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SC Court of Appeals

**VOLUME II OF II**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Greenville County

Honorable Patrick Cleburne Fant, III, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

MATTHEW TIMOTHY MOON,

APPELLANT

APPELLATE CASE NO. 2025-000139

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# RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:**
**STATE'S EXHIBITS #1 (9-1-1 RECORDING), #22 (VIDEO: MOON BWC/ICV), #35 (VIDEO: BIRD'S BWC), #36 (AZZARA'S BWC), #75 (AERIAL MAP), and DEFENDANT'S EXHIBITS #1-3 (PHOTOS)**

area in case -- if something would have -- you know, if something would have exploded or something, I wanted to be -- because there's nothing I can do. I wanted to be as far as I could away from it. And then like I said -- I'm sorry. I kind of maybe...

Q You said you wanted to be as far away as you can. Would the safest area not be completely back at the front of the residence? Why didn't you immediately go back to the front?

A Because I was trying to think about -- I'm trying to think of a good word to say. Well, for one, I guess I was thinking of what my next move was going to be. I mean, it's just I usually don't deal with this. I don't have training in this. I don't -- I didn't know exactly what I was to do next. I mean, that's where I was in that decision-making process, that split second. Because we're talking seconds here of me thinking that's probably what I would have made the decision to use the cell phone. But, like I said, by that point, Bracken had showed up.

Q Did you ever pull out your lighter?

A Yes.

Q You pulled out your lighter back in the garage area.

A No. When I -- when I was leaving, I pulled a cigarette -- cigar and I pulled out my lighter and lit

it.
Q So you were panicking so much about this fire, you said you were in a frenzy, not sure what to do, yet you pulled out your cigar, have a smoke?
A There's nothing else I could do.
Q Other than stand there and watch this fire?
A No. I'm not -- I'm not watching this fire. I'm -- I'm retreating from this fire at this point. And I'm -- I'm out of the way of the fire, and I tried to figure what next to do. And that's really the next thing that came to my mind was smoke a cigar and think about this matter.
Q And you just decided just to stay there until all of a sudden deputies arrived.
A Well, they already had arrived.
Q As you characterized earlier, you said that's when you start to -- fled? You said you started to flee down the driveway when you saw the deputy.
A Flee up the driveway from the danger zone.
Q You had some grievances earlier about being removed from your bike. Is it true that you were only removed from your bike after you struck Deputy Bracken in the face?
A I didn't strike her in the face.
Q Did you not watch the body-cam footage?

A Yes, ma'am.
Q Did you push your hand at Deputy Bracken's face?
A I was blocking their assault on me.
Q Did your fist make contact with her person?
A No.
Q You never touched her at all?
A No, I didn't. I mean, I made contact because the sheriff -- they -- when they put their assault on me and threw me -- threw me over, we made contact then because they put their hands on me. She put her hands on me, and then the other officer had put his hands on me also.
Q And that was not just only after you struck her?
A I didn't strike her.
Q Okay. You said you also were being treated unfairly in the back of the car. Did they not hand you some bottles of water when you requested it?
A They were my bottles of water, and they did give it to me.
Q Okay.
A After multiple requests.
Q You said you never stepped foot into the garage, correct?
A Correct.
Q However, the data points of your geolocation show you clearly onto the garage roof.

A I don't -- don't recall that.
Q You don't recall seeing the map with all the points of where you had been?
A Uh-huh.
Q One showing you in the porch.
A Right.
Q Which you admit to, and one showing you in the garage?
A I don't -- I don't remember that from yesterday.
Q Let's kind of jump back. So you said you had been mountain biking like all day at this point, right?
A Uh-huh.
Q Well over six hours?
A Yes.
Q You said that you were -- I think you described it steamed, that you had run out of energy?
A Yes.
Q However, it appears that you had enough energy to strike a deputy in the face according to what's shown on the body-worn camera footage?
A I -- I don't -- I had enough steam to block an assault on me.
Q And you had enough steam to cause a riot in the back of a car and repeatedly crash your head against the window?

A Apparently, I did.
Q To the point where they had to restrain your feet with a hobble for your safety and the safety of the vehicle?
A You've seen the video.
Q Have you had anything to drink today?
A I'm sorry?
Q Have you had any alcohol to drink today?
A No. I'm proud to say I haven't had a drink since that day.
Q You told Deputy Bird you served in the military; is that correct?
A Yes, I did.
Q What was your pay grade?
A Huh? I didn't have one.
Q You didn't have a pay grade?
A No.
MR. JEREMY CRANE: Your Honor, objection. This is irrelevant whether or not he served.
THE COURT: Overruled.
BY MS. SHUGARS:
Q You didn't have a -- did you have a rank?
A No.
Q What branch of the military did you serve in?
A No.

Q You did not serve in the military?
A No.
Q But you did tell Deputy Bird that you served in the military?
A Yes, I did.
Q So you never served in Afghanistan or Iraq?
A No.
Q Like you previously stated?
A Right.
Q So you admit lying about having military experience?
A Yes, ma'am.
Q And from 2016 you were convicted of two crimes punishable by more than one year?
A Yes, ma'am.
MS. SHUGARS: That's all, Your Honor.
THE COURT: Any redirect, Mr. Crane?
MR. JEREMY CRANE: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. JEREMY CRANE:
Q Mr. Moon, why did you lie about being in the military?
A Because he was being a smartass and saying things of nature like -- like you need to be a man and man up to stuff. I've already told this man I didn't even want to talk to him no more, so I decided to just bullshit with

him. If he wants to aggravate and bullshit me, I'm bullshitting, tell him stuff, too. I shouldn't had. I'm not perfect by no means.

Q If there were people in that house, would they have been able to smell the smell that you smelled?

A No. Well, I -- I don't know. I mean, I don't really know what they smelled. Or I wouldn't think so because it's like when you're cooking steaks outside, if you're sitting in there watching a game, are you going to be like, oh, I smell the steaks burning, you know what I'm saying? Or if you got something on the grill, you'd better pay attention because you're not going to smell it burning if you're inside, I guess.

Q The State asked you about gesturing -- gesturing while you were on the back porch. Hadn't you already yelled and banged on the door and told them there was a fire?

MS. SHUGARS: Objection, Your Honor. He's leading.

THE COURT: Sustained.

BY MR. JEREMY CRANE:

Q At that point, had you yelled and banged on the door?

MS. SHUGARS: He's still leading.

THE COURT: Please rephrase your question, Counsel.

MR. JEREMY CRANE: I'll move on.

BY MR. JEREMY CRANE:

Q The State asked you about the gas can. Did the State ask you about the gas can in the garage?

A Yes, sir.

Q Did you take an inventory of everything that was in that garage while you were standing there?

A No.

Q You testified that you did not call 9-1-1; is that correct?

A Yes, sir. I did not.

Q Did you assume that possibly the owner had called 9-1-1?

A Yes.

Q I believe what the State is referring to was this map. She's asking about the dots on the map. This was State's Exhibit 78. Went over this photo with Deputy Land yesterday. I believe she's referring to this second dot. Does that appear to be inside the house or outside the house?

A Outside the house.

MR. JEREMY CRANE: Nothing further.

MS. SHUGARS: Your Honor, can you explain which dot he was referring to? No one in this room could see it. I'm not sure how I'm supposed to cross when I don't know what dot he is looking at.

THE COURT: Well, he's already asked the question. You can follow up with cross if you wish to.

RECROSS EXAMINATION

BY MS. SHUGARS:

Q Which dot -- you can point at the TV screen behind you -- were you just referring to with your attorney?

A (Indicating.)

Q Can you get up and point to it? Maybe you can touch it?

A Yes, ma'am. That one (indicating)?

Q Yes. Isn't that not onto the roof of the house?

A No, ma'am. Not by the picture I saw. It's right -- I mean, it's right there on it, but it's -- I mean, if you want to split the difference, I mean, it's like out on the edge of it.

Q So you were in the sunporch, correct?

A Yes.

Q Would this not be the garage then (indicating)?

A I guess.

Q Which officer was it that said to you "be a man"?

A I think it was -- let me look right here. I think it was Wesley Bird.

Q Wesley Bird. Okay. And ---

A No, no. Walter Boles [phonetic]. I just -- I just can't remember between the two of them because it's been

so long ago and I just don't have their names memorized to their faces.

Q Would you agree with me that that statement "be a man" or anything close to it was never seen on any of the footage?

A Yeah. Be a man and admit to something I didn't do. Come on, man.

Q But you agree that that was not on any of the footage telling you -- any officer told you to be a man?

A I don't -- I don't know if it would be in the footage or not. I had -- I had people approaching me without cameras and I had people approaching me with cameras. So I'm sorry. Maybe I didn't understand your question.

MS. SHUGARS: That's fine.

No further questions.

MR. JEREMY CRANE: Just one thing quickly, Your Honor.

FURTHER REDIRECT EXAMINATION

BY MR. JEREMY CRANE:

Q Mr. Moon, do you recall watching the video that was shown to the Court?

A Yeah. Well, the video. Which video? The -- yesterday of the tracking video or ---

Q No. There was video shown on Tuesday that was the

video of essentially the sequence from beginning of the fire all the way to the time of you ending up in the -- in the ---

A Police car.

Q --- all the way down to the jail. Do you remember that video?

A Yes.

Q Was that the entire video of everything that happened that day? Was that every body cam and every second of that stop?

MS. SHUGARS: Objection, Your Honor. He's leading.

THE COURT: Overruled.

MR. JEREMY CRANE: I asked him if that was every second.

BY MR. JEREMY CRANE:

Q On that video that we watched, is that every second of every camera that happened that day?

A When I left in the police car from that house to the Law Enforcement Center?

Q The video that we watched the other day, do you believe that that is the full video of every single person's body cam that was there?

A I mean, I don't know. I think so.

Q If Deputy Bird said that to you, is there a chance it would be on a body cam but not on that particular

video?

A That's true.

MR. JEREMY CRANE: Nothing further.

MS. SHUGARS: Nothing further, Your Honor.

THE COURT: All right. You may step down, sir.

THE WITNESS: Thank you.

THE COURT: Next witness?

MR. JEREMY CRANE: Your Honor, the defense has no more witnesses, and we rest our case.

THE COURT: You rest. Okay.

All right. Counsel, will y'all come up here real quick?

(WHEREUPON, a bench conference was held off the record.)

THE COURT: All right. Ladies and gentlemen, we are going to break for lunch and I'm going to ask that you come back at 1:45. And at that time, we will have closing and charge.

And then -- so, again, do not discuss this case. If anybody approaches you, please let the bailiffs know, okay? I'll see y'all back at 1:45. And thank you for your attentiveness.

(WHEREUPON, the jury exits the courtroom at 12:13 PM.)

THE COURT: Okay. Any motions from defense?

MR. JEREMY CRANE: Nothing, Your Honor. I'm sorry. Renewing all my motions and all of my objections. My

apologies, Your Honor.

THE COURT: Okay. That's okay. All right. And I will deny your motion.

All right. Do y'all need to put anything on the record further about the charge? I'm going to -- you said -- I think earlier you said that you were going to.

MR. FRETWELL: Well, Judge, I do think it probably depends to some degree on whether defense counsel intends to argue the question of law as to whether a garage or a screened porch is a part of a dwelling. It doesn't sound like that based on the testimony of the defendant, but I still -- I know you want to move right into the charge as soon as the closing is over. But, you know, if Mr. Crane gets up there and argues an issue of law, then I might have to have us approach the bench and discuss that and I might ask for something different than what's in your current charge. But If he doesn't, then I have no issues with your charge.

THE COURT: So basically, when you -- earlier, you were just assuming that he's not.

MR. FRETWELL: Based on my conversations with him.

THE COURT: Okay. And see, I haven't been privy to that.

MR. FRETWELL: Yes, sir.

THE COURT: Y'all have been keeping these things

from me. No. I'm just telling you, you asked that question yesterday and I perked up. So if you're not going to make that argument, I'm just going to stick with my charge rather than defining this and reading that crazy convoluted 16-11-10. What is it? Am I close?

MR. FRETWELL: 16-11-10.

MR. JEREMY CRANE: Look at you.

THE COURT: Huh?

MR. JEREMY CRANE: I said look at you. You've got it all together.

As far as I've looked at the case law, and I don't think in good conscience I would be able to argue that a porch is not part of a dwelling. It wouldn't be a proper argument from me.

THE COURT: Porch or garage.

MR. JEREMY CRANE: Correct.

THE COURT: All right. So I will just stick with the charge as it is, and I will not be having a working lunch.

MR. JEREMY CRANE: I still haven't been able to read over all this.

THE COURT: That is perfectly fine. What we'll do is we'll meet back at 1:30. Y'all also have the emails. I am going to make a couple changes. Obviously, your client testified so that's going to be taken out. And

there's just maybe some other, you know, little minor tweaks. Okay.

All right. I'll see y'all at 1:30.

(WHEREUPON, a recess was taken at 12:16 PM.)

THE COURT: Did y'all get the charge?

MR. FRETWELL: Judge, I received the email from Josh, and what he put in the email was exactly what we had discussed. I did not open the attachment to ensure that that was the case, but I have no doubt that it's the way it should be.

THE COURT: Ms. Shugars?

MS. SHUGARS: Your Honor, reviewing it now, it looks like the necessary changes were made. Thank you.

MR. JEREMY CRANE: This is part of the reason I was late is I was pining this over and I looked at the clock and realized it was getting late.

I have a few things I'd like to discuss about a couple of the things in here.

THE COURT: I'm all ears.

MR. JEREMY CRANE: On page 7 you have in here what is not in evidence.

THE COURT: Just so you know, I don't read the bold.

MR. JEREMY CRANE: No. I understand.

THE COURT: I just want you to know just in case that ---

MR. JEREMY CRANE: Yes. No. You have things that are not in evidence. You have: "One, statements and arguments of the attorneys; two, questions and objections; and three, testimony that I instruct you to disregard. We haven't had any of that so I don't know if that would be confusing to them or not.

THE COURT: That's fine. I mean, sometimes there's stuff like that that's kind of superfluous. But, I mean, I just have charged it anyway. But I will delete that.

MR. JEREMY CRANE: I haven't looked at the new ---

THE COURT: And I appreciate your thoroughness.

MR. JEREMY CRANE: I haven't looked at the new one. So I assume you're taking out the defendant not testifying.

THE COURT: Yes, sir.

MR. JEREMY CRANE: I do have something I'd like to bring up with the actual burglary first degree wording that you have in here.

THE COURT: Okay.

MR. JEREMY CRANE: On page 15, under 1, 2, 3, and 4, you have the words "when entering while in the dwelling or when fleeing." In the burglary second degree, you have, essentially, "effecting entry or while in dwelling or in immediate flight." I believe that the wording of the statute is actually "in immediate flight" instead of

"while fleeing." I think it's important for them to be able to determine if his interaction with Deputy Bracken was in immediate flight or while fleeing. There is certainly a difference between the two. If you're fleeing, you can still say if that leads you on a ten mile chase and then I hit an old lady with my car, technically, I'm still fleeing, but that's not an immediate flight from the scene.

THE COURT: Anything from the State on that?

MR. FRETWELL: I don't see the difference that he's talking about, but certainly the "in effecting entry or while in the dwelling or in immediate flight" is the language from the statute.

THE COURT: And this is from the statute.

MR. JEREMY CRANE: Your Honor, the statute under (A)(1) "or while in the dwelling or in immediate flight," not while in flight -- or while fleeing. My apologies.

And then you do have it "in immediate flight" for burglary second degree, but you have it ---

THE COURT: Yeah. And you know what? You're right on the "or when fleeing." So I'll change 4 to be "when entering, while in the dwelling or in immediate flight."

MR. JEREMY CRANE: It's 1, 2, 3 and 4 on page 15.

THE COURT: Okay. So I'm going to change that on 1, 2, 3 and 4.

MR. JEREMY CRANE: Thank you, Your Honor. And is this -- are we on the record right now?

THE COURT: Sure we are.

MR. JEREMY CRANE: I would just like to renew my objection to you stating the deputy sheriff is a public official. I just want to protect that for the record.

THE COURT: You are protected.

MR. JEREMY CRANE: I'm objecting to that wording of that statute.

THE COURT: You are absolutely protected.

MR. JEREMY CRANE: I believe it's a statement of fact. I don't believe it's a statement of law.

THE COURT: It is noted on the record.

Anything from the State on that?

MR. FRETWELL: No, Your Honor.

THE COURT: You're going to stand by your previous comments? arguments?

MR. FRETWELL: Yes, sir.

THE COURT: Anything else, Mr. Crane?

MR. JEREMY CRANE: Just one second, Your Honor. I'm sorry.

My apologies. Your Honor, on page 20 you say, "There are two possible verdicts for each charge which you may find in this case. There's no significance whatsoever in the order which I state these possible

verdicts." And then you never state the actual verdicts. It just makes it sound like that you are going to state what the possible verdicts could be and then never state the verdict.

THE COURT: "There's no significance whatsoever in the order in which I state these possible verdicts." On here there are verdicts.

MR. JEREMY CRANE: I understand. I thought you were then going to go into -- my apologies.

Your Honor, I would also like to put on the record that we're going to object to on page 16 where it states the following are examples of instruments which may be considered deadly weapons. It sounds like a statement of fact to me again. Certainly, you can have a knife and not have it be a deadly weapon or may have the jury be able to consider it to not have been a deadly weapon.

THE COURT: Your objection is noted on the record, and I'm going to deny that.

MR. JEREMY CRANE: Thank you.

THE COURT: Thank you for your thoroughness, Mr. Crane.

MR. JEREMY CRANE: Thank you, Your Honor.

THE COURT: He's going to make the change and he's going to print it off so I don't accidentally read the wrong thing. Then we're going to get our jury in here.

MR. JEREMY CRANE: Your Honor, would that give me time to run down the hall real quick?

THE COURT: Absolutely.

MR. JEREMY CRANE: I ran in here, and I didn't want to keep you waiting. So thank you.

THE COURT: That's fine.

(Pause in proceedings.)

THE COURT: All right. So it will be State, defense, State.

MR. JEREMY CRANE: State, defense, State.

THE COURT: Correct? Defense testified. Or the defendant testified.

MR. FRETWELL: That's correct, Judge. And certainly, if the Court wants me to open, I will open.

THE COURT: Well, however you want to go.

MR. FRETWELL: Either way is fine.

THE COURT: The bottom line is State goes last.

MR. FRETWELL: Of course, of course. And you want to give me two opportunities to talk to the jury, I'm not going to turn you down.

MR. JEREMY CRANE: Are you sure you want to give him two opportunities? No. I'm fine with that. State, defense, State.

THE COURT: I mean, you choose whatever. But, I mean, I think it's your right to open and close. But if

you just want to wait and let Mr. Crane go and then you close, that's perfectly fine, too.

MR. FRETWELL: I think it's entirely in the Court's discretion, so it doesn't really matter to me.

THE COURT: You just make your decision, Counsel.

MR. JEREMY CRANE: I'm fine with the State, defense, State.

MR. FRETWELL: Okay. Then I'll start, Judge.

MR. JEREMY CRANE: I enjoy listening to Mr. Fretwell speak.

THE COURT: I'm not forcing you.

MR. FRETWELL: Well, technically, it's linked to due process, so if that's how the defense wants it to be, then that's how we'll do it.

THE COURT: Are y'all ready? Is the State ready?

MR. FRETWELL: Let me switch my brain over from listening to talking. So yes, I believe so.

MR. JEREMY CRANE: Yes, Your Honor.

THE COURT: All right. Bring the jury.

Can counsel come up here real quick?

(WHEREUPON, a bench conference was held off the record.)

THE COURT: All right. Get the jury back in.

(WHEREUPON, the jury entered the courtroom at 2:13 PM.)

THE COURT: All right. Okay. We're now going to proceed with closing. State?

MR. FRETWELL: Thank you, Your Honor. May it please the Court. Mr. Crane.

THE COURT: Yes, sir.

CLOSING ARGUMENTS

MR. FRETWELL: Good afternoon, ladies and gentlemen of the jury. A mother grieving the death of her son due to the violence of a lifestyle that he was in once said, "Anger is an all-consuming fire that will burn you and everyone else around you." Where is the justice in that?

Ladies and gentlemen, we have reached the conclusion of this case. You've seen and heard all of the evidence in this case. In a few minutes, after Mr. Crane and I speak to you, Judge Fant will give you his charge on the law. And you'll recall from the beginning of the trial, the judge instructed you that he is the judge of the law, but you all are the judges of the facts and the jury sits in judgment of the facts and makes those determinations. In a few minutes, you'll have the opportunity to retire to deliberate and then return with a unanimous verdict.

I want to talk to you briefly about these concepts and then I'm going to go into the State's burden of proof, what the State, myself and Ms. Shugars represent, have to prove, why the evidence I believe has been proven from that standard. And nothing that I say do I want any of you to be offended by or we've heard this. Just

understand that I have a job to do. What I say is not evidence, but I'm going to try to point you to the evidence which is coming from that witness stand and the exhibits and the videos and other evidence that you've received in this case and show you why that burden has been met.

The Court will charge you that the defendant, as he sits here, is presumed innocent. That means he's not required to produce any evidence. The State, as I've just said, has the burden of proof in this case, and that burden is to prove the defendant's guilt on each of the elements of the offenses with which he's been charged beyond a reasonable doubt.

Now, there are few things in this world that we know with absolute certainty, and the law does not require proof that overcomes any possible doubt. The evidence, in fact, must leave you firmly convinced of the defendant's guilt.

Now, what is reasonable doubt? Reasonable doubt is a doubt that would cause a reasonable person to hesitate to act. It's been said another way. Reasonable doubt has also been defined as a doubt to which you can assign a reason.

Now, the State's proof of the defendant's guilt, as I indicated, exists in the form of testimonial evidence

and physical evidence. The judge being the judge of the law and you being the jury, the judges of the facts in this case, what makes you qualified? Well, let me tell you what makes you qualified to sit there and be jurors in this case.

We know it's not always easy to make decisions especially when you're making determinations and decisions and factual considerations about somebody else. But you make them every day. You make them at your job. You make them when you're raising a family. You make credibility decisions, those of you that are parents, when you're talking to your children. So as you come into this doorway, you take that button and you're now jurors, you're qualified because of your life experiences and your common sense, and you do not leave those qualities and those experiences and that common sense at the door to the jury room when you begin your deliberations. You take them with you. You use them. That's what your job is and that makes you qualified to be the judges of the facts in this case.

You know, life prepares us to make even tough decisions. Getting married, buying a new house, moving to start a new job, we have those experiences that prepare us to make difficult decisions in life. And jury service, ladies and gentlemen, this is important, is not

about judging the defendant. It's about listening to the testimony, evaluating the credibility of the witnesses that you've heard from that stand, determining the facts, accepting the law as Judge Fant will give it to you, applying that law to the facts, and rendering a verdict based on those facts and that law.

Jury service is the mechanism set up by our constitution whereby we enforce laws that are written by our elected representatives. And all of you, when you were downstairs, one of the questions that was asked, do you live in Greenville County? Are you a resident of Greenville County? Because you are the community representatives from Greenville County in this case making a determination about the facts of this incident occurring in Greenville County.

As I've said, the key to the jury service is drawing from those life experiences, using your common sense and following your oath. When you began this case, you were given an oath by the clerk. That oath was to fairly consider the evidence, to apply the law as the judge gives it to you and to the facts as you collectively find them.

So determining the facts, what must the State prove? Before I get into that, I want to take just a moment to talk about the defendant's testimony today and what you

observed on the body-cam compilation video from the date of the incident. I'm not going to go into specific examples in that exhibit or from today pointing out credibility issues. But you sit in judgment of those credibility issues. You make a determination was that statement proper? Was that statement truthful? And if you can't remember what that statement was and if you want to be refreshed about those, then you can always ask to have that testimony played back. You'll have the copy of the hour-long video that you can watch and stop it whenever you want to. All of this evidence is available to you in your deliberations.

And one of the things that the judge is going to impart to you is this is the significance. What's on this table, what you heard from the stand is the evidence in this case. Now what I tell you, not what Mr. Crane tells you, this is the evidence. And my job is to point you to that evidence. And I know we've been here for a couple of days, but hopefully, I can do that with some speed while also making sure I cover the things that I want to cover.

As you're aware, there are multiple charges in this case. The defendant is charged with burglary in the first degree. He's charged with malicious damage to personal property. He's charged with arson in the second

degree, assault and battery in the third degree and threatening the life of a public official.

So first of all, I'd like to show you the charge -- or the crime of -- I probably need to zoom in on this so you can see it a little bit. Burglary in the first degree...

(Pause for technical difficulties.)

MR. FRETWELL: I'll just try to work with what we have right now.

All right. First of all, burglary in the first degree, the elements -- and these are the individual requirements of the statute or the law that the State is required to provide evidence for in the form of witness observations, in the form of video, in the form of physical evidence, is that there must be an entry. Now, what does that entry means? It means any intrusion, however slight. Breaking the plane of a doorway. There doesn't have to be a shut door, doesn't have to be a locked door, doesn't even have to be a door. That's the plane of a doorway, window or some opening, any part of the body. No force is necessary.

And I think what I realized what I didn't do since I zoomed in is tell you what all of those elements are at the beginning. So it's the entry into the dwelling of another with the intent to commit a crime therein,

without consent, accompanied by what the law calls circumstances of aggravation. And all of that, every charge in this case is required to be proven that it occurred in Greenville County. So that's an element of every charge.

So going back to entry into that dwelling. The requirement for the State is that we prove that the defendant entered that dwelling belonging to another, not his own, with the intent to commit a crime therein and the other elements that I'll move that down in just a moment for you to see.

Let's talk about the evidence in this case with the entry into the dwelling of another. You heard testimony from Storey Gilchrist and from her friend Hannah that the defendant entered the sunroom and no one else. This defendant, they identified him. He admits to being in the sunroom. They have a different version of what occurred in that sunroom, but there is no question in this case that we have entry into a dwelling of another.

Now, that is the sunroom. That's one of the intrusions, if you will, into the Gilchrist dwelling that day. You've also heard about the intrusion or the entry into the garage, the garage where the cars were kept, the gas was there. The testimony of both the fire marshal and Andrew Gilchrist told you you have to go into the

garage to get that gas can. You'd also have to go into that garage to pour that gasoline onto the backseat of that car or that Jeep and then set it on fire. And that intrusion is a separate intrusion that also qualifies under the statute as burglary. So I'm talking with you right now about those.

Let's talk about the element of with the intent to commit a crime. That intent must exist in the defendant's mind at the time of entry or intrusion. And it can be any crime. There's no requirement that the crime be committed inside the dwelling. In fact, there's no requirement that a crime actually be committed at all. Somebody can be caught going into a house with the intent to steal. They didn't get a chance to steal, it's still considered burglary.

So in this case, what was in the mind of the defendant at the time that he entered? Well, there's two different paths as this case has unfolded. Either the defendant was there because there was no fire and the defendant was there to warn the homeowners of something he saw in the garage, or that wasn't the case. And if that wasn't the case and you as the members of the jury are the sole determiners of those facts, you have to think about what did he do shortly before he was there.

Where was he approximately ten, 12 minutes before

that? He was behind another house down the street after he had spent approximately 30 minutes under that or around that bridge, and he was in the backyard behind the house of the Law property there on Hudson Road with absolutely no reason to be there. Moments later, minutes later he is behind the Gilchrist's house, again, with no reason to be there.

One of the purposes of that street view video that was introduced by Deputy Land is to give you an idea of what you would see if you were traveling down that road.

The other thing to consider is, is it reasonable that a Jeep car battery in a garage behind a house had some kind of electrical spark? You've heard Andrew Gilchrist tell you that there was a special mechanism of being able to start that vehicle, that without that process, somehow there's a spark that would cause an electrical smell that you could detect all the way down on Hudson Road when Storey and her friend Hannah were in a kitchen not far from that location in the summertime, screened-in porch, they didn't smell a thing. They didn't see a thing.

I go into that because of this. That entry and what was in the mind of the defendant was very important. Because in that entry and in the entry into the garage, the defendant's entering with the intent to commit a

crime is significant to your understanding. You don't have to -- well, what was he going to do inside that house? Well, if you listen to the testimony of Hannah, you'll recall that she talked about an object that was in his hand that she believed to be a knife. There was a knife found on the defendant's person when he was arrested.

You heard the testimony of both Storey and Hannah telling that what the defendant was saying was not anything about a fire. He wasn't gesturing towards the garage. He wasn't saying hey, hey, hey, you need to get out. He was, "Let me in." And, ladies and gentlemen, if you'll think about this for a moment how absolutely frightening it is that someone would come into somebody's house, see people inside that house and not immediately flee but instead race to that door, try to get into that door, and when the homeowner locks the door, to begin beating on that door, kicking on that door to get in. I can only imagine how frightening that might have been for those two ladies.

With respect to the entry into the garage, the intent, of course, you have an open garage, you have those two cars sitting there. There's a little bit of space right here, but you've seen the pictures. You can see into that garage. You can see over here where the

lawnmower and the gas can would be. And the facts of that case are that Mr. Moon was not able to get into that house, he got upset. He got angry. He walked outside, and he was upset and he was angry and he flipped over that grill. Well, you saw the pictures. It doesn't look to be that badly damaged. You look at that grill and you think there's nothing cracked on it. There's a piece that came off of it when, in fact, it had to be completely replaced. It was damaged. Maybe not feeling that that was a proper venting of the frustration at this point, you look around, and the defendant looked around and saw that open garage.

Now, he says he never went into that garage. Never went into that garage. There was already a fire in that garage. But that's not what his geolocation information indicates. The geolocation information indicates he was inside that garage. And if there was a fire burning in that garage when he got there like he testified, that absolutely what he said, why would I go into that garage? I couldn't go into that garage. There's a fire. But think about if that's not true. If that's not true, then exactly what Storey Gilchrist and her friend Hannah told you is exactly true.

And flipping over that grill, there is no fire in that garage, how did that fire start? That fire started

because somebody outside that garage door saw the gas can, saw that open area of that Jeep, and he testified he was a mechanic, works around cars, and that gas can ended up behind that Jeep with, according to what Andrew Gilchrist testified, substantially less gas than when he left that day to get a haircut.

The intent in the mind of the defendant when he made those entries is important, and you, the ladies and gentlemen of this jury, are the determiners of what was that intent. Not necessarily what specific crime, although it's obvious in the case of the garage entry, the purpose was to set fire to that car. You don't have to come to a determination about exactly what he intended to do in that first entry into the sunroom porch. But given what he was carrying, the manner and the way in which he was behaving -- and I will circle back to show you there's a substantial difference you'll see in that video we watched and how the defendant conducted himself today. Significantly different.

And it comes down in some points to exactly what Ms. Shugars asked the defendant on the stand: You haven't been drinking today? No. That's a different person. And, ladies and gentlemen, I would submit to you that the person that was in the back of Deputy Bracken's patrol car saying the things that he was saying, making

the threats that he was making, screaming the way that he was and the person who was down there at the jail kicking against that door is the same person that Storey and Hannah encountered just on the other side of that glass door in the Gilchrist home. Same person.

Let's also look at not only his intent, but whether he had consent. Clearly, the testimony is he had no consent to be in the house, on the property, in the garage. By his own admission, he entered that sunroom porch without any consent whatsoever. And certainly, even though he denies entering the garage, he had no consent to be in that garage.

Now let's talk about something that you might not be as familiar with and that's a concept of circumstances of aggravation. It's a fancy legal term for what aggravates a circumstance, what makes it more significant.

In the law, the law talks about three different situations: when you enter, while you're there or an immediate flight from a location. If in any of those situations you're armed with a deadly weapon or explosive, that's one, you cause physical injury to a nonparticipant in the crime or you use or threaten to use a dangerous instrument. If any of those are true, then what the law considers a nonaggravated burglary becomes an aggravated burglary.

But that entry into the sunporch/sunroom area becomes aggravated by, for example, the knife in the hand that Hannah testified to. The garage entry becomes aggravated because that explosive gasoline container is picked up and used in conjunction with a lighter to start a fire. And that explosive process of the gas, if you've ever gone outside to burn some brush in a pile or maybe some cardboard from the house if you're trying to get rid of some moving boxes after you're done, you decide, well, I'll just get this going a little faster, you put a little gasoline and it goes up like that. So that explosive activity, obviously, gasoline is an explosive.

The second one I want you to look at because that's really significant as well. We're talking again, of course, I wish you could see it all at one time, but the burglary charge in this case, the causing physical injury to a nonparticipant in the crime. And remember the situations: when entering, while in the dwelling or immediate flight therefrom. The testimony and what you saw in that body-cam video is as the deputy approached, and it's her body cam that you can see. You're seeing what basically she's seeing. Here is Mr. Moon, the defendant, coming down the driveway.

Now, you remember and you'll see on that video if you don't remember what he says to the officer when the

officer's trying to get his attention and say, hey, come here. She knows -- she saw him about an hour and a half before on that same red bide. She knows who he is. So she's telling him to come here, and starts immediately telling her there's people injured back there. They've got a fire going. I don't know what's going on. Well, what is the purpose of all of that? Was there anybody injured back there? Even when he testified up here, did Mr. Moon say anything about injured people in the back area? No. That was a distraction technique to see if he can get this officer, who's a first responder, to be more focused on what might be going on back there so he can escape. That is immediate flight from the scene.

And what happened when she didn't go for it? She's a trained law enforcement officer. She's not going to be worried about any of that. She's you're my concern. And when she wasn't distracted and said, "Get off your bike," what did he do? He struck her in the face. That act there, ladies and gentlemen, is the physical injury to a nonparticipant in this crime that aggravates and elevates the entry into the sunporch area and the separate entry or entries into that garage perhaps to get the gas and then come back in and put the gas in the back of that backseat. That element aggravates both of those to a burglary in the first degree.

Now, finally, look at the last element. The last element is use or threaten to use a dangerous instrument. Same application there, that knife in the hand that he had when Hannah saw him there. And remember that at the time Storey was close to delivery, but Hannah was focused on her friend and the person that was there. And she testified that what she saw in that hand as he was beating the door was some kind of object, and it looked like a knife. Is that a dangerous instrument? Is it also a deadly weapon? It's both of those.

Is the can of gasoline a dangerous instrument? It absolutely is. So those entries into the garage are burglaries as well.

All right. Let's look at the second charge. Not going to go in any particular order, but I want to talk about arson in the second degree. All right. So arson in the second degree, the elements for this charge are willfully and maliciously setting fire to or cause to be burned a dwelling, building or structure belonging to himself or another. So unlike the burglary statute, this could be setting fire to a structure that belongs to you. It's not the situation in this case, but that's what the law says. And causing damage to that structure.

So let's focus for just a minute on the intent aspect of this particular statute. The law says that the

act, if it's done willfully and maliciously, that's what the State's burden is in this case. What does "willfully" mean? Voluntarily. You understand that's a very simple concept. Intentionally, absent of mistake.

Malicious might be a little bit more of an unusual term. You might hear it, but there's a legal definition for that involving malice. So what is that? It's defined as ill will, hostility towards another, reckless disregard of the law.

A lot of times, "malicious" or "malice" can be simply defined as meanness, unkindness, severe unkindness to other people. Sets fire or causes to be burned. And those two elements, 2 and 3, sets fire to or causes to be burned a dwelling, building or structure, that that element of Number 3 is basically any structure that's designed for human occupancy. It includes a house. It can include a house that's not occupied. Anything that's designed for human occupancy. Obviously, this courthouse would qualify as a structure designed for human occupancy.

But those two elements that you as a jury are determining are very important in this case. Because with those two elements, if you find that the defendant entered that garage, took that jug of gasoline, arming himself with an explosive and he then set fire to that

Jeep, then the defendant is guilty of both burglary in the first degree and he's guilty of arson in the second degree. And that's what the evidence in this case shows.

Obviously, the final element down there is causing damage to that structure. And you've heard testimony about how much that damage was, what it cost. You've seen pictures. And I don't need to go back over all of that with you.

As I've told you, the incident and the crime must occur within Greenville County. You heard testimony from the officers, you heard testimony from the Gilchrists that all of these incidents occurred at 1 Breeds Hill Way in Greer and that that location is within Greenville County. There's no separate crime scenes here. It's all in one location so it applies to all of these actions.

While we're on the charge of arson in the second degree, I want you to look at this malice element again. And I didn't do a separate chart for this because it just didn't seem that significant since I've already defined it here. But the malicious damage to personal property is the same kind of malice we're talking about. It's basically just a reckless disregard for other people's property, ill will and hostility toward somebody else. Because you know when you flip that grill over it's going to cause loss to that person. And that's not something

that's done accidental. That's something that's done purposeful, willingly and voluntarily. So that is the charge of malicious damage to personal property.

Just for purposes of understanding what personal property is, it's basically anything that's not real property. It includes household items. It can even include a car or a boat. So all of those items are considered personal property. You come to find that out when you go to pay your taxes and find out there's a group for personal property taxes and then there's real property taxes. And if you don't check both of them, you can get into some trouble.

All right. So I'm going to now show you the charge from assault and battery in the third degree. And basically, how that works is one way or the other, either qualifies, you unlawfully injure another person or you offer or attempt to injure another person with the present ability to do so. And ladies and gentlemen, you've heard Deputy Bracken's testimony. You've heard the testimony of Deputy Bird who saw the defendant strike the officer. And you think, well, is this that significant in this whole scheme? And let me take you back to that burglary charge. Injuring a nonparticipant in the crime is one of the ways in which this charge and this case is aggravated because that's what the law sets

forth.

All right. So then the last, the fifth charge the defendant is charged with right now is threatening the life of a public official. So the statute requires proof that the defendant knowingly and willfully conveyed to a public official a verbal threat to take their life or inflict bodily harm to themselves or to their family resulting from the public official's exercise of their professional duties. So that's what's required.

If you didn't know somebody was a police officer and you happened to make a threat to them but it wasn't connected to their official duties, then it wouldn't qualify under this statute. This is a specific statute to protect public officials in these kinds of situations who are simply exercising their professional duties. Can't be threatened, can't threaten to harm them, can't threaten to take their life, can't threaten any member of their family.

And those threats, ladies and gentlemen, specifically the one against Investigator Bracken, are recorded on the body cam video. And I encourage you if you have any questions about exactly what was on that video, take a moment, watch it, and have those questions answered if you have any about the content of that particular compilation.

Okay. I'll try to make this as brief as I possibly can. You have seen the evidence and you have heard the testimony. You heard, first of all, obviously, from Storey Gilchrist and from her friend Hannah who were there that day what they observed. You also heard the testimony of both responding officers that when they arrived, both what all four of those individuals saw on the property there at 1 Breeds Hill Way was only the defendant, no one else. No wounded individuals, nobody else that would have been setting a fire. None at all.

It's interesting also that Andrew testified that Jeep was in working order. It was working just fine. In fact, he drove it there and he parked it in that garage where it was on July 17th of 2021.

You heard testimony of the defendant's behavior at the house on the sunporch. You recall that by the time Andrew got home and rescued the dog, he looked out that same back window and he saw the defendant out there still irritated, still upset, smoking a cigarette near that bicycle.

And this is important as well because you remember that Hannah testified when she drove up that road right there, all of these roads, of course, are just in this particular community. None of them are on the way to the Polo Apartments, which from this location would be way

over here. So turning right down there doesn't get you any closer to the Polo Apartments. But as she drove down this road right here, turned around in the cul-de-sac and came back, she testified that she had a very clear line of site not from where she ended up here, but when she was here looking at that garage. No fire, no smoke, nothing at all. In fact, initially, all she saw was the defendant's bike. She didn't even see the defendant. It wasn't until closer to the time that Andrew got home that she saw the defendant on his bike down there at the end of the driveway (indicating throughout).

So those are the critical points in this case. This defendant who is out all day decides to go first around the house down the street, this street here, Breeds Hill Way, and this residence right here all around back behind this residence when he has no purpose for being there (indicating throughout).

And you can see the times that he was there shortly before 5 o'clock, and then minutes later as he's on his way up here and the exact same thing. That was significant to the investigator because look at the time periods. He was here at this bridge area for probably 30, 33, minutes and then in this area right here for close to ten minutes. No explanation for why he's behind that house in that location right down the street other

than what he told you when he testified, that he lives on Hudson Road or off of Hudson Road in these Polo apartments that are right up here which are depicted on another map (indicating throughout).

But what did he tell you? If you recall his testimony, he said I wanted to explore, and then he kind of switched over and started talking about something else. And that's exactly what he was doing. He was exploring. He was behind a property here (indicating), behind a property here (indicating), and the end result, and you've seen how quickly his temper can change and how we can go from talking about a bike that he likes to getting upset and manifesting that. And I can assure you that the liquid courage that he had ingested probably was a contributing factor to that rapid mood change. All of a sudden, there's a different person that they're dealing with.

As you will recall, he was certainly found in possession of several alcohol bottles. And why is this important that he says something today, well, I didn't really have anything to drink, maybe a beer, but that day he was talking about drinking? Because that day, to excuse the conduct and what had been going on, the reference was to alcohol. Well, I don't really remember. I had something to drink. I'd been drinking. I don't

know what happened. I was just trying to get home. Ladies and gentlemen, that is not what happened in this case. He wasn't trying just to get home. He was behind one house. He was behind another house. He entered the Gilchrist's sunroom, and when he saw those ladies inside, he didn't leave. He tried to get in. When he was frustrated in that process, he went outside, he flipped over that grill and then he headed out there to the garage area. And the next thing we have is a fire in that garage.

Now, I know that during the course of this trial, references were made to different things like why didn't he have fingerprints on that gas can in the garage that was in that fire scene. And you heard the testimony of the forensics officer talk about the texture of that gas can. And probably if you have any experience with those gas cans, you know that they have a rough texture to them. And that process of twisting off a cap where it smudges the prints, that technician is in the position to know whether or not prints can be taken from those items and making that assessment. In this situation, you don't have them. But honestly, you don't need them. This defendant was there. This defendant committed these acts. This defendant intruded upon the privacy of the Gilchrists at their property, had no -- absolutely no

knowledge of them whatsoever nor they of him. And, ladies and gentlemen, he's been charged accordingly for the crimes that he's committed, and the State would ask you to find him guilty.

Thank you.

THE COURT: Mr. Crane.

MR. JEREMY CRANE: Thank you, Your Honor.

Ladies and gentlemen, I'd like to thank you for your service here. I know at points this trial became a bit arduous, but I hope it was educational and possibly even rewarding to see our justice system works.

I told you in my opening statement that the State was going to produce a long line of law enforcement officers and investigators in an attempt to produce a theory. Their underlying theory that they formed was that Mr. Moon poured gasoline into a Jeep and then he set it on fire. There's only one large issue with that, and that's that none of their evidence shows that Mr. Moon ever even went into that garage. There's a long list of people who never saw Mr. Moon in that garage: Storey Gilchrist, Hannah Price, Andrew Gilchrist, Deputy Bracken, Deputy Bird, the camera that was right there in the driveway, and most importantly, the evidence from the points map which is created by Greenville County Sheriff's Office. None of this evidence ever shows

Mr. Moon going into that garage.

I told you in my opening statement that all their evidence is based on conjecture, speculation and assumptions. And that's all they've given us is speculation, conjecture and assumptions.

Now, you may say, well, Mr. Moon was the only person back there so it must have been him. Well, that's not how this works. That's called reasonable doubt when nobody, including technology that shows exactly where a person was at a certain point, can put him in that garage and it creates reasonable doubt.

We heard from Deputy Bracken. She told us that Mr. Moon stops his bike right in front of her, and he didn't try to flee. On the video, we see Mr. Moon. He looks very surprised to see Deputy Bracken there. He was right there at the scene of a fire, and he was attempting to help her. If he had started that fire, why would he stick around?

We heard from Ms. Gilchrist that he was just standing there in the driveway. She's on the phone. She's saying, well, he's just standing there in the driveway. Well, why didn't he get out of there? Why didn't he leave? Why didn't he flee? Why not bike through the woods? He didn't get away. Excuse me. He did not try to get away because he hadn't done anything

wrong. In fact, he approached Deputy Bracken and said they've got a fire back there. I don't know what's going on.

The State alluded to him saying something about people being injured. You heard Mr. Moon say that he looked underneath that Jeep to see if anyone was there. If a Jeep was on fire, you may not be able to see so perhaps he was saying that there could be people injured back there, but in his haste he said something of there are injured people back there.

Deputy Bracken had seen Mr. Moon about an hour earlier, and he was cool, calm and collected and a nice guy. These are her words. These are not my words. He was respectful, he wasn't angry, he wasn't agitated, he wasn't worked up, and at that time, he sure didn't seem like he was about to go burn someone's house down.

Now, the State wants you to believe that within the next hour between seeing Deputy Bracken and arriving at Breeds Hill Way that he drank so much that he decided that, you know what, I'm going to go start a fire in this garage even though we watched on the video deputies pour out multiple full bottles of vodka.

When Deputy Bracken arrested Mr. Moon, he didn't have any singed hair nor burns on him. EMS checked him out. They saw no burns. Deputy Bracken testified that

Mr. Moon did not smell like gasoline. And she actually said that -- never said that he did smell like alcohol. Deputy Bird also testified that Mr. Moon did not try to flee from Deputy Bracken, and that he did not see any singed hair or burns on him and that he did not smell like gasoline.

Investigator Bowers had Mr. Moon's clothing collected. He told Deputy Bracken it's hard to pour gasoline and not get it on yourself. Well, guess what? He didn't get it on himself. There was no gasoline found on Mr. Moon's clothing.

Investigator Bowers said that a cap was off on the gas can. That would make it even more of a likelihood that someone would get gas on themself [sic] if that cap was off. We saw that the cap was off, so if that gasoline was being poured, it was going to splash around him. It was going to get on Mr. Moon. It wasn't on his socks. It wasn't on his pants. It wasn't on his shirt. The only place that they found gasoline was on his shoes.

And we learned from Investigator Bowers that we don't know how long gasoline stays on shoes. We also learned from the SLED agent -- excuse me -- from SLED that there's no way to determine where that gasoline was on his shoes. It could have been on the top. It could have been on the bottom. They don't know.

Additionally, the points map that we saw yesterday that Deputy Land created showed that Mr. Moon had been at a gas station earlier that day as well as being at the bus station downtown twice. He was down there where buses run, where cars run, and I'm sure there's some sort of gasoline hanging out on the ground right now as we speak down there.

Storey Gilchrist testified that when Mr. Moon was on the porch, it appeared that his hand was in his pocket. The one hand was in his pocket, the other hand was banging on the door. Well, if one hand is in his pocket and the other hand is banging on the door, then which hand is trying to get into the home?

There was some testimony that he was jiggling the handle. Mr. Moon only has two hands. If one's banging on the door and one's in his pocket, how is he trying to open the door? There were no prints found on the door handle from Mr. Moon. The most logical reason that there weren't is because his hand was never on that door handle.

When I asked Mrs. Gilchrist if she saw a weapon in Mr. Moon's hand while she was on the porch, she said she wasn't sure. She didn't say yes. She said she wasn't sure. She was standing essentially face-to-face with Mr. Moon, but she didn't see a weapon. My contention is

is she didn't see a weapon because he didn't have a weapon in his hand.

We later heard from Ms. Gilchrist's friend Hannah Price who made a weapon magically appear in Mr. Moon's hand. At no point prior to Ms. Price's testimony on Tuesday had she ever mentioned a weapon. It wasn't in her written statement. It wasn't on any body-cam footage. None of the deputies from that day who spoke to Ms. Price ever said that she said anything about Mr. Moon having a weapon in his hand. She simply made it up. She saw Ms. Gilchrist on the stand ahead of her. She couldn't say that -- Ms. Gilchrist could not say whether or not he had a weapon, so she decided to say, sure, I saw a weapon in his hand. She decided she was going to save the day and say, yes, he had a weapon in his hand even though Ms. Gilchrist who was standing right there did not see one.

Both Ms. Gilchrist and Ms. Price state that they were scared that day, and they both said that there's a possibility that Mr. Moon could have been warning them about a fire. But they wouldn't have heard it because they were both fleeing towards the front door. They both admitted when they got to Ms. Price's car the house is behind them. It was behind them. They couldn't see it. So if there was a fire at that time, they wouldn't have

been able to notice it.

Mrs. Gilchrist also admitted that there's a possibility that there could have been a fire there, and it might have escalated while they were sitting at that stop sign across from the house, and they may not have noticed the fire if there was a smaller fire when they left the house.

Investigator Bowers told us that once the flames hit that seat in the Jeep, that it could have certainly escalated this fire. The fire could have grown as soon as it hit the Jeep -- excuse me -- hit the seat of the Jeep. So there's a good chance that the garage was on fire when they went out the front door. They wouldn't have known because it was behind them. They wouldn't have seen the fire initially because it was behind them, and they may not have seen the smoke until the fire caught up with the seat on the Jeep.

Now, remember, they couldn't see the garage from where they were sitting in the house, so there's a chance that they never saw this fire until it actually escalated and started producing a lot of smoke.

That's not cooperating so I'll just use my hand.

So the State showed you this photo of where the house is. Ms. Gilchrist and Ms. Price say they were coming back down the street coming this way, and then

that's when they saw the fire in the garage. I don't know if you guys can see this, but I don't see how you're coming this way and can see all the way to back here where the garage is with this house being in the way. If your car's here, you can't see the garage. If your car is here, you can't see the garage. You cannot see the garage coming back down this street according to this photo (indicating throughout).

So, again, there could have been a fire, but they would not have been able to see it.

I'd like to go back to Deputy Land's testimony from yesterday. Deputy Land is the one who plotted all the points on the maps that we were showing yesterday. When I questioned him, he testified that on the evening of July 17, 2021, there were nine points around the house of where Mr. Moon was that day. We went over the map. We went over each one of those points and a corresponding video. Of those nine points, seven of them definitely show Mr. Moon outside of the garage. One of the points from 4:58 shows Mr. Moon on the porch. Mr. Moon never denied being on that porch. The timestamp corresponds with the exact time that Mrs. Gilchrist called 9-1-1.

So according to the points map, we know that Mr. Moon did not go into the garage prior to going up onto the porch. The evidence does not support that he

went into the garage at any time prior to going up onto the porch.

The next five points after he goes onto the porch from 4:59 to 5:03 shows Mr. Moon outside the garage. That's in evidence. You can take a look at it and see for yourself. The only other point that shows that he could have possibly been in the garage is at 5:04 and then he was arrested one minute later at 5:05. So we have one minute from where the State is trying to claim that he was in the garage. Again, you'll be able to look at the map and see the points and you can determine where the roof line is whether or not you think he was or was not in the garage.

One of the things that I'd like for you to do, you're going to have all the evidence that has been produced, I would like you to go back and listen to the 9-1-1 call and pay close attention to when Mrs. Gilchrist and Ms. Price notice the smoke. When you're looking at it, it's about four minutes and 42 seconds into the call. Now, keep in mind, this is when they first noticed the smoke, not when they first noticed the fire. The smoke and the fire don't necessarily occur at the same time. So the fire could have started prior to that 4:42 mark on the call, but they would not have seen the smoke -- they wouldn't have seen the smoke right away at that time. So

the fire could have started just prior to the 4:42 mark on that call.

Then I want you to pay attention closely to when the ladies are on the phone and they state that deputies have arrested Mr. Moon. It's at about the six minute 44 second mark. That means that we know that there was an active fire, and then a little more than two minutes later, Mr. Moon was arrested. So on the call they say, oh, is that a fire and then Mr. Moon is arrested. That's a little bit more than two minutes on the 9-1-1 call. Well, that math isn't mathing because the points map shows that there's a possibility if Mr. Moon is in the garage at 5:04 but he's arrested one minute later at 5:05.

Now let's reverse those events. Mr. Moon is arrested at 5:05, and the last time he could have been in the garage, according to the points map, is at 5:04, one minute earlier. Now, if you compare that to the 9-1-1 call when Mr. Moon is arrested -- so let's go to the 9-1-1 call when Mr. Moon was arrested on the 9-1-1 call. If you go backwards one minute, the fire's already -- excuse me. If you go back two minutes, that is when they see the fire. Two minutes prior to Mr. Moon being arrested, he was not in the garage according to our points map.

So with that being said, there's no way Mr. Moon could have started this fire because, like I said, the math doesn't add up. If he's being arrested at 5:05 and it was at least two minutes prior to that point when they saw smoke, then that means that that fire started prior to 5:04 when Mr. Moon was not in that garage.

We've seen numerous photos of the garage and the gas can. We all know that -- we know that the gas can was on the floor of the garage. I know that Mr. Gilchrist states that he's a military person and he's very regimented, but everybody makes mistakes. Everyone misplaces things. You know, you get sidetracked at times. There's always a possibility that Mr. Gilchrist left his gas can on the other side of the garage.

My question to you is if Mr. Moon was going to light that Jeep on fire, why would he pour gasoline all over the back of this Jeep and then set the gas can down on the ground? Wouldn't it make more sense just to dump the whole thing -- take the cap off, dump the whole -- all of the gas out, all of the gas, not leave a little bit, dump it all out and then throw the can in there and then light it up? Wouldn't that make more sense to dump it all in there and that way you're maximizing the damage if you're trying to set a car on fire? Couldn't you also do that to help destroy evidence?

The State has the burden of proof in this case. They have to prove that Mr. Moon is the one who started this fire. Again, Mr. Moon doesn't have to prove that he didn't start this fire. So I want you to ask yourselves, have they met the burden? Have they actually proven anything as far as it goes with Mr. Moon?

Judge Fant is going to instruct you in a little while on the definition of reasonable doubt. Reasonable doubt means that you the jury must be virtually certain of the defendant's guilt in order to render a guilty verdict. With so many inconsistencies and so many holes in the State's case, how can you be virtually certain?

There's reasonable doubt all over this case. I just discussed a litany of issues with the State's case, any of which should lead you to have reasonable doubt.

The last thing that I'm going to ask you is a question I posed to you in my opening statement. That's why would Mr. Moon do this? Have they given you any reason that he would do this? Does any of this make sense? Due to all of the State's holes in their presentation of the case, I do not see how you as a jury cannot find reasonable doubt in this case. And for that reason, I would ask that you find Mr. Matthew Moon not guilty.

Thank you for your time and your attentiveness.

MR. FRETWELL: May it please the Court, Your Honor.

THE COURT: Mr. Fretwell.

MR. FRETWELL: Ladies and gentlemen, sometimes the simplest reasons are the most difficult to understand. And that's just anger got the better of him. And, ladies and gentlemen, you've heard the testimony. You've heard Mr. Crane's argument about this particular map. And it's one fatal misunderstanding. These dots are not the only location that the defendant was in that particular day. These are, of course, the general area that he was in. But remember Deputy Land told you that for every dot, there were at least 59 other places and areas where the individual could be in that general area. This proves he was in the area. This proves he was in that garage even though he testified he was never in that garage, right there (indicating) with no one else, angry, upset according to the witnesses that testified, according to what you saw on that camera that day.

You look at that video compilation and answer Mr. Crane's question. He was upset. He was angry. When he gets upset, he gets angry, he lashes out. He threatens people. He starts kicking on doors. And that's exactly what he did that day, ladies and gentlemen. Hold the defendant accountable. This is the system by which we hold people accountable for their

actions. I'm asking you to find the defendant guilty of the charges with which he's been charged.

Thank you.

CHARGE ON THE LAW

THE COURT: Members of the jury, it is now my duty as the trial judge to instruct you on the law applicable to the case. And in that regard, it is your duty as jurors to accept and apply the law as I now state it to you. And furthermore, it is your exclusive duty to decide all the issues of fact in this case and determine the effect, value, weight and truth of the evidence. All the parties have the right to expect that you will carefully consider and evaluate the evidence and apply the law of the case to it so that in the end, all parties will receive a fair and impartial trial.

I remind you that during this trial, you and I have certain duties to perform. And as the trial judge, it is my responsibility to preside over the trial of this case and I also have the duty to rule on the admissibility of evidence offered during this trial. You are to only consider the competent evidence before you. If there was any testimony ordered stricken from the record during this trial, you must disregard that testimony. You are to consider only the testimony which has been presented from this witness stand, any exhibits which have been

made a part of this record in the case and stipulations of counsel.

I have the additional duty to charge you the law applicable to this case. As the presiding judge, I am the sole judge of the law of this case, and it is your duty as jurors to accept and apply the law as I now state it to you. If you already have any ideas as to what the law is or what the law should be and it does not agree with what I now tell you the law is, you must abandon that idea because you're sworn to accept the law and apply the law exactly as I state it to you.

In every case tried in this court before a jury, the jury becomes the sole and exclusive judge of the facts in a case. A trial judge cannot intimate, state, comment on or make any statement to a trial jury about the facts in a case. Since you the jury are the sole judge of the facts in the case, you are not to infer from what I have said during the progress of this trial in ruling upon the admissibility of evidence or otherwise or anything that I say now during the course of this instruction to you that I have any opinion about the facts in the case. The law does not allow me to have an opinion about the facts in this case. This is a matter solely for you. The jury -- or solely for you, the jury, to determine. And as jurors, it is your duty to determine the effect, the

value, the weight and truth of the evidence presented during this trial.

The defendant is charged with the following: threatening the life of a public official, assault and battery in the third degree, malicious injury to personal property, burglary in the first degree and arson in the second degree. I remind you that the fact the defendant was arrested, charged and indicted in this case is not evidence in this case and cannot be used or considered by you as evidence of guilt in this case, nor does it create any presumption or inference of guilt. These documents are simply the formal written instruments which contain the charges made against the defendant. It is the formal documents by which the case is brought into this court.

The indictments in this case allege several different offenses against the defendant, and each indictment charges a separate and distinct offense. And you must decide each indictment separately on the evidence and the law applicable to it, uninfluenced by your decision as to any other indictment. The defendant may be convicted or acquitted on any or all of the offenses charged, and you will be asked to write a separate verdict of guilty or not guilty for each indictment.

The defendant has pled not guilty to these

indictments, and that plea puts the burden on the State to prove the defendant guilty. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you that it is an important role of the law that the defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictment was issued unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt.

This presumption of innocence does not end when you begin your deliberations, but it accompanies the defendant throughout the trial until you reach a verdict of guilt based on evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence is not mere legal theory. It is not just a legal phrase. It is a substantial right to which every defendant is entitled unless you the jury are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. And some of you may have served as jurors in civil cases where you were told that it is only necessary to prove that a fact is more likely true than not true such as by the greater weight

or preponderance of the evidence. In criminal cases, the State's proof is much -- or must be more powerful than that. It must be beyond a reasonable doubt.

Reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty, and in criminal cases, the law does not require proof that overcomes every possible doubt.

If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find the defendant guilty. If, on the other hand you think there's a real possibility that the defendant is not guilty, you must give the defendant the benefit of the doubt and find him not guilty.

Facts and circumstances that merely place upon the defendant a grave suspicion of the crime charged or that merely raise a speculation or conjecture of the defendant's guilt are not sufficient to authorize a conviction of the accused.

Facts in issue may be proved either by direct evidence or indirect evidence or circumstantial evidence. It is direct evidence if it proves a fact without an

inference in which in itself, if true, conclusively establishes that fact. Direct evidence is basically evidence you can see, observe or hear with your senses.

Circumstantial evidence means the proof of a chain of facts and circumstances indicating the existence of a fact. In other words, you may infer that a particular event occurred based on proof of circumstances warranting such an inference. It is not something that one observes but from facts one can draw a conclusion.

Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence. However, to the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other, and when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely portray the defendant's behavior as suspicious, the proof has failed.

The State has the burden of proving the defendant guilty beyond a reasonable doubt, and this burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence or some combination of the two.

The following things are not evidence and you must

not consider them as evidence in deciding the facts of this case: statements and arguments of the attorneys and questions and objections of the attorneys. While argument of counsel is a beneficial part of every trial, you should remember that the statements made by counsel are not evidence.

In presenting arguments, counsel often refer to evidence; however, you should base your verdict on the evidence as you remember it. Therefore, if there are any conflicts between the recollection of counsel about the evidence and your own recollection, you should rely upon your own understanding of the evidence.

Necessarily, you must determine the credibility of witnesses who have testified in this case. Credibility simply means believability. It becomes your duty as jurors to analyze and evaluate the evidence and determine which evidence convinces you of its truth.

In determining the believability of a witness or witnesses who have testified in this case, you may believe one witness over several witnesses or several witnesses over one witness; you may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness; you may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety; you may consider

whether any witness has exhibited to you any interest, bias, prejudice or other motive in this case; and you may also consider the appearance and manner of a witness while on the witness stand.

The rules of evidence ordinarily do not permit witnesses to testify to opinions or conclusions. An exception to this rule exists for witnesses we call expert witnesses. A witness who, by education and experience, has become expert in some art, science, profession or calling may state an opinion as to relevant and material matter in which the witness claims to be an expert and may also state the reason for the opinion.

You should consider any expert opinion received in evidence in this case, and like other evidence, give it the weight that you think it deserves. If you decide that the opinion of an expert witness is not based on sufficient education and experience or if you conclude that the reasons given in support of the opinion are not sound or that the opinion is outweighed by other evidence, you may disregard the opinion entirely. An expert witness's testimony is to be given no greater weight than that of other witnesses simply because the witness is an expert. Further, you are not required to accept an expert's opinion even though it is not contradicted.

There has been evidence presented that witnesses may -- or that witnesses have made prior statements which are not consistent with the witness's present testimony. You may use this evidence to decide whether to believe the witness. You may also use evidence of the earlier contradictory statements to determine the truth of those statements. It is up to you to decide whether to believe the earlier statements or the testimony given at trial.

If a witness is shown to have knowingly testified untruthfully concerning any material matter, you may consider this in determining whether to trust the witness's testimony as to other matters. You may reject all testimony of that witness or give all or part of the testimony the weight you think it deserves.

In order to establish criminal liability, criminal intent is required. For example, the mental state required to be proven by the State for a particular crime might be purpose, intent, knowledge, recklessness or criminal negligence. Criminal intent must be proven by the State beyond a reasonable doubt.

Criminal intent is always a matter that must be determined by the jury from the circumstances surrounding the situation. There's no way to prove intent to a mathematical certainty. There is no way medical science can dissect a person's brain and determine what the

person had in mind, so the law says that criminal intent may be inferred from the circumstances shown to have existed. And this is how you make a determination of whether or not the element requiring intent was present.

It is not necessary to establish intent by direct and positive evidence, but intent may be established by inference in the same way as any other fact by taking into consideration the acts of the parties and all the facts and circumstances of the case.

Criminal intent is a mental state, a conscious wrongdoing. It is up to you to determine what the defendant intended to do based on the circumstances shown to have existed.

Criminal intent can arise from action or a failure to act. It may arise from negligence, recklessness or an indifference to duty or to consequences that is considered by the law to be the equivalent of criminal intent.

The defendant is charged with threatening the life of a public official. The State must prove beyond a reasonable doubt the defendant knowingly and willfully delivered or conveyed to a public official a letter or paper, writing, print, missive, document or electronic communication or verbal or electronic communication which contained a threat to take the life of or to inflict

bodily harm upon the public official or members of his or her immediate family and the threat was directly related to the public official's responsibilities.

A public official is an elected or appointed official of the United States or of this state or of a county, municipality or other political subdivision of the state. A deputy sheriff is a public official.

A person acts knowingly if the person's act -- or the person acts with knowledge consciously and not accidentally. A person acts willfully if the person acts intentionally and is aware of what he is doing.

The defendant is also charged with assault and battery in the third degree. A person commits the offense of assault and battery in the third degree if the person unlawfully injures another person or offers or attempts to injure another person with the present ability to do so.

The defendant is also charged with malicious injury to personal property. The State must prove beyond a reasonable doubt that the defendant willfully and maliciously cut, shot or otherwise injured or destroyed the personal property of another person. "Willfully" means voluntarily and intentionally with the specific intent to do something that the law forbids.

"Maliciously" means involving malice.

Malice is hatred, ill will or hostility towards another person. It is the intentional doing of a wrongful act without just cause or excuse and with an intent to inflict an injury or under circumstances that the law will refer -- or will infer an evil intent.

Malice may be express or inferred. And these terms "expressed" and "inferred" do not mean different kinds of malice but merely the manner in which malice may be shown to exist. That is either by direct evidence or by inference from the facts and circumstances which are proved.

Express malice is shown when a person speaks words which express hatred or ill will for another or when the person prepared beforehand to do the act which was later accomplished. Malice may be inferred from conduct showing a total disregard for human life. The State must also prove beyond a reasonable doubt that the value of the property is $2,000 or less.

The defendant is also charged with first-degree burglary. The State must first prove beyond a reasonable doubt that the defendant entered a dwelling without consent. A dwelling is any building or portion of a building in which a person ordinarily sleeps. A building is a dwelling even if the residents are temporarily absent from the building.

In order to prove that the defendant entered the dwelling, the State does not have to show that the defendant's entire body entered the dwelling. The smallest entry is sufficient. It may be any part of the body such as a hand or foot or even an instrument such as a hook or other instrument. In addition, the State does not have to prove that force was used to gain entry. If a person enters a building by using deception, artifice, trick or misrepresentation to get consent to enter, this is an entry without consent.

Next, the State must prove beyond a reasonable doubt that the defendant intended to commit a crime, either a felony or a misdemeanor at the time of the entry. The mere entry into a dwelling without consent is not burglary. If the intent to commit a crime is formed after the entry, it is not burglary. On the other hand, if the defendant intended to commit a crime at the time of the entry, it is a burglary even if the intent was abandoned after entry. It does not matter that the intended crime was not completed.

Intent may be shown by acts and conduct of the defendant and other circumstances from which you may naturally and reasonably infer intent.

Finally, the State must prove beyond a reasonable doubt the existence of one of the following aggravating

circumstances such as, one, when entering while in the dwelling or in immediate flight the defendant or an accomplice caused physical injury to anyone not participating in the crime; or two, when entering while in the dwelling or in immediate flight the defendant or an accomplice used or threatened to use a dangerous object; or three, when entering while in the dwelling or in immediate flight the defendant or an accomplice displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun or other firearm; or four, when entering while in the dwelling or in immediate flight, the defendant or an accomplice was armed with a deadly weapon or explosive.

A deadly weapon is any article, instrument or substance which is likely to cause death or great bodily harm. Whether an instrument has been used as a deadly weapon depends on the facts and the circumstances of each case.

The following are examples of instruments which may be deadly weapons: a pistol, a shotgun, a rifle, a dirk, a dagger, a knife, a slingshot, metal knuckles, a razor, gasoline, a firebomb or Molotov cocktail and lighter fluid. A gun may be a deadly weapon even if it is not operating.

If you find that the State has failed to prove

beyond a reasonable doubt that the defendant committed first-degree burglary, you may consider whether the State has proved beyond a reasonable doubt that the defendant committed second-degree burglary.

Second-degree burglary is a lesser-included offense of first-degree burglary. And second-degree burglary includes all of the elements of first-degree burglary except the existence of an aggravating circumstance. Therefore, the State does not have to prove beyond a reasonable doubt that when affecting entry or while in the dwelling or in immediate flight, the defendant caused physical injury to a person who was not a participant in the crime or used or threatened the use of a dangerous instrument or was armed with a deadly weapon or explosive.

To prove the defendant committed second-degree burglary, the State only has to prove that the defendant entered a dwelling without consent and with the intent to commit a crime therein beyond a reasonable doubt.

In order to prove second-degree arson, the State must prove beyond a reasonable doubt that the defendant willfully and maliciously caused an explosion, set fire to, burned, caused to be burned, aided, counseled or procured the burning of certain properties.

"Willfully" means that it was not done by accident

but was done knowingly or intentionally. It must be shown that the burning was by the willful act of some person and not as a result of a natural or accidental cause.

"Maliciously" means with hatred, ill will or hostility toward another person. A person who intentionally does a wrongful act without legal justification or excuse does the act viciously. A malicious burning is an act done with a condition of mind that shows a heart bent on mischief showing a design to do an intentional wrong act toward another or toward the public without any legal justification or excuse. The malice need not be expressed but may be inferred.

"Burning" means actual combustion of some portion of a piece of property. It is not necessary that the property be consumed or destroyed. Charring of the material of which the property is constructed or a change in the fiber or composition of the structure is required for a burning. Singeing, smoking, blistering, scorching or discoloring by the heat, however, is not enough to constitute a burning.

Next, the State must prove beyond a reasonable doubt that the property which was burned was a dwelling house. And a dwelling house is a building in which a person ordinarily sleeps.

Voluntary intoxication does not constitute a defense to a crime. A person who voluntarily becomes intoxicated is just as responsible for acts committed while intoxicated as when the person is not intoxicated.

In determining the guilt or the innocence of the defendant, you cannot consider any possible penalty for any particular crime. The punishment for the crime is a matter for me to determine and should never be considered by you in any way whatsoever at arriving at an impartial verdict as to the guilt or the innocence of the defendant.

Mr. Foreperson and ladies and gentlemen of the jury, I wish to express the hope that each of you will be mindful of the importance of your responsibility. You're not called upon to serve as jurors very often, and the proper performance of the duty requires each of you to reach the height of freeing your mind of all improper influences. As the presiding officer of this court, I am vitally concerned that whatever verdict you find will be the result of your going into the jury room and confining your consideration to the evidence and the law that you have heard in this courtroom, weighing it fairly and impartially as I have every confidence you will do.

Your verdict in this case cannot be based on sympathy, compassion, prejudice, or emotion or some other

consideration not found in the evidence. Remember, your verdict must be unanimous.

And I will now explain the verdict form and possible verdicts. So this is the verdict form, and there's two pages. There are two possible verdicts for each charge which you may find in this case, and there's no significance whatsoever to the order in which I state these possible verdicts. It is simply that one must be stated first.

Ladies and gentlemen, your verdict must be a unanimous one.

Mr. Foreperson, when the jury agrees on the verdict, you will write the verdict on the verdict form and then sign your name as foreperson, then knock on the jury room door and inform the bailiff that you have reached a verdict, and at that time, we will receive you back into the courtroom.

Mr. Foreperson, if the jury has any questions, please write the questions on a piece of paper, not on the verdict form, and give that to the bailiff.

Everyone needs to be present when deliberating. If one of you takes a restroom break, then the rest of you should pause deliberations until said person returns.

I ask that you now return to your jury room except for my alternate. But do not begin deliberations until

you are told by the clerk or the bailiff to do so. There's some matters which I need to take up with the attorneys before you begin your deliberations.

(WHEREUPON, the jury exits the courtroom at 3:35 PM.)

THE COURT: All right. Listen. Thank you. I just want to thank you for being here. We can't do it if we don't have alternates. But I'm going to dismiss you from your service now.

ALTERNATE JUROR: Okay. All right. Thank you.

THE COURT: Thank you for being you.

ALTERNATE JUROR: Yes. Thank you.

THE COURT: All righty.

Okay. Anything from the State?

MR. FRETWELL: Nothing from the State, Your Honor.

THE COURT: Anything from defense?

MR. JEREMY CRANE: Nothing, Your Honor.

THE COURT: Okay. All right. We will get the evidence back there and the verdict form and let the clock start ticking.

(WHEREUPON, a recess is taken at 3:40 PM, and the jury starts deliberating.)

JURY QUESTIONS

THE COURT: Okay. The question, and it's signed by the foreman, says: "Can you present us with elements of each crime, i.e., the sheets that the State presented at

the closing statements?" And then it's signed.

I'll mark this. I know. We can't give them what the State did; however, I can give them my entire charge. I can't give them part of the charge. So rather than recharge them, I strongly suggest that we send my entire charge back.

I'll hear from the State.

MR. FRETWELL: No objection from the State.

THE COURT: And I'm going to mark this as Number 8?

THE REPORTER: 9.

MR. JEREMY CRANE: Your Honor, I don't believe I have an issue with that either.

THE COURT: Okay. And just -- let's see. I guess we sent you -- well, I mean, we deleted Number 3 which is what you had raised earlier.

MR. JEREMY CRANE: Okay.

THE COURT: And when I read the charge it was deleted, too. Do you know what I'm talking about?

MR. JEREMY CRANE: Which part of Number ---

MR. FRETWELL: It was the thing about what's not in evidence.

MR. JEREMY CRANE: Oh, yes. I'm sorry. Yes, yes. I saw you skip through that about stuff that you told them to ignore, essentially.

THE COURT: Yes. On page one was the thing about

what's not in evidence.

MR. JEREMY CRANE: I noticed that. Thank you.

THE COURT: So I'm going to mark it as Number 10, okay?

(WHEREUPON, Court's Exhibit Numbers 9 and 10 were marked for identification.)

THE COURT: Counsel, they did ask whether or not I need to explain the answer, but I think just send the charge back ---

MR. FRETWELL: I have no objection with that.

THE COURT: --- rather than, no, you can't have the solicitor's notes.

MR. JEREMY CRANE: I think that's fine. The sooner we get them to work, the better.

THE COURT: That's a great idea.

MR. JEREMY CRANE: Thank you.

THE COURT: All right. We will hang tight.

(WHEREUPON, a recess is taken at 4:01 PM.)

THE COURT: You know, sometimes as attorneys you just don't think that you have to, I guess, define the obvious. But this question says: "Does, quote, armed mean on his person or out and in his hands?" Obviously, I cannot answer that question unless y'all reached an agreement on that. I think that I just have to write back that they need to read the charge. State?

MR. FRETWELL: I mean, my initial reaction is to agree with that.

THE COURT: Initial?

MR. JEREMY CRANE: That's mine as well, Your Honor. Just let them read the charge.

THE COURT: Which they have. But just please read the charge.

(WHEREUPON, Court's Exhibit Number 11 was marked for identification.)

THE COURT: All right. Anything else from the State before I proceed to write on this note?

MR. FRETWELL: Let me look at the statute, Judge.

(Pause in proceedings.)

MR. FRETWELL: I'm not sure there's anything else we can do, Judge.

THE COURT: It's just one of those things, like I said. I mean, you don't think I need to -- you know, I'm just going to write on here: "Please read the charge," okay? Everybody in agreement. State?

MR. FRETWELL: Yes, sir.

THE COURT: Defense?

MR. JEREMY CRANE: Yes, Your Honor.

THE COURT: Okay I put on here: "Please read the charge. Thank you, Judge Fant. 4:37 p.m., January 16, '25."

(WHEREUPON, a recess is taken at 4:35 PM.)

THE COURT: No question other than they buzzed Larry and they asked if they could, since it was getting later, they needed to use their phones, which is not uncommon. Jurors do this all the time. So we're going to put them in a room over here, and I'm going to just tell them -- I don't know if I can -- if y'all are okay, I'm going to just tell Larry to say, you know, you need to cease deliberation, and y'all can, you know, go in there and do your phone calls to your family just to make plans.

They also conveyed to Larry that they want to stay and they want to finish tonight. So I just wanted to inform you all of that. I wanted to let y'all know that I am going to permit them to use their phones to call their families.

And then I haven't decided -- well, I guess I'd like to ask them if they want me to go ahead and order supper for them. And if y'all want me to do that by question, I can, or if y'all are okay with the bailiff just simply asking them that. State?

MR. FRETWELL: I'm fine with that, Judge.

THE COURT: Defense?

MR. JEREMY CRANE: That's fine with me.

THE COURT: Okay.

MR. JEREMY CRANE: Your Honor, just one thing. If

they're going to be using their phones, is there going to be a bailiff in there monitoring that so they're not looking up something on their phone and stuff?

THE COURT: They do.

THE BAILIFF: Well, not looking up. All we can do is listen. We can't see what they're doing. That's not something we'll be doing is watching over their shoulders.

MR. JEREMY CRANE: My concern is they start looking up ---

THE COURT: They've been told not to. I mean, if you want me to send them a note that says all you can do is call your family, I will do that. Or, I mean, the bailiff can just say, look, you can use your phone to call your family, and that's it.

MR. JEREMY CRANE: I would appreciate that. Yes.

THE COURT: All right. And then ask them about supper. Tell them it will take what?

THE BAILIFF: All it is is Chick-fil-A sandwiches at this time.

THE COURT: Okay. Well, just ask them if they want you to go ahead and order supper, okay?

THE BAILIFF: Yes, sir.

THE COURT: Thank you very much.

(WHEREUPON, a recess is taken at 5:56 PM.)

THE COURT: Okay. I understand we've got a verdict. Let's bring them back in. Hold them for just a sec.

I always say this before any verdict. Emotions sometimes run high, so if you cannot control yourself, then I would ask for you to step out, okay? Otherwise, I will expect that everybody will control their emotions.

Okay. Whenever they're ready, we're ready.

(WHEREUPON, the jury entered the courtroom at 8:57 PM.)

THE COURT: Mr. Foreman, I understand that you have a verdict.

JURY FOREPERSON: Yes, Your Honor. We have.

THE COURT: If you'll hand that to the bailiff, please. Thank you.

Okay. Madam Clerk, if you'll publish the verdict.

VERDICT

THE CLERK: Your Honor, these are Case Numbers 2021A2330206157 [sic], 6518, 6519, 6521 and 6522, the State of South Carolina vs. Matthew Timothy Moon. As to the charge of threatening the life of a public official, we the jury find the defendant guilty. As to the charge of assault and battery in the third degree, we the jury find the defendant guilty. As to the charge of malicious damage to personal property, we the jury find the defendant guilty. As to the charge of burglary in the first degree, we the jury find the defendant guilty. And

as to the charge of arson in the second degree, we the jury find the defendant not guilty. Signed by our foreperson.

Ladies and gentlemen, if this is the verdict you reached in your deliberation room and this is still your verdict now, please raise your right hand.

(WHEREUPON, all jurors complied.)

THE CLERK: Thank you.

THE COURT: Anything from the State?

MR. FRETWELL: No exceptions from the State, Your Honor.

THE COURT: Anything from defense?

MR. JEREMY CRANE: Nothing from us, Your Honor.

THE COURT: Okay. I'm going to ask y'all to go back to the jury room and I will be back there in just a second, okay?

(WHEREUPON, the jury exits the courtroom at 8:59 PM.)

THE COURT: We'll take like a ten-minute break.

(WHEREUPON, a recess was taken at 8:59 PM.)

THE COURT: State?

MR. FRETWELL: Judge, certainly you know this is 2022-GS-23-5028. You've heard the charges. You've heard and received the jury's verdict in this case. I have the prior record at the appropriate time.

The family has chosen for Ms. Storey Gilchrist to

address the Court at the appropriate time. So whatever your pleasure is, Judge, as far as ---

THE COURT: I can hear from them.

MS. GILCHRIST: Your Honor, as you know, my husband Andrew and I were the victims of this crime. I just wanted to take a quick second to speak to how the actions of Mr. Moon have impacted and still are impacting our family.

Financially, the damage to our home totaled close to $80,000. Thankfully, insurance did cover most of that. But what they did not cover were the tens of thousands of dollars we spent securing our new home so that I would feel safe there before our first baby arrived. Numerous counseling sessions I underwent to get a grasp on the fear and trauma I endured and the damage done to Andrew's Jeep.

More than just the financial strain it cost was the joy it stole from our family in what should have been one of the sweetest seasons of our life. Instead, I was emotionally distraught, scared to bring our baby into a place that such a horrific event had happened. And the hardest part for me was to understand why he did this to us. It was totally random.

We'd never seen Mr. Moon before that day. He stood at my back door trying to kick it in to get into where we

were. And that feeling of fear and lack of control inside of what should have been my safest space are indescribable. Some three and a half years later I'm just now to the point where I feel comfortable being alone in my home.

With all that being said, Andrew and I would just ask that Mr. Moon be sentenced to the maximum time for his actions. Thank you.

THE COURT: Thank you, ma'am. I know that was not easy.

Solicitor?

MR. FRETWELL: Your Honor, the defendant's prior record begins in 1995 with a DUI, simple possession of marijuana and open container; 1997 with a DUI second; 1999 is a conviction for glue sniffing and resisting arrest; 2011, threatening the life of a public official, driving under the influence, possession of a stolen vehicle, two counts of malicious injury to personal property, possession of a controlled substance, burglary in the third degree; 2014, malicious injury to real property; 2015, driving under the influence, dissemination of obscene materials to person under the age of 18, and criminal sexual conduct with a minor in the third degree, burglary in the third degree; 2018, two counts of probation violation; 2019, two counts of

probation violation; 2020, public disorderly conduct; 2021, public disorderly conduct. That's the defendant's prior record, Judge.

THE COURT: And the State's position?

MR. FRETWELL: Your Honor, the State is aware that the Court has listened to all the evidence in this case. The Court is aware of the impact from the victim in this case. The State is simply asking the Court's wisdom to sentence this defendant pursuant to the verdict of this jury.

THE COURT: Okay. Counsel?

MR. JEREMY CRANE: Thank you, Your Honor. May it please the Court. Mr. Moon, as he stands here today, is 50 years old. He's still been in jail for the past three and a half years now. He hasn't been out of jail since this occurred.

As Mr. Fretwell said, you were here for the trial. You heard everything. You heard both sides of the story. You've been here for the last five-plus hours or so while the jury was back there deliberating.

Mr. Crane and I actually went and chatted with a couple of jurors just a moment ago. I believe these are mitigating circumstances and why I'm bringing it up. They said they did not believe there was enough evidence to convict him of the fire and that their conviction for

the burglary charge was not his actions on the porch, it was not his actions in the garage, but it was when he assaulted Deputy Bracken. So these jurors back here apparently did not think there was enough to convict him of anything that happened in the garage or anything that happened on that porch, and they solely based their verdict on the injury to Deputy Bracken.

We would just ask that -- they also told us it was six to six at one point. They were at an impasse, so it was split right down the middle.

So we're just asking that -- we know there's mandatory minimums for some of these charges. We would just ask that you go with the minimum. I mean, this was a close case. They don't really believe that, in their eyes, there was no actual burglary to the home itself. They based their verdict on what happened to Deputy Bracken.

So I don't believe that this is an 18-, you know, somewhere 20-year sentence. I believe that he should be sentenced to the minimum because the State essentially proved the minimum that they could prove which was an assault on an officer after him going on the porch.

You know, again, they didn't even believe he started the fire. They didn't blame him for going into the house. It was the assault on the officer.

So for those reasons, we would ask that you sentence him to the minimum. It's still 15 years. He's 50 years old. He'll still do another eight years in jail or so. So by that point, he'll be 58 years old.

His mother is sick. She was here day one. She has pneumonia. So she's 84 years old. He probably won't see her outside of the walls of the jail or courthouse again. So we're just asking that you sentence him to the minimum.

THE COURT: Anything else from the State?

MR. FRETWELL: Yes, Your Honor. Typically, I would not respond, but I feel like I need to respond in this particular case.

A lot of times people hear what they want to hear and I wasn't present for this conversation that the attorneys had in the back of the room. I'm not sure that the jurors really where they were seated had much of a choice. I question probably the wisdom of going back there before sentencing and having that conversation.

But, Judge, what seems clear from the facts that are being given by Mr. Crane is that the jury found a circumstance of aggravation for the burglary which they convicted this defendant of being the injury inflicted upon the nonparticipant, Investigator Bracken. So I just want that to be clear for the record unless the Court

intends to call these jurors up here.

I just think it's a bad practice, period, to have that kind of communication prior to sentence. But I did observe that happening, and I did see some discomfort among the members of the jury panel that stayed to watch the sentencing.

THE COURT: Okay. What is the credit?

MR. FRETWELL: He receives credit as of today, Your Honor, for 1,279 days.

THE COURT: 1,279 days?

MR. FRETWELL: That's correct, Judge.

SENTENCING

THE COURT: Mr. Moon, in Indictment 2022-GS-23-05028 for burglary in the first degree, the sentence of the Court is for you to be committed to the State Department of Corrections for 35 years. You will receive credit of 1,279 days.

Indictment 2022-GS-23-05028, the sentence of the Court is for you to be committed to the State Department of Corrections for ten years. This is to run concurrent with the sentence I just gave you.

Indictment 2022-GS-23-05028, the sentence of the Court is for you to be committed to the State Department of Corrections for five years. This is also to run concurrent with the sentence that I just gave you.

Indictment 2022-GS-23-05028, the sentence of the Court is for you to be committed to the county detention center for 30 days. And that is time served.

I wish you the best, sir.

(WHEREUPON, proceedings concluded at 9:26 PM.)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

I, CHERYL A. SMITH, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 13th, 14th, 15th, and 16th day of January, 2025.

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

April 4, 2025

Cheryl A. Smith

Cheryl A. Smith, CVR-M

Court Reporter

**WITNESSES**

Bennie Durham #706/260

Greenville County Sheriff's Office

7/17/2021

**ARREST WARRANT NUMBER**

2021A2330206517, 2021A2330206518, 2021A2330206519, 2021A2330206521 and 2021A2330206522

**ACTION OF GRAND JURY**

**TRUE BILL**

FOREMAN GRAND JURY

*Foreperson of Grand Jury*

**VERDICT**

*Foreperson of Petit Jury*
*Date:*

**AMENDED INDICTMENT**

DOCKET NO. ~~2024-GS-23-005028~~ 2022 AOF

**The State of South Carolina**

**County of Greenville**

**COURT OF GENERAL SESSIONS**

**June** **TERM 2024**

**THE STATE**

**vs.**

**MATTHEW TIMOTHY MOON**

**Amended Indictment for**
**2605, 3414, 3594, 0079, and 2551**

**THREATENING THE LIFE OF A PUBLIC OFFICIAL, ASSAULT AND BATTERY IN THE THIRD DEGREE, MALICIOUS DAMAGE TO PERSONAL PROPERTY (PURSUANT TO §16-01-57), BURGLARY IN THE FIRST DEGREE and ARSON IN THE SECOND DEGREE**

VIOLATION § 16-03-1040, § 16-03-0600, § 16-11-0510, § 16-11-0311 and § 16-11-0110

GH **ENTERED ACCT**

STATE OF SOUTH CAROLINA )
)
COUNTY OF GREENVILLE )

AMENDED INDICTMENT FOR
**THREATENING THE LIFE OF A PUBLIC OFFICIAL, ASSAULT AND BATTERY IN THE THIRD DEGREE, MALICIOUS DAMAGE TO PERSONAL PROPERTY (PURSUANT TO §16-01-57), BURGLARY IN THE FIRST DEGREE and ARSON IN THE SECOND DEGREE**

At a Court of General Sessions, convened on JUN 0 4 2024 the Grand Jurors of Greenville County present upon their oath:

**COUNT I – THREATENING THE LIFE OF A PUBLIC OFFICIAL**
**(Warrant 2021A2330206517)**

That MATTHEW TIMOTHY MOON did in Greenville County, on or about the 17th day of July, 2021, knowingly and willfully deliver or convey to DEPUTY MARISA BRACKEN, a verbal threat to inflict bodily harm upon or take the life of DEPUTY MARISA BRACKEN or members of her immediate family and the threat was directly related to DEPUTY MARISA BRACKEN'S professional responsibilities. This is in violation of §16-03-1040 of the South Carolina Code of Laws (1976) as amended.

**COUNT II – ASSAULT AND BATTERY IN THE THIRD DEGREE**
**(Warrant 2021A2330206518)**

That MATTHEW TIMOTHY MOON did in Greenville County, on or about the 17th day of July, 2021, unlawfully injure or offer to injure DEPUTY MARISA BRACKEN with the present ability to do so. This is in violation of §16-03-0600 of the South Carolina Code of Laws (1976) as amended.

**COUNT III – MALICIOUS DAMAGE TO PERSONAL PROPERTY (PURSUANT TO §16-01-57)**
**(Warrant 2021A2330206519)**

That MATTHEW TIMOTHY MOON did in Greenville County, on or about the 17th day of July, 2021, willfully and maliciously cut, shoot, maim, wound or otherwise injure or destroy the personal property of ANDREW GILCHRIST and STOREY GILCHRIST, to wit; a grill, the damage being valued at less than Two Thousand Dollars. This is in violation of § 16-11-0510 and § 16-01-0057 of the South Carolina Code of Laws (1976) as amended.

**COUNT IV – BURGLARY IN THE FIRST DEGREE**
**(Warrant 2021A2330206521)**

That MATTHEW TIMOTHY MOON did in Greenville County, on or about the 17th day of July, 2021, willfully and unlawfully enter the dwelling of ANDREW GILCHRIST and STOREY GILCHRIST located at 1 BREEDS HILL WAY, without consent and with the intent to commit a crime therein, and the burglary was accompanied by circumstances of aggravation, to wit: when effecting entry or while in the dwelling or in immediate flight, he was armed with a deadly weapon or explosive and/or caused physical injury to a person who was not a participant in the crime and/or used or threatened the use of a dangerous instrument. This is in violation of §16-11-0311 of the South Carolina Code of Laws (1976) as amended.

STATE OF SOUTH CAROLINA )
)
COUNTY OF GREENVILLE )

AMENDED INDICTMENT FOR
**THREATENING THE LIFE OF A PUBLIC OFFICIAL, ASSAULT AND BATTERY IN THE THIRD DEGREE, MALICIOUS DAMAGE TO PERSONAL PROPERTY (PURSUANT TO §16-01-57), BURGLARY IN THE FIRST DEGREE and ARSON IN THE SECOND DEGREE**

**COUNT V – ARSON IN THE SECOND DEGREE**
**(Warrant 2021A2330206522)**

That MATTHEW TIMOTHY MOON did in Greenville County on or about the 17th day of July, 2021, willfully and maliciously cause an explosion, and/or set fire to, and/or burn or cause to be burned, and/or aid, counsel or procure a burning that resulted in damage to a dwelling house and/or structure designed for human occupancy, whether the property belongs to himself or another person. This is in violation of §16-11-0110 of the South Carolina Code of Laws (1976) as amended.

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

SOLICITOR BAR # 17016

596

≤ 5 YRS
$/OR ≤ $5K

**STATE OF SOUTH CAROLINA** )
**COUNTY OF** Greenville )

**IN THE COURT OF GENERAL SESSIONS**

STATE
VS.
Matthew Timothy Moon

INDICTMENT/CASE#: 2022 - GS - 23 - 05028

AKA:
Race: WHITE Sex: M Age: 53
DOB: [redacted] SS#:: [redacted]
Address: [redacted] Rd
City, State, Zip: Greer, SC 29650
DL#: [redacted] SID#:

A/W#: 2021A2330206517
Date of Offense: 7/17/2021
S.C. Code §: 16-03-1040(B),(D)
CDR Code #: 2605

**SENTENCE SHEET**

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was ✓ CONVICTED OF or PLEADS TO: Threatening Life of Public Official

in violation of § 16-03-1040(B),(D) of the S.C. Code of Laws, bearing CDR Code # 2605

X NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: X As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

| Fretwell, Allen | 17016 | Defendant | CRANE, JEREMY | 103378 |
|---|---|---|---|---|
| | SC Bar # | | Attorney for Defendant | SC Bar# |

WHEREFORE, the Defendant is committed to the X **State Department of Correction, County Detention Center,** for a determinate term of 5 days/months/years/Time Served **Youthful Offender Act** not to exceed ___ years and/or to pay a fine of $ _____; provided that upon the service of ___ days/months/years/Time Served and or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
X CONCURRENT or CONSECUTIVE to sentence on: 1/16/25

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 1279 days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

**Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.**

STATE VS. Matthew Timothy Moon INDICTMENT/CASE#: 2022 - GS - 23 - 05028

**SPECIAL CONDITIONS:**

**PTUP** after _____ months/years

**And Other Terms Listed Below:**

Substance Abuse Counseling | Completion of GED | Random Drug/Alcohol Testing

Attend Voc. Rehab. or Job Corp | No Contact with Victim | Domestic Violence Intervention Program

Mental Health Counseling | May serve W/E beginning: _____

Sex Offender Registry pursuant to S.C. Code § 23-3-430 | Public Service Employment _____ days/hours

Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: _____

**RESTITUTION:** **Deferred** **Def. Waives Hearing** **Ordered**

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

| | | |
|---|---|---|
| *Fine: | | $ |
| Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ Beginning _____ | | |
| §14-1-206 (Assessments 107.5 %) | | $ |
| §14-1-211(A)(1) (Conv. Surcharge) | $100 | $100.00 |
| §14-1-211(A)(2) (DUI Surcharge) | $100 | $ |
| §56-5-2995 (DUI Assessment) | $12 | $ |
| §56-1-286 (DUI Breath Test) | $25 | $ |
| §14-1-212 (Law Enforce. Funding) | $25 | $25.00 |
| §14-1-213 (Drug Court Surcharge) | $150 | $ |
| §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs) | $41 | $ |
| §50-21-114(BUI Breath Test Fee) | $50 | $ |
| §56-5-2942(J) (Vehicle Assessment) | $40/ea | $ |
| 3% to County (if paid in installments) | TBD | $3.75 |
| Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees. | $500 | $ |
| § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund | TBD | $ |
| | **TOTAL** | $128.75 |

Clerk of Court/ Deputy Clerk: Jay Gresham

Court Reporter: C. Smith

Presiding Judge: _____

Judge Code: 2777

Sentence Date: 1-16-25

≤ 30 D

**STATE OF SOUTH CAROLINA** )
**COUNTY OF** Greenville )

**IN THE COURT OF GENERAL SESSIONS**

STATE
VS.
Matthew Timothy Moon
AKA:
Race: WHITE Sex: M Age: 53
DOB: [redacted] SS#:: [redacted]
Address: [redacted] Rd Apt 514
City, State, Zip: Greer, SC 29650
DL#: [redacted] SID#:

INDICTMENT/CASE#: 2022 - GS - 23 - 05028

A/W#: 2021A2330206518
Date of Offense: 7/17/2021
S.C. Code §: 16-03-0600(E)(1)
CDR Code #: 3414

**SENTENCE SHEET**

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was ✓ CONVICTED OF or PLEADS TO: Assault & Battery in the Third Degree

in violation of § 16-03-0600(E)(1) of the S.C. Code of Laws, bearing CDR Code # 3414

X NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: X As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Fretwell, Allen 17016 SC Bar # Defendant CRANE, JEREMY 103378 SC Bar#
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ✗ **State Department of Correction, County Detention Center,** for a determinate term of 30 days/months/years/Time Served **Youthful Offender Act** not to exceed ___ years and/or to pay a fine of $ _____; provided that upon the service of ___ days/months/years/Time Served and or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. _____days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

**Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.**

STATE VS. Matthew Timothy Moon INDICTMENT/CASE#: 2022 - GS - 23 - 05028

**SPECIAL CONDITIONS:**

**PTUP** after _____ months/years

**And Other Terms Listed Below:**

Substance Abuse Counseling | Completion of GED | Random Drug/Alcohol Testing

Attend Voc. Rehab. or Job Corp | No Contact with Victim | Domestic Violence Intervention Program

Mental Health Counseling | May serve W/E beginning: _____

Sex Offender Registry pursuant to S.C. Code § 23-3-430 | Public Service Employment _____ days/hours

Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: _____

**RESTITUTION:** **Deferred** **Def. Waives Hearing** **Ordered**

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

| | | |
|---|---|---|
| *Fine: | | $ |
| Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ Beginning _____ | | |
| §14-1-206 (Assessments 107.5 %) | | $ |
| §14-1-211(A)(1) (Conv. Surcharge) | $100 | $ 100.00 |
| §14-1-211(A)(2) (DUI Surcharge) | $100 | $ |
| §56-5-2995 (DUI Assessment) | $12 | $ |
| §56-1-286 (DUI Breath Test) | $25 | $ |
| §14-1-212 (Law Enforce. Funding) | $25 | $ 25.00 |
| §14-1-213 (Drug Court Surcharge) | $150 | $ |
| §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs) | $41 | $ |
| §50-21-114(BUI Breath Test Fee) | $50 | $ |
| §56-5-2942(J) (Vehicle Assessment) | $40/ea | $ |
| 3% to County (if paid in installments) | TBD | $ 3.75 |
| Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees. | $500 | $ |
| § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund | TBD | $ |
| | **TOTAL** | $ 128.75 |

Clerk of Court/ Deputy Clerk: Jay Gresham

Court Reporter: C. Smith

Presiding Judge: _____

Judge Code: 2777

Sentence Date: 1-16-25

600

≤ 10 yrs

**STATE OF SOUTH CAROLINA** )
)
**COUNTY OF** Greenville )
)
STATE )
VS. )
)
Matthew Timothy Moon )
AKA: )
Race: WHITE Sex: M Age: 53 )
DOB: [redacted] SS#:: [redacted] )
Address: [redacted] Rd Apt 514 )
City, State, Zip: Greer, SC 29650 )
DL#: [redacted] SID#: )
)

**IN THE COURT OF GENERAL SESSIONS**

INDICTMENT/CASE#: 2022 - GS - 23 - 05028

A/W#: 2021A2330206519
Date of Offense: 7/17/2021
S.C. Code § 16-11-0510(B)(3)
CDR Code #: 3594

**SENTENCE SHEET**

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was ✓ CONVICTED OF or PLEADS TO: Malicious Damage to Personal Property, Value $2000 or Less (Enhancement)

in violation of § 16-11-0510(B)(3) of the S.C. Code of Laws, bearing CDR Code # 3594

X NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: X As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Fretwell, Allen 17016 SC Bar # Defendant CRANE, JEREMY 103378 SC Bar# Attorney for Defendant

WHEREFORE, the Defendant is committed to the **State Department of Correction, County Detention Center,** for a determinate term of 10 days/months/years/Time Served **Youthful Offender Act** not to exceed ___ years and/or to pay a fine of $ _____; provided that upon the service of ___ days/months/years/Time Served and or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
✓ CONCURRENT or CONSECUTIVE to sentence on: 1/16/25

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 1279 days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

**Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.**

J

STATE VS. Matthew Timothy Moon INDICTMENT/CASE#: 2022 - GS - 23 - 05028

**SPECIAL CONDITIONS:**

**PTUP** after _____ months/years

**And Other Terms Listed Below:**

Substance Abuse Counseling | Completion of GED | Random Drug/Alcohol Testing

Attend Voc. Rehab. or Job Corp | No Contact with Victim | Domestic Violence Intervention Program

Mental Health Counseling | May serve W/E beginning: _____

Sex Offender Registry pursuant to S.C. Code § 23-3-430 | Public Service Employment _____ days/hours

Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: _____

**RESTITUTION:** **Deferred** **Def. Waives Hearing** **Ordered**

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

| | | |
|---|---|---|
| *Fine: | | $ |
| Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ Beginning _____ | | |
| §14-1-206 (Assessments 107.5 %) | | $ |
| §14-1-211(A)(1) (Conv. Surcharge) | $100 | $ 100.00 |
| §14-1-211(A)(2) (DUI Surcharge) | $100 | $ |
| §56-5-2995 (DUI Assessment) | $12 | $ |
| §56-1-286 (DUI Breath Test) | $25 | $ |
| §14-1-212 (Law Enforce. Funding) | $25 | $ 25.00 |
| §14-1-213 (Drug Court Surcharge) | $150 | $ |
| §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs) | $41 | $ |
| §50-21-114(BUI Breath Test Fee) | $50 | $ |
| §56-5-2942(J) (Vehicle Assessment) | $40/ea | $ |
| 3% to County (if paid in installments) | TBD | $ 3.75 |
| Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees. | $500 | $ |
| § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund | TBD | $ |
| | **TOTAL** | $ 128.75 |

Clerk of Court/ Deputy Clerk: Jay Gresham

Court Reporter: C. Smith

Presiding Judge: _____

Judge Code: 2777

Sentence Date: 1-16-25

602

15 Y - LIFE

**STATE OF SOUTH CAROLINA** )
**COUNTY OF** Greenville )

**IN THE COURT OF GENERAL SESSIONS**

STATE
VS.
Matthew Timothy Moon

INDICTMENT/CASE#: 2022 - GS - 23 - 05028

AKA:
Race: WHITE Sex: M Age: 53
DOB: [redacted] SS#:: [redacted]
Address: [redacted] Rd Apt 514
City, State, Zip: Greer, SC 29650
DL#: [redacted] SID#:

A/W#: 2021A2330206521
Date of Offense: 7/17/2021
S.C. Code §: 16-11-0311
CDR Code #: 0079

**SENTENCE SHEET**

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was ✓ CONVICTED OF or PLEADS TO: Burglary in the First Degree

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

NON-VIOLENT X VIOLENT X SERIOUS MOST SERIOUS Mandatory GPS §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: X As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Fretwell, Allen 17016 SC Bar # Defendant CRANE, JEREMY Attorney for Defendant 103378 SC Bar#

WHEREFORE, the Defendant is committed to the X **State Department of Correction, County Detention Center,**

for a determinate term of 35 days/months/years/Time Served **Youthful Offender Act** not to exceed ___ years and/or to pay a fine of $ _____; provided that upon the service of ___ days/months/years/Time Served and or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 1279 days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

**Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.**

STATE VS. Matthew Timothy Moon INDICTMENT/CASE#: 2022 - GS - 23 - 05028

**SPECIAL CONDITIONS:**

**PTUP** after _____ months/years

**And Other Terms Listed Below:**

Substance Abuse Counseling | Completion of GED | Random Drug/Alcohol Testing

Attend Voc. Rehab. or Job Corp | No Contact with Victim | Domestic Violence Intervention Program

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Sex Offender Registry pursuant to S.C. Code § 23-3-430 | Public Service Employment _____ days/hours

Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: _____

**RESTITUTION:** **Deferred** **Def. Waives Hearing** **Ordered**

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

| | | |
|---|---|---|
| *Fine: | | $ |
| Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ Beginning _____ | | |
| §14-1-206 (Assessments 107.5 %) | | $ |
| §14-1-211(A)(1) (Conv. Surcharge) | $100 | $ 100.00 |
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| §56-5-2995 (DUI Assessment) | $12 | $ |
| §56-1-286 (DUI Breath Test) | $25 | $ |
| §14-1-212 (Law Enforce. Funding) | $25 | $ 25.00 |
| §14-1-213 (Drug Court Surcharge) | $150 | $ |
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| §56-5-2942(J) (Vehicle Assessment) | $40/ea | $ |
| 3% to County (if paid in installments) | TBD | $ 3.75 |
| Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees. | $500 | $ |
| § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund | TBD | $ |
| | **TOTAL** | $ 128.75 |

Clerk of Court/ Deputy Clerk: Jay Gresham

Court Reporter: C. Smith

Presiding Judge: _____

Judge Code: 2777

Sentence Date: 1-16-25

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF GENERAL SESSIONS |
| | ) | THIRTEENTH JUDICIAL CIRCUIT |
| COUNTY OF GREENVILLE | ) | |
| STATE OF SOUTH CAROLINA | ) | Indictment No. 2022 GS-23-5028 |
| | ) | |
| vs | ) | **STIPULATION** |
| | ) | |
| MATTHEW TIMOTHY MOON,<br>Defendant. | ) | |

The State and the Defendant hereby agree the following statements are true and uncontested findings of fact in the trial of this case:

State's Exhibit 22, as compiled by Greenville County Deputy Quincy Greene, is a combination of the body-worn and in-car camera videos of various law enforcement officers during the investigation initiated by homeowner Storey Gilchrist on July 17, 2021 at 1 Breeds Hill Way in Greenville County. State's Exhibit 35 is body-worn camera footage of Deputy Wesley Bird during the investigation initiated by homeowner Storey Gilchrist on July 17, 2021 at 1 Breeds Hill Way in Greenville County. State's Exhibit 36 is body-worn camera footage of Master Deputy Kevin Azzara during the investigation initiated by homeowner Storey Gilchrist on July 17, 2021 at 1 Breeds Hill Way in Greenville County.

State's Exhibit 22, State's Exhibit 35, and State's Exhibit 36 are authentic, accurately reflect the events of that day (as redacted pursuant to Court rules of procedure and evidence), and are admissible at any point during the trial of this matter.

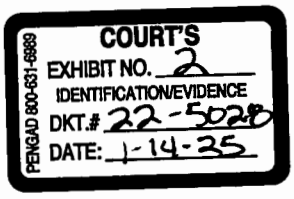
I SO STIPULATE:

Allen Fretwell, Attorney for State
Sarah Shugars, Attorney for State

I SO STIPULATE:

Jeremy Crane, Attorney for Defendant

January 14, 2025



| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF GENERAL SESSIONS |
| | ) | THIRTEENTH JUDICIAL CIRCUIT |
| COUNTY OF GREENVILLE | ) | |
| STATE OF SOUTH CAROLINA | ) | Indictment No. 2022 GS-23-5028 |
| | ) | |
| vs | ) | **STIPULATION** |
| | ) | |
| MATTHEW TIMOTHY MOON,<br>Defendant. | ) | |

The State and the Defendant hereby agree the following statements are true and uncontested findings of fact in the trial of this case:

Defendant Matthew Moon's latent palm print (from his right hand) was collected from the top of an overturned grill at 1 Breeds Hill Way in Greenville County by Forensic Technician Kristianna Weppler on July 17, 2021, during an investigation initiated by homeowner Storey Gilchrist. State's Exhibit 84 provides the result of the latent print examination by Lieutenant Tyler Bucholtz with Greenville County Forensics, which determined the latent print from the grill was made by Defendant's right palm. The result is authentic and is admissible at any point during the trial of this matter.

I SO STIPULATE:

Allen Fretwell, Attorney for State
Sarah Shugars, Attorney for State

I SO STIPULATE:

Jeremy Crane, Attorney for Defendant

January 15, 2025

COURT'S EXHIBIT NO. 3
IDENTIFICATION/EVIDENCE
DKT.# 22-5028
DATE:
PENGAD 800-631-6989

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF GENERAL SESSIONS |
| | ) | THIRTEENTH JUDICIAL CIRCUIT |
| COUNTY OF GREENVILLE | ) | |
| STATE OF SOUTH CAROLINA | ) | Indictment No. 2022 GS-23-5028 |
| | ) | |
| vs | ) | **STIPULATION** |
| | ) | |
| MATTHEW TIMOTHY MOON,<br>Defendant. | ) | |

The State and the Defendant hereby agree the following statements are true and uncontested findings of fact in the trial of this case:

Court's Exhibit 5 truly and accurately reflects Defendant Matthew Moon's GPS location data on July 17, 2021.

The following maps and videos were created by Greenville County Sheriff's Office Investigator Michael Land using Defendant Matthew Moon's GPS location data from July 17, 2021:

(a) State's Exhibit 75 truly and accurately reflects Defendant Matthew Moon's locations and movements with timestamps from 4:08PM to 5:10PM on or near Hudson Road and Breeds Hill Way;

(b) State's Exhibit 76 truly and accurately reflects Defendant Matthew Moon's locations and movements with timestamps from 4:08PM to 4:55PM on or near Hudson Road;

(c) State's Exhibit 77 truly and accurately reflects Defendant Matthew Moon's locations and movements on or near Hudson Road, Breeds Hill Way, and at the Polos Apartments;

(d) State's Exhibit 78 truly and accurately reflects Defendant Matthew Moon's locations and movement near 1 Breeds Hill Way Road;

(e) State's Exhibit 79 truly and accurately reflects Defendant Matthew Moon's locations and movements with timestamps from 3:08PM to 3:53PM on or near Hudson Road;

(f) State's Exhibit 80 truly and accurately reflects Defendant Matthew Moon's locations on or near Hudson Road and Breeds Hill Way with timestamps from 3:52PM to 5:06PM;

(g) State's Exhibit 81 truly and accurately reflects Defendant Matthew Moon's locations and movements on or near Hudson Road or Breeds Hill Way with timestamps from 3:59PM to 4:56PM;

(h) State's Exhibit 82 truly and accurately reflects Defendant Matthew Moon's locations and movements in real time at 1 Breeds Hill Way with timestamps from 4:56PM to 5:05PM; and

(i) State's Exhibit 83 truly and accurately reflects Hudson Road and Breeds Hill Way in 2021 as captured by Google Street View Images.

Some maps and videos utilize circular purple marks to indicate the Defendant's location. These marks truly and accurately depict the Defendant's location within 4 inches based on the Defendant's GPS coordinates.

These exhibits are authentic and admissible at any point during the trial of this matter.

I SO STIPULATE:

Allen Fretwell, Attorney for State
Sarah Shugars, Attorney for State

I SO STIPULATE:

Jeremy Crane, Attorney for Defendant

January 15, 2025

| | | |
|---|---|---|
| vSTATE OF SOUTH CAROLINA<br><br>COUNTY OF GREENVILLE | ) | IN THE COURT OF GENERAL SESSIONS<br>THIRTEENTH JUDICIAL CIRCUIT |
| STATE OF SOUTH CAROLINA<br><br>vs<br><br>MATTHEW TIMOTHY MOON,<br>Defendant. | ) | Indictment No. 2022 GS-23-5028<br><br>**STIPULATION** |

The State and the Defendant hereby agree the following statements are true and uncontested findings of fact in the trial of this case:

The following items were collected on July 17, 2021, from Defendant's person at either 1 Breeds Hill Way or 4 McGee Street in Greenville County and were on his person or in his possession at the time of the incident:

(a) State's Exhibit 23 is Defendant Matthew Moon's folding knife (approximately 8 inches when unfolded);

(b) State's Exhibit 24 is Defendant Matthew Moon's BIC lighter; and

(c) State's Exhibit 85 and State's Exhibit 86 are Metal Cans containing Defendant Matthew Moon's shoes.

All items are in substantially the same condition as when they were collected, with the exception of any changes due to analyses as part of the forensic examination process. These exhibits are authentic and admissible at any point during the trial of this matter.

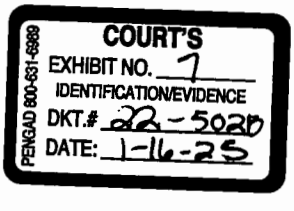
I SO STIPULATE:

Allen Fretwell, Attorney for State
Sarah Shugars, Attorney for State

I SO STIPULATE:

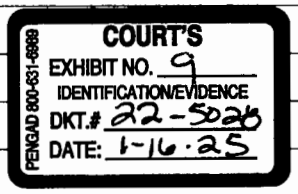
Jeremy Crane, Attorney for Defendant

January 16, 2025



Can you present us with elements of each crime.
i.e. the sheets that the state presented at the closing statements

Merrell Mell



COURT'S EXHIBIT NO. 10 IDENTIFICATION/EVIDENCE DKT.# 22-5028 DATE: 1-16-25 PENGAD 800-631-6989

**State v. Matthew Timothy Moon, 1/13/25 – 1/16/25 Greenville, SC**

***INTRODUCTION***

MEMBERS OF THE JURY, IT IS NOW MY DUTY AS THE TRIAL JUDGE TO INSTRUCT YOU ON THE LAW APPLICABLE TO THIS CASE. AND IN THAT REGARD, IT IS YOUR DUTY AS JURORS TO ACCEPT, AND APPLY THE LAW AS I NOW STATE IT TO YOU. FURTHERMORE, IT IS YOUR EXCLUSIVE DUTY TO DECIDE ALL THE ISSUES OF FACT IN THIS CASE, AND TO DETERMINE THE EFFECT, VALUE, WEIGHT, AND TRUTH OF THE EVIDENCE. ALL THE PARTIES HAVE THE RIGHT TO EXPECT THAT YOU WILL CAREFULLY CONSIDER AND EVALUATE THE EVIDENCE, AND APPLY THE LAW OF THIS CASE TO IT, SO THAT, IN THE END, ALL PARTIES WILL RECEIVE A FAIR AND IMPARTIAL TRIAL.

***DUTIES OF JURY AND TRIAL JUDGE***

I REMIND YOU THAT, DURING THIS TRIAL, YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE, IT IS MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE, AND I ALSO HAVE THE DUTY TO RULE ON THE ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THIS TRIAL. YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE BEFORE YOU. IF THERE WAS ANY TESTIMONY ORDERED STRICKEN FROM THE RECORD DURING THIS TRIAL, YOU MUST DISREGARD THAT TESTIMONY. YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED FROM THIS WITNESS STAND, ANY EXHIBITS WHICH HAVE BEEN MADE A PART OF THE RECORD IN THIS CASE, AND

ANY STIPULATIONS OF COUNSEL.

I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW APPLICABLE TO THIS CASE. AS THE PRESIDING JUDGE, I AM THE SOLE JUDGE OF THE LAW OF THIS CASE, AND IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I NOW STATE IT TO YOU. IF YOU ALREADY HAVE ANY IDEA AS TO WHAT THE LAW IS OR WHAT THE LAW OUGHT TO BE AND IT DOES NOT AGREE WITH WHAT I NOW TELL YOU THE LAW IS, YOU MUST ABANDON THIS IDEA BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY, THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE FACTS IN A CASE. A TRIAL JUDGE CANNOT INTIMATE, STATE, COMMENT ON, OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN A CASE. SINCE YOU, THE JURY, ARE THE SOLE JUDGE OF THE FACTS IN THIS CASE, YOU ARE NOT TO INFER FROM WHAT I HAVE SAID DURING THE PROGRESS OF THIS TRIAL IN RULING UPON THE ADMISSIBILITY OF EVIDENCE, OR OTHERWISE, OR ANYTHING THAT I SAY NOW DURING THE COURSE OF THIS INSTRUCTION TO YOU, THAT I HAVE ANY OPINION ABOUT THE FACTS IN THIS CASE. THE LAW DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS IN THIS CASE. THIS IS A MATTER SOLELY FOR YOU, THE JURY, TO DETERMINE. AS JURORS, IT IS YOUR DUTY TO DETERMINE THE EFFECT, VALUE, WEIGHT, AND TRUTH OF THE EVIDENCE PRESENTED DURING THIS TRIAL.

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***CHARGE, ARREST, INDICTMENT NOT EVIDENCE***

THE DEFENDANT IS CHARGED WITH THE FOLLOWING:

1) THREATENING THE LIFE OF A PUBLIC OFFICIAL;

2) ASSAULT AND BATTERY IN THE THIRD DEGREE;

3) MALICIOUS INJURY TO PERSONAL PROPERTY;

4) BURGLARY IN THE FIRST DEGREE; AND

5) ARSON IN THE SECOND DEGREE

I REMIND YOU THAT THE FACT THE DEFENDANT WAS ARRESTED, CHARGED AND INDICTED IN THIS CASE, IS NOT EVIDENCE IN THIS CASE AND CANNOT BE CONSIDERED BY YOU AS EVIDENCE OF GUILT IN THIS CASE, NOR DOES IT CREATE ANY PRESUMPTION OR INFERENCE OF GUILT. THESE DOCUMENTS ARE SIMPLY THE FORMAL WRITTEN INSTRUMENTS WHICH CONTAIN THE CHARGE(S) MADE AGAINST THE DEFENDANT. IT IS THE FORMAL DOCUMENTS BY WHICH THIS CASE IS BROUGHT INTO THIS COURT.

***MULTIPLE CHARGES***

THE INDICTMENTS IN THIS CASE ALLEGE SEVERAL DIFFERENT OFFENSES AGAINST THE DEFENDANT. EACH INDICTMENT CHARGES A SEPARATE AND DISTINCT OFFENSE. YOU MUST DECIDE EACH INDICTMENT SEPARATELY ON THE EVIDENCE AND THE LAW APPLICABLE TO IT UNINFLUENCED BY YOUR DECISION AS TO ANY OTHER INDICTMENT. THE DEFENDANT MAY BE CONVICTED OR ACQUITTED ON ANY OR ALL OF THE OFFENSES CHARGED. YOU WILL BE ASKED TO WRITE A SEPARATE VERDICT OF GUILTY OR NOT GUILTY FOR EACH

INDICTMENT.

***PRESUMPTION OF INNOCENCE***

THE DEFENDANT HAS PLED NOT GUILTY TO THIS INDICTMENT, AND THAT PLEA PUTS THE BURDEN ON THE STATE TO PROVE THE DEFENDANT GUILTY. A PERSON CHARGED WITH COMMITTING A CRIMINAL OFFENSE IN SOUTH CAROLINA IS NEVER REQUIRED TO PROVE HIMSELF INNOCENT.

I CHARGE YOU THAT IT IS AN IMPORTANT RULE OF THE LAW THAT THE DEFENDANT IN A CRIMINAL TRIAL, NO MATTER WHAT THE SERIOUSNESS OF THE CHARGE MAY BE, WILL ALWAYS BE PRESUMED TO BE INNOCENT OF THE CRIME FOR WHICH THE INDICTMENT WAS ISSUED UNLESS GUILT HAS BEEN PROVEN BY EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A REASONABLE DOUBT. THIS PRESUMPTION OF INNOCENCE DOES NOT END WHEN YOU BEGIN YOUR DELIBERATIONS, BUT IT ACCOMPANIES THE DEFENDANT THROUGHOUT THE TRIAL UNTIL YOU REACH A VERDICT OF GUILT BASED ON EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A REASONABLE DOUBT.

THE PRESUMPTION OF INNOCENCE IS NOT MERE LEGAL THEORY. IT IS NOT JUST A LEGAL PHRASE. IT IS A SUBSTANTIAL RIGHT TO WHICH EVERY DEFENDANT IS ENTITLED UNLESS YOU, THE JURY, ARE SATISFIED FROM THE EVIDENCE OF THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

614
***REASONABLE DOUBT***

THE STATE HAS THE BURDEN OF PROVING THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT. SOME OF YOU MAY HAVE SERVED AS JURORS IN CIVIL CASES, WHERE YOU WERE TOLD THAT IT IS ONLY NECESSARY TO PROVE THAT A FACT IS MORE LIKELY TRUE THAN NOT TRUE, SUCH AS BY THE GREATER WEIGHT OR PREPONDERANCE OF THE EVIDENCE. IN CRIMINAL CASES, THE STATE'S PROOF MUST BE MORE POWERFUL THAN THAT. IT MUST BE BEYOND A REASONABLE DOUBT. REASONABLE DOUBT IS THE KIND OF DOUBT THAT WOULD MAKE A REASONABLE PERSON HESITATE TO ACT.

PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT. THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW WITH ABSOLUTE CERTAINTY, AND IN CRIMINAL CASES THE LAW DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT. IF, BASED ON YOUR CONSIDERATION OF THE EVIDENCE, YOU ARE FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE CRIME CHARGED, YOU MUST FIND THE DEFENDANT GUILTY. IF ON THE OTHER HAND, YOU THINK THERE IS A REAL POSSIBILITY THAT THE DEFENDANT IS NOT GUILTY, YOU MUST GIVE THE DEFENDANT THE BENEFIT OF THE DOUBT AND FIND HIM NOT GUILTY. FACTS AND CIRCUMSTANCES THAT MERELY PLACE UPON THE DEFENDANT A GRAVE SUSPICION OF THE CRIME CHARGED OR THAT MERELY RAISE A SPECULATION OR CONJECTURE OF THE DEFENDANT'S GUILT ARE NOT

SUFFICIENT TO AUTHORIZE A CONVICTION OF THE ACCUSED.

***DIRECT AND CIRCUMSTANTIAL EVIDENCE***

FACTS IN ISSUE MAY BE PROVED EITHER BY DIRECT EVIDENCE OR INDIRECT EVIDENCE OR CIRCUMSTANTIAL EVIDENCE. IT IS DIRECT EVIDENCE IF IT PROVES A FACT WITHOUT AN INFERENCE AND WHICH IN ITSELF, IF TRUE, CONCLUSIVELY ESTABLISHES THAT FACT. DIRECT EVIDENCE IS BASICALLY EVIDENCE YOU CAN SEE, OBSERVE OR HEAR WITH YOUR SENSES.

CIRCUMSTANTIAL EVIDENCE MEANS THE PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT. IN OTHER WORDS, YOU MAY INFER THAT A PARTICULAR EVENT OCCURRED BASED ON PROOF OF CIRCUMSTANCES WARRANTING SUCH AN INFERENCE. IT IS NOT SOMETHING THAT ONE OBSERVES; BUT FROM FACTS ONE CAN DRAW A CONCLUSION.

CRIMES MAY BE PROVEN BY CIRCUMSTANTIAL EVIDENCE. THE LAW MAKES NO DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE; HOWEVER, TO THE EXTENT THE STATE RELIES ON CIRCUMSTANTIAL EVIDENCE, ALL OF THE CIRCUMSTANCES MUST BE CONSISTENT WITH EACH OTHER, AND WHEN TAKEN TOGETHER, POINT CONCLUSIVELY TO THE GUILT OF THE ACCUSED BEYOND A REASONABLE DOUBT. IF THESE CIRCUMSTANCES MERELY PORTRAY THE DEFENDANT'S BEHAVIOR AS SUSPICIOUS, THE PROOF HAS FAILED.

THE STATE HAS THE BURDEN OF PROVING THE DEFENDANT GUILTY BEYOND

A REASONABLE DOUBT. THE BURDEN RESTS WITH THE STATE REGARDLESS OF WHETHER THE STATE RELIES ON DIRECT EVIDENCE, CIRCUMSTANTIAL EVIDENCE, OR SOME COMBINATION OF THE TWO.

***WHAT IS NOT IN EVIDENCE***

THE FOLLOWING THINGS ARE NOT EVIDENCE AND YOU MUST NOT CONSIDER THEM AS EVIDENCE IN DECIDING THE FACTS OF THIS CASE: (1) STATEMENTS AND ARGUMENTS OF THE ATTORNEYS; AND (2) QUESTIONS AND OBJECTIONS OF THE ATTORNEYS.

WHILE ARGUMENT OF COUNSEL IS A BENEFICIAL PART OF EVERY TRIAL, YOU SHOULD REMEMBER THAT THE STATEMENTS MADE BY COUNSEL ARE NOT EVIDENCE. IN PRESENTING ARGUMENTS, COUNSEL OFTEN REFER TO EVIDENCE. HOWEVER, YOU SHOULD BASE YOUR VERDICT ON THE EVIDENCE AS YOU REMEMBER IT. THEREFORE, IF THERE ARE ANY CONFLICTS BETWEEN THE RECOLLECTION OF COUNSEL ABOUT THE EVIDENCE AND YOUR OWN RECOLLECTION, YOU SHOULD RELY UPON YOUR OWN UNDERSTANDING OF THE EVIDENCE.

***CREDIBILITY OF WITNESSES***

NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE. CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR DUTY AS JURORS TO ANALYZE AND TO EVALUATE THE EVIDENCE AND DETERMINE WHICH EVIDENCE CONVINCES YOU OF ITS TRUTH.

IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE, YOU MAY BELIEVE ONE WITNESS OVER SEVERAL WITNESSES OR SEVERAL WITNESSES OVER ONE WITNESS. YOU MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND REJECT THE REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS. YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS ENTIRETY. YOU MAY CONSIDER WHETHER ANY WITNESS HAS EXHIBITED TO YOU ANY INTEREST, BIAS, PREJUDICE, OR OTHER MOTIVE IN THIS CASE. YOU MAY ALSO CONSIDER THE APPEARANCE AND MANNER OF A WITNESS WHILE ON THE WITNESS STAND.

***EXPERT WITNESSES***

THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT WITNESSES TO TESTIFY TO OPINIONS OR CONCLUSIONS. AN EXCEPTION TO THIS RULE EXISTS FOR WITNESSES WE CALL "EXPERT WITNESSES". A WITNESS WHO, BY EDUCATION AND EXPERIENCE, HAS BECOME EXPERT IN SOME ART, SCIENCE, PROFESSION, OR CALLING MAY STATE AN OPINION AS TO RELEVANT AND MATERIAL MATTER, IN WHICH THE WITNESS CLAIMS TO BE AN EXPERT, AND MAY ALSO STATE THE REASONS FOR THE OPINION.

YOU SHOULD CONSIDER ANY EXPERT OPINION RECEIVED IN EVIDENCE IN THIS CASE AND, LIKE ANY OTHER EVIDENCE, GIVE IT THE WEIGHT YOU THINK IT DESERVES. IF YOU DECIDE THAT THE OPINION OF AN EXPERT WITNESS IS NOT BASED ON SUFFICIENT EDUCATION AND EXPERIENCE, OR IF YOU CONCLUDE

THAT THE REASONS GIVEN IN SUPPORT OF THE OPINION ARE NOT SOUND, OR THAT THE OPINION IS OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD THE OPINION ENTIRELY.

AN EXPERT WITNESS' TESTIMONY IS TO BE GIVEN NO GREATER WEIGHT THAN THAT OF OTHER WITNESSES SIMPLY BECAUSE THE WITNESS IS AN EXPERT. FURTHER, YOU ARE NOT REQUIRED TO ACCEPT AN EXPERT'S OPINION, EVEN THOUGH IT IS NOT CONTRADICTED.

***PRIOR INCONSISTENT STATEMENTS***

THERE HAS BEEN EVIDENCE PRESENTED THAT WITNESSES HAVE MADE PRIOR STATEMENTS WHICH ARE NOT CONSISTENT WITH THE WITNESSES' PRESENT TESTIMONY. YOU MAY USE THIS EVIDENCE TO DECIDE WHETHER TO BELIEVE THE WITNESS. YOU MAY ALSO USE EVIDENCE OF THE EARLIER CONTRADICTORY STATEMENTS TO DETERMINE THE TRUTH OF THOSE STATEMENTS. IT IS UP TO YOU TO DECIDE WHETHER TO BELIEVE THE EARLIER STATEMENTS OR THE TESTIMONY GIVEN AT TRIAL.

IF A WITNESS IS SHOWN TO HAVE KNOWINGLY TESTIFIED UNTRUTHFULLY CONCERNING ANY MATERIAL MATTER, YOU MAY CONSIDER THIS IN DETERMINING WHETHER TO TRUST THE WITNESS' TESTIMONY AS TO OTHER MATTERS. YOU MAY REJECT ALL TESTIMONY OF THAT WITNESS OR GIVE ALL OR PART OF THE TESTIMONY THE WEIGHT YOU THINK IT DESERVES.

***INTENT***

IN ORDER TO ESTABLISH CRIMINAL LIABILITY, CRIMINAL INTENT IS REQUIRED. FOR EXAMPLE, THE MENTAL STATE REQUIRED TO BE PROVEN BY THE STATE FOR A PARTICULAR CRIME MIGHT BE PURPOSE, INTENT, KNOWLEDGE, RECKLESSNESS, OR CRIMINAL NEGLIGENCE. CRIMINAL INTENT MUST BE PROVEN BY THE STATE BEYOND A REASONABLE DOUBT. CRIMINAL INTENT IS ALWAYS A MATTER THAT MUST BE DETERMINED BY THE JURY FROM THE CIRCUMSTANCES SURROUNDING THE SITUATION. THERE IS NO WAY TO PROVE INTENT TO A MATHEMATICAL CERTAINTY. THERE IS NO WAY MEDICAL SCIENCE CAN DISSECT A PERSON'S BRAIN AND DETERMINE WHAT THE PERSON HAD IN MIND, SO THE LAW SAYS THAT CRIMINAL INTENT MAY BE INFERRED FROM THE CIRCUMSTANCES SHOWN TO HAVE EXISTED. THIS IS HOW YOU MAKE A DETERMINATION OF WHETHER OR NOT THE ELEMENT REQUIRING INTENT WAS PRESENT. IT IS NOT NECESSARY TO ESTABLISH INTENT BY DIRECT AND POSITIVE EVIDENCE, BUT INTENT MAY BE ESTABLISHED BY INFERENCE IN THE SAME WAY AS ANY OTHER FACT BY TAKING INTO CONSIDERATION THE ACTS OF THE PARTIES AND ALL THE FACTS AND CIRCUMSTANCES OF THE CASE.

CRIMINAL INTENT IS A MENTAL STATE, A CONSCIOUS WRONG DOING. IT IS UP TO YOU TO DETERMINE WHAT THE DEFENDANT INTENDED TO DO BASED ON THE CIRCUMSTANCES SHOWN TO HAVE EXISTED.

CRIMINAL INTENT CAN ARISE FROM ACTION OR A FAILURE TO ACT. IT MAY ARISE FROM NEGLIGENCE, RECKLESSNESS, OR AN INDIFFERENCE TO DUTY OR TO CONSEQUENCES THAT IS CONSIDERED BY THE LAW TO BE THE EQUIVALENT

OF CRIMINAL INTENT.

***THREATENING THE LIFE OFA PUBLIC OFFICIAL***

THE DEFENDANT IS CHARGED WITH THREATENING THE LIFE OF A PUBLIC OFFICIAL. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THE DEFENDANT KNOWINGLY AND WILLFULLY DELIVERED OR CONVEYED TO A PUBLIC OFFICIAL A LETTER OR PAPER, WRITING, PRINT, MISSIVE, DOCUMENT, OR ELECTRONIC COMMUNICATION OR VERBAL OR ELECTRONIC COMMUNICATION WHICH CONTAINED A THREAT TO TAKE THE LIFE OF OR TO INFLICT BODILY HARM UPON THE PUBLIC OFFICIAL OR MEMBERS OF HIS IMMEDIATE FAMILY AND THE THREAT WAS DIRECTLY RELATED TO THE PUBLIC OFFICIAL'S RESPONSIBILITIES. A PUBLIC OFFICIAL IS AN ELECTED OR APPOINTED OFFICIAL OF THE UNITED STATES OR OF THIS STATE OR OF A COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THIS STATE. A DEPUTY SHERIFF IS A PUBLIC OFFICIAL.

A PERSON ACTS KNOWINGLY IF THE PERSONS ACTS WITH KNOWLEDGE, CONSCIOUSLY, AND NOT ACCIDENTALLY.

A PERSON ACTS WILLFULLY IF THE PERSON ACTS INTENTIONALLY AND IS AWARE OF WHAT HE IS DOING.

***ASSAULT AND BATTERY IN THE THIRD DEGREE***

THE DEFENDANT IS ALSO CHARGED WITH ASSAULT AND BATTERY IN THE THIRD DEGREE. A PERSON COMMITS THE OFFENSE OF ASSAULT AND BATTERY IN THE THIRD DEGREE IF THE PERSON UNLAWFULLY INJURES ANOTHER PERSON,

OR OFFERS OR ATTEMPTS TO INJURE ANOTHER PERSON WITH THE PRESENT ABILITY TO DO SO.

***MALICOUS INJURY TO PERSONAL PROPERTY***

THE DEFENDANT IS ALSO CHARGED WITH MALICIOUS INJURY TO PERSONAL PROPERTY. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WILLFULLY AND MALICIOUSLY CUT, SHOT, OR OTHERWISE INJURED OR DESTROYED THE PERSONAL PROPERTY OF ANOTHER PERSON.

WILLFULLY MEANS VOLUNTARILY AND INTENTIONALLY WITH THE SPECIFIC INTENT TO DO SOMETHING THE LAW FORBIDS.

MALICIOUSLY MEANS INVOLVING MALICE. MALICE IS HATRED, ILL-WILL, OR HOSTILITY TOWARDS ANOTHER PERSON. IT IS THE INTENTIONAL DOING OF A WRONGFUL ACT WITHOUT JUST CAUSE OR EXCUSE AND WITH AN INTENT TO INFLICT AN INJURY OR UNDER CIRCUMSTANCES THAT THE LAW WILL INFER AN EVIL INTENT.

MALICE MAY BE EXPRESS OR INFERRED. THESE TERMS, "EXPRESS" AND "INFERRED" DO NOT MEAN DIFFERENT KINDS OF MALICE BUT MERELY THE MANNER IN WHICH MALICE MAY BE SHOWN TO EXIST. THAT IS EITHER BY DIRECT EVIDENCE OR BY INFERENCE FROM THE FACTS AND CIRCUMSTANCES WHICH ARE PROVED. EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS WORDS WHICH EXPRESS HATRED OR ILL WILL FOR ANOTHER OR WHEN THE

PERSON PREPARED BEFOREHAND TO DO THE ACT WHICH WAS LATER ACCOMPLISHED.

MALICE MAY BE INFERRED FROM CONDUCT SHOWING A TOTAL DISREGARD FOR HUMAN LIFE.

THE STATE MUST ALSO PROVE BEYOND A REASONABLE DOUBT THAT THE VALUE OF THE PROPERTY IS $2000 DOLLARS OR LESS.

**BURGLARY – FIRST DEGREE**

THE DEFENDANT IS ALSO CHARGED WITH FIRST DEGREE BURGLARY. THE STATE MUST FIRST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT ENTERED A DWELLING WITHOUT CONSENT.

A DWELLING IS ANY BUILDING OR PORTION OF A BUILDING IN WHICH A PERSON ORDINARILY SLEEPS. A BUILDING IS A DWELLING EVEN IF THE RESIDENTS ARE TEMPORARILY ABSENT FROM THE BUILDING.

IN ORDER TO PROVE THAT THE DEFENDANT ENTERED THE DWELLING, THE STATE DOES NOT HAVE TO SHOW THAT THE DEFENDANT'S ENTIRE BODY ENTERED THE DWELLING. THE SMALLEST ENTRY IS SUFFICIENT. IT MAY BE ANY PART OF THE BODY, SUCH AS A HAND OR FOOT, OR EVEN AN INSTRUMENT, SUCH AS A HOOK OR OTHER INSTRUMENT. IN ADDITION, THE STATE DOES NOT HAVE TO PROVE THAT FORCE WAS USED TO GAIN ENTRY.

IF A PERSON ENTERS A BUILDING BY USING DECEPTION, ARTIFICE, TRICK, OR MISREPRESENTATION TO GET CONSENT TO ENTER, THIS IS AN ENTRY

WITHOUT CONSENT.

NEXT, THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT INTENDED TO COMMIT A CRIME, EITHER A FELONY OR A MISDEMEANOR, AT THE TIME OF THE ENTRY. THE MERE ENTRY INTO A DWELLING WITHOUT CONSENT IS NOT BURGLARY. IF THE INTENT TO COMMIT A CRIME IS FORMED AFTER THE ENTRY, IT IS NOT BURGLARY. ON THE OTHER HAND, IF THE DEFENDANT INTENDED TO COMMIT A CRIME AT THE TIME OF THE ENTRY, IT IS A BURGLARY EVEN IF THE INTENT WAS ABANDONED AFTER THE ENTRY. IT DOES NOT MATTER THAT THE INTENDED CRIME WAS NOT COMPLETED.

INTENT MAY BE SHOWN BY ACTS AND CONDUCT OF THE DEFENDANT AND OTHER CIRCUMSTANCES FROM WHICH YOU MAY NATURALLY AND REASONABLY INFER INTENT.

FINALLY, THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THE EXISTANCE OF ONE OF THE FOLLOWING AGGRAVATING CIRCUMSTANCE, SUCH AS:

(1) WHEN ENTERING, WHILE IN THE DWELLING, OR IN IMMEDIATE FLIGHT, THE DEFENDANT OR AN ACCOMPLICE CAUSED PHYSICAL INJURY TO ANYONE NOT PARTICIPATING IN THE CRIME; OR

(2) WHEN ENTERING, WHILE IN THE DWELLING, OR IN IMMEDIATE FLIGHT, THE DEFENDANT OR AN ACCOMPLICE USED OR THREATENED TO USE A DANGEROUS OBJECT; OR

(3) WHEN ENTERING, WHILE IN THE DWELLING, OR IN IMMEDIATE FLIGHT, THE DEFENDANT OR AN ACCOMPLICE DISPLAYED WHAT WAS OR APPEARED TO BE A KNIFE, PISTOL, REVOLVER, RIFLE, SHOTGUN, MACHINE GUN OR OTHER FIREARM: OR

(4) WHEN ENTERING, WHILE IN THE DWELLING, OR IN IMMEDIATE FLIGHT, THE DEFENDANT OR AN ACCOMPLICE WAS ARMED WITH A DEADLY WEAPON OR EXPLOSIVE.

A DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT, OR SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR GREAT BODILY HARM. WHETHER AN INSTRUMENT HAS BEEN USED AS A DEADLY WEAPON DEPENDS ON THE FACTS AND CIRCUMSTANCES OF EACH CASE.

THE FOLLOWING ARE EXAMPLES OF INSTRUMENTS WHICH MAY BE DEADLY WEAPONS: A PISTOL, A SHOTGUN, A RIFLE, A DIRK, A DAGGER, A KNIFE, A SLING SHOT, METAL KNUCKLES, A RAZOR, GASOLINE, A FIRE BOMB OR MOLOTOV COCKTAIL, AND LIGHTER FLUID. A GUN MAY BE A DEADLY WEAPON EVEN IF IT IS NOT OPERATING.

**SECOND DEGREE BURGLARY- § 16-11-312**

IF YOU FIND THAT THE STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED FIRST DEGREE BURGLARY, YOU MAY CONSIDER WHETHER THE STATE HAS PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED SECOND DEGREE

BURGLARY. SECOND DEGREE BURGLARY IS A LESSER INCLUDED OFFENCE OF FIRST DEGREE BURGLARY. SECOND DEGREE BURGLARY INCLUDES ALL OF THE ELEMENTS OF FIRST DEGREE BURGLARY EXCEPT THE EXISTANCE OF AN AGGRAVATING CIRCUMSTANCE. THEREFORE, THE STATE DOES NOT HAVE TO PROVE BEYOND A REASONABLE DOUBT THAT WHEN EFFECTING ENTRY OR WHILE IN THE DWELLING OR IN IMMEDIATE FLIGHT THE DEFENDANT CAUSED PHYSICAL INJURY TO A PERSON WHO WAS NOT A PARTICIPANT IN THE CRIME; OR USED OR THREATENED THE USE OF A DANGEROUS INSTRUMENT; OR WAS ARMED WITH A DEADLY WEAPON OR EXPLOSIVE. TO PROVE THE DEFENDANT COMMITTED SECOND-DEGREE BURGLARY THE STATE ONLY HAS TO PROVE THAT THE DEFENDANT ENTERED A DWELLING WITHOUT CONSENT AND WITH THE INTENT TO COMMIT A CRIME THEREIN BEYOND A REASONABLE DOUBT.

***ARSON IN THE SECOND DEGREE***

IN ORDER TO PROVE SECOND DEGREE ARSON, THE STATE MUST FIRST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WILLFULLY AND MALICIOUSLY CAUSED AN EXPLOSION, SET FIRE TO, BURNED, CAUSED TO BE BURNED, AIDED, COUNSELED, OR PROCURED THE BURNING OF CERTAIN PROPERTIES. WILLFULLY MEANS THAT IT WAS NOT DONE BY ACCIDENT, BUT WAS DONE KNOWINGLY OR INTENTIONALLY. IT MUST BE SHOWN THAT THE BURNING WAS BY THE WILLFUL ACT OF SOME PERSON AND NOT AS A RESULT OF A NATURAL OR ACCIDENTAL CAUSE.

MALICIOUSLY MEANS WITH HATRED, ILL WILL, OR HOSTILITY TOWARD ANOTHER PERSON. A PERSON WHO INTENTIONALLY DOES A WRONGFUL ACT WITHOUT LEGAL JUSTIFICATION OR EXCUSE DOES THE ACT MALICIOUSLY. A MALICIOUS BURNING IS AN ACT DONE WITH A CONDITION OF MIND THAT SHOWS A HEART BENT ON MISCHIEF, SHOWING A DESIGN TO DO AN INTENTIONAL WRONG ACT TOWARD ANOTHER OR TOWARD THE PUBLIC, WITHOUT ANY LEGAL JUSTIFICATION OR EXCUSE. THIS MALICE NEED NOT BE EXPRESS, BUT MAY BE INFERRED.

BURNING MEANS ACTUAL COMBUSTION OF SOME PORTION OF A PIECE OF PROPERTY. IT IS NOT NECESSARY THAT THE PROPERTY BE CONSUMED OR DESTROYED. CHARRING OF THE MATERIAL OF WHICH THE PROPERTY IS CONSTRUCTED OR A CHANGE IN THE FIBER OR COMPOSITION OF THE STRUCTURE, IS REQUIRED FOR A BURNING. SINGEING, SMOKING, BLISTERING, SCORCHING, OR DISCOLORING BY THE HEAT, HOWEVER, IS NOT ENOUGH TO CONSTITUTE A BURNING.

NEXT, THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE PROPERTY WHICH WAS BURNED WAS A DWELLING HOUSE. A DWELLING HOUSE IS A BUILDING IN WHICH A PERSON ORDINARILY SLEEPS.

***VOLUNTARY INTOXICATION***

VOLUNTARY INTOXICATION DOES NOT CONSTITUTE A DEFENSE TO A CRIME. A PERSON WHO VOLUNTARILY BECOMES INTOXICATED IS JUST AS

RESPONSIBLE FOR ACTS COMMITTED WHILE INTOXICATED AS WHEN THE PERSON IS NOT INTOXICATED.

***PUNISHMENT***

IN DETERMINING THE GUILT OR INNOCENCE OF THE DEFENDANT, YOU CANNOT CONSIDER ANY POSSIBLE PENALTY FOR ANY PARTICULAR CRIME. THE PUNISHMENT FOR THE CRIME(S) IS A MATTER FOR ME TO DETERMINE AND SHOULD NEVER BE CONSIDERED BY YOU IN ANY WAY WHATSOEVER IN ARRIVING AT AN IMPARTIAL VERDICT AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT.

***FAIR AND IMPARTIAL TRIAL***

MISTER FOREPERSON AND LADIES AND GENTLEMEN OF THE JURY, I WISH TO EXPRESS THE HOPE THAT EACH OF YOU WILL BE MINDFUL OF THE IMPORTANCE OF YOUR RESPONSIBILITY. YOU ARE NOT CALLED UPON TO SERVE AS JURORS VERY OFTEN, AND THE PROPER PERFORMANCE OF THE DUTY REQUIRES EACH OF YOU TO REACH THE HEIGHT OF FREEING YOUR MIND OF ALL IMPROPER INFLUENCES.

AS THE PRESIDING OFFICER OF THIS COURT, I AM VITALLY CONCERNED THAT WHATEVER VERDICT YOU FIND WILL BE THE RESULT OF YOUR GOING INTO THE JURY ROOM AND CONFINING YOUR CONSIDERATION TO THE EVIDENCE AND THE LAW THAT YOU HAVE HEARD IN THIS COURTROOM,

WEIGHING IT FAIRLY AND IMPARTIALLY, AS I HAVE EVERY CONFIDENCE YOU WILL DO.

YOUR VERDICT IN THIS CASE CANNOT BE BASED ON SYMPATHY, COMPASSION, PREJUDICE, OR EMOTION OR SOME OTHER CONSIDERATION NOT FOUND IN THE EVIDENCE. REMEMBER, YOUR VERDICT MUST BE UNANIMOUS. I WILL NOW EXPLAIN THE VERDICT FORM AND POSSIBLE VERDICTS.

***JURY VERDICT***

THERE ARE **TWO** POSSIBLE VERDICTS FOR EACH CHARGE WHICH YOU MAY FIND IN THIS CASE: THERE IS NO SIGNIFICANCE WHATSOEVER IN THE ORDER IN WHICH I STATE THESE POSSIBLE VERDICTS; IT IS SIMPLY THAT ONE MUST BE STATED FIRST.

LADIES AND GENTLEMEN, YOUR VERDICT MUST BE A UNANIMOUS ONE. MR. FOREPERSON, WHEN THE JURY AGREES ON THE VERDICT, YOU WILL WRITE THE VERDICT ON THE VERDICT FORM AND THEN SIGN YOUR NAME AS FOREPERSON. THEN KNOCK ON THE JURY ROOM DOOR AND INFORM THE BAILIFF THAT YOU HAVE REACHED A VERDICT. AT THAT TIME, WE WILL RECEIVE YOU BACK INTO THE COURTROOM.

MR. FOREPERSON, IF THE JURY HAS ANY QUESTIONS PLEASE WRITE THE QUESTION ON A PIECE OF PAPER, NOT THE VERDICT FORM, AND GIVE TO THE BAILIFF. EVERYONE NEEDS TO BE PRESENT WHEN DELIBERATING. IF ONE OF YOU TAKES A RESTROOM BREAK, THEN THE REST OF YOU SHOULD PAUSE

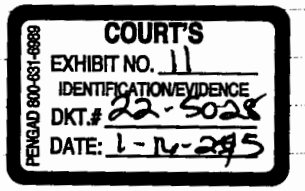
DELIBERATIONS UNTIL SAID PERSON RETURNS. I ASK THAT YOU NOW RETURN TO YOUR JURY ROOM BUT DO NOT BEGIN DELIBERATIONS UNTIL YOU ARE TOLD BY THE CLERK OR THE BAILIFF TO DO SO. THERE ARE SOME MATTERS WHICH MUST BE DISCUSSED WITH THE ATTORNEYS BEFORE YOU BEGIN YOUR DELIBERATIONS.

Does "armed" mean on his person or out and in his hands?

PLEASE READ THE CHARGE.

Thank you,

JUDGE FANT 4:37 pm 1/16/25



**CERTIFICATE OF COUNSEL FOR APPELLANT**

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

Jordan Wayburn
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 28th day of October, 2025.

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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Greenville County

Honorable Patrick Cleburne Fant, III, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

MATTHEW TIMOTHY MOON,

APPELLANT

APPELLATE CASE NO. 2025-000139

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CERTIFICATE OF SERVICE

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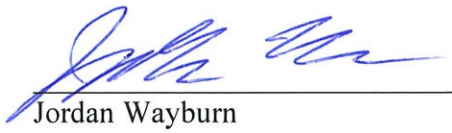
Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Ambree M. Muller, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 28th day of October, 2025.



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