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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Orangeburg County

Diane Schafer Goodstein, Circuit Court Judge

ADRIAN DARBY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000711

APPENDIX

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2010-08-10

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

COURT OF GENERAL SESSIONS
FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

CASE NO. 2010-GS-38-0240
2010-GS-38-0241

versus

TRANSCRIPT OF RECORD

ADRIAN JERMAINE DARBY,

DATE:

DEFENDANT

AUGUST 10, 2010

BEFORE:

HONORABLE RALPH F. COTHRAN, PRESIDING JUDGE
AND A JURY.

APPEARANCES:

DONALD SORENSON, ESQUIRE
ASSISTANT SOLICITOR
FOR THE STATE

EVERETT K. CHANDLER, ESQUIRE
ATTORNEY AT LAW
FOR THE DEFENDANT

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NOTE: ALL COURT'S EXHIBITS ATTACHED TO THE ORIGINAL
OF THIS TRANSCRIPT.

1 DATE:

2 AUGUST 10, 2010

3 THE COURT: SOLICITOR, YOU CAN CALL YOUR
4 FIRST CASE.

5 SOLICITOR SORENSON: THANK YOU, MAY IT
6 PLEASE THE COURT, YOUR HONOR. AT THIS TIME THE STATE
7 CALLS THE STATE OF SOUTH CAROLINA VERSUS ADRIAN
8 JERMAINE DARBY, INDICTED UNDER 2010-GS-38-240 AND 241,
9 CHARGING HIM WITH ONE COUNT OF BURGLARY IN THE FIRST
10 DEGREE AND ONE COUNT OF ASSAULT AND BATTERY OF A HIGH
11 AND AGGRAVATED NATURE. MR. DARBY IS PRESENT, YOUR
12 HONOR, WITH IS LAWYER, EVERETT CHANDLER, AND WE ARE
13 READY TO PROCEED AT THIS TIME, YOUR HONOR.

14 THE COURT: OKAY. DO YOU HAVE A LIST OF
15 POTENTIAL WITNESSES?

16 SOLICITOR SORENSON: I PUT IT UP THERE
17 BEFORE WE STARTED SO ...

18 THE COURT: OH, I'M SORRY. ALRIGHT, LADIES
19 AND GENTLEMEN, IF YOU'LL GIVE ME YOUR ATTENTION, WE'RE
20 ABOUT TO BEGIN THE CASE OF THE STATE VERSUS ADRIAN
21 JERMAINE DARBY. IS THERE ANY MEMBER OF THE JURY PANEL
22 CONNECTED BY BLOOD OR MARRIAGE, CLOSE PERSONAL FRIEND,
23 OR SOCIAL RELATIONS WITH MR. DARBY? IF SO, PLEASE
24 STAND.

25 (Negative response from jury panel.)

1 THE COURT: OKAY. I'M GOING TO READ YOU A
2 LIST OF NINE POTENTIAL WITNESSES, AND I NEED TO KNOW
3 WHEN I READ THIS LIST IF YOU ARE CONNECTED BY BLOOD OR
4 MARRIAGE, CLOSE PERSONAL FRIENDS, SOCIAL RELATIONS,
5 WITH ANY OF THESE POTENTIAL WITNESSES, I NEED YOU TO
6 STAND. CRUZ MOORER, TIFFANY MOORER, JOHNATHAN RAYSOR,
7 - - -

8 SOLICITOR SORENSON: DO YOU WANT THE --
9 EXCUSE ME, DO YOU WANT THE WITNESSES TO STAND IF
10 THEY'RE IN THE COURTROOM?

11 THE COURT: YEAH, THAT WILL BE FINE IF THEY
12 ARE HERE. OKAY. Shaninah B. , RICHARD RUSSELL,
13 BOBBY JONES, JARTRELL KITTRELL, -- I PRONOUNCED THAT
14 WRONG.

15 SOLICITOR SORENSON: IT SHOULD BE JARED
16 KITTRELL.

17 THE COURT: JARED. OKAY. ROBERT JOYNER,
18 WILLIAM BROWNING. ANY MEMBER OF THE JURY PANEL
19 CONNECTED BY BLOOD OR MARRIAGE, CLOSE PERSONAL FRIENDS
20 OR SOCIAL RELATIONS WITH ANY OF THOSE POTENTIAL
21 WITNESSES? IF SO, PLEASE STAND.

22 (Affirmative response from jury panel.)

23 THE COURT: YES, SIR?

24 JUROR GRIFFIN: THEY ARE FRIENDS OF MINE.

25 THE COURT: WHO IS?

1 JUROR GRIFFIN: THEY ARE.

2 THE COURT: OKAY. AND WHAT'S YOUR NAME AND
3 NUMBER, PLEASE, SIR?

4 JUROR GRIFFIN: STEVEN GRIFFIN, JUNIOR,
5 NUMBER THIRTEEN.

6 THE COURT: OKAY. AND WHEN YOU SAY THEY'RE
7 CLOSE PERSONAL FRIENDS OF YOURS?

8 JUROR GRIFFIN: YOU COULD SAY THAT.

9 THE COURT: OKAY. AND YOU THINK THAT WOULD
10 AFFECT YOUR ABILITY TO GIVE BOTH THE STATE AND THIS
11 DEFENDANT A FAIR AND IMPARTIAL TRIAL?

12 JUROR GRIFFIN: NO, SIR.

13 THE COURT: YOU DON'T THINK SO?

14 JUROR GRIFFIN: NO, SIR.

15 THE COURT: YOU COULD LISTEN TO THE EVIDENCE
16 AND BE FAIR?

17 JUROR GRIFFIN: YES, SIR.

18 THE COURT: OKAY. HOW OFTEN DO YOU SEE
19 THEM?

20 JUROR GRIFFIN: USUALLY EVERY OTHER WEEK.

21 THE COURT: DO YOU LIVE CLOSE TO THEM?

22 JUROR GRIFFIN: I USED TO.

23 THE COURT: OKAY. AND THE FACT THAT THEY
24 ARE POTENTIAL WITNESSES AND YOU ARE CLOSE PERSONAL
25 FRIENDS WITH THEM, WOULD YOU HAVE A TENDENCY TO

1 BELIEVE THEM OVER WITNESSES THAT YOU DIDN'T KNOW?

2 JUROR GRIFFIN: NO, SIR.

3 THE COURT: OKAY. THANK YOU, SIR.

4 YES, I'M SORRY, YES, MA'AM?

5 JUROR FRAZIER: I KNOW CRUZ MOORER, FRIEND
6 OF THE FAMILY.

7 THE COURT: OKAY. AND WHAT'S YOUR NUMBER,
8 PLEASE, MA'AM?

9 COURT REPORTER: WHAT'S HER NAME?

10 JUROR FRAZIER: FAYE FRAZIER, FIFTY-TWO.

11 THE COURT: ALRIGHT. AND THE FACT THAT YOU
12 KNOW A POTENTIAL WITNESS IN THIS CASE, CRUZ MOORER,
13 WOULD THAT AFFECT YOUR ABILITY TO GIVE BOTH THE STATE
14 AND THIS DEFENDANT A FAIR AND IMPARTIAL TRIAL?

15 JUROR FRAZIER: YES.

16 THE COURT: IT WOULD? THE FACT THAT YOU
17 KNOW A POTENTIAL WITNESS IN THIS CASE, DO YOU THINK
18 YOU COULD BE, LISTEN TO THE EVIDENCE AND BE FAIR TO
19 BOTH THE STATE AND THIS DEFENDANT?

20 JUROR FRAZIER: I THINK I COULD.

21 THE COURT: YOU THINK YOU COULD?

22 JUROR FRAZIER: YES, SIR.

23 THE COURT: YOU THINK THE FACT THAT YOU KNOW
24 THIS PERSON, YOU WOULD GIVE THEIR TESTIMONY MORE
25 CREDIBILITY THAN OTHER POTENTIAL WITNESSES? MA'AM?

1 JUROR FRAZIER: NO, SIR.

2 THE COURT: OKAY. THANK YOU, MA'AM.

3 ANYONE ELSE?

4 (Negative response from jury panel.)

5 THE COURT: OKAY.

6 SOLICITOR SORENSON: YOUR HONOR,
7 INVESTIGATOR BOBBY JONES IS HERE AND HE DIDN'T STAND,
8 BUT I JUST WANTED TO MENTION THIS. BOBBY JONES.

9 THE COURT: OKAY. BOBBY JONES IS HERE?
10 OKAY. THAT'S MR. JONES STANDING IN THE BACK, AND I
11 CALLED OUT HIS NAME, I DIDN'T KNOW IF ANY OF YOU ARE
12 CONNECTED BY BLOOD OR MARRIAGE, CLOSE PERSONAL FRIENDS
13 WITH MR. JONES. IF SO, PLEASE STAND.

14 (Negative response from jury panel.)

15 THE COURT: OTHER POTENTIAL WITNESSES IN
16 THIS CASE -- WELL, ANGELA RAYSOR AND PHOENIX SMALLS.
17 ANY MEMBER OF THE JURY PANEL CONNECTED BY BLOOD OR
18 MARRIAGE, CLOSE PERSONAL FRIENDS OR SOCIAL RELATIONS
19 WITH ANY OF THOSE POTENTIAL WITNESSES? IF SO, PLEASE
20 STAND.

21 (Affirmative response from jury panel.)

22 THE COURT: YES, SIR?

23 JUROR GRIFFIN: COUSIN.

24 THE COURT: HUH?

25 JUROR GRIFFIN: SHE'S MY COUSIN.

1 THE COURT: WHO IS YOUR COUSIN?

2 JUROR GRIFFIN: PHOENIX.

3 THE COURT: OKAY. FIRST COUSIN?

4 JUROR GRIFFIN: NO, LATER ON DOWN THE LINE.

5 THE COURT: OKAY. AND THE FACT THAT PHOENIX
6 SMALLS IS YOUR COUSIN, WOULD THAT AFFECT YOUR ABILITY
7 TO GIVE BOTH THE STATE AND THIS DEFENDANT A FAIR AND
8 IMPARTIAL TRIAL?

9 JUROR GRIFFIN: NO, SIR.

10 THE COURT: YOU COULD LISTEN TO THE EVIDENCE
11 AND BE FAIR TO BOTH SIDES?

12 JUROR GRIFFIN: YES, SIR.

13 THE COURT: ALRIGHT. THANK YOU, SIR.

14 THE ATTORNEYS IN THIS CASE, REPRESENTING THE
15 STATE IS DONALD SORENSON, THE DEFENSE IS EVERETT
16 CHANDLER. ANY MEMBER OF THE JURY PANEL CONNECTED BY
17 BLOOD OR MARRIAGE, CLOSE PERSONAL FRIENDS, SOCIAL
18 RELATIONS OR BEEN REPRESENTED BY EITHER TWO OF THESE
19 ATTORNEYS? IF SO, PLEASE STAND.

20 (Negative response from jury panel.)

21 THE COURT: OKAY. ANY MEMBER OF THE JURY
22 PANEL BEEN REPRESENTED OR BEEN A VICTIM OF A CRIME
23 REPRESENTED BY THE SOLICITOR'S OFFICE HERE IN
24 ORANGEBURG? IF SO, PLEASE STAND.

25 (Negative response from jury panel.)

1 THE COURT: OKAY. ANY MEMBER OF THE JURY
2 PANEL FORMED OR EXPRESSED AN OPINION ABOUT ANY OF THE
3 MATTERS OR ISSUES INVOLVED IN THIS CASE? IF SO, PLEASE
4 STAND.

5 (Negative response from jury panel.)

6 THE COURT: ANY MEMBER OF THE JURY PANEL
7 AWARE OF ANY BIAS OR PREJUDICE EITHER TOWARD THE STATE
8 OF SOUTH CAROLINA OR THIS DEFENDANT? IF SO, PLEASE
9 STAND.

10 (Negative response from jury panel.)

11 THE COURT: ANY MEMBER OF THE JURY PANEL
12 SERVED ON THE GRAND JURY HERE IN ORANGEBURG COUNTY
13 THAT HEARD THIS CASE? IF SO, PLEASE STAND.

14 (Negative response from jury panel.)

15 THE COURT: ANY MEMBER OF THE JURY PANEL WHO
16 IS EITHER A MEMBER OR A FINANCIAL CONTRIBUTOR TO ANY
17 VICTIM'S RIGHTS GROUP OR LAW ENFORCEMENT PROMOTION
18 GROUPS, SUCH AS SADD, MADD OR CAVE OR ANY OTHER SUCH
19 GROUP? IF SO, PLEASE STAND.

20 (Negative response from jury panel.)

21 THE COURT: ANY MEMBER OF THE JURY PANEL DUE
22 TO RELIGIOUS OR MORAL REASONS UNABLE TO SIT IN
23 JUDGEMENT OF YOUR FELLOW MAN? IF SO, PLEASE STAND.

24 (Negative response from jury panel.)

25 THE COURT: ANY MEMBER OF THE JURY PANEL

1 EVER APPEARED AS A WITNESS IN A TRIAL? IF SO, PLEASE
2 STAND.

3 (Affirmative response from jury panel.)

4 THE COURT: YES, MA'AM?

5 JUROR CLARK: I USED TO BE A MANAGER OF TWO
6 CREDIT UNIONS, AND I WAS ON THE WITNESS STAND A LOT OF
7 TIMES REPRESENTING THE CREDIT UNIONS.

8 THE COURT: IN CIVIL COURT?

9 JUROR CLARK: YES, SIR.

10 THE COURT: WHAT IS YOUR NAME AND NUMBER,
11 PLEASE, MA'AM?

12 JUROR CLARK: ANGELA CLARK.

13 THE COURT: OKAY. AND MS. CLARK, DO YOU
14 THINK THE FACT THAT YOU WERE A WITNESS WOULD AFFECT
15 YOUR ABILITY ...

16 JUROR CLARK: NO, SIR, AND I'M TWENTY-ONE.

17 THE COURT: MA'AM?

18 JUROR CLARK: AND I WAS TWENTY-ONE.

19 THE COURT: OKAY. WOULD THAT AFFECT YOUR
20 ABILITY TO BE FAIR IN BOTH SIDES OF THIS CASE, THE
21 FACT THAT YOU'VE BEEN A WITNESS IN A COURT BEFORE?

22 JUROR CLARK: NO, SIR.

23 THE COURT: THANK YOU SO MUCH.

24 ANY MEMBER OF THE JURY PANEL KNOW ANY REASON
25 WHATSOEVER THAT THEY CAN'T GIVE THE STATE OF SOUTH

1 CAROLINA AND THIS DEFENDANT A FAIR AND IMPARTIAL
2 TRIAL? IF SO, PLEASE STAND.

3 (Negative response from jury panel.)

4 THE COURT: ANY FURTHER QUESTIONS ON BEHALF
5 OF THE STATE?

6 SOLICITOR SORENSON: NO, SIR.

7 THE COURT: AS TO THE DEFENSE?

8 MR. CHANDLER: NO, SIR.

9 THE COURT: OKAY. MADAM CLERK, IF YOU'LL
10 GIVE US A JURY, AND IT WILL BE TEN AND FIVE.

11 CLERK: HOW MANY?

12 THE COURT: FIVE AND TEN. I SAID IT
13 BACKWARDS BUT IT WILL BE -- DO YOU THINK ONE ALTERNATE
14 WILL BE ENOUGH, GENTLEMEN, OR DO WE NEED TWO?

15 MR. CHANDLER: WE'D LIKE TWO ALTERNATES.

16 SOLICITOR SORENSON: IT PROBABLY WOULDN'T
17 HURT TO GET TWO, YOUR HONOR.

18 THE COURT: OKAY. LADIES AND GENTLEMEN, WE
19 USED TO DRAW JURIES IN A CYLINDER AND WE HAD, IT WAS
20 SUPPOSED TO BE A BLIND PERSON DRAWING THEM, BUT WE
21 REALLY RARELY HAD A BLIND PERSON TO DO IT BECAUSE WE
22 COULDN'T FIND ONE, BUT NOW YOU'RE BEING DRAWN BY A
23 COMPUTER, SO YOUR NAMES ARE SCRAMBLED IN HYPER-SPACE
24 SO THE COMPUTER'S GOING TO SPIT THEM OUT.

25 OKAY. WE'VE GOT TWENTY-SIX LEFT?

1 ANYWAY, YOUR NAMES ARE FLOATING AROUND THERE
2 IN HYPER-SPACE, AND THIS COMPUTER'S GOING TO RE-
3 ASSEMBLE Y'ALL IN DIFFERENT NUMBERS AND SPIT THEM BACK
4 OUT.

5 AND MR. CHANDLER, NUMBER TWENTY-SIX ON THE
6 LIST, HE HAD SERVED IN THE LAST THREE YEARS SO I
7 EXCUSED HIM.

8 MR. CHANDLER: THANK YOU.

9 CLERK: LADIES AND GENTLEMEN, IF YOUR NAME
10 IS CALLED, COME STAND IN FRONT OF THE PODIUM AND FACE
11 THE EXIT DOOR.

12 LYLE RETHERFORD, JUROR ONE FORTY-FIVE. WHAT
13 SAYS THE STATE?

14 SOLICITOR SORENSON: PLEASE PRESENT MR.
15 RETHERFORD.

16 CLERK: WHAT SAYS THE DEFENSE?

17 MR. CHANDLER: PLEASE EXCUSE MR. RETHERFORD.

18 CLERK: RETURN TO YOUR SEAT, SIR.

19 GLENDA WASHINGTON. WHAT SAYS THE STATE?

20 SOLICITOR SORENSON: PLEASE EXCUSE MS.
21 WASHINGTON.

22 CLERK: RETURN TO YOUR SEAT, MA'AM.

23 TOMEKA JENNINGS. WHAT SAYS THE STATE?

24 SOLICITOR SORENSON: PLEASE PRESENT MS.
25 JENNINGS.

1 CLERK: WHAT SAYS THE DEFENDANT?

2 MR. CHANDLER: PLEASE SEAT MS. JENNINGS.

3 CLERK: HAVE A SEAT IN THE BOX.

4 CHARLOTTE GOLSON. WHAT SAYS THE STATE?

5 SOLICITOR SORENSON: PLEASE PRESENT MS.

6 GOLSON.

7 CLERK: WHAT SAYS THE DEFENSE?

8 MR. CHANDLER: PLEASE SEAT MS. GOLSON.

9 CLERK: HAVE A SEAT IN THE BOX.

10 CAROLYN GRAY. WHAT SAYS THE STATE?

11 SOLICITOR SORENSON: PLEASE PRESENT MS.

12 GRAY.

13 CLERK: WHAT SAYS THE DEFENSE?

14 MR. CHANDLER: PLEASE EXCUSE MS. GRAY.

15 CLERK: RETURN TO YOUR SEAT.

16 CERETHA KINARD. WHAT SAYS THE STATE?

17 SOLICITOR SORENSON: PLEASE EXCUSE MS.

18 KINARD.

19 CLERK: RETURN TO YOUR SEAT.

20 ALFRED OVERCAST. WHAT SAYS THE STATE?

21 SOLICITOR SORENSON: PLEASE EXCUSE MR.

22 OVERCAST.

23 CLERK: RETURN TO YOUR SEAT, SIR.

24 PHIL HUGGINS. WHAT SAYS THE STATE?

25 SOLICITOR SORENSON: PLEASE PRESENT MR.

1 HUGGINS.

2 CLERK: WHAT SAYS THE DEFENSE?

3 MR. CHANDLER: PLEASE EXCUSE MR. HUGGINS.

4 CLERK: SYLVIA STEARNS. WHAT SAYS THE
5 STATE?

6 SOLICITOR SORENSON: PLEASE PRESENT MS.
7 STEARNS.

8 CLERK: WHAT SAYS THE DEFENSE?

9 MR. CHANDLER: PLEASE SEAT MS. STEARNS.

10 CLERK: HAVE A SEAT IN THE JURY BOX.

11 JOSHUA REAVES. WHAT SAYS THE STATE?

12 SOLICITOR SORENSON: PLEASE PRESENT MR.

13 REAVES.

14 CLERK: WHAT SAYS THE DEFENSE?

15 MR. CHANDLER: PLEASE SEAT MR. REAVES.

16 CLERK: HAVE A SEAT IN THE JURY BOX, SIR.

17 D'ANDRE HOWELL. WHAT SAYS THE STATE?

18 SOLICITOR SORENSON: PLEASE PRESENT MR.

19 HOWELL.

20 CLERK: WHAT SAYS THE DEFENSE?

21 MR. CHANDLER: PLEASE SEAT MR. HOWELL.

22 CLERK: HAVE A SEAT IN THE JURY BOX, SIR.

23 JOI ARTIS. WHAT SAYS THE STATE?

24 SOLICITOR SORENSON: PLEASE PRESENT MS.

25 ARTIS.

1 CLERK: WHAT SAYS THE DEFENSE?

2 MR. CHANDLER: PLEASE SEAT MS. ARTIS.

3 CLERK: JUDITH BROACH. WHAT SAYS THE STATE?

4 SOLICITOR SORENSON: PLEASE PRESENT MS.

5 BROACH.

6 CLERK: WHAT SAYS THE DEFENSE?

7 MR. CHANDLER: PLEASE EXCUSE MS. BROACH.

8 CLERK: RETURN TO YOUR SEAT.

9 RACHELLE RICHARDSON. WHAT SAYS THE STATE?

10 SOLICITOR SORENSON: PLEASE PRESENT MS.

11 RICHARDSON.

12 CLERK: WHAT SAYS THE DEFENSE?

13 MR. CHANDLER: PLEASE SEAT MS. RICHARDSON.

14 CLERK: MELISSA ZIMMERMAN. WHAT SAYS THE

15 STATE?

16 SOLICITOR SORENSON: PLEASE PRESENT MS.

17 ZIMMERMAN.

18 CLERK: WHAT SAYS THE DEFENSE?

19 MR. CHANDLER: PLEASE SEAT MS. ZIMMERMAN.

20 CLERK: HENRY SHULER. WHAT SAYS THE STATE?

21 SOLICITOR SORENSON: PLEASE PRESENT MR.

22 SHULER.

23 CLERK: WHAT SAYS THE DEFENSE?

24 MR. CHANDLER: PLEASE SEAT MR. SHULER.

25 CLERK: LAURA YOUNG. WHAT SAYS THE STATE?

1 SOLICITOR SORENSON: PLEASE PRESENT MS.

2 YOUNG.

3 CLERK: WHAT SAYS THE DEFENSE?

4 MR. CHANDLER: PLEASE EXCUSE MS. YOUNG.

5 CLERK: ROSE KELLER. WHAT SAYS THE STATE?

6 SOLICITOR SORENSON: PLEASE PRESENT MS.

7 KELLER.

8 CLERK: WHAT SAYS THE DEFENSE?

9 MR. CHANDLER: PLEASE PRESENT MS. KELLER.

10 CLERK: HAVE A SEAT IN THE JURY BOX.

11 HENRY WHITE. WHAT SAYS THE STATE?

12 SOLICITOR SORENSON: PLEASE PRESENT MR.

13 WHITE.

14 CLERK: WHAT SAYS THE DEFENSE?

15 MR. CHANDLER: PLEASE SEAT MR. WHITE.

16 CLERK: HAVE A SEAT IN THE JURY BOX, SIR.

17 DONALD KRUPEZYK. WHAT SAYS THE STATE?

18 SOLICITOR SORENSON: PLEASE PRESENT MR.

19 KRUPEZYK.

20 CLERK: WHAT SAYS THE DEFENSE?

21 MR. CHANDLER: PLEASE EXCUSE MR. KRUPEZYK.

22 CLERK: RETURN TO YOUR SEAT.

23 BELINDA NIGHTINGALE. WHAT SAYS THE STATE?

24 SOLICITOR SORENSON: PLEASE PRESENT MS.

25 NIGHTINGALE.

1 CLERK: WHAT SAYS THE DEFENSE?

2 MR. CHANDLER: PLEASE EXCUSE MS. NIGHTINGALE.

3 CLERK: JEANETTE WASHINGTON. WHAT SAYS THE
4 STATE?

5 SOLICITOR SORENSON: PLEASE PRESENT MS.
6 WASHINGTON.

7 CLERK: WHAT SAYS THE DEFENSE?

8 MR. CHANDLER: PLEASE SEAT MS. WASHINGTON.

9 CLERK: HAVE A SEAT IN THE JURY BOX.
10 ALTERNATES.

11 LORETTA LEONARD, JUROR ONE O SEVEN. WHAT
12 SAYS THE STATE?

13 SOLICITOR SORENSON: PLEASE EXCUSE MS.
14 LEONARD.

15 CLERK: RETURN TO YOUR SEAT, MA'AM.
16 ANDREA GREEN. WHAT SAYS THE STATE?

17 SOLICITOR SORENSON: PLEASE PRESENT MS.
18 GREEN.

19 CLERK: WHAT SAYS THE DEFENSE?

20 MR. CHANDLER: PLEASE SEAT MS. GREEN.

21 CLERK: HAVE A SEAT IN THE JURY BOX.
22 DEWAYNE DAVIS. WHAT SAYS THE STATE?

23 SOLICITOR SORENSON: PLEASE PRESENT MR.
24 DAVIS.

25 CLERK: WHAT SAYS THE DEFENSE?

1 MR. CHANDLER: PLEASE SEAT MR. DAVIS.

2 CLERK: HAVE A SEAT IN THE JURY BOX.

3 THAT'S ALL.

4 THE COURT: ARE THERE ANY MATTERS OF LAW
5 PERTAINING TO SELECTION OF THE JURY ON BEHALF OF THE
6 STATE?

7 SOLICITOR SORENSON: YES, SIR.

8 THE COURT: OKAY. ON BEHALF OF THE DEFENSE?

9 MR. CHANDLER: NONE FROM THE DEFENSE, YOUR
10 HONOR.

11 THE COURT: OKAY. GENTLEMEN, Y'ALL APPROACH
12 A MINUTE AND LET ME FIGURE OUT WHAT ...

13 (Whereupon, a bench conference
14 is had out of the hearing of
15 the jury panel and court reporter.)

16 THE COURT: I'M GOING TO ASK YOU TO GO TO THE
17 JURY ROOM, AND I'LL GET YOU BACK OUT JUST AS QUICK AS
18 I CAN. YOU DON'T KNOW ANYTHING ABOUT THIS CASE AND
19 I'M GOING TO GIVE YOU FURTHER INSTRUCTIONS LATER, BUT
20 DON'T DISCUSS IT OR SPECULATE ANYTHING ABOUT IT. YOU
21 CAN TALK ABOUT THE WEATHER OR ANYTHING YOU WANT TO BUT
22 NOT THIS CASE, AND I'LL GET YOU BACK OUT JUST AS QUICK
23 AS I CAN.

24 (Whereupon, the jury leaves
25 the courtroom and the following

1 takes place out of the presence
2 of the jury.)

3 THE COURT: NOW, THOSE OF YOU IN THE JURY
4 PANEL, THIS MATTER OF LAW THAT I'VE GOT TO TAKE UP,
5 IT'S ALSO GOT TO BE OUTSIDE OF YOUR PRESENCE, AND SO,
6 THE ONLY OPTION I HAVE WITH YOU IS, BECAUSE I HAVE TO
7 PUT IT ALL ON THE RECORD, IS JUST ASK YOU TO LEAVE AND
8 TO GO IN THE HALL. I'LL GET YOU BACK IN JUST AS QUICK
9 AS I CAN, BUT IF Y'ALL WANT TO HANG AROUND SOME TIME
10 IN THE HALL, THE BAILIFF WILL LET YOU KNOW WHEN I NEED
11 YOU BACK IN HERE. OKAY? THANK YOU.

12 (Whereupon, the remainder of
13 the jury venire leaves the
14 courtroom and the following
15 takes place out of their
16 presence.)

17 THE COURT: ALRIGHT, SOLICITOR.

18 SOLICITOR SORENSON: MAY IT PLEASE THE
19 COURT, YOUR HONOR, WE AT THIS TIME WOULD HAVE A BATSON
20 MOTION. YOUR HONOR, AS FAR AS SETTING FORTH A PRIMA
21 FACIE CASE, I GUESS, LOOKING AT, MR. CHANDLER
22 EXERCISED SEVEN STRIKES, YOUR HONOR. ALL SEVEN OF
23 THOSE STRIKES HE EXERCISED WERE CAUCASIANS THAT WERE
24 STRUCK. WE FELT THAT THAT, YOU KNOW, LOOKING AT THE
25 MAKEUP OF THE JURY, THAT THAT WOULD BE WAY OUT OF

1 PROPORTION, AND WE'D HAVE A MOTION WITH REGARDS TO ALL
2 SEVEN OF THOSE STRIKES.

3 THE COURT: OKAY. MR. CHANDLER, WOULD YOU
4 LIKE TO RESPOND?

5 MR. CHANDLER: SURE, YOUR HONOR. AS YOU ARE
6 AWARE, A BATSON CERTAINLY DISCUSSES WHY EACH AND EVERY
7 JUROR, IT SUGGESTS THAT EACH AND EVERY JUROR HAS A
8 RIGHT TO BE ON A JURY, OF COURSE, AND IF EACH
9 DEFENDANT, WHETHER IT WAS MY STRIKES BASED ON MY OWN
10 METHODOLOGY, IF MY CLIENT SAID THAT HE -- HE DISCUSSED
11 A SPECIFIC PERSON, I NOTATED WHERE HE HAD AN UNEASY
12 FEELING ABOUT A SPECIFIC PERSON. OBVIOUSLY, I DIDN'T
13 STRIKE ALL CAUCASIANS BECAUSE THERE ARE SOME THAT ARE
14 ON THE JURY PANEL. SO, I DON'T KNOW IF THE COURT
15 WOULD LIKE TO PROCEED AS TO OUR REASONING FOR THE JURY
16 STRIKES BY GOING DOWN THE ONES THAT WE DID STRIKE OR
17 ...

18 THE COURT: AND YES, SIR, SINCE THE STATE
19 HAS QUESTIONED ALL SEVEN, THEN I NEED YOU TO START --
20 I THINK THE FIRST ONE YOU STRUCK WAS JUROR ONE FORTY-
21 FIVE, AND GIVE ME A RACE NEUTRAL REASON FOR THAT
22 STRIKE.

23 MR. CHANDLER: ONE FORTY-FIVE WAS BASED ON
24 PRE-STRIKE FROM MY CLIENT. I SPECIFICALLY ASKED HIM
25 WHY BECAUSE I NEEDED TO STATE A REASON WHY, AND HE

1 BASICALLY INDICATED THAT HE JUST HAD AN UNEASY FEELING
2 ABOUT THAT PERSON, AND HE DID THAT ACTUAL STRIKE. HE
3 WENT THROUGH IT AND PUT A PRE-STRIKE PRIOR, DURING THE
4 QUALIFICATION OF THE JURY. SO, HE JUST SAID HE HAD AN
5 UNEASY FEELING ABOUT THAT PARTICULAR PERSON. AND HE
6 HAD THAT ABOUT CERTAIN PEOPLE WHICH ALSO INCLUDED
7 AFRICAN AMERICANS. SO, I SPECIFICALLY ASKED HIM, AND
8 THAT'S THE ONLY WAY THAT HE COULD ARTICULATE IT.

9 THE COURT: OKAY. ALRIGHT, WHAT ABOUT, THE
10 NEXT ONE I SHOW IS JUROR SIXTY-TWO.

11 MR. CHANDLER: SIXTY-TWO AGAIN, THAT WAS ONE
12 THAT MY CLIENT INDICATED, AND AGAIN, THERE WERE A
13 NUMBER OF PEOPLE WHO HE JUST SAID THAT -- WELL, I
14 THINK THAT HE SPECIFICALLY SAID, AND I ACTUALLY WROTE
15 IT DOWN, THAT HE DIDN'T LIKE THE WAY THAT SHE ACTUALLY
16 PRESENTED HERSELF. AND AGAIN, THAT WAS HIS SPECIFIC
17 REASON. I ACTUALLY ASKED HIM FOR THAT AND HE GAVE ME
18 THAT.

19 THE COURT: ALRIGHT, THE NEXT ONE IS NUMBER
20 EIGHTY-FOUR.

21 MR. CHANDLER: YOUR HONOR, NUMBER EIGHTY-
22 FOUR IS ONE THAT I ACTUALLY STRUCK. I HAVE, IN THE
23 PAST HAVE ALWAYS TRIED TO STAY AWAY FROM PEOPLE WHO
24 WORKED IN MANAGEMENT. I FEEL LED TO WHEN ANYONE THAT
25 WORKS IN MANAGEMENT, FROM THE VERY BEGINNING I HAD

1 STRUCK DOWN MR. PHIL HUGGINS BECAUSE OF HIS WIFE'S
2 MANAGEMENT AT AFLAC. I BELIEVE THAT SOMETIMES THOSE
3 MANagements TEND TO BE MORE KIND OF LAW ABIDING AND
4 STRICT ON THE RULES, AND CERTAINLY, IN A SITUATION
5 LIKE THIS, AS A DEFENSE ATTORNEY, AS A GENERAL RULE,
6 THAT WAS A STRIKE THAT I ACTUALLY PRE-STRUCK ON THAT
7 BASIS. AND THAT WOULD INCLUDE ANY AND EVERYONE THAT
8 WAS CONNECTED WITH MANAGEMENT, WHICH ALSO INCLUDED A
9 MANAGEMENT OVER INFORMATION SYSTEMS WHO YOU STRUCK
10 BECAUSE HE WANTED TO GO BACK TO THE SCHOOL SYSTEM. HE
11 WAS AFRICAN AMERICAN.

12 THE COURT: OKAY. THE NEXT ONE THEN IS
13 NUMBER FOURTEEN.

14 MR. CHANDLER: MS. BROACH IS THE OWNER OF A
15 FURNITURE STORE. I HAVE, USED FURNITURE STORE OWNER,
16 MANAGEMENT.

17 THE COURT: OKAY. WHAT ABOUT NUMBER EIGHT,
18 I MEAN, I'M SORRY, ONE NINETY-EIGHT?

19 MR. CHANDLER: MS. LAURA YOUNG IS A MANAGER
20 OVER, I THINK, HUMAN RESOURCES AT ZEUS.

21 THE COURT: OKAY. NUMBER ONE O THREE.

22 MR. CHANDLER: I DON'T KNOW IF IT'S HIS WIFE
23 OR MR. KRUPSEZYK, HIMSELF, BUT I HAD A MANAGEMENT AT
24 SCE&G.

25 THE COURT: MANAGEMENT WHERE?

1 MR. CHANDLER: SCE&G, SOMEBODY'S AFFILIATED
2 WITH SOUTH CAROLINA ELECTRIC & GAS.

3 THE COURT: AND THE LAST ONE, I THINK, WAS
4 MS. NIGHTINGALE.

5 MR. CHANDLER: AND MS. NIGHTINGALE WAS ONE
6 THAT I DID NOT PRE-STRIKE, BUT AGAIN, THAT WAS ONE
7 THAT MY CLIENT HAD INDICATED THAT HE DIDN'T LIKE THE
8 WAY SHE PRESENTED HERSELF, AS HE DID FOR A NUMBER OF
9 INDIVIDUALS.

10 THE COURT: WOULD THE STATE LIKE TO RESPOND
11 TO THAT?

12 SOLICITOR SORENSON: IF I COULD HAVE JUST
13 ONE SECOND, YOUR HONOR.

14 THE COURT: SURE.

15 SOLICITOR SORENSON: I'M GOING BACK JUST
16 TRYING TO CHECK ON SOME OF THESE, AS FAR AS SPOUSE'S
17 OCCUPATION IF I MAY, YOUR HONOR.

18 MAY IT PLEASE THE COURT, YOUR HONOR.

19 THE COURT: YES, SIR.

20 SOLICITOR SORENSON: I GUESS THE ONES I
21 THINK I HAVE THE BIGGEST CONCERN ABOUT IS THIS, I
22 MEAN, I THOUGHT THIS WORKED IS THAT MR. CHANDLER IS
23 THE LAWYER, AND MR. CHANDLER IS THE ONE THAT NEEDS TO
24 BE, YOU KNOW, EXERCISING STRIKES. I MEAN, I GUESS WHAT
25 I'D ASK THE COURT TO DO, MR. CHANDLER HAD INDICATED

1 THAT HIS CLIENT HAD GIVEN HIM A LIST OF ALL THE JURORS
2 THAT HE FELT UNEASY ABOUT. I WOULD ASK HIM TO PRESENT
3 THAT TO THE COURT. BECAUSE OTHERWISE, I THINK HE'S, I
4 MEAN, YOU KNOW, IF HE HAD AN UNEASY FEELING ABOUT, YOU
5 KNOW, THREE JURORS THAT ALL HAPPENED TO BE CAUCASIANS,
6 THEN THERE'S NO WAY TO TELL THAT THAT'S BASICALLY JUST
7 A BLATANTLY RACIALLY MOTIVATED REASON TO STRIKE JURORS
8 THEN. I MEAN, YOU COULD STRIKE ANY JUROR YOU WANTED
9 IF THAT'S ALL HE HAD TO DO IS SAY THAT I'VE GOT AN
10 UNEASY FEELING ABOUT THEM WITHOUT MR. CHANDLER HAVING
11 ANY OTHER BASIS TO EXERCISE THOSE STRIKES. I MEAN, I
12 COULD UNDERSTAND, YOU KNOW, ONE JUROR COMING UP AND
13 STANDING UP AND GIVING HIM A FUNNY LOOK OR SOMETHING
14 LIKE THAT, BUT I MEAN, THERE'S THREE OF THEM, JUST OUT
15 OF THE JURORS THAT WERE CALLED. SO, I DO NOT FEEL
16 THAT THOSE ARE RACE NEUTRAL REASONS TO EXERCISE THOSE
17 THREE STRIKES AS TO JURORS ONE FORTY-FIVE, SIXTY-TWO
18 AND MS. NIGHTINGALE, WHO I'VE GOT ON MY LIST AS JUROR
19 NINE NINE NINE NINE.

20 CLERK: THAT'S A TRANSFER.

21 SOLICITOR SORENSON: THAT'S A TRANSFER, YES.
22 I JUST DIDN'T HAVE A NUMBER, I DIDN'T KNOW WHAT NUMBER
23 SHE WAS.

24 THE COURT: OKAY. DO YOU WANT TO RESPOND TO
25 THAT?

1 MR. CHANDLER: YOUR HONOR, I'M LOOKING AT, I
2 COULD LOOK AT, LET'S SEE, THERE'S A, NUMBER ONE FORTY-
3 SEVEN, SHETORA RICKENBAKER, IS ONE THAT HE HAD STRUCK
4 FOR THE SAME REASON AND SHE'S A BLACK FEMALE. AND A
5 ...

6 THE COURT: WAIT A MINUTE. WHAT -- THIS IS
7 A MANAGEMENT REASON OR UNEASY?

8 MR. CHANDLER: NO, NO, THIS IS, THIS IS MY
9 CLIENT'S REASON THAT HE SHARED WITH ME THAT HE JUST
10 WAS UNEASY WITH THESE PARTICULAR PEOPLE. AND AS TO
11 UNEASY, IF THE COUNSEL, IF THE STATE IS SUGGESTING
12 THAT MY CLIENT IS ONLY UNEASY WITH CAUCASIANS, I
13 THINK WOULD HAVE TO BE THE BASIS OF HIS ARGUMENT AT
14 THIS POINT, THEN I WOULD JUST SIMPLY WANT TO GO
15 THROUGH AND HIGHLIGHT THE ONES THAT I SEE, IT'S KIND
16 OF DIFFICULT FOR ME TO KIND OF GO INTO MY CLIENT'S
17 MIND, BUT I KNOW AT LEAST I SEE TWO AFRICAN AMERICANS
18 THAT HAD THEIR NAMES BEEN CALLED THEY WOULD HAVE BEEN
19 STRUCK BASED ON UNEASINESS.

20 SOLICITOR SORENSON: THAT'S JUROR ONE FORTY-
21 SEVEN, AND WHAT IS THE OTHER ONE?

22 MR. CHANDLER: ONE FORTY-SEVEN, LORETTA
23 LEONARD, ONE O SEVEN.

24 THE COURT: OKAY. AND WHAT'S ...

25 MR. CHANDLER: AND I'M JUST RESPONDING TO

1 THAT. I MEAN, I DON'T KNOW HOW TO ANALYZE IT, AND
2 CERTAINLY, OUR CLIENTS ARE ALLOWED TO PARTICIPATE, AND
3 IF THERE'S SOMEBODY THEY DON'T WANT ON THE JURY I
4 DON'T WANT THAT IF HE'S CONVICTED THAT HE SAID, IF YOU
5 DIDN'T PUT THAT PERSON IN THEN, YOU KNOW, HE'S SERVING
6 TIME IN THE DEPARTMENT OF CORRECTIONS.

7 SOLICITOR SORENSON: AND MY RESPONSE TO THAT
8 IS THAT JUROR ONE FORTY-SEVEN, UNLESS I'M MISSING
9 SOMETHING, ISN'T EVEN, WASN'T EVEN HERE, SO I'M NOT
10 QUITE SURE HOW THAT ...

11 MR. CHANDLER: WELL, I WAS JUST SAYING THAT
12 THAT WAS A PRE-STRIKE.

13 SOLICITOR SORENSON: SO, HE'S JUST FLIPPING
14 THROUGH A LIST AND JUST SAYING, I DON'T LIKE THIS
15 PERSON, I MEAN, HE'S NOT EVEN LOOKING AT THE JURORS
16 WHEN HE'S DOING IT? I MEAN, THAT'S EVEN WORSE. I
17 MEAN, HOW CAN HE GET AN UNEASY FEELING - - -

18 MR. CHANDLER: WELL, I DON'T KNOW IF THIS -

19 - -

20 SOLICITOR SORENSON: --- JUST LOOKING AT
21 JUROR'S NAME?

22 MR. CHANDLER: I DON'T KNOW IF HE'S LOOKING
23 AT HER ADDRESS WHERE SHE'S FROM OR WHATEVER, BUT I'M
24 JUST CALLING OUT THE STRIKES THAT, AS I SAW THEM. AND
25 HE DID HIS PRE-STRIKING, AND I WAS GOING ON HIS PRE-

1 STRIKES. AND I WAS LOOKING -- AND THAT WAS ONE THAT
2 HE HAD STRUCK. AND SHE WAS AFRICAN AMERICAN. AND SO,
3 I'M JUST ADDRESSING THIS ALLEGATION THAT THE ONES THAT
4 I DIDN'T OFFER RACE NEUTRAL THAT I ACTUALLY MADE THE
5 DECISION ON, I TOLD YOU THE REASON WHY, I ASKED HIM
6 SPECIFICALLY. SO, BASICALLY, IF MS. LINDA WAS NEVER
7 CALLED SHE STILL GOT XED OUT BY MY CLIENT. I DON'T
8 KNOW IF IT WAS BECAUSE SHE WAS FROM CORDOVA -- BECAUSE
9 SHE WAS FROM HOLLY HILL, I JUST DON'T KNOW.

10 SOLICITOR SORENSON: WELL, THAT'S THE
11 PROBLEM, HE THEREFORE BASICALLY DOESN'T HAVE TO GIVE A
12 REASON TO ANY OF THOSE JURORS.

13 MR. CHANDLER: I KNOW, I'M RESPONDING, YOU
14 KNOW, BECAUSE I OFFERED THE REASON FOR THE ONES WE
15 STRUCK BECAUSE I ASKED HIM SPECIFICALLY. LOOK, WHAT'S
16 THE REASON? BUT IF HE'S TRYING TO SUGGEST THAT HE
17 ONLY STRUCK THOSE WHO ARE CAUCASIAN I'M SAYING THAT HE
18 DIDN'T BECAUSE THOSE TWO I JUST GAVE YOU ARE TWO THAT
19 HE DID STRIKE.

20 THE COURT: AND IT'S MCCRAY VERSUS -- IT'S A
21 CASE RIGHT ON POINT THAT SAYS THAT'S NOT VALID REASON,
22 THAT UNEASINESS, FEELING UNEASINESS IS NOT A VALID
23 STRIKE UNDER BATSON, IS MCCRAY. IT'S A TWO THOUSAND
24 EIGHT SUPREME COURT CASE FROM THE COURT OF APPEALS.
25 AND IN THAT CASE I THINK THERE WAS AN INDIVIDUAL WITH

1 DREDLOCKS AND THE REASON WAS, I FELT UNEASY ABOUT HIM
2 BECAUSE HE HAD DREDLOCKS. AND THE COURT SAID, THAT'S
3 NOT A RACE NEUTRAL REASON, THAT UNEASINESS, YOU'VE GOT
4 TO HAVE SOMETHING MORE THAN UNEASY FEELING.

5 MR. CHANDLER: ALRIGHT.

6 THE COURT: OKAY? NOW, ON THE MANAGEMENT
7 END OF IT - - -

8 MR. CHANDLER: OKAY, YEAH, THAT'S RACE
9 NEUTRAL, BECAUSE THAT'S MY ...

10 THE COURT: THE NEXT ISSUE ON MANAGEMENT,
11 IT'S MY UNDERSTANDING, WHETHER -- MR. SOLICITOR, DO
12 YOU HAVE ANYBODY HE PUT ON THE JURY IN A MANAGEMENT
13 FIELD?

14 SOLICITOR SORENSON: IN LOOKING BACK, YOUR
15 HONOR, -- LET ME JUST DOUBLE CHECK ONE MORE TIME -- I
16 MEAN, YOU'VE GOT A JUROR, JUROR SIXTY, THAT WORKS FOR
17 INTERNATIONAL PAPER. I DON'T KNOW WHAT HER ROLE IS
18 THERE, BUT I DON'T SEE ANYTHING GLARING IN THAT
19 REGARD, WHERE HE SAT SOMEBODY THAT SAID THEY WERE IN
20 MANAGEMENT. SO, I MEAN ...

21 MR. CHANDLER: I JUST HAVE THAT SHE WORKS AT
22 INTERNATIONAL PAPER.

23 SOLICITOR SORENSON: AND THAT'S, AS I SAID,
24 I DON'T -- THOSE THAT JUMP OUT AT ME ARE THOSE FOUR
25 STRIKES THAT HE USED, OTHER THAN, YOU KNOW ...

1 THE COURT: OKAY. SO, YOU DON'T HAVE AN
2 ISSUE WITH HIS EMPLOYMENT REASON, IT'S JUST THE
3 UNEASINESS?

4 SOLICITOR SORENSON: I THINK WITH REGARDS TO
5 THE JURORS THAT HE DID SEAT I DON'T SEE ANY OF THEM
6 WHERE I WOULD HAVE A, WHATEVER THE WORD I'M LOOKING
7 FOR IS.

8 THE COURT: OKAY.

9 SOLICITOR SORENSON: I DON'T SEE ANY THAT HE
10 SEATED THAT WOULD, THAT I'D BE ABLE TO KIND OF REFUTE
11 THOSE, THAT REASON FOR.

12 THE COURT: OKAY. WELL, WE REALLY -- SO,
13 OUR OPTIONS IS TO PUT EVERYBODY BACK IN THE POOL AND
14 START OVER. BECAUSE I'VE GOT JUROR ONE FORTY-FIVE,
15 JUROR SIXTY-TWO, AND JUROR, MS. NIGHTINGALE, I DON'T
16 HAVE HER NUMBER. WHAT'S HER NUMBER?

17 CLERK: WHAT'S THE NAME?

18 THE COURT: NIGHTINGALE. DO WE HAVE A NUMBER
19 FOR HER?

20 CLERK: I THINK SHE WAS ORIGINALLY NINETY-
21 SEVEN.

22 THE COURT: OKAY.

23 SOLICITOR SORENSON: WELL, THE LIST JUST
24 SAYS NINE NINE NINE NINE. SO, THERE IS ANOTHER JUROR
25 NINETY-SEVEN.

1 CLERK: WHEN WE TRANSFER THAT'S THE NUMBER
2 THAT THEY GIVE THEM, NINE NINE NINE.

3 SOLICITOR SORENSON: NINE NINE NINE NINE?

4 CLERK: YES, SIR.

5 SOLICITOR SORENSON: OKAY.

6 THE COURT: SO, I GUESS WE'LL HAVE TO START
7 OVER. THOSE FOUR ARE NOT RACE NEUTRAL ACCORDING TO
8 THE LAW IN THIS CASE.

9 MR. CHANDLER: OKAY.

10 THE COURT: SO, ANYTHING BEFORE WE BRING THE
11 PANEL IN, BRING THEM BACK AND START OVER?

12 MR. CHANDLER: NONE FROM THE DEFENSE, YOUR
13 HONOR.

14 THE COURT: DO Y'ALL HAVE ANY PROBLEM RE-
15 DOING, SHUFFLING EVERYTHING BACK IN THE COMPUTER AND
16 DRAWING OUT ANOTHER THIRTY-FIVE NAMES?

17 CLERK: NO, SIR.

18 THE COURT: OKAY. YES, SIR, ANYTHING?

19 SOLICITOR SORENSON: COULD I USE THE RESTROOM
20 JUST REAL QUICK?

21 THE COURT: SURE. IF YOU'LL BRING ME THAT
22 JURY THERE AND YOU BRING ME THAT ...

23 CLERK: OKAY. HAVE THEM BRING ALL THEIR
24 THINGS WITH THEM.

25 THE COURT: YEAH, HAVE THEM BRING ALL,

1 BECAUSE THEY'RE GOING TO GO BACK IN THE POOL AND WE'RE
2 GOING TO START OVER.

3 CLERK: OKAY.

4 (Whereupon, the jury and the
5 jury venire enter the courtroom.)

6 THE COURT: I ASSUME EVERYBODY IS HERE. IS
7 THAT EVERYBODY? ALRIGHT, LADIES AND GENTLEMEN, I'M
8 GOING TO ASK Y'ALL TO RETURN TO THE JURY PANEL AND
9 WE'RE GOING TO START ALL OVER AND DO THIS ALL OVER
10 AGAIN. SO, I'M GOING PUT ALL OF Y'ALL BACK IN THE
11 POOL, WE'RE GOING TO SELECT ANOTHER JURY AND START
12 THIS WHOLE PROCESS OVER.

13 CLERK: OKAY, WHEN YOUR NAME IS CALLED JUST
14 COME STAND TO THE FRONT.

15 JUROR ONE SEVENTY-THREE, SYLVIA STEARNS.
16 WHAT SAYS THE STATE?

17 SOLICITOR SORENSON: PLEASE PRESENT MS.
18 STEARNS.

19 CLERK: WHAT SAYS THE DEFENSE?

20 MR. CHANDLER: PLEASE SEAT MS. STEARNS.

21 CLERK: HAVE A SEAT IN THE JURY BOX.

22 TOMEKA JENNINGS, JUROR NINETY-TWO. WHAT
23 SAYS THE STATE?

24 SOLICITOR SORENSON: PLEASE PRESENT MS.
25 JENNINGS.

1 CLERK: WHAT SAYS THE DEFENSE?

2 MR. CHANDLER: PLEASE SEAT MS. JENNINGS.

3 CLERK: WILLIE BRIGGMAN, JUROR THIRTEEN.

4 WHAT SAYS THE STATE?

5 SOLICITOR SORENSON: PLEASE PRESENT MR.

6 BRIGGMAN.

7 CLERK: DEFENSE?

8 MR. CHANDLER: PLEASE EXCUSE MR. BRIGGMAN.

9 CLERK: JAMES HARDEE. WHAT SAYS THE STATE?

10 SOLICITOR SORENSON: PLEASE PRESENT MR.

11 HARDEE.

12 CLERK: DEFENSE?

13 MR. CHANDLER: PLEASE EXCUSE MR. HARDEE.

14 CLERK: RETURN TO YOUR SEAT, SIR.

15 ALFRED OVERCAST. WHAT SAYS THE STATE?

16 SOLICITOR SORENSON: PLEASE EXCUSE MR.

17 OVERCAST.

18 CLERK: RETURN TO YOUR SEAT, SIR.

19 TAMMI MCALHANY. WHAT SAYS THE STATE?

20 SOLICITOR SORENSON: PLEASE PRESENT MS.

21 MCALHANY.

22 CLERK: DEFENSE?

23 MR. CHANDLER: PLEASE EXCUSE THIS JUROR.

24 CLERK: RETURN TO YOUR SEAT.

25 CHIQUITA HAYNES. WHAT SAYS THE STATE?

1 SOLICITOR SORENSON: PLEASE PRESENT MS.
2 HAYNES.
3 CLERK: WHAT SAYS THE DEFENSE?
4 MR. CHANDLER: PLEASE SEAT MS. HAYNES.
5 CLERK: HAVE A SEAT IN THE JURY BOX.
6 JUDITH BROACH. WHAT SAYS THE STATE?
7 SOLICITOR SORENSON: PLEASE PRESENT MS.
8 BROACH.
9 CLERK: DEFENSE?
10 MR. CHANDLER: PLEASE EXCUSE MS. BROACH.
11 CLERK: LAURA YOUNG. WHAT SAYS THE STATE?
12 SOLICITOR SORENSON: PLEASE PRESENT MS.
13 YOUNG.
14 CLERK: DEFENSE.
15 MR. CHANDLER: PLEASE EXCUSE MS. YOUNG.
16 CLERK: KAYSEE SHULER. WHAT SAYS THE STATE?
17 SOLICITOR SORENSON: PLEASE PRESENT MS.
18 SHULER.
19 CLERK: DEFENSE?
20 MR. CHANDLER: PLEASE SEAT MS. SHULER.
21 CLERK: D'ANDRE HOWELL. WHAT SAYS THE
22 STATE?
23 SOLICITOR SORENSON: PLEASE PRESENT MR.
24 HOWELL.
25 CLERK: DEFENSE?

1 MR. CHANDLER: PLEASE SEAT MR. HOWELL.

2 CLERK: HAVE A SEAT IN THE JURY BOX.

3 BERNADETTE FREDERICK. WHAT SAYS THE STATE?

4 SOLICITOR SORENSON: PLEASE PRESENT MR.

5 FREDERICK.

6 CLERK: DEFENSE?

7 MR. CHANDLER: PLEASE SEAT MR. FREDERICK.

8 CLERK: SHIRLEY WARD. WHAT SAYS THE STATE?

9 SOLICITOR SORENSON: PLEASE PRESENT MS.

10 WARD.

11 CLERK: DEFENSE?

12 MR. CHANDLER: PLEASE SEAT MS. WARD.

13 CLERK: HAVE A SEAT IN THE JURY BOX.

14 MELISSA ZIMMERMAN. WHAT SAYS THE STATE?

15 SOLICITOR SORENSON: PLEASE PRESENT MS.

16 ZIMMERMAN.

17 CLERK: DEFENSE?

18 SOLICITOR SORENSON: PLEASE SEAT MS.

19 ZIMMERMAN.

20 CLERK: HAVE A SEAT IN THE JURY BOX, MA'AM.

21 ANDREA GREEN. WHAT SAYS THE STATE?

22 SOLICITOR SORENSON: PLEASE PRESENT MS.

23 GREEN.

24 CLERK: DEFENSE?

25 MR. CHANDLER: PLEASE SEAT MS. GREEN.

1 CLERK: HAVE A SEAT IN THE JURY BOX.

2 REANNEN BEASON. WHAT SAYS THE STATE?

3 SOLICITOR SORENSON: PLEASE PRESENT MS.

4 BEASON.

5 CLERK: DEFENSE?

6 MR. CHANDLER: PLEASE SEAT MS. BEASON.

7 CLERK: GLENDA WASHINGTON. WHAT SAYS THE

8 STATE?

9 SOLICITOR SORENSON: PLEASE EXCUSE MS.

10 WASHINGTON.

11 CLERK: RETURN TO YOUR SEAT, MA'AM.

12 ROSE KELLER -- EXCUSE ME, HENRY SHULER.

13 WHAT SAYS THE STATE?

14 SOLICITOR SORENSON: PLEASE PRESENT MR.

15 SHULER.

16 CLERK: DEFENSE?

17 MR. CHANDLER: PLEASE SEAT MR. SHULER.

18 CLERK: HAVE A SEAT IN THE JURY BOX.

19 ROSE KELLER. WHAT SAYS THE STATE?

20 SOLICITOR SORENSON: PLEASE PRESENT MS.

21 KELLER.

22 CLERK: DEFENSE?

23 MR. CHANDLER: PLEASE SEAT MS. KELLER.

24 CLERK: DEWAYNE DAVIS. WHAT SAYS THE STATE?

25 SOLICITOR SORENSON: PLEASE PRESENT MR.

1 DAVIS.

2 CLERK: DEFENSE?

3 MR. CHANDLER: PLEASE SEAT MR. DAVIS.

4 CLERK: HAVE A SEAT IN THE JURY BOX.

5 DONALD KRUPEZYK. WHAT SAYS THE STATE?

6 SOLICITOR SORENSON: PLEASE PRESENT MR.
7 KRUPEZYK.

8 CLERK: DEFENSE?

9 MR. CHANDLER: PLEASE EXCUSE MR. KRUPEZYK.

10 CLERK: BRENDA HANTON. WHAT SAYS THE STATE?

11 SOLICITOR SORENSON: PLEASE PRESENT MS.
12 HANTON.

13 CLERK: DEFENSE?

14 MR. CHANDLER: PLEASE SEAT MS. HANTON.

15 CLERK: THAT'S ALL, YOUR HONOR.

16 THE COURT: OKAY. ARE THERE ANY MATTERS OF
17 LAW PERTAINING TO THE SELECTION OF THE JURY ON BEHALF
18 OF THE STATE?

19 SOLICITOR SORENSON: NO, SIR.

20 THE COURT: ON BEHALF OF THE DEFENSE?

21 MR. CHANDLER: NO, YOUR HONOR.

22 THE COURT: OKAY. MR. SOLICITOR, WHAT DO
23 YOU WANT ME TO DO WITH THE PANEL NOW?

24 SOLICITOR SORENSON: MAY WE APPROACH?

25 THE COURT: YES, SIR.

1 (Whereupon, a bench conference
2 is held out of the hearing
3 of the jury and court reporter.)

4 THE COURT: ALRIGHT, ALL OF YOU LADIES AND
5 GENTLEMEN WHO WERE NOT SELECTED TO SERVE ON THIS JURY,
6 I'M GOING TO EXCUSE YOU. AND YOU SHOULD HAVE A NUMBER
7 ON YOUR NOTICE OR CARD. I NEED YOU TO CALL THAT
8 NUMBER BACK AFTER SIX O'CLOCK TONIGHT AND KEEP CALLING
9 UNTIL YOU GET THROUGH. WHEN YOU DO GET THROUGH,
10 YOU'RE GOING TO TALK TO AN ANSWERING MACHINE NOT A
11 REAL PERSON SO YOU CAN'T ARGUE WITH IT. IT'S JUST
12 GOING TO SIMPLY TELL YOU WHEN I NEED YOU BACK. IT
13 WILL EITHER TELL YOU TO CALL BACK SOMETIME TOMORROW OR
14 REPORT BACK TOMORROW, BUT IF YOU WILL DO THAT, AND
15 START CALLING AFTER SIX O'CLOCK TONIGHT -- AND IT
16 WON'T BE A MESSAGE BEFORE THEN PROBABLY. SO, YOU WAIT
17 UNTIL SIX AND THEN KEEP CALLING THAT NUMBER UNTIL YOU
18 GET THROUGH, AND DO WHATEVER IT TELLS YOU TO DO. YOU
19 HAVE A NICE DAY. THANK YOU.

20 OKAY, LADIES AND GENTLEMEN, SOME OF YOU MAY
21 WANT TO BUY A LOTTERY TICKET BECAUSE THE COMPUTER'S
22 PICKED YOU TWICE. BUT I TALKED WITH THE ATTORNEYS IN
23 THIS CASE AND WE WON'T BE ABLE TO ACTUALLY START THE
24 TESTIMONY UNTIL TWO O'CLOCK, OR TWO:FIFTEEN, I'VE GOT
25 SOME OTHER MATTERS I'VE GOT TO DEAL WITH. SO, WHAT

1 I'M GOING TO DO IS LET YOU GO TO LUNCH. I'M GOING TO
2 ASK YOU TO COME BACK STRAIGHT TO THE JURY ROOM AT
3 TWO:FIFTEEN. IF YOU'LL BE IN THE JURY ROOM BY
4 TWO:FIFTEEN, I'VE GOT SOME OTHER MATTERS ON SOME OTHER
5 CASES I NEED TO DEAL WITH RIGHT BEFORE THAT.

6 YOU DON'T KNOW ANYTHING ABOUT THIS CASE.
7 WHEN YOU GET BACK I'M GOING TO KIND OF GIVE YOU SOME
8 INSTRUCTIONS AS TO WHAT YOUR ROLE WILL BE AND WHAT YOU
9 WILL DO, BUT RIGHT NOW JUST DON'T TALK ABOUT THIS
10 CASE. DON'T ALLOW ANYONE TO TALK TO YOU ABOUT IT, AND
11 DON'T TALK ABOUT IT AMONG YOURSELVES, AND I WILL GIVE
12 YOU, EXPLAIN THOSE REASONS TO YOU AT TWO:FIFTEEN.

13 YOU GO AND HAVE A NICE LUNCH AND I'LL SEE
14 YOU BACK AT TWO:FIFTEEN.

15 (Whereupon, the jury leaves
16 the courtroom and the following
17 takes place out of the presence
18 of the jury.)

19 THE COURT: ALRIGHT, ANYTHING WE NEED TO
20 DEAL WITH IN THIS CASE?

21 MR. CHANDLER: NONE FROM THE DEFENSE, YOUR
22 HONOR.

23 SOLICITOR SORENSON: I DON'T THINK SO, YOUR
24 HONOR.

25 THE COURT: ALRIGHT. WE'LL STAND DOWN IN

1 THIS CASE. ANY PROBLEM WITH HIM BEING OUT?

2 SOLICITOR SORENSON: HE IS CURRENTLY OUT ON
3 BOND, YOUR HONOR.

4 THE COURT: MR. DARBY, I'M NOT GOING TO
5 INCARCERATE YOU OVER LUNCH. YOU UNDERSTAND THAT
6 WHETHER YOU SHOW UP OR NOT WE'RE GOING TO BEGIN THIS
7 TRIAL AT TWO:FIFTEEN, DO YOU UNDERSTAND THAT?

8 DEFENDANT DARBY: I'LL BE HERE, YOUR HONOR,
9 YES, SIR.

10 THE COURT: AND YOU'LL BE SUBJECT TO A BENCH
11 WARRANT IF YOU DON'T SHOW BACK UP.

12 DEFENDANT DARBY: I'LL BE HERE.

13 THE COURT: ALRIGHT, SIR.

14 MR. CHANDLER: THANK YOU, YOUR HONOR.

15 (Recess)

16 THE COURT: JUROR NUMBER SEVENTY-SEVEN,
17 WHICH IS THE SEVENTH JUROR ON THE LIST, MS. HAYNES, I
18 PROMISED HER SHE'D BE GONE THURSDAY FOR HER CHILDREN'S
19 OPERATION. NOW, BASED ON WHAT Y'ALL TOLD ME THIS CASE
20 SHOULD BE OVER WITH BY THURSDAY MORNING, BUT IF IT'S
21 NOT I'M GOING TO LET HER GO AND PUT AN ALTERNATE IN
22 PLACE. DO Y'ALL HAVE ANY PROBLEM WITH THAT? IF WE DO
23 WE NEED TO DEAL WITH THAT RIGHT NOW.

24 MR. CHANDLER: NO OBJECTION FROM THE
25 DEFENSE.

1 SOLICITOR SORENSON: NO OBJECTION. THAT'S
2 THE THIRD JUROR SEATED, MS. HAYNES, IS THAT CORRECT?

3 THE COURT: SHE'S NUMBER SEVEN ON THE LIST,
4 SHE'S NUMBER SEVENTY-SEVEN, HAYNES.

5 SOLICITOR SORENSON: SEVENTY-SEVEN, YES,
6 SIR, I REMEMBER HER.

7 THE COURT: AND SHE STOOD UP BECAUSE SHE'S
8 GOT CHILDREN THAT'S GOING TO BE OPERATED ON THURSDAY,
9 AND I PROMISED THAT SHE WOULD HAVE THEM AT THE
10 HOSPITAL. AND BASED ON WHAT Y'ALL TOLD ME EARLIER WE
11 OUGHT TO BE THROUGH WITH THIS CASE BY THURSDAY
12 MORNING. NOW, UNDERSTANDING THAT SOME THINGS HAPPEN
13 TO BE BEYOND ANY OF OUR CONTROL, BUT IF SOMETHING
14 HAPPENS THEN I'M GOING TO LET HER GO AND PUT AN
15 ALTERNATE IN PLACE, AND I JUST WANTED TO BE SURE
16 BEFORE WE SWORE THEM IN THAT THAT WASN'T GOING TO BE
17 AN ISSUE. OKAY?

18 SOLICITOR SORENSON: I MEAN, I DON'T HAVE ANY

19 - - -

20 THE COURT: ALRIGHT, IS THERE ANY ...

21 SOLICITOR SORENSON: --- I DON'T HAVE ANY
22 ISSUE WITH THAT. I MEAN, IF TOMORROW NIGHT COMES AND
23 WE'RE NOT DONE THEN, I MEAN ...

24 THE COURT: OKAY. NOW, ANY ISSUE BEFORE I
25 BRING THEM IN AND SWEAR THEM IN? ARE Y'ALL READY TO

1 START?

2 MR. CHANDLER: YES, SIR, NONE FROM THE
3 DEFENSE, WE'RE READY.

4 SOLICITOR SORENSON: WE'RE READY, YOUR
5 HONOR.

6 THE COURT: OKAY.

7 COURT REPORTER: JUDGE, THEY HANDED ME SOME
8 EXHIBITS TO MARK, DO YOU WANT ME TO DO IT LATER?

9 THE COURT: NO, I'LL GIVE YOU TIME NOW IF
10 YOU NEED -- ARE THESE EXHIBITS THAT Y'ALL HAVE AGREED
11 TO COMING INTO EVIDENCE, OR IS THIS SOMETHING YOU'RE
12 SIMPLY MARKED FOR IDENTIFICATION?

13 SOLICITOR SORENSON: I WAS JUST MARKING THEM
14 FOR ID, YOUR HONOR, I'M NOT SURE MR. CHANDLER ...

15 MR. CHANDLER: I MAY NOT HAVE AN OBJECTION,
16 YOU LOOK AT THE ONE I HAVE. I DON'T KNOW IF YOU HAVE
17 ANY OBJECTION.

18 SOLICITOR SORENSON: NO, I DON'T HAVE.

19 MR. CHANDLER: OKAY. NO OBJECTION.

20 COURT REPORTER: AND YOURS IS NO OBJECTION
21 ALSO?

22 MR. CHANDLER: I THINK THAT'S WHAT I'VE GOT.

23 SOLICITOR SORENSON: ARE YOU ACTUALLY
24 PUTTING THAT IN EVIDENCE AT THIS POINT?

25 MR. CHANDLER: WELL, I IMAGINE, I MEAN, I

1 HAVE NO OBJECTION.

2 SOLICITOR SORENSON: I DON'T THERE'S GOING
3 TO BE AN OBJECTION TO ANY OF THEM SO IF SHE WANTS TO
4 MARK IT, STATE'S ONE IS FOR EVIDENCE, I MEAN, I'LL
5 STILL OFFER THEM SO IT'S ON THE RECORD, I GUESS, BUT I
6 MEAN, I, DON'T THINK THERE'S AN OBJECTION TO ANY OF THE
7 PHOTOGRAPHS I'VE HAD MARKED.

8 THE COURT: AND SO, DO YOU WANT TO OFFER
9 THEM IN AT THIS POINT WITHOUT OBJECTION OR DO YOU WANT
10 TO DO IT DURING THE TRIAL?

11 SOLICITOR SORENSON: I MEAN, THAT'S FINE, I
12 MEAN, WE CAN DO IT. IT WILL SAVE TIME, I GUESS, AS
13 FAR AS MS. WALKER HAVING TO GO BACK AND MARK ON THEM
14 DURING EACH ONE.

15 MR. CHANDLER: YES, I MEAN, OFFER THEM
16 WITHOUT OBJECTION, I'M WONDERING IF THAT'S, IF YOU
17 FEEL COMFORTABLE THE SAME WILL BE ONE PROBLEM WITH
18 THAT?

19 SOLICITOR SORENSON: I MEAN, I HAVE NO
20 OBJECTION TO THE PHOTOGRAPH. I MEAN, SO - - -

21 THE COURT: SO, IN OTHER WORDS, JUST FOR THE
22 RECORD, HOW MANY PICTURES ARE THE STATE OFFERING?

23 COURT REPORTER: THE STATE I BELIEVE HAS ONE
24 THROUGH ELEVEN.

25 SOLICITOR SORENSON: OKAY. I THOUGHT IT WAS

1 AROUND TEN, I DIDN'T COUNT THEM, SO ...

2 COURT REPORTER: WELL, COUNT THEM FOR ME
3 WHILE I ...

4 SOLICITOR SORENSON: YOU'RE PROBABLY RIGHT.

5 COURT REPORTER: AND DEFENDANT ONLY HAS ONE.

6 THE COURT: AND SO, THE STATE HAS ELEVEN
7 PHOTOS.

8 COURT REPORTER: HE COUNTING THEM NOW.

9 SOLICITOR SORENSON: IT'S TWELVE, YOUR
10 HONOR.

11 COURT REPORTER: ACTUALLY TWELVE?

12 SOLICITOR SORENSON: TWELVE.

13 THE COURT: TWELVE. OKAY. ONE THROUGH
14 TWELVE. AND THE DEFENSE HAS ONE PHOTOGRAPH AT THIS
15 POINT?

16 MR. CHANDLER: YES, SIR.

17 COURT REPORTER: I'LL JUST TAKE A FEW
18 MINUTES TO PUT THE EXHIBIT NUMBERS ON THEM.

19 THE COURT: SO, THESE EXHIBITS ARE IN
20 WITHOUT OBJECTION BOTH PARTIES?

21 SOLICITOR SORENSON: YES, YOUR HONOR.

22 SOLICITOR SORENSON: YES, SIR.

23 THE COURT: OKAY. NOW, I'LL LET YOU TAKE
24 WHATEVER TIME YOU NEED TO MARK IT AND I'LL HUSH SO YOU
25 WON'T HAVE TO DEAL WITH ME. WHEN YOU GET READY LET ME

1 KNOW AND I'LL BRING THE JURY IN.

2 COURT REPORTER: ALRIGHT, THANK YOU, JUDGE.

3 (State's Exhibits One through Twelve
4 and Defendant's Exhibit One
5 marked and filed.)

6 COURT REPORTER: STATE'S ONE THROUGH TWELVE
7 AND DEFENDANT'S ONE WITHOUT OBJECTION. I'M READY,
8 JUDGE.

9 THE COURT: DID YOU TELL ME YOU'RE READY?

10 COURT REPORTER: YES, SIR, I DID.

11 THE COURT: OKAY, IF YOU'LL BRING IN THE
12 JURY, PLEASE, MA'AM.

13 (Whereupon, the jury enters
14 the courtroom and the following
15 takes place in the presence
16 of the jury.)

17 THE COURT: OKAY. MADAM CLERK, IF YOU'LL
18 SWEAR THE JURY.

19 CLERK: IF I COULD GET ALL OF YOU TO STAND
20 AND RAISE YOUR RIGHT HAND.

21 (Whereupon, the jury is
22 duly sworn and impaneled.)

23 THE COURT: LADIES AND GENTLEMEN, WE'RE
24 ABOUT TO BEGIN THE TRIAL OF THE STATE VERSUS ADRIAN
25 JERMAINE DARBY. MR. DARBY HAS BEEN INDICTED FOR

1 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE
2 AND BURGLARY IN THE FIRST DEGREE. AND WHAT I'M
3 TELLING YOU NOW IS JUST SOME OPENING REMARKS. I WILL
4 CHARGE YOU ON THE LAW AT THE END OF THIS CASE. AND
5 FOR THIS INDICTMENT MR. DARBY HAS ENTERED A PLEA OF
6 NOT GUILTY. THEREFORE, IT PUTS THE BURDEN ON THE
7 STATE OF SOUTH CAROLINA TO PROVE TO YOU EACH AND EVERY
8 ELEMENT OF THIS INDICTMENT BEYOND A REASONABLE DOUBT.

9 YOUR JOB IN THIS CASE IS TO DETERMINE WHAT
10 THE TRUE FACTS ARE. YOUR JOB IS DETERMINE THE GUILT
11 OR INNOCENCE OF THIS DEFENDANT BASED ON THE EVIDENCE
12 THAT COMES TO YOU IN THIS COURTROOM. AND THE EVIDENCE
13 IS BASICALLY GOING TO COME TO YOU IN THREE FORMS, ONE
14 THROUGH SWORN TESTIMONY, WITNESSES WHO COME BEFORE YOU
15 ON THIS WITNESS STAND UNDER OATH AND TESTIFY TO YOU.
16 ALSO, ANY EXHIBITS THAT MAY BE INTRODUCED INTO
17 EVIDENCE YOU WILL CONSIDER AS EVIDENCE, AS WELL AS ANY
18 STIPULATIONS MADE BY THE ATTORNEYS. AND THAT'S THE
19 EVIDENCE IN THIS CASE. THE CHARGES IN THIS INDICTMENT
20 AND THE INDICTMENT ITSELF IS NOT EVIDENCE. THE
21 ATTORNEYS' OPENING AND CLOSING STATEMENTS ARE NOT
22 EVIDENCE. THE ATTORNEYS' QUESTIONS ARE NOT EVIDENCE.
23 THE EVIDENCE THAT YOU MUST DECIDE THIS CASE ON
24 BASICALLY COMES FROM THIS WITNESS STAND OR THE
25 EXHIBITS YOU RECEIVE OR THE STIPULATIONS OF THE

1 ATTORNEYS. AND YOUR JOB IS TO DETERMINE WHAT THE TRUE
2 FACTS ARE, SO I NEED YOU TO PAY CLOSE ATTENTION.

3 MY JOB IS TO RULE ON THE ADMISSIBILITY UNDER
4 THE LAW AND TO CHARGE YOU ON THE LAW AS I WILL DO
5 AFTER YOU'VE HEARD ALL THE EVIDENCE. AND YOU ARE TO
6 TAKE THE LAW THAT I CHARGE YOU AND APPLY IT TO THE
7 FACTS THAT YOU DETERMINE TO BE TRUE AND REACH YOUR
8 VERDICT THAT SPEAKS THE TRUTH.

9 SO, HAVING SAID THAT, I NEED YOU TO PAY
10 CLOSE ATTENTION TO THE FACTS, BECAUSE IF YOU MAKE A
11 MISTAKE ON THE FACTS IT IS VERY HARD TO CORRECT THAT
12 MISTAKE. IF I MAKE A MISTAKE ON THE LAW THEN AT SOME
13 OTHER TIME AND SOME OTHER PLACE THAT WILL BE REVIEWED
14 AND CORRECTED. SO, ANYTIME YOU ARE IN THE TRIAL AND
15 YOU CAN'T HEAR A WITNESS OR YOU NEED A BREAK, JUST
16 SIMPLY RAISE YOUR HAND. I'LL TRY TO TAKE A BREAK
17 ABOUT EVERY HOUR OR HOUR AND A HALF, BUT SOMETIMES YOU
18 MAY NEED ONE QUICKER THAN THAT. AND IF YOU'RE
19 UNCOMFORTABLE YOU'RE NOT PAYING ATTENTION. SO, IF YOU
20 NEED A BREAK RAISE YOUR HAND, WE'LL STOP, YOU CAN GO
21 BACK IN THE JURY ROOM AND TAKE A BREAK, WE'LL COME
22 BACK OUT AND CONTINUE THE TESTIMONY IN THIS CASE.

23 I WILL INSTRUCT YOU, THIS CASE WILL PROBABLY
24 GO INTO TOMORROW, AND SO, AND I'M GOING TO TELL YOU
25 THROUGHOUT THIS TRIAL, DON'T DISCUSS THIS CASE WITH

1 ANYONE OR ALLOW ANYONE TO DISCUSS IT WITH YOU. THAT
2 EVEN INCLUDES YOUR FELLOW JURORS. AND I KNOW WHEN YOU
3 GO BACK TO THE JURY ROOM MAYBE IF YOU'VE HEARD AN
4 HOUR'S WORTH OF TESTIMONY, YOU'VE HEARD FROM ONE
5 WITNESS AND YOU WANT TO GO BACK IN THE JURY ROOM, AND
6 IT'S A TENDENCY DURING THE BREAK TO TALK ABOUT THE
7 CASE OR TALK ABOUT WHAT THAT WITNESS SAID. AND YOU
8 CAN'T DO THAT. AND HERE'S THE REASON YOU CAN'T DO
9 THAT, BECAUSE IF YOU DO THEN YOU'RE GOING TO LATER IN
10 THE CASE, AT THE END OF THE CASE YOU'RE GOING TO WANT
11 TO DEFEND THAT OPINION YOU HAD EARLY ON IN THE CASE
12 THAT YOU EXPRESSED TO YOUR FELLOW JURORS. AND THAT
13 WOULD BE IMPROPER, BECAUSE I DON'T WANT YOU TO START
14 FORMING AN OPINION ABOUT THIS CASE UNTIL YOU'VE HEARD
15 ALL THE CASE, UNTIL YOU'VE ALL OF THE EVIDENCE THAT'S
16 PRESENTED TO YOU AS WELL AS THE LAW THAT I'M GOING TO
17 CHARGE YOU WITH, AND THEN AND ONLY THEN WILL IT BE
18 PROPER FOR YOU TO START TALKING ABOUT IT, BECAUSE THEN
19 AND ONLY THEN WILL YOU BE IN A POSITION TO FORM AN
20 OPINION ON THE TRUE FACTS IN THIS CASE. SO, I WANT
21 YOU TO KEEP AN OPEN MIND THROUGHOUT THIS CASE, AND
22 THEREFORE, IF YOU TALK ABOUT IT, SOMETIMES IT CLOSES
23 CERTAIN DOORS AND YOU WANT TO DEFEND AN OPINION THAT
24 MAY BE WRONG THAT YOU'VE HEARD EARLY ON IN THE CASE.
25 SO, THAT'S WHY YOU CAN'T TALK ABOUT IT. AND WHEN YOU

1 GO HOME TONIGHT YOUR FAMILY'S GOING TO WANT TO KNOW
2 WHAT YOU'VE BEEN DOING ALL DAY. AND IF YOU TELL THEM,
3 IF IT'S ANYTHING LIKE MY FAMILY THEY WILL HAVE AN
4 OPINION ABOUT IT. AND THEY HAVEN'T BEEN HERE, AND
5 USUALLY THAT OPINION IS GOING TO BE WRONG. SO, I DON'T
6 WANT YOU TO EVEN GET THE BENEFIT OF THEIR OPINION
7 UNTIL AFTER -- BECAUSE YOU'VE GOT TO DECIDE THIS CASE
8 AND YOU'RE THE ONLY ONE THAT'S BEEN IN THE COURTROOM.
9 AFTER THE CASE IS OVER WITH YOU CAN TALK TO ANYBODY
10 YOU WANT TO ABOUT IT AND YOU CAN TELL YOUR FAMILY WHAT
11 YOU DID OR DIDN'T DO, AND GET THEIR OPINION. BUT
12 YOU'VE TAKEN AN OATH AND IT'S IMPORTANT TO THE STATE
13 OF SOUTH CAROLINA AND THIS DEFENDANT THAT THEY BOTH
14 RECEIVE A FAIR AND IMPARTIAL TRIAL AND THAT YOU HAVE
15 AN OPEN MIND AND DECIDE THIS CASE BASED ON THE FACTS
16 THAT COME BEFORE YOU.

17 NOW, THE ATTORNEYS ARE GOING TO GET UP AND
18 MAKE AN OPENING STATEMENT TO YOU. THE SOLICITOR HAS
19 THE BURDEN OF PROOF AND HE WILL GO FIRST. AND THE
20 OPENING STATEMENT IS SIMPLY HIS ROAD MAP OR HIS
21 EXPLAINING TO YOU WHAT HE THINKS THE ISSUES ARE IN
22 THIS CASE. AND AFTER THAT THE DEFENSE COUNSEL HAS A
23 RIGHT TO GET UP AND MAKE AN OPENING STATEMENT. HE
24 DOESN'T HAVE TO BECAUSE THE BURDEN OF PROOF IS ON THE
25 STATE, BUT MOST OF THE TIMES THEY DO, AND EXPLAIN TO

1 YOU WHAT THEY THINK THE ISSUES ARE IN THIS CASE.
2 AFTER THAT YOU WILL HEAR THE TESTIMONY. AFTER YOU'VE
3 HEARD ALL THE TESTIMONY OF THE CASE THEN YOU WILL HEAR
4 THE CLOSING ARGUMENTS OF THE ATTORNEYS, AND AT THAT
5 TIME THEY WILL ARGUE TO YOU AS TO WHAT THEY THINK THE
6 FACTS SHOW IN THIS CASE. THEN I WILL CHARGE YOU ON THE
7 LAW AND GIVE YOU THIS CASE TO DECIDE.

8 AS I TOLD YOU EARLIER, THE ATTORNEYS'
9 OPENING STATEMENTS AND CLOSING STATEMENTS ARE NOT
10 EVIDENCE. YOU WILL HEAR THIS EVIDENCE FROM THIS
11 WITNESS STAND OR ANY EXHIBITS THAT ARE INTRODUCED.

12 SO, HAVING SAID THAT, IF YOU WILL PAY CLOSE
13 ATTENTION TO THE ATTORNEYS WE WILL GET STARTED.

14 SOLICITOR.

15 SOLICITOR SORENSON: THANK YOU, MAY IT PLEASE
16 THE COURT. MR. CHANDLER.

17 OPENING STATEMENT BY SOLICITOR SORENSON

18 GOOD AFTERNOON, LADIES AND GENTLEMEN.
19 THERE'S AN OLD SAYING, A MAN'S HOME IS HIS CASTLE, A
20 MAN'S HOME IS HIS CASTLE. VERY SIMPLY WHAT THAT
21 MEANS, LADIES AND GENTLEMEN, IS THAT EVERY ONE OF US
22 HAS A RIGHT WHEN WE GO HOME, GO BEHIND OUR DOORS,
23 CLOSE OUR DOORS, TO BE SAFE. IT'S THE ONE PLACE IN
24 THIS WORLD, NO MATTER HOW BAD IT GETS OUTSIDE, THAT
25 EVERY ONE OF US SHOULD FEEL AND SECURE IS IN OUR OWN

1 HOME. BACK IN SEPTEMBER OF TWO THOUSAND NINE, TIFFANY
2 AND CRUZ MOORER FELT SAFE IN THEIR HOME IN CORDOVA.
3 ON THE EVENING OF SEPTEMBER TWENTY-NINTH OF TWO
4 THOUSAND NINE, HOWEVER, THAT MAN, ADRIAN JERMAINE
5 DARBY, AND ANOTHER MAN BY THE NAME OF QUINTON GREEN
6 TOOK AWAY THAT SENSE OF SAFETY AND SECURITY FROM
7 TIFFANY AND CRUZ AND THE REST OF THEIR FAMILY.

8 NOW, AS HIS HONOR TOLD YOU EARLIER, MY NAME
9 IS DON SORENSON, AND I'M THE ASSISTANT SOLICITOR HERE
10 IN ORANGEBURG COUNTY, AND IT'S MY JOB TO REPRESENT THE
11 PEOPLE OF ORANGEBURG COUNTY IN THE PROSECUTION OF MR.
12 DARBY. AND MR. DARBY, BASED ON, BECAUSE OF HIS
13 ACTIONS BACK ON SEPTEMBER TWENTY-NINTH OF TWO THOUSAND
14 NINE, HAS BEEN CHARGED, AS YOU'VE BEEN TOLD, WITH TWO
15 SEPARATE INDICTMENTS, ONE COUNT OF BURGLARY IN THE
16 FIRST DEGREE, AND ONE COUNT OF ASSAULT AND BATTERY OF
17 A HIGH AND AGGRAVATED NATURE. AND THE FIRST THING I
18 WANT TO DO IS TAKE A FEW MOMENTS AND JUST TALK TO
19 Y'ALL A LITTLE BIT ABOUT WHAT THOSE TWO, WHAT THOSE
20 TWO CHARGES ARE, WHAT THE ELEMENTS THAT WE HAVE TO
21 PROVE TO YOU ARE UNDER THOSE TWO CHARGES.

22 BURGLARY IN THE FIRST DEGREE, LADIES AND
23 GENTLEMEN, IS WHEN YOU GO INTO SOMEBODY'S ELSE HOME,
24 WITHOUT THEIR CONSENT, WITH THE INTENT TO COMMIT A
25 CRIME THEREIN. THAT'S BURGLARY. WHAT ELEVATES IT TO

1 BURGLARY IN THE FIRST DEGREE IS IF THERE'S SOME SORT
2 OF AGGRAVATING CIRCUMSTANCE PRESENT. IN THIS CASE THE
3 AGGRAVATING CIRCUMSTANCES THAT WE HAVE ALLEGED ARE
4 THAT MR. DARBY OR THE OTHER INDIVIDUAL THAT WAS WITH
5 HIM, MR. GREEN, WERE ARMED WITH A DEADLY WEAPON. AND
6 YOU'RE GOING TO HEAR TESTIMONY HOW BOTH OF THEM, WHEN
7 THEY WENT INTO THE MOORER'S HOME THAT NIGHT, WERE
8 ARMED WITH FIREARMS. AND ANOTHER AGGRAVATING
9 CIRCUMSTANCE CAN BE IF SOMEBODY WHO IS NOT A
10 PARTICIPANT IN THE CRIME, ONE OF THE VICTIMS, IS
11 INJURED DURING THE COMMISSION OF THAT BURGLARY. AND
12 YOU'RE GOING TO HEAR TESTIMONY HOW MR. MOORER WAS
13 BEATING THAT NIGHT WITH ONE OF THOSE WEAPONS, HAD TO
14 RECEIVE TREATMENT BY EMS FOR SOME CUTS, ABRASIONS AND
15 BRUISES THAT HE HAD RECEIVED AND HAD TO BE TRANSFERRED
16 BY EMS TO THE HOSPITAL. SO, THAT'S BURGLARY IN THE
17 FIRST DEGREE. IT'S THE UNLAWFUL ENTRY INTO ANOTHER
18 PERSON'S HOME WITHOUT THEIR CONSENT, ACCOMPANIED BY
19 SOME CIRCUMSTANCES OF AGGRAVATION.

20 ALRIGHT, THE SECOND OFFENSE THAT MR. DARBY
21 IS CHARGED WITH IS ASSAULT AND BATTERY OF A HIGH AND
22 AGGRAVATED NATURE. AND I NEED TO BREAK THAT DOWN
23 BASICALLY INTO TWO DIFFERENT THINGS. ASSAULT AND
24 BATTERY, AN ASSAULT AND BATTERY IS ESSENTIALLY
25 UNLAWFUL TOUCHING. IF I WENT UP TO INVESTIGATOR JONES

1 WITH THE SHERIFF'S OFFICE, IF I WENT UP TO HIM AND HIT
2 HIM, PUNCHED HIM IN THE SHOULDER, PUSHED HIM, THAT IS
3 AN ASSAULT AND BATTERY. OKAY. ASSAULT AND BATTERY OF
4 A HIGH AND AGGRAVATED NATURE IS THAT ACCOMPANIED BY
5 YET AGAIN SOME CIRCUMSTANCES OF AGGRAVATION. IN THIS,
6 THE FACT THAT A DEADLY WEAPON WAS USED, THAT MR.
7 MOORER, WHO WAS THE VICTIM OF THE ABHAN, THE ASSAULT
8 AND BATTERY OF A HIGH AND AGGRAVATED NATURE, WAS
9 BEATEN WITH A FIREARM, A DEADLY. THE FACT THAT HE
10 RECEIVE SERIOUS BODILY INJURY, THE FACT THAT HE WAS
11 BEATEN ABOUT THE HEAD AREA, RECEIVING CUTS AND
12 ABRASIONS FROM BEING HIT WITH THOSE WEAPONS. THAT'S
13 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE.

14 NOW, LADIES AND GENTLEMEN, AS HIS HONOR
15 INSTRUCTED YOU, WE HAVE THE BURDEN OF PROOF, AS IT IS
16 IN EVERY CRIMINAL CASE IN OUR GREAT COUNTRY. THE
17 STATE HAS THE BURDEN OF PROOF AND THAT'S HOW IT SHOULD
18 BE. VERY SIMPLY WHAT THAT MEANS IS, WE HAVE TO PROVE
19 TO YOU THROUGH THE EVIDENCE THAT WE PRESENT FROM THIS
20 WITNESS STAND MR. DARBY'S GUILT ON BOTH OF THOSE
21 CHARGES BEYOND A REASONABLE DOUBT. OKAY? NOTICE, I
22 DIDN'T SAY BEYOND EVERY POSSIBLE DOUBT, EVERY SHADOW
23 OF A DOUBT -- BEYOND A REASONABLE DOUBT. VERY SIMPLY
24 WHAT THAT MEANS, LADIES AND GENTLEMEN, IS WHEN YOU GET
25 BACK AFTER YOU'VE HEARD ALL THE EVIDENCE IN THIS CASE,

1 YOU'VE HEARD THE ARGUMENTS FROM MYSELF AND MR.
2 CHANDLER, AND WHEN YOU GET BACK IN THAT JURY ROOM AND
3 BEGIN YOUR DELIBERATIONS, IF YOU FIND THAT YOU ARE
4 FIRMLY CONVINCED, FIRMLY CONVINCED OF MR. DARBY'S
5 GUILT, THEN UNDER YOUR OATH YOU HAVE A DUTY TO FIND
6 HIM GUILTY. IF, HOWEVER, YOU FIND THAT WE HAVE NOT
7 PROVEN TO YOU, THAT THERE IS A REAL POSSIBILITY THAT
8 HE IS NOT GUILTY, I SUBMIT TO YOU JUST LIKEWISE, YOU
9 HAVE A DUTY UNDER THE OATH YOU JUST TOOK A FEW MOMENTS
10 AGO TO FIND HIM NOT GUILTY.

11 SO, YOU MAY ASK, WELL, HOW ARE WE GOING TO
12 GO ABOUT PROVING TO YOU WHAT HAPPENED BACK ON THE
13 EVENING OF SEPTEMBER TWENTY-NINTH OF TWO THOUSAND
14 NINE? THE WAY WE'RE GOING TO DO THAT IS, WE'RE GOING
15 TO CALL WITNESSES AND THEY'RE GOING TO COME UP HERE,
16 PUT THEIR HAND ON THAT BIBLE, TAKE AN OATH TO TELL YOU
17 THE TRUTH, AND TELL YOU WHAT HAPPENED IN THAT HOME
18 THAT NIGHT. YOU'RE GOING TO HEAR FROM TIFFANY AND
19 CRUZ MOORER, WHOSE HOME IT WAS. YOU'RE GOING TO HEAR
20 HOW BACK IN SEPTEMBER OF TWO THOUSAND NINE THEY WERE
21 LIVING IN A MOBILE HOME PARK IN CORDOVA, HERE IN
22 ORANGEBURG COUNTY, AND AT THAT TIME THEY WERE LIVING
23 WITH TIFFANY'S TWO SMALL GIRLS, HER EIGHT YEAR OLD
24 SHANINAH, HER FIVE YEAR OLD, KIKI. YOU'RE GOING TO
25 HEAR HOW ALSO HER BROTHER, JOHNATHAN, WAS STAYING WITH

1 THEM, AND HER MOTHER ALSO. OKAY? YOU'RE GOING TO
2 HEAR IT WAS BASICALLY SIX OF THEM STAYING IN THAT
3 MOBILE HOME. YOU'RE GOING TO HEAR HOW BACK AT THAT
4 TIME THEY KNEW MR. DARBY. TIFFANY WILL TELL YOU THAT
5 SHE'S KNOWN HIM FOR A LONG TIME, HE IS RELATED TO HER
6 SISTER, I BELIEVE, SOMEHOW THROUGH MARRIAGE, AND THAT
7 BACK PRIOR TO SEPTEMBER OF TWO THOUSAND NINE THEY
8 CONSIDERED HIM TO BE A FRIEND OF THEIR FAMILY. BUT
9 YOU'RE GOING TO HEAR HOW THE NIGHT BEFORE HE HAD COME
10 AND SOLD SOME MARIJUANA TO CRUZ, AND SOMETIME AFTER
11 THAT CAME BACK TO THE HOME, TO THEIR HOME AND TOLD
12 THEM THAT HE HAD BEEN ROBBED. YOU'RE GOING TO HEAR
13 HOW THAT BASICALLY SET INTO THAT, INTO MOTION THESE
14 EVENTS THAT OCCURRED THE FOLLOWING NIGHT ABOUT
15 SEVEN:THIRTY. THEY'RE GOING TO TELL YOU THAT THAT
16 FOLLOWING NIGHT HE HAD BASICALLY BEEN LOOKING FOR THEM
17 AND BELIEVED THAT CRUZ WAS SOMEHOW INVOLVED IN HIM
18 GETTING ROBBED AFTER SELLING HIM THAT MARIJUANA THE
19 NIGHT BEFORE. YOU'RE GOING TO HEAR HOW, THEY'RE GOING
20 TO TELL YOU THERE WAS A KNOCK ON THE DOOR. YOU'RE
21 GOING TO HEAR FORM TIFFANY'S BROTHER, JOHNATHAN, WHO
22 WAS SIXTEEN AT THE TIME, HOW HE WENT TO THE DOOR AND
23 SAW AN INDIVIDUAL THAT HE DID NOT RECOGNIZE AT THE
24 DOOR, AND AT THAT POINT IN TIME CRUZ CAME TO THE DOOR
25 ALSO, AND AT THAT POINT IN TIME SAW THIS INDIVIDUAL

1 PULL OUT A GUN. THE TWO OF THEM BOTH FLED INTO THE
2 HOUSE IN SEPARATE DIRECTIONS, HOW THAT INDIVIDUAL WHO
3 WAS LATER IDENTIFIED AS A MAN BY THE NAME OF QUINTON
4 GREEN CAME INTO THE HOME WITH A PISTOL AND HOW THAT
5 MAN, MR. DARBY, CAME INTO THE HOME WITH A SHOT GUN,
6 HOW AT THAT POINT IN TIME HELD THEIR CHILDREN AT BAY
7 WITH THAT SHOT GUN, HOW THEY BEGAN BEATING UP MR.
8 MOORER. SEVERAL SHOTS WERE FIRED IN THE HOME THAT
9 NIGHT BEFORE THE TWO OF THEM FLED. YOU'RE GOING TO
10 HEAR HOW EMS ARRIVED OUT THERE TO TREAT HIM AND TAKE
11 HIM TO THE HOSPITAL FOR, AS I SAID, THE CUTS AND
12 ABRASIONS THAT HE SUFFERED AS A RESULT. YOU'RE GOING
13 TO HEAR FROM LAW ENFORCEMENT THAT ARRIVED OUT THERE.
14 WE'RE GOING TO SHOW YOU PICTURES OF THE DAMAGE THAT
15 WAS DONE INSIDE THE HOME, MULTIPLE BULLET HOLES,
16 COFFEE TABLE THAT WAS BROKEN, A CHAIR KNOCKED, AND
17 STUFF, ITEMS KNOCKED OVER IN THE LIVING ROOM. THAT'S
18 GOING TO BE THE EVIDENCE THAT YOU'RE GOING TO HEAR
19 OVER THE NEXT DAY OR SO FROM THAT WITNESS STAND, AND I
20 SUBMIT TO YOU IS GOING TO PROVE TO YOU NOT ONLY BEYOND
21 A REASONABLE DOUBT BUT BEYOND ANY DOUBT, ANY DOUBT,
22 MR. DARBY'S GUILT ON THESE TWO CHARGES.

23 NOW, LADIES AND GENTLEMEN, THIS ISN'T GOING
24 TO BE -- YOU KNOW, THIS ISN'T GOING TO BE -- YOU KNOW,
25 SOMETIMES I THINK WE WATCH T.V., WE READ ABOUT IT ON

1 THE NEWS AND WE HEAR ABOUT THESE TRIALS THAT SEEM TO
2 TAKE FOREVER, AND THEY'RE STILL, YOU READ ABOUT IT ONE
3 DAY, YOU KNOW, YOU'RE READING IN THE NEWS, THREE
4 MONTHS LATER AND THE TRIAL IS STILL GOING ON. THIS
5 ISN'T GOING TO BE THAT CASE. I MEAN, THIS IS GOING TO
6 FINISH UP SOMETIME HOPEFULLY TOMORROW IF EVERYTHING
7 GOES AS SMOOTHLY AS I BELIEVE IT WILL. BUT LADIES AND
8 GENTLEMEN, LET'S NOT CONFUSE THAT WITH HOW IMPORTANT
9 THIS MATTER IS TO EVERYBODY INVOLVED, HOW IMPORTANT IT
10 IS TO THAT YOUNG COUPLE AND JUST HOW IMPORTANT IT IS
11 TO MR. DARBY. ALRIGHT.

12 AS HIS HONOR TOLD YOU, JUDGE COTHRAN IS THE
13 JUDGE OF THE LAW IN THIS CASE, AND AT THE CLOSE OF THE
14 EVIDENCE WHEN WE GET DONE PUTTING ALL THE WITNESSES UP
15 TO TESTIFY, AFTER THE ATTORNEYS HAVE GIVEN THEIR
16 CLOSING ARGUMENTS JUDGE COTHRAN IS GOING TO CHARGE YOU
17 ON THE LAW OF THE CASE. VERY SIMPLY, HE'S GOING TO
18 TELL YOU WHAT THE APPROPRIATE LAW IS. NOW, LADIES AND
19 GENTLEMEN, IF AT ANY POINT IN TIME I SAY SOMETHING
20 THAT DIFFERS FROM WHAT JUDGE COTHRAN TELLS YOU, UNDER
21 YOUR OATH YOU'RE REQUIRED TO TAKE THE LAW ACCORDING TO
22 JUDGE COTHRAN. THAT IS THE ONLY LAW THAT APPLIES IN
23 THIS MATTER.

24 BUT JUST LIKE JUDGE COTHRAN IS THE JUDGE OF
25 THE LAW IN THIS CASE, THE TWELVE OF YOU ALSO ARE

1 JUDGES. YOU MAY NOT HAVE REALIZED THAT WHEN YOU
2 SHOWED UP THIS MORNING THAT THIS IS WHAT YOU WERE
3 GOING TO -- HAVE GOTTEN YOURSELVES INTO. BUT JUST
4 LIKE HE IS THE JUDGE OF THE LAW, THE TWELVE OF YOU ARE
5 THE JUDGES OF THE FACTS, BECAUSE IT IS YOU AND YOU
6 ALONE, THE TWELVE OF YOU THAT ULTIMATELY ARE GOING TO
7 TELL US THROUGH YOUR VERDICT WHAT HAPPENED BACK ON
8 SEPTEMBER TWENTY-NINTH OF TWO THOUSAND AND NINE. AND
9 I'M GOING TO GO IN, I'LL HAVE AN OPPORTUNITY TO TALK
10 TO YOU AFTER ALL THE EVIDENCE IS PRESENTED, AND I'LL
11 GO A LITTLE MORE INTO HOW YOU GO ABOUT DOING THAT, BUT
12 THE ONE THING I JUST ASK YOU TO KIND OF KEEP IN MIND,
13 LADIES AND GENTLEMEN, WHEN YOU SHOWED UP THIS MORNING
14 THE ONE THING THAT YOU HAD WHEN YOU HAD WHEN YOU LEFT
15 YOUR HOUSE, AND I SUBMIT TO YOU, YOU HAVE AS YOU SIT
16 HERE TODAY INTO TOMORROW IS YOUR COMMON SENSE. THAT'S
17 ONE THING I'D JUST ASK YOU TO KEEP IN MIND, LADIES AND
18 GENTLEMEN, BECAUSE THAT'S REALLY ALL THIS BOILS DOWN
19 TO IS JUST GOOD OLD COMMON SENSE.

20 I APPRECIATE THE ATTENTION YOU'VE SHOWN TO
21 ME AND I'M SURE YOU'LL GIVE MR. CHANDLER THE SAME
22 ATTENTION. THANK YOU.

23 THE COURT: MR. CHANDLER.

24 MR. CHANDLER: MAY IT PLEASE THE COURT.

25 THE COURT: YES, SIR.

1 MR. CHANDLER: SOLICITOR SORENSON.

2 OPENING STATEMENT BY MR. CHANDLER

3 MEMBERS OF THE JURY PANEL, ON AUGUST TWENTY-
4 EIGHTH, TWO THOUSAND NINE, MY CLIENT, ADRIAN DARBY,
5 WENT TO THE HOME OF SOME FRIENDS OF HIS WHO SELL
6 MARIJUANA. HE WENT TO THE MARIJUANA HOME AND HE
7 PURCHASED A CONTENT OF MARIJUANA. WHEN HE LEFT THE
8 FRIEND'S HOUSE HE WAS ROBBED, AND AS A RESULT OF BEING
9 ROBBED HE FELT LIKE HE WAS BEING SET UP. BECAUSE OF
10 HIS CLOSE RELATIONSHIP WITH MR. AND MRS. MOORER, WHO
11 SELLS MARIJUANA TO HIM HE WAS CONCERNED ABOUT IT. SO,
12 ON THE FOLLOWING DAY HE COMES UP TO THE HOUSE, HE'S
13 INVITED IN, HE GETS IN AN ARGUMENT WITH MR. MOORER,
14 GETS INTO A FIGHT WITH MR. MOORER, AND DURING THE
15 FIGHT HIS FRIEND WHO WAS IN THE CAR HEARS THE
16 COMMOTION, COMES IN WITH A PISTOL, AND CAUSES ALL OF
17 THE COMMOTION THAT YOU WILL SEE AND THE PICTURES AND
18 THE DISRUPTION IN THE HOUSE.

19 MY CLIENT IS NO BOY SCOUT. HE SMOKES
20 MARIJUANA. HE BUYS IT FROM MR. AND MRS. MOORER. HE
21 WENT IN THAT HOUSE BECAUSE HE WANTED TO TALK TO HIS
22 FRIENDS WHO SAT HIM UP THE DAY BEFORE. AFTER BEING
23 INVITED INTO THAT HOUSE HE GOT IN THAT FIGHT AND AS A
24 RESULT A GUY THAT WAS RIDING WITH HIM CAME IN AND DID
25 THE SHOOTING IN THE HOUSE. MY CLIENT IS NO BOY SCOUT

1 BUT HE'S NOT GUILTY OF ASSAULT AND BATTERY OF A HIGH
2 AND AGGRAVATED NATURE, AND HE CERTAINLY IS NOT GUILTY
3 OF BURGLARY IN THE FIRST DEGREE.

4 MY NAME IS EVERETT CHANDLER, AND I HAVE A
5 SMALL LAW FIRM IN AIKEN, SOUTH CAROLINA. AND ADRIAN
6 DARBY HIRED ME BECAUSE HE IS NOT GUILTY OF THESE
7 CHARGES. AND HE HIRED ME TO REPRESENT HIM ON THESE
8 CHARGES BECAUSE QUINTON GREEN, WHO IS THE YOUNG MAN
9 THAT CAME IN AND DID THE SHOOTING, DID THE SHOOTING,
10 ASSAULTED MR. MOORER, AND AS A RESULT NOW MY CLIENT,
11 NOT MR. GREEN, IS BEING CHARGED.

12 THROUGHOUT THE COURSE OF THIS CASE, AND THIS
13 CASE IS VERY IMPORTANT TO MY CLIENT, WE'RE GOING TO
14 ASK YOU TO DO THREE THINGS. THE FIRST THING, AS THE
15 SOLICITOR ALREADY ALLUDED TO IS, WE WANT YOU TO LISTEN
16 CAREFULLY TO ALL OF THE EVIDENCE THAT IS GOING TO BE
17 PRESENTED OVER THE LAST, OVER THE NEXT COUPLE OF DAYS.
18 THIS CASE IS VERY IMPORTANT TO MY CLIENT AS IT IS TO
19 THE STATE, SO WE WANT YOU TO LISTEN CAREFULLY TO ALL
20 OF THE EVIDENCE THAT'S PRESENTED.

21 THE SECOND THING THAT WE WANT YOU TO DO IS
22 TO USE YOUR EVERY DAY EXPERIENCES. THE SOLICITOR
23 CALLS IT YOUR COMMON SENSE. WELL, I'M NOT GOING TO
24 SAY COMMON SENSE TO YOU BUT I WILL SAY YOUR EVERY DAY
25 EXPERIENCES. YOU WERE CHOSEN AS YOU KNOW, SOME OF YOU

1 TWICE, BY BOTH PARTIES IN ORDER, BECAUSE WE THOUGHT
2 THAT YOU COULD FAIRLY LISTEN TO THE EVIDENCE, APPLY
3 YOUR EVERY DAY EXPERIENCES, LOOK AT THE LAW THAT'S
4 GOING TO BE PRESENTED BY THE JUDGE IN THIS CASE, AND
5 APPLY IT FAIRLY, AND WE'RE GOING TO ASK THAT YOU DO
6 THAT.

7 THE THIRD AND FINAL THING WE'RE GOING TO ASK
8 YOU TO DO IS COME BACK WITH A VERDICT NOT JUST FOR OUR
9 CLIENT, NOT FOR THE STATE, BUT COME BACK WITH A
10 VERDICT THAT SPEAKS THE TRUTH. AND THE TRUTH IS, MY
11 CLIENT IS NO BOY SCOUT, HE WENT TO THE DRUG HOUSE
12 WHERE HE NORMALLY BUYS DRUGS, HE THOUGHT HE WAS SET
13 UP, HE WENT TO HIS FRIENDS TO FIND OUT WHAT HAPPENED,
14 HE GOT IN A PHYSICAL -- A VERBAL AND THEN A PHYSICAL
15 ALTERCATION WITH CRUZ MOORER, AND THEN AFTER THAT
16 PHYSICAL ALTERCATION A GUY NAMED QUINTON GREEN CAME IN
17 AND STARTED DOING THE SHOOTING AND ASSAULTED MR.
18 MOORER. THAT'S WHAT HAPPENED, THAT IS THE TRUTH. AND
19 BECAUSE OF THAT TRUTH MY CLIENT IS NEITHER GUILTY OF
20 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE,
21 AND NEITHER IS HE GUILTY OF BURGLARY, FIRST. WE NEED
22 YOU TO FIND THAT TRUTH.

23 THANK YOU SO MUCH.

24 THE COURT: OKAY, SOLICITOR.

25 SOLICITOR SORENSON: THE STATE CALLS TIFFANY

1 MOORER.

2 CLERK: MA'AM, PUT YOUR LEFT HAND ON THE
3 BIBLE AND RAISE YOUR RIGHT HAND.

4 (Whereupon, Tiffany Michelle Moorer
5 is duly sworn.)

6 CLERK: YOU CAN HAVE A SEAT AND STATE YOUR
7 FULL NAME FOR THE COURT.

8 WITNESS: TIFFANY MICHELLE MOORER.

9 (NOTE: Blank lines on this page do not indicate any
10 part of record has been omitted. Headers on testimony
11 pages and hard page breaks between testimony are now
12 required by the Court. See next ensuing page for
13 sequential continuation of record.)

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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DIRECT EXAMINATION OF TIFFANY M. MOORER

BY SOLICITOR SORENSON:

Q. GOOD AFTERNOON, MS. MOORER.

A. HELLO.

Q. IF YOU WOULD, TELL THE JURY HOW OLD YOU ARE?

A. TWENTY-SIX.

Q. TWENTY-THREE?

A. TWENTY-SIX.

Q. TWENTY-SIX. AND I'M GOING TO KIND OF GET THIS
OUT OF THE WAY, BACK IN TWO THOUSAND AND SIX WERE
YOU CONVICTED OF TWO COUNTS OF FORGERY BACK IN
TWO THOUSAND SIX?

A. UH-HUH.

Q. ALRIGHT. LET ME ASK YOU THIS, TIFFANY, WHERE DID
YOU GROW UP?

A. I GREW UP IN A RESERVATION WITH HIS, WELL, AT THE
END OF GOLF, IT'S NEWMAN STREET.

Q. OKAY. AND ARE YOU MARRIED?

A. YES.

Q. OKAY. AND TO WHOM ARE YOU MARRIED?

A. CRUZ MOORER.

Q. OKAY. IS THAT CRUZ SITTING IN THE FRONT ROW IN
THE WHITE SHIRT THERE?

A. UH-HUH.

Q. AND HOW LONG HAVE THE TWO OF YOU BEEN MARRIED?

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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- 1 A. FOR TWO YEARS, TOGETHER FOR FIVE.
- 2 Q. OKAY. AND TIFFANY, DO YOU HAVE ANY CHILDREN?
- 3 A. UH-HUH.
- 4 Q. NOW, HOW MANY CHILDREN DO YOU HAVE?
- 5 A. I HAVE TWO.
- 6 Q. WHAT ARE YOUR CHILDREN'S NAMES?
- 7 A. Shaninah B. AND KIASHA RAYSOR.
- 8 Q. OKAY. AND HOW OLD IS SHANINAH?
- 9 A. SHE'S EIGHT.
- 10 Q. AND HOW ABOUT, WHAT'S THE OTHER DAUGHTER?
- 11 A. KIASHA.
- 12 Q. KIASHA, IS THERE A NICK NAME THAT SHE GOES BY?
- 13 A. KIKI.
- 14 Q. KIKI. HOW OLD IS KIKI?
- 15 A. SIX NOW.
- 16 Q. AND BACK -- TIFFANY, BACK IN SEPTEMBER OF TWO
- 17 THOUSAND NINE, WHERE WERE YOU LIVING AT THAT
- 18 TIME?
- 19 A. IN PINE VIEW TRAILER PARK.
- 20 Q. AND WHERE IS PINE VIEW TRAILER PARK LOCATED AT?
- 21 A. IN CORDOVA.
- 22 Q. IN CORDOVA. AND WHAT'S THE ADDRESS WHERE YOU
- 23 WERE LIVING AT THAT TIME?
- 24 A. ONE FOURTEEN SCARLET DRIVE.
- 25 Q. OKAY. AND CORDOVA IS HERE IN ORANGEBURG COUNTY?

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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1 A. UH-HUH.

2 Q. IS THAT CORRECT? ALRIGHT. AND BACK IN SEPTEMBER
3 OF TWO THOUSAND NINE WHEN YOU WERE IN PINE VIEW,
4 LIVING IN PINE VIEW TRAILER PARK, A MOBILE HOME
5 PARK, WHERE, OR WHO WAS LIVING WITH YOU AT THAT
6 TIME?

7 A. ME, MY HUSBAND, MY BROTHER, MY TWO CHILDREN AND
8 MY MOTHER.

9 Q. AND WHAT'S YOUR BROTHER'S NAME?

10 A. JOHNATHAN RAYSOR.

11 Q. OKAY. AND HOW OLD IS JOHNATHAN?

12 A. SEVENTEEN NOW.

13 Q. SO, HE WAS SIXTEEN A YEAR AGO?

14 A. UH-HUH.

15 Q. AND IF YOU WOULD, DESCRIBE TO THE JURY THE LAYOUT
16 OF THE MOBILE HOME THAT Y'ALL WERE LIVING IN BACK
17 THEN?

18 A. OKAY. WHEN YOU FIRST WALK THROUGH THE DOOR IT'S
19 A LIVING ROOM. YOU TURN TO YOUR LEFT, IT'S TWO
20 ROOMS, THE FIRST ONE IS MY DAUGHTERS' ROOM, AND
21 THE LAST ONE IS MY MOTHER'S ROOM. AND ON THE
22 RIGHT IT'S THE KITCHEN, WHICH THE KITCHEN AND
23 DINING ROOM ARE TOGETHER. AND THEN IT'S THE
24 LAUNDRY THAT IN THE LITTLE CUT, AND THEN IT'S MY
25 ROOM, AND THEN MY ROOM IS CONNECTED TO THE BATH

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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1 ROOM ON THE RIGHT HAND.

2 Q. OKAY. SO, YOU GO, AND LET ME JUST MAKE SURE I'VE
3 GOT THIS STRAIGHT HERE. SO, WHEN YOU COME IN THE
4 DOOR -- LET ME ASK YOU, SHOW YOU STATE'S EXHIBIT
5 NUMBER ONE, IS THAT THE PICTURE OF YOUR LIVING
6 ROOM RIGHT THERE?

7 A. UH-HUH.

8 Q. ALRIGHT. AND IT'S KIND OF, YOU USE THIS NOW TO
9 KIND OF ORIENT THE JURY. SO THAT, WHERE MY
10 FINGER IS, WHAT IS THAT?

11 A. THAT'S THE FRONT DOOR.

12 Q. THAT'S THE FRONT DOOR. ALRIGHT. SO, WHEN I COME
13 IN THE FRONT DOOR, LOOKING TO BACK HERE, IS THERE
14 A HALLWAY BACK THERE?

15 A. UH-HUH.

16 Q. WHAT'S DOWN THAT HALLWAY?

17 A. THE FIRST ROOM -- IT'S TWO ROOMS, WELL, IT'S
18 THREE ROOMS. THE FIRST ROOM IS MY KIDS' ROOM, THE
19 SECOND ROOM IS THE BATH ROOM, THE THIRD ROOM IS
20 MY MOTHER'S ROOM.

21 Q. SO, I'D BE, IF I CAME IN THE DOOR THAT WOULD BE
22 TO MY RIGHT, IS THAT CORRECT?

23 A. UH-HUH.

24 Q. IF I COME IN THE DOOR TO MY RIGHT?

25 A. YES, SIR.

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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1 Q. OKAY. SO THERE'S TWO BEDROOMS AND A BATH ROOM
2 DOWN THERE?

3 A. YES.

4 Q. OKAY. NOW, IS THERE ANOTHER BEDROOM THAT'S IN
5 THERE ALSO?

6 A. INSIDE THE HOUSE?

7 Q. YES.

8 A. UH-HUH.

9 Q. AND WHERE IS THAT BEDROOM LOCATED?

10 A. ON THE LEFT IS MY ROOM, WELL, IT'S SHOWN BY,
11 WELL, IT'S THE KITCHEN AND THEN THERE'S THE
12 LAUNDRY ROOM AND THEN IT'S MY ROOM.

13 Q. OKAY. SO, IF I CAME IN THAT DOOR AND WENT TO THE
14 LEFT WHAT WOULD I BE GOING INTO ONCE I WENT
15 THROUGH THE LIVING ROOM?

16 A. YOU WENT THROUGH THE KITCHEN.

17 Q. OKAY. I'M SHOWING YOU STATE'S EXHIBIT NUMBER
18 THREE, THEN, IS THAT THE KITCHEN?

19 A. UH-HUH.

20 Q. ALRIGHT. SO, I'D BE GOING THROUGH THE LIVING
21 ROOM, INTO THE KITCHEN, AND THEN IF I WENT
22 THROUGH THE KITCHEN WHERE WOULD I BE GOING?

23 A. INTO MY ROOM.

24 Q. OKAY. I'M SHOWING YOU WHERE MY FINGER IS
25 LOCATED, IS THAT YOUR BEDROOM BACK THERE WHERE MY

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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1 FINGER IS?

2 A. UH-HUH.

3 Q. DOWN ON THE FAR SIDE OF THE KITCHEN. IS THERE
4 ANOTHER BATH ROOM BACK, KIND OF A MASTER BATH
5 ROOM ALSO WITH THE - - -

6 A. YES, YES.

7 Q. --- THAT BEDROOM?

8 A. YES.

9 Q. ALRIGHT. NOW, TIFFANY, IF I COULD I WANT TO TURN
10 YOUR ATTENTION BACK TO THE NIGHT OF SEPTEMBER
11 TWENTY-NINTH OF TWO THOUSAND NINE. DO YOU
12 REMEMBER THAT EVENING, MA'AM?

13 A. THE NIGHT OF THE INCIDENT?

14 Q. YES, MA'AM.

15 A. UH-HUH.

16 Q. OKAY. DO YOU REMEMBER WHAT YOU WERE DOING THAT
17 NIGHT?

18 A. ME, MY BROTHER AND MY HUSBAND WAS IN A ROOM.

19 Q. OKAY, AND - - -

20 A. IN MY ROOM.

21 Q. OKAY. SO YOU WERE BACK IN THAT, KIND OF THAT
22 BACK BEDROOM?

23 A. YES.

24 Q. OKAY. AND WHERE -- LET ME ASK YOU, WAS YOUR
25 MOTHER HOME THAT DAY?

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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1 A. NO, SHE WAS AT WORK.

2 Q. AND HOW ABOUT YOUR -- SHANINAH AND KIKI, WERE
3 THEY HOME?

4 A. YES.

5 Q. OKAY. AND WHERE WERE THE TWO OF THEM?

6 A. I COULDN'T TELL YOU. I THINK THEY WERE IN EITHER
7 THEIR ROOM OR IN THEIR GRANDMOTHER'S ROOM LOOKING
8 AT T.V., BUT THEY WASN'T, NO ONE WAS IN THE
9 LIVING ROOM.

10 Q. OKAY. SO, NOBODY'S OUT IN THE LIVING ROOM?

11 A. NO.

12 Q. Y'ALL WERE IN ONE BEDROOM, AND WHAT WERE THE
13 THREE OF Y'ALL DOING?

14 A. NO, WE WAS JUST SITTING DOWN TALKING. MY BROTHER
15 JUST CAME IN FOR A MINUTE AND ME AND MY HUSBAND
16 WAS SITTING ON THE BED TALKING.

17 Q. OKAY. AND YOUR CHILDREN YOU BELIEVE WERE OFF IN
18 ONE OF THE OTHER BEDROOMS WATCHING T.V.?

19 A. YEAH, UH-HUH.

20 Q. OKAY. NOW, ABOUT SEVEN:THIRTY THAT EVENING DID
21 SOMETHING HAPPEN THAT NIGHT?

22 A. YES.

23 Q. OKAY. TELL THE JURY -- WELL, FIRST OF ALL, LET
24 ME START OFF, DO YOU KNOW THE DEFENDANT IN THIS
25 CASE, MR. DARBY?

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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- 1 A. YES.
- 2 Q. TELL THE JURY HOW YOU KNOW MR. DARBY?
- 3 A. MY MOTHER HAS A CHILD WITH MR. DARBY'S UNCLE AND
- 4 MY SISTER AND HIM ARE FIRST COUSINS.
- 5 Q. HOW LONG HAVE YOU KNOWN MR. DARBY?
- 6 A. MY WHOLE LIFE.
- 7 Q. AND LET ME ASK YOU, WHAT, WHAT NAME DID YOU KNOW
- 8 HIM BY?
- 9 A. J. D.
- 10 Q. J. D.?
- 11 A. JERMAINE, J.D., WHATEVER.
- 12 Q. SO, YOU KNEW HIM BY JERMAINE, WITH A NICK NAME OR
- 13 THE INITIALS, J.D.?
- 14 A. UH-HUH.
- 15 Q. AND HOW ABOUT, LET ME ASK YOU, DID HUSBAND KNOW
- 16 MR. DARBY?
- 17 A. YES.
- 18 Q. ALRIGHT. TELL THE JURY THEN THAT NIGHT WHAT
- 19 HAPPENED AROUND SEVEN:THIRTY THAT NIGHT?
- 20 A. IT WAS A KNOCK AT THE DOOR. MY BROTHER WENT TO
- 21 THE DOOR FIRST. SOMEBODY WAS SAYING A NAME BUT
- 22 THEY WASN'T SAYING IT LOUD ENOUGH SO HE COULD
- 23 HEAR IT, SO MY BROTHER OPENED THE DOOR. SOMEBODY
- 24 WAS STANDING THERE AND MY BROTHER WAS JUST NOT
- 25 SAYING NOTHING. SO, THE NEXT THING YOU KNOW MY

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1 HUSBAND GOT UP AND WENT TO THE DOOR. BY THIS
2 TIME I GUESS THEY SAW WHOEVER THEY SAW. I DIDN'T
3 SEE NOBODY, ALL I REALIZED IS I HEARD SOMEBODY
4 RUNNING, MY BROTHER TOOK OFF DOWN THE HALLWAY
5 WHERE MY CHILDREN WAS AT. MY HUSBAND CAME RUNNING
6 THROUGH THE ROOM DOOR AND WAS, LIKE, THEY HAD A
7 GUN. BY THE TIME I CAME -- WELL, BY THE TIME I
8 GOT OFF THE BED TO COME TO THE DOOR QUINTON
9 WALKED RIGHT PAST ME AND JERMAINE CAME UP AND HAD
10 A SHOT GUN TO MY FACE.

11 Q. AND YOU SAID INITIALLY THERE WAS A KNOCK AT THE
12 DOOR?

13 A. UH-HUH.

14 Q. WHAT DOOR WAS THAT?

15 A. THE FRONT DOOR.

16 Q. OKAY. SO, THAT'S THE DOOR DEPICTED IN STATE'S
17 NUMBER ONE?

18 A. UH-HUH.

19 Q. OKAY. AND WAS THAT DOOR -- BACK WHEN YOU WERE
20 BACK IN THE BEDROOM WAS THAT DOOR CLOSED, THAT
21 INTERIOR KIND OF SOLID DOOR?

22 A. YES.

23 Q. OKAY. ALRIGHT. SO, THERE WAS A KNOCK AT THE
24 DOOR AND BASICALLY YOUR BROTHER AND YOUR HUSBAND
25 BOTH GO OUT TO THE LIVING ROOM?

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1 A. UH-HUH.

2 Q. DID YOU GO OUT THERE?

3 A. NO, I NEVER WENT OUT THERE.

4 Q. SO, YOU DON'T KNOW WHAT HAPPENED AT THE DOOR?

5 A. NO, I JUST HEARD THE RUNNING, AND THAT'S WHAT
6 MADE ME GET UP OFF THE BED. AND BY THE TIME I
7 CAME THROUGH QUINTON WALKED RIGHT PAST ME AND
8 JERMAINE STAND UP, WELL I WAS IN FRONT OF THE
9 DOOR, WHICH I NEVER MOVED, SO I STAND THERE TO
10 THE FRONT DOOR WHILE HE WAS STANDING ON THE OUT
11 OF THE FRONT OF THE DOOR WHILE I WAS STANDING
12 INSIDE, AND HE HAD THE SHOT GUN TO MY FACE.

13 Q. AND BY THE DOOR, WHAT DOOR ARE YOU TALKING ABOUT?

14 A. MY ROOM DOOR, AND IT'S WHERE THE KITCHEN AND --
15 RIGHT THERE.

16 Q. OKAY. SO, THAT'S, SO YOU GOT UP BASICALLY TO
17 YOUR DOORWAY?

18 A. YEAH, I NEVER MOVED.

19 Q. OKAY. NOW, YOU SAID, QUINTON RAN BY YOU?

20 A. HE WALKED PAST ME.

21 Q. OKAY. WHO IS QUINTON?

22 A. THE OTHER PERSON. THAT'S, I DON'T KNOW HIM. MY
23 HUSBAND KNOW HIM, I DON'T KNOW HIM. I DON'T KNOW
24 HIM FROM SEEING HIM, KNOWING HIS NAME, NOTHING.

25 Q. OKAY. SO, YOU DIDN'T KNOW WHO THAT PERSON IS?

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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1 A. NO.

2 Q. YOU JUST KIND OF HEARD THAT NAME AFTER - - -

3 A. YES.

4 Q. --- AFTER THE FACT?

5 A. MY HUSBAND KNEW WHO HE WAS.

6 Q. OKAY. WHERE -- ALRIGHT, SO HE CAME WALKING PAST
7 YOU?

8 A. UH-HUH.

9 Q. WHERE HAD YOUR HUSBAND GONE?

10 A. IN THE BATH ROOM.

11 Q. OKAY. AND THE BATH ROOM, THAT WAS BACK IN YOUR
12 BEDROOM?

13 A. UH-HUH.

14 Q. LET ME SHOW YOU STATE'S EXHIBIT NUMBER SIX, DO
15 YOU RECOGNIZE THAT PHOTOGRAPH?

16 A. UH-HUH.

17 Q. WHAT'S THAT A PHOTOGRAPH OF?

18 A. THAT'S THE BATH ROOM.

19 Q. OKAY. AND THAT IS THE BATH ROOM WHERE - - -

20 A. WHERE MY ROOM WHERE THE T.V. IS AT, AND THE BATH
21 ROOM WHERE THE DOOR IS AT.

22 Q. OKAY. SO, THAT DOOR THAT'S DEPICTED AS GOING
23 FROM YOUR BEDROOM INTO - - -

24 A. NO, THAT DOOR IS TO THE BATH ROOM.

25 Q. RIGHT. SO, IT'S GOING FROM YOUR BEDROOM - - -

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- 1 A. UH-HUH.
- 2 Q. --- INTO THE BATH ROOM?
- 3 A. INTO THE BATHROOM.
- 4 Q. OKAY. AND THAT'S WHERE YOUR HUSBAND RAN TO THAT
- 5 NIGHT?
- 6 A. UH-HUH.
- 7 Q. OKAY. AND WHO, WHO WAS FOLLOWING AFTER HIM?
- 8 A. QUINTON CAME THROUGH BEHIND HIM AND THEY WERE IN
- 9 THE BATH ROOM. ME AND JERMAINE WERE STILL IN THE
- 10 DOOR TALKING.
- 11 Q. TELL THE JURY WHAT MR. DARBY WAS DOING?
- 12 A. HE WAS HOLDING A SHOT GUN AND WAS TALKING TO ME,
- 13 LIKE, IT WASN'T NOTHING WRONG THAT HE WAS DOING.
- 14 Q. BUT HE WAS POINTING A SHOT GUN AT YOU - - -
- 15 A. YES.
- 16 Q. --- IN YOUR HOME?
- 17 A. YES.
- 18 Q. NOW, DID YOU SEE AT THAT POINT IN TIME WHETHER
- 19 THIS OTHER INDIVIDUAL HAD A WEAPON ALSO?
- 20 A. YES, HE CAME -- WELL, BY THAT TIME, WELL,
- 21 JERMAINE TALKED TO ME STANDING TO THE DOOR FOR A
- 22 MINUTE, AND ABOUT THAT TIME MY HUSBAND AND
- 23 QUINTON WAS IN THE BATH ROOM AND I GUESS THE
- 24 FIGHT ALREADY STARTED. SO, WHEN JERMAINE HEARD
- 25 THE FIGHTING HE KICKED THE SIDE DOOR DOWN THE

1 BATH ROOM DOOR AND CAME IN. SO, ALL THREE OF
2 THEM WAS IN THE BATH ROOM. I STILL WAS IN THE
3 SAME PLACE, I NEVER MOVED.

4 Q. SO, YOU'RE STILL STANDING IN YOUR DOORWAY, SO NOW
5 ALL THREE OF THEM ARE IN THE BATH ROOM?

6 A. ALL THREE OF THEM WAS IN THE BATH ROOM.

7 Q. AND WHAT ARE THEY DOING IN THE BATH ROOM?

8 A. BY THIS TIME MY HUSBAND AND QUINTON ARE FIGHTING,
9 AND JERMAINE IS JUST STANDING THERE WITH THE SHOT
10 GUN. SO, BY THIS TIME THEY DONE HAD FIGHT AND
11 SOMEHOW THERE IN THE KITCHEN, SO BY THE TIME THEY
12 GOT IN THE KITCHEN I'M STILL STANDING IN THE
13 DOORWAY. BY THE TIME THEY GOT INTO THE KITCHEN
14 THAT'S WHEN JERMAINE - THE BOY WAS LIKE, WELL, DO
15 SOMETHING, DO SOMETHING, AND THAT'S WHEN JERMAINE
16 STARTED KICKING HIM. AND WHEN THE KICKING WAS
17 OVER, HE PUT THE BUTT END OF THE SHOT GUN AND HAD
18 IT UP AND DOWN AND WAS HITTING MY HUSBAND IN THE
19 FACE WITH IT. WHILE HE WAS DOING THAT YOU HEARD,
20 POW, AND THEN EVERYBODY STOOD FOR A MINUTE. BY
21 THIS TIME HE'S STILL HOLDING THE SHOT GUN, AND MY
22 HUSBAND AND QUINTON ARE STILL FIGHTING. MY
23 HUSBAND, AND BY THAT TIME THEY ARE IN THE LIVING
24 ROOM FIGHTING, AND BY THIS TIME JERMAINE IS
25 STANDING TO THE DOOR. WHILE HE'S STANDING TO THE

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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1 DOOR HE HAS A GUN POINTED TOWARDS MY CHILDREN
2 THAT WERE STANDING THERE. HE NEVER -- THE ONLY
3 TIME HE FIGHT MY HUSBAND WAS WHEN HE WAS AT, THEY
4 WAS AT THE REFRIGERATOR. AND THEN THEY --
5 QUINTON, YOU HEARD A, I GUESS, THE BOTTOM OF THE
6 CLIP FELL OUT THE GUN, AND WHEN HE WAS TRYING TO
7 PULL IT HE REALIZED HE COULDN'T SQUEEZE IT. SO,
8 THEY ARE STILL FIGHTING, JERMAINE IS STILL
9 STANDING TO THE DOOR, AND HE DONE HAD DID WHAT HE
10 DID, BUT HE NEVER FIGHT MY HUSBAND AFTER HE
11 REALIZED THAT MY HUSBAND WAS NOT GOING TO STOP
12 FIGHTING. SO, HE STAND THERE TO THE DOOR, AND BY
13 THIS TIME THEY LOOKED UP AND HE REALIZED THE CLIP
14 WAS ON THE FLOOR, SO HE WENT AND PUT THE CLIP --
15 QUINTON WENT AND PUT THE CLIP BACK INSIDE THE
16 GUN. MY HUSBAND TOOK OFF RUNNING, AND BY THAT
17 TIME MY KIDS ARE ALREADY BACK INSIDE THE ROOM.
18 SO, HE SHOT WHEN I CLOSED THE DOOR, AND BY THAT
19 TIME EVERYBODY WAS GONE.

20 Q. LET ME ASK YOU THIS. YOU SAID, SO YOU'RE
21 STANDING IN YOUR DOORWAY - - -

22 A. UH-HUH.

23 Q. -- OF YOUR BEDROOM WHEN THEY ARE FIGHTING IN THE
24 BATH ROOM?

25 A. UH-HUH.

1 Q. WHERE AT THAT TIME WERE YOUR CHILDREN AND YOUR
2 BROTHER?

3 A. I DON'T KNOW HOW -- I KNOW -- I DON'T KNOW HOW
4 THEY GOT OUT, BUT BY THAT TIME THEY GOT OUT AND
5 THEY ALL THREE OF THEM WAS SITTING ON THE CHAIR.
6 I COULDN'T TELL YOU HOW THEY GOT OUT THE ROOM, MY
7 BROTHER COULD PROBABLY TELL YOU BECAUSE HE WAS
8 DOWN THAT WAY, BUT I COULDN'T TELL YOU BECAUSE I
9 NEVER MOVED FROM WHERE I WAS AT.

10 Q. I'VE GOT YOU.

11 A. BY THE TIME I CAME OUT THE ROOM THEY ALL WAS ON
12 THE CHAIR.

13 Q. OKAY. SO, THAT'S THE FIRST TIME YOU SEE THEM IS
14 THERE IN THE LIVING ROOM?

15 A. YES. THAT WAS THE FIRST TIME I SEEN THEM.

16 Q. ALRIGHT. NOW, IT'S YOUR TESTIMONY, MA'AM, THAT
17 YOU SAW MR. DARBY STRIKING YOUR HUSBAND WITH THE
18 BUTT END OF THE SHOT GUN?

19 A. UH-HUH. AND KICKING HIM. THAT'S WHY HE LOST HIS
20 SHOE.

21 Q. ANY DOUBT IN YOUR MIND ABOUT THAT?

22 A. NO.

23 Q. YOU TESTIFIED THAT AT LEAST ONE POINT IN TIME
24 THERE YOU HEARD A GUN SHOT GO OFF?

25 A. YEAH, BECAUSE ALL OF THEM WAS SAYING, WELL, LOOK,

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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1 AND THEY HAD THE GUN, STOPPED THEM FROM BEING ALL
2 TANGLED UP. THEY WAS IN FRONT OF THE
3 REFRIGERATOR, AND THEN YOU HEAR A, POW. AND THEN
4 EVERYBODY STOPPED. IT WAS LIKE, THEY DIDN'T KNOW
5 WHAT WAS GOING ON, BUT SOON AS THEY PILED IN
6 THERE AND EVERYBODY'S STANDING, MY HUSBAND'S
7 STANDING BACK UP, BECAUSE HE WAS UNDER, ON THE
8 FLOOR, QUINTON WAS ON TOP OF HIM AND JERMAINE WAS
9 KICKING HIM.

10 Q. ALRIGHT. LET ME ASK YOU, PRIOR TO THAT NIGHT,
11 PRIOR TO THIS INCIDENT HAPPENING, WERE THERE ANY
12 GUN SHOT HOLES - - -

13 A. NO.

14 Q. --- IN THE CEILING IN YOUR RESIDENCE?

15 A. NO.

16 Q. DID YOU HAVE AN OPPORTUNITY KIND OF AFTER THE
17 DUST, AND I'M KIND OF HOPPING FORWARD A LITTLE
18 BIT HERE, BUT AFTER KIND OF EVERYTHING SETTLED
19 AND THE POLICE AND ALL SHOWED UP TO -- I MEAN,
20 DID YOU OBSERVE ANY HOLES?

21 A. YES.

22 Q. AND WHERE, TELL THE JURY WHERE THOSE WERE?

23 A. ONE WAS IN THE REFRIGERATOR WHERE THEY WERE
24 FIGHTING AND THE GUNS AND EVERYTHING, WHEN THEY
25 WAS UP INSIDE THE LIVING ROOM FIGHTING, THERE'S

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1 ONE, TWO, THREE, AND THE ONE THAT WENT THROUGH
2 THE REFRIGERATOR ACTUALLY WENT THROUGH THE
3 REFRIGERATOR, OUR CLOSET DOOR, WE HAD A HOLE IN
4 THE CLOSET DOOR, AND OUT THE CLOSET, THE DOOR OF
5 THE CLOSET. AND THERE'S ONE IN THE BATH ROOM.

6 Q. ALRIGHT. LET ME SHOW YOU STATE'S EXHIBITS EIGHT,
7 NINE, TEN AND TWELVE AND ASK YOU IF YOU RECOGNIZE
8 THOSE PICTURES?

9 A. YES. THIS IS THE ONE OF THE REFRIGERATOR. THIS
10 IS THE ONE OF THE CEILING IN OUR LIVING ROOM.
11 THIS IS ANOTHER ONE STILL IN OUR LIVING ROOM.
12 AND THIS IS ANOTHER ONE STILL IN THE LIVING ROOM.

13 Q. STATE'S EXHIBIT NUMBER EIGHT, THAT'S A BULLET
14 HOLE IN THE REFRIGERATOR?

15 A. UH-HUH, REFRIGERATOR.

16 Q. AND WAS THAT THERE PRIOR TO THAT NIGHT?

17 A. NO.

18 Q. AND THAT'S THIS REFRIGERATOR DEPICTED IN STATE'S
19 EXHIBIT NUMBER THREE, I ASSUME IN THE KITCHEN
20 THERE?

21 A. UH-HUH, YES, SIR.

22 Q. OKAY. AND THEN, STATE'S NUMBERS NINE, TEN AND
23 TWELVE ARE ALL BULLET HOLES THAT WERE LOCATED
24 WHERE?

25 A. INSIDE THE CEILING IN OUR LIVING ROOM.

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1 Q. AND YET AGAIN, PRIOR TO THIS INCIDENT THAT NIGHT
2 WERE ANY OF THESE HOLES IN THE CEILING IN THE
3 LIVING ROOM?

4 A. NO.

5 Q. HOW ABOUT, LET ME SHOW YOU STATE'S EXHIBIT NUMBER
6 ELEVEN. DO YOU RECOGNIZE THAT?

7 A. YES, THAT'S LIKE THE TOP PART OF OUR STOVE, NEXT
8 TO THE REFRIGERATOR.

9 Q. SO, THAT'S THE FRONT OF THE STOVE RIGHT THERE?

10 A. UH-HUH.

11 Q. OKAY. AND WAS THAT HOLE THERE PRIOR TO THAT
12 NIGHT?

13 A. NO.

14 Q. LET ME ASK YOU, WHILE I'M GOING THROUGH
15 PHOTOGRAPHS HERE, STATE'S EXHIBIT NUMBER SEVEN,
16 DO YOU RECOGNIZE THAT PHOTOGRAPH?

17 A. YES, THAT'S MY MOTHER'S CLOSET, OR MOTHER'S ROOM
18 DOOR.

19 Q. AND THAT, SO THAT'S GOING DOWN WHEN YOU COME IN
20 THE FRONT DOOR DOWN THE RIGHT HAND SIDE, RIGHT?

21 A. YES.

22 Q. AND THE DAMAGE TO THAT DOOR, WAS THAT DAMAGE
23 THERE PRIOR TO THIS INCIDENT?

24 A. NO, BECAUSE THE DOOR COULDN'T OPEN ALL THE WAY
25 BECAUSE RIGHT WHERE THE DOOR IS PROPPED UP

1 AGAINST IT IS A DRESSER. SO, THE DOOR COULDN'T
2 OPEN ALL THE WAY.

3 Q. SO, THE DAMAGE TO THE DOOR FRAME HERE, WAS THAT
4 DAMAGE THERE - - -

5 A. NO.

6 Q. --- PRIOR TO THAT NIGHT?

7 A. NO, BECAUSE THE DOOR, THE DOOR COULDN'T OPEN.

8 Q. NOW, GOING BACK TO STATE'S EXHIBIT NUMBER ONE,
9 THE COFFEE TABLE THAT'S KIND OF IN THE MIDDLE OF
10 STATE'S EXHIBIT NUMBER ONE - - -

11 A. YEAH, IT WAS, WELL, BEFORE IT WAS LIKE THAT IT
12 WAS NOT CLOCKWISE, BUT IN THE CENTER OF OUR FLOOR
13 WHERE THE RUG IS AT.

14 Q. SO, PRIOR TO THIS INCIDENT IT WAS KIND OF
15 CENTERED, I GUESS, IN THE MIDDLE OF THAT RUG IN
16 THE LIVING ROOM?

17 A. YES.

18 Q. AND THE DAMAGE TO THAT COFFEE TABLE, SHOWN AS
19 STATE'S ONE AND TWO, WHAT CAUSED THAT DAMAGE TO
20 THAT COFFEE TABLE?

21 A. THAT'S WHEN MY HUSBAND AND QUINTON WAS FIGHTING.

22 Q. SO, THAT HAPPENED DURING THAT ALTERCATION?

23 A. YES.

24 Q. AND WHERE WAS MR. DARBY AT WHEN THIS WAS TAKING
25 PLACE?

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1 A. STANDING BY THE FRONT DOOR WITH THE SHOT GUN IN
2 HIS HAND.

3 Q. OKAY. AND SHOWING YOU STATE'S EXHIBIT NUMBER
4 THREE AGAIN, LET'S SEE, THERE'S A CHAIR KNOCKED
5 OVER AND IT APPEARS TO BE MAYBE SOME GARBAGE ON
6 THE FLOOR?

7 A. YEAH, THEY FIGHT FROM THE REFRI -- THEY FIGHT
8 FROM THE KITCHEN THROUGH THE LIVING ROOM.

9 Q. AND THE CHAIR KNOCKED OVER AND THE STUFF STREWN
10 AROUND ON THE FLOOR, WAS THAT STUFF LIKE THAT
11 PRIOR TO THIS INCIDENT?

12 A. NO, MA'AM, I MEANT, NO, SIR.

13 Q. SO, WHAT IS THAT, WHAT WAS THAT FROM?

14 A. THE CHAIR IS WHERE -- I DON'T KNOW IF YOU HAVE A
15 PICTURE OF WHERE THE SIDE IS TO OUR KITCHEN
16 TABLE. SO, THE CHAIR IS THERE, AND ONCE THEY GOT
17 OFF OF THE, ONCE THEY GOT FROM THE STOVE WHEN
18 THEY WERE FIGHTING THEY, MY HUSBAND GOT UP AND
19 QUINTON WAS STANDING IN FRONT WHERE THE RUG IS
20 AT, AND MY HUSBAND GOT UP AND BUM RUSHED HIM, AND
21 THAT'S WHERE THE CHAIR AND EVERYTHING COME OFF,
22 BECAUSE MY HUSBAND DIDN'T HAVE A GUN.

23 Q. AND YOU'VE INDICATED THAT THE TWO OF THEM, MR.
24 DARBY AND THIS QUINTON GUY, THE OTHER GUY, THEY
25 ULTIMATELY, THE TWO OF THEM BOTH RAN OUT OF THE

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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1 HOUSE?

2 A. YEAH, BECAUSE BY THE TIME, ONCE HE REALIZED THAT
3 QUINTON WAS ON THE FLOOR HE PICKED THE CLIP UP,
4 PUT IT BACK IN THE GUN, MY HUSBAND CAME AND TOOK
5 OFF RUNNING. I CLOSED THE DOOR, THE SHOTS WENT
6 OFF, AND BY THE TIME WE OPENED THE DOOR AND HAD
7 ALREADY CALLED NINE ONE ONE, THEY WERE GONE.

8 Q. OKAY. SO, YOU CALLED THE POLICE?

9 A. UH-HUH.

10 Q. DID THEY COME?

11 A. YES.

12 Q. AND HOW LONG DID THEY GET THERE?

13 A. NOT LONG.

14 Q. NOT LONG? HOW ABOUT, DID ANYBODY ELSE COME
15 BESIDES THE POLICE?

16 A. WELL, THE DETECTIVE AND MY BROTHER CAME AND GOT
17 MY TWO LITTLE GIRLS, MY OLDER BROTHER.

18 Q. OKAY. DID ANYBODY ELSE COME TO DEAL WITH YOUR
19 HUSBAND, TO TREAT YOUR HUSBAND?

20 A. YES, THE AMBULANCE CAME. BY THAT TIME MY HUSBAND
21 WAS ALREADY OUT ON THE GROUND. I DIDN'T EVEN KNOW
22 WHERE THEY TOOK HIM.

23 Q. OKAY. ALRIGHT. SO WHEN THE AMBULANCE GOT THERE
24 HE WAS NOT IN THE HOUSE WITH YOU?

25 A. NO, HE WAS OUTSIDE.

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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1 Q. OKAY. LET ME ASK YOU, WHERE -- AT THAT POINT IN
2 TIME DO YOU KNOW WHERE YOUR CHILDREN WERE?

3 A. YEAH, THEY -- WELL, THEY ACTUALLY WAS IN THEIR
4 ROOM, YOU KNOW, I THINK A LITTLE CORNER. HER, MY
5 -- KIASHA, SHANINAH AND MY BROTHER, JOHNATHAN,
6 THEY DIDN'T MOVE UNTIL AFTER THE POLICE CAME AND
7 GOT THEM.

8 Q. ALRIGHT. LET ME ASK YOU, DID YOU HAVE AN
9 OPPORTUNITY TO KIND OF, AFTER THIS INCIDENT
10 HAPPENED, WHEN YOU WERE CALLING THE POLICE, TO
11 OBSERVE YOUR HUSBAND?

12 A. YES.

13 Q. DID HE APPEAR TO BE INJURED AT THAT POINT IN
14 TIME?

15 A. YES. HE HAD A, LIKE A, I DON'T KNOW, IT WAS LIKE
16 A SHAPE FROM THE BUTT OF THE GUN ON THE CORNER OF
17 HIS MOUTH. THE TOP OF HIS EYEBROW WAS CUT, AND
18 BRUISES ON HIS HEAD, AND JUST BLEEDING FROM THE
19 MOUTH, TORN SHIRT, HOLES INSIDE THE SHORTS THAT
20 HE HAD ON.

21 Q. OKAY. NOW, DID YOU, WHEN THE POLICE CAME OUT
22 THERE DID YOU THEN TALK TO THEM THAT NIGHT?

23 A. WELL, BEFORE THAT I CALLED MY SISTER.

24 Q. OKAY.

25 A. WELL, THEY WERE IN THE HOUSE WHEN I CALLED MY

1 SISTER.

2 Q. OKAY. AND DID YOU THEN HAVE A CHANCE TO TALK TO
3 THE POLICE?

4 A. YES.

5 Q. OKAY. AND DID YOU GIVE A STATEMENT THEN THAT
6 NIGHT?

7 A. YES.

8 Q. LET ME ASK YOU, IF FACT, THOSE PICTURES STATE,
9 PHOTOGRAPH NUMBER ONE, WHO IS THAT SITTING ON THE
10 COUCH?

11 A. THAT'S ME WRITING THE STATEMENT.

12 Q. OKAY. SO THAT WAS ACTUALLY WHEN YOU WERE WRITING
13 THE STATEMENT FOR THE POLICE THAT NIGHT?

14 A. UH-HUH.

15 Q. WHERE WAS YOUR HUSBAND AT AT THAT TIME?

16 A. TO THE HOSPITAL. I DIDN'T EVEN KNOW THEY ALREADY
17 HAD TOOK HIM.

18 Q. SO, DID YOU PROVIDE -- NOW, YOU TOLD THIS JURY
19 THAT THE OTHER INDIVIDUAL WHO YOU NOW CALL
20 QUINTON, DID YOU KNOW HIS NAME THAT NIGHT?

21 A. NO, NO. I DIDN'T KNOW IT UNTIL AFTER I GOT TO
22 THE HOSPITAL, AND AFTER MY HUSBAND SAY HE KNEW
23 WHO THE FIRST GUY WAS.

24 Q. NOW, DID YOU, DID YOU ULTIMATELY TELL THE
25 SHERIFF'S OFFICE THE OTHER INDIVIDUAL'S NAME THAT

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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1 NIGHT?

2 A. TALKING ABOUT JERMAINE?

3 Q. YES.

4 A. OH, YEAH, BECAUSE I KNEW IT AS J. D. JERMAINE,
5 BUT I JUST WANTED TO MAKE SURE SO I CALLED MY
6 SISTER.

7 Q. OKAY. SO, YOU PROVIDED THEM WITH HIS NAME THAT
8 EVENING?

9 A. SHE STILL TOLD ME JERMAINE, SHE NEVER TOLD ME IT
10 WAS ADRIAN UNTIL AFTER I - - -

11 Q. THAT'S WHAT I'M ASKING YOU, YOU TOLD THEM
12 JERMAINE DARBY THAT NIGHT?

13 A. YES, I TOLD THEM JERMAINE DARBY THAT NIGHT.

14 Q. ANY DOUBT IN YOUR MIND THAT WAS WHO WAS IN YOUR
15 HOME THAT NIGHT?

16 A. NO.

17 Q. LET ME ASK YOU THIS, THAT NIGHT DID YOU GIVE
18 EITHER ONE OF THEM PERMISSION TO COME INTO YOUR
19 HOME THAT NIGHT ARMED WITH A HAND GUN OR A SHOT
20 GUN AND ASSAULT YOUR HUSBAND?

21 A. NO, NO.

22 Q. ALRIGHT, LET ME SEE IF THAT'S ALL I HAVE TO ASK
23 YOU ABOUT HERE.

24 SOLICITOR SORENSON: ALRIGHT, MS. MOORER,
25 THAT WOULD BE ALL I'D HAVE. PLEASE ANSWER ANY

DIRECT - TIFFANY M. MOORER BY SOL. SORENSON

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1 QUESTIONS MR. CHANDLER HAS.

2 THE COURT: MR. CHANDLER.

3 MR. CHANDLER: THANK YOU, YOUR HONOR.

4 (NOTE: Blank lines on this page do not indicate any
5 part of record has been omitted. Headers on testimony
6 pages and hard page breaks between testimony are now
7 required by the Court. See next ensuing page for
8 sequential continuation of record.)

CROSS - TIFFANY M. MOORER BY MR. CHANDLER

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CROSS-EXAMINATION OF TIFFANY M. MOORER

BY MR. CHANDLER:

Q. MS. MOORER, YOU SAID EARLIER IN YOUR TESTIMONY ON
DIRECT EXAMINATION THAT YOU WERE CONVICTED IN TWO
THOUSAND SIX OF FORGERY, IS THAT CORRECT?

A. YES, SIR.

Q. AND WHO DID YOU, WHOSE NAME DID YOU FORGE?

A. I DIDN'T FORGE NO ONE'S NAME, SOMEBODY HAD A
CHECK - - -

SOLICITOR SORENSON: I OBJECT, YOUR HONOR, I
MEAN THAT'S, I MEAN, HE CAN GET INTO THE CONVICTION
BUT HE CAN'T GET INTO ANY DETAILS.

THE COURT: YES. I SUSTAIN THAT.

Q. AND IS IT FAIR TO SAY THAT YOU HAVE A PROBLEM
WITH BEING HONEST?

A. EXCUSE ME?

Q. IS IT FAIR TO SAY YOU HAVE A PROBLEM WITH BEING
HONEST?

A. NO, BECAUSE THAT WAS MY FIRST CONVICTION.

Q. OH. SO, YOU'RE ALLOWED TO DO IT ONCE, IS THAT -
- -

A. NO, I NEVER, THAT WAS THE FIRST TIME I EVER DONE
ANYTHING LIKE THAT.

Q. AND WOULD YOU SAY THAT WAS HONEST?

A. NO, IT WASN'T.

1 Q. OKAY. ARE YOU BEING HONEST TODAY - - -

2 A. YES, I AM.

3 Q. --- BECAUSE THEY'RE DEPENDING ON YOUR TESTIMONY?

4 A. YES, I AM.

5 Q. ARE DRUGS SOLD FROM YOUR HOME?

6 A. NO.

7 Q. SO, CRUZ WAS JUST BUYING DRUGS FROM MY CLIENT?

8 A. YES.

9 Q. HE HAS NEVER PURCHASED ANY MARIJUANA FROM YOUR
10 HOUSE EVER?

11 A. NOT IF I'M NOT THERE, BECAUSE I WORK, I WAS
12 WORKING DURING THE TIME ALL THIS HAPPENED,
13 BECAUSE THEY CAME TO MY JOB. I WAS WORKING.

14 Q. SO, MARIJUANA IS SOLD FROM YOUR HOUSE WHEN YOU'RE
15 NOT THERE?

16 A. IF I DON'T KNOW, I DON'T KNOW. HE'S NOT SELLING
17 NO MARIJUANA WHEN I'M HOME.

18 Q. DID YOU TELL YOUR SISTER, ANGELA RAYSOR, THAT YOU
19 GUYS SAT UP JERMAINE?

20 A. NEVER.

21 Q. YOU NEVER TOLD HER THAT?

22 A. NEVER.

23 Q. DID YOU TELL HER THAT YOU LIED TO THE POLICE
24 ABOUT HOW HE CAME INTO THE HOUSE?

25 A. NEVER.

CROSS - TIFFANY M. MOORER BY MR. CHANDLER

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1 Q. YOU NEVER?

2 A. NEVER. AFTER, I NEVER SEEN MY SISTER, I HAVEN'T
3 TALKED TO MY SISTER OR CARRIED A CONVERSATION
4 WITH MY SISTER SINCE SHE DID NOT TELL ME ADRIAN'S
5 REAL NAME. I HAVEN'T TALKED TO HER SINCE THEN.

6 Q. SO, YOU ARE SAYING, NO DRUGS FROM YOUR HOUSE WHEN
7 YOU ARE THERE?

8 A. NOT WHEN I'M THERE. I - - -

9 MR. CHANDLER: OKAY. NO FURTHER QUESTIONS.

10 THE COURT: ANYTHING FURTHER?

11 SOLICITOR SORENSON: NO, SIR.

12 THE COURT: THANK YOU, MA'AM, YOU CAN STEP
13 DOWN.

14 SOLICITOR SORENSON: THE STATE CALLS CRUZ
15 MOORER.

16 THE COURT: PLACE YOUR LEFT HAND ON THE
17 BIBLE, PLEASE, SIR, AND RAISE YOUR RIGHT.
18 (Whereupon, Cruz Moorer
19 is duly sworn.)

20 CLERK: HAVE A SEAT AND STATE YOUR FULL NAME
21 FOR THE COURT.

22 WITNESS: CRUZ MOORER.

23 (NOTE: Blank lines on this page do not indicate any
24 part of record has been omitted. See next ensuing
25 page for sequential continuation of record.)

DIRECT - CRUZ MOORER BY SOL. SORENSON

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DIRECT EXAMINATION OF CRUZ MOORER

BY SOLICITOR SORENSON:

Q. CRUZ, IF YOU WOULD, TELL THE JURY HOW OLD YOU
ARE?

A. TWENTY-FOUR.

Q. AND WHERE, WHERE DID YOU GROW UP?

A. COPE.

Q. COPE?

A. SOUTH CAROLINA.

Q. ALRIGHT. AND HOW DO YOU KNOW TIFFANY MOORER?

A. WE'RE MARRIED, I JUST MARRIED HER.

Q. I MEAN, HOW DO YOU KNOW HER NOW, I MEAN - - -

A. THAT'S MY WIFE.

Q. OKAY. AND HOW LONG HAVE Y'ALL BEEN MARRIED?

A. MARRIED TWO YEARS.

Q. TWO YEARS. AND DO YOU HAVE ANY CHILDREN WITH
HER?

A. NO, SIR.

Q. OKAY. DOES SHE HAVE TWO OTHER CHILDREN, THOUGH?

A. YES, SIR.

Q. AND THEY LIVE WITH Y'ALL?

A. YES, SIR.

Q. OKAY. AND HOW, WHAT'S YOUR RELATIONSHIP WITH
THEM?

A. GOOD.

DIRECT - CRUZ MOORER BY SOL. SORENSON

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- 1 Q. OKAY. WHAT DO THEY EACH CALL YOU?
- 2 A. FATHER.
- 3 Q. NOW, LET ME ASK YOU THIS, CRUZ, YOU HAVE A LITTLE
- 4 BIT OF A PRIOR RECORD ALSO, RIGHT?
- 5 A. YES.
- 6 Q. IN TWO THOUSAND FIVE YOU HAVE AN ABHAN
- 7 CONVICTION, IS THAT CORRECT?
- 8 A. YES.
- 9 Q. AND FROM TWO THOUSAND SIX A SECOND DEGREE
- 10 BURGLARY CONVICTION, RIGHT?
- 11 A. YES.
- 12 Q. LET ME ASK YOU THIS, CRUZ, DO YOU KNOW THE
- 13 DEFENDANT, ADRIAN JERMAINE DARBY?
- 14 A. THROUGH MY WIFE.
- 15 Q. OKAY. AND HOW LONG HAVE YOU KNOWN HIM?
- 16 A. NOT THAT LONG.
- 17 Q. OKAY. BY NOT THAT LONG, I MEAN - - -
- 18 A. ABOUT A YEAR.
- 19 Q. OKAY. AND WHAT NAME DID YOU KNOW HIM BY?
- 20 A. J. D. OR JERMAINE.
- 21 Q. OR JERMAINE. ALRIGHT. LET ME ASK YOU THIS, CRUZ,
- 22 I WANT TO KIND OF TURN YOUR ATTENTION TO THE
- 23 NIGHT BEFORE ALL OF THIS INCIDENT HAPPENED AT
- 24 YOUR HOUSE, OKAY?
- 25 A. YES, SIR.

DIRECT - CRUZ MOORER BY SOL. SORENSON

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1 Q. ALRIGHT. DO YOU REMEMBER THAT NIGHT BEFORE, DID
2 YOU HAVE ANY CONTACT WITH MR. DARBY?

3 A. SAY THAT ONE MORE TIME?

4 Q. THE NIGHT BEFORE THIS INCIDENT HAPPENED HAD YOU
5 HAD SOME CONTACT WITH MR. DARBY THAT NIGHT
6 BEFORE?

7 A. NO, SIR.

8 Q. DID HE COME BY YOUR HOUSE THAT NIGHT BEFORE?

9 A. NO, SIR.

10 Q. OKAY. DID YOU SEE HIM THAT NIGHT BEFORE?

11 A. NO, SIR.

12 Q. OKAY. LET ME MAKE SURE I UNDERSTAND, BECAUSE
13 MAYBE YOU'RE LOSING ME HERE. WAS THERE A TIME
14 THE NIGHT BEFORE THIS INCIDENT HAPPENED WHEN YOU
15 BOUGHT SOME MARIJUANA FROM MR. DARBY?

16 A. OH, I CALLED ADRIAN AND I ASKED HIM ABOUT SOME
17 MARIJUANA, AND HE SAID HE HAD SOME. SO, THEN HE
18 CAME TO MY HOUSE -- NO, I WASN'T HOME, I WASN'T
19 HOME RIGHT THEN. THEN LIKE, I GOT THERE, HE HAD
20 BEEN THERE, IT JUST BEEN HIM IN THE CAR BY
21 HIMSELF. SO, I WALKED IN MY HOUSE, I BEEN OUT
22 WITH SOMEBODY ELSE, IT WAS ME AND A COUPLE OTHER
23 OF MY FRIENDS. SO, ALL OF US CAME TO MY HOUSE,
24 JERMAINE CAME AFTER ME, WE WENT IN MY ROOM, HE
25 SOLD ME THE MARIJUANA, AND HE LEFT. I'D SAY

DIRECT - CRUZ MOORER BY SOL. SORENSON

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1 PROBABLY ABOUT THIRTY MINUTES LATER - - -

2 Q. OKAY, NOW, LET ME STOP YOU RIGHT HERE. SO, THAT
3 HAPPENED, WHEN DID THAT HAPPEN IN RELATION TO
4 THIS INCIDENT IN YOUR HOUSE?

5 A. THAT HAPPENED THE DAY BEFORE.

6 Q. OKAY. THAT'S WHAT I WAS GETTING AT. SO, YOU HAD
7 SOME CONTACT WITH HIM THE DAY BEFORE, IS THAT
8 CORRECT?

9 A. YES, SIR.

10 Q. OKAY. ALRIGHT. SO, NOW YOU'VE INDICATED A
11 SECOND AGO THAT YOU, SO YOU PURCHASED SOME
12 MARIJUANA FROM MR. DARBY?

13 A. YES, SIR.

14 Q. AND DO YOU REMEMBER HOW MUCH THAT WAS THAT YOU
15 PURCHASED?

16 A. ABOUT AN OUNCE.

17 Q. ABOUT AN OUNCE?

18 A. YES, SIR.

19 Q. AND HOW MUCH WOULD THAT BE MONEY-WISE?

20 A. LIKE ABOUT A HUNDRED OR A HUNDRED AND FIFTY
21 DOLLARS.

22 Q. AND WHAT WERE YOU GOING TO DO WITH THAT MARIJUANA
23 THAT YOU BOUGHT?

24 A. SMOKE IT.

25 Q. AND YOU INDICATED AFTER YOU PURCHASED THAT

DIRECT - CRUZ MOORER BY SOL. SORENSON

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1 MARIJUANA FROM HIM THAT HE WENT UP TO YOUR HOUSE
2 THAT NIGHT?

3 A. YES, SIR.

4 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY TO SEE HIM
5 AGAIN THAT EVENING?

6 A. LIKE THIRTY MINUTES LATER.

7 Q. OKAY. AND WHERE WAS THAT THAT YOU SAW HIM THIRTY
8 MINUTES LATER?

9 A. HE CAME KNOCKING MY DOOR AND HE WAS LIKE, KIND OF
10 LIKE, LIKE SOMETHING WAS WRONG. SO, I ASKED HIM
11 WHAT WAS WRONG, AND HE SAID, I JUST GOT ROBBED, I
12 JUST GOT ROBBED. AND I SAID, WHAT? YOU JUST GOT
13 ROBBED? I SAID, LIKE, WHO, LIKE, WHO ROBBED YOU,
14 WHO ROBBED YOU? AND HE WENT AND NEVER SAY, HE
15 JUST WENT LIKE THIS, LOOKING, LIKE HE BEEN
16 SCARED. SO, THE NEXT THING YOU KNOW, I HAD A
17 PISTOL, LIKE, IT WAS A THREE EIGHTY, IT WAS
18 SITTING ON THE COUNTER. HE TOOK IT, HE WENT OUT
19 THE DOOR. I HEARD MULTIPLE GUN SHOTS. AFTER I
20 HEARD MULTIPLE GUN SHOTS HE LEFT. I NEVER --
21 AFTER THE GUN SHOTS I NEVER SAW JERMAINE NO MORE.
22 HE LEFT, AND THEN I'D SAY PROBABLY ABOUT TWENTY
23 MINUTES LATER I GET A CALL FROM MY WIFE AND SAID
24 THAT JERMAINE SAID THAT HE GOT ROBBED, BUT I
25 ROBBED HIM. SO, MY WIFE SAID SHE ASKED JERMAINE

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1 DID I ROB HIM, AND HE COULDN'T NEVER SAY THAT I
2 ROBBED HIM. SO, THEN I'D SAY PROBABLY ABOUT TEN
3 MINUTES AFTER THAT MY WIFE CAME HOME AND THAT'S,
4 LIKE, THAT WAS IT.

5 Q. OKAY. SO, THAT ALL HAPPENED THE NIGHT BEFORE?

6 A. YES, SIR.

7 Q. ALRIGHT. LET ME ASK YOU, DO YOU KNOW A GUY NAMED
8 QUINTON GREEN?

9 A. I DON'T REALLY KNOW HIM, BUT I KNOW OF HIM.

10 Q. OKAY. AND WHAT IS HIS RELATIONSHIP, IF ANY, TO
11 MR. DARBY?

12 A. OH, I DON'T, I AIN'T EVEN KNOW HOW THEY KNOW EACH
13 OTHER.

14 Q. YOU DIDN'T KNOW IF THEY KNEW EACH OTHER OR
15 ANYTHING LIKE THAT?

16 A. NO, SIR.

17 Q. OKAY. ALRIGHT, I WANT TO TURN YOUR ATTENTION NOW
18 TO THE FOLLOWING NIGHT, CRUZ, ALRIGHT, WHAT ON
19 THAT NIGHT, SEPTEMBER THE TWENTY-NINTH OF TWO
20 THOUSAND NINE, WHAT WERE YOU DOING THAT EVENING
21 AROUND SEVEN, SEVEN:THIRTY?

22 A. I JUST HAD GOT HOME.

23 Q. OKAY. AND WHO ELSE WAS HOME IN YOUR HOUSE AT
24 AROUND SEVEN:THIRTY THAT NIGHT?

25 A. IT WAS ME, MY WIFE, OUR TWO KIDS, AND HER

DIRECT - CRUZ MOORER BY SOL. SORENSON

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1 BROTHER.

2 Q. OKAY. AND HER BROTHER WHOSE NAME IS JOHNATHAN, IS
3 THAT CORRECT?

4 A. YES, SIR.

5 Q. ALRIGHT. AND WHAT, WHAT WERE YOU THEN DOING
6 AROUND SEVEN:THIRTY?

7 A. JUST SITTING AROUND THE HOUSE, CHILLING.

8 Q. OKAY. DO YOU REMEMBER THERE COME A TIME WHEN
9 THERE WAS A KNOCK AT THE DOOR?

10 A. YES, SIR.

11 Q. OKAY. WHERE WERE YOU AT WHEN THAT HAPPENED?

12 A. SITTING ON THE BED.

13 Q. OKAY. IN WHOSE BEDROOM?

14 A. OUR BEDROOM.

15 Q. OKAY. WHO ELSE WAS BACK IN THE BEDROOM WITH YOU?

16 A. JUST ME AND MY WIFE.

17 Q. OKAY. WHAT WAS, WHAT WAS HER BROTHER, JOHNATHAN
18 DOING?

19 A. OH, HE WAS SOMEWHERE DOWN THE HALLWAY.

20 Q. AND WHO, WHO WENT TO THE DOOR WHEN THERE WAS A
21 KNOCK ON THE DOOR?

22 A. JOHNATHAN.

23 Q. OKAY. AND AT SOME POINT IN TIME WHAT DID YOU END
24 UP DOING?

25 A. I SAW JOHNATHAN, LIKE, LEAVING, LIKE, IN THE

DIRECT - CRUZ MOORER BY SOL. SORENSON

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1 BACK. SO, IN MY MIND I, LIKE, WHY IS HE LEAVING?
2 SO THAT MAKE ME GOT UP AND WENT AROUND THERE TO
3 SEE WHAT WAS GOING ON. SO, WHEN I GOT AROUND
4 THERE IT WAS A FELLOW WITH A RED HOOD, HE HAD,
5 LIKE, HIS BACK TURNED SO I COULDN'T SEE HIS FACE.
6 SO, WHEN HE FINALLY TURNED AROUND I SAW HIS FACE,
7 AND HE HAD A BLACK, HE HAD A BLACK, I THINK IT
8 WAS A NINE MILLIMETER, AND HE WENT, LIKE HE
9 POINTED AT ME, AND THAT MAKE ME BACK UP, AND THAT
10 MAKE JOHNATHAN RUN INTO THE OPPOSITE SIDE OF THE
11 HOUSE, AND I RUN BACK TO MY ROOM. AND I TELL MY
12 - - -

13 Q. OKAY. SO, YOU WENT BACK TOWARDS YOUR BEDROOM AND
14 HE WENT DOWN THE HALLWAY WHERE THE OTHER TWO
15 BEDROOMS ARE?

16 A. YES, SIR.

17 Q. OKAY. NOW, THIS INDIVIDUAL THAT YOU SAW TURN
18 AROUND AND POINTING THE GUN AT YOU, WHO WAS THAT
19 INDIVIDUAL?

20 A. THAT WAS QUINTON.

21 Q. OKAY. AND ANY DOUBT IN YOUR MIND THAT'S WHO THAT
22 WAS?

23 A. OH, I KNOW WHO THAT WAS.

24 Q. OKAY. NOW, DID YOU SEE ANYBODY ELSE AT THAT
25 POINT IN TIME, WHEN YOU SAW HIM WITH THE GUN?

DIRECT - CRUZ MOORER BY SOL. SORENSON

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1 A. NOT AT THAT POINT IN TIME.

2 Q. OKAY. SO, YOU WENT RUNNING BACK TO YOUR BEDROOM?

3 A. YES, SIR.

4 Q. AND WHERE DID YOU GO?

5 A. I RUN PAST THE KITCHEN INTO MY ROOM, THEN I WENT
6 IN THE BATH ROOM.

7 Q. OKAY. AND TELL THE JURY WHAT HAPPENED WHEN YOU
8 WENT BACK INTO THE BATH ROOM?

9 A. I JUST WAS STANDING THERE AND I BEEN THINKING,
10 LIKE, WHAT SHOULD I DO? THE NEXT THING YOU KNOW,
11 LIKE, QUINTON IS, LIKE, HE'S STANDING IN MY
12 DOORWAY, THEN HE, LIKE, WALKED AROUND MY WIFE,
13 AND THEN FINALLY JERMAINE CAME IN THERE WITH A
14 SHOT GUN AND, LIKE, ALL OF US JUST BEEN STANDING
15 THERE LIKE, WE JUST BEEN, LIKE, TALKING, AND
16 WE'RE ARGUING BACK AND FORTH. THEN QUINTON
17 RAISED HIS GUN AT ME AND WHEN HE RAISED HIS GUN
18 AT ME THAT WHEN I ATTACKED QUINTON AND IT WENT
19 OFF. THE NEXT THING YOU KNOW I GOT, LIKE, ME AND
20 QUINTON FIGHTING. WE END UP IN THE KITCHEN. AFTER
21 WE END UP IN THE KITCHEN WE FIGHT SOME MORE. I
22 SLIP OFF THAT WAY, AND QUINTON GOT ON TOP OF ME,
23 AND JERMAINE TOOK THE SHOT GUN AND HE BEEN LIKE
24 KICKING ME AND HITTING ME IN MY FACE WITH IT.

25 Q. OKAY. NOW, DURING ALL THIS DO YOU KNOW WHAT WAS

DIRECT - CRUZ MOORER BY SOL. SORENSON

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1 GOING ON, WHERE EVERYBODY ELSE WAS INSIDE THE
2 HOUSE WHEN ALL THIS WAS GOING ON?

3 A. NO, SIR.

4 Q. AND WHEN YOU SAID YOU SAW MR. DARBY COME INTO THE
5 BEDROOM, WAS THAT THE FIRST TIME YOU HAD SEEN HIM
6 IN THE HOUSE THAT NIGHT?

7 A. YES, SIR.

8 Q. OKAY. AND WHAT WAS, AGAIN, WHAT DID HE HAVE IN
9 HIS HAND?

10 A. A SHOT GUN.

11 Q. AND WHAT, WHERE WERE YOU WHEN YOU INDICATED TO
12 THE JURY YOU WERE BEING HIT, KICKED BY MR. DARBY
13 AND HIT IN THE FACE WITH THE SHOT GUN?

14 A. RIGHT THERE BY THE REFRIGERATOR.

15 Q. I'M KIND OF SHOWING YOU STATE'S EXHIBIT NUMBER
16 THREE, KIND OF IN THE AREA WHERE THAT KNOCKED
17 OVER CHAIR IS?

18 A. YES, SIR.

19 Q. OKAY. NOW, TELL THE JURY WHAT HAPPENED THEN?

20 A. AFTER WE FIGHT SOME OF, LIKE, QUINTON, LIKE,
21 SHOOT HIM, SHOOT HIM, SHOOT HIM. SO, JERMAINE
22 JUST BEEN LIKE THIS, LOOKING, LIKE, SHOULD I
23 SHOOT HIM OR I SHOULDN'T. SO, SOMEHOW I GOT UP
24 AND I SNATCHED OUT OF QUINTON'S HAND, AND I TRIED
25 TO FIGHT IT BUT I GUESS THE CLIP, I HEARD LIKE A

DIRECT - CRUZ MOORER BY SOL. SORENSON

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1 NOISE AND THE CLIP FALL OUT. SO, I THROW THE GUN
2 BACK ON THE FLOOR, WE FIGHT SOME MORE. AFTER WE
3 FIGHT THEY FINALLY, LIKE, QUINTON FINALLY PICKED
4 UP THE GUN, PUT THE CLIP BACK IN, AND I BREAK OUT
5 TOWARDS MY ROOM, AND FIRED, AND THAT'S WHEN BOTH
6 OF THEM RAN OUT THE DOOR.

7 Q. OKAY. SO, YOU HEARD SOME SHOOTING IN THE LIVING
8 ROOM?

9 A. YES, SIR.

10 Q. OKAY. DO YOU HAVE ANY IDEA HOW MANY SHOTS WERE
11 FIRED?

12 A. NO, SIR.

13 Q. OKAY. SO YOU SAID YOU RAN BACK INTO THE BEDROOM?

14 A. YES, SIR.

15 Q. AND WHERE WAS EVERYBODY ELSE THEN, DO YOU KNOW?

16 A. LIKE, I COULDN'T REALLY TELL YOU.

17 Q. OKAY. LET ME ASK YOU THIS, GOING BACK TO THESE
18 PICTURES HERE, STATE'S EXHIBIT NUMBER ONE, THE
19 DAMAGE TO THE COFFEE TABLE ...

20 A. THAT HAPPENED WHEN ME AND QUINTON HAD FIGHT.

21 Q. OKAY. THAT HAPPENED DURING THIS ALTERCATION?

22 A. YES, SIR.

23 Q. AND HOW ABOUT THE, KIND OF THE STUFF SCATTERED
24 AROUND IN THE KITCHEN?

25 A. DURING THE FIGHT.

DIRECT - CRUZ MOORER BY SOL. SORENSON

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1 Q. LET ME ASK YOU, IS THERE ANY DOUBT IN YOUR MIND
2 THAT THAT MAN RIGHT THERE HAD A SHOT GUN INSIDE
3 YOUR HOUSE?

4 A. NO, SIR.

5 Q. ANY DOUBT IN YOUR MIND THAT HE STRUCK YOU IN THE
6 FACE WITH THAT SHOT GUN?

7 A. NO, SIR.

8 Q. HAD Y'ALL CALLED THE POLICE AFTER THEY RAN OUT?

9 A. YES, SIR.

10 Q. ALRIGHT. AND WHAT -- THE POLICE COME OUT THERE?

11 A. IT BEEN LIKE A BUNCH OF POLICE.

12 Q. OKAY. LET ME ASK YOU, DID THE AMBULANCE COME?

13 A. YES, SIR.

14 Q. OKAY. AND WHERE WERE YOU AT WHEN THE AMBULANCE
15 GOT THERE?

16 A. I BEEN, LIKE, LAYING BETWEEN MY FRONT PORCH AND,
17 LIKE, SOME OF OUR DRIVEWAY.

18 Q. YOU WERE OUTSIDE OF THE RESIDENCE?

19 A. YES, SIR.

20 Q. OKAY. AND HOW ABOUT, WHERE WAS TIFFANY AT THAT
21 TIME?

22 A. I COULDN'T, I THINK SHE WAS IN THE HOUSE.

23 Q. HOW ABOUT THE CHILDREN?

24 A. EVERYBODY BEEN IN THE HOUSE.

25 Q. AND YOU WERE OUTSIDE AT THAT POINT IN TIME

DIRECT - CRUZ MOORER BY SOL. SORENSON

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1 WAITING ON, I GUESS, THE AMBULANCE?

2 A. YES, SIR.

3 Q. AND WHERE -- DID YOU END UP GETTING TAKEN AWAY IN
4 THE AMBULANCE?

5 A. YES, SIR.

6 Q. WHERE DID THEY TAKE YOU?

7 A. TO ORANGEBURG HOSPITAL.

8 Q. WHAT KIND OF INJURIES DID YOU END UP HAVING?

9 A. I HAD A, LIKE, CUT ACROSS MY FOREHEAD, LIKE A CUT
10 RIGHT HERE, AND I GOT, LIKE A MARK THAT'S STILL
11 IN MY FACE FROM THE DAY, FROM THE SHOT GUN.

12 Q. DO YOU HAVE ANY OTHER BRUISES OR SORE ANYWHERE
13 ELSE?

14 A. MY SHOULDERS.

15 Q. ALRIGHT. DID YOU END UP GIVING A STATEMENT TO
16 THE SHERIFF'S OFFICE THAT NIGHT ABOUT WHAT
17 HAPPENED?

18 A. YES, SIR.

19 Q. LET ME ASK YOU, DID YOU GIVE THEM PERMISSION TO,
20 EITHER ONE OF THOSE INDIVIDUALS PERMISSION TO
21 COME INTO YOUR HOUSE THAT NIGHT?

22 A. NO, SIR.

23 Q. LET ME ASK YOU, DID YOU, THAT EVENING DID YOU
24 IDENTIFY FOR THE POLICE OR TELL THE POLICE WHO
25 MR. DARBY WAS?

DIRECT - CRUZ MOORER BY SOL. SORENSON

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1 A. NOT THAT NIGHT, LIKE, THE NEXT DAY AFTER.

2 Q. DID YOU TELL THE NAMES, THOUGH, THAT NIGHT?

3 A. YES, SIR.

4 Q. AND LET ME ASK YOU, DID YOU ULTIMATELY END UP
5 ALSO IN ANOTHER LINEUP PICK OUT A PICTURE OF
6 QUINTON GREEN FOR THEM ALSO?

7 A. YES, SIR.

8 Q. ANY DOUBT IN YOUR MIND THAT THE TWO OF THEM WERE
9 TOGETHER THAT NIGHT?

10 A. NO, SIR.

11 SOLICITOR SORENSON: THANK YOU, MR. MOORER,
12 PLEASE ANSWER ANY QUESTIONS THAT MR. CHANDLER HAS.

13 THE COURT: MR. CHANDLER

14 MR. CHANDLER: THANK YOU.

15 (NOTE: Blank lines on this page do not indicate any
16 part of record has been omitted. Headers on testimony
17 pages and hard page breaks between testimony are now
18 required by the Court. See next ensuing page for
19 sequential continuation of record.)

CROSS - CRUZ MOORER BY MR. CHANDLER

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CROSS-EXAMINATION OF CRUZ MOORER

BY MR. CHANDLER:

Q. NOW, MR. MOORER YOU HAD EARLIER INDICATED THAT
YOU WERE CONVICTED OF BOTH ARMED -- EXCUSE ME,
BURGLARY AND ALSO ASSAULT AND BATTERY OF A HIGH
AND AGGRAVATED NATURE. WHAT YEAR WERE YOU
CONVICTED OF BURGLARY?

A. TWO THOUSAND SIX.

Q. AND WHAT - - -

COURT REPORTER: I'M SORRY, WHAT WAS YOUR
ANSWER.

A. TWO THOUSAND SIX.

Q. THANK YOU. AND WHAT YEAR WERE YOU CONVICTED OF
ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
NATURE?

A. TWO THOUSAND FIVE.

Q. WHEN THEY CAME TO INVESTIGATE THE SHOOTING AT
YOUR HOME, YOU TOLD THEM THAT QUINTON GREEN DID
ALL THE SHOOTING, IS THAT FAIR, IS THAT WHAT YOU
TOLD THEM?

A. I SAID QUINTON SHOT, I DID SAY THAT.

Q. DID YOU SAY THAT QUINTON GREEN DID ALL THE
SHOOTING IN THE HOUSE?

A. I CAN'T REMEMBER, SIR.

Q. YOU DON'T RECALL?

CROSS - CRUZ MOORER BY MR. CHANDLER

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1 A. NO, SIR.

2 MR. CHANDLER: NO FURTHER QUESTIONS.

3 THE COURT: ANYTHING FURTHER, MR. SOLICITOR.

4 SOLICITOR SORENSON: NO, SIR. CAN HE BE
5 EXCUSED?

6 THE COURT: THANK YOU, YOU CAN STEP DOWN.

7 SOLICITOR SORENSON: CAN WE TAKE JUST A FIVE
8 MINUTE BREAK?

9 THE COURT: OKAY. AND THIS IS PROBABLY A
10 GOOD TIME ANYWAY. I PROMISED Y'ALL WE'D BREAK ABOUT
11 EVERY HOUR OR HOUR AND A HALF. SO, WE'LL TAKE A
12 BREAK. I'LL REMIND YOU, PLEASE DON'T DISCUSS THIS CASE
13 YET. I'LL GET YOU BACK OUT JUST AS QUICK AS WE CAN.
14 THANK YOU.

15 (Whereupon, the jury retires
16 to the jury room and the following
17 takes place out of the
18 presence of the jury.)

19 THE COURT: ALRIGHT, WE'LL TAKE A BREAK.

20 (Recess)

21 SOLICITOR SORENSON: JUDGE, I'VE ONLY GOT
22 TWO OTHER WITNESSES HERE, SO I GUESS IT'S GOING A
23 LITTLE FASTER THAN I THOUGHT IT WAS GOING TO GO. SO,
24 I'LL FIGURE OUT IF I NEED TO GET A COUPLE OF OTHERS.

25 SOLICITOR SORENSON: JUDGE, THIS IS SHANINAH

1 BROWN.

2 SHANINAH, THIS IS JUDGE COTHRAN, AND THE
3 JUDGE IS GOING TO HAVE A FEW QUESTIONS FOR YOU. OKAY?

4 Shaninah B. : OKAY.

5 (NOTE: Blank lines on this page do not indicate any
6 part of record has been omitted. Headers on testimony
7 pages and hard page breaks between testimony are now
8 required by the Court. See next ensuing page for
9 sequential continuation of record.)

EXAM, IN CAMERA, Shaninah B. BY THE COURT

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EXAMINATION, IN CAMERA, OF Shaninah B.

BY THE COURT:

Q. SHANINAH, HOW ARE YOU?

A. I'M EIGHT AND A HALF.

Q. YOU'RE EIGHT AND A HALF?

A. UH-HUH.

Q. OKAY. AND DO YOU GO TO SCHOOL?

A. YES.

Q. WHAT GRADE ARE YOU IN?

A. THIRD.

Q. THIRD GRADE?

A. UH-HUH.

Q. DO YOU LIKE SCHOOL?

A. UH-HUH.

Q. THAT'S GOOD. WHEN DO YOU START BACK?

A. NEXT MONDAY.

Q. AND DO YOU KNOW YOU'RE TODAY IN THE COURTROOM TO
TESTIFY. DO YOU UNDERSTAND THAT?

A. UH-HUH.

Q. AND IT'S IMPORTANT THAT YOU TELL THE TRUTH TO
THIS JURY. DO YOU UNDERSTAND THAT?

A. YES.

Q. IS IT GOOD TO TELL THE TRUTH OR BAD TO TELL THE
TRUTH?

A. GOOD.

EXAM, IN CAMERA, Shaninah B. BY THE COURT

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1 Q. IS IT GOOD TO TELL A LIE OR BAD TO TELL A LIE?

2 A. LIE, BAD.

3 Q. OKAY. I MEAN, WHAT WILL HAPPEN IF YOU TELL A
4 LIE?

5 A. YOU GET IN MUCH MORE TROUBLE THAN YOU ARE.

6 Q. OKAY. YOU GET IN TROUBLE. OKAY. WHAT ABOUT
7 WHEN YOU TELL THE TRUTH?

8 A. YOU NEVER GET IN TROUBLE.

9 Q. AND IF YOU TESTIFY HERE TODAY AND THE CLERK
10 SWEARS YOU IN, AND THESE LAWYERS ASK YOU SOME
11 QUESTIONS, ARE YOU GOING TO TELL THIS JURY THE
12 TRUTH?

13 A. TRUTH.

14 Q. ARE YOU GOING TO TELL THE TRUTH?

15 A. YES.

16 THE COURT: OKAY. HAVE YOU GOT ANYTHING,
17 ANY OTHER QUESTIONS YOU WANT ME TO ASK HER?

18 MR. CHANDLER: NONE FROM THE DEFENSE, YOUR
19 HONOR.

20 THE COURT: THANK YOU. I FIND THAT SHE
21 KNOWS RIGHT AND WRONG AND SHE UNDERSTAND THE
22 CONSEQUENCES OF TELLING A LIE, AND THE CONSEQUENCES OF
23 TELLING THE TRUTH.

24 SOLICITOR SORENSON: JUST TAKE HER BACK OUT
25 FOR RIGHT NOW.

1 THE COURT: ANYTHING ELSE WE NEED TO DO?

2 SOLICITOR SORENSON: I DON'T BELIEVE SO.

3 THE COURT: ALRIGHT. IF THE JURY'S READY
4 WE'RE READY. IF THEY STILL NEED A LITTLE MORE TIME,
5 BECAUSE THERE'S FOURTEEN OF THEM, SO - - -

6 BAILIFF: OKAY, I'LL CHECK WITH THEM.

7 THE COURT: --- IF THEY'RE READY BRING THEM
8 ON IN. IF THEY NEED MORE TIME WE'LL WAIT ON THEM.
9 (Whereupon, the jury enters
10 and the courtroom and the following
11 takes place in the presence
12 of the jury.)

13 THE COURT: ALRIGHT, MR. SOLICITOR, YOU MAY
14 CALL YOU NEXT WITNESS.

15 SOLICITOR SORENSON: THANK YOU. THE STATE
16 CALLS JOHNATHAN RAYSOR.

17 THE COURT: IF YOU'D COME AROUND, MR.
18 RAYSOR, AND PLACE YOUR LEFT HAND ON THAT BIBLE AND
19 RAISE YOUR RIGHT.
20 (Whereupon, Johnathan Raysor
21 is duly sworn.)

22 CLERK: HAVE A SEAT AND STATE YOUR FULL NAME
23 FOR THE COURT.

24 WITNESS: MY NAME IS JOHNATHAN CARRICK
25 RAYSOR.

DIRECT - JOHNATHAN C. RAYSOR BY SOL. SORENSON

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DIRECT EXAMINATION OF JOHNATHAN C. RAYSOR

BY SOLICITOR SORENSON:

Q. JOHNATHAN, IF YOU WOULD, TELL THE JURY HOW OLD
YOU ARE?

A. SEVENTEEN.

Q. SEVENTEEN. AND YOU'RE STILL IN SCHOOL?

A. YES, SIR.

Q. OKAY. WHERE ARE YOU IN SCHOOL?

A. O. C. TECH.

Q. OKAY. AND WHAT ARE YOU TAKING AT O.C. TECH?

A. ADULT ED.

Q. OKAY. AND WHAT, TELL THE JURY WHAT YOU HOPE TO
DO FOR A LIVING WHEN YOU GET DONE WITH SCHOOL?

A. BASKETBALL. IF THAT DON'T WORK OUR, I WANT TO BE
A CHEF.

Q. AND LET ME ASK YOU, TIFFANY MOORER, HOW ARE YOU
RELATED TO TIFFANY?

A. THAT'S MY SISTER.

Q. YOUR SISTER. AND BACK IN SEPTEMBER OF TWO
THOUSAND NINE WHERE WERE YOU LIVING AT THAT TIME,
JOHNATHAN?

A. WITH MY SISTER.

Q. WITH YOUR SISTER, AND WHERE WAS THAT THAT Y'ALL
WERE LIVING AT THEN?

A. PINE VIEW.

DIRECT - JOHNATHAN C. RAYSOR BY SOL. SORENSON

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1 Q. PINE VIEW, AND THAT'S A MOBILE HOME PARK?

2 A. YES, SIR.

3 Q. OKAY. AND DO YOU STILL LIVE WITH YOUR SISTER
4 NOW?

5 A. YES, SIR.

6 Q. SAME PLACE?

7 A. NO.

8 Q. OKAY. AND LET ME ASK YOU, THE DEFENDANT IN THIS
9 CASE, MR. DARBY, DO YOU KNOW MR. DARBY?

10 A. YES, SIR.

11 Q. AND HOW DO YOU KNOW MR. DARBY?

12 A. AS MIGHT AS WELL SAY WE'RE LIKE FAMILY OR
13 SOMETHING LIKE THAT.

14 Q. HOW LONG HAVE YOU KNOWN MR. DARBY?

15 A. EVER SINCE I WAS IN DIAPERS.

16 Q. SIXTEEN, SEVENTEEN YEARS, BASICALLY?

17 A. YEAH, YOU MIGHT AS WELL PUT IT LIKE THAT.

18 Q. DID YOU EVER HAVE ANY PROBLEMS WITH HIM PRIOR TO
19 THIS INCIDENT LAST SEPTEMBER?

20 A. NO, SIR.

21 Q. NOW, JOHNATHAN, I'M GOING TO TURN YOUR ATTENTION,
22 IF I COULD, BACK TO THE NIGHT OF SEPTEMBER
23 TWENTY-NINTH OF LAST YEAR, TWO THOUSAND NINE. DO
24 YOU REMEMBER WHAT YOU WERE DOING THAT EVENING?

25 A. YES, SIR.

1 Q. WHAT, TELL THE JURY WHAT YOU WERE DOING THAT
2 EVENING?

3 A. I WAS WATCHING T.V. IN MY MAMA'S ROOM.

4 Q. OKAY. AND WHO WERE YOU WATCHING T.V. WITH, DO
5 YOU REMEMBER?

6 A. I WAS WITH MY TWO NIECES.

7 Q. OKAY. AND WHAT ARE YOU NIECES' NAMES?

8 A. KIASHA AND SHANINAH.

9 Q. OKAY. AND WHO ELSE WAS HOME AT THAT TIME?

10 A. MY SISTER AND MY BROTHER.

11 Q. YOUR BROTHER, THAT'S YOUR BROTHER-IN-LAW, CRUZ?

12 A. YES, SIR.

13 Q. OKAY. AND TELL THE JURY, DID SOMETHING HAPPEN
14 THAT NIGHT THAT KIND OF CAME, CAUGHT YOUR
15 ATTENTION AND MADE YOU GO DO SOMETHING?

16 A. SOMEBODY KNOCKED ON THE DOOR.

17 Q. OKAY. AND WHAT DOOR WAS THAT THAT THEY KNOCKED
18 ON?

19 A. THE LIVING ROOM FRONT DOOR.

20 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
21 ONE, IS THAT THE DOOR THAT THEY KNOCKED ON THERE?

22 A. YES, SIR.

23 Q. AND WAS THAT DOOR, WAS THAT DOOR OPENED OR CLOSED
24 WHEN THEY KNOCKED ON IT?

25 A. CLOSED.

DIRECT - JOHNATHAN C. RAYSOR BY SOL. SORENSON

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1 Q. OKAY. AND YOU WERE BACK, YOU SAID BACK IN YOUR
2 GRANDMOTHER'S ROOM OR YOUR - - -

3 A. MY MOM'S.

4 Q. --- MOTHER'S ROOM, I'M SORRY, THE CHILDREN'S
5 GRANDMOTHER, RIGHT? NOW, WAS YOUR MOM HOME AT
6 THAT TIME?

7 A. NO, SHE AT WORK.

8 Q. OKAY. AND WHEN SOMEBODY KNOCKED AT THE DOOR WHAT
9 DID YOU DO?

10 A. I WENT TO GO SEE WHO IT WAS. I PEEPED THROUGH THE
11 PEEP HOLE.

12 Q. OKAY. DID YOU SEE SOMEBODY, WAS THERE SOMEBODY
13 THERE?

14 A. UH-HUH.

15 Q. OKAY. DID YOU OPEN THE DOOR?

16 A. YES, SIR.

17 Q. OKAY. AND TELL THE JURY, DID YOU RECOGNIZE THAT
18 PERSON THAT WAS AT THE DOOR INITIALLY?

19 A. NO.

20 Q. EVER SEEN HIM BEFORE THAT YOU KNEW OF?

21 A. NO.

22 Q. DID YOU SEE ANYBODY ELSE OUT THERE AT THAT POINT
23 IN TIME?

24 A. NO.

25 Q. OKAY. WHAT, WHAT HAPPENED THEN?

- 1 A. I DIDN'T RECOGNIZE HIM SO I CALLED MY BROTHER AND
2 HE CAME TO THE DOOR.
- 3 Q. OKAY. AND WHAT, WHAT HAPPENED THEN? YOU SAID
4 CRUZ CAME TO THE DOOR ALSO?
- 5 A. (Nods in the affirmative.)
- 6 Q. ALRIGHT. WERE THE TWO KIDS, THE TWO LITTLE GIRLS
7 STILL BACK IN THE BEDROOM?
- 8 A. YES, SIR.
- 9 Q. WHAT, WHAT HAPPENED THEN, WHEN CRUZ CAME UP TO
10 THE FRONT DOOR ALSO?
- 11 A. LIKE, I THINK HE JUST HAD ON SOME, LIKE, SHORTS,
12 OR SOME BOXERS OR SOMETHING, AND HE PEEK HIS
13 HEAD, LIKE THAT, AND THE DUDE PULLED OUT A GUN,
14 AND BOTH OF US, LIKE, HE RAN THAT WAY AND I RAN
15 THIS WAY.
- 16 Q. OKAY. SO, YOU RAN TOWARDS WHERE?
- 17 A. MY MOM'S ROOM.
- 18 Q. OKAY. BACK TO WHERE SHANINAH AND KIKI WERE?
- 19 A. (Nods in the affirmative.)
- 20 Q. OKAY. AND WHERE, WHERE DID CRUZ GO?
- 21 A. INTO HIS ROOM.
- 22 Q. IN THE OTHER DIRECTION, IS THAT CORRECT?
- 23 A. YEAH.
- 24 Q. OKAY. WHAT DID YOU DO WHEN YOU GOT BACK INTO THE
25 BEDROOM WHERE THE GIRLS WERE?

DIRECT - JOHNATHAN C. RAYSOR BY SOL. SORENSON

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- 1 A. I WAS LOOKING FOR THEM, BUT THEY MUST HAVE WENT
2 IN MY ROOM OR THEY MUST BE WAS IN THE CLOSET OR
3 SOMETHING. AND SO, WHEN I RAN BACK OUT I GOT IN
4 THE CLOSET, AND THAT'S WHEN THE DUDE CAME IN
5 THERE KICKING THE DOOR AND GOT ME OUT THE CLOSET,
6 AND ...
- 7 Q. OKAY. NOW, LET ME SHOW YOU STATE'S EXHIBIT
8 NUMBER SEVEN, WHAT'S THAT PHOTOGRAPH OF?
- 9 A. THAT'S MY MOM'S DOOR.
- 10 Q. OKAY. AND WAS THAT DOOR LIKE THAT PRIOR TO THAT
11 NIGHT?
- 12 A. HUH-UH.
- 13 Q. HOW DID THAT DOOR GET LIKE THAT?
- 14 A. HE KICKED IT.
- 15 Q. OKAY. AND WHO WAS THAT THAT DID THAT?
- 16 A. THE OTHER GUY.
- 17 Q. OKAY. SO, NOT MR. DARBY, THE OTHER GUY?
- 18 A. NO, THE OTHER GUY.
- 19 Q. OKAY. AND WHAT, WHAT HAPPENED THEN, JOHNATHAN?
- 20 A. THEY SAT US -- THE OTHER GUY SAT US ON THE COUCH,
21 AND THAT'S WHEN ...
- 22 Q. WHERE WERE THE TWO GIRLS AT AT THAT TIME?
- 23 A. ON THE COUCH WITH ME.
- 24 Q. OKAY. WHERE HAD THEY -- WERE THEY BACK IN THE
25 BEDROOM WITH YOU AT THAT TIME OR HOW DID THEY END

1 UP OUT ON THE COUCH?

2 A. HE MUST BE FIND THEM FIRST AND THEN CAME FOR ME.

3 Q. OKAY. AND YOU GOT OUT ON THE COUCH THEY WERE
4 SITTING OUT THERE ALSO, THAT WAS BOTH OF THE
5 GIRLS?

6 A. (Nods in the affirmative.)

7 Q. OKAY. NOW, DID YOU SEE -- AT THAT POINT IN TIME
8 WHEN HE CAME, WHEN THE OTHER GUY CAME AND BROUGHT
9 YOU OUT OF YOUR MOM'S BEDROOM HAD YOU SEEN
10 ANYBODY ELSE IN THE HOUSE WITH HIM YET AT THAT
11 TIME?

12 A. WHEN HE BROUGHT ME BACK OUT?

13 Q. UH-HUH.

14 A. YEAH.

15 Q. OKAY. AND TELL THE JURY WHAT YOU SAW THEN WHEN
16 YOU GOT BACK OUT INTO THE LIVING ROOM AREA?

17 A. I SAW JERMAINE DARBY.

18 Q. AND WHERE WAS JERMAINE AT?

19 A. IN FRONT OF MY SISTER.

20 Q. OKAY. AND WHERE WAS YOUR SISTER AT?

21 A. IN THE FRONT OF HER DOOR, LIKE, IN THE KITCHEN,
22 IN THE DOOR.

23 Q. OKAY. AND WHAT WAS -- AND BY JERMAINE DARBY, IS
24 THAT THE DEFENDANT?

25 A. YES.

DIRECT - JOHNNATHAN C. RAYSOR BY SOL. SORENSON

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- 1 Q. OKAY. AND WHAT WAS HE DOING?
- 2 A. HOLDING A SHOT GUN.
- 3 Q. OKAY. AND WHAT WAS HE DOING WITH THE SHOT GUN?
- 4 A. POINTING IT AT MY SISTER.
- 5 Q. NOW, DID YOU SEE WHERE, WHERE YOUR BROTHER-IN-LAW
- 6 WAS AT THAT TIME?
- 7 A. HE WAS IN THE BATH ROOM, IN HIS BATH ROOM.
- 8 Q. OKAY. WHAT HAPPENED THEN AFTER THE GUY BROUGHT
- 9 AND PUT Y'ALL OUT IN THE LIVING ROOM, WHERE DID
- 10 GO OR WHAT HAPPENED NEXT?
- 11 A. HE WENT BACK TO THE OTHER ROOM, LIKE, TO THEIR
- 12 ROOM.
- 13 Q. OKAY. AND WHERE WERE YOU AT THEN?
- 14 A. ON THE COUCH.
- 15 Q. DID YOU STAY ON THE COUCH?
- 16 A. (Nods in the affirmative.)
- 17 Q. AND WHAT HAPPENED, TELL THE JURY WHAT, WHEN YOU
- 18 WERE SITTING ON THE COUCH WHAT YOU WERE ABLE TO
- 19 SEE HAPPEN THEN AFTER THAT?
- 20 A. THEY WAS, LIKE, TUSSLING AND FIGHTING AND ALL
- 21 THAT, AND, LIKE, AFTER THEY GOT FINISHED TUSSLING
- 22 IN THE ROOM THEY PROCEEDED, LIKE, TO THE KITCHEN
- 23 AND STUFF LIKE THAT.
- 24 Q. OKAY. AND DID THE FIGHTING CONTINUE IN THE
- 25 KITCHEN?

DIRECT - JOHNATHAN C. RAYSOR BY SOL. SORENSON

120

1 A. YES, SIR.

2 Q. OKAY. DID IT EVER ACTUALLY END UP IN THE LIVING
3 ROOM WHERE YOU WERE SEATED?

4 A. YES, SIR.

5 Q. AND WHO WAS THAT THAT WAS FIGHTING IN THE LIVING
6 ROOM?

7 A. THE OTHER GUY.

8 Q. THE OTHER GUY. AND WHO?

9 A. HUH? OH, MY BROTHER.

10 COURT REPORTER: I'M SORRY, WHAT WAS YOUR
11 ANSWER?

12 A. MY BROTHER.

13 Q. AND WHO -- AND WHILE ALL THIS -- SO, LET ME KIND
14 OF BACK YOU UP. YOU SAID IT KIND OF INITIALLY IT
15 SPILLED OUT INTO THE KITCHEN AREA?

16 A. UH-HUH.

17 Q. OKAY. WHO WAS FIGHTING IN THE KITCHEN AREA,
18 JOHNATHAN?

19 A. IT WAS MY BROTHER, THE OTHER GUY, AND JERMAINE
20 WAS, LIKE, STANDING RIGHT THERE.

21 Q. OKAY. AND WHAT WAS HE DOING WHILE THE OTHER GUY
22 AND CRUZ WERE FIGHTING, WHAT WAS JERMAINE DOING?

23 A. LIKE, HE WAS KNOCKING MY BROTHER IN THE HEAD WITH
24 THE GUN, AND THEN HE JUST STARTED TALKING TO MY
25 SISTER.

DIRECT - JOHNATHAN C. RAYSOR BY SOL. SORENSON

121

1 Q. WHAT WAS HE SAYING, DO YOU RECALL WHAT HE WAS
2 SAYING TO YOUR SISTER?

3 A. NO.

4 Q. HOW WERE YOU FEELING AT THAT TIME, JOHNATHAN?

5 A. LIKE, I WAS IN SHOCK, YOU KNOW, BECAUSE I AIN'T
6 NEVER SEEN NOTHING LIKE THAT EXCEPT IN SOME MOVIE
7 OR SOMETHING.

8 Q. WHAT WERE THE TWO GIRLS DOING?

9 A. THEY WERE SITTING THERE ON THE COUCH CRYING.

10 Q. AND NOW, YOU SAID ULTIMATELY THEY ENDED UP
11 SPILLING, THE OTHER GUY AND CRUZ, INTO THE LIVING
12 ROOM AREA?

13 A. (Nods in the affirmative.)

14 Q. ALRIGHT, AND THE DAMAGE TO THE COFFEE TABLE, WAS
15 THAT LIKE THAT PRIOR TO ALL THIS HAPPENING?

16 A. NO, SIR.

17 Q. ALRIGHT. AND WHEN THE TWO OF THEM WERE FIGHTING
18 IN THE LIVING ROOM AREA WHAT WAS MR. DARBY DOING?

19 A. HE WAS STANDING IN THE KITCHEN.

20 Q. OKAY. DID HE STILL HAVE THE SHOT GUN?

21 A. (Nods in the affirmative.)

22 Q. OKAY. NOW, YOU SAID YOU INITIALLY SAW THE OTHER
23 GUY WHEN HE FIRST WAS AT THE DOOR WITH A GUN
24 ALSO, THAT'S WHAT CAUSED THE TWO OF Y'ALL TO KIND
25 OF SCATTER AND RUN INITIALLY. DID HE STILL HAVE

1 THE WEAPON THAT YOU SAW WHEN HE WAS FIGHTING WITH
2 YOUR BROTHER-IN-LAW?

3 A. YEAH, LIKE, THEY WAS ON, LIKE, MY BROTHER IS
4 RIGHT HERE, AND THEY WAS, LIKE, ON THE GROUND.
5 THEY WAS LAYING ON THE GROUND.

6 Q. LET ME ASK YOU, AT ANY POINT IN TIME DID YOU HEAR
7 ANY SHOTS FIRED OR SEE ANY SHOTS FIRED INSIDE THE
8 HOUSE?

9 A. YES, SIR.

10 Q. AND WHERE WAS THAT AT?

11 A. LIKE, IN THE CEILING, LIKE, IN THE STOVE, THE
12 BOTTOM OF THE STOVE, IN THE REFRIGERATOR.

13 Q. AND WHO WAS THAT THAT FIRED THOSE SHOTS?

14 A. THE OTHER GUY.

15 Q. THE OTHER GUY? AND YOU SAID A WHILE AGO THAT YOU
16 SAW MR. DARBY ATTEMPTING TO HIT YOUR BROTHER-IN-
17 LAW WITH THE GUN, WITH THE SHOT GUN?

18 A. (Nods in the affirmative.)

19 Q. ALRIGHT. LET ME ASK YOU, DID THEY END UP LEAVING
20 THE HOUSE THAT NIGHT?

21 A. YEAH.

22 Q. OKAY. HOW DID THAT COME ABOUT, DO YOU REMEMBER?

23 A. LIKE, THE PEOPLE WHO CAME IN?

24 Q. UH-HUH.

25 A. THEY LEFT THE HOUSE, BUT THE OTHER DUDE, HE SHOT

DIRECT - JOHNATHAN C. RAYSOR BY SOL. SORENSON

123

1 ONE MORE TIME AND LEFT.

2 Q. OKAY. ALRIGHT, AND WHAT DID YOU DO THEN WHEN
3 THEY LEFT?

4 A. I CLOSED THE DOOR AND TOOK THE GIRLS IN THE ROOM
5 AND TOLD THEM NOT TO MOVE, AND I GOT ON MY KNEES
6 AND PEEPED MY HEAD OUT AND SEE IF LIKE THEY WAS
7 STILL THERE. AND THEIR DOOR, LIKE, THEIR DOOR
8 WAS CLOSED. AND SO, I JUST STAYED THERE.

9 Q. OKAY. WHAT ROOM WAS THAT THAT YOU STAYED IN?

10 A. MY ROOM.

11 Q. YOUR ROOM? OKAY. AND WHO ELSE, -- DID YOU HAVE
12 THE ROOM TO YOURSELF OR ...

13 A. NO, I HAD A ROOM, IT WAS ME AND MY NIECE, WE HAD,
14 LIKE, TWO DIFFERENT BEDS IN THE ROOM.

15 Q. OKAY, WHICH NIECE WAS THAT?

16 A. SHANINAH.

17 Q. SHANINAH? OKAY. WHERE DID KIKI STAY AT?

18 A. KIKI SLEPT WITH MY MOM.

19 Q. OKAY. Y'ALL ENDED UP STAYING BACK IN THAT
20 BEDROOM?

21 A. YEAH, UNTIL, LIKE, THE POLICE CAME.

22 Q. OKAY. THAT'S GOOD. AND MY LAST QUESTION IS GOING
23 TO BE, HOW DID YOU END UP GETTING OUT OF THE
24 BEDROOM, WHO CAME AND GOT YOU?

25 A. THE POLICE.

DIRECT - JOHNATHAN C. RAYSOR BY SOL. SORENSON

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1 Q. ANY DOUBT IN YOUR MIND THAT THAT'S THE MAN THAT
2 YOU SAW WITH THE SHOT GUN INSIDE YOUR HOUSE THAT
3 NIGHT, ANY DOUBT IN YOUR MIND?

4 A. (Shakes head in the negative.)

5 Q. YOU'VE GOT TO SAY YES OR NO.

6 A. OH, NO, SIR.

7 Q. OKAY. AND DID YOU EVER GIVE PERMISSION TO EITHER
8 ONE OF THEM TO COME IN THE HOUSE WITH THOSE GUNS
9 THAT NIGHT?

10 A. NO, SIR.

11 SOLICITOR SORENSON: THANK YOU, JOHNATHAN,
12 PLEASE ANSWER ANY QUESTIONS MR. CHANDLER HAS.

13 (NOTE: Blank lines on this page do not indicate any
14 part of record has been omitted. Headers on testimony
15 pages and hard page breaks between testimony are now
16 required by the Court. See next ensuing page for
17 sequential continuation of record.)

CROSS - JOHNATHAN C. RAYSOR BY MR. CHANDLER

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CROSS-EXAMINATION OF JOHNATHAN C. RAYSOR

BY MR. CHANDLER:

Q. JOHNATHAN, WERE YOU AT THE HOUSE THE DAY BEFORE
THIS INCIDENT WHEN MY CLIENT, JERMAINE, EDWARD
JERMAINE DARBY, PURCHASED SOME DRUGS FROM YOUR
BROTHER-IN-LAW.

A. NO.

Q. YOU WEREN'T THERE?

A. NO.

Q. HAVE YOU EVER BEEN THERE WHEN HE'S PURCHASED
DRUGS FROM YOU?

A. I CAN'T RECALL. I DON'T RECALL.

Q. YOU DO KNOW THAT YOUR BROTHER DOES SELL DRUGS OUT
OF THE HOUSE, RIGHT?

A. I DON'T KNOW.

Q. YOU DON'T KNOW? WHAT ABOUT YOUR SISTER, YOU
DON'T KNOW IF YOUR SISTER DOES IT EITHER?

A. NO.

Q. THEY DON'T DO IT WHILE YOU'RE THERE?

A. NO, NOT WHILE I'M THERE.

MR. CHANDLER: OKAY. ENOUGH SAID. NO
FURTHER QUESTIONS.

THE COURT: YOU CAN STEP DOWN.

SOLICITOR SORENSON: THE STATE CALLS

Shaninah B. . COME ON AROUND TO, AROUND OVER HERE.

1 THE COURT: IF YOU WILL PLACE YOUR LEFT HAND
2 ON THE BIBLE AND RAISE YOUR RIGHT. OKAY?

3 (Whereupon, Shaninah B.
4 is duly sworn.)

5 CLERK: OKAY. HAVE A SEAT AND STATE YOUR
6 FULL NAME FOR THE COURT.

7 WITNESS: MY NAME IS SHANINAH MONIQUE
8 MICHELLE BROWN.

9 (NOTE: Blank lines on this page do not indicate any
10 part of record has been omitted. Headers on testimony
11 pages and hard page breaks between testimony are now
12 required by the Court. See next ensuing page for
13 sequential continuation of record.)

DIRECT - SHANINAH M.M.BROWN BY SOL. SORENSON

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DIRECT EXAMINATION OF SHANINAH M. M. BROWN

BY SOLICITOR SORENSON:

Q. THAT'S A MOUTHFUL, ISN'T IT SHANINAH? ALRIGHT.

YOU NEED TO MAKE SURE YOU KEEP YOUR VOICE UP NICE
AND LOUD, OKAY?

A. OKAY.

Q. YOU SEE ALL THOSE PEOPLE OVER THERE, SEE THE
GENTLEMAN IN THE FAR CORNER?

A. YEAH.

Q. MAKE SURE HE CAN HEAR EVERYTHING YOU SAY. OKAY?

A. OKAY.

Q. ALRIGHT. NOW, IF YOU WOULD, SHANINAH, TELL US,
PLEASE, HOW OLD ARE YOU?

A. I'M EIGHT AND A HALF.

Q. OKAY. AND WHAT GRADE ARE YOU IN, SHANINAH?

A. THIRD.

Q. OKAY. AND WHEN ARE YOU GETTING READY TO START
SCHOOL?

A. NEXT MONDAY.

Q. AND WHERE, SO YOU'RE GOING TO GO INTO THE, START
THE THIRD GRADE ON MONDAY?

A. YES.

Q. ALRIGHT. AND WHERE DO YOU GO TO SCHOOL?

A. EDISTO ELEMENTARY SCHOOL.

Q. AND WHO, WHO DO YOU LIVE WITH RIGHT NOW,

DIRECT - SHANINAH M.M.BROWN BY SOL. SORENSON

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1 SHANINAH?

2 A. I LIVE WITH MY MAMA, MY DADDY, AND MY UNCLE AND
3 MY GRANDMA AND MY SISTER.

4 Q. OKAY. AND YOUR SISTER, IS SHE YOUNGER OR OLDER
5 THAN YOU?

6 A. SHE'S YOUNGER.

7 Q. AND WHAT'S YOUR SISTER'S NAME?

8 A. HER NAME IS KIKI.

9 Q. KIKI, IS THAT WHAT SHE GOES BY? WHAT'S HER REAL,
10 WHAT'S HER FULL AME?

11 A. KIASHA.

12 Q. KIASHA. BUT YOU CALL HER KIKI?

13 A. YES.

14 Q. OKAY. AND HOW OLD IS KIKI?

15 A. SHE IS SIX.

16 Q. OKAY. AND SHANINAH, LET ME ASK YOU, YOU SAID YOU
17 WERE GETTING READY TO GO INTO THE THIRD GRADE,
18 RIGHT?

19 A. YES.

20 Q. OKAY. LET ME ASK YOU, DO YOU KNOW THE DIFFERENCE
21 BETWEEN THE TRUTH AND A LIE?

22 A. YES.

23 Q. OKAY. AND TELL THE JURY IF YOU WOULD, WHICH ONE
24 IS GOOD AND WHICH ONE IS BAD?

25 A. A LIE IS BAD AND THE TRUTH IS GOOD.

DIRECT - SHANINAH M.M.BROWN BY SOL. SORENSON

129

1 Q. OKAY. AND WHAT HAPPENS TO YOU WHEN YOU TELL A
2 LIE?

3 A. YOU'LL GET IN MUCH MORE TROUBLE THAN YOU ARE.

4 Q. YOU'LL GET IN TROUBLE IF YOU TELL A LIE?

5 A. YES.

6 Q. AND YOU'RE GOING TO TELL THE JURY TODAY, ARE YOU
7 GOING TO TELL THEM THE TRUTH OR A LIE?

8 A. THE TRUTH.

9 Q. NOW, BACK ON, SHANINAH, BACK LAST SEPTEMBER, DO
10 YOU REMEMBER WHEN YOU WERE LIVING IN THE PINE
11 VIEW MOBILE HOME PARK?

12 A. YES.

13 Q. OKAY. AND WHO WERE YOU LIVING WITH AT PINE VIEW,
14 DO YOU REMEMBER?

15 A. MY MAMA, DADDY, UNCLE, GRANDMA AND MY SISTER.

16 Q. THE SAME PEOPLE YOU'RE LIVING WITH NOW, RIGHT?

17 A. YES.

18 Q. OKAY. BUT YOU'RE LIVING SOMEWHERE ELSE NOW?

19 A. YES.

20 Q. ALRIGHT. NOW, LET ME ASK YOU, DO YOU KNOW MR.
21 DARBY, DO YOU KNOW THAT MAN RIGHT THERE?

22 A. YES.

23 Q. OKAY. TELL THE JURY, WHAT NAME DO YOU KNOW HIM
24 BY?

25 A. JERMAINE.

1 Q. JERMAINE? OKAY. AND HOW LONG HAVE YOU KNOWN
2 HIM?

3 A. A LONG TIME.

4 Q. A LONG TIME? I'M GOING TO TURN YOUR ATTENTION,
5 WE'RE GOING TO KIND OF GO BACK, SHANINAH, BACK TO
6 LAST SEPTEMBER, OKAY? DO YOU REMEMBER THE NIGHT
7 THAT THE POLICE CAME OUT TO YOUR HOUSE?

8 A. YES.

9 Q. OKAY. AND TELL THE JURY THAT NIGHT WHAT YOU HAD
10 BEEN DOING THAT EVENING?

11 A. I WAS LOOKING AT CARTOONS WITH MY SISTER.

12 Q. OKAY. AND WHAT ROOM WERE YOU LOOKING AT CARTOONS
13 IN?

14 A. IN MY GRANDMA'S ROOM.

15 Q. OKAY. AND YOU SAID YOUR SISTER WAS WITH YOU
16 ALSO?

17 A. YES.

18 Q. OKAY. AND DO YOU REMEMBER ANYTHING HAPPENING
19 THAT NIGHT WHILE YOU WERE WATCHING CARTOONS?

20 A. YES.

21 Q. OKAY. TELL THE JURY WHAT YOU REMEMBER HAPPENING
22 THAT NIGHT?

23 A. I REMEMBER SOMEBODY KNOCKING ON THE DOOR.

24 Q. OKAY. AND DID YOU GO ANSWER THE DOOR?

25 A. NO.

DIRECT - SHANINAH M.M.BROWN BY SOL. SORENSON

131

1 Q. OKAY. DID KIKI GO ANSWER THE DOOR?

2 A. NO.

3 Q. OKAY. DO YOU REMEMBER, DO YOU KNOW WHO ANSWERED
4 THE DOOR?

5 A. JOHNATHAN AND MY DADDY.

6 Q. OKAY. AND JOHNATHAN IS YOUR UNCLE?

7 A. YES.

8 Q. IS THAT RIGHT? YOUR MOM'S BROTHER? IS THAT
9 RIGHT?

10 A. YES.

11 Q. AND DID YOU GO OUT, WHEN THEY WENT AND ANSWERED
12 THE DOOR DID YOU GO OUT TO SEE WHO WAS AT THE
13 DOOR?

14 A. NO.

15 Q. OKAY. TELL THE JURY WHAT THE NEXT THING AFTER
16 THEY WENT AND ANSWERED THE DOOR, WHAT WAS THE
17 NEXT THING YOU REMEMBER HAPPENING, SHANINAH?

18 A. THE BOTH WENT OPPOSITE WAYS.

19 Q. OKAY. AND DID SOMEBODY COME BACK TO WHERE YOU
20 WERE IN THE BED ROOM?

21 A. NO.

22 Q. DO YOU REMEMBER?

23 A. YES. JOHNATHAN CAME AND GOT US AND PUT US IN A
24 ...

25 COURT REPORTER: I'M SORRY. COULD YOU SPEAK

DIRECT - SHANINAH M.M.BROWN BY SOL. SORENSON

132

1 A LITTLE BIT LOUDER, PLEASE.

2 A. JOHNATHAN CAME AND GOT US AND PUT US IN THE FRONT
3 ROOM.

4 Q. OKAY. AND THE FRONT ROOM IS OUT IN THE LIVING
5 ROOM?

6 A. YES.

7 Q. OKAY. SO YOU ENDED UP OUT IN THE LIVING ROOM?

8 A. YES.

9 Q. OKAY. AND WHO WAS WITH YOU WHEN YOU WERE OUT IN
10 THE LIVING ROOM?

11 A. MY UNCLE AND KIKI.

12 Q. ALRIGHT. AND DID YOU SEE ANYBODY ELSE AT THAT
13 TIME THAT DIDN'T LIVE IN YOUR HOUSE?

14 A. YES.

15 Q. OKAY. WHO DID YOU SEE THAT DIDN'T LIVE IN YOUR
16 HOUSE?

17 A. JERMAINE AND SOME OTHER GUY.

18 Q. OKAY. NOW, THE OTHER GUY, DID YOU KNOW WHO THAT
19 OTHER GUY WAS?

20 A. NO.

21 Q. HAD YOU EVER SEEN HIM BEFORE THAT YOU COULD
22 REMEMBER, SHANINAH?

23 A. NO, SIR.

24 Q. OKAY. AND YOU SAID YOU SAW JERMAINE, THOUGH?

25 A. YES, SIR.

DIRECT - SHANINAH M.M.BROWN BY SOL. SORENSON

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1 Q. AND THAT'S JERMAINE THAT YOU SAW THAT NIGHT?

2 A. YES.

3 Q. OKAY. AND WHAT WAS -- LET ME ASK YOU FIRST ABOUT
4 THE OTHER GUY. WHAT WAS THE OTHER GUY DOING WHEN
5 YOU SAW HIM?

6 A. HE WAS, LIKE, HE WAS, LIKE, FIGHTING WITH MY
7 DADDY.

8 Q. OKAY. ALRIGHT. AND HOW ABOUT JERMAINE, WHAT WAS
9 HE DOING?

10 A. HE WAS HOLDING A SHOT GUN AT MY MAMA'S HEAD,
11 FACE.

12 Q. AT HER FACE. OKAY. AND WHERE WAS YOUR MAMA AT
13 WHEN THAT WAS HAPPENING?

14 A. SHE WAS IN THE KITCHEN AND KIND OF IN THE KITCHEN
15 AND HER ROOM.

16 Q. OKAY. WHAT -- SHANINAH, WHAT HAPPENED AFTER
17 THAT, AFTER YOU SAW ALL THAT GOING ON, WHAT
18 HAPPENED NEXT, DO YOU REMEMBER?

19 A. YES.

20 Q. TELL THE JURY WHAT HAPPENED NEXT, SHANINAH?

21 A. THEY STARTED SHOOTING AT MY DADDY.

22 Q. OKAY. AND WHAT WERE YOU AND YOUR SISTER DOING?

23 A. WE WAS CRYING BUT JOHNATHAN TOOK US IN OUR ROOM.

24 Q. OKAY. SO YOU WENT BACK INTO YOUR ROOM?

25 A. YES.

DIRECT - SHANINAH M.M.BROWN BY SOL. SORENSON

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1 Q. OKAY. AND WHAT DID YOU DO WHEN YOU WENT BACK
2 INTO YOUR ROOM?

3 A. WE WAS ALL IN THE CORNER.

4 Q. AND WHAT WERE YOU DOING IN THE CORNER, SHANINAH?

5 A. WE WAS IN THERE THE WHOLE TIME.

6 Q. AND DO YOU REMEMBER SOMEBODY COMING AND GETTING
7 YOU OUT OF THE BEDROOM?

8 A. YES.

9 Q. WHO CAME AND GOT YOU OUT OF THE BEDROOM?

10 A. THE POLICEMAN.

11 SOLICITOR SORENSON: ALRIGHT, SHANINAH, I
12 APPRECIATE YOU ANSWERING MY QUESTIONS. OKAY? PLEASE
13 ANSWER ANY QUESTIONS THAT MR. CHANDLER HAS. OKAY?

14 A. OKAY.

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16 part of record has been omitted. Headers on testimony
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18 required by the Court. See next ensuing page for
19 sequential continuation of record.)

CROSS - SHANINAH M. M. BROWN BY MR. CHANDLER

135

CROSS-EXAMINATION OF SHANINAH M. M. BROWN

BY MR. CHANDLER:

Q. SHANINAH, DO YOU REMEMBER WHAT YOU WERE WEARING
ON AUGUST THE TWENTY-NINTH OF TWO THOUSAND AND
TEN?

A. NO.

Q. DO YOU REMEMBER WHAT YOUR MOMMY AND DAD WERE
WEARING THAT DAY?

A. (Shakes head in the negative.)

Q. OF THE EVENTS THAT YOU TALKED ABOUT TODAY WHO
HELPED YOU REMEMBER ABOUT WHAT HAPPENED?

A. NOBODY.

Q. NOBODY? DID YOUR MOM AND DAD TELL YOU WHAT
HAPPENED, DID THEY HELP YOU REMEMBER WHAT
HAPPENED?

A. NO.

Q. DO YOU, WHAT ELSE DO YOU REMEMBER OF THAT DAY?

A. EVERY -- NOTHING.

Q. NOBODY, DID ANYONE TELL YOU HOW TO ANSWER THE
QUESTIONS TODAY ABOUT WHAT HAPPENED?

A. NO.

Q. HOW DO YOU KNOW WHO OPENED UP THE DOOR?

A. BECAUSE I SAW THEM.

Q. YOU? I THOUGHT YOU WERE IN THE ROOM WHEN THEY
OPENED UP THE DOOR.

CROSS - SHANINAH M. M. BROWN BY MR. CHANDLER

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1 A. I COULD KIND OF SEE THEM.

2 Q. WAS THE DOOR SHUT IN THE ROOM THAT YOU WERE IN?

3 A. NO.

4 Q. SO, WHO OPENED UP THE DOOR?

5 A. MY DADDY AND -- NO, JOHNATHAN DID.

6 Q. AND WHO TOLD YOU THAT?

7 A. NOBODY.

8 Q. WHAT ELSE DID YOU SEE?

9 A. FIGHTING.

10 Q. DID THEY LET HIM IN?

11 A. YES.

12 Q. THEY LET HIM IN? OKAY.

13 MR. CHANDLER: THANK YOU, MA'AM.

14 THE COURT: ANYTHING FURTHER?

15 SOLICITOR SORENSON: NO, SIR.

16 THE COURT: YOU CAN STEP DOWN. THANK YOU.

17 BE CAREFUL.

18 SOLICITOR SORENSON: MAY WE APPROACH, YOUR

19 HONOR?

20 (Whereupon a bench conference

21 is had out of the hearing

22 of the jury and court reporter.)

23 THE COURT: THINGS HAVE RUN A LITTLE FASTER

24 THAN EVERYBODY ANTICIPATED SO WE'RE OUT OF WITNESSES

25 FOR THIS AFTERNOON. AND SO, I'M GOING TO LET YOU GO

1 HOME FOR THE EVENING AND ASK YOU TO BE BACK IN THE
2 JURY ROOM AT NINE:THIRTY IN THE MORNING. AND IT
3 SHOULD NOT BE MUCH LONGER. I THINK THERE'S A
4 POSSIBILITY THAT YOU WOULD GET THIS CASE BY LUNCH TIME
5 TOMORROW, BUT I'LL REMIND YOU, PLEASE DON'T DISCUSS
6 THIS CASE WITH ANYONE OR ALLOW ANYONE TO DISCUSS IT
7 WITH YOU. I DON'T KNOW IF THERE'S GOING TO BE ANYTHING
8 IN THE NEWSPAPER OR ANY MEDIA COVERAGE, BUT IF IT IS,
9 YOU CAN'T READ IT OR YOU CAN'T WATCH IT. DON'T GO
10 HOME AND GET ON THE COMPUTER AND GOOGLE ANYBODY
11 INVOLVING THIS CASE. YOU'VE GOT TO DECIDE THIS CASE
12 BASED ON WHAT YOU HEAR IN THIS COURTROOM AND NOTHING
13 ELSE. SO, YOU HAVE A NICE EVENING AND I WILL SEE YOU
14 -- COME STRAIGHT TO THE JURY ROOM AT NINE:THIRTY IN
15 THE MORNING. IF FOR SOME REASON YOU HAVE AN EMERGENCY
16 AND YOU'RE GOING TO BE LATE PLEASE CALL THE CLERK'S
17 OFFICE BECAUSE WE SIT, WE CAN'T DO ANYTHING UNTIL
18 Y'ALL GET HERE. SO, EVERYTHING IS DEPENDENT ...

19 SOLICITOR SORENSON: MAY I APPROACH REAL
20 QUICKLY?

21 THE COURT: YEAH, HOLD ON JUST A MINUTE.
22 (Whereupon, a bench conference
23 is had out of the hearing of
24 the jury and court reporter.)

25 THE COURT: EVERYTHING I TOLD YOU JUST HOLD

1 THAT A MINUTE. WE HAD A WITNESS SHOW UP. AND SINCE
2 IT'S FOUR O'CLOCK, THIS SHOULDN'T BE A LONG ONE SO I'M
3 GOING TO GO AHEAD WHERE THEY WON'T HAVE TO COME BACK,
4 IF Y'ALL DON'T MIND. AND THEN, AFTER THAT WITNESS
5 WE'LL PROBABLY END UP GOING HOME UNLESS SOMEBODY ELSE
6 SHOWS UP. OKAY?

7 SOLICITOR SORENSON: THE STATE CALLS WILLIAM
8 BROWNING.

9 THE COURT: PUT YOUR LEFT HAND ON THAT
10 BIBLE, PLEASE, SIR, AND THE CLERK WILL SWEAR YOU IN.
11 RAISE YOUR RIGHT, I'M SORRY.

12 (Whereupon, William Browning
13 is duly sworn.)

14 THE COURT: THANK YOU. IF YOU'LL HAVE A SEAT
15 RIGHT THERE AND ANSWER THE QUESTIONS THESE ATTORNEYS
16 HAVE FOR YOU, PLEASE, SIR.

17 (NOTE: Blank lines on this page do not indicate any
18 part of record has been omitted. Headers on testimony
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20 required by the Court. See next ensuing page for
21 sequential continuation of record.)

DIRECT - WILLIAM BROWNING BY SOL. SORENSON

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DIRECT EXAMINATION OF WILLIAM BROWNING

BY SOLICITOR SORENSON:

Q. NOW, MR. BROWNING, IF YOU WOULD, PLEASE TELL THE JURY WHERE YOU'RE EMPLOYED?

A. I AM EMPLOYED WITH ORANGEBURG COUNTY EMS.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED WITH EMS?

A. CLOSE TO TWO YEARS NOW.

Q. OKAY. AND WHAT, WHAT IS YOUR CURRENT POSITION?

A. I'M AN EMT, BASIC.

Q. OKAY. AND DESCRIBE FOR THE JURY KIND OF, THEN, WHAT YOUR KIND OF DAY TO DAY ACTIVITIES OR DUTIES ARE WITH EMT?

A. BEING AN EMT IS EMERGENCY MEDICAL TECHNICIAN IS WHAT IT'S DESCRIBED AS. YOU HAVE THREE LEVELS, BASIC, INTERMEDIATE, AND PARAMEDIC. WE COULD BE DELIVERING A BABY IN THE MORNING OR WE COULD BE A CARDIAC ARREST IN THE AFTERNOON. SO, ANYTHING IN BETWEEN.

Q. SO, PRETTY MUCH ANYTIME SOMEBODY CALLS FOR AN EMERGENCY WHERE AN AMBULANCE IS DISPATCHED, I MEAN, YOU'RE POSSIBLY ONE OF THE PEOPLE THAT'S GOING TO GO, RIGHT?

A. YES, SIR.

Q. RIGHT. AND I WANT TO TURN YOUR ATTENTION, IF I COULD, MR. BROWNING, BACK TO THE EVENING OF

DIRECT - WILLIAM BROWNING BY SOL. SORENSON

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1 SEPTEMBER TWENTY-NINTH OF TWO THOUSAND NINE.

2 WERE YOU DISPATCHED THAT NIGHT TO ONE ONE FOUR
3 SCARLET DRIVE IN CORDOVA HERE IN SOUTH CAROLINA?

4 A. YES, SIR.

5 Q. OKAY. AND THAT'S, I GUESS, HERE WITHIN
6 ORANGEBURG COUNTY?

7 A. YES, SIR.

8 Q. AND LET ME ASK YOU, WHEN YOU GO OUT IN AN
9 AMBULANCE ARE YOU EVER BY YOURSELF OR IS THERE
10 SOMEBODY ELSE WITH YOU?

11 A. NO, SIR, IT'S ALWAYS A TWO MAN TEAM.

12 Q. AND WHO ELSE RESPONDED WITH YOU THAT NIGHT?

13 A. GOING BY MY REPORT IT WAS A GUY BY THE NAME OF
14 ROBERT JOYNER.

15 Q. OKAY. AND LET ME ASK YOU, AS PART OF YOUR REPORT,
16 DOES THAT DOCUMENT, AS FAR AS WHAT TIME YOU WERE
17 DISPATCHED, WHAT TIME YOU ARRIVED ON THE SCENE,
18 AND STUFF OF THAT NATURE?

19 A. YES, SIR.

20 Q. AND WHAT TIME DOES IT INDICATE YOU WERE
21 DISPATCHED?

22 A. NINETEEN:FORTY-THREE, WHICH IS SEVEN:FORTY-THREE.

23 Q. SEVEN:FORTY-THREE IN THE EVENING. AND WHAT TIME
24 DID YOU THEN ARRIVE AT THE SCENE IN CORDOVA?

25 A. AT NINETEEN:FIFTY-SIX, WHICH IS SEVEN:FIFTY-SIX.

DIRECT - WILLIAM BROWNING BY SOL. SORENSON

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1 Q. SEVEN:FIFTY-SIX. AND WHO WAS THE INDIVIDUAL THAT
2 YOU CAME INTO CONTACT WITH AS FAR AS BEING A
3 PATIENT THAT NIGHT OUT AT THAT SCENE?

4 A. GOING BY THE REPORT IS WHAT I'M GOING BY, THE
5 SUBJECT'S NAME WAS CRUZ MOORER.

6 Q. OKAY. AND WHERE, WHEN Y'ALL ARRIVED ON THE
7 SCENE, YOU AND MR. JOYNER ARRIVED OUT THERE,
8 WHERE DID Y'ALL FIND MR. MOORER, DID YOU MAKE
9 NOTES ABOUT THAT?

10 A. GOING BACK TO MY NARRATIVE ON MY REPORT -- WE RUN
11 SO MANY CALLS, YOU KNOW, IT'S HARD TO REMEMBER
12 DATES. THAT'S WHY WE HAVE THIS. HE WAS SITTING
13 ON THE GROUND.

14 Q. OKAY. SO, THAT WOULD BE OUTSIDE OF THE RESIDENCE
15 THERE?

16 A. YES, SIR.

17 Q. OKAY. DID HE APPEAR TO HAVE ANY INJURIES TO HIM
18 THAT YOU NOTED WHEN Y'ALL CAME UPON THE SCENE
19 THAT NIGHT?

20 A. THE PATIENT WAS COMPLAINING OF PAIN TO THE
21 FOREHEAD AND FACE AND BACK. WE NOTICED THAT IT
22 WAS CONTUSIONS, ABRASIONS TO THE FOREHEAD AND
23 RIGHT SIDE CHEEK AND LEFT UPPER SHOULDER.

24 Q. AND AS A RESULT OF THAT DID Y'ALL THEN EVALUATE
25 HIM AT THE SCENE AS FAR AS - - -

DIRECT - WILLIAM BROWNING BY SOL. SORENSON

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1 A. YES, SIR.

2 Q. --- TAKING VITAL SIGNS AND THINGS OF THAT NATURE?

3 A. YES, SIR. AND EN ROUTE TO THE HOSPITAL.

4 Q. OKAY. AND MY NEXT QUESTION WAS THEN, WAS A
5 DECISION MADE TO TRANSPORT HIM TO THE REGIONAL
6 MEDICAL CENTER HERE IN ORANGEBURG FOR ANY FOLLOW-
7 UP CARE?

8 A. YES, SIR.

9 Q. AND THAT WAS DONE WITH MR. MOORER THAT NIGHT?

10 A. YES, SIR.

11 Q. AND DID HIS INJURIES APPEAR TO BE CONSISTENT WITH
12 SOMEBODY THAT HAD BEEN IN A FIGHT WITH SOMEBODY
13 OR AN ALTERCATION, AS BEST AS YOU CAN RECALL?

14 A. AS BEST AS I CAN RECALL.

15 Q. AND HE HAD INDICATED, DID HE INDICATE TO YOU WHAT
16 THE NATURE OF HOW THE INJURIES TO HIS FACE AND
17 FOREHEAD OCCURRED?

18 A. I DIDN'T NEVER SEE THE OBJECT BUT IT WAS
19 DESCRIBED AS THE BUTT END OF A BLUNT OBJECT.

20 Q. LIKE A SHOT GUN OR SOMETHING OF THAT NATURE?

21 A. IT COULD HAVE BEEN.

22 Q. AND HE WAS ALSO TRANSPORTED, I THINK I'D ASKED
23 YOU, TO THE REGION MEDICAL CENTER?

24 A. YES, SIR.

25 Q. AND HE WAS THEN TURNED OVER TO THEIR CARE?

DIRECT - WILLIAM BROWNING BY SOL. SORENSON

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1 A. YES, SIR.

2 Q. OKAY. AND WHAT TIME WAS THAT DONE?

3 A. WE ARRIVED AT THE HOSPITAL AT TWENTY:TWENTY-EIGHT
4 AND ...

5 Q. SO, THAT WOULD BE EIGHT:THIRTY IN THE EVENING?

6 A. EIGHT:THIRTY, THE PATIENT WAS TURNED OVER. THIS
7 REPORT HAS A SIGNATURE OF THE HOSPITAL, WELL, MR.
8 CRUZ SIGNED IT TWENTY:TWENTY-SEVEN, SO IT WAS
9 AROUND EIGHT:THIRTY THAT HE WAS TURNED OVER FOR
10 CARE.

11 Q. ALRIGHT. AND HIS, ANY FURTHER TREATMENT THEN
12 WOULD HAVE BEEN TURNED OVER TO THE HOSPITAL, IS
13 THAT CORRECT?

14 A. YES, SIR.

15 SOLICITOR SORENSON: THANK YOU, MR.
16 BROWNING, PLEASE ANSWER ANY QUESTIONS THAT MR.
17 CHANDLER HAS.

18 THE COURT: MR. CHANDLER.

19 MR. CHANDLER: THANK YOU. I BEG THE COURT'S
20 INDULGENCE.

21 THE COURT: YES, SIR.

22 (NOTE: Blank lines on this page do not indicate any
23 part of record has been omitted. Headers on testimony
24 pages and hard page breaks between testimony are now
25 required by the Court.)

CROSS - WILLIAM BROWNING BY MR. CHANDLER

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CROSS-EXAMINATION OF WILLIAM BROWNING

BY MR. CHANDLER:

Q. DID MR. MOORER INDICATE TO YOU WHAT HAPPENED TO HIM?

A. SIR, WE, YOU KNOW, ASKED THE QUESTIONS, AND HE EXPLAINED THAT HE WAS HIT BY THE BUTT END OF A BLUNT OBJECT, AND HE WAS COMPLAINING OF PAIN IN THOSE AREAS, WITH THE FACE AND HAD CONTUSIONS AND ABRASIONS.

Q. DID HE INDICATE WHO DID THIS?

A. NO, SIR.

MR. CHANDLER: NO FURTHER QUESTIONS.

SOLICITOR SORENSON: JUST REAL BRIEFLY, YOUR HONOR.

(NOTE: Blank lines on this page do not indicate any part of record has been omitted. Headers on testimony pages and hard page breaks between testimony are now required by the Court. See next ensuing page for sequential continuation of record.)

REDIRECT - WILLIAM BROWNING BY SOL. SORENSON

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REDIRECT EXAMINATION OF WILLIAM BROWNING

BY SOLICITOR SORENSON:

Q. OF COURSE, WHO DID IT, I MEAN, WOULDN'T HAVE
ANYTHING PERTAINING TO YOUR TREATMENT OF HIM,
RIGHT?

A. NO, SIR, I DON'T CARE ABOUT WHO DID IT, WHAT I'M
THERE FOR IS TO TREAT THE PATIENT IS MY DUTY.

SOLICITOR SORENSON: THANK YOU, MR.

BROWNING.

(NOTE: Blank lines on this page do not indicate any
part of record has been omitted. Headers on testimony
pages and hard page breaks between testimony are now
required by the Court. See next ensuing page for
sequential continuation of record.)

RECROSS - WILLIAM BROWNING BY MR. CHANDLER

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RECROSS-EXAMINATION OF WILLIAM BROWNING

BY MR. CHANDLER:

Q. AND IN THIS CASE YOU RECEIVED NO INFORMATION AS
TO WHO DID IT?

A. NO, SIR.

MR. CHANDLER: THANK YOU.

THE COURT: ANYTHING ELSE OF THIS WITNESS?

SOLICITOR SORENSON: NO, SIR. CAN HE BE
EXCUSED?

THE COURT: ANY OBJECTION TO HIM BEING
EXCUSED?

MR. CHANDLER: NONE, JUDGE.

THE COURT: THANK YOU, SIR, YOU'RE EXCUSED,
MR. BROWNING, I APPRECIATE YOU COMING.

DID WE HAVE ANY OTHER WITNESSES SHOW UP?

SOLICITOR SORENSON: THAT WOULD BE IT FOR
TODAY, YOUR HONOR.

THE COURT: SO, WE'RE GOING TO QUIT FOR
TODAY?

SOLICITOR SORENSON: YES, SIR. THANK YOU.

THE COURT: ALRIGHT, WE'RE BACK TO WHAT I
TOLD Y'ALL EARLIER. HAVE A NICE EVENING, PLEASE DON'T
DISCUSS THIS CASE, I'LL SEE Y'ALL AT NINE:THIRTY IN
THE MORNING AND WE'LL FINISH THIS. THANK YOU SO MUCH.
(Whereupon the jury leaves

1 the courtroom and the following
2 takes place out of the
3 presence of the jury.)

4 THE COURT: ANYTHING ELSE BEFORE WE BREAK
5 FOR THE DAY?

6 MR. CHANDLER: NONE FROM THE DEFENSE, YOUR
7 HONOR.

8 THE COURT: OKAY.

9 SOLICITOR SORENSON: NO, SIR, JUST
10 ADDRESSING HIS BOND SITUATION FOR THE EVENING.

11 MR. CHANDLER: YOUR HONOR, MY CLIENT HAS
12 BEEN COOPERATIVE, HE'S HELPFUL, HE'S BEEN HERE, HE'S
13 BEEN OUT ON BOND WITHOUT ANY INCIDENTS SINCE THEN,
14 HE'S SHOWED UP EVERY TIME HE'S SUPPOSED TO. I THINK HE
15 HAS EVERY INTEREST TO SEE THIS CASE RESOLVED, AND WE
16 WOULD ASK THAT HE BE FREE ON BOND TO SHOW UP AS HE DID
17 TODAY AND AFTER LUNCH.

18 THE COURT: ALRIGHT, MR. DARBY, YOU
19 UNDERSTAND IF YOU DON'T SHOW UP AT NINE:THIRTY
20 TOMORROW - - -

21 DEFENDANT DARBY: YES, SIR.

22 THE COURT: --- WE'RE GOING TO PROCEED WITH
23 THIS TRIAL WITHOUT YOU, AND IF YOU'RE CONVICTED I WILL
24 SENTENCE YOU AND SEAL THAT SENTENCE, ISSUE A BENCH
25 WARRANT FOR YOUR ARREST.

1 DEFENDANT DARBY: I'LL BE HERE, SIR.

2 THE COURT: IT WILL BE IN YOUR BEST
3 INTEREST. DO YOU UNDERSTAND THAT?

4 DEFENDANT DARBY: YES, SIR.

5 THE COURT: AND IF YOU'RE NOT THAT'S WHAT'S
6 GOING TO HAPPEN TO YOU.

7 DEFENDANT DARBY: I'LL BE HERE.

8 THE COURT: OKAY. THANK YOU.

9 MR. CHANDLER: THANK YOU, YOUR HONOR.

10 THE COURT: I'LL SEE Y'ALL AT NINE:THIRTY IN
11 THE MORNING.

12 (Recess for the day)

13 DATE:

14 AUGUST 11, 2010

15 THE COURT: IS THE STATE READY TO PROCEED?

16 SOLICITOR SORENSON: YES, YOUR HONOR.

17 THE COURT: IS THE DEFENSE READY?

18 MR. CHANDLER: YES, YOUR HONOR.

19 THE COURT: OKAY. AND FOR MY SCHEDULING
20 ISSUE, YOU'VE GOT TWO MORE WITNESSES?

21 SOLICITOR SORENSON: YES, SIR.

22 THE COURT: OKAY. AND THEN, YOU HAVE HOW
23 MANY?

24 MR. CHANDLER: POTENTIALLY THREE, TWO.

25 THE COURT: OKAY. THEN, IF YOU'LL BRING US

1 THE JURY, PLEASE, SIR.

2 (Whereupon, the jury enters
3 the courtroom and the following
4 takes place in the presence
5 of the jury.)

6 THE COURT: GOOD MORNING, LADIES AND
7 GENTLEMEN, I HOPE YOU ALL HAD A GOOD NIGHT. WE WILL
8 NOW PROCEED WITH THIS CASE. ALRIGHT, MR. SOLICITOR,
9 CALL YOUR NEXT WITNESS.

10 SOLICITOR SORENSON: THE STATE CALLS DEPUTY
11 RICHARD RUSSELL.

12 CLERK: SIR, PLACE YOUR LEFT HAND ON THE
13 BIBLE AND RAISE YOUR RIGHT HAND.
14 (Whereupon, Richard Merle Russell, Jr.,
15 is duly sworn.)

16 CLERK: HAVE A SEAT AND STATE YOUR FULL NAME
17 FOR THE COURT.

18 WITNESS: RICHARD MERLE RUSSELL, JUNIOR.

19 (NOTE: Blank lines on this page do not indicate any
20 part of record has been omitted. Headers on testimony
21 pages and hard page breaks between testimony are now
22 required by the Court. See next ensuing page for
23 sequential continuation of record.)

DIRECT - RICHARD M. RUSSELL, JR., BY SOL. SORENSON

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DIRECT EXAMINATION OF RICHARD M. RUSSELL, JR.,

BY SOLICITOR SORENSON:

Q. NOW, DEPUTY RUSSELL, IF YOU WOULD, PLEASE TELL US
WHERE IT IS THAT YOU'RE EMPLOYED?

A. ORANGEBURG COUNTY SHERIFF'S DEPARTMENT.

Q. OKAY. AND HOW LONG HAVE YOU BEEN WITH THE
SHERIFF'S DEPARTMENT?

A. A LITTLE OVER A YEAR NOW.

Q. OKAY. AND WHAT, WHAT ARE YOUR CURRENT DUTIES
WITH THE SHERIFF'S OFFICE?

A. FIELD SERVICES, PATROL.

Q. AND BACK IN SEPTEMBER OF TWO THOUSAND NINE WERE
YOU WORKING IN THAT CAPACITY BACK IN SEPTEMBER OF
LAST YEAR?

A. YES, SIR.

Q. OKAY. AND WHAT SPECIFICALLY, HOW LONG HAD YOU
BEEN WITH THE SHERIFF'S OFFICE AT THAT TIME, AT
THE END OF SEPTEMBER OF LAST YEAR?

A. I STARTED ON JUNE THE EIGHTH, SO SEVERAL MONTHS.

Q. THREE MONTHS. AND SPECIFICALLY, THE EVENING OF
SEPTEMBER TWENTY-NINTH OF TWO THOUSAND NINE, WERE
YOU WORKING THAT NIGHT?

A. YES.

Q. AND DID YOU HAVE AN OPPORTUNITY TO RESPOND TO AN
INCIDENT OUT AT ONE ONE FOUR SCARLET DRIVE?

DIRECT - RICHARD M. RUSSELL, JR., BY SOL SORENSON

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1 A. YES.

2 Q. AND WHO -- DID YOU RESPOND BY YOURSELF THAT NIGHT
3 OR ...

4 A. I DID NOT.

5 Q. OKAY. WHO ELSE WERE YOU WITH?

6 A. AT THAT TIME I WAS UNDER FTS, FIELD TRAINING
7 SERVICES, DEPUTY CORPORAL KITTRELL, BUT HE IS NOW
8 INVESTIGATOR KITTRELL.

9 Q. SO, YOU WERE RIDING WITH HIM AT THAT POINT IN
10 TIME?

11 A. YES.

12 Q. OKAY. AND THAT ONE ONE FOUR SCARLET DRIVE,
13 DESCRIBE TO THE JURY WHAT THAT WAS THAT YOU
14 RESPONDED TO?

15 A. IT WAS AN INCIDENT AT A TRAILER PARK CAUSING GUN
16 FIRE WHERE SOMEONE WENT INTO A RESIDENCE AND
17 ASSAULTED THE VICTIM THERE.

18 Q. OKAY. WHAT TIME, WHAT TIME WAS IT THAT Y'ALL
19 WERE DISPATCHED THAT NIGHT, SIR?

20 A. ABOUT NINETEEN:FORTY.

21 Q. THAT WOULD BE SEVEN:FORTY - - -

22 A. SEVEN:FORTY.

23 Q. --- IN THE EVENING?

24 A. YES.

25 Q. WHAT TIME, ABOUT WHAT TIME DID Y'ALL GET HERE?

DIRECT - RICHARD M. RUSSELL, JR., BY SOL. SORENSON

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1 A. ABOUT SEVEN:FORTY-FIVE.

2 Q. SO, ABOUT FIVE MINUTES OR SO AFTER YOU WERE
3 DISPATCHED OUT THAT NIGHT?

4 A. YES.

5 Q. OKAY. AND IF YOU WOULD, DESCRIBE FOR THE JURY
6 WHEN YOU ARRIVED AT THAT MOBILE HOME PARK, AND
7 SPECIFICALLY, THE TRAILER AT ONE ONE FOUR SCARLET
8 DRIVE, WHO DID YOU ENCOUNTER OUT THERE AT THE
9 SCENE WHEN YOU GOT THERE?

10 A. WHEN I FIRST ARRIVED ONTO THE SCENE THE TRAILER
11 IS KIND OF AT AN ANGLE WITH THE ROAD, AND MYSELF
12 PARKED ON THE BACK SIDE OF THE TRAILER, AND I
13 NOTICED MR. -- I NOTICE AN INDIVIDUAL ON THE
14 GROUND.

15 Q. OKAY. AND YOU LATER LEARNED WHO THAT INDIVIDUAL
16 WAS?

17 A. YES, I DID.

18 Q. AND WHO IS THAT?

19 A. IT WAS CRUZ MOORER.

20 Q. OKAY. AND IF YOU WOULD, DESCRIBE TO THE JURY
21 WHEN YOU CAME UPON MR. MOORER OUT THERE, OUTSIDE
22 OF THE TRAILER?

23 A. YEAH, IT WAS OUTSIDE OF THE TRAILER ON THE
24 GROUND.

25 Q. WHAT, I MEAN, WHAT CONDITION WAS HE IN WHEN YOU

DIRECT - RICHARD M. RUSSELL, JR., BY SOL. SORENSON

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1 CAME UPON HIM OUT THERE?

2 A. HE WAS MOANING, HE WAS IN DISARRAY. I DID NOTICE
3 SOME BLOOD ON HIS FACE. I WASN'T THE ONE THAT,
4 YOU KNOW, MADE CONTACT WITH HIM. I DIDN'T TOUCH
5 HIM, I DIDN'T FLIP HIM OVER OR NOTHING, BUT I DID
6 NOTICE SOME BLOOD ON HIS FACE AND HIM MOANING AND
7 LAYING ON THE GROUND.

8 Q. OKAY. ALRIGHT, AT THAT POINT IN TIME DID YOU GO
9 DO ANYTHING ELSE OUT THERE?

10 A. I WAS DIRECTED TO GO INSIDE AND SECURE THE SCENE
11 INSIDE, AND AT THAT TIME I WENT INSIDE THE
12 RESIDENCE.

13 Q. OKAY. AND WHEN YOU WENT INSIDE THE RESIDENCE
14 WHO, IF ANYBODY, DID YOU ENCOUNTER INSIDE THE
15 RESIDENCE?

16 A. I SPOKE WITH MRS. MOORER AT THAT TIME, AND THEN
17 AFTER FURTHER SEARCHING THE RESIDENCE FOR OTHER
18 INDIVIDUALS INSIDE I NOTICED A CHILD BY THE NAME
19 OF BROWN AND ANOTHER BROWN, AND THEN A THIRD
20 SUBJECT OF RAYSOR, R-A-Y-S-O-R.

21 Q. OKAY. AND BY THE -- SO, THERE WAS THREE OTHER
22 INDIVIDUALS INSIDE THE HOME?

23 A. CORRECT. THERE WAS FOUR.

24 Q. ALRIGHT. BESIDES MRS. SO, MRS. MOORER, WHERE
25 WAS SHE LOCATED AT?

1 A. SHE WAS IN THE LIVING ROOM.

2 Q. OKAY. AND SO, THAT WOULD BE IN STATE'S EXHIBIT
3 NUMBER ONE, KIND OF IN THE AREA WHERE SHE'S
4 SEATED AT IN THIS PICTURE?

5 A. YES, SIR.

6 Q. OKAY. AND YOU SAID YOU THEN SEARCHED THE REST OF
7 THE RESIDENCE?

8 A. YES, SIR.

9 Q. OKAY. WHERE DID YOU FIND THE OTHER THREE PEOPLE
10 INSIDE THE RESIDENCE?

11 A. THEY WERE IN, DOWN A HALLWAY AS SOON AS YOU GO
12 INTO THE LIVING ROOM, THERE'S A HALLWAY THROUGH
13 THE FRONT DOOR OFF TO YOUR RIGHT, IT'S GOING TO
14 BE THE FIRST BEDROOM.

15 Q. THAT WOULD BE THE HALLWAY WHERE MY FINGER IS,
16 POINTED DOWN THAT WAY?

17 A. YES, SIR.

18 Q. SO, THEY WERE BACK IN THE BEDROOM BACK THERE?

19 A. YES. AND IT WOULD BE THE FIRST BEDROOM ON YOUR
20 LEFT HAND SIDE. AND THEY WERE COWERING IN THE
21 CORNER, ALL HUDDLED TOGETHER.

22 Q. OKAY. AND THOSE THREE INDIVIDUALS, YOU SAID TWO
23 OF THEM WERE - - -

24 A. SMALL CHILDREN.

25 Q. --- SMALL CHILDREN?

DIRECT - RICHARD M. RUSSELL, JR., BY SOL. SORENSON

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1 A. YES.

2 Q. AND DID YOU GET AGES ON THOSE TWO LITTLE GIRLS?

3 A. YES. ONE WAS EIGHT AND THE OTHER ONE WAS FIVE.

4 Q. AND YOU ALSO INDICATED THAT WITH THEM THERE WAS A
5 YOUNG MAN BY THE NAME OF MR. RAYSOR?

6 A. YES.

7 Q. WOULD THAT BE JOHNATHAN RAYSOR?

8 A. JOHNATHAN, YES.

9 Q. AND HOW OLD, DO YOU KNOW HOW - - -

10 A. HE'S SIXTEEN, HE WAS SIXTEEN AT THE TIME.

11 Q. AND AT THAT POINT IN TIME DID YOU BRING THE THREE
12 OF THEM OUT OF THE BEDROOM?

13 A. I DID NOT.

14 Q. OKAY. SO, YOU LEFT THEM RIGHT - - -

15 A. I LEFT THEM THERE.

16 Q. --- RIGHT THEN? LET ME ASK YOU, YOU SAID THAT
17 MRS. MOORER, TIFFANY, WAS INSIDE THE LIVING ROOM.
18 DID SHE APPEAR TO BE, HAVE ANY INJURIES OR
19 ANYTHING THAT YOU OBSERVED?

20 A. I DIDN'T NOTICE ANY INJURIES ON HER.

21 Q. ANY INJURY THAT SHE WAS COMPLAINING OF THAT YOU
22 RECALL?

23 A. NO, I DO NOT.

24 Q. OKAY. NOW, AS FAR AS MR. MOORER, DID HE STAY
25 OUTSIDE?

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1 A. HE STAYED OUTSIDE AT THE TIME.

2 Q. AND ARE YOU AWARE OF WHETHER EMERGENCY MEDICAL
3 SERVICES CAME?

4 A. YES.

5 Q. AND TRANSPORTED HIM TO THE HOSPITAL?

6 A. YES.

7 Q. AND WHILE HE WAS OUTSIDE AND EMS CAME AND TOOK
8 HIM, WAS MRS. MOORER, DID SHE STAY INSIDE THE
9 RESIDENCE DURING THAT PERIOD OF TIME?

10 A. YES, SHE STAYED INSIDE THE RESIDENCE.

11 Q. AND DID YOU HAVE A CHANCE TO TALK TO HER INSIDE
12 THE RESIDENCE?

13 A. YES, I DID.

14 Q. AND AT THAT -- THAT NIGHT DID YOU HAVE AN
15 OPPORTUNITY FROM TALKING TO MRS. MOORER TO OBTAIN
16 -- FIRST OF ALL, DID SHE INDICATE TO YOU HOW
17 SUSPECTS WERE ALLEGEDLY INVOLVED IN THIS?

18 A. YES, SHE DID.

19 Q. HOW MANY WAS THAT?

20 A. SHE STATED THAT THERE WAS TWO.

21 Q. OKAY. AND WAS SHE ABLE TO PROVIDE YOU ANY NAMES
22 OR INFORMATION ABOUT EITHER ONE OF THOSE SUSPECTS
23 THAT NIGHT?

24 A. YES, SHE DID.

25 Q. OKAY. AND WHAT WAS THAT INFORMATION THAT YOU

DIRECT - RICHARD M. RUSSELL, JR., BY SOL. SORENSON

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1 WERE PROVIDED AT THAT POINT?

2 A. SHE GAVE ME THE NAME OF JAMES DARBY, OF ONE
3 SUBJECT, AND SHE COULD - - -

4 Q. JAMES DARBY? WELL, GET YOUR INCIDENT REPORT,
5 SIR.

6 A. MR. DARBY, JORMELL, -- J-O-R-M-A-I-N.

7 Q. JERMAINE?

8 A. JERMAINE. JERMAINE. I'M SORRY.

9 Q. SO, THAT INFORMATION WAS PROVIDED TO YOU THAT
10 NIGHT?

11 A. YES.

12 Q. OKAY. AND WAS SHE ABLE TO PROVIDE ANY
13 INFORMATION ABOUT THE OTHER SUSPECT THAT NIGHT?

14 A. NO, SHE WAS NOT.

15 Q. LET ME ASK YOU, WAS MR. DARBY LOCATED OUT THERE
16 AT THE SCENE THAT NIGHT?

17 A. NO, HE WASN'T.

18 Q. ANYBODY SUSPECT-WISE LOCATED THAT YOU'RE AWARE OF
19 THAT NIGHT OUT THERE?

20 A. NO, NOT THAT I'M AWARE OF THAT NIGHT, NO THERE
21 WAS NOT.

22 Q. ALRIGHT. LET ME AS YOU, DID YOU HAVE AN
23 OPPORTUNITY, SIR, TO KIND OF, IN THE PROCESS OF,
24 YOU KNOW, TALKING TO THEM AND ALSO IN KIND OF
25 CLEARING THE RESIDENCE TO SEE WHO ELSE MAY HAVE

1 BEEN INSIDE, TO KIND OF OBSERVE THE CONDITIONS OF
2 THE TRAILER?

3 A. YES.

4 Q. OKAY. AND IF YOU WOULD, DESCRIBE FOR THE JURY
5 SPECIFICALLY WHEN YOU FIRST CAME INTO THE LIVING
6 ROOM AREA WHAT WAS THE CONDITION OF THE LIVING
7 ROOM?

8 A. I NOTICED SOME BROKEN FURNITURE. THE, YOU KNOW,
9 THE HOUSE WAS IN DISARRAY, IT WAS KIND OF, IT WAS
10 VERY, IT LOOKED LIKE AN ALTERCATION GOING ON IN
11 THERE, YOU KNOW, BROKEN COFFEE TABLE, FURNITURE
12 MOVED.

13 Q. SO, IN STATE'S EXHIBIT NUMBER ONE, THAT WAS THE
14 CONDITION OF THE COFFEE TABLE WHEN YOU GOT THERE?

15 A. YES.

16 Q. STATE'S EXHIBIT NUMBER TWO I GUESS JUST SHOWS IT
17 FROM A DIFFERENT ANGLE?

18 A. RIGHT.

19 Q. ITEMS KNOCKED OFF OF IT?

20 A. YES.

21 Q. OKAY. AND HOW ABOUT THE KITCHEN AREA?

22 A. IT WAS PRETTY ROUGHED UP, TOO, YOU KNOW,
23 FURNITURE MOVED OUT THE WAY.

24 Q. OKAY. I'M SHOWING YOU STATE'S EXHIBIT NUMBER
25 THREE, IS THAT THE CONDITION OF THE KITCHEN WHEN

DIRECT - RICHARD M. RUSSELL, JR., BY SOL. SORENSON

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- 1 YOU ARRIVED?
- 2 A. YES.
- 3 Q. OKAY. AND DID YOU FIND ANY ITEMS OF EVIDENTIARY
- 4 VALUE ON THE FLOOR IN THE KITCHEN AREA?
- 5 A. WE NOTICED, WE FOUND ONE SHELL CASING ON THE
- 6 KITCHEN FLOOR.
- 7 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER FOUR, DOES
- 8 THAT SHOW THAT SHELL CASING?
- 9 A. YES.
- 10 Q. AND SPECIFICALLY HERE, STATE'S EXHIBIT NUMBER
- 11 FIVE, IS THAT A CLOSE UP PICTURE OF THAT?
- 12 A. YES.
- 13 Q. OKAY. AND DESCRIBE TO THE JURY WHAT A SHELL
- 14 CASING IS?
- 15 A. A SHELL CASING IS THE HOUSING OF A ROUND, IT GOES
- 16 INTO A BULLET, YOUR KNOW, FOR A BULLET.
- 17 Q. OKAY. WOULD THAT BE CONSISTENT WITH AT LEAST
- 18 CORROBORATING THAT AT LEAST A ROUND WAS FIRED
- 19 INSIDE THE RESIDENCE?
- 20 A. A ROUND, YES.
- 21 Q. HAD Y'ALL SEARCHED, EXHAUSTIVELY SEARCHED THE
- 22 REST OF THE HOUSE FOR ANY OTHER SHELL CASINGS
- 23 ANYWHERE?
- 24 A. WE SEARCHED THROUGHOUT THE RESIDENCE FOR SHELL
- 25 CASINGS IN THE LIVING ROOM AND KITCHEN AREA

1 MAINLY, AND WE NOTICED -- WE NOTICED AROUND WHERE
2 IT STRUCK THE REFRIGERATOR AND A ROUND THAT
3 STRUCK THE CEILING IN THE LIVING ROOM.

4 Q. OKAY. LET ME SHOW YOU, JUST TO KIND OF -- THIS,
5 STATE'S EXHIBIT NUMBER FOUR, ON THE CARPET, A
6 SHELL CASING?

7 A. YES.

8 Q. IS THAT CARPET IN THAT VENT RIGHT THERE?

9 A. THAT IS IN THE KITCHEN AREA.

10 Q. IS THAT WHERE - - -

11 A. THAT WAS RIGHT THERE, YES.

12 Q. --- KIND OF NUMBER THREE?

13 A. YES.

14 Q. SO, THAT'S WHERE THAT ITEM WAS LOCATED AT IN THE
15 KIND OF KITCHEN RIGHT OUTSIDE THE LIVING ROOM?

16 A. YES.

17 Q. NOW, SIR, AS THE INITIAL RESPONDING OFFICER IS IT
18 YOUR JOB TO TAKE WRITTEN STATEMENTS FROM THE
19 WITNESSES OUT THERE OR IS THAT TURNED OVER TO
20 SOME OTHER INDIVIDUAL?

21 A. AT THAT TIME WE, -- WE ARE ALLOWED TO TAKE
22 WRITTEN STATEMENTS, BUT AT THAT TIME WHEN WE
23 ARRIVED THE INVESTIGATOR, HE ALSO ARRIVED, AND HE
24 TOOK OVER THE CASE.

25 Q. INVESTIGATOR JONES?

DIRECT - RICHARD M. RUSSELL, JR., BY SOL. SORENSON

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1 A. INVESTIGATOR JONES TOOK OVER THE CASE.

2 Q. SO, AS FAR AS ANY FURTHER QUESTIONING WAS THAT
3 LEFT TO HIM?

4 A. ANY FURTHER QUESTIONING, YES, SIR.

5 Q. OKAY. WHAT TIME DID YOU ACTUALLY LEAVE THE SCENE
6 THAT NIGHT?

7 A. AT TWENTY:EIGHTEEN, WHICH IS - - -

8 Q. THAT'S EIGHT:EIGHTEEN?

9 A. EIGHT:EIGHTEEN.

10 Q. SO, YOU WERE OUT THERE ABOUT, A LITTLE OVER HALF
11 AN HOUR, IS THAT RIGHT?

12 A. YES, SIR.

13 SOLICITOR SORENSON: OKAY. THANK YOU, DEPUTY
14 RUSSELL, PLEASE ANSWER ANY QUESTIONS THAT MR. CHANDLER
15 HAS.

16 THE COURT: MR. CHANDLER.

17 MR. CHANDLER: THANK YOU, YOUR HONOR.

18 (NOTE: Blank lines on this page do not indicate any
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CROSS - RICHARD M. RUSSELL, JR., BY MR. CHANDLER

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CROSS-EXAMINATION OF RICHARD M. RUSSELL, JR.,

BY MR. CHANDLER:

Q. DEPUTY RUSSELL, I BELIEVE DURING THE DIRECT
EXAMINATION YOU WERE REFERRING TO YOUR INCIDENT
REPORT?

A. YES, SIR.

Q. OKAY. WELL, I'LL GO DIRECTLY TO IT. ISN'T IT
TRUE -- WELL, FIRST OF ALL, THE SUBJECT IN YOUR
INCIDENT, OR THE SUSPECT IN YOUR INCIDENT REPORT
IS MY CLIENT, MR. JERMAINE DARBY, IS THAT TRUE?

A. YES, SIR.

Q. YES. AND IN YOUR INCIDENT REPORT THE
UNIDENTIFIED SUBJECT IS THE OTHER GUY THAT AT THE
TIME THEY DIDN'T KNOW THE NAME?

A. YES, SIR.

Q. RIGHT. AND AT THIS POINT WE KNOW HIS NAME IS
QUINTON GREEN. ALRIGHT. IN YOUR INCIDENT REPORT
ISN'T IT TRUE THAT WHEN YOU ARRIVED ON THE SCENE,
BEFORE THEY COULD GET THEIR STORIES TOGETHER,
TIFFANY MOORER TOLD YOU THAT THE UNIDENTIFIED
SUBJECT HIT CRUZ MOORER IN THE FACE WITH THE BUTT
OF THE GUN?

A. YES, SIR.

Q. ALRIGHT. IS THIS TIFFANY MOORER?

A. YES, SIR.

CROSS - RICHARD M. RUSSELL, JR., BY MR. CHANDLER

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1 Q. WHEN IT CAME TO WHO HIT HER HUSBAND WITH THE BUTT
2 OF THE GUN, SHE DIDN'T SAY IT WAS JERMAINE DARBY,
3 DID SHE?

4 A. NO, SIR.

5 Q. SHE SAID IT WAS THE UNIDENTIFIED SUBJECT?

6 A. YES, SIR.

7 Q. OKAY. ISN'T IT TRUE THAT CRUZ MOORER, THE
8 VICTIM, OR THE ALLEGED VICTIM OF THIS ASSAULT,
9 ALSO SHARED WITH YOU THAT HE WAS SHOT? DIDN'T HE
10 TELL YOU HE WAS SHOT?

11 A. HE DID NOT STATE TO ME HE WAS SHOT. HE STATED IN
12 GENERAL, HE STATED OUT LOUD HE WAS SHOT.

13 Q. OKAY. WELL, YOU HEARD, YOU HEARD HIM SAY HE WAS
14 SHOT?

15 A. I HEARD HIM SAY THAT, YES.

16 Q. OKAY. BUT BASED ON YOUR INVESTIGATION, ISN'T IT
17 TRUE THAT MR. MOORER WASN'T BEING HONEST ABOUT
18 THAT, BECAUSE HE WASN'T SHOT, WAS HE?

19 A. NO, HE WAS NOT SHOT.

20 Q. ISN'T IT TRUE THAT NO ONE TOLD YOU THAT MY CLIENT
21 DID ANY SHOOTING? DID ANYONE TELL YOU THAT MY
22 CLIENT HAD SHOT ANYONE?

23 A. NO. NO ONE STATED THAT YOUR CLIENT SHOT ANYBODY.

24 Q. SO, HE DIDN'T SHOOT ANYBODY OR HIT ANYONE WITH
25 THE BUTT OF A GUN, IS THAT TRUE?

CROSS - RICHARD M. RUSSELL, JR., BY MR. CHANDLER

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1 A. YES, SIR.

2 MR. CHANDLER: NO FURTHER QUESTIONS.

3 THE COURT: ANYTHING FURTHER, MR. SOLICITOR?

4 SOLICITOR SORENSON: A COUPLE OF QUESTIONS,
5 YOUR HONOR.

6 (NOTE: Blank lines on this page do not indicate any
7 part of record has been omitted. Headers on testimony
8 pages and hard page breaks between testimony are now
9 required by the Court. See next ensuing page for
10 sequential continuation of record.)

REDIRECT - RICHARD M. RUSSELL, JR., BY SOL. SORENSON

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REDIRECT EXAMINATION OF RICHARD M. RUSSELL, JR.,

BY SOLICITOR SORENSON:

Q. DEPUTY RUSSELL, LET ME ASK YOU, YOU INITIALLY
JUST TOOK A BRIEF INCIDENT REPORT, IS THAT
CORRECT?

A. THAT IS CORRECT.

Q. AND ANYTHING FURTHER, AS FAR AS FOLLOW-UP
QUESTIONING AND ALL, WAS LEFT TO INVESTIGATOR
JONES?

A. THAT IS CORRECT.

Q. OKAY. AND LET ME ASK YOU, YOU DIDN'T OBVIOUSLY
KNOW THE PEOPLE THEY WERE TALKING ABOUT, RIGHT?

A. I DID NOT.

Q. OKAY. LET ME JUST KIND OF GO BACKWARDS WITH WHAT
MR. CHANDLER ASKED YOU ABOUT. ISN'T IT TRUE IN
YOUR INCIDENT REPORT YOU'VE GOT INDICATED IN HERE
THAT MR. MOORER INDICATED THAT HE BELIEVED THAT
HE WAS SHOT, CORRECT?

A. YES, HE BELIEVED.

Q. OKAY. AND OBVIOUSLY, HE WAS CHECKED OUT, I MEAN,
...

A. THAT IS CORRECT.

Q. OKAY. HE HAD SOME INJURIES?

A. YES, HE DID.

Q. YOU SAID HE WAS MOANING ON THE GROUND WHEN YOU

1 FIRST GOT THERE?

2 A. YES.

3 Q. HE APPEARED TO HAVE JUST BEEN IN AN ALTERCATION?

4 A. YES.

5 Q. AND THERE WAS EVIDENCE INSIDE THE RESIDENCE OF
6 SOME SHOTS BEING FIRED, IS THAT CORRECT?

7 A. YES.

8 Q. OKAY. NOW, LET ME ASK YOU THIS, AS FAR AS MRS.
9 MOORER GIVING YOU THE KIND OF DESCRIPTION OF WHAT
10 HAPPENED, HOW AS SHE ACTING WHEN YOU GOT OUT
11 THERE?

12 A. SHE WAS, SHE WAS NERVOUS, UPSET, YOU KNOW, SHE
13 WAS KIND OF SHAKY.

14 Q. AND AGAIN, YOUR ROLE IN THIS IS JUST TO KIND OF
15 GET A BRIEF KIND OF HISTORY OF WHAT HAPPENED?

16 A. YES, SIR.

17 Q. AND THEN TO SEE IF THERE'S A SUSPECT OUT THERE
18 THAT NEEDS TO BE APPREHENDED, IS THAT CORRECT, -

19 - -

20 A. YES, SIR.

21 Q. --- AT THAT POINT IN TIME?

22 A. YES, SIR.

23 Q. BUT AS FAR AS THE FOLLOW-UP INVESTIGATION THAT IS
24 TURNED OVER TO INVESTIGATOR JONES?

25 A. YES, SIR.

REDIRECT - RICHARD M. RUSSELL, JR., BY SOL. SORENSON

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1 Q. AND JUST SO WE GET THIS STRAIGHT, WHEN YOU GOT
2 THERE, MR. MOORER WAS OUTSIDE, IS THAT CORRECT?

3 A. THAT IS CORRECT.

4 Q. JOHNATHAN RAYSOR WAS BACK IN THE BEDROOM WITH THE
5 CHILDREN?

6 A. THAT IS CORRECT.

7 Q. AND TIFFANY MOORER WAS SITTING, WAS OUT IN THE
8 LIVING ROOM AREA?

9 A. THAT IS CORRECT.

10 Q. DID THEY INTERACT AT ALL, THE THREE OF THEM,
11 WHILE YO WERE OUT THERE?

12 A. NO, THEY DID NOT.

13 SOLICITOR SORENSON: THANK YOU, DEPUTY
14 RUSSELL.

15 MR. CHANDLER: JUST A COUPLE.

16 (NOTE: Blank lines on this page do not indicate any
17 part of record has been omitted. Headers on testimony
18 pages and hard page breaks between testimony are now
19 required by the Court. See next ensuing page for
20 sequential continuation of record.)

RECROSS - RICHARD M. RUSSELL, JR., BY MR. CHANDLER

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RECROSS-EXAMINATION OF RICHARD M. RUSSELL, JR.,

BY MR. CHANDLER:

Q. DEPUTY RUSSELL, IN YOUR REPORT DID YOU INDICATE
THAT, THIS DEPUTY DID NOT OBSERVE NO GUN SHOT
WOUNDS ON VICTIM NUMBER TWO, WHICH IS - - -

A. THAT IS CORRECT.

Q. SO, YOU DIDN'T SEE ANY?

A. I DID NOT SEE ANY.

Q. EVEN THOUGH HE SAID HE THOUGHT HE WAS SHOT?

A. THAT IS CORRECT.

Q. SECONDLY, WHEN YOU SPOKE WITH MRS. MOORER, DID YOU
THINK SHE WAS TELLING YOU THE TRUTH?

A. I TOOK HER FOR HER WORD AT THAT TIME, YES.

Q. AT THAT TIME.

MR. CHANDLER: GOOD ENOUGH. NO FURTHER
QUESTIONS.

THE COURT: SIR, YOU CAN STEP DOWN.

SOLICITOR SORENSON: THE STATE CALLS
INVESTIGATOR BOBBY JONES.

MAY HE BE EXCUSED, YOUR HONOR?

THE COURT: ANY OBJECTION TO HIM BEING
EXCUSED, MR. CHANDLER?

MR. CHANDLER: YES, YES, YOUR HONOR.

THE COURT: YOU DO HAVE AN OBJECTION TO HIM
BEING EXCUSED?

1 MR. CHANDLER: OH, WITHOUT OBJECTION, YOUR
2 HONOR.

3 THE COURT: YOU CAN BE EXCUSED. THANK YOU,
4 SIR.

5 CLERK: RAISE YOUR HAND.

6 (Whereupon, Bobby Jones
7 is duly sworn.)

8 COURT REPORTER: STATE YOUR FULL NAME, SIR.

9 WITNESS: MY NAME IS BOBBY JONES.

10 (NOTE: Blank lines on this page do not indicate any
11 part of record has been omitted. Headers on testimony
12 pages and hard page breaks between testimony are now
13 required by the Court. See next ensuing page for
14 sequential continuation of record.)

DIRECT - BOBBY JONES BY SOL. SORENSON

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DIRECT EXAMINATION OF BOBBY JONES

BY SOLICITOR SORENSON:

Q. INVESTIGATOR JONES, IF YOU WOULD TELL THE JURY
WHERE YOU'RE EMPLOYED?

A. I'M EMPLOYED WITH THE ORANGEBURG COUNTY SHERIFF'S
OFFICE, IN ORANGEBURG, SOUTH CAROLINA.

Q. OKAY. AND HOW LONG HAVE YOU BEEN WITH THE
SHERIFF'S OFFICE?

A. FIVE, FIVE AND A HALF, GOING ON SIX YEARS.

Q. AND WHAT ARE YOU CURRENT DUTIES AND
RESPONSIBILITIES THERE?

A. I AM A CRIMINAL INVESTIGATOR IN ORANGEBURG FOR
THE SHERIFF'S OFFICE.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED IN THAT
CAPACITY?

A. AT THAT POINT IN TIME ABOUT A YEAR, A YEAR AND A
HALF.

Q. SO, BACK IN SEPTEMBER OF TWO THOUSAND NINE YOU
WERE ASSIGNED AS AN INVESTIGATOR AT THAT POINT IN
TIME?

A. YES, SIR.

Q. AND DID YOU HAVE AN OPPORTUNITY TO RESPOND OUT TO
THE RESIDENCE OF TIFFANY AND CRUZ MOORER THE
EVENING OF SEPTEMBER TWENTY-NINTH OF TWO THOUSAND
NINE?

DIRECT - BOBBY JONES BY SOL. SORENSON

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1 A. YES.

2 Q. OKAY. AND WHEN YOU GOT THERE WHAT WAS KIND OF
3 GOING ON OUT THERE WHEN YOU GOT THERE, SIR?

4 A. WELL, WHEN I GOT THERE I WAS, MY DUTIES, I WAS
5 WORKING IN SANTEE, SO WHEN THE CALL FIRST
6 INITIALLY CAME OUT I GOT THERE ABOUT FIFTEEN
7 MINUTES LATER. WHEN I ARRIVED ON THE SCENE, AS I
8 ARRIVED ON THE SCENE THEN I SAW MR. CRUZ MOORER
9 SITTING ON THE GROUND. HE WAS SITTING UP AT THAT
10 TIME, HE WAS SITTING ON THE GROUND, AND I NOTICED
11 THAT THERE WAS SOME BLOOD COMING FROM THE SIDE OF
12 HIS MOUTH AND THERE WAS A COUPLE OF ABRASIONS ON
13 THE SIDE OF HIS FACE.

14 Q. OKAY. AND LET ME ASK YOU, HAD EMS BEGUN TREATING
15 HIM YET WHEN YOU FIRST GOT THERE?

16 A. NOT YET.

17 Q. OKAY. HAD THEY PULLED UP WHEN YOU GOT THERE?

18 A. THEY WAS THERE.

19 Q. ALRIGHT. AND HOW ABOUT TIFFANY MOORER, WAS SHE
20 OUTSIDE WITH HER HUSBAND?

21 A. NO, SHE WAS IN THE HOUSE SITTING ON THE SOFA.

22 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY TO GO IN
23 AND KIND OF OBSERVE THE SCENE INSIDE?

24 A. YES.

25 Q. OKAY. AND OBSERVE THE, YOU KNOW, THE DAMAGE TO

DIRECT - BOBBY JONES BY SOL. SORENSON

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1 THE FURNITURE AND STUFF OF THAT NATURE INSIDE
2 THAT NIGHT?

3 A. I DID.

4 Q. OKAY. AS PART OF THE INVESTIGATION DID Y'ALL,
5 DID YOU AND OTHER OFFICERS WITH THE SHERIFF'S
6 THEN THAT NIGHT HAVE AN OPPORTUNITY TO GET
7 WRITTEN STATEMENTS FROM CRUZ MOORER?

8 A. YES.

9 Q. TIFFANY MOORER?

10 A. YES.

11 Q. AND ALSO HER BROTHER, JOHNATHAN RAYSOR?

12 A. THE FIRST RESPONDING OFFICER GOT THE INCIDENT,
13 THE REPORT FROM THE BROTHER. I WAS THERE WHEN HE
14 GOT THE WRITTEN, THE INCIDENT REPORT FROM CRUZ
15 AND HIS WIFE.

16 Q. ALRIGHT. AND THAT WAS MY QUESTION, AS PART OF
17 YOUR INVESTIGATION, THE OFFICERS THAT NIGHT, DID
18 THEY OBTAIN STATEMENTS FROM THE THREE OF THEM?

19 A. YES.

20 Q. OKAY. AND WERE THEY, JOHNATHAN, TIFFANY AND
21 CRUZ, ALLOWED TO KIND OF MINGLE WITH EACH OTHER
22 WHILE YOU WERE OUT THERE, WHEN YOU ARRIVED OUT
23 THERE?

24 A. NO.

25 Q. OKAY. AND WERE THOSE STATEMENTS GIVEN, WERE THEY

DIRECT - BOBBY JONES BY SOL. SORENSON

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1 SEPARATED FROM EACH OTHER WHEN THOSE STATEMENTS
2 WERE GIVEN, THE THREE OF THEM?

3 A. YES.

4 Q. LET ME ASK YOU, THAT NIGHT AS PART OF YOUR
5 INVESTIGATION, INVESTIGATOR JONES, FROM TALKING
6 TO THE THREE OF THEM NOW, FROM GETTING STATEMENTS
7 AND OFFICERS TALKING TO TIFFANY, CRUZ AND
8 JOHNATHAN, WERE YOU ABLE THEN TO OBTAIN SUSPECT
9 INFORMATION ON THE TWO INDIVIDUALS ALLEGEDLY
10 INVOLVED THAT NIGHT?

11 A. YES.

12 Q. OKAY. AND WHAT WAS THE SUSPECT INFORMATION BACK
13 ON SEPTEMBER TWENTY-NINTH THAT YOU HAD AS TO THE
14 TWO INDIVIDUALS INVOLVED?

15 A. THAT NIGHT THEY GAVE A NAME OF JERMAINE DARBY AND
16 A QUINTON. AT THAT TIME THEY DIDN'T HAVE A LAST
17 NAME FOR QUINTON.

18 Q. OKAY. BUT AS FAR AS JERMAINE DARBY - - -

19 COURT REPORTER: YOU DIDN'T GET A LAST NAME
20 FOR WHO?

21 A. QUINTON.

22 COURT REPORTER: OKAY.

23 Q. AS FAR AS JERMAINE DARBY, WERE YOU ABLE TO THEN
24 AND THE DAYS THAT FOLLOWED ABLE TO DETERMINE WHO
25 THEY WERE TALKING ABOUT?

DIRECT - BOBBY JONES BY SOL. SORENSON

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1 A. YES.

2 Q. OKAY. AND THAT WOULD BE THE DEFENDANT IN THIS
3 CASE, ADRIAN JERMAINE DARBY?

4 A. YES.

5 Q. AND IN FACT, DID THEY CORROBORATE THAT WHEN YOU
6 SHOWED THEM PHOTOGRAPHS OF HIM THAT THAT WAS THE
7 PERSON THEY WERE TALKING ABOUT?

8 A. YES.

9 Q. NOW, YOU INDICATED THAT THAT NIGHT THEY, AS FAR
10 AS THE OTHER INDIVIDUAL, ALL YOU OBTAINED WAS THE
11 NAME, QUINTON, IS THAT CORRECT?

12 A. YES.

13 Q. LATER ON DURING THE INVESTIGATION, JUST SEVERAL
14 MONTHS AGO WERE YOU ABLE TO DEVELOP A POSSIBLE
15 SUSPECT FOR THAT QUINTON PERSON?

16 A. YES.

17 Q. AND WHAT WAS THAT SUSPECT THAT YOU DEVELOPED?

18 A. HIS NAME WAS QUINTON GREEN.

19 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY THEN ON
20 JUNE EIGHTEENTH OF THIS YEAR TO SHOW A SIX PERSON
21 PHOTO LINEUP TO CRUZ MOORER WITH QUINTON GREEN'S
22 PHOTO IN IT TO SEE IF HE RECOGNIZED THAT PERSON
23 AS BEING THE OTHER INDIVIDUAL INVOLVED?

24 A. YES, HE DID.

25 Q. OKAY. I'M SHOWING YOU STATE'S THIRTEEN. IS THAT

DIRECT - BOBBY JONES BY SOL. SORENSON

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1 THE LINEUP YOU SHOWED HIM?

2 A. YES.

3 Q. AND WHO DID HE CIRCLE IN THAT?

4 A. HE CIRCLED QUINTON GREEN, THE PICTURE.

5 Q. NUMBER THREE?

6 SOLICITOR SORENSON: THIS IS I BELIEVE
7 WITHOUT OBJECTION?

8 MR. CHANDLER: WITHOUT OBJECTION.

9 (State's Exhibit Thirteen
10 marked and filed.)

11 Q. SO, THAT'S WHO THEY, CRUZ IDENTIFIED AS BEING THE
12 OTHER INDIVIDUAL INVOLVED?

13 A. YES.

14 Q. AND WHAT, AFTER THAT WAS DONE IN JUNE OF THIS
15 YEAR, WHAT DID YOU THEN DO WITH THAT INFORMATION
16 THAT YOU THEN HAD?

17 A. WHAT I DID THEN, I TOOK IT TO THE JUDGE AND I
18 SECURED THREE WARRANTS ON QUINTON GREEN FOR HIS
19 ACTIVITY THAT WAS DONE THAT NIGHT.

20 Q. NOW, IT'S FOR BURGLARY IN THE FIRST DEGREE?

21 A. BURGLARY, FIRST.

22 Q. ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
23 NATURE?

24 A. YES.

25 Q. AND FOR DISCHARGING A FIREARM INTO A DWELLING?

DIRECT - BOBBY JONES BY SOL. SORENSON

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1 A. YES.

2 Q. LET ME ASK YOU, QUINTON GREEN, HAS HE BEEN
3 ARRESTED ON THOSE WARRANTS YET?

4 A. NOT YET.

5 Q. TELL THE JURY HOW COME?

6 A. AFTER OBTAINING THE WARRANT I MYSELF PERSONALLY
7 WENT OUT TO THE RESIDENCE TO LOCATE HIM. I
8 COULDN'T LOCATE HIM. AT THAT TIME I HAD ANOTHER
9 OFFICER GO OUT AND TRY TO SECURE HIM, AND THEY
10 HAVEN'T FOUND HIM YET. AND JUST THIS PAST
11 WEEKEND I PASSED IT ON THE DUTY CAPTAIN AND THEY
12 WENT OUT ALSO THIS WEEKEND TO SEE IF THEY COULD
13 FIND HIM AT THE RESIDENCE, WHICH IS ON, I DON'T
14 KNOW IF I CAN GIVE THE NAME OF THE STREET, BUT
15 HAMPTON STREET, WHICH IS IN ORANGEBURG, AND THEY
16 HAVE NOT YET BEEN ABLE TO OBTAIN HIM YET, BUT ...

17 Q. SO, BASICALLY IN THE LAST TWO MONTHS SINCE YOU
18 GOT THESE WARRANTS, WE HAVEN'T BEEN ABLE TO FIND
19 MR. GREEN?

20 A. NOT YET.

21 Q. IN FACT, WAS HE WANTED EVEN PRIOR TO JUNE OF TWO
22 THOUSAND TEN ON SOME OTHER CHARGES ALSO?

23 A. TWO OTHER CHARGES, YES.

24 Q. AND WHEN HE GETS ARRESTED HE'LL HAVE HIS DAY IN
25 COURT JUST LIKE MR. DARBY, IS THAT CORRECT?

DIRECT - BOBBY JONES BY SOL. SORENSON

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1 A. HE'LL HAVE HIS DAY IN COURT.

2 SOLICITOR SORENSON: THANK YOU, INVESTIGATOR
3 JONES, THAT'S ALL I HAVE.

4 THE COURT: MR. CHANDLER.

5 (NOTE: Blank lines on this page do not indicate any
6 part of record has been omitted. Headers on testimony
7 pages and hard page breaks between testimony are now
8 required by the Court. See next ensuing page for
9 sequential continuation of record.)

CROSS - BOBBY JONES BY MR. CHANDLER

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6

CROSS-EXAMINATION OF BOBBY JONES

BY MR. CHANDLER:

Q. INVESTIGATOR JONES, ISN'T IT TRUE THAT ONCE YOU
CONTACTED MY CLIENT, MR. ADRIAN DARBY, THAT HE
VOLUNTARILY TURNED HIMSELF IN?

A. NO. WELL, WHEN I HAD THE DEPUTY TO GO OUT TO HIS
HOUSE, WHICH IS IN CALHOUN COUNTY, AND THEY
CONTACTED HIM AND THEY PICKED HIM UP ON MY
WARRANT, I ADVISED HIM TO DO SO. SO, YES, HE
WENT VOLUNTARILY AFTER HE WAS DONE CONTACTED WITH
THE SHERIFF'S OFFICE, AND THE SHERIFF'S OFFICE
OBTAINED ...

Q. OH, SO, HE MADE CONTACT WITH THE SHERIFF'S OFFICE
AND VOLUNTARILY TURNED HIMSELF IN?

A. NO, THE SHERIFF'S OFFICE WENT TO WHERE HE WAS.

Q. AND HE VOLUNTARILY WENT WITH THEM?

A. YES. THERE WAS NO STRUGGLE IN THE PROCESS.

Q. OKAY. AND AT THAT TIME WHEN YOU SPOKE WITH HIM,
HE ACTUALLY SAID THAT THE PEOPLE WHO SHOULD BE
CHARGED WOULD BE CRUZ MOORER FOR ROBBING HIM,
DIDN'T HE SAY THAT?

A. HE SAID THAT.

MR. CHANDLER: NO FURTHER QUESTIONS.

THE COURT: ANYTHING FURTHER?

SOLICITOR SORENSON: BRIEFLY.

REDIRECT - BOBBY JONES BY SOL. SORENSON

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REDIRECT EXAMINATION OF BOBBY JONES

BY SOLICITOR SORENSON:

Q. BUT HE DIDN'T TELL YOU ANYTHING ELSE AT THAT
POINT IN TIME DID HE?

A. ACTUALLY, HE WOULDN'T TELL ME ANYTHING ELSE NOR
ASSIST US.

Q. ALRIGHT. AND HE AT THAT POINT IN TIME, BETWEEN
THAT TIME, I MEAN, DIDN'T FILE A REPORT THAT HE'D
BEEN ROBBED, HAD HE?

A. HE DID NOT.

Q. OKAY. AND DIDN'T COME FORWARD TO THE SHERIFF'S
OFFICE AND INDICATE THAT HE HAD WITNESSED THE
NIGHT OF SEPTEMBER TWENTY-NINTH ANOTHER
INDIVIDUAL ASSAULT MR. MOORER, DID HE?

A. HE DID NOT.

Q. IN FACT, HE DIDN'T CONTACT LAW ENFORCEMENT AT ALL
THAT NIGHT, DID HE?

A. HE DID NOT.

Q. OKAY.

SOLICITOR SORENSON: THAT WOULD BE ALL I
HAVE.

MR. CHANDLER: NO QUESTIONS.

THE COURT: YOU CAN STEP DOWN.

SOLICITOR SORENSON: YOUR HONOR, THAT WOULD
BE ALL THE STATE WOULD HAVE.

1 THE COURT: YES, SIR?

2 MR. CHANDLER: THE DEFENSE WOULD HAVE A
3 MATTER THAT WE WOULD LIKE TO HAVE HEARD OUTSIDE THE
4 PRESENCE OF THE JURY, YOUR HONOR.

5 THE COURT: LADIES AND GENTLEMEN, THE STATE
6 HAS RESTED THEIR CASE. I NEED TO TAKE UP SOME MATTERS
7 OF LAW OUTSIDE OF YOUR PRESENCE AND I'LL ASK YOU TO GO
8 TO THE JURY ROOM. I'LL GET YOU BACK OUT JUST AS QUICK
9 AS I CAN. ONE THING YOU CAN DO FOR ME WHILE YOU'RE IN
10 THE JURY ROOM, THOUGH, IS, YOU CAN DECIDE WHO YOUR
11 FOREPERSON WILL BE. I'VE FOUND OUT THAT JURIES DO A
12 LOT BETTER JOB OF DECIDING. I DON'T KNOW ANY OF Y'ALL
13 SO I JUST HAVE TO PICK SOMEBODY. SO, WHEN YOU GO BACK
14 THERE YOU NEED TO ELECT YOUR FOREPERSON. IT HAS TO BE
15 OUT OF THE ORIGINAL TWELVE AND NOT THE ALTERNATES.
16 WHEN YOU COME BACK OUT, Y'ALL HAVE SPENT AT LEAST A
17 DAY TOGETHER SO YOU KIND OF KNOW EACH OTHER, AND
18 DECIDE WHO. THE FOREPERSON DOESN'T HAVE ANYMORE
19 VOTING POWER THAN ANYONE ELSE, THEY SIMPLY WILL
20 PRESIDE OVER THE DELIBERATIONS AND SIGN THE VERDICT
21 FORM, AND I'LL EXPLAIN TO YOU IN DETAIL WHAT THE
22 FOREPERSON'S JOB WILL BE. BUT IF YOU WILL DO THAT
23 WHILE YOU ARE BACK THERE, AND WHEN I FINISH THESE
24 MOTIONS I'LL GET YOU BACK OUT AND YOU CAN TELL ME WHO
25 THAT IS AND WE'LL PROCEED WITH THE TRIAL. THANK YOU.

1 (Whereupon, the jury retires
2 to the jury room and the following
3 takes place out of the presence
4 of the jury.)

5 THE COURT: YES, SIR.

6 MR. CHANDLER: MAY IT PLEASE THE COURT, YOUR
7 HONOR, AT THIS TIME WE WOULD ASK THAT THE COURT DIRECT
8 A VERDICT OF NOT GUILTY ON BOTH THE BURGLARY, FIRST,
9 AND ALSO THE ASSAULT AND BATTERY OF A HIGH AND
10 AGGRAVATED NATURE. LOOKING AT THE EVIDENCE IN THE
11 LIGHT MOST FAVORABLE TO THE STATE, WHO IS THE NON-
12 MOVING PARTY, YOUR HONOR, WE BELIEVE THAT THE STATE
13 HAS FAILED TO ESTABLISH A PRIMA FACIE CASE FOR BOTH
14 CHARGES. WITH RESPECT TO THE BURGLARY, FIRST, YOU
15 KNOW THE ELEMENTS OF BURGLARY, FIRST. THE ISSUE THAT
16 WE ARE PRESSING AT THIS TIME, YOUR HONOR, IS THE FACT
17 THAT MY CLIENT WAS NOT ALLOWED IN THE RESIDENCE.
18 THEY, THE STATE HAS OFFERED TESTIMONY FROM JOHNATHAN
19 RAYSOR, TIFFANY CRUZ AND ALSO -- EXCUSE ME, TIFFANY
20 MOORER AND CRUZ MOORER. DURING THEIR TESTIMONY, YOUR
21 HONOR, ON THE RECORD, NEVER DID THEY SAY THAT MY
22 CLIENT BARGED IN. THEY DID SAY, EACH INDIVIDUAL
23 PERSON DID SAY THAT THEY DID NOT OFFER CONSENT.
24 HOWEVER, WITH RESPECT THAT THERE WAS ONE WITNESS, THE
25 STATE'S WITNESS, WHO WAS MS. Shaninah B. , WHO

1 ACTUALLY SAID, AND THIS IS THE STATE'S OWN WITNESS,
2 SAID THAT THEY DID LET HIM. YOUR HONOR, IF -- THEY
3 HAVE NOT OFFERED ANY EVIDENCE SUGGESTING THAT MY
4 CLIENT BARGED IN OR CAME IN IN ANY OTHER WAY. THE
5 ONLY PERSON THAT THEY SAID DID COME IN BY FORCE,
6 JOHNATHAN RAYSOR INDICATED THAT IT WAS THE
7 UNIDENTIFIED AT THAT TIME SUBJECT, MR. QUINTON GREEN.
8 IF THAT'S THE CASE, AND MY - AND THEIR WITNESS, THEIR
9 ONLY WITNESS THAT MENTIONS ANY EVIDENCE TO THIS ISSUE
10 SAYS THAT THEY LET HIM IN, YOUR HONOR, THEN THE
11 REQUISITE, THE REQUISITE ELEMENT OF BURGLARY, FIRST,
12 HAS NOT BEEN MET. HE WAS LET IN, AND AS A RESULT WE
13 WOULD ASK THAT THIS CASE, EVEN GIVEN IN THE LIGHT MOST
14 FAVORABLE TO THE STATE, THAT THIS BE DISMISSED.

15 WITH RESPECT TO THE ASSAULT AND BATTERY OF A
16 HIGH AND AGGRAVATED NATURE, THE INITIAL OFFICER WHO
17 INVESTIGATED, DEPUTY RICHARD RUSSELL WHO INVESTIGATED
18 THE CASE INITIALLY, WHEN SPEAKING WITH TIFFANY MOORER,
19 SHE SPECIFICALLY SAYS, AS MY CLIENT IS BEING CHARGED
20 WITH THE BLUNT FORCE TRAUMA TO MR. MOORER WITH THE
21 BUTT OF THE DONE, SHE CLEARLY SAYS THAT THAT'S DONE BY
22 THE UNIDENTIFIED SUBJECT WHO WE KNOW AS QUINTON GREEN.
23 AND SO, EVEN, AGAIN, EVEN WITH THEIR OWN WITNESSES
24 THEY ARE BASICALLY INDICATING THAT IT WAS SOMEBODY
25 OTHER THAN MY CLIENT.

1 BECAUSE OF THAT, YOUR HONOR, WE WOULD ASK
2 THAT BOTH CHARGES, THAT YOU WOULD DIRECT A VERDICT OF
3 NOT GUILTY IN BOTH THE ASSAULT AND BATTERY OF A HIGH
4 AND AGGRAVATED NATURE AS WELL AS THE BURGLARY, FIRST.

5 THE COURT: OKAY. SOLICITOR, DO YOU WANT TO
6 RESPOND?

7 SOLICITOR SORENSON: JUST VERY BRIEFLY, YOUR
8 HONOR. AS TO THE BURGLARY, I GUESS I'D LIKE TO POINT
9 OUT, YOU KNOW, THE ELEMENTS OF BURGLARY. UNLAWFUL
10 ENTRY DOESN'T HAVE TO BE FORCE INVOLVED, IT DOESN'T
11 HAVE TO BE BREAKING INVOLVED, UNLAWFUL ENTRY INTO
12 ANOTHER PERSON'S DWELLING WITH THE INTENT TO COMMIT A
13 CRIME. I THINK THAT WAS COVERED BY EVERY WITNESS THAT
14 TESTIFIED, THAT THIS INDIVIDUAL DID NOT HAVE CONSENT
15 TO BE IN THE HOME THAT NIGHT. YOU KNOW, HE'S RELYING
16 ON THE TESTIMONY OF AN EIGHT YEAR OLD THAT BASICALLY
17 RESPONDED TO A QUESTION THAT THEY LET HIM. THEY DID,
18 THEY OPENED THE DOOR, I MEAN, THEY DIDN'T KICK THE
19 DOOR IN, THEY DIDN'T, I MEAN, SO IN THAT REGARD, I
20 MEAN, LOOKING AT IT FROM AN EIGHT YEAR OLD'S
21 STANDPOINT, I MEAN, THEY WERE LET IN THE HOUSE, I
22 MEAN, THE DOOR WAS OPENED BY THEM. BUT I THINK, I
23 MEAN, NOT EVEN, I MEAN, I DON'T EVEN THINK THERE'S AN
24 ISSUE AS TO THAT. I MEAN, THAT JUST ENTIRELY GOES TO
25 THE, YOU KNOW, THE CREDIBILITY OF THE WITNESSES, AND

1 THAT'S A JURY ISSUE AS TO WHETHER HE HAD CONSENT TO BE
2 IN THE HOME THAT NIGHT. AND I THINK THE ONLY EVIDENCE
3 YOU HEARD AT THIS POINT IN TIME IS THAT HE DID NOT.

4 AS TO THE ABHAN CHARGE, YOUR HONOR, AND
5 YOU'VE HEARD THE TESTIMONY THAT THEY ALL, I MEAN, ALL
6 INDICATED, EVERY ONE OF THEM, THAT THIS DEFENDANT
7 STRUCK MR. MOORER IN THE FACE WITH THE BUTT OF A SHOT
8 GUN. I MEAN, YOU KNOW, OBVIOUSLY, THERE'S AN ISSUE
9 WITH THE RESPONDING OFFICE WHO I SUBMIT TO YOU WAS
10 MISTAKEN ABOUT THAT. IT WAS AN OFFICER THAT HAD BEEN
11 ON THE JOB FOR THREE MONTHS, AND GETTING A VERY BRIEF
12 NARRATIVE INITIALLY FROM ONE OF THE WITNESSES. BUT
13 NEEDLESS, IRREGARDLESS OF THAT, I MEAN, YOU STILL, AND
14 ONE THING I THINK I'M GOING TO BE ASKING TO CHARGE
15 THIS JURY IS UNDER ACCOMPLICE LIABILITY, THAT HE STILL
16 WOULD BE, EVEN IF -- YOU KNOW, WHOEVER STRUCK HIM, THE
17 OTHER PERSON WOULD BE JUST AS GUILTY, YOUR HONOR,
18 UNDER THE THEORY OF THE HAND OF ONE IS THE HAND OF
19 ALL. SO, EVEN IF THERE'S SOME ISSUE AS TO WHO ACTUALLY
20 STRUCK HIM IN THE FACE A JURY COULD STILL, BASED ON
21 THE FACTS, THAT NOT ONLY MR. DARBY BUT ALSO MR. GREEN
22 AT SUCH TIME AS HE IS APPREHENDED AND BROUGHT TO
23 TRIAL, BOTH COULD BE GUILTY OF THE AGGRAVATED ASSAULT
24 AND BATTERY.

25 THE COURT: MR. CHANDLER.

1 MR. CHANDLER: IF I MAY, - - -

2 THE COURT: YES, SIR.

3 MR. CHANDLER: --- WITH RESPECT TO THE
4 UNLAWFUL ENTRY ON THE BURGLARY, FIRST, THE STATE HAS
5 INDICATED THAT WE'RE RELYING ON THE TESTIMONY OF AN
6 EIGHT YEAR OLD. WE'RE RELYING ON THE TESTIMONY OF AN
7 EIGHT YEAR OLD THAT THE STATE DECIDED TO PUT UP, AND
8 THAT EIGHT YEAR OLD SAID THAT THEY LET THEM IN. AND
9 THAT WOULD NOT BE AN UNLAWFUL ENTRY. AND THAT IS THE
10 ONLY EVIDENCE THAT THE STATE HAS PUT UP WITH RESPECT
11 TO THAT SPECIFIC ISSUE. AND BECAUSE OF THAT WE WOULD
12 ASK THAT, FOR A DIRECTED VERDICT OF NOT GUILTY.

13 AND WITH RESPECT TO THIS JURY INSTRUCTION,
14 WHICH OF COURSE, WE WOULD ARGUE AT A LATER TIME, YOUR
15 HONOR, THE STATE HASN'T OFFERED ANYTHING THAT
16 INDICATES THAT MY CLIENT HAD PLANNED, OR HAD SOME
17 LEVEL OF CONSPIRACY TO DO THIS, OR EVEN ANY EVIDENCE
18 TO THE FACT THAT THEY WERE OPERATING IN CONCERT IN
19 ORDER TO SATISFY ANYTHING OTHER THAN A FIGHT BROKE OUT
20 AND SOMEBODY CAME TO MY CLIENT'S DEFENSE. AND IT
21 CERTAINLY WOULDN'T SATISFY HANDS OF ONE, HANDS OF ALL.

22 THE COURT: BASED ON MY RECOLLECTION, THERE
23 IS A QUESTION. AT THIS POINT IT'S THE EXISTENCE OF
24 CREDIBLE EVIDENCE, AND THE JURY WILL HAVE TO GIVE IT
25 WHATEVER WEIGHT THEY DEEM APPROPRIATE. AND BASED ON

1 THE TESTIMONY OF JOHNATHAN RAYSOR AS WELL AS, I THINK,
2 MR. MOORER, THAT THEY RESPONDED TO THE DOOR, AND I
3 DIDN'T HEAR ANY TESTIMONY THAT THEY WERE INVITED IN.
4 AND EVEN THOUGH THE EIGHT YEAR OLD RESPONDED TO THE
5 QUESTION, DID THEY LET HIM IN, I THINK IT'S A QUESTION
6 OF FACT AND THE JURY WILL HAVE TO GIVE WHATEVER WEIGHT
7 THEY DEEM APPROPRIATE AS TO WHO THEY BELIEVE, AS TO
8 WHETHER HE WAS, IN FACT, INVITED IN OR WHETHER HE
9 ENTERED WITHOUT CONSENT. AND SO, I THINK THAT, AS FAR
10 AS THE BURGLARY, FIRST, THAT I'M GOING TO DENY YOUR
11 MOTION FOR DIRECTED VERDICT AND THAT WILL GO TO THE
12 JURY.

13 AND AS FAR AS THE ASSAULT AND BATTERY OF A
14 HIGH AND AGGRAVATED NATURE, THERE'S COMPLETELY
15 TESTIMONY, AT LEAST THOSE WHO TESTIFIED SAID THE
16 DEFENDANT HIT MR. MOORER WITH THE BUTT OF THE GUN. I
17 UNDERSTAND THAT YOU BROUGHT OUT ON CROSS-EXAMINATION
18 BASED ON A POLICE REPORT THAT MAYBE THE INITIAL REPORT
19 WAS FROM MS. MOORER THAT THE UNNAMED PERSON DID IT,
20 BUT STILL, THAT'S A QUESTION OF FACT, THERE'S A
21 DISPUTE IN THOSE FACTS, AND THE JURY WILL ULTIMATELY
22 MAKE THE DETERMINATION AS TO WHO THEY BELIEVE. BUT
23 IT'S THE EXISTENCE OF EVIDENCE AND NOT THE WEIGHT OF
24 THE EVIDENCE, AND I THINK THERE'S SUFFICIENT EVIDENCE
25 IN THIS RECORD THAT IT CAN GO TO THE JURY. AND I

1 RESPECTFULLY DENY YOUR MOTIONS FOR A DIRECTED VERDICT.

2 MR. CHANDLER: THANK YOU.

3 THE COURT: NOW, DO YOU WANT ME TO -- I
4 UNDERSTAND THAT THE STATE HAS RESTED AND IT'S YOUR
5 TIME TO PUT UP A DEFENSE. DO YOU WANT ME TO QUESTION
6 YOUR CLIENT AS TO HIS RIGHTS AS FAR AS TESTIFYING OR
7 NOT?

8 MR. CHANDLER: I THINK AT THIS POINT I WOULD
9 LIKE TO, BUT I'VE BEEN IN A DISCUSSION WITH MY CLIENT
10 AND I THINK HE'S NOT GOING TO -- I BELIEVE HE'S NOT
11 GOING TO TESTIFY, BUT I WOULD STILL LIKE FOR YOU TO
12 QUESTION HIM SO THAT IT'S CLEAR THAT HE KNOWS THAT HE
13 HAS THE RIGHT TO.

14 THE COURT: ALRIGHT, MR. DARBY, IF YOU WILL
15 STAND UP AND RAISE YOUR HAND.

16 (Whereupon, Adrian Jermaine Darby
17 is duly sworn.)

18 (NOTE: Blank lines on this page do not indicate any
19 part of record has been omitted. Headers on testimony
20 pages and hard page breaks between testimony are now
21 required by the Court. See next ensuing page for
22 sequential continuation of record.)

EXAM, IN CAMERA - ADRIAN JERMAINE DARBY
BY THE COURT

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EXAMINATION, IN CAMERA, OF ADRIAN JERMAINE DARBY

BY THE COURT:

Q. DO YOU UNDERSTAND, WE'VE REACHED THIS POINT,
YOU'VE REACHED THIS POINT OF TRIAL WHERE YOU HAVE
A RIGHT TO TESTIFY IF YOU WANT TO, BUT YOU
CERTAINLY DON'T HAVE TO TESTIFY. AND I WILL
INSTRUCT THE JURY THAT IF YOU DECIDE NOT TO
TESTIFY THEY CANNOT HOLD THAT AGAINST YOU IN ANY
WAY. THEY CAN'T CONSIDER THAT, YOU HAVE A
CONSTITUTIONAL RIGHT TO REMAIN SILENT, AND SO,
THEY CAN'T IN ANY WAY HOLD THAT AGAINST YOU, THE
FACT THAT YOU HAD REMAINED SILENT. AND THEY
CANT' EVEN DISCUSS THAT IN THE JURY ROOM. BUT
YOU ALSO HAVE A RIGHT TO TESTIFY AND PUT UP
EVIDENCE. AND IF YOU DECIDE TO TESTIFY THEN
YOU'LL BE TREATED LIKE ANY OTHER WITNESS AND
YOU'LL BE SUBJECT TO CROSS-EXAMINATION. IF YOU
HAVE A PRIOR CRIMINAL RECORD AND IT FITS UNDER
THE RULES THEN IT MAY BE BROUGHT OUT TO IMPEACH
YOU. AND I'LL HAVE TO RULE ON THAT AND I DON'T
KNOW IF YOU DO OR NOT, BUT CERTAINLY IT'S A
POSSIBILITY. SO, DO YOU UNDERSTAND THAT?

A. YES, SIR.

Q. OKAY. NOW, YOU CERTAINLY CAN TALK TO YOUR LAWYER
ABOUT THE DECISION WHETHER YOU TESTIFY OR NOT TO

EXAM, IN CAMERA - ADRIAN JERMAINE DARBY
BY THE COURT

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1 TESTIFY, BUT IT IS ULTIMATELY YOUR DECISION, IT'S
2 YOUR CONSTITUTIONAL RIGHT. YOUR LAWYER CAN ONLY
3 ADVISE YOU AS TO WHAT HE THINKS YOU SHOULD DO ON
4 TRIAL STRATEGY, BUT IT'S ULTIMATELY YOUR DECISION
5 AS TO WHETHER YOU TESTIFY OR NOT. DO YOU
6 UNDERSTAND THAT?

7 A. YES, SIR.

8 Q. OKAY. HAVE YOU HAD ENOUGH TIME TO TALK TO YOUR
9 LAWYER ABOUT THAT?

10 A. NO.

11 Q. OKAY. DO YOU WANT MORE TIME TO TALK TO HIM ABOUT
12 WHEN YOU WANT TO TESTIFY OR NOT?

13 A. YES, I WOULD.

14 Q. OKAY. AND I CAN GIVE YOU A FEW MINUTES TO SIT
15 DOWN AND DISCUSS THAT WITH HIM. DO YOU HAVE ANY
16 QUESTIONS FOR ME CONCERNING YOUR RIGHTS ABOUT
17 TESTIFYING?

18 A. NO, SIR.

19 THE COURT: OKAY. ALRIGHT. YES, SIR?

20 MR. CHANDLER: CAN WE JUST STEP OUT IN THE
21 HALLWAY FOR A MINUTE?

22 THE COURT: SURE. AND IF WE, YOU KNOW, WE
23 CAN TAKE A TEN MINUTE BREAK AND YOU CAN DO THAT. AND
24 YOU'VE GOT A ROOM, AN INTERVIEW ROOM BACK THERE IF YOU
25 WANT TO USE IT.

(Recess)

SOLICITOR SORENSON: YOUR HONOR, I'M
CONFUSED ABOUT SOMETHING. AND IT WOULDN'T BE THE
FIRST TIME.

THE COURT: OKAY. ALRIGHT, WHAT'S THE
ISSUE?

MR. CHANDLER: DO YOU NEED TO HEAR FROM MY
CLIENT FIRST?

THE COURT: YOU WANT TO DO THAT FIRST?

MR. CHANDLER: YES, I THINK SO. YOUR HONOR,
I THINK WE'D BETTER RESOLVE THIS FIRST.

THE COURT: OKAY.

SOLICITOR SORENSON: MY, AND YET AGAIN, THIS
MAY BE JUST MY -- I WAS UNDER THE IMPRESSION YESTERDAY
WHEN WE WERE MAKING ALL THESE EXHIBITS, AND I KNOW MS.
WALKER INITIALLY HAD INQUIRED, AND I THOUGHT THE COURT
DID, TOO, WHETHER THEY WERE ALL OFFERED INTO EVIDENCE
WITHOUT OBJECTION, BEING THE ONES WE MARKED PLUS THE
ONE THAT YOU MARKED.

MR. CHANDLER: RIGHT, AND THAT'S MY
UNDERSTANDING.

SOLICITOR SORENSON: SO, MY UNDERSTANDING
WAS, THEY WERE IN EVIDENCE.

THE COURT: THEY WERE OFFERED WITHOUT
OBJECTION AND THEY WERE IN EVIDENCE.

1 SOLICITOR SORENSON: NO, THAT WAS MY
2 UNDERSTANDING.

3 MR. CHANDLER: AND IT WAS MY UNDERSTANDING,
4 YOUR HONOR, AS WE DO OFTENTIMES, FOR JUDICIAL ECONOMY
5 AND TIME, THAT WE WOULD, JUST LIKE I DID, AND AS YOU
6 REMEMBER, ACTUALLY THERE WAS A PIECE THAT WAS OFFERED
7 IN THE SAME MANNER, THE PHOTO LINEUP, WITHOUT
8 OBJECTION, BUT YET, HE STILL FORMALLY OFFERED IT INTO
9 EVIDENCE. IF WE FOLLOW HIS LOGIC, THAT PHOTO LINEUP
10 WOULD HAVE ALREADY BEEN IN AND HE WOULDN'T HAVE HAD TO
11 LOOK AT ME, WITHOUT OBJECTION. THE REALITY OF IT IS,
12 IT'S MY UNDERSTANDING THAT THE COURT APPRECIATES THE
13 FACT THAT WE WOULD AGREE WITH IT SO THAT THE COURT
14 COULD MOVE ON SMOOTHLY.

15 THE COURT: RIGHT.

16 MR. CHANDLER: BUT CERTAINLY, THE STATE
17 CAN'T ARGUE THAT THERE'S A PIECE OF EVIDENCE THAT I
18 DIDN'T GET IN THROUGH A WITNESS, THAT I DIDN'T PRESENT
19 TO THE JURY THROUGH ANY TESTIMONY, THAT ALL OF A
20 SUDDEN NOW CAN GO TO THE JURY BECAUSE, THAT WOULD BE
21 LIKE ME HANDING A PIECE OF -- CERTAINLY, WE WOULD NOT,
22 JUST BECAUSE WE PRE-MARKED IT, AGREED THAT THERE
23 WOULDN'T BE ANY OBJECTION TO IT, THAT I'M NOT, THAT
24 IT'S NOT SUBMITTED INTO EVIDENCE FOR THE PURPOSE OF
25 PRECLUDING THE DEFENSE FROM HAVING THE LAST ARGUMENT.

1 THE COURT: WELL, THAT'S, MY RECOLLECTION
2 WAS THAT Y'ALL HAD OFFERED THEM INTO EVIDENCE AND I
3 ACCEPTED THEM IN, THAT YOU HAD PRE-MARKED THEM, AND I
4 ASKED, IS THAT BEING PRE-MARKED FOR IDENTIFICATION OR
5 IS THAT BEING OFFERED INTO EVIDENCE? AND MY
6 UNDERSTANDING IS, AFTER Y'ALL AGREED, THAT YOU HAD NO
7 OBJECTION TO THEM COMING INTO EVIDENCE. SO, SHE
8 MARKED THEM, SHE DIDN'T MARK THEM FOR IDENTIFICATION,
9 AND WE DIDN'T GO THROUGH THE STEPS OF, CAN YOU
10 IDENTIFY THIS? YES. AND PUT THEM IN INDIVIDUALLY,
11 THAT Y'ALL STIPULATED - - -

12 MR. CHANDLER: EXCEPT THAT HE DID THAT FOR
13 THE PHOTO LINEUP, WHICH WE DID AGREE THAT WAS ALREADY
14 IN THERE IN THE SAME MANNER.

15 SOLICITOR SORENSON: THE ONLY REASON I DID
16 THAT BECAUSE I WASN'T SURE THAT WAS PUT ON THE RECORD.
17 I KNOW I HAD ASKED HIM ABOUT IT BUT I WASN'T SURE IT
18 WAS, SO I WAS MAKING SURE THERE WAS NOT AN OBJECTION.

19 THE COURT: BECAUSE THE PHOTO LINEUP IS
20 NUMBER WHAT?

21 SOLICITOR SORENSON: NUMBER THIRTEEN. THAT
22 WAS THE ONE THAT WAS JUST MARKED THIS MORNING.

23 THE COURT: RIGHT. MY NOTES SHOW THAT THE
24 STATE INITIALLY OFFERED ONE THROUGH TWELVE BECAUSE
25 THERE WAS SOME ISSUE ABOUT, THE COURT REPORTER HAD

1 ELEVEN AND HE - - -

2 SOLICITOR SORENSON: RIGHT.

3 MR. CHANDLER: THAT WAS JUST KIND OF - - -

4 THE COURT: --- AND HE, IT WAS A MISCOUNT.

5 SO, WE DID IT TWICE, AND FINALLY, AND IT WAS TWELVE
6 PHOTOGRAPHS, AND THEY BOTH AGREED IT WAS TWELVE, SO
7 THEY CAME IN ONE THROUGH TWELVE, AND THAT YOU OFFERED
8 ONE EXHIBIT AT THAT TIME. SO, AT THE BEGINNING OF THE
9 TRIAL I HAVE THIRTEEN PIECES OF EVIDENCE IN, AND THEN
10 HE OFFERED THE LINEUP AS EXHIBIT THIRTEEN DURING THE
11 TESTIMONY OF THE OFFICER, WHICH YOU DID NOT OBJECT TO,
12 SO NOW IT'S THIRTEEN THAT'S IN.

13 MR. CHANDLER: ACTUALLY, IT WAS MY
14 UNDERSTANDING, YOUR HONOR, AND I COULD BE WRONG,
15 BECAUSE WE HAD DISCUSSED IT BEFORE, AND IT WASN'T
16 OBJECTED TO AND I THOUGHT IT WAS ALREADY IN.

17 SOLICITOR SORENSON: RIGHT. BUT I HADN'T, I
18 HADN'T BROUGHT THAT UP WITH THE JUDGE.

19 THE COURT: IT HADN'T BEEN IN, IT WAS NOT
20 IN.

21 SOLICITOR SORENSON: SO, THAT'S WHY, I MEAN,
22 THAT'S WHY, THAT'S THE REASON I OFFERED THAT BECAUSE I
23 HADN'T BROUGHT THAT -- I MEAN, HE DIDN'T KNOW ANYTHING
24 ABOUT IT.

25 MR. CHANDLER: WELL, YOUR HONOR, IF WE

1 FOLLOW HIS LOGIC, THEN LITERALLY IF WE HAD AGREED TO
2 EVIDENCE, A GUN OR ANYTHING, THAT IT COULD BE,
3 ACTUALLY GO BACK TO THE JURY WITHOUT ANY TESTIMONY OR
4 ANY WITNESSES TO BRING THEM IN?

5 THE COURT: ABSOLUTELY IF YOU AGREE, IF YOU
6 AGREE -- THAT'S WHY I ASKED YOU THAT. IF YOU SAID,
7 YEAH, THEY'RE IN WITHOUT OBJECTION. BECAUSE MANY
8 TIMES THE PROSECUTORS GET ALL OF THEIR PHOTOGRAPHS IN
9 AND ARGUE TO THEM IN OPENING STATEMENTS. DOUGLAS
10 SALEEBY DOES THAT ALL THE TIME. IF EVERYBODY AGREES,
11 IT'S IN THEN HE STARTS HIS OPENING STATEMENT SHOWING
12 THOSE EXHIBITS TO THE JURY.

13 MR. CHANDLER: WELL, IT WAS MY IMPRESSION
14 THAT WE WERE SIMPLY AGREEING TO THEM SO THAT WE COULD
15 MAKE IT MOVE SMOOTHLY WITHOUT OBJECTION. I DO NOT
16 BELIEVE THAT THE STATE WOULD BE PREJUDICED BY ME NOT
17 HAVING, OR MY CLIENT NOT HAVING INTO EVIDENCE A PIECE
18 OF EVIDENCE BASED ON A MISUNDERSTANDING, A PIECE OF
19 EVIDENCE THAT HE NEVER PRESENTED BEFORE A JURY, AND IN
20 AN ABUNDANCE OF CAUTION WE WOULD ASK THAT THAT NOT BE
21 ENTERED FOR THE PURPOSE OF PRECLUDING MY CLIENT FROM
22 HAVING LAST ARGUMENT IN THIS CASE. YOUR HONOR, I
23 DON'T EVEN SEE HOW THE STATE COULD BE PREJUDICED
24 BECAUSE SIMPLY WE WERE LOOKING AT THIS - - -

25 THE COURT: WELL, THEN, I, AND I WAS - - -

1 MR. CHANDLER: --- AND I MEAN, IT MIGHT BE A
2 MATTER OF SEMANTICS.

3 THE COURT: WHEN YOU OFFERED THEM AT THE
4 FIRST, THAT EXHIBIT, I WAS SAYING, ARE YOU GOING TO
5 GIVE UP LAST ARGUMENT OVER THIS PIECE OF PAPER?

6 MR. CHANDLER: WELL, I JUST ASSUMED, THAT'S
7 WHY I ...

8 THE COURT: WELL, BUT I ASSUMED THAT THE
9 LAST ARGUMENT WAS NOT GOING TO BE AN ISSUE BECAUSE YOU
10 WERE GOING TO OFFER TESTIMONY, - - -

11 MR. CHANDLER: WELL, ...

12 THE COURT: --- AND IF YOU OFFER TESTIMONY
13 YOU DON'T, YOU LOSE LAST ARGUMENT.

14 MR. CHANDLER: CERTAINLY, CERTAINLY, AND
15 IT'S ALWAYS OPEN, AS YOU KNOW, I JUST HAD A
16 CONVERSATION WITH MY CLIENT. BUT PART OF THE DECISION
17 IS BASED ON THE LAST ARGUMENT, WHICH I DON'T WANT TO
18 GIVE UP, AND NEVER THOUGHT THAT I HAD GIVEN UP BY
19 SIMPLY AGREEING THAT WHILE WE WERE GOING THROUGH
20 EVIDENCE AND AGREEING THAT THINGS WOULD BE ABLE TO
21 COME IN, THAT THAT SIMPLY WAS MY UNDERSTANDING.
22 AGAIN, YOUR HONOR, I'M JUST ARGUING THAT I DON'T THINK
23 THE STATE IS PREJUDICED IN ANY WAY BY THE FACT THAT MY
24 CLIENT IS NOT SUBMITTING A PIECE OF PAPER THAT WAS
25 NEVER TESTIFIED TO DURING THE COURSE OF THIS, AND THAT

1 THERE WAS A MISUNDERSTANDING AS TO SEMANTICS OVER
2 WHETHER OR NOT A PIECE OF EVIDENCE WAS ENTERED INTO
3 EVIDENCE.

4 THE COURT: AND WHAT WAS THAT PIECE OF
5 EVIDENCE?

6 MR. CHANDLER: IT WAS ONE OF THE PICTURES.

7 THE COURT: OKAY. AND WHAT IS THAT?

8 MR. CHANDLER: IT WAS A PICTURE, AN OUTSIDE
9 PICTURE OF THE DOOR.

10 THE COURT: OKAY. AND HAS THAT EVER BEEN
11 PUBLISHED TO THE JURY?

12 MR. CHANDLER: NEVER, NO, SIR.

13 THE COURT: ALRIGHT. OKAY. I UNDERSTAND
14 YOUR DILEMMA, I'LL THINK ABOUT THAT A MINUTE. I
15 UNDERSTAND YOUR DILEMMA.

16 SOLICITOR SORENSON: AND I WAS GOING, I
17 MEAN, TO BE HONEST WITH YOU, I HAD THE SAME THOUGHT
18 YOU HAD YESTERDAY, AND THAT'S WHY I EVEN BROUGHT UP
19 THE ISSUE, BECAUSE I JUST ASSUMED THAT HE KNEW - - -

20 THE COURT: AND I STARTED TO ASK HIM THAT.

21 SOLICITOR SORENSON: --- I JUST ASSUMED THAT
22 HE KNEW HE WAS PUTTING SOMETHING, I MEAN, ...

23 MR. CHANDLER: AND I'M TELLING YOUR HONOR, I
24 THOUGHT I WAS MAINTAINING MY OPTIONS FOR MY CLIENT,
25 AND AT THAT TIME IT WAS A MATTER OF SEMANTICS. I

1 THOUGHT WE WERE JUST HELPING THE COURT MOVE ALONG
2 SMOOTHLY BY TAKING CARE OF ALL OF THAT, GETTING IT OUT
3 OF THE WAY.

4 THE COURT: OKAY.

5 MR. CHANDLER: AND EVEN IN THE EVENT THAT WE
6 DECIDED TO PUT IT UP. AND I DELIBERATELY DIDN'T PUT IT
7 UP OR EVEN DIDN'T USE AN ARGUMENT RELATING TO IT, AND
8 DIDN'T PRESENT OR OFFER ANY TESTIMONY REGARDING IT FOR
9 THAT PURPOSE.

10 THE COURT: OKAY.

11 MR. CHANDLER: AGAIN, I DON'T SEE IN ANY WAY
12 HOW THE STATE COULD BE PREJUDICED BY THIS
13 MISUNDERSTANDING WITH THE SEMANTICS OF IT, BUT I CAN
14 SEE MANY WAYS MY CLIENT COULD BE, YOUR HONOR. SO IN
15 AN ABUNDANCE OF CAUTION I WOULD ASK THAT THAT NOT BE
16 INCLUDED IN THE EVIDENCE.

17 THE COURT: OKAY. ALRIGHT. LET ME THINK
18 ABOUT THAT A MINUTE, AND I HAD THE SUMMARY OF THIS
19 CASE PRETTY WELL BEFORE THIS, AND I WANT TO LOOK AT IT
20 A SECOND. BUT WHILE I'M THINKING ABOUT THAT, DO YOU
21 WANT ME TO FINISH MY DISCUSSION WITH YOUR CLIENT?

22 MR. CHANDLER: NO, WELL, WE, I MEAN, YOUR
23 HONOR, WE CAN'T, HE WOULDN'T BE ABLE TO ANSWER YOU
24 BECAUSE I MIGHT HAVE SOME ADDITIONAL ADVICE.

25 THE COURT: YOU NEED THAT RULING BEFORE HE

1 CAN ANSWER?

2 MR. CHANDLER: I NEED THAT RULING.

3 THE COURT: SO, IF I RULE THAT IT, YOU'RE
4 NOT GOING TO PUT IT IN IF THAT WOULD CUT YOU OFF OF
5 YOUR LAST ARGUMENT, I'LL ALLOW YOU, BASED ON YOUR
6 MISUNDERSTANDING TO WITHDRAW THAT PIECE OF EVIDENCE,
7 OR THEN YOU'RE BACK, IF YOU DON'T PUT UP ANYTHING YOU
8 CAN GET LAST ARGUMENT. ALRIGHT, LET ME, THEN I'LL
9 TALK TO MY LAW CLERK AND LET Y'ALL KNOW SOMETHING.
10 (Whereupon, a brief conference
11 is had with the Court and law
12 clerk off the record.)

13 THE COURT: MR. CHANDLER, I'LL ALLOW YOU TO
14 WITHDRAW THAT DOCUMENT OUT OF EVIDENCE IF YOU WANT TO,
15 SINCE IT WAS NOT PUBLISHED TO THE JURY, AND YOU WILL
16 RETAIN LAST ARGUMENT, AT LEAST AT THIS POINT, UNLESS
17 YOUR CLIENT WANTS TO TESTIFY.

18 MR. CHANDLER: THANK YOU, YOUR HONOR, WE
19 WILL WITHDRAW THAT DOCUMENT, AND MY CLIENT HAS
20 INFORMED ME THAT HE DOES NOT WISH TO TESTIFY. AND WE
21 DO NOT HAVE -- AND FOR THE PURPOSE OF RETAINING THE
22 LAST ARGUMENT, WITNESSES THAT WE HAVE INCLUDED ON THE
23 WITNESS LIST WE WILL NOT BE CALLING, PER MY
24 CONVERSATIONS WITH MY CLIENT.

25 THE COURT: IS THAT RIGHT, MR. DARBY?

1 DEFENDANT DARBY: YES, SIR.

2 THE COURT: OKAY. AND SO, YOUR ATTORNEY
3 TELLS ME AT THIS POINT YOU DO NOT WANT TO TESTIFY?

4 DEFENDANT DARBY: NO, SIR.

5 THE COURT: THAT'S CORRECT? AND YOU'VE HAD
6 ENOUGH TIME TO TALK TO HIM ABOUT IT?

7 DEFENDANT DARBY: YES, SIR.

8 THE COURT: SO, I WILL PROCEED TO BRING THE
9 JURY OUT AND DO THE CLOSING ARGUMENTS IN THIS CASE,
10 AND I WILL CHARGE THEM ON THE LAW AND GIVE THEM THIS
11 CASE TO DECIDE. DO YOU UNDERSTAND THAT?

12 DEFENDANT DARBY: YES, SIR.

13 COURT REPORTER: WHAT NUMBER IS THAT THAT
14 YOU'VE WITHDRAWN?

15 THE COURT: DEFENSE EXHIBIT NUMBER ONE.

16 MR. CHANDLER: DEFENDANT'S EXHIBIT ONE,
17 THAT'S RIGHT.

18 COURT REPORTER: OKAY.

19 (Defendant's Exhibit One
20 is withdrawn.)

21 THE COURT: THANK YOU, SIR.

22 MR. CHANDLER: YOUR HONOR, WE DIDN'T DISCUSS
23 IT IN THE BACK, BUT CERTAINLY, I WOULD WANT THE
24 ARGUMENT INDICATING THAT MY CLIENT DOES NOT HAVE TO
25 TESTIFY.

1 THE COURT: CERTAINLY, I WILL CHARGE THE
2 JURY THAT THEY ARE NOT TO CONSIDER THAT IN ANY WAY. I
3 WILL ADD THAT AS A CHARGE, THE FACT THAT HE DID NOT
4 TESTIFY COULD NOT BE CONSIDERED BY THEM OR HOLD THAT
5 AGAINST HIM IN ANY WAY.

6 MR. CHANDLER: ALRIGHT. THANK YOU, YOUR
7 HONOR.

8 THE COURT: OKAY. ANYTHING ELSE FROM EITHER
9 SIDE BEFORE I BRING THE JURY IN?

10 SOLICITOR SORENSON: NO, SIR.

11 MR. CHANDLER: NO, SIR.

12 THE COURT: OKAY. NOW, ONE THING I DIDN'T
13 DISCUSS, WE, I WILL CHARGE MY GENERAL CHARGE,
14 REASONABLE DOUBT, AND THE CRIMES OF BURGLARY, FIRST
15 DEGREE, AND ASSAULT AND BATTERY OF A HIGH AND
16 AGGRAVATED NATURE. IS THAT Y'ALL'S UNDERSTANDING?

17 SOLICITOR SORENSON: YES, SIR.

18 MR. CHANDLER: YES, SIR.

19 THE COURT: OKAY.

20 MR. CHANDLER: ALONG WITH IT, I DIDN'T KNOW
21 IF THEY WERE GOING TO ARGUE THE HANDS OF ONE, HANDS OF
22 ALL, I THINK WE DISCUSSED THAT.

23 THE COURT: RIGHT.

24 MR. CHANDLER: AS WELL AS MERE PRESENCE.

25 THE COURT: AND I INTEND TO CHARGE BOTH OF

1 THOSE BASED ON WHAT Y'ALL TOLD ME. AND I THINK
2 THERE'S EVIDENCE IN THIS RECORD THAT WARRANT BOTH OF
3 THOSE CHARGES, SO I'M GOING TO CHARGE IT. OKAY.
4 ANYTHING ELSE?

5 SOLICITOR SORENSON: NO, SIR.

6 MR. CHANDLER: NONE FROM THE DEFENSE, YOUR
7 HONOR.

8 THE COURT: OKAY. IF YOU'LL BRING US THE
9 JURY, PLEASE, MA'AM.

10 (Whereupon, the jury enters
11 the courtroom and the following
12 takes place in the presence
13 of the jury.)

14 THE COURT: MR. CHANDLER.

15 MR. CHANDLER: YOUR HONOR, THE DEFENSE
16 RESTS.

17 THE COURT: OKAY. LADIES AND GENTLEMEN,
18 YOU HAVE HEARD ALL OF THE EVIDENCE THAT YOU ARE GOING
19 TO HEAR IN THIS CASE, AND NOW YOU ARE GOING TO HEAR
20 THE CLOSING ARGUMENTS OF THE ATTORNEYS, AND THEN I
21 WILL CHARGE YOU ON THE LAW AND GIVE YOU THIS CASE FOR
22 YOUR DELIBERATIONS. SO, IF YOU'LL PAY CLOSE ATTENTION
23 TO THE ATTORNEYS.

24 MR. SOLICITOR.

25 SOLICITOR SORENSON: THANK YOU, MAY IT

1 PLEASE THE COURT, YOUR HONOR.

2 CLOSING ARGUMENT BY SOLICITOR SORENSON

3 GOOD MORNING, LADIES AND GENTLEMEN. I'LL
4 START OFF BY THANKING YOU ON BEHALF OF NOT ONLY
5 TIFFANY MOORER, CRUZ MOORER AND THEIR FAMILY, BUT ALSO
6 ON BEHALF OF THE PEOPLE OF ORANGEBURG COUNTY FOR YOUR
7 WILLINGNESS TO SERVE THIS WEEK AND THE ATTENTIVENESS
8 THAT YOU'VE GIVEN UP TO THIS POINT ON THIS CASE, AND
9 I'M SURE YOU'RE GOING TO CONTINUE TO GIVE THROUGHOUT
10 OUR CLOSING ARGUMENTS, HIS HONOR'S CHARGE ON THE LAW,
11 AND MOST IMPORTANTLY, WHEN YOU GET INTO YOUR JURY
12 ROOM.

13 NOW, LADIES AND GENTLEMEN, THE WAY THINGS
14 ARE GOING TO GO NOW IS, I'M GOING TO HAVE AN
15 OPPORTUNITY, SINCE THE BURDEN IS ON THE STATE I HAVE
16 TO GO FIRST. AND I'M GOING TO HAVE AN OPPORTUNITY TO
17 TAKE A LITTLE BIT OF YOUR TIME RIGHT NOW. SO, FIRST I
18 WANT TO GO THROUGH A LITTLE BIT OF LAW WITH YOU AGAIN,
19 AND THEN GO THROUGH THE FACTS WITH YOU. OKAY? WHEN
20 I'M DONE THIS MEANS THIS IS THE LAST TIME YOU'RE GOING
21 TO HAVE HEAR FROM ME. MR. CHANDLER IS GOING TO HAVE AN
22 OPPORTUNITY THEN TO COME BEFORE YOU AND ARGUE WHAT HE
23 FEELS WAS PROVEN IN THIS COURTROOM THIS WEEK. AND
24 THEN AFTER THAT HIS HONOR IS GOING TO CHARGE YOU ON
25 THE LAW, AND THEN YOU'RE GOING TO BE BACK IN YOUR JURY

1 ROOM READY TO DELIBERATE.

2 NOW, LADIES AND GENTLEMEN, THE FIRST THING
3 BEFORE I GET INTO THE CHARGES THAT MR. DARBY IS
4 CHARGED WITH, THE FIRST THING I WANT TO TALK TO YOU A
5 LITTLE BIT ABOUT IS WHAT EVIDENCE IS IN A CRIMINAL
6 CASE, WHAT EVIDENCE IS. I SUBMIT TO YOU, LADIES AND
7 GENTLEMEN, THE EVIDENCE THAT YOU CAN CONSIDER WHEN YOU
8 GET BACK INTO YOUR JURY ROOM, WHEN YOU'RE WEIGHING
9 YOUR DECISION TO DETERMINE WHETHER WE'VE PROVEN MR.
10 DARBY'S GUILT TO YOU BEYOND A REASONABLE DOUBT IS WHAT
11 COMES FROM THIS WITNESS STAND RIGHT HERE. IT COMES
12 FROM THE WITNESSES THAT HAVE COME BEFORE, SWORE TO
13 TELL YOU THE TRUTH, TOLD YOU WHAT HAPPENED, THE
14 EVIDENCE, THE PHOTOGRAPHS THAT WERE PRESENTED TO YOU,
15 THAT'S THE EVIDENCE THAT YOU HAVE TO DETERMINE MR.
16 DARBY'S GUILT. OKAY?

17 WHAT IS NOT EVIDENCE? WHAT I'M UP HERE
18 TELLING YOU RIGHT NOW IS NOT EVIDENCE. I'M NOT A
19 WITNESS, I'M A LAWYER, I'M AN ADVOCATE. SO, WHAT I
20 TELL YOU IS NOT EVIDENCE. WHAT MR. CHANDLER GETS UP
21 AND TELLS YOU, WHAT HE TOLD YOU YESTERDAY IN HIS
22 OPENING STATEMENT, WHAT HE'S GOING TO GET UP AND TELL
23 YOU IN A LITTLE WHILE IS NOT EVIDENCE. ALL WE'RE
24 TRYING TO DO IS KIND OF FOCUS YOU ON THE RELEVANT
25 PORTIONS OF THE EVIDENCE THAT YOU CAN CONSIDER.

1 ACCUSATIONS, UNFOUNDED ACCUSATIONS, I SUBMIT
2 TO YOU, ARE NOT EVIDENCE. WHEN MR. CHANDLER GOT UP
3 BEFORE YOU IN HIS OPENING STATEMENT YESTERDAY AND TOLD
4 YOU A STORY ABOUT WHAT HAPPENED, I SUBMIT TO YOU, YOU
5 DIDN'T HEAR FROM THIS WITNESS STAND ANYWHERE. THAT'S
6 NOT EVIDENCE. WHAT MR. CHANDLER TOLD YOU IS NOT
7 EVIDENCE. THE ONLY EVIDENCE YOU CAN CONSIDER IN
8 DETERMINING MR. DARBY'S GUILT IS WHAT YOU'VE HEARD
9 FROM THAT WITNESS STAND, WHAT YOU HEARD FROM THAT
10 WITNESS STAND. I'M GOING TO TALK YOU IN A FEW MOMENTS
11 NOW ABOUT HOW YOU'RE GOING TO GO ABOUT KIND OF
12 WEIGHING AND JUDGING THE CREDIBILITY OF THAT EVIDENCE
13 THAT YOU'VE HEARD.

14 BUT FIRST OF ALL I WANT TO JUST TOUCH ON
15 BRIEFLY THE TWO CHARGES THAT AS YOU KNOW BY NOW MR.
16 DARBY IS CHARGED WITH. THE FIRST ONE IS BURGLARY IN
17 THE FIRST DEGREE. AND AS I TOLD YOU IN MY OPENING
18 YESTERDAY, BURGLARY IN THE FIRST DEGREE, VERY SIMPLY,
19 IS THE UNLAWFUL ENTRY INTO THE DWELLING OF ANOTHER
20 PERSON WITHOUT THEIR CONSENT, WITH THE INTENT TO
21 COMMIT A CRIME THEREIN, ACCOMPANIED BY SOME
22 CIRCUMSTANCE OF AGGRAVATION. THAT CAN OCCUR EITHER
23 WHILE YOU'RE GOING INTO THE RESIDENCE AND WHILE YOU'RE
24 IN THE DWELLING OR FLEEING FROM THE DWELLING. IN THIS
25 CASE I SUBMIT TO YOU THE EVIDENCE THAT'S BEEN

1 PRESENTED, IT ALL HAPPENED IN THE DWELLING. SO, WE
2 HAVE TO PROVE THAT HE UNLAWFULLY ENTERED THE DWELLING
3 OF ANOTHER, THE MOORERS, WITHOUT THEIR CONSENT, WITH
4 THE INTENT TO COMMIT A CRIME THERE, TO GO IN AND
5 ASSAULT AND BEAT UP CRUZ MOORER, AND WHILE IN THE
6 DWELLING EITHER MR. DARBY OR SOMEBODY ELSE THAT HE WAS
7 PARTICIPATING WITH WAS EITHER ARMED WITH A DEADLY
8 WEAPON, USED OR THREATENED THE USE OF A DEADLY WEAPON,
9 OR CAUSED PHYSICAL INJURY TO A NON-PARTICIPANT, IN
10 OTHER WORDS, INJURED A VICTIM IN THIS CASE. YOU KNOW,
11 IF THEY WENT IN AND ONE OF THEM GOT HURT THAT WOULDN'T
12 QUALIFY. OKAY? THAT'S WHAT WE HAVE TO PROVE. WE
13 HAVE TO PROVE ONE, TWO THREE, AND ONE OF THESE THINGS
14 FOR YOU TO FIND HIM GUILTY OF BURGLARY IN THE FIRST
15 DEGREE.

16 NOW, IF YOU NOTICE, LADIES AND GENTLEMEN, IN
17 THAT FIRST ONE IT SAYS, UNLAWFULLY ENTERED THE
18 DWELLING OF ANOTHER WITHOUT THEIR CONSENT, THOSE FIRST
19 TWO ELEMENTS. OKAY? IT DOESN'T SAY ANYTHING IN THERE
20 THAT THERE HAPPENED TO BE A BREAKING AND ENTERING.
21 BURGLARY DOESN'T REQUIRE YOU TO, YOU KNOW, KICK A DOOR
22 IN. BURGLARY DOESN'T REQUIRE YOU CLIMBING THROUGH A
23 WINDOW. BURGLARY DOESN'T REQUIRE YOU FORCE YOUR WAY
24 IN. ALL WE HAVE TO PROVE IS THAT YOU UNLAWFULLY
25 ENTERED THAT DWELLING WITHOUT THE OWNER'S CONSENT,

1 WITHOUT THE OWNER'S CONSENT, WITH THE INTENT TO COMMIT
2 A CRIME THEREIN. OKAY? SO, I SUBMIT TO YOU, LADIES
3 AND GENTLEMEN, AS YOU'VE HEARD FROM THIS WITNESS
4 STAND, IF WE'VE PROVED TO YOU BEYOND A REASONABLE
5 DOUBT THAT ON THE NIGHT OF SEPTEMBER TWENTY-NINTH OF
6 TWO THOUSAND NINE, JERMAINE DARBY, ADRIAN JERMAINE
7 DARBY AND QUINTON GREEN KNOCKED ON THE DOOR, WHEN IT
8 WAS ANSWERED BY JOHNATHAN RAYSOR AND CRUZ MOORER THAT
9 ONE OF THOSE INDIVIDUALS PULLED OUT A GUN AND CHASED
10 THEM INTO THE HOUSE, I SUBMIT TO YOU WE'VE PROVEN
11 BEYOND ANY DOUBT THAT THEY UNLAWFULLY ENTERED THAT
12 DWELLING WITHOUT THEIR CONSENT, BECAUSE WHEN YOU PULL
13 A GUN ON SOMEBODY, CHASE THEM INTO THEIR HOME, POINT
14 THE WEAPONS AT THE PEOPLE INSIDE THE HOME AND THEN
15 ASSAULT THEM, I SUBMIT TO YOU, YOU'RE NOT IN THERE
16 WITH THEIR CONSENT. SO, THAT'S BURGLARY IN THE FIRST
17 DEGREE.

18 NOW, THE SECOND CHARGE THAT MR. DARBY'S
19 CHARGED WITH IS CALLED ASSAULT AND BATTERY OF A HIGH
20 AND AGGRAVATED NATURE. YOU'VE GOT KIND OF AN ACRONYM
21 FOR THAT, ABHAN IS WHAT IT'S MORE COMMONLY REFERRED
22 TO. AN ABHAN IS AN UNLAWFUL ACT OF VIOLENT INJURY TO
23 ANOTHER PERSON ACCOMPANIED BY SOME CIRCUMSTANCE OF
24 AGGRAVATION. IF YOU RECALL YESTERDAY IN MY OPENING I
25 TOLD YOU, YOU KNOW, BASICALLY AN ASSAULT AND BATTERY

1 IS IF YOU GO UP AND YOU HIT SOMEBODY, YOU KNOW, IF I
2 PICK UP MY PEN AND THROW IT AT INVESTIGATOR JONES AND
3 HIT HIM, THAT'S AN ASSAULT AND BATTERY. OKAY? THE
4 FACT THAT MR. DARBY OR MR. GREEN STRUCK MR. MOORER
5 DURING THIS ALTERCATION IS AN ASSAULT AND BATTERY.
6 OKAY? THEN IT HAS TO BE, TO RISE IT TO THE LEVEL OF
7 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE
8 THERE HAS TO BE SOME CIRCUMSTANCE OF AGGRAVATION
9 PRESENT. AND THE TWO THAT ARE ALLEGED IN THIS CASE,
10 EITHER THE USE OF A DEADLY WEAPON, IN THIS CASE A SHOT
11 GUN OR A PISTOL, OR INFLECTION OF SERIOUS BODILY
12 INJURY, THAT WHICH WOULD CAUSE A PERSON TO HAVE TO BE
13 TRANSPORTED BY EMS TO THE HOSPITAL FOR CUTS,
14 ABRASIONS, BRUISES SUSTAINED IN THIS ALTERCATION. SO
15 THAT WOULD BE ASSAULT AND BATTERY OF A HIGH AND
16 AGGRAVATED NATURE.

17 NOW, LADIES AND GENTLEMEN, AS I KIND OF
18 HINTED ON RIGHT THERE, YOU KNOW, THIS IS A CASE WHERE
19 WE ARE ALLEGING THAT THERE WAS MORE THAN ONE PERSON
20 INVOLVED, MORE THAN ONE PERSON INVOLVED. AND JUST,
21 AND I'LL PROBABLY TOUCH ON THIS AGAIN LATER, BUT JUST
22 SOMETHING ELSE JUST TO KIND OF KEEP IN MIND, YOU KNOW,
23 MR. CHANDLER IN HIS OPENING STATEMENT YESTERDAY GOT UP
24 HERE AND I BELIEVE MADE THE COMMENT, YOU KNOW, MY
25 CLIENT, YOU KNOW, IT'S MY CLIENT AND NOT MR. GREEN,

1 QUINTON GREEN. YOU KNOW, HE'S GIVING YOU THIS STORY
2 ABOUT WHAT HAPPENED OUT THERE, AND I SUBMIT TO YOU IT
3 WAS NOT SUPPORTED BY ANY OF THE EVIDENCE YOU HEARD,
4 BUT THE STORY ABOUT WHAT HAPPENED, BLAMING IT ALL ON
5 QUINTON GREEN. THAT MAN RIGHT THERE. HE MADE THE
6 COMMENT, YOU KNOW, IT WAS POOR MR. DARBY WAS THE ONLY
7 ONE CHARGED. WHERE IS MR. GREEN? AND YOU HEARD THE
8 TESTIMONY FROM INVESTIGATOR JONES THIS MORNING, THERE
9 ARE CHARGES AFTER HIM, THEY CAN'T FIND HIM, THEY CAN'T
10 FIND HIM. WHEN HE'S FOUND HE'LL HAVE HIS DAY IN COURT
11 SITTING OVER THERE WITH HIS LAWYER JUST LIKE MR. DARBY
12 DOES, JUST LIKE MR. DARBY DOES THIS WEEK. OKAY? BUT
13 WHAT I WAS GETTING AT HERE, THERE'S SOMETHING HIS
14 HONOR IS GOING TO CHARGE YOU ON, IT'S CALLED
15 ACCOMPLICE LIABILITY, AND MORE, THE KIND OF MORE
16 COMMON DEFINITION THAT YOU'VE PROBABLY ALL HEARD, IT'S
17 SOMETHING CALLED, THE HAND OF ONE IS THE HAND OF ALL.
18 IN OTHER WORDS, THE ACT OF ONE PERSON IS THE ACT OF
19 ANOTHER. AND BASICALLY, WHAT THAT MEANS IS THAT IF A
20 CRIME IS COMMITTED BY TWO OR MORE PERSONS WHO ARE
21 ACTING TOGETHER IN THE COMMISSION OF THAT CRIME THEN
22 THE ACT OF ONE IS THE ACT OF ALL. OKAY? WHEN TWO OR
23 MORE PERSONS JOIN TOGETHER FOR THE PURPOSES OF
24 COMMITTING A CRIMINAL ACT, IN THIS CASE GOING IN,
25 FORCING THEIR WAY INTO A HOME, ARMED WITH WEAPONS FOR

1 THE PURPOSES OF ASSAULTING ONE OF THE OCCUPANTS OF
2 THAT RESIDENCE, THE ACT OF ONE BECOMES THE ACT OF ALL.
3 OKAY? IT DOESN'T MATTER, LADIES AND GENTLEMEN, IF YOU
4 FIND THE TWO OF THEM WENT INTO THAT RESIDENCE THAT
5 NIGHT TOGETHER FOR THAT COMMON PURPOSE, IT DOESN'T
6 MATTER WHO WAS STRIKING CRUZ MOORER, IT DOESN'T MATTER
7 WHO WAS THE ONE FIRING THE SHOTS. THE ACT OF ONE IS
8 THE ACT OF ALL. OKAY? IF QUINTON GREEN THAT NIGHT,
9 WITH THAT NINE MILLIMETER HAND GUN THAT HE HAD, HAD
10 SHOT AND KILLED CRUZ MOORER OR ANYBODY ELSE IN THAT
11 HOME, I SUBMIT TO YOU, HE'D BE JUST AS GUILTY OF
12 MURDER, EVEN THOUGH HE DIDN'T PULL THE TRIGGER AND
13 FIRE THAT FATAL SHOT. KIND OF ANOTHER WAY TO PUT IT,
14 LADIES AND GENTLEMEN, IS, ONE WHO JOINS WITH ANOTHER
15 PERSON TO ACCOMPLISH AN ILLEGAL PURPOSE IS LIABLE
16 CRIMINALLY FOR EVERYTHING DONE BY HIS CO-DEFENDANT
17 INCIDENTAL TO THE COMMON DESIGN AND PURPOSE. SO, I
18 SUBMIT TO YOU, WHEN THE TWO OF THEM WENT INTO THAT
19 HOME BOTH ARMED THAT NIGHT, THEY WERE GUILTY, NOT
20 MATTER WHAT EITHER ONE OF THEM DID, THEY WERE BOTH
21 GUILTY FOR EACH OTHER'S ACTIONS. IT'S CALLED THE HAND
22 OF ONE IS THE HAND OF ALL.

23 THE LAST THING I WANT TO TALK YOU JUST
24 BRIEFLY BEFORE I START GOING INTO, I SUBMIT TO YOU,
25 WHAT HAS BEEN PROVEN FROM THIS WITNESS STAND, IS

1 CREDIBILITY OF THE WITNESSES. REMEMBER, YESTERDAY I
2 TALKED TO YOU ABOUT THE FACT THAT NOT ONLY IS JUDGE
3 COTHRAN THE JUDGE OF THE LAW, BUT THE TWELVE OF YOU
4 ARE ALSO JUDGES ALSO. YOU DON'T GET TO WEAR ROBES BUT
5 YOU'RE JUDGES ALSO. YOU'RE JUDGES OF THE FACTS. SO,
6 IT'S THE TWELVE OF YOU, AND YOU ALONE THAT ARE GOING
7 TO ULTIMATELY TELL US WHAT THE TRUTH IS ABOUT WHAT
8 HAPPENED BACK ON SEPTEMBER TWENTY-NINTH OF TWO
9 THOUSAND NINE, IN PINE VIEW MOBILE HOME PARK, INSIDE
10 THEIR RESIDENCE. OKAY? YOU MAY ASK YOURSELF, LADIES
11 AND GENTLEMEN, WHEN YOU SHOWED UP HERE, YOU KNOW,
12 YESTERDAY MORNING, I MEAN, HOW ON EARTH DID I GET
13 MYSELF INTO THIS? I MEAN, I HAVEN'T HAD ANY CLASSES
14 ON IT, I HAVEN'T GOTTEN ANY TRAINING ON IT, I DON'T
15 KNOW WHAT I'M DOING HERE. WELL, I SUBMIT TO YOU, IT'S
16 NOT A COMPLICATED JOB. OKAY? IT'S NOT. BECAUSE IT'S
17 SOMETHING YOU'VE BEEN TRAINING FOR, WHETHER YOU KNOW
18 IT, EVERY DAY OF YOUR LIVES. BASICALLY, WHAT YOUR JOB
19 BOILS DOWN TO, LADIES AND GENTLEMEN, IS DETERMINING
20 THE CREDIBILITY, IN OTHER WORDS, THE BELIEVABILITY OF
21 THE WITNESSES THAT HAVE TESTIFIED BEFORE YOU. AND
22 THAT'S SOMETHING YOU DO EVERY DAY, LADIES AND
23 GENTLEMEN, WHETHER YOU'RE JUDGING -- WHETHER YOU
24 REALIZE IT OR NOT, YOUR CHILDREN, YOUR SPOUSES, YOUR
25 CO-WORKERS, YOUR FRIENDS, YOUR FAMILY, YOU INTERACT

1 WITH THOSE PEOPLE EVERY DAY AND HAVE TO JUDGE WHETHER
2 PEOPLE ARE TELLING YOU THE TRUTH. SOME OF THE THINGS
3 YOU LOOK AT, LADIES AND GENTLEMEN, WHEN THEY WERE UP
4 HERE BEFORE YOU IS, WHAT WAS THEIR DEMEANOR ON THE
5 WITNESS STAND? DID THEY APPEAR TO BE FORTHRIGHT AND
6 TRUTHFUL TO YOU? DID THEY APPEAR TO BE HIDING
7 SOMETHING OR HOLDING SOMETHING BACK? IS A WITNESS'S
8 TESTIMONY CONSISTENT THROUGHOUT? IS IT CONSISTENT
9 WITH OTHER WITNESSES THAT TESTIFIED? IN OTHER WORDS,
10 WAS IT CORROBORATED AND SUPPORTED BY OTHER WITNESSES
11 WHO TESTIFIED, OTHER EVIDENCE AS PRESENTED? WAS IT
12 CORROBORATED BY THE PHYSICAL EVIDENCE FOUND AT THE
13 SCENE, WHETHER IT BE THE DAMAGE INSIDE THE TRAILER,
14 THE BULLET HOLES, KICKED IN DOOR? WAS THE TESTIMONY
15 CORROBORATED? DID THE WITNESS HAVE A REASON TO BE
16 BIASED OR PREJUDICED, DID THEY HAVE SOME REASON TO
17 COME IN HERE AND NOT TELL YOU THE TRUTH? THOSE ARE
18 SOME OF THE THINGS YOU NEED TO KIND OF CONSIDER WHEN
19 YOU'RE WEIGHING THE CREDIBILITY OF THE WITNESSES.

20 NOW, LADIES AND GENTLEMEN, AS I TOLD YOU
21 FROM THE OUTSIDE YESTERDAY, THE OLD SAYING THAT'S BEEN
22 OUT THERE THAT A MAN'S HOME IS HIS CASTLE, AND I
23 SUBMIT TO YOU IN THIS CASE IT'S NO MORE TRUE THAN ANY
24 OTHER CASE I'VE HANDLED. BACK IN SEPTEMBER OF TWO
25 THOUSAND NINE, THAT FAMILY HAD EVERY RIGHT TO FEEL

1 SAFE AND SECURE BEHIND THE WALLS OF THEIR HOME. AND
2 THAT NIGHT THAT MAN, ADRIAN DARBY, TOOK THAT SENSE OF
3 SECURITY AND SAFETY AWAY FROM THEM WHEN HE WENT IN
4 THAT HOME WITH QUINTON GREEN, ARMED WITH A SHOT GUN
5 AND A PISTOL, AND BEAT THAT MAN IN FRONT OF HIS WIFE,
6 BEAT THAT MAN IN FRONT OF HIS CHILDREN, FIRED OFF
7 SEVERAL ROUNDS INSIDE THAT HOME WITH TWO SMALL
8 CHILDREN SITTING FIFTEEN FEET AWAY FROM HIM. I SUBMIT
9 TO YOU THAT SENSE OF SECURITY AND SAFETY WAS SNATCHED
10 FROM THEM THAT NIGHT.

11 LET ME TALK TO YOU A LITTLE BIT ABOUT WHAT I
12 SUBMIT TO YOU WE'VE PROVEN TO YOU, LADIES AND
13 GENTLEMEN. ALRIGHT. YOU'VE HEARD FROM FOUR WITNESSES
14 THAT WERE OUT THERE, TIFFANY MOORER, CRUZ MOORER,
15 JOHNATHAN RAYSOR AND **Shaninah B.** . OKAY? IN ORDER
16 FOR YOU TO FIND HIM NOT GUILTY, LADIES AND GENTLEMEN,
17 IN ORDER FOR YOU TO FIND HIM NOT GUILTY, TO FIND THAT
18 WE HAVE NOT PROVEN TO YOU BEYOND A REASONABLE DOUBT
19 HIS GUILT, YOU'VE GOT TO FIND, FIRST OF ALL, THAT ALL
20 FOUR OF THOSE PEOPLE CAME IN HERE AND LIED TO YOU.
21 THEY GOT ON THIS WITNESS STAND, PUT THEIR HAND ON THAT
22 BIBLE AND THEY LIED. NO TWO WAYS ABOUT IT. NO TWO
23 WAYS ABOUT IT. BUT I SUBMIT TO YOU WHAT ALSO YOU'VE
24 GOT TO FIND IS THAT ON THE NIGHT OF SEPTEMBER TWENTY-
25 NINTH OF TWO THOUSAND NINE WHEN AN ALTERCATION -- FACE

1 IT, LADIES AND GENTLEMEN, THERE'S NO DOUBT ABOUT IT,
2 THAT NIGHT, AND YOU'VE GOT THE PICTURES, THERE'S NO
3 DOUBT ABOUT IT, SOMETHING HAPPENED IN THAT HOME THAT
4 NIGHT. THERE'S NOT DOUBT ABOUT IT, THERE WAS AN
5 ASSAULT THAT TOOK PLACE IN THAT HOME. NO DOUBT ABOUT
6 IT, THERE WAS GUN SHOTS FIRED IN THAT HOME. THERE'S
7 NO DOUBT ABOUT IT, HE WAS BEATEN TO THE POINT WHERE HE
8 HAD TO BE TRANSPORTED TO THE HOSPITAL THAT NIGHT.
9 THAT'S NOT IN DISPUTE, I SUBMIT TO YOU, LADIES AND
10 GENTLEMEN. OKAY? SO, WHAT YOU HAVE TO FIND IS THAT
11 WITHIN MOMENTS OF THAT HAPPENING, AND KEEP IN MIND,
12 REMEMBER THE TESTIMONY YESTERDAY FROM THE EMT THAT
13 TESTIFIED AT THE END OF THE DAY, AND FROM DEPUTY
14 RUSSELL AND INVESTIGATOR JONES THIS MORNING, THAT WHEN
15 THEY ARRIVED ON THE SCENE HE'S OUTSIDE. OKAY? HE'S
16 BLEEDING, HE THINKS HE'S BEEN SHOT. OKAY? AND HE'S
17 GOING TO TRY TO MAKE A BIG DEAL ABOUT THAT, THE FACT
18 THAT HE'S LYING, HE WASN'T SHOT. HE SAID, I THINK I
19 WAS SHOT. I MEAN, HE'S HURTING, HE'S BLEEDING, HE'S
20 BEEN ASSAULTED, HE'S BASICALLY LAYING ON THE GROUND
21 MOANING WHEN THE FIRST OFFICER ARRIVES OUT THERE.
22 OKAY? HIS WIFE'S INSIDE. HIS WIFE'S INSIDE SITTING
23 BASICALLY WHERE WE FIND HER IN THE LIVING ROOM WHERE
24 SHE'S LATER ON WRITING THE STATEMENT THAT SHE WRITES
25 FOR LAW ENFORCEMENT THAT NIGHT. JOHNATHAN'S BACK IN

1 THE ROOM WITH THE TWO CHILDREN. YOU HEARD THE
2 TESTIMONY THIS MORNING, HE FOUND THEM COWERING BACK IN
3 THE BACK BEDROOM. OKAY? THEY DON'T GET TOGETHER.
4 OKAY? THEY ARE ALL QUESTIONED THAT NIGHT. OKAY? SO,
5 YOU WOULD HAVE TO SOMEHOW BELIEVE THAT THEY HAD IN
6 THEIR MIND, BEFORE THIS HAPPENED I GUESS, BECAUSE
7 THERE'S NOT TIME FOR THEM TO HAVE SAT DOWN AND GOTTEN
8 A STORE TOGETHER TO MAKE THIS UP, NOT TO MENTION, IT
9 MAKES NO SENSE WHY THEY'RE SUDDENLY FINGERING HIM IF
10 HE DID NOTHING WRONG. BUT YOU'VE GOING TO HAVE TO
11 BELIEVE THAT THEY'VE GOT THIS STORY IN MIND, I GUESS
12 PRIOR TO THAT NIGHT, JUST WAITING FOR SOMETHING TO
13 HAPPEN SO THAT THEY CAN THEN BLAME JERMAINE DARBY.
14 DOES THAT MAKE SENSE? DOES THAT APPEAL TO YOUR COMMON
15 SENSE? BUT WHAT MAKES SENSE, THE FACT THAT WHAT THEY
16 TOLD LAW ENFORCEMENT THAT NIGHT, WHICH I SUBMIT TO YOU
17 IS WHAT THEY CAME IN AND TOLD YOU TODAY -- YESTERDAY
18 IN HERE, THAT THERE WAS A KNOCK ON THE DOOR THAT
19 NIGHT. JOHNATHAN WENT INITIALLY TO THE DOOR, DIDN'T
20 RECOGNIZE THE PERSON. AND I DON'T IMAGINE IT WAS HIM
21 AT THE DOOR INITIALLY, IT WAS QUINTON GREEN AT THE
22 DOOR, DIDN'T KNOW HIM. CRUZ COMES TO THE DOOR TO SEE
23 WHAT'S GOING ON. OKAY? AND AT THAT POINT IN TIME
24 SEES THE PERSON TURN AROUND AND HE'S HOLDING A GUN.
25 THEY TAKE OFF RUNNING. AND HE'S GOING TO TRY TO MAKE

1 A DEAL ABOUT THE FACT THAT SHANINAH, A LITTLE EIGHT
2 YEAR OLD GIRL, GOT ON THAT WITNESS STAND YESTERDAY,
3 AND WHEN HE ASKED HER THE QUESTION, DID THEY LET HIM
4 IN, DID THEY LET HIM, AND SHE SAID, YES. SHE'S NOT
5 LYING TO YOU, SHE'S TELLING YOU THE TRUTH. THEY WENT
6 AND OPENED THE DOOR. THEY CAME IN. BUT KEEP IN MIND,
7 IT'S HOW AN EIGHT YEAR OLD THINKS. OKAY? I MEAN, IF,
8 YOU KNOW, INVESTIGATOR JONES CAME AND KNOCKED ON MY
9 DOOR, I OPEN THE DOOR, HE PULLS A GUN ON ME AND COMES
10 IN, I MEAN, I'VE LET HIM IN, I'VE OPENED THE DOOR AND
11 LET HIM IN. I MEAN, THAT'S GOING TO BE HIS WHOLE
12 ARGUMENT THAT HE'S GOING TO GET UP HERE AND ARGUMENT
13 TO YOU THAT THAT SOMEHOW PROVES THAT THEY HAD CONSENT
14 TO COME IN THAT HOME THAT NIGHT, THAT IT'S NOT A
15 BURGLARY, THEY HAD CONSENT, BECAUSE OF THAT ONE LITTLE
16 STATEMENT. OKAY? I HOPE YOU DON'T FALL FOR THAT,
17 LADIES AND GENTLEMEN. YOU'VE HEARD THE TESTIMONY, I
18 SUBMIT TO YOU, THAT IS TOTALLY CORROBORATED BETWEEN
19 THEM WHAT HAPPENED. THEY SAW A MAN THAT WAS LATER
20 IDENTIFIED AS QUINTON GREEN BY MR. MOORER WITH A HAND
21 GUN. THEY BOTH TAKE OFF RUNNING, OPPOSITE ENDS OF THE
22 TRAILER. OKAY? EVERYBODY IS ULTIMATELY HERDED OUT
23 INTO THE LIVING ROOM AREA. OKAY? AT THAT POINT IN
24 TIME MR. DARBY HAS ENTERED WITH A SHOT GUN. AND I
25 SUBMIT TO YOU, THAT'S EVERY WITNESS THAT'S CONSISTENT

1 IN THAT REGARD, THAT HE HAD A SHOT GUN AND WAS
2 POINTING IT AT TIFFANY MOORER'S HEAD. YOU HEARD THAT
3 FROM EVERY ONE OF THEM. OKAY? IN THE MEANTIME, HE HAD
4 GONE BACK INITIALLY AND THEY WERE FIGHTING WITH HIM,
5 AND THAT FIGHT STARTS BACK IN THE BACK IN THE MASTER
6 BATHROOM AND IT ULTIMATELY SPILLS OUT INTO THE
7 KITCHEN, INTO THE KITCHEN, I SUBMIT TO YOU, YOU'VE GOT
8 A CHAIR THAT IS KNOCKED OVER, TRASH THAT'S BEEN
9 STREWED AROUND, MULTIPLE GUN SHOTS GO OFF HITTING THE
10 APPLIANCES IN THE KITCHEN. IT THEN SPILLS ULTIMATELY
11 INTO THE LIVING ROOM. YOU HEARD THE TESTIMONY THAT
12 DURING THE PROCESS OF ALL THIS GOING ON THAT JERMAINE
13 DARBY TAKES THAT SHOT GUN AND GOES OVER AND CRACKS
14 CRUZ MOORER MULTIPLE TIMES IN THE FACE AND HEAD AREA
15 WITH THE BUTT OF THAT GUN. I SUBMIT TO YOU, EXACTLY
16 WHAT HE TOLD EMS HAPPENED TO HIM, YOU KNOW, TEN
17 MINUTES AFTER THIS, HE WAS STRUCK WITHE BUTT END OF A
18 BLUNT OBJECT. WELL, WHAT'S GOT A BUTT END? I MEAN,
19 THAT'S A GUN.

20 SO, YOU'D HAVE TO FIND, LADIES AND
21 GENTLEMEN, THAT AFTER ALL THAT HAPPENS AND THESE TWO
22 PEOPLE GO RUNNING OFF, THAT THEY SOMEHOW, IN A MATTER
23 OF MINUTES, DECIDED THAT THEY ARE GOING TO GET HIM.
24 DOES THAT MAKE ANY SENSE? THE PERSON YOU HEARD,
25 JOHNATHAN, TESTIFY YESTERDAY, THAT HE'S KNOWN HIM

1 SINCE HE WAS IN DIAPERS. HE'S NEVER HAD A PROBLEM
2 WITH HIM BEFORE. I MEAN, WHAT POSSIBLE, I MEAN, I
3 SUBMIT TO YOU, THERE IS NO REASON FOR THEM TO BE OUT
4 TO GET HIM, OTHER THAN THE FACT THAT HE DID WHAT THEY
5 JUST CAME IN AND TESTIFIED THAT HE DID. OKAY?

6 AND SOMETHING ELSE, LADIES AND GENTLEMEN, TO
7 KEEP IN MIND, I MEAN, WE DON'T HAVE TO PROVE A MOTIVE
8 FOR A CASE. THAT'S NOT, I WENT THROUGH ALL THOSE
9 ELEMENTS, THAT WASN'T ONE OF THE ELEMENTS THAT WAS UP
10 THERE, WAS A MOTIVE. AND WE KNOW WHAT THE MOTIVE WAS,
11 WAS HE WAS PISSED OFF BECAUSE SOMETHING HAPPENED TO
12 HIM THE NIGHT BEFORE, WHETHER HE WAS SELLING DRUGS,
13 BUYING DRUGS, I DON'T KNOW. HE GOT ROBBED AFTER HE
14 LEFT THEIR HOUSE, AND BLAMED HIM. AND I SUBMIT TO
15 YOU, MR. GREEN WAS PROBABLY INVOLVED IN ALL THAT ALSO,
16 AND THAT'S THE REASON THEY WERE OVER THERE THAT NIGHT.
17 OKAY? THAT'S THE REASON THEY WERE OVER THERE THAT
18 NIGHT.

19 MR. CHANDLER: OBJECTION, YOUR HONOR, THAT'S
20 NOT IN EVIDENCE.

21 THE COURT: OKAY.

22 SOLICITOR SORENSON: THEY TESTIFIED
23 BASICALLY TO THAT.

24 MR. CHANDLER: NO ONE TESTIFIED THAT MR.
25 GREEN - - -

1 THE COURT: OKAY. THE JURY WILL RECALL WHAT
2 THEY BELIEVE IS EVIDENCE. BUT THE STATE, IF YOU WILL,
3 SOLICITOR, STAY ON TRACK.

4 SOLICITOR SORENSON: YES, SIR, YES, SIR.

5 I'M ALMOST DONE, YOUR HONOR, I MEAN, LADIES
6 AND GENTLEMEN. ALRIGHT. IF YOU CAN FIND, LADIES AND
7 GENTLEMEN, WHEN YOU GET BACK IN THAT JURY ROOM, AS I
8 TOLD YOU, WHEN YOU'RE THINKING ABOUT THE CREDIBILITY
9 OF THE WITNESSES, ALRIGHT, AS I SAID, YOU'RE GOING TO
10 HAVE TO FIND, IF YOU CAN FIND THAT WE HAVE NOT PROVEN
11 TO YOU BEYOND NOT ONLY A REASONABLE DOUBT BUT ANY
12 DOUBT HIS GUILT, THAT ALL FOUR OF THEM GOT UP AND LIED
13 TO YOU YESTERDAY. BUT NOT ONLY THAT, BUT THAT LYING
14 STARTED WITHIN MOMENTS OF THIS INCIDENT HAPPENING, I
15 SUBMIT TO YOU, JUST ASK YOURSELF, DOES THAT MAKE
16 SENSES? DOES THAT MAKE ANY SENSE WHATSOEVER? YOU
17 KNOW, IF THEY WERE OUT TO, YOU KNOW, CREATE THIS WHOLE
18 THING, YOU KNOW, THEY DON'T GIVE, THEY DON'T KNOW
19 QUINTON GREEN'S NAME, OTHER THAN HIS FIRST NAME, THAT
20 NIGHT. SO, THAT'S ALL THE INFORMATION THAT WAS GIVEN.
21 AND SHE DOESN'T KNOW HIM AT ALL. SO, THAT'S WHY THE
22 INITIAL OFFICER DOESN'T HAVE ANYTHING ABOUT HIM IN HIS
23 INITIAL INCIDENT REPORT. OKAY? HE'S GOING TO HAVE
24 HIS DAY IN COURT, TOO, LADIES AND GENTLEMEN. HE'S
25 GOING TO HAVE HIS DAY IN COURT ALSO.

1 LADIES AND GENTLEMEN, KIND OF THE LAST THING
2 I WANT TO CLOSE ON, BECAUSE I KNOW IT'S GOT TO BE HARD
3 TO JUST SIT THERE AND NOT BE ABLE TO TALK. AND THE
4 JUDGE IS GOING TO -- EVERYTHING YOU'VE BEEN TOLD SO
5 FAR, YOU KNOW, EVERY TIME YOU GO BACK THERE, YOU KNOW,
6 DON'T TALK ABOUT THE CASE. YOU COME OUT HERE, YOU
7 HAVE TO SIT HERE QUIETLY AND LISTEN TO US AND NOT
8 TALK. OKAY? I'VE NEVER SERVED ON A JURY, WITH MY JOB
9 I PROBABLY NEVER WILL BE ABLE TO EITHER, BUT I CAN'T
10 IMAGINE HOW DIFFICULT THAT MUST BE TO JUST SIT THERE.
11 LADIES AND GENTLEMEN, IN A SHORT PERIOD OF TIME THE
12 TWELVE OF YOU ARE GOING TO HAVE AN OPPORTUNITY TO GO
13 BACK IN THAT JURY ROOM AND YOU'RE GOING TO HAVE THE
14 CHANCE TO START TALKING ABOUT THE CASE. OKAY? YOU'RE
15 GOING TO HAVE A CHANCE TO COME BACK AND RETURN A
16 VERDICT. OKAY? AND THE WORD, VERDICT, COMES FROM THE
17 LATIN WORD WHICH MEANS, TO SPEAK THE TRUTH. THAT,
18 LADIES AND GENTLEMEN, IS ALL WE ASK FROM YOU. WE
19 DON'T ASK FOR ANYTHING MORE OR ANYTHING LESS, IS THAT
20 YOU RETURN A VERDICT THAT SPEAKS THE TRUTH. THE FACT
21 THAT YOU'VE HAD TO SIT HERE AND KEEP YOUR MOUTH CLOSED
22 THIS WHOLE TIME BUT YOU'RE GOING TO HAVE A CHANCE TO
23 GO BACK THERE AND ULTIMATELY, LADIES AND GENTLEMEN, AT
24 THE END OF THE DAY, YOU'RE GOING TO HAVE AN
25 OPPORTUNITY TO RETURN A VERDICT. YOU'RE GOING TO

1 ULTIMATELY HAVE AN OPPORTUNITY TO SPEAK THE LOUDEST
2 WORD IN THIS COURTROOM, LADIES AND GENTLEMEN. I SUBMIT
3 TO YOU THAT ON BEHALF OF THE STATE OF SOUTH CAROLINA,
4 PEOPLE OF ORANGEBURG COUNTY, I SUBMIT TO YOU, THE ONLY
5 TRUTHFUL VERDICT IN THIS CASE WHEN YOU LOOK AT ALL THE
6 EVIDENCE, THE VERDICT THAT HOLDS ADRIAN DARBY, ADRIAN
7 JERMAINE DARBY ACCOUNTABLE FOR HIS ACTIONS, HOLDS HIM
8 RESPONSIBLE FOR HIS ACTIONS, AND THAT'S A VERDICT OF
9 GUILTY OF BURGLARY IN THE FIRST DEGREE FOR BREAKING
10 INTO THEIR HOME, A VERDICT OF GUILTY FOR ASSAULT AND
11 BATTERY OF A HIGH AND AGGRAVATED NATURE FOR ASSAULTING
12 HIM IN FRONT OF HIS FAMILY.

13 THANK YOU.

14 THE COURT: MR. CHANDLER.

15 MR. CHANDLER: MAY IT PLEASE THE COURT.

16 SOLICITOR SORENSON.

17 CLOSING ARGUMENT BY MR. CHANDLER

18 ON SEPTEMBER THE TWENTY-EIGHTH, TWO THOUSAND
19 NINE, MY CLIENT, ADRIAN DARBY, WENT TO THE HOME OF
20 CRUZ MOORER AND TIFFANY MOORER AND CONDUCTED A DRUG
21 DEAL. WHEN HE LEFT THAT HOME HE WAS ROBBED. HE CAME
22 BACK TO THE HOUSE IMMEDIATELY, MR. MOORER HANDED HIM A
23 GUN, THEY WENT OUT LOOKING FOR WHO ROBBED HIM. HE
24 CAME BACK THE NEXT DAY, THEY LET HIM IN, A FIGHT
25 ENSUED, QUINTON CAME IN, QUINTON WAS ARMED WITH A GUN.

1 HE MADE SEVERAL SHOTS IN THE HOUSE, AND CONDUCTED MOST
2 OF THE DISRUPTION THAT YOU SEE IN THESE EXHIBITS THAT
3 HAVE BEEN HANDED.

4 THE STATE TODAY IS NOT TRYING QUINTON GREEN.
5 IF THEY WERE TRYING QUINTON GREEN YOU CAN HEAR FROM
6 THE TESTIMONY, HE DID ALL OF THESE THINGS. BUT WHAT
7 THE STATE IS SAYING, THAT BECAUSE MY CLIENT WAS THERE,
8 BECAUSE MY CLIENT WAS THERE WHEN THESE THINGS WERE
9 HAPPENING, THAT HIS MERE PRESENCE IS ENOUGH TO MAKE
10 HIM GUILTY OF EVERYTHING THAT QUINTON GREEN DID.
11 QUINTON GREEN, I AGREE WITH HIM, WILL HAVE HIS DAY IN
12 COURT, BUT TODAY IS ADRIAN DARBY'S DAY IN COURT, AND
13 THE STATE HAS A DUTY TO PROVIDE EVIDENCE BEYOND A
14 REASONABLE DOUBT. AND THAT DUTY MEANS THAT MY CLIENT
15 REMAINS INNOCENT UNTIL THEY PROVE WHAT THEY ARE
16 SUPPOSED TO PROVE.

17 AT THE BEGINNING OF THIS TRIAL I ASKED YOU
18 TO DO THREE THINGS. THE FIRST THING I ASKED YOU TO DO
19 WAS LISTEN CAREFULLY TO ALL OF THE EVIDENCE THAT'S
20 PRESENTED IN THIS CASE. THIS WAS A FAIRLY SHORT CASE,
21 AND I JOIN THE STATE IN SAYING THAT, DON'T CONFUSE THE
22 FACT THAT WE WERE ONLY HERE FOR A DAY AND A HALF WITH
23 HOW IMPORTANT THIS CASE IS AND YOUR PRESENCE IS. AND
24 AS I SAID, YOU WERE CHOSEN BY BOTH PARTIES, SOME OF
25 YOU TWICE ACTUALLY, BECAUSE WE KNEW THAT YOU COULD

1 LISTEN TO THE EVIDENCE AND GIVE FAIR AND ACCURATE
2 HEARING OF THE THINGS THAT YOU HEARD. SO, WE THANK
3 YOU FOR LISTENING CAREFULLY.

4 THE SECOND THING I ASKED YOU TO DO WAS USE
5 YOUR EVERY DAY EXPERIENCES. I HEARD THE SOLICITOR
6 INDICATE THAT, HE CALLED IT YOUR COMMON SENSE ON
7 YESTERDAY. AND IN USING YOUR EVERY DAY EXPERIENCES IT
8 IS YOUR JOB, AS THE STATE HAS SAID, TO LOOK AT THE
9 WITNESSES THAT THE STATE HAS PRESENTED AND LOOK AT THE
10 CREDIBILITY. AND THE REASON WHY I SAY, LOOK AT THE
11 WITNESSES THAT THE STATE HAS PRESENTED, BECAUSE MY
12 CLIENT IS NOT REQUIRED TO PROVE HIS INNOCENCE. IT'S
13 THE STATE'S JOB TO PROVE HIS GUILT. MY CLIENT IS NOT
14 EVEN REQUIRED TO TESTIFY. IN FACT, THE JUDGE IS GOING
15 TO INSTRUCT YOU AT THE END THAT THE FACT THAT HE
16 DIDN'T TESTIFY, YOU CANNOT HOLD THAT AGAINST HIM OR
17 EVEN DISCUSS IT, BECAUSE IT'S THE STATE'S JOB TO
18 PRESENT EVIDENCE AGAINST HIM. SO, I'M GLAD THEY
19 PROVIDED THIS DISPLAY. SO, LET'S TALK ABOUT THE
20 WITNESSES THAT THE STATE HAS OFFERED IN THIS CASE.

21 THEY OFFERED MS. TIFFANY MOORER, A PERSON
22 WHO WAS CONVICTED OF TWO SEPARATE STATE CRIMES OF
23 DISHONESTY. AND IN HER TESTIMONY WHEN ASKED ABOUT
24 WHETHER OR NOT THERE WAS SOME DRUG ACTIVITY GOING ON,
25 YOU SAW HOW UNCOMFORTABLE SHE WAS WHILE SHE WAS

1 ANSWERING THAT QUESTION. LET'S TALK ABOUT HER
2 TESTIMONY OF HER WITNESS. WE HAVE AN OFFICER, A ROAD
3 OFFICER WHO COMES FRESH ON THE SCENE AS SOON AS IT'S
4 OVER, I MEAN, AS SOON AS EVERYTHING HAPPENS, AND AS
5 SHE SAID, SHE'S KNOWN THIS MAN ALL HER LIFE. WHEN
6 SHE'S ASKED WHO HIT CRUZ MOORER WITH THE BUTT OF THE
7 GUN, WHO DID SHE SAY? SHE SAID, IT'S THAT
8 UNIDENTIFIED MAN, HE DID IT. HE DID IT. WELL, WHAT
9 DID SHE TELL YOU ON THE STAND UNDER OATH, THIS PERSON
10 CONVICTED OF TWO CRIMES OF DISHONESTY? SHE TELLS YOU,
11 IT'S ADRIAN DARBY. WAS HER TESTIMONY CONSISTENT? NO.
12 THAT'S SIMPLE. YOU HEARD IT. YOU'VE GOT WHAT THE
13 OFFICER, SHE TOLD THE OFFICER FROM THE VERY BEGINNING.
14 AND I WANT YOU TO THINK ABOUT IT, WHEN I WAS
15 QUESTIONING HER ABOUT WHETHER DRUGS WERE BEING SOLD IN
16 THE HOME, CAN YOU BELIEVE HER WHEN SHE SAYS, OH, WELL,
17 AT LEAST NOT WHEN I'M THERE. CAN YOU BELIEVE HER WHEN
18 SHE SAYS, NO, TO THE QUESTION I ASKED ABOUT HER
19 BRAGGING TO HER SISTER ABOUT HOW THEY SET UP ADRIAN
20 DARBY, CAN YOU BELIEVE THAT? CAN YOU BELIEVE HER WHEN
21 I ASKED WHEN SHE WAS ON THE STAND ABOUT THEM LYING
22 ABOUT HOW ADRIAN CAME IN THERE? AND SHE SAID, NO. CAN
23 YOU BELIEVE THAT? NO. SHE'S ALREADY BEEN CONVICTED
24 OF CRIMES OF DISHONESTY, SHE GETS ON THE -- SHE TELLS
25 THE OFFICER ONE THING RIGHT WHEN IT HAPPENS, AND THEN

1 TURNS AROUND ON THE STAND UNDER OATH AND TELLS YOU THE
2 EXACT OPPOSITE. I'M SO GLAD WE HAVE THIS.

3 NOW, LET'S LOOK AT CRUZ MOORER, WHOSE
4 ACTUALLY, STRANGELY AND IRONICALLY ENOUGH, JUST
5 RECENTLY BEEN CHARGED WITH WHAT? BURGLARY AND ASSAULT
6 AND BATTERY OF A HIGH AND AGGRAVATED NATURE. HE GETS
7 UP THERE AND, OH, BOY, WHEN WE GET HIM UP HERE AND I
8 ASKED HIM, WHO DID THE SHOOTING? HE SAID, QUINTON
9 GREEN. AND WHEN I ASKED HIM ABOUT DRUGS BEING SOLD IN
10 HIS HOME, OH, NOW, I WAS BUYING DRUGS FROM ADRIAN.
11 CAN YOU REALLY BELIEVE HIM, A PERSON CONVICTED OF
12 BURGLARY -- EXCUSE ME, OF BURGLARY AND ASSAULT AND
13 BATTER OF A HIGH AND AGGRAVATED NATURE?

14 EVEN JOHNATHAN WHILE HE WAS SITTING UP
15 THERE, AND I ASKED A SPECIFIC QUESTION ABOUT WHETHER
16 OR NOT DRUGS ARE SOLD, WAS HE FORTHRIGHT OR WAS HE
17 HESITANT? YOU SAW HE WAS HESITANT, I HAD TO HELP HIM
18 OUT. JOHNATHAN, MAYBE IT WASN'T SOLD WHEN YOU WERE
19 THERE. YEAH, THAT'S RIGHT, NOT WHEN I WAS THERE. HOW
20 CONVENIENT.

21 WELL, THEN, WHO CAN WE BELIEVE? THE STATE
22 HAS OFFERED THE COMMON STATEMENT, A MAN'S HOME IS HIS
23 CASTLE. I OFFER YOU ONE THAT I WOULD OFFER FOR TODAY.
24 OUT OF THE MOUTH OF BABES COMES EXTREME WISDOM, THAT
25 IT ACTUALLY COMES IN CERTAIN SITUATIONS, AND MANY OF

1 YOU ALREADY KNOW THEM, A HUSBAND AND WIFE ARE ARGUING
2 AND A FIVE YEAR OLD WALKS UP AND SAYS, YOU KNOW, YOU
3 GUYS NEED SOME COUNSELING. AND THE HUSBAND AND WIFE
4 STEP BACK AND THEY SAY, OUT OF THE MOUTH OF BABES. A
5 MOM'S SNACKING ON SOME CANDY AND HER SIX YEAR OLD
6 DAUGHTER SAYS, MAMA, YOU NEED TO LEAVE THAT CANDY
7 ALONE, IT'S GOING TO MESS UP YOUR TEETH. AND SHE'S
8 SAYING, OUT OF THE MOUTH OF BABES. MY CLIENT IS BEING
9 CHARGED WITH THE UNLAWFUL ENTRY INTO THE DWELLING OF
10 ANOTHER WITHOUT CONSENT. AND WHILE THE STATE HAS GONE
11 TO GREAT LENGTHS TO CONTORT THEMSELVES TO EXPLAIN WHAT
12 LITTLE MS. **Shaninah B.** MEANT WHEN WE WERE ASKING
13 HER THAT QUESTION, IT IS CLEAR, BECAUSE YOU WERE HERE
14 WHEN I ASKED HER, DID THEY LET THEM IN? YOU KNOW, SHE
15 SAID, THEY LET THEM IN. AND SHE KNOWS THEM, SHE KNOWS
16 THEY LET HIM IN. SHE DIDN'T SAY, HE RAN IN, SHE
17 DIDN'T SAY, HE BARGED IN, SHE SAID, THEY LET HIM IN.
18 OUT OF THE MOUTH OF BABES. THAT'S THE ONLY TRUTH THAT
19 WE CAN, THAT'S THE ONLY PERSON THAT WE REALLY CAN
20 DEPEND ON. AND IF YOU BELIEVE THAT, THEN CERTAINLY,
21 YOU MAY EVEN WANT TO BELIEVE THAT DURING THAT STRUGGLE
22 MY CLIENT GOT A GUN AND PUT IT TO THE FACE OF HER
23 MOTHER, BECAUSE THAT'S WHAT SHE SAID. WE'RE NOT
24 HIDING FROM THE FACTS, THAT'S WHAT SHE SAID. BUT
25 GUESS WHAT, THAT IS NOT WHAT ADRIAN DARBY IS BEING

1 CHARGED WITH TODAY. HE IS BEING CHARGED WITH ASSAULT
2 AND BATTERY OF A HIGH AND AGGRAVATED NATURE AND
3 BURGLARY IN THE FIRST DEGREE, NOT POINTING AND
4 PRESENTING A FIREARM.

5 SO, TODAY IS ADRIAN DARBY'S TIME IN COURT,
6 BUT HE WILL NOT BE CHARGED, OR HE SHOULD NOT BE
7 CHARGED OR FOUND GUILTY OF THINGS THAT ARE NOT BEFORE
8 YOU. SO, THE STATE WILL SAY, WELL, WE DIDN'T ACTUALLY
9 PROVE THESE FACTS, WE'VE GOT ALL THESE FANCY BULLET
10 HOLES AND EVERYTHING, BUT EVEN CRUZ MOORER SAYS THAT
11 QUINTON GREEN DID ALL OF THE SHOOTING. WE KNOW WHAT
12 WE'LL DO, WE'LL SAY, HANDS OF ONE, HANDS OF ALL.
13 WE'RE GOING TO SAY THAT IF QUINTON DID IT, REGARDLESS
14 OF THE FACT OF QUINTON COMING IN AFTER MY CLIENT, IF
15 QUINTON DID ANYTHING THAT MY CLIENT, MR. ADRIAN DARBY,
16 SHOULD BE FOUND GUILTY OF IT. MEMBERS OF THE JURY
17 PANEL, I SUBMIT TO YOU THAT THE JUDGE IS GOING TO TELL
18 YOU THAT JUST BECAUSE ADRIAN WAS THERE, HIS MERE
19 PRESENCE DOESN'T MAKE HIM GUILTY. THE STATE HASN'T
20 SHOWN A COMMON SCHEME, THE STATE HASN'T SHOWN THAT
21 THEY HAD ANY PRIOR KNOWLEDGE THAT ALL OF THIS STUFF --
22 THAT MY CLIENT HAD PRIOR KNOWLEDGE THAT ANY OF THIS
23 WAS GOING TO HAPPEN. THE STATE HASN'T EVEN OFFERED
24 ANY EVIDENCE THAT MY CLIENT AND QUINTON GREEN WAS
25 ACTING IN CONCERT. HE CAME IN THERE, QUINTON GREEN

1 BARGED IN THERE AND HE STARTED SHOOTING UP THE PLACE,
2 WHILE MY CLIENT WAS FIGHTING. I MEAN, HE WAS FIGHTING
3 GUYS THAT HE THOUGHT HE HAD GOT, THAT ROBBED HIM. BUT
4 DID HE BREAK INTO THE HOUSE, DID HE ENTER THAT HOUSE
5 WITHOUT CONSENT? NO. THEY'VE KNOWN HIM, THEY'VE
6 KNOWN HIM SINCE THEY WERE IN DIAPERS, THEY'VE KNOWN
7 HIM ALL OF THEIR LIVES, THEY LET HIM IN. NOW, WHAT
8 HAPPENS AFTER THEY LET HIM IN, I'LL SAY, IF YOU WANT
9 TO CHARGE HIM WITH POINTING AND PRESENTING A FIREARM,
10 FINE, BUT THEY LET HIM IN. AND YOU, AS JURORS, YOU
11 SWORE AN OATH TO MAKE A DETERMINATION, TO USE YOUR
12 EVERY DAY EXPERIENCES, TO USE YOUR COMMON SENSE TO
13 JUDGE THE FACTS OF THE ISSUES. AND WITH REGARD TO
14 BURGLARY, FIRST, SHANINAH WAS CORRECT, THEY LET HIM
15 IN. NOW, WHAT HAPPENED AFTER THAT? THAT'S FINE. BUT
16 YOU CAN'T JUST SAY, WELL, LET'S CHARGE HIM FOR
17 EVERYTHING THAT QUINTON GREEN DID. NO COMMON SCHEME,
18 NO PRIOR KNOWLEDGE, NO ACTING IN CONCERT, YOU DON'T
19 HAVE HANDS OF ONE, HANDS OF ALL. OUT OF THE MOUTH OF
20 BABES. MERE PRESENCE SIMPLY IS NOT ENOUGH. IT'S NOT
21 ENOUGH THAT HE WAS THERE.

22 HE'S NOT GUILTY OF ASSAULT AND BATTERY OF A
23 HIGH AND AGGRAVATED NATURE. YOU WANT TO KNOW WHY?
24 BASED ON THE STATEMENT, BEFORE THEY COULD GET
25 TOGETHER, BASED ON THEM COMING IN COLLUSION TO TRY TO

1 PUT ALL OF THIS ON ADRIAN, FRESH, WHO CAN YOU BELIEVE?
2 RICHARD RUSSELL, A PATROL DEPUTY, SHOWS UP ON THE
3 SCENE. NOW, UNDERSTAND, THIS IS A MAN THAT TIFFANY
4 MOORER KNEW ALL HER LIFE. WHO HIT YOUR HUSBAND WITH
5 THE BUTT END OF THAT SHOT GUN? WHO DID SHE SAY? WHO
6 DID SHE TELL ON THAT DAY? THIS UNIDENTIFIED MALE, HE
7 DID IT. NOT ADRIAN. I ASKED, YOU HEARD ME, I ASKED
8 THE OFFICER, NO REASON TO LIE, NO REASON TO BE BIASED
9 OR PREJUDICED, I ASKED THE OFFICER, WHAT DID SHE SAY?
10 I SAID, DID SHE SAY ADRIAN? NO. THIS UNIDENTIFIED
11 MALE.

12 MY CLIENT IS NOT GUILTY OF ASSAULT AND
13 BATTERY OF A HIGH AND AGGRAVATED NATURE. HE IS NOT
14 GUILTY OF BURGLARY, FIRST, BECAUSE HE ENTERED THAT
15 DWELLING BECAUSE THEY NEW HIM, THEY'VE KNOWN HIM ALL
16 THEIR LIVES, AND SHANINAH SAID THEY LET HIM, AND THEN
17 AFTER THAT THERE WERE SOME THINGS HAPPENED. AS I
18 SAID, DURING THAT STRUGGLE, IF ALL OF A SUDDEN HE
19 PICKS UP A SHOT GUN AND HOLDS IT TO THE FACE, TO
20 CHARGE HIM WITH POINTING AND PRESENTING A FIREARM.

21 MEMBERS OF THE JURY PANEL, YOU GAVE AN OATH
22 NOT TO SAY, WELL, WE JUST FEEL LIKE HE DID SOMETHING
23 WRONG SO WE SHOULD. YOU ARE TO CAREFULLY LOOK AT EACH
24 AND EVERY ELEMENT, AS THE JUDGE WILL INSTRUCT YOU, OF
25 THESE CRIMES, AND YOU ARE TO DETERMINE BEYOND A

1 REASONABLE DOUBT, WHICH IS THEIR BURDEN, THAT MY
2 CLIENT COMMITTED EACH AND EVERY ELEMENT. AND YOU KNOW
3 WHAT? IT'S THEIR JOB. AND YOU HOLD THEM ACCOUNTABLE
4 FOR IT. AND IF THEY DIDN'T DO IT BEYOND A REASONABLE
5 DOUBT YOU ARE TO SAY THAT HE IS NOT GUILTY OF ASSAULT
6 AND BATTERY OF A HIGH AND AGGRAVATED NATURE. WE KNOW
7 THAT, WE KNOW WHO HIT CRUZ MOORER.

8 ALSO YOUR JOB IS TO UNDERSTAND THAT IF
9 SHANINAH, WHILE CRUZ IS CLEARLY MIS-STATING THE TRUTH,
10 WHILE TIFFANY IS CLEARLY MIS-STATING THE TRUTH, WHILE
11 JOHNATHAN IS CLEARLY MIS-STATING THE TRUTH, WHEN
12 SHANINAH SAYS THAT THEY LET THEM IN, THEY LET THEM IN.
13 SO, YOU DON'T HAVE BURGLARY. IF SHANINAH SAYS HE
14 PICKED UP A GUN AND PUT THE GUN TO MY MAMA'S FACE,
15 THEN HE PROBABLY DID. AND AS A RESULT HE IS GUILTY OF
16 POINTING AND PRESENTING A FIREARM, BUT THAT'S NOT THE
17 CHARGE THAT IS BEFORE YOU TODAY.

18 YOU'VE LISTENED CAREFULLY TO ALL OF THE
19 EVIDENCE PRESENTED. USING, WE'RE ASKING YOU TO USE
20 YOUR EVERY DAY EXPERIENCES AND LOOKING AT THE
21 TESTIMONY, THE CREDIBILITY OF THE WITNESSES THAT HAVE
22 BEEN, THAT THE STATE HAS PLACED BEFORE YOU. AND
23 FINALLY, WE'RE GOING TO ASK THAT YOU COME BACK WITH A
24 VERDICT THAT SPEAKS THE TRUTH. THE TRUTH IS, ADRIAN
25 DARBY WAS ROBBED, HE CAME IN, HE WAS LET INTO A HOME

1 THE NEXT DAY. A FIGHT ENSUED, QUINTON GREEN RUSHED
2 INTO THE HOME AND STARTED SHOOTING, AND THEN THEY
3 LEFT. THE STATE HAS FAILED TO SHOW YOU COMMON SCHEME,
4 THE STATE HAS FAILED TO SHOW THAT THEY HAVE ACTED IN
5 CONCERT, THE STATE HAS FAILED TO SHOW THAT ANYONE HAD
6 PRIOR KNOWLEDGE. THE ONLY THING THE STATE COULD SHOW
7 THAT LINKS MY CLIENT WITH QUINTON GREEN IS THAT HE WAS
8 PRESENT AT THE TIME. THE JUDGE IS GOING TO TELL YOU
9 THAT MERE PRESENCE ISN'T ENOUGH. AND BECAUSE OF ALL
10 OF THAT, LADIES AND GENTLEMEN, MY CLIENT IS NOT GUILTY
11 OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
12 NATURE, HE IS NOT GUILTY OF BURGLARY IN THE FIRST
13 DEGREE. AND AS A RESULT WE WOULD ASK THAT YOU REACH A
14 VERDICT THAT SPEAKS THE TRUTH. AND THE TRUTH IS, NOT
15 GUILTY, NOT GUILTY.

16 CHARGE BY THE COURT

17 LADIES AND GENTLEMEN, NOW THAT YOU'VE HEARD
18 THE EVIDENCE IN THIS CASE AS WELL AS THE ARGUMENTS
19 FROM BOTH THE STATE AND THE DEFENDANT, I'M NOT GOING
20 TO EXPLAIN TO YOU THE LAW THAT YOU'RE TO APPLY IN
21 THIS CASE. AND UNDER OUR CONSTITUTION AND CODE OF
22 LAWS THE JURY IS THE ONLY BODY THAT CAN FIND THE FACTS
23 IN THE CASE. I AM NOT PERMITTED TO INDICATE TO YOU
24 HOW I MIGHT FEEL ABOUT THE FACTS, SO IF I'VE SAID
25 ANYTHING OR DONE ANYTHING THROUGHOUT THIS TRIAL THAT

1 YOU THINK I HAVE AN OPINION ABOUT THE FACTS, YOU ARE
2 TO DISREGARD THAT, BECAUSE I'M NOT ALLOWED TO HAVE AN
3 OPINION ABOUT THE FACTS. YOU, AND ONLY YOU ARE TO
4 WEIGH THE EVIDENCE IN THIS CASE AND COME UP WITH A
5 VERDICT THAT SPEAKS THE TRUTH BASED ON THAT EVIDENCE.

6 UNDER THE SAME CONSTITUTION THAT MAKES YOU
7 THE SOLE JUDGES OF THE FACTS IN THE CASE, IT MAKES ME
8 THE SOLE JUDGE OF THE LAW OF THE CASE. THEREFORE, IF
9 YOU HAVE AN OPINION AS TO WHAT THE LAW IS OR SHOULD BE
10 OR OUGHT TO BE AND THAT OPINION IS DIFFERENT FROM WHAT
11 I NOW TELL YOU THE LAW IS, YOU ARE TO DISREGARD YOUR
12 OPINION AND ACCEPT THE LAW AND APPLY IT PRECISELY AS I
13 GIVE IT TO YOU.

14 THE FACT THAT THIS DEFENDANT WAS ARRESTED,
15 CHARGED AND INDICTED IN THIS CASE IS NOT EVIDENCE IN
16 THIS CASE AND CANNOT BE CONSIDERED BY YOU AS EVIDENCE
17 OF GUILT OR INNOCENCE, NOR DOES IT CREATE ANY
18 PRESUMPTION OR INFERENCE OF GUILT. THE INDICTMENT IS
19 SIMPLY A FORMAL WRITTEN INSTRUMENT WHICH CONTAINS THE
20 CHARGES THAT SERVES AS A FORMAL DOCUMENT THAT BRINGS
21 THIS CASE TO COURT.

22 THE DEFENDANT HAS PLED NOT GUILTY TO THIS
23 INDICTMENT AND THAT PLEA CASTS THE BURDEN OF PROOF
24 UPON THE STATE TO PROVE THE DEFENDANT OF THAT GUILT
25 BEYOND A REASONABLE DOUBT. A PERSON WITH COMMITTING A

1 CRIMINAL OFFENSE IN SOUTH CAROLINA IS NEVER REQUIRED
2 TO PROVE HIMSELF OR HERSELF INNOCENT. AND I INSTRUCT
3 YOU AND EMPHASIZE TO YOU, THE FACT THAT THE DEFENDANT
4 DID NOT TESTIFY IS A FACTOR THAT CANNOT BE CONSIDERED
5 BY YOU IN ANY WAY IN YOUR DELIBERATIONS. HE HAS A
6 CONSTITUTIONAL RIGHT TO REMAIN SILENT, AND THEREFORE,
7 YOU CANNOT CONSIDER THE FACT THAT HE DID NOT TESTIFY
8 IN ANY WAY WHATSOEVER. YOU CAN'T EVEN DISCUSS THAT IN
9 THE JURY ROOM, THE FACT THAT HE ASSERTED HIS
10 CONSTITUTIONAL RIGHT TO REMAIN SILENT. AND YOU SHOULD
11 DRAW NO CONCLUSIONS WHATSOEVER AS FAR AS HIS GUILT OR
12 INNOCENCE BASED ON THE FACT THAT HE EXERCISED HIS
13 CONSTITUTIONAL RIGHT TO REMAIN SILENT.

14 NOW, IT IS AN IMPORTANT RULE OF LAW IN THIS
15 COUNTRY THAT A DEFENDANT IN A CRIMINAL TRIAL WILL
16 ALWAYS BE PRESUMED TO BE INNOCENT OF THE CRIME OF
17 WHICH HE OR SHE IS CHARGED UNLESS AND UNTIL HIS GUILT
18 HAS BEEN PROVEN BY EVIDENCE THAT SATISFIES YOU, THE
19 JURY, OF THAT GUILT BEYOND A REASONABLE DOUBT. THE
20 PRESUMPTION OF INNOCENCE IS NOT A MERE LEGAL THEORY,
21 IT IS NOT JUST A LEGAL PHRASE, IT IS A SUBSTANTIAL
22 CONSTITUTIONAL RIGHT TO WHICH EVERY DEFENDANT IS
23 ENTITLED. THE PRESUMPTION OF INNOCENCE ACCOMPANIES
24 THE DEFENDANT FROM THE TIME HE IS CHARGED AND
25 THROUGHOUT THE TRIAL UNTIL YOU REACH A VERDICT BASED

1 ON THE EVIDENCE THAT SATISFIES YOU OF THAT GUILT
2 BEYOND A REASONABLE DOUBT.

3 A REASONABLE DOUBT IS A DOUBT WHICH MAKES AN
4 HONEST, SINCERE, CONSCIENTIOUS JUROR IN SEARCH OF THE
5 TRUTH TO HESITATE TO ACT. PROOF BEYOND A REASONABLE
6 DOUBT MUST THEREFORE BE PROVED OF SUCH A CONVINCING
7 CHARACTER THAT A REASONABLE PERSON WOULD NOT HESITATE
8 TO RELY AND ACT UPON IT IN THE MOST IMPORTANT OF HIS
9 OR HER OWN AFFAIRS. PROOF BEYOND A REASONABLE DOUBT
10 CAN ALSO BE DESCRIBED AS PROOF THAT LEAVES YOU FIRMLY
11 CONVINCED OF THE DEFENDANT'S GUILT. THERE ARE VERY
12 FEW THINGS IN THE WORLD THAT WE KNOW WITH ABSOLUTE
13 CERTAINTY, AND IN A CRIMINAL CASE THE LAW DOES NOT
14 REQUIRE THE PROOF TO BE BEYOND EVERY POSSIBLE DOUBT.
15 IF BASED ON YOUR CONSIDERATION OF THE EVIDENCE YOU ARE
16 FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE
17 CRIMES CHARGED YOU MUST FIND HIM GUILTY. IF ON THE
18 OTHER HAND YOU THINK THERE IS A REAL POSSIBILITY THAT
19 HE IS NOT GUILTY, YOU MUST GIVE HIM THE BENEFIT OF
20 THAT DOUBT AND FIND HIM NOT GUILTY.

21 NOW, IN DETERMINING WHAT THE FACTS ARE IN
22 THE CASE YOU MUST NECESSARILY PASS UPON THE
23 CREDIBILITY, WHICH SIMPLY MEANS THE BELIEVABILITY OF
24 THE WITNESSES AND THE VALUE OR WEIGHT TO BE GIVEN TO
25 THEIR TESTIMONY. YOU ALONE MUST DECIDE THE FORCE AND

1 EFFECT OF THE TRUTH OF THAT TESTIMONY. IN MAKING
2 THESE DECISIONS THERE ARE MANY THINGS THAT YOU SHOULD
3 TAKE INTO CONSIDERATION, SUCH AS THE APPEARANCE AND
4 MANNER OF THE WITNESS ON THE STAND, SOMETIMES REFERRED
5 TO AS THE Demeanor OF THE WITNESS. WAS THE WITNESS
6 FORTHRIGHT OR HESITANT? WAS THE WITNESS'S TESTIMONY
7 CONSISTENT OR DID IT CONTAIN DISCREPANCIES? WHAT WAS
8 THE ABILITY OF THE WITNESS TO KNOW THE FACT ABOUT
9 WHICH HE OR SHE TESTIFIED? DID THE WITNESS HAVE CAUSE
10 OR REASON TO BE BIASED OR PREJUDICED IN FAVOR OF THE
11 TESTIMONY HE OR SHE GAVE? WAS THE WITNESS'S TESTIMONY
12 CORROBORATED OR MADE STRONGER BY OTHER TESTIMONY IN
13 EVIDENCE, OR WAS IT MADE WEAKER OR IMPEACHED BY OTHER
14 TESTIMONY IN EVIDENCE?

15 AS JURORS YOU HAVE A RIGHT TO BELIEVE A
16 SMALL PORTION OF A WITNESS'S TESTIMONY AND DISREGARD
17 THE LARGER, OR VICE VERSA. YOU MAY BELIEVE ALL OF A
18 WITNESS'S TESTIMONY OR NONE. YOU MAY BELIEVE THE
19 TESTIMONY OF A SINGLE WITNESS AGAINST THAT OF MANY, OR
20 THE OTHER WAY AROUND.

21 NOW, CRIMINAL INTENT IS A NECESSARY ELEMENT
22 OF EACH CRIME THAT MUST BE PROVED BEYOND A REASONABLE
23 DOUBT. CRIMINAL INTENT IS ALWAYS A MATTER THAT MUST
24 BE DETERMINED BY THE JURY FROM THE CIRCUMSTANCES
25 SURROUNDING THE SITUATION. THERE IS NO WAY TO PROVE

1 INTENT TO A MATHEMATICAL CERTAINTY. THERE'S NO WAY
2 MEDICAL SCIENCE CAN DISSECT A PERSON'S BRAIN AND
3 DETERMINE WHAT HE OR SHE HAD IN MIND. SO, THE LAW
4 STATES THAT CRIMINAL INTENT MAY BE INFERRED FROM THE
5 CIRCUMSTANCES SHOWN TO HAVE EXISTED BOTH BEFORE AND
6 AFTER THE FACT. THIS IS HOW YOU, THE JURY, MAKE THE
7 DETERMINATION AS TO WHETHER OR NOT THE ELEMENTS OF
8 INTENT WAS PRESENT. CRIMINAL INTENT IS A STATE OF
9 MIND THAT OPERATES JOINTLY WITH AN ACT OR OMISSION IN
10 THE COMMISSION OF A CRIME. CRIMINAL INTENT IS A
11 MENTAL STATE OF CONSCIOUS WRONG DOING, SO IT IS UP TO
12 YOU, THE JURY, TO DETERMINE WHAT THE DEFENDANT
13 INTENDED TO DO BASED ON THE CIRCUMSTANCES SHOWN TO
14 HAVE EXISTED. AND I TELL YOU THAT THE STATE MUST
15 PROVE CRIMINAL INTENT BEYOND A REASONABLE DOUBT, JUST
16 AS THE STATE MUST PROVE EVERY ELEMENT BEYOND A
17 REASONABLE DOUBT.

18 NOW, THERE ARE TWO TYPES OF EVIDENCE WHICH
19 ARE GENERALLY PRESENTED DURING A TRIAL, DIRECT
20 EVIDENCE AND CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE
21 IS THE TESTIMONY OF A PERSON WHO ASSERTS OR CLAIMS TO
22 HAVE ACTUAL KNOWLEDGE OF SUCH A FACT, SUCH AS AN EYE
23 WITNESS. CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN
24 OF FACTS OR CIRCUMSTANCES INDICATING THE EXISTENCE OF
25 A FACT. I'LL GIVE YOU AN EXAMPLE. WE'RE IN THIS

1 COURTROOM ALL DAY, THERE'S NO WINDOWS IN HERE. WE CAME
2 IN THIS MORNING, IT WAS DRY OUTSIDE, THE GROUNDS WERE
3 DRY, THERE WERE NO MUD PUDDLES OR WATER ANYWHERE. WE
4 GO OUT THIS AFTERNOON AND THERE'S MUD PUDDLES AND
5 WATER ALL OVER THE STREETS AND THE SIDEWALK. WE
6 DIDN'T SEE IT RAIN, BUT WE CAN ASSUME THAT SOMETIME
7 WHILE WE WERE IN THIS TRIAL TODAY IT RAINED OUTSIDE.
8 THAT'S CIRCUMSTANTIAL EVIDENCE. IF YOU WOULD HAVE SEEN
9 IT RAIN, THAT'S DIRECT EVIDENCE. BUT THE FACT THAT WE
10 CAME OUT AND THE CIRCUMSTANCES INDICATED THAT IT MUST
11 HAVE RAINED, THAT'S CIRCUMSTANTIAL EVIDENCE. AND THE
12 LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE WEIGHT
13 OR VALUE TO BE GIVEN DIRECTLY TO CIRCUMSTANTIAL
14 EVIDENCE OR DIRECT, NOR IS THERE A GREATER DEGREE OF
15 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN
16 THAT OF DIRECT EVIDENCE. YOU SHOULD WEIGH ALL OF THE
17 EVIDENCE IN THIS CASE, AND AFTER WEIGHING ALL OF THE
18 EVIDENCE, IF YOU ARE NOT CONVINCED OF THE DEFENDANT'S
19 GUILT BEYOND A REASONABLE DOUBT YOU MUST FIND HIM NOT
20 GUILTY. AND AFTER WEIGHING ALL OF THE EVIDENCE YOU
21 ARE CONVINCED OF HIS GUILT BEYOND A REASONABLE DOUBT
22 YOU ARE TO FIND HIM GUILTY.

23 NOW, MERE PRESENCE AT A SCENE IS NOT
24 SUFFICIENT TO PROVE SOMEONE GUILTY OF A CRIME. A
25 DEFENDANT'S PRESENCE WHERE A CRIME IS BEING COMMITTED

1 OR MERE ASSOCIATION WITH A PERSON WHO COMMITS A CRIME
2 DOES NOT MAKE A DEFENDANT AN ACCOMPLICE OR AN AIDER OR
3 ABETTER OF THE PERSON COMMITTING THE CRIME. THE
4 BURDEN IS ON THE STATE TO PROVE EVERY ELEMENT OF THE
5 CRIME CHARGED. IF YOU FIND AFTER RECEIVING ALL OF THE
6 EVIDENCE THAT THE STATE HAS PROVED THAT THE DEFENDANT
7 WAS ONLY PRESENT AT THE CRIME SCENE AND THEY HAVE NOT
8 PROVED BEYOND A REASONABLE DOUBT OF ANY OTHER
9 PARTICIPATION IN THE CRIME, THEN YOU MUST FIND THE
10 DEFENDANT NOT GUILTY. THE LAW STATES THAT PROOF AT
11 THE SCENE OF A CRIME IS NOT SUFFICIENT TO FIND SOMEONE
12 GUILTY OF THE CRIME.

13 IF A CRIME IS COMMITTED BY TWO OR MORE
14 PEOPLE WHO ARE ACTING TOGETHER IN COMMITTING THE
15 CRIME, THE ACT OF ONE IS THE ACT OF ALL. A PERSON WHO
16 JOINS WITH ANOTHER TO COMMIT AN UNLAWFUL ACT IS
17 CRIMINALLY RESPONSIBLE FOR EVERYTHING DONE BY THE
18 OTHER PERSON WHICH HAPPENS AS A PROBABLE AND NATURAL
19 CONSEQUENCE OF THE ACT DONE IN CARRYING OUT THE COMMON
20 PLAN AND PURPOSE. FOR EXAMPLE, TWO PEOPLE CAN BE
21 CHARGED WITH KILLING ANOTHER PERSON WHEN ONLY ONE OF
22 THE TWO HAD A GUN AND THERE WAS ONLY ONE BULLET AND
23 ONLY ONE OF THE TWO FIRED THE SHOT THAT CAUSED THE
24 DEATH. IF THE TWO OR MORE PEOPLE ARE ACTING TOGETHER,
25 ACTING IN A COMMON SCHEME, ASSISTING EACH OTHER IN

1 COMMITTING THE OFFENSE, THE ACT OF ONE IS THE ACT OF
2 ALL, SOMETIME REFERRED TO AS THE HAND OF ONE IS THE
3 HAND OF ALL. PRIOR KNOWLEDGE THAT THE CRIME IS GOING
4 TO BE COMMITTED WITHOUT MORE IS NOT SUFFICIENT TO MAKE
5 A PERSON GUILTY OF THAT CRIME. MERE KNOWLEDGE THAT
6 ANOTHER PERSON IS GOING TO COMMIT A CRIME, EVEN IF THE
7 DEFENDANT IS PRESENT WHEN THE CRIME IS COMMITTED, IS
8 NOT SUFFICIENT TO CONVICT THE DEFENDANT AS A
9 PRINCIPAL. GUILT AS A PRINCIPAL IS SHOWN BY ACTUAL OR
10 CONSTRUCTIVE PRESENCE AT THE SCENE AS A RESULT OF A
11 PRIOR ARRANGEMENT. THEREFORE, A FINDING OF A PRIOR
12 ARRANGED PLAN OR COMMON SCHEME IS NECESSARY FOR THE
13 FINDING OF GUILT AS A PRINCIPAL. THE STATE MUST PROVE
14 BEYOND A REASONABLE DOUBT BY COMMON EVIDENCE THAT THE
15 THEORY OF THE HAND OF ONE IS THE HAND OF ALL. A
16 PRINCIPAL IN A CRIME IS ONE WHO EITHER ACTUALLY
17 COMMITS THE CRIME OR WHO IS PRESENT, AIDING, ABETTING
18 OR ASSISTING IN THE COMMITTING OF THE CRIME. WHEN A
19 PERSON DOES AN ACT IN THE PRESENCE OF OR WITH THE
20 ASSISTANCE OF ANOTHER, THE ACT IS DONE BY BOTH. WHERE
21 TWO OR MORE ACTING WITH A COMMON PLAN OR INTENT ARE
22 PRESENT AT THE COMMISSION OF A CRIME IT DOES NOT
23 MATTER WHO ACTUALLY COMMITS THE CRIME, ALL ARE GUILTY.
24 THE HAND OF ONE IS THE HAND OF ALL. PRESENCE AT THE
25 COMMISSION OF A CRIME MEANS TO BE SUFFICIENTLY NEAR TO

1 AID, ABET, AND ASSIST IN THE COMMISSION OF THE CRIME.
2 HOWEVER, MERE PRESENCE AT THE SCENE OF A CRIME IS NOT
3 SUFFICIENT TO CONVICT ONE AS A PRINCIPAL ON THE THEORY
4 OF AIDING AND ABETTING.

5 INTENT IS ALSO A NECESSARY ELEMENT, FOR
6 THERE MUST HAVE BEEN A COMMON DESIGN OR INTENT TO
7 COMMIT THE CRIME, AND THE CRIME MUST HAVE BEEN
8 COMMITTED THERETO WITH THE PERSON AIDING AND ABETTING
9 BY SOME OVERT ACT, WHICH MEANS INTENDING THE RESULT
10 WHICH ACTUALLY OCCURRED, NOT AN ACCIDENTAL OR
11 INVOLUNTARY RESULT. INTENT MAY BE SHOWN BY ACTS AND
12 CONDUCTS OF THE DEFENDANT AND OTHER CIRCUMSTANCES
13 WHICH MAY NATURALLY AND REASONABLY BE INFERRED. THE
14 STATE MUST PROVE THESE ELEMENTS BEYOND A REASONABLE
15 DOUBT.

16 NOW, THE DEFENDANT IS CHARGED WITH BURGLARY
17 IN THE FIRST DEGREE. THE STATE MUST PROVE BEYOND A
18 REASONABLE DOUBT THAT THE DEFENDANT INTENDED -- EXCUSE
19 ME, THAT THE DEFENDANT ENTERED A DWELLING WITHOUT
20 CONSENT. A DWELLING IS ANY BUILDING OR PORTION OF ANY
21 BUILDING IN WHICH A PERSON ORDINARILY SLEEPS. A
22 BUILDING CONSTRUCTED AS A DWELLING THAT HAS NEVER BEEN
23 OCCUPIED CANNOT BE CONSIDERED A DWELLING FOR THE
24 PURPOSES OF BURGLARY, BUT A BUILDING IS A DWELLING
25 EVEN IF THE RESIDENTS ARE TEMPORARILY ABSENT FROM THE

1 BUILDING. IN ORDER TO PROVE THAT THE DEFENDANT
2 ENTERED THE DWELLING THE STATE DOES NOT HAVE TO SHOW
3 THAT THE DEFENDANT'S ENTIRE BODY ENTERED THE DWELLING,
4 THE SMALLEST ENTRY IS SUFFICIENT. IT MAY HAVE BEEN
5 ANY PART OF THE BODY SUCH AS A HAND, FOOT, OR EVEN AN
6 INSTRUMENT SUCH AS A HOOK OR OTHER INSTRUMENT. IN
7 ADDITION, THE STATE DOES NOT HAVE TO PROVE THAT FORCE
8 WAS USED TO GAIN ENTRY. IF A PERSON ENTERS A BUILDING
9 BY USING DECEPTION, TRICK OR MISREPRESENTATION TO GET
10 CONSENT TO ENTER, THIS IS ENTRY WITHOUT CONSENT.

11 NEXT, THE STATE MUST PROVE BEYOND A
12 REASONABLE DOUBT THAT THE DEFENDANT INTENDED TO COMMIT
13 A CRIME, EITHER A FELONY OR A MISDEMEANOR, AT THE TIME
14 OF THE ENTRY. THE MERE ENTRY INTO A DWELLING WITHOUT
15 INTENT IS NOT BURGLARY. IF THE INTENT TO COMMIT A
16 CRIME IS FORMED AFTER THE ENTRY IT IS NOT BURGLARY. ON
17 THE OTHER HAND, IF THE DEFENDANT INTENDED TO COMMIT A
18 CRIME AT THE TIME OF THE ENTRY IT IS BURGLARY, EVEN IF
19 THE INTENT WAS ABANDONED AFTER THE ENTRY. IT DOES NOT
20 MATTER THAT THE INTENT OF THE CRIME WAS NOT COMPLETED.
21 INTENT MAY BE SHOWN BY ACTS AND CONDUCT OF THE
22 DEFENDANT AND OTHER CIRCUMSTANCES WHICH YOU MAY
23 NATURALLY AND REASONABLY INFER INTENT.

24 FINALLY, THE STATE MUST PROVE BEYOND A
25 REASONABLE DOUBT ONE OF THE FOLLOWING: WHEN ENTERING

1 OR WHILE IN THE DWELLING OR WHEN FLEEING THE DEFENDANT
2 OR AN ACCOMPLICE WAS ARMED WITH A DEADLY WEAPON OR AN
3 EXPLOSIVE. A DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT
4 OR SUBSTANCE WHICH IS LIKELY TO CAUSE OR GREAT BODILY
5 HARM. WHETHER AN INSTRUMENT HAS BEEN USED AS A DEADLY
6 WEAPON DEPENDS ON THE FACTS AND CIRCUMSTANCES OF EACH
7 CASE, OR WHEN ENTERING OR WHILE ENTERING THE DWELLING
8 OR FLEEING FROM THE DWELLING THE DEFENDANT OR AN
9 ACCOMPLICE CAUSED PHYSICAL INJURY TO ANYONE NOT
10 PARTICIPATING IN THE CRIME, OR WHEN ENTERING OR WHILE
11 IN THE DWELLING OR WHEN FLEEING FROM THE DWELLING THE
12 DEFENDANT OR AN ACCOMPLICE USED OR THREATENED TO USE A
13 DANGEROUS OBJECT, OR WHEN ENTERING OR WHILE IN THE
14 DWELLING OR WHEN FLEEING FROM THE DWELLING THE
15 DEFENDANT OR AN ACCOMPLICE DISPLAYED WHAT WAS OR
16 APPEARED TO BE A KNIFE, A PISTOL, A REVOLVER, A RIFLE,
17 A SHOT GUN, A MACHINE GUN OR OTHER FIREARM.

18 NOW, THE DEFENDANT IS ALSO CHARGED WITH THE
19 CRIME OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
20 NATURE. ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
21 NATURE IS AN UNLAWFUL ACT OF VIOLENT INJURY TO THE
22 PERSON OF ANOTHER ACCOMPANIED BY CIRCUMSTANCES OF
23 AGGRAVATION.

24 ASSAULT OCCURS WHEN A PERSON UNLAWFULLY
25 ATTEMPTS OR OFFERS TO COMMIT A VIOLENT INJURY UPON

1 ANOTHER PERSON AND HAD THE PRESENT ABILITY TO COMPLETE
2 THE ATTEMPTED INJURY. AND ASSAULT IS AN INTENTIONAL
3 CREATION OF REASONABLE FEAR OF IMMEDIATE BODILY HARM.
4 IT IS NOT NECESSARY THAT THE ATTEMPTED INJURY OR HARM
5 ACTUALLY TOOK PLACE. FOR EXAMPLE, IF I WALK UP TO YOU
6 AND WHEN I'M IN ARM'S REACH OF YOU I DRAW BACK TO HIT
7 YOU, THAT IS AN ASSAULT.

8 A BATTERY IS THE UNLAWFUL TOUCHING OF
9 ANOTHER PERSON BY THE PERSON WHO HAS COMMITTED THE
10 ASSAULT. AND UNLAWFUL TOUCHING CAN BE CAUSED BY A
11 PART OF THE ACCUSED'S BODY OR BY ANY OBJECT THAT THE
12 ACCUSED PUTS INTO MOTION. A BATTERY IS THE COMPLETION
13 OF THE ASSAULT BY USING OR APPLYING FORCE TO ANOTHER
14 PERSON, HOWEVER SLIGHT, IN A RUDE, ANGRY OR RESENTFUL
15 MANNER, WITHOUT LEGAL JUSTIFICATION FOR DOING SO.
16 USING MY EARLIER EXAMPLE, IF I CARRIED THROUGH WITH
17 THE ASSAULT BY HITTING YOU, THEN THAT IS THE BATTERY.

18 THE STATE MUST PROVE BEYOND A REASONABLE
19 DOUBT CIRCUMSTANCES OF AGGRAVATION. CIRCUMSTANCES OF
20 AGGRAVATION INCLUDE THE USE OF A DEADLY WEAPON, THE
21 INTENT TO COMMIT A FELONY, THE INFLECTION OF SERIOUS
22 BODILY INJURY, A GREAT DISPARITY BETWEEN THE AGES OR
23 PHYSICAL CONDITIONS OF THE PARTIES, A DIFFERENCE IN
24 THE GENDER OF THE PARTIES, OR TAKING INDECENT
25 LIBERTIES OR FAMILIARITIES WITH FEMALES BY THE USE OF

1 FORCE FOR THAT PURPOSE. AND THESE ARE ONLY EXAMPLES
2 OF AGGRAVATED CIRCUMSTANCES.

3 NOW, LADIES AND GENTLEMEN, YOU ARE NOT
4 ADVOCATES FOR THE STATE OF SOUTH CAROLINA OR THIS
5 DEFENDANT. YOU DO NOT SERVE AS JURORS TO REWARD YOUR
6 FRIENDS OR PUNISH YOUR ENEMIES. CLEARLY, THAT SYSTEM
7 OF JUSTICE JUST WOULDN'T BE TOLERATED. YOU HAVE BEEN
8 SELECTED BY BOTH THE STATE AND THIS DEFENDANT TO BE
9 FAIR AND IMPARTIAL JURORS. IT IS YOUR DUTY THEN BY
10 YOUR JOINT DELIBERATION TO DETERMINE THE TRUTH IN THIS
11 CASE, GIVING TO THIS DEFENDANT THE BENEFIT OF EVERY
12 REASONABLE DOUBT ON EACH AND EVERY ISSUE. AND TO THE
13 FACTS THAT YOU DETERMINE TO BE TRUE, APPLY THE LAW
14 THAT I'VE GIVEN AND ARRIVE AT A VERDICT THAT SPEAKS
15 THE TRUTH. WHEN YOU'VE ACCOMPLISHED THIS YOU WOULD
16 HAVE SATISFIED YOUR OATH AS JURORS AND DISCHARGED YOUR
17 DUTY TO THIS COURT.

18 NOW, I'VE HAD MY LAW CLERK DRAW UP A
19 POSSIBLE VERDICT FORM FOR YOU TO CONSIDER. AND THE
20 TOP OF THE FORM IS SIMPLY THE CAPTION OF THE CASE.
21 AND THERE'S TWO CHARGES IN THIS CASE AND THERE'S TWO
22 VERDICT FORMS THAT YOU WILL CONSIDER. NUMBER ONE, WE,
23 THE JURY, UNANIMOUSLY FIND THE DEFENDANT, ADRIAN
24 JERMAINE DARBY, GUILTY OF BURGLARY IN THE FIRST
25 DEGREE, OR NOT GUILTY OF BURGLARY IN THE FIRST DEGREE.

1 NUMBER TWO, WE, THE JURY, UNANIMOUSLY FIND THE
2 DEFENDANT, ADRIAN JERMAINE DARBY, GUILTY OF ASSAULT
3 AND BATTERY OF A HIGH AND AGGRAVATED NATURE, OR NOT
4 GUILTY OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
5 NATURE.

6 YOU, AS FOREPERSON, ONCE YOU REACH THE
7 UNANIMOUS VERDICT ON THESE CHARGES, YOU ARE TO CHECK
8 WHICHEVER BLOCK THAT Y'ALL HAVE REACHED AND SIGN YOUR
9 NAME AND DATE IT. AND THE ORDER THAT WE PUT THESE IN,
10 YOU ARE TO DRAW NO CONCLUSIONS FROM THAT WHATSOEVER,
11 WE JUST HAD TO PUT IT IN SOME ORDER. AND YOUR VERDICT
12 MUST BE A UNANIMOUS VERDICT. YOU ARE NOT AUTHORIZED
13 TO SIGN THIS UNTIL ALL TWELVE OF YOU AGREE ON THE
14 VERDICT.

15 NOW, WHEN YOU GO BACK TO THE JURY ROOM AND
16 YOU BEGIN YOUR DELIBERATIONS IF ONE OF YOU HAVE TO BE
17 EXCUSED, HAVE TO GO TO THE RESTROOM OR WHATEVER, YOU
18 ARE TO STOP YOUR DELIBERATIONS. YOU CAN ONLY TALK
19 ABOUT THIS CASE WHILE ALL TWELVE OF YOU ARE PRESENT IN
20 THE ROOM. AND SO, IF SOMEBODY LEAVES, STOP YOUR
21 DELIBERATIONS, WHEN THEY COME BACK YOU CAN CONTINUE
22 YOUR DELIBERATIONS UNTIL YOU'VE REACHED A VERDICT.
23 AND WHEN YOU'VE REACHED A VERDICT -- DO Y'ALL HAVE A
24 LIGHT SYSTEM HERE OR KNOCK ON THE DOOR?

25 BAILIFF: KNOCK ON THE DOOR.

1 THE COURT: OKAY. Y'ALL KNOCK ON THE DOOR.
2 SOME COURTHOUSES HAVE A BUTTON YOU PUSH AND IT LIGHTS
3 UP IN HERE AND LETS US KNOW YOU'VE REACHED A VERDICT.
4 OTHER COURTHOUSES YOU JUST KNOCK ON THE DOOR. AND THE
5 REASON, IF I DON'T TELL YOU ANYTHING, I TELL YOU TO
6 KNOCK ON THE DOOR, BECAUSE I WAS IN A TRIAL ONE TIME
7 WHEN I WAS NOT THE JUDGE, I WAS PARTICIPATING, AND THE
8 JURY WAS GONE EIGHT OR NINE HOURS. AND WE SAT AND SAT
9 AND SAT, AND FINALLY, IT WAS EIGHT O'CLOCK THAT NIGHT
10 THAT THE JUDGE SAID, BRING THE JURY OUT HERE AND LET'S
11 SEE. SO, HE BROUGHT THE JURY OUT AND HE SAID, WE
12 HAVEN'T HEARD FROM Y'ALL IN A LONG TIME, DO Y'ALL NEED
13 ANY HELP? AND THEY SAID, NO, SIR, WE REACHED A
14 VERDICT THE FIRST FIFTEEN MINUTES AND NOBODY TOLD US
15 WHAT TO DO. WE'VE BEEN SITTING BACK THERE WAITING ON
16 YOU. SO, I TELL YOU THAT, I ALWAYS TELL THEM TO KNOCK
17 ON THE DOOR WHEN YOU'VE REACHED A VERDICT, BECAUSE THE
18 JUDGE HAD FORGOTTEN TO TELL THAT JURY THAT. SO, WE
19 SAT THERE ALL DAY WAITING.

20 NOW, I'M GOING TO HAVE YOU GO TO THE JURY
21 ROOM. I'VE GOT TO TALK WITH THESE LAWYERS TO BE SURE I
22 HAVEN'T LEFT OUT ANYTHING. IF I HAVE LEFT OUT SOME
23 LAW I NEED TO CHARGE YOU ON OR IF I NEED TO CORRECT
24 SOMETHING I'VE TOLD YOU I'LL BRING YOU BACK OUT AND
25 RECHARGE YOU. IF I'VE COVERED EVERYTHING I WILL SEND

1 THIS VERDICT FORM ALONG WITH THE EXHIBITS IN THIS
2 CASE, AND WHEN YOU RECEIVE THIS THAT WILL BE YOUR
3 INDICATION TO BEGIN YOUR DELIBERATIONS. AND WHEN
4 YOU'VE REACHED YOUR VERDICT IF YOU'LL COME OUT AND LET
5 US KNOW. I THINK THE CLERK'S OFFICE HAS SENT FOR
6 Y'ALL SOME LUNCH, BECAUSE ONCE I GIVE Y'ALL A CASE I
7 CAN'T LET YOU GO, I HAVE TO KEEP YOU TOGETHER. SO,
8 AT SOME POINT THEY'RE GOING TO BRING YOU LUNCH AND YOU
9 CERTAINLY CAN STOP AND EAT YOUR LUNCH, OR YOU CAN TALK
10 WHILE YOU EAT, OR DO WHATEVER YOU WANT TO DO, JUST LET
11 US KNOW.

12 AND IF YOU NEED ANYTHING FROM US -- IF YOU
13 HAVE A QUESTION OF LAW, YOU CAN WRITE IT DOWN ON A
14 PIECE OF PAPER AND I'LL TRY TO ANSWER IT. IF YOU HAVE
15 A QUESTION OF FACT I CAN'T ANSWER THAT. YOU'VE HEARD
16 ALL THE EVIDENCE YOU'RE GOING TO HEAR, SO IF YOU HAVE
17 A QUESTION OF FACT I WON'T BE ABLE TO ANSWER THAT BUT
18 AT LEAST I CAN EXPLAIN THAT TO YOU.

19 SO, I'M GOING TO SEND YOU TO THE JURY ROOM.
20 NOW, THE TWO ALTERNATES -- EVERYBODY LOOKS LIKE YOU'RE
21 HEALTHY AND YOU'RE GOING TO MAKE IT THROUGH, SO THE
22 TWO ALTERNATES NEED TO STAY WITH ME, BUT THE ORIGINAL
23 TWELVE, IF YOU'LL GO TO THE JURY ROOM, AND I'LL EITHER
24 BRING YOU BACK OUT OR SEND THIS IN THERE, AND WHEN YOU
25 GET THIS YOU CAN START YOUR DELIBERATION.

1 OBVIOUSLY, Y'ALL KNOW WHO THE FOREMAN IS,
2 AND I HAVE A NOTE THAT YOU ELECTED A FOREPERSON. AND I
3 JUST WANTED TO PUT THAT ON THE RECORD. THANK YOU.

4 COURT REPORTER: THAT WOULD BE COURT'S ONE.

5 THE COURT: OKAY.

6 (Court's Exhibit One
7 marked and filed.)

8 BAILIFF: YOU WANT THE TWO ALTERNATES TO
9 STAY IN HERE?

10 THE COURT: YEAH, THE TWO ALTERNATES STAY
11 WITH ME.

12 (Whereupon, the jury retires
13 to the jury room and the following
14 takes place out of the presence
15 of the jury.)

16 THE COURT: OKAY. ARE THERE ANY EXCEPTIONS
17 OR DELETIONS ON BEHALF OF THE STATE?

18 SOLICITOR SORENSON: NO, SIR.

19 THE COURT: ON BEHALF OF THE DEFENSE?

20 MR. CHANDLER: NONE FROM THE DEFENSE, YOUR
21 HONOR.

22 THE COURT: OKAY. GENTLEMEN, IF Y'ALL WILL
23 GET THE EXHIBITS TOGETHER, AND BE SURE THAT YOU AND
24 THE COURT REPORTER AGREE WHAT IS IN AND WHAT'S NOT IN,
25 AND MY RECORDS SHOW THERE ARE THIRTEEN EXHIBITS FROM

1 THE STATE AND THE ONE THAT'S BEEN WITHDRAWN FROM THE
2 DEFENSE AND IT DOESN'T GO. IS THAT RIGHT?

3 COURT REPORTER: YES, SIR.

4 SOLICITOR SORENSON: YES, SIR.

5 MR. CHANDLER: YES, SIR.

6 THE COURT: AND HERE IS THE VERDICT FORM IF
7 Y'ALL WANT TO LOOK AT IT, IF YOU HAVE ANY OBJECTIONS
8 TO IT.

9 COURT REPORTER: THE LAWYERS SAID THAT THOSE
10 ARE THIRTEEN.

11 THE COURT: AND IF YOU WILL JUST TELL THEM
12 WHEN THEY REACH A VERDICT LET US KNOW. TELL THEM THEY
13 CAN BEGIN THEIR DELIBERATIONS.
14 (Whereupon, the jury begins
15 deliberations at 12:10 p.m.)

16 MR. CHANDLER: YOUR HONOR, ARE YOU GOING TO
17 -- I DON'T WANT TO BE ON MY WAY TO FATZ CAFÉ AND HAVE
18 TO TURN AROUND RIGHT AWAY. DO YOU WANT TO GIVE US A
19 SPECIFIC RECESS OR ...

20 THE COURT: WE CAN'T -- OF COURSE, IF YOU
21 LEAVE THE BUILDING YOU'D BETTER GIVE US A CELL PHONE
22 SO I CAN GET YOU IF THE JURY COMES BACK WITH A
23 VERDICT, AND I DON'T KNOW WHEN THAT WILL HAPPEN, BUT I
24 DON'T HAVE ANY PROBLEM WITH YOU GOING AS LONG AS I CAN
25 GET YOU BACK HERE WITHIN A REASONABLE AMOUNT OF TIME.

1 MR. CHANDLER: I'LL JUST HANG AROUND HERE.

2 THE COURT: WELL, I MEAN, - - -

3 COURT REPORTER: THEY'LL PROBABLY BE EATING.

4 THE COURT: AND THEY'LL PROBABLY BE EATING
5 AND THEY PROBABLY WON'T GIVE US A VERDICT, BUT IF THEY
6 COME OUT WITH A QUESTION -- AND IF YOU WANT TO GO,
7 I'LL GLAD TO CALL YOUR CELL, I'LL JUST NEED YOU BACK
8 HERE IN ABOUT FIFTEEN MINUTES.

9 MR. CHANDLER: NO, I'M JUST GOING TO HANG
10 AROUND HERE.

11 THE COURT: OKAY.

12 MR. CHANDLER: I COULD STAND TO MISS A FEW
13 ANYWAY.

14 (Recess)

15 (Whereupon, a note is sent
16 in from the jury at 12:45 p.m.)

17 THE COURT: ALRIGHT, BRING IN THE JURY.

18 (Whereupon, the jury enters
19 the courtroom.)

20 THE COURT: MADAM FORELADY, I UNDERSTAND
21 THAT YOU HAVE A QUESTION THAT YOU NEED ME TO RECHARGE
22 Y'ALL ON ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
23 NATURE?

24 FORELADY: YES.

25 THE COURT: OKAY. ASSAULT AND BATTERY OF A

1 HIGH AND AGGRAVATED NATURE IS AN UNLAWFUL ACT OF
2 VIOLENT INJURY TO THE PERSON OF ANOTHER ACCOMPANIED BY
3 CIRCUMSTANCES OF AGGRAVATION.

4 AN ASSAULT OCCURS WHEN A PERSON UNLAWFULLY
5 ATTEMPTS OR OFFERS TO COMMIT A VIOLENT INJURY UPON
6 ANOTHER PERSON AND HAS THE PRESENT ABILITY TO COMPLETE
7 THE INJURY. AND ASSAULT IS AN INTENTION CREATION OF A
8 REASONABLE FEAR OF IMMEDIATE BODILY HARM. IT IS NOT
9 NECESSARY THAT THE ATTEMPTED INJURY OR HARM ACTUALLY
10 TAKE PLACE. AND AS I EXPLAIN TOY'ALL, IF I DRAW BACK
11 MY HAND AND I'M CLOSE ENOUGH TO HIT YOU, THEN THAT'S
12 THE ASSAULT. IF I FOLLOW THROUGH WITH THAT AND
13 ACTUALLY HIT YOU OR TOUCH YOU, THEN THAT'S THE
14 BATTERY. SO, ASSAULT AND BATTERY IS THE THREAT WITH
15 THE ABILITY TO CARRY IT OUT AND THE BATTERY IS THE
16 ACTUAL TOUCHING.

17 THE STATE MUST ALSO PROVE CIRCUMSTANCES OF
18 AGGRAVATION. CIRCUMSTANCES OF AGGRAVATION INCLUDE THE
19 USE OF A DEADLY WEAPON, THE INTENT TO COMMIT A FELONY
20 OR THE INFLECTION OF SERIOUS BODILY HARM. SO, THOSE
21 ARE POSSIBLE AGGRAVATING CIRCUMSTANCES THE STATE MUST
22 PROVE BEYOND A REASONABLE DOUBT.

23 AND I DON'T KNOW IF I'VE ANSWER Y'ALL'S
24 QUESTION OR NOT. IS THAT, I'VE EXPLAINED TO YOU AT
25 LEAST THE LAW ON ASSAULT AND BATTERY OF A HIGH AND

1 AGGRAVATED NATURE. YOU KNOW, ASSAULT AND BATTERY IS A
2 THREAT ACCOMPANIED WITH THE ACTUAL TOUCHING, A
3 BATTERY. AND SO, THAT'S A NORMAL ASSAULT AND BATTERY.
4 IN THIS CASE HE'S CHARGED WITH ASSAULT AND BATTERY OF
5 A HIGH AND AGGRAVATED NATURE. SO, YOU MUST FIND
6 BEYOND A REASONABLE DOUBT THAT AN ASSAULT AND BATTERY
7 OCCURRED, AND THAT IT OCCURRED WITH AN AGGRAVATED
8 CIRCUMSTANCE. AND ONE POSSIBLE AGGRAVATING
9 CIRCUMSTANCE WOULD BE THE USE OF A DEADLY WEAPON, THE
10 INTENT TO COMMIT A FELONY, OR THE INFLICTION OF
11 SERIOUS BODILY HARM. OKAY?

12 SO, IF Y'ALL WILL GO BACK AND CONTINUE
13 DELIBERATIONS AND LET ME KNOW.

14 (Whereupon, the jury retires
15 to the jury room and the following
16 takes place out of the presence
17 of the jury.)

18 THE COURT: ANY EXCEPTIONS OR DELETIONS
19 FROM THE STATE?

20 SOLICITOR SORENSON: NO, SIR.

21 THE COURT: FROM THE DEFENSE?

22 MR. CHANDLER: NONE FROM THE DEFENSE, YOUR
23 HONOR.

24 THE COURT: OKAY. WE'LL STAND AT EASE UNTIL
25 WE HEAR SOMETHING BACK FROM THEM.

1 (Court's Exhibit Two
2 marked and filed.)

3 (Recess)

4 (Whereupon, the jury sends
5 in another note at 1:15 p.m.)

6 THE COURT: ALRIGHT, IF YOU'LL BRING IN THE
7 JURY, PLEASE, MA'AM.

8 (Whereupon, the jury
9 enters the courtroom.)

10 THE COURT: I GOT ANOTHER NOTE FROM YOU
11 SAYING, HANDS OF ONE, ANY EXCEPTION, HANDS OF ALL. I
12 ASSUME Y'ALL WANT ME TO RECHARGE YOU ON THE LAW OF
13 HAND OF ONE IS THE HAND OF ALL?

14 FORELADY: YES.

15 THE COURT: OKAY. IF A CRIME IS COMMITTED BY
16 TWO OR MORE PEOPLE WHO ARE ACTING IN COMMITTING, THE
17 ACT OF ONE IS THE ACT OF ALL. A PERSON WHO JOINS WITH
18 ANOTHER TO COMMIT AN UNLAWFUL ACT IS CRIMINALLY
19 RESPONSIBLE FOR EVERYTHING DONE BY THE OTHER PERSON
20 WHICH HAPPENS AS A PROBABLE AND NATURAL CONSEQUENCE OF
21 THE ACT DONE IN CARRYING OUT THE COMMON PLAN AND
22 PURPOSE. FOR EXAMPLE, TWO PEOPLE CAN BE GUILTY OF
23 KILLING ANOTHER PERSON WHEN ONLY ONE OF THE TWO HAD A
24 GUN, THERE WAS ONLY ONE BULLET AND ONLY ONE OF THE TWO
25 FIRED THE SHOT THAT CAUSED THE DEATH. IF TWO OR MORE

1 PEOPLE ARE TOGETHER, ACTING TOGETHER, ASSISTING EACH
2 OTHER IN COMMITTING THE CRIME, THE ACT OF ONE IS THE
3 ACT OF ALL, AS SOMETIMES SAID, THE HAND OF ONE IS THE
4 HAND OF ALL. PRIOR KNOWLEDGE THAT A CRIME IS GOING TO
5 BE COMMITTED WITHOUT MORE IS NOT SUFFICIENT TO MAKE A
6 PERSON GUILTY OF THAT CRIME. MERE KNOWLEDGE THAT
7 ANOTHER PERSON IS GOING TO COMMIT A CRIME, EVEN IF THE
8 DEFENDANT IS PRESENT WHEN THE CRIME IS COMMITTED, IS
9 NOT SUFFICIENT TO CONVICT THE DEFENDANT AS THE
10 PRINCIPAL. GUILT AS A PRINCIPAL IS SHOWN BY AN ACTUAL
11 OR CONSTRUCTIVE PRESENCE AT THE SCENE AS A RESULT OF A
12 PRIOR ARRANGEMENT. THEREFORE, A FINDING OF A PRIOR
13 ARRANGED PLAN OR COMMON SCHEME IS NECESSARY FOR THE
14 FINDING OF GUILT AS A PRINCIPAL. THE STATE MUST PROVE
15 BEYOND A REASONABLE DOUBT BY COMPETENT EVIDENCE THAT
16 THE THEORY OF THE HAND OF ONE IS THE HAND OF ALL. A
17 PRINCIPAL IN A CRIME IS ONE WHO EITHER ACTUALLY
18 COMMITS THE CRIME OR WHO IS PRESENT, AIDING AND
19 ABETTING OR ASSISTING IN THE COMMITTING OF THE CRIME.
20 WHEN A PERSON DOES AN ACT IN THE PRESENCE OF, OR WITH
21 THE ASSISTANCE OF ANOTHER, THE ACT IS DONE BY BOTH.
22 WHERE TWO OR MORE ARE ACTING WITH A COMMON PLAN OR
23 INTENT THEY ARE THE PRESENT AT THE COMMISSION OF THE
24 CRIME, IT DOES NOT MATTER WHO ACTUALLY COMMITS THE
25 CRIME, ALL ARE GUILTY. THE HAND OF ONE IS THE HAND OF

1 ALL. PRESENT AT THE COMMISSION OF A CRIME MEANS TO BE
2 SUFFICIENTLY NEAR TO AID AND ABET AND ASSIST IN THE
3 COMMISSION OF THE CRIME. HOWEVER, MERE PRESENCE AT THE
4 SCENE OF A CRIME IS NOT SUFFICIENT TO CONVICT ONE AS
5 THE PRINCIPAL ON THE THEORY OF AIDING AND ABETTING.
6 INTENT IS ALSO A NECESSARY ELEMENT, FOR THERE MUST
7 HAVE BEEN A COMMON DESIGN OR INTENT TO COMMIT THE
8 CRIME AND THE CRIME MUST HAVE BEEN COMMITTED PURSUANT
9 THERETO WITH THE PERSON AIDING AND ABETTING BY SOME
10 OVERT ACT. INTENT MEANS RESULT WHICH ACTUALLY OCCURS,
11 NOT ACCIDENTALLY OR INVOLUNTARILY. INTENT MAY BE
12 SHOWN BY ACTS AND CONDUCT OF THE PERSON OF THE
13 DEFENDANT AND OTHER CIRCUMSTANCES FOR WHICH YOU MAY
14 NATURALLY AND REASONABLY INFER INTENT. NOW, MERE
15 PRESENCE AT THE CRIME SCENE IS NOT SUFFICIENT TO PROVE
16 SOMEONE GUILTY OF A CRIME. A DEFENDANT'S PRESENCE
17 WHERE A CRIME IS BEING COMMITTED OR MERE ASSOCIATION
18 WITH THE PERSON WHO COMMITS THE CRIME DOES NOT MAKE
19 THE DEFENDANT AN ACCOMPLICE OR AN AIDER AND ABETTER OF
20 THE PERSON COMMITTING THE CRIME. THE BURDEN IS ON THE
21 STATE TO PROVE EVERY ELEMENT OF THE CRIME CHARGED. IF
22 YOU FIND AFTER REVIEWING ALL OF THE EVIDENCE THAT THE
23 STATE HAS PROVED THAT THE DEFENDANT WAS ONLY PRESENT
24 AT THE SCENE OF THE CRIME AND THAT THEY HAVE NOT
25 PROVED BEYOND A REASONABLE DOUBT ANY OTHER

1 PARTICIPATION IN THE CRIME, THEN YOU MUST FIND THE
2 DEFENDANT NOT GUILTY. THE LAW IS THAT BEING PRESENT
3 AT THE SCENE OF A CRIME IS NOT SUFFICIENT TO FIND
4 SOMEONE GUILTY. OKAY?

5 NOW, IF Y'ALL WILL GO BACK AND CONTINUE YOUR
6 DELIBERATIONS AND LET US KNOW, EITHER WHEN YOU HAVE
7 ANOTHER QUESTION OR YOU'VE REACHED A VERDICT.

8 (Whereupon, the jury retires
9 to the jury room and the
10 following takes place out of
11 the presence of the jury.)

12 COURT REPORTER: COURT'S THREE.

13 (Court's Exhibit Three
14 marked and filed.)

15 THE COURT: ANY EXCEPTIONS OR DELETIONS ON
16 BEHALF OF THE STATE?

17 SOLICITOR SORENSON: NO, SIR.

18 THE COURT: DEFENSE?

19 MR. CHANDLER: NONE FROM DEFENSE, THANK YOU.

20 THE COURT: OKAY. THEN, WE'LL STAND AT EASE
21 UNTIL WE EITHER GET ANOTHER QUESTION OR A VERDICT.

22 (Recess)

23 THE COURT: BRING THEM IN.

24 (Whereupon, the jury returns
25 with verdicts at 1:35 p.m.)

1 THE COURT: MADAM FORELADY, HAVE YOU REACHED
2 A VERDICT?

3 FORELADY: YES, SIR.

4 THE COURT: IS IT A UNANIMOUS VERDICT?

5 FORELADY: YES, SIR.

6 THE COURT: OKAY, IF YOU WOULD PASS IT UP,
7 PLEASE, MA'AM.

8 (Whereupon, the Court
9 examines the verdicts.)

10 THE COURT: OKAY. MADAM CLERK, YOU MAY
11 PUBLISH THE VERDICT.

12 VERDICTS OF THE JURY

13 CLERK: IN THE MATTER OF THE STATE VERSUS
14 ADRIAN JERMAINE DARBY, ON THE COUNT OF BURGLARY, FIRST
15 DEGREE, THE JURY HAS UNANIMOUSLY FOUND YOU GUILTY.

16 ON THE COUNTY OF ABHAN, THE JURY HAS
17 UNANIMOUSLY FOUND YOU GUILTY.

18 THE COURT: ANYTHING FROM THE STATE BEFORE I
19 DISMISS THE JURY?

20 SOLICITOR SORENSON: NOT FROM THE STATE,
21 YOUR HONOR, NO, SIR.

22 THE COURT: ANYTHING FROM DEFENSE?

23 MR. CHANDLER: WE WOULD LIKE THE JURY
24 POLLED.

25 THE COURT: ALRIGHT, MADAM CLERK, IF YOU

1 WOULD POLL THE JURY.

2 ALRIGHT. I'M GOING TO GO DOWN THIS LIST, AND
3 WHEN I CALL YOUR NAME, IF YOU WOULD STAND UP.

4 SYLVIA STEARNS, WAS THIS YOUR VERDICT AND IS
5 IT STILL YOUR VERDICT?

6 JUROR STEARNS: YES, SIR.

7 THE COURT: OKAY. MS. JENNINGS. MS.
8 JENNINGS, WAS THIS YOUR VERDICT AND IS IT STILL YOUR
9 VERDICT?

10 JUROR JENNINGS: YES, SIR.

11 THE COURT: OKAY. MS. HAYNES, WAS THIS YOUR
12 VERDICT AND IS IT STILL YOUR VERDICT?

13 JUROR HAYNES: YES, SIR.

14 THE COURT: OKAY. MS. SHULER. YES, MA'AM,
15 WAS THIS YOUR VERDICT AND IS IT STILL YOUR VERDICT?

16 JUROR SHULER: YES, SIR.

17 THE COURT: OKAY. MR. HOWELL, WAS THIS YOUR
18 VERDICT?

19 JUROR HOWELL: YES, SIR.

20 THE COURT: IS IT STILL YOUR VERDICT?

21 JUROR HOWELL: YES, SIR.

22 THE COURT: ALRIGHT, MS. FREDERICK, WAS THIS
23 YOUR VERDICT AND IS IT STILL YOUR VERDICT?

24 JUROR FREDERICK: YES, SIR.

25 THE COURT: MS. WARD. WAS THIS YOUR

1 VERDICT?

2 JUROR WARD: YES, SIR.

3 THE COURT: IS IT STILL YOUR VERDICT?

4 JUROR WARD: YES, SIR.

5 THE COURT: MS. ZIMMERMAN. WAS THIS YOUR
6 VERDICT AND IS IT STILL YOUR VERDICT?

7 JUROR ZIMMERMAN: YES, SIR.

8 THE COURT: OKAY. MS. GREEN, WAS THIS YOUR
9 VERDICT AND IS IT STILL YOUR VERDICT?

10 JUROR GREEN: YES, SIR.

11 THE COURT: MS. BEASON, WAS THIS YOUR
12 VERDICT AND IS IT STILL YOUR VERDICT?

13 JUROR BEASON: YES, SIR.

14 THE COURT: MR. SHULER, WAS THIS YOUR
15 VERDICT AND IS IT STILL YOUR VERDICT?

16 JUROR SHULER: YES, SIR.

17 THE COURT: OKAY. MS. KELLER, WAS THIS YOUR
18 VERDICT AND IS IT STILL YOUR VERDICT?

19 JUROR KELLER: YES.

20 THE COURT: OKAY. ALRIGHT, THE JURY HAS
21 BEEN POLLED. ANYTHING ELSE?

22 MR. CHANDLER: WE'D JUST ...

23 THE COURT: AS FAR AS THE JURY IS CONCERNED.

24 MR. CHANDLER: NOT REGARDING THE JURY, YOUR
25 HONOR.

1 THE COURT: OKAY. LADIES AND GENTLEMEN, I
2 WANT TO THANK Y'ALL FOR YOUR SERVICE THIS WEEK. I'M
3 INFORMED BY THE SOLICITOR THIS IS THE LAST CASE WE'RE
4 GOING TO TRY THIS WEEK, SO I CAN EXCUSE YOU, AND YOU
5 DON'T HAVE TO DO THIS AGAIN FOR THREE YEARS.

6 MADAM CLERK, ARE YOU GOING TO MAIL THE
7 CHECKS? HOW DO YOU ...

8 CLERK: YEAH, THEY WILL PUT IT IN THE -- AS
9 A MATTER OF FACT, WHEN YOU ALL GO DOWNSTAIRS THE
10 FOREPERSON CAN GO TO THE CLERK'S OFFICE AND THEY'LL
11 GIVE YOU ...

12 THE COURT: SO, IF YOUR ADDRESS IS WRONG,
13 BECAUSE THAT'S WHERE THE CHECKS COME, ISN'T IT? AND
14 YOU WILL SEE WHAT A BIG SERVICE YOU DID FOR ORANGEBURG
15 COUNTY WHEN YOU GET THAT CHECK. AND I TOLD Y'ALL YOU
16 COULDN'T TALK ABOUT THIS CASE. NOW YOU CAN TALK ABOUT
17 THIS CASE TO ANYBODY YOU WANT TO. YOU CAN GO HOME AND
18 TELL YOUR FAMILY WHAT YOU DID, AND YOU CAN TALK ABOUT
19 IT. IF YOU DON'T WANT TO TALK ABOUT IT AND SOMEBODY
20 IS ASKING YOU ABOUT IT AND YOU DON'T WANT TO TALK, YOU
21 JUST SIMPLY SAY, I DON'T WANT TO COMMENT ON IT, AND
22 THAT'S YOUR PREROGATIVE, BUT YOU CAN DO AS YOU PLEASE.
23 AND I CAN SAY, I APPRECIATE SERVING WITH YOU, AND YOU
24 WON'T HAVE TO DO THIS AGAIN FOR THREE YEARS. AND
25 Y'ALL ARE FREE TO GO.

1 MR. CHANDLER: YOUR HONOR, AT THIS TIME WE
2 WOULD LIKE TO RENEW OUR MOTIONS FOR DIRECTED VERDICT
3 BASED ON THE SAME GROUNDS THAT HAD LISTED BEFORE.

4 THE COURT: OKAY. AND I RESPECTFULLY DENY
5 THAT. I THINK THERE'S SUFFICIENT IN THIS CASE THAT
6 THE JURY COULD HAVE REACHED A VERDICT AND THEY HAVE
7 REACHED A VERDICT, AND I'M GOING TO DENY YOUR MOTION.

8 MR. CHANDLER: THANK YOU, YOUR HONOR. IN
9 ADDITION, THEN, YOUR HONOR, AT THIS TIME WE WOULD THEN
10 MOVE FOR A NEW TRIAL ON THE FACT THAT THERE WAS LACK
11 OF EVIDENCE ON WHICH TO BASE A VERDICT OF GUILTY ON
12 BOTH THE ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
13 NATURE CHARGE AS WELL AS THE BURGLARY, FIRST, CHARGE.

14 THE COURT: AND I RESPECTFULLY DENY THAT
15 MOTION, I THINK THERE WAS SUFFICIENT EVIDENCE THAT THE
16 JURY COULD REACH THE VERDICTS, AND IT WAS A QUESTION
17 OF FACT AND WHO THEY BELIEVED. SO, I RESPECTFULLY
18 DENY YOUR MOTION.

19 MR. CHANDLER: THANK YOU, YOUR HONOR.

20 THE COURT: HAVE YOU GOT ANY ...

21 SOLICITOR SORENSON: YOUR HONOR, IF I COULD
22 HAVE A FEW MINUTES TO PREPARE A SENTENCING SHEET?

23 THE COURT: OKAY. DOES THE STATE HAVE
24 ANYTHING ELSE YOU WANT TO TELL ME?

25 SOLICITOR SORENSON: YES, YOUR HONOR, JUST

1 VERY BRIEFLY. YOUR HONOR, AS TO PRIOR RECORD FOR MR.
2 DARBY, YOUR HONOR, HE'S GOT IN THE STATE OF SOUTH
3 CAROLINA FROM TWO THOUSAND FIVE A FAILURE TO STOP FOR
4 A BLUE LIGHT CONVICTION. THEN ALSO, YOUR HONOR, IT
5 LOOKS LIKE FROM TWO THOUSAND TWO IN THE STATE OF
6 GEORGIA IT LOOKS LIKE A POSSESSION OF MARIJUANA AND A
7 DRIVING WITH A, BASICALLY A DUS CONVICTION FROM THE
8 STATE OF GEORGIA.

9 YOUR HONOR, TIFFANY MOORER WOULD LIKE TO
10 ADDRESS THE COURT, YOUR HONOR, I WOULD LET HER DO THAT
11 BEFORE I HAVE A COUPLE OF PARTING, CLOSING REMARKS.

12 THE COURT: OKAY. YES, MA'AM.

13 TIFFANY MOORER: YOUR HONOR, FOR THE LAST
14 COUPLE OF MONTHS THIS HAS BEEN HELL ON MY FAMILY.
15 THEY DON'T UNDERSTAND THAT MY KIDS HAD TO SEE THAT, MY
16 KIDS HAD TO WITNESS THAT. NO CRYING WAS DONE, NO
17 REMORSE WAS SHOWN, DURING ALL THAT TIME MY CHILDREN
18 HAD TO SIT THERE AND REMEMBER IT OVER AND OVER AND
19 OVER AGAIN. MY HUSBAND WAS IN THE HOSPITAL, MY
20 CHILDREN HAD TO SEE THAT. MY CHILDREN HAD TO LEAVE
21 THE HOME THEY WERE LIVING IN BECAUSE GUN SHOTS WERE
22 THROUGHOUT MY WHOLE HOUSE. I STAND THERE AND LOOKED
23 AT JERMAINE AND CRIED FOR HIM WHEN HE HELD THAT SHOT
24 GUN TO MY FACE. THERE WAS NO REMORSE ON HIS FACE, SO
25 I DON'T WANT YOU TO SHOW HIM ANY REMORSE WHILE HE

1 CRIES TODAY. I WANT YOU TO GIVE HIM THE MAXIMUM
2 SENTENCE ALLOWED BY THE LAW.

3 THE COURT: THANK YOU, MA'AM.

4 YES, SIR.

5 SOLICITOR SORENSON: JUST IN CLOSING, YOUR
6 HONOR, I'VE HAD A CHANCE TO MEET WITH THEM, I MEAN,
7 MULTIPLE OCCASIONS NOW OVER THE LAST SEVERAL MONTHS
8 AND, YOU KNOW, THEY'VE ALWAYS BEEN NOTHING BUT POLITE
9 WITH ME EVERY TIME THEY'VE COME UP, AND CONSISTENT
10 WITH, YOU KNOW, WHAT THEIR ALLEGATIONS WERE THAT THIS
11 MAN DID. AND YOU KNOW, I WANTED TO POINT OUT ONE
12 THING TO THE COURT, YOU KNOW, THIRTY MINUTES AGO THAT
13 WAS A DIFFERENT MR. DARBY SITTING THERE SMILING AND
14 LAUGHING, AND JOKING ABOUT HOW HE WAS GOING TO BE FREE
15 TONIGHT. HE'S NOT THE SAME PERSON ANYMORE NOW. AND
16 WE DO THINK IT WAS A VERY AGGRAVATED CRIME. AND
17 THANKFULLY-- IT COULD HAVE BEEN A WHOLE LOT WORSE,
18 THANKFULLY, IT WASN'T. BUT WE WOULD ESPECIALLY ASK
19 YOUR HONOR TO GIVE HIM A VERY SUBSTANTIAL SENTENCE.

20 THE COURT: YES, SIR, MR. CHANDLER.

21 MR. CHANDLER: MAY IT PLEASE THE COURT.
22 YOUR HONOR, THESE WERE, THIS WAS, I WOULD SUBMIT TO
23 YOU, A LETTER OF SUPPORT FROM ADRIAN'S PASTOR WHO IS
24 HERE TODAY, AND I DIDN'T KNOW IF YOU WANTED TO HEAR
25 FROM HER, BUT SHE'S BACK THERE.

1 THE COURT: I'LL BE GLAD TO HEAR FROM HER.

2 MR. CHANDLER: OKAY. AND ALSO, HE
3 PARTICIPATED IN THE ONE STOP -- HE WORKED AT THE ONE
4 STOP CONSTRUCTION, AND ALSO HE HAS A LETTER OF SUPPORT
5 FORM INDIVIDUALS WHO ARE AT THAT PROGRAM AS WELL.

6 YOUR HONOR, YOU'VE HEARD THE FACTS SO WE
7 DON'T HAVE TO GO OVER THEM, AND AS YOU ALREADY KNOW,
8 AS WORKING IN THE SYSTEM, AND ALSO SERVING AS
9 PROSECUTOR THAT SOMETIMES THE PROSECUTION ALWAYS
10 DOESN'T HAVE THE BEST NUMBER OF WITNESSES. THE
11 REALITY OF IT IS THAT WHAT HAPPENED TO THE MOORER
12 FAMILY IS PRODUCTS OF WHAT THEY ACTUALLY CONDUCT IN
13 THEIR OWN HOUSE. BUT THE REALITY DOESN'T JUSTIFY WHAT
14 MY CLIENT WAS ACTUALLY CHARGED WITH. TO THAT EXTENT
15 THE STATE WAS VERY REASONABLE, AN OFFER THAT MY CLIENT
16 DID NOT TAKE, AND AS A RESULT HE IS NOW FACING A
17 MINIMUM OF FIFTEEN YEARS TO LIFE. YOU HAD SHARED --
18 IN SPEAKING IN CHAMBERS WITH COUNSEL YOU HAD SHARED
19 EARLIER THAT IT WAS YOUR POSITION THAT YOU ARE NOT
20 ALLOWED UNDER THE LAW TO SUSPEND THAT SENTENCE. OF
21 COURSE, I WOULD INITIALLY ASK FOR A SUSPENDED
22 SENTENCE. I UNDERSTAND THAT YOU DON'T BELIEVE YOU'RE
23 ALLOWED UNDER THE LAW TO SUSPEND IT, EVEN IF YOU WERE
24 SO INCLINED TO DO SO. IN LIGHT OF THAT, YOUR HONOR,
25 AND ONLY IN LIGHT OF THAT THEN, I WOULD ASK FOR MY

1 CLIENT, WITH RESPECT TO THE BURGLARY, FIRST, CHARGE,
2 FOR THE MINIMUM CHARGE OF FIFTEEN YEARS WHICH HE WOULD
3 HAVE TO SERVE EIGHTY-FIVE PER CENT, AND HAVE A STRIKE.
4 AS YOU CAN SEE, YOUR HONOR, HE HAS, HE DOES NOT HAVE A
5 SIGNIFICANT RECORD, AND THESE CHARGES, WHILE VERY
6 SERIOUS, AS I SAID, THESE ARE NOT THE USUAL VICTIMS
7 THAT WE WOULD HAVE IN CASES LIKE THAT, AND CERTAINLY,
8 THE STATE CONSIDERED THAT IN THE NEGOTIATIONS. OUR
9 CLIENT LOST THAT OPPORTUNITY, BUT WE STILL WANT YOU TO
10 CONSIDER CERTAINLY, AS YOU CONSIDER WHAT'S FAIR AND
11 REASONABLE JUSTICE AS THE SENTENCES ARE IMPOSED.

12 HIS PASTOR IS HERE AND SHE WOULD LIKE TO BE
13 HEARD FROM, AND THEN I WOULD JUST LIKE TO MAKE JUST A
14 QUICK CLOSING REMARK.

15 THE COURT: OKAY.

16 REV. VALERIE BARTLEY: MY NAME IS REV.
17 VALERIE BARTLEY. I STAND HERE BEFORE NOT ONLY FOR
18 ADRIAN BUT ALSO FOR MOORER. AND I STAND HERE TO LET
19 YOU KNOW WHAT YOU SEE HERE IS SOMETHING THAT WE NEED
20 TO CONSIDER WHEN YOU HAVE HIS SENTENCE. FOR SOMEONE
21 NOT TO BE LOCKED BEHIND BARS BUT TO BE PUT BACK INTO
22 SOCIETY OR EVEN IF THE SOLICITOR WANT TO DO THAT, BUT
23 SOMEONE WHO CARE ABOUT PEOPLE. WE KNOW THERE IS LAW,
24 BUT THERE IS SOME TYPE OF SYSTEM THAT NEEDS TO BE IN
25 APPEAL, HELPING YOUNG ADULTS THESE AGES. SO, WHEN YOU

1 CONSIDER THIS SENTENCE, CONSIDER THE BENEFIT, AND IF
2 YOU KNOW ADRIAN, HE'S ALWAYS WORKED, HE'S ALWAYS HAD A
3 STEADY JOB, AND HE'S ALWAYS TOOK CARE OF HIS
4 RESPONSIBILITIES. AND HE -- AND I'M ASKING THE COURT
5 TODAY TO CONSIDER TIFFANY, TO LET'S LOOK AT BRINGING
6 SOME TYPE OF POSITIVE OUT OF THIS, RATHER THAN ALWAYS
7 PUTTING THEM BEHIND BARS.

8 THE COURT: THANK YOU.

9 MR. CHANDLER: YOUR HONOR, MY CLIENT WOULD
10 LIKE TO BE HEARD.

11 THE COURT: OKAY.

12 DEFENDANT DARBY: YOUR HONOR, I'M ADRIAN
13 JERMAINE DARBY. I'M TWENTY-SIX YEARS OLD. I BEEN
14 WORKING SINCE I BEEN FOURTEEN YEARS OLD. MY FIRST JOB
15 I HAD WAS SELLING DOOR TO DOOR CANDY. MY SECOND JOB I
16 HAD WAS WORKING AT SOCS. I BEEN WORKING ALL MY LIFE.
17 I HAVE NEVER STOLE OR BURGLARIZED ANYTHING IN MY LIFE.
18 I KNOW THAT THE PROSECUTORY, IT'S HIS JOB TO COME HERE
19 AND TO REPRESENT HIS BEST CASE. BUT THE TRUTH OF THE
20 MATTER IS, YOUR HONOR, I BEEN TAKING CARE OF MYSELF
21 ALL MY LIFE. I'VE NEVER BEEN IN NO MAJOR TROUBLE, YOU
22 KNOW, AND I'M NOT GOING TO LIE TO YOUR HONOR, I BEEN
23 CAUGHT WITH MARIJUANA BEFORE. I DO, YOU KNOW, BASIC
24 CHILDHOOD THINGS, YOU KNOW, GETTING IN TROUBLE, YOU
25 KNOW, DRIVING UNDER SUSPENSION. EVERYTHING THAT I

1 EVER DONE I ALWAYS FACE UP TO MY CRIME. I WENT TO
2 COURT AND IF I WAS WRONG I PLED GUILTY. I CAME HERE
3 TODAY, YOUR HONOR, ON EVERYTHING, YOUR HONOR, I DID
4 NOT DO THIS. WHETHER THEY LAUGH AND THEY JOKE AND
5 THEY THINK IT'S A GAME, IT'S MY LIFE TODAY. I WAS
6 DEALING WITH THIS CLOUD FOR OVER A YEAR. I WAKE UP IN
7 THE MIDDLE OF THREE MORNING, THREE O'CLOCK IN THE
8 MORNING COLD SWEAT, SCARED OUT OF MY MIND. BUT I HAD
9 TO LEARN THAT TO MOVE ON. I HAD TO LEARN TO FORGIVE
10 THEM. I FORGAVE THEM IN MY HEART AND I MOVED ON. I
11 JUST RECENTLY GOT ENGAGED, JUST RECENTLY GOT MARRIED.
12 MY FAMILY DON'T EVEN KNOW BECAUSE I FELT THAT IF I WAS
13 TO DO IT, IT WOULD BE FOR THE LORD WHY I'M DOING IT
14 AND FOR HER WHY I'M DOING IT. I HAD FOSTER KIDS AND I
15 JUST TOOK THEM. THOSE BABIES RIGHT OVER THERE, THEY
16 USED TO COME TO MY HOUSE, GET THEIR HAIR BRAID, I TAKE
17 THEM ANYWHERE, GIVE THEM ANYTHING THEY WANT. THEY
18 STAYED WITH ME AT MY HOUSE, AND CRUZ AND TIFFANY
19 MOORER DROP THEM OFF AT MY HOUSE. THEY KNOW THAT I
20 DIDN'T MEAN THOSE KIDS NO HARM. I DIDN'T COME EVER, I
21 NEVER HURT A HAIR ON THEIR HEAD. ALL OF THEM KNOW ME
22 ALL MY LIFE. AND FOR THEM TO COME HERE, EVEN THOUGH
23 I'M FOUND GUILTY, FOR THEM TO COME HERE AND TO MAKE ME
24 LOOK LIKE HOW THEY TRYING TO MAKE ME LOOK, AND I'M NOT
25 THAT PERSON. I ALWAYS HAD COMPASSION FOR OTHER PEOPLE

1 AND CARED ABOUT OTHER PEOPLE. I WOULD GIVE MY LAST TO
2 OTHER PEOPLE. AND I DIDN'T LAUGH OR JOKE ABOUT BEING
3 FREE, I HAD A FAITH IN GOD. I KNEW THAT I CAME HERE
4 TODAY AND I STOOD UP FOR WHAT I BELIEVED IN, YOUR
5 HONOR. I HAD FELT I WOULD BE FREE, AND I STILL
6 BELIEVE, NO MATTER WHAT, GOD DON'T MAKE NO MISTAKES.
7 AND IF I HAVE TO SIT IN JAIL OR WHAT HAVE YOU, I KNOW
8 THAT GOD DON'T MAKE NO MISTAKES. I FORGIVE TIFFANY
9 MOORER, I FORGIVE CRUZ MOORER, I FORGIVE JOHNATHAN, I
10 FORGIVE THE BABY, THE BABY DON'T KNOW NO BETTER, SHE'S
11 THE ONLY PERSON THAT TOLD THE TRUTH. BUT THAT'S
12 ALRIGHT, THOUGH. BUT THESE PEOPLE THAT SITS OVER HERE
13 ON THE RIGHT HAND SIDE OF ME, I'M NOT GOING TO THROW
14 NO SLAMS AGAINST THEM OR THROW THEM DOWN OR TRY TO
15 TALK EVEN NEGATIVE ABOUT THEM. BUT WHAT THEY
16 REPRESENTED ON ME AND MY BEHALF, THAT'S NOT THE PERSON
17 THAT I AM. I HAVE NEVER BURGLARIZED, I'VE NEVER
18 ASSAULTED ANYBODY, I NEVER WROTE A BAD CHECK IN MY
19 LIFE. AND I WANT YOUR HONOR TO TAKE IN ACCOUNT FOR
20 THAT, THAT'S THE PERSON THAT I AM. AND WHAT YOU SEE
21 BEFORE YOU, I AM TRULY THIS PERSON. I'M NOT SITTING
22 HERE TRYING TO PUT ON NO FRONT FOR NOBODY OR THE COURT
23 OR ANYBODY, I'M BEING MYSELF, YOU KNOW, AND I FORGAVE
24 THEM A LONG TIME AGO. AND THEY SAY, THE HURT THAT
25 THEY PUT ON ME, I NEVER EXPECTED THEM TO DO WHAT THEY

1 DID TO ME, BUT THEY DID IT. I COULDN'T UNDERSTAND WHY
2 BUT THE DID IT. I CALLED THEM, I ASKED THEM TO COME
3 OVER THAT DAY SO I COULD TALK TO THEM. WHEN I WENT
4 OVER TO TALK TO THEM THEY GOT ENRAGED WITH ME. I WAS
5 IN THEIR HOUSE, THEY HAD LET ME IN THAT HOUSE. WHEN I
6 COME THERE, THE SAME DAYS WHEN I GO THERE, THEY LET
7 THE KIDS GO, COME TO THE DOOR AND OPEN THE DOOR FOR
8 ME. AND I STAND AT THE DOOR, I SAID, NO, WHERE YOUR
9 PARENTS AT? OH, MY MAMA RIGHT IN THE BED, MY MAMA HID,
10 MY DADDY HID. NO, GO GET YOUR MAMA AND DADDY AND TELL
11 THEM TO COME TO THE DOOR. I NEVER, I HAVE NEVER
12 ENTERED THEIR THRESHOLD OF THEIR DOOR UNINVITED. THEY
13 COME TO MY HOUSE, THEY SIT IN MY HOUSE, WE EAT FOOD,
14 WE DRINK OR WHATEVER THE CASE MAY BE. THEY KNOW ME.
15 THE KIDS GO TO THE FAMILY REUNION WITH ME, AND SHE
16 EVEN WRITES IN HER STATEMENT THEY GO TO THE FAMILY
17 REUNION WITH ME. THEY DROP THE KIDS OFF AT MY HOUSE.
18 BUT FOR THEM TO COME IN HERE AND USE THAT BABY AGAINST
19 ME, YOU KNOW, THAT'S A WHOLE NEW LOW. IF YOU LOVE YOUR
20 KIDS YOU DON'T DO NOTHING LIKE THAT. YOU DON'T DO
21 NOTHING LIKE THAT. AND I LOVE THOSE KIDS JUST THEY
22 LOVE THOSE KIDS, AND I WOULDN'T HURT ONE HAIR ON THEIR
23 HEAD. BUT THOSE PEOPLE BEHIND ME, THEY ARE NOT THE
24 INNOCENTS, THAT CHILD IS THE INNOCENT. AND THEY KNOW,
25 THEY KNOW THE TRUTH BEHIND WHATEVER MAY HAPPEN. I MAY

1 HAVE TO GO SERVE MY TIME FOR SOCIETY, BUT THEY KNOW
2 THE TRUTH AND GOD WILL DEAL WITH THEM ON THEIR OWN
3 REGARD. AND I ASK YOU, I ASK YOU, YOUR HONOR, TO TAKE
4 MERCY ON ME. THAT'S ALL.

5 MR. CHANDLER: YOUR HONOR, YOU'VE HEARD THE
6 FACTS AND YOU'VE HEARD THE CASE AND YOU'VE HAD A
7 CHANCE TO HEAR EVERYTHING THAT HAPPENED. AGAIN, I
8 WOULD JUST RENEW MY REQUEST THAT YOU WOULD SUSPEND
9 THIS SENTENCE, BUT UNDERSTANDING YOUR POSTURE
10 REGARDING THE SUSPENDED SENTENCE, WE WOULD ASK THAT
11 YOU RUN, DO THE MINIMUM SENTENCE OF FIFTEEN YEARS ON
12 THE BURGLARY, FIRST, AND DO A CONCURRENT SENTENCE WITH
13 THE ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
14 NATURE.

15 SENTENCE OF THE COURT

16 ON THE BURGLARY, FIRST, INDICTMENT, THE
17 SENTENCE OF THE COURT IS THAT YOU BE COMMITTED TO THE
18 STATE DEPARTMENT OF CORRECTIONS FOR A TERM OF FIFTEEN
19 YEARS. AND I'M GIVING YOU CREDIT FOR ANY TIME THAT
20 YOU'VE SERVED.

21 ON THE ASSAULT AND BATTERY OF A HIGH AND
22 AGGRAVATED NATURE, THE SENTENCE IS FIVE YEARS, TO RUN
23 CONCURRENT.

24 MR. CHANDLER: THANK YOU, YOUR HONOR.

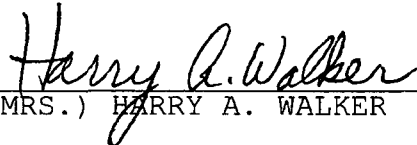
25 SOLICITOR SORENSON: THANK YOU, YOUR HONOR.

CERTIFICATE

I, THE UNDERSIGNED, MRS. HARRY A. WALKER, OF ROWESVILLE, SOUTH CAROLINA, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR ORANGEBURG COUNTY, SOUTH CAROLINA, ON THE TENTH AND ELEVENTH DAYS OF AUGUST, 2010.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

DATE: NOVEMBER 4, 2010


(MRS.) HARRY A. WALKER

COUNTY: ORANGEBURG DATE: AUGUST 10, 2010
 Case No.: 2010-GS-38-0240 AND 0241
VOIR DIRE - JURY NO. 1

Judge: RALPH F. COTHRAN

Pl./State: State/Pl's.Atty:
STATE OF SOUTH CAROLINA DONALD SORENSON

Defendant: Defense Atty:
ADRIAN JERMAINE DARBY EVERETT K. CHANDLER

Court Reporter: (Mrs.) Harry A. Walker

Juror No.	Name	Strikes:		Pl.	Def.	Accept
		Race	Sex			
145	LYLE RETHERFORD	W	M		X	
183	GLENDA WASHINGTON	B	F	X		
92	TOMEKA JENNINGS	B	F			X
60	CHARLOTTE GOLSON	B	F			X
62	CAROLYN GRAY	W	F		X	
102	CERETHA KINARD	O	F	X		
133	ALFRED OVERCAST	W	M	X		
84	PHIL HUGGINS	W	M		X	
173	SYLVIA STEARNS	W	F			X
144	JOSHUA REAVES	B	M			X
83	D'ANDRE HOWELL	B	M			X
7	JOI ARTIS	B	F			X
14	JUDITH BROACH	W	F		X	
146	RACHELLE RICHARDSON	B	F			X
199	MELISSA ZIMMERMAN	W	F			X
158	HENRY SHULER	W	M			X
198	LAURA YOUNG	W	F		X	
99	ROSE KELLER	W	F			X
188	HENRY WHITE	B	M			X

COUNTY: ORANGEBURG DATE: AUGUST 10, 2010
 Case No.: 2010-GS-38-0240 AND 0241
VOIR DIRE - JURY NO. 1 - CONTINUED

Judge: RALPH F. COTHRAN

Pl./State:
STATE OF SOUTH CAROLINA

State/Pl's.Atty:
DONALD SORENSON

Defendant:
ADRIAN JERMAINE DARBY

Defense Atty:
EVERETT K. CHANDLER

Court Reporter: (Mrs.) Harry A. Walker

Juror No.	Name	Race	Sex	Strikes:		Def.	Accept
				Pl.			
103	DONALD KRUPPEZYK	W	M			X	
	BELINDA NIGHTINGALE	W	F			X	
184	JEANETTE WASHINGTON	B	F				X
ALTERNATE NO. 1							
107	LORETTA LEONARD	B	F		X		
64	ANDREA GREEN	B	F				X
ALTERNATE NO. 2							
37	DEWAYNE DAVIS	B	M				X

COUNTY: ORANGEBURG DATE: AUGUST 10, 2010
 Case No.: 2010-GS-38-0240 AND 0241
VOIR DIRE - JURY NO. 2

Judge: RALPH F. COTHRAN

Pl./State:
STATE OF SOUTH CAROLINA

State/Pl's.Atty:
DONALD SORENSON

Defendant:
ADRIAN JERMAINE DARBY

Defense Atty:
EVERETT K. CHANDLER

Court Reporter: (Mrs.) Harry A. Walker

Juror No.	Name	Race	Sex	Strikes:		Accept
				Pl.	Def.	
173	SYLVIA STEARNS	W	F			X
92	TOMEKA JENNINGS	B	F			X
13	WILLIE BRIGGMAN	B	M		X	
72	JAMES HARDEE	W	M		X	
133	ALFRED OVERCAST	W	M	X		
120	TAMMI MCALHANY	W	F		X	
77	CHIQUITA HAYNES	B	F			X
14	JUDITH BROACH	W	F		X	
198	LAURA YOUNG	W	F		X	
159	KAYSEE SHULER	B	F			X
83	D'ANDRE HOWELL	B	M			X
53	BERNADETTE FREDERICK	B	F			X
182	SHIRLEY WARD	B	F			X
199	MELISSA ZIMMERMAN	W	F			X
64	ANDREA GREEN	B	F			X
9	REANNEN BEASON	W	F			X
183	GLENDA WASHINGTON	B	F	X		
158	HENRY SHULER	W	M			X

COUNTY: ORANGEBURG DATE: AUGUST 10, 2010
 Case No.: 2010-GS-38-0240 AND 0241
VOIR DIRE - JURY NO. 2 - CONTINUED

Judge: RALPH F. COTHRAN

Pl./State: STATE OF SOUTH CAROLINA State/Pl's.Atty: DONALD SORENSON

Defendant: ADRIAN JERMAINE DARBY Defense Atty: EVERETT K. CHANDLER

Court Reporter: (Mrs.) Harry A. Walker

Juror No.	Name	Race	Sex	Strikes:		Accept
				Pl.	Def.	
99	ROSE KELLER	W	F			X
ALTERNATE NO. 1:						
37	DEWAYNE DAVIS	B	M			X
ALTERNATE NO. 2:						
103	DONALD KRUPZYK	W	M		X	
71	BRENDA HANTON	B	F			X

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Case No. 2010-GS-38-240-241

State of South Carolina,..... Respondents,

v.

Adrian Darby #342254,.....Appellants.

MOTION TO WITHDRAW APPEAL

Adrian Darby #342254 by and through his undersigned attorney hereby moves for an Order of this Court allowing him to withdraw his current appeal for the above entitled matter.

Law Office of Glenn Walters, PA

July 1, 2011



Glenn Walters, Esquire
R. Bentz Kirby, Esquire
Paul W. Owen, Esquire
Post Office Box 1346
Orangeburg, SC 29116
(803) 531-8844
Attorneys for Appellant

file

The South Carolina Court of Appeals

RECEIVED

The State.

Respondent,

AUG - 8 2011

v.

ATTORNEY GENERALS
OFFICE

Adrian Jermaine Darby,

Appellant.

The Honorable Ralph F. Cothran
Orangeburg County
Trial Court Case No. 2010-GS-38-00240
2010-GS-38-00241

ORDER of DISMISSAL

The above entitled case is pending on appeal in this Court. It appears that Appellant wishes to withdraw the appeal and moves the Court for an Order dismissing the appeal.

IT IS ORDERED that the above captioned appeal is dismissed. The remittitur will be sent to the Clerk of Court for Orangeburg as provided by Rule 221(b), of the South Carolina Appellate Court Rules.

JOHN CANNON FEW, CHIEF JUDGE

BY

V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc: Appellant Defender Trisitan Shaffer
Everett Keith Chandler, Esquire
Glenn Walters, Esquire
Assistant Attorney General Salley W. Elliott
Donald Neils Sorenson, Esquire

FILED
8/8/11

close

The South Carolina Court of Appeals

The State,

Respondent,

RECEIVED

v.

AUG 24 2011

Adrian Jermaine Darby,

Appellant.

ATTORNEY GENERALS
OFFICE

The Honorable Ralph F. Cothran
Orangeburg County
Trial Court Case No. 2010-GS-38-00240
2010-GS-38-00241

 REMITTITUR

No Petition for Reinstatement having been filed in the above matter since issuance of this
Court's Order dated August 5, 2011,

IT IS SO ORDERED that the above appeal be and hereby is remitted.

V. Claire Allen, Deputy CLERK
For the Court

Columbia, South Carolina

Original to: The Honorable Lisa Mizell

cc: Appellant Defender Trisitan Shaffer
Everett Keith Chandler, Esquire
Glenn Walters, Esquire
~~Assistant Attorney General Salley W. Elliott~~
Donald Neils Sorenson, Esquire

FILED
8/28/11

FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG)

ADRIAN J. DARBY #342254)

Full name and prison number (if any) of Applicant.)

v.)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional Institution, Chesterfield Fourth. 990 Wisacky Highway, Bishopville, SC 29010

2. Name and location of Court which imposed sentence Orangeburg County General Sessions Court, 1406 Amelia Street 29115, Post Office Box 9000, Orangeburg, SC 29116

3. Name(s) of co-defendant(s) (if any) Quinton Green

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2010-GS-38-240

(b) 2010-GS-38-241

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

ATTEST: TRUE COPY

CLERK OF COURT

ORANGEBURG COUNTY, SC

received

06.15.2012

from Mr. Zere @ Clerk's Office.

(a) The sentence was imposed on August 10, 2010. The Court ordered the Defendant to be committed for the offense of burglary, to the State Department of Corrections for a term of fifteen (15) years. In addition, the Defendant was committed for the offense of assault and battery of a high and aggravated nature for a term of five (5) years. Said sentences are to run concurrent.

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty X

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes, Defendant filed a Pro Se appeal.

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. South Carolina Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. The Defendant dismissed the appeal

ii. _____

iii. _____

(c) the date of each such result:

i. See attached correspondence from the South Carolina Court of Appeals marked as

Exhibit 1.

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. See attached correspondence from the South Carolina Court of Appeals marked as

Exhibit 1.

ii. _____

- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) The Defendant is not guilty of the offense. The Defendant's attorney failed to provide effective assistance of counsel.
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attachment marked as Exhibit 2.
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? Yes
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. Notice of Intent to Appeal from Circuit Court
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:

i. Orangeburg County

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. The Appeal was Dismissed by the Petitioner

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. See attached.

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. See attached.

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. n/a

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. n/a

ii. _____

- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) The Defendant was unaware of his rights
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? No
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Everett K. Chandler, The Chandler Law Firm, Post Office Box 2391, Aiken, SC 29802-2391
- ii. Tristan Shaffer, SC Commision of Indigent Defense, Division of Appellate Defense, 1330 Lady Street, Columbia, SC 29201
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Trial of the Case
- ii. _____
- iii. _____
19. State clearly the relief you seek in filing this application:
- The Defendant is seeking a new trial.
20. Are you now under sentence from any other court that you have not challenged?
- No

The South Carolina Court of Appeals

The State,

Respondent,

v.

Adrian Jermaine Darby,

Appellant.

The Honorable Ralph F. Cothran
Orangeburg County
Trial Court Case No. 2010-GS-38-00240
2010-GS-38-00241

REMITTITUR

No Petition for Reinstatement having been filed in the above matter since issuance of this
Court's Order dated August 5, 2011,

IT IS SO ORDERED that the above appeal be and hereby is remitted.

V. Claire Allen, Deputy CLERK
For the Court

Columbia, South Carolina

Original to: The Honorable Lisa Mizell

cc: Appellant Defender Trisitan Shaffer
Everett Keith Chandler, Esquire
Glenn Walters, Esquire
Assistant Attorney General Salley W. Elliott
Donald Neils Sorenson, Esquire

FILED
8/23/11

EXHIBIT " 1 "

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Case No. 2010-GS-38-240-241

State of South Carolina,..... Respondents,

v.

Adrian Darby #342254,..... Appellants.

MOTION TO WITHDRAW APPEAL

Adrian Darby #342254 by and through his undersigned attorney hereby moves for an Order of this Court allowing him to withdraw his current appeal for the above entitled matter.

Law Office of Glenn Walters, PA

July 1, 2011



Glenn Walters, Esquire
R. Bentz Kirby, Esquire
Paul W. Owen, Esquire
Post Office Box 1346
Orangeburg, SC 29116
(803) 531-8844
Attorneys for Appellant

RECEIVED
JUL 05 2011
SC Court of Appeals

ADRIAN DARBY # 342254 V. STATE OF SOUTH CAROLINA
DOCKET NO.: 2012-CP-38-_____

EXHIBIT 2

1. Defense Counsel failed to request a continuance because the Defendant's Co-Defendant, Quinton Green, would have provided the relevant testimony with regards to the Defendant's innocence.
2. Defense counsel failed to advise the Defendant properly with regard to the sentencing and penalties.
3. Defense counsel informed the jury that his client had a gun.
4. Defendant talked to a member of the jury proclaiming his innocence.
5. Defense counsel failed to call any witness given to the Defendant's counsel by Defendant.
6. Defense counsel failed to investigate the prosecution's case.
7. Defense counsel guaranteed a verdict of not guilty.

STATE OF SOUTH CAROLINA)

County of ORANGEBURG)

VERIFICATION

I, Adrian Darby #342254, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Adrian Darby

SWORN to and subscribed before me this 3rd
day of April, 2012.

[Signature] (L.S.)
Notary Public

My Commission Expires: 3/11/21

2012 MAY 30 PM 4:45
FILED
CLERK
COURT
ORANGEBURG, SC

AT
TRUE COPY
[Signature]
COURT
ORANGE COUNTY
Revised 3/2003

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Adrian Darby # 342254, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

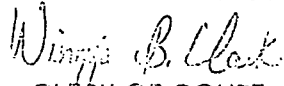

Applicant

SWORN or affirmed to and subscribed before me this
3rd day of April, 2012


Notary Public

My Commission Expires: 3/11/21

FILED
CLERK OF COURT
ORANGEBURG COUNTY, SC
2012 APR 30 PM 4:45

ATTEST: TRUE COPY

CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Adrian J. Darby, #342254,

Case No. 2012-CP-38-00805

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

The Respondent, making its Return to the application for post-conviction relief, filed May 30, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. The Applicant was indicted at the May 2010 term of the Orangeburg County Grand Jury for Burglary – First Degree (2010-GS-38-0240) and Assault and Battery of a High and Aggravated Nature (2010-GS-38-0241). Everett K. Chandler, Esquire, represented him. On August 10-11, 2010, Applicant proceeded to a jury trial before the Honorable R. Ferrell Cothran, Jr. On August 11, 2010, Applicant was found guilty as indicted to Burglary – First Degree and Assault and Battery of a High and Aggravated Nature. Judge Cothran sentenced Applicant to fifteen years imprisonment for the Burglary charge and five years for the Assault charge, with the sentences to be served concurrently.

A Notice of Appeal was filed with the South Carolina Court of Appeals. An Order of Dismissal was issued on August 5, 2011 after Applicant notified the Court of his desire to withdraw the appeal. The Remittitur was issued on August 23, 2011.

Attached herewith and incorporated herein are the records of the Orangeburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and Applicant's appellate records. The trial transcript has been ordered and will be forwarded upon receipt. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.

- ☒ a. Defense counsel failed to request a continuance because the Defendant's co-defendant, Quinton Green, would have provided the relevant testimony with regards to the Defendant's innocence.
- ☒ b. Defense counsel failed to advise the Defendant properly with regard to the sentencing and penalties.
- ☒ c. Defense counsel informed the jury that his client had a gun.
- ☒ d. Defendant talked to a member of the jury proclaiming his innocence.
- ☒ e. Defense counsel failed to call any witness given to the Defendant's counsel by Defendant."
- ☒ f. Defense counsel failed to investigate the prosecution's case.
- ☒ g. Defense counsel guaranteed a verdict of not guilty.

Any claims not specifically enumerated in the post-conviction application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's

conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

By: Megan E. Harrigan
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

November 28 2012

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

ADRIAN J. DARBY, 342254,

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

2012-CP-38-00805

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Glenn Walters, Esquire
 Glenn Walters & Associates, PA
 Post Office Box 1346
 Orangeburg, SC 29116-1346

DATED this 28th day of November, 2012.

Lauren Meara
 Lauren Meara, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

2 COUNTY OF ORANGEBURG

CASE NO. 2012-CP-38-0805

3 ADRIAN DARBY)

4 vs.)

TRANSCRIPT OF RECORD

5 STATE OF SOUTH CAROLINA)

7 OCTOBER 31, 2013

8 ST. GEORGE, SC

9 B E F O R E:

10 HONORABLE DIANE S. GOODSTEIN

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

13 GLENN WALTERS, SR., ESQUIRE
Attorney for the Applicant

14 MEGAN E. HARRIGAN, ESQUIRE
15 Attorney for the State

16 Ruth L. Mott, RPR, CRR
17 Official Court Reporter

1 I N D E X

2

3 WITNESS DIRECT CROSS REDIRECT RECROSS

4 ADRIAN DARBY

MR. WALTERS 11

5 MS. HARRIGAN 34

6 EVERETT CHANDLER

MS. HARRIGAN 46

7 MR. WALTERS 62

8

9 CERTIFICATE OF REPORTER 66

10

11

12 E X H I B I T S

13 NO. DESCRIPTION ID EVD

14 (NONE MARKED)

15

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17

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1 THE COURT: All right. Good afternoon, Mr. Darby.

2 THE APPLICANT: Good afternoon.

3 THE COURT: Feel free to be seated, please. All right,
4 yes, sir, Mr. Walters.

5 MR. WALTERS: May it please the Court.

6 THE COURT: Yes.

7 MR. WALTERS: Your Honor, I had an opportunity to meet
8 my client, Mr. Darby. As you can see, the left side of his
9 face is visibly swollen. He informed me that he was in a
10 fight on Saturday --

11 Is that correct?

12 THE APPLICANT: Yes.

13 MR. WALTERS: -- and I believe that there were three
14 individuals involved in the fight, and certainly he can
15 testify about it. It's my understanding that he believed he
16 was coming here for a medical evaluation, and he did not
17 bring his PCR materials or anything of that nature, and he
18 alleges that he believes his jaw is broken, and I honestly
19 told the Court what you said, that you informed the prison
20 officials that you had fallen because you didn't want any
21 repercussions from anybody coming after you again with
22 regards to the fight. And I informed my client, well, you
23 have to tell the Court the complete truth, even though you've
24 made representations at the jail, with regards to the
25 altercation that occurred, and he's here before the Court

1 now.

2 THE COURT: And so the relief that's requested, Mr.
3 Walters, today is?

4 MR. WALTERS: Is a continuance at this time, and my
5 client says he is medically unable because of the fight that
6 occurred on, I believe it was Saturday.

7 THE APPLICANT: Yes.

8 THE COURT: Okay. Yes, ma'am.

9 MS. HARRIGAN: The state would oppose a continuance
10 request. This application was filed last year by Mr.
11 Walters. It would be the state's position that Mr. Walters
12 at least sounds like is prepared to go forward personally
13 today. Additionally, we've got Mr. Chandler here, who left
14 Aiken in the very early morning hours to come down here.
15 He's a sole practitioner and has been here patiently waiting
16 and ready to go, and the state's prepared to go forward
17 today.

18 THE COURT: All right, yes, and would you be prepared to
19 go forward?

20 MR. WALTERS: Your Honor, I'd like some testimony from
21 my client about what happened and where he stands at this
22 time.

23 THE COURT: Yes. I understand. Yes, sir.

24 THE APPLICANT: Want me to stand?

25 THE COURT: Yes, thank you.

1 THE APPLICANT: I came to Court today because I wanted
2 to have a fair chance in proving my innocence. I wasn't
3 aware that I would be coming to trial, so I didn't bring any
4 of my materials, and I haven't talked -- I've just spoken to
5 my lawyer ten minutes ago. We haven't had time to go over
6 anything or to know exactly what would be our -- I would know
7 what his defense would be.

8 THE COURT: Now, how many times have you all met?

9 THE APPLICANT: This year? We have not met any time
10 this year.

11 THE COURT: In all of 2013?

12 THE APPLICANT: No.

13 THE COURT: How many times have you met with him?

14 THE APPLICANT: Last year we met around about three
15 times.

16 THE COURT: And where are you currently residing?

17 THE APPLICANT: Allendale Correctional.

18 THE COURT: And the papers that you're concerned about,
19 does Mr. Walters have them, have you talked to him about what
20 specific papers you're talking about?

21 THE APPLICANT: I've talked to him about specific things
22 that I wanted to enlighten him on, but I wanted to make sure
23 that I have the best case to prevent today and the best
24 health to do that.

25 THE COURT: Sure.

1 THE APPLICANT: I haven't really been able to have
2 counsel by him other than the ten minutes that we had a few
3 minutes ago, and I want to have my best shot. I know it's a
4 lot for everybody to be here today but, you know, I only get
5 one time to do this thing the right way, so I want to be sure
6 that I have the best chance to do so.

7 THE COURT: I understand. Again, let me ask, the papers
8 that you were concerned about, have you told Mr. Walters what
9 are the individual documents that you're concerned about are
10 back in Allendale?

11 THE APPLICANT: They're basically a lot of notes that I
12 have taken and a lot of things that I wanted to have to be
13 ready to have, some things I wanted straightened out, and I
14 haven't been able to have counsel with him until ten minutes
15 ago, and I wanted to be able to see him at least a few weeks
16 prior to me being here so we could be prepared, and I'm just
17 not prepared today at all.

18 THE COURT: I understand.

19 THE APPLICANT: And I'm in excruciating pain other than
20 that.

21 THE COURT: I understand. Well, here's my concern, my
22 concern is that Mr. Chandler's been here long enough, and I
23 don't want to require him to come back because he has been so
24 patient, and he has been here all day. And so you have the
25 application, right?

1 MS. HARRIGAN: Yes, Your Honor.

2 THE COURT: Did you file the application, Mr. Walters,
3 or did your client file the application?

4 MR. WALTERS: We filed the application, Your Honor, and
5 we --

6 At that time I think you were in Bishopville.

7 THE COURT: In Bishopville?

8 MR. WALTERS: Right, and we visited with him on three
9 different occasions, and then we hired a private
10 investigator, and the private investigator was able to obtain
11 some of the information that we needed, and then we filed the
12 PCR, so after hiring Danny McDaniel and the three different
13 visits, and of course he's corresponded with me in letting me
14 know exactly what he wanted to have done, and after the three
15 visits and hiring the PI and putting it together we filed the
16 PCR.

17 THE COURT: I understand. I am with you completely.
18 Counsel let me see you just a second, please.

19 (Judge and attorneys confer.)

20 THE COURT: All right. I wanted to have a side bar with
21 counsel, and I've done that, and of course Mr. Walters
22 continues to maintain that his client has shared with him he
23 doesn't feel as though he physically, and I think the term is
24 as good as he could be, and I certainly empathize with that
25 and certainly empathize that he doesn't have his documents,

1 although I notice that Mr. Walters has got the file with him,
2 and it looks to me to be about six inches thick, the file, so
3 I'm fairly satisfied that documents that the applicant would
4 need no doubt are with counsel. If not, you all let me know.
5 If there's something that needs a late submittal, then we'll
6 deal with that at the conclusion. I would be prepared to go
7 forward at this time, just considering everything.

8 Mr. Walters, you had three opportunities to meet with
9 your client. You helped him and assisted him in filing the
10 application, and you've had a private investigator, and I see
11 no indication that you would not be prepared to go forward
12 today. And with regards to your client's testimony, in that
13 we don't have to be concerned with a jury and we have good
14 amplification, your client doesn't have to move his mouth so
15 much that he would be uncomfortable, and we can certainly get
16 assistance from our amplification system, which I would be
17 prepared to do so everyone can hear him. And in considering
18 whether I think your client would be prejudiced, I really
19 don't believe he would be, and I think that the matter was
20 noticed and needs to go forward today. And obviously we've
21 had trial counsel here all day, and I think we need to go
22 forward. If at the conclusion of today we think that we need
23 to do something in addition, you all just let me know, and I
24 certainly will be more than willing to consider that.

25 So I am prepared to go forward if you will please give

1 me the procedural background please, Ms. Harrigan, and then
2 I'm going to turn it over to Mr. Walters.

3 MS. HARRIGAN: May it please the Court.

4 THE COURT: Yes.

5 MS. HARRIGAN: This is the matter of Adrian Darby versus
6 the State of South Carolina, Docket No. 2012-CP-38-0805.

7 Mr. Darby was indicted during the May 2010 term of the
8 Orangeburg County Grand Jury for burglary in the first degree
9 and assault and battery of a high and aggravated nature. He
10 was represented by Everett Chandler, who is present in the
11 courtroom today. Following a jury trial before the Honorable
12 R. Ferrell Cothran, Jr. on August 10 through 11, 2010,
13 applicant was convicted as indicted, and Judge Cothran
14 sentenced applicant to 15 years for burglary in the first
15 degree and 10 years for assault and battery of a high and
16 aggravated nature. A notice of appeal was filed, and an
17 appeal was perfected on applicant's behalf; however, an order
18 of dismissal was issued on August 5th, 2011, after Mr. Darby
19 notified the Court of his desires to withdraw his appeal.

20 The remittitur was issued thereafter on August 23rd, 2011.

21 Mr. Darby filed an application for post conviction relief on
22 May 30th, 2012, alleging ineffective assistance of counsel
23 for failing to request a continuance because Codefendant
24 Quinton Green would have provided relevant testimony
25 regarding Mr. Darby's innocence, failing to advise Mr. Darby

1 properly regarding sentencing and penalties, informing the
2 jury that Mr. Darby had a gun, that Mr. Darby talked to a
3 member of the jury proclaiming his innocence during the
4 trial, failing to call any witnesses provided by Mr. Darby,
5 failing to investigate the prosecution's case and guarantying
6 a verdict of not guilty. He's represented in this action by
7 Glenn Walters.

8 THE COURT: All right. Yes.

9 MR. WALTERS: May it please the Court.

10 THE COURT: Yes, sir.

11 MR. WALTERS: Your Honor, at this time we would call Mr.
12 Adrian Darby.

13 THE COURT: All right. Mr. Darby, don't you move your
14 mouth any more than you need to because I've got plenty of
15 microphone, okay, and you take your time and you take it
16 slow, okay.

17 THE APPLICANT: Yes, ma'am.

18 THE COURT: Very well, thank you. And if you would
19 state your full name for the record.

20 THE APPLICANT: Adrian Jermaine Darby.

21 THE COURT: See, I've got good microphones.

22 THE APPLICANT: Yes.

23 THE COURT: Your witness.

24 MR. WALTERS: May it please the Court.

25 THE COURT: Yes, sir.

1 DIRECT EXAMINATION BY MR. WALTERS:

2 Q. Mr. Darby, I believe that we've met several times. I
3 believe you were in Bishopville, is that correct?

4 THE COURT: Hold on one second. I've got to swear him
5 in.

6 ADRIAN DARBY,
7 being first duly sworn, testified as follows:

8 Q. Mr. Darby, I believe that we met several times when you
9 were incarcerated at Bishopville.

10 A. Yes.

11 Q. Is that correct?

12 A. Yes.

13 Q. And we had an opportunity to sit down and talk about the
14 representation that was provided by Attorney Chandler, who's
15 before the Court today; is that correct?

16 A. Yes.

17 Q. And in discussing your case, I believe you were
18 convicted of a burglary first, is that right?

19 A. Yes.

20 Q. And you were also convicted of ABHAN, is that correct?

21 A. Yes.

22 Q. And I believe the sentence was run concurrent.

23 A. Correct.

24 Q. And I believe you were sentenced by Judge Ferrell
25 Cothran, is that right?

1 A. That's right.

2 Q. When we had an opportunity to sit down and discuss your
3 case, there were several issues that you believe that your
4 attorney did not address fully, and you believe they were in
5 error, and as a result of that you were incarcerated, is that
6 right?

7 A. Yes.

8 Q. When we talked, the first issue that you brought up with
9 regards to your case was with regards to a gentleman that we
10 referred to as QP. Would you tell the Judge, who is QP?

11 A. Quinton Green, my best friend at the time.

12 Q. And Quinton Green, I believe, was also a codefendant
13 that was charged in this case, is that right?

14 A. Yes.

15 Q. And it's my understanding that QP is the nickname you
16 call Quinton Green?

17 A. Quinton Green.

18 Q. He was present when this alleged offense occurred, is
19 that right?

20 A. Yes.

21 Q. It's my understanding that it's alleged that you and QP
22 or Quinton Green arrived at the home of the Cruzes, is that
23 correct?

24 A. Yes.

25 Q. And when you arrived at the home of the Cruzes it is

1 alleged that you got out of the vehicle and you made an
2 unlawful entry in the home, is that right?

3 A. No, that's not right. It's alleged.

4 Q. That's what's alleged. And then there was a shooting
5 that occurred within the home, is that right?

6 A. That's correct.

7 Q. And there were also children present in the home?

8 A. That's correct.

9 Q. And I believe the Cruzes were also present in the home,
10 is that right?

11 A. Correct.

12 Q. All right. And did you believe that the testimony of
13 Quinton Green, QP, would be essential to your case?

14 A. Yes.

15 Q. Why did you believe his testimony would be essential to
16 your case?

17 A. Because he was there, and being that I was being
18 charged, charged with this burglary, he could have proved
19 that I was not -- I did not break into the house or I did not
20 go there with any intent to do a crime in the dwelling or the
21 home. I knew Quinton basically all my life, we grew up
22 together, so I knew that his testimony would have been very
23 strong in my case, and him being there present, he could have
24 shed some light on what happened. See, Quinton was later --
25 when Quinton was caught, the burglary first charges were

1 dropped on Quinton, so I'm trying to make sure that I can --
2 I would have got him to do the same to explain to them what
3 was going on.

4 Q. All right. So let me make sure I'm clear about your
5 testimony. First of all you're saying that Quinton Green had
6 personal knowledge of what went on in this particular event.

7 A. That's right.

8 Q. And it's your understanding that Quinton's testimony
9 also would have been favorable towards your case.

10 A. That's right.

11 Q. And Quinton, he was a witness that we did not have to
12 subpoena that would have simply come in and volunteered and
13 testified because of his friendship with you?

14 A. That's right.

15 Q. Did you discuss this matter with your attorney?

16 A. Yes.

17 Q. What information did you provide to Mr. Chandler to
18 inform him this witness is credible, this witness is
19 integral, he needs to be there with regards to my case?

20 A. I've actually -- it's been times where I've told him
21 about Quinton, Quinton -- gave Quinton his name, and I tried
22 to do as much as I can to help him with his research and tell
23 him, you know, where everybody could find him, anything that
24 would help him in helping out the case.

25 Q. And Quinton would have voluntarily come in and

1 testified, offered a statement?

2 A. He would have came in -- he would have came in and
3 volunteered to see Chandler, he would have came in to see
4 Chandler.

5 Q. Attorney Chandler, is that correct?

6 A. Mm-hmm.

7 Q. And during your trial or at the start of your trial when
8 it was time to present your case did he present Quinton
9 Green, Mr. QP?

10 A. No, he did not.

11 Q. And what was your reaction when that happened?

12 A. I didn't really know what to expect would happen, but I
13 was really furious about it because I know that he was the --
14 other than the Cruzes, he would be the only person that could
15 vindicate me of not being -- breaking into that house, so it
16 was basically, without him saying anything, it was my word
17 against theirs, and it really hurt my case him not being
18 there or having anyone to speak up for me on my behalf.

19 Q. So there was no motion made for a continuance with
20 regards to your case?

21 A. There was no motion or anything made for a continuance
22 on my case, no affidavits, anything.

23 MR. WALTERS: Your Honor, I'd ask the Court to take
24 judicial notice of, I might be quoting it right, I think it's
25 115(c) under the South Carolina Rules of Criminal Procedure

1 where it simply requires that if there's a continuance to be
2 granted with regards to a witness that's unavailable, an
3 affidavit is to be submitted stating the content of what the
4 witness will testify about and then of course that you've
5 made an attempt to find that witness and as a result it would
6 be a detriment to your client's case and you're asking for a
7 continuance.

8 THE COURT: All right. Very well.

9 Q. Does the record reflect that was ever done in your case,
10 sir?

11 A. No, no, sir.

12 Q. So there was no continuance and the procedure to get the
13 continuance with regards to this crucial witness was never
14 taken?

15 A. None whatsoever.

16 Q. And did you bring that to your lawyer's attention?

17 A. Yes, I did.

18 Q. So he knew about it --

19 A. Yes.

20 Q. -- he was aware of it, and your testimony is that he
21 failed to ask for the continuance to make sure he was there.

22 A. Yes.

23 Q. Was this gentleman out on bond at the time that your
24 trial was going on?

25 A. Yes, he actually -- this gentleman was out, and I don't

1 know if he was actually charged with a burglary first yet or
2 if he was -- if he was even caught or what was the case going
3 on with him, what was the situation, but I know he was out,
4 he was on the streets.

5 Q. And I believe it's your testimony that he was out on
6 bond, so in other words he was charged with an offense; is
7 that correct?

8 A. I believe that he was out on something else on bond. I
9 don't know if it was the same charge.

10 Q. But it's your understanding that law enforcement and the
11 authorities, his bondsman, could put their hands on him, is
12 that right?

13 A. Right.

14 Q. And, nevertheless, he never appeared for your trial.

15 A. No.

16 Q. Was he subpoenaed?

17 A. Not that I know of.

18 Q. And I believe that's the first grounds that you've
19 argued as to why your case suffered a great detriment, is
20 that right?

21 A. That's right.

22 Q. And I believe I advised you that we'd also talk to you
23 and other individuals, and you say QP was integral to your
24 case, is that right?

25 A. Right.

1 Q. But he had personal knowledge.

2 A. Right.

3 Q. Now, the second issue that you raised with regards to
4 your case is with regards to a member of a jury and an
5 exchange that occurred with a member of the jury; is that
6 correct?

7 A. Okay, yes, I had in my case where the Solicitor Sorenson
8 had brought up a Batson issue, and the Batson issue, we
9 already had members that were -- which were supposed to be
10 appointed to the jury. When he made the Batson issue, the
11 judge ruled for the jury to leave the courtroom. / Some of the
12 jurors, once the Batson issue -- the Batson issue that he was
13 claiming was that I was being prejudicial on how I was
14 picking my juror members, but I was only picking them
15 according to how I was instructed by my attorney, Mr.
16 Chandler, so when I picked the members, I struck one of the
17 people for which was the way that she was looking at me,
18 which demeanor's usually a race neutral reason for striking
19 any juror. The judge ruled that it was not a race neutral
20 reason, it was not a race neutral reason, but they failed to
21 show all three steps of what they would have to uphold for
22 Batson. While this was going on Mr. Everett Chandler gave
23 his explanation as to why I chose the jurors that I picked,
24 he gave answers for jury members that was not even in the
25 courtroom, that they didn't even show up for jury, they were

1 on the jury list, but they didn't even show up that day so
2 when -- so the Solicitor Sorenson pointed out that the juror,
3 the juror that he was picking up, I mean that he was pointing
4 out, wasn't even there, they didn't even show up and didn't
5 hear about my Batson, so which the judge ruled on Solicitor
6 Sorenson's side of him having Batson, which a Batson can be
7 disproved by showing that there's an equal number of opposite
8 race people sitting in the panel, which would be white
9 people, which it didn't work in my favor. So when they
10 adjourned for the jury -- not jury but when we adjourned for
11 a recess, I was getting on the elevator --

12 Q. Well, before you go there, you've discussed your issue
13 with regards to Batson, and I believe another element of your
14 PCR was with regards to the fact that you had selected a
15 jury --

16 A. Mm-hmm.

17 Q. -- and then the jury was impaneled.

18 A. Right.

19 Q. And you broke for lunch.

20 A. That's right.

21 Q. And it's your testimony now based on another prong of
22 your PCR that you had contact with some member of the jury,
23 is that correct?

24 MS. HARRIGAN: Your Honor, the state would object for
25 the record. There has been no allegation raised in regards

1 to the Batson issue.

2 THE APPLICANT: It's in my transcripts, it's in the
3 transcripts. I don't know what page, don't have my paperwork
4 with me, my transcripts. That was why my jury was picked
5 over again. I had two juries, some of the people from the
6 first jury made it to the second jury, and you can look into
7 that and tell that they were picked twice.

8 THE COURT: Okay. Hold on one second.

9 Yes, sir, Mr. Walters.

10 MR. WALTERS: I'm prepared to move forward to the next
11 prong of the PCR.

12 THE COURT: Very well.

13 Q. Mr. Darby.

14 A. Yes.

15 Q. It's alleged in your PCR that you talked to a member of
16 your jury.

17 A. Mm-hmm.

18 Q. Did you do that?

19 A. Yes.

20 Q. First tell the Court the content of what was said and
21 when it occurred.

22 A. When we broke for recess, I went to get on the elevator.
23 When I went to get on the elevator, there were two young
24 ladies, one was a little older and one was a little younger,
25 believed to be the daughter of the jury member, and when I

1 got on the elevator, she asked me, she said, when this will
2 be all over. I said, ma'am, I said that I'm the defendant,
3 you're here for me. I think at the time she must have
4 thought I was a lawyer, a lawyer, and so told her that I was
5 a defendant. And, well, she looked at me, she got quiet, and
6 I told her, I said, well, if it's any consolation, I said,
7 not guilty, and when I came downstairs when the elevator got
8 to the bottom floor, I came -- Everett Chandler, he was
9 sitting outside talking to my mother and my grandmother and
10 everybody, and I told him what happened, and after I told him
11 that, he didn't never bring it up no more or told anyone
12 about it.

13 Q. And I believe when you informed me of that information,
14 I went out and hired a private investigator; is that correct?

15 A. That's right.

16 Q. And I believe that you picked out Juror No. 99, a Rose

17 A. Keller?

18 A. That's right.

19 Q. And as an officer of the court, you're aware of what the
20 investigation revealed from my investigator talking to Rose
21 Keller.

22 A. That's right.

23 Q. And she denied talking to you.

24 A. That's right.

25 Q. And she denied riding on the elevator with you. But go

1 ahead and explain in content what happened after you revealed
2 this information.

3 A. To Everett Chandler?

4 Q. Yes.

5 A. After I revealed to Everett Chandler about me talking to
6 her, he asked me about two questions about it, and then he
7 went back to the initial what would happen once we came back
8 from recess and how it would start, but he didn't say
9 anything or didn't advise me any more about that.

10 Q. The next prong of your PCR deals with the issue of you
11 believe that Mr. Chandler or Attorney Chandler failed to
12 properly investigate your case.

13 A. Right.

14 Q. Tell me the elements of why you believe that he failed
15 to properly investigate your case.

16 A. Because everything that, basically, Everett Chandler
17 knew is what I told him from me trying to help him out the
18 best way I could. He did not know that the people that were
19 the alleged victims, they were on probation and parole and
20 they had prior history. They had a prior forgery, prior
21 burglary in the second and also on probation, so they had
22 reason to lie and to cover up, cover up behind themselves to
23 what actually happened that day. When I told him about it,
24 he did not know, and I told him at trial. He went to tell
25 Sorenson. Sorenson knew, but Sorenson didn't tell him the

1 whole thing about the victims and the history. And I wanted
2 to get on the stand and take the stand and tell, but he
3 advised me against it. I had no record other than a prior
4 failure to stop for a blue light and misdemeanor charges, and
5 I felt that if I would have got on the stand, I would have
6 been able to tell the jury more on my side, let them know
7 where I was coming from, who I was, instead of letting them
8 paint this picture. And there were a lot of things that was
9 said at the trial that prejudiced me, and was writing down,
10 telling him, why don't you object, why don't you say this.
11 And he's telling me, well, let's let them hang themselves,
12 what they're saying is good for you, let them hang
13 themselves. I didn't know that you would have to object to
14 things to preserve to them at trial, and a lot of things that
15 was detrimental to me my lawyer let them say and let them
16 just make me -- pointing me out to be a monster, make me look
17 like something I wasn't, so to me I felt like the jury had
18 its side, when they saw who -- saw the negativeness against
19 me overwhelmed, and they wasn't really able to see, okay,
20 this was a working man that didn't have a prior history, what
21 makes him just wake up some day and break in somebody house.
22 I have in my motion discovery, if I had it today, I have
23 where they tell -- they write down that I takes their
24 daughters to vacation with me, I take their daughters to
25 family reunion with me. At the same time they points out

1 that I just breaks out and breaks in your house for no
2 reason. They never sent in any of the paperwork that I
3 actually stole anything or asked to steal anything, so only
4 reason that they were trying to say that I broke in the
5 house, the burglary first, is their argument that I came
6 across the threshold of the door without being invited, which
7 any other day when I would go over there the daughters, the
8 babies always open the door for me, and I always tell them,
9 go get your parents, and they will usually go get them, but
10 this particular day they changed the routine of letting me
11 come in the house, but their daughters, I keep their
12 daughters, my mother -- they go everywhere just about with
13 me, and these are people who trust me with their child, all
14 of a sudden today they're acting like I'm not -- these people
15 say I'm not welcome in their house, but they trust me with
16 their two daughters. I didn't think I had a proper chance to
17 paint that picture to the jury because if I could have paint
18 that picture to the jury, then people with common sense would
19 have said, wait a minute, something's wrong here. This man
20 has no record, this man has a good job, this man has a
21 future. What happened? Something happened here. These
22 people are not painting the proper picture. I have in my
23 motion discovery where they tell the initial officer that I
24 showed up to the scene, I had a gun, had a shotgun one
25 moment, then the next time they changed it from a shotgun to

1 a pistol, then they said I shot in the house with a pistol
2 and a shotgun. There's no shotguns, no bullet shells, no
3 holes, no nothing, just these peoples' statements. And I
4 basically wanted to have a chance today. This is why I
5 really wanted to make sure to have my paperwork to make sure
6 I didn't miss none of my points because I know at this point
7 that I need to bring everything to the record that I can
8 remember. If I'm rambling, sorry.

9 THE COURT: You're not at all. You really are not. I'm
10 getting it.

11 THE APPLICANT: I'm just trying, like I said, I felt
12 that I was trying to help my lawyer, and I believe that he
13 could have helped me a lot more. Shania Brown, she was nine
14 years old, they put her on the stand, they asked her, they
15 said, do you know this man right here, she said, yes, that's
16 JD, she looked at me and smiled. Now this is the man that
17 they're telling them that broke in the house and pointed a
18 gun at them, but she's there on the stand and she's smiling
19 at me. She said, yes, I know JD. She said, JD break in the
20 house -- this is in my transcripts -- she should, no, JD
21 didn't break in the house because where I was sitting I
22 watched my mom and daddy open the door and let JD in, and my
23 lawyer Everett Chandler never tried to move for a mistrial or
24 anything at that point in time because the Solicitor Sorenson
25 state witness is telling them that I didn't break in this

1 house, and I'm in prison for burglary first. After that he
2 told her, well, did Mr. Darby have a gun, and she said -- she
3 looked at her mom and dad, she said, yes, Mr. Darby had a
4 gun, I mean JD had a gun, and he basically led her away from
5 the power points as a child, and her testimony is very
6 detrimental to looking at adults. And Solicitor Sorenson,
7 when he made that statement, after that he said that you
8 can't believe the statement, saying you couldn't believe her,
9 it's in my transcripts too, that you couldn't believe what
10 she said, but the truth came out the mouth of a babe, and Mr.
11 Everett Chandler even quoted this in the transcripts, a Bible
12 verse, out of the mouth of a babe. I forget exactly what
13 book. I had Phoenix Smalls and Angela Raysor, which Angela
14 Raysor was Tiffany Cruz's sister, and she could have helped
15 me out a lot to what happened and the conversations that she
16 had. And she actually had at a point in time had a phone
17 where she recorded a conversation with Tiffany and some of
18 the things they were saying, and I was trying to instruct Mr.
19 Chandler on getting the phone and maybe that could help me
20 out some more too. I wanted to do everything that I could to
21 make sure that I had the proper way of proving my innocence.
22 I ended up never really getting -- he never called them. He
23 never called them, and I guess it was a kind of strategic
24 strategy not to call them for the trial but I never -- the
25 jury never heard from Phoenix Smalls or Angela Raysor.

1 Angela Raysor wrote a --

2 Q. Mr. Darby, I believe you're eluding to another prong
3 that you brought out.

4 A. Okay.

5 Q. It's simply stated in your PCR, defense counsel failed
6 to call any witnesses given to the defendant's counsel by
7 defendant. Would you elaborate on that more, please?

8 A. He did not call Angela Raysor or he didn't call Phoenix
9 Smalls, and he did not object to anything almost the entire
10 trial. He didn't object to anything. Basically it was like
11 I showed up without counsel, and the people was allowed to
12 say what they wanted to say and paint a picture of me the way
13 they wanted to paint it, and you know, to the jurors this was
14 the person that I was because my lawyer didn't object. I
15 didn't know anything about objections. The most I've seen
16 about objections was on Perry Mason, so I didn't know
17 anything about it. I felt that Everett Chandler at the time,
18 when I went to get him, my mother was the one told me about
19 Mr. Chandler, and I thought he would be the best person to
20 help get the things that I wanted out, but the more that I
21 tried to -- sometime it would be he would set appointments,
22 and I would not be able to come all the way to Aiken because
23 I was staying in Charleston at the time. I wouldn't be able
24 to come, and we would go back and forth with -- a lot of days
25 I would go down there, and it would be only for 20 minutes.

1 I would take three hours to get from Charleston to Aiken and
2 the conversation would last 20 or 30 minutes. And I think a
3 lot of the situations, lot of situations I think that, you
4 know, I believed him to do a certain task and to -- like I
5 said, Angela Raysor actually gave Everett Chandler a
6 statement that was certified, which was never turned into the
7 courtroom, of what happened, what she witnessed and what she
8 knew of what was going on, which he never turned in on my
9 behalf, so I don't know if he has that document today or
10 whatever happened to it, but the document would have helped
11 me out a lot. Her testimony would have been very substantial
12 to me not breaking in the house and the conversation that
13 Tiffany Raysor would have with her own sister about me.

14 Q. I believe my office provided you a copy of what Mr.
15 Chandler sent us. We got a copy of the file.

16 A. Say that again now.

17 Q. I believe you're aware of the fact that we asked Mr.
18 Chandler for a copy of your file and we obtained that for
19 you.

20 A. Okay. Are you talking about of Angela's statement?

21 Q. What I'm saying is we got a copy of Mr. Chandler's file,
22 and we provided you a copy of it. You're referring to a
23 statement.

24 A. Okay. The statement was not in there. I've never seen
25 it, after that day I've never seen it or heard from it

1 anymore. It was never entered in the court or anything.
2 There were also statements -- there were also pictures that
3 were not in my initial motion discovery that Chandler allowed
4 Sorenson to enter into evidence that were not entered into my
5 motion discovery at hand, and he allowed it, but it was of a
6 front door -- matter of fact, not of a front door, of a
7 bedroom door, not of a front door.

8 Q. Now, in your PCR you also allude to another grounds for
9 your PCR. You stated here that defense counsel informed the
10 jury that his client had a gun. What are you referring to
11 there when you allude to that? Would you tell the Judge what
12 you're talking about?

13 A. Okay. When Everett Chandler opened his first statement,
14 his first statement was he stated my client smoked weed and
15 my client had a gun, so he then came back and he said
16 basically that was his strategy, came back, you know, this is
17 a strategy that I'm using, so I didn't say anything, but why
18 I was looking at him because I felt like him giving that
19 statement to the jury is almost him putting a gun in my hand
20 and painting a picture of me of activity, which is also in my
21 transcripts of him saying that I had a gun and smoked weed,
22 and so basically saying that I was wasn't no perfect person,
23 you know, inside of the jurors' eyes.

24 Q. In addition to that I believe that you also argued with
25 regards to your PCR that you were not properly advised with

1 regards to the sentencing and penalties; is that correct?

2 A. Okay. Right, because I didn't know what a violent or a
3 nonviolent was. I didn't know what a violent or a nonviolent
4 was, and there was a point where Everett told me that he had
5 talked to Solicitor Sorenson and he would give me a five-year
6 cap or -- a five-year cap, and I started weighing my options
7 of what would a burglary first, you know, if I was to lose,
8 what would I be looking at, would I be looking at a life
9 sentence or, you know, 15 to life, what would this be. And
10 he was telling me that he talked to him about a five-year
11 cap, would I take a five-year cap, and he said that was on
12 the table and that's what he wanted. And then he came to me
13 and I told him, well -- before he even told me that I said,
14 well, to get this all over with, if you'll get this all over
15 with, okay, I will agree to that. So he went in, and he came
16 back, he was like, no, that's not what they want. They want
17 you to do time. But he told me that at one time when me and
18 this former girlfriend I had, Michelle Hughes, went to see
19 him up to Aiken, he would tell me that as long as I paid him
20 all the money and as long as I did exactly what he told me to
21 do, then I would win. So my whole thing was I happened to
22 have my mother beating down on my head talking about, you
23 better make sure you pay Everett his money, pay his money. I
24 said, well, I just want to make sure that I'm paying this man
25 and he's doing what he's supposed to do.

1 Q. Well, let's talk about that because that's another
2 grounds that you alluded to in your PCR, that defense counsel
3 guaranteed a verdict of not guilty. Would you elaborate on
4 that and inform Her Honor about what exactly went on?

5 A. Basically me and Michelle Hughes, which at the time I
6 didn't have -- I wasn't really -- I didn't want to do any
7 driving, so she would do the driving from Charleston to
8 Aiken, and she would be at all the meetings that we would
9 have, would either be her, me and my mother or just me and
10 her. When I got there and I told him, I said, well, what
11 would be the chances of me losing or me winning. He told me,
12 he said, well, don't worry about losing, you know, we got
13 this, you know, just do what I tell you to do and make sure
14 that you pay me the money. And that was my understanding of
15 the guarantee, that I didn't have nothing to worry about.
16 And I felt that, you know, I'm not guilty, it should be easy
17 to prove that I didn't break in this house, you know. And
18 I'm thinking on the positive side, you know, okay, if I can
19 just prove that I didn't do this, you know, somebody with
20 common sense can see that something is not right about this
21 case, and so I believed him, I trusted him that he would do
22 what he said he would do.

23 Q. All right. Now, we've gone through one, two, three,
24 four, five, six, seven different grounds that you asked for
25 this PCR to be granted because you believe there was

1 ineffective assistance of counsel. During the trial of this
2 case, first of all, did you testify?

3 A. I never testified.

4 Q. All right. And why?

5 A. Counselor Everett Chandler, he didn't want me to do that
6 because he said that he wanted to have the closing argument,
7 he wanted to have closing argument, that's what he told me.

8 Q. Now, I understand that this weekend you suffered a
9 terrible beating.

10 A. Mm-hmm.

11 Q. And of course you came to Court today and you thought
12 you were on a medical process of getting your face looked at.

13 A. I found out yesterday that it wasn't medical, so I knew
14 today that today was the PCR.

15 Q. We had an opportunity to discuss many of the issues that
16 we discussed while you were incarcerated at the jail. In
17 fact, I believe you even came by my office before you went to
18 trial and I told you I couldn't talk to you because you were
19 represented by a lawyer.

20 A. At the time I had Everett Chandler, and I didn't think
21 that he was, he was representing me the right way, but my
22 mother was telling me, well, he's a good lawyer. So it's
23 better to listen to mama when she tell you to do something,
24 but I came to see you while he was my counsel.

25 Q. Right, and I believe I informed you if you're

1 represented by someone, that's your attorney, you need to go
2 forward, and if you have a disagreement with that lawyer, sit
3 down and discuss it with him and try to go through the
4 issues.

5 A. Right.

6 Q. Now, the issues that we've discussed today, does that
7 represent the totality of the circumstances of what went on
8 and the issues that were really driving you and why you
9 believe Mr. Chandler, as you allege, that he did not
10 effectively represent you?

11 A. I think that we brought a lot of the issues up, and it
12 may be some that I'm even forgetting because I wasn't
13 prepared for this day, but I'm doing the best I can, so I
14 would say, yes, we've done a good job trying to total up
15 everything. I just felt that he should have -- he can't
16 prove to me right now that he done anything. He took my
17 money, but he couldn't tell me what he did, what
18 investigation, he didn't have no investigator or anything on
19 my behalf like such as yourself did for me, so it was
20 basically I showed up and you tell me what I want to hear,
21 but works -- there was no work, no paperwork to back up the
22 work.

23 MR. WALTERS: All right. Well, I'd like for you to
24 answer any questions the Attorney General's office has with
25 regards to your case.

1 THE WITNESS: Okay.

2 MS. HARRIGAN: Your Honor, may we have a brief restroom
3 break before cross?

4 THE COURT: Absolutely.

5 (Recess held.)

6 CROSS-EXAMINATION BY MS. HARRIGAN:

7 Q. Mr. Darby, I believe you testified before that you
8 retained Mr. Chandler, correct?

9 A. Yes.

10 Q. Do you recall how long before your trial you retained
11 him?

12 A. I would say almost a year.

13 Q. Had you previously been represented by Mr. Chandler?

14 A. No.

15 Q. How did you come to learn of Mr. Chandler and his
16 services?

17 A. From my mother.

18 Q. And your mother recommended hiring him?

19 A. Correct.

20 Q. How many times did you meet with him before going to
21 trial?

22 A. I met with him maybe anywhere between four and five --
23 four to six times, somewhere between there.

24 Q. And I believe you testified you were living in
25 Charleston at the time and his office is in Aiken, correct?

1 A. That's right.

2 Q. Did you have some difficulty getting up there because --

3 A. Yes, sometime I did and sometime Everett Chandler
4 wouldn't be there.

5 Q. Did you ever have any missed appointments, you made
6 appointments with him and you just couldn't make it up to
7 Aiken?

8 A. Yes, it's been some of those.

9 Q. Did you ever discuss your case on the phone with him?

10 A. No.

11 Q. Did you ever correspond with him by written letter about
12 your case?

13 A. No.

14 Q. So he never sent you any letters regarding your case?

15 A. As in legal documents-wise, things I'm supposed to have,
16 in that way, yes.

17 Q. He did send you your discovery?

18 A. He did send me a discovery.

19 Q. Did he send you a complete packet of it?

20 A. Basically had all the basic things in it. When you say
21 complete package, what do you mean by that?

22 Q. The various evidence the state intended to use against
23 you at trial.

24 A. It didn't have all the -- it had some pictures, but it
25 didn't have all the pictures that the state had. From my

1 knowledge I think that it was what he was provided with,
2 that's what he gave me.

3 Q. To the best of your recollection everything you received
4 is everything your attorney had?

5 A. To my best of my recollection, yes.

6 Q. Did he also write you letters advising you of your
7 case's progress?

8 A. No.

9 Q. So your testimony is he never sent you a letter
10 regarding your case?

11 A. No, he sent me letters regarding my case on letting me
12 know what he was filing, some things that he was filing, as
13 in me getting my motion discovery, him trying to get my
14 motion discovery, but basically, no. And it's been a time or
15 so when I wasn't able to give him money where he was -- he
16 would ask about money.

17 Q. And you did retain him, correct?

18 A. Yes, my mother -- my mother, me and Michelle Hughes went
19 to go retain him.

20 Q. Did you discuss the discovery with your attorney after
21 he mailed it to you?

22 A. Yes, we have.

23 Q. Do you recall how many times you discussed that
24 discovery with him?

25 A. We discussed it maybe twice, maybe twice, two or

1 three -- maybe twice, I think, yes, twice.

2 Q. Did you discuss the potential witnesses the state would
3 call against you?

4 A. Yes.

5 Q. Do you recall what witnesses he said the state would
6 likely call against you?

7 A. He didn't do a good job with that because they called
8 the EMS that he didn't know was going to be there, an EMS
9 that basically didn't know anything was going on, and they
10 called Cruz Moore, Shania Brown and Tiffany -- Tiffany Cruz
11 and Jonathan, I forget his last name, Jonathan.

12 Q. Raysor?

13 A. Raysor, that's right.

14 Q. Beyond the EMS witness that you didn't know would be
15 called, you discussed Tiffany Cruz and Jonathan and the child
16 Brown with your attorney?

17 A. I did not know that the child would be -- would be used.
18 I knew that Tiffany and Cruz would take the stand. I didn't
19 think Jonathan would take the stand either. I was not really
20 advised who would take the stand against me until the judge
21 got up, and those were the three names I think that were on
22 Solicitor Sorenson's list for witnesses.

23 Q. Do you recall discussing possible defenses with Mr.
24 Chandler?

25 A. Actually, he basically -- I just listened and he talked.

1 Q. What defenses did he talk to you about?

2 A. Well, his defense, he really didn't give me a defense of
3 where we were really going with it. I really didn't
4 understand our defense. It seemed more to me that he was
5 trying to put everything off on my codefendant and not really
6 trying to show my innocence in the burglary, just more or
7 less letting them paint a picture, and he elaborated on the
8 holes that they painted, that's what seemed to be his defense
9 that I saw.

10 Q. I believe you just testified that one of the defenses he
11 talked to you about was trying to put everything on your
12 codefendant, QP or Quinton Green, correct?

13 A. Right.

14 Q. Do you recall him discussing with you that your defense
15 to burglary in the first degree would have been that you were
16 invited into the home?

17 A. Say that again now.

18 Q. Did he discuss with you the defense to your burglary
19 charge that you'd been invited into the home of the Moores?

20 A. We discussed that and we discussed that I was trying
21 to -- he basically knew everything as I went through and ran
22 everything down to him that happened, and that's what
23 basically he was -- he was leading me, he was leading me,
24 yes.

25 Q. I believe you testified on direct that you did give your

1 attorney some potential witnesses that you wanted him to
2 investigate, correct?

3 A. That's right.

4 Q. A Phoenix Smalls?

5 A. That's right.

6 Q. And an Angela Raysor?

7 A. That's right.

8 Q. Did you give him full names for both of these
9 witnesses --

10 A. Yes.

11 Q. -- not nicknames?

12 A. Yes.

13 Q. Did you give him addresses?

14 A. He had all of that.

15 Q. You did give him full addresses?

16 A. Yes, right, and I also, if it would have took that, we
17 tried to arrange days where that he could meet with them, but
18 I wanted him to meet with them on his own, so I gave him the
19 phone numbers and the names of everything that he could
20 contact them if he needed to, but he never did so.

21 Q. Do you have Phoenix Smalls or Angela Raysor here today
22 to testify for you?

23 A. No, I do not.

24 Q. Did you ever ask your attorney to negotiate a plea offer
25 with the state?

1 A. He basically started that on his own, but what he did,
2 he informed me of a five-year cap, then he said a ten-year
3 cap. And I told him, I said, you know -- he told me, once I
4 denied it, you know what you'll be facing, I said yes, I said
5 I came to you because I believe in you to be able to
6 vindicate me. You're a good lawyer. If you do your job,
7 I'll never go to prison.

8 Q. I believe you just testified you knew what you were
9 facing. Mr. Chandler had informed you that burglary carried
10 a mandatory minimum of 15 years?

11 A. Me and Everett Chandler, the day that we -- I came up
12 the last time before our trial date we had, it was kind of
13 like a roll call, I think. When he asked me about if I would
14 take the plea, I told him, no, I didn't want the plea, and he
15 explained to me, do you know what you could be facing. I
16 said yes.

17 Q. So you understood you could receive up to a life
18 sentence for burg three in the first degree?

19 A. Yes.

20 Q. And this was before your trial.

21 A. This was before my trial, yes.

22 Q. At your trial Mr. Chandler cross-examined all of the
23 state's witnesses, correct?

24 A. Mr. Chandler, yes, he did his best to cross-examine some
25 of them, yes.

1 Q. And he cross-examined both victims Tiffany Moore and
2 Cruz Moore regarding whether or not you were invited into the
3 home, correct?

4 A. Yes.

5 Q. And I believe he elicited from both of them that you
6 were actually family friends, there was some sort of familiar
7 connection between Tiffany's family and your family, correct?

8 A. Right, right, that's correct.

9 Q. And Tiffany's daughter Shania --

10 A. That's right.

11 Q. -- Brown actually testified that you were invited into
12 the home, correct?

13 A. That's right.

14 Q. And your attorney, Mr. Chandler, discussed with both
15 Tiffany and Cruz that there were drug sales going on in the
16 home, correct?

17 A. Yes.

18 Q. That Cruz was a marijuana dealer, correct?

19 A. Correct. But he also allowed them to paint a picture of
20 me of being the drug dealer, that they -- when they started
21 talking, they tried to paint -- he tried to paint a picture
22 of me being a drug dealer. My lawyer never rejected or
23 objected to anything, to his statements that he was saying
24 against me.

25 Q. That Cruz was saying against you that you were a drug

1 dealer, correct?

2 A. Yes.

3 Q. And your attorney, during cross-examination, actually
4 pointed out that you had been purchasing drugs from Cruz the
5 evening before, correct?

6 A. Yes, he made that statement, yes.

7 Q. And you had been jumped or robbed following this drug
8 purchase, correct?

9 A. Correct.

10 Q. And explained to the jury that you had a reason to fear
11 for your safety, correct?

12 A. Yes.

13 Q. Do you know if he cross-examined the state's witnesses
14 regarding your codefendant, QP, as you call him, or Quinton
15 Green?

16 A. They basically told the story and he asked some
17 questions. What do you mean by cross-examine? What do you
18 mean exactly?

19 Q. Did he ask him questions about the level of involvement
20 QP, Mr. Green, had, whether he was the one who actually
21 assaulted Cruz?

22 A. Yes, he did, yes, he did.

23 Q. Do you recall the testimony of the chief investigating
24 officer, Bobby Jones?

25 A. Yes.

1 Q. And your attorney, Mr. Chandler, discussed the fact that
2 the state itself couldn't find QP.

3 A. Yes, I think he did.

4 Q. And he highlighted that fact to the jury during
5 cross-examination as well as closing, correct?

6 A. I don't know as well as closing but I know that he did
7 try to highlight that fact.

8 Q. Showed the jury that QP wasn't here to be accountable
9 for the crimes he'd committed, correct?

10 A. Right, right.

11 Q. And again, this was part of the defense you discussed
12 previously to show that QP was the one who was involved, not
13 you, in the assault?

14 A. Quinton Green, yes.

15 Q. One of your allegations is that you said you talked to a
16 member of the jury, correct?

17 A. That's correct.

18 Q. And did you hear your attorney today, Mr. Walters, say
19 that he had an investigator go talk with the juror?

20 A. Yes.

21 Q. And that the juror denied ever speaking with you?

22 A. Yes.

23 Q. Another one of your allegations is that Mr. Chandler
24 guaranteed you a verdict of not guilty, correct?

25 A. Yes.

1 Q. What specifically did he say to you?

2 A. Basically he told me as long as I paid the money, paid
3 him money, let him have everything, and that I would win. He
4 also made this allegation in front of Michelle Hughes, which
5 was my girlfriend at the time that would go with me.

6 Q. Is Michelle Hughes here today?

7 A. No, she's not.

8 Q. The trial court advised you on your right to testify,
9 correct?

10 A. He advised against it.

11 Q. I know Mr. Chandler did, but do you recall the trial
12 court, the judge talking to you on the record about your
13 right to testify?

14 A. Not really, no.

15 MS. HARRIGAN: Court's indulgence for a moment, Your
16 Honor.

17 THE COURT: All right.

18 Q. And I believe your testimony on direct was that your
19 codefendant, Quinton Green, was your best friend at the time
20 of the incident, correct?

21 A. Yes.

22 Q. And was your best friend at the time of the trial,
23 correct?

24 A. I didn't know where he was at at the time of my trial.

25 Q. At the time of your trial you didn't know how to locate

1 him?

2 A. No.

3 Q. Didn't have a current address for him?

4 A. No.

5 Q. Did you know a phone number for him?

6 A. No.

7 Q. Had you had a falling out with Mr. Green between --

8 A. No.

9 Q. -- the incident and the trial?

10 A. No, I didn't never have a falling out with him.

11 Q. But you just no longer knew your best friend's phone
12 number, address or how to locate him?

13 A. No.

14 Q. At the time of the incident when he was your --

15 A. I was living in Orangeburg at the time, so when I moved
16 away -- I mean, I was staying in Charleston, so when I moved
17 away from Orangeburg -- when this incident happened I was
18 living in Orangeburg, so when I moved away, that's 45 minutes
19 away from Orangeburg so -- and he does not have his own home
20 or a stable place.

21 Q. So you weren't able to provide Mr. Chandler with an
22 address or how to get in touch with him.

23 A. Initially, months before I had a phone number and a
24 place and all that, place where he could get in touch with
25 Quinton Green.

1 Q. But not at the time of your trial.

2 A. At the time of my trial, no, I did not.

3 MS. HARRIGAN: Court's indulgence.

4 THE COURT: All right.

5 MS. HARRIGAN: No further questions, Your Honor.

6 THE COURT: All right, yes, redirect.

7 MR. WALTERS: Your Honor, we have no further questions.

8 THE COURT: Thank you, Mr. Darby, you may come back
9 down.

10 Call your next witness, please, sir.

11 MR. WALTERS: Your Honor, at this time we'd rest.

12 THE COURT: Very well. All right.

13 MS. HARRIGAN: The state would call Everett Chandler to
14 the stand.

15 THE COURT: Yes, sir, if you'll please come up and be
16 sworn.

17 EVERETT CHANDLER,
18 being first duly sworn, testified as follows:

19 THE COURT: Your witness.

20 MS. HARRIGAN: Thank you, Your Honor.

21 THE COURT: Yes.

22 DIRECT EXAMINATION BY MS. HARRIGAN:

23 Q. Mr. Chandler, how long have you been practicing law?

24 A. 15 years.

25 Q. During that time have you always practiced criminal law?

1 A. I have, I started -- well, not always. I did some work
2 with Blue Cross and Blue Shield shortly after law school,
3 after passing the bar in '97, and in '98 I started practicing
4 criminal law, so I've been practicing criminal law for 15
5 years, and I started off as assistant solicitor in the Second
6 Judicial Circuit.

7 Q. What percentage of your practice at the time of trial
8 was criminal defense work?

9 A. It would have had to have been about 50 percent.

10 Q. Do you recall becoming involved in Mr. Darby's case?

11 A. I do.

12 Q. Were you retained?

13 A. I was.

14 Q. Do you recall the approximate date or how long before
15 trial?

16 A. I was retained on January the 6th of 2010.

17 Q. So approximately seven or eight months before trial?

18 A. That's correct.

19 Q. Have you had an opportunity to review your file before
20 coming here today?

21 A. I did briefly, I should have done a little bit more. I
22 grabbed it last night and went over it last night.

23 Q. Have you had an opportunity here today to review it?

24 A. Yes, took a few hours to look at it, yes.

25 Q. Wonderful, and you do have your file here in the

1 courtroom with you today?

2 A. I do.

3 Q. Do you recall the number of times you met with Mr. Darby
4 to discuss the charges he was facing?

5 A. Not specifically, but I think Mr. Darby indicated that
6 it was in the five -- I mean, six to eight times is fair in
7 addition to some phone calls and some messages we have
8 attempted. Mr. Darby's recollection of missing a number of
9 appointments as we got closer to trial is also accurate. He
10 had a phone that the messages would be full, so it was kind
11 of difficult, so we sent a number of letters just updating
12 him on preliminary hearings and then trial court terms as
13 they started coming up, including a plea date, the plea date
14 that he made reference to as well.

15 Q. Did any of those letters come back returned to you?

16 A. Some of them did, but we got that corrected. He had an
17 address of 2012 and it was 2012-A or something like that, but
18 it was an apartment number, and we got that resolved, and
19 then we had a free flow, as he said, of getting all of those
20 things to him after that. We got it resolved, and he got all
21 of it, so I think one of them that was returned had the
22 discovery. Once we got the proper address, then we sent it
23 to him and we got that resolved.

24 Q. Did you send him a complete copy of your discovery file?

25 A. Everything that we had he had.

1 Q. Do you have any reason to believe the state withheld
2 discovery or didn't give you everything they had?

3 A. I have no reason to believe that, however, it is not
4 uncommon, sometimes as you get closer to trial dates, maybe
5 during the preliminary hearing, they'll say, hey, look, we
6 had this, and I can't confirm or deny if there was a picture
7 or two that they didn't have that they showed or angle, I
8 just don't remember, and so I'll be careful not to speak
9 outside of my memory.

10 Q. If you were given any additional materials --

11 A. No, if I had it, he has it; but whether the state had it
12 and didn't give it to me until late, that would not be
13 uncommon in any of the circuits that I defend, or prosecuted
14 in, frankly.

15 Q. Everything you had you handed over to your client.

16 A. Absolutely, without any question.

17 Q. During these six to eight meetings you had were you able
18 to go over the two separate charges he was charged with?

19 A. Sure.

20 Q. And he was charged with burglary in the first degree?

21 A. That's correct.

22 Q. Did you explain the elements of that charge to him?

23 A. All elements, and as he's already indicated, all ...
24 penalties to both charges, both the burglary first as well as
25 the assault and battery of a high and aggravated nature.

1 Q. Did you explain to him that burglary in the first degree
2 carries up to life imprisonment without parole?

3 A. Absolutely, as he's also said.

4 Q. Did he seem to understand the penalties and sentences?

5 A. He certainly did.

6 Q. Did you review the discovery -- I know you mailed it to
7 him. Did you review it with him as well?

8 A. Reviewed it with him and discussed the theory of the
9 case, and it is customary for me to do that and tell our
10 clients -- tell my clients what we're going to do and make
11 sure they understand it and agree. I mean, it's their life,
12 and so I make sure that they agree with the theory. A lot of
13 times when I find myself here is when it didn't work, but
14 they did at least agree with the theory. And everything that
15 we tried, we intended to do, all played out during the trial,
16 and actually we got a little bit more information from some
17 of the witnesses than I thought we would get, which was proof
18 that Mr. Darby was telling me the truth, you know, that these
19 folks let him in, and in my mind there's no doubt in my mind
20 that he was innocent of these specific charges. They let him
21 in. Somebody rushed in behind him and started shooting, and
22 he gets caught up in the melee, and I think we really laid
23 all of those facts out in the trial, but the jury makes the
24 final decision. That's what happens, as I explained to him,
25 when you leave it in the hands of a jury.

1 Q. If we can jump back a little bit, what was the specific
2 theory of the case?

3 A. The theory of the case was he was charged with burglary
4 first, which would require breaking and entering of a
5 dwelling place with force with the intent to commit a crime.
6 These individuals that he knew, and while -- while he was
7 upset about being set up, it was clear that he was just going
8 in there to have an argument or to have a very strict
9 argument and discussion with the Moores, and his friend comes
10 in without any common scheme, without any prearrangement,
11 comes rushing in and starts shooting up the place, and then
12 the melee ensues, and as a result all of the damage, all of
13 the bullet holes and everything came from QP or Quinton
14 Green. Our theory was that Quinton had done all this, and we
15 didn't just get this from just Mr. Darby's recollection.
16 This was coming from some of the facts and some of the
17 initial statements from the state's own witnesses, which we
18 were able to cross-examine and even get them to admit, and
19 some of them even from the very beginning said it was the
20 other guy, you know, that unknown guy. Obviously they knew
21 my client, so if it was Mr. Darby, they would say it's
22 Adrian, you know, Adrian did it, but they were talking about
23 QP, and QP did all of this. But that was the theory. Mr.
24 Darby knew about it. We went forward because he agreed with
25 it, and unfortunately the jury just didn't -- just didn't

1 follow it. Now, however, I will say that you could tell by
2 the verdict that the judge might have been a lot more
3 sympathetic towards it because he got the minimum sentence at
4 the trial, which is, you know, with all of the violence, the
5 facts of the violence that was concerned, you know, there's
6 something to be said that that theory did make a difference.

7 Q. Did the judge make any other comments during sentencing
8 to make you believe this?

9 A. Sure, without any question. He basically said only
10 reason why he gave him the minimum sentence was because this
11 was as low as he thought he could. There was some debate
12 about some case law that was out there that the burglary
13 first could be suspended, and he specifically put it on the
14 record so that in the event, and I told Mr. Darby this
15 afterwards, in the event that Mr. Darby would want to take
16 that up for some type of reduction on appeal, that he would
17 have that available. But it's my understanding that the case
18 law did not work out that way that there was a final ruling
19 on that issue. But Judge Cothran actually gave us that -- he
20 deliberately put that in the record for the benefit of Mr.
21 Darby.

22 Q. When you discussed the theory of the case with him, did
23 you explain to him that you can never guarantee a particular
24 verdict?

25 A. I never guarantee a verdict, I mean, even when I -- I

1 mean, you know, even when I think my clients are just crystal
2 clear, because you never know what juries are going to do. I
3 don't make it a practice to ever offer any guarantees. And I
4 don't know if it was part of my contract then, but it's now a
5 part of all my contracts that while criminal representation
6 is expensive, there can never be any guarantees, and so I
7 would never have given my client a guarantee because I don't
8 do that. In fact, yes, he signed the contract that says no
9 guarantees.

10 Q. Can you read that particular provision into the record?

11 A. It's Provision No. 7, and it says no guarantees, it says
12 client understands that criminal defense is a costly endeavor
13 with sometimes unpredictable results. No representation or
14 guarantee is made by attorneys regarding the outcome of this
15 matter. This includes the likelihood and timeframe of
16 obtaining the desired result in this matter. Any discussions
17 in this regard, past, present or future, are limited only to
18 the estimates of possibilities based upon attorney's
19 experience and judgment and in no event will be taken by
20 client as a representation, promise or guarantee as to the
21 results which will be obtained either in the trial or by way
22 of negotiated agreement.

23 Q. And I believe your testimony was your general practice
24 is to always make sure that your client agrees with the
25 theory of the case.

1 A. Without any question, yes, ma'am. I can't go forward
2 with it if he doesn't or she doesn't agree with the theory.

3 Q. Did Mr. Darby agree here?

4 A. He absolutely did.

5 Q. Were you able to answer any questions he had relating to
6 the particular defense you intended to put forward?

7 A. Absolutely, and how we planned on getting certain
8 evidence in. He articulated better than I did that even the
9 concept that we really were going to try to preserve the
10 final argument because in this particular case that was going
11 to be of value in light of some of the holes and the fact
12 that the victims, other than the little girl who gave us the
13 best evidence, that's where out of the mouth of babes came
14 from, that these were drug dealers, that these were
15 undesirable people who basically set him up in the past, and
16 so I thought that our best chance and Mr. Darby agreed that
17 our best chance was to preserve the final argument and really
18 highlight all of the inconsistencies in their arguments and
19 in their statements. And it's been a long time since I've
20 looked at this information, but when I looked at it, I
21 thought that the evidence that we had looked real good to go
22 forward, and the closing argument reflected that and I
23 think -- but, I mean, as I always say, we just can't ever
24 predict or guarantee what a jury is going to do.

25 Q. Did you explain to Mr. Darby that in order to preserve

1 the final argument you could not call any witnesses on his
2 behalf?

3 A. Absolutely.

4 Q. And he was on board with this decision?

5 A. Sure, without any question. But he made, as is in the
6 record, he made his decision not to testify, and probably
7 this is the first time I've ever heard his passion of wanting
8 to be able to speak to the jury. I thought he was -- I felt
9 pretty confident that he was on board with the theory that we
10 had offered, and that's why we moved forward with it.

11 Q. At the time of the trial and during your representation
12 of him throughout the trial he never indicated to you he
13 wanted to testify?

14 A. No. No, ma'am. He saw how it was developing, and I
15 mean, you know, we don't have guarantees, but it was coming
16 together pretty well because these guys were fumbling over
17 their testimony. We had them locked into certain statements,
18 and I can't recall anytime where he said that he actually --
19 or was arguing that he wanted to testify. I think he was
20 with us throughout the process.

21 Q. During Mr. Darby's testimony he discussed a Phoenix
22 Smalls and an Angela Raysor as witnesses he had given to you.

23 A. We discussed all of the witnesses, potential witnesses,
24 and I remember the name Angela Raysor. We actually prepared
25 subpoenas in the case. Ultimately it didn't fit -- she

1 didn't fit within our theory. I can't remember why that's
2 not the reason now, I cannot remember why, but I do know that
3 that was one that we -- I know Angela Raysor was one that we
4 definitely talked about and we did prepare a subpoena for,
5 but we went in with the understanding that, you know, Quinton
6 was going to be the scapegoat for everything, we were going
7 to dump everything on him, and that was the nature of it,
8 that if there was anybody who committed a burglary first, it
9 was Quinton, and it was not within the common scheme or plan
10 of my client. It was much to my client's surprise. He was
11 in an argument with some friends who he thought had done him
12 wrong, and then here his buddy comes in with guns and
13 committed the burglary first as well as the firing of the
14 weapon and all of those things.

15 Q. Who is Angela Raysor?

16 A. You know, I mean, the name sounds familiar. I think I
17 have an idea, but I wouldn't want to speak on it now because
18 my memory is just -- seems like she might have been a
19 relative of the other Raysor.

20 Q. Do you recall if she was victim Tiffany's sister?

21 A. I think it was something like that, and I just didn't
22 see how -- I just can't remember, but I don't think her story
23 would fit into whatever the theory was.

24 Q. Do you recall your cross-examination of Tiffany Moore,
25 formerly Tiffany Raysor?

1 A. I don't recall it. If you can bring it to my attention.

2 Q. If you'll turn to page -- it starts on 89 in the record,
3 and I can try to find the specific passage to move us along.
4 Particularly if you'll look at trial transcript page 90
5 through 91, starting on line 18 of 90 through 8 of 91 to
6 refresh your recollection.

7 A. Okay.

8 Q. Do you recall cross-examining victim Tiffany Moore
9 regarding lying to her sister Angela Raysor?

10 A. Sure, yes.

11 Q. What led to this line of questioning, what information
12 did you have that would lead to this?

13 A. Sure, and I'm not sure, just looking at this, I don't
14 know if I got that from Mr. Darby or if I specifically
15 remember talking to Ms. Raysor, I can't -- I just can't
16 remember.

17 Q. Do you recall also cross-examining victims Tiffany Moore
18 and Cruz Moore regarding drug activity and drug sales from
19 their home?

20 A. Sure.

21 Q. What was the intent behind this line of
22 cross-examination?

23 A. Twofold, just let them know that these are not
24 sympathetic victims. One of the problems is technically we
25 did not have a burglary first, but people in Orangeburg would

1 have a hard time with somebody just coming up in somebody's
2 house, shooting it up or being with somebody who does it, so
3 we had to let them know who these guys were. These are guys
4 who deal with a certain element, and so thereby Mr. Darby
5 even knew that I was going to start off with the jury,
6 letting the jury know that he wasn't a boy scout. It wasn't
7 to, you know, down him at all, but it was to put everything
8 in context, and so likewise the whole purpose was to set the
9 stage. In addition I talked about their prior records, Ms.
10 Moore's prior history of two crimes of dishonesty to let the
11 jury know that she could not be trusted specifically and
12 highlighted those in the closing arguments and then was
13 able -- was able to highlight those and be able to highlight
14 it in the closing argument, which I did, to basically let the
15 jury know what weight they should be giving to that entire
16 family, and then of course at the end I highlighted the value
17 of the daughter's testimony who said, hey, they let Adrian
18 in, which they did.

19 Q. Were you able to locate the codefendant, QP or Quinton
20 Green before trial?

21 A. Again, I don't recall any efforts to do so because that
22 was not part of our theory. I just can't remember anything,
23 and just even in my review of the file, it just would seem
24 inconsistent with where we were headed so --

25 Q. Can you elaborate to the Court what you mean by

1 inconsistent with your theory?

2 A. With our theory of the case because basically Quinton
3 Green was the guy who came in and started shooting. In order
4 so that this wouldn't be hands of one, hands of all on the
5 burglary first as well, we had to make sure we had -- and I
6 laid it out in the closing argument, that they were not
7 acting in concert, that there was no common scheme or plan,
8 that there was no forward plan for me to come in and then you
9 come in after these guys, that in essence QP was acting
10 completely on his own, coming in and acting independent of my
11 client, despite the fact that they may have been mad about
12 the same thing. And it would be, in essence, I'm in an
13 argument, I have a friend in the car with me, I get in an
14 argument with someone, and then that person comes in with a
15 rifle, and I'm thinking, what in the world is this all about,
16 and so that was our theory, and so I can't imagine -- I mean,
17 just even sitting here now I can't imagine how bringing him
18 in -- I can't imagine anybody coming in saying, yes, that was
19 me, I'm the one that's actually guilty of burglary first.
20 I'm the one that actually assaulted this family. I just
21 can't imagine even bringing him in. But as to the specifics
22 about any efforts, I just -- it doesn't -- in reading the
23 file, it just doesn't even make sense with what we had agreed
24 that we would move forward with.

25 MS. HARRIGAN: Court's indulgence.

1 THE COURT: Yes.

2 Q. Do you recall whether Mr. Darby ever gave you an address
3 or phone number for Mr. Green?

4 A. I don't recall. As I said, it just doesn't even -- any
5 efforts just don't make sense, and I didn't see anything in
6 my file.

7 Q. Did Mr. Green ever -- excuse me, Mr. Darby ever tell you
8 about his interaction with a member of the jury?

9 A. I don't recall any of that.

10 Q. Did you hire a private investigator in this case?

11 A. I did not.

12 Q. Why not?

13 A. There was no need. I don't just hire private
14 investigators. I hire them when I think there's some
15 information that I need to get that I need. We had what we
16 needed. We had the history of two of their primary witnesses
17 that we could discredit them, which we did. We had
18 statements from their child, which was going to help us if we
19 could get it in, which we did, and even the officer's report
20 and I think a statement by one of the -- one of the first
21 responders, I don't know if it was an officer, who even
22 highlighted that the testimony of Tiffany Moore was this
23 unknown gentleman. Tiffany knows Adrian because he keeps
24 their children or he had a relationship with them, and so we
25 used -- all of the information we had was in the record, and

1 I wouldn't incur any further expense or have my client incur
2 any further expense unless it was absolutely needed.

3 Q. In regards to his issue of informing the jury that you
4 had a gun, I believe his testimony was that you informed him
5 it was a strategy or strategic decision to let the jury know
6 he had a gun. Can you explain that for the Court?

7 A. Well, first, when I saw that on the return, I was a
8 little surprised because I didn't recall -- I didn't know at
9 what point was he saying that because later on there is a
10 statement saying, you know, that he did have a gun but it was
11 separate and apart from the burglary first, but I had to look
12 to see where I said it because I didn't recall saying it. I
13 see it in one of the closing -- I think the second closing
14 where it says he -- that somebody handed him a gun then the
15 next day, so I'm still not sure where that allegation is
16 coming from. Our plan was to discuss -- and I tell the story
17 almost three, maybe four times in this transcript. Our
18 theory is he came in to argue about the possibility of being
19 set up, and then somebody comes in behind him, armed, and
20 causes all of the destruction. That's our theory. Now, in
21 the middle of it our client does get in a fight and possibly
22 gets armed, but this whole idea about him having a problem
23 with me saying that he had a weapon, I still can't really
24 wrap my head around it. Our theory was that he didn't break
25 in, they let him in, and that what started off as a verbal

1 altercation became a physical altercation.

2 Q. On the part of Mr. Green.

3 A. Sure, absolutely. Well, and actually at that point we
4 were not denying that at some point there was, you know,
5 there was some action on behalf of Mr. Darby, if I can
6 recall. I don't think we were trying to deny that.

7 Q. And just once again, he was on board with this theory of
8 the case?

9 A. Absolutely, without any question.

10 MS. HARRIGAN: No further questions, Your Honor.

11 THE COURT: All right. Yes, cross-examination.

12 MR. WALTERS: May it please the Court.

13 THE COURT: Yes.

14 CROSS-EXAMINATION BY MR. WALTERS:

15 Q. Attorney Chandler, explain to me again this theory where
16 you advised the jury that your client has a gun and possibly
17 consumes marijuana, how that was going to assist him with the
18 trial of the case.

19 A. Sure. The idea is that we have to gain a level of
20 credibility with the jury to try to paint him -- well, one,
21 to just, to be dishonest where you're dealing with somebody
22 who just -- because we had to tell them that he got robbed
23 while purchasing marijuana, I mean, so really the facts of
24 the case are going to come out just on the very basis of the
25 story that we're telling, so it's just about gaining some

1 level of credibility with the jury, so that's what this was
2 about. So I do tell them my client's not a boy scout. I
3 tell them about who he is to set the stage because the most
4 important thing is he's not on trial for smoking or selling
5 marijuana. He's on trial for burglary first and assault and
6 battery of a high and aggravated nature.

7 Q. Again, tell me why Quinton Green would not assist your
8 case as far as the strategy is concerned.

9 A. Well, because first of all he would not be considered to
10 be brought in because the whole theory of our case is to make
11 sure to hold him as the person who is actually guilty of the
12 crime.

13 Q. Now, as far as your investigation of this case, do you
14 believe you're remiss in any way with regards to
15 investigating each of the issues that he presented to you?

16 A. No. Without any question, no, and I think he understood
17 the required elements for the state to prove, and we had a
18 theory that we thought could undermine basically the state's
19 case, and we offered evidence to that point.

20 Q. Did you ever guarantee him a verdict?

21 A. I absolutely didn't guarantee him a verdict, and I never
22 guarantee verdicts, and as I read, it's part of our contract
23 that we can't.

24 Q. Were you ever aware that he alleges that he talked to a
25 member of the jury?

1 A. You know, I just, I don't remember hearing anything
2 about that. When I saw that in the return, I was a little
3 surprised. I just don't recall. There were a lot of things
4 going on around that time, but that just didn't strike me at
5 all.

6 Q. As far as the sentencing and the penalties, was he aware
7 of what he was facing?

8 A. Absolutely, as he indicated when he was on the stand.

9 Q. Was there ever an offer from the solicitor's office with
10 regards to a plea?

11 A. There was.

12 Q. What was that plea?

13 A. I know it was placed on -- we actually placed it on the
14 record in front of -- what's the other resident judge here?

15 THE COURT: Are you talking about Judge Dickson?

16 THE WITNESS: Judge Dickson, and I have the date, and it
17 was actually placed on the record, and I was flipping through
18 and actually saw it, and I can't find it right now, but it
19 was actually placed on the record, but I want to say that
20 they were -- I can't recall, but it was placed on the record.

21 MR. WALTERS: Okay. Your Honor, we have no further
22 questions.

23 THE COURT: Very well. Redirect?

24 MS. HARRIGAN: No, Your Honor.

25 THE COURT: All right. You may come down.

1 THE WITNESS: Thank you, Your Honor.

2 MS. HARRIGAN: That is the state's case.

3 THE COURT: Any reply?

4 MR. WALTERS: No, ma'am, Your Honor.

5 THE COURT: Very well. Thank you all so much. Is this
6 witness free to leave?

7 MS. HARRIGAN: Certainly, Your Honor.

8 THE COURT: Very well. I'm going to continue to study
9 this matter, but I think I would begin with requesting a
10 proposed order from the state, however I'm still continuing
11 to study the matter.

12 MR. WALTERS: Yes, ma'am.

13 THE COURT: Thank you kindly.

14 MR. WALTERS: Thank you, Your Honor.

15 MS. HARRIGAN: Thank you, Your Honor.

16 --- END OF TRANSCRIPT OF RECORD ---

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1 CERTIFICATE OF REPORTER

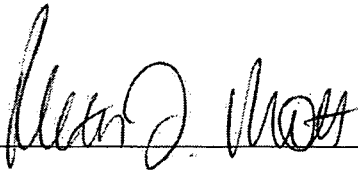
2 STATE OF SOUTH CAROLINA

3 COUNTY OF ORANGEBURG

4
5 I, the undersigned Ruth L. Mott, Official Court Reporter
6 for the State of South Carolina, do hereby certify that the
7 foregoing is a true, accurate and complete transcript of
8 record of all the proceedings had and evidence introduced in
9 the trial of Adrian Darby versus the State of South Carolina,
10 in the First Judicial Circuit Court for Orangeburg County,
11 South Carolina, on the 31st of October, 2013.

12 I further certify that I am neither related to nor
13 counsel for any party to the cause pending or interested in
14 the events thereof.

15 June 24, 2014

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19 Ruth L. Mott, RPR, CRR

20 Official Court Reporter
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STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Adrian Darby, #342254,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Case No. 2012-CP-38-0805

ORDER OF DISMISSAL

FILED FOR RECORD
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PROCEDURAL HISTORY

This matter comes before the Court by way of an application for post-conviction relief filed May 30, 2012. Respondent made its Return on November 28, 2012, requesting an evidentiary hearing be held. An evidentiary hearing was convened on October 31, 2013 at the Dorchester County Courthouse. Applicant was present at the hearing and was represented by Glenn Walters, Sr., Esquire. Respondent was represented by Assistant Attorney General Megan E. Harrigan of the South Carolina Attorney General's Office.

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. Applicant was indicted during the May 2010 term of the Orangeburg County Grand Jury for Burglary in the First Degree (2010-GS-38-0240) and Assault and Battery of a High and Aggravated Nature (2010-GS-38-0241). Everett K. Chandler, Esquire, represented Applicant on both charges. On August 10-11, 2010, Applicant proceeded to a jury trial before the Honorable R. Ferrell Cothran, Jr., where he was convicted as indicted. Judge Cothran sentenced Applicant to fifteen years imprisonment for Burglary in the First Degree and five years

for Assault and Battery of a High and Aggravated Nature, with the sentences to be served concurrently.

A Notice of Appeal was filed with the South Carolina Court of Appeals. An Order of Dismissal was issued on August 5, 2011, following Applicant's notification to the Court of his desire to withdraw his appeal. The Remittitur was issued on August 23, 2011.

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully for the following allegations of ineffective assistance of counsel:

1. Ineffective assistance of counsel
 - a. Defense counsel failed to request a continuance because the Defendant's co-defendant, Quinton Green, would have provided the relevant testimony with regards to the Defendant's innocence.
 - b. Defense counsel failed to advise the Defendant properly with regard to the sentencing and penalties.
 - c. Defense counsel informed the jury that his client had a gun.
 - d. Defendant talked to a member of the jury proclaiming his innocence.
 - e. Defense counsel failed to call any witness given to the Defendant's counsel by Defendant."
 - f. Defense counsel failed to investigate the prosecution's case.
 - g. Defense counsel guaranteed a verdict of not guilty.

TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. Respondent presented testimony from plea counsel Everett K. Chandler, Esquire (hereafter "Counsel"). This Court also had before it a copy of the Applicant's trial transcript, the records of the Orangeburg County Clerk of Court, Applicant's appellate records, and Applicant's records from the South Carolina Department of Corrections.

During the evidentiary hearing, Applicant testified that his mother retained Counsel almost a year prior to trial. He testified that he met with Counsel between four and six times, but

acknowledged that he missed multiple scheduled appointments with Counsel. He testified that he was sent a full, complete packet of discovery by Counsel and "had everything." He testified that he reviewed these discovery materials with Counsel twice, as well as potential witnesses the State would likely call against him at trial. However, he testified that he was surprised that the EMS employee and victims' minor child were called as witnesses. He testified that he provided Counsel with possible defenses, such as that he was invited into the victims' home and that his co-defendant Green was person who assaulted the victim. He elaborated that he was long-time friends with the victims, whom he considered family. He testified that he gave Counsel potential witnesses to investigate, such as Phoenix Smalls, Angela Raysor, and Quinton Green. He testified that at the time of the alleged incident and trial, his best friend was Quinton Green, who he called "QP" (hereafter "Green"). He testified that he needed Green to testify on his behalf at trial to prove that Applicant did not break into the victims' home or intend to do any harm. He testified that Green would have been a beneficial witness and that Green would have taken responsibility for both the assault and burglary. He testified that he told Counsel that Green was a necessary witness and that he gave Counsel as much information as possible. However, he admitted that he did not provide Counsel with an address, phone number, or other contact information for Green, or any other potential witnesses, and does not have any such information now. He acknowledged that the State was not able to find him for trial, which was testified to by State's witnesses Bobby Jones. He testified that neither Green nor any other desired witnesses were present to testify at the evidentiary hearing. He testified that he also believes that Counsel was ineffective for failing to investigate. He testified that the only information that Counsel came from him, and he acknowledged that he did not provide Counsel with any contact

information for these potential witnesses. He testified that Counsel did not know that one of the victims had a prior record before trial.

Applicant further testified that Counsel entered into plea negotiations with the State and that Applicant wanted a plea offer capping his sentence exposure at five years. He testified that he was aware that Burglary in the First Degree carried a mandatory minimum sentence of fifteen years imprisonment up to a possible sentence of life without parole. He testified that it was his decision to turn down any offers from the State and proceed to trial. He testified that part of his decision to do so was because Counsel guaranteed him a verdict of not guilty if he paid Counsel in full. He testified that he did not testify at trial because Counsel advised him it would be beneficial to have the last argument before the jury. He testified that Counsel did review the right to testify with him, as well as the trial court.

He testified that at the trial, Counsel vigorously cross-examined the State's witnesses regarding whether Applicant had been invited into the home and that Counsel was able to elicit from the minor child that Applicant was invited into the home. Applicant testified that Counsel also questioned that State's witnesses as to whether Green was the actual assailant. He testified that he feels Counsel was ineffective for informing the jury that Applicant had a gun during the altercation. Applicant testified that Counsel informed him this was part of his strategy to not hold anything back to gain credibility with the jury. Applicant testified that he now thinks this was ineffective because he "painted a negative picture" to the jury. He did acknowledge that Counsel was able to effectively convey to the jury that the victims sold drugs out of their residence.

Applicant also testified that Counsel was ineffective because Applicant talked to a member of the jury proclaiming his innocence. Applicant testified that he spoke to two women

in the elevator and told them he was "not guilty." However, Applicant's counsel informed this Court that he investigated this claim with his private investigator, including talking to the specific juror Applicant provided, and that as an officer of the court, this allegation was untrue and lacked any merit.

Following Applicant's testimony, Counsel testified. Counsel testified that he has been practicing law since 1997, started his career as an Assistant Solicitor in the Second Judicial Circuit, and has been handling criminal matters since then. He testified that he was retained to represent Applicant on January 6, 2010. He testified that he met with Applicant between six and eight times, as well as discussed the case with Applicant by telephone and letter. He elaborated that Applicant was difficult to contact, as he changed his address and phone number several times. He also testified that Applicant missed number of scheduled appointments with him. He testified that he received discovery materials from the State and provided Applicant with a complete copy of these materials, as well as discussed the materials with Applicant. He testified that he discussed possible defenses with Applicant, and that his theory of the case was that Applicant was invited into the victims' home, then Green rushed in and assaulted the victims. He testified that Applicant informed him that he was very close with the victims and had visited their home numerous times as an invited guest. He testified that Applicant agreed with the theory of the case and planned defense for trial. He testified that he informed Applicant there was a possibility of success at trial, but that he never guaranteed Applicant a verdict of not guilty. Counsel testified that it is his standard practice not to guarantee clients of a particular outcome and that he is absolutely certain he did not promise Applicant an acquittal. He elaborated that his standard retainer agreement, which Applicant signed, specifically states in a "No Guarantees" clause that a particular outcome cannot be assured.

Counsel testified that Applicant did provide him with some names of potential witnesses, but that Applicant did not provide any contact information for any of these people. In particular Counsel testified that Applicant advised him that he wanted Green to testify, but that he provided absolutely no assistance in tracking down Green. He testified that the State was not able to locate Green for trial and that Green did not testify at trial. He testified that Green's absence benefited his theory of the case because in his professional experience, it was highly unlikely that Green would take the stand and be the scapegoat for Applicant's charges. He testified that he saw no possible benefit in having Green present at the trial and explained this to Applicant. He testified that this is why he did not move for a continuance to secure Green's presence at trial. He testified that he was able to contact several of Applicant's potential witnesses, such as Angela Raysor, and prepared subpoenas for trial. Counsel testified that it was a joint decision between himself and Applicant not to call any witnesses on his behalf to preserve the final argument before the jury. He testified that he advised Applicant of his right to testify and the possible benefits and drawbacks of testifying. He testified that Applicant agreed with the decision not to call any witnesses on his behalf to preserve the last argument.

Counsel testified that he vigorously cross-examined the State's witnesses, particularly the victims. He testified that he was able to get the victims' minor child to testify that Applicant was actually invited into the home and that it was Green who assaulted the victim. He also was able to elicit testimony regarding the victims selling drugs out of their residence. He testified that he did inform the jury that his client had a gun during the altercation because he did not want to lose the jury's credibility by portraying Applicant untruthfully as a "boy scout." He testified that his client was not on trial for having or using a gun, and he does not think this impacted Applicant's case negatively. He testified that he does not believe he performed deficiently in regards to any

of Applicant's allegations and that he provided Applicant with a thorough and well-planned defense.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Ineffective Assistance of Counsel

In a post-conviction relief action, an applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813.

The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813. The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms."

Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

After careful review based on the standard discussed above, this Court finds that Applicant has failed to carry his burden in this action. Specifically, this Court finds that Counsel's testimony is very credible while Applicant's testimony is not credible. Below are this Court's findings in regards to each of Applicant's allegations of ineffective assistance of counsel.

Counsel's alleged failure to request a continuance because co-defendant, Quinton Green would have provided relevant testimony in regards to Applicant's innocence

Applicant alleges that Counsel was ineffective for failing to secure Green's presence at trial and not moving for a continuance to allow Green to testify at trial. This Court finds that Applicant has failed to establish any deficiency of Counsel and that this allegation must be denied and dismissed with prejudice. The uncontroverted testimony reveals that Applicant failed to provide any contact information or other assistance in tracking down his self-proclaimed "best friend" Green, who he insisted would admit to committing the assault. Both Counsel and Applicant testified that the State was not able to secure Green's presence at trial. Counsel testified that it was in Applicant's best interest not to have Green present at trial, as he was able to portray Green was the assailant without having Green take the stand and deny involvement. He testified that he told Applicant it was highly unlikely that Green would testify on the stand that he was guilty of the crimes, not Applicant. This Court finds that Counsel's performance was reasonable in effective under professional norms. Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland).

Additionally, this Court finds that Applicant cannot prove any resulting prejudice from this alleged deficiency, as Green was not present at the evidentiary hearing to provide testimony. Prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at the post-conviction relief hearing. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499 U.S. 982 (1991). Applicant's mere speculation as to what a witnesses' testimony would have been cannot, by itself, satisfy his burden of showing prejudice. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995). An Applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the post-conviction relief hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998). Based on the foregoing, this Court finds that this allegation must be denied and dismissed with prejudice.

*Counsel's alleged failure to advise Applicant properly regarding
to sentencing and penalties*

Applicant alleges that Counsel was ineffective for failing to advise him of the possible penalties and sentences he was facing. However, Applicant testified that Counsel advised him of the minimum and maximum sentences for both charges, including a mandatory minimum of fifteen years imprisonment up to a maximum sentence of life imprisonment for Burglary in the First Degree. This Court finds that that Applicant has failed to establish any deficiency of Counsel or prejudice from this alleged deficiency and therefore, this allegation must be denied and dismissed with prejudice.

Counsel informed the jury that Applicant had a gun during the altercation

Applicant alleges that Counsel was ineffective for informing the jury that Applicant had a gun during the altercation. Applicant testified that this was deficient performance because it painted a negative picture of him to the jury, and as a result, prejudiced him. Counsel testified that he made a strategic decision to be honest with the jury and not try to hide anything to gain the jury's credibility and trust. Counsel testified that this included informing the jury that his client had a gun during the altercation. He testified that he does not think this impacted Applicant's case, as Applicant was not on trial for possession of a weapon and his theory of the case was that Applicant had been invited into the victims' home and Green was the assailant. This Court finds that this strategy was valid and prudent based on all testimony presented, and therefore, Counsel's performance was not deficient. See Edwards v. State, 392 S.C. 449, 456-57, 710 S.E.2d 60, 64 (2011) ("[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct generally will not be deemed ineffective assistance of counsel. The validity of counsel's strategy is viewed under an 'objective standard of reasonableness.'" Lounds v. State, 380 S.C. 454, 462, 670 S.E.2d 646, 650 (2008). The United States Supreme Court has cautioned that "every effort be made to eliminate the distorting effects of hindsight" and evaluate counsel's decisions at the time they were made. Strickland, 466 U.S. at 689. Accordingly, we must be wary of second-guessing trial counsel's tactics. Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992)). This Court finds that counsels' performance went well beyond the standard of reasonableness according to professional norms, and therefore Applicant has failed to establish any deficiency regarding this allegation. Therefore, this Court finds that this allegation must be denied and dismissed with prejudice.

Allegation that Applicant told a member of the jury that he was innocent

Applicant alleges that Counsel was ineffective because Applicant talked to a member of the jury proclaiming his innocence. Applicant testified that he spoke to two women in the elevator and told them he was "not guilty." However, Applicant's counsel informed this Court that he investigated this claim with his private investigator, including talking to the specific juror Applicant provided, and that as an officer of the court, this allegation was untrue and lacked any merit. This Court agrees and finds that this allegation must be denied and dismissed with prejudice.

Counsel's alleged failure to call any witnesses as provided by Applicant

Applicant alleges that Counsel was ineffective for failing to call any of the witnesses that he provided to Counsel. However, the uncontested testimony shows that Applicant utterly failed to provide competent information to Counsel regarding potential witnesses. Counsel testified that he was able to locate some witnesses and subpoenaed them for trial. Counsel testified that he discussed the strategy of not calling any witnesses to preserve the last argument with Applicant, and that Applicant agreed with this strategy. This Court finds that this strategy was valid and prudent based on all testimony presented, and therefore, Counsel's performance was not deficient. See Edwards v. State, 392 S.C. 449, 456-57, 710 S.E.2d 60, 64 (2011) ("[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct generally will not be deemed ineffective assistance of counsel. The validity of counsel's strategy is viewed under an 'objective standard of reasonableness.'" Lounds v. State, 380 S.C. 454, 462, 670 S.E.2d 646, 650 (2008). The United States Supreme Court has cautioned that "every effort be made to eliminate the distorting effects of hindsight" and evaluate counsel's decisions at the time they

were made. Strickland, 466 U.S. at 689. Accordingly, we must be wary of second-guessing trial counsel's tactics. Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992)).

Additionally, as Applicant failed to present any testimony from the purported witnesses at trial, this Court finds that he has failed to establish any resulting prejudice. Prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at the post-conviction relief hearing. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499 U.S. 982 (1991). Applicant's mere speculation as to what a witnesses' testimony would have been cannot, by itself, satisfy his burden of showing prejudice. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995). An applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the post-conviction relief hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998). Based on the foregoing, this Court finds that this allegation must be denied and dismissed with prejudice.

Counsel's alleged failure to investigate the prosecution's case

Applicant has failed carry his burden of establishing that Counsel was ineffective for failure to investigate. However, Applicant failed to present any evidence or testimony to this Court as to what possible benefit could have been derived from additional investigation. "Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998). Therefore, this allegation must be denied and dismissed with prejudice.

Counsel's alleged guarantee of an acquittal

Applicant alleges that Counsel guaranteed him a verdict of not guilty as long as he paid Counsel in full. However, Counsel's credible testimony was that he never makes any promises or guarantees of a particular outcome to clients and that he is absolutely certain he did not make such a promise in this case. Additionally, Counsel read his standard retainer agreement to the court which specifically contains a "No Guarantees" clause, which he reviewed with Applicant. This Court finds that Counsel never made such a guarantee to Applicant and this allegation must be denied and dismissed with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

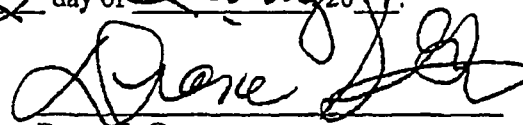
This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

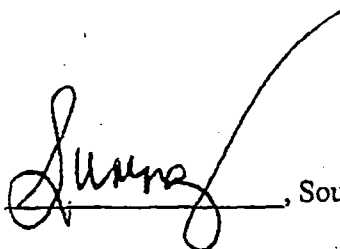
1. That this application for post-conviction relief must be denied and dismissed with prejudice; and

2. The Applicant must be remanded to and remain in the custody of the State

AND IT IS SO ORDERED this 23 day of February 2017.



DIANE S. GOODSTEIN
Presiding Judge
First Judicial Circuit



_____, South Carolina.



ALAN WILSON
ATTORNEY GENERAL

March 21, 2014

Glenn Walters, Sr., Esquire
Glenn Walters & Associates, PA
Post Office Box 1346
Orangeburg, South Carolina 29116-1346

Re: Adrian Darby, #342254 v. State of South Carolina
2012-CP-38-0805

Dear Mr. Walters:

Enclosed please find a copy of the filed Order of Dismissal signed by the Honorable Diane S. Goodstein in the above mentioned case that our Office received on March 17, 2014 from the Kershaw County Clerk of Court.

Sincerely,

Megan E. Harrigan
Assistant Attorney General

MEH/ko
Enclosure(s)

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG
IN THE COURT OF COMMON PLEAS

ADRIAN DARBY, #342254,

Applicant,

v.

STATE OF SOUTH CAROLINA,

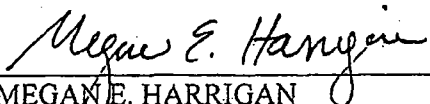
Respondent.

CERTIFICATE OF SERVICE

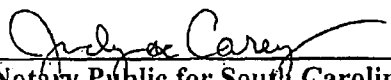
The undersigned hereby certifies that a true copy of the Order of Dismissal has been served upon the applicant by mailing one (1) copy in the United States mail, postage prepaid, addressed to:

Glenn Walters, Sr., Esquire
Glenn Walters & Associates, PA
Post Office Box 1346
Orangeburg, South Carolina 29116-1346

This 21st day of March, 2014.


MEGAN E. HARRIGAN
ATTORNEY FOR RESPONDENT

SWORN to before me this 21st day of March, 2014.


Notary Public for South Carolina.
My Commission Expires: 5/11/2014

DOCKET NO. 2010GS38-0240

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

The State of South Carolina

County of ORANGEBURG

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

COURT OF GENERAL SESSIONS

May 10, 2010 TERM

THE STATE
vs.

Adrian Jermaine Darby

Witness:

C.C.C. PLS. AND G.S.

Indictment for

BURGLARY - FIRST DEGREE

VERDICT

2010 MAY 12 A 11: 14

375

ATTEST: TRUE COPY

Winnifred B. Clark

SC Code: 16-11-311

WITNESSES

Bobby Jones

Orangeburg County Sheriff

2009013042

ARREST WARRANT NUMBER
M212726

Arrested: October 6, 2009

ACTION FOR BURGLARY

May 12 2010
Date

Foreperson of Grand Jury

Date: May 12, 2010

Foreperson of Petit Jury

Date:

FILED FOR RECORD
WINNIFRED B. CLARK
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

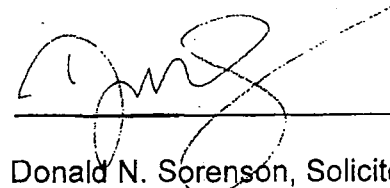
INDICTMENT
2010GS38-0240

At a Court of General Sessions, convened on May 12, 2010 the Grand Jurors of Orangeburg County present upon their oath:

BURGLARY - FIRST DEGREE

That in Orangeburg County, South Carolina, on or about September 29, 2009, the Defendant, Adrian Jermaine Darby, did willfully and unlawfully enter the dwelling of Cruise & Tiffney Moorner, without consent and with the intent to commit a crime therein and while in the dwelling, the defendant or another participant was armed with a deadly weapon and/or caused physical injury to a non-participant in the crime and/or uses or threatens the use of a dangerous instrument. This offense being a violation of Section 16-11-311 of the South Carolina Code of Laws, as amended.

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



Donald N. Sorenson, Solicitor

DOCKET NO. 2010GS38-0241

WITNESSES

Bobby Jones

The State of South Carolina
County of ORANGEBURG

After being fully advised as to my legal rights, I hereby waive presentment to t Grand Jury.

Defendant

I hereby appear in my own proper persc and plead guilty to the within indictment or to

COURT OF GENERAL SESSIONS

May 10, 2010 TERM

ARREST WARRANT NUMBER
M212727

Arrested: October 6, 2009

THE STATE
vs.

Adrian Jermaine Darby

Defendant

Witness:

C.C.C. PLS. AND G.S.

ACTIONABLE INJURY

May 12 2010
Date

Foreperson of Grand Jury

Date: May 12, 2010

VERDICT

Foreperson of Petit Jury
Date:

Indictment for
ASSAULT AND BATTERY OF A HIGH
AND AGGRAVATED NATURE

FILED FOR RECORD
WINNIE B. CLARK
CLERK OF COURT
ORANGEBURG, SC

2010 MAY 12 A 11:14

377

ATTEST: TRUE COPY.

SC Code: Common Law

Winnie B. Clark
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

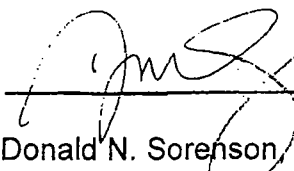
INDICTMENT
2010GS38-0241

At a Court of General Sessions, convened on May 12, 2010 the Grand Jurors of Orangeburg County present upon their oath:

ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE

That the defendant Adrian Jermaine Darby, did in Orangeburg County on or about September 29, 2009 commit the an unlawful act of violent injury to the person of Cruise Moorer with circumstances of aggravation described as infliction of serious bodily injury and/or use of a deadly weapon. This offense in violation of the Common Law of South Carolina

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


Donald N. Sorenson, Solicitor

0-1047

ATTEST: TRUE COPY

STATE OF SOUTH CAROLINA

ORANGEBURG COUNTY, SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

STATE

INDICTMENT/CASE#: 2010-GS-38-0241

AKA: Adrian VS. Jermaine Darby

A/N#: M212727

Race: B Sex: M Age:

Date of Offense: September 29, 2009

DOB: SS#:

S.C. Code §: Common Law

Address:

CDR Code #: 0013

City, State, Zip:

SENTENCE SHEET

DL# SID#
*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Assault and Battery of A High AND Aggravated NATURE

In violation of § Common Law of the S.C. Code of Laws, bearing CDR Code # 0013

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on;☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-35-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

\$14-1-206 (Assessments 107.5%)	\$	
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$56-1-288 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
\$14-1-212 (Law Enforc. Funding)	\$25	\$ 25.00
\$14-1-213 (Drug Court Surcharge)	\$150	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
\$44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

Clerk of Court/Deputy Clerk

Court Reporter:

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other:

☐ Conditional Discharge, §44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, §47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

ATTEST: TRUE COPY

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

ORANGEBURG COUNTY, SOUTH CAROLINA

STATE

Orangeburg

INDICTMENT/CASE#: 10-GS-38-240

Adrian Jermaine Darby

AW#: 11212726

AKA:

Date of Offense: 9-29-09

Race:

Sex: M

Age: 34

S.C. Code §: 16-11-311

DOB:

SS#:

CDR Code #: 0079

Address:

City, State, Zip:

SENTENCE SHEET

DL#

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO:

In violation of §

(16-11-311)

of the S.C. Code of Laws, bearing CDR Code #

0079

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lawd Act)

The charge is:

☒ As Indicted.☐ Lesser Included Offense.☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation.☐ Negotiated Sentence.☐ Recommendation by the State.

ATTEST:

9512

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections☐ County Detention Center,

for a determinate term of

15

days/months/years or

☐ under the Youthful Offender Act not to exceed

years

and/or to pay a fine of \$

; provided that upon the service of

days/months/years and or payment

of \$

; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

§14-1-211 (A)(2)(DUI Surcharge)

\$100

§56-5-2995 (DUI Assessment)

\$12

§56-1-286 (DUI Breath Test)

\$25

Proviso 47.9 (Public Def/Prob)

\$500

§14-1-212 (Law Enforce. Funding)

\$25

§14-1-213 (Drug Court Surcharge)

\$150

§50-21-114 (BUI Breath Test Fee)

\$50

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

Proviso 90.5 (SCCJA Surcharge)

\$5

§44-53-450(C) (Conditional Discharge)

\$350

3% to County (if paid in installments)

TOTAL

\$133.90

Clerk of Court/Deputy Clerk

Court Reporter:

Mr. T. L. Walker

Harry Dot Walker

Presiding Judge

Judge Code:

Sentence Date

2144

Aug 11, 2010