

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY

George C. James, Jr., Circuit Court Judge

RECEIVED

APR 28 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ROY DONELL MOORE,

APPELLANT

APPELLATE CASE NO. 2013-001137

RECORD ON APPEAL

LARA M. CAUDY
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

Attorneys for Respondent

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT #1 (CD of 9-1-1 Call)**

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE	)	2012-GS-45-0183
	)	
	)	
	)	
State of South Carolina	)	)
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Roy Donell Moore	)	)
<u>DEFENDANT</u>	)	May 16, 2013
		Williamsburg, SC

B E F O R E:

THE HONORABLE GEORGE C. JAMES, JR., JUDGE AND A JURY.

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

KIMBERLY V. BARR, ASSISTANT SOLICITOR
Attorney for the State

AMANDA SHULER, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

KESHIA REED
Official Court Reporter

	<u>I N D E X</u>				
	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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3	S-1	CD of 9-1-1 Call		110
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1 THE COURT: All right. We'll begin now. Would
2 you call the indictment number please, Ms. Barr.

3 MS. BARR: Your Honor, please the Court. First
4 matter this morning is indictment number 2012-GS-45-183.
5 It's the State vs. Roy Donell Moore. It's an indictment
6 for burglary in the third degree. He's being represented
7 by Mrs. Amanda Shuler.

8 THE COURT: Okay. And you have a motion, Mrs.
9 Shuler?

10 MS. SHULER: I do, Your Honor. I have a motion
11 to suppress the eye witness identification of Mr. Moore.

12 THE COURT: Okay. Under Neil vs. Biggers in
13 other cases?

14 MS. SHULER: Yes, sir, State vs. Brown and State
15 vs. Moore.

16 THE COURT: Okay. Ms. Barr, you have a witness?

17 MS. BARR: Yes, we do.

18 THE COURT: You can call your witness. '

19 MS. BARR: Officer Ron Dozier.

20 THE CLERK: Place your left hand on the Bible
21 and raise your right hand. Do you solemnly swear or
22 affirm to tell the truth, the whole truth, and nothing but
23 the truth so help you God?

24 THE WITNESS: I do.

25 THE CLERK: Have a seat in the witness box.

1 THE COURT: Are you going to have the victim
2 here?

3 MR. BROWN: I'm bringing him down right now,
4 Your Honor.

5 THE COURT: So the victim is I assume going to
6 testify?

7 MR. BROWN: Yes, sir.

8 THE COURT: Go ahead and question the witness.

9 MS. BARR: Please the Court.

10 WHEREUPON,

11 Ron Dozier,
12 after first having been duly sworn, testified as follows:

13 DIRECT EXAMINATION IN-CAMERA

14 BY MS. BARR:

15 Q Sir, state your full name for the record?

16 A Ronitto Dozier.

17 Q And where are you employed?

18 A Currently, I'm employed with Moncks Corner Police
19 Department.

20 Q All right. Back in the summer of 2012, where were
21 you working?

22 A Working with the Kingstree Police Department.

23 Q You were a certified police officer?

24 A Yes, ma'am.

25 Q Now, sir, back on the afternoon of June 4th of 2012,

1 did you respond to a call regarding a burglary at the home
2 of a Bryan Keith Kline?

3 A Yes, ma'am, I did.

4 Q All right. And where was the address?

5 A The address was [REDACTED]

6 Q Okay. All right. And at that time, did you speak
7 with Mr. Kline?

8 A Yes, ma'am, I did.

9 Q Did he tell you the facts and circumstances
10 surrounding the burglary?

11 A Yes, ma'am.

12 Q All right. What time did you arrive at the scene?

13 A My arrival time 1325, 1:25.

14 Q 1:25 p.m.?

15 A Yes, ma'am.

16 Q And what time was the call placed to 9-1-1?

17 A 1:23.

18 Q 1:23 p.m. All right. So you arrived about two
19 minutes later?

20 A Yes, ma'am.

21 Q All right. And based on your conversation with
22 Mr. Kline, tell me what you did as a result of that
23 conversation?

24 A When I arrived on scene I spoke with ---

25 Q Make sure you keep you voice up.

1 A --- with Mr. Kline, he said that he was inside his
2 residence packing putting it in storage. He said he heard
3 some noise and things falling from the inside his shed.
4 He went to the back saw that the back door was open to the
5 shed. He walked in and saw an unidentified subject
6 walking around going through things without his knowledge.
7 Mr. Kline said he then yelled at the subject who was later
8 identified as Mr. Moore, in which he saw him -- which I
9 saw him in the area probably about ten minutes prior to
10 getting to the scene, clothing description riding on a
11 green bicycle.

12 Q Now, when you say you saw him in the area ten minutes
13 prior, when you say the area tell us specifically where he
14 was?

15 A He was on Highway 52 across from I believe Cumbee's.

16 Q Cumbee Tire?

17 A Yes, ma'am.

18 Q All right. How far from that area was the victim's
19 home?

20 A Not even two or three minutes, not even block.

21 Q Okay. All right. So when you speak with Mr. Kline
22 what description does he give you for the suspect?

23 A He gave me a black male wearing a gray T-shirt and
24 blue jean pants.

25 Q Okay. All right. And did you then call that

1 description out over your radio?

2 A Yes, ma'am, I did.

3 Q All right. And tell us the next thing that happened?

4 A From point where...

5 Q After you give him the description of the radio?

6 A After I gave the description on the radio, Mr. Moore
7 was spotted on Sumter Highway by a county unit, which I
8 went out and met the county unit out there and spoke with
9 Mr. Moore and he was detained. He was brought back to the
10 residence for identification and the victim ID's him and
11 said that was him.

12 Q Now, you said that he was met -- Mr. Moore was met
13 by a county unit?

14 A Yes, ma'am.

15 Q Would that be Deputy Lloyd Hayes?

16 A Yes, ma'am.

17 Q All right. And again once for clarity, once you
18 arrived on the scene, how long of a time span it was
19 between the time you got there and the time Deputy Loy
20 Hayes communicated to you that they had found someone who
21 matched that description?

22 A Probably within five minutes.

23 Q Okay. All right. I'm going to hand you the cad
24 report in connection with this case. Have you ever seen
25 one of those?

1 A Yes, ma'am.

2 Q All right. And tell us very briefly what the cad
3 report is?

4 A The cad report gives details of the incident where we
5 all at all times where we call out on the radio where our
6 location at.

7 Q Okay. And as it relates to the cad report in this
8 case, does it reflect that this was done on June 4, 2012?

9 A Yes, ma'am.

10 Q All right. And what time does it reflect that the
11 call was -- the dispatch record was created?

12 A 1:24.

13 Q 1:24 p.m.?

14 A Uh-huh.

15 Q Make sure you keep your voice up for me. After you
16 arrived on scene, you indicated that a deputy spotted
17 Mr. Moore; is that right?

18 A Yes, ma'am.

19 Q About what time was it that the deputy spotted
20 Mr. Moore?

21 COURT REPORTER: I can't hear him.

22 THE COURT: You need to speak as if she's not
23 standing next to you.

24 BY MS. BARR:

25 Q Because the court reporter has to hear you make sure

1 to keep your voice...

2 A Should be 1337.

3 Q 1337, 1:37 p.m.?

4 A Yes, ma'am.

5 THE COURT: What was that time please? What was
6 the significance of that time?

7 MS. BARR: This is the time in which the county
8 units spotted an individual matching the description.

9 BY MS. BARR:

10 Q Is that right?

11 A Yes, ma'am.

12 Q Okay. What happened at the 1329 p.m.?

13 A That's when I gave the description out on the radio.

14 Q Okay. And you gave the description as a black male
15 riding a red bike, wearing a green sweat shirt and blue
16 jeans; is that right? Is that right? She needs to hear
17 your answer.

18 A According to the thing that's what it says on a
19 bicycle.

20 Q All right. And at 1:37 is when Deputy Hayes picked
21 up the subject matching that description?

22 A Yes, ma'am.

23 Q Okay. Can you tell me what time it was that either
24 you or Deputy Hayes would have brought Mr. Moore back to
25 the home of the victim?

1 A Should be 1:40.

2 Q 1:40? That's when you got on the scene -- back on
3 the scene?

4 A Right.

5 Q All right. Now, in terms of the victim's
6 identification of Mr. Moore, tell us what happened when
7 Deputy Hayes or yourself actually brought the defendant to
8 the home of the victim?

9 A When he was brought back to the scene, Mr. Kline goes
10 to tell me, Well, that's him, that's the guy right there.

11 Q Okay. And in terms of Mr. Kline making that comment
12 to you or that statement to you and that identification,
13 did he seem to hesitate at all?

14 A No, ma'am.

15 Q All right. Did he seem to have any uncertainty about
16 it?

17 A No, ma'am.

18 Q All right. Was it an instant recognition or was
19 there some period of delay?

20 A Instant recognition no delay.

21 Q Okay. All right. Now, this happened at about
22 1:30 in the day?

23 A Yes, ma'am.

24 Q Do you remember whether or not it was raining at all
25 or cloudy?

1 A It was not raining.

2 Q All right. In terms of the area, the one mile area
3 that you traveled or half mile or however this incident
4 was that you traveled, did you see any other individuals
5 at that time who matched the description that the victim
6 initially gave to you?

7 A No, ma'am.

8 Q Okay.

9 MS. BARR: That's all the questions I have.
10 Please answer any questions opposing counsel may have for
11 you.

12 CROSS-EXAMINATION IN-CAMERA

13 BY MS. SHULER:

14 Q Now, Officer Dozier, what exactly was the description
15 that Mr. Kline gave to you that day?

16 A A black male wearing a gray T-shirt and blue jeans.

17 Q Okay. Nothing else?

18 A He gave a bicycle and he was uncertain what the color
19 to the bicycle was.

20 Q He was uncertain about the color of the bicycle?

21 A Yes, ma'am.

22 Q That's your testimony today?

23 A Yes.

24 Q Now, Mr. Kline made a call to 9-1-1 that night, did
25 he not? Or that day?

1 A That day.

2 Q Okay. Now, how did you get the description of the
3 allege defendant?

4 THE COURT: Wait just a second.

5 BY MS. SHULER:

6 Q Wait one second, I'm sorry. Where did you get the
7 description?

8 A Through dispatch also and then when I arrived on
9 scene I spoke with Mr. Kline also stated to me a black
10 male ---

11 THE COURT: He's going to need to keep his voice
12 up or going -- it will be totally ineffective for me to
13 hear.

14 BY MS. SHULER:

15 Q Where did you get the description of the alleged
16 defendant?

17 A Through the description that dispatch gave us and
18 also by me speaking with Mr. Kline.

19 Q Okay. And it's your testimony that he was unsure
20 about the color of the bicycle?

21 A Unknown color of the bicycle at the time.

22 Q I'm going to play for you a copy of the 9-1-1 tape.
23 Did you ever hear the copy of the 9-1-1 tape?

24 A No, ma'am, I have not. This my first time hearing
25 it.

1 Q Did the dispatcher dispatch out to you the
2 description of the defendant?

3 A Yes, ma'am, according to the...

4 (WHEREUPON, 9-1-1 tape being played.)

5 BY MS. SHULER:

6 Q Just one more question for you. You've spoken with
7 Mr. Kline before?

8 A Yes, ma'am, I did on scene.

9 Q And you could recognize his voice if you heard it
10 again?

11 A Probably not. I deal with a lot of people.

12 Q Okay. Well, I'm going to let you listen to this tape
13 and see if you recognize his voice, okay.

14 (WHEREUPON, 9-1-1 tape being played.)

15 BY MS. SHULER:

16 Q Out of those voices, do you recognize which one could
17 be Mr. Kline's?

18 A Yes, ma'am.

19 (WHEREUPON, 9-1-1 tape being played.)

20 BY MS. SHULER:

21 Q Okay. What color did Mr. Kline describe the bicycle
22 that Mr. Moore was riding, allegedly riding?

23 A Red bicycle.

24 Q Okay. Now, what part of that is unsure about the
25 color of the bicycle?

1 A None at all.

2 Q Okay. That indicates certainty, am I right?

3 A Yes, ma'am.

4 Q He said unequivocally he was riding a red bicycle, am
5 I right?

6 A Yes.

7 Q Okay. And you said that you saw Mr. Moore earlier
8 that day?

9 A Yes, ma'am.

10 Q About ten minutes earlier is what your testimony was?

11 A Yes, ma'am.

12 Q And you said he was riding a green bicycle?

13 A Yes, ma'am.

14 Q Now, green or red aren't on the same spectrum are
15 they, completely different colors?

16 A Yes, ma'am.

17 Q Now, whenever you took Mr. Moore after you detained
18 him and took him over to Mr. Kline's house, he was in the
19 back of the police car?

20 A Yes, ma'am.

21 Q In handcuffs?

22 A Yes, ma'am.

23 Q And you said is this the man?

24 A Brought him out and said is this the man, he said
25 that's him. That's him.

1 Q Didn't do a photo lineup?

2 A No, ma'am.

3 Q You took Mr. Moore back over to [REDACTED]
4 in handcuffs in a car? Am I right?

5 A Yes, ma'am. He was detained, he wasn't under arrest.

6 Q He wasn't under arrest?

7 A No, ma'am.

8 Q Was he free to leave?

9 A No, ma'am.

10 Q That would make him under arrest then, wouldn't it?

11 THE COURT: He was in custody.

12 BY MS. SHULER:

13 Q Now, you put a black male, tall black male in
14 handcuffs in the back of the car, that's a very suggestive
15 identification, is it not? Method of identification? You
16 don't give him any choices, do you?

17 A No, ma'am.

18 Q It's either yes or no. Am I right?

19 A You're right.

20 THE COURT: You're talking about the victim or
21 the defendant had no choices?

22 MS. SHULER: The victim.

23 BY MS. SHULER:

24 Q The victim has no choice other than yes or no?

25 A Yes, ma'am.

1 MS. SHULER: I have no further questions.

2 THE COURT: Redirect?

3 MS. BARR: No, Judge. No, sir.

4 THE COURT: May I ask a question any objection?

5 MS. BARR: None from the State.

6 MS. SHULER: None from the defendant.

7 THE COURT: Do you know what color the bicycle
8 was when Deputy Hayes apprehended the defendant or would
9 Deputy Hayes be better able to answer that question?

10 OFFICER DOZIER: I believe it was a green
11 bicycle.

12 THE COURT: All right. Any follow up, Ms. Barr?

13 MS. BARR: No, Your Honor.

14 THE COURT: Ms. Shuler?

15 MS. SHULER: No, Your Honor.

16 THE COURT: All right. You can step down.
17 Thank you.

18 (WHEREUPON, the witness leaves the witness
19 stand.)

20 THE COURT: Next witness.

21 MS. BARR: Mr. Kline.

22 THE CLERK: Place your left hand on the Bible
23 and raise your right hand. Do you solemnly swear or
24 affirm to tell the truth and nothing but the truth so help
25 you God?

1 THE WITNESS: Yes, ma'am.

2 THE CLERK: Step around to the witness box.

3 WHEREUPON,

4 Brian K. Kline,

5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION IN-CAMERA

7 BY MS. BARR:

8 Q Sir, state your full name for the record please?

9 A Bryan Kline.

10 Q All right. Mr. Kline, you live at [REDACTED]

11 [REDACTED]?

12 A I did. I move to Cades now.

13 Q All right. And you were living there back on

14 June 4th of 2012; is that correct?

15 A Yes, ma'am.

16 Q All right. On that day at about, I guess, would be

17 1:15, 1:20, did you see an individual in your yard?

18 A Yes, ma'am.

19 Q Okay. Tell us very briefly the facts and

20 circumstances that alerted you that someone was on your

21 property?

22 A I was in the process of moving. My shed's got two

23 separate parts and I was cleaning Kline out the front part

24 packing stuff up. And I heard something moving around in

25 the back part.

1 Q Okay.

2 A And I walked around to see what it was and seen a guy
3 come out of my building with my drill.

4 Q And I know this been almost a year ago, but describe
5 the individual who came out of your shed with the grill?
6 Just describe him as he appeared that day.

7 A He was about 6'2, wearing a gray T-shirt, blue jeans.
8 I think, he had a gold tooth and he was nervous. And I
9 ask him what he was doing. And he said that somebody had
10 told him that he could have that stuff and I said, no,
11 sir, that's my stuff.

12 Q Okay.

13 A And he put it back and I told him to sit down because
14 I was going to call the police.

15 Q Okay.

16 A He got down on his knees started crying saying don't
17 call the police. I want never come back here again. I
18 said, no, I'm going to call the police. So I said wait
19 for that.

20 Q Okay.

21 A And when I went to go get my phone, he took off and
22 got on a bicycle and I called the police.

23 Q All right. Now, the -- in terms of the time that
24 exchange took place from the time you saw the individual
25 taking the grill, up until the time where that person took

1 off running, how much time do you think it expired?

2 A Probably four to five minutes.

3 Q Forty-five or four to five?

4 A Four to five.

5 Q Okay. All right. And did you think that gave you
6 enough opportunity to allow you to remember him and
7 recognize him?

8 A Yes, ma'am.

9 Q Okay. After that individual took off, did the police
10 later come back with somebody?

11 A Yes, ma'am.

12 Q How much time do you think went by between the time
13 the individual ran off and the time the police came back
14 to your house?

15 A Approximately 20 minutes.

16 Q Okay. All right. And when they came back with this
17 individual, did you recognize?

18 A Yes, ma'am.

19 Q Did you immediately recognize that individual?

20 A Yes, ma'am.

21 Q All right. Was there any doubt or hesitation in your
22 mind?

23 A No, ma'am.

24 Q Okay. All right. And did the individual have, who
25 the police brought back to you to see if you can identify,

1 have the same clothes as the person who was taking the
2 grill from your shed?

3 A Yes, ma'am.

4 Q All right. Had his appearance been altered at all?

5 A No, ma'am.

6 Q Okay. And that individual was identified as Roy
7 Moore?

8 A Yes, ma'am.

9 Q Do you see the defendant or the person I should say
10 who took the grill from your shed back on June 4th 2012,
11 do you see today?

12 A Yes, ma'am, and it was a drill.

13 Q A drill, I'm sorry. All right. Do you see the
14 individual in court today?

15 A Yes, ma'am.

16 Q Would you point him out to us?

17 A He's sitting right there in the middle.

18 MS. BARR: Your Honor, please let the record
19 reflect that the witness has identified the defendant.

20 BY MS. BARR:

21 Q And you say in the middle, that's between?

22 A Yes, ma'am, between the lady and the man on the
23 right.

24 Q Okay. Do you recall what the weather was like that
25 day?

1 A It was hot and sunny.

2 Q Did you have any trees or anything in your backyard
3 or near your shed such that your view of him was
4 obstructed?

5 A No, ma'am. I had a -- I was face to face with him.

6 Q All right. Now, tell me when you say you were face
7 to face, were the two of you as close as you and I are
8 now?

9 A No, ma'am, as close as to me and her.

10 Q That you were close?

11 A Yes, ma'am.

12 Q You look him dead in the eye?

13 A Right dead in his eye.

14 Q And when you say that close and you're pointing to
15 madame clerk, I'm horrible with distances, so you're going
16 to have to help me out. About how far you estimate that
17 to be?

18 A Arm reach.

19 Q Within arm's reach?

20 A Yes, ma'am.

21 Q Okay. Matter of fact, you tried to grab him, didn't
22 you?

23 A Yes, ma'am.

24 MS. BARR: That's all the questions I have.

25 Please answer any questions from the court or opposing

1 counsel.

2 THE COURT: Ms. Shuler.

3 MS. SHULER: Thank you, Your Honor.

4 CROSS-EXAMINATION IN-CAMERA

5 BY MS. SHULER:

6 Q Mr. Kline, what color bicycle was the man that
7 entered into your shed -- was entering into your shed was
8 he riding?

9 A I told the police that he was riding a red bicycle.
10 But, ma'am, I'm just going to state for the record that I
11 am color blind and that could be proved.

12 Q All right. And you said -- what was the weather like
13 that day?

14 A It was sunny and hot.

15 Q Sunny and hot. Wasn't raining?

16 A No, ma'am.

17 Q You said that the man that was in your shed had a
18 gold tooth?

19 A I think. I thought.

20 Q You thought. All right. And whenever the deputy
21 brought Mr. Moore to your house was he in the police car?

22 A Yes, ma'am.

23 Q He was in handcuffs far as you know?

24 A I don't know if he was in handcuffs. He was in the
25 car.

BRIAN KLINE CROSS-EXAMINATION INCAMERA BY MS. SHULER

1 Q Hand behind his back?

2 A I think so.

3 Q And he was sitting down?

4 A Yes, ma'am.

5 Q He didn't pull him out?

6 A No, ma'am.

7 Q How close did you get to the police car? I walked up
8 and looked in the window? You walked up to the window?

9 A Yes, ma'am.

10 Q About how close?

11 A I just walked up and looked in the window.

12 Q About this close?

13 A No, I walked up to the car.

14 Q You walked up to the car window?

15 A Yes, ma'am.

16 Q So you could have touched Mr. Moore in the back of
17 the car?

18 A I could have touch the car.

19 Q Okay. But he didn't never get out?

20 A No, ma'am.

21 Q So you couldn't tell how tall Mr. Moore was?

22 A Not sitting in the car.

23 MS. SHULER: Beg the Court's indulgence one
24 moment please.

25 (WHEREUPON, a pause in the proceedings.)

BRIAN KLINE CROSS-EXAMINATION INCAMERA BY MS. SHULER

1 BY MS. SHULER:

2 Q Mr. Kline, how tall are you?

3 A I'm 5'11.

4 Q So the individual that broke into your shed was
5 taller than you?

6 A Yes, ma'am.

7 MS. SHULER: I have no further questions of this
8 witness.

9 MS. BARR: I don't have any other questions,
10 Judge.

11 THE COURT: All right. Mr. Kline, you said he
12 was 6'2, gray T-shirt, blue jeans and a gold tooth
13 possibly you said.

14 MR. KLINE: Yeah, possibly.

15 THE COURT: All right. That's all I have.

16 Anything else, Ms. Shuler? I know on cross he
17 said possibly and on direct he said gold tooth.

18 BY MS. SHULER:

19 Q And you said he was around 6'2?

20 A Around 6'2.

21 MS. SHULER: Nothing further, Your Honor.

22 THE COURT: Okay. Anything else, Ms. Barr?

23 MS. BARR: No, Your Honor. Judge, that be the
24 State's presentation.

25 THE COURT: You may step down.

BRIAN KLINE CROSS-EXAMINATION INCAMERA BY MS. SHULER

1 (WHEREUPON, the witness leaves the witness
2 stand.)

3 THE COURT: Ms. Shuler, any evidence that you
4 like to present?

5 MS. SHULER: Beg the Court's indulgence one
6 moment.

7 (WHEREUPON, a pause in the proceedings.)

8 MS. SHULER: At this time, I call Mr. Moore.

9 THE COURT: All right. Mr. Moore, come forward
10 and be sworn.

11 THE CLERK: Left hand on the Bible and raise
12 your right hand. Do you solemnly swear or affirm to tell
13 the truth and nothing but the truth, so help you God?

14 THE DEFENDANT: I do.

15 WHEREUPON,

16 Roy D. Moore,
17 after first having been duly sworn, testified as follows:

18 DIRECT EXAMINATION IN-CAMERA

19 BY MS. SHULER:

20 Q Will you please state your full name for the record,
21 Mr. Moore?

22 A Roy Donell Moore.

23 Q Mr. Moore, how tall are you?

24 A I'm 5'11.

25 Q Okay. And the day of June the 4th, 2012, what were

1 you doing that day?

2 A That day, I actually had went to town hall. I left
3 town hall. I went down to a friend of mine's house that's
4 -- and got my bicycle. I left there and coming back my
5 bicycle tire was flat. I left and went to get air in my
6 bicycle tire and left there heading home. I live down
7 Sumter Highway and I was heading home. At the time when I
8 was riding, I saw Office Dozier I was down by Bi-Lo's
9 food store coming down. And I saw Officer Ron Dozier down
10 there. I waive at him when I came by going towards Cumbee
11 Tire.

12 Q So you were heading south on 52?

13 A Yes, going towards Cumbee, yes.

14 Q Heading back toward the Town of Kingstree?

15 A Right, yes, ma'am.

16 Q Okay. And that day what were you wearing?

17 A I was wearing a red shirt. I was not wearing blue
18 jeans -- I was wearing blue jeans, but I had on a red
19 shirt.

20 Q Okay. And what color was your bicycle?

21 A My bicycle was green.

22 Q Okay. And do you have a gold tooth?

23 A No, I do not.

24 Q Will you smile for me? Do you recall what the
25 weather was like on that day?

1 A I'm not sure. I wasn't raining at the time that I
2 was apprehended. It was not raining.

3 Q And on June the 4th, did you have any facial hair?

4 A No, not other than -- yes, I did. What I have now,
5 I've always worn this, yes.

6 Q Are you six foot two?

7 A No, I'm not.

8 Q Okay. How do you know your height?

9 A I have my height -- it's on my driver's license.

10 Q And did somebody measure you for that?

11 A Yes, I was measured, yes.

12 Q Okay.

13 MS. SHULER: I have nothing further, Your Honor.

14 THE COURT: Cross.

15 CROSS-EXAMINATION IN-CAMERA

16 BY MS. BARR:

17 Q Mr. Moore, of course, we know each other from court,
18 right?

19 A We know each other.

20 Q And, of course, have every incentive in this case to
21 not be truthful, don't you?

22 A No, I do not. I'm being honest, open and honest.

23 Q You being honest today?

24 A Yes, ma'am.

25 Q Now, were you being honest when you were being

1 convicted of petty larceny in 2003?

2 A Petty Larceny in 2003?

3 Q Yes, sir. Were you being honest then?

4 A Yes, I was. Yes, I was.

5 Q Were you being honest when you were convicted of
6 credit card fraud in 2003?

7 A Yes, I was.

8 Q You were being honest then?

9 A Yes, ma'am.

10 Q You were honest when you were convicted of receiving
11 stolen goods in 2007?

12 A Yes, I was.

13 Q All right. So this court can believe you when you
14 testify?

15 A Yes, they can.

16 Q You believe that based on your credibility and based
17 on the types of crimes you committed that you can be
18 believed?

19 A Yes, ma'am.

20 Q Now, when the officers brought you back to the home
21 of Mr. Kline you remember that?

22 A Yes, I do.

23 Q And you remember that Mr. Kline came over to the
24 patrol car where you were, right?

25 A No, he did not.

1 Q You don't recall that at all?

2 A No, ma'am, I do not.

3 Q Do you remember seeing him when you came back?

4 A Yes, I do. Yes, I did.

5 Q Okay. So what did he do according to you?

6 A When Officer Dozier approached, he pulled in the lane
7 going like this. He pulled up. He stopped.

8 Q When you say he ---

9 A Officer Dozier. Officer Dozier got out of his
10 vehicle. He proceed to walk up to a little white house
11 that sits off on the side somewhere over on this side. He
12 walked up to a house and then I seen the gentlemen come
13 out. That gentleman there he did come outside.

14 Q When you say that gentlemen there, you talking a
15 about the victim?

16 A The gentleman right there in the blue shirt, the
17 victim.

18 Q Mr. Kline.

19 A He came out, but he stood up with Officer Dozier.
20 They was off way off in front of the vehicle.

21 Q Okay.

22 A And he stood up. And Officer Dozier and him started
23 talking. And Officer Dozier came back to the car and he
24 did tell me at that time that I was under arrest.

25 Q Okay. All right. So your testimony to this court is

1 that Mr. Kline actually never came and saw you while you
2 were in the patrol car?

3 A He never came and looked inside of the patrol car.
4 No, he did not.

5 Q Okay. So you say he didn't see you is that your
6 testimony?

7 A No, I'm not saying that he didn't see me because I
8 don't know from where he was whether he could see my face
9 or was not, but he never came to the patrol car and
10 actually look, you know, to see like he was trying to see
11 clothing or whatever. He never approached the patrol car.

12 Q So your testimony -- well, let me ask you this.
13 Based on the fact that you were seated in the patrol car,
14 would Mr. Kline according to your testimony be able to
15 actually see your clothing from the position he was in?

16 A No, ma'am.

17 Q So your testimony to this court is that you were
18 falsely arrested, falsely identified and the victim
19 actually never was able to fully see you or your clothing
20 when the police officer took you to his house, is that
21 your testimony?

22 A No, my testimony is that the victim never approached
23 the police vehicle. The victim never approached the
24 vehicle.

25 Q All right. So I want to be clear and that's why I

1 ask you the question. When you seated ---

2 A Right.

3 Q Listen to my question. When you were seated inside
4 the patrol vehicle and taken back to Mr. Kline's house,
5 your testimony is from where Mr. Kline was he was not able
6 to observe your clothing in the patrol car, is that your
7 testimony?

8 A I don't feel he was, that's my testimony. I don't
9 know about whether he can see my face or not, but as far
10 as my clothing, yes.

11 MS. BARR: Judge, I don't have any other
12 questions.

13 THE COURT: Redirect.

14 REDIRECT EXAMINATION IN-CAMERA

15 BY MS. SHULER:

16 Q Mr. Moore, whenever you were charged with the petty
17 larceny and charged with a financial transaction card
18 theft and receiving stolen goods, did you plead guilty to
19 those crimes?

20 A I pleaded guilty to the -- yes, I did.

21 Q You admitted your guilt?

22 A Yes.

23 Q Am I right?

24 A Yes.

25 Q So you were honest to the court whenever you appeared

1 before it?

2 A Yes.

3 MS. SHULER: I have no further questions.

4 THE COURT: All right. Any objection to me
5 asking questions?

6 MS. BARR: Not from the State.

7 THE COURT: Right now, sir, you and the
8 gentleman you identified as being in the blue shirt, right
9 now you're about 25 or so feet away from him; is that
10 correct?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: On the day in question when you were
13 in that backseat of that vehicle when he was, as you say
14 standing way off talking to Mr. Dozier, was he closer than
15 he is to you now or further away?

16 THE DEFENDANT: I would say he was about that
17 distance. He might have been a little bit closer, but he
18 was about that distance.

19 THE COURT: All right. Was the window that you
20 were seated at up or down?

21 THE DEFENDANT: It was up.

22 THE COURT: All right. And were you in the
23 sunlight with the patrol car in the sunlight or under some
24 shade or do you know?

25 THE WITNESS: I don't actually remember like I

1 said about the weather conditions, but the way the patrol
2 car was it was facing where he was as if I'm sitting now
3 I'm in the patrol car facing this way, the way front of
4 the car was right here just like this.

5 THE COURT: So he would have had to see -- if he
6 were to see you to see through the windshield across the
7 front, headrest and you are in the backseat?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Were you in the backseat in the
10 middle or on the left side or the right side?

11 THE DEFENDANT: On the right side behind the
12 passenger seat.

13 THE COURT: Were you able to see him clearly?

14 THE DEFENDANT: Yes, I was.

15 THE COURT: Were you able to see him clearly
16 just by sitting straight up or did you have to lean to the
17 middle of the car to see around the headrest?

18 THE DEFENDANT: I was able to see him. I was
19 kind of laid up on the side, but I was able to see him
20 clearly.

21 THE COURT: All right. But you don't know
22 whether he was able to see you?

23 THE DEFENDANT: No, sir.

24 THE COURT: All right. Any follow up to that,
25 Ms. Shuler, since he's your witness?

1 MS. SHULER: No, Your Honor.

2 THE COURT: Ms. Barr?

3 MS. BARR: No, Your Honor.

4 THE COURT: All right. You can step down.

5 Thank you, sir.

6 (WHEREUPON, the witness leaves the witness
7 stand.)

8 THE COURT: Okay. Any other witnesses?

9 MS. SHULER: No, Your Honor.

10 THE COURT: Any witnesses from the State in
11 reply?

12 MS. BARR: No, Your Honor.

13 THE COURT: Okay. Argument, Ms. Shuler, it's
14 your motion.

15 MS. SHULER: Thank you, Your Honor. May it
16 please the Court, I would move that the evidence of the
17 identification be suppressed as Your Honor heard during
18 the testimony, there's a discrepancy in the color of the
19 bicycle. The show up was inherently suggestive.
20 Mr. Moore was placed in the back of a police car, was in
21 handcuffs. He was not allowed to get out of the police
22 car, so that the alleged victim could see Mr. Moore's
23 height.

24 THE COURT: But doesn't that cut against it
25 being even a show up? One thing I like to do stand up,

1 Mr. Kline, come forward.

2 Mr. Moore, stand up. Stand face to face with
3 him. Okay. You can both sit down. The record will show
4 that at least now they're -- practically identical height.
5 Okay. Mr. Kline just said he had on boots.

6 Ms. Shuler, go ahead.

7 MS. SHULER: Thank you, Your Honor. The
8 identification process by just bringing Mr. Moore by and
9 sitting him in the police car at the house is not
10 sufficient. It's not proper. It wasn't done. It's
11 inherently suggestive with him just being seated in the
12 backseat of the car.

13 Your Honor, the man described by Mr. Kline had a
14 gold tooth and was significantly higher than -- taller
15 than Mr. Moore. Mr. Moore doesn't have a gold tooth. He
16 is only 5'11. And, Your Honor, we would just move that
17 this be suppressed on the basis of State vs. Moore and
18 State vs. Brown.

19 THE COURT: Do -- what's the testimony of about
20 what color -- did I hear somebody say a green sweat shirt?
21 Did I hear somebody say that or that just my imagination?

22 MS. BARR: I believe the testimony was that it
23 was a gray shirt. It was testimony about a green bicycle
24 versus a red bicycle.

25 THE COURT: But I never heard a green sweat

1 shirt.

2 MS. SHULER: Your Honor, I think that Officer
3 Dozier did say green sweat shirt.

4 THE COURT: That was from his report or from his
5 memory or what?

6 MS. SHULER: At the time of the questioning, he
7 was reading from the cad report.

8 THE COURT: Okay. And Mr. Moore said he was
9 wearing a red shirt and blue jeans?

10 MS. SHULER: That's correct, Your Honor.

11 THE COURT: And a green bicycle and no gold
12 tooth.

13 MS. SHULER: That's correct.

14 THE COURT: All right. Do you have copies of
15 State vs. Moore and the other case?

16 MS. SHULER: I do, Your Honor. It is
17 highlighted.

18 THE COURT: All right, at least citations. I
19 got other cases pulled up, but I don't think I have either
20 one of those. State vs. Moore and what else?

21 MS. SHULER: It's 513 South Carolina --
22 Southeastern Second 626. It's Court of Appeals 1999 case.

23 THE COURT: All right. And the other one?

24 MS. SHULER: The other one is State vs. Brown.
25 It is 589 Southeastern second 781.

1 THE COURT: All right. I have that one.

2 MS. SHULER: It's a Court of Appeals case.

3 MS. BARR: Judge, what I would argue in response
4 is that although the appellate court's of the opinion that
5 one person show ups are or can be very suggestive.

6 THE COURT: No, they. I mean, the case law
7 doesn't say they may be says they are.

8 MS. BARR: Judge, also as Your Honor is aware
9 the appellate courts have consistently held that
10 suggestiveness alone does not mandate the exclusion of
11 evidence. And there's certain factors that the Court has
12 to consider including the opportunity of the witness to
13 view the criminal time of crime, the witnesses degree of
14 attention, the accuracy of the witnesses, prior
15 description of the criminal, the level of certainty
16 demonstrated by the witness and confrontation and the
17 amount of time that transpired between the time of crime
18 and the confrontation. Judge, in this case, we have
19 testimony that the defendant was wearing a gray shirt,
20 blue jeans, black male, tall and was riding on a bicycle.

21 Your Honor, the call initially came into 9-1-1
22 at 1:23 p.m. Police officers arrived two minutes later.
23 At 1:40, the defendant was at the home of the victim in
24 the police patrol car. And was positively identified by
25 the victim as the person who was taking the drill out of

1 his shed. Judge, that's a time span of less than 20
2 minutes. There was no hesitation in the car to Mr. Kline
3 as to the identification. Judge, you may recall some of
4 the testimony from the victim wherein he talked about the
5 defendant actually getting on his knees begging him not to
6 call the police.

7 There was also testimony by the victim that the
8 defendant told him that somebody gave him permission to
9 come and take those items and he would just leave and he
10 would just put them back and just leave. Judge, typically
11 we don't have that type testimony because often times when
12 criminals are caught in the act, they just take off
13 running. But I think the fact that the victim actually
14 had a conversation with the defendant and testified that
15 approximately four to five minutes and actually transpired
16 during that whole time. That was more than adequately
17 believe to corroborate the victim's for liability. Judge,
18 obviously, the testimony concerning the color of the bike,
19 I think was properly explained by the victim when he said
20 that he was color blind.

21 Judge, I also think that there's any other
22 discrepancy as it relates to that, it goes to the weight
23 of the evidence and not it's admissibility, that should be
24 an issue for the jury to determine and figure out for
25 themselves who they find believable or credible. And I

1 think, Judge, given the fact that when police officers
2 come out to the scene and they're trying to investigate a
3 crime, you got an individual who's already fled that
4 scene. And he's within a very close proximity to where
5 the crime actually happened.

6 Judge, the police have an obligation not only to
7 properly investigate that crime, but also to make sure
8 that they can determine whether they need to continue
9 searching for somebody else or they can actually eliminate
10 this defendant or anybody else as a suspect. And so,
11 Judge, I believe that given the fact that the idea
12 occurred within 20 minutes of the crime, that the
13 defendant was caught within a very very short distance
14 from the victim's home less than a mile I believe. And,
15 Judge, based on the fact that the victim positively
16 identified Mr. Moore on sight, we would submit to the
17 Court that the identification of this case was not unduly
18 suggestive, that it's proper and it's a matter that should
19 be addressed by the jury. We request that the motion be
20 denied.

21 THE COURT: Ms. Shuler, any response?

22 MS. SHULER: Yes, Your Honor. As Ms. Barr, did
23 accurately state to the Court that the opportunity for the
24 witness to view the individual that had broken into the
25 shed and degree of intention and the accuracy, the

1 description all goes toward the reliability of the
2 eyewitness identification. And, Your Honor, Mr. Kline
3 testified that this individual was 6'2 and had a gold
4 tooth. Mr. Moore doesn't have -- is not 6'2 and he does
5 not have a gold tooth. So, Your Honor, I would suggest
6 that that eyewitness identification is not accurate and
7 therefore should be suppressed.

8 THE COURT: All right. Was there any testimony
9 about when Mr. Moore was brought back in the car what
10 color his shirt was? Was there any testimony about it?

11 MS. BARR: Judge, I think the testimony by
12 Officer Dozier was that the information that he got from
13 the victim about the clothing that it matched the
14 description of the defendant.

15 THE COURT: Is that correct, Ms. Shuler?

16 MS. SHULER: Yes, Your Honor.

17 THE COURT: Did the police bag the clothing, is
18 in evidence?

19 MS. BARR: It's not in evidence.

20 THE COURT: So it wasn't taken at the station
21 when he was booked and put in a bag or if he was bonded
22 out, did they give it back to him?

23 THE DEFENDANT: They gave it back to me when I
24 bonded out.

25 MS. BARR: Judge, I would believe that their

1 standard protocol would have been to give them back after
2 he's released. I'm fairly certain that the items were not
3 seized.

4 THE COURT: Am I to take judicial notice of what
5 being color blind means? In other words, I'm not color
6 blind. I don't even know if I know anybody who is, but I
7 know there are a lot of people who are. I know there's
8 red, blue, red, green. I don't know about what that
9 means. Mr. Kline said he's color blind. I don't know if
10 he sees red as a particular color or perhaps colors
11 depending upon the shade. I don't know any of that.
12 But -- you all can have a seat.

13 The law is very clear that a show up line up as
14 this was in and of itself inherently suggestive. That
15 just speaks for itself. So that's really not an issue for
16 me. What I have to determine is whether or not that out
17 of court identification was nevertheless so reliable that
18 no substantial likelihood of misidentification existed,
19 that's what the case law says I have to do. I have to
20 address five factors and I'm sure that I could within my
21 discretion address others.

22 Number one as the lawyers have mentioned the
23 opportunity of the victim to view or the witness to view
24 the criminal at the time of the crime. Number two the
25 witness' degree of attention at that time. Number three

1 the accuracy of his prior description. Number four the
2 level of certainty displayed by the witness at the time of
3 the confrontation that would be at the time of the show
4 up. And fifth the length of time between the crime and
5 the actual confrontation at the show up. I guess, it's
6 kind of here is that Mr. Moore's testimony is that there
7 wasn't even really a show up. Because if he's seated in
8 the backseat of a car, that's pointed toward where the
9 witness is talking to the officer 25 feet away, I don't
10 know what the glare was, the light was nothing. But
11 Mr. Moore said he doesn't even know if the witness could
12 even see him. So in my mind that wouldn't even be a show
13 up at least under Mr. Moore's testimony, but I have to
14 consider this under all angles. I will accept for the
15 purpose of this hearing that Mr. Kline did go right up to
16 the window where Mr. Moore was seated and looked in -- I
17 think he said he really didn't see all of his clothing,
18 but he identified him immediately.

19 I'm going back to the factors. Mr. Kline said
20 that he looked right at him arms length away at the time
21 of the crime and even had a conversation with him.

22 In my view, his opportunity to view him at the
23 time of the crime was ample. Number two the witness'
24 degree of attention at the time according to his
25 testimony, I accept that he was paying very close

1 attention to the person who was taking his drill.
2 Skipping to number four, the level of certainty displayed
3 by the witness at the time of the confrontation the
4 evidence is that Mr. Kline from -- he said he was
5 absolutely sure as did Officer Dozier, that it was him.
6 And fifth the length of time between the crime and the
7 confrontation according to the evidence, according to
8 Mr. Kline it was about 20 minutes later. According to the
9 cad report, this was probably within the same time frame.
10 The defendant was brought back to the victim's home or
11 brought to the victim's home at 1:40 p.m. And the crime
12 occurred sometime before 1:23 p.m., so we're within that
13 one -- that 20 minute time frame.

14 We go back to the accuracy of witness' prior
15 description when the two men stood in front of each other
16 at least in my view, they're exact height. Of course,
17 Mr. Kline indicated right then that he had on boots today.
18 I don't know what Mr. Moore's got on. But it seems to me
19 that they are pretty much the same height if you shake
20 everything out. Mr. Moore does not have a gold tooth.
21 Mr. Kline said on direct that he did and on cross he said
22 he thinks he did. We have description of a black male
23 with a gray shirt with blue jeans. According to Dozier
24 Mr. Dozier, that's what he had on when they brought him
25 back, but I don't know where the clothes are. Mr. Dozier

1 he said he did have on blue jeans, which obviously is not
2 an unusual article of clothing. The bicycle color red
3 green. Mr. Kline said it was red, but he's color blind.
4 Mr. Moore said it was green. Was there any evidence about
5 which way Mr. Moore was headed when Officer Dozier
6 encountered him ten minutes before in the area or when he
7 was apprehended was he headed away from Mr. Kline's
8 residence or driving or riding his bike toward? I don't
9 recall any evidence that's really not an identification
10 issue.

11 MS. BARR: I don't think there's any evidence on
12 that issue, Judge.

13 THE COURT: I realize that there are reasons why
14 a show up line up would be done, but I really don't
15 understand why in the scheme of things they are done
16 because of this problem that's created. They could have
17 seized his clothing, done a photo lineup and we wouldn't
18 have this issue. And with all due respect to Mr. Kline,
19 it wasn't a situation where there was a manhunt that would
20 have had to be conducted. It was not -- nobody was hurt.
21 Nobody was hurt. Nobody was stabbed. It was a burglary
22 which is significant, but I just don't understand why the
23 show-ups have to be done. It would always create these
24 kinds of situations. It's a close call. I'm going to
25 allow the identification in -- I think that Ms. Shuler

1 will have pretty much a field day in cross-examining the
2 folks on all this. And I'm not going to take judicial
3 notice of what being color blind means, but perhaps
4 Mr. Kline can explain that if he knows based on his own
5 personal experiences with it. It's the accuracy of the
6 prior description is substantially in question, but in
7 weighing all five factors, I'm going to allow the
8 identification to come in. All right.

9 Ms. Shuler, please make sure that if you want to
10 preserve this that when the identification witness is
11 called, you must object.

12 MS. SHULER: That's correct.

13 THE COURT: Or you give it all up. Anything
14 before the jury comes in and we move forward?

15 MS. BARR: Nothing from the State, Your Honor.

16 THE COURT: Ms. Shuler.

17 MS. SHULER: Your Honor, I do have a motion to
18 sequester the witnesses.

19 THE COURT: Okay. I'll allow Mr. Kline and the
20 lead investigator to be in whoever Ms. Barr might choose
21 that to be. Any potential witnesses that you have, Ms.
22 Shuler, of course, other than Mr. Moore will also have to
23 be sequestered.

24 Could you identify those witnesses, Ms. Barr,
25 and make sure they understand that being sequestered not

1 only means that they're out of the courtroom, but they
2 cannot talk to each other about what testimony has gone
3 on.

4 MS. BARR: Yes, sir.

5 THE COURT: And who are your witnesses?

6 MS. BARR: Officer Dozier. We got Officer
7 Vincent Staggers on the witness list. I don't think he'll
8 be called. Deputy Roy Hayes, Bryan Keith Kline, who is
9 the victim and Joey Phillips from 9-1-1.

10 THE COURT: Okay. Ms. Shuler, you agree, of
11 course, Mr. Kline can remain.

12 MS. SHULER: Yes, Your Honor.

13 THE COURT: Who are you going to designate as
14 your lead investigator?

15 MS. BARR: Officer Dozier.

16 THE COURT: Okay. All right. And the number of
17 strikes in this case will it be five and ten since it's a
18 burglary?

19 MS. BARR: Yes, sir.

20 THE COURT: Any other charge other than
21 burglary?

22 MS. BARR: No, sir.

23 THE COURT: And the criminal record that you
24 were reading out the 2003 convictions from today's date
25 are they more than ten years old?

1 MS. BARR: Judge, I think that happened in
2 October of 2003. Judge, he's got breaking into a motor
3 vehicle July 28th 2003, financial transaction card fraud
4 July of 2003, receiving stolen goods December of 2007,
5 grand larceny October of 2010.

6 THE COURT: All right. If the need arises if
7 Mr. Moore chooses to testify, we'll have to have a hearing
8 as to whether or not those are crimes of dishonesty. And
9 if they are not, I have to employ a balancing test as to
10 whether they come in for the purpose of impeaching
11 credibility.

12 MS. BARR: Yes, sir.

13 THE COURT: Okay. And we can get that straight
14 later.

15 MS. SHULER: Your Honor, I have one other
16 motion. I would move that the word victim not be used
17 during the pendency of this trial.

18 THE COURT: I'm going to deny that. When I --
19 if somebody makes that motion, when I qualify the jury I
20 tell -- he is the victim of a burglary. The question is
21 whether or not he's Mr. Moore's victim. Now, in a CSC
22 case, that might be a question, but I will tell the jury
23 that the word victim is a term of art and they're not to
24 draw any inference of it insofar as Mr. Moore's guilt or
25 non-guilt is concerned. How about that? That suitable?

1 MS. SHULER: Yes, Your Honor. Thank you.

2 THE COURT: All right. Can the two officers
3 could -- the jury is going to have to sit there. They can
4 sit at counsel table or in the back of the courtroom. And
5 you can bring in the jury.

6 (WHEREUPON, jury entered the courtroom.)

7 THE COURT: Ms. Barr, Mr. Brown.

8 MR. BROWN: The next matter before this court is
9 State of South Carolina vs. Roy Donell Moore. This is
10 under indictment 2012-GS-45-183. He's charged with the
11 offense burglary in the third degree. The State is ready
12 for trial. Permission to approach.

13 THE COURT: Okay. Any written voir dire from
14 either side?

15 MR. BROWN: None from the State. The witness
16 list is right behind it.

17 MS. SHULER: No, sir.

18 THE COURT: All right. Ladies and gentlemen, we
19 are going to pick a jury for the trial of the case of the
20 State of South Carolina vs. Roy Donell Moore. As you
21 know, the questions that I am going to ask you are put to
22 you as you're under oath. If I do ask a question that
23 applies, simply stand and I will obtain any necessary
24 follow-up information. The questions are designed to make
25 sure we impanel a jury that will be fair and impartial to

1 both sides and a jury that will render a verdict that is
2 free from any concern that is not founded in the evidence
3 and the law. The fact that a person is arrested, charged
4 and indicted is not evidence of anything. The defendant
5 has pled not guilty to this charge. He does not have to
6 prove or disprove anything. And the State has the sole
7 burden of establishing the elements of the crime charged
8 beyond a reasonable doubt. The fact that I refer now to
9 the indictment is not intended to be a comment by me on
10 the facts. As you know, I simply have to refer to the
11 indictment to see if there's anyone on the panel who knows
12 anything about this case or has ever heard anything about
13 it from any source.

14 According to the indictment, the State alleges
15 that the defendant on or about June 4, 2012, in this
16 county did commit the offense of burglary in the third
17 degree in that he entered the building of the victim,
18 Brian Keith Kline, without consent and with the intent to
19 commit a crime therein. The term victim is used by the
20 Court or others, that is a term of art and the word victim
21 is not intended to convey any evidence of Mr. Moore's
22 guilt or non-guilt in this particular case. So first of
23 all, is there anyone on this panel who knows anything
24 about this case, have you heard anything about it, read
25 anything about it or have any knowledge however slight

1 other than what I just referenced from the indictment? No
2 one stood.

3 All right. The defendant is Mr. Roy Donell
4 Moore. Mr. Moore, if you could please stand and face the
5 jury panel. Thank you, sir. This is Mr. Moore.

6 Is there anyone on this panel or to your
7 knowledge is there anyone in your immediate family who
8 first of all might be kin to Mr. Moore by blood or by
9 marriage?

10 (WHEREUPON, no one stood.)

11 THE COURT: Is there anyone on this panel or to
12 your knowledge anyone in your immediate family who might
13 have any type of connection or acquaintance or association
14 with Mr. Moore and that would be now or in the past? No
15 one stood.

16 There are potential witnesses whose names I will
17 call. And if witnesses are present, I ask that you please
18 stand and you know what the question will be. Is there
19 anyone on the panel or anyone in your immediate family who
20 might be kin to any of these witnesses or do you or to
21 your knowledge any immediate family have any type of
22 connection, acquaintance or association however slight now
23 or in the past: Deputy Ron Dozier formerly of the
24 Kingstree Police Department now of the Berkeley County
25 Police Department? He's standing in the back courtroom in

1 the black uniform. Anyone? Anybody see him?

2 (WHEREUPON, no one stood.)

3 THE COURT: All right. Thank you, sir.

4 Officer Vincent Staggers of the Kingstree Police

5 Department. Officer Staggers is not here at the moment.

6 Deputy Loy Hayes of the Williamsburg County Sheriff's

7 Department. Deputy Hayes in the courtroom? He's not.

8 MS. BARR: He's out.

9 THE COURT: All right. Brian Keith Kline. Mr.

10 Kline, if you could stand and face the entire jury panel.

11 And Joey Phillips Williamsburg County 9-1-1 dispatch,

12 9-1-1, Joey Phillips.

13 MS. SHULER: Your Honor, you had two individuals

14 raise their hand on Mr. Kline.

15 THE COURT: Okay. If you folks could just get

16 in line please. You can get in line right there and I'll

17 have you come up.

18 Ms. Stuckey, you can come on up right around.

19 Ms. Stuckey is number 129.

20 PROSPECTIVE JUROR: I know Mr. Kline and his

21 family.

22 THE COURT: Do you know them well?

23 PROSPECTIVE JUROR: Fairly well, yes, sir.

24 THE COURT: Fairly well.

25 PROSPECTIVE JUROR: Well, his children are good

1 friends with my grandchildren and we see them fairly
2 often.

3 THE COURT: If you are a juror in this case and
4 he has to testify, would that put you in a difficult
5 position being fair and impartial to both sides?

6 PROSPECTIVE JUROR: I'm just afraid it may. I
7 mean, I hate to say it wouldn't and then, you know...

8 THE COURT: You do not have to answer or stand
9 in response to any more questions in this case even if
10 some questions might apply to you, you don't have to stand
11 up. You will not be on this jury. If you would please,
12 do not mention this to your fellow jurors.

13 PROSPECTIVE JUROR: Absolutely not.

14 THE COURT: Thank you.

15 PROSPECTIVE JUROR: Yes, sir, thank you.

16 THE COURT: All right, sir. And your last name
17 again, sir?

18 PROSPECTIVE JUROR: Lee.

19 THE COURT: Tony Lee.

20 PROSPECTIVE JUROR: Yes, sir, number 70.

21 THE COURT: Mr. Lee is number 70. Yes, sir.

22 PROSPECTIVE JUROR: I know Mr. Kline. I've met
23 him last year at the hunting club one evening.

24 THE COURT: Are you all in the same hunt club?

25 PROSPECTIVE JUROR: No, we visited. We're not

1 members. I'm not a member.

2 THE COURT: And that was last year?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: Do you know him from any other...

5 PROSPECTIVE JUROR: No, sir. His wife works
6 where I work.

7 THE COURT: Where do you work?

8 PROSPECTIVE JUROR: DSM.

9 THE COURT: What is that?

10 PROSPECTIVE JUROR: It was the only Martec.

11 THE COURT: Big place?

12 PROSPECTIVE JUROR: It's industry owned.

13 THE COURT: You all work in the same area?

14 PROSPECTIVE JUROR: No, sir. No, sir, she's
15 office job. I'm just a worker.

16 THE COURT: If you were on this jury, could you
17 be completely fair and impartial to both sides?

18 PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: If he were to testify, would you be
20 incline to absolutely believe or not believe anything he
21 said or would you be able to weigh his testimony
22 impartial?

23 PROSPECTIVE JUROR: I just go by the evidence.

24 THE COURT: Okay. All right. Would you be able
25 to set aside that past association with him and base your

1 verdict on the evidence?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: All right. Thank you, Lee. You may
4 have a seat. By the way, don't mention it to any fellow
5 jurors at any time even if you're on this jury, that you
6 knew him from this.

7 PROSPECTIVE JUROR: Yes.

8 BAILIFF: Number 6.

9 THE COURT: Mr. Bell.

10 PROSPECTIVE JUROR: Yes, sir. We've had some
11 men super's together with Mr. Kline.

12 THE COURT: And where were those?

13 PROSPECTIVE JUROR: They were in Salters.

14 THE COURT: Is that a club or a church or what?

15 PROSPECTIVE JUROR: Basically, like a little get
16 together, a little men's group, just a community thing.
17 And I been to his house a time or two with some friends.

18 THE COURT: Would you say you know him casually
19 or pretty well?

20 PROSPECTIVE JUROR: Just casually.

21 THE COURT: How long have you known him?

22 PROSPECTIVE JUROR: Probably about a year, year
23 and a half.

24 THE COURT: If you are on this jury and he were
25 to testify, could you completely and fairly weigh his

1 testimony?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Would you be incline to believe him
4 or disbelieve him because of your association?

5 PROSPECTIVE JUROR: Yes, sir, I can clearly
6 believe him.

7 THE COURT: Okay. All right. Could you set
8 aside completely that association from him and base your
9 verdict on the evidence and the law?

10 PROSPECTIVE JUROR: Yes, sir.

11 THE COURT: Okay. Thank you. Anyone else?
12 Okay. I believe I did call out all the names, but the
13 last potential witnesses name is Joey Phillips of the
14 Williamsburg County 9-1-1 dispatch.

15 Tyler Brown and Kimberly Barr of the Third
16 Circuit Solicitor's Office do represent the State in this
17 case. Amanda Shuler of the Third Circuit Defender's
18 Office represents Mr. Moore, of course, seated at counsel
19 table with her is Doward Harvin of that same office.

20 Is there anyone on this panel or anyone in your
21 immediate family who first of all might be acquainted by
22 blood or marriage to any of these attorneys?

23 (WHEREUPON, there are none.)

24 THE COURT: Is there anyone on the panel or
25 anyone in your immediate family who has any type of

1 connection or acquaintance or association with any of
2 these lawyers or their offices and that would include
3 business, a social acquaintance, business acquaintance?
4 For example, they might be a customer of yours or included
5 within all that is whether or not you or any immediate
6 family member may have ever been in litigation where they
7 were for you or against you. In other words representing
8 you or representing an adverse party. All right. If you
9 folks could get in line real quickly and have you come up.

10 THE CLERK: Juror 111.

11 (WHEREUPON, this is juror number 111 Sarah G.
12 Reynolds.)

13 THE COURT: By the way, this will be the last
14 term of court in this building. The new courthouse is
15 finished, so we want have all this microphone cutting on
16 and off.

17 Yes, ma'am.

18 PROSPECTIVE JUROR: I do know the Shuler family,
19 which Amanda is married into. And I do administer an
20 injection to her mother-in-law, Glenda Shuler, once a
21 month.

22 THE COURT: You're an RN?

23 PROSPECTIVE JUROR: I am.

24 THE COURT: Okay. How long have you known the
25 family?

1 PROSPECTIVE JUROR: I've known the Shuler family
2 Dewayne and Glenda all my life.

3 THE COURT: If you are on this jury and she's
4 representing the defendant, could you be completely fair
5 and impartial to the State and the defendant?

6 PROSPECTIVE JUROR: I certainly can.

7 THE COURT: Would you base our verdict solely on
8 the evidence and the law and set aside the fact that you
9 know her family and the fact that you do render some type
10 of care to her mother-in-law?

11 PROSPECTIVE JUROR: Yes, sir, I can.

12 THE COURT: All right. Okay.

13 THE CLERK: Juror 120.

14 (WHEREUPON, this is juror number 120 Tonya M.
15 Scott.)

16 THE COURT: Yes, sir, your last name?

17 PROSPECTIVE JUROR: Scott.

18 THE COURT: Yes, sir.

19 PROSPECTIVE JUROR: Attorney Barr currently
20 representing me.

21 THE COURT: Just like you said the other day?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: I'm going to stand you to the side
24 of this case just don't mention that to any of your fellow
25 jurors, okay. Thank you.

1 THE CLERK: Juror number six.

2 (WHEREUPON, this is juror number six Nicholas A.
3 Bell.)

4 THE COURT: All right, Mr. Bell. Yes, sir.

5 PROSPECTIVE JUROR: I know Mandy, family friend
6 and neighbor.

7 THE COURT: How long have you known her?

8 PROSPECTIVE JUROR: Four years.

9 THE COURT: And you know her husband too?

10 PROSPECTIVE JUROR: Uh-huh and her brother.

11 THE COURT: Okay. If she's the lawyer in this
12 case if you are on this jury, could you be fair and
13 impartial to both sides?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: And set aside the fact that you know
16 her?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: Could you base the verdict on the
19 evidence and the law only?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: Okay. All right.

22 THE CLERK: Juror number 55.

23 (WHEREUPON, this is juror number 55 Adrian J.
24 Grant.)

25 THE COURT: This Mr. Grant I believe?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Come on up, Mr. Grant. Yes, sir.

3 PROSPECTIVE JUROR: Doward Harvin is my lawyer
4 in a case I have.

5 THE COURT: What I'm going to do is stand you
6 aside in this case, just don't mention that to your fellow
7 jurors. And you don't have to stand up to any more
8 questions, just stay seated for the time being.

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Thank you, Mr. Grant.

11 THE CLERK: Juror number 37.

12 (WHEREUPON, this is juror number 37 John F.
13 Drake.)

14 THE COURT: Mr. Drake.

15 PROSPECTIVE JUROR: Ms. Barr recently about two
16 or three years ago defended me in a case.

17 THE COURT: Okay. What kind of case was it?

18 PROSPECTIVE JUROR: It was an assault case on
19 me.

20 THE COURT: All right. And that was in
21 magistrate's court?

22 PROSPECTIVE JUROR: I believe so, yes, sir.

23 THE COURT: Is that over with?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: If you were on this jury, could you

1 set that aside and be fair and impartial to both sides?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: One hundred percent?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: Could you base your verdict on the
6 evidence and the law?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: All right. Thank you, Mr. Drake.

9 THE CLERK: Juror number 113.

10 (WHEREUPON, this is juror number 113 John W.
11 Rogers.)

12 THE COURT: Yes, sir.

13 PROSPECTIVE JUROR: I was Doward Harvin pastor
14 for about nine years.

15 THE COURT: Do you know him from that setting?
16 Do you know him separately from that too?

17 PROSPECTIVE JUROR: No, just pastor.

18 THE COURT: If you on this jury ---

19 Is he going to be on the trial of this case at
20 all, Ms. Shuler?

21 MS. SHULER: Probably not.

22 THE COURT: If he were to somehow participate in
23 the trial of this case, could you set aside that past
24 association and be completely fair and impartial?

25 PROSPECTIVE JUROR: Yes, sir.

1 THE COURT: All right. Thank you, sir.

2 Anyone else? All right. Is there anyone on the
3 panel who knows of any bias or prejudice that you might
4 have for or against the State or for or against the
5 defendant, any of the witnesses or any of the attorneys
6 involved, that would be a bias for or against?

7 (WHEREUPON, there were none.)

8 THE COURT: Does anyone on the panel know why
9 you could not be completely fair and impartial if you were
10 a juror in this case?

11 (WHEREUPON, there were none.)

12 THE COURT: Does anyone know of any reason why
13 you should not serve as a juror during the trial of this
14 case for any reason whatsoever?

15 (WHEREUPON, there were none.)

16 THE COURT: Any additional questions from the
17 State?

18 MR. BROWN: None, Your Honor.

19 THE COURT: Ms. Shuler, any from the defendant?

20 MS. SHULER: I would request that, Your Honor,
21 inquire as to the juror pool if anybody has ever been a
22 victim of a burglary.

23 THE COURT: All right. Ladies and gentlemen,
24 the crime of burglary is defined generically as entering
25 into a dwelling or a building without consent and with the

1 intent to commit a crime therein, so it's some type of
2 structure. Is there anyone on this panel or to your
3 knowledge anyone in your immediate family who has ever
4 been the victim of or ever been accused of committing the
5 crime of burglary? This would not include automobiles or
6 anything like that. This would be a building of some
7 kind.

8 (WHEREUPON, there were none.)

9 THE COURT: All right. Anyone on the panel who
10 or anyone in your immediate family ever been accused of it
11 or ever been the victim of the crime of burglary? If you
12 folks could get in line again. Okay.

13 THE CLERK: Juror number 106.

14 (WHEREUPON, this is juror number 106 Chicora L.
15 Pressley.)

16 THE COURT: Ms. Pressley?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Yes, ma'am.

19 PROSPECTIVE JUROR: My uncle in North Carolina
20 arson or something like that. He went in and burn down
21 something.

22 THE COURT: Up in North Carolina?

23 PROSPECTIVE JUROR: Uh-huh.

24 THE COURT: If you were on this jury and it
25 involved an allegation of burglary, could you be

1 completely fair and impartial to both sides?

2 PROSPECTIVE JUROR: Uh-huh.

3 THE COURT: Ma'am?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: And base your verdict on the
6 evidence in this case only?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: All right. Thank you.

9 THE CLERK: Juror number 125.

10 (WHEREUPON, this is juror number 125 John L.
11 Snow.)

12 THE COURT: Mr. Snow, yes sir.

13 PROSPECTIVE JUROR: I been burglarized both
14 homes, different homes, businesses.

15 THE COURT: Here in Williamsburg County?

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: Over what period of time?

18 PROSPECTIVE JUROR: Over probably the course of
19 seven years.

20 THE COURT: How many times total?

21 PROSPECTIVE JUROR: Numerous of them several.

22 THE COURT: Were people ever apprehended in any
23 of those cases?

24 PROSPECTIVE JUROR: Never.

25 THE COURT: All right. If you were on this jury

1 and the charge is burglary, could you be fair and
2 impartial to the State and to the defendant?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: Could you base your verdict in this
5 case on the evidence and the law and completely set aside
6 your circumstances?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: Thank you, sir.

9 THE CLERK: Juror number 37.

10 (WHEREUPON, this is juror number 37 John F.
11 Drake.)

12 THE COURT: Yes, sir.

13 PROSPECTIVE JUROR: My cousin was just sentence
14 to two years in prison for a burglary in Georgetown.

15 THE COURT: How long ago is that?

16 PROSPECTIVE JUROR: That was about a year and a
17 half ago.

18 THE COURT: Did you have any particular
19 knowledge of what he was accused of? In other words, did
20 you know about it from conversation with any family?

21 PROSPECTIVE JUROR: Yes, sir, he had a strong
22 armed robbery first degree. I'm not sure what the other
23 charge was.

24 THE COURT: Was it burglary?

25 PROSPECTIVE JUROR: I believe so, yes, sir.

1 THE COURT: Okay. If you were on this jury and
2 the charge was burglary, could you set aside that
3 circumstance and be fair and impartial?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: And base your verdict on the
6 evidence in this case?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: Was there any feeling amongst your
9 family as to whether or not that charge was justified or
10 not?

11 PROSPECTIVE JUROR: It was justified, he got
12 what he needed to get.

13 THE COURT: Okay. All right. Thank you, sir.

14 THE CLERK: Juror number 127.

15 (WHEREUPON, this is juror number 127 Jennifer
16 Strong.)

17 THE COURT: Ms. Strong. Yes, ma'am.

18 PROSPECTIVE JUROR: Approximately 1999 my home
19 was burglarized and the person was apprehended and served
20 his time and now out.

21 THE COURT: Were you satisfied with the result?

22 PROSPECTIVE JUROR: Yeah.

23 THE COURT: If you were on this jury, could you
24 set aside what happened with you and base your verdict
25 only on the evidence in this case?

1 PROSPECTIVE JUROR: Yes, I can.

2 THE COURT: You can be completely fair and
3 impartial to both sides?

4 PROSPECTIVE JUROR: Yes.

5 THE CLERK: Juror 135.

6 THE COURT: 135?

7 THE CLERK: Yes, sir, Mr. Tisdale.

8 (WHEREUPON, this is jury number 135 Arthur C.
9 Tisdale.)

10 THE COURT: Okay.

11 PROSPECTIVE JUROR: I had about \$1,500 worth of
12 goods stolen from me back in about 2007, none was never
13 recovered.

14 THE COURT: It was a burglary?

15 PROSPECTIVE JUROR: Yes, sir. It was not a
16 locked building.

17 THE COURT: It was a building nonetheless, but
18 somebody went into it.

19 PROSPECTIVE JUROR: Yes, sir, but it was open.

20 THE COURT: If you were on this jury, could you
21 set all of that aside and be completely fair to both
22 sides?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: And base your verdict on the
25 evidence in this case?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Okay. Can I see the lawyers up here
3 just a moment?

4 MS. BARR: Yes, sir.

5 (WHEREUPON, a bench conference was held in the
6 presence of the jury, but out of the hearing of the
7 jury.)

8 THE COURT: All right. Any other questions, Ms.
9 Shuler, from the defendant?

10 MS. SHULER: No, Your Honor.

11 THE COURT: Any from the State?

12 MS. BARR: No, sir, Judge.

13 THE COURT: All right. Ladies and gentlemen,
14 you know the procedure by now. If your name is called,
15 simply come forward and we'll strike the jury in that
16 fashion be five and ten. And by the way as I mentioned to
17 you most of you when you came up here, if you do give me
18 information up here certainly do not mention any of what
19 you spoke to me about to your fellow jurors. And don't
20 ask each other, hey, what did you all talk about up there,
21 that would be inappropriate.

22 Go ahead, Mrs. Richardson.

23 THE CLERK: Juror number 135 Arthur C. Tisdale.

24 (WHEREUPON, a white male, comes forward.)

25 THE CLERK: What says the State?

1 MS. BARR: Please present Mr. Tisdale.

2 THE CLERK: What says the defense?

3 MS. SHULER: Please excuse Mr. Tisdale from the
4 trial of just this case.

5 THE CLERK: Please have a seat.

6 Juror number 113 John W. Rogers.

7 (WHEREUPON, a black male, comes forward.)

8 THE CLERK: What says the State?

9 MS. BARR: Please excuse Mr. Rogers from the
10 trial of just this case.

11 THE CLERK: You may take a seat.

12 Juror number 53 Kasandra B. Graham.

13 (WHEREUPON, a black female, comes forward.)

14 THE CLERK: What says the State?

15 MS. BARR: Please present Ms. Graham.

16 THE CLERK: What says the defense?

17 MS. SHULER: Beg the Court's indulgence.

18 (WHEREUPON, a pause in the proceedings.)

19 MS. SHULER: Please excuse the juror from the
20 trial of just this case.

21 THE CLERK: You may take a seat, Ms. Graham.

22 Juror number 112 Kierra Rodgers.

23 (WHEREUPON, a black female, comes forward.)

24 THE CLERK: What says the State?

25 MS. BARR: Please present Ms. Rodgers.

1 THE CLERK: What says the defense?

2 MS. SHULER: Please seat Ms. Rodgers.

3 THE CLERK: You may take a seat in the witness
4 box.

5 Juror number 143 Donquatia White.

6 (WHEREUPON, a black male, comes forward.)

7 THE CLERK: What says the State?

8 MS. BARR: Please present Mr. White.

9 THE CLERK: What says the defense?

10 MS. SHULER: Please present Mr. White.

11 THE CLERK: You may have a seat in the witness
12 box.

13 Juror number 101 Erin Owens.

14 (WHEREUPON, a white female, comes forward.)

15 THE CLERK: What says the State?

16 MS. BARR: Please present Ms. Owens.

17 THE CLERK: What says the defense?

18 MS. SHULER: Please seat Ms. Owens.

19 THE CLERK: You may have a seat in the witness
20 box.

21 Juror number 69 Kaley Lawrimore.

22 (WHEREUPON, a white female, comes forward.)

23 THE CLERK: What says the State?

24 MS. BARR: Please present Ms. Lawrimore.

25 THE CLERK: What says the defense?

1 MS. SHULER: What was the jurors number again?
2 THE CLERK: Sixty-nine.
3 MS. SHULER: Please seat Ms. Lawrimore.
4 THE CLERK: Have a seat in the witness box.
5 Juror number six Nicholas Bell.
6 (WHEREUPON, a white male, comes forward.)
7 THE CLERK: What says the State?
8 MS. BARR: Please present Mr. Bell.
9 THE CLERK: Says the defense?
10 MS. SHULER: Please excuse Mr. Bell from the
11 trial of just this case.
12 THE CLERK: Juror number 138 Kathleen Tisdale.
13 (WHEREUPON, a black female, comes forward.)
14 THE CLERK: What says the State?
15 MS. BARR: Please present Ms. Tisdale.
16 THE CLERK: What says the defense?
17 MS. SHULER: Please excuse Ms. Tisdale from the
18 trial of just this case.
19 THE CLERK: Thank you.
20 Juror number 110 Dominique Pyatt.
21 (WHEREUPON, a black male, comes forward.)
22 THE CLERK: What says the State?
23 MS. BARR: Please present Mr. Pyatt.
24 THE CLERK: What says the defense?
25 MS. SHULER: Please seat Mr. Pyatt.

1 THE CLERK: Please have a seat in the jury box,
2 Mr. Pyatt.

3 Juror number 30 Leon Cole.

4 (WHEREUPON, a white male, comes forward.)

5 THE CLERK: What says the State?

6 MS. BARR: Please present Mr. Cole.

7 THE CLERK: What says the defense?

8 MS. SHULER: Please seat Mr. Cole.

9 THE CLERK: You have a seat in the jury box.

10 Juror number 29 Kashelle Cochran.

11 (WHEREUPON, a black female, comes forward.)

12 THE CLERK: What says the State?

13 MS. BARR: Please present Ms. Cochran.

14 THE CLERK: What says the defense?

15 MS. SHULER: Please excuse Ms. Cochran from the
16 trial of just this case.

17 THE CLERK: Juror number 37 John Drake.

18 (WHEREUPON, a white male, comes forward.)

19 THE CLERK: What says the State?

20 MS. BARR: Please present Mr. Drake.

21 THE CLERK: What says the defense?

22 MS. SHULER: Please excuse Mr. Drake from the
23 trial of just this case.

24 THE CLERK: You may have a seat, Mr. Drake.

25 Juror number 136 Demetric Tisdale.

1 (WHEREUPON, a black male, comes forward.)

2 THE CLERK: What says the State?

3 MS. BARR: Please excuse Mr. Tisdale from the
4 trial of this case.

5 THE CLERK: You may have a seat, Mr. Tisdale.
6 Juror number 99 Marvin Nesmith.

7 (WHEREUPON, a black male, comes forward.)

8 THE CLERK: What says the State?

9 MS. BARR: Please present Mr. Nesmith.

10 THE CLERK: What says the defense?

11 MS. SHULER: Please seat Mr. Nesmith.

12 THE CLERK: You may have a seat in the witness
13 box, Mr. Nesmith.

14 Juror number 70 Tony B. Lee, Jr.

15 (WHEREUPON, a white male, comes forward.)

16 THE CLERK: What says the State?

17 MS. BARR: Please present Mr. Lee.

18 THE CLERK: What says the defense?

19 MS. SHULER: Please excuse Mr. Lee from the
20 trial of just this case.

21 THE CLERK: You may have a seat.

22 Juror number 133 Teresa Thomas.

23 (WHEREUPON, a black female, comes forward.)

24 THE CLERK: What says the State?

25 MS. BARR: Please excuse Ms. Thomas from the

1 trial of just this case.

2 THE CLERK: Juror number 40 Latarsha Durrett.

3 THE COURT: We're at three and seven now, is
4 that correct?

5 THE CLERK: Yes.

6 MS. BARR: Madam clerk, what was the jurors
7 number?

8 THE CLERK: Forty.

9 (WHEREUPON, a black female, comes forward.)

10 THE CLERK: What says the State?

11 MS. BARR: Please present Ms. Durrett.

12 THE CLERK: What says the defense?

13 MS. SHULER: Please seat Ms. Durrett.

14 THE CLERK: Ms. Durrett, have a seat in the
15 witness box.

16 THE COURT: Jury box. You got the witness box
17 filled up.

18 THE CLERK: Jury box, I'm sorry.

19 Juror number 87 Donna McFadden.

20 (WHEREUPON, a black female, comes forward.)

21 THE CLERK: What says the State?

22 MS. BARR: Please excuse Ms. McFadden from the
23 trial of just this case.

24 THE CLERK: You may have a seat, Ms. McFadden.

25 Juror number 125 John Snow.

1 (WHEREUPON, a white male, comes forward.)
2 THE CLERK: What says the State?
3 MS. BARR: Please present Mr. Snow?
4 THE CLERK: What says the defense?
5 MS. SHULER: Please excuse Mr. Snow from the
6 trial of just this case.
7 THE CLERK: You may return to your seat.
8 Juror number 45 Wanda Filyaw.
9 (WHEREUPON, a white female, comes forward.)
10 THE CLERK: What says the State?
11 MS. BARR: Please present Ms. Filyaw.
12 THE CLERK: What says the defense?
13 MS. SHULER: Please seat Ms. Filyaw.
14 THE CLERK: You may have a seat, Ms. Filyaw.
15 Juror number 48 Joi Fulton.
16 (WHEREUPON, a black female, comes forward.)
17 THE CLERK: What says the State?
18 MS. BARR: Present Ms. Fulton.
19 THE CLERK: What says the defense?
20 MS. SHULER: Beg the Court's indulgence one
21 moment please.
22 (WHEREUPON, a pause in the proceedings.)
23 MS. SHULER: Please seat Ms. Fulton.
24 THE CLERK: Ms. Fulton, have a seat.
25 Juror number 11 Sarah Reynolds.

1 (WHEREUPON, a white female, comes forward.)

2 THE CLERK: What says the State?

3 MS. BARR: Please present Ms. Reynolds.

4 THE CLERK: What says the defense?

5 MS. SHULER: Please excuse Ms. Reynolds.

6 THE CLERK: Return to your seat, Ms. Reynolds.

7 Juror number nine Shirlene Blow.

8 (WHEREUPON, a black female, comes forward.)

9 THE CLERK: What says the State?

10 MS. BARR: Please present Ms. Blow.

11 THE CLERK: What says the defense?

12 MS. SHULER: Please seat Ms. Blow.

13 THE CLERK: You may have a seat, Ms. Blow.

14 Juror number 106 Chicora Pressley.

15 (WHEREUPON, a black female, comes forward.)

16 THE CLERK: What says the State?

17 MS. BARR: Please present Ms. Pressley.

18 THE CLERK: What says the defense?

19 MS. SHULER: Beg the Court's indulgence one
20 moment please.

21 (WHEREUPON, a black female, comes forward.)

22 MS. SHULER: Please seat Ms. Pressley.

23 THE CLERK: Ms. Pressley, you may have a seat.

24 THE COURT: One alternate suitable to the State
25 and the defendant?

1 MS. BARR: That's fine with me, Your Honor.

2 THE COURT: Ms. Shuler?

3 MS. SHULER: That's fine, Your Honor.

4 THE COURT: One and two on the alternate.

5 THE CLERK: Juror number 74 Shari Matthews.

6 (WHEREUPON, a white female, comes forward.)

7 THE CLERK: What says the State?

8 MS. BARR: Please present Ms. Matthews.

9 THE CLERK: What says the defense?

10 MS. SHULER: Please excuse Ms. Matthews from the
11 trial of just this case.

12 THE CLERK: You may return to your seat, Ms.
13 Matthews.

14 Juror number 127 Jennifer Strong.

15 (WHEREUPON, a white female, comes forward.)

16 THE CLERK: What says the State?

17 MS. BARR: Please present Ms. Strong.

18 THE CLERK: What says the defense?

19 MS. SHULER: Please excuse Ms. Strong from the
20 trial of just this case.

21 THE CLERK: Juror number 107 Isaiah Pressley.

22 (WHEREUPON, a black male, comes forward.)

23 THE CLERK: What says the State?

24 MS. BARR: Please excuse Mr. Pressley from the
25 trial of just this case.

1 THE CLERK: You may return to your seat, Mr.
2 Pressley.

3 Juror number 134 Eric Timmons.

4 (WHEREUPON, a white male, comes forward.)

5 THE CLERK: What says the State?

6 MS. BARR: Seat Mr. Timmons.

7 THE CLERK: Says the defense?

8 MS. SHULER: We're both out.

9 THE COURT: Have a seat, Mr. Timmons, in the
10 jury box.

11 Any motions or issues pertaining to jury
12 selection from the State?

13 MS. BARR: No, Your Honor.

14 THE COURT: From the defendant?

15 MS. SHULER: Beg the Court's indulgence just one
16 moment, Your Honor.

17 THE COURT: All right.

18 (WHEREUPON, a pause in the proceedings.)

19 MS. SHULER: No motions, Your Honor.

20 THE COURT: All right. Okay.

21 Ladies and gentlemen, who are selected as jurors
22 for the trial of this case, please go to the jury room to
23 your right. I'll have you back out momentarily. As I
24 mentioned before, you may not discuss this case even
25 amongst yourselves until I tell you that you can. So

1 please talk about anything you want other than the facts
2 of this case or the allegations in this case and don't
3 talk about any of the witnesses or lawyers or anyone --
4 anything else remotely involved in it. We'll have you
5 back out in just a moment. Thank you.

6 (WHEREUPON, the jury retire to the jury room.)

7 THE COURT: Ms. Barr, Ms. Shuler, could you all
8 come up just a moment.

9 (WHEREUPON, a bench conference was held in the
10 presence of the remaining jury panel, but out of the
11 hearing of the remaining jury panel.)

12 THE COURT: All right. Ladies and gentlemen,
13 who are not selected as jurors for the trial of this case
14 your service for the week is concluded. I know that it is
15 a great inconvenience to come up here this week in the
16 manner that you have, but please understand that we simply
17 could not conduct the business that we conduct without you
18 being here even though only one case was tried to a
19 conclusion. A lot of cases were disposed of because you
20 were here. And while you have haven't been here, we
21 haven't been cooling our heels or eating donuts or
22 anything. We been working pretty hard this week. So I
23 wanted to let you know that the court system is alive and
24 well in Williamsburg County. The lawyers on both sides do
25 an excellent job in getting cases prepared.

1 Typically, during a plea week, this is not a
2 plea week, but typically during a plea week, several dozen
3 cases are disposed of. This is a trial week, so lesser
4 number are disposed of by plea, but nonetheless your
5 services are very available even though one case has been
6 tried to a conclusion. Does anybody need a work excuse?

7 If you do, where can they get it?

8 THE CLERK: They can have a seat back in the
9 auditorium.

10 THE COURT: Just have a seat back in the
11 auditorium, they will get an excuse for you. Also, you'll
12 be getting a check in the mail for your services. It is
13 not what you're worth, but it is what the county is
14 allowed by law to pay. So don't let your heart beat
15 rapidly as you open that envelope because you might be
16 disappointed. Has anybody have any questions about
17 anything? Why we do certain things? How certain things
18 are done? What we were doing while you were here at 9:15?

19 Lots of times in cases we have pretrial issues
20 that come up. The law requires me to conduct a hearing
21 and we had one of those hearings in this particular case.
22 The Supreme Court says we must conduct a hearing. The
23 lawyers know what issues to raise. And I have to consider
24 testimony that's introduced what they call in-camera or
25 outside the juries presence and that's what we did this

1 morning. We were in here probably about five after nine
2 and we did that all the way up until you came in at about
3 10:20. Didn't want you to think that I was at home in
4 Sumter drinking coffee and just decided to get here when I
5 wanted to get here.

6 Please accept my thanks and you are free to go.
7 Thank you for your time.

8 (WHEREUPON, the remaining jury panel is
9 excused.)

10 THE COURT: We'll take a recess for about five
11 minutes. Ms. Barr, what we'll do is I assume you'll have
12 enough to present that will carry us up until about one
13 o'clock?

14 MS. BARR: Absolutely.

15 THE COURT: Okay. We'll break for just a few
16 minutes.

17 Does the State have any position on Mr. Moore's
18 custodial status?

19 MS. BARR: Judge, we don't have any objection
20 for him remaining out.

21 THE COURT: Mr. Moore, please note that if we
22 begin at a certain time and you're not here, we will go on
23 without you, that includes lunch breaks, bathroom breaks
24 whatever. I doubt the case will be finished before lunch.
25 I seriously doubt that. And when we do start back, we

1 will go on outside of your presence. And if the State
2 request, I'll issue a warrant for your arrest. I just
3 want to make sure that you understand that time means a
4 lot to me. Thank you.

5 THE DEFENDANT: Yes, sir.

6 (WHEREUPON, a break was taken.)

7 THE COURT: All right. Is the State ready to
8 go.

9 MS. BARR: State's ready, Judge.

10 THE COURT: Defendant ready? Mr. Moore, coming
11 in?

12 Everybody ready for the jury?

13 MS. BARR: Yes, sir, Your Honor.

14 MS. SHULER: Yes, Your Honor.

15 THE COURT: You can bring in the jury.

16 (WHEREUPON, the jury came into open court.)

17 THE COURT: We're now ready to move forward with
18 the trial of this case, ladies and gentlemen. Before we
19 actually do begin, the clerk is going to swear you.

20 Mrs. Richardson.

21 (WHEREUPON, the jury is sworn.)

22 THE COURT: Okay. Ladies and gentlemen, you now
23 have been sworn in as jurors in the case and I know that
24 some of you may have actually sat on a jury before. You
25 may have heard some of these comments, but what I wanted

1 to let you know is that in this particular case your
2 responsibility is very significant, very serious because
3 as you have seen these parties have selected you to render
4 a verdict in this case. And at the end of the case, your
5 verdict has to speak the truth. It cannot speak the truth
6 unless you pay very close attention throughout the trial
7 to all the witnesses who testify and all of the evidence
8 is introduced.

9 As I mention to you at the beginning, the State
10 has charged with -- the defendant with the offense of
11 burglary in the third degree. It will be your
12 responsibility at the end of the case to render a
13 unanimous verdict as to whether or not he is guilty or not
14 guilty. I'll talk to you in more detail about what your
15 specific role is in reaching that decision but suffice it to
16 say that you are the only people in the world who can make
17 that decision. I will not be able to do it. The lawyers
18 certainly want be able to do it and no one else can do it
19 but you, that's why you have been selected.

20 The fact as you know that a person's been
21 arrested, charged or indicted is not evidence of guilt.
22 The case has to get into this courtroom in some fashion.
23 And in South Carolina and as a matter of fact throughout
24 the United States, the indictment process is used. The
25 defendant has entered a plea of not guilty. He is

1 presumed innocent and does not have to prove or disprove
2 anything. And the burden is solely on the State to
3 establish all elements of the crime beyond a reasonable
4 doubt.

5 Now, evidence will come to you typically in two
6 forms testimony when the witnesses are sworn and sit in
7 this box. Also, by way of exhibits, those are things that
8 you can typically touch or see, might be a photograph,
9 might be a recording. It might be a piece of paper and in
10 some cases it can be anything from an automobile tire to a
11 rock. It can be any one of a number of things if evidence
12 comes in you can consider it. If during the course of a
13 trial, I tell you that you must disregard something you
14 have seen or heard, you must do that under your oath
15 because the oath you took says you'll try the case
16 according to the evidence and the law. The law says if I
17 tell you to disregard something, you must do that.

18 Now, another way evidence can come in is
19 relatively infrequent, but it can be by way of a stipulation,
20 that's when the two sides agree that a certain fact is
21 true. If there is a stipulation reached, that will
22 certainly be made known to you. Now, as far as your role
23 as fact finders, please understand that you must determine
24 whether or not you can believe a witness who testifies.
25 You use your good common sense in doing that. When you

1 watch someone talk every day, more than likely you're
2 doing that. You're saying can I believe what that person
3 is telling me. You again use your good common sense. You
4 can take into account things such as, but this is not a
5 complete list. But you can take into account what their
6 appearances on the stand or they hesitant or
7 straightforward when they answer questions. We call that
8 demeanor. You can take what was that witness' ability to
9 know what he or she claims to know, was that witness'
10 testimony strengthened or weakened by other evidence that
11 is in the record before you. Also, you can take into
12 account whether or not the witness may have something the
13 same or different on a prior occasion and again anything
14 else that you think is appropriate. You can believe every
15 word that comes out of witnesses mouth if you want to.
16 You can disbelieve every word or you can believe some and
17 disregard other things that a witness has to say. What
18 you do not do is count up the number of witnesses who say
19 something and say, well, 14 said this and only nine said
20 the opposite, so I've got to believe the 14. That's not
21 the way it works. You weigh evidence, evidence weighs
22 with you if it convinces you of its truth.

23 Now, the trial itself will be conducted in
24 stages. In a moment, the lawyers will stand up and give
25 an opening statement. The State will give an opening

1 statement through the prosecuting attorney and that is
2 their opportunity to tell you what they believe the
3 evidence will or will not establish. After that, the
4 defendant through his attorney can if he wants even though
5 he doesn't have to can also give an opening statement.
6 The defendant can wait if he wants and give an opening
7 statement after the State rests. That will be up to the
8 defense lawyer. The defense lawyer's opening statement
9 will also be a summary of what they believe the evidence
10 will or will not show.

11 Now, what the lawyer say isn't evidence. If the
12 lawyer were to stand up and say, well, today, ladies and
13 gentlemen, is June the fourth and it's a Tuesday. Of
14 course, you wouldn't believe that because it's not true
15 any way. But that's just a very minor illustration what
16 they say is not evidence. The evidence will come to you
17 in the ways that I mentioned earlier.

18 Now, after the opening statements, the State
19 will present its case in chief. And that is that they'll
20 do that by calling witnesses and presenting other
21 evidence. After the State rests, the defendant, if he
22 wants to, can present evidence. He does not have to and
23 the reason he does not have to is because he has no burden
24 at all. The State has the sole burden.

25 After all the evidence is in, the lawyers will

1 give a closing argument. I will give you a charge on the
2 law and you will be released to deliberate. You are not
3 permitted to discuss the case at all amongst yourselves or
4 with anyone else until I tell you that you can. And
5 certainly you cannot during a break or during lunch, go
6 back and discuss with one another or anyone else in the
7 world what you just saw and what you just heard because
8 you will try the case according to the evidence and the
9 law. You'll have all of that but not until the very end
10 of the case.

11 Now, it's your responsibility to pay close
12 attention. I know this is perhaps not something that you
13 want to do, but you are charged with this very important
14 civic responsibility of being on a jury. They'll be a
15 number of witnesses who testify. You have to pay very
16 close attention to all of them because even though
17 somebody might be the forth or fifth witness, what they
18 say is just as important as what anybody else has to say.
19 So please give everyone, the lawyers and the witnesses
20 alike your undivided attention. If during the course of
21 the trial, you will more than likely during the course of
22 the trial at any given time see or hear one of the lawyers
23 object to a question or an answer, that's one of the areas
24 where I come in. I make a determination as to whether or
25 not the objection should be sustained or overruled. I

1 don't do that with an eye toward who I think ought to
2 prevail. We have the rules of evidence in this book and
3 the rules of procedure in this book. The rules are
4 relatively short, but the interpretation is long. A
5 lawyer makes an objection if they have a good faith reason
6 to think a question or an answer is not allowed under the
7 rules of evidence. I'll make that determination. Don't
8 keep score on how I rule. Again, my rulings are governed
9 by what the law is. If a lawyer does make an objection,
10 that does not mean that he or she is trying to hide
11 something from you. If a lawyer ask a question that's
12 objected to, that doesn't mean that that lawyer's trying
13 to skirt the rules and get something in that's improper.
14 I may have to send you out to make a ruling and typically
15 that's because I don't know what they want to tell me. It
16 might be inappropriate for them to broadcast it in front
17 of me. The lawyers know this and I'm going tell them now,
18 that they cannot stand up and start speaking with their
19 objection and make their argument. They object, state the
20 basis for it, and then they sit down and then I'll ask for
21 any follow up. What they're not entitled to do is what
22 you see on TV. Everybody stands up in there with the jury
23 in there and starts hollering and screaming. They know
24 better than that. I've never seen a case ever tried like
25 they do in the movies or on television. We have rules,

1 the lawyers know those and they'll follow them.

2 All right. Job number one pay attention. Job
3 number two use your common sense. And job number three
4 your use your common sense. You come into this courtroom
5 with your every day experiences. And I mention common
6 sense twice because that's the most valuable tool that you
7 have.

8 All right. Any objections to those remarks from
9 the State, Mr. Brown?

10 MR. BROWN: No, Your Honor.

11 THE COURT: Any from the defendant?

12 MS. SHULER: None, Your Honor.

13 THE COURT: Mr. Brown.

14 MR. BROWN: Thank you, Your Honor. I just came
15 out from my building and there was a man breaking into my
16 building. He just took off on a bicycle. He was wearing
17 a gray shirt and blue jeans. He was a black male. Ladies
18 and gentlemen, my name is Tyler Brown. I am join today by
19 Ms. Kimberly Barr of the Solicitor's office. And we're
20 here today to talk to you about a case of Mr. Roy Moore.

21 Mr. Moore today is charged with the offense of
22 burglary in the third degree. And those words I just
23 opened up with we believe the evidence will show that the
24 first words said by the victim, Mr. Bryan Kline, as he
25 spoke with 9-1-1. We believe the evidence will show in

1 this trial that those were the words that were said 20
2 minutes before the defendant, Mr. Moore, was then brought
3 to a location in a gray T-shirt and blue jeans. And he
4 was identified by the victim as the man coming out of his
5 building.

6 Ladies and gentlemen, Mr. Moore's charged today
7 with burglary in the third degree. What that means is
8 that Mr. Moore is charged with entering a building without
9 consent with the intent to commit a crime therein. This
10 is an offense at this point he stands innocent of. And it
11 is our job as the State to prove to you beyond a
12 reasonable doubt, to prove to you and leave you firmly
13 convinced that Mr. Moore is the one that did that. And,
14 ladies and gentlemen, we believe as you hear the testimony
15 here today, you will have sufficient evidence to find him
16 and be firmly convinced that he is the man that committed
17 this crime.

18 You are going to hear from a number of
19 witnesses. I believe the State will bring up about four
20 witnesses. You're going to be asked to listen to their
21 testimony, to listen to their credibility, to determine
22 their credibility. You will get a chance to see their
23 demeanor on the stand. You'll see a chance to listen to
24 what they have to say. And I'm going to ask you to pay
25 close attention during this trial, to listen to what

1 surrounding circumstances were at this event unfolded.

2 I'm going to ask you to consider whether or not
3 they seem as if they are being forthright and honest with
4 you, whether or not they are hesitating in their answers,
5 whether or not they're just trying to say what we want to
6 hear them say or whether or not they seem like they're
7 being truthful.

8 And, ladies and gentlemen, as jurors, you are
9 going to be the most trained people in the world to
10 determine that because what you have as jurors are assign
11 to do is use good old common sense. Ladies and gentlemen,
12 I'm going to ask that you pay close attention, use that
13 common sense, listen to our witnesses, listen to the facts
14 of this case. And at the end of this case, I'm going to
15 ask you to find the defendant, Roy Donell Moore, guilty of
16 burglary third degree. Thank you.

17 THE COURT: Ms. Shuler, any opening statement at
18 this time?

19 MS. SHULER: Yes, Your Honor. Good morning. My
20 name is Mandy Shuler, I'm a lawyer here in town. And I'm
21 representing Mr. Moore today. As you heard the Assistant
22 Solicitor tell you, Mr. Moore's been charged with burglary
23 in the third degree. What that mean is is that is allege
24 that Mr. Moore entered in to the building of Mr. Kline
25 without his consent, with the intent to commit a crime

1 therein. With that being said with the intent to commit a
2 crime therein, you got two different things. You got one
3 that the allege -- that Mr. Moore was alleged to have
4 entered into the building and that he was going -- it was
5 alleged that he intended to commit a crime within that
6 building. The Solicitor must prove each and every
7 element. Those two elements of that crime beyond a
8 reasonable doubt. And you will hear a lot about
9 reasonable doubt in this case. What that is is that it is
10 that doubt that makes you hesitate to act.

11 Now, in a civil case, if it comes into this
12 courtroom, you're here for a civil case, you have the
13 State or the plaintiff in that case must only prove their
14 case by a preponderance of the evidence, that means he
15 must tip the scale ever so lightly for the jury to find in
16 his favor. That's not the case in this court.

17 This is a criminal court. The State must tip
18 that scale so greatly in their favor to cause you to
19 hesitate to act in this case, that's the reasonable doubt.
20 And I will submit to you today that the State is not going
21 to be able to do that. What you will hear is that the
22 State says somebody broke into Mr. Kline's shed and that's
23 tragic, not trying to make light of that whatsoever
24 somebody broke in. He identified that person as a black
25 male riding a bicycle wearing a gray shirt with blue

1 jeans. The bicycle is red. He has a gold tooth. And
2 what do the police officers do, they picked up the first
3 black male they could find and apprehended him, brought
4 him in a car to Mr. Kline's house for identification.
5 And, of course, Mr. Kline identified him as the person
6 that allegedly broke into his house. Mr. Moore was in
7 handcuffs. He was in the backseat of a car. He never got
8 out of the car and that's how they choose to allow
9 Mr. Kline to identify the man that alleged broke into his
10 home. There's plenty of reasonable doubt in this case,
11 that identification is one of them. You will hear lots of
12 that from the State. I will ask you to pay close
13 attention because you will find that there's lots of
14 evidence lacking in this case. There's not sufficient
15 evidence to convict Mr. Moore. And we're going to ask you
16 at the conclusion of all the testimony and evidence in the
17 case to return a verdict in favor of my client, Mr. Moore.

18 THE COURT: Thank you, Ms. Shuler.

19 First witness for the State.

20 MS. BARR: Judge, we like to go a little bit out
21 of order. We call Deputy Hayes.

22 THE COURT: Thank you.

23 THE CLERK: Do you solemnly swear or affirm to
24 tell the truth and nothing but the truth so help you God?

25 THE WITNESS: Yes, I do.

1 THE CLERK: Step up to the witness box.

2 MS. BARR: May it please the Court.

3 WHEREUPON,

4 Loy Hayes,

5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. BARR:

8 Q Deputy Hayes, please state your full name for the
9 record?

10 A Deputy Loy Hayes.

11 Q And good morning to you.

12 A Good morning.

13 Q I know you're running on fumes now. You been working
14 all night.

15 A Yes, ma'am.

16 Q So I'll try to be as brief as I can with you?

17 A Okay.

18 Q Now, everybody in the courtroom sees you have your
19 uniform on, but just for the record tell the, ladies and
20 gentlemen of the jury, what you do for a living?

21 A I'm employed with the Williamsburg County Sheriff's
22 Department, I'm a deputy. I work patrol. I patrol
23 Williamsburg County and I respond to the complaints that
24 the citizens may have.

25 Q Okay. You are, of course, a certified police

1 officer?

2 A Yes, I am.

3 Q And how long have you worked as a law enforcement
4 officer?

5 A I have ten years experience.

6 Q Have you worked for Williamsburg County the entire
7 time?

8 A No.

9 Q Where did you work before?

10 A Olanta Police Department and Hemmingway Police
11 Department.

12 Q Okay. Now, sir, I'm going to call your attention
13 back to June 4th 2012?

14 A Yes.

15 Q At about 1:30 in the afternoon, you were working that
16 day, right?

17 A Yes, ma'am.

18 Q And on that occasion, did you assist Kingstree Police
19 Department in investigating a burglary involving Mr. Roy
20 Moore?

21 A I come in contact with Mr. Moore, yes, that day.

22 Q Now, when you are in your patrol vehicle, you all
23 have radios there?

24 A Yes.

25 Q All right. And can you overhear calls that are sent

1 out over dispatch?

2 A Yes.

3 Q Okay. All right. Now, back on that particular day,
4 did you overhear a dispatch call regarding a possible
5 suspect in a burglary case?

6 A Yes, I did.

7 Q Okay. All right, sir. Where were you when you
8 overheard that call?

9 A A section of Sumter Highway 521, Highway 521.

10 Q Is it 521 or 527?

11 A I'm sorry it's 527. We got both highways, yes, 527
12 Sumter Highway.

13 Q All right. And you were, of course, still within the
14 county?

15 A Yes, I was in Williamsburg County.

16 Q All right. Now, in terms of where you location was,
17 did you have an understanding as to where the victim lived
18 or where the burglary took place?

19 A In the city. I work for the county, so I'm not too
20 familiar with the roads in the city.

21 Q I got you. If I were to tell you that the burglary
22 was committed on [REDACTED] would you have
23 any reason to dispute me?

24 A No.

25 Q Okay. You familiar with the location [REDACTED]

1 [REDACTED]?

2 A Somewhat. I know it's in the city.

3 Q Okay. I got you. All right. Tell us what happened
4 when you first observed Mr. Moore, the defendant?

5 A He was headed out on the Sumter Highway. He was
6 riding a bicycle out away from town. I don't know whether
7 that's -- I guess, I don't want to, but it was away from
8 town. I was actually coming in to -- towards Kingstree
9 ---

10 Q Okay.

11 A --- when I observed him.

12 Q All right. Now, and I recognize this has been almost
13 a year ago and you probably responded to a number of calls
14 since then.

15 A Yes.

16 Q Do you recall overhearing a description of an
17 individual who had committed the burglary?

18 A They did give a description.

19 Q Okay. All right. And do you have a specific
20 recollection of what that description was?

21 A I do not.

22 Q Okay.

23 A There again like I say I've responded to many of
24 calls. I do remember when I seen him I know that was the
25 description but to repeat what that description was would

1 be -- it would be a little difficult for me.

2 Q Fair enough, fair enough. You don't have an
3 independent recollection of what Mr. Moore was wearing
4 that day, but you remember that. That's the reason why I
5 stopped. All right. Okay. Now, when you stopped him,
6 tell the jury what happened from that point on?

7 A If I can really -- I stopped him, made contact with
8 him and I called the city and advised that I had the
9 subject that fit that description. Okay. I think I
10 explained to Mr. Moore what was going on as well.
11 Therefore, the city met with me out there and detained him
12 and that was it as far as my part.

13 Q All right. Now, in terms of the city meeting you out
14 here, was that Officer Ron Dozier?

15 A Yes, it was.

16 Q He's the gentleman seated right behind me?

17 A Yes.

18 Q Okay. And he actually came out to where you were on
19 Sumter Highway?

20 A Yes, he did.

21 Q All right. Where did Mr. Moore go from that point
22 out? Did he go in your patrol car?

23 A He went in with the -- Mr. Dozier, Officer Dozier.

24 Q So you never went back or never went to ---

25 A I never went to scene or anything.

1 Q I got you. Okay. Can I get you to step off the
2 witness chair for me. While we're bringing that over, I'm
3 going to ---

4 MS. BARR: Judge, I've got what's been marked
5 for identification purposes as State's Exhibit Number 2.
6 And I don't believe counsel has any objections to that.

7 THE COURT: All right. Any objection to number
8 two?

9 MS. SHULER: No, Your Honor.

10 THE COURT: Okay. Are you offering that or you
11 just want to refer to it?

12 MS. BARR: I'm offering it, Your Honor.

13 THE COURT: That's in by consent.

14 (WHEREUPON, State's Exhibit No. 2 was admitted
15 into evidence.)

16 MS. BARR: Permission to publish?

17 THE COURT: Yes, ma'am.

18 Ladies and gentlemen, that's a fancy word for --
19 that means it's going to be shown to you.

20 MS. BARR: Thank you, Your Honor.

21 BY MS. BARR:

22 Q Sir, I'm going to publish what's been admitted as
23 State's Exhibit Number 2, which is essentially just a
24 Google map of the area. Sir, I guess to make it easier do
25 you see this as being [REDACTED] that I'm

1 pointing to on the exhibit?

2 A Yes, ma'am.

3 Q All right. And there's a little A and a circle and
4 we're going to for argument sake and time sake assume,
5 that's the victim residence on [REDACTED], okay?

6 A Okay.

7 Q All right. Do you see where Sumter Highway is?

8 A Yes, ma'am.

9 Q All right. You use this and point it out to me.
10 Where is Sumter Highway?

11 A Right here.

12 Q And that's also Highway 527?

13 A 527.

14 Q All right. And tell me in terms of Sumter Highway
15 and 527, how does Sumter Highway run into Academy Street?

16 A It appears when you come into the city limits it
17 turns into Academy Street.

18 Q Okay. All right.

19 A I see an outline here. I can't -- not sure, but I
20 think this maybe like the city limits where you see this
21 color of shade.

22 Q Yes, sir.

23 A I think that may be the city limits, so if y'all can
24 see what I'm talking about.

25 Q All right. Now, do you see Highway 52 North Long

1 Street?

2 A Yes.

3 THE COURT: Make sure you keep your voice up
4 please, sir.

5 THE WITNESS: Yes, sir.

6 BY MS. BARR:

7 Q There's a court reporter behind you, so just make
8 sure that you do that for me. Okay. So we call it
9 Highway 52 and in certain areas is North Long Street?

10 A Yes, sir.

11 Q We're talking about the same thing. So it runs here
12 to here to there; is that correct?

13 A Yes, ma'am.

14 Q All right. And we have [REDACTED] that
15 crosses over Highway 52?

16 A Yes.

17 Q Is that right?

18 A Yes, ma'am.

19 Q Okay. And, Deputy Hayes, in terms of where you
20 initially saw the defendant, can you point out on that
21 diagram where you saw him on that day?

22 A It was on Sumter Highway. It was outside of the city
23 limits.

24 Q Okay.

25 A So around about here about maybe end of where the map

1 is.

2 Q Okay. All right. And can you do me a favor on the
3 map here that's on this copy will you put an X actually on
4 that particular exhibit of where you saw him. Now, let me
5 get you to stand back over there for me. In terms of
6 distance from the victim's house on [REDACTED],
7 can you estimate the distance between that address and
8 where you saw the defendant?

9 A I would say about two -- maybe two miles out because
10 like I say I don't have a very good recollection where I
11 actually seen him at, so I'm kind of iffy about the
12 distance.

13 Q Okay.

14 A But I wasn't too far out of the city limits.

15 Q Okay. And you indicate that he was on a bicycle?

16 A Yes, he was.

17 Q All right. Take your seat. Now, Deputy Hayes, have
18 you had an occasion as a law enforcement officer if you
19 are investigating a crime to stop individuals as a part of
20 investigating crimes?

21 A Yes, ma'am.

22 Q And in those instances are the persons actually under
23 arrest at that time?

24 A No, they are not. They are detained.

25 Q Okay. And is that something that's done routinely or

1 is that something ---

2 A We do it routinely.

3 Q Okay. All right. And have you instances in your
4 experiences where you ask an individual to go back to a
5 crime scene and the victim identified an individual?

6 A Yes, I have.

7 Q Have you had instances where you've asked a suspect
8 to come to the crime scene and the victim says no that's
9 not him or her?

10 A I have.

11 Q Okay. And in terms of your part in this, you never
12 spoke with the homeowner, Mr. Kline?

13 A No, I did not.

14 Q All right.

15 MS. BARR: Thank, sir, that's all the questions
16 I have or -- well, beg the Court's indulgence. That's all
17 the questions. Please answer any questions that counsel
18 or the Court may have.

19 THE COURT: Ms. Shuler.

20 CROSS-EXAMINATION

21 BY MS. SHULER:

22 Q Deputy Hayes, you don't have a good recollection of
23 that day, do you?

24 A No, ma'am.

25 Q Okay. Do you recall if you detained Mr. Moore

1 because of the description or because you were told to
2 detain Mr. Moore?

3 A I detained him because of the description.

4 Q Okay. So nobody told you that day to detain
5 Mr. Moore because they just detained Mr. Moore, if you say
6 him?

7 A No.

8 Q Okay. Because he supposedly fit the description,
9 that's why you detained him?

10 A That's the reason why I stopped him.

11 Q That's your testimony?

12 A Yes.

13 Q Okay. Now, the day in question do you recall what
14 Mr. Moore was wearing?

15 A I would be scared to answer that, so I'm not going --
16 no, I can't.

17 Q You don't remember what he was wearing?

18 A Not exactly.

19 Q But you detained him because he fit the
20 description?

21 A He fit the description, yeah.

22 Q And the description was the clothing, am I right?

23 A Yes.

24 Q And that he was black, am I right?

25 A Right.

1 Q Okay. But you can't remember that?

2 A No.

3 Q And you say you think you recall that you detained
4 him about two miles outside of town?

5 A I think so.

6 Q You think so. Okay. Do you recall what -- did you
7 take him back into town?

8 A No, I did not. We sat right there on the side of the
9 road until Officer Dozier came.

10 Q Okay. And do you recall that it was Officer Dozier
11 that came?

12 A Yes, it was.

13 Q Do you recall if there was anybody with him?

14 A No, it was not.

15 Q Okay. Now, did you talk to Mr. Moore that day?

16 A I did.

17 Q Do you recall any of your conversations?

18 A I believe I explain to him what was going on that
19 they had had a ---

20 Q I don't want to know what you said.

21 A Well, I can't remember. I remember explaining to him
22 the reason why I was stopping him.

23 Q Okay.

24 MS. SHULER: Beg the Court's indulgence one
25 moment.

1 (WHEREUPON, a pause in the proceedings.)

2 BY MS. SHULER:

3 Q Do you remember telling Mr. Moore that day that he
4 didn't fit the description?

5 A Not telling him, no.

6 Q Okay. To say it best, you kind of have a fuzzy
7 recollection about what went on that day?

8 A Yes, I do.

9 MS. SHULER: No further questions.

10 THE COURT: Redirect?

11 MS. BARR: No, Your Honor.

12 THE COURT: Thank you, sir. You can step down.

13 (WHEREUPON, the witness leaves the witness
14 stand.)

15 MS. BARR: Judge, we ask that the witness be
16 excused.

17 THE COURT: Any objection?

18 MS. SHULER: No objection.

19 THE COURT: Deputy, you can leave or stay,
20 whichever you like.

21 All right. Next witness for the State?

22 MR. BROWN: Your Honor, the State would call
23 Joey Phillips of the Williamsburg County dispatch.

24 THE CLERK: Do you solemnly swear or affirm to
25 tell the truth and nothing but the truth so help you God?

1 THE WITNESS: I do.

2 THE CLERK: Just step around to the witness box.

3 THE COURT: Mr. Brown.

4 MR. BROWN: May it please the Court.

5 THE COURT: Yes, sir.

6 WHEREUPON,

7 Joey Phillips,

8 after first having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. BROWN:

11 Q Mr. Phillips, for the ladies and gentlemen of the
12 jury and also the court reporter, please tell us your name
13 and where you work?

14 A Joseph Phillips Williamsburg County 9-1-1.

15 Q As you know, we are a court of record, so I'm going
16 to need to make sure you speak up and need to make sure
17 that you give me good verbal answers. And we're just
18 going to kind of talk for a second, okay.

19 A Yes, sir.

20 Q And how long you been working at Williamsburg County
21 9-1-1?

22 A Thirteen years.

23 Q And what are your duties there?

24 A At that time a communication sift supervisor.

25 Q Okay. Tell me what that means?

1 A I do communication for the shift. Also, I conduct
2 with law enforcement police and fire and just basically
3 the dispatcher for law enforcement, fire and police.

4 Q As shift supervisor, do you still also take in 9-1-1
5 calls?

6 A Both calls and dispatcher.

7 Q To your recollection were you working on the day of
8 June 4th 2012?

9 A Yes, sir.

10 Q On that day did you receive a phone call at your
11 dispatch at approximately 1:30 in afternoon?

12 A Yes, sir.

13 Q I'm having a copy of your report run off real quick.
14 And I'll be bringing it to you in just a second. In
15 preparation for trial ---

16 MR. BROWN: I'm sorry, Your Honor, permission to
17 approach.

18 THE COURT: Yes, sir.

19 BY MR. BROWN:

20 Q In preparation for trial today, did I ask you to
21 review a 9-1-1 tape?

22 A Yes, sir.

23 Q And does this -- the copy of the 9-1-1 tape I ask you
24 to review?

25 A Yes, sir.

1 Q Did you listen to it in its entirety?

2 A Yes, sir.

3 Q And was it an accurate depiction or reflection on the
4 9-1-1 tape that was -- that you recorded on June 4th 2012?

5 A Yes, sir.

6 MR. BROWN: Your Honor, I would offer State's
7 Exhibit Number 1 into evidence.

8 THE COURT: Any objection?

9 MS. SHULER: No objection, Judge.

10 THE COURT: That's in. You can play it.

11 (WHEREUPON, State's Exhibit No. 1 was admitted
12 into evidence.)

13 MR. BROWN: Court's indulgence, Your Honor.

14 BY MR. BROWN:

15 Q Okay. I'm also going to provide you a copy of your
16 cad report for your reference purposes.

17 MR. BROWN: Beg the Court's indulgence.

18 (WHEREUPON, a pause in the proceedings.)

19 BY MR. BROWN:

20 Q Now, Mr. Phillips, as I go through this, I may pause
21 at particular points and ask you questions about what's
22 going on throughout this tape. So I just want you to
23 listen closely and follow along. I think your cad report
24 is right there with you.

25 A Yes, sir.

1 (WHEREUPON, 9-1-1 recording being played for the
2 jury.)

3 BY MR. BROWN:

4 Q Okay. Now, was that your voice there on that
5 recording?

6 A Yes, sir.

7 Q And you know who's voice that was on the other end of
8 the line?

9 A That would be ---

10 Q Mr. Kline over here?

11 A Yes, sir.

12 Q Okay. I'm going to continue now.

13 (WHEREUPON, 9-1-1 recording continues being
14 played for the jury.)

15 BY MR. BROWN:

16 Q When you say bravo mic, what ---

17 A Black male.

18 (WHEREUPON, 9-1-1 recording continues being
19 played for the jury.)

20 BY MR. BROWN:

21 Q You know who's voice that was?

22 A Officer Dozier.

23 Q And how do you know that?

24 A Working with him through the years.

25 Q And so do you identify that as Officer Dozier making

1 that statement?

2 A That's correct.

3 (WHEREUPON, 9-1-1 recording continues being
4 played for the jury.)

5 BY MR. BROWN:

6 Q And I'm going to pause right there, so we can kind of
7 talk a little bit about a time line. What time did this
8 first call come in on that day?

9 A It came in at -- that be 1:23, that was the initial
10 call he came into.

11 Q And this was on June 4th, 2012?

12 A Yes, sir.

13 Q And the part of the tape we just now heard where
14 someone identify -- where Officer Dozier identified Roy
15 Moore as being in location matching the description what
16 time was that report made?

17 A It looks like it's going to be around 1330, that be
18 around 1:30.

19 (WHEREUPON, 9-1-1 recording continues being
20 played for the jury.)

21 BY MR. BROWN:

22 Q All right. Thank you. I think that's the bulk of it
23 in its entirety. Now, as we went through that, we heard a
24 mention of -- you already identified when Officer Dozier
25 first saw someone who fit the description identified as

1 Roy Moore. What time was that again?

2 A 1330.

3 Q And this all started at 1323?

4 A That's correct, sir.

5 Q There's also a point in this reporting where it was
6 identified that Roy Moore had been detained by Loy Hayes.
7 Do you have the time stamp as to when that happened?

8 A That was at 1336.

9 Q 1336, so that was 13 minutes after the incident?

10 A That's correct on Sumter Highway.

11 Q And do you have a time stamp as to when Officer
12 Dozier took Roy Moore into his custody?

13 A That be 1339.

14 Q Okay. And finally, do you have a time stamp as to
15 when Officer Dozier returned Roy Moore to the address of

16 [REDACTED]

17 A That was at 1343.

18 Q So just in conclusion, that was a total lapse of 20
19 minutes in that time frame?

20 A Yes, sir.

21 MR. BROWN: All right. Thank you, no further
22 questions.

23 THE COURT: Wait just a second.

24 Ms. Shuler, you have any questions?

25 MS. SHULER: I do, Your Honor.

CROSS-EXAMINATION

1
2 BY MS. SHULER:

3 Q Mr. Phillips, Mr. Kline unequivocally identified the
4 male that broke into his shed as a black male, am I right?

5 A Yes, ma'am.

6 Q 6'2?

7 A I don't remember if he said the size.

8 Q You don't recall on this tape it said he was 6'2?

9 A I think he did say that, but I can't remember that.
10 I think he did say that.

11 Q And that he was skinny?

12 A Yes, ma'am.

13 Q And that he was riding a red bike?

14 A Yes, ma'am.

15 Q So we have a black male, skinny, 6'2, riding a red
16 bike?

17 A Yes, ma'am.

18 Q That's without a doubt what Mr. Kline said?

19 A Yes, ma'am.

20 Q Okay. Now, you heard on the video as well -- you
21 heard on the video or I'm sorry on the tape as well that
22 Officer Dozier said he saw Mr. Moore riding the same bike
23 earlier that day?

24 A Yes, ma'am.

25 Q That was on that tape?

1 A Yes, ma'am.

2 Q Okay. And so that -- does this get dispatched on
3 over the radio?

4 A It does, ma'am.

5 Q So all the police officers can hear that?

6 A Yes, ma'am.

7 Q So even the county deputies can hear that?

8 A If they're scanning, ma'am.

9 Q Okay. So if they're on patrol that day, could they
10 hear that?

11 A If they scanning, ma'am, yes, sir.

12 Q If they're on patrol, should they be scanning?

13 A Not necessarily.

14 Q Okay. So you don't know for sure?

15 A That's correct.

16 Q Okay. But the description of the individual that was
17 dispatched over the radio; is that right?

18 A That's correct, ma'am.

19 Q And then the name Roy Moore was also dispatched over
20 the radio?

21 A Yes, ma'am.

22 Q Okay.

23 MS. SHULER: Beg the Court's indulgence one
24 moment.

25 (WHEREUPON, a pause in the proceedings.)

1 MS. SHULER: I have no further questions, Judge.

2 THE COURT: Redirect?

3 MR. BROWN: No further questions, Your Honor.

4 THE COURT: All right. Thank you, sir. You may
5 step down.

6 MR. BROWN: Your Honor, we would move to excuse
7 Mr. Phillips from the remainder of the trial.

8 MS. SHULER: No objection.

9 THE COURT: All right. Mr. Phillips, you can
10 stay if you like or you can leave.

11 (WHEREUPON, the witness leaves the witness
12 stand.)

13 THE COURT: Next witness.

14 MR. BROWN: The State would call Brian Keith
15 Kline.

16 THE CLERK: Do you solemnly swear or affirm to
17 tell the truth, the whole truth, and nothing but the truth
18 so help you God?

19 THE WITNESS: Yes, ma'am.

20 THE CLERK: Step right over to the witness box.
21 WHEREUPON,

22 Brian Keith Kline,
23 after first having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25

1 BY MR. BROWN:

2 Q Okay. Mr. Kline, to start off with can you please
3 just say your name and spell your last name for the,
4 ladies and gentlemen of the jury?

5 A Brian K. Kline K-L-I-N-E.

6 Q Okay. And, Mr. Kline, I'm going to give you the same
7 instructions I gave Mr. Phillips just now. I need to make
8 sure you're giving good verbal responses and speak up.
9 We're taking all this down, okay.

10 A Yes, sir.

11 Q And, Mr. Kline, to begin with where do you work?

12 A I work with Williamsburg Air Service.

13 Q And what do they do?

14 A They do crop dusting and I help load the planes.

15 Q Okay. So you're not a pilot, you help load the plans
16 up?

17 A Correct.

18 Q How long you been doing that?

19 A Two years.

20 Q Okay. And so the, ladies and gentlemen, can get a
21 feel for who you are, tell me a bit about yourself? Are
22 you originally from this area?

23 A No, sir, I'm from Kentucky.

24 Q What part?

25 A We're from Winchester, Kentucky. We move down

1 here -- this coming June will be three years.

2 Q And what brought you down this way?

3 A My wife got transferred with a job.

4 Q And what job is that?

5 A She's a plant controller at DSM.

6 Q So you're married?

7 A Yes, sir.

8 Q And when you move down here, where did you move?

9 What was the address?

10 A It was [REDACTED]

11 Q Were you living there this time last year?

12 A Yes, sir, at this time.

13 Q How about June 4th 2012?

14 A Yes, I was staying there, but I was in the process of

15 moving.

16 Q Okay. So you were moving at that time?

17 A Yes, sir.

18 Q Where did you move to?

19 A I move to Cades.

20 Q But at that time, you still did have that residence?

21 A Yes.

22 Q And let's -- so we can just kind of go back to that

23 time, do you remember that day June 4th 2012?

24 A Yes, sir.

25 Q And what were you doing that day?

1 A I was packing some stuff up in the garage.

2 Q Do you remember if that was a -- what day of the week
3 that was?

4 A No, I'm not sure what day it was.

5 Q Okay. If I were to tell you that it was during the
6 week, would you disagree with me on that?

7 A No, I know it was during the week.

8 Q Was it on a Monday?

9 A Monday or Tuesday somewhere in there.

10 Q Tell me about that day, was it raining outside, tell
11 me about the weather that particular day?

12 A It was hot. It was hot and sunny because I had the
13 doors open on the garage, front doors.

14 Q And what were you doing home that day?

15 A I was packing the stuff up in the garage, so I could
16 get it moved. We wasn't spraying or nothing, so I had the
17 day off.

18 Q Okay. Approximately, what time did you start packing
19 up stuff in the garage that day?

20 A I would say about 11:30 or 12.

21 Q And while you were packing, did anything happen?

22 A I was in the front packing and I had the radio on.
23 And the garage is separate, it's like a two-car garage.
24 And it's got another room that you go outside and come in
25 the back of it.

1 Q Okay.

2 A And it's just a little thin wall separating it. And
3 I heard something in the back.

4 Q Tell me about what you heard?

5 A It sound like -- you could hear somebody messing
6 around with stuff moving stuff around.

7 Q What did you do after that after you heard that
8 sound?

9 A I walked around -- I walked out the door, walked
10 around the door -- I mean, around the garage, come to the
11 back door and met the guy that was in my building come out
12 with my drill.

13 Q All right. Tell me about when you walked up, what
14 you actually saw going on at that point?

15 A I saw Mr. Moore coming out and had my Dewalt drill in
16 his hand.

17 Q Okay.

18 A And I asked him I said what the F are you doing and
19 he said somebody told me, that I could have this stuff.

20 MS. SHULER: Objection, Your Honor, as to
21 hearsay.

22 THE COURT: Overruled.

23 BY MR. BROWN:

24 Q Go on you can answer. What did he say in response?

25 A He said someone told me that I could have this stuff.

1 Q Now, before we go much further, I want to ask some
2 background questions. Had you ever seen Mr. Moore
3 before in your life?

4 A Never.

5 Q And had you given him permission to come to your
6 property?

7 A No, I didn't even know him.

8 Q Had you given him permission to go into your shed?

9 A No.

10 Q And had you given anybody permission to allow anybody
11 else to come to your property?

12 A No.

13 Q So after he's come out and he's stated that someone
14 had given him permission to take that, what happened next?

15 A He turned around and put the drill back down and I
16 said come out here and he walked out the door. I said sit
17 down right there.

18 Q Now, sit down right where? How close were you to him
19 at this point?

20 A I was arm's distance from him probably.

21 Q Could I say less than two feet would that be
22 accurate?

23 A Yeah. And when I told him to stop and sit down, that
24 I was gone call the police. He started crying. He was on
25 his knees, he said man don't do this to me. He said, I'll

1 just leave and I'll never come back here again, I promise
2 you. And I said, it's a little bit too late for that.
3 And when I went to turn to go call the police, he took off
4 running got on his bike.

5 Q All right. Now, before we get much further, I want
6 to ask more questions about that. From the time that you
7 saw him coming out of your shed until the time you turn to
8 get your cell phone -- was it your cell phone you were
9 going to get?

10 A Yes.

11 Q How much time lapse in that period of time?

12 A Probably four to five minutes.

13 Q And during that time period, was there any point
14 where you were not in close proximity to the person who
15 was breaking into your shed?

16 A No, it was right in front of me.

17 Q Were you in -- was there anything in between you two?

18 A No.

19 Q Blocking your view?

20 A No.

21 Q Okay. Were you in shadows?

22 A No, it was broad daylight.

23 Q Okay. And you had a conversation with him?

24 A Yes.

25 Q So now we're to the point where you call 9-1-1. You

1 remember approximately what time that was?

2 A No, about 1:30 somewhere around there, I don't know.

3 Q And you were just in the room when you heard the
4 9-1-1 tape. Was that an accurate reflection of the
5 conversation you had with them?

6 A Yes.

7 Q Now, by this point, is Mr. Moore any longer on the
8 scene?

9 MS. SHULER: Objection, Your Honor.

10 MR. BROWN: My apologies, Your Honor.

11 BY MR. BROWN:

12 Q Was the person breaking into your shed still on the
13 scene?

14 A No.

15 Q Okay. And you heard the 9-1-1 tape. Tell me the
16 description of the individual who broke into your shed on
17 that day?

18 A I seen him as a black male 6'2. I said skinny. I
19 said he's either got on a gray T-shirt, blue jeans and
20 riding a red bike.

21 Q Now, as it pertains to the red bike, is there any
22 information about that that you share with the court about
23 how you drew that color comparison?

24 A I said it was a red bike because I believe that
25 that's what color it was, but I am color blind.

1 Q All right. Now, let's talk about that briefly. Are
2 you actually diagnosed as color blind?

3 A Yes, sir.

4 Q Can you tell what this book right here is?

5 A It is red.

6 Q Okay. So to what degree are actually color blind?

7 A It's hard to explain because like you know how people
8 when they say in the fall, it's pretty when the leaves
9 start changing or spring when the leaves start changing,
10 to me the leaves don't change. They're the same all the
11 time.

12 Q Do you know what colors you are specifically color
13 blind to, which ones actually merge in your eyes?

14 A Close colors. Colors was kind of close to each other
15 they just -- I have a hard time with them.

16 Q Okay. So once you made the phone call to 9-1-1 and
17 we've heard that recording, how long was it until the
18 first time you had contact, physical contact with a law
19 enforcement officer?

20 A I think Dozier come up.

21 Q And that's the officer right here in the blue?

22 A Yes, he showed up about 15 minutes and then he told
23 me that they believe they caught the guy, that he would be
24 right back.

25 Q Okay. And did he leave at that time?

1 A Yes.

2 Q Approximately, how long was he gone before he came
3 back?

4 A Five to eight minutes something like that. He wasn't
5 gone long.

6 Q Did he return to you?

7 A Yes.

8 Q And tell me about what happened once he returned?

9 MS. SHULER: Objection, Your Honor, as to the
10 matter of law that we brought up earlier.

11 THE COURT: Okay. All right. Overruled at this
12 point. Go ahead.

13 MR. BROWN: Thank you, Your Honor.

14 BY MR. BROWN:

15 Q Please tell me about what happened when Officer
16 Dozier returned was he alone?

17 A No.

18 Q All right. So tell me about that?

19 A He pulled up and he said I'll met you back at the
20 car. I walk to the car. He said is that the guy.

21 MS. SHULER: Objection, Your Honor.

22 THE COURT: Okay. Your objection is the same?

23 MS. SHULER: It is the same.

24 THE COURT: Okay. Overruled.

25 MS. SHULER: Thank you, Your Honor.

1 BY MR. BROWN:

2 Q Again, so did you go back to the car with him?

3 A Yes.

4 Q Was this a marked patrol car?

5 A Yes.

6 Q It was Officer Dozier's car?

7 A Yes.

8 Q And what happened once you got the car?

9 A I looked in the window and said that's him.

10 Q Okay. Now ---

11 MS. SHULER: Objection, Your Honor, again as ---

12 THE COURT: Overruled.

13 BY MR. BROWN:

14 Q When you got to the car, how close were you to the
15 vehicle when you were able to see the person in the
16 vehicle, the defendant?

17 MS. SHULER: Your Honor, can I note my objection
18 continually.

19 THE COURT: Yes, ma'am, least to the point you
20 raise, that's fine but the -- but you may object when you
21 think it's appropriate.

22 MS. SHULER: Thank you, Your Honor.

23 BY MR. BROWN:

24 Q So again how close were you to the patrol car at the
25 time that you were able to see the person that had been

1 detained?

2 A I could have touched the car.

3 Q Okay. So reach again ---

4 A I walked and looked through the window.

5 Q And where was the detained individual seated in the
6 car?

7 A In the backseat.

8 Q Back passenger side, back middle, back driver's side?
9 Do you remember that?

10 A I don't remember that.

11 Q Do you remember if he was -- how close he was to the
12 window that you went up and look through?

13 A No.

14 Q Okay. Do you remember if the lighting -- what the
15 lighting was like at that point?

16 A It was daylight.

17 Q Okay. And so this was about 20 minutes after the
18 fact?

19 A Yes.

20 Q And did you see the individual in that vehicle?

21 A Yes.

22 Q And that was when you identified him?

23 A Yes, sir.

24 Q Was there any hesitation to identify the individual
25 in that car as the person who had been in your shed?

1 A No, sir, because I been looking at him four minutes
2 before he took off running.

3 Q And did you identify the defendant Roy Moore as the
4 person ---

5 MS. SHULER: Objection, Your Honor.

6 THE COURT: Overruled.

7 BY MR. BROWN:

8 Q Did you identify Roy Moore as the person who was in
9 the backseat of that car?

10 A I identified Roy Moore sitting right there in the
11 middle right there.

12 Q And so for purposes of this Court is the person who
13 broke into your shed that day and try taking your drill,
14 the person who rode off on the bike, and that you had eye
15 contact with four minutes, is the person who was brought
16 to you in the backseat of that car is he in the courtroom
17 today?

18 A Yes, sir.

19 Q Can please point him out for the court?

20 A He's right there in the middle.

21 Q And that's the defendant?

22 A In between them.

23 MR. BROWN: I ask the record to reflect he's
24 identified Roy Moore.

25 THE COURT: All right. The jury can draw that

1 conclusion, that's a matter for them to determine.

2 MR. BROWN: For the record, Your Honor.

3 THE COURT: Okay. I don't have anything to do
4 with that.

5 MR. BROWN: Yes, Your Honor.

6 BY MR. BROWN:

7 Q Is your house in Williamsburg, South Carolina?

8 A Yes, sir.

9 Q That house at [REDACTED].

10 A Yes.

11 MR. BROWN: Court's indulgence.

12 THE COURT: Yes, sir.

13 (WHEREUPON, a pause in the proceedings.)

14 BY MR. BROWN:

15 Q I just have a few more questions if I may. To begin
16 with the shed that you saw the defendant coming out, can
17 you please describe that for the ladies and gentlemen of
18 the jury what exactly that was?

19 A The shed is when you look at it from the road, it's
20 got two big doors for your car doors and it's got a little
21 side door that you can go into the main part.

22 Q Is this attach to your house?

23 A No, it's detached and it's got a wall inside of it,
24 but if you go back outside, you can come around and it's
25 got like a little workshop inside the back of it. It's

1 got a separate door and it's separate from everything
2 else.

3 Q Was it this workshop that you saw the defendant
4 coming out of?

5 A Yes, sir.

6 Q And does this have four walls surrounding it and a
7 door?

8 A Yes, and two windows.

9 Q And going back to us talking about your interaction
10 with the defendant ---

11 MR. BROWN: If I may ask the Court for him to be
12 able to step down briefly from the witness stand.

13 THE COURT: Okay, make sure you keep your voice
14 up, okay.

15 THE WITNESS: Okay.

16 BY MR. BROWN:

17 Q I want you to make sure you keep your voice up for
18 the court reporter. Once the defendant had actually come
19 out of that shed, I want to kind of go through the
20 conversation that happened between you and Mr. Moore. So
21 after he had placed the -- after he had placed the drill
22 back into the shed, describe to me what happened after you
23 told him that you were going to call 9-1-1.

24 A I had a short ball bat about that long. And I told
25 him I said just sit right there, sit down. I said just

1 get right there and sit down.

2 Q Did he drop to his knees at that point?

3 A Yes, and he said please don't hurt me.

4 Q Okay. And how close was he -- was he from me to you
5 or closer?

6 A He was to me to you.

7 Q All right. And so he dropped down to his knees at
8 that point?

9 A Yes, sir.

10 Q But he's about right here at this point?

11 A Yes.

12 Q And you were holding the ball bat toward him?

13 A Yes.

14 Q And at what point did you ask him to actually -- at
15 what point did you actually try reaching for your cell
16 phone?

17 A My cell phone I didn't have it with me because it was
18 in the garage where I was working.

19 Q Okay. So that was back around to the front part?

20 A Yes.

21 Q And when he tried -- when he got up to try leaving,
22 what did you try doing at that point?

23 A I said he took off and I said I can't catch him, so I
24 just walked on in grabbed my phone and called the police.

25 Q You may take the witness stand back please.

1 MR. BROWN: I have further questions at this
2 time.

3 THE COURT: Ms. Shuler.

4 MS. SHULER: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. SHULER:

7 Q Now, Mr. Kline, how would you describe the weather
8 that day?

9 A It was hot.

10 Q It was hot. Was it sunny outside?

11 A It was sunny. It was hot and sunny.

12 Q Bright summer day?

13 A Yes.

14 Q Lots of light coming in.

15 A Yes, ma'am.

16 Q And you were packing up your garage?

17 A Yes, ma'am.

18 Q And you heard something, am I right?

19 A Yes.

20 Q To which you walked around?

21 A Yes, ma'am.

22 Q And at that point you saw a man with a drill in his
23 hand; am I right?

24 A Yes, ma'am.

25 Q Okay. Actually, had something in his hands?

- 1 A He had a drill in his hand.
- 2 Q Okay. And he put that drill down?
- 3 A After I ask him what the F are you doing.
- 4 Q Okay.
- 5 A Then he turned around and put the drill back down.
- 6 Q Okay. And you describe that man as being skinny?
- 7 A Yes, ma'am.
- 8 Q Six feet two inches tall?
- 9 A I said around six foot two.
- 10 Q And wearing a gray shirt?
- 11 A Yes, ma'am.
- 12 Q Was it a gray T-shirt or gray sweat shirt?
- 13 A Gray T-shirt.
- 14 Q He had on blue jeans?
- 15 A Yes, ma'am.
- 16 Q Had a gold tooth, right?
- 17 A That's what I thought.
- 18 Q You thought he had a gold tooth?
- 19 A Yes.
- 20 Q So you're close to him and you remember there being a
- 21 gold tooth?
- 22 A I said I thought that there was.
- 23 Q And he was riding a red bicycle?
- 24 A Yes, ma'am.
- 25 Q Without a doubt red, just like that red book?

1 A No, I said I thought it was red. I said it was red,
2 that's what I told the dispatcher. I said it's red.
3 Q And it was red like this book right here?
4 A I said it was red, yes, ma'am.
5 Q And this book is red?
6 A Yes, ma'am.
7 Q Now, you said that you're color blind, am I right?
8 A Yes, ma'am.
9 Q And with individuals that are color blind light has a
10 tendency to impair your vision, does it not?
11 A Some.
12 Q Excessive light?
13 A No. Not to no major extent.
14 Q It doesn't affect your version?
15 A No. It's no different than being able to see right.
16 Q Okay.
17 A It's kind of like you're color stupid, if you know
18 what I mean.
19 Q Okay. That drill that the individual that broke into
20 your garage had, did you give that to law enforcement?
21 A No, ma'am.
22 Q You didn't?
23 A No, ma'am.
24 Q But that person had that drill in his hands?
25 A Yes, ma'am.

1 Q And you didn't give it to law enforcement?

2 A No, ma'am.

3 MS. SHULER: Beg the Court's indulgence one
4 moment.

5 (WHEREUPON, a pause in the proceedings.)

6 BY MS. SHULER:

7 Q Now, when Mr. Moore was brought to your home, he was
8 in the backseat of a police car?

9 A Yes, ma'am.

10 Q In handcuffs as far as you know?

11 A As far as I know. It's been almost a year ago.

12 Q Okay. And Officer Dozier never asked for Mr. Moore
13 to stand up outside of the car?

14 A No.

15 Q Never verified that he was or was not six feet two?

16 A No.

17 Q Six feet two's kinda tall; isn't it?

18 A Kind of.

19 Q I'm five foot, so it be a whole foot taller than me,
20 so that's tall to me. That's taller than average?

21 A Yes, ma'am.

22 Q And you say you recall that he had a gold tooth,
23 nobody asked him to come out and smile at you or anything
24 so you can see his gold tooth; did they?

25 A No, ma'am.

1 Q Okay. Now, whenever you identified him at the time
2 that they brought him there, he was in a car the entire
3 time?

4 A Yes, ma'am.

5 Q Am I right. And you were standing up at the front of
6 the car?

7 A After I went back and identified him, we walked back
8 to the front of the car was talking.

9 Q So you walked around to the side door?

10 A Yes, ma'am.

11 Q And looked in?

12 A Yes, ma'am.

13 Q That was your testimony earlier as well?

14 A Yes, ma'am.

15 Q Okay.

16 MS. SHULER: Beg the Court's indulgence one more
17 second please.

18 THE COURT: Okay.

19 (WHEREUPON, a pause in the proceedings.)

20 BY MS. SHULER:

21 Q So whenever the person that broke into your house
22 left or your garage left, you told that individual to get
23 down on their knees?

24 A Yes, ma'am.

25 Q Or to sit there?

1 A I just told him to get down.

2 Q Okay. And you were going to get your cell phone?

3 A Yes, ma'am.

4 Q So you left that individual there?

5 A Yes, ma'am.

6 Q And walked around and went into the side door I take
7 it to get your cell phone out of the garage?

8 A Yes, ma'am.

9 Q Okay. And so that person took off?

10 A Yes, ma'am.

11 Q You have no idea which way he went?

12 A No.

13 Q You don't know if he went across the tracks as the
14 9-1-1 dispatcher describe?

15 A No, I don't even have a clue where the tracks are.

16 MS. SHULER: I have no further questions.

17 THE COURT: Redirect?

18 MR. BROWN: Briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. BROWN:

21 Q Now, Mr. Kline, how tall are you?

22 A I'm 5'11.

23 Q Okay. And you gave law enforcement an estimation of
24 six foot two inches. Did you take out a measuring stick
25 and measured him yourself?

1 A No, ma'am -- no, sir.

2 Q How did you get to that estimation?

3 A I just kind of guessed at it because -- I know I was
4 barefooted. And I just kind of guessed at it from knee
5 height to where he was with me.

6 Q Okay. So that was just an estimation?

7 A Yes.

8 Q Now, going back real briefly and this was raised on
9 cross-examination about you having him sit down. For what
10 reason did you ask him to sit down that day?

11 A I thought may be I could to get my phone and get back
12 before he took off.

13 Q Okay. What was your intent with trying to get to
14 your phone and while you had him seated?

15 A To call the police.

16 Q Okay.

17 MR. BROWN: No further questions.

18 THE COURT: Anything else?

19 RECROSS-EXAMINATION

20 BY MS. SHULER:

21 Q Whenever you spoke to the individual that broke into
22 your home, he was not down on his knees yet, was he?

23 A Not when I first met him. No, he was not crawling
24 out of my garage.

25 Q So y'all at one point talking face to face?

1 A Yes, ma'am.

2 Q And he was taller than you?

3 A Yes, ma'am, because he was standing up in the garage
4 because the garage has a little stoop coming up into it.

5 Q And did he step down out of the garage?

6 A Yes, ma'am, I came out of the garage and got down on
7 his knees on the ground.

8 Q He stepped down out of the garage?

9 A Yes, ma'am.

10 Q So at some point in time, he was standing next to you
11 on flat ground?

12 A Yes.

13 Q And he was taller than you?

14 A Seem to be, yes.

15 MS. SHULER: I have no further questions.

16 THE COURT: Okay, is that it?

17 MR. BROWN: No further questions, Your Honor.

18 THE COURT: Okay. You can step down.

19 (WHEREUPON, the witness leaves the witness
20 stand.)

21 THE COURT: Everybody on the jury, okay?

22 Anybody need to take a break? Don't be shy.

23 MS. SHULER: Judge, I would like a brief break
24 if you could?

25 MS. BARR: Your Honor, may the lawyers approach.

1 THE COURT: Yes, ma'am.

2 (WHEREUPON, a bench conference was held in the
3 presence of the jury, but out of the hearing of the
4 jury.)

5 THE COURT: All right. Ladies and gentlemen,
6 we're going to go ahead and break for lunch now. It's
7 12:20 according to that back clock, if you take a look at
8 it. Please be back in your jury room promptly at 1:30,
9 that gives you about an hour and ten minutes. Obviously,
10 you may not discuss the case at all. You may not talk
11 about it amongst yourselves or with anyone else on this
12 green earth.

13 In addition, you may not undertake to do any
14 type of research by a computer or any other research
15 device. You may not read anything about it or listen to
16 anything about it or gather any information about it at
17 all. If you have heard evidence of any particular
18 physical location involved, you may not ride through, ride
19 by or go about those areas to undertake any type of
20 investigation on your own, see you back in an hour and ten
21 minutes 1:30 according to that clock. Thank you.

22 (WHEREUPON, the jury is excused for lunch.)

23 THE COURT: All right. Anything from the State
24 before we break for lunch?

25 MS. BARR: No, Your Honor.

1 THE COURT: All right. Anything from the
2 defense?

3 MS. SHULER: No, Your Honor.

4 THE COURT: Mr. Moore, we will start back at
5 1:20, please be back in the courtroom at 1:15.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Your lawyer wants you somewhere
8 earlier than that, of course, do what she says, but I want
9 you back in this courtroom at 1:15. In addition, I would
10 request Mr. Moore to not shake his head or nod his head at
11 any questions or answers that are given by witnesses.
12 That's not appropriate for anybody to do that. So I would
13 ask for that to please stop.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You have how many more witnesses,
16 Mr. Brown.

17 MR. BROWN: Just one more by the State, Your
18 Honor.

19 THE COURT: And would you please brief your
20 client over the lunch break about the discussion I will
21 have with him about his right to testify or right not to
22 testify.

23 MS. SHULER: I will, Your Honor.

24 THE COURT: Okay. Thank you. If everybody
25 could be back in the courtroom by about 1:20, then we can

1 cover anything we may need to cover. And you may want to
2 let me know if you have any written charges that you'll
3 want me to give to the jury.

4 MS. BARR: Yes, sir.

5 THE COURT: Thank you.

6 (WHEREUPON, a lunch break was taken.)

7 THE COURT: Okay. We ready for the jury, Mr.
8 Brown.

9 MR. BROWN: Yes, Your Honor. I'm going to let
10 Ms. Barr finish up. I'm going to walk the victim's out
11 real fast, but she can start without me.

12 THE COURT: All right. Ms. Shuler, you ready.

13 MS. SHULER: I'm ready, Judge.

14 THE COURT: All right. I'm going to appoint Joi
15 Fulton juror number 48 as the foreperson, Ms. Fulton.

16 Okay. You can bring in the jury.

17 (WHEREUPON, the jury came into open court.)

18 THE COURT: Okay. Where is Ms. Fulton? Ms.
19 Fulton. Joi Fulton, I'm going to appoint you as
20 foreperson of the jury. I'll talk to you later about what
21 your responsibilities are but for now you are the
22 foreperson. Anybody has any concerns, they can relay
23 those to you and you can let a bailiff know, okay.

24 I apologize for the delay in starting. We had a
25 bond hearing scheduled in a separate case and I had to

1 tend to that matter. And it required you to be in that
2 jury room and I certainly do apologize for that, but we
3 couldn't avoid it.

4 We ready to continue, Ms. Barr.

5 MS. BARR: We are.

6 THE COURT: You can call your next witness.

7 MS. BARR: Call Officer Ron Dozier.

8 THE COURT: Mr. Brown is out of the courtroom
9 with my permission. He had to take some people to his
10 office in that other matter.

11 THE CLERK: Do you solemnly swear or affirm to
12 tell the truth and nothing but the truth so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Step around to the witness box.

15 MS. BARR: May it please the Court.

16 THE COURT: Yes, ma'am.

17 WHEREUPON,

18 Ron Dozier,

19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. BARR:

22 Q Good afternoon, Officer Dozier.

23 A Good afternoon, ma'am.

24 Q If you would please state your full name for the
25 court reporter?

- 1 A Ronitto Dozier.
- 2 Q Spell your first name for us?
- 3 A R-O-N-I-T-T-O.
- 4 Q And, sir, where are you employed right now?
- 5 A Through Moncks Corner Police Department.
- 6 Q Okay. And how long have you been there?
- 7 A Been there about seven months.
- 8 Q And you are a patrol officer there?
- 9 A Yes, ma'am, I am.
- 10 Q Before you became employed with Moncks Corner Police
- 11 Department, where did you work?
- 12 A Kingstree Police Department.
- 13 Q And how long had you worked for Kingstree Police
- 14 Department?
- 15 A Since 2008.
- 16 Q Okay. And you went through the South Carolina
- 17 Criminal Justice Academy?
- 18 A Yes, ma'am, I did.
- 19 Q You're a certified police officer?
- 20 A Yes, ma'am.
- 21 Q Okay. Now, Officer Dozier, you were working back on
- 22 June 4th of 2012; is that right?
- 23 A Yes, ma'am.
- 24 Q Okay. And your duties on that particular day
- 25 included patrolling?

1 A Yes, ma'am.

2 Q Okay. Now, at about 1:20 p.m. on that particular
3 day, did you receive a call or did you respond to a call
4 regarding a burglary of Mr. Kline's home?

5 A Yes, ma'am, I did.

6 Q Okay. Tell us how you learned that the call had been
7 made?

8 A It was on routine patrol. We got a dispatch
9 reference to a break-in in progress at [REDACTED]
10 [REDACTED].

11 Q Okay. Now, is [REDACTED] located in the
12 town limits of Kingstree?

13 A Yes, ma'am, it is.

14 Q And it's Williamsburg County?

15 A Yes, ma'am.

16 Q Okay. All right. In response to overhearing that
17 information, what did you do after hearing it on your
18 radio?

19 A We arrived on scene and I spoke with Mr. Brian Kline.

20 Q Okay. And, of course, he's the gentleman seated here
21 at the prosecutions table?

22 A Yes, ma'am.

23 Q All right. And according to you dispatch records,
24 what time did you actually arrive on the scene to meet
25 with Mr. Kline?

1 A According to my record, it will be 1325, 1:25 in the
2 afternoon.

3 Q 1:25 p.m.? All right. And what did Mr. Kline tell
4 you?

5 A He said that while he was in his shed packing up, he
6 said an unknown black male wearing a gray T-shirt, blue
7 jeans was inside his -- other side of his shed going
8 through items without his permission.

9 Q Okay. All right. And he gave you a physical
10 description of the person?

11 A Yes, ma'am.

12 Q And he also told you the kinds of clothes that the
13 individual was wearing?

14 A Yes, ma'am, they did.

15 Q Now, let me ask you something, you are familiar with
16 Academy Street and that community where Mr. Kline lives?

17 A Yes, ma'am.

18 Q Can you kind of describe the area around his home?
19 Is it an open area in a classic subdivision? Or is it
20 more rural or how would you characterize the outside of
21 his home?

22 A More rural.

23 Q Okay. Are there any fences up out there or is it a
24 wooded area? Kind of tell me about it?

25 A The house was surrounded by woods.

1 Q The house is surrounded by woods?

2 A Yes, ma'am.

3 Q Okay. All right. After the description was given to
4 you, what did you do at that point?

5 A I put a BOLO out on the subject. BOLO means being on
6 the lookout for.

7 Q Okay. BOLO means be on the lookout?

8 A Yes, ma'am.

9 Q Okay. And who were you on the lookout for at that
10 point?

11 A At that point it was Roy Donell Moore.

12 Q Tell the ladies and gentlemen of the jury why it is
13 that after Mr. Kline gave you a description of the
14 individual who was burglarizing his shed along with the
15 clothing that that individual was wearing, why is it then
16 that you issued a BOLO for the defendant in particular?

17 A Prior to ten minutes before the call came out, I made
18 contact with Mr. Moore on Highway 52. He was headed'
19 towards Cumbee Tire towards the suspect side -- well,
20 where the victim stayed at toward that side.

21 Q All right. Let me make sure I understand. You
22 indicated about ten minutes before the call came into
23 9-1-1, that you actually saw Mr. Moore on Highway 52?

24 A Yes, ma'am, wearing a gray T-shirt, blue jeans on a
25 green bicycle.

1 Q He was a wearing gray shirt?

2 A Yes, ma'am.

3 Q Blue jeans?

4 A Yes, ma'am.

5 Q And he was on a green bicycle?

6 A Yes, ma'am.

7 Q Okay. And you said he was on Highway 52. We also
8 call that North Long Street?

9 A Yes, ma'am.

10 Q Okay. And you indicated that he was near Cumbee
11 Tire?

12 A Yes, ma'am.

13 Q Okay. Now, can I get you to step off the witness
14 stand for a moment for me. Let me publish what's been
15 previously admitted as State's Exhibit Number 2.

16 THE COURT: And Mr. Dozier make sure everybody
17 on the jury can see, okay.

18 BY MS. BARR:

19 Q What I probably would like for you to do, Mr. Dozier,
20 if you don't mind is come over here, so you don't block
21 anybody's view. All right. Officer Dozier, if the
22 victim's home is here on [REDACTED] where the A
23 marker is let's just assume that that's in fact the case,
24 okay. You follow so far?

25 A Yes, ma'am.

1 Q All right. And you talked about North Long Street or
2 Highway 52 and I'm assuming that that runs here; is that
3 right?

4 A Yes, ma'am.

5 Q In terms of where you first saw the defendant ten
6 minutes earlier, you mentioned something about Cumbee
7 Tire?

8 A Yes, ma'am.

9 Q All right. And can you kind of use the pointer to
10 show the jury where approximately Cumbee Tire would be?

11 COURT REPORTER: I can't hear him.

12 THE COURT: Make sure you keep your voice up,
13 okay.

14 A Cumbee Tire should be along somewhere along here
15 right after -- in between Brockington and Pressley Street.

16 Q All right. If you will come back here on this side
17 for me and mark on the exhibit an X of where Cumbee Tire
18 would be. All right. And put your initials there for me
19 please, sir. All right. Back around over there. Now,
20 would this particular diagram where -- were not able to
21 determine the actual distance, but are you familiar with
22 the distance between Cumbee Tire and the victim's home?

23 A Yes, ma'am.

24 Q All right. Is it more or less than a mile?

25 A Less than a mile.

1 Q Okay. More less than half a mile?

2 A Less than half a mile.

3 Q Make sure you keep your voice up. I know you got a
4 cold, but basically keep your voice up. Based on the
5 distance between Cumbee Tire and the victim's home, would
6 it have been possible for the defendant to get to the
7 victim's home from Cumbee Tire on a bicycle in ten
8 minutes?

9 A Yes, ma'am.

10 Q Could he have run that easily?

11 A Yes, ma'am.

12 Q Okay. Could he have done that walking?

13 MS. SHULER: Objection leading.

14 THE COURT: That's overruled.

15 BY MS. BARR:

16 Q Could he have done that walking in ten minutes?

17 A Yes, ma'am.

18 Q All right. You can take your seat. At what point in
19 time did you meet with Deputy Hayes of the sheriff's
20 department?

21 A Meet with him approximately 1:37 p.m.

22 Q 1:37 p.m.?

23 A Yes, ma'am.

24 Q All right. And were you in court when he testified
25 that that was out on Sumter Highway?

1 A Yes, ma'am.

2 Q And is that in fact correct?

3 A Yes, ma'am.

4 Q Okay. In terms of the defendant, had the defendant
5 been placed into Deputy Hayes' patrol car at that time or
6 were they all standing outside waiting on you?

7 A Standing outside waiting on me for my arrival.

8 Q All right. When you got there, did you tell the
9 defendant about the nature of the call?

10 A Yes, ma'am.

11 Q All right. Now, Office Dozier, does the law permit
12 you to detain someone when you're investigating a crime?

13 A Yes, ma'am.

14 Q Okay. Did you explain to the defendant why you were
15 detaining him?

16 A Yes, ma'am.

17 Q Okay. And on this particular day was that the first
18 time you had ever done that in terms of asking an
19 individual or detaining an individual while you're
20 investigating a crime?

21 A No, ma'am.

22 Q Okay. Tell us well -- let me ask you this. When you
23 got the defendant, where did you put him?

24 A In the rear of my patrol unit.

25 Q All right. And was he cuffed or uncuffed?

1 A Cuffed.

2 Q Okay. And tell me why was it that you cuffed him,
3 you put handcuffs on him?

4 A For officer safety.

5 Q Is that how you all were trained to do it?

6 A Yes, ma'am.

7 Q When you say officer safety, what do you mean when
8 you say officer safety?

9 A So he want try anything while we're driving to go
10 there like choke me from behind or anything.

11 Q Okay. And that would be the only reason why?

12 A Yes, ma'am.

13 Q Okay. How long did it take you to get from the
14 location where you picked up the defendant to the victim's
15 home?

16 A About approximately about three minutes.

17 Q About three minutes?

18 A Yes, ma'am.

19 Q Okay. When you arrived at the victim's home kind of
20 tell me what happened?

21 A Arrived at the victim's home, I pulled around got out
22 the patrol unit and met with Mr. Kline. Then I asked him
23 was that the subject that ---

24 MS. SHULER: Objection, Your Honor, as to the
25 matter before.

1 THE COURT: All right, overruled.

2 BY MS. BARR:

3 Q I'm sorry, sir, tell me again when you arrived at the
4 victim's home?

5 A Yes, ma'am, I got out my patrol car and went and met
6 with Mr. Kline.

7 Q Okay.

8 A And ask him was that the subject I had in the rear of
9 my patrol unit and he stated to me, yes, that's him.

10 Q Okay. All right. Now, when Mr. Kline made that
11 statement to you, did he hesitate at all?

12 A No, ma'am.

13 Q Did he seem unsure of himself?

14 A No, ma'am.

15 Q Okay. Was he positive it was him?

16 A Yes, ma'am, he was positive that was him.

17 Q Okay. In terms of your training and your practice a
18 as a police officer, tell me practically speaking why
19 would a police officer essentially take someone into
20 custody and bring them to a location where a victim is for
21 identification?

22 A Sometimes ---

23 Q Make sure you keep your voice up.

24 A Yes, ma'am. To see if he would be excluded if it
25 wasn't him or not.

1 Q Okay. Based upon that information and I'm talking
2 generally not in this case. Based upon that information,
3 would you know whether or not the victim made an I.D?
4 Would you know whether or not to continue looking for
5 somebody or just to focus on the person you had?

6 A So be like a process of elimination. So if he wasn't
7 a subject, that means we can cut him loose and let him
8 continue on looking for the subject.

9 Q Right. Okay. And if in fact the defendant was taken
10 to the home of Mr. Kline and Mr. Kline had told you that's
11 not him, what would you have done?

12 A That he would have been let go.

13 Q Okay. Now, when you met with the Deputy Hayes on
14 Sumter Highway, do you know whether or not the defendant
15 was going in the direction toward town or was he going in
16 the direction away from town?

17 A I believe he was going in the direction away from
18 town.

19 Q He was on a bicycle?

20 A Yes, ma'am.

21 Q Based on the time that you arrived out on Sumter
22 Highway, would -- well, first of all, do you know the
23 approximate distance between where you picked up the
24 defendant and versus where the victim lived?

25 A I would say approximately two miles.

1 Q About two miles?

2 A Yes, ma'am.

3 Q All right. If the 9-1-1 call came in at 1:23 p.m.
4 and you had gone out and met with Deputy Hayes, would the
5 defendant have had enough time to get to that particular
6 location if he were riding a bicycle?

7 A Yes, ma'am.

8 MS. SHULER: Your Honor, may we approach for one
9 moment.

10 THE COURT: Yes, ma'am.

11 (WHEREUPON, a bench conference was held in the
12 presence of the jury, but out of the hearing of the
13 jury.)

14 THE COURT: Go ahead, Ms. Barr.

15 BY MS. BARR:

16 Q And I think when we left off, you indicated that the
17 defendant would have had time riding a bicycle to get to
18 the location where Deputy Hayes picked him up; is that
19 right?

20 A Yes, ma'am.

21 Q Now, when he was -- when the defendant was brought
22 back to the victim's house to see whether or not the
23 victim could identify him, do you recall how close the
24 victim got to observe the defendant during that time?

25 A No, ma'am, I can't recall.

1 Q When you brought the defendant back to the victim's
2 home, was the defendant wearing the clothing that was --
3 the same clothing that was called out on the radio as the
4 suspect wearing -- when the 9-1-1 call was made?

5 A Yes, ma'am.

6 Q Okay. And based on that identification, you charged
7 the defendant with burglary?

8 A Yes, ma'am.

9 MS. BARR: Beg the Court's indulgence.

10 (WHEREUPON, a pause in the proceedings.)

11 MS. BARR: Thank you, Officer Dozier. Please
12 answer any questions counsel has.

13 THE COURT: Ms. Shuler.

14 MS. SHULER: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. SHULER:

17 Q Officer Dozier, you have some notes up there with
18 you; is that right?

19 A Yes, ma'am.

20 Q What you got up there?

21 A Just an incident report and a cad sheet.

22 Q Okay. All right. So you said about ten minutes
23 before you got the call, that you saw Mr. Moore in town
24 riding a bike ---

25 A Yes, ma'am, I did.

1 Q -- in front of Cumbee Tire; is that right?

2 A Yes, ma'am.

3 Q And in fact on the 9-1-1 tape, you were in here when
4 that was played, right?

5 A Yes, ma'am.

6 Q On the 9-1-1 tape, you said I saw Mr. Moore riding
7 that same red bicycle, right?

8 A Yes, ma'am.

9 Q But your incident report doesn't indicate that that
10 bicycle is red, does it not?

11 A It doesn't.

12 Q It says it's a green bicycle?

13 A Correct.

14 Q That's right?

15 A That's right.

16 Q Okay. So you had in your mind already set a
17 preconceive notion that that the person riding that
18 bicycle that supposedly went into the victim's home was
19 Mr. Moore, am I right?

20 A Yes, ma'am.

21 Q You picked up the only black man that you had seen
22 that day riding a bike because you thought that that would
23 be that man that went into the victim's home, am I right?

24 A No, ma'am, I picked up the subject that was matching
25 that description of the subject, that's what I picked up.

1 I didn't pick up any black guy that was walking on the
2 street that day.

3 Q So you saw another black male riding a bike?

4 A No, ma'am, I did not.

5 Q Okay. Now, you said that this house was surrounded
6 by woods, am I right?

7 A Yes, ma'am.

8 Q Okay. I'm going to show you State's Exhibit Number
9 2. If you will step down here for a minute, Officer.

10 THE COURT: It might help if he gets on the side
11 by Ms. Barr, so his voice will be coming toward both the
12 jury and the court reporter.

13 BY MS. SHULER:

14 Q Okay. Show me where the Shell Station is in
15 Kingstree?

16 A Shell Station right on the corner.

17 Q Are you sure?

18 A I'm sorry, I'm sorry. Be right at the corner of ---

19 COURT REPORTER: I can't hear him.

20 THE COURT: You need to really talk like you
21 talking to me almost?

22 A Should be at the corner of 527 Highway 52 should be
23 right long in there.

24 Q Okay. And the house where this incident occurred was
25 where?

1 A Should be on [REDACTED].

2 Q Okay. Right in the middle of town?

3 A Yes, ma'am.

4 Q But your testimony was earlier that this was a rural
5 area, am I right?

6 A Yes, ma'am.

7 Q And it's covered with woods?

8 A That's right. You got wood line all along the back
9 side of the houses out there, okay. House that we went to
10 had trees and all that around the house and all that,
11 okay.

12 Q Okay. So [REDACTED] and Brocking Street are
13 somewhat parallel to one another, right?

14 A Right.

15 Q And there's houses lining both of those streets?

16 A Yes, ma'am.

17 Q But yet this is a rural setting? Am I right?

18 A Yes, ma'am, that was my testimony.

19 Q And they're covered with woods?

20 A Right.

21 Q Okay. Now, you can have a seat. Now, whenever you
22 detained Mr. Moore, he was riding a green bike, am I
23 right?

24 A Yes, ma'am.

25 Q And I'm sure you took that green bike into evidence,

1 didn't you?

2 A Yes, ma'am, it should be in evidence.

3 Q It is. It's not here today though is it?

4 A No, ma'am.

5 Q Okay. But you think that would be important to have
6 that bicycle here?

7 A Yes, ma'am, it would have been.

8 Q As your job -- it's your job as a police officer
9 whenever you're investigating a case, that you do a
10 thorough investigation, am I right?

11 A Yes, ma'am.

12 Q That means you dot all your I's; is that right?

13 A Yes.

14 Q Cross all your T's, am I right?

15 A Yes, ma'am.

16 Q Do a good job and a thorough job, am I right?

17 A Yes, ma'am.

18 Q And so that's why you do an incident report when you
19 get back?

20 A Right.

21 Q All right. So that incident report is going to
22 reflect the most accurate information that you have? Am I
23 right?

24 A Yes, ma'am.

25 Q Okay. And your incident report does indicate that

1 there's a green bicycle? Am I right?

2 A Yes, ma'am, it does.

3 Q Your incident is also lacking in some other
4 information, am I right?

5 A No, ma'am.

6 Q It's not?

7 A I did to the best of my ability what was told to me.

8 Q Okay. So did Mr. Kline tell you at the time that the
9 suspect went into his garage picked up a drill?

10 A No, ma'am.

11 Q He didn't tell you that?

12 A (Shook head in the negative).

13 Q You all don't have a drill in evidence, do you?

14 A No, ma'am, we don't.

15 Q Didn't dust anything for fingerprints?

16 A No, ma'am.

17 Q Now, the subject that went into suspect -- that went
18 into the garage, it was said that he was wearing blue
19 jeans and a gray shirt, am I right?

20 A Correct. .

21 Q And I'm sure you took that clothing into evidence
22 too, didn't you?

23 A No, ma'am, it was not in evidence either.

24 Q It's not. So the only thing that you have to go on
25 for the identification of this person that broke into

1 Mr. Kline's garage was a red bike, gray T-shirt, blue
2 jeans, black male, six foot two inches tall, am I right?

3 A Yes, ma'am.

4 Q That was the identification. And you didn't find it
5 important to take those clothes into custody -- into
6 evidence, did you?

7 A No, ma'am.

8 Q Now, whenever you took -- detain Mr. Moore and took
9 him over to Mr. Kline's house, you said I want you to look
10 at this man and see if this is the man that broke into
11 your shed, am I right?

12 A Yes, ma'am.

13 Q You never took him out the car, did you?

14 A No, ma'am.

15 Q He was sitting in the back of your car, am I right?

16 A Yes, ma'am.

17 Q In handcuffs, am I right?

18 A Yes, ma'am.

19 Q Doors shut, am I right?

20 A Yes, ma'am.

21 Q Windows up, am I right?

22 A Yes, ma'am.

23 Q And you don't recall how close Mr. Kline got to the
24 car?

25 A No, ma'am, I don't.

1 Q So in all actuality, you got what you think might be
2 the person that went into the garage, am I right?

3 A No, ma'am, I went on my instincts and I went on
4 Mr. Roy's prior ---

5 MS. SHULER: Objection, Your Honor, move to
6 strike immediately.

7 THE COURT: All right. Ladies and gentlemen,
8 disregard that point please. Under your oath, you are to
9 disregard it, okay.

10 MS. SHULER: Your Honor, I have a matter of law
11 outside the presence of the jury.

12 THE COURT: Okay. Ladies and gentlemen, please
13 go to your jury room. You may not discuss the case at
14 all.

15 (WHEREUPON, the jury retire to the jury room.)

16 THE COURT: Ms. Shuler.

17 MS. SHULER: Your Honor, at this time I would
18 move for a mistrial what the officer said is extremely
19 prejudicial. The jury has been tainted by the comment
20 made by the officer. It's extremely prejudicial. They
21 have the possibility of convicting him just based on the
22 fact that they could possibly have the knowledge that he
23 had a prior criminal history.

24 THE COURT: Well, let's get straight first of
25 all what question was asked and what the answer was, so we

1 can be completely clear on the record. We'll go off the
2 right now while the court reporter finds the question
3 immediately before he said -- the witness said, no, ma'am,
4 I was going on my instincts and... I want to find out
5 exactly what he said and I want to hear what the question
6 was.

7 (WHEREUPON, a pause in the proceedings.)

8 (WHEREUPON, the last question and answer being
9 played back for the Court.)

10 COURT REPORTER: You don't recall how close Mr.
11 Kline got to the car and he said, ma'am, I don't. Is that
12 what you want?

13 THE COURT: Yes, ma'am. And then read in all
14 actuality again, just read that if you could.

15 COURT REPORTER: So in all actuality, you got
16 what you think might be the person that went into the
17 garage, am I right? He said, ma'am ---

18 THE COURT: What else did he say I was going on
19 my instinct...

20 COURT REPORTER: On Mr. Moore's prior. And then
21 that's when Ms. Shuler objected because he was about to
22 say -- the last word he said was prior.

23 THE COURT: So he said I'm going on my instinct
24 and Mr. Moore's prior and that's when he was ---

25 COURT REPORTER: The objection was made.

1 THE COURT: Ms. Shuler, anything else before I
2 go to Ms. Barr or Mr. Brown?

3 MS. SHULER: Nothing further, Judge.

4 THE COURT: Anything from the State?

5 MS. BARR: Your Honor, I don't think that was
6 actually made reference to the defendant's prior record.
7 I think likely Ms. Shuler hadn't cut him off he probably
8 would have, but he did not make any reference to the
9 defendant's prior statement.

10 THE COURT: Prior record you mean.

11 MS. BARR: I'm sorry prior record and, Your
12 Honor, I think in anticipation of where he was going on
13 the motion of defense counsel, you sustained her objection
14 and you told the jury to disregard that last comment by
15 the witness. So I think that any potential error or any
16 error would have been cured by the Court's instruction,
17 but I actually would submit to the Court that there was no
18 error since the witness didn't actually even get that far.

19 THE COURT: All right. Ms. Shuler.

20 MS. SHULER: Your Honor, I think that the jury
21 could have drawn the inference from what the officer was
22 going to say and will have that preconceived notion in
23 their mind, that he's got a prior record and that he was
24 the person that could do this and that he did it based
25 upon his prior record. I think that they could come to

1 that conclusion.

2 THE COURT: Okay. Well, a couple of points on
3 that -- by the way you finished?

4 MS. SHULER: I'm done.

5 THE COURT: Couple of points on that. I,
6 obviously, picked up on what the witness was likely going
7 to say. I didn't know whether he was going to say
8 Mr. Moore's prior experience with me because he's already
9 said he already knew who he was. Of course, he may have
10 known him from the gas station, from Brown's Barbecue,
11 from the Elk's Club, I don't know. But I would assume
12 when he said I already saw Roy Moore, so I knew that would
13 be a name to put out on the BOLO. The jury might be
14 equally wondering, well, how in the world do he know who
15 Mr. Moore was. Again, it could have been his buddy, his
16 cousin or just a guy he knew from school. I don't know.

17 The cross -- I'm going to deny your motion for a
18 mistrial. Of course, Mr. Dozier is duty bound to answer
19 questions. I don't think that his answer was directly
20 responsive to your immediate question which was in all
21 actuality, you got what you think is the man who broke
22 into that shed. What the record doesn't reveal in good
23 cross-examination -- is good cross-examination, but the
24 general tenor of it was all you had to go on was you saw a
25 black man riding a bike and you thought it might be him.

1 The witness who's not a professional like you,
2 professional litigator like you probably kind of knows
3 where you're going. And he's going to say, well, that's
4 not all. My instinct and the fact that I knew he done
5 this stuff before. I assume that was going to be his
6 answer or the general tone of it. So he was probably
7 anticipating further questioning.

8 I'm going to deny your motion for a mistrial. I
9 will repeat to the jury during the my charge that if I
10 have told them to disregard anything they better well do
11 it because that's part of their oath. And I'll caution
12 the witness to refrain from speaking about any prior
13 dealings he may have had with Mr. Moore in the criminal
14 setting or his knowledge of any criminal record. Of
15 course, that will all go by the board perhaps if Mr. Moore
16 testifies. But I'm going to deny your motion for a
17 mistrial. Of course, Ms. Barr or Mr. Brown, if you think
18 on further cross that she has opened the door as to
19 getting into evidence of why Mr. Dozier may have the
20 feelings he has or had the feelings he had, I don't want
21 the witness to take it on himself to decide when that door
22 is open. The lawyers will ask me about that, so
23 Mr. Dozier you may not discuss anything about your
24 knowledge of his record or any knowledge of him being
25 arrested for anything else.

1 While we're on that subject, we haven't
2 gotten -- there, of course, you know you cannot comment if
3 anybody read him his rights that he refuse to say
4 anything, that's not an issue now. But I want to make
5 sure in case that ever comes up, you can't talk about
6 that. All right. So your motion is noted, Ms. Shuler,
7 and it's respectfully denied.

8 MS. SHULER: Thank you, Your Honor.

9 THE COURT: You all ready for the jury?

10 MS. BARR: Yes, sir.

11 THE COURT: Ms. Shuler, you ready?

12 MS. SHULER: I am, Your Honor.

13 THE COURT: Okay, you can bring in the jury.

14 (WHEREUPON, the jury came into open court.)

15 THE COURT: We ready to move forward.

16 Ms. Shuler, you can continue.

17 MS. SHULER: Thank you, Your Honor.

18 CROSS-EXAMINATION CONTINUED

19 BY MS. SHULER:

20 Q Officer Dozier, we were talking about Mr. Moore being
21 in the back of the car in Mr. Kline's yard, if you recall.

22 Now, you brought Mr. Moore to the yard, am I right?

23 A Yes, ma'am.

24 Q In the back of the car?

25 A Yes, ma'am.

1 Q And you asked Mr. Kline is this the man, am I right?

2 A Yes, ma'am.

3 Q And you didn't get him out the car?

4 A No, ma'am.

5 Q You use the most suggestive manner that you could to
6 request an identification, am I right?

7 MS. BARR: Objection, argumentative.

8 THE COURT: Overruled.

9 BY MS. SHULER:

10 Q You used the most suggestive manner that you could in
11 order to get this alleged identification, am I right?

12 A No, ma'am.

13 Q Just a moment ago you said, yes. So what's your
14 answer?

15 A What do you mean by suggestive?

16 Q The most suggestive manner. You can use a photo
17 line-up, am I right?

18 A Yes, ma'am.

19 Q Now, as a trained police officer, that's the
20 preferred method of identification is it not?

21 A Yes, ma'am, it is.

22 Q And that's not what was used in this case, am I
23 right?

24 A No, ma'am.

25 Q You use the suggestive method, am I right?

1 A Right.

2 Q Now, again, we talk about how critically important it
3 is for law enforcement to do a good job in an
4 investigation, right?

5 A Yes, ma'am.

6 Q And you have no clothes in evidence? Am I right?

7 A Yes, ma'am.

8 Q No bicycle?

9 A No, ma'am.

10 Q No, pictures?

11 A No, ma'am.

12 Q No drill?

13 A No, ma'am.

14 Q No fingerprints?

15 A No.

16 Q You don't know how close Mr. Kline got to the car
17 when he made the identification?

18 A No, ma'am.

19 Q All you got is a black man on a bike? Am I right?

20 A Yes, ma'am, based upon the description.

21 MS. SHULER: Beg the Court's indulgence one
22 moment.

23 (WHEREUPON, a pause in the proceedings.)

24 BY MS. SHULER:

25 Q Now, how long were you on patrol in Kingstree?

1 A '08.

2 Q '08 to 0 12 or 2012?

3 A Yes, ma'am.

4 Q For four years then around about?

5 A Yes, ma'am.

6 Q And during your time as a police officer in the Town
7 of Kingstree, it wouldn't be uncommon for you to see
8 people ride bikes through town, would it?

9 A No, ma'am, it wouldn't be uncommon.

10 MS. SHULER: I have no further questions, Judge.

11 THE COURT: Redirect.

12 REDIRECT EXAMINATION

13 BY MS. BARR:

14 Q Officer Dozier, ask you just a couple of questions in
15 follow up. When I asked you earlier to describe the
16 victim's home in the area in which he lived and I think I
17 used the word rural and you agreed with me. Do you
18 remember those series of questions?

19 A Yeah.

20 Q And do you remember Ms. Shuler asking you similar
21 questions on cross-examination? You remember that?

22 A Yes, ma'am.

23 Q All right. In terms of the victim's home, is this an
24 aerial photo of the victim's home?

25 A Yes, ma'am, it is.

1 Q All right. Are there woods around his home?

2 MS. SHULER: Objection, Your Honor leading.

3 THE COURT: It's overruled. It's not leading.

4 BY MS. BARR:

5 Q Are there woods around the victim's home?

6 A Yes, ma'am.

7 Q On the side?

8 A Yes, ma'am.

9 Q In the back?

10 A Yes, ma'am.

11 Q Now, when you got the call over the radio, where were
12 you physically when you got that call?

13 A I was coming from the police department.

14 Q Okay. And I know where it is, but just so the record
15 is clear, what's the address of the police department?

16 A 401 North Long Street.

17 Q North Long Street Highway 52?

18 A Yes, ma'am.

19 Q Oaky. And about how far is it from the police
20 department to the victim's home?

21 A Approximately three minutes.

22 Q Okay. All right. And in the three minute ride that
23 you took from the police department that day to the
24 victim's home to investigate the case, did you see any
25 African American men on a bicycle wearing blue jeans and a

1 gray shirt.

2 A No, ma'am.

3 Q After you got to the victim's home and you took the
4 ride from the victim's home to Highway 527 Sumter Highway
5 where the defendant was, how long did it take you to make
6 that ride?

7 A Couple minutes.

8 Q In the couple minutes it took you to get from the
9 victim's home to where you pick the defendant up with
10 Officer or Deputy Hayes, did you see any African American
11 men on a bicycle with a gray shirt and blue jeans?

12 A No, ma'am.

13 Q When you had Mr. Moore in your vehicle and you took
14 him back to the home of the victim to see if the victim
15 could identify him on that route back, did you see any
16 African American men on a bicycle with a gray top and with
17 blue jeans?

18 A No, ma'am.

19 Q Now, Ms. Shuler asked you if you had in fact told
20 9-1-1 that you saw Mr. Moore earlier on a red bike I think
21 he asked that particular question you remember that?

22 A Yes.

23 Q Okay. Now, I need to make sure that I'm clear, did
24 you tell 9-1-1 that you saw Mr. Moore ten minutes earlier
25 on a red bicycle or did you say on a bicycle?

1 A I said on a green bicycle.

2 Q Okay. All right. On the 9-1-1 cad report that's
3 listed here when they make reference to a red bicycle is
4 that the information that the victim provided?

5 A Yes, that's information that the victim provided.

6 Q Okay. I got you.

7 MS. BARR: Judge, that's all the questions I
8 have.

9 THE COURT: Anything else, Ms. Shuler?

10 RE CROSS-EXAMINATION

11 BY MS. SHULER:

12 Q Officer Dozier, you ever ridden a bike through town?

13 A No, ma'am.

14 Q Never rode a bike through the Town of Kingstree?

15 A No, ma'am, not from Kingstree.

16 Q So you wouldn't know how long it would take to get
17 from point A to point B on a bike in the Town of
18 Kingstree, do you?

19 A No, ma'am, I would not.

20 Q You don't know how long it would take to get through
21 lights?

22 A On a bicycle, no, ma'am.

23 MS. BARR: Judge, we would object to the
24 question to move strike as being outside the scope of
25 recross.

1 THE COURT: Ms. Shuler.

2 MS. SHULER: She asked about timing about how
3 long it would take to get from place A to place B on her
4 redirect. I think I'm well within ---

5 THE COURT: What she asked in the context of the
6 three minutes that you went from place to place, one place
7 to another. I will allow very limited basis, but then
8 you'll be concluded. All right. In other words, don't
9 use that as a spring board to any other points, but I'll
10 allow you to cover that point.

11 MS. SHULER: Yes, Your Honor.

12 BY MS. SHULER:

13 Q Okay. Now, you were here when the 9-1-1 taped was
14 played earlier, am I correct?

15 A Yes, ma'am, I was.

16 Q And is it your testimony that today that you didn't
17 mention a red bike on that 9-1-1 tape?

18 A I could have, I could not. It happen so long ago.

19 Q Okay.

20 A I don't recall.

21 Q Okay.

22 MS. SHULER: I have nothing further, Your Honor.

23 THE COURT: Okay. Is that it?

24 MS. BARR: That's it, Judge.

25 THE COURT: Thank you, Mr. Dozier. You can step

1 down.

2 (WHEREUPON, the witness leaves the witness
3 stand.)

4 THE COURT: Ms. Barr, Mr. Brown, your next
5 witness?

6 MS. BARR: Judge, the State would rest.

7 THE COURT: All right. Ladies and gentlemen,
8 the State has rested, which means the State has offered
9 all the evidence it's going to offer in its case in chief.
10 These rules that we operate under require me to take a
11 recess at this point. Please go to your jury room. You
12 may not discuss the case in any way. Thank you.

13 (WHEREUPON, the jury retire to the jury room.)

14 THE COURT: All right. Any motions from the
15 defendant?

16 MS. SHULER: Yes, sir, Your Honor. I would make
17 a motion for a directed verdict at this time. Your Honor,
18 Mr. Moore is charged with burglary in the first degree.

19 THE COURT: Third degree.

20 MS. SHULER: I'm sorry third degree. There's
21 been absolutely no evidence whatsoever that Mr. Moore
22 actually entered into the victim's building with the
23 intent to commit a crime. The only evidence that was
24 offered was that the victim in fact heard a noise.
25 There's no evidence to suggest that he went inside the

1 building. There's no evidence to suggest that the drill
2 that the suspect had in his hands was inside the building
3 at all. At best, Your Honor, this is an attempted petty
4 larceny case and it's not a burglary in the third degree.

5 MR. BROWN: Your Honor, if it please the Court.

6 THE COURT: All right, Mr. Brown.

7 MR. BROWN: Your Honor, if it please the Court,
8 I believe we've offered what is sufficient evidence for
9 this to go to the jury. As it to pertains to the matter
10 of the defendant going into the shed, there was extensive
11 testimony that when Mr. Kline came around there he
12 actually saw Mr. Moore coming directly out of the shed.

13 In fact, there was extensive testimony on
14 cross-examination by Ms. Shuler where there was a
15 discussion about Mr. Moore standing on the ledge inside
16 the garage and stepping down when they were discussing
17 height. But there's also sufficient testimony that
18 this -- that he was carrying items that were in the shed
19 initially. And there's also testimony that there was not
20 consent with permission for him to enter that shed. Your
21 Honor, I do believe that there's been more than enough for
22 the jury to make a determination or for this court to have
23 grounds for a jury to have reason to make a determination
24 that there was in fact a burglary third degree.

25 THE COURT: Ms. Shuler.

1 MS. SHULER: Your Honor, there was no testimony
2 whatsoever that allege that Mr. Moore -- that the subject
3 was allegedly standing on was inside the building.

4 THE COURT: Well, where was it then?

5 MS. SHULER: There's no testimony to indicate
6 where the ledge was. And there's no testimony to indicate
7 where the drill was either. There's absolutely no
8 testimony that anybody ever entered into the building.

9 THE COURT: Well, the State doesn't have to
10 prove that he entered the building with intent to steal
11 the drill. He has to enter the building with intent to
12 commit a crime. Now, presumably or circumstantially
13 typically it is to steal something when somebody breaks or
14 enters a dwelling or building without consent.

15 There was testimony from Mr. Kline that he said
16 I will go put it back. There's also evidence from
17 Mr. Kline that when he was in one part of the garage, he
18 called it. And then you all called it a shed, that he
19 heard noise coming from the other part of the garage,
20 which he said was inside another part. That noise to me
21 is enough to indicate an entry.

22 Now, whether he did steal the drill from inside
23 the building or when it was laying outside, the drill is
24 not the key. That might be the subject of a separate
25 attempted petty larceny, but the fact that there's no

1 evidence where exactly the drill came from to me is not
2 indicative of whether or not he entered the building. And
3 I do think the jury could gather as I did if you choose to
4 believe the evidence, that the doorway in which he
5 encountered Mister -- he says Mr. Moore. He said
6 Mr. Moore was inside the door and he, Mr. Kline, was
7 outside and that there was a step down from the garage.
8 That's circumstantially in the least indicates that
9 Mr. Moore entered the dwelling or entered the building.
10 Of course, without consent, they covered that. Your
11 motion is based primarily on the fact that there's no
12 evidence of entry; is that correct?

13 MS. SHULER: No evidence of entry, Your Honor.

14 THE COURT: All right. Anything else that you
15 like to put on the record as part of your argument?

16 MS. SHULER: Your Honor, I would also add that
17 there's not sufficient evidence that the individual that
18 was described by the victim is Mr. Moore. Mr. Moore
19 does fit the description that was offered at the time that
20 the six-two-skinny-black male riding a red bike, that the
21 officers agree that he was riding a green bike at the
22 time. That he did not have a gold tooth, Your Honor.
23 This is just not sufficient evidence to go with the
24 identification.

25 THE COURT: Well, there's no evidence to this

1 jury whether or not Mr. Moore does or does not have a gold
2 tooth. You can ask Mr. Kline have you seen him lately
3 and he doesn't have a gold tooth. Mr. Dozier wasn't asked
4 about it. But in any event, there's no evidence right now
5 about a gold tooth. The business about the bicycle, I
6 agree with you that's an issue, but I think it's a jury
7 issue. That certainly calls into question the accuracy of
8 Mr. Kline identification of him period, but the difference
9 in the colors of the bike does not create a directed
10 verdict issue. So that motion is respectfully denied too.

11 Identification I still think that's a matter for
12 the jury and appellate court may disagree with me on the
13 issue of whether or not I should have let in-court
14 identification be done at all because when you have a
15 suggestive lineup, what's to be objected to is the
16 in-court identification but not necessarily the show-up
17 part itself, that's the constitutionally defective part or
18 the defective part on which I did the balancing test. So
19 I allowed the in-court identification then over your
20 objection. And I think during your closing, you can make
21 a lot of hay with the holes in that in any one of a number
22 of ways. But a directed verdict-wise, I'm concerned about
23 the existence of evidence not the weight of it, okay.

24 MS. SHULER: Thank you, Your Honor.

25 THE COURT: All right. Anything else before I

1 speak to Mr. Moore about whether or not he will or want
2 testify?

3 MS. SHULER: Nothing from the defendant, Your
4 Honor.

5 MR. BROWN: Nothing from the State.

6 THE COURT: Come on forward, Mr. Moore, and be
7 sworn.

8 You all had a chance to talk about this?

9 MS. SHULER: We have.

10 THE COURT: You can put your left hand on the
11 Bible and raise your right hand please.

12 THE CLERK: Do you solemnly swear or affirm to
13 tell the truth and nothing but the truth so help you God?

14 THE DEFENDANT: I do.

15 THE COURT: You're Roy Donell Moore?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: By the way, how many N's in your
18 name?

19 THE DEFENDANT: N's?

20 THE COURT: D-O...

21 THE DEFENDANT: Oh, Donell D-O-N-E-L-L.

22 THE COURT: One N?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. All right. And we reached
25 the stage of the trial now where I'm going to talk to you

1 about some of your rights. And specifically, we reached
2 the point where you may offer your own defense. You have
3 the right to claim the protections granted to you by the
4 Fifth Amendment to United States Constitution and the
5 amendment states in pertinent part that no person shall be
6 compelled in any criminal case to be a witness against
7 himself. What that means is is that since you been
8 charged with a crime, no one can force you to take this
9 witness stand and testify in front of a jury. Do you
10 understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: The reason for that is that the
13 right that you have under the Fifth Amendment is a
14 personal right. Since, it is a personal right no one can
15 give it up except for you is that clear?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: In short, no one can force you to
18 testify Ms. Shuler can't. Ms. Barr can't. I can't.
19 Nobody can make you sit on that stand and testify. I
20 think you said you understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. If you decide to
23 testify, you'll be subject to the same rules that govern
24 the direct and cross-examination of other witnesses who
25 have testified. And you seen that exchange with the other

1 witnesses in the case; is that correct?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: In other words, your lawyer would
4 ask you questions and then Ms. Barr or Mr. Brown would ask
5 you questions on cross. Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: In addition, if you have any
8 convictions involving dishonesty or for crimes that
9 involve dishonesty or false statement, those convictions
10 under certain perimeters can be introduced solely for the
11 purpose of bringing to question whether or not you are
12 believable. Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: In addition, if you have any
15 convictions for crimes punishable by imprisonment for more
16 than one year and if I make the decision that the
17 probative value of admitting those convictions outweighs
18 any prejudicial effect to you, then the State or whoever's
19 cross examining you will be able to go into those
20 convictions for the sole purpose of attacking your
21 believability. Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Now, if you decide to
24 testify, that decision on your part has to be made freely
25 and voluntarily and intelligently with full knowledge of

1 your rights under the Fifth Amendment and the consequences
2 of your decision to testify. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: If you decide not to testify, I will
5 tell the jury -- as a matter of fact, I emphasize to the
6 jury as I'm required to do, that they cannot give the fact
7 that you did not testify any consideration whatsoever.
8 And that there cannot -- that there's to be absolutely no
9 prejudice to you because you did not testify. In simple
10 terms, I tell them they cannot think about it. They can't
11 talk about it. And it may not enter into their decisions
12 at all. Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Now, in the end, it's left entirely
15 up to you about whether you testify or not. You can talk
16 to your lawyers some more. You can talk to anyone else
17 that you think is appropriate to talk to about this, but
18 in the end, the final decision is yours. Is that clear?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you understand everything I have
21 explained to you?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you have any questions at all?

24 THE DEFENDANT: No, sir.

25 THE COURT: Have you made your decision?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. Would you like to talk to
3 your lawyer about it any more?

4 THE DEFENDANT: No, sir.

5 THE COURT: Okay. And what is that decision?

6 THE DEFENDANT: I will not take the stand, sir.

7 THE COURT: Has anyone forced you to make that?

8 THE DEFENDANT: No, sir.

9 THE COURT: Has anyone used any what you would
10 consider to be improper influence in getting you to make
11 that decision?

12 THE DEFENDANT: No, sir.

13 THE COURT: All right. When you sit down in
14 just a moment, we're going to have the jury come in or
15 when we start back and Ms. Shuler I will allow her to
16 rest in front of the jury. If during this time frame, you
17 change your mind and you say, hey, I want to think about
18 this a little bit more let her know. Just nudge her and
19 say, hey, I need to talk to you about me testifying. And
20 then she can let me know and I'll give you sometime. You
21 understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You can have a seat. You had a
24 question?

25 THE DEFENDANT: Yes, sir. I got to use the

1 bathroom.

2 THE COURT: We're going to do that. Maybe not
3 all of us, but what we're going to do is take a break for
4 I hope no more than five minutes or so. And then I want
5 to hear any requests for a charge. But, Mr. Moore, you're
6 certainly excused. Please be back in the courtroom in
7 five minutes. We'll take a break.

8 (WHEREUPON, a break was taken.)

9 THE COURT: Does anyone have anything they want
10 to put on the record about a jury charge or specific
11 charges?

12 MS. BARR: I do not, Judge.

13 THE COURT: Ms. Shuler.

14 MS. SHULER: I don't, Your Honor.

15 THE COURT: Now, I will give the identification
16 charge that I'm sure both of you are familiar with. And
17 my charge does include the comment on -- my reasonable
18 doubt charge does include the provision that proof beyond
19 a reasonable doubt is proof that leaves you firmly
20 convinced of the defendant's guilt, that is apart of it as
21 Mr. Brown suggested or requested. I will give a -- it's
22 not a charge, but I will tell the jury that the use of the
23 word victim is not intended to convey anything prejudicial
24 toward Mr. Moore, but simply the word that's used to
25 describe someone who claims that a crime has been

1 perpetrated against him or her. The verdict form is
2 burglary in the third degree only. There's obviously no
3 lesser offense and there's no other indicted charge.
4 Everybody agree with that?

5 MR. BROWN: Yes, Your Honor.

6 MS. BARR: Yes, sir.

7 MS. SHULER: Uh-huh.

8 THE COURT: Okay. The defendant will have the
9 last argument. Who's going to argue for the State?

10 MS. BARR: Judge, I will.

11 THE COURT: I don't hold you to any particular
12 time, but just curious how long do you think you'll take?

13 MS. BARR: Fifteen to 20 minutes.

14 THE COURT: Ms. Shuler, about the same?

15 MS. SHULER: Yes, Your Honor.

16 THE COURT: I'm not going to hold you to it, but
17 if I think we need to take another break after the
18 arguments are concluded, I will do that. I assume that
19 you want to argue before I charge. Obviously, it's always
20 done in 99 percent of the cases. Your esteemed
21 father-in-law use to do it the other way. He would
22 charge and then the lawyers would argue, but he would
23 leave it up to the lawyers. Doesn't matter to me. Maybe,
24 you don't want to do it this time, but you can think about
25 it another time.

1 MS. SHULER: I would love for you to charge,
2 Judge.

3 MS. BARR: I would too.

4 THE COURT: You want me to charge the jury
5 first? Okay, I'll do that. All right.

6 MS. BARR: Judge, may I ask what you're specific
7 instructions will be as it relates to identification.

8 THE COURT: I took it out of my book.
9 Identification charge she'll bring it up in just a moment.
10 I'll let you look at it as I give it. When the jury does
11 come back in, I'm going to tell -- I'm going to ask,
12 Ms. Shuler, if you have any witnesses. When you say no,
13 that you rest. I'll tell the jury that we already went
14 over that and we use the extra time to go over the jury
15 charge and the verdict form, so they want to think that we
16 were wasting time.

17 Ms. Barr, what I say is that an issue in this
18 case is the identification of the defendant as the person
19 who committed the crime charged. The State has the burden
20 of proving identity beyond a reasonable doubt. You must
21 be satisfied beyond a reasonable doubt of the accuracy of
22 the identification before you may convict the defendant.
23 Identification testimony is an expression of belief or
24 impression by a witness and you must determine the
25 accuracy of the identification of the defendant. You must

1 consider the believability of a identification witness in
2 the same way as any other witness. By that time, I will
3 have explained to them use your common sense and you can
4 take into account this, this, this and this.

5 You may consider whether the witness had an
6 adequate opportunity to observe the offender at the time
7 of the offense and that will be affected by things like
8 how long or short a time was available, how far or close
9 the witness was, lighting conditions, and whether the
10 witness had the chance to see or know the person in the
11 past.

12 The burden of proof on the State extends to
13 every element of the crime charged and that specifically
14 includes the burden of proving the identity of the
15 defendant as the person who committed the crime beyond a
16 reasonable doubt. If after examining the testimony, you
17 have a reasonable doubt as to the accuracy of the
18 identification, you must find the defendant not guilty.
19 I'll pull this out my book. And if you two want to look
20 at it as I'm giving the charge, that's fine if you want to
21 make any notes off that. You take it out of that sleeve
22 though, I'll probably never see it again, so leave it in
23 that plastic sleeve. And you can hand it back and forth
24 if you want.

25 Ms. Barr, you agree to me charging the jury

1 first?

2 MS. BARR: Yes, sir.

3 THE COURT: Ms. Shuler?

4 MS. SHULER: Yes, Your Honor.

5 THE COURT: After I do that, this charge will
6 probably take about 20 minutes. And I don't think the
7 jury will need to take a break. So we should be finished
8 with the charge and the arguments around four o'clock.
9 Okay. You ready for the jury? State's ready?

10 MS. BARR: State ready, Your honor.

11 THE COURT: Defendant ready?

12 MS. SHULER: We are, Your Honor.

13 THE COURT: Mr. Moore, your decision is still
14 the same?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Bring in the jury.

17 (WHEREUPON, the jury came into open court.)

18 THE COURT: Okay. All right. Everybody is back
19 in the courtroom. Ms. Shuler, the State having rested
20 does the defendant offer any witnesses?

21 MS. SHULER: No, Your Honor. The defendant
22 rests at this time.

23 THE COURT: All right. Ladies and gentlemen,
24 Ms. Shuler alerted me to that during that break, so we
25 took additional time to go over the jury charge because

1 the way the rules work is if she had rested without me
2 going into that, I would have to send you right back out
3 and go over the charge because the rules that we operate
4 under require me to discuss that on the record with the
5 lawyers and we've already done that. We did that during
6 the last five or six minutes. We reached the stage of the
7 trial now where I'm going to give you a charge on the law.
8 And then the lawyers are going to offer their closing
9 arguments. A few things about this. My charge to you
10 will take about 20 minutes. At the end of that charge,
11 Ms. Barr or Mr. Brown will offer a closing argument for
12 the State. And then Ms. Shuler will offer a closing
13 argument for the defendant. After I finish my charge, if
14 you need to take a break just go like that. Don't be shy,
15 but I do want to make sure you understand this. I know
16 it's three o'clock. All of you probably had lunch. All
17 of you probably would like to maybe shut your eyes and
18 lean back a little take a little snooze. If I see you
19 doing that, I'll probably make everybody in the jury box
20 stand up and stretch. I know what's what Judge Newman
21 does when he's in Kingstree because he does it everywhere
22 attention wonder, but please don't let your attention
23 wonder, don't doze off. And please make sure that you
24 understand or pay very close attention to the charge as I
25 give it to you.

1 I'm going to be talking to you during this
2 charge about many things. There are many legal principles
3 that I'll be talking to you about. These include but are
4 not limited to credibility of witnesses, the presumption
5 of innocence, direct and circumstantial evidence. I will
6 also talk to you about the burden of proof being beyond a
7 reasonable doubt. I'll be talking to you about
8 identification, which is an element of the crime charged.
9 I'll be talking to you about the other elements of
10 burglary in the third degree. I will repeat myself I can
11 promise you that. The reason that I do is that these
12 legal principles do intertwine with one another, so if I
13 talk about one, I will necessarily more than likely have
14 to refer to another. I don't think that I've lost my
15 place or lost my mind. It's simply that I'm required by
16 law to give you complete charge and I can't do that
17 frankly sometimes without repeating myself.

18 Obviously, ladies and gentlemen, during the
19 course of this trial, you and I have had duties to
20 perform. You are the sole judges of the facts. As I
21 mention to you, I cannot make any factual decisions. I
22 cannot make the decision of what your verdict is going to
23 be only you can do that. As a primary illustration, there
24 have been exhibits introduced in this case. You will
25 probably note that I've never seen those because they were

1 certain things shown to you, describe to you, even put on
2 that -- I guess, that's a television screen. I've never
3 even seen them. And the reason for that is is it doesn't
4 matter what I think about them unless there is a dispute
5 as to whether or not they're admissible, that's when I
6 would get involved. They're in evidence and therefore
7 your consideration and your consideration alone because
8 your are the sole fact finders. As I told you at the
9 beginning of the trial, you are the only people in the
10 world that can make the decision as to what the verdict is
11 going to be.

12 Now, madam forelady, I will be talking to you
13 more specifically at the end. Your deliberations in this
14 case will end with your completion of the verdict form.
15 And the choices on the verdict form will be not guilty or
16 guilty. The verdict that you reach must be unanimous,
17 that means all of you have to agree. It cannot be a vote
18 of 11 to one, ten to two. It cannot be anything short of
19 12 to nothing as to what your verdict is going to be.

20 Now, if during the course of the trial I have
21 ordered you to disregard certain information or statements
22 that had been made under your oath, you are to disregard
23 that. You are to consider only the competent evidence
24 before you. And again if I've ordered you to disregard
25 something, you must disregard it.

1 Now, I have the additional duty other than
2 making rulings during the trial of I have the additional
3 duty to give you a charge on the law. You must accept the
4 law exactly as I give it to you even if you disagree with
5 it, that's just the way it is. You may come into the case
6 with a preconceived notion of what the law is or what it
7 ought to be, but for today's purpose, you have to accept
8 it exactly as I give it to you. Don't take from anything
9 I've said or done or any way I've ruled that I favor one
10 particular result over another.

11 For example, I had a jury tell me one time,
12 well, I saw you taking a lot of notes at certain times, so
13 I thought you thought that was important. Well, that's
14 not really true. I do take notes because I have to. I
15 usually take notes as to what time something happened like
16 what time Joe Blow took the witness stand, what time did
17 direct start, what time did cross start, what time was
18 exhibit one introduced. The reason I do that -- the court
19 reporter does too. Is if you want to hear anything played
20 back, we need to know where to go. So I'm not writing
21 things down because I think they're important from an
22 evidentiary standpoint. I'm doing that to kind of have a
23 calendar or a log during the trial.

24 Now, ladies and gentlemen, I remind you that the
25 fact that the defendant has been charged, arrested and

1 indicted for a criminal offense is not evidence of
2 anything. It is not evidence of guilt. The document the
3 indictment is simply the formal written instrument that
4 walks the case into the courtroom.

5 To move further and I get more specific as I go,
6 you have to determine the believability of witnesses who
7 testify. I told you about that in some detail at the
8 beginning. It's your duty to analyze and evaluate the
9 evidence and determine which evidence convinces you of its
10 truth that includes testimony. You could believe every
11 word, disbelieve every word or believe parts and reject
12 the rest of what any witness has to say. You can believe
13 one witness over several, several over one, whatever you
14 think is appropriate within your good common sense.

15 Take into account things such as whether the
16 witness had a reason to give the testimony that he gave,
17 whether or not the witness had the adequate or had bias,
18 prejudice or other motives to give testimony. You can
19 take into account the witness' demeanor, what was that
20 witness' ability to know what he or she claims to know.
21 And also whether or not the witness said something the
22 same or different on a prior occasion and again anything
23 else you think is appropriate within your common sense.

24 There are two types of evidence that are
25 generally presented during a trial. I'm not talking about

1 testimony and exhibits, I'm talking direct evidence and
2 circumstantial evidence. Direct evidence is evidence that
3 immediately establishes the main fact to be proved. The
4 example I've used in the other trials this week and what I
5 typically use if you have a witness who says under oath, I
6 saw the dog cross the street. If you choose to believe
7 that witness, if you think that witness is credible, you
8 can take that as direct evidence that a dog did in fact
9 cross the street, that's a very fundamental example.

10 Circumstantial evidence is proof of a chain of
11 facts and circumstances that indicate the existence of a
12 fact. Circumstantial evidence immediately establishes
13 collateral facts from which the main fact may be inferred.
14 So that type of evidence, circumstantial evidence is based
15 on inference and is not based upon personal knowledge or
16 observation.

17 Now, the law makes absolutely no distinction
18 between the weight or value that you are to give to either
19 direct or circumstantial evidence nor is a greater degree
20 of certainty required of circumstantial evidence than of
21 direct evidence. In the end, you weigh all the evidence.
22 And after weighing that evidence, if you are not convinced
23 of the defendant's guilt beyond a reasonable doubt, you
24 must find him not guilty. If after weighing all the
25 evidence you are convinced of the defendant's guilt beyond

1 a reasonable doubt, you must find him guilty.

2 The defendant has pled not guilty to this
3 burglary charge burglary in the third degree and that plea
4 puts the burden squarely on the State to prove the
5 defendant guilty beyond a reasonable doubt. A person is
6 never required to prove himself not guilty, never required
7 to prove himself innocent. So it's a very important rule
8 of law that the defendant in a criminal case, that's no
9 matter what the charge is always presumed innocent of the
10 crime for which the indictment was issued unless guilt is
11 proven by evidence satisfying a jury of that guilt beyond
12 a reasonable doubt.

13 Now, the presumption of innocence does not end
14 when you begin your deliberations, but it accompanies the
15 defendant throughout those deliberations until you reach a
16 verdict of guilt based on evidence satisfying you of guilt
17 beyond a reasonable doubt. Some people have it described
18 that the presumption of innocence to be like a robe of
19 righteousness. It's around the defendant's shoulders and
20 it cannot be stripped away unless that has been done by
21 evidence satisfying a jury of guilt beyond a reasonable
22 doubt.

23 So closing on that point the presumption of
24 innocence is not a phrase that we casually toss around.
25 The presumption of innocence is a substantial right to

1 which every defendant is entitled unless you, the jury,
2 are satisfied from the evidence of the defendant's guilt
3 beyond a reasonable doubt.

4 So what is a reasonable doubt under the law. A
5 reasonable doubt is the kind of doubt that would cause a
6 honest, sincere, and reasonable person to hesitate to take
7 action. The State has the burden of proving the defendant
8 guilty beyond a reasonable doubt. If you have ever been
9 on a civil jury, a judge typically says lady justice
10 holding scales. Those scales are even, that's how the
11 parties walk into the courtroom. In a civil case, the
12 burden of proof is typically by the greater weight of the
13 evidence. Under that standard, the person who has the
14 burden must tip the scales ever so slightly in his or her
15 favor. And if that person does that, they've met that
16 burden of proof. In criminal cases, the State's burden
17 and the State's proof is more powerful than that. The
18 State must present proof beyond a reasonable doubt. So
19 proof beyond a reasonable doubt is proof that leaves you
20 firmly convinced of the defendant's guilt. We don't know
21 very many things in this world with absolute certainty and
22 the law does not require the State to present proof that
23 overcomes every possibly doubt. It does require the State
24 to present proof that overcomes reasonable doubt.

25 Now, based on your consideration of the evidence

1 if you are firmly convinced of the defendant's guilt, you
2 must find him guilty. If on the other hand you think
3 there's a real possibility that he is not guilty, you must
4 give him the benefit of the doubt and find him not guilty.

5 Now, ladies and gentlemen, I instruct you and I
6 emphasize to you that the fact that the defendant did not
7 testify is not a factor to be considered by you in any way
8 during your deliberations. It's not to be considered by
9 you in any way in your consideration on the question of
10 the guilt or non-guilt of the defendant. A defendant has
11 the Constitutional Right to remain silent and the
12 assertion of that right must be not be considered by you
13 in your deliberations. In simple terms, you may not think
14 about that. You may not talk about it. And the fact that
15 he did not testify may not enter into your decision making
16 whatsoever.

17 Now, the reason for that -- another reason for
18 that is the burden is on the State. The defendant is not
19 required to prove or disprove anything. And the fact that
20 the defendant has not testified is not to be considered at
21 all.

22 Likewise, the fact that he called no witnesses
23 and presented no evidence is not to be considered at all
24 because again he has no burden of proving or disproving
25 anything.

1 All right. Now, ladies and gentlemen,
2 specifically this indictment charges the defendant with
3 burglary in the third degree. It's also called third
4 degree burglary. Those two things mean the same. In
5 order to prove third degree burglary, the State must prove
6 beyond a reasonable doubt that the defendant entered a
7 building without consent. A building is any structure,
8 vehicle, water craft or aircraft where any person lodges
9 or lives or where people assemble for the purpose of
10 business, government education, religion, entertainment,
11 public transportation or it can be a structure where goods
12 are stored. In order to prove that the defendant entered
13 a building or the building, the State does not have to
14 show that the defendant's entire body entered the
15 building. The smallest entry is sufficient. It may be
16 any part of the body such as a hand or a foot or even an
17 instrument such as a hook or other instrument. In
18 addition, the State does not have to prove that force was
19 used to gain entry into the building.

20 Next, I already told you the State must prove
21 beyond a reasonable doubt that the defendant entered a
22 building without consent. Next, the State must prove
23 beyond a reasonable doubt that the defendant intended to
24 commit a crime at the time of the entry. The mere entry
25 into a building without consent is not burglary. Again,

1 the State must prove beyond a reasonable doubt that the
2 defendant had the intent to commit a crime at the time of
3 entry.

4 If the intent to commit a crime is formed after
5 the entry, it is not burglary. On the other hand if the
6 defendant intended to commit a crime at the time of entry,
7 it's burglary even if that intent was abandoned after the
8 entry. And it does not matter that the intended crime was
9 not completed.

10 Now, the element of intent within the context of
11 intent to commit a crime, that may be shown by acts and
12 conduct of the defendant and other circumstances from
13 which you may naturally and reasonably infer intent.

14 Now, ladies and gentlemen, in order to establish
15 criminal liability, the element of criminal intent must be
16 established by the State beyond a reasonable doubt.
17 That's always a matter that must be determined by a jury
18 from the circumstances surrounding the situation. We
19 can't expect intent to be proven to a mathematical
20 certainty. And there's no way that medical science can at
21 least yet dissect a person's brain, look at it and
22 interpret what that person intended to do if anything. So
23 the law says that criminal intent may be inferred from the
24 circumstances shown to have existed.

25 It is not necessary for the State to establish

1 criminal intent by direct evidence, but it may be
2 established by circumstantial evidence in the same way as
3 any other fact by taking take into consideration the
4 actions and the parties and all the facts and
5 circumstances of the case. Criminal intent is a mental
6 state. It is a conscious wrong doing and it's up to you
7 to determine, what if anything, the defendant intended to
8 do based on the circumstances shown to have existed.

9 Now, ladies and gentlemen, an issue in this case
10 is the identification of the defendant as the person who
11 committed the crime charged. The State has the burden of
12 proving identity beyond a reasonable doubt. You must be
13 satisfied beyond a reasonable doubt of the accuracy of the
14 identification of the defendant before you may convict
15 him.

16 Identification testimony is an expression of the
17 belief or impression by a witness and you must determine
18 the accuracy of the identification of the defendant. You
19 must consider the believability of the identification
20 witness in the same way as any other witness. You may
21 consider whether the witness had an adequate opportunity
22 to observe the offender at the time of the offense. That
23 will be affected by things such as how long or short a
24 time was available, how far or close the witness was to
25 the offender, the lighting conditions and whether a

1 witness had the chance to see or know that person in the
2 past. So once again, I instruct that the burden of proof
3 on the State extends to every element of the crime charged
4 and that specifically includes the burden of proving
5 beyond a reasonable doubt the identity of the defendant as
6 the person who committed the crime. If after examining
7 the testimony you have reasonable doubt as to the accuracy
8 of the identification, you must find the defendant not
9 guilty. I'll talk to you a little bit more about the
10 verdict form, but madam forelady, and, ladies and
11 gentlemen of the jury, after the lawyers give their
12 closing arguments or shortly after that, you'll be
13 released to deliberate.

14 The verdict form has one inquiry on it. And it
15 says as to the charge of burglary in the third degree, we,
16 the jury, unanimously find the defendant and their two
17 choices not guilty and guilty. And, of course, madam
18 forelady, there will be a place for you to sign underneath
19 the statement that you certify this is the unanimous
20 decision of the jury. And I'll talk to you in a little
21 bit more detail about questions, handling of the evidence
22 and so forth. But right now does anybody need to take a
23 break?

24 (WHEREUPON, no one responded.)

25 THE COURT: Right now I'll turn it over to the

1 State to make its closing argument.

2 MS. BARR: Thank you, Your Honor. Please the
3 Court, Ms. Shuler ---

4 THE COURT: And by the way, could the lawyers
5 come up for just a moment.

6 (WHEREUPON, a bench conference was held in the
7 presence of the jury, but out of the hearing of the
8 jury.)

9 THE COURT: All right, Ms. Barr.

10 MS. BARR: Thank you, Your Honor. Madam
11 forelady, ladies and gentlemen of the jury, good
12 afternoon. When we began this case this morning, I was
13 hopeful that we would be able to conclude today. I'm glad
14 that we have been able to conclude today. But one of the
15 things that I would ask you all not to do is not to assume
16 that because the trial was relatively short, that it's not
17 an important case. It obviously is an important case for
18 the State of South Carolina, for Mr. Kline and for
19 Mr. Moore. This is our only day in court for all of the
20 parties involved. And for that reason, it is a very
21 important case for the people who are affected.

22 Now, one of the things that I hate about this
23 part of the trial is I like to be the last one to give a
24 closing argument. And the way that our rules of court
25 work, the defendant and his attorney give the last closing

1 argument in the case. And the advantage of being able to
2 do that obviously is, of course, Ms. Shuler and I are
3 colleagues and I have the greatest respect for her. She
4 will have an opportunity to listen to everything I say.
5 Then she'll get back up here after I speak and tell you
6 all the reasons why you should disregard everything that I
7 say and all the reasons why you should give preference to
8 what she says. There's a little bit of advantage and I
9 certainly wish I had that advantage here in this case.

10 As you all know, Mr. Moore is charged with
11 burglary in the third degree. And the Court has
12 essentially read to you what that means and what the State
13 has to prove for that charge. And the evidence is pretty
14 clear in terms of the actual charge itself. A person is
15 guilty of burglary in the third degree if the person
16 enters a building without consent of the homeowner or the
17 building owner and with the intent to commit a crime.

18 Now, clearly the evidence in this case is that
19 an individual entered Mr. Kline's shed with the intent to
20 steal something out of the shed. And during the process
21 of that theft, that individual was caught by the owner.

22 Now, based on the facts as we know them to be,
23 there's no question that a burglary was committed on that
24 day. The thing that you all have to decide and the big
25 issue in the case is who committed the burglary. And I

1 will agree that this is going to boil down to an issue
2 about identification.

3 When Your Honor gave you the instructions about
4 identification, a lot of times some of the things that are
5 said in court when you're giving instructions some of the
6 language can either get glossed over, but it's very
7 important key language of those instructions that the
8 judge gave you. When you all have to determine who
9 committed this crime, you all have to determine whether or
10 not Mr. Kline was believable, whether or not he was
11 credible in his identification of the defendant, Roy
12 Donell Moore. And one of the things that you have to
13 consider with this, well, did Mr. Kline actually have
14 enough time to observe the person who was robbing the
15 shed? Did he have enough time? Because that's critical.
16 You know, if somebody just happens to be in a convenience
17 store by way of example and this individual is a customer
18 in the store shopping and somebody comes in and grabs
19 something out of the convenience store and runs out in
20 less than ten seconds and the witness then says, well, I
21 saw this person come in and steal something out of the
22 convenience store, but it happen so fast he or she was out
23 in ten seconds, well, you have to determine whether or not
24 a witness can be credible in that instance when you have
25 an opportunity to view the suspect in ten seconds, that's

1 not a whole lot of time.

2 Another thing that you have to consider is the
3 lighting conditions, when you're trying to determine
4 whether or not Mr. Kline is believable or the lighting
5 conditions. Well, folks in this case, we heard evidence
6 that it was a sunny day, no rain middle of the day. You
7 also have to determine whether or not Mr. Kline's degree
8 of intention to the person who tried to steal from him
9 that day was such that you can believe it.

10 Now, when we are in court, it's a lot of people
11 in this courtroom. A lot of things going on all at the
12 same time. You've got witnesses in here. You got lawyers
13 in here. You've got court personnel. You got a judge.
14 You got law clerks. You got attorneys. You got people
15 observing. There's a lot of people in this courtroom
16 right now. And during the course of a trial at any given
17 moment, many people are doing many things at one time.
18 And so as jurors, you're attention is focused on lawyers
19 at some point, probably on the defendant at some point,
20 probably on the court reporter at some point or the judge
21 a lot. In this situation, I want to tell you why you can
22 believe Mr. Kline in terms of his identification. You had
23 not a hurry or rushed or chaotic crime. This defendant
24 came to this man's home.

25 I suspect and will submit to you that perhaps

1 the defendant did not know that someone was there
2 immediately when he came. I recall Mr. Kline testifying
3 that he was in the process of moving. Do you all remember
4 him saying that he was putting up boxes and everything.
5 Perhaps it may have given the appearance that the home was
6 vacant at the time. And folks I'm going to tell you,
7 there are people who sit back, who wait, who watch, who
8 look to seize an opportunity to get for free what we work
9 our behinds off day in and day out to earn. And it came
10 to mind that perhaps the defendant thought that there was
11 nobody there. But in any event, he get there. He's --
12 Mr. Kline hears a noise. He goes over and I think it
13 probably bothered him a little bit because the defendant
14 had the gawl to try to rob him in the middle of the day.
15 That takes a lot of cahoonas to do that. But he comes
16 over, goes into a shed, picks up a drill getting ready to
17 steal his property. Mr. Kline comes over and sees him.
18 And he candidly told you when he was on the stand, he
19 asked him, What the F are you doing. The defendant then
20 says somebody came and told me that I can get this. And
21 Mr. Kline says no, no, nobody told you that, that's my
22 stuff what are you doing here on my property. The
23 defendant then says realize that the first story is not
24 going to fly. Then says, well, I promise you listen,
25 listen, I'll put it back. I'll go put it back. I will

1 get off your property. You want ever see me again.
2 Mr. Kline says no, no, no you trying to burglarize my
3 home, I'm calling the police. And then after the first
4 lie doesn't work and then after the second offer by him to
5 say he's going to put the stuff back doesn't work, then he
6 gets to crying and begging. So please, please, please
7 don't call the police, please, please, please, no, no, no.
8 I mean, he actually was crying.

9 Now, folks four to five minutes passed during
10 this exchange where it's just two of them nobody else not
11 like in a courtroom here where there's all these people in
12 here. And all of your attention is focused on different
13 things and different people at different times. It's just
14 the two of them four to five minutes. Now, four to five
15 minutes really doesn't seem like a long period of time,
16 but you sit back and you think. I would suggest to you
17 maybe when you're in the course of your deliberations
18 maybe let somebody take off their watch and time it to
19 four to five minutes. If I were to stand here with just
20 your attention focused on me and we're having this
21 conversation for four to five minutes and I want to leave
22 out this courtroom and be gone for 20 minutes and somebody
23 would have come and ask you who is that woman who was
24 speaking to you describe her to me. Do you think you all
25 would be able to make an identification for me if I was

1 standing in front of you for four to five minutes. You
2 feel comfortable with that. You think you be pretty sure
3 you could do that. That's exactly what happened on that
4 day. And what I think the defense will argue to you is
5 that you shouldn't believe it. He's not credible.
6 There's not enough evidence.

7 I had a really good friend of mine who's a
8 prosecutor in Florence County, she tried a case and the
9 jury found the defendant in that case not guilty. And she
10 was asking some of the jurors after the case was over.
11 She said, well, kind of tell me I'm just curious to know
12 because I want to learn from every experience why did you
13 find the person not guilty. And one of the jurors said,
14 well, I know he's guilty, but the State didn't prove it.
15 Folks, when the judge talks about proof beyond a
16 reasonable doubt, he talks about a reasonable doubt that
17 leaves you firmly convinced, not proof beyond a shadow of
18 a doubt. So I would submit to you there's not a whole lot
19 of things that we know in this world beyond a shadow of a
20 doubt. But I would submit to you all that if you know he
21 did it, then that case with the juror who knew he did it
22 but felt that the State didn't prove it. If you believe
23 he did it, the State has met its burden of proof beyond a
24 reasonable doubt.

25 I would venture to guess that the defense would

1 argue, well, there's no forensic evidence. There's no
2 DNA. Therefore, you should not find the defendant guilty.
3 And I always get nervous as a prosecutor because I love
4 the crime shows just like everybody else. I love Law and
5 Order. I don't watch CSI, but I heard a lot of people
6 talk about CSI. And I think that there is an expectation
7 from jurors that you have to have that evidence, forensic
8 evidence DNA that sort of thing in order to find somebody
9 guilty. And folks that's not the case.

10 The law states that you have to be firmly
11 convinced. It doesn't state that you have to have DNA.
12 Would I have like to have DNA, oh sure. I'm not going to
13 suggest otherwise. Absolutely. I would love to have had
14 it. Sometimes folks it's there and sometimes it's not,
15 but it doesn't mean that the person did not commit the
16 crime. Long before DNA was ever admitted in court, people
17 are committing crimes. And long before fingerprints were
18 ever admitted in court, people were committing crimes and
19 they were convicted of those crimes.

20 One more issue as it relates to this whole
21 matter about identification, Mr. Kline has more incentive
22 than anybody in this world to be certain about who broke
23 his shed. He wants to know. He wants to make sure that
24 the right person is caught and punished for that crime.
25 Because if the right person is not caught, does that mean

1 that whoever committed this crime is still running about.
2 So he has every incentive, every reason to make sure that
3 he gets the identification right. And certainly,
4 certainly if he were not sure if the defendant committed
5 this crime, he didn't know the guy. He didn't have an ax
6 to grind with him. He could have just said that's not
7 him. Folks he was firmly convinced he knew that it was
8 the defendant who did this.

9 Now, I'm not going to -- I'm not naive. I know
10 it's been hinted at throughout the trial that the officers
11 picked up the first black guy he saw him on a bike, that
12 didn't happen folks. You are talking about an African
13 American officer who's investigating a crime. The suspect
14 is described as a black male. Not just a black male, a
15 black male with a gray shirt on. And not just a black
16 male with a gray shirt on, but a black male with a gray
17 shirt on with blue jeans. Not just a black man with gray
18 shirt on and blue jeans, but a black male with a gray
19 shirt on and blue jeans on a bicycle in the area. And
20 surely enough ten minutes before this crime was even
21 committed, we have the defendant on a bicycle within a
22 half mile of the victim's home.

23 As soon as the 9-1-1 call is placed and Officer
24 Hayes sees him on Highway 527, brings him back to the
25 victim's home to see if he recognizes him, it's a positive

1 identification and that happens in less than 20 minutes.
2 By the time, Mr. Moore was brought back to the victim's
3 home only 20 minutes had passed by. Folks, I would ask
4 you 'all not to leave your common sense at the door. You
5 all in your every day lives exercise judgment and
6 determine whether or not it's credible, whether or not
7 somebody is believable. We call it judging credibility in
8 the court. In terms of your every day life, you do that
9 every day. You got kids, you do it every day. You got
10 kids fighting and you come in the room and your two
11 children are fighting one says James started it and James
12 said Jack started it. You are trying to figure out who
13 started it, that's judging credibility. That's just a
14 fancy legal way you're saying you're judging credibility.
15 And I would submit to you that the State has proven the
16 case beyond a reasonable doubt. I would submit to you
17 that you have the right person here on trial. This
18 defendant is guilty of the crime for which he's charged.
19 The victim in the case is firmly convinced and we would
20 submit that you all should be firmly convinced and return
21 a verdict of guilty. Thank you all again.

22 THE COURT: Thank you, Ms. Barr.

23 Everyone, okay?

24 (WHEREUPON, no one responded.)

25 THE COURT: Ms. Shuler.

1 MS. SHULER: Thank you, Your Honor. Ladies and
2 gentlemen, thank you so much for your attention today.
3 I'm convinced that we have the best legal system in the
4 whole wide world. I am -- I firmly believe that the
5 system that we have works and it works because of you
6 guys. It's up to you all to determine whether or not the
7 State has proven their case by a reasonable doubt. And I
8 will suggest to you today and I'll show to you it
9 happened. You know, Ms. Barr got up here and she talked
10 about I love to have that advantage about talking last.
11 You know, if the State would have done their job and
12 proved their case beyond a reasonable doubt, why would she
13 need that advantage.

14 Now, you heard Officer Dozier get up on this
15 witness stand today and say it is critically important for
16 us to do a good job in our investigation. It is
17 critically important to do a thorough job in our
18 investigation. You got to corroborate what the witness
19 has told you. You've got to go through and make sure that
20 what they're saying has happened because I tell you what I
21 hate to be that person sitting in that chair and is facing
22 a conviction based on somebody's word. You have got to
23 have more and I'm not talking about CSI evidence. I'm not
24 talking about that. I'm not talking about DNA. I'm not
25 talking anything like that. I am talking about just some

1 corroboration. In this case, you don't have no
2 fingerprints despite the clear opportunity to get that.
3 Mr. Kline testified that the man that broke into his shed
4 had a drill in his hand and put that drill down. How easy
5 would that have been to pick up that drill and dust it for
6 fingerprints, lift off one tiny little fingerprint. How
7 easy would it have been for them to bring that drill into
8 evidence and they certainly didn't do that. There were no
9 footprints taken at the scene. They said it was this
10 rural setting with trees. I'm sure there's lots of dirt
11 around. They could have picked up a footprint off of the
12 dirt right around the house, right around the shed. There
13 were no clothes. You heard a lot of testimony about what
14 the individual was wearing that broke into the shed. They
15 should have taken in clothes into evidence. They could
16 have taken that bike into evidence. They could have
17 brought that in here with them today and say, hey, guys
18 we're telling the truth and here's why we're telling the
19 truth here's the shirt, here's the bike, here's the blue
20 jeans. They didn't even bring a picture of the clothes
21 in, not one tiny picture.

22 I mean, we all got cell phones. I don't know
23 very few people around that don't have a cell phone any
24 more and all those cell phones got cameras on them. They
25 could have taken a picture. That you heard -- what about

1 fingerprints within the shed could have done that.
2 Somebody allegedly rummaging around in the shed could have
3 gotten some fingerprints out that shed as well. The only
4 thing they have in this case is a suggestive line up.
5 They use the most suggestive identification method
6 possible. They took the first black man they found on a
7 bicycle, in handcuffs, in a police car to Mr. Kline's
8 house and says isn't this the man right there. Is this
9 the man that broke into your shed? Didn't even take him
10 out of the car. They said this is a black male six two,
11 gold tooth, gray T-shirt, blue jeans riding a red bicycle.
12 They couldn't even bring him out the car to see how tall
13 he was or ask him can I see your gold tooth, if you got
14 one. Didn't verify any of that, nothing. You didn't even
15 get a picture.

16 Officer Dozier, the certified police officer who
17 goes to the academy and learns how to investigate and
18 learns the proper ways to investigate crimes, said from
19 the witness stand the best way to do an identification is
20 by photo line up, that wasn't done here. He could have
21 easily gotten six pictures and taken that down to
22 Mr. Kline's house and said you pick out which one of these
23 people, if any, went in your shed. They didn't do that.
24 Didn't do it.

25 Now, let's talk about this rural setting. I

1 find it telling that this is along with the tape is the
2 only thing in evidence. Here where this little A is right
3 in the middle of town is where Mr. Kline's house is
4 surrounded by trees they say, did you hear any testimony
5 about anybody looking around that area in those trees to
6 see if anybody was hiding. You didn't hear that. They
7 went in one direction right down Sumter Highway, look at
8 all this area over here. Anybody do a pass through? You
9 didn't hear any evidence of that. Let's go may be take a
10 ride around town to see if we anybody else was riding a
11 bike. They picked up the first black male they could find
12 riding a bicycle. And you heard Officer Dozier say it
13 wasn't uncommon for him to see people riding bikes through
14 town.

15 Now, let's talk about this bicycle. You heard
16 Mr. Kline on the 9-1-1 tape say without a doubt a black
17 male, gray shirt, blue jeans, riding a bed bike.
18 Mr. Brown even picked up this book and said what color is
19 this book. He said that's a red bike. He said he is
20 color blind and I'm not trying to make light of that.
21 However, he said that his problem is colors that are
22 close. He can't tell them apart. This is a green book.
23 This is a red book. They're not close are they. Without
24 a doubt, that man was -- that broke into my shed was
25 riding a red bike. Undisputed that when Officer Dozier

1 picked up Mr. Moore, he was on a green bike.

2 Now, again the State must prove all elements of
3 burglary in the third degree. They must prove that
4 Mr. Moore entered the shed with the intent to commit a
5 crime therein. There's no evidence that Mr. Moore was in
6 that shed. There's no evidence that he intended to do
7 anything at all. Evidence that he intended to commit a
8 crime.

9 Ladies and gentlemen, you heard the officer say
10 that it's critical that they do a good investigation, make
11 sure they get it right. Well, you know this as well as I
12 do this was a terrible investigation. They could have
13 done so much more to find out who actually went into that
14 shed. They didn't do that. They picked up the first
15 person they could find riding on a bike, brought him back
16 said is this the man.

17 Now, I don't know if you all ever had this
18 happen. I've had it happen on a number of occasions where
19 somebody has walked up to me and said, hey, Tracy, how are
20 you doing. I know I've had it happen at least three
21 times. Apparently, there's somebody out there that looks
22 like who's name is Tracy. Well, have you ever had it
23 happen where you seen somebody that you thought was your
24 friend, but once you got closer and got a better look, oh,
25 wow, that's not them. You know what, I bet you that's

1 what happened here today. You heard Officer Hayes
2 testify, the first officer off the bat say that his memory
3 was little fuzzy that day. He picked up this individual
4 based on some sort description, that he couldn't remember
5 the description, anything like that and had nothing to
6 refresh his memory.

7 Ladies and gentlemen, this is a bad
8 investigation. The State has the burden of proof here.
9 They must prove their case beyond a reasonable doubt. It
10 is not more likely, that's not what we're here for. Let's
11 tip those scales very high in the State's favor and they
12 hadn't done that. They hadn't done that, none whatsoever.
13 Based on that horrible investigation, there is absolutely
14 no evidence at all to suggest that Mr. Moore was an
15 individual that got into Mr. Kline's shed. I'm not trying
16 to make light of that at all. I'm not, that's a terrible
17 thing that happen that day. But the State doesn't have
18 the person who did it because Mr. Moore doesn't fit the
19 description. Thank you so much for your time and
20 attention here today and this week.

21 THE COURT: Thank you, Ms. Shuler.

22 Ladies and gentlemen, as I mentioned, your
23 deliberations will end with your foreperson's completion
24 of the verdict form. If you have any questions during the
25 course of your deliberations, they'll be a note pad for

1 you to write the question down, just do that, sign it and
2 tap on the door and let the bailiff know you have a
3 question. When you have -- if you have presented a
4 question, the law dictates if and how I can respond. No
5 additional evidence is going to be provided. No
6 additional information is going to be provided. You will
7 have your common sense, the exhibits, your collective
8 memory of the testimony and the charge I've given to you
9 on the law.

10 Is there capability for that machine to be
11 rolled into the jury room for them to listen to the
12 recording, if they want to?

13 MR. BROWN: Your Honor, we can make that happen.

14 THE COURT: If you want to listen to the
15 recording, let us know. And whatever that is over there
16 will be put in that jury room, so you can listen to it. I
17 do want to make sure you understand that while I'm not
18 concerned about what your verdict is actually going to be.
19 I do want to make sure you understand that your job is
20 really just beginning. Please give the issues in the case
21 the consideration that they deserve. And, madam forelady,
22 if someone does need to leave the jury room for any
23 reason, they have to get my permission. If someone does
24 leave, please stop your deliberations until the person
25 comes back. If someone excuses himself or herself to use

1 the restroom likewise, wait until that person comes back
2 to the immediate deliberation area. You'll be -- I'm
3 going to ask you to go to your jury room in just a moment.
4 Please wait just one more minute so I can ask the lawyers
5 if there's anything else that I need to charge you that I
6 did not charge you or perhaps whether or not I charge
7 something wrong. Your signal to begin will be when the
8 bailiff comes to the door with this form and with the
9 exhibits and tells you that you can begin. The alternate
10 I believe is Mr. Timmons; is that right? You can stay
11 right there.

12 You have anything in the jury room?

13 MR. TIMMONS: No.

14 THE COURT: The rest of you, ladies and
15 gentlemen, can go on to the jury room. Don't begin quite
16 yet with your deliberations.

17 (WHEREUPON, the jury retired to the jury room at
18 3:52 p.m.)

19 THE COURT: All right. As we mentioned up here
20 during the bench conference, did the State have any
21 objections or additions to the charge?

22 MS. BARR: No, sir.

23 THE COURT: Did the defendant?

24 MS. SHULER: No, Your Honor.

25 THE COURT: Okay. Any objection to me releasing

1 the alternate?

2 MS. BARR: No, sir, Your Honor.

3 MS. SHULER: None, Judge.

4 THE COURT: Mr. Timmons, you're free to go. You
5 can stay if you want or you can go. Do you need work an
6 excuse?

7 MR. TIMMONS: Yes, sir.

8 THE COURT: Okay. Mrs. Richardson will get that
9 for you. Do you have any questions about anything?

10 MR. TIMMONS: No, sir.

11 THE COURT: All right. Thank you for your
12 participation this week.

13 I guess -- how many exhibits were there, Keshia?

14 COURT REPORTER: Two.

15 THE COURT: That includes the recording?

16 COURT REPORTER: Yes, sir.

17 THE COURT: So that will be the aerial photo and
18 the recording?

19 COURT REPORTER: Yes, sir.

20 THE COURT: You can give those to the bailiff
21 along with this verdict form and Ms. Canny -- who's over
22 there? Mr. Fraiser over there? Somebody can tell the
23 jury they can begin. Here's the verdict form right here.
24 Thank you, Mr. Timmons, you have any questions about
25 anything?

1 MR. TIMMONS: No, sir, that's it.

2 THE COURT: Thank you very much.

3 You can tell them they can begin and if
4 everybody will stay close at hand. Mr. Brown, if you
5 would please excuse me -- Mr. Moore, please stay in the
6 courtroom. If you need to use the restroom, of course,
7 you can do that. But please make sure you're close at
8 hand for the verdict or any questions.

9 Also, Mr. Kline, if the jury does have a
10 question or a verdict, certainly wait for you to come back
11 at a reasonable time but depends on how far you go.

12 MR. KLINE: I'm just going to go outside.

13 THE COURT: All right, sir.

14 (WHEREUPON, jury deliberation began at 3:55
15 p.m.)

16 (WHEREUPON, court at ease.)

17 THE COURT: I understand we have a verdict. Is
18 the State ready?

19 MS. BARR: State's ready, Your Honor.

20 THE COURT: Is the defendant ready?

21 MS. SHULER: We're ready, Your Honor.

22 THE COURT: Okay. You can bring in the jury.

23 (WHEREUPON, the jury entered the courtroom with
24 a verdict at 4:39 p.m.)

25 THE COURT: Madam forelady, has the juror

1 reached a verdict?

2 FORELADY: Yes, sir.

3 THE COURT: And is it unanimous?

4 FORELADY: Yes, sir.

5 THE COURT: Hand it to Mr. Fraiser please.

6 Mr. Moore, you and your lawyer please stand.

7 The case is styled the State of South Carolina vs. Roy
8 Donell Moore case number 2012-GS-45-183, verdict as to the
9 charge of burglary in the third degree: We, the jury,
10 unanimously find the defendant guilty. It is signed by
11 Joi C. Fulton, foreperson, dated May 16, 2013.

12 All right. You all can have a seat. Well,
13 ladies and gentlemen of the jury, first of all, if this
14 was your verdict and is still your verdict, please signify
15 that by raising your right hand. All right. The record
16 will show that all 12 jurors did raise their right hand.

17 Anything, Ms. Shuler, before the jury is
18 released?

19 MS. SHULER: Nothing from the jury, Your honor.

20 THE COURT: All right. Ladies and gentlemen of
21 the jury, this does conclude your service in this case
22 obviously. No one can quarrel with your verdict. You
23 accomplished your responsibility either way. Your verdict
24 would have spoken the truth. Now, I will tell you that
25 you are released from service this week. You are free to

1 go. Is there who anyone needs a work excuse? If you do
2 need that, go to the auditorium.

3 THE CLERK: Ms. Canty, has them already.

4 THE COURT: Ms. Canty has the excuses for you.
5 If you have any questions, I'll be happy to answer those.
6 In just a moment, I'll be sentencing Mr. Moore. You're
7 certainly free as a member of the public to watch that if
8 you would like. If there's anything that you need from
9 the clerk's office that I didn't mention, I'm certain they
10 can certainly send you to the right place. Thank you for
11 your time and attention this week. Again, you are free to
12 go. If you would like to stay, you can stay right where
13 you are.

14 (WHEREUPON, the jury was dismissed.)

15 THE COURT: Any motions from the defendant?

16 MS. SHULER: Your Honor, at this time we would
17 make a motion notwithstanding the verdict. There was not
18 sufficient evidence to suggest that my client committed a
19 burglary at all. There was no evidence that suggested
20 that he was in the shed with the intent to commit a crime
21 therein. The eye witness identification was tenuous at
22 best. Your Honor, we would submit that based on that
23 information, that there is insufficient evidence to
24 sustain the jury's verdict of guilty.

25 THE COURT: I'll take that as either a motion

1 for a new trial or motion for verdict and arrest to
2 judgment either one.

3 Anything from the State, Ms. Barr, on those
4 points continuous identification evidence and no evidence
5 of his intent to commit a crime or entry into the
6 building?

7 MS. BARR: Your Honor, I think the evidence in
8 the record was clear that burglary was committed. And the
9 victim was clear in his testimony, that the defendant was
10 inside the shed.

11 As it relates to the issue concerning
12 identification, obviously, that boil down to the
13 credibility issue with the jury. And it was certainly
14 within their province to determine whether or not the
15 identification was proper. And I think that the verdict
16 did establish that it was proper. I think the evidence in
17 the record would have substantiated the jury's verdict.
18 And we respectfully request that the motion be denied.

19 Anything else, Ms. Shuler in response?

20 MS. SHULER: No, Your Honor.

21 THE COURT: All right. I will respectfully deny
22 your motions. I think all in all it was a juror issue.
23 The identification testimony in the scheme of things was
24 certainly attackable and I think you did an excellent job
25 of doing that. The jury just simply found that the State

1 had proven the elements of the crime including
2 identification beyond a reasonable doubt. I think it was
3 a jury issues too.

4 Is the State prepared to go forward with the
5 sentencing?

6 MS. BARR: Yes, Your Honor.

7 THE COURT: All right. You can come on around
8 please Mr. Moore. Of course, your client understands he
9 has ten days to appeal. Does he not?

10 MS. SHULER: Yes, Your Honor.

11 THE COURT: Okay.

12 MS. BARR: Your Honor, you've heard the facts of
13 the case and I will ask that the Court give the victim an
14 opportunity to address the Court for sentencing if he
15 chooses to. Your Honor, as it relates to his record, the
16 defendant was convicted in 2004 in South Carolina of
17 breaking into a motor vehicle, financial transaction card
18 fraud. He was convicted in 2007 of receiving stolen goods
19 more than a thousand but less than 5,000. He was
20 convicted 2010 in Clarendon County of grand larceny more
21 than a thousand but less than 5,000. He was convicted
22 here in Williamsburg County, I believe last year of
23 unlawful carrying of a pistol.

24 Judge, he also has a record in Florida. He was
25 convicted of possession of dangerous drugs or control

1 substance in 1990 in the State of Florida. He had a
2 probation violation in the State of Florida. He was
3 convicted of loitering in 1996 in Florida. Burglary in
4 1996 in the State of Florida conviction. He had a second
5 burglary conviction in Florida in 1998, probation
6 violation in 1998. He was convicted of burglary in
7 Florida in 2003, and at the same convicted of larceny.
8 Judge, I believe that's the extent of his record.

9 THE COURT: Okay.

10 MS. SHULER: Your Honor, the Clarendon County
11 charge has not been adjudicated at this time.

12 THE COURT: Which one was the grand larceny?

13 MS. BARR: That's still pending. I didn't read
14 that one. The Clarendon County charge was breaking into a
15 motor vehicle that's still pending.

16 THE COURT: Okay. But I think you said a 2010
17 conviction for grand larceny in Clarendon County.

18 MS. BARR: Yes, sir.

19 MR. BROWN: Clarendon charge is breaking into a
20 motor vehicle is pending still.

21 THE COURT: Have you ever been convicted of
22 grand larceny?

23 THE DEFENDANT: No, sir.

24 THE COURT: Every been convicted of anything in
25 Clarendon County?

1 THE DEFENDANT: No, sir.

2 THE COURT: All right. I'll just take that one
3 off.

4 MS. BARR: Yes, sir.

5 MS. SHULER: And, Your Honor, that's not on my
6 criminal history report.

7 THE COURT: Okay, I will remove it.

8 All right. Ms. Barr, aside from perhaps --

9 Mr. Kline, you do have the right to speak if you
10 want. You're not required to, but you can. Is there
11 anything you like to say?

12 THE DEFENDANT: No, sir.

13 THE COURT: Okay. Thank you.

14 Ms. Barr, anything from the State on sentencing
15 before the jury excuse me -- before I hear from Ms. Shuler
16 and Mr. Moore.

17 MS. BARR: No, sir, Your Honor.

18 THE COURT: Okay. Yes, ma'am.

19 MS. SHULER: Thank you, Your Honor. May it
20 please the Court. I'm here with Mr. Moore. He is
21 currently a student at Green Canyon University. He's been
22 studying business there. He works at Wellman in
23 Johnsonville and has been there for sometime. I think
24 since -- it's going on close to a year. I think it is.

25 THE DEFENDANT: A year.

1 MS. SHULER: A year and a half. He's gainfully
2 employed. He is currently on probation for a second
3 charge that this would not violate as this occurred before
4 he was on probation. I think he's been successful on
5 probation. He is a member of the Redeemed United Holiness
6 Church and is -- gets high remarks from his boss whose
7 name is Jeff Lewis. Your Honor, he is gainfully employed.
8 He's been a profitable member of society. His wife was
9 here in support of him earlier. He's got a family at home
10 that he needs to provide for. That's been his primary
11 focus since I've represented him. He is a good candidate
12 for probation. I think he's done well on probation and I
13 ask Your Honor to consider giving him a probationary
14 sentence.

15 THE COURT: All right. Mr. Moore, anything you
16 like to say?

17 THE DEFENDANT: Yes, sir. Your Honor, I stand
18 before the court's today. And when I received a
19 probationary sentence, I came in. Because I was a man
20 that was on drugs and I was on drugs bad in Florida. And
21 I left Florida and came trying to get away from the
22 scenery and the people changing my atmosphere and I came
23 here and got involved with the same type of crew and the
24 same things started happening to me here. I got
25 incarcerated here, that word incarceration means correct

1 me in the areas that I need to be corrected. I went to
2 prison here. When I went to prison here, I got into the
3 chapel. I started to going to church, got into the word.
4 I started doing things differently. I went and got
5 parole. I got out, I completed my parole here fully
6 straight. And these charges when I came and came back
7 out, I did go for a while and started getting right back
8 into the same thing again drugs. And so I mean I realize
9 then it's up to me. And when I started going to the
10 treatments and stuff, I was going to treatments and taking
11 the treatments, but I realize that it's up to a man. You
12 got to make it up in your own mind.

13 I got married. I have a daughter, a 14 year old
14 daughter now who's been diagnosed with D.H.D. and that's
15 where my wife had to go. I'm a man today. I have taken
16 my rightful place in society. My main focus like she say
17 was my family. I just bought a brand new home out on
18 Sumter Highway, two acres of land from Mr. Hardee Brown.
19 I got a brand new home on the land. I been at Wellman's
20 ever since. I work 64 to 72 hours a week trying to
21 support my family.

22 I didn't want to face the consequences of the
23 stuff in my past. It's hunting me now. You know, this
24 already happen. And I didn't want to face the
25 consequences because I didn't want to lose my family. I

1 don't want to leave my family. And my wife is telling me
2 she will support me, but then I know I'm going to lose my
3 home. I'm going to lose everything I got.

4 THE COURT: She employed?

5 THE DEFENDANT: No, my wife does not work. She
6 get disability.

7 THE COURT: All right.

8 MS. SHULER: And, Your Honor, I think he's been
9 clean now for ---

10 THE DEFENDANT: Two and a half years.

11 THE COURT: All right. Mr. Smith, is under your
12 supervision.

13 MR. SMITH: Mr. Keels.

14 THE COURT: What's he on probation for?

15 MR. SMITH: Unlawful carrying of a firearm, Your
16 Honor. January term of court this year.

17 THE COURT: And how has he done?

18 MR. SMITH: This period of supervision I hadn't
19 had any problem. This is my first contact with Mr. Moore.
20 He was supervised by somebody else over the years.
21 January to now we hadn't had any problems but he just
22 started.

23 THE COURT: Okay.

24 MS. SHULER: Your Honor, if you find it
25 appropriate to give him sometime, I would ask that Your

1 Honor consider possibly some time that would make him
2 eligible to stay within Williamsburg County and be on the
3 work release program, so that he can keep his job. He's
4 one of my few clients that is employed and that to me --
5 there's so few that I think it's important that if he's
6 able to keep his job that he be able to do so.

7 THE COURT: Okay. Anything else?

8 THE DEFENDANT: Yes, sir, and I just want to say
9 to what she says, Your Honor. I would even like to do
10 that because that would help me to stay focus. It would
11 helped me build because I'm a man that took my rightful
12 place in society because I'm a productive citizen. I
13 didn't understand how crime hurts the community as a
14 whole, how crime causes property value to drop. I didn't
15 understand these things and I didn't focus on those
16 because I was in drugs, but now I got wiser. I got my
17 daughter. I have my wife. And I don't want that around
18 my daughter.

19 THE COURT: Were you on drugs in June of last
20 year?

21 THE DEFENDANT: Yes, sir -- June of last year?

22 THE COURT: Yes, sir.

23 THE DEFENDANT: No, sir. At the time this
24 happened, I think I had done drugs one time. Yes, sir.
25 Yes, sir.

1 THE COURT: And this shed was broken into or
2 this burglary occurred 11 months ago; is that right?

3 THE DEFENDANT: I'm not sure exact day.

4 THE COURT: June 2012?

5 MS. BARR: Yes, sir.

6 THE COURT: Anything else you like to say?

7 THE DEFENDANT: No, sir.

8 THE COURT: Ms. Barr, any response?

9 Mr. Brown.

10 MR. BROWN: Your Honor, the only thing I would
11 add is that in January he was placed on probation and his
12 main reason for being placed on probation was that since
13 he got his job in March of 2012, he stayed out of trouble.
14 As we can see here today in June of 2012, he once again
15 has gotten in trouble. I just -- law enforcement knows
16 him so well because he is always getting into trouble. I
17 just don't know that probation is the right answer here.

18 THE COURT: Does he have any other pending
19 charges?

20 MR. BROWN: He does. There's a burglary second
21 violent that is still pending against him, that did
22 predate him getting the job that was identified in March,
23 but he does still have a pending burglary second violent.
24 And we're ready to try that one soon.

25 THE COURT: Okay. Anything from law

1 enforcement, Ms. Barr, that you know of?

2 MS. BARR: No, sir, Judge. I don't see Officer
3 Dozier. No, sir.

4 MS. SHULER: I think that if you would ask the
5 officers today that they have not had -- it's been -- if
6 I've asked they said that they haven't had any trouble out
7 of Mr. Moore as of late. I think that's worth noting.

8 THE COURT: Mr. Kline, I'll come back to you.
9 Anything you like to say?

10 MR. KLINE: No, I'm fine. Thank you.

11 THE COURT: Okay. Mr. Moore, I certainly never
12 ever penalize anyone for electing to take a jury trial,
13 but just looking at your track record B&E auto, financial
14 transaction card fraud, receiving stolen goods, unlawful
15 carrying of a pistol, three burglary convictions down in
16 Florida and a larceny conviction down in Florida. At some
17 time, the rubber has to meet the road. The jury has found
18 you guilty in this case. I am not going to give you the
19 maximum penalty, but I am going to give you sometime in
20 the penitentiary. How much time have you spent in jail?

21 THE DEFENDANT: I don't remember.

22 MS. SHULER: I don't know, Your Honor. It's
23 been -- he had a bench warrant at some point in time. I
24 think it would be difficult for us to be able to convey
25 that to you.

1 THE COURT: You'll get credit for the time you
2 served. And like I say of everybody, I'm sure probably
3 all in all you're a nice guy, but you got to quit breaking
4 into other people's place.

5 THE DEFENDANT: I have change.

6 THE COURT: I understand that but part of
7 changing is receiving the punishment that society
8 dictates. You can't just say I'm a changed man don't put
9 me in jail, that's just really not the way it works. I'm
10 going to impose a period of time in the department of
11 corrections of four years and you'll get credit for the
12 time you've served. And I do sincerely wish you the best
13 of luck and I hope that you carry on your life in the way
14 that you said you changed.

15 Mr. Kline, thank you for your participation.
16 You probably realized the maximum sentence is five years.
17 The time is up to me and that's what I think is
18 appropriate under the circumstances. Thank you.

19 END OF REQUESTED TRANSCRIPT
20
21
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

I, Keshia Reed, Court Reporter and Notary Public
in and for the State of South Carolina At Large, do hereby
certify that the above-entitled cause was heard as
hereinafter set out; that I was authorized to and did
transcribe the said proceedings; and that the foregoing
and annexed paged, numbered 1 through 237, inclusive,
constitute a true and accurate transcription of my
stenographic report of the said cause taken during the
said hearing. In the Court of General Sessions for
Williamsburg County, South Carolina, on the 16th day of
May, 2013.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto. In witness
whereof, I have hereunto affixed my signature this 24th
day of February 2014.


Keshia Reed, Court Reporter

WITNESSES

Officer Ron Dozier
Kingstree Police Department

DOCKET NO. 2012-GS-45-0183

The State of South Carolina
County of WILLIAMSBURG

COURT OF GENERAL SESSIONS

JULY TERM 2012

THE STATE

vs.

ROY DONELL MOORE**ARREST WARRANT NUMBER**

M-170849

Indictment for

BURGLARY IN THE THIRD DEGREE**ACTION OF GRAND JURY****TRUE BILL**Date 7/26/12

[Signature]
Foreperson of Grand Jury
Date:

VERDICT

[Signature]
ERNEST A. FINNEY, III

ERNEST A. FINNEY, III, SOLICITOR

Foreperson of Petit Jury
Date:

12 JUL 26 PM 12:26
CLERK OF COURT
WILLIAMSBURG, S.C.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF WILLIAMSBURG)

INDICTMENT FOR
BURGLARY IN THE THIRD DEGREE

At a Court of General Sessions, convened on July 26, 2012 the Grand Jurors of
 WILLIAMSBURG County present upon their oath:

COUNT ONE – BURGLARY IN THE THIRD DEGREE

That the defendant, **Roy Donnell Moore**, did on or about June 4, 2012 in
 Williamsburg County, South Carolina did commit the offense of burglary in the third
 degree in that he did enter the building of the victim, Brian Keith Kline, without consent
 and with the intent to commit a crime therein, in violation of §16-11-313 of the South
 Carolina Code of Laws (1976, as amended).

FILED

12 JUL 26 PM 12:26

CAROLINA WILLIAMS
 CLERK OF COURT
 KINGSTREE, SC

A CERTIFIED TRUE COPY

Sharon W. Stagers

SHARON W. STAGGERS

CLERK OF COURT

WILLIAMSBURG COUNTY

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

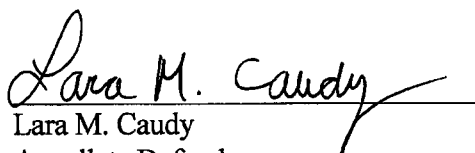
Solicitor

Edward A. Finney III

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

April 28, 2014


Lara M. Caudy
Appellate Defender

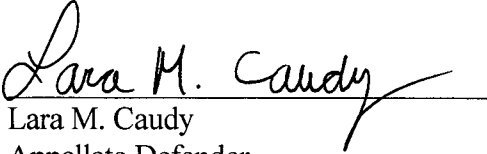
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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April 28, 2014


Lara M. Caudy
Appellate Defender

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Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Williamsburg County

George C. James, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

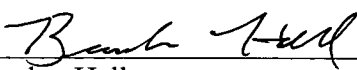
ROY DONELL MOORE,

APPELLANT

APPELLATE CASE NO. 2013-001137

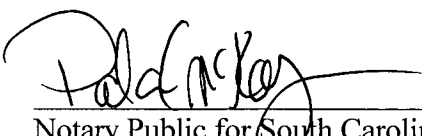
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 28th day of April, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
This 28th day of April, 2014.



(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.

RECEIVED

APR 28 2014

SC Court of Appeals