidence.)

8 BY MR. SMITH:

9 Q Tell the jury about the first call that was made.

10 When was that made?

11 A It was made on December 7, 7:39:52.

12 Q In the evening?

13 A Yes.

14 THE COURT: Ladies and gentlemen, the next exhibit  
15 is going to be played for you. It's the jail phone  
16 calls, as the witness has indicated. The document that  
17 is being handed out is a transcript of those calls that  
18 has been made by the Prosecutor, Mr. Smith. He contends  
19 that the transcript is a transcript of these calls that  
20 will be played for your benefit now.

21 You have this transcript to aid you in listening to  
22 the calls that are being played here in court. This  
23 transcript is not going to be introduced as evidence in  
24 the case, but you are going to have the tape when you go  
25 back to begin deliberations as an exhibit. You can

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1       listen to the calls during your deliberations, but this  
2       transcript is simply to aid you now and to assist you  
3       while the calls are being played. As I have said, it  
4       will not be an exhibit in the case.

5             Let me also say, this transcript was made by the  
6       prosecutor to aid you. However, if you hear something  
7       different than what the transcript is, you take your own  
8       understanding of it.

9             You don't have to accept this as being a verbatim  
10       transcript, although the prosecutor contends that it  
11       is. It's still his transcription, so if you hear  
12       something different, then you accept it as you hear it  
13       and not what transcript says.

14             (Whereupon, State's Exhibit 39 was published to the  
15       jury for their review.)

16 BY MR. SMITH:

17       Q     The next call, when was that call made? Also on  
18       December 7?

19       A     Yes, it is.

20       Q     The next call, when was that call made?

21       A     The next morning on the 8th, 12-8.

22       Q     The last call, when was that call made?

23       A     8:27 a.m.

24       Q     On the 8th or the 9th?

25       A     It's on the 9th.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           Q     Is this the next phone call he makes after the  
2           phone call we just listened to?

3           A     Yes, it is.

4           Q     It's the next day, but the next call he makes?

5           A     Yes, sir.

6           Q     To the same number as the last two calls we  
7           listened to?

8           A     Yes.

9           MR. SMITH: Please answer any questions Mr. Schultz  
10          has.

11          MR. SCHULTZ: I don't have anything for this  
12          witness.

13          THE COURT: You may step down.

14          (Whereupon, the witness exited the witness stand.)

15          MR. SMITH: May he be excused? Your Honor?

16          THE COURT: He may be.

17          MR. SMITH: The State calls Marilyn Roman.

18                                 \* \* \*

19                                 MARILYN ROMAN,

20                                 called as a witness by and on behalf of

21                                 the State to testify, being first duly

22                                 sworn was examined and testified as follows:

23                                 \* \* \*

24                                 DIRECT EXAMINATION

25

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 BY MS. BROWN:

2 Q State your name for the jury.

3 A Marilyn Roman.

4 Q Where do you work?

5 A I work for the Spartanburg County Sheriff's Office.

6 Q How long have you worked there?

7 A I have been with them since 2009.

8 Q What is your role with the Sheriff's Office?

9 A I am a latent print examiner.

10 Q How long have you been doing that?

11 A Since 2012.

12 Q What do you do in that role?

13 A Examine any latent prints that come from crime  
14 scenes. A latent print is a print that a palm or a  
15 finger leaves behind on a surface. It's called latent  
16 because it's not visible to the naked eye. So an  
17 officer has to actually process that in order for you to  
18 see it.

19 So they process the lift, and that is what they  
20 bring to me at the office. I analyze those latent  
21 prints to see if they are of good quality to compare.

22 If they have a victim print or an imprint for me, I  
23 would compare it to the victim's to see if they belong  
24 to that person. If not, I will not compare if they have  
25 a ten-print card for somebody who they suspect of a

1 crime.

2 If we don't have that, we use what is called an  
3 AFIS System, the Automated Fingerprint Identification  
4 System. That system works as a big file cabinet. We  
5 have the ten-print cards there of everybody that has  
6 been fingerprinted in the state for concealed weapons,  
7 permits, teachers, doctors, lawyers. Any fingerprints  
8 that you need in this state will be saved in that  
9 system.

10 What we do with the system is take a picture of the  
11 latent that came from the crime scene. We will use  
12 lighting technology to see if the ridges are there.

13 We take a picture of that print, put it in the  
14 system marking every detail that is in that latent  
15 print. Ending ridges, marks, scars, anything that is on  
16 that print we will mark it, put it on the system, and  
17 the system will match it with other prints.

18 We usually ask up to ten, but we can ask up to  
19 9,999 latents to come back. We have to go with one and  
20 one and what came from the system to verify if it's an  
21 individual's print there or a match to that latent.

22 If it is, we will scale that. We will do a chart  
23 for it. My co-worker will verify that print. After  
24 that, I will provide a report.

25 Q How many fingerprints would you say you have

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           examined?

2           A     Thousands.

3           Q     Do you have any certification in fingerprints  
4           analysis?

5           A     Yes, I do. I was certified with SLED to use the  
6           Automated Fingerprint Identification System. I went to  
7           classes with Sirchie Laboratory in Youngsville, North  
8           Carolina.

9           Q     What other education and training have you had in  
10          fingerprint examination?

11          A     We go to these trainings in North Carolina. After  
12          that, I was trained in the office by a Ted Sar  
13          (phonetic) who was the previous latent print examiner  
14          for two years.

15          Q     Have you ever testified in court as an expert in  
16          fingerprint examination?

17          A     Yes, ma'am.

18          Q     How many times?

19          A     Four.

20                MS. BROWN: Your Honor, at this time the State  
21          moves to qualify Ms. Roman as an expert in fingerprint  
22          identification.

23                MR. SCHULTZ: May I object to her being an expert?

24                THE COURT: You object to it?

25                MR. SCHULTZ: I do.

1           THE COURT: Let me ask the jury to please go to the  
2           jury room. I will address this issue and bring you back  
3           shortly.

4           (Whereupon, the jury exited the courtroom.)

5           THE COURT: Mr. Schultz, what is the objection?

6           MR. SCHULTZ: May I present some questions to the  
7           witness?

8           THE COURT: You may.

9                                           \* \* \*

10                           VOIR DIRE EXAMINATION BY MR. SCHULTZ

11 BY MR. SCHULTZ:

12       Q    Officer, can you please state your name for the  
13       record again.

14       A    Marilyn Roman.

15       Q    How long have you worked for the Spartanburg  
16       County Sheriff's Office?

17       A    Since 2009.

18       Q    Have you worked anywhere else in the area of  
19       fingerprint technology?

20       A    No, sir.

21       Q    Do you have any certifications?

22       A    The one from Youngsville on the Sirchie  
23       Laboratories.

24       Q    That was from Youngsville, North Carolina;  
25       correct?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1       A     Yes, sir.

2       Q     What other certifications do you have?

3       A     Related to fingerprints?

4       Q     Yes.

5       A     That is it.

6       Q     How long is that class at Youngsville, North

7       Carolina? How long did that class last?

8       A     It was a total of 200 hours of training.

9       Q     How long ago did you take that?

10      A     I took those classes in 2012.

11      Q     That was seven years ago, correct?

12      A     That's correct.

13      Q     Have you taken any other certification classes

14      since that time?

15      A     No, sir.

16      Q     Do you know what the scientific working group

17      called Friction Ridge Analysis Study Technology is?

18      A     No, sir.

19      Q     Are you a member of that organization?

20      A     No, sir.

21      Q     Do you have a Bachelor's of Science?

22      A     No, sir.

23      Q     Do you have a Bachelor's of Arts?

24      A     No, sir.

25      Q     Have you gone to college?



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1       A     Yes, sir.

2       Q     Where did you go to college?

3       A     I went to college at the International Junior

4       College.

5       Q     Where is that?

6       A     San Juan, Puerto Rico in 1999.

7       Q     The International Junior College?

8       A     Yes.

9       Q     That was in Puerto Rico?

10      A     Yes, sir.

11      Q     Is that an accredited university?

12      A     Yes, sir.

13      Q     Accredited by whom?

14      A     It was back in 1999, so I am not sure who they were

15      accredited from.

16      Q     So you don't know if it was accredited when you

17      received your degree?

18      A     Went I received -- I went there and got 58

19      credits. That was, again, back in 1999. I was 19 years

20      old. I wasn't keeping track of what degree they have

21      now 20 years later.

22      Q     Did you get a degree there or no?

23      A     I got a diploma with 58 credits.

24      Q     A diploma means you did the bare minimum?

25      A     No, not necessarily. If you are smart enough,

1       especially for technology of the computers -- whoever  
2       follows and trains you, it will teach you exactly what  
3       you need to know.

4       Q     I don't mean to belabor the point.  You do not  
5       have a degree in forensic science?

6       A     No, sir.  It's not required for latent print  
7       examination.  Latent print examination is a thing that  
8       you have to work on it.  A book is not going to teach  
9       you what you have to do every day.

10       So the State does not require you to have a degree.  
11       The only people that require you to have a degree is a  
12       private company that will be selling equipment for  
13       fingerprints.

14       Q     Not to belabor the point, you don't have a degree  
15       in biology?

16       A     No, sir.

17       Q     Is biology used?  The study of life sciences, is  
18       that used in the examination of fingerprints?

19       A     No, sir.

20       Q     What about statistics?  Is that used?

21       A     I am not sure.

22       Q     You are not sure if statistics is used in the  
23       examination of fingerprints?

24       A     No, sir.

25       Q     You are not sure, or it is not?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 A I am not sure.

2 Q What about the study of genetics? Have you taken  
3 any courses on genetics?

4 A No, sir. I have not taken any other classes  
5 besides the one in Youngsville, North Carolina, and my  
6 technology computer science classes in Puerto Rico.

7 Q Have you ever conducted any research in the area  
8 of print comparisons?

9 A No, sir.

10 Q Have you ever read any studies that have been  
11 conducted in the area of fingerprint identification?

12 A No, sir.

13 Q What journals do you read to keep abreast of new  
14 information that goes on with fingerprints?

15 A I have had not had a chance to read any.

16 Q When was fingerprint technology first used by the  
17 FBI to assess criminal suspects?

18 A I am not sure.

19 Q How old is the AFIS database? How long has that  
20 been used?

21 A I am not sure, sir.

22 Q Do you know of the National Academy of Sciences?

23 A No, sir.

24 Q Other than 58 credit hours from possibly a  
25 non-accredited university in Puerto Rico and 200 hours

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 of a certification class, is that the only --

2 A And seven years of doing this job.

3 Q That is not my question. Is that the only

4 education that you have?

5 A For fingerprints, yes.

6 Q Are you certified with the International

7 Association of Identification?

8 A No, sir.

9 Q Are you familiar with the International Association

10 of Identification?

11 A Yes, sir.

12 Q But you not certified in that, correct?

13 A No, sir. That's correct.

14 Q Are you familiar with the term contextual bias?

15 A I am familiar with the word bias, but not

16 contextual.

17 Q Did you examine the fingerprints in this case?

18 A Yes, sir.

19 Q Did anybody else?

20 A They were verified by my co-worker, Ms. Corey

21 Burgess.

22 Q Your co-worker, do you know if she has any special

23 certifications or anything?

24 A Yes, sir.

25 Q What certifications?

1       A     She graduated from West Virginia University on  
2       Crime Scene Investigation.

3       Q     Is she a member of the International Association of  
4       Identification?

5       A     No, sir.

6       Q     Is anybody who works with the Sheriff's Office a  
7       member of the International Association for  
8       Identification?

9       A     No, sir.

10       MR. SCHULTZ: Your Honor, I object to this  
11       qualification of the witness as an expert in the area of  
12       fingerprint analysis.

13       THE COURT: Ms. Brown, do you have any additional  
14       questions you would like to ask the witness.

15       MS. BROWN: Yes, Your Honor, I briefly request the  
16       Court's indulgence.

17       Your Honor, I don't have any additional questions  
18       for the witness, but I would just like to put on the  
19       record that counsel can make all these points in  
20       cross-examination of the witness.

21       She has been qualified for at least four times as  
22       an expert in this field. She has all the required  
23       qualifications for latent print analysis. She has had  
24       over 200 hours of additional training, Your Honor. The  
25       State believes she is qualified as an expert in this

1 field.

2 MR. SCHULTZ: Your Honor, for the record, she does  
3 not have a BA. She does not have a BS, Bachelor's of  
4 Science. She has no degree in forensic technology. She  
5 has no degree in biology. She has no degree in  
6 genetics.

7 She apparently got a diploma with 58 credit  
8 hours from some college in Puerto Rico that was not, to  
9 her understanding, may not have accredited in 1999, 20  
10 years ago. She received 200 hours from a class in  
11 Youngsville, North Carolina. That is all the academic  
12 qualifications that she has, so I would object to her  
13 being qualified as an expert witness in this case.

14 THE COURT: If you will, share with me your  
15 thoughts about how her not having a degree or not would  
16 have any bearing upon her qualifications to analyze  
17 fingerprints?

18 MR. SCHULTZ: The analysis of fingerprints is a  
19 very subjective process. It's not an objective process,  
20 to my understanding of the latest scientific research  
21 and journals that have come out, or at least the  
22 accredited journals that have come out.

23 I asked specifically about this in my voir dire,  
24 about has she kept up with the research involving  
25 fingerprints and technology. Fingerprints are being

1       widely looked down upon in courts and other proceedings  
2       as inaccurate ways.

3       This witness has said that she has not kept abreast  
4       of any journals or anything like that in regard to any  
5       kind of genetics, which is very important in fingerprint  
6       technology.

7       Also, one of the most important things is  
8       statistics. Statistical analysis is used to verify  
9       fingerprints all the time. The witness said that she  
10      does not have any background in statistics whatsoever.  
11      I have heard nothing of her taking any classes in  
12      statistics. The stats are a very important part of  
13      fingerprints, because it's part of the comparison that  
14      people use in order to assess whether a fingerprint is  
15      accurate or not, or at least what her perception of the  
16      accuracy of the fingerprint is.

17      That would be my answer to that.

18      THE COURT: Okay. I will note your exception and  
19      your objections.

20      I do find based upon her testimony related to her  
21      education, training, and experience, that she is  
22      qualified to provide testimony relating to any  
23      fingerprint analysis done in this particular case.

24      Mr. Schultz, let me share this too. I have had Mr.  
25      Smith take up the 14 transcripts that were used by the

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 jury. I have those in my hand. I will take one to give  
2 to the court reporter to mark as a Court's exhibit. I  
3 will give the other 13 back to Mr. Smith.

4 Let's take 10 minutes and then we will continue  
5 with the testimony.

6 (Whereupon, a recess was held.)

7 (Whereupon, the following proceedings were  
8 held in open court. The defendant was  
9 present with his attorney, along with counsel for the  
10 State.)

11 (Whereupon, the jury entered the courtroom.)

12 THE COURT: All right, Ms. Brown. The witness has  
13 been qualified.

14 MS. BROWN: Thank you, Your Honor.

15 BY MS. BROWN:

16 Q Ms. Roman, how is it possible for a person to leave  
17 fingerprints?

18 A So our hands work like a rubber stamp. When it  
19 picks up oils or blood or sweat and you press on a  
20 surface, it will, most of the time, leave behind any  
21 ridge details. That is what is collected and processed.

22 Q Does someone leave a print on any surface they  
23 touch?

24 A No, ma'am. It depends on the type of surface. If  
25 It's a smooth surface, like grass, You probably won't



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1       get any prints you leave behind. So not every surface  
2       will leave prints.

3       Q   Some surfaces are better than others?

4       A   Yes, ma'am.

5       Q   Can you get prints off, say, a T-shirt?

6       A   It depends on how many oils you will have. They  
7       have leave some prints in materials, like clothing  
8       materials, also on paper. It depends what you had on  
9       your hands at that time.

10      Q   You said earlier that you get latent prints for  
11      testing in the AFIS system, right?

12      A   Yes, ma'am.

13      Q   Tell us what AFIS stand for?

14      A   Automated Fingerprint Identification System.

15      Q   Several reasons to submit prints through AFIS,  
16      right?

17      A   Yes, ma'am.

18      Q   State's Exhibit's 35 has been previously  
19      identified as the latent print that was taken from [REDACTED]  
20      Shaw Avenue for testing.

21      A   Yes, ma'am.

22      Q   Is that the latent print that you used in your  
23      comparison?

24      A   Yes, ma'am.

25      Q   Is it in the same or substantially the same the

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           condition as when you tested it?

2           A     Yes, ma'am.

3           Q     This is State's Exhibit 36 for ID. Do you know  
4           what that is?

5           A     Yes, ma'am.

6           Q     What is it?

7           A     This is the chart I prepare once I identify the  
8           fingerprints.

9           Q     This is what you used in your comparison?

10          A     Yes.

11                MS. BROWN: Your Honor, State moves to introduce  
12                State's Exhibits 35 and 36 into evidence.

13                MR. SCHULTZ: The objection as previously noted.

14                THE COURT: They are admitted over objection.

15                MR. SMITH: Thank you, Your Honor. Permission to  
16                publish?

17                THE COURT: You may.

18                (The aforementioned items were marked as  
19                State's Exhibits 35 -36 for identification and  
20                were admitted into evidence.)

21 BY MS. BROWN:

22           Q     Tell us what we are seeing on the left-hand side  
23           here.

24           A     This is a picture of the latent print that was  
25           collected.

1       Q     When you get a latent print, how do you actually  
2       test it in AFIS?

3             What do you do in this case?

4       A     The first thing I have to do is take a picture of  
5       the latent print. I will mark all the points of  
6       identification in the print, scars, marked ridges, I  
7       will mark that. I will enter into the system. The  
8       computer will analyze any similar ten prints. I will  
9       then individually one-on-one verify them. I usually ask  
10      for ten to come back. We can as up to 9,999 on it.

11      Q     The one on the left is the copy of the latent  
12      print?

13      A     Yes.

14      Q     How does it compare to the one on the right that  
15      you got through the AFIS System?

16      A     Those are the ones that I mark. You have various  
17      verifications.

18      Q     How many points of comparison do you normally use  
19      in your analysis?

20      A     I use as many as I can. Some people say you should  
21      do 12 or more. It is not required, because it depends  
22      on how many other characteristics there are on the  
23      prints.

24      Q     Based on these points of comparison that you used,  
25      could you conclusively say that these are the same

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 person?

2 A Yeah. Based on my opinion, they came back to the

3 same source of the card that had these latent prints.

4 Q When AFIS gives you possible matches, is that done

5 blindly? Is there a specific person that you have in

6 mind that comes up?

7 A No, ma'am. It's blind.

8 Q Are fingerprints unique to an individual --

9 A Yes, ma'am.

10 Q -- in your experience?

11 A I haven't had anybody with the same fingerprints,

12 not even twins.

13 Q So the one on the left is the defendant's

14 fingerprints; correct?

15 A Yes, ma'am. This one comes back to Dominick

16 Antonio Thompson.

17 Q You said that they are the same?

18 A Yes, ma'am.

19 Q I have to go back what you said earlier. AFIS

20 normally generates ten possible matches, correct?

21 A Yes, ma'am. It will generate up to 9,999. We

22 narrow it to ten possible matches.

23 Q The is the most similar I would guess?

24 A Yes, ma'am.

25 Q What number was this one?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           A     Number 1.

2           Q     What does that mean?

3           A     It was the first one that came up from the system.

4           Q     Have you ever had a match that wasn't Number 1?

5           A     I have not.

6           Q     Do you have any control over what prints AFIS gives  
7           you?

8           A     No, ma'am.

9           Q     Every latent print that is collected from a scene  
10          and submitted to you for testing, is every print you get  
11          AFIS quality?

12          A     No, ma'am.

13          Q     What would make it not AFIS quality?

14          A     They have some people who lift the latent, and  
15          there is nothing in there.  It's nothing but the dust.  
16          Not every time you try to collect a latent print it's  
17          going to come up with something.

18          Q     This is the only AFIS quality print you received  
19          from the scene?

20          A     Yes, ma'am.

21                MS. BROWN:  Your Honor, I have no further questions  
22          at this time.

23                               \* \* \*

24                               CROSS-EXAMINATION

25  BY MR. SCHULTZ:

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q What is highest level of education that you  
2 obtained?  
3 A I have a diploma from the International Junior  
4 College?'  
5 Q International Junior College?  
6 A Yes, sir.  
7 Q Where is that?  
8 A That is located in San Juan, Puerto Rico.  
9 Q Did you receive a B.A. or what is commonly known as  
10 a Bachelor's of Arts?  
11 A No, sir.  
12 Q From that university?  
13 A No, sir.  
14 Q Did you receive a BS, Bachelor's of Science from  
15 the university?  
16 A No, sir.  
17 Q Did you receive any special certifications at that  
18 university?  
19 A I have a technology of computer diploma.  
20 Q Technology of computer?  
21 A Yes, sir.  
22 Q So you have a diploma?  
23 A Yes, sir.  
24 Q Is the International Junior College -- when you  
25 went there, was it accredited by the American

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Association of Colleges and Universities?

2 A I am not sure sir.

3 Q Do you know if it's accredited now?

4 A I am not sure. I have been gone from Puerto Rico  
5 for 20 years. I believe it was accredited, because  
6 Financial Aid assisted. They don't assist unless it's  
7 accredited.

8 Q But, again, you are not sure, correct?

9 A No, sir.

10 Q Did you take any classes in biology at the  
11 International Junior College?

12 A No, sir.

13 Q Did you take any classes in genetics?

14 A No, sir.

15 Q Did you take any classes in statistics?

16 A No, sir.

17 Q Are those important studies to learn when analyzing  
18 fingerprints?

19 A No, sir.

20 Q Not at all?

21 A I don't utilize them?

22 Q What about forensic science? Did you ever take  
23 any courses at your college in Forensic Science?

24 A No, sir.

25 Q Have you taken any courses in forensic science

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           since that time?

2           A     No, sir.

3           Q     No courses at all in forensic science?

4           A     Not in forensic science?

5           Q     Please state to the jury what the definition of

6           forensic science is?

7           A     I am not sure. I did not take the classes, so I

8           would not have an exact answer of what it is.

9           Q     You don't know what forensics is?

10          A     Not the exact definition, no. I would not like to

11          assume a word that is not correct.

12          Q     Have you ever conducted any independent research

13          into fingerprint comparisons?

14          A     No, sir. .

15          Q     Have you read any studies that have been conducted

16          in the area of fingerprint identification?

17          A     No. Not besides when I took my classes, no.

18          Q     What journals do you read? Do you stay abreast on

19          any new information in fingerprints?

20          A     No journals.

21          Q     No journals?

22          A     No, sir.

23          Q     What about -- have you been certified by the

24          National Academy of Sciences?

25          A     No, sir.



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q Do you read any journals qualified by the National  
2 Academy of Sciences?

3 A No, sir.

4 Q Do you know SWGFAST?

5 Do you know what their organization is?

6 A No, sir.

7 Q It's the Scientific Working Grid Analysis Study and  
8 Technology.

9 Have you ever heard of that?

10 A Probably. Seven years ago when I went to the  
11 Sirchie classes.

12 Q Are you a member of that organization?

13 A No, sir.

14 Q Do you work for the South Carolina Law Enforcement  
15 Division, or do you work for Spartanburg County?

16 A Spartanburg County.

17 Q You do not work for what is commonly known as SLED,  
18 right?

19 A No, sir.

20 Q Do you have standard operating procedure or  
21 protocol when assessing the fingerprints?

22 A Yes, sir.

23 Q Is that published?

24 A No, sir.

25 Q It's not published anywhere?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

- 1       A     No, sir.
- 2       Q     So you just essentially just make this up as you go  
3       along, correct?
- 4       A     I have the standaíd from a previous person who was  
5       working for the Spartanburg County Sheriff's Office as a  
6       latent print examiner.
- 7       Q     That is not published anywhere? That is not for  
8       the public to read?
- 9       A     No.
- 10      Q     So basically, just somebody taught you how to do  
11     this, and you just kept doing it, right.
- 12      A     That's correct. After I took my other classes,  
13     yes, sir.
- 14      Q     How many fingerprints have you looked at?
- 15      A     Thousands.
- 16      Q     There is no written policy as to how you look at  
17     fingerprints?
- 18      A     No, sir.
- 19      Q     Are you certified with the International  
20     Association of Identification?
- 21      A     No, sir.
- 22      Q     Are you familiar with the written test or oral test  
23     of the International Association of Identification of  
24     dust?
- 25      A     Yes, sir.

1       Q     You haven't taken a written or oral test for that  
2       right, right?

3       A     Not with that association, no.  It's not required.

4       Q     Would you agree that what you do -- since the Court  
5       has qualified you as an expert -- what does subjective  
6       mean in it's common, everyday use?

7       A     I am not sure what the word means.

8       Q     You are not sure what subjective means?

9       A     No, sir.

10      Q     What does objective mean?

11      A     I am not sure.

12      Q     Would you agree that fingerprint analysis is an  
13      objective or subjective scientific analysis, or you are  
14      not sure?

15      A     I am not sure of the word.  Can you break down the  
16      word?

17      Q     All right.

18            If you have an objective standard for something,  
19      that means that you can use it, and it's true anywhere.

20      A     Okay.

21      Q     For instance, the speed of light is an objective  
22      standard in physics.

23      A     Okay.

24      Q     Now, a subjective standard is something that  
25      several people may disagree on if they look at it.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           Do you understand now?

2       A     Yes.

3       Q     You essentially just look at fingerprints, right?

4       A     Yes, sir.

5       Q     Is that a yes?

6       A     Yes, sir.

7       Q     Now, you don't actually -- referring to State's

8       Exhibit 36. You don't actually compare it to any other

9       prints, correct?

10      A     If I would have had any other elimination prints in

11      that case when it came, yes, I would have compared it

12      with other elimination prints.

13      Q     But there wasn't any other elimination prints,

14      correct?

15      A     That is correct.

16      Q     So the only print that you compared was this print

17      right here?

18      A     Yes, sir.

19      Q     You didn't take another print of, say, anybody else

20      and say, maybe it could be this guy or maybe it could be

21      this guy?

22      A     No, sir.

23      Q     Look up on the screen there.

24            This is the print that was lifted that you

25      analyzed, correct?

1       A     That's correct.

2       Q     There are several lab materials that sort of  
3       inhibits your point analysis, is that correct? .

4       A     Yes, sir.

5       Q     For instance, you were not able to do a point  
6       analysis on the black parts there that were obscured,  
7       right?

8       A     That's correct.

9       Q     But you did an analysis on the parts that you  
10      could see, right?

11      A     That's correct.

12      Q     Could it be possible that some of the parts, like  
13      this part right there, could have something in there  
14      that doesn't match this print.

15            Is it possible?

16      A     It's possible.

17      Q     That is what I am getting at here. This is just  
18      you using your subjective standard to analyze this to  
19      that.

20      A     That's correct.

21      Q     You said something interesting in your direct  
22      examination. A lot of it you could have marked because  
23      they crossed each other. Please explain that to the  
24      jury.

25      A     So. We have -- the lines -- to show to the jury, I

1       cannot cross one line crossing the other one, because  
2       they will not see it. So some of the points there, I  
3       cannot mark this, because they will cross each other, or  
4       it will be too close to the other one.

5       Q     So basically, it's your decision on whether a  
6       characteristic print from a crime scene is similar to  
7       the one of the suspect. It's your subjective opinion,  
8       correct?

9       A     That is correct. It's an opinion.

10      Q     Nothing very scientific about subjectivity, is it?

11      A     That is correct. That is how fingerprints work?

12      Q     So fingerprints is not science?

13      A     I cannot answer you that.

14      Q     It's not objective. The very basis of scientific  
15      analysis is that it is objective, not subjective.

16      A     They call it a fingerprint science.

17      Q     It's not science?

18      A     They call it a fingerprint science.

19      Q     It's not science?

20      A     According to the Association of Identification, it  
21      would be a science.

22      Q     So according to some association, it's not science?  
23      Or it is science, you are saying?

24      A     It is science.

25      Q     The whole basis of scientific analysis, since the

1       scientific revolution of the 1700 hundreds is that it  
2       has to be objective; meaning, the measurement can't  
3       change. It's objective. It doesn't change. .

4             You are saying that this is a very subjective  
5       standard.

6             Is that what you are saying?

7       A     If you are talking about that black area there,  
8       yes.

9       Q     Yes. That is exactly what I am talking about.  
10       How can you call fingerprint analysis science?

11       A     You will have to talk to the Science Association  
12       about it.

13       Q     You don't know, do you?

14       A     I do know they call it a science, yes.

15       Q     Just because they call it a science, doesn't mean  
16       it is.

17             Did a peer reviewer go over this?

18       A     Yes, sir.

19       Q     Did that peer reviewer have any certifications?

20       A     Yes. She is a latent print examiner also.

21       Q     Is she accredited by the International Association  
22       of Identification?

23       A     No, sir.

24       Q     Is she SLED certified?

25       A     Yes, sir.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q Does she also work for the county?

2 A Yes, sir.

3 Q Do you know what her degree is in?

4 A I believe it's criminal justice.

5 Q So, again, your degree is from the International  
6 Junior College. You have got a diploma. You do not  
7 have a BA or a BS, correct?

8 A That's correct.

9 MR. SCHULTZ: That is all I have, Judge.

10 \* \* \*

11 REDIRECT EXAMINATION

12 BY MS. BROWN:

13 Q When you tested this latent print from the scene,  
14 did you know who the suspect was?

15 A No, ma'am.

16 Q When AFIS gives you matches, do you know who those  
17 people are?

18 A No, ma'am.

19 Q You don't pull those matches, correct, AFIS does?

20 A That's correct.

21 Q Based on the match that the computer gives you, you  
22 do further analysis of that print?

23 A That's correct.

24 Q You don't just look at the fingerprint like counsel  
25 says?



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           A     That's correct.

2           Q     You look at several points on a fingerprint, right?

3           A     Yes, ma'am.

4           Q     And how many points did you mark on this print?

5           A     I marked 17.

6           Q     If you didn't feel confident that these prints were  
7           the same, would you say conclusively that they were?

8           A     No, ma'am.

9           Q     And your findings are peer reviewed, correct?

10          A     Yes, ma'am.

11          Q     Did that peer reviewer agree with your findings?

12          A     Yes, ma'am.

13          Q     I know we talked about earlier certain prints being  
14          AFIS quality and certain prints not being AFIS quality.

15          A     Yes, ma'am.

16          Q     How is this print AFIS quality?

17          A     We have enough details for me to identify it and  
18          compare it to the other one. They are both whirls.  
19          Then you have several other points of identification for  
20          it.

21          Q     If you didn't feel this was an AFIS quality print,  
22          would you have even tested it?

23          A     No, ma'am.

24                MS. BROWN: No further questions.

25                MR. SCHULTZ: Just a couple more, Judge.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 \* \* \*

2 RECROSS-EXAMINATION

3 BY MR. SCHULTZ:

4 Q You said you just had enough. Is that what you  
5 just said?

6 A Yes.

7 Q So you had enough despite all these  
8 inconsistencies, smudges, black marks, and everything  
9 else, correct?

10 A Yes, sir.

11 Q That is enough for you?

12 A Yes, sir.

13 MR. SCHULTZ: That is all I have, Judge.

14 Thank you.

15 THE COURT: You may step down.

16 MS. BROWN: May she be excused, Your Honor?

17 THE COURT: She may be.

18 MR. SMITH: At this time, the State would rest.

19 (State rests its case.)

20 THE COURT: Ladies and gentlemen, that is all the  
21 testimony or other evidence offered by the State, at  
22 least in the case in chief.

23 Before we go forward, I have a couple of legal  
24 matters that I need to address with the lawyers. It  
25 should take only a few minutes, and we will come back

1           and continue.

2           Please go back to the jury room right now, but  
3           don't discuss the case. I will bring you back in just a  
4           few minutes.

5           (Whereupon, the jury exited the courtroom.)

6           THE COURT: Any matters that I need to address  
7           before we go forward?

8           MR. SCHULTZ: Yes, sir, Your Honor. At this time  
9           the defense would move for a directed verdict on all  
10          counts.

11          For the record, I would move for a directed  
12          verdict on all four counts. Burglary in the first  
13          degree, Count 1, for dwelling; Count 2, possession of a  
14          weapon during a violent crime; armed robbery; assault  
15          and battery 1st degree; and attempted murder.

16          Especially for attempted murder. The State  
17          alleges clearly in the indictment that the defendant,  
18          Dominick Antonio Thompson, did in Spartanburg County on  
19          or about November 24, 2016 --

20          THE COURT: Mr. Schultz, we are not going forward  
21          on attempted murder. We are going forward on the  
22          lesser-included offense of aggravated assault and  
23          battery.

24          MR. SMITH: That's correct. We agreed with that at  
25          the beginning of the trial.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           MR. SCHULTZ: Just to be sure, the Court granted  
2           directed verdict on attempted murder?

3           THE COURT: That has already been done during the  
4           last trial, as I understood it.

5           MR. SCHULTZ: So the jury will not consider  
6           attempted murder?

7           THE COURT: They will not. They will only be  
8           permitted to consider the lesser offense of assault and  
9           battery of a high and aggravated nature on that  
10          indictment.

11          MR. SCHULTZ: Your Honor, I believe as a matter of  
12          law, the State has not produced a sufficient amount of  
13          evidence, even in the light most favorable to the State,  
14          so I would ask for a directed verdict of not guilty on  
15          all counts.

16          THE COURT: Mr. Smith.

17          MR. SMITH: Your Honor, the crimes that have been  
18          testified to by the victims, obviously, they are  
19          burglary, with his prior record, in the nighttime, with  
20          a weapon, it's burglary first. There is testimony that  
21          Brandon Logan -- things were taken from him while he  
22          was he was staying at the Shaw Avenue House.

23          You have a co-defendant who said Dominick Thompson  
24          participated in this, as well as circumstantial evidence  
25          to show he did, as well as the two eyewitnesses that

1 identified him in court.

2 In the light most favorable to the State, it  
3 certainly should go to the jury.

4 THE COURT: There has been presented sufficient  
5 evidence considered in the light most favorable to the  
6 State that would tend to establish each of the essential  
7 elements necessary to prove the crime of burglary in the  
8 1st degree and possession of a weapon during the  
9 commission of a violent crime as it relates to Mr.  
10 Thompson.

11 Also, the same goes for the indictment charging Mr.  
12 Thompson with armed robbery, as well as for assault and  
13 battery of a high and aggravated nature on the  
14 indictment that alleges attempted murder, and also for  
15 the crime of assault and battery in the 1st degree as it  
16 relates to the indictment alleging Brandon Logan as the  
17 victim.

18 Based upon there being sufficient evidence for a  
19 jury's considerations, the motions for a direct verdict  
20 are denied.

21 What else?

22 MR. SCHULTZ: That is all I have Your Honor, at  
23 this time, Your Honor, as far as motions go outside the  
24 presence of the jury.

25 THE COURT: Have you talked to Mr. Thompson about

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 his right to testify as well as not?

2 MR. SCHULTZ: I have, Your Honor.

3 THE COURT: Has he indicated to you what his  
4 decision is?

5 MR. SCHULTZ: He has, Your Honor.

6 THE COURT: Mr. Thompson, have you and Mr. Schultz  
7 discussed your right to remain silent, as well as your  
8 right to testify if you want to?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you understand that when you are  
11 charged with a crime, you have an absolute right to  
12 remain silent, which means that nobody can call you as a  
13 witness?

14 MR. SCHULTZ: Yes, sir.

15 THE COURT: Your lawyer can't call you; the  
16 prosecutor can't call you; I can't call you. Nobody can  
17 make you testify if you don't want to.

18 At the same time, if you want to testify, now is  
19 the only opportunity that you will have to do so. In  
20 other words, you can't wait until after a decision has  
21 been reached by a jury and then change your mind about  
22 that decision.

23 Now has come the time for you to present evidence.  
24 You can do that by presentation of your own testimony,  
25 or, if you choose not to testify, you can still call

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1       other witnesses or introduce other evidence. The choice  
2       is yours.

3             Have you had time to talk to Mr. Schultz about your  
4       decision about whether or not you will testify?

5             THE DEFENDANT: Yes, sir.

6             THE COURT: Has he discussed with you the  
7       advantages and disadvantages of testifying as well as  
8       not testifying?

9             MR. SCHULTZ: Yes, sir.

10            THE COURT: Do you appreciate what those advantages  
11       and disadvantages are?

12            THE DEFENDANT: Yes, sir.

13            THE COURT: Do you understand that if you elect not  
14       to testify, I will instruct the jury that they cannot  
15       consider that or hold it against you in any way?

16            THE DEFENDANT: Yes, sir.

17            THE COURT: And if you do testify, you have to  
18       answer not only your lawyer's questions, but you have  
19       also got to answer any questions posed to you by the  
20       prosecutor, to the extent they are relevant, even if the  
21       responses to those questions might tend to prove your  
22       guilt?

23            Do you understand your right to testify as well as  
24       not?

25            THE DEFENDANT: Yes, sir.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           THE COURT: Have you had time to reflect upon your  
2           decision?  
3           MR. SCHULTZ: Yes, sir.  
4           THE COURT: Have you reached a decision?  
5           THE DEFENDANT: Yes, sir.  
6           THE COURT: What is that decision?  
7           THE DEFENDANT: I will not testify.  
8           THE COURT: You will not testify?  
9           THE DEFENDANT: No, sir.  
10          THE COURT: Is that a decision that you made of  
11          your own free will and accord?  
12          MR. SCHULTZ: Yes, sir.  
13          THE COURT: Has anybody forced you into it?  
14          THE DEFENDANT: No, sir.  
15          THE COURT: Has anybody pressured you into it?  
16          THE DEFENDANT: No, sir.  
17          THE COURT: Has anybody even suggested that that is  
18          the decision that you ought to make in this case?  
19          THE DEFENDANT: No, sir.  
20          THE COURT: You made that decision on your own?  
21          THE DEFENDANT: Yes, sir.  
22          THE COURT: You are satisfied with it?  
23          THE DEFENDANT: Yes, sir.  
24          THE COURT: Do you have any other witnesses you  
25          want Mr. Schultz to call?



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right.

3 MR. SCHULTZ: Thank you, Judge.

4 THE COURT: All right. Are we ready for the

5 jury?

6 THE COURT: Do you have your first witness here?

7 MR. SCHULTZ: I do, Your Honor.

8 MR. SMITH: Your Honor before, the jury comes

9 back, we might can do this in a group. Almost all of

10 these have prior records. If we can have a discussion?

11 About what is going to come in prior to bringing the

12 jury Ackee in. Maybe we can do it individually.

13 MR. SCHULTZ: I have no objection to that.

14 THE COURT: Okay. Who is your first witness?

15 MR. SCHULTZ: The first witness is going to be

16 Demitrius Stevenson.

17 THE COURT: Do you have a history on Stevenson?

18 MR. SMITH: She does, Your Honor.

19 THE COURT: What would you offer?

20 MR. SMITH: She has a 2011 and 2013 shoplifting. I

21 will look to see if she has anything else, but those are

22 certain. She has some prior convictions that I don't

23 believe are admissible.

24 THE COURT: Do you want to ask her about the

25 shoplifting convictions?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 MR. SMITH: If Mr. Schultz doesn't.

2 THE COURT: Do you agree that those are admissible,  
3 Mr. Schultz?

4 MR. SCHULTZ: I do, Your Honor.

5 THE COURT: Next witness.

6 MR. SCHULTZ: Sherill Mills.

7 THE COURT: Do you have a record on Sherill Mills?

8 MR. SMITH: Yes. She has a 2020 shoplifting that  
9 we would seek to introduce.

10 THE COURT: That is appropriate, as long as this  
11 would be within ten years.

12 MR. SMITH: Yes. That is the State's position.

13 THE COURT: Okay. Next witness, Mr. Schultz.

14 MR. SCHULTZ: LaToya Thompson.

15 THE COURT: Mr. Smith.

16 MR. SMITH: She has a 2011 shoplifting; 2016  
17 malicious injury. I am not sure if that is a dishonesty  
18 crime.

19 She had a pending shoplifting at the time of the  
20 last trial. I am waiting to get a response on whether  
21 that has been adjudicated yet.

22 THE COURT: You are just going to ask her about the  
23 shoplifting?

24 MR. SMITH: Yes, sir. I don't believe malicious  
25 injury goes to truthfulness.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 THE COURT: Has that case been disposed of, Mr.

2 Schultz?

3 MR. SCHULTZ: I can talk to her, Your Honor, if I  
4 can have a couple of minutes.

5 MR. SMITH: She pled guilty in January of  
6 2019, Your Honor.

7 MR. SCHULTZ: My witness says that it originally  
8 was an enhancement, but it went downstairs to transfer  
9 court. I am not sure.

10 THE COURT: It's a conviction of shoplifting?

11 MR. SCHULTZ: She said she paid a fine, Your Honor.  
12 I am not sure of the year.

13 MR. SMITH: January 23, 2019.

14 THE COURT: Who is the next witness?

15 MR. SCHULTZ: Detria Mills.

16 THE COURT: Mr. Smith.

17 MR. SMITH: She has a 2016 shoplifting. She has  
18 three other shopliftings that are outside of the  
19 ten-year rage. In light of the fact that she has one  
20 shoplifting, I don't think it would be unduly  
21 prejudicial to introduce this prior, but certainly the  
22 2016 --

23 THE COURT: When was the most recent?

24 MR. SMITH: 1998.

25 THE COURT: Most recent?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 MR. SMITH: 2016.

2 THE COURT: What was the next most recent prior to  
3 that?

4 MR. SMITH: 1998 substantially.

5 THE COURT: Go with the most recent. Who is the  
6 next witness?

7 MR. SCHULTZ: I don't have anymore.

8 THE COURT: Those four?

9 MR. SCHULTZ: Yes, sir.

10 THE COURT: They may be asked whether or not they  
11 have been convicted of shoplifting.

12 MR. SMITH: Just to confirm, Ditria Mills, 2016  
13 shoplifting; Stevenson, 2011 and 2013 shoplifting;  
14 Sherill Mills, 2010 shoplifting; LaToya Thompson, 2011,  
15 and, most recently, 2019 shoplifting.

16 At least that is what my notes indicate.

17 THE COURT: That is correct.

18 Are we ready for the jury?

19 MR. SMITH: Yes, sir.

20 MR. SCHULTZ: Thank you, Judge.

21 THE COURT: We will be at ease for 10 minutes.

22 (Whereupon, a recess was held.)

23 (Whereupon, the following proceedings were  
24 held in open court. The defendant was  
25 present with his attorney, along with

1           counsel for the State.)

2           THE COURT: The bailiff has told me that Juror  
3           Number 61 stated that he recognized a person in the  
4           courtroom who Mr. Schultz has indicated is to be a  
5           witness in the trial of this case. The juror stated to  
6           me in chambers -- I have discussed it with him privately  
7           with the consent of counsel -- he stated to me that he  
8           did not recognize or remember the name of the witness  
9           being called when each of the potential witnesses was  
10          introduced prior to jury selection; that he did not  
11          recall her being in the courtroom at the time that the  
12          witnesses were announced.

13          It was not until recently, this morning, shortly  
14          afternoon perhaps, that he recognized the witness here  
15          in the courtroom. That is why he contacted the bailiff,  
16          to let him know that he did know a person sitting behind  
17          Mr. Schultz on that side of the courtroom. He did not  
18          know whether or not she was witness, but he did  
19          recognize the person sitting back there. He recognized  
20          -- and he gave us her name, also.

21          So I talked to the juror about any connection he  
22          might have with that individual, that is Ms. Diameters  
23          Stevenson. He stated that he was distantly related to  
24          her on his mother's side; therefore, he did have a  
25          family connection with her, although he did not have any

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           recent social interaction with her.

2           Does the State have a position as to the juror  
3           being excused for cause?

4           MR. SMITH: Your Honor, the State would ask that he  
5           be excused. That name was read off of the witness that  
6           is on Mr. Schultz' witness list. The State would have  
7           struck him. We didn't use any of our preemptory strikes  
8           in the jury selection process, and we would have had the  
9           ability to strike him.

10          Given the defense based off of the last trial and  
11          how that defense has been raised, we think he might have  
12          actual knowledge that could corroborate this  
13          Thanksgiving get-together that is more than likely going  
14          to be alleged, whether that is a family tradition.

15          If she does -- the prior testimony with Dimitrius  
16          and the women is that they are all family, so we worry  
17          in a way that he is connected to all of the people who  
18          are going to be testifying.

19          While we appreciate his honesty in bringing it  
20          forward and saying that it won't impact him, I would  
21          have struck him over that belief in jury selection.

22          THE COURT: Mr. Schultz.

23          MR. SCHULTZ: I do appreciate his honesty, and I  
24          think the juror has been forthcoming with the Court;  
25          however, at the same time, Your Honor, if the Court

1 would consent to the parties to talk to the juror, I  
2 believe he did honestly state the true facts here.

3 He said that he hasn't -- I believe the Court said  
4 -- that he hasn't seen Diameters Stevenson in ten years  
5 or so. He doesn't have to what I would perceive to be a  
6 close social contact or any kind of close familial  
7 relationship with Dimitrius Stevenson.

8 So I will disagree with Mr. Smith. I think he made  
9 a comment to the Court that he can still be impartial  
10 and fair in the adjudication of this case. So I think  
11 he should be kept on the jury.

12 We provided a witness list Monday morning. I think  
13 the Court was very clear. The Court clearly said,  
14 Dimitrius Mills, Ditria Stevenson. I recall the Court  
15 clearly emphasising that name. So I don't think he  
16 should be excluded from the jury.

17 Thank you.

18 THE COURT: The comments made by Mr. Schultz that  
19 were attributed to the juror made to me are accurate, as  
20 I provided that information to counsel; however, I have  
21 some concerns about the juror's ability to continue to  
22 serve and to be fair and impartial and to follow the  
23 instructions of the Court for a number of reasons, not  
24 the least of which is that he did not apparently hear or  
25 recognize her name at the time that it was called out,

1       even though he clearly knows that he is related to her  
2       and has told us that he is, in fact, connected with her  
3       by family on his mother's side.

4               He did not provide that information to the Court at  
5       the time that jury selection took place. I think it is  
6       credible, as Mr. Smith has stated, that had he had that  
7       information, he certainly would not have accepted his  
8       service as a juror in the case based upon the fact that  
9       he has a family connection with one of the witnesses who  
10      will be testifying to provide an alibi for the  
11      defendant. Part of that alibi, apparently, is that they  
12      were at a family gathering.

13             Therefore, as Mr. Smith said, it could be likely  
14      that he is connected with other members that were also  
15      at that same family gathering. It would seem that there  
16      could be a distinct possibility that that family  
17      connection could have a bearing upon his ability to be  
18      fair and impartial, notwithstanding his statement to the  
19      contrary; however, it is credible, as I have stated,  
20      that Mr. Smith would not have accepted him to serve and  
21      would have used one of his challenges to strike that  
22      juror from the panel had he had the information that we  
23      now have.

24             Based upon those circumstances, I do find that it's  
25      appropriate to remove Juror 61 from any further



1 participation. We will substitute an alternate for his  
2 place. Each of you are aware -- as to the alternate  
3 jurors, do you have a preference as to whether or not  
4 you wish to accept the first alternate selected or  
5 whether you would prefer to have one of the alternates  
6 selected by lot to become the 12th juror?

7 Does the State have a preference?

8 MR. SMITH: I do not have a preference.

9 THE COURT: Does the defense have a preference?

10 MR. SCHULTZ: I don't have a preference, Judge.

11 THE COURT: Then do you all agree to take the first  
12 alternate?

13 MR. SMITH: That's fine with me, Your Honor.

14 MR. SCHULTZ: That will be fine with the defense,  
15 Your Honor.

16 THE COURT: So Ms. Coleman will be the 12th juror  
17 now.

18 Do you have a witness that will take 20 minutes or  
19 no?

20 MR. SMITH: I think so, Judge.

21 THE COURT: Okay. Bring the jury back, please.

22 (Whereupon, the jury entered the courtroom.)

23 THE COURT: Ladies and gentlemen, thank you for  
24 your patience. Something unknown and unforeseen by the  
25 Court has arisen that has required that one of your

1        fellow jurors should be excused from any further  
2        participation. That means that Juror 32, Ms. Coleman,  
3        will now become the 12th juror instead of being an  
4        alternate juror.

5                Ms. Edwards, you will continue as an alternate  
6        juror in the event one of these 12 are unable to  
7        continue to serve.

8                We are now going to proceed with any additional  
9        evidence provided by the defense.

10               Mr. Schultz.

11               MR. SCHULTZ: Thank you, Your Honor.

12               The defense will call Dimitria Stevenson to the  
13        stand.

14                                \* \* \*

15                                DIMITRIA STEVENSON,  
16                called as a witness by and on behalf of  
17                the State to testify, being first duly  
18        sworn was examined and testified as follows:

19                                \* \* \*

20                                DIRECT EXAMINATION

21 BY MR. SCHULTZ:

22        Q        Good afternoon.

23        A        Good afternoon.

24        Q        Please state your name for the record.

25        A        Dimitria Stevenson.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q Do you know my client, Dominick Thompson?

2 A I do.

3 Q How do you know Mr. Thompson?

4 A I have been knowing him forever. Me and his mom  
5 are best friends. I have been knowing him for a long  
6 time.

7 Q Are you related to Dominick?

8 A I am not.

9 Q But you have known him for quite some time; right?

10 A Yes, sir.

11 Q You and his mother are best friends?

12 A We are.

13 Q Have you ever been in trouble before?

14 A I have.

15 Q Do you have 2011 and 2013 shoplifting convictions?

16 A I do.

17 Q This was a long time ago, but at the same time, I  
18 wanted to let you know about this.

19 Do you remember Thanksgiving of 2016?

20 A I do.

21 Q Briefly explain what you did the night before and  
22 also the morning of Thanksgiving 2016?

23 A I had already prepared my meal for Thanksgiving, I  
24 had called Dominick's momma and asked her what she was  
25 doing. She said she was at LaToya's house -- that is

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 her daughter -- on Alexander. I told her I was going to  
2 go over there.

3 Q Where was over there? What address?

4 A Alexander.

5 Q Do you know the number of the address there?

6 A I don't know the number. I can't remember.

7 Q Whose house was it?

8 A LaToya's.

9 Q Okay.

10 A I told her I was going to come over there. She  
11 said to come on. It was around about like 12:00, 12:15,  
12 somewhere around in there.

13 When I got there, I knocked on the door, and  
14 Dominick opened the door. I asked him where his momma  
15 was. He pointed toward the kitchen. I went in the  
16 kitchen. They were like cooking and stuff, like --  
17 doing different stuff, cleaning up.

18 Q Sorry to interrupt you. You clearly said that  
19 Dominick opened the door, right?

20 A Right.

21 Q You don't remember the exact time, but you knew --

22 A I know it was after 12:00. It was 12:15, somewhere  
23 around there.

24 Q This was LaToya's house, correct?

25 A Uh-huh.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           Q     When you say "they," just explain to the jury, who  
2           they are?

3           A     . It was Dimitrius, her daughter, Sherill, LaToya was  
4           in there. It was a couple more peoples in there. I  
5           ain't --

6           A     It was Dimitrius, LaToya, Sherill, and a couple  
7           more peoples standing in there.

8           Q     This was 12:00 to 12:15 a.m.

9           A     Am. Very early Thanksgiving Day.

10          Q     This was later at night going into early in the  
11          morning. The question I have for you is, why did you  
12          prepare Thanksgiving Day dinner and all the things that  
13          go with that that early in the morning?

14          A     That is what we do. It don't matter what time of  
15          day or night or whatever. If it's late or whatever,  
16          that is what we do.

17          Q     Would it be safe to say that it's a tradition?

18          A     Kind of sort of. Yes.

19          Q     Is that the normal thing that you and friends and  
20          family do?

21          A     Since I met her, yeah.

22          Q     How long have you been doing that?

23          A     I have been doing it forever. When I met her, it's  
24          like over 20-plus years. A long time.

25          Q     Dimitria, how long were you there at LaToya's

1 house?

2 A I stayed there about -- we was in the kitchen and  
3 stuff. I had gotten -- I went to the living room.  
4 Dominick was playing with the kids and his little  
5 sister. It was maybe like 1:30, somewhere around in  
6 there. I told Dimitria I was getting ready to go.

7 When I said that, I guess Dominick said, I am  
8 leaving too. Me and him left out the door together. I  
9 got in my car, and I left.

10 Q You don't know anything else after that?

11 A Uh-uh.

12 Q Did you go back to the residence at any other time  
13 that night?

14 A Uh-uh. I went the next day.

15 Q Is that -- did you have Thanksgiving Day dinner at  
16 LaToya's house as well?

17 A I ate at my house. My family came over to my  
18 house. After I got done finished doing what I was doing  
19 at my house, I went to LaToya's house.

20 Q Pretty clearly, you remember right in there around  
21 12:00, 12:15, and you left around 1:30, and you remember  
22 Dominick Thompson being there all throughout that time,  
23 right?

24 A Yeah. He never left. He left when I did, Dominick  
25 did. We left at the same time.

1 MR. SCHULTZ: That is all I have, Your Honor.

2 Thank you.

3 . \* \* \*

4 CROSS-EXAMINATION

5 BY MR. SMITH:

6 Q When did you find out that Dominick Thompson was  
7 wanted by the police?

8 A A couple of days later. His momma had called me.

9 Q Do you know which day?

10 A I can't recall.

11 Q Within a week or --

12 A It was a couple of days, two or three days. She  
13 told me, and I said, "Ain't no way."

14 Q That was the first time that you thought it was  
15 important to remember when you got to the house and when  
16 Dominick had left?

17 A He was there the whole time that I was there.

18 Q I get that. But why would it be important about  
19 what time you got to the house and what time you left in  
20 an average day?

21 A It wasn't important.

22 Q Agreed.

23 When did you arrive and leave last year's  
24 get-together?

25 A Last Thanksgiving?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q Yes.

2 A I got there close to 12:15, 12:30.

3 Q Last year?

4 A 2016. Oh. Last year?

5 Q Yes.

6 A About the same time. That is what we do.

7 Q You always show up at 12:15, and Dominick is always

8 there?

9 A I don't always show up at 12:15. It was just that

10 night and that year.

11 Q So what time did you show up last year?

12 A It was earlier than 12:00.

13 Q What about the year before that, in 2017?

14 A It might have been earlier than that, like 10:00.

15 Q What I am asking you is, you don't have any reason

16 to think that this time is important until multiple days

17 after the Thanksgiving get-together, right?

18 A It's not like that. We don't sit around and plot a

19 time on certain stuff.

20 Q Right. Because it's not important when you arrive

21 at her house, right?

22 A Yeah.

23 Q So you agree this was not an important thing to

24 remember until multiple days after?

25 A No. When she called me and told me that they



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1       picked Dominick up, that is when I asked her for what,  
2       and she was telling me. I said, "Ain't no way that they  
3       could have picked him up for that. He was there."

4       Q     You are talking about when he got picked up?

5       A     Yeah. That's what you said.

6       Q     I asked when did you find out he was wanted?

7       A     Not until a couple of days later when she called  
8       me.

9       Q     So the first time you found out about Dominick is  
10      when he was arrested?

11      A     No. When she called me.

12      Q     And she said that he is wanted?

13      A     Yeah.

14      Q     So finding out that he was wanted and not in  
15      custody was several days after Thanksgiving?

16      A     Yes.

17      Q     Are there normally men at this event, or is this  
18      mostly a female event?

19      A     It's female, but mens there too. They eat. They  
20      don't stay. They don't cook. We do the cooking.

21      Q     I would expect so. Did Dominick cook?

22      A     Some mens cooks too.

23      Q     Were there any other men, other than Dominick  
24      there?

25      A     Yeah.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q Who?

2 A My friend was there.

3 Q Does your friend have a name?

4 A He does.

5 Q What is his name?

6 A Paul.

7 Q Paul what?

8 A Parks.

9 Q Does Paul cook?

10 A No.

11 Q Was he in the kitchen?

12 A No.

13 Q When did he arrive?

14 A I called him, so, really, he didn't, like, stay. I

15 called him.

16 Q Did you see how Dominick left?

17 A No, I didn't.

18 Q You walked out together with him?

19 A Yeah, but I didn't see how he left.

20 Q Was he going towards the car?

21 A Pretty much.

22 Q You said this is Alexander Avenue or Street?

23 A Yes. Street.

24 Q Where is that, generally, in Spartanburg?

25 A By Converse Street.

- 1 Q Close to the downtown area?
- 2 A Kind of.
- 3 Q Do you know Makayla Richard?
- 4 A I don't.
- 5 Q Do you know Daniel Krind?
- 6 A I don't.
- 7 Q Do you know April Richard?
- 8 A No.
- 9 Q Christine Richard?
- 10 A I don't.
- 11 Q Summer Hall, Summer Donahoo?
- 12 A No, sir.
- 13 Q When Dimitrius called you and told you about this,
- 14 did she tell you anything? What did she tell you about
- 15 what had happened?
- 16 A She really didn't tell me nothing. She said they
- 17 picked up Dominick and she was waiting for him to call.
- 18 Q When you say picked up -- there is a difference
- 19 between warrants being signed and somebody being in
- 20 custody. Are you saying she called you when Dominick
- 21 was picked up, or when she found out that they were
- 22 looking for him?
- 23 A She called me on several occasions. When he was
- 24 wanted and when they picked him up, she called me then.
- 25 Q Does Dominick cook?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           A     I ain't never seen him cook.

2           Q     What was the purpose of him being there?

3           A     He was assisting his momma -- family.

4           Q     Was his other brother there?

5           A     He was at work.

6           Q     Does he have any other siblings that were not  
7           there?

8           A     That is it.

9           Q     How did you know what time it was?  What did you  
10          look at to tell?

11          A     My watch.  I always look at my watch.  When I was  
12          leaving the house, getting out, whatever, it don't  
13          matter.

14          Q     You said it's not important to remember times  
15          normally, right?

16          A     It's not important, but I will still look.

17          Q     You don't necessarily retain that information?

18          A     Uh-uh.

19                MR. SMITH:  That is all I have.

20                               \* \* \*

21                               REDIRECT EXAMINATION

22  BY MR. SCHULTZ:

23          Q     You said that the woman do most of the cooking for  
24          Thanksgiving?

25          A     We do.

1 Q I think we all can agree on that.

2 MR. SCHULTZ: Thank you. Nothing further.

3 THE COURT: We are going to break for lunch.

4 Remember my caution that was previously provided.

5 No discussion. No research. No investigation. No  
6 media exposure.

7 Have a good lunch. Report back at 2:30 this  
8 afternoon.

9 (Whereupon, the jury exited the courtroom.)

10 (Whereupon, the following proceedings were  
11 held in open court. The defendant was  
12 present with his attorney, along with  
13 counsel for the State.)

14 THE COURT: Any matters to address before the jury  
15 is brought in?

16 MR. SMITH: Not from the State.

17 MR. SCHULTZ: None for the defense.

18 (Whereupon, the jury entered the courtroom.)

19 THE COURT: Good afternoon. We are going to  
20 continue with the defense's presentation.

21 MR. SCHULTZ: Thank you, Your Honor.

22 May it please the Court, we call Sherill Mills.

23 \* \* \*

24 SHERILL MILLS,

25 called as a witness by and on behalf of

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           the State to testify, being first duly  
2           sworn was examined and testified as follows:

3                               \* \* \*

4                               DIRECT EXAMINATION

5 BY MR. SCHULTZ:

6           Q     Good afternoon.

7           A     Good afternoon.

8           Q     Please state your name for the record.

9           A     Sherill Mills.

10          Q     Ms. Mills, where do you live right now?

11          A     415 Aspen Creek Circle, Apartment 304.

12          Q     Do you know my client, Dominick Thompson?

13          A     I do.

14          Q     How do you know him?

15          A     That is my brother.

16          Q     You have obviously known him all your life,  
17               correct?

18          A     Yes.

19          Q     Do you remember what happened Thanksgiving Eve  
20               going into Thanksgiving morning in 2016?

21          A     I do.

22          Q     Tell the jury what your recollections are from that  
23               evening and also going into that morning.

24          A     Basically, prepping for Thanksgiving on the 24th  
25               -- the 23rd of November. I got up and met my mom and my

1           sister at [REDACTED] Alexander Drive. We talked about the  
2           last-minute things, errands, what we need to provide  
3           food for Thanksgiving the next following day.  
4           I was in and out, back and forth making errands for  
5           the next day.  
6           Q     The address on -- this was Alexander?  
7           A     [REDACTED] Alexander Drive.  
8           Q     Whose house is that, Sherill?  
9           A     My sister, LaToya Thompson.  
10          Q     Would you say this is a Thanksgiving tradition?  
11          A     Yes. It's a family function that we come together  
12          every year and do.  
13          Q     Why do you do it so late in the night and so early  
14          in the morning?  
15          A     During the morning, evening, we was, like I said,  
16          making last-minute runs. It's just something that we  
17          always did and do still to this day. Just gradually  
18          spend time with each other. It's basically a family  
19          tradition.  
20          Q     Early in the morning, that night were you -- that  
21          morning, were you given any specific tasks, as far as  
22          food preparation or anything?  
23          A     Yes. I went to the store a couple of times and  
24          grabbed a couple of things. I helped around the house,  
25          as far as cleaning up and setting everything up for the

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 next day.

2 Q Do you remember Dominick there that night?

3 A He came that night, yes.

4 Q This is two-and-a-half years ago. Your memory may  
5 not be as clear as it was then, but how can you be so  
6 sure that Dominick was there?

7 A I have a child myself. At the time, my child was  
8 three. Of course, he can't tend to himself. With that  
9 being said, I had to go back and forth watching him and  
10 continue following up with the prepping.

11 Q Explain that a little bit more. Was Dominick with  
12 your child?

13 A Yes. He was actually in the living room with my  
14 child.

15 Q Do you remember the times that you saw Dominick  
16 there?

17 A Yes.

18 Q Tell the jury what the times were.

19 A Dominick came around 11:45, 12:00, somewhere around  
20 that time.

21 Q DO YOU REMEMBER WHEN HE LEFT, SHERILL?

22 A I believe he left a little bit after 1:30ish.  
23 Also, Dimitria left as well.

24 Q He left at the same time that Dimitria left?

25 A Yes. He left before her.



## State of South Carolina v. Dominick A. Thompson -- 2016A4210203988, -993

- 1 Q Sherill, you are sure about that, right?
- 2 A I am positive.
- 3 Q Your Thanksgiving tradition, did you continue that
- 4 in 2017?
- 5 A Yes. At the time, we had it at [REDACTED] Lincoln Drive.
- 6 In 2018 as well.
- 7 Q What is [REDACTED] Lincoln Drive? Who lives there?
- 8 A That is my mother-in-law's.
- 9 Q This year in a couple of months you will do the
- 10 same thing?
- 11 A Yes, sir. In God's grace.
- 12 Q Sherill, do you have anything to gain by offering
- 13 testimony here today?
- 14 A I sure don't.
- 15 Q Now, were you convicted back in 2010 for
- 16 shoplifting?
- 17 A Yes, I was.
- 18 Q You are Dominick's sister, right?
- 19 A That's correct.
- 20 Q Do you love Dominick?
- 21 A I do.
- 22 Q Would you lie for him?
- 23 A I wouldn't.
- 24 Q Why wouldn't you lie for him?
- 25 A Why wouldn't I?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q Yes.

2 A Because, I just put my right hand on the Bible and  
3 said that I would tell the truth, the whole truth, and  
4 nothing but the truth. Not only that, I am a woman of  
5 God. The truth shall set you free. I don't feel like I  
6 need to lie about anything.

7 Q All right.

8 MR. SCHULTZ: That is all I have, Your Honor.  
9 Thank you, Sherill.

10 \* \* \*

11 CROSS-EXAMINATION

12 BY MR. SMITH:

13 Q What time did you meet up with your mom and LaToya?

14 A That night I got to [REDACTED] Alexander Drive around  
15 between 9:00 and 10:00.

16 Q In the morning?

17 A Yes.

18 Q Of the 23?

19 A 23 of November.

20 Q Talking about prepping and running errands and all  
21 of that, that was from 9:00 to 10:00, so all the way  
22 until at least 1:00 in the morning you were working for  
23 Thanksgiving?

24 A No. 1:00 I was done. I was up socializing with my  
25 family and cleaning up a little bit from what we messed

1 up from prepping.

2 Q Did you stay at Alexander Avenue or running errands  
3 from 9:00 to 10:00?

4 A I would say I got done about 6:00 running my  
5 errands. From 6:00 until the next following morning.

6 Q Can you describe what this house looks like. Do  
7 you come into the living room? Come into the kitchen?  
8 How does one enter this house?

9 A I have a living room, and then you go into the  
10 kitchen. Yes.

11 Q And can you see the front door from the kitchen  
12 area?

13 A Yes.

14 Q How did you know what time it was when Dominick  
15 walked in?

16 A How did I know what time it was? Because we was  
17 cooking. When you cook, time is very important.

18 Q Time for how long --

19 A Yes.

20 Q Time for how long the food has been in or how long  
21 Dominick has been in the house?

22 A That as well.

23 Q I understand the importance of timers when you are  
24 cooking. What is the importance of when Dominick shows  
25 up to the house?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           A     What do you mean?

2           Q     Why is it important for you to take note of when  
3           Dominick walked into the house?

4           A     It was important because -- when my mom basically  
5           gave me the news, I was like, there is no way that he  
6           could have been involved.

7           Q     When did your mom give you the news?

8           A     She gave me the news when her next-door neighbors  
9           had told her that the police had been there. I believe  
10          the following next day, the 24, if I am not mistaken.

11          She said the next-door neighbors said that the  
12          police had been there had been there looking for him.

13          I said, how is that possible? Whatever they told  
14          her or whatever, I was, like, he was with us. I don't  
15          understand it.

16          Q     Did you communicate with Dominick from the time you  
17          found out he was wanted until he was arrested?

18          A     I did not.

19          Q     Do you know where he was?

20          A     I did not.

21          Q     Do you know when he was arrested?

22          A     I did not.

23          Q     That was not important to you, when your brother  
24          got arrested?

25          A     I was notified by my mother. I have a life too as

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 well. Like I mentioned earlier, I have a child. I had  
2 a job to go to. I had my life going on as well. That  
3 was important to me. That is my brother. He has been  
4 falsely accused. Why wouldn't it be important to me,  
5 Spencer?

6 Q You don't remember when he got arrested? You  
7 remember Thanksgiving, but you don't remember when he  
8 was arrested?

9 A I don't. The only thing I can tell you, Spencer,  
10 is that I know it was a couple of days later. The time  
11 that the police came or the date that the police came, I  
12 cannot share that information with you, because I don't  
13 know.

14 Q Did I understand from your direct that you were at  
15 the Alexander Avenue house when Dominick showed up?

16 A I was.

17 Q How did he get there?

18 A I have no clue. When he came in the front door --  
19 he has to come around. He was at the doorstep. The  
20 door squeaked like any other door, so you know when  
21 someone is walking in. Of course, he spoke.

22 Q He came in and said hey to everyone?

23 A Yeah. He spoke.

24 Q Did anyone else come in with him, or was he alone?

25 A No. He was with his girlfriend.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q Who is his girlfriend?

2 A Tiara.

3 Q Did they tell you where they had been or how they

4 had arrived there?

5 A No. I didn't feel like it was a necessary question

6 to ask at that point.

7 Q Did Dominick have a car at the time?

8 A He did not.

9 Q Did his girlfriend have a car at the time?

10 A I believe she did.

11 Q Did you -- whenever you went in and out, did you

12 see --

13 A I didn't go out after 6:00. Like I said, between

14 9:00 to 10:00 to 6:00, those was the time that I ran my

15 errands.

16 But 6:00, so forth, is the time that I was in there

17 enjoying time with my family and doing what I needed to

18 do as far as prepping for the next day.

19 Q Did his girlfriend stay there the entire time that

20 he was at the house?

21 A Yes.

22 Q Did she leave with him?

23 A Yes.

24 Q But you don't know where they went?

25 A I do not.

1 Q Where was he living at the time of this?

2 A I don't know the address.

3 Q Do you know roughly where it was?

4 A The west side of town, I believe.

5 Q Was he living with his girlfriend?

6 A Yes.

7 Q You don't have anything to gain by testifying here

8 today. You don't think your testimony is beneficial to

9 your brother?

10 A As I said to Joshua Schultz, I am a woman of God.

11 I know if I tell the truth today, it should set him

12 free. I don't have anything to gain from this at all.

13 Q Okay.

14 A I just swore my hand on a holy Bible.

15 Q What was the purpose of Dominick coming over there?

16 Did he help with cooking?

17 A No. It's a family tradition. It's something we do

18 every year. Every year people in and out, come and go.

19 Every year.

20 Q Let's talk about people coming and going. Who else

21 was there coming and going?

22 A A couple of us was running errands, coming and

23 going.

24 Q Be as specific as you can, this is very important.

25 A Yes, I know.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q Who came in and who left?

2 A Me and my mom, Toya, Dominick and his girlfriend  
3 was running errands as well.

4 Q When was that?

5 A This was earlier that day, earlier that morning.

6 Q So Dominick was at the house before --

7 A No, he wasn't. When I seen Dominick come in,  
8 Dominick came in around 11:45, 12:00.

9 Q I confused. You said Dominick was running errands  
10 and you saw him earlier.

11 When are you referring to?

12 A I never said I saw him earlier. I said he was  
13 running errands and phone communications. We talk and  
14 say who came and what. That is how I know that, sir.

15 Q You hadn't physically seen Dominick on the 23 until  
16 11:45, but you knew he was out running errands?

17 A Correct.

18 Q What errands was he running?

19 A He was going to the grocery store or just picking  
20 up little items that we needed for the family tradition.

21 Q Who was he with and whose car?

22 A He was in his girlfriend's car. I am expecting  
23 for him to be in his girlfriend's car. They was together.

24 Q Right. His girlfriend was at LaToya's house?

25 A Yes. With him.



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q You said you had LaToya, your mom, Dimitria came.

2 Who else came?

3 A Dimitria came after Dominick. As far as her  
4 running errands, I think she did it with her side of the  
5 family. She cook as well. She has a big family as  
6 well. She usually just come over, talk and chat with  
7 us.

8 Q Who else? You said there were people in and out.

9 Who else?

10 A People as in us, our immediate family.

11 Q The same players we are talking about? Dimitria?

12 A Correct.

13 Q You, LaToya, Dimitria. What about Paul?

14 A Paul came in after Dimitria. I don't know him too  
15 well. I just know that he is a good friend of Dimitria.

16 Q Do you know when he arrived?

17 A He came after Dimitria.

18 Q Do you know when he left?

19 A I do not.

20 Q He didn't leave with Dimitria?

21 A I am not sure.

22 Q Is he connected to anyone else in that house, other  
23 than Dimitria?

24 A He is not.

25 Q When is the first time you remember talking to

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Dominick on the 23?

2 A When he came in and spoke to everyone.

3 Q So the cell phone communication, running errands,  
4 that was not --

5 A It was not me communicating with Dominick and  
6 Tiara. It was my mom communicating with Dominick and  
7 Tiara. She basically translated and told me what to get  
8 because of this.

9 Q So you were running errands separate from Dominick  
10 while Dominick was running errands all for Thanksgiving?

11 A Correct.

12 Q Does Dominick have any other siblings?

13 A Yes.

14 Q Lou or Timothy? Was he there?

15 A Lou was at his girlfriend's house with his kids.

16 Q So he was not at work?

17 A My other brother was at work.

18 Q Who is the other brother?

19 A Brandon Thompson.

20 Q You keep adding brothers.

21 A It's a big family. Six kids.

22 Q Brandon, Timothy --

23 A LaToya Thompson; Dominick Thompson; Brandon  
24 Thompson; I, Sherill Mills; Timothy Mills; and Toriana.

25 Q Did Brandon come by?

State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           A     Brandon was at work.

2           Q     Brandon was at work, and Timothy was with his  
3     girlfriend?

4           A     Correct.

5           Q     Thank you.

6           MR. SMITH: Nothing further.

7           THE COURT: Step down.

8           MR. SCHULTZ: Defense will call LaToya Thompson.

9                                 \* \* \*

10                                LATOYA THOMPSON,

11                                called as a witness by and on behalf of

12                                the State to testify, being first duly

13                                sworn was examined and testified as follows:

14                                \* \* \*

15                                DIRECT EXAMINATION

16   BY MR. SCHULTZ:

17           Q     LaToya, good afternoon.

18           A     Good afternoon.

19           Q     Please state your full name for the record.

20           A     LaToya Thompson.

21           Q     Do you know my client, Dominick Thompson?

22           A     I do.

23           Q     Are you related to him?

24           A     I am his older sister.

25           Q     You have obviously known him all of his life.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           A     All of his life.

2           Q     I will ask you the same question I asked Ms.  
3           Mills. Do you have -- are you gaining anything by  
4           testifying here today?

5           A     Nothing at all.

6           Q     Did we promise you anything?

7           A     No promises.

8           Q     You are doing this to tell the truth, right?

9           A     The truth.

10          Q     Please tell the jury what happened Thanksgiving Eve  
11          Night and Thanksgiving Morning 2016, please.

12          A     Thanksgiving 2016, like any other Thanksgiving, we  
13          meet at somebody's house in the family. We prep. We  
14          get together to make sure our food is done and everybody  
15          has ate by 4:00 or 5:00 that evening, that Thanksgiving  
16          Day, so we can be out for Black Friday.

17                That specific day, Thanksgiving, that eve, we all  
18          was at my house, [REDACTED] Alexander Avenue. We was there in  
19          the kitchen. House full of kids. My boyfriend. My  
20          mom's boyfriend. Sherill. Everybody. We was all  
21          there.

22                We prepping, cooking, cleaning. 11:45, 12:00,  
23          Dominick walks in. He is sitting in the living room.  
24          Once he makes himself known, he sits in the living room,  
25          and he is playing with the kids.

1 Q Was he cooking or preparing any of the fixins at  
2 all?

3 A Nothing. He was in the living room with the kids.

4 Q So the women --

5 A The women prep the food.

6 Q Continue.

7 A I say Dominick and Dimitria left about 1:30. Once  
8 they left, pretty much everybody just started to leave,  
9 clear out. Everybody is getting ready for bed, lay  
10 down.

11 My momma and Sherill get up the next morning. They  
12 go to my momma house, which is like probably like two  
13 minutes in a car from my house. They go. They put  
14 their clothes on. We all meet back there so that we can  
15 eat.

16 Once we eat, the boys, my boyfriend, Dominick -- my  
17 momma boyfriend, he is with us. He shop with us on  
18 Black Friday. Everybody is back in the house. They  
19 babysitting. The men is babysitting while we are out  
20 shopping for Black Friday. That is how our Thanksgiving  
21 Evening, Thanksgiving went.

22 Q You said this happens every year, is that correct?

23 A Every year.

24 Q Why do you remember 2016 so specifically?

25 That happened two-and-a-half years ago. Why do you

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           remember that so specifically?

2           A     Not only did it happen -- when we got the phone  
3           call when we was out on Black Friday that the police had  
4           left my momma house looking for Dominick, that stood  
5           out, so it made this time important.

6                     It's something that we do every year. Can't  
7           nothing change about something that you are doing every  
8           year.

9           Q     You specifically remember Dominick there in 2016,  
10          right?

11          A     Yeah.

12          Q     You are positive about that?

13          A     I am 100 percent. He makes a lot of noise with the  
14          kids.

15          Q     Explain that.

16          A     He is a noise maker. Like when he in the house  
17          with the kids, the kids have no structure. They get  
18          their way with Dominick. It was a lot of noise in the  
19          house with the kids that day.

20          Q     Is he good with kids?

21          A     He is.

22          Q     LaToya, you have been convicted of shoplifting in  
23          2011, 2019?

24          A     I have.

25          Q     Again, you are telling the truth today, right?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           A     I am telling the truth.

2           Q     LaToya, Dominick is your brother?

3           A     He is my brother.

4           Q     You love him, don't you?

5           A     Yeah.

6           Q     Would you lie for him?

7           A     I would not.

8           Q     Why wouldn't you lie for him?

9           A     My momma has always told us not to uphold. She had

10               always told us not to uphold each other. If we are

11               wrong; we are wrong. If we are right; we are right.

12               In this case, I can tell you that he was at my

13               house.

14           Q     And you said, that was for the Thanksgiving day

15               preparations?

16           A     That is what it was. The following year, I had

17               lost my apartment. We was at my momma's house at [REDACTED]

18               Lincoln Drive. That is where I was staying.

19               Last year we was at [REDACTED] Lincoln Drive.

20           Q     This year -- 2016 you were at Alexander?

21           A     We was.

22           Q     Which is where you were living at the time.

23           A     I was.

24           Q     Thank you, Your Honor. I have nothing further.

25                       \* \* \*

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 CROSS-EXAMINATION

2 BY MR. SMITH:

3 Q When did you say you saw Dominick leave?

4 A Around about 1:30.

5 Q Did you stay at the house all day, or did you go on  
6 any errands?

7 A I stayed all day.

8 Q The first time you saw Dominick was between 11:45  
9 and midnight on the 23rd?

10 A That isn't the first time I seen him that day.

11 Q When did you first see him that day?

12 A That day is when he brought the paper plates. I  
13 want to say it was about 12:00 that evening.

14 Q About lunchtime?

15 A Uh-huh.

16 Q So he brought paper plates? Was anybody with him  
17 when he came by that time?

18 A No. He came in alone.

19 Q Do you know how he got there?

20 A He was with Tiara.

21 Q He came in alone, or he came in with Tiara?

22 A Tiara, the driver of her vehicle, brought him to  
23 the house. He came in alone with the plates. He didn't  
24 stay. He didn't sit around.

25 Q So Tiara stayed in the car?



- 1           A     Pretty much.
- 2           Q     What type of car does she have?
- 3           A     I can't recall. I want to say she had a Cherokee.
- 4           I think it was a Cherokee at the time. Cherokee Jeep.
- 5           Don't quote me on it.
- 6           Q     So not a car? Some sort of SUV?
- 7           A     Well, in my terms, I call them cars. Any vehicle
- 8           is a car.
- 9           Q     Not your traditional four-door, something that is
- 10          higher up? An SUV?
- 11          A     I would just consider it a car. That is the way I
- 12          use my term.
- 13          Q     What were you doing in the time frame between 11:45
- 14          and 1:30?
- 15          A     I was in the kitchen.
- 16          Q     Doing what?
- 17          A     I was cooking. I was mixing, putting stuff in the
- 18          oven, washing dishes, just prepping.
- 19          Q     What makes you so certain that he came in at 11:45
- 20          to 12:00? Were you looking at clocks?
- 21          A     No. There is a clock right on the stove.
- 22          Q     You are saying that the first time you heard about
- 23          Dominick potentially being in trouble was the next day?
- 24          A     Thanksgiving night while we was out for Black
- 25          Friday.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q Did you talk with anybody else about being at this  
2 Thanksgiving get-together before today -- maybe talk to  
3 your family members about this?

4 A No. There is nothing to talk about. There is  
5 nothing to say. The facts are the facts.

6 Q You have never had any discussion with any of your  
7 family members about the fact that Dominick was here?  
8 In two-and-a-half years since he has had charges  
9 pending, you have never talked about it with them?

10 A No, sir. We haven't.

11 Q Who did Dominick arrive with?

12 A Thanksgiving Day?

13 Q Yes. The evening.

14 A The morning?

15 Q Yes.

16 A He came with Tiara.

17 Q Do you know how he got there? I am talking about  
18 the late evening one. Do you know how he got there that  
19 time?

20 A That evening? That late night?

21 Q Yes.

22 A No, sir. I don't.

23 Q Do you see how he left?

24 A No. I was in the kitchen.

25 Q Did he come in and say goodbye to you before he

1 left? How did you see that he had left?

2 A We us, we get through the house. "All right, you  
3 all, I am gone. Love you mom."

4 Q You said --

5 A "Love you. Be careful."

6 Q You looked up and say it was 1:30. You made a note  
7 of that?

8 A It's possible I could have turned and looked at the  
9 clock. I am in the kitchen. The stove is here. I am  
10 here. It's possible I looked at the clock.

11 Q It seems like you have a lot on your mind. It's  
12 difficult to cook. Thanksgiving. You have all kinds of  
13 things going on.

14 How did you note when he left, when that is an  
15 unimportant time?

16 A Once we get the phone call that he has been  
17 accused, you get that phone call. The next day we are  
18 like -- once we figure out why the law come looking for  
19 him, we sitting there, dern. How is that possible when  
20 he here?

21 So you sit back, and you try to remember every  
22 detail that you can of that night.

23 Q When you found out he was wanted, did the police  
24 tell you the time frame that the robbery had supposedly  
25 occurred at?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1       A     No, sir.

2       Q     How did you not know that the robbery could have

3       occurred on some other day in November?

4       A     I didn't know that.

5       Q     You don't know that, but you are, like, man. It's

6       very important because you were with him last night.

7       A     It's important to know where he was and the time he

8       was there. I have known between this time, I doesn't

9       know he was here. Like if it took place like 12:00 that

10      evening, I know it couldn't have been done at 12:00 that

11      evening, because he dropped off paper plates.

12      Q     Did you start thinking of all of the times that you

13      had seen Dominick for the last week or so?

14      A     Yes.

15      Q     Do you remember all of the times that you had seen

16      Dominick before?

17      A     You said when?

18      Q     Yes. When did you see him on the 22nd? Did you

19      all just start going through and thinking of all the

20      times --

21      A     The 22 wasn't important.

22      Q     How do you know? You just said that you didn't

23      know when the robbery occurred.

24      A     I didn't. The 22 wasn't important. The police

25      came that night.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q You understand that crimes can get solved later  
2 than -- not like this one where they solved it in four  
3 hours, but maybe one where they solved it in a month?

4 A That is possible.

5 Q So why would you be honed in on this dinner when  
6 you didn't know that that was actually the time that the  
7 robbery had occurred?

8 A They came that night. I took it upon myself that  
9 something had happened that night.

10 Q They did not tell you that?

11 A No, sir. We didn't learn nothing about the case  
12 until Dustin McClarity came with the warrants and sat on  
13 the porch with my momma.

14 Q Do you remember when Dominick was arrested on this?

15

16 A I want to say the first week of December. December  
17 3, I am thinking.

18 Q Did you communicate with Dominick from the time  
19 that you found out he was wanted until the time that he  
20 was arrested?

21 A I did. I talked to him.

22 Q Did you tell him to turn himself in?

23 A I have.

24 Q You did?

25 A Yes.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q That is all you ever told him?

2 A Yes. "Turn yourself in. You are innocent." With  
3 you being innocent, pull your case, and that is the end  
4 of it.

5 Q When is the first time you talked to him?

6 A The first time I talked to him?

7 Q Yeah.

8 A I want to say probably that Monday or Tuesday.

9 Q Would that be the 27 or something?

10 A Somewhere in there.

11 Q Did he listen to you?

12 A No.

13 Q And did you continue to tell him to turn himself  
14 in?

15 A I don't recall talking to him after that.

16 Q Your advice was that you are innocent, so you  
17 should turn yourself in?

18 A Yes.

19 Q But he did not?

20 A Right.

21 MR. SMITH: I have no further questions.

22 \* \* \*

23 REDIRECT EXAMINATION

24 BY MR. SCHULTZ:

25 Q LaToya, this happened two-and-a-half years ago,

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 right?

2 A Right.

3 Q Your memory may not be as clear as it was  
4 two-and-a-half years ago?

5 A Right.

6 Q Because this happened two-and-a-half years ago,  
7 right?

8 A Yes.

9 Q But you clearly remember Dominick there?

10 A I remember Dominick there. The kids was loud.

11 Q Were these your kids?

12 A I had two kids, Sherill had her child. Tiara had  
13 her son -- two. They are twins. It was kids there, and  
14 they were loud.

15 MR. SCHULTZ: Thank you.

16 THE COURT: Step down.

17 MR. SCHULTZ: Defense would call Dimitrius Mills to  
18 the stand.

19 \* \* \*

20 Dimitrius Mills,

21 called as a witness by and on behalf of

22 the State to testify, being first duly

23 sworn was examined and testified as follows:

24 \* \* \*

25 DIRECT EXAMINATION

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 BY MR. SCHULTZ:

2 Q Good afternoon, Dimitrius.

3 A Good afternoon.

4 Q Could you please state your full name for the  
5 record?

6 A Dimitrius Mills.

7 Q Dimitrius, are you the mother of Dominick?

8 A I am.

9 Q Do you love your child?

10 A I do.

11 Q Would you do anything for him?

12 A Not no anything.

13 Q What wouldn't you do?

14 A Some things. It depends on the situation.

15 Q Would you lie for him?

16 A No, I would not.

17 Q This is why you are here today, to tell the truth,  
18 correct?

19 A Yes.

20 Q Dimitrius, I am going to ask you the same question  
21 I asked everybody else for the last hour or so.

22 Thanksgiving Eve, 2016, that night, tell the jury  
23 what happened that night, and please lead into that  
24 morning.

25 A I am going to tell you all everything to the best



1 of my ability, because I did chemo and radiation.

2 Some of my cells went down then, but I can tell you  
3 as much as I can remember.

4 Thanksgiving Eve night. The day before  
5 Thanksgiving we start -- we met at my daughter LaToya  
6 house. We start prepping, getting what we need to get  
7 dinner prepared for the next day.

8 Me being who I am as a mother, I want you to do  
9 this, I want you to do that, I want you to go get this,  
10 so I had them all over the place. So Dominick and Tiara  
11 came earlier and brought the paper plates. Me and  
12 LaToya, we in the kitchen prepping the food, cooking,  
13 Sherill running errands.

14 My other son, which is -- they call him Boo, but  
15 his name is Timothy. He had just had a baby. He was  
16 spending time with their family, the girl, his baby  
17 momma, and their family. Brandon, he was at work at  
18 Kohl's.

19 What I do as a single parent with six now -- five  
20 kids, I taught them, God first, family next. We are a  
21 close family.

22 So once that day get to going or whatever,  
23 everybody know their routine. We there. We prepping.  
24 Dominick and Tiara, they go on their way. She was  
25 running errands for her mother, too.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           When they did get back, around the time of 11:45, I  
2           am going to say 11:30, 11:45, no later than 12:00, when  
3           Dominick walked back in the house. He ended up being  
4           the babysitter, because the kids being think he is so  
5           funny. He ended up being the babysitter for the kids.

6           We all in there prepping. Macaroni, you prep it,  
7           but you put it in the next day. Dressing. You prep it,  
8           but you put it in the next day. Turkey and ham, you  
9           want to go ahead and put that. Me and Sherill ended up  
10          staying all night, because we knew we had to put food in  
11          early in the morning.

12          We do Black Friday every year. That came a  
13          tradition with us, once they started the Black Friday  
14          thing. Dominick was there. LaToya was there. Sherill  
15          was there, and my daughter Toriana was there during that  
16          time. Yeah, my boyfriend, he was there of 22 years. He  
17          drinks. When he drinks, he drinks to drink. That is  
18          why I didn't pour him any there. LaToya boyfriend, he  
19          drinks. He drinks to pass out, too. Sherill boyfriend,  
20          he drinks to pass out, too. He in the County now, SCRAM  
21          monitor, drinks to pass out.

22          I didn't want them to up here and tell the story  
23          different. It would have been nice, but I didn't want  
24          them coming up here. I want the truth to be told. My  
25          son's life is on the line for nothing. I mean, nothing.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           Family function, the first thing she explained when  
2           she got up here to open up her arguments -- family  
3           functions.

4           MR. SMITH: Your Honor, she is not answering a  
5           question.

6           THE COURT: Please be responsive to the question.

7           THE WITNESS: We was at LaToya house, as well as my  
8           other kids.

9 BY MR. SCHULTZ:

10          Q     You are clear that Dominick was there?

11          A     I am positive.

12          Q     Can you give us some times that Dominick was there?

13          A     Dominick came in LaToya door around 11:30 --  
14               between 11:30, 12:00. No later than 12:00.

15          Q     How can you be so sure of that after two-and-a-half  
16               years?

17          A     After two-and-a-half years, Toya oldest two kids,  
18               they are bad. Sherill's son, he is humble, but they  
19               make the most noise. He can make noise for them. When  
20               they got to making the noise, I went in on them and told  
21               him he could get out or he can settle down with these  
22               kids.

23          Q     Who did you tell that to?

24          A     I was telling Dominick that. I don't care for  
25               noise. I don't even like to hear basketball hitting

1 cement. I don't care for noise.

2 So I know what time it was. LaToya had a big clock  
3 on the wall. The kitchen area and the living room, it's  
4 a concept part. So you got a big clock right there.

5 Q Say that again. You said a what?

6 A It's open.

7 Q But you said something else. A concept?

8 A Yeah. The living room and the kitchen is liked  
9 connected. The dining area and the living room, it's  
10 open. But I asked Dominick when he walked in why did  
11 they come back so late. Why did you come back so late?  
12 You could have just came in the morning.

13 I asked him that.

14 Q What did he say?

15 A He said they were just chilling. They just  
16 chilling.

17 Q Who do you mean they?

18 A Him and Tiara.

19 Q Were you convicted of shoplifting?

20 A I was. I got a pass.

21 Q I just want to be sure about this. Would you do  
22 anything for your son?

23 A It depends on what it is.

24 Q Would you lie for him?

25 A No. I am not.

State of South Carolina v. Dominick A. Thompson -- 2016A4210203988, -993

1 Q Did you tell the truth today?

2 A The whole truth. I am like Sherill. I put my hand  
3 on this holy Bible. This man don't play. He real.

4 Q What man?

5 A God. He don't play.

6 Q Thank you, Dimitrius.

7 \* \* \*

8 CROSS-EXAMINATION

9 BY MR. SMITH:

10 Q When did you become aware that the police were  
11 looking for Dominick the night of Thanksgiving.

12 On the 24th?

13 A As a matter of fact, after we did Black Friday, I  
14 went by my house. I got a two-car garage to put some  
15 stuff up. My neighbor that is on the right of me and my  
16 neighbor that is in front of me. They told me that the  
17 detectives had been by looking for Dominick, and they  
18 left a card.

19 I got in touch with Dominick and told him that the  
20 detectives was looking for him. They had left a card.  
21 By the end of that weekend, that holiday -- we called  
22 that Monday to try to get in touch with this detective.  
23 He never returned a phone call.

24 A week later prior to that, probably a week later,  
25 Dustin McClarity come to my door.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q This isn't responsive to what I am asking you. I  
2 asked when you found out he was wanted.

3 A I just told you.

4 Q Friday after Thanksgiving?

5 A It was. Yeah.

6 Q The Black Friday night?

7 A Yes.

8 Q Did you find out that he had warrants pending for  
9 him?

10 A No.

11 Q The initial --

12 A They was looking for Dominick.

13 Q When did you become aware, just the date, that he  
14 was wanted, actually had arrest warrants for him?

15 A Dustin McClarity from the Spartanburg County  
16 Sheriff's Office come to my door. Him and Smith. When  
17 he knocked on my door, he asked me did I have a son by  
18 the name of Dominick Thompson.

19 Q What date was this?

20 A The date was -- we tried to get in contact with the  
21 detective probably like that Monday all the way up to --  
22 that next week and probably the next week, they put a  
23 warrant on Dominick.

24 Q So you think it was --

25 A Probably two weeks later. Something like that. A

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 week. Two weeks later.

2 Q Did you communicate with him after he was wanted?

3 A Did I communicate with who?

4 Q Dominick.

5 A Yes. I communicated with Dominick.

6 Q After you found out that the police were looking  
7 for him?

8 A Yes. We was trying to get to the bottom of it to  
9 see what was going on.

10 Q Did you tell him to turn himself in?

11 A Yes, I did. He said, momma, I ain't did nothing.  
12 I said, let them do their job.

13 Q So he didn't listen to you either?

14 A It ain't that he didn't listen to me, because my  
15 kids listen to me. He said, I didn't do nothing. I  
16 said, then let them do their job. I was fine with that.  
17 I know he ain't did nothing.

18 Q So their job is having to find him somewhere and  
19 risk something bad happening? That is what you thought  
20 was doing their job?

21 A It could have been anything. At the time, I didn't  
22 know what it was.

23 Q You said that you told him to turn himself in.

24 A I told Dominick -- don't try to confuse me, because  
25 I am telling the truth. I told Dominick after we

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1       couldn't get in contact with these detectives -- when  
2       Dustin McClarity come to my door with a warrant and told  
3       me that the warrant was bogus --

4       Q     You are not answering the question.

5       A     I told him to turn himself in.

6           THE COURT:  Ma'am, excuse me just a minute.  Let me  
7       ask you not to yell into that microphone, please.

8           THE WITNESS:  I apologize.

9  BY MR. SMITH:

10       Q     When Dustin McClarity came by the house, that is  
11       when you found you out he had a warrant.  Do you  
12       remember what date that was?

13       A     I want to say it was -- we tried to get in  
14       contact -- the detective comes to my house that Friday.  
15       We tried to contact the detectives that Monday, Tuesday,  
16       Wednesday of that next week.

17           The next week Dustin McClarity knocks on my door.  
18       This detective wouldn't return a call or nothing.

19       Q     So you told Dominick to turn himself in.  Did he do  
20       that?

21       A     He said, I didn't did nothing, momma.

22       Q     But he did not turn himself in?

23       A     No.

24       Q     Do you know where he was arrested?

25       A     When?



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q Where?

2 A Yeah.

3 Q Where was he?

4 A He was at Tiara's house at home.

5 Q When did he get arrested?

6 A When did he get arrested? He called me when the

7 police was there. I was on the phone with him.

8 Q Do you know what day it was or the date?

9 A December 7.

10 Q Do you know Makayla Richard?

11 A I don't know Makayla.

12 Q Do you know Danielle Krind?

13 A I don't know them. I know of them.

14 Q Had Dominick told you about them?

15 A Yeah. We live in the same neighborhood. Yeah.

16 Q Before this incident happened?

17 A Yeah.

18 Q What did you know about them?

19 A To be honest, my kids -- my kid was raised up in

20 the projects. From this point on, we don't business to

21 nobody. We don't judge peoples. So just listen from

22 his point of view about Makayla, she was a pitiful

23 child. He felt sorry for her.

24 Q So he was trying to help her or something?

25 A In a lot of ways. He made sure she ate. I know

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           that much.

2           Q     What does that mean?

3           A     He made sure she was fed.

4           Q     He was taking care of Makayla?

5           A     She might call and say she was hungry or -- he

6           would give her a couple of dollars or something like

7           that.

8           Q     When you said you don't know her, you never met

9           her?

10          A     I never met her.

11          Q     But he had spoken about --

12          A     I had taken him to Wendy's plenty of times and got

13          this little girl food.

14          Q     Makayla?

15          A     Yeah. But I never seen her. I would drop him off.

16          They house was on the corner.

17          Q     Is this a common thing for Dominick to do, to take

18          people food?

19          A     He got a soft heart when it come to old peoples and

20          kids. Yes, he do.

21          Q     Did you listen to the jail calls that were played?

22          A     I did.

23          Q     Is that your son's voice?

24          A     Yes, sir.

25          Q     The last three calls, is that his girlfriend

1 Tiara's voice?

2 A Yes, it is.

3 Q Do you know -- have you ever heard Dominick talk  
4 about Christine Richard?

5 A We talked about Christine Richard. What is her  
6 last name?

7 Q Richard.

8 A Yeah. Richard. Before Dominick even went to  
9 jail. We really wanted -- when Dustin McClarity came to  
10 my house with that warrant, he read everybody's name off  
11 on that warrant. He asked us, do we know these peoples,  
12 I told him, no.

13 He was telling me that that warrant was bogus; that  
14 you could tell the story was made up --

15 Q You can't testify about what people told you. You  
16 are not answering the question.

17 A That is when Dustin told me about Christine --

18 THE COURT: Just a minute. Ma'am, don't get so  
19 close to the microphone. You are distorting the sound.  
20 And please listen to his question and respond to the  
21 question.

22 BY MR. SMITH:

23 Q What did you know about Christine? Did you know  
24 Christine Richards, or had you heard anything about  
25 Christine Richard?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1       A     Not until the police told me.

2       Q     Then what did you learn about Christine Richards?

3       Did you talk to Dominick about her after you had heard

4       her name?

5       A     Yes. He didn't know her.

6       Q     He doesn't know her?

7       A     Uh-uh. I knew her before he did.

8       Q     He didn't know her from Adam's house cat?

9       A     No. He didn't know her then.

10      Q     When did he come to know her?

11      A     When I told him what Dustin McClarity said about

12      the police putting out that warrant.

13      Q     That was before Dominick was in custody. Now you

14      know he is wanted?

15      A     Uh-huh.

16      Q     You are telling him the information about the

17      victim in the case?

18      A     Uh-huh.

19      Q     And tell him to turn himself in, and he doesn't?

20      A     Uh-uh.

21      Q     Did you hear him talking about Christine Richard on

22      the jail call?

23      A     I did.

24      Q     Did you hear him talking about offering her some

25      bread to sign an affidavit at the Sheriff's Office?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           A     Yes. To prove his innocence. She didn't know him.

2           Q     That is how you prove innocence; by paying somebody  
3           off to write an affidavit?

4           A     She didn't know him. She don't know him. We don't  
5           know her.

6           Q     Did you hear him say that she was white, and he  
7           knew that --

8           MR. SCHULTZ: I will object to this. This is  
9           pitting --

10          THE WITNESS: I'm going to be honest with you.

11          THE COURT: Just a minute.

12          THE WITNESS: I'm going to be honest with you --

13          THE COURT: Ma'am, just a minute please.

14          MR. SCHULTZ: Thank you, Judge. Your Honor, I  
15          object to this. This is pitting witness, I believe,  
16          against witness.

17          THE COURT: Overruled. Go ahead.

18 BY MR. SMITH:

19          Q     You can continue. You said you are going to be  
20          honest.

21          A     Yeah. I am going to be honest. If I know I ain't  
22          did nothing, and I know victims are involved, and I come  
23          to the point where I can get this close to one of the  
24          victims to prove my innocence, yeah, I am going to try  
25          to get in contact with them.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 Q And pay them off?

2 A If that is what it takes to prove my innocence just  
3 for that victim to come forward and, no, that is not  
4 her, or, nò, that is not him. That woman ain't know  
5 us. She don't know us. He had just went there. That  
6 man was willing to take a trial the day he went.

7 Q You won't lie, but you would pay off a witness to  
8 get out of trouble?

9 A Like I said, if that is what that witness wants to  
10 prove my innocence, to help me, to free me, for  
11 something I didn't do, I am sure everybody in this  
12 courtroom would. That is serious charges.

13 You want to just accuse somebody up and you ain't  
14 got no evidence on them. Just a word of mouth. You are  
15 playing with peoples lives.

16 Q The last witness testified about Tiara's kids being  
17 present at the house. Are those Dominick's children?

18 A No. They are not.

19 Q When did they get to the house?

20 A They all came together.

21 Q When.

22 A Whenever Dominick came.

23 Q There are two visits that Dominick has.

24 A At 12:00. The first visit, Tiara didn't even get  
25 out of the car. The second visit, they got out of the

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 car.

2 Q How old are those children?

3 A I think now they are like, nine or ten.

4 Q Seven and eight back then?

5 A Uh-huh.

6 Q So they show up at the house at 11:45 in the  
7 evening and leave at 1:30 in the morning?

8 A Yeah. They were just chilling. They took baths  
9 and all that and come back out.

10 Q What was the purpose of coming back to the house?

11 A We gets together every year at Thanksgiving. We do  
12 it every Christmas, too.

13 Q You said that you even asked him why he was here,  
14 right?

15 A Yeah. I asked Dominick why did they come out so  
16 late. They could have just waited. Remember, they had  
17 kids with them.

18 Q Did you know where he was chilling before?

19 A He was at Tiara's house.

20 Q On the west side?

21 A Yeah. Over behind Denny's.

22 Q So he drove from the west side?

23 A He didn't drive. Tiara drove.

24 Q Tiara drives the two school-aged children to the  
25 west side Denny's to come over for an hour and a half?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1       A     We was up. We was like up. We was up. We was  
2       like hyp'd up.

3       Q     What does that mean?

4       A     Everybody --' we weren't sleepy. Everybody was  
5       hyper. We was up. They was still up. That is why they  
6       came.

7           MR. SMITH: I don't have any further questions.

8           MR. SCHULTZ: That is all I have for this witness.

9           THE COURT: You may step down.

10          MR. SCHULTZ: Your Honor, can we approach?

11          THE COURT: Ladies and gentlemen, we have one  
12       other scheduling matter for a witness we will have to  
13       address. Hopefully, it will just take a few minutes.  
14       Please go back to the jury room now. We will bring you  
15       back shortly.

16           (Whereupon, the jury exited the courtroom.)

17          THE COURT: You can approach.

18           (Whereupon, a bench conference was held off the  
19       record and out of the presence of the court reporter.)

20          THE COURT: Let's take a brief recess.

21           (Whereupon, the following proceedings were  
22       held in open court. The defendant was  
23       present with his attorney, along with  
24       counsel for the State.)

25          THE COURT: Bring in the jury.



1 (Whereupon, the jury entered the courtroom.)

2 MR. SCHULTZ: Your Honor, the defense will call  
3 Danielle Krind to the stand.

4 THE COURT: Ma'am, you are still under oath. You  
5 have already been placed under oath during the course of  
6 this trial.

7 \* \* \*

8 DANIELLE KRIND,  
9 called as a witness by and on behalf of  
10 the State to testify, having been previously duly  
11 sworn was examined and testified as follows:

12 \* \* \*

13 DIRECT EXAMINATION

14 BY MR. SCHULTZ:

15 Q Ms. Krind, again, please state your name for the  
16 record.

17 A Danielle Krind.

18 Q As the Judge already told you, you are still under  
19 oath.

20 Do you understand that?

21 A Yes.

22 Q Thank you for coming here today.

23 How old are you now?

24 A Twenty.

25 Q A few follow-up questions.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           Do you remember talking to the police in the early  
2 morning hours of November 24, 2016?

3       A     Yes.

4       Q     Do you remember everything?

5       A     No.

6       Q     Do you remember saying to the police, I will do  
7 everything to help you, I promise?

8       A     Yes.

9       Q     Do you remember saying, Makayla, that is my best  
10 friend.

11           Do you remember saying that?

12       A     Yes.

13       Q     Do you also remember saying to Officer Hilton, "I  
14 was here asleep"?

15       A     Yes.

16       Q     Do also remember saying, "I fell asleep"?

17       A     Yes.

18       Q     Do you also remember saying to Officer Hilton in  
19 reference to the car, "I haven't seen guys. I was  
20 asleep."

21           Do you remember saying that?

22       A     Yes.

23       Q     You never saw their faces?

24           No. "I ain't seen the guys."

25           That is what you told the officer. "I was asleep."

## State of South Carolina v. Dominick A. Thompson -- 2016A4210203988, -993

1 Is that correct?

2 A Yes.

3 Q You didn't see who they were?

4 A The guys in the car? No. I never seen who they

5 were.

6 Q Do you remember giving the officer a nickname?

7 A Yes.

8 Q Could it have been Jaquez?

9 A It could have been.

10 Q Did you ever mention Dominick Thompson when you

11 first talked to the police?

12 A No.

13 Q The officer also questioned you, "Did you not see

14 or hear anything in a car?"

15 You said, "No. Was that also correct?

16 A Say that one more time.

17 Q When the officer questioned you on November 24,

18 they said, "Did you not see or hear anything in a car?"

19 You said, "No." Is that correct?

20 A Yes. That is when you first talked to the officer,

21 correct?

22 A Yes.

23 Q The first time anybody talked to you, correct?

24 A Yes.

25 Q When it was fresh in your mind.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 A Yes.

2 Q Yes or no, just part of the reiteration.

3 I didn't see the guys. I was asleep."

4 You said that to the officer, right?

5 A Yes.

6 MR. SCHULTZ: That is all I have. Thank you,  
7 Judge.

8 \* \* \*

9 CROSS-EXAMINATION

10 BY MS. BROWN:

11 Q You told me before that you were not immediately  
12 forthcoming with law enforcement on November 24,  
13 correct?

14 A Yes.

15 Q You told us that yesterday?

16 A Yes.

17 Q Tell us how you were feeling when the police showed  
18 up at 4:00 a.m. that morning at Shaw Avenue.

19 A Scared, nervous. I didn't really know what to do.  
20 I hadn't been in a situation like that before.

21 Q You said Makayla is your best friend, right.

22 A Yes.

23 Q You did tell us yesterday that you did see; that  
24 you did see Dominick at the house that day, right?

25 A Yes. I did see him.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1           Q     What time?

2           A     I seen him earlier that day, on and off throughout

3                 my sleep. When they left out, that was the last time I

4                 seen them.

5           Q     So you were there when the left, right?

6           A     Yeah. When they left, it was dark out.

7           Q     Who left?

8           A     Makayla and Dominick.

9           Q     When did you see them get back?

10          A     It was still dark outside. I don't know the exact

11          time.

12          Q     But you remember seeing the defendant and Makayla.

13          A     Yes. Walk in through the side door.

14          Q     What kind of car were they in?

15          A     It was a black car.

16          Q     How long after -- at some point the defendant left,

17          right?

18          A     Yes.

19          Q     After he had returned in the early morning hours,

20          right?

21          A     Yes.

22          Q     How long after that did the police get there?

23          A     Maybe 15, 20 minutes after, I guess.

24          Q     Was the black car -- was it still on the scene?

25          A     No.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 MS. BROWN: No further questions, Your Honor.

2 MR. SCHULTZ: Your Honor, just a couple of other  
3 questions.

4 \* \* \*

5 REDIRECT EXAMINATION

6 BY MR. SCHULTZ:

7 Q You said, when I asked you yesterday, that the  
8 truth of the matter is you simply don't remember that  
9 night, correct?

10 A I don't remember much of that night.

11 Q Because you were sick?

12 A No, not because I was sick, because it happened  
13 two-and-a-half years ago. That is why I don't remember  
14 everything now.

15 Q But you then said in a prior proceeding that you  
16 had a headache and you were feeling nauseous, is that  
17 correct?

18 A Yes. But that didn't affect my memory.

19 Q What would affect your memory now is that this is  
20 two-and-a-half years later, right?

21 A Yes.

22 Q You said you were on and off all day just sleeping,  
23 right?

24 A Yes.

25 Q So your memory, despite all of that, it happened

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -993

1 two-and-a-half years ago, correct?

2 A Yes.

3 Q Your memory is not that clear, right?

4 A No.

5 Q Would it be fair to say that you simply just don't  
6 remember probably 90 percent or 95 percent of what  
7 happened that night, right?

8 A Right.

9 MR. SCHULTZ: Thank you.

10 That is all I have, Judge. Thank you.

11 THE COURT: Anything else?

12 MS. BROWN: Nothing else, Your Honor.

13 THE COURT: Step down.

14 Anything else?

15 MR. SCHULTZ: Your Honor, those are all the  
16 witnesses I have.

17 THE COURT: Any reply?

18 MR. SMITH: No, Your Honor.

19 THE COURT: That is all of the testimony or the  
20 other evidence to be offered in the trial of the case.  
21 What remains to be done are the lawyers final  
22 summations, after which I will instruct you on the law.  
23 Then you will begin deliberations. We can't get all of  
24 that done this afternoon.

25 We will resume with the final summations, the

## State of South Carolina v. Dominick A. Thompson -- 2016A4210203988, -993

1 instruction, and your deliberations beginning at 9:30 in  
2 the morning. Keep in mind, continue to follow the  
3 caution I have given. No discussion. No research. No  
4 investigation. No media exposure.

5 Do have a good evening, and please report to your  
6 jury room at 9:30 in the morning, 9:30 in the morning.

7 (Whereupon, the jury exited the courtroom.)

8 THE COURT: Mr. Schultz, would you like to renew  
9 your motions?

10 MR. SCHULTZ: Yes, Your Honor.

11 THE COURT: Any additional grounds?

12 MR. SCHULTZ: No, sir, no additional grounds, but I  
13 would like to renew my motion for directed verdict at  
14 this time.

15 THE COURT: Those motions are denied.

16 Do you all have instruction requests?

17 MR. SMITH: I would like an accomplice liability  
18 charge.

19 THE COURT: Okay.

20 MR. SCHULTZ: I would agree with that, Your Honor.

21 THE COURT: Any others?

22 MR. SMITH: I can't remember what your instruction  
23 is on burglary, but I think it likely covers entry  
24 through trickery or things like that. I want to make  
25 sure there is something in there like that, because



1       there is some evidence that the door was opened  
2       voluntarily. I think that would fall under that, in the  
3       statutory definition of entry. I assume it is in your  
4       charge.

5             THE COURT: It is.

6             MR. SCHULTZ: Your Honor, I can't think of anything  
7       right now. Would the Court mind if I reserve that until  
8       tomorrow morning? I don't have any specific charge that  
9       I can think of right now that I wish the Court to give  
10      at this time.

11            THE COURT: You let me know in the morning.

12            MR. SCHULTZ: Yes, sir.

13            Your Honor, as far as housekeeping, I am assuming  
14      the closing statements are going to be covered under  
15      State v. Beatty with the State giving the first and the  
16      law and then myself giving a closing response and then  
17      Mr. Smith giving a response?

18            THE COURT: They will open fully on the law and the  
19      facts.

20            MR. SCHULTZ: Yes, sir. Thank you. I just wanted  
21      to make sure.

22            THE COURT: Well, we are going to follow the law on  
23      this one.

24            MR. SCHULTZ: Thank you.

25            All right. Court is in recess until 9:30 in the

1 morning.

2 (Whereupon, the proceedings concluded at 4:38 p.m.  
3 to be continued the following day without interruption.)

4 \* \* \*

5 END OF VOLUME III

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2

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

IN THE COURT OF GENERAL SESSIONS  
FOR THE SEVENTH CIRCUIT  
2016A4210203988  
-3993

|                            |   |                          |
|----------------------------|---|--------------------------|
| -----X                     | : |                          |
| STATE OF SOUTH CAROLINA,   | : |                          |
|                            | : |                          |
| Plaintiff,                 | : |                          |
|                            | : |                          |
| vs.                        | : | TRANSCRIPT OF JURY TRIAL |
|                            | : | VOLUME IV                |
| DOMINICK ANTONIO THOMPSON, | : | PAGES 337 - 439          |
|                            | : |                          |
| Defendant.                 | : |                          |
| -----X                     | : |                          |

June 13, 2019  
Spartanburg, South Carolina

B E F O R E

THE HONORABLE J. DERHAM COLE, Judge Presiding.

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|   |                         |     |
|---|-------------------------|-----|
| 1 | I N D E X               |     |
| 2 | PROCEEDINGS             | 65  |
| 3 | PROCEEDINGS CONCLUDED   | 438 |
| 4 | CERTIFICATE OF REPORTER | 439 |

|   |                 |  |
|---|-----------------|--|
| 5 |                 |  |
| 6 | E X H I B I T S |  |
| 7 | (NONE OFFERED)  |  |

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## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 P R O C E E D I N G S

2 \* \* \*

3 THURSDAY, JUNE 13, 2019

4 \* \* \*

5 SPARTANBURG, SOUTH CAROLINA

6 \* \* \*

7 (Whereupon, the following proceedings were  
8 held in open court. The defendant was  
9 present with his attorney, along with  
10 counsel for the State.)

11 THE COURT: Are there any matters that needs to be  
12 addressed before the jury is brought in?

13 MR. SMITH: Not from the State, Your Honor.

14 MR. SCHULTZ: Not from the defense, Your Honor.

15 THE, COURT: Mr. Smith, do I need an aggravated  
16 assault and battery indictment for the attempted murder?

17 MR. SMITH: Yes, Your Honor.

18 THE COURT: Okay. Bring the jury in, please.

19 (Whereupon, the jury entered the courtroom.)

20 THE COURT: Good morning, ladies and gentlemen.

21 As you know, yesterday when we recessed, all the  
22 evidence had been received. Now what remains to be done  
23 are the lawyers' final summations, after which I will  
24 instruct you on the law. Then you can begin with your  
25 deliberations.

1           Please give the lawyers your attention as they give  
2           you their final summations. The State will go first,  
3           followed by the defense, and then the State is permitted  
4           a brief reply.

5           Mr. Smith.

6                                           \* \* \*

7                           CLOSING ARGUMENT BY MR SMITH

8           MR. SMITH: They just scared her ass, and when they  
9           scared her ass, she probably gave up everything. I hope  
10          she didn't. Those were Dominick Thompson's words on  
11          December 7, the day he was arrested for this crime and  
12          talking to Makayla Richard's mom on the phone from  
13          jail. He is calling her mom from jail.

14          He knew that day that if Makayla gave up what she  
15          gave up in court today, that he would be convicted of  
16          all the crimes that he is charged with. That is why  
17          that entire phone called happened. That is why he tells  
18          his girlfriend that he was milking her for information.

19          Those are his own words. The rest of the case  
20          we put up are our witnesses, but we have his own words  
21          and his own actions that corroborate everything that we  
22          have proven through the course of the case. We will get  
23          into the jail calls in more detail later.

24          We will talk about the law and what he is charged  
25          with, the Judge will talk to you about that, and you

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 will have a lot of information from that instruction.

2 He is charged with burglary first. A person is  
3 guilty of burglary in the first degree if the person  
4 enters a dwelling without consent and with intent to  
5 commit a crime inside the dwelling.

6 So he has to enter with the intent to commit a  
7 crime. In this case, they have hoodies up, guns out.  
8 That shouldn't be a question for you. The dwelling.  
9 It's a hotel room. The Judge will tell you that a  
10 dwelling is the living quarters of a building which is  
11 used normally for sleeping, living, or lodging. It's a  
12 fancy, legal way of saying a hotel room or a house,  
13 something like that. So that shouldn't be a question  
14 for you either.

15 The without consent portion, the Judge will tell  
16 you that that can be accomplished through trickery. I  
17 don't want you all to get confused by the fact that  
18 there is testimony that they opened the door to allow  
19 these people in. That was done because Christina  
20 Richard was standing at the door doing a hurried knock,  
21 and they let her in because they thought something was  
22 possibly wrong. So that shouldn't be an issue with you  
23 either, just because they voluntarily opened the door  
24 was accomplished through trickery.

25 In this case, to make it a burglary first, the

1 first portion is the burglary. The rest is what makes  
2 it a burglary in the first degree. Every single one of  
3 these elements is present in this case. The State only  
4 needs to prove any one of them. He would be guilty of  
5 burglary first if you believe he entered that hotel room  
6 armed with a deadly weapon. All three people have  
7 testified to them being armed, caused physical injury.  
8 Brandon Logan has the injury on his head that you have  
9 in pictures. Ms. Richard has the injury to her groin  
10 area.

11 Uses or threatens to use a dangerous instrument,  
12 that is obvious. Displays a knife, pistol. That is  
13 also present. A person has been convicted of two or  
14 more prior burglaries. You had Gail Moffit testify to  
15 that, and you are going to have the certified  
16 convictions back there. He was convicted of burglary in  
17 2011 and 2013. Then that it occurred at nighttime. You  
18 have the 911 call testimony that it was 12:45. Police  
19 responded at 12:47. That is in the a.m., so it's  
20 clearly nighttime.

21 All of these elements are present. The defense  
22 hasn't challenged too much the severity of the crime.  
23 They are challenging whether he did it or not. I don't  
24 want you all to get hung up on any of these issues.

25 The next is charge is assault and battery of a



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 high and aggravated nature. This indictment is for what  
2 happened to Christine Richard. A person commits assault  
3 and battery of a high and aggravated nature if the  
4 person unlawfully injures another, which she was  
5 injured, and it was unlawful and great bodily injury to  
6 another person resulted or it was accomplished by means  
7 likely to produce great bodily injury.

8 This is probably the easier one. A gunshot is  
9 certainly something that could cause great bodily injury  
10 or death. Great bodily injury is something that creates  
11 a substantial likelihood of death or loss of organs,  
12 things like that.

13 A gunshot clearly fits this. She was shot as Mr.  
14 Logan was pistol whipped and the gun discharged. This  
15 is assault and battery first. The assault and battery  
16 first is going to be for Brandon Logan for the pistol  
17 whip to his head.

18 A person commits assault and battery in the first  
19 degree if the person unlawfully injures another and that  
20 it occurred during commission of a robbery, burglary,  
21 kidnapping or theft. Really, this is all of those  
22 situations, but it's obviously a robbery. It's  
23 obviously a burglary.

24 So if you believe that he was injured, then he is  
25 guilty of assault and battery first, if you believe that

1       Mr. Thompson is one of the people in that hotel room.  
2       Or offers or attempts to injure, which, in this case,  
3       there actually was injury. Again, if you believe that  
4       they all four attempted to injure him during the course  
5       of a robbery, he is guilty of assault and battery  
6       first.

7               Finally, armed robbery. He is only charged with  
8       one count. There is testimony about multiple people  
9       having stuff stolen. We could have armed robbery  
10      charges for each. The one that is charged is for  
11      Brandon Logan. The reason for that is the easiest thing  
12      to prove that was taken from the hotel room would be his  
13      wallet that was found at [REDACTED] Shaw Avenue.

14             You can look at it. It has his driver's license in  
15      it. It has his Social Security card. It has a picture  
16      of his baby in it. There is no doubt it's his. No  
17      connection to the Shaw Avenue house. It's not there but  
18      for the fact that it was robbed or stolen. A robbery is  
19      a forcible taking from another. It becomes an armed  
20      robbery when you have a weapon. There is testimony of  
21      weapons. Again, armed robbery is not much of a  
22      question.

23             There is another charge of possession of a weapon  
24      during a violent crime that is attached to the burglary.  
25      Burglary in the first degree is a violent crime. If you

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 think he committed burglary in the first degree and he  
2 possessed a weapon, then he is guilty of possession of a  
3 weapon during a violent crime.

4 Those are the charges. I just want you to  
5 understand that before we get too much further in. You  
6 will also hear about accomplice liability. The hand of  
7 one, hand of all is what it is commonly referred to in  
8 society. The idea that if you agree to do a criminal  
9 action, like commit a home invasion or enter into a  
10 motel with guns and hoodies and stuff for the purpose of  
11 robbing, that the foreseeable consequences of that you  
12 are responsible for.

13 So, essentially, I don't want you to get hung up  
14 that, although there is direct testimony that Dominick  
15 is the one who did the pistol whip and the discharge.  
16 It ultimately doesn't matter. It doesn't matter if he  
17 is the one that took it out of Brandon Logan's wallet or  
18 out of his pocket. It doesn't matter if he is the one  
19 who did the pistol whip. All three of the individuals,  
20 and to an extent Makayla, based off of what she said,  
21 are guilty of what happens inside there, because of the  
22 agreement to commit a criminal act. Everything that  
23 happened in this situation was foreseeable when you rob  
24 people at gun point.

25 So there is direct testimony. But if you, for

1       whatever reason, find question on who did a specific  
2       act, that should not be something that holds you up from  
3       convicting him of these charges.

4               Ladies and gentlemen, the case mostly breaks up  
5       with Makayla Richard, as you could tell from the  
6       testimony. She is the connection. This was a drug  
7       deal. We told you this was a drug deal from the get-go.  
8       The defense would like to make a big deal out of it.

9               We also told you that Makayla and Danielle were  
10      not forthcoming with police that night. We told you  
11      that in opening. They told you that on direct. The  
12      defense still tried to make a big deal out of it.

13              Yes. This was a drug deal that was set up between  
14      Makayla and Christine, cousins, family members. It  
15      turned into something far worse. Makayla is the  
16      connection that is the first break in the case.

17              They talked to Christine. She knows Makayla.  
18      Makayla is the only person that didn't have their  
19      identity attempted to be obscured, which, to me, gives  
20      some credibility to her statement that she didn't know  
21      it was going to go like this. It doesn't make any  
22      sense. She was immediately identified by the victim,  
23      and she had Facebook messages that would tie her to the  
24      drug deal and all of that.

25              That is how they ended up at the Shaw Avenue house.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       Officer Hilton talked about it was at 4:15 in the  
2       morning. We are talking less than three hours after  
3       this incident happened that they get to Shaw Avenue.  
4       They pull Makayla out. She gives the initial story  
5       about that she was at the mall with a friend, and then  
6       they take her to see ID photos.

7               She gives a further story about -- basically giving  
8       the story, but not identifying Dominick Thompson, but  
9       admitting that she was present. Then we have the photo  
10      lineup. Now she is coming clean that Dominick Thompson  
11      was the person who was with her. Dominick Thompson is  
12      the person who committed this crime. She picked him out  
13      of a photo lineup. That is less than four hours after  
14      she has been picked up by law enforcement.

15             She was very forthcoming with you all. She does  
16      want to get a deal. There is no doubt she wants to get  
17      a deal. This is how it works. People get involved in  
18      bad situations. She chose her path that night. That is  
19      the thing that is important. They try make it out like  
20      you are doing this to get a deal or whatever.

21             She basically chose her path the night that she  
22      decided to admit, yes, I was at that scene. Yes, we  
23      were there to steal marijuana from them, and I basically  
24      brought these three people over that night to terrorize  
25      my family members. So she chose her path that night.

1           She basically went State's witness the first day.  
2           She is the State's witness two-and-a-half years later  
3           when we are at trial. She is telling the exact same  
4           version of events that she did once she finally came  
5           clean.

6           She talks about talking to her mom at the jail.  
7           Pulling out the EBT cards, and basically, she resigned  
8           herself that, I am in it, and the only way that I can  
9           get out of this or do the best that I can in this  
10          situation is to tell the truth, and that is what she  
11          did.

12          She didn't have any hatred for Dominick. If you  
13          believe his version and his mom's version of events,  
14          Dominick is keeping her fed or something. I don't  
15          understand that, but they are buying Wendy's and stuff  
16          for her, because she is a pitiful person.

17          Yet, they want you to believe that she set up this  
18          armed robbery and is now trying to throw this innocent  
19          man who was at his Thanksgiving get-together under the  
20          bus, because she is just that conniving, even though she  
21          is so pitiful that she can't even feed herself. It's  
22          not very believable.

23          She gives detailed information about how they got  
24          there, the car, how they were in the black car. There  
25          is a consistency throughout all the testimony from

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       different people. You have Danielle confirmed and  
2       Makayla confirmed the black car. You have Christine  
3       Richard saying that she arrived in a black car. The  
4       black car is unique through all three of these different  
5       fact witnesses who all saw it. They have put it as a  
6       connection between all three.

7               Next, you have Danielle Krind. She was asked to  
8       testify twice. She testified to the same thing twice.  
9       I don't know why she got called the second time. She  
10      was forthcoming that she did not tell law enforcement  
11      that night. The thing I think is so convincing about  
12      Danielle's testimony, the reason I think you should  
13      believe it is, she hasn't testified about a great deal.

14             She was very open. Yes. I was in and out of  
15      sleep. I can't tell you what timeframe. She does not  
16      give us a timeframe. She told everybody, no, I do not  
17      know specific times. She doesn't know a lot of the  
18      large details. She knows what she knows, and she  
19      testified to that.

20             She admitted everything else that she doesn't know.  
21      What she said is that Makayla left with Dominick in a  
22      black car. They were gone. She does not know how long.  
23      They came back in a black car. At some time, Dominick  
24      comes inside the house. Sometime later he leaves.

25             About 15, 20 minutes after that, the police show up

1 at the Shaw Avenue house. It lines up perfectly with  
2 Makayla's story. She has no reason to be lying. None.  
3 Makayla is charged. Sure. You can infer that she has  
4 reason to be saying what she does.

5 Danielle doesn't. Danielle's version actually --  
6 she would be a witness against Makayla. She is a  
7 witness against her best friend. That is more than  
8 likely the reason that she wasn't forthcoming with  
9 police that night.

10 It's 4:00 in the morning. Two police officers.  
11 They have just snatched her best friend out of the  
12 living room. She is 18 years old. Her friend is 18  
13 years old. She doesn't know what is happening.

14 She doesn't just tell the police everything. She  
15 is scared. She is young. She has nothing to gain from  
16 this. She is not trying to oversell. She is very  
17 willing to admit her shortcomings. That is one thing  
18 that the Judge will talk to you about, demeanor of  
19 witnesses. I think many of the State's witnesses were  
20 willing to admit things.

21 Officer Hilton admits, yeah. Maybe I should have  
22 had my bodycam on. You have got Makayla. Yeah, I do  
23 want to get a deal. Danielle, yeah. I don't know this.  
24 His witnesses give up nothing. We haven't talked about  
25 this in two-and-a-half years. That is ridiculous.



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1           Some of the answers that they gave, not about  
2           factual things, but about other things -- not the time  
3           that he was there, because that is all consistent. The  
4           inability to give anything is a sign of lying.

5           Our witnesses are willing to admit what they didn't  
6           see and what they did see and maybe what they could have  
7           done better.

8           Next, you have the fingerprint. Obviously, the  
9           defense acknowledges, and Ms. Mills acknowledges, that  
10          Dominick does know Makayla. It's not shocking that  
11          there is a fingerprint there.

12          What is interesting is that it is on a box of  
13          ammunition. Makayla testified that she did not have a  
14          gun. She had not seen that box of ammunition. She  
15          actually doesn't even say that she saw guns before this  
16          happened.

17          It's on the inside tray. It's not on the box,  
18          which would mean someone was more than likely loading  
19          ammunition. The fact that she hasn't seen it there  
20          would tend to say that it has only been there recently.

21          They made a lot of points about the fingerprint,  
22          about her education and whether she knows the  
23          definitions of certain words. She is assisted by a  
24          computer.

25          I really don't know what the implication is; that

1 Dominick has never been there or that we found one  
2 fingerprint and just decided to say it's Dominick's,  
3 even though we know that Dominick has been at that  
4 house. I don't really know what the defense is getting  
5 at, but we have Officer Talanges talks about all the  
6 fingerprints he pulled.

7 There are multiple prints that he submits to her,  
8 and she only had one that was suitable for comparison,  
9 and she puts it in the system.

10 The number one fingerprint comes back, and she  
11 doesn't know it, but it's Dominick Thompson's, and she  
12 confirmed the tens. She is not a scientist. She  
13 doesn't have all of these degrees. For seven years all  
14 she does is compare fingerprints. In this case, there  
15 are two other co-defendants. She didn't come back with  
16 their fingerprints. It's not perfect. It is what it  
17 is. It's believable.

18 There is a box of ammunition there. Makayla  
19 Richard is saying that they committed a home invasion  
20 where they left from Shaw Avenue. It's believable that  
21 it's Dominick staging up for the robbery that they  
22 committed.

23 It's also unbiased. It's just a fingerprint. That  
24 has nothing to lose. That has nothing to gain. It is  
25 what it is. What I want you to do when you are thinking

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       about all of these things is, don't look at these things  
2       in isolation.

3               You have Makayla. You have Danielle. You have  
4       fingerprints. You have the jail calls. You have the  
5       victims that are identifying him on scene. You have all  
6       of these things. You can damage one specific one, but  
7       the whole thrust of the case is all pointing to the same  
8       conclusion that Dominick Thompson is the person that  
9       went into that hotel room and then committed these  
10      crimes.

11             The victims, Summer and Christine, they give very  
12      compelling stories about what happened. Their stories  
13      are very similar about the movements that happened  
14      inside of the hotel room. It's terrifying. You heard  
15      the 911 call. She can barely complete a sentence. At  
16      one point she is just basically agreeing with the 911  
17      operator and says there is one person; one male and one  
18      female.

19             You can hear the fear in her voice. She had a gun  
20      held to her head while she was pushed down on the bed.  
21      The two opportunities that they have to identify him are  
22      believable. Makayla confirms that she was able to see  
23      it was Dominick when Christine was outside and they get  
24      run up on by the three. There was an opportunity to see  
25      him. That is what Christine said she did.

1           They said that the parking lot up there was lit.  
2           Then Christine confirms this. There is the part where  
3           he gets on top of her on the bed and is staring right in  
4           her face. There is the discussion about whether he  
5           could see their nose. Think realistically. With a  
6           hoodie, is it possible to have it drawn where you can  
7           see your nose and one commit an armed robbery at that  
8           point?

9           Again, the defense would have you say that the  
10          victims are lying. Makayla is lying. Danielle is  
11          lying. The fingerprint is planted, and the jail calls  
12          are just an innocent person trying to work the system so  
13          that he can get out of it. That's okay, because he is  
14          innocent. It doesn't make any sense.

15          I want to play some of the jail calls. There is  
16          the transcript if anybody wants to see them. I will put  
17          them up on the overhead as well.

18          I didn't get a chance to explain why I think these  
19          jail calls are important. I don't know if you were able  
20          to gather that as we played them.

21          The first call that was made was to April,  
22          Makayla's mom. They identified themselves at the very  
23          beginning of the call. April and Dominick is also  
24          asking about Danielle in it. It also mentions Makayla.  
25          There is no doubt about who these two people are in this

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 conversation.

2 This occurred on December 7 at 7:39 in the evening.  
3 Ms. Mills was correct. Dominick was arrested on  
4 December 7. You can look at his jail call logs. You  
5 can see that they start on December 7.

6 This is the sixth phone call he makes from jail; to  
7 the mother of the person who ends up testifying against  
8 him in court. Honestly, just calling her to me is  
9 guilty. It's a guilty conscience at the very least.

10 Other than in this alternative reality where he is  
11 feeding her and apparently offering her free legal  
12 advice just out of the goodness of his heart, he has  
13 nothing to do with this situation. I can't comprehend  
14 why he is even calling people.

15 The gist of the conversation and the way she  
16 speaks with him, it kind of confirms that he is clearly  
17 spending a lot of time with April. She calls him baby.  
18 The relationship is honestly, strange.

19 He is talking about giving her money and giving her  
20 rides to places. It's just very, very strange.

21 One of the things -- a minute and 16 into the call,  
22 he is asking about --

23 (Phone call played to jury).

24 MR. SMITH: He is asking about Makayla. The whole  
25 purpose of this is that Dominick is in jail. Dominick

1        was trying to figure out why he is in jail. Once he has  
2        figured out why he is jail, he will work to get those  
3        issues solved.

4            He said, they told me that the person who got shot  
5        picked me out of a lineup.

6            So the two things he is concerned about is  
7        Christine and the lineup and Makayla flipping. That is  
8        why he is calling April. That is why he has his  
9        girlfriend going out and offering her bread to give to  
10       Christine, which is not admitted as a good idea if you  
11       are innocent and that it is acceptable behavior to  
12       obstruct justice or act as an accessory after a felony,  
13       which is what he was asking his girlfriend to do.

14           It's very odd behavior for somebody who was  
15        apparently at a Thanksgiving get-together and has  
16        nothing to do with these people.

17           Another interesting point. 2:30, he mentioned the  
18        fact about, did your cousin say that they saw me? How  
19        does he know the lady that has been shot is April's  
20        cousin?

21           He knows that, because the drug deal was set up  
22        with Makayla's cousin. He knows that the victim is  
23        related to April. How would he know that if he didn't  
24        commit this crime. It makes no sense.

25           Within the first two minutes of the phone call, he

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 is hitting at the two things that he is worried about  
2 that they can possibly identify him. He is trying to  
3 figure out what is going on.

4 One thing I think is interesting is that  
5 apparently, Dominick has April's number, but Makayla  
6 doesn't have April's number. That was shocking when he  
7 is giving her the phone number for her own daughter.  
8 The dynamics going on here is quite odd.

9 This 7:15, you have a good window into what was  
10 going on in Makayla's life. The pitiful girl. She  
11 sounds like a pitiful girl in this description, who has  
12 been fooled by Dominick Thompson and basically  
13 participated in this.

14 So Makayla's mom is talking about that Makayla is  
15 freaking out of there, and Dominick's advice is, you  
16 need to tell her to toughen up and stay on game and tell  
17 her that they are just trying to scare you.

18 Why would that be the advice? He knows that if she  
19 gets too scared, she will give up everything. This is  
20 all self-preservation masquerading as concern for  
21 Makayla that he apparently believes in.

22 It's purely selfish. He goes on. He is talking  
23 about giving April money. Giving her rides so she can  
24 get up to the jail to see Makayla. It's all buttering  
25 her up and hoping that she will be an ally in keeping

1 Makayla quiet, which based off of this call, she is  
2 attempting to do.

3 12 minutes and 15 seconds, this is really the most  
4 meat of the call. This is where Dominick is giving his  
5 free legal advice to Makayla about how she can protect  
6 herself or something like that.

7 That is an interesting statement. Pleading guilty  
8 is the definition of incriminating yourself. Pleading  
9 guilty is saying, I did the crime. He is saying, man,  
10 she can plead, but she can't work with them period,  
11 because she will implicate herself period.

12 The sentence would be accurate if it said, man, she  
13 can plead, but she can't work with them period because  
14 she will incriminate me period.

15 That is what Dominick is actually saying in this.  
16 If she is pleading, she is implicating herself. He  
17 knows that if she cooperates, he is done. That is  
18 interesting. He apparently knows that she is guilty of  
19 accessory before and after, though he was at  
20 Thanksgiving before this crime happened. Accessory  
21 before would mean that she planned it. After would mean  
22 that she tried to cover it up after.

23 Apparently, he knows that, and that is what she  
24 should plead guilty to, because, of course, he was there  
25 when she set up the drug deal. He is probably being



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       accurate on what she should plead guilty to.

2               He goes on. This is where my opening started. He  
3 begins by explaining that she is not really facing any  
4 time. \*

5               This is as close to outright saying he did it.  
6 It's nearly a confession. He knows if Makayla gives it  
7 up, that he is guilty. At the end of this, he is  
8 assuring himself, okay. She is good. She will calm  
9 down. In reality, the reason he is in jail is because  
10 she has already given up his name two weeks ago.

11              Now, he is just arrested on December 7, but she had  
12 given him up two weeks ago. It's a highly incriminating  
13 call. It only gets worse when he starts calling his  
14 girlfriend.

15              So one common theme I noticed with Mr. Thompson is,  
16 he likes to play women, it appears. He plays April;  
17 that he is giving her food; staying at her house;  
18 giving her rides. He is playing his girlfriend because  
19 he is trying to get with Danielle. Telling her he loves  
20 her. Trying to get her number. He is playing with  
21 Danielle, but he has a girlfriend at the time that he is  
22 trying to mess around with her.

23              He playing with Makayla, because he gets her  
24 implicated in an armed robbery. I don't think that the  
25 pitiful girl that they portray her as is the one that

1       came up with this idea. He plays his family too. He  
2       has them come in and lie on his behalf.

3               This is another example of when he is trying to  
4       play people, and he has too many balls in the air. This  
5       second call. He is trying to explain why he is not  
6       cheating on his girlfriend with Danielle. In the  
7       process of this, he gives up interesting information.

8               As you can tell from this conversation, he is  
9       out -- what he is relaying -- that he was out on the  
10      south side. He sees April by a stop sign. He picks her  
11      up to milk her for information. Those are his words.  
12      He has not even been arrested on these charges. We  
13      presume he knows that he is wanted, but he has not been  
14      arrested.

15              He is milking the mom, the co-defendant's mom for  
16      information. The term milking has always meant to take  
17      advantage of. It's the same exact reason that he calls  
18      April once he is in jail.

19              He is trying to figure out, has Makayla given me  
20      up? He knows deep down that if Makayla gives him up, he  
21      is done. It's called a guilty conscience. He is  
22      covering his bases and trying to make sure everything is  
23      all right.

24              Later on in that call he gives a huge picture of  
25      how well he knows Danielle and Makayla; that they have

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       known each other for seven years. All of that  
2       corroborates and makes it more unlikely that Makayla and  
3       Danielle would be selling him down on something that he  
4       didn't do. It's very obvious that these people were  
5       connected. Even though they had only known each other  
6       for about three weeks, it seems like they share a lot of  
7       information in that time.

8             The next call is again to his girlfriend, as  
9       confirmed by Ms. Mills. This is when we move to, now  
10      Makayla is good. I have talked to her mom, and I think  
11      she will calm down. I will work on that chick that  
12      picked me out of the lineup. That mother-fucker is what  
13      he calls her in this phone call.

14            The initial inquiry -- this is December 8 that this  
15      third call happens. December 8 at 10:51 in the morning.  
16      It's the initial inquiry with his girlfriend about  
17      approaching Christine Richard who he knows is white. I  
18      don't know how that information is available to him,  
19      because she should be a stranger to him.

20            He knows she is white. He knows she has a  
21      Facebook. He doesn't want her to contact her on  
22      Facebook, and he doesn't want to contact her directly.  
23      All of these things are consciousness of guilt. He  
24      knows that it would be bad to reach out to the victim.

25            He knows that there would be a record of it on

1       Facebook. He wants some sort of way that will be a  
2       little bit harder to prove what they are trying to do.

3               We have the call the next day. The very next call  
4       that he makes. The final call that was introduced into  
5       evidence. It's interesting. You can tell from her  
6       tone, she has something important that she wants to tell  
7       him. She wants to tell him about writing love letters  
8       or something else important that she wants to tell him  
9       about.

10              He has one thing and one thing only on his mind.  
11       It is getting out of jail and marrying her once he gets  
12       out of jail, but mostly getting out of jail. The  
13       marriage was on the side to make sure she follows  
14       through with what she needs to.

15              There is a ton that is interesting about this call.  
16       Obviously, Ms. Mills cleared it up. If you didn't know  
17       what bread was, it's money. He is literally saying,  
18       tell her about some bread. Tell her some money to get  
19       her to sign an affidavit at the Sheriff's Office so I  
20       can come home.

21              He goes on to say that his roommate is her people,  
22       somebody who knows her. Maybe she will do this for a  
23       little bit of nothing. In case you had any doubt about  
24       what bread is, he is talking about once all of this has  
25       been accomplished and he is out, he is going to give

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       Toya's ass some bread. Me and you, we are going to have  
2       something planned. It's obviously a thing of value.  
3       It's crystal clear just by using some code of what this  
4       is.

5             Another thing I think is supremely interesting is  
6       this lady was supposedly at the Thanksgiving  
7       get-together with him. They supplied him with all of  
8       his alibi testimony. Does he ask her to get up to the  
9       Sheriff's office and sign an affidavit and say, "I  
10      wasn't where they are saying I was"? No. He doesn't.  
11      That would be a free affidavit. It's supposedly the  
12      truth, if you believe their version. That would be free  
13      and something that would be easily expected for your  
14      girlfriend to do if you were really with her.

15            No. He wants her to find the victim and pay her  
16      money so she will sign an affidavit, which makes more  
17      sense. Was he in the hotel room, or was he at the  
18      Thanksgiving get-together? Look at his behavior on  
19      these jail calls. It is guilty as can be.

20            I will address the alibi briefly. All of the  
21      evidence that the State has is a rebuttal to the alibi.  
22      A brief witness. The fingerprints. Makayla is saying  
23      he is with them. Danielle is saying he is with them.  
24      The victims saying he was in the hotel room.

25            All of that is a counter to the alibi. It's

1 obviously a comparison of who you believe more. Look at  
2 the demeanor of the witnesses and everything like that.

3 I had a couple of take-aways. They didn't give me  
4 much, but Toya gave me that they haven't discussed this  
5 case in two-and-a-half years. That is the most  
6 unbelievable thing I could possibly imagine. They are  
7 saying they sat around for two-and-a-half years knowing  
8 that Dominick is falsely accused by this manipulative  
9 girl, Makayla. Everybody else in the world conspired  
10 against him, and he conspired against himself on his  
11 jail calls.

12 It's just not believable at all that they haven't  
13 talked about this. It would be a terrible and upsetting  
14 situation. Of course they talked about it. That is why  
15 they all have the exact same time.

16 They don't have the same people. The party kept  
17 expanding. It started out sounding like a female event  
18 where people are cooking. Then the second and third  
19 witnesses added the children. The fourth witness added  
20 the three drunk guys that are apparently so drunk and  
21 rowdy, and then the party was hyped. I don't know what  
22 happened at the party.

23 Ms. Mills had a different recollection of it than  
24 the others. It seemed like others were trying to make  
25 it calm so it would be believable that you were looking

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 at exactly what time it is, even though some admitted  
2 that was unnecessary information to have.

3 Ask yourself, is that reasonable? Another  
4 interesting thing. Sherill tells him to turn himself  
5 in. He doesn't. His mom tells him to turn himself in,  
6 because he is innocent. He said, no. I will just let  
7 them do their job. They can find me.

8 They all think it's okay to steal, but they are not  
9 lying. They wouldn't lie to protect Dominick, even  
10 though his life is on the line. That is what they ask  
11 you to believe.

12 I ask you to believe the witnesses that we have  
13 that are not biased in that way in that they do have the  
14 ability to admit what they saw and what they didn't see.  
15 If you look at the combination of Makayla and the  
16 fingerprint and Danielle and the jail calls, it is  
17 obviously all pointing towards Dominick Thompson as one  
18 of the three people that went inside the motel room at  
19 Crossland Studios and committed all of these crimes.

20 I ask that you find him guilty of all of these  
21 crimes.

22 \* \* \*

23 CLOSING ARGUMENT BY MR. SCHULTZ

24 MR. SCHULTZ: When I spoke to you on Monday, I  
25 talked to you about legal proceedings in a criminal

1        court. I mentioned some words that you probably are not  
2        familiar with, I hope you weren't familiar with them  
3        before. In a couple of minutes, the Judge is going to  
4        talk to you about what they mean.

5            I want to begin today by saying reasonable doubt is  
6        the most important part, I believe, of our criminal  
7        justice system. Reasonable doubt is doubt that causes a  
8        reasonable person some hesitation to act.

9            The State is asking you to overlook all the flaws  
10       in their case. The State is asking you to overlook  
11       problems that their fact witnesses had. The State is  
12       asking you to overlook the fingerprint analyst.

13           The State is asking you to overlook statements that  
14       my client makes on the jail phone calls that you have  
15       heard asserting that he wasn't there and that they have  
16       the wrong person.

17           The State is asking you to, despite all of this  
18       overwhelming evidence of my client's innocence, to  
19       return a verdict of guilty. That is what the State  
20       is asking you to do.

21           I believe -- hopefully it will be your belief in  
22       the next couple of hours that they can't do it; that  
23       they haven't proven their case; that they haven't done  
24       what they had to do, which is to carry their burden of  
25       proof.



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1                   I don't know if you noticed what the  
2           Solicitor said in the last 45 minutes in his closing. I  
3           noticed him stopping very quickly. This happened. This  
4           happened. A lot of waving of hands. You know this guy  
5           is guilty. Just go back there and return a verdict of  
6           guilty.

7                   He believes he has a whole mountain of evidence to  
8           present. I believe that evidence presented to you in  
9           the last three days has been broken down into a  
10          scintilla of evidence, a very small piece of evidence.  
11          My opinion on this -- and I hope you will share this  
12          opinion -- is that this is not enough for a conviction  
13          in our courts of law.

14                  I am going to go over in chronological over  
15          beginning with the first witness that I believe  
16          testified for the State, Summer Hall. She now goes by  
17          Summer Donahoo. I cross-examined her, I believe,  
18          Tuesday morning. She said a couple of things that were  
19          very interesting.

20                  Number one, she said she positively ID'd my client  
21          here in court Tuesday. Now, I would present to you that  
22          ID identification happen all the time in courts of law.  
23          Some people are good with faces; some people are not  
24          good with facial recognition. There are studies that  
25          talk about that.

1           I will present to you using your common sense --  
2           and I asked her this very clearly. I said, did you say  
3           to the police the night that this happened -- did you  
4           say to the police, all I could see was their noses. All  
5           I could see was their noses. She said, probably.

6           Then I brought my computer up there to the  
7           statement to the officer. She said very clearly, when  
8           it was fresh in her mind, fresh in her mind, all I could  
9           see was their noses.

10          So think about that. That is in the testimony.  
11          Then she remembered, yeah. She remembered it. Folks,  
12          this is two-and-a-half years later. I can see why she  
13          wanted to identify my client, because like all of us in  
14          life, when something tragic happens to us, we want  
15          closure. We want to close this chapter of our lives and  
16          start over.

17          The simple fact of the matter is, she is not sure.  
18          That is reasonable doubt, Number 1. We also heard from  
19          Christine Richard. She apparently was there as well.  
20          After all of this, did she identify Mr. Thompson when  
21          it was fresh in her mind? No. Two-and-a-half years  
22          later, that is right. Yeah. Him over there sitting  
23          next to the defense attorney. Of course she will say  
24          that. She wants closure.

25          This is how the human brain works. We all want

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 closure when something tragic happens to us. The best  
2 way to do it is by looking at that person over there  
3 that has the charges, has the indictments saying, yes.  
4 That is him. But when it was fresh in her mind, did she  
5 say that to the police? No. Was she ever given, like  
6 Makayla Richards was given, a six-pack, what is commonly  
7 called, a six-pack photograph of like people? No.  
8 Neither was Summer Donahoo, Summer Hall.

9 Now, after that, it's my recollection at least, we  
10 heard from Makayla Richard. The State made a big deal  
11 that she said -- that she has the exact same version of  
12 events and her version of events never changed, and she  
13 pretty much stuck to that story.

14 Pretty much is not good enough in a court of law.  
15 Pretty much doesn't cut it. They are hoping that pretty  
16 much will do. I will present to each and every one of  
17 you that pretty much is not the standard that we have in  
18 our American courts of law. Pretty much doesn't do it.

19 Let's go in chronological order of what Makayla  
20 actually said when she started talking to the police.  
21 First of all, she lies to the police. She said, I  
22 wasn't there. Then she gives another statement. Yeah.  
23 Maybe I was there. Then she started pointing fingers.  
24 Then, not only that, she cuts a deal.

25 She testified here a couple of days ago. When it

1        was fresh in her mind, they asked her to fill out an  
2        affidavit of photo identification. This is a copy that  
3        you will have back there with the State's evidence.

4            The officer on the case asked her, would you come  
5        in tomorrow and sign an affidavit of photo  
6        identification?

7            Sure. Absolutely. Never comes back in. Never  
8        comes back in. Take a look at this. It's blank. It's  
9        blank. Again, the State wants you to believe that just  
10       good enough is going to be good enough for the verdict  
11       that they want.

12           I will present to you that good enough is simply  
13       not going to cut it. Mr. Smith said a couple of minutes  
14       ago, too, he said, this is how it works. This is how it  
15       works. We have people who, by her own admission, want  
16       to stay out of jail.

17           So what does she do? She first lies to the police.  
18       Then she comes up with this story that will try to help  
19       her out. That is why she was testifying. Not because  
20       she was telling the truth, but because she was hoping  
21       for a better deal.

22           I elicited that out of her on Tuesday. It seems a  
23       long time ago, but it was Tuesday. She is hoping for a  
24       better deal. The Solicitor said a couple of minutes  
25       ago -- he said that she said that the exact same version

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 of events hasn't changed.

2 It has changed. It kept changing until she figured  
3 out how much trouble that she was in. Then what she  
4 does is she blames an innocent man sitting over there  
5 and then cuts a deal with the State and sits up there  
6 and lies to save herself. I agree with Mr. Smith about  
7 that. This is how it works. That is what he said.  
8 This is how it works.

9 Collaborating witnesses, people that have a  
10 motivation to lie. This is how it works. What are we  
11 doing here, folks?

12 Now, a couple of hours later we heard from Ms.  
13 Krind. I recall her testimony yesterday. That was the  
14 last thing we heard yesterday.

15 The reason I called her yesterday was, I wanted to  
16 have this fresh in your mind today as you walked in here  
17 today. I cross-examined her. I said, you also remember  
18 saying you fell asleep. Yeah. I fell back asleep. She  
19 said the opposite.

20 I didn't see the guys. I was asleep. Which is it?  
21 She said she fell asleep. She said she was sick and had  
22 a headache and nauseous. I believe that was on a couple  
23 of days ago. Yesterday afternoon, she said, I wasn't  
24 sick. I was just sleeping that day.

25 Within the last couple of days, she can change her

1        sworn testimony. When she came up here, placed her hand  
2        on the Holy Bible and swore to tell the truth, the whole  
3        truth, and nothing but the truth, her story changed  
4        again.

5            As Mr. Smith kept saying, simply not believable.  
6        Again, I just wanted to just go over this, because this  
7        is so very important. She said clearly, I haven't seen  
8        the guys. I was asleep. Her testimony is completely of  
9        no value for the State whatsoever. If it was, she would  
10       have stuck to her story this entire week, but she  
11       didn't. If she did, it would have value to the State,  
12       but it doesn't.

13           It had value, however, for the defense in this  
14       case. As I told you on Monday, we do not have to prove  
15       a thing. All we have to do is to show one, not two, not  
16       three, not four, not five. We have to show one  
17       reasonable doubt. If you have one reasonable doubt as  
18       to the responsibility or guilt of my client, then you  
19       have to return a not guilty verdict on all counts, on  
20       all charges.

21           I have been doing law and representing clients for  
22       a while. I can't remember having to cross-examine an  
23       expert witness like I did yesterday. That was  
24       embarrassing. When I asked very, very simple questions  
25       of our County's fingerprint analyst about what objective

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 evidence and subjective evidence means -- these are very  
2 simple definitions that an expert, that somebody that  
3 deals in science should know. She should have known  
4 that the first day of whatever class she took.

5 Then I asked her a very basic question about, do  
6 you know what forensics is? She said, no. I just  
7 couldn't believe my ears. I was astounded by that  
8 question. This is the person that has worked for seven  
9 years analyzing fingerprints?

10 Good God. You don't need a dictionary to know what  
11 forensics is. All you have to do is watch one episode  
12 of CSI or NCIS to know what forensics is. It's the  
13 study of scientific techniques in order to solve  
14 crimes.

15 She deals, at least she said she did, deals with  
16 forensic technology every day. She didn't know the  
17 definition of forensics? That is like a lawyer being up  
18 on the stand and somebody asking him or her, what does a  
19 statute mean? Have you ever read a law book? That was  
20 incredible.

21 In the very definition of the word, incredible  
22 meaning not credible. I was embarrassed as a resident  
23 of this county to hear that. Everyone here should be  
24 embarrassed about that too. That was awful. I felt bad  
25 for her.

1           One of the things I don't feel bad about is calling  
2           her on that and saying to her, you have done this for  
3           how many years, and you don't know what the definition  
4           of forensics is? What in the world is going on?

5           Let me refer to State's Exhibit 36. I will not put  
6           it up on the big board. You will have this when you go  
7           back in the deliberation room. There is a comparison.  
8           This is what was actually lifted. Look at what all  
9           those smudges, black marks, and everything all around  
10          here.

11          She said, this is a visual test. Okay, sure. I  
12          get that. The thing is, that is not science. That is  
13          not objective science. Objective means something that  
14          everyone agrees with that. As I said yesterday, what  
15          the speed of light is. I am not asking her to be an  
16          astro-physicist. I am asking for some better standard  
17          than, I don't know what forensics means.

18          Folks, what more reasonable doubt do you need than  
19          that? Let's just say, for instance, that this is truly  
20          Dominick's fingerprint. Let's just say that for an  
21          instance.

22          You heard testimony that he was over at Makayla's  
23          house. He was over there several times. His  
24          fingerprints would be there. You don't -- with  
25          fingerprints -- you are probably not going to be able to



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 lift a fingerprint if I go like this (indicating) on a  
2 polished surface like this. You may be able to, but I  
3 highly doubt it.

4 Some surface that will be able to collect  
5 fingerprints -- you can't tell that I was here with my  
6 fingerprint on it right now. It is now 10 to 11:00  
7 Thursday, June 13. You are not going to be able to  
8 prove in a court of law or scientifically that I was  
9 here, because my fingerprint was just here or found.

10 All that shows, if you assume that that is Dominick  
11 Thompson's fingerprint, is that he was present at least  
12 in the house at one point. We have heard testimony that  
13 that happened.

14 Another thing, when you look at indictment for  
15 armed robbery, an armed robbery is important, too,  
16 because that is one of the indictments that the State  
17 has. That is all the evidence that the State has. All  
18 those pieces of paper, jail calls, pictures like this.  
19 Where is the gun? Where is that? I don't know.

20 Please find it. We didn't even have the chief  
21 investigator on this whole case testify. Did he find  
22 the gun? We don't know. The State didn't call him.  
23 Did anybody find the gun? No. Did they find the gun at  
24 Makayla's house? No.

25 There is nothing -- before I forget here, the

1       cartridge box. This thing that the fingerprint was  
2       allegedly found on -- this wasn't found at the scene of  
3       this incident. This was found, apparently, at Shaw  
4       Avenue. This wasn't found in the hotel room. If it  
5       was, it would be a different story, but it wasn't.

6               Then when you heard all of this testimony -- I am  
7       skipping a little bit -- about the hotel room. Things  
8       were rummaged through, baggies were taken and everything  
9       like that. The condition of the hotel room doesn't  
10      entirely look that bad.

11             You are going to have State's Exhibits 1 and 2.  
12      You are going to have State's Exhibit 3 back there when  
13      you go to your deliberation room and you can finally  
14      start talking about the case.

15             Now, let's talk about the jail phone calls. The  
16      State makes a big deal about the jail phone calls. I  
17      have listened to the jail phone calls. I have gone over  
18      them. I want you to turn please to the second page in  
19      the first full paragraph there. I am looking at the  
20      sentence beginning in the bottom line of that.

21             How are you going to have someone point me out, I  
22      wasn't even there. When he was at the jail talking to  
23      people, he is saying that he wasn't even there. Then at  
24      the bottom of the second page there too -- this is not  
25      my transcript. This is what the State wrote.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1           The last four words on that page, "I am going to  
2           trial." He is going to trial, because he is an innocent  
3           man. He didn't do anything. He was at a Thanksgiving  
4           get-together with his family. I would have said the  
5           same thing. "I am going to trial." I wasn't there.

6           The second-to-the-last page, you can assess this  
7           for yourself. My interpretation of the paragraph there  
8           that begins with 557, this seems like a very, very  
9           jealous woman on the other end of the line. That is my  
10          interpretation of it.

11          You are not going to have this transcript when you  
12          go back into the deliberation room. You will not have  
13          this transcript. You are going to have the jail calls.  
14          So listen to this. Then in the paragraph that begins  
15          with 9:00, you said, I know for a fact you know what I  
16          am saying. I wasn't nowhere around again.

17          He talks about how he wasn't anywhere around.  
18          Again, in the last paragraph there on the second-to-last  
19          page, this is not an admission of guilt, as the State  
20          would have you believe.

21          This is a girlfriend and boyfriend talking about  
22          how he wants to get married to her. This is nowhere  
23          close to any kind of party admission of guilty parties.

24          Here is another thing. Mr. Smith is making a big  
25          deal about that he knows who Christine Richard is. When

1       you go to jail, they just don't say, we are arresting  
2       you for the heck of it. It says, presents you with  
3       something that says, this is who the police said and  
4       that you did this too. That is how he knows the name,  
5       not because he has some extra sensory perception because  
6       he was there. That is how he knows the name.

7               So what have we got here? Let's add that up all  
8       one. Before I do add it all up here, I want to go over  
9       what happened yesterday when my witnesses testified. My  
10       witnesses had nothing to gain by telling the truth  
11       yesterday.

12              He was there on Thanksgiving morning, preparation.  
13       When I first heard that, I didn't really know what to  
14       think about that. The more that they explained that,  
15       the more sense it made. That is just what happens.  
16       That is their tradition. Your family may have a  
17       different tradition than they do, but that is their  
18       tradition. That is what they testified to.

19              Their testimony matched, because it's the truth.  
20       He was out there playing with the kids. Their timeline  
21       is pretty good. I think one witness said, there is a  
22       big huge clock somewhere in the house. Since there was  
23       cooking going on, they had the timers on as well. So  
24       they were looking at the timers as well.

25              The first call from 911 came in at 12:43, exactly

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       when this Thanksgiving Day preparatory party was being  
2       held. These are people with nothing to gain by this,  
3       nothing to lose. So they don't have to testify for  
4       him.

5               We could not present an alibi at all, because we  
6       don't have to present any witnesses. Those people came  
7       to me and said, "This is nonsense, because we know  
8       Dominick was there with us at the Thanksgiving Day  
9       preparatory meal."

10              The State made a deal about convictions,  
11       shoplifting. You can't hide that. All four of my  
12       witnesses said that they wouldn't lie. Why? Because  
13       all four of them put their left hand on the Bible and  
14       swore to tell the truth, the whole truth, and nothing  
15       but the truth.

16              I can think of other people who the State called  
17       who were not entirely truthful with the police, one  
18       being Makayla Richard, who was just trying to avoid jail  
19       time. Nobody is trying to avoid jail time with my  
20       people, my witnesses. No one is trying to do that.

21              Makayla Richard is. She said it on her own. I am  
22       trying to stay out of jail. Mr. Smith said, this is how  
23       it works.

24              I am going over all of this it last night, going  
25       over my thoughts for my closing statement. I thought

1       about all of this. Certainly, it's a tough job sitting  
2       where you are sitting right now. It's a very tough job,  
3       but, at the same time, I hope the experience has been  
4       educational for you.

5             I hope that this has given you a glimpse into,  
6       unfortunately, how our criminal justice system works.  
7       Unfortunately, sometimes how it doesn't work. That is  
8       what I am presenting to you today.

9             This is a breakdown of injustice in this case. We  
10      have a witness who says, all I can see was their noses.  
11      Two-and-a-half years later, she comes in here, that is  
12      the guy. What do you make of that? We have a  
13      cooperating witness for the State, Makayla Richard, who  
14      is trying to protect her own butt by testing. She is  
15      hoping to stay out of jail.

16            Then we have Danielle Krind saying, I was asleep on  
17      and off. I was sick. Then she said she wasn't sick.  
18      It's just not believable. Again, these are reasonable  
19      doubts. All of them are reasonable doubts, everything  
20      that I mentioned.

21            Then, God bless her, we have the fingerprint  
22      analyst not knowing what forensic means. Folks, what  
23      more do you need? I would vote for not guilty just by  
24      hearing her. I hope that she is doing a good job  
25      analyzing fingerprints for seven years. I would suspect

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       that she has not when she doesn't know the difference  
2       between objective and subjective. She is working cases  
3       where some people's lives are on the line. Hold them to  
4       a higher standard, please.

5               This is your County tax dollars at work right here  
6       in this courtroom. I talked about this on Monday. It  
7       seems like a long ago now, but I talked about what  
8       reasonable doubt means. I talked about burden of proof,  
9       I am certain. You are sick of hearing from me.

10              The Judge will instruct you on what reasonable  
11       doubt means. A doubt that causes a reasonable person  
12       some hesitation to act. You are all reasonable folks.  
13       That is why we selected you on this jury, to deliver  
14       justice.

15              Again, every one of you is bound by your  
16       conscience. Nobody can force you, when you get back  
17       there to say, to think one way or the other.  
18       Individuals make decisions. Decisions alter the course  
19       of history. Just like D Day, we celebrated the 75th  
20       anniversary of D Day last week.

21              Those choices turn into decisions, decisions then  
22       change outcomes in cases and in war and in history.  
23       Justice, just remember, is just us. Nobody can compel  
24       you on what to decide when you go back there. But, all  
25       of the evidence that you have here is not enough. These

1 folks have not met their burden of proof. Thank you.

2 \* \* \*

3 CLOSING ARGUMENT BY MR PAYNE

4 MR. SMITH: I will try to go slower on this one. I  
5 get excited in closing arguments.

6           Dominick Thompson -- the defense wants you to  
7       believe, as we went through the scatter shot of evidence  
8       that he has to shoot down, which I compare to a freight  
9       train being shot by a BB gun.

10           He has to go through every single thing. He is  
11           having the worst day ever. It just so happened that his  
12           friend Makayla, who he is feeding and taking care of,  
13           decides to stab him in the back. Danielle decides to  
14           come around and stab him in the back too, even though  
15           there is no reason that they dislike each other.

16           You have the fingerprint. The computer just  
17           decided to spit out the number one fingerprint that she  
18           put in, and it comes back to him. With 17 points of  
19           analysis, it's just a coincidence. If you do buy the  
20           fingerprint, it doesn't mean anything, and it's on a box  
21           of ammo at the staging location and the return location  
22           from an armed robbery. Just forget that.

23           The jail calls. I will let you interpret them  
24           however you want. Maybe she is a jealous woman or  
25           something like that. She has some reason to possibly be



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       jealous, because he has been hanging out with two other  
2       girls non stop for three weeks.

3             The one thing that is very interesting is that in  
4       the conversations with the girlfriend, he talks about,  
5       he says he wasn't there. You know what he doesn't say?  
6       I was with you. We were at Thanksgiving. Get up there  
7       and sign an affidavit.

8             You get up there and you get that mother-fucker to  
9       sign the affidavit. Give her some bread, and you get  
10      her to sign the affidavit. You ask yourself. Come on.  
11      Be real.

12            Makayla -- he makes a big deal about saying this is  
13      how this works. She is in a terrible situation. She is  
14      18 years old, and the time that she gives up this info,  
15      she has never met me, she has never met Andy Johnston,  
16      her attorney. She has not been able to talk to her  
17      mom.

18            They haul her out of the house and brought her down  
19      to the Sheriff's Office, and she knows that she is in  
20      trouble. Of course she hedges and doesn't want to give  
21      it up.

22            She gives up her own involvement before she gives  
23      up him. She gives the story about her involvement in  
24      the written statement, and then she comes forward and  
25      gives him up four hours after she had been pulled out of

1 her house. We are supposed to believe she is just this  
2 evil -- although she is pitiful. She can't feed  
3 herself. She is master minding this all together.

4 She is going to take this guy down. He ahs been  
5 nothing but nice to her, and all of the phone calls and  
6 talks with April, that is just free legal advice because  
7 he is so concerned about her. Why would he even be  
8 worried that Makayla is going to pick him out? Why does  
9 he have any concern about what Makayla is saying?  
10 Because he is interested in Makayla. He knows Makayla  
11 is already arrested. He knows Makayla was seen on site.  
12 He knows. It doesn't make any sense.

13 Danielle Krind. I don't know what her motivation  
14 to lie is. She said, I saw him leave. Black car, saw  
15 him come back by black car. Fifteen, 20 minutes later,  
16 the cops get there and confirm everything Makayla said.  
17 Gives evidence against Makayla.

18 Of course she didn't want to give that information  
19 at 4:00 in the morning with two deputies sitting in the  
20 living room and not knowing what was going on. He tries  
21 to explain how he knows Christine Richard.

22 The first call from December 7 to April, he says,  
23 has your cousin picked me out of a lineup? I don't  
24 think the warrant says, this is April Richards' cousin.  
25 Richard is not exactly the most unique name in the

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 world. It doesn't say whether they are black, white.

2 It doesn't say where they live.

3 Since the warrant means that you tried to kill this  
4 person, they give you the name, but they don't give you  
5 identifiers so you can go and bribe them to make them  
6 sign an affidavit or try to kill them. They conceal the  
7 victim's information from them.

8 It's not logical. He knows who it is. He knows  
9 she has a Facebook. They certainly don't put Facebook  
10 on the warrant. I promise you that. They don't have a  
11 link to her Facebook profile so you can contact her and  
12 apologize for how sorry you were for pistol-whipping  
13 somebody and then shoot her in the gut in front of her  
14 entire family on Thanksgiving.

15 They don't include any of that information. That  
16 information is known, because Dominick Thompson was  
17 there when the drug deal was set up over Facebook with  
18 Makayla, with Christine. That is the connection.

19 Just listen to the call. Why is he even calling  
20 her? Why is he even concerned that Makayla might give  
21 something up? He is her caretaker. He is doing  
22 everything for her. Yet, he says, I bet they scared  
23 her. She gave everything up. I hope she didn't.

24 She did, ladies and gentlemen, give him up. She  
25 did, and there is, in his own words, no evidence against

1           him. That is not reasonable.

2           It has not been challenged as far as what the  
3           crimes are. He is guilty. He knew he was guilty on  
4           December 7 when he was arrested, and that is why he was  
5           calling. He is trying to figure out, I hope she didn't  
6           flip.

7           Reasonable doubt. He talks about hesitate to act.  
8           Obviously, you are allowed to look at the evidence. I  
9           want you to consider the evidence. I want you to look  
10          at everything. He is also going to tell you that it's  
11          the type of evidence that leave you firmly convinced of  
12          something.

13          I would submit to you that Makayla's testimony,  
14          Danielle's testimony, the fingerprints, and the very  
15          weird behavior on the phone call is indicative of guilt  
16          and should leave you with no reasonable doubt. It  
17          should leave you firmly convinced of his guilt that he  
18          was one of the three men that entered Crossland Studios  
19          and committed a robbery against Brandon Logan, assault  
20          of Brandon Logan, which caused the firearm to discharge  
21          and hit Christine Richard.

22          I ask that you convict him of all counts. Thank  
23          you.

24          THE COURT: We will take a quick break before I  
25          give you the instructions. Please go to your jury room.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       Do not talk about the case. I will bring you back in  
2       just a few minutes.

3               (Whereupon, the jury exited the courtroom.)

4               THE COURT: We will take 15 minutes.

5               (Whereupon, the following proceedings were  
6       held in open court. The defendant was  
7       present with his attorney, along with counsel  
8       for the State.)

9               THE COURT: Bring the jury in, please.

10              (Whereupon, the jury entered the courtroom.)

11                               \* \* \*

12                               JURY CHARGE

13              THE COURT: All right, ladies and gentlemen. You,  
14       of course, have seen and heard all the evidence in the  
15       case. You have now heard the final summations of the  
16       lawyers. Therefore, it becomes my duty and obligation  
17       to instruct you on the law that is applicable. Then you  
18       will be asked to go back and begin your deliberations.

19              Through that process, you will examine all of the  
20       evidence. You will determine the facts as they relate  
21       to the allegations. You will apply the law that will  
22       have provided you. You will determine whether or not  
23       the defendant has been proven guilty beyond a reasonable  
24       doubt of any charge that the State has brought against  
25       him.

1           It is your exclusive duty to determine what the  
2           facts are. You do that through your own common sense  
3           examination and evaluation of all of the testimony and  
4           the other evidence received during the course of this  
5           trial. You 12 jurors alone will decide what weight,  
6           value, and effect to give to any particular witness'  
7           testimony or even portions of that testimony.

8           Your sole objective is to simply render a fair and  
9           impartial decision based upon the evidence presented  
10          during the trial and the law that is applicable, as I  
11          will have provided it to you.

12          In this case, as you know, the State by way of the  
13          prosecutor, has accused the defendant of having  
14          committed five separate and distinct criminal offenses.  
15          They are alleged in four separate indictments. The  
16          State has alleged Mr. Thompson committed the crimes of  
17          burglary in the first degree, possession of a firearm  
18          during the commission of that violent crime. That is  
19          one indictment.

20          The State has also accused Mr. Thompson of having  
21          committed the crime of assault and battery in the first  
22          degree, alleging that he committed that offense against  
23          Brandon Logan, set forth in a separate indictment.

24          The State also charges Mr. Thompson with having  
25          committed the crime of armed robbery; that he took,

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1        stole, and carried away property that belonged to  
2        Brandon Logan by the use of force or intimidation and  
3        while armed with a deadly weapon.

4            The final indictment charges Mr. Thompson with the  
5        crime of assault and battery of a high and aggravated  
6        nature, which resulted from what the State claims was  
7        the shooting of Christine Michele Richard by Mr.  
8        Thompson.

9            As to those allegations and as to each of those  
10       charges, Mr. Thompson has entered a plea of not guilty.  
11       As I have told you, that plea of not guilty has placed  
12       upon the State the burden of proving the allegations  
13       that they have made against the defendant by way of the  
14       indictments.

15           The burden is on the State to prove each of the  
16       essential elements of the crimes that are alleged in  
17       each of those separate indictments; therefore, the  
18       burden is upon the State to establish the defendant's  
19       guilt to the satisfaction of you 12 jurors beyond a  
20       reasonable doubt before any verdict could be returned as to  
21       any of the indictments finding the defendant guilty of  
22       that charge.

23           As I have told you, the burden is never upon the  
24       defendant or the person accused of a crime to prove that  
25       they are not guilty or prove that they are innocent,

1       because in some cases that might not be possible. The  
2       burden is always upon the State, because they have made  
3       the accusation and they have brought the charge against  
4       the defendant to establish his guilt beyond a reasonable  
5       doubt.

6             You are instructed that it is a vital, important,  
7       and cardinal rule of law that every defendant in a  
8       criminal trial, no matter how serious the offense might  
9       be for which that person stands charged -- that person  
10      shall always be presumed innocent of that charge.

11            That presumption of innocence remains with any  
12      defendant, as it does with Mr. Thompson, from the time  
13      that he was placed under arrest and throughout the  
14      course of the criminal process, and even throughout the  
15      course of the actual trial in this case. That  
16      presumption of innocence will be with Mr. Thompson, even  
17      as you go back in the jury room to begin with your  
18      deliberations after I have provided you with this  
19      instruction.

20            That presumption of innocence will be with him in  
21      that jury room, and it will be with him forever, unless  
22      you 12 jurors determine that he is no longer entitled to  
23      that presumption of innocence.

24            In other words, after you have carefully reviewed  
25      all of the evidence introduced during the trial of the



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 case and after you have evaluated the credibility of  
2 witnesses' testimony, and after you have been able to  
3 determine the facts as they relate to the allegations  
4 made in the separate indictments and after you have  
5 applied the law to that particular charge, as I will  
6 have provided it to you, if you 12 jurors unanimously  
7 determine that the defendant's guilt as to a particular  
8 charge has been proven beyond a reasonable doubt, then  
9 he would no longer be entitled to the presumption of  
10 innocence as it relates to that particular charge.

11 It is only and unless and until you are satisfied  
12 of his guilt beyond a reasonable doubt as to a charge,  
13 that the presumption of innocence would no longer be  
14 applicable. The State does have the burden of proving  
15 the defendant's guilt to your satisfaction beyond a  
16 reasonable doubt. That does not mean that the State has  
17 to prove his guilt beyond all doubt or beyond any  
18 possible doubt. It does require the State to prove his  
19 guilt to your satisfaction beyond a reasonable doubt.

20 The term reasonable doubt should be given its plain  
21 and ordinary meaning. A reasonable doubt is the kind of  
22 doubt that would cause a reasonable person to hesitate  
23 to act upon the information provided.

24 A defendant in a criminal trial is entitled to any  
25 reasonable doubt that arises from the evidence, or lack

1 of evidence in the case. If upon any factual issue  
2 essential to a finding of a verdict of guilty you have  
3 some reasonable doubt as to how that issue should be  
4 resolved, it would be your duty to resolve that  
5 reasonable doubt in favor of the defendant.

6 While there are various forms of evidence, such as  
7 testimony, photographs, documents charts, and other  
8 types of physical exhibits, there are really only two  
9 types of evidence, either or both of those types of  
10 evidence may be used independently or in combination in  
11 order to prove a fact in question.

12 There are two types of evidence. Those two types  
13 of evidence are direct evidence and circumstantial  
14 evidence. Direct evidence is the testimony of a person  
15 who testifies from actual knowledge of that fact. It is  
16 testimony by a person who has perceived the existence of  
17 some fact by means of their senses, and then they come  
18 into court and they testify as to what they have  
19 previously perceived, seen, heard, or felt.

20 Direct evidence proves the existence of a fact  
21 directly, and it does not require any deduction or  
22 inference in order to establish that fact.

23 Circumstantial evidence, on the other hand, is the  
24 proof of some other fact or set of facts, which taken  
25 either singly or collectively, may prove the existence

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1        of a fact in question as a necessary consequence; that  
2        is, through a deduction or an inference.

3            An inference is simply a deduction of fact that may  
4        logically and reasonably be drawn from the proof of some  
5        other fact or set of facts. In other words, it's not a  
6        fact which is proven by the direct testimony of a  
7        witness based upon that person's perception. It is a  
8        conclusion which might reasonably be drawn from the  
9        proof of other facts.

10           In other words, you may infer that a particular  
11        event occurred or that a particular fact exists based  
12        upon the proof of sufficient factual circumstances,  
13        which would reasonably your arriving at a particular  
14        conclusion.

15           The commission of a crime and any particular  
16        element necessary to prove that crime may be proven by  
17        direct evidence or by circumstantial evidence or by a  
18        combination of both direct and circumstantial evidence.  
19        The law make no distinction between the weight or value  
20        to be given to direct evidence or circumstantial  
21        evidence; however, to the extent that the State relies  
22        upon circumstantial evidence in order to establish the  
23        commission of a crime, all of the circumstances proven  
24        must be consistent with each other and when taken  
25        together point conclusively to the guilt of the accused

1       beyond a reasonable doubt.

2             If these circumstances merely portray the  
3       defendant's behavior as suspicious, the proof is  
4       insufficient, and it fails. The burden rests with the  
5       State, regardless of whether they rely upon direct  
6       evidence or circumstantial evidence or some combination  
7       of both types of evidence to prove the defendant guilty  
8       beyond a reasonable doubt.

9             Proof beyond a reasonable doubt is proof that  
10       leaves you firmly convinced of the defendant's guilt.  
11       There are very few things in the world that we know with  
12       absolute certainty. In criminal cases, the law does not  
13       require proof that overcomes every possible doubt. If  
14       based on your consideration of the evidence in this case  
15       you are firmly convinced that the defendant is guilty of  
16       a crime for which he stands charged, then you must find  
17       him guilty of that particular crime.

18            If on the other hand you think there is a really  
19       possibility that the defendant is not guilty of a crime  
20       with which he stands charged, you must give him the  
21       benefit of that doubt and find him not guilty of that  
22       particular charge.

23            Because you are the judges of the facts in this  
24       case, you are therefore necessarily the sole judges of  
25       the credibility; that is, the believability of each

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       witness that has testified during the course of this  
2       trial. You 12 jurors alone will decide what weight,  
3       value, and effect to give to any particular witness'  
4       testimony in this case.

5               There are a number of factors which you should take  
6       into consideration in arriving at your evaluation or  
7       your assessment as to a particular witness'  
8       credibility. I am going to list those factors for you.  
9       You should consider the demeanor of the witness; that  
10      is, how the witness appeared to you as the witness  
11      testified from that witness stand.

12             Was the witness straight-forward in responding to  
13      questions, or was the witness hesitant or evasive in  
14      responding to questions that were asked of the witness.  
15      Simply put, did the witness appear to you to be telling  
16      the truth and to have knowledge of the facts to which  
17      that witness has testified.

18             You should also consider whether or not the  
19      testimony of a witness was consistent or was it  
20      inconsistent with that witness' own testimony provided  
21      here during the course of the trial or whether or not it  
22      was consistent or inconsistent with other testimony or  
23      other statements made by that same witness, whether  
24      those were made in court or outside of court.

25             You should also consider whether or not the

1        testimony of a witness is consistent or inconsistent  
2        with other testimony or other evidence received during  
3        the course of the trial.

4            You should also consider how the witness came to  
5        know the facts to which that witness has testified. In  
6        other words, what was a particular witness' opportunity  
7        and ability to perceive the existence of those facts to  
8        which that witness has testified by having previously  
9        used his or her senses. Then, what is the ability of  
10       that witness to be able to come into court and to  
11       accurately recollect to you what they have previously  
12       perceived.

13           You should also consider any bias or prejudice or  
14       interest that a witness might have with regard to the  
15       case. In other words, do you find some reason that a  
16       particular witness would come into court and would  
17       testify one way or the other to help or hurt one side or  
18       the other. You may consider any interest that the  
19       witness may have in the outcome of the case, if you  
20       determine that a witness does have such an interest, and  
21       you find that interest would bear upon that particular  
22       witness' credibility.

23           You should also consider whether or not the  
24       testimony of a witness is strengthened or is it weakened  
25       by other testimony or other evidence received during the

State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 course of the trial.

2 Now, during the course of this trial you have heard  
3 certain testimony that was elicited while a witness was  
4 on the stand regarding that witness having a prior  
5 conviction or convictions for a particular criminal  
6 offense. Ordinarily, that type of evidence is not  
7 admissible because it's not relevant to any issue that  
8 the jury has to decide. However, when a particular  
9 witness has been convicted of particulars types of  
10 crimes, such as those involving dishonesty, evidence of  
11 those crimes may be introduced during the course of that  
12 witness' testimony.

13 The purpose that evidence is to impeach the  
14 credibility of the witness providing testimony in  
15 court. So you may consider that evidence, if you find  
16 it credible and probative on that particular point. You  
17 should not consider it for any other purpose, but it has  
18 been offered in order to impeach the credibility, and  
19 you may consider it for that purpose if you find it to  
20 be appropriate and probative on that issue.

21 During the course of this trial, you have also  
22 heard certain testimony that was elicited from a person  
23 who was qualified by the Court as an expert in a  
24 particular field. Ordinarily, lay witnesses are not  
25 permitted to testify in court as to an opinion or in

1       opinion form. Certain persons who have special  
2       education or training or experience with regard to a  
3       particular matter may be offered as an expert. Where  
4       that witness meets certain qualifications, then they may  
5       be qualified by the Court to testify in an opinion form  
6       as an expert witness.

7             Please understand the fact that I qualify a witness  
8       as an expert should not be taken by you as any  
9       indication by me as to how I think you ought to consider  
10      that witness' testimony. You have the prerogative of  
11      evaluating an expert's testimony just like you do any  
12      other witness' testimony. If you find that a person who  
13      was qualified to testify as an expert does not have  
14      sufficient education or training or experience or has  
15      not properly considered the facts that relate to this  
16      particular matter, then you may reject that expert's  
17      opinion in its entirety, just like you may do any other  
18      witness, or you may accept it in whole or in part.

19            All I am saying is, you must evaluate the  
20      credibility of an expert's testimony and those opinions  
21      just like you do any other witness who testifies during  
22      the course of the trial.

23            Because you are the sole judges of the facts and  
24      because you are the judges of the credibility of each  
25      witness, you are permitted to believe as much or as



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1        little of what a witness has testified to as you deem is  
2        appropriate; therefore, you may believe everything that  
3        a witness testified to. You may choose to believe none  
4        of it. You may believe one portion of a witness'  
5        testimony and reject some other portion of that same  
6        witness' testimony.

7                In a given case, you could believe one witness as  
8        opposed to several or several as opposed to one.  
9        Whatever your good judgment and common sense tells you  
10       is the most believable and credible testimony is the  
11       testimony you should accept. You should reject any  
12       testimony or evidence that you find not to be credible  
13       or believable.

14               Again, your sole objective is to render a fair and  
15       impartial decision based upon the evidence presented.  
16       Your determination of fact from that evidence where you  
17       can do so, and then your application of the law as I  
18       will have provided it to you.

19               The same law that provides that you are the judges  
20       of the facts also provides that I am the judge of the  
21       law. That simply means that nobody is going to tell you  
22       how to arrive at your determination of fact in this  
23       case. As I have already stated, you do that through the  
24       exercise of good judgment and common sense  
25       conscientiously applied to the testimony and evidence

1           received during the course of the trial.

2           You must, however, under your oath as a juror  
3           accept the law as I provide it to you as being the law  
4           that you are to apply in the case.

5           In other words, you are not to ever concern  
6           yourself with what you thought the law was before you  
7           came to serve as a juror this week, or what you think  
8           the law ought to be. Under your oath as a juror, you  
9           must simply accept the law as I provide it to you as  
10          being the law that you are to apply in the case. Then  
11          you simply take that law and you apply it to the facts  
12          as you 12 jurors determine those facts to be in order to  
13          arrive at your decision in the case.

14          As you know, in this case the defendant has been  
15          accused by the prosecutor of having committed five  
16          separate and distinct offenses, which set forth in four  
17          separate indictment. I am going to instruct you on the  
18          law as it relates to each of the separate criminal  
19          offenses.

20          Burglary in the first degree, possession of a  
21          weapon during the commission of that crime. Assault and  
22          battery of the first degree, armed robbery, and assault  
23          and battery of a high and aggravated nature. I am going  
24          to provide it in that order. I have determined to do it  
25          in that order, but you can take these cases in any order

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       that you wish to.

2               Burglary in the first degree is a statutory offense  
3       as defined in the statute. These blue books have all  
4       the criminal offenses, more or less. Each year the  
5       Legislature meets and they pass certain laws, rules, and  
6       regulations that govern our conduct in a variety of  
7       ways.

8               Some of those statutes that they pass are criminal  
9       penalty statutes. That just means they prohibit us from  
10      engaging in certain types of conduct and where we are  
11      found to have engaged in that conduct in violation of  
12      that particular statute, then it would subject us to  
13      some form of punishment or penalty for having violated  
14      the statute.

15              You are never to be concerned with punishment or  
16      penalty. That is not something that you decide. Your  
17      sole obligation and duty in this case is to determine  
18      whether or not the defendant's guilt has been proven  
19      beyond a reasonable doubt as it relates to a particular  
20      charge.

21              You are to make that determination without any  
22      consideration being given to any consequence of the  
23      decision that you make. As I have said, burglary the  
24      first degree is a statutory offense. That is set forth  
25      in Section 16-11-311 of the Codes of Laws. That statute

1 provides in its pertinent parts, a person is guilty of  
2 burglary in the first degree if the person, enters a  
3 dwelling without consent and with the intent to commit a  
4 crime there and either when in effecting entry or while  
5 in the dwelling or in immediate flight therefrom, he or  
6 another who is participating in the crime of burglary  
7 or causes physical harm or injury to a person who is  
8 not a participant in the crime or uses or threatens the  
9 use of a dangerous instrument or displays what is or  
10 appears to be a firearm, or the burglary is committed by  
11 a person with a prior record of two or more convictions  
12 for a burglary or the entering or the remaining occurs  
13 in the nighttime.

14           So based upon the forgoing statute, before you  
15 could return a verdict of guilty as to the crime of  
16 burglary in the first degree, it would be necessary that  
17 the evidence in this case has proven to your  
18 satisfaction beyond a reasonable doubt four essential  
19 elements. The first one being that the defendant has to  
20 be proven to have entered a dwelling. Entry is an  
21 indispensable element in the crime of burglary. It is  
22 not necessary that actual physical force be used to  
23 accomplish an entry door, nor does any door, window, or  
24 other barrier have to be actually opened or removed by  
25 the defendant in order to effect an entry.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1           There must be an entry into a dwelling. A dwelling  
2           is defined in the law as a building or a structure which  
3           is used or is normally used for sleeping, living, or  
4           lodging by any person, whether permanently or  
5           temporary.

6           Secondly, there must be an entry of a dwelling  
7           without consent. Entering without consent means to  
8           enter a dwelling without the consent of the owner or  
9           person otherwise in lawful possession of that premises,  
10          as well as it means to enter a dwelling by using  
11          deception, artifice, trick, or misrepresentation in  
12          order to gain consent to enter from the dwelling of the  
13          person in lawful possession.

14          Thirdly, there must be the entry of a dwelling  
15          without consent and with the intent to commit a crime  
16          therein. There must be an intent to commit a crime,  
17          whether or not the crime is actually committed,  
18          accomplished, or completed or not. The mere entering of  
19          a dwelling without an intent to commit a crime does not  
20          constitute the crime of burglary. It is only when there  
21          is an entering accompanied with the intent commit a  
22          crime therein that the crime of burglary is complete. A  
23          crime of any grade or severity is sufficient to satisfy  
24          this particular element of the crime of burglary.

25          The term intent refers to the state of a person's

1 mind which directs his actions towards a specific object  
2 or goal. Therefore, based upon the statute, the entry  
3 of a dwelling without consent and with the intent to  
4 commit a crime therein completes the crime of burglary.

5 Now, in order for it to be a burglary in the first  
6 degree, there is an additional element that has to be  
7 proven. That is the fourth element, which is necessary  
8 in order to establish burglary in the first degree.

9 In order to establish burglary in the first degree,  
10 the State has to prove a burglary was committed and when  
11 in effecting entry or while in the dwelling or in the  
12 immediate flight therefrom the defendant or another  
13 participant in the crime was armed with a deadly weapon  
14 or caused physical injury to a person who is not a  
15 participant in the crime or used or threatened the use  
16 of a dangerous instrument or displayed what is or  
17 appeared to be a knife, pistol, revolver, rifle,  
18 shotgun, machine gun, or firearm or the burglary is  
19 committed by a person with a prior record of two or more  
20 convictions for burglary or the entering or the  
21 remaining occurred in the nighttime.

22 Nighttime is that period between sunset and  
23 sunrise. That period of darkness when a person's facial  
24 features are not discernible by light from the sun.

25 In this case the State is alleging that the crime

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       is burglary in the first degree, because the defendant  
2       did commit the crime of burglary, and he was armed with  
3       a deadly weapon, he caused physical injury to another  
4       person, he used a dangerous instrument, he displayed a  
5       firearm. He committed a burglary in the nighttime, and  
6       he has two or more prior convictions for the crime of  
7       burglary.

8             The State does not have to prove all, even though  
9       they allege all. The State, must, however, prove at  
10      least one in order for it to be burglary in the first  
11      degree.

12            In this particular case, you have heard evidence of  
13      the defendant having previously been convicted of the  
14      crime of burglary. You are instructed that such  
15      evidence is offered for and may only be considered by  
16      you for a very limited purpose, the purpose for which it  
17      is offered is to establish a particular degree of  
18      burglary in the event that you determine that a burglary  
19      has been established by the evidence in this case.

20            It is not being offered as proof of the defendant's  
21      commission of the crime of burglary for which he is now  
22      standing trial, nor may it be considered by you as  
23      evidence that the defendant committed the crime of  
24      burglary for which he stands charged.

25            If you determine that the State has proven beyond a

1       reasonable doubt that the defendant did commit the crime  
2       of burglary, then you may consider the evidence of those  
3       prior burglary convictions as it relates to the issue as  
4       to what degree of burglary has been committed. In this  
5       case, they are alleging burglary in the first degree.

6             You are not permitted to consider such evidence for  
7       any other purpose. You may not consider such evidence  
8       as evidence of the defendant's bad character, nor may  
9       you consider it as evidence that the defendant may have  
10      acted in accordance with prior conduct.

11            It may only be considered by you in determining the  
12      degree of burglary in the event that you find beyond a  
13      reasonable doubt that the defendant has been proven  
14      guilt of the crime of burglary.

15            Count II of that same indictment charges the  
16      defendant with possession of a weapon during the  
17      commission of a violent crime, 16-23-490 of the Code of  
18      Laws of South Carolina provides that a person shall be  
19      deemed guilty of an additional criminal offense if a  
20      person is in possession of a firearm or visibly displays  
21      what appears to be a firearm during the commission of a  
22      violent crime and that person is convicted of committing  
23      that violent crime, which is defined as 16-1-60.  
24      Section 16-1-60 does provide that burglary in the first  
25      degree is classified as a violent crime under the law of



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       this state. So before the defendant could be found  
2       guilty of a violation of this particular section of law,  
3       it would be necessary that the evidence in this case has  
4       proven to your satisfaction beyond a reasonable doubt  
5       that the defendant is guilty of the crime of burglary in  
6       the first degree and that at the time he committed that  
7       crime, he did possess or visibly a firearm during its  
8       commission.

9             The next charge that I will refer to is the  
10       indictment for assault and battery in the first degree.  
11       I will define for you the term assault and the term  
12       battery. There are two charges that relate to assault  
13       and battery, one is for assault and battery in the first  
14       degree. The other one is assault and battery of a high  
15       and aggravated nature.

16            The terms assault and battery apply to each of  
17       those offenses. Obviously, they hold other additional  
18       elements that I will instruct you as to.

19            One is assault and battery in the first degree, and  
20       the other one is assault and battery of a high and  
21       aggravated nature. There are two separate criminal  
22       offenses.

23            An assault is defined as the unlawful attempt to do  
24       violence or injury to the person of another where there  
25       is the present ability to complete that attempt by way

1        of a battery. A battery is the unlawful and the  
2        intentional touching or striking of the person of  
3        another. It is the completion of an act doing violence  
4        or injury to the person of another.

5            Battery may be further defined as the carrying into  
6        effect of an assault by using or applying force to the  
7        person of another, no matter how slight, rude, angry, or  
8        resentful manner, and without a legal justification.

9            Assault and battery in the first degree is defined  
10       in Section 16-3-600, Subsection (c)(1). That statute  
11       provides that a person commits the offense of assault  
12       and battery in the first degree if the person unlawfully  
13       injures another person and the act occurred during the  
14       commission of a robbery, a burglary, or a theft.

15           The crime of assault and battery of a high and  
16       aggravated nature is set forth in Section 16-3-600,  
17       Subsection (b). That statute provides that a person is  
18       guilty of the crime of assault and battery of a high and  
19       aggravated nature if a person unlawfully injures another  
20       person and great bodily injury to another person  
21       results, or the injurious act is accomplished by means  
22       likely to produce death or great bodily injury.

23           The term great bodily injury is defined in the law  
24       as bodily injury which causes a substantial risk of  
25       death or which causes serious, permanent disfigurement

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       or protracted loss or impairment function of the  
2       function of a bodily member or organ.

3           The remaining indictment is one for armed robbery.  
4       Armed robbery is also a statutory offense. It's defined  
5       in Section 16-11-330 of the Code of law. That statute  
6       provides that a person who commits the crime of robbery,  
7       while armed with a pistol, dirk, slingshot, metal  
8       knuckles, razor, or other deadly weapon or while  
9       alleging either by action or words that he is armed  
10      while using a representation of a deadly weapon or an  
11      object which a person present during the commission of  
12      the robbery reasonably believes to be a deadly weapon is  
13      guilty of the crime of armed robbery.

14           In order to prove armed robbery, the State has to  
15      prove robbery. The crime of robbery is a larceny by  
16      force or the threat of the use of force. Robbery is  
17      defined in the law as the taking, the stealing, the  
18      carrying away of another person's property with the  
19      intent to steal it from that person or from the presence  
20      of that person by the use of force or violence or by the  
21      threat of the use or force or violence through  
22      intimidation in order to accomplish the theft.

23           A thing is deemed to be within the possession of a  
24      person with respect to the crime of robbery when the  
25      property is so within his or her reach, observation, or

1 control that he or she if not overcome by violence or  
2 prevented by fear retained possession of it.

3 A robbery is the forcing of a person to surrender  
4 property with the intent to steal it by the use of force  
5 or violence or by threatening a person with the use of  
6 force or violence in order to accomplish the theft.

7 Taking property from another with an intent to  
8 steal it by forcing a person to surrender possession of  
9 the property or by causing a person to surrender  
10 possession of the property by putting that person in  
11 fear through intimidation is a robbery under the law.

12 A robbery becomes an armed robbery when the robbery  
13 is accomplished through the use of a pistol or other  
14 deadly weapon. Therefore, before you could find the  
15 defendant guilty of a crime of armed robbery as alleged  
16 in this case, it would be necessary that the State has  
17 proven to your satisfaction beyond a reasonable doubt  
18 that the defendant did commit the crime of robbery and  
19 at the time he committed that crime of robbery, he was  
20 armed with a pistol or a deadly weapon with which he  
21 accomplished the crime of robbery.

22 You are further instructed that one who is charged  
23 with the commission of a crime may be convicted or found  
24 guilty of that crime as a principal offender or as an  
25 accomplice. An accomplice is a person who knowingly and

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 voluntarily and with a common intent and purpose unites  
2 with a principal offender in the commission of a crime.  
3 An accomplice is often referred to as an aider or an  
4 abetter in the commission of a crime. '

5 In order to be guilty as an aider or an abetter, a  
6 person must be a participant in the crime and be  
7 chargeable with knowledge of the principal's criminal  
8 conduct. In this case, the State is alleging that the  
9 defendant did commit each of the crimes as alleged here,  
10 either as a principal offender or as an accomplice.

11 You are therefore instructed that where two or more  
12 people act together with a common intent and purpose and  
13 they combine, conspire, plan, or otherwise agree to the  
14 commission of a crime. Each person, who is present to  
15 aid, abet, assist, or otherwise participate in the  
16 commission of that crime are equally guilty of any crime  
17 accomplished by the efforts of all who are  
18 participating.

19 The hand of one is deemed to be hand of all, and  
20 the acts of one are deemed to be the acts of all. Any  
21 person who joins with another to accomplish an illegal  
22 purpose is held to be criminally responsible for  
23 everything done by another person which occurs as a  
24 natural and probable consequence of the acts done  
25 pursuant to and in furtherance of the common plan and

1        purpose.

2            In order to be guilty of a criminal offense as an  
3        accomplice, one must be actually present at the scene of  
4        the crime with the intention of aiding, abetting,  
5        assisting, or otherwise participating in the commission  
6        of that crime and that crime is completed.

7            In order for the defendant to be found guilty under  
8        a legal theory of aiding and abetting, it must be proven  
9        that the defendant was present at the scene of the crime  
10       with the intention of aiding, abetting, assisting, or  
11       participating in the common plan or scheme which  
12       culminated in the commission of the crime.

13           A criminal intent is also a necessary element of  
14        any crime that must be proven beyond a reasonable  
15        doubt. For there must have been a common design and  
16        intent to commit a crime, and the crime to be committed  
17        pursuant thereto with the person charged aiding,  
18        abetting assisting, and otherwise participating by some  
19        overt act.

20           Intent refers to the state of a person's mind which  
21        directs his actions towards a specific object or goal.  
22        Intent would include those consequences which represent  
23        the very purpose for which an act is done, as well as  
24        those consequences which are known to be substantially  
25        certain to result, whether actually intended or not.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1           A criminal intent is a state of mind that operates  
2           jointly with some act in the commission of a crime. A  
3           criminal intent is a mental state of conscious  
4           wrongdoing, in contrast to the commission of an act,  
5           which is the result of accident, mistake, or  
6           inadvertence. Intent may be proven by the acts,  
7           declarations, and conduct of the defendant, as well as  
8           from any other circumstances which are established by  
9           the evidence in this case from which you might naturally  
10          and reasonably infer such an intent.

11          Not only must the State prove beyond a reasonable  
12          doubt each of the essential elements of crime before a  
13          defendant may be found guilty of that crime, the State  
14          must also prove beyond a reasonable doubt that it was  
15          the defendant who committed the crime and not someone  
16          else who was present.

17          The State must not only prove that the crime of  
18          armed robbery and/or assault and battery of a high and  
19          aggravated nature and/or assault and battery in the  
20          first degree and burglary in the first degree has been  
21          committed, but the State must prove that it was the  
22          defendant who committed that crime as a principal or as  
23          an accomplice.

24          If after careful consideration of all of the  
25          evidence relating to the issue of the identification of

1       the defendant as the perpetrator of any crime proven to  
2       have been committed by someone, you have a reasonable  
3       doubt as to the accuracy of the identification of the  
4       defendant as a perpetrator of that crime as a principal  
5       or as an accomplice, you must resolve that doubt in  
6       favor of the defendant and return a verdict of not  
7       guilty.

8           You are further instructed and I emphasize to you  
9       that the fact that a defendant during the trial of a  
10      criminal case does not take the witness stand and  
11      testify during the course of that trial is not a fact or  
12      circumstance which may be considered by you in any way,  
13      nor may you consider that fact in the slightest degree  
14      against a defendant.

15           As I have already stated, the burden is on the  
16      State to prove the defendant guilty beyond a reasonable  
17      doubt. The burden is never upon the person accused of a  
18      crime to prove that they are not guilty or to prove that  
19      they are innocent. Therefore, you may not reach any  
20      conclusion nor draw any inference from the fact that a  
21      defendant does not testify during the course of a  
22      criminal trial, nor may you even discuss that fact while  
23      you are engaged in your deliberations in this case.

24           Now, Mr. Foreman and ladies and gentlemen of the  
25      jury, I am not in any way concerned with what your



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       decisions are, but you are instructed that any verdict  
2       that you render or any decision that you make has to be  
3       unanimous. All 12 of you must be in agreement.

4               So, as I have also previously stated, you will have  
5       four indictments in the jury room which allege five  
6       separate crimes against the defendant. So you will  
7       consider each of those charges separately, as I have  
8       stated, based upon the evidence that relates to each  
9       separate charge and the law that is applicable to that  
10      charge.

11             Because you must consider each charge separately,  
12      your decisions or your verdicts may be the same, and  
13      they may be different. It obviously will depend upon  
14      your determination of the facts as it relates to those  
15      allegations in that charge contained in that particular  
16      indictment and then your application of the law.

17             If the State has proven the defendant guilty of a  
18      crime, the verdict will be guilty. If the State has  
19      failed to prove the defendant guilty of a crime, then  
20      the verdict will be not guilty as to that particular  
21      indictment.

22             Now, Mr. Foreman, in addition to the evidence that  
23      has been introduced during the trial, you will have  
24      these indictments in the jury room. The indictments are  
25      not evidence of anything. They do not prove anything.

1       The indictments are in the jury room, because they are  
2       going to serve as the verdict forms.

3               So it's going to be on the back of each indictment  
4       that you will indicate the jury's unanimous decision as  
5       it relates to that particular charge.

6               As to the indictment charging burglary in the first  
7       degree and possession of a weapon during the commission  
8       of a violent crime, you obviously have two separate  
9       charges in that one indictment, so you will be  
10      indicating two separate verdicts.

11              If the State has proven the defendant to be guilty  
12      of burglary in the first degree, then the verdict would  
13      be guilty. If the State has failed to prove him guilty  
14      of that crime beyond a reasonable doubt, then the  
15      verdict is not guilty.

16              Count II is the possession of a weapon during the  
17      commission of a violent crime. Possession of a weapon  
18      during the commission of a violent crime by definition  
19      requires a person to be convicted of a violent crime.  
20      If you find the defendant guilty of the crime of  
21      burglary in the first degree, then you may find him  
22      guilty of possession of a firearm during the commission  
23      of a violent crime if the State has proven that criminal  
24      offense beyond a reasonable doubt.

25              If the jury finds the defendant to be not guilty of

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1        burglary in the first degree, then he must be found not  
2        guilty of possession of a firearm during the commission  
3        of a violent crime, because the violent crime is the  
4        burglary in the first degree.

5            As to the remaining three indictments, there are  
6        simply two verdict forms, those are guilty and not  
7        guilty. So whichever that is, Mr. Foreman, you will  
8        indicate the unanimous decision as it relates to each  
9        separate charge on the space provided. On the back of  
10       each indictment is the word verdict. It's beneath that  
11       word that you will indicate the jury's decision.

12           You will also sign your name as the foreperson.  
13        You are the only juror that needs to sign the verdict  
14        form. You will also place the appropriate date. Today  
15        is June 13.

16           During deliberations, there may come a time where  
17        you have a question about evidence or facts. Please  
18        understand that I am never permitted to discuss the  
19        facts with you. I am never permitted to give you any  
20        guidance or advice about the evidence or facts of a  
21        matter. You have to make that determination yourself  
22        through your review of the evidence.

23           Now that you are going back to begin deliberations,  
24        no additional evidence may be introduced during the  
25        trial, so don't inquire about something else that -- you

1 think there is something else that you would like to  
2 have, because if it has not been introduced during this  
3 trial, it cannot be introduced now.

4 So no additional evidence may be received now that  
5 the case is closed. If, however, you have a question  
6 about testimony of a particular witness and that  
7 question can be answered by having that witness'  
8 testimony replayed in whole or in part, I do not have  
9 transcripts of the testimony, but we can bring you back  
10 into the courtroom to have a witness' testimony replayed  
11 in its entirety or just replayed in part, if part of it  
12 is all that you need.

13 If at any time you have question about the law that  
14 is applicable, I am always permitted to answer those  
15 questions. So should you need a complete  
16 re-instruction, I can do that for you. Should you  
17 simply need an explanation or clarification as to some  
18 point of law that I have provided, I am happy to provide  
19 that explanation or clarification.

20 Mr. Foreman, if at any time during deliberations  
21 you or a fellow juror have difficulty, problem, or  
22 question that you need to address with me, if will you  
23 write it on a piece of paper, give it to the bailiff.  
24 Then he or she will provide that to me, and I will  
25 respond as necessary.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1           During deliberations, you may smoke. If we have  
2           any smokers on the jury, you can't smoke in the jury  
3           room or the courthouse. You have to go outside. If  
4           anybody wants to smoke, let the bailiff know, and they  
5           will take you outside to accomplish that  
6           purpose.

7           Please understand that if a juror is ever absent  
8           for any authorized purpose, the deliberations have to  
9           stop. Deliberations may only be engaged in when all 12  
10          jurors are present so that all 12 may participate in  
11          those discussions.

12          Lunch has been ordered. I am not sure whether it  
13          has arrived yet. As soon as it does arrive, it will be  
14          provided to you. When the lunch is provided to you, if  
15          you want to stop your deliberations and eat lunch and  
16          resume afterward, that is your decision. If you want to  
17          eat while you deliberate, that is your decision too. We  
18          will leave that to your discretion. You handle that  
19          however you determine it to be appropriate.

20          I think that covers everything. If it doesn't, one  
21          of those lawyers will remind me that I need to give you  
22          some more information, if I agree, I will bring you back  
23          to provide you with that additional information.

24          If I don't need to bring you back, I will simply  
25          send word by way of the bailiff that you may begin with

1        your deliberations. In that event, he or she will bring  
2        to the jury room all the exhibits which have been  
3        introduced during the trial. There will also be a  
4        computer provided so that you can play anything that  
5        requires that computer.

6            To you, Mr. Foreman, he or she will also bring the  
7        indictments, which will serve as the verdict forms.

8            With the exception of Ms. Edwards, who is the  
9        alternate juror, I will ask the 12 primary jurors to  
10       please retire to your jury room. Do not yet begin  
11       deliberations. I have those matters to address with the  
12       lawyers. If I don't need to bring you back, the bailiff  
13       will tell you to begin deliberations, and then you may  
14       do so.

15           Please retire now, but wait for further  
16       instruction as to when to begin.

17           (Whereupon, the jury exited the courtroom.)

18           THE COURT: Ms. Edwards, you will stay with me. As  
19       you know, you cannot participate in the jury  
20       deliberations, because the 12 are able to do that. That  
21       will conclude your service for the trial of this case.  
22       But, something could arise that would preclude or  
23       prevent one these jurors from continuing to serve. In  
24       that event, you would then be called upon to take that  
25       person's place. While you can't go deliberate now, you

## State of South Carolina v. Dominick A. Thompson -- 2016A4210203988, -3993

1       will be taken to a separate room. We will ask you to  
2       remain there.

3             You can't discuss the case with anybody in any way,  
4       because you are still under that instruction. Your  
5       lunch will be brought to you there. It will be provided  
6       to you.

7             If the jury ever needs to come back for any  
8       purpose, when they are brought back, you will be brought  
9       back too. If they don't need to come back, you will  
10      just wait like us. You will wait for their verdict.

11            I will ask you to please go with the bailiff to a  
12      separate room, and they will bring you your lunch as  
13      soon as it arrives.

14            (Alternate juror exits the proceedings.)

15            THE COURT: Are there any exceptions taken to the  
16      instruction or requests for additions to the  
17      instructions by the State?

18            MR. SMITH: No, Your Honor.

19            THE COURT: By the defendant?

20            MR. SCHULTZ: No, Your Honor.

21            THE COURT: Let me ask you all to verify the  
22      exhibits, please.

23            (Exhibits reviewed and approved by all parties.)

24            THE COURT: Please send them back and tell the  
25      jury to begin deliberations. We will be at ease while

1           the jury is deliberating.

2                   (Whereupon, the court stood at ease while the jury  
3           deliberated upon its verdict in the case.)

4                   (Whereupon, the following proceedings were  
5           held in open court. The defendant was  
6           present with his attorney, along with  
7           counsel for the State.)

8           THE COURT: All right. I am informed the jury  
9           would like to review the testimony of Ms. Donahoo and  
10          Makayla Richards. We will replay that for them for  
11          their benefit. We will bring them back in to listen to  
12          it.

13                   (Whereupon, the jury entered the courtroom.)

14          THE COURT: Mr. Foreman, I understand you and your  
15          fellow jurors wish to have the testimony of Summer  
16          Donahoo and Makayla Richard replayed.

17          THE FOREMAN: Yes, sir.

18          THE COURT: So she has that queued up. She will  
19          start it. If you need to hear it all, it will be played  
20          all the way through. If you want to stop it at any  
21          point, you just have to let me know that fact.  
22          Otherwise, it will be played through in its entirety.

23                   (Testimony replayed for the jury.)

24          THE COURT: Is that is it?

25          THE FOREMAN: Yes, Your Honor.



State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 THE COURT: Thank you. Please retire to your jury  
2 room and continue your jury deliberations.

3 (Whereupon, the jury exited the courtroom.)

4 THE COURT: We will continue to be at ease while  
5 the jury is deliberating.

6 (Whereupon, the court stood at ease while the  
7 jury deliberated upon its verdict in the case.)

8 (Whereupon, the following proceedings were  
9 held in open court. The defendant was  
10 present with his attorney, along with  
11 counsel for the State.)

12 \* \* \*

13 READING OF THE VERDICT

14 THE COURT: I am told the jury has reached a  
15 decision. Are we ready to receive it?

16 MR. SMITH: The State is ready.

17 MR. SCHULTZ: The defense is ready.

18 THE COURT: Bring in the jury, please.

19 (Whereupon, the jury entered the courtroom.)

20 THE COURT: Mr. Foreman, more plan have ask your  
21 fellows jurors reached a unanimous decision on each of  
22 the separate indictments?

23 THE FOREMAN: Yes, sir, we have.

24 THE COURT: Have you reflected those decisions on  
25 the indictments as requested?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 THE FOREMAN: Yes, sir.

2 THE COURT: Did you sign your name as the  
3 foreperson and date it?

4 THE FOREMAN: Yes, sir.

5 THE COURT: Please hand those up by way of the  
6 bailiff. You may publish the verdicts.

7 THE CLERK: State of South Carolina, County of  
8 Spartanburg, Court of General Sessions. State v.  
9 Dominick Antonio Thompson, Indictment Number  
10 2017-GS-42-02885, indictment for burglary first degree,  
11 Count I. The jury finds the defendant guilty.

12 Possession of a weapon during a violent crime,  
13 Count II. The jury finds the defendant guilty. Signed  
14 by the foreperson, Timothy Wallace, and today's date,  
15 June 13, 2019.

16 Indictment Number 2017-GS-42-02888, indictment for  
17 armed robbery. The jury finds the defendant guilty.  
18 Signed by the foreperson on today's date, 6-13-19.

19 Indictment Number 2017-GS-42-022887, indictment for  
20 assault and batter first degree, the jury finds the  
21 defendant guilty. Signed by the foreperson on today's  
22 date, June 13, 2019.

23 Indictment 2017-GS-42-02889, indictment for assault  
24 and battery, high and aggravated nature. The jury finds  
25 the defendant guilty. Signed by the foreperson, Timothy

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 Wallace, on today's date, 6-13-19.

2 Ladies and gentlemen of the jury, is this your  
3 verdicts and still your verdict? If so, please raise  
4 your right hand.

5 So say you all.

6 THE COURT: Does the defendant wish to have the  
7 jury polled?

8 MR. SCHULTZ: We do, Your Honor.

9 THE COURT: Poll the jury, please, ma'am.

10 THE CLERK: Ladies and gentlemen of the jury, I  
11 will be asking you a question. That question is, is  
12 this your verdict and still your verdict? When I call  
13 your jury number out, just answer yes or no.

14 Juror Number 19?

15 THE JUROR: Yes.

16 THE CLERK: Juror Number 45.

17 THE JUROR: Yes.

18 THE CLERK: Juror Number 165.

19 THE JUROR: Yes.

20 THE CLERK: Juror Number 22.

21 THE JUROR: Yes.

22 THE CLERK: Juror Number 160.

23 THE JUROR: Yes.

24 THE CLERK: Juror Number 55.

25 THE JUROR: Yes.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 THE CLERK: Juror Number 153.  
2 THE JUROR: Yes.  
3 THE CLERK: Juror Number 1.  
4 THE JUROR: Yes.  
5 THE CLERK: Juror Number 70.  
6 THE JUROR: Yes.  
7 THE CLERK: Juror Number 27.  
8 THE JUROR: Yes.  
9 THE CLERK: Juror Number 179.  
10 THE JUROR: Yes.  
11 THE CLERK: Juror Number 32.  
12 THE JUROR: Yes.  
13 THE CLERK: The jury has been polled.  
14 THE COURT: Thank you. Are there any other  
15 matters to address with while the jury present?  
16 MR. SMITH: Not from the State, Your Honor.  
17 MR. SCHULTZ: None for the defense.  
18 THE COURT: All right.  
19 Thank you, ladies and gentlemen. That will  
20 conclude your service not just for the trial of this  
21 case but for your service for the week. This is the  
22 last case that is going to require a jury's  
23 participation. I do want to take this opportunity to  
24 sincerely thank you for your service as jurors this  
25 week, and, of course, for your actual service in the

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 trial of this case.

2 I do sincerely hope that it has not posed too much  
3 of a hardship on you. I do sincerely hope that it has  
4 been an educational and a beneficial experience for  
5 you.

6 You will be paid for your service this week. Your  
7 pay voucher will be mailed to you at the address that  
8 appears on your juror summons, unless you have provided  
9 the clerk with a more current address. If the address  
10 on your summons is not your current address, or the  
11 address that you prefer to mail received, be sure you  
12 give that information to the clerk before you leave.

13 If you will go with the bailiff one more time, they  
14 will take your badges, and then you will be excused and  
15 you won't need to call back or come back any further.  
16 Thank you again for your participation.

17 (Whereupon, the jury exited the courtroom.)

18 \* \* \*

19 SENTENCING HEARING

20 MR. SCHULTZ: Your Honor, Mr. Thompson has signed  
21 the sentencing sheet. It has marked his race as Asian.

22 I will delete through that and put  
23 African-American.

24 THE COURT: Okay.

25 All right. Are there any matters to address prior

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 to me issuing the sentence?

2 MR. SMITH: None for the State, Your Honor.

3 MR. SCHULTZ: Your Honor, I would move for a new  
4 trial at this time, based upon all the objections ruled  
5 on.

6 THE COURT: That motion is denied.

7 Are we all in agreement that Mr. Thompson was  
8 previously served with the State's notice of their  
9 intent to seek a life sentence if he was to be convicted  
10 of burglary in the first degree, attempted murder, armed  
11 robbery, on indictments 2017-02885; 2017-02888;  
12 2017-02889, which was for attempted murder, but that was  
13 reduced to assault and battery of a high and aggravated  
14 nature, which is a lesser-included offense, but for  
15 which Section 17-25-45 would still be applicable.

16 Mr. Schultz, did you and your client get served  
17 with the State's notice of their intent to seek a life  
18 sentence upon any convictions for those offenses?

19 MR. SCHULTZ: We did, Your Honor. I have  
20 discussed this with him several times -- at least of the  
21 notice of life sentence. So we have been served with  
22 notice.

23 THE COURT: Do you also agree that he has  
24 previously been convicted of burglary in the second  
25 degree, violent, and burglary in the third degree?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1           MR. SCHULTZ: The sentencing sheet for burglary  
2           second, I am assuming the Court is referring to  
3           Indictment 2011-GS-422660?

4           THE COURT: Yes. Burglary in the first degree.  
5           As I understand it, he was convicted and pled guilty to  
6           burglary in the second degree violent.

7           MR. SCHULTZ: We have a sentencing sheet that was  
8           on May 24, 2011.

9           THE COURT: He was also convicted of burglary in  
10          the third degree on an indictment charging burglary in  
11          the second degree. Indictment Number 2012-06247.

12          Is that true?

13          MR. SCHULTZ: That is true, Your Honor. I am  
14          looking at this. That charge is neither violent nor a  
15          serious charge.

16          THE COURT: I am just saying, he was convicted of  
17          two prior burglaries.

18          MR. SCHULTZ: Yes, sir.

19          THE COURT: Do you also agree that he was convicted  
20          on April 1, 2015, for two separate counts of attempted  
21          murder? Indictments 2014-02264 and 2014-02265?

22          MR. SCHULTZ: Your Honor, I am reading the  
23          sentencing sheet here. It was done on April 1, 2015, by  
24          Judge Kelly. That is a charge of murder/attempted  
25          murder. Zero to 30. The recommendation was 10 years,

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1           even though it looks like he received a two-year  
2           sentence.

3           The only problem that I have with that is that  
4           neither the box or the check box for serious or more  
5           serious is checked there in the sentencing sheet, as far  
6           as I can tell.

7           THE COURT: Okay. What do you perceive to be the  
8           significance of that?

9           MR. SCHULTZ: My perception is that he could very  
10          possibly not be notified that this was a serious or most  
11          serious offense at the time of his plea back in 2015.

12          Do you know who represented him?

13          MR. SMITH: Travis Moore.

14          MR. SCHULTZ: I believe so. I think Mr. Smith is  
15          correct.

16          Did you discuss with Mr. Thompson before his trial  
17          this week about his eligibility for a  
18          life-without-parole sentence pursuant to 17-25-45 based  
19          upon his previous criminal history?

20          MR. SCHULTZ: I have, Your Honor.

21          THE COURT: Anything else that we need to address  
22          prior to the imposition of sentence?

23          MR. SCHULTZ: The only other thing I wish to bring  
24          up, Your Honor, is on the other attempted murder, which  
25          was done the same day, which he received the same



## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 sentence, it's the same problem there.

2 Mr. Thompson signed the sentencing sheet. I think  
3 we are debating that. The fact that it wasn't put in  
4 the sentencing sheet that it was a serious or more  
5 serious offense. Both those attempted murder  
6 convictions happened simultaneously or the same incident  
7 date, February 4, 2014.

8 So I think under the current life-without-parole  
9 statute, 17-25-45 -- at least the way I am reading the  
10 statute -- is that two or more serious crimes make him  
11 eligible, but one most serious crime makes him eligible  
12 for a life sentence. There could be the possibility  
13 that Mr. Thompson during his plea back in 2015 in front  
14 of Judge Kelly was not notified that the two attempted  
15 murders he pled to on April 1, 2015, were most serious  
16 crimes under the law.

17 THE COURT: Well, am I understanding what you are  
18 saying to be you are challenging the State's ability to  
19 seek a life sentence based on his convictions today?

20 MR. SCHULTZ: Yes. That would be the basis of my  
21 motion.

22 THE COURT: I didn't hear that motion. I will be  
23 happy to hear from you.

24 MR. SCHULTZ: That would be the basis of my  
25 motion.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 THE COURT: You haven't announced that motion yet.

2 MR. SCHULTZ: I am making that motion right now.

3 THE COURT: All right. Well, make it.

4 MR. SCHULTZ: For the reasons stated before. Those  
5 boxes --

6 THE COURT: You need to state the motion and then  
7 state the grounds for the motion, and then we will let  
8 the State address your motion and the grounds stated  
9 therewith.

10 MR. SCHULTZ: The grounds for my motion on the two  
11 attempted murders would be that Mr. Thompson was not  
12 notified, either at the time of the plea or at some  
13 other point, that these were most serious offenses, as  
14 it was not checked off in the sentencing sheet.

15 That would be the basis of my motion; that the  
16 State cannot seek a life-without-parole sentence on  
17 this.

18 We are not challenging the notice, Your Honor. We  
19 are challenging the fact that those boxes were not  
20 checked off on the sentencing sheet on April 1, 2015,  
21 when Judge Kelly imposed those sentences.

22 THE COURT: But you would agree that they are so  
23 classified?

24 MR. SCHULTZ: They are so classified, Your  
25 Honor.

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 THE COURT: You discussed that with your client  
2 before or after you received the notice, I am guessing.

3 MR. SCHULTZ: I did, Your Honor.

4 THE COURT: So you are challenging based upon the  
5 fact that on April 1, 2015, you take a position that he  
6 was not notified that those crimes were classified as  
7 most serious?

8 MR. SCHULTZ: I am not taking the position that at  
9 the time they were not classified as most serious.

10 THE COURT: You are taking the position that he  
11 wasn't notified that they were most serious on April 1,  
12 2015?

13 MR. SCHULTZ: Yes, sir. I am taking that position.

14 THE COURT: Have you reviewed the transcript of the  
15 guilty plea?

16 MR. SCHULTZ: I have not, Your Honor.

17 THE COURT: So how can you take that position?

18 MR. SCHULTZ: I am just looking at the four corners  
19 of the document.

20 THE COURT: I understand that. That is a document.  
21 I am talking about the transcript of the guilty plea  
22 where he pled guilty to these crimes.

23 MR. SCHULTZ: Yes, sir. I have not reviewed that.

24 THE COURT: Do you need to review that?

25 MR. SCHULTZ: We do, Your Honor.

1 THE COURT: Does the State wish to be heard?

2 MR. SMITH: Your Honor, I would point out that the  
3 serious and most serious section does point out that  
4 Federal or out-of-state convictions can be used for the  
5 serious and most serious. Certainly, if he were  
6 convicted in another state that doesn't have those  
7 terms, he wouldn't necessarily be on notice that that is  
8 a serious or most serious crime in South Carolina.

9 You can also be convicted of murder before the two  
10 strike, three strike system was established in South  
11 Carolina. You could still be convicted under life  
12 without parole.

13 THE COURT: I will let Mr. Schultz speak for  
14 himself on this.

15 From what I understand he doesn't challenge the  
16 fact that he informed Mr. Thompson that these prior  
17 convictions were most serious and would result in a  
18 sentence of life without the possibility of parole  
19 pursuant to 17-25-45, if he were convicted of burglary  
20 and/or armed robbery and/or attempted murder and/or  
21 aggravated assault and battery.

22 I think he might be addressing something perhaps  
23 that would be a matter for post-conviction relief. I am  
24 not sure.

25 Nevertheless, I want to be sure that you state

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1       whatever your grounds are, Mr. Schultz, as to your  
2       objection to the imposition of life sentence today. If  
3       I understood correctly, you told me that you did advise  
4       Mr. Thompson that he had been convicted of prior  
5       offenses that were properly considered by the State in  
6       their decision to seek an enhanced sentence pursuant to  
7       17-25-45 wherein they were able to seek a life sentence  
8       if convicted for burglary, armed robbery, attempted  
9       murder or aggravated assault and battery.

10             Did I state that fairly?

11             MR. SCHULTZ: You did, Your Honor. I advised him  
12       as such. The nature of my objection is that it's just  
13       not put on the sentencing sheet, the most serious box is  
14       not checked off on that. That would be the nature of my  
15       objection.

16             THE COURT: Okay. But you advised him before he  
17       went to trial of which offenses were classified and  
18       declared to be serious and most serious offenses under  
19       the law for offenses that he had been previously  
20       convicted of.

21             MR. SCHULTZ: Yes, I did, Your Honor. The State  
22       served me life-without-parole notice on the previous  
23       trial, and I advised the him of the subject.

24             THE COURT: Okay.

25             Anything else you all need to tell me?

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 MR. SMITH: No, Your Honor.

2 MR. SCHULTZ: No, Your Honor.

3 THE COURT: Mr. Thompson, do you want to tell me  
4 anything?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: What would you like to tell me?

7 THE DEFENDANT: I really want to thank my lawyer.  
8 I appreciate all he has done for me. I want to thank my  
9 family for supporting me. I love you all, you know what  
10 I am saying? That is really all I got to say.

11 THE COURT: Thank you.

12 MR. SMITH: Your Honor, if he is going to be  
13 sentenced under that section, we don't have anything to  
14 say, if there is a possibility that that is not going to  
15 happen -- do you want to hear his whole prior record?

16 THE COURT: I would like to hear his record.

17 I intend to sentence him pursuant to 17-25-45, but  
18 I still want to hear his history.

19 MR. SMITH: Yes, sir.

20 He has a 2011 burglary second, violent that was  
21 reduced from burglary first; 2013, burglary third  
22 degree, first offense and possession of a stolen pistol;  
23 2015, two attempted murders, two commonlaw robberies.  
24 He did receive a sentence of 10 years suspended to two  
25 years. That was in April of 2015. This occurred in

## State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

1 November of 2016.

2 THE COURT: Is that all accurate, Mr. Schultz?

3 MR. SCHULTZ: To my understanding, yes, sir.

4 THE COURT: 2017-02885, that is the indictment for  
5 burglary and possession of a firearm during the  
6 commission of a violent crime, wherein you have been  
7 found guilty by the jury for each of those offenses. As  
8 to Count I burglary in the first degree, the sentence is  
9 that you would be confined to the South Carolina  
10 Department of Corrections for the period of your natural  
11 life pursuant to Section 17-25-45.

12 As to Count II, possession of a pistol during the  
13 commission thereof, no sentence is imposed, based upon  
14 the fact that you have been sentenced to a life sentence  
15 for the burglary first degree pursuant to 16-23-49.  
16 Indictment 2017-02888, an indictment for armed robbery,  
17 wherein you have been found guilty by the jury for that  
18 offense. The sentence of the Court is that you be  
19 confined to the South Carolina Department of Corrections  
20 for the period of your natural life.

21 Indictment 2017-02889, an indictment for attempted  
22 murder, wherein the jury was only permitted to consider  
23 the lesser-included offense of assault and battery of a  
24 high and aggravated nature. The sentence of the Court  
25 is you, Dominick Antonio Thompson, be confined to the

1 South Carolina Department of Corrections for a period of  
2 your natural life pursuant to 17-25-45.

3 The remaining indictment, 2017-02887, an indictment  
4 for assault and battery in the first degree, wherein you  
5 have been found guilty by the jury for that offense,  
6 the sentence is you be confined to the South Carolina  
7 Department of Corrections for a period of ten years.

8 Mr. Thompson, you have a right to appeal the  
9 verdicts of the jury and the sentences of the Court.  
10 You must file your Notice of Intent to Appeal those  
11 decisions within ten days of today's date.

12 (Whereupon, at 4:16 p.m., the proceedings were  
13 concluded.)

14 \* \* \*

15 END OF VOLUME IV  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



State of South Carolina v. Dominick A. Thompson – 2016A4210203988, -3993

CERTIFICATE OF REPORTER

I, Kymberlee A. Hanson, Certified Shorthand Reporter/Registered Professional Reporter for the 42nd Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Spartanburg County, South Carolina, on the 10th - 13th days of June, 2019.

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

This, the 20th day of March, 2020.

KYMBERLEE M. WILLIAMS, CSR/RPR

State of South Carolina  
County of Spartanburg

Dominick A. Thompson #346147

v.

State of South Carolina

In The Court of Common Pleas

**2022-CP-42-02810**

Application for

Post-Conviction Relief

(1) Place of detention - Spartanburg County detention Center

(2) Name and Location of Court which imposed sentence - Spartanburg County  
7th Circuit General Sessions Court, location is on  
180 Magnolia Street, P.O. box 3483, Spartanburg, S.C. 29304

(3) Name(s) of Co-defendant(s) - Timothy Mills, Makayla Logan Richard,  
Kenshawon Goode

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(4) The indictment number or numbers (if known) upon which  
offenses for which sentence was imposed -

(a.) Assault 3, Battery 1st degree / Indictment # 2017 GS 4202887  
Imposed sentence: 10 yrs State Department of Correctional

(b.) Assault and Battery of High 3 Aggravated Nature / Indictment # 2017 GS 4202889  
Imposed sentence: Life w/o Parole state Department of Corrections

(c.) Arm Robbery, Robbery while armed or allegedly armed with a  
weapon / Indictment # 2017 GS 4202888  
Imposed sentence: Life w/o Parole State Department of Corrections

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(D.) Possession of weapon during violent crime, If not sentence to life without parole or death  
Indictment # 2017 GS4202885A

(E.) Burglary/Burglary (after June 20, 1985) First degree/Indictment # 2017 GS4202885  
Imposed Sentence: Life without parole State Department of Corrections

5. The date upon which sentence was imposed and terms of sentence -

(A.) June 13, 2019, term of sentence: 10 yrs

(B.) June 13, 2019, term of sentence: Life without parole

(C.) June 13, 2019, term of sentence: Life without parole

(D.) June 13, 2019, term of sentence: Life without parole

(E.) June 13, 2019, term of sentence: Life without parole

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(6.) Check whether a finding of guilty was made:

(B.) after a plea of not guilty I was convicted and sentenced to  
Life without parole

(7.) Did you appeal from the judgement of conviction or the imposition of sentence?  
Yes, I did file to appeal (a direct appeal) from the judgement of conviction.

(8.) If you answered "Yes" to (7), list:

(A.) the name of each court to which you appealed:

i. To the South Carolina Court of Appeals

(B.) the result in each such court to which you appealed:

i. The South Carolina Court of Appeal dismissed my appeal

(C.) The date of each such result:

i. Dismissed was the date March 30, 2022

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(D.)<sup>42</sup> If known, Citations of any written opinion or orders entered Pursuant to such results:

i. Per Curiam: Dismissed after consideration of appellant's pro se brief and review Pursuant to Anders v. California, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.

(9.) If you answered "no" to 7, State your reasons for not so appealing:

(10) State concisely the ground on which you base your allegation that you are being held in custody unlawfully:

(A) Malicious Prosecutions

(B) Violation of my due rights

(C) Violation of my 5<sup>th</sup>; 6<sup>th</sup> amendment

(D) Inconsistent Statements

(E) Prosecution Misconduct

(F) Not properly being identified

(11) State concisely and in the same order the facts which support each ground set out in (10):

(A) 107 S.C. 179 China v. Seaboard Airline Ry states in order to maintain an action for Malicious prosecution it is incumbent upon the plaintiff to show that the prosecution was instituted maliciously without probable cause, with that being stated the photo line-up that the state use to identify me by Makayla Richard to receive a arrest warrant for me, Makayla who was clearly charge with the crime refused to sign the photo she chose which was my picture & She also refuse to sign the "Affidavit of photo identification" which is strongly supported in my Rule 5 my brady motion.

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(B) Due process encompasses all rights which are of such fundamental importance as to require compliance with due process standards of fairness & justice; includes procedural rights of citizens against government actions that threaten the denial of life, liberty, or property. Aug 6-9th 2018 was the first time I was tried on my case I had two trials to be exact but Aug 9th, 2018 ~~my~~ my due rights was violated which is an act of unfairness, and unjust on the prosecutors behalf. The prosecutor violated my due rights & made a action of misconduct by taking my criminal record to the Juror while they were deliberating for a verdict. I have Strong Support on this which is one of the Jurors who was apart of the Jury & she's willing to be subpoena to testify to this fact.

(C) my 5th & 6th amendment was violated also by the prosecutors due to me exercising my amendments I was violated by prosecutors showing my criminal record to the Jury paint then a picture of Character, the reason I remain silent & didn't testify on my behalf is to avoid my record being presented to the Jury.

(D) The grounds I use to support inconsistent statement is the fact that everyone of testify on me during my first trial, they statement wasn't consistent with the statement that they gave during the second trial, not only that but it was also multiple statements by only one person that was inconsistent.

(E) U.S. v Cargil States Prosecutorial Misconduct Granted on grounds of governments knowing of false testimony was caused by decretion; defendant were entitled to a new trial if false testimony of Prosecutor witness, which was known by the government and not corrected could in reasonable likelihood have affected the judgement of the jury which in my case the prosecutors witnesses in my case gave and submitted multiple statement that the prosecutor knew was

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false ~~but~~ Still use them against me to convict me. Knowing that his witnesses ~~were~~ taking the stand under oath to fabricated a story & to make false allegations against he still chose to follow through with the knowledge of know they were lying to use them to testify on me.

(F.) To Support the ground of being falsely Identified Im Stating the fact that the whole time I was being held in jail until the point of my trial I was never ~~identified~~ identified until the day of my trial 2 1/2 yrs later. Everyone that identified me the day of my trial never once when to the police or Sheriff office to give no identification of me. Also there's police body Cam strongly Supporting my claim & also Pervious Statement from the same witnesses who testify they saw my face in my rate 5 brady motion they Stated that they Couldn't see no one face.

(12) Prior to this application have you filed with respect to this conviction:

- (A) Any petition in a State Court under South Carolina law? "No"
- (B) Any petition in State or federal Courts for habeas Corpus or post-conviction's relief? "No"
- (C) any petition in the United States Supreme Court for Certiorari other than Petitions, if any, already specified in (8)? "No"
- (D) any other petition, motions, or applications in this or any Court? "No"

(13) If you answered "yes" to any part of (12), list which with respect to each Petition, motion, or application:

- (A) the Specific nature thereof:
- (B) The name & location of the court in which each was
- (C) the disposition thereof:

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D.) The date of each such disposition :

445

E.) If know, Citations of any written opinions or order entered pursuant to each such disposition :

(14.) Has any ground set forth in (10) been previously presented to this or any other Court, State or federal, in any petition, motion, or application which you have filed? "No"

(15.) If you answered "yes" to (14) identify :

(A.) which grounds have been presented :

(B.) the proceeding in which each ground was raised :

(16.) If any ground set forth in (10) has not previously been presented to any Court, State or federal, set forth the ground? State concisely the reasons why such ground has not previously been presented :

(A.) Malicious prosecution wasn't previously presented because the attorney who was representing me at the time I don't feel really had my best interest,

(B.) Violation of my due rights wasn't previously presented because I don't think my attorney at the time thought it was something to present

(C.) Violation of my 5<sup>th</sup> ; 6<sup>th</sup> amendment wasn't present because I feel like my attorney wanted to make her own argument

(D.) Inconsistent statement wasn't raised honestly I don't know why

(E.) Prosecution Misconduct, I don't know why it wasn't presented

(F.) Not properly being identified, honestly don't know why it was presented

7.) Were you represented by an attorney at any time during the course of :

(A.) your arraignment & plea?

(B.) your trial, if any? "Yes"

(C.) your Sentencing? "Yes"

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(D) your appeal, if any, from the judgement of Conviction or the imposition of Sentence? **Yes**

(E) Preparation, Presentation, or Consideration of any petition, motion, or applications with respect to this conviction, which you filed?

(18.) If you answer "yes" to one or more part of (17), list:

(A) The name & address of each attorney who represented you:

(i.) Joshua E. Schultz  
Spartanburg, S.C. 29304

(ii) Wanda H. Carter  
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
P.O. box 11589  
Columbia, S.C. 29211-1589

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(B) the proceedings at which each such attorney represented you:

(i) Joshua E. Schultz represented me during both my trials and Sentencing & after being Sentence he filed for a direct appeal.

(ii) Wanda H. Carter represented me on my direct appeal.

(19) State clearly the relief you seek in filing this application:  
The relief I'm seeking is to get my LWOP overturned, or to get a lesser sentence or a plea reasonable plea.

(20) Are you now under sentence from any other court that you have not challenged? **"No"**



State of South Carolina ) **2022-CP-42-02810**  
 County of Spartanburg ) verification

I, Dominick A. Thompson, 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.

Dominick A. Thompson

Sworn to and subscribed before me this 13<sup>th</sup>  
 day of July, 2022.

[Signature] (L.S.)  
 Notary Public

My Commission Expires: 2/26/28

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448 Application to proceed without Payment of  
Cost and affidavit in Support thereof

I, Dominick A. Thompson, hereby apply for leave to proceed in this  
action without ~~prepayment~~ of fees or costs or Security thereof.  
In Support of my application I declare under Penalty of Perjury  
that 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.

Dominick A. Thompson

SWORN or affirmed to and subscribed before  
me this 13<sup>th</sup> day of July, 2022.

U. Turner  
Notary Public

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AMY W. COX

My Commission Expires: 2/26/28

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ALAN WILSON  
ATTORNEY GENERAL

September 2, 2022

The Honorable Amy W. Cox  
Spartanburg County Clerk of Court  
P. O. Box 3483  
Spartanburg, SC 29304-3483

**Re: Dominick Thompson, #346147 v. State of South Carolina**  
**2022-CP-42-02810**

Dear Ms. Cox:

Enclosed for filing please find the State's original Return and Motion for a More Definite Statement and accompanying attachments in the above-captioned case.

Sincerely,

/s Chelsey F. Marto  
Chelsey F. Marto  
Assistant Attorney General

CFM/jh  
Enclosure

cc: Susannah Ross, Esquire.

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SPARTANBURG COUNTY  
SUSANNAH ROSS  
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STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

Dominick Thompson, #346147,  
Applicant,

v.

State of South Carolina,  
Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2022-CP-42-02810

**RETURN AND MOTION FOR A  
MORE DEFINITE STATEMENT**

NOW COMES Respondent, moving for a more definite statement and making its return to the post-conviction relief (hereafter "PCR") application filed on July 27, 2022, by Dominick Thompson (hereafter "Applicant"). Respondent respectfully offers the following in support of its return:

**I. Procedural History**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its June 2017 term, the Spartanburg County Grand Jury indicted Applicant for possession of a firearm or ammunition by person convicted of a violent crime (2017-GS-42-02886) and attempted murder (2017-GS-42-02889). During its June 2018 term, the Spartanburg County Grand Jury indicted Applicant for first degree burglary (count one) and possession of a weapon during a violent crime (count two) (2017-GS-42-02885). During its August 2018 term, the Spartanburg County Grand Jury indicted Applicant for first degree assault and battery (2017-GS-42-028887) and armed robbery (2017-GS-42-02888). Applicant was represented by E. Joshua Schultz, Esquire. Assistant Solicitors Lauren Brown and Spenser Smith of the Seventh Circuit Solicitor's Office prosecuted the case. On June 10, 2019, Applicant proceeded to trial before the Honorable

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SPARTANBURG, SC

Derham Cole, circuit court judge, and a jury. Applicant was found guilty as indicted on all counts. Judge Cole sentenced Applicant to life imprisonment for first-degree burglary and armed robbery, assault and battery of a high and aggravated nature<sup>1</sup>, and ten years' imprisonment for first-degree assault and battery.

Applicant filed a timely notice of appeal on June 25, 2019, that was perfected by Wanda H. Carter, Esquire, through filing a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967). The South Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion. *State v. Thompson*, 2022-UP-154 (S.C. Ct. App. filed Mar. 30, 2022). The remittitur was issued on April 25, 2022.

## II. Statement of Facts

At trial, Summer Hall testified that she was at a hotel in Spartanburg County on November 23, 2016, along with her husband Russell Donahue, her sister-in-law Christine Richard, and brother-in-law Brandon Logan when her sister-in-law received a message from Makayla Richard requesting marijuana. Apparently, a deal was reached. Shortly thereafter, Makayla Richard arrived at the hotel and Christine Richard went downstairs to meet her. When Christine and Makayla came up to the hotel room three men appeared and entered the hotel room with Makayla and Christine. Hall stated that the men had guns and Applicant put a gun to her head and went over to her husband to search his pockets. The men began pistol whipping Brandon and the gun fired/discharged and a stray bullet struck Christine, who was later transported to the hospital. The men asked about and looked for the marijuana. Hall added that before the men left, they took money from her husband's wallet and her phone. Tr. 73-88.

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<sup>1</sup> Applicant was found guilty of ABHAN under the attempted murder indictment because the jury was only permitted to consider the lesser-included offense of ABHAN.

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Christine testified that after she left the hotel room to meet Makayla and they were headed to the hotel room, three black men with guns came running toward her. Christine stated that Applicant was one of the gunmen and that he took her necklace and phone, and that the men ordered her to take them and Makayla to the hotel room. Christine added that the men pistol whipped Brandon until the gun fired and struck her body. Tr. 101-11.

Makayla testified that she and Applicant and two other guys rode out to the hotel to get marijuana from Christine, and that there was no intent to pay for the marijuana. Makayla stated that the men entered the room with guns and that they all left when the gunshot fired. Tr. 139-63.

### III. Current Action before the Court

In his *pro se* PCR application, Applicant alleges he is detained unlawfully for the following reasons (excerpts verbatim):

1. Malicious prosecutions:
  - a. "... the photo lineup that the State use[d] to identify me by Makayla Richard to receive a[n] arrest warrant for me, Makayla who was clearly charge[d] with the crime refused to sign the photo she chose which was my picture and she also refuse[d] to sign the 'affidavit of photo identification' which is strongly supported in my Rule 5 [] Brady motion."
2. Violation of my due rights:
  - a. "The prosecutor violated my due rights and made a[n] action of misconduct by tak[ing] my criminal record to the jur[y] while they were deliberating for a verdict."
3. Violation of my 5<sup>th</sup>, 6<sup>th</sup> amendment
  - a. "I was violated by prosecutors showing my criminal record to the jury paint them a picture of character, the reason I remain silent and didn't testify on my behalf is to avoid my record being presented to the jury."
4. Inconsistent statements
  - a. "[E]veryone of testify on me at my first trial, they statement wasn't consistent with the statement that they gave during the second trial, not only that but it was also multiple statements by only one person that was inconsistent."
5. Prosecutorial misconduct
  - a. "[G]overnments knowing of false testimony was abused discretion; defendant were entitled to a new trial if false testimony of prosecutor witness, which was known by the government and not corrected could in reasonable likelihood have affected the judgment of the jury which in my

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case the prosecutor's witnesses in by case gave and written multiple statement that the prosecutor knew was false but still use them against me to convict me, knowing that his witnesses were taking the stand under oath to fabricate[] a story and to make false allegations against he still chose to follow through with the knowledge of know they were lying to use them to testify on me."

6. Falsely Identified

- a. "[T]he whole time I was being held in jail until the point of my trial I was never identified until the day of my trial 2 ½ years later. Everyone that identified me the day of my trial never once when to the police or sheriff office to give no identification of me. Also, there's police bodycam strongly supporting my claim and also pervious statement form the same witnesses who testify hey saw my face in my Rule 5 Brady motion they stated that they couldn't see no one face."

Attached to and incorporated hercin are Applicant's Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, direct appeal records, the trial transcript, and the current PCR application. Respondent reserves the right to amend this return upon receipt of additional relevant information.

#### IV. Argument

##### *Ineffective Assistance of Counsel*

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Effective assistance of counsel does not mean perfect or mistake-free representation. *See Weaver v. Massachusetts*, 137 S. Ct. 1899 (2017) ("[A] defendant has a right to effective representation, not a right to an attorney who performs his duties 'mistake-free.'" (citation omitted)); *Burt v. Titlow*, 571 U.S. 12, 24 (2013) ("[T]he Sixth Amendment does not guarantec the right to perfect counsel; it promises only the right to effective assistanc[.]" ); *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) ("The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight."). Instead, it simply means assistance that was objectively reasonable under prevailing professional norms. *Strickland*, 466 U.S. at 687-688.

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When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel’s actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRPC (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”). Reasonableness is determined by the “variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); *see Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel’s strategic decisions are to be afforded “‘strong presumption’ of reasonableness that the defendant must overcome); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Judicial scrutiny of counsel’s performance remains highly deferential

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towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually “countless” ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so 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. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Importantly, “[t]he likelihood of a different result must be *substantial*, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 112 (2011).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

### ***Failure to Effectively Cross-Examine Witnesses***

Applicant’s allegation that Counsel was ineffective for failure to cross-examine the State’s witnesses is without merit. “Where trial counsel articulates a valid reason for employing a certain trial strategy, counsel will not be deemed ineffective.” *McKnight v. State*, 378 S.C. 33, 43, 661 S.E.2d 354, 359 (2008) (citing *Roseboro v. State*, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995)). Counsel can be deficient when examining witnesses if they fail to elicit testimony key to a petitioner’s defense. *Miller v. State*, 379 S.C. 108, 116, 665 S.E.2d 596, 600 (2008).

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abrogated on other grounds by *Smalls v. State*, 422 S.C. 174, 810 S.E.2d 836 (2018) (finding counsel was deficient in failing to elicit testimony about similarities between armed robberies from a witness who could corroborate where the applicant's key defense was third party guilt).

Respondent contends that Applicant likely cannot meet his burden of proof, but requests a more definite statement so Respondent can ascertain what witnesses and testimony he is specifically alleging Counsel was ineffective in cross-examining, followed by an evidentiary to fully resolve the matter.

### ***Failure to Argue Lack of Proper Identification***

Applicant claims Counsel is ineffective for failure to argue lack of proper identification. Whether failure to assert a defense constitutes deficient performance ultimately hinges on whether failure to explore the decision was a strategic decision. *Strickland*, 466 U.S. at 680. If there is only one line of defense, counsel must conduct a "reasonably substantial investigation" into that line of defense. *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1252). However, if there are several lines of defense, counsel may still be effective even if every single line is not explored. *Id.* "[W]hen counsel's assumptions are reasonable given the totality of the circumstances and when counsel's strategy represents a reasonable choice based upon those assumptions, counsel need not investigate lines of defense that he has chosen not to employ at trial." *Id.* at 681 *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1255). Further, "[w]hen counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough*, 540 U.S. at 5 (citing *Strickland*, 466 U.S. at 690).

Regarding failure to alert the Applicant of a defense specifically, Counsel will not be found ineffective if there was inadequate evidence to support the defense, if the defense did not

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exist at the time of trial, or another avenue of defense existed. *See McCray v. State*, 317 S.C. 557, 455 S.E.2d 686 (1995) (stating that failure to state an entrapment defense was not ineffective when the applicant denied any wrongdoing); *Arnette v. State*, 306 S.C. 556, 413 S.E.2d 803 (1992) (stating that failing to inform of a defense was not ineffective when there was no evidence at trial that supported the defense); *Robinson v. State*, 308 S.C. 361, 417 S.E.2d 361, 417 S.E.2d 88 (1992) (stating that Counsel was not ineffective when failing to state a defense that was not recognized by the Court until six years later and was just recently acknowledged by the scientific community). Respondent contends Applicant's allegation likely lacks merit, but requests an evidentiary hearing to fully resolve the matter.

### ***Malicious Prosecution***

A conviction will be reversed if the applicant can show prosecutorial vindictiveness, in that "the prosecutor acted with genuine animus toward the defendant" and "the defendant would not have been prosecuted but for that animus." *State v. Odon*, 412 S.C. 253, 263, 772 S.E.2d 149, 154 (2015) (quoting *United States v. Wilson*, 262 F.3d 305, 314 (2001)) (quotations omitted). The case in which an applicant can overcome the presumptive validity of the prosecutor's actions is rare. *Id.* at 264 (quoting *Goodwin*, 457 U.S. at 384 n. 19).

Applicant raises several allegations concerning prosecutorial misconduct and malicious prosecution. Respondent contends these allegations lack merit but requests an evidentiary hearing to fully resolve the matter.

### **V. Motion for a More Definite Statement**

Respondent moves for a more definite statement regarding Applicant's allegations. Applicant alleges that plea counsel was constitutionally ineffective and the State engaged in prosecutorial misconduct. However, he does not explain exactly what Counsel did that

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constituted ineffective assistance of counsel. Applicant fails to set forth with specificity any facts and circumstances upon the claim is based. The Uniform Post-Conviction Procedure Act requires that applicants must “specifically set forth the grounds upon which the application is based.” Section 17-27-50 of the Code of Laws of South Carolina (1976). In a PCR application, it is incumbent upon applicants to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

*Coardes v. State*, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRCP, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.” Respondent moves pursuant to Rule 12(e), SCRCP, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an additional amended application well in advance of any evidentiary hearing concerning this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the allegation.

#### **VI. Other Allegations Denied**

Each and every other allegation in Applicant’s PCR application not explicitly admitted, qualified, or explained in this return is hereby denied by Respondent.

#### **VII. Assertion of Rights to Notice of Amendments, Experts**

Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well

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in advance of the hearing. Here, Applicant's court-appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity, Rule 11(a), SCRCP and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) ("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.").

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) ("In most PCR cases . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases."); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) ("When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record."); *see also* Rules 15(a)-(b), SCRCP (explaining how to amend a pleading). Pursuant to Section 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert

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witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

#### VIII. Conclusion

WHEREFORE, Respondent requests that the Court require Applicant to provide a more definite statement and then hold an evidentiary hearing regarding Applicant's allegations.

Respectfully submitted,

ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

CHELSEY F. MARTO  
Assistant Attorney General

By: \_\_\_\_\_  
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
Telephone: (803) 734-0386

\_\_\_\_\_. 2022

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SOUTH CAROLINA

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

Dominick Thompson, #346147

Applicant,

v.

State of South Carolina

Respondent,

) IN THE COURT OF COMMON PLEAS  
) FOR THE SEVENTH JUDICIAL  
) CIRCUIT

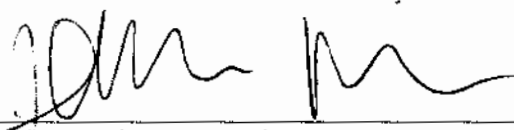
) Case No.: 2022-CP-42-02810

) Certificate of Service by Mail

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return and Motion for a More Definite Statement in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Ms. Susannah Ross, Esquire.**  
**Ross & Enderlin, PA**  
**330 East Coffee St.**  
**Greenville, SC 29601**

DATED this 2<sup>nd</sup> day of September 2022.

  
\_\_\_\_\_  
Jordan Hickman Legal Assistant  
For Respondent

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| STATE OF SOUTH CAROLINA      | ) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF SPARTANBURG        | ) | SEVENTH JUDICIAL CIRCUIT     |
|                              | ) |                              |
|                              | ) |                              |
| DOMINICK THOMPSON,           | ) | AMENDED APPLICATION          |
| APPLICANT.                   | ) |                              |
| v.                           | ) |                              |
|                              | ) |                              |
| THE STATE OF SOUTH CAROLINA, | ) |                              |
| RESPONDENT.                  | ) | CASE # 2022-CP-42-2810       |
| _____                        | ) |                              |

This matter comes before the Court by way of application of post-conviction relief filed July 27, 2022, alleging ineffective assistance of trial counsel, malicious prosecution and prosecutorial misconduct. A Return and Motion for a More Definite Statement was made September 6, 2022. This application amends the original application to add the following allegations:

- I. Ineffective assistance of trial counsel for:
  1. failing to clearly explain the plea offer;
  2. failure to effectively utilize transcript and cross witnesses on inconsistent testimony in prior trial; SCRE 613
  3. failure to effectively argue that SCRE 403 and 609 allowed impeachment of witnesses Summer Hall and Christine Richard with prior record and failed to object to judge's ruling Record on Appeal pp. 65-72, p. 365, l. 8, p. 397.
  4. failing to effectively address witnesses' identification of Applicant through Facebook and where testimony was improbable; p. 106, l. 12, p. 86, p. 110
  5. misadvising Applicant not to testify due to his prior record when prior burglaries came in anyway because the State was not required to stipulate to prior burglaries; Record on Appeal p. 260.

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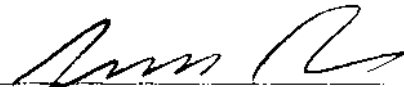
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6. failure to take exception to the jury instructions regarding "hand of one" and accomplice liability when the testimony and State's theory of the case was the Applicant was the principal. Record on Appeal p. 410, l. 11; p. 421, l. 19, p. 106, l. 17, p. 345.

7. recalling State witness Danielle Krind. Record on Appeal p. 327.

Respectfully submitted,

  
 Susannah Ross #11205  
 Attorney for the Applicant  
 330 E. Coffee St.  
 Greenville, SC 29601  
 (864) 242-0029

Spartanburg, South Carolina

This 8 day of mm, 2024

*[Faint, illegible text]*

*[Faint, illegible text]*

*[Faint, illegible text]*

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

DOMINICK THOMPSON,  
APPLICANT.

CERTIFICATE OF SERVICE  
BY ELECTRONIC MAIL.

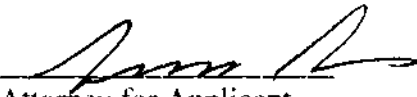
v.

THE STATE OF SOUTH CAROLINA,  
RESPONDENT.

CASE # 2022-CP-42-2810

1. I am the attorney for the Applicant in the above-captioned matter.
2. Regular communication by electronic mail (email) exists throughout the state of South Carolina and this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Amended Application** in the above-captioned matter on the following person by depositing the same in the United States mail with proper postage affixed thereto:

**RussBarlow@scag.gov**

  
Attorney for Applicant

This 8 day of May, 2024

NOTED  
JAN 10 2024  
CLERK OF COURT  
CLERK OF COURT

CLERK

ROSS & ENDERLIN, PA  
ATTORNEYS AT LAW

May 8, 2024

Ms. Hope Blackley  
Spartanburg Clerk of Court  
PO Box 3483  
Spartanburg, SC 29304

Dear Ms. Blackley:

Please find the enclosed Amended Applications for Post-Conviction Relief for filing in your office. If you have any questions or concerns, please let me know.

Sincerely,



Susannah Ross  
Attorney at Law

enclosures

cc: Russ Barlow, Assistant Attorney General

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SPARTANBURG COUNTY  
SOUTH CAROLINA

330 E. COFFEE ST., GREENVILLE SC 29601  
PHONE: (864) 242-0029  
E-MAIL: SUSANNAH@ROSSENDERLIN.COM

1 STATE OF SOUTH CAROLINA )  
2 COUNTY OF SPARTANBURG ) COURT OF COMMON PLEAS NONJURY

3  
4 DOMINICK A. THOMPSON, )  
5 APPLICANT, )  
6 VS. )  
7 STATE OF SOUTH CAROLINA, )  
8 RESPONDENT. )  
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TRANSCRIPT  
OF  
RECORD  
2022-CP-42-2810

May 20<sup>th</sup>, 2024

B E F O R E :

THE HONORABLE HEATH P. TAYLOR, Judge.

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

SUSANNAH C. ROSS  
ESQ.  
Attorney for the Applicant

D. RUSSELL BARLOW, II  
ASSISTANT ATTORNEY GENERAL  
Attorney for the State

Pamela E. Green  
Circuit Court Reporter

I N D E XWITNESSESPAGE

DOMINICK THOMPSON

Direct examination by Ms. Ross 6

Cross-examination by Mr. Barlow 14

KENSUWN GOODE

Direct examination by Ms. Ross 20

Cross-examination by Mr. Barlow 22

DEIDRA MILLS

Direct examination by Ms. Ross 23

Cross-examination by Mr. Barlow 29

LATOYA THOMPSON

Direct examination by Ms. Ross 30

JOSHUA SCHULTZ

Direct examination by Mr. Barlow 32

Cross-examination by Ms. Ross 44

Redirect examination by Mr. Barlow 49

Closing by Ms. Ross 49

Closing by Mr. Barlow 52

Certificate 56

## P R O C E E D I N G S

1

2

3

THE COURT: All right.

4

MR. BARLOW: Your Honor, may I approach?

5

THE COURT: All right. Yes, sir.

6

MR. BARLOW: Thank you.

7

THE COURT: All right. Counsel, we ready?

8

MR. BARLOW: Yes, Your Honor.

9

MS. ROSS: Yes, sir.

10

MR. BARLOW: All right. Thank you, Your Honor.

11

May it please the Court?

12

THE COURT: Yes, sir.

13

MR. BARLOW: Russ Barlow on behalf of the State of

14

South Carolina.

15

This is the post-conviction relief matter of Dominick

16

A. Thompson versus the State. Case Number

17

2022-CP-42-02810 out of Spartanburg County. During its

18

June, 2017, term, the Spartanburg County Grand Jury

19

indicted applicant for possession of a firearm and ABHAN.

20

And during it's June, 2018, term, Spartanburg County Grand

21

jury indicted applicant for first degree burglary and

22

possession of a weapon during commission of a violent

23

crime. And during its August, August, 2018, term the

24

Spartanburg Grand -- County Grand Jury indicted applicant

25

for armed robbery and first degree assault and battery.

1        Applicant was represented by E. Joshua Schultz,  
2 Esquire, and Assistant Solicitors Lauren Brown and Spenser  
3 Smith of the Seventh Circuit Solicitor's Office prosecuted  
4 the case and -- beg the Court's indulgence.

5        On August 6 through 9, 2018, applicant went to trial  
6 before the Honorable Lee Alford, and, Your Honor, that  
7 trial ended in a mistrial. And on June 10<sup>th</sup>, 2019,  
8 applicant proceeded to a second jury trial before the  
9 Honorable J. Derham Cole. Applicant was found guilty as  
10 indicted on all counts and Judge Cole sentenced applicant  
11 to life imprisonment for the first degree burglary, armed  
12 robbery, and ABHAN, 10 years imprisonment for first degree  
13 assault and battery, and five years on this firearm  
14 provision.

15        He filed a timely notice of appeal on June 25<sup>th</sup>,  
16 2019, and that was perfected by Wanda H. Carter where she  
17 briefed pursuant to Anders v. California. The South  
18 Carolina Court of Appeals dismissed the applicant's appeal  
19 and the unpublished opinion, State v. Thompson,  
20 2022-UP-154 filed March 30<sup>th</sup>, 2022. The remittitur was  
21 returned April 25<sup>th</sup> of 2022.

22        Applicant timely commenced this action July 27<sup>th</sup>,  
23 2022. In his pro se application, Your Honor, he raised  
24 six allegations that were multitude of malicious  
25 prosecutions, violation of certain rights, and so forth,

1 prosecutorial misconduct. And then, on May 14<sup>th</sup>, 2024,  
2 applicant's counsel amended his application and that there  
3 are one, two, three, four -- seven allegations of  
4 ineffective assistance of counsel.

5 And, Your Honor, the applicant is requesting that his  
6 LWOP be overturned, a lesser sentence for a reasonable  
7 plea.

8 And before this Court are the Spartanburg County  
9 Clerk of Court records, applicant's records from the South  
10 Carolina Department of Corrections, applicant's appellate  
11 records, which include the entire second trial transcript  
12 and only the first day of the first trial transcript and  
13 the records of this PCR action.

14 And, at this time, we'd ask Ms. Ross to state for the  
15 record which allegations she intends to move forward on.

16 THE COURT: Ms. Ross.

17 MS. ROSS: Judge, again, I'd move for the, the  
18 evidence to conform to the pleadings pursuant to State v.  
19 Love and depending on what Mr. Thompson testifies to. But  
20 I did file an amended amplification outlining the issues I  
21 thought were valid here, again, or most valid, especially  
22 this failure to effectively argue South Carolina Rules of  
23 Evidence 403 and 609 allowed impeachment of witnesses,  
24 Summer Hall and Christine Reed -- Richard with their prior  
25 records.



1        They did -- were impeached on a prior burglary and I  
2 think some drug charges at the first trial, which was a  
3 hung jury. Just showing some prejudice from that. And  
4 because that argument was not preserved for appeal and no  
5 proffer was made, Wanda Adams was -- had to file an Anders  
6 brief though we would argue that it is a legitimate  
7 argument and I'd just cite -- point out State v. Brayboy,  
8 736 S.E.2d 679, which is a 2013 case that, that talks  
9 about with the Colf factors in the State v. Robinson case.

10        A, a lot of judges are just going through these  
11 factors for all impeachment testimony and Brayboy just  
12 stands for the, the fact that there's a difference between  
13 a defendant and his being impeached on his prior record  
14 versus witnesses. Different position. They don't have  
15 the, the, the same constitutional rights as a defendant.

16        So, with that being said, I'd go ahead and call  
17 Dominick Thompson to the stand.

18        THE COURT: All right. Mr. Thompson, will you raise  
19 your right-hand for me the best you can?

20                                DOMINICK THOMPSON, being first  
21 duly sworn, testified as follows:

22        THE COURT: All right. Answer any questions Ms. Ross  
23 may have.

24        DIRECT EXAMINATION

25        BY MS. ROSS:

Dominick Thompson - Direct examination  
By Ms. Ross

1 Q. Now, you filed for post-conviction relief. Let's  
2 just start out.

3 what -- what's your basis for requesting  
4 post-conviction relief?

5 A. Well, well, my -- basically is filing for ineffective  
6 assistance of counsel.

7 Q. Okay.

8 A. I just want -- I really got like a couple issues that  
9 I would like to address to the Court just to have on  
10 record that, you know, that I feel was ineffective and  
11 that was prejudiced towards me.

12 Q. All right. What are those issues?

13 A. Well, one, one being that my lawyer was ineffective  
14 assistance of counsel due to him not fully advising me and  
15 giving me a complete understanding of the plea, you know.  
16 So I feel that it could of been a different outcome than  
17 my situation. Mr. Schultz never negotiated on my behalf  
18 within a year that I was -- within a year of me awaiting  
19 trial.

20 Q. Now, you got a notice under the State's intent to  
21 seek life without parole.

22 Is that correct?

23 A. Yes, ma'am.

24 Q. And did he go over that with you, your trial counsel?

25 A. Yes, ma'am.

Dominick Thompson - Direct examination  
By Ms. Ross

1 Q. He did go over it with you?

2 A. You said the life without parole notice?

3 Q. The notice.

4 A. Yes, ma'am.

5 Q. Now, what about your priors -- there were sentencing  
6 sheets where it wasn't checked serious or most serious on  
7 some of the prior sentencing sheets that were used to  
8 convict you.

9 A. Yes, ma'am, I had two attempted murders from 2015,  
10 April 1<sup>st</sup>. It was a 2015 sentencing and I think -- like  
11 neither one of the boxes was checked on the attempted  
12 murders. The most serious and serious box, neither one of  
13 them was checked. And I brought it to his attention  
14 numerous times before the trial and it wasn't -- and he  
15 never addressed it before my trial. He never put in the  
16 motion for it.

17 Q. Do you think that might have effect on the State's  
18 ability to give you a life sentence?

19 A. Yes, ma'am.

20 Q. And did he ever explain to you that does not matter  
21 at all, you're gonna get a life sentence if you're  
22 convicted?

23 A. I mean he told me that. But I felt like it still  
24 could of changed something. I, I felt like it could of --  
25 I felt like it basically gave the State grounds to, to

Dominick Thompson - Direct examination  
By Ms. Ross

1 really push for the LWOP.

2 Q. What was the plea offer?

3 A. I think it was 15 and I think it was like a, a  
4 burglary first, ABHAN with a 10, a 10 year sentence or  
5 something like that --

6 Q. Okay.

7 A. -- with a probation -- with probation the time I  
8 think after that as well.

9 Q. Are there any other allegations of ineffective  
10 assistance of counsel that you're alleging?

11 A. Yes, ma'am, I, I got another one that I, I would like  
12 to address to the Courts.

13 Q. Okay.

14 A. I -- my lawyer was ineffective due to deficient  
15 performance which caused prejudice to my defense. I said  
16 my counsel was ineffective due to refusal to object to  
17 multiple occasions during my trial that I told him to. I  
18 said one being Exhibit 35---

19 Q. Well---

20 A. ---which was a box of bullets that had my fingerprint  
21 on it. It's -- I said there's no evidence that Exhibit 35  
22 was even a part of the crime or part of the case. I said  
23 there's no caliber that -- I said there's no caliber or  
24 type bullets that saying that this was a part of the crime  
25 and---

Dominick Thompson - Direct examination  
By Ms. Ross

1 Q. And did you -- give some context.

2 The -- this was a box of bullets that was found in --

3 A. It was found in---

4 Q. -- a codefendant's house?

5 A. Yes, ma'am.

6 Q. And that had nothing to do with this case and he  
7 didn't object to that?

8 A. It didn't have nothing to do with the case. He, he  
9 didn't object to it when they used it against me and I  
10 brought that to his attention. He never object to it when  
11 they use it against me even though it being at they house.

12 Q. All right.

13 A. He ain't fight to suppress the evidence to me.

14 Q. All right. Anything else?

15 A. Basically like --.

16 Q. How about some differences between the first trial  
17 and the second trial?

18 A. Yes, ma'am, I feel like he was ineffective also when  
19 it come to the victim's identifying me, the identification  
20 of me, with -- knowing that they gave previous statements  
21 before and then not taking a proper procedures to identify  
22 me before my trial and then the day of my trial they  
23 identified me knowing exactly who I am -- who -- exactly  
24 who I am.

25 Q. All right.

Dominick Thompson - Direct examination  
By Ms. Ross

1 A. I feel that he, he was ineffective due to, to  
2 suppressing or even saying that they was credible.

3 Q. Did he present an expert on eye witness  
4 identification?

5 A. No, ma'am.

6 Q. Did -- and isn't it true that the -- weren't the --  
7 wasn't the identifying -- identification oriented around  
8 the, the victim seeing your picture on Facebook?

9 A. Yes, ma'am.

10 Q. And what did the picture say or do you know the  
11 context of that what I'm talking about or can you tell the  
12 Court?

13 A. I mean I don't know the context of it. But they  
14 said -- they -- it says something. But I'm pretty sure  
15 that, that isn't true. But they said, they said that they  
16 saw a picture and they said something about a shooter or  
17 something like that.

18 Q. Well, they knew your codefendant, codefendant,  
19 Michale, right, the victims did?

20 A. Yes, ma'am.

21 Q. And they went to Michale's Facebook website---

22 MR. BARLOW: Your Honor, objection to leading.

23 THE COURT: I'll allow it.

24 Go ahead.

25 Q. Do you recall that coming out at trial?

Dominick Thompson - Direct examination  
By MS. ROSS

1 A. Yes, ma'am.

2 Q. And so do you recall exactly what the -- didn't  
3 Michale have a, a picture of you somehow linked to her  
4 Facebook site?

5 A. They said that she had a picture of me linked in her  
6 Facebook site. But when she took the stand herself, she  
7 as well said that that was impossible because me and her  
8 never had no contact on Facebook. Me and her---

9 Q. Okay.

10 A. She just -- she said herself during the trial that  
11 there's no way that the victim could of identified me off  
12 of Facebook.

13 Q. Okay. And didn't they initially say, the victims,  
14 that all the faces were covered?

15 A. Yes, ma'am.

16 Q. Now, as far as -- do you know whether your lawyer was  
17 allowed to question Summer Hall and Christine Reed --  
18 Richard with their prior records?

19 A. Yes, ma'am, I believe he tried to impeach them based  
20 on they prior record because off some drug charges or  
21 something.

22 Q. And you had a, a number of family members testify at  
23 your trial---

24 A. Yes, ma'am.

25 Q. ---right?

Dominick Thompson - Direct examination  
By Ms. Ross

1           And weren't they, they impeached for their  
2 shopliftings?

3   A.   Yes, ma'am, they were.

4   Q.   Okay.  But the alleged victims were not?

5   A.   No, ma'am.

6   Q.   Now, why didn't you testify?

7   A.   The reason I didn't testify is because, honestly, I  
8 didn't know if it was -- it would of hurt me or help me.  
9 In -- honestly, based on like me having prior -- a prior  
10 record, I felt like that it would probably hurt me more  
11 than help me.

12   Q.   Did you fully understand that your prior burglaries  
13 are gonna come in anyway?

14   A.   I didn't really know until that it happened.

15   Q.   All right.  Would that have changed your decision if  
16 the -- you knew that the jury was gonna hear all about  
17 your prior burglaries anyway?

18   A.   It probably -- yes, ma'am, it would of.

19   Q.   Now, wasn't -- did, did your lawyer recall a witness,  
20 Danielle Krind, as the last witness in front of that jury  
21 after all your, all your witnesses?

22   A.   Yes, ma'am.

23   Q.   Do you think that helped or hurt your case?

24   A.   I really---

25   Q.   I can withdraw---



Dominick Thompson - Direct examination  
By MS. ROSS

1 A. I really didn't think it hurt me.

2 Q. Okay. And did you -- do you know if your lawyer took  
3 any objection to the jury instructions from the judge?

4 A. I don't think he took any objection.

5 Q. Now, is there anything else you want to put on the  
6 record today for your PCR and your testimony?

7 A. No, ma'am.

8 Q. All right. Please ask -- answer any questions from  
9 the attorney general.

10 THE COURT: Counsel.

11 MR. BARLOW: Thank you, Your Honor.

12 May it please the Court?

13 THE COURT: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. BARLOW:

16 Q. All right. Mr. Thompson, good afternoon.

17 How are you doing today?

18 A. I'm good.

19 Q. Good.

20 All right. We're just gonna jump right in -- but  
21 before I do that, do you understand that the Court -- that  
22 this Court here today, all they can offer you is a brand  
23 new trial, correct?

24 A. Yes, sir.

25 Q. That, that they can not overturn your LWOP. They can

Dominick Thompson - Cross-examination  
By Mr. Barlow

1 not lessen your sentence. That all it can do is give you  
2 a new trial.

3 A. I mean I'm knowledgeable of it now.

4 Q. Okay. Your first allegation is failure to explain  
5 the plea offer to you.

6 Can you walk me through that one more time?

7 A. Basically like when, when he offered me the plea, I  
8 mean he told me with the plea was. But I'm be honest.  
9 Like I didn't really understand it because it, it -- he  
10 came at it -- he came at me with it so fast. Like it  
11 ain't nothing that was offered to me a day before my  
12 trial, a couple days before my trial, week before my  
13 trial. It was offered to me a few minutes before my trial  
14 started.

15 Q. Okay. Let me ask you this.

16 were you offered a plea at your first trial?

17 A. Yes, sir.

18 Q. Okay. Do you recall what your plea was then?

19 A. No, sir.

20 Q. Okay. So, your first trial was four or five days  
21 long. You had a plea offer before that. Then you have  
22 your second trial.

23 You're offered another plea?

24 A. My first trial I had a hung jury.

25 Q. Correct.

Dominick Thompson - Cross-examination  
By Mr. Barlow

1 A. I went through with it and, in my second trial, I --  
2 he offered me a plea right before my trial started.

3 Q. So you were aware of, of how a plea works?

4 A. I mean I, I done, I done pled to some things before.  
5 So I know how a plea work. But I didn't understand that  
6 plea, that specific plea.

7 Q. Okay. Do you recall what specifically you didn't  
8 understand?

9 A. When he said I think the 15 year. Then he said  
10 something about an ABHAN and a 10 year sentence after  
11 that. Like I didn't understand what he was saying because  
12 it was rushed. Like I ain't have time to process it.

13 Q. Okay. You testified to the box of ammo not having  
14 any relevance at your trial, correct?

15 A. Yes, sir.

16 Q. Okay. And can you tell us again why that box of ammo  
17 had no relevance?

18 A. I just -- I feel like it didn't have any relevance  
19 because, like I said, it wasn't a part of the crime. It  
20 wasn't nothing in the case. It wasn't nothing presented  
21 to the jury or the Court that that box of ammo had  
22 anything to do with the crime. It was just at a house  
23 that was, that was -- that they had a search warrant for.

24 Q. Mr. Thompson, would you agree with me that you were  
25 charged with and convicted of possession of ammo by a

Dominick Thompson - Cross-examination  
By Mr. Barlow

1 felon?

2 A. Yes, sir, I was.

3 Q. So, the ammo -- possession of the ammo would be  
4 relevant to the charge -- to the box of ammo---

5 A. It would.

6 Q. ---correct?

7 A. Yes, sir.

8 Q. Okay.

9 A. But I also feel like with it being used against me in  
10 my trial, my second trial, it was used against me and it  
11 was presented to the jury and, and basically like when  
12 something presented to the jury, the jury don't have  
13 knowledge of the law. The jury don't -- all they doing is  
14 listening and, and getting a picture painted to them and  
15 they go -- basically go off that.

16 So, with them doing that, and hearing the box of ammo  
17 and they hearing a crime, a shooting crime, they putting  
18 to together as a -- they -- that they, that they got --  
19 that box of ammo got something to do with the crime and I  
20 basically asked him to object to that being used as  
21 evidence.

22 Q. Okay. Let's go to the failure to impeach Summer Hall  
23 and Christine Richard.

24 what were their -- what was the prior record that you  
25 feel should of been objected to and he should of been

Dominick Thompson - Cross-examination  
By Mr. Barlow

1 allowed to impeach them on?

2 A. I don't feel like their prior record -- I ain't,  
3 ain't -- I don't feel like with them -- it had nothing to  
4 do with they record what I feel like he should object to.

5 what I felt like he should of objected to was them  
6 being credible to identify me as a witness. And the  
7 reason that I feel like that is because they gave previous  
8 statements and they got body cams and video cams stating  
9 that they didn't see who committed the crime.

10 Q. And your attorney, Mr. Schultz, was able to  
11 cross-examine them on that, correct?

12 A. Yes, he cross-examined them. But he never object to  
13 them back incredible. He never object to them saying they  
14 saw me. He never object to them saying anything about  
15 identifying me at all.

16 Q. Okay. Let's go to failure to effectively address --  
17 actually we'll move beyond that one. I know you were  
18 asked on direct if you had an eye witness, ID expert,  
19 present.

20 was there one present at your trial?

21 A. No, sir.

22 Q. Do you have one here today?

23 A. No, sir.

24 Q. And was it your testimony on direct that recalling  
25 the State witness, Daniel Krind -- Danielle Krind, it did

Dominick Thompson - Cross-examination  
By Mr. Barlow

1 not hurt you?

2 A. I don't think it hurt me.

3 Q. And my last question for you is did you -- one of the  
4 allegations is failure to take exception to the jury  
5 instructions.

6 Can you tell me about that?

7 A. You said do what?

8 Q. Failure to object or failure to take exception to the  
9 jury exception or the jury instructions, pardon me, of  
10 hand of one and accomplice liability?

11 A. No, sir.

12 Q. Thank you, Mr. Thompson.

13 Nothing further, Your Honor.

14 THE COURT: Anything on redirect, Ms. Ross?

15 MS. ROSS: No, Your Honor.

16 THE COURT: All right, sir. You can step down.

17 THE WITNESS: All right.

18 MS. ROSS: We call Kenshuwn Goode.

19 MR. BARLOW: And, Your Honor, just for the record,  
20 I'm going to object. We had no notice of this witness  
21 being called.

22 THE COURT: Okay. And similar to the prior, I think  
23 he -- I'm gonna allow it under -- I believe it's Allstate  
24 versus Davis, this being a nonjury matter.

25 Did y'all send any interrogatories or anything like

Kenshuwn Goode - Direct examination  
By MS. ROSS

1 that?

2 MR. BARLOW: None, Your Honor.

3 THE COURT: Okay.

4 MS. ROSS: Hi there, Mr. Goode.

5 Were you charged---

6 THE COURT: Hold on a second.

7 Spell your last name for me?

8 THE WITNESS: Goode. G-O-O-D-E.

9 THE COURT: Okay. Mr. Goode---

10 MS. ROSS: And, and can you---

11 THE COURT: ---will you raise your right-hand for me?

12 KENSHUWN GOODE, being first duly

13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. ROSS:

16 Q. Can you spell your first name for me?

17 A. Kenshuwn. K-E-N-S-H-U-W-N.

18 Q. And I'm just showing you the public index.

19 Now, I guess I'm gonna hand you the pub -- the public  
20 index -- Spartanburg Public Index.

21 Do you recognize that --

22 A. Um.

23 Q. -- or your name on that at all?

24 A. I see my name. But it's spelled wrong.

25 Q. Okay. And there's some charges associated with that,

Kenshuwn Goode - Direct examination  
By MS. ROSS

1 correct?

2 A. They're other names on here too.

3 Q. Okay. Well, let me just -- let me just ask you this.

4 Did you plead guilty to some charges where you were  
5 alleged to be the codefendant?

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

7 Q. And, and, and tell me -- so you were charged  
8 regarding this November 24<sup>th</sup> 26<sup>th</sup> incident as well?

9 A. 24<sup>th</sup>, 2016?

10 Q. I'm sorry. You're right.  
11 November 24<sup>th</sup>, 2016.

12 A. Yes, ma'am.

13 Q. And what was your sentence?

14 A. Five year probation and five year house arrest.

15 Q. And was Mr. Dominick Thompson with you the night of  
16 November---

17 A. No, ma'am---

18 Q. ---24<sup>th</sup>?

19 A. ---he was not.

20 Q. Okay. And you received a house arrest --

21 A. Yes, ma'am.

22 Q. -- sentence for that?

23 Now let's talk about -- how were you identified in  
24 the, in the case?

25 A. Via Facebook.



Kenshuwn Goode - Direct examination  
By MS. ROSS

1 Q. All right. Was there a Facebook picture of, of you  
2 with Dominick?

3 A. Yes, ma'am, there was.

4 Q. And that was the basis of why they tested -- they---

5 A. Yes, ma'am.

6 MS. ROSS: All right. I have no further questions.

7 THE COURT: Any cross-examination by the State?

8 MR. BARLOW: Thank you, Your Honor.

9 May it please the Court?

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. BARLOW:

13 Q. Mr. Goode, it's your testimony that you pled in this  
14 case?

15 A. Yes, sir.

16 Q. And when did you plea?

17 A. 2019 --

18 Q. Have you been---

19 A. -- I believe so.

20 Q. Have you been advised on your testimony here today by  
21 counsel?

22 A. No, sir.

23 What you mean advised?

24 Q. Well, when you pled, did you agree with the facts as  
25 they were presented to the plea court?

Kenshuwn Goode - Cross-examination  
By Mr. Barlow

1 A. Yes, sir. But I feel as if I was coerced into it  
2 because I didn't know my plea would have anything to do  
3 with anybody else.

4 Q. Have you discussed your rights regarding that---

5 A. I mean---

6 Q. ---with counsel?

7 A. At the time I had a, a public defender but it was  
8 James Cheeks who came to me with the plea. My public  
9 defender didn't come to me with the plea.

10 THE COURT: I --.

11 MR. BARLOW: Your Honor, no further questions.

12 THE COURT: Okay.

13 MS. ROSS: Nothing further for this witness.

14 THE COURT: All right.

15 MS. ROSS: Call Deidra Mills.

16 THE COURT: All right. You can step down.

17 will you please raise your right-hand for me?

18 DEIDRA MILLS, being first duly  
19 sworn, testified as follows:

20 THE COURT: All right. Tell us your name please.

21 THE WITNESS: Deidra Mills.

22 DIRECT EXAMINATION

23 BY MS. ROSS:

24 Q. All right, Ms. Mills.

25 How are you related to Dominick?

Kenshuwn Goode - Direct examination  
By MS. ROSS

1 A. That's my son.

2 Q. And give us a little background.

3 Do you recall both of the trials---

4 A. Yes, ma'am.

5 Q. ---with him?

6 A. Yes.

7 Q. And, and what happened?

8 what was different from the first to the second?

9 A. My biggest thing with that first trial, I can say,  
10 his attorney, he fought for my son. And as far as them  
11 identifying him, couldn't nobody identify him. Even one  
12 of the witnesses that suppose to been at the crime scene  
13 got on the stand stating that they could not identify  
14 nobody because everybody face was covered in black masks.  
15 Only one they can identify was Michale Richardson and --

16 Q. Do you recall---

17 A. -- the Facebook -- ma'am?

18 Q. Do you recall his name by any chance, that other  
19 witness?

20 A. Brenden Logan.

21 Q. Okay. And Brenden Logan testified at the first  
22 trial?

23 A. Yes.

24 Q. But they did not call him at all---

25 A. No.

Kenshuwn Goode - Direct examination  
By Ms. Ross

1 Q. ---at the second trial?

2 A. They did not call him back.

3 Q. Now, at the first trial, didn't the, the two --  
4 Christine and Summer testify as well?

5 A. Yes.

6 Q. Now, do you recall them being questioned about their  
7 prior record at the first trial?

8 A. No.

9 Q. You don't recall?

10 A. That's my first time hearing it from you today.

11 Q. Okay. Now, going back -- you, you testified and I  
12 might -- there were a number of other witnesses that we  
13 have today sitting outside.

14 But as far as what they'll say, we've got Cheryl  
15 Mills, correct?

16 A. Sherill, uh-huh. (Affirmative).

17 Q. Sherill.

18 And that's Dominick's sister?

19 A. Yes, ma'am.

20 Q. And she testified at the -- both trials?

21 A. Right.

22 Q. All right. And how about Latoya Thompson?

23 A. Yeah, she testified as well at both trials.

24 Q. All right. And the -- and so I'm gonna not call them  
25 to the stand today because the testimony is in the

Kenshuwn Goode - Direct examination  
By MS. ROSS

1 transcript of both trials---

2 A. Okay.

3 Q. ---which is under review. So we know what, what they  
4 would of said.

5 A. Can I---

6 Q. Go ahead.

7 A. Can I speak on Danielle?

8 Is it Danielle?

9 Q. Which one?

10 A. Danielle?

11 Q. Yeah, the---

12 A. Can I speak on that?

13 Q. Yes. Danielle Krind, Krind was a witness in the  
14 state's case and she was recalled by the defense as the  
15 last witness.

16 A. In that first trial, Danielle said that she was in  
17 the house. She heard Michale talking to somebody. She  
18 didn't know who it was because she was in the bed.

19 Q. Uh-huh. (Affirmative).

20 A. The second trial, they had her brought back to the  
21 stand and Danielle said she saw Dominick.

22 Q. And that---

23 A. So, Danielle last statement to that jury on his last  
24 trial hurtled (sic) Dominick case.

25 Q. Okay. And do you think that was a bad decision of

Kenshuwn Goode - Direct examination  
By MS. ROSS

1 Dom -- Dominick's lawyer to recall her?

2 A. Yes, cause he did not object to it.

3 Q. And she was the very last witness. None of y'all  
4 were the last witness.

5 A. No.

6 Q. She was the last.

7 A. Actually that trial -- Dominick first trial lasted  
8 from Monday through Friday. We went in that courtroom  
9 probably from 8:30, nine o'clock, and we probably stayed  
10 in there till 7:00, eight o'clock that night versus this  
11 last trial. I don't even think this last trial lasted 48  
12 hours. You could just tell. I mean I'm -- I can't judge  
13 but you could just tell that it was cold -- that whole  
14 trial was coerced.

15 Q. And, and let's talk about the identification of your  
16 son.

17 What was that?

18 A. Couldn't nobody identify him. They couldn't put him  
19 on the scene.

20 Q. All right.

21 A. He -- everybody had -- from listening to the tapes,  
22 the 9-1-1 tapes, whoever called 9-1-1 from the crime  
23 scene, whatever happened, could you identify anybody. No.  
24 Everybody got on black masks. Only one who can identify  
25 is the girl and it's, it's the cousin of the victim.

Kenshuwn Goode - Direct examination  
By MS. ROSS

1 Q. Uh-huh. (Affirmative).

2 And how about the Facebook identification?

3 Did you hear about that at trial?

4 A. The Facebook -- that was at the first trial. That  
5 just came out to be a whole -- that -- it wasn't, it  
6 wasn't no truth behind it at all because hearing -- they  
7 supposed to been -- my cousin suppose to been tied to a  
8 Facebook, her and Dominick, which they never ever was  
9 Facebook friends.

10 Q. Okay.

11 A. Them people that recognized Dominick and they first  
12 time ever seeing Dominick was the first trial when he went  
13 to court.

14 Q. Okay.

15 A. That was their first time ever seeing Dominick face.

16 Q. All right.

17 Okay. Beg the Court's indulgence.

18 (Pause.)

19 MS. ROSS: I've got nothing further from this  
20 witness.

21 THE COURT: You can step down, ma'am.

22 MR. BARLOW: Your Honor, very, very, very briefly.

23 THE COURT: Oh, I'm sorry.

24 MR. BARLOW: One question.

25 THE COURT: I'm getting hungry.

Kenshuwn Goode - Cross-examination  
By Mr. Barlow

1 MR. BARLOW: I hear you, judge.

2 THE WITNESS: I understand that part though.

3 CROSS-EXAMINATION

4 BY MR. BARLOW:

5 Q. Ms. Mills, let me ask you a quick question.

6 You said the second trial --

7 A. Yes, sir.

8 Q. -- was only 48 hours?

9 A. To me, it didn't last longer than 48 hours. That was  
10 to me versus that first trial lasting a whole -- five  
11 whole days from 8:30, nine o'clock that morning till  
12 seven, eight o'clock that night with no evidence on him at  
13 all. They couldn't even place him on the --

14 Q. Do you recall---

15 A. -- on the scene.

16 Q. Do you recall that trial going from June 10<sup>th</sup>,  
17 June 11<sup>th</sup>, June 12<sup>th</sup>, and June 13<sup>th</sup>?

18 A. The second -- the, the first---

19 Q. The second one.

20 A. The first trial?

21 Q. Second one.

22 A. That -- no, no, hu huh. (Negative).

23 Q. Okay.

24 A. No.

25 MR. BARLOW: Nothing further---



Latoya Thompson - Direct examination  
By Ms. Ross

1 A. Hu huh. (Negative).

2 MR. BARLOW: ---Your Honor.

3 THE COURT: All right, ma'am. Anything on redirect,  
4 Ms. Ross?

5 MS. ROSS: No, Your Honor.

6 THE COURT: All right. You can step down now.

7 THE WITNESS: I can---

8 THE COURT: Thank you.

9 THE WITNESS: You welcome.

10 MS. ROSS: I'll briefly call Latoya Thompson.

11 THE COURT: Ms. Thompson, will you raise your  
12 right-hand for me?

13 LATOYA THOMPSON, being first duly  
14 sworn, testified as follows:

15 THE COURT: All right. Answer any questions Ms. Ross  
16 might have.

17 DIRECT EXAMINATION

18 BY MS. ROSS:

19 Q. Okay. Latoya, you testified at Dominick's prior  
20 trials, correct?

21 A. Yes, ma'am.

22 Q. Can you give -- we been talking about this Facebook  
23 identi -- can you give some clarity about what happened  
24 with these witnesses picking out Dominick from a Facebook  
25 picture?

Latoya Thompson - Direct examination  
By MS. ROSS

1 A. Well, from my understanding from the trial, we was  
2 told that they was identified through a Facebook picture  
3 which linked Dominick, Kenshawn, and my other brother  
4 together, which was on the picture -- they was on a  
5 picture in the club and they -- that's was -- that, to our  
6 understanding, that's how they was identified.

7 Q. So maybe Michale liked that picture or somehow  
8 that -- it was -- they saw it through that?

9 A. That's possible but that was it's explained to us  
10 that's how that was identified and that's how his  
11 codefendants was linked to him from a Facebook picture.

12 Q. Do you think -- were -- at the trial, first and  
13 second trial, do you think Dominick's lawyer did a good  
14 job of discrediting that -- discrediting that Facebook  
15 identification?

16 A. The first pic -- the first trial he did he did his --  
17 he did what he suppose to do. The second trial is like  
18 him and Spenser linked up and they, they came up with a  
19 game plan. The second trial wasn't a trial. It was  
20 already scrip -- to me, it was already scrip.

21 Q. All right.

22 A. And the, the third codefendant that was with Dominick  
23 and Gooden (sic) that they identified in the picture,  
24 that's my brother. He epilepsia with health condition.  
25 He probably -- a loud noise or anything like that will

Latoya Thompson - Direct examination  
By MS. ROSS

1 trigger anything with him.

2 Q. So you know he wasn't there?

3 A. No, at all.

4 Q. All right. No further questions.

5 MR. BARLOW: None from the State.

6 THE COURT: All right. You can step down, ma'am.

7 THE WITNESS: Thank you.

8 MS. ROSS: No further witnesses, Your Honor.

9 THE COURT: All right. You ready?

10 MR. BARLOW: Yes, sir, Your Honor.

11 we would call Mr. Joshua Schultz.

12 JOSHUA SCHULTZ, being first duly

13 sworn, testified as follows:

14 THE COURT: All right. Have a seat.

15 THE WITNESS: Thank you.

16 THE COURT: Go ahead.

17 MR. BARLOW: Thank you, Your Honor.

18 May it please the Court?

19 THE COURT: Yes, sir.

20 DIRECT EXAMINATION

21 BY MR. BARLOW:

22 Q. Mr. Schultz, how long have you been practicing law?

23 A. Since 2005.

24 Q. And how much of that has been criminal law?

25 A. Almost a hundred percent.

Joshua Schultz - Direct examination  
By Mr. Barlow

1 Q. And were you appointed or retained in this case?

2 A. Retained.

3 Q. And about how long before the trial were you  
4 retained?

5 A. Several months before -- the, the first trial or the  
6 second trial?

7 Q. The first one.

8 A. Several months before the first.

9 Q. And you were kept on for the second trial?

10 A. I was. The retainer agreement that I had -- well,  
11 all my retainer agreements only cover up to one trial.  
12 And so the family, Mr. Thompson, re-retained me for the  
13 second trial.

14 Q. Okay. And during that time, did you receive  
15 discovery?

16 A. I did.

17 Q. And did you review that with Mr. Thompson?

18 A. I did.

19 Q. And can you give us a brief overview of your  
20 understanding of the State's evidence?

21 A. The State's evidence was based on eye witness  
22 testimony. They presented witnesses, Mr. Donahue, Miss  
23 Richard, Mr. Hilton, Ms. Richard, Danielle Krind, and a  
24 couple other folks for the Sheriff's Department. There  
25 was -- do, do you want me to recite the facts?

Joshua Schultz - Direct examination  
By Mr. Barlow

1 Q. No, no, no. That -- that's fine. The -- let me ask  
2 you this.

3 Based off of the State's evidence that you received  
4 and -- were you able to craft a defense strategy in this  
5 case?

6 A. I was.

7 Q. Okay. And did you discuss that with Mr. Thompson?

8 A. Yes.

9 Q. And what was your defense in this case?

10 A. The defense was identification and also alibi. I, I  
11 thought, combined with that, that presented two I thought  
12 pretty compelling defenses in this case.

13 Q. All right. So, let's jump right in.

14 was Mr. Thompson -- well, did the solicitor's office  
15 ever come to you with plea offers?

16 A. Yes. First time Mr. Smith made an offer I believe of  
17 20 years for Mr. Thompson. That was before the first  
18 trial back in August of 2018. Mr. Thompson rejected that.  
19 We proceeded to trial. That ended in a, in a mistrial.

20 Right before the second trial in June of 2019, there  
21 was another offer made and that was 15.

22 Q. And that 15 year, that was all placed on the record,  
23 correct?

24 A. It was all placed on the record, and if I could read  
25 to this -- do, do you mind if I read?

Joshua Schultz - Direct examination  
By Mr. Barlow

1 Q. Page 20.

2 A. Yes, I'm looking at Page 20. I said "he's 26 years  
3 old. We, meaning Mr. Thompson and I, have calculated the  
4 time in that respect to approximately two and a half years  
5 in jail on these charges that he's -- that he is  
6 statutorily required to get time credit. I've done the  
7 math."

8 I not only did the math in -- on the Department of  
9 Corrections computer, I know that's not entirely accurate.  
10 But assuming the Legislature keeps this -- keeps the  
11 sentence at 85 percent, he would have to do approximately  
12 12 and a half year -- half, half years with no credit for  
13 time served. However, he did have some credit for time  
14 served.

15 Q. And in the record though, Mr. Thompson rejected that  
16 plea offer, correct?

17 A. Yes, if I can quote. This is Page 22.

18 The Court: Mr. Schultz, have you talked to Mr.  
19 Thompson about that?

20 Mr. Schultz: I have, Your Honor.

21 The Court: Do you believe he understands?

22 Mr. Schultz: I do believe he understands it.

23 The Court: Mr. Thompson, you have heard what the  
24 solicitor and your lawyers have told me about the charges  
25 and about the offer that they have made. Now -- as well