

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HAMPTON COUNTY

Perry M. Buckner, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ANDRE GREEN,

APPELLANT

APPELLATE CASE NO. 2014-001325

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF HAMPTON) CASE NO.: 2013-GS-25-306 thru 309
 2013-GS-25-311-312

THE STATE OF SOUTH CAROLINA,)
)
)
 v.) TRANSCRIPT OF RECORD
)
 ANDRE GREEN,)
)
 DEFENDANT.)

JUNE 11th - 13th, 2014
 COMMENCING AT HAMPTON COUNTY COURTHOUSE
 HAMPTON, SOUTH CAROLINA
 BEFORE THE HONORABLE PERRY M. BUCKNER, III, JUDGE.

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NONE.

1

1 THE COURT: Is the State ready to proceed?

2 ASST. SOL. WRIGHT: We are, Your Honor.

3 THE COURT: Is the defendant ready to proceed?

4 MS. SMART-GITTINGS: We are, Your Honor.

5 THE COURT: Call your case, Solicitor.

6 ASST. SOL. WRIGHT: The State calls Andre Green in
7 reference to indictment numbers 2013-GS-25-00305, 306, 307,
8 308, 309, 310, 311 and 312. The defendant is charged with
9 the offenses of arson, third degree; burglary, second
10 degree, non-violent; malicious injury to personal property;
11 malicious injury to personal property; malicious injury to
12 personal property; malicious injury to personal property;
13 malicious injury to real property; arson, third; these are
14 his charges.

15 THE COURT: All right. Ladies and gentlemen of my jury
16 panel, the State has called for trial the case of the State
17 of South Carolina v. Andre Green. Mr. Green is charged by
18 these pieces of paper, which in hold in my hand, which we
19 call indictments. These are simply the formal written
20 instruments by which the case is brought into this Court.

21 The indictments charge the defendant, Andre Green, with
22 the offense of arson, third degree; burglary, second degree,
23 non-violent; malicious injury to personal property;
24 malicious injury to personal property; a third offense of
25 malicious injury to personal property; a fourth offense of

1 malicious injury to personal property; malicious injury to
2 real property; and finally, another arson, third degree.
3 The elements of those offenses if you are selected as a
4 juror in the trial of this case will be explained to you in
5 my charge to you on the law at the conclusion of the case.

6 I have not heard any evidence in the case, nor have
7 you. Therefore, I can't tell you at this point exactly what
8 will be submitted to you until we both hear the evidence in
9 the case.

10 To these indictments, I am informed that the defendant,
11 Andre Green, has pled not guilty. That places the burden on
12 the State of South Carolina to prove the elements of the
13 offenses beyond a reasonable doubt. And if you are selected
14 as a juror in the trial of this case, it will be your job to
15 determine whether or not the State has met that burden.

16 Now, I would ask that the lawyers who will be trying
17 this case, stand, face my jury panel, introduce themselves
18 to my jury, beginning with counsel for the State of South
19 Carolina.

20 ASST. SOL. WRIGHT: Thank you, Your Honor.. My name is
21 Kelvin Wright. I'm an Assistant Solicitor for Hampton
22 County and Allendale County, and I will be trying this case;
23 and I'll be assisted by Sled Agent, Daniel Russell, and I'll
24 be assisted by the Chief of Police of Varnville, Tyrone
25 Smith, and my investigator, Bruce Davis.

1 THE COURT: Very well. Counsel for the defendant.

2 MS. SMART-GITTINGS: Good afternoon. My name is
3 Stephanie Smart-Gittings. I'm an Assistant Public Defender
4 here in Hampton County. Today, I'm representing Andre
5 Green. Also, our Chief Public Defender is Mr. Steve
6 Plexico.

7 THE COURT: Please introduce your client as well,
8 counsel.

9 MS. SMART-GITTINGS: Andre Green.

10 THE COURT: Where's he from?

11 MS. SMART-GITTINGS: Ridgeland, South Carolina. Jasper
12 County.

13 THE COURT: Mr. Andre Green, ladies and gentlemen, who
14 is standing beside Ms. Stephanie Smart-Gittings from
15 Ridgeland in Jasper County, South Carolina. You may be
16 seated.

17 All right. Ladies and gentlemen, I remind you that
18 your responses are still under oath. I'm going to ask you
19 questions to determine your impartiality to serve as a juror
20 in the trial of this case. Your responses will be under
21 oath. If you have to respond, stand up. My bailiff, Mr.
22 Danny Padgett, will have a microphone for you to speak into.

23 All right. You have to stand up, wait on the
24 microphone, identify yourself, or I'm going to have to call
25 you down front so Becky can know who is speaking. Don't

1 just stand up and start talking. If you know your number,
2 give us your number, just as you did before.

3 You've met my lawyers and you've met the defendant, Mr.
4 Andre Green. He's from Ridgeland, and I've told you the
5 offenses for which he is charged by the indictments which
6 have been handed to me by the Clerk that the Solicitor has
7 called for trial.

8 I ask, first of all, is any member of my jury panel
9 related by blood, connected by marriage, or a close personal
10 friend of Mr. Andre Green of Ridgeland, South Carolina, whom
11 you have just met, seated at defense table? If so, please
12 stand at this time.

13 (JURORS STAND.)

14 THE COURT: Give me your name; give me your juror
15 number.

16 JUROR: Singleton.

17 THE COURT: Do you know your number?

18 JUROR: No, sir.

19 THE COURT: Mylinda, what's her number?

20 MADAME CLERK: Number 143.

21 THE COURT: Your number is one hundred and forty-three,
22 according to the Clerk of Court. This is Ogretta Singleton.
23 Ms. Singleton, yes or no; are you related by blood to Mr.
24 Green?

25 JUROR: No.

1 THE COURT: Are you connected by marriage to Mr. Green?

2 JUROR: No.

3 THE COURT: Are you a close personal friend of Mr.
4 Green's?

5 JUROR: Yes.

6 THE COURT: How long have you known him?

7 JUROR: About 6 years.

8 THE COURT: All right. The fact that you've known him
9 for 6 years, would that in any way prevent you from giving
10 the State or the defendant in this case a fair and an
11 impartial trial?

12 JUROR: No, sir.

13 THE COURT: It would not?

14 JUROR: No, sir.

15 THE COURT: Thank you, please be seated. Pass the
16 microphone, name and juror number.

17 JUROR: Juror 116, Mary Naulder.

18 THE COURT: Counsel, this is juror 116, Mary Naulder.
19 Ms. Naulder, are you related by blood to Mr. Green?

20 JUROR: No, sir.

21 THE COURT: Are you connected by marriage to Mr. Green?

22 JUROR: No.

23 THE COURT: Are you a close personal friend of Mr.
24 Green's?

25 JUROR: Yes, sir.

1 THE COURT: How long have you known Mr. Green?

2 JUROR: Since he was a little boy. He grew up with my
3 children.

4 THE COURT: All right. How many years are we talking?

5 JUROR: Probably about 20-something years.

6 THE COURT: All right. The fact that you've known Mr.
7 Green for 20-something years, Ms. Naulder, would that in any
8 way affect your ability to give the State of South Carolina
9 or the defendant, Andre Green, a fair and an impartial
10 trial?

11 JUROR: No, sir.

12 THE COURT: It would not?

13 JUROR: No, sir.

14 THE COURT: Thank you, ma'am. You may be seated.
15 Anyone else related by blood, connected by marriage, or a
16 close personal friend of the defendant, Andre Green, of
17 Ridgeland, South Carolina? If so, please stand at this
18 time.

19 (NO RESPONSE.)

20 THE COURT: Let the record reflect, no one else is
21 standing. You've also met the attorneys who are going to be
22 handling this case, Mr. Kelvin Wright with the Fourteenth
23 Judicial Circuit Solicitor's Office, and Ms. Stephanie
24 Smart-Gittings with the Hampton County Public Defender's
25 Officer. I ask, first, as to Mr. Wright, is any member of

1 my jury panel related by blood, connected by marriage, or a
2 close personal friend of Mr. Kelvin Wright? If so, please
3 stand at this time.

4 (NO RESPONSE.)

5 THE COURT: Let the record reflect, no one else is
6 standing. Any member of my jury panel ever been represented
7 in the past or currently represented by Mr. Kelvin Wright of
8 the Fourteenth Judicial Circuit Solicitor's Office? If so,
9 please stand at this time.

10 (NO RESPONSE.)

11 THE COURT: Let the record reflect, no one else is
12 standing. You've also met counsel for the defendant,
13 Stephanie Smart-Gittings. Ms. Gittings is with the Hampton
14 County Public Defender's Office. Any member of my jury
15 panel related by blood, connected by marriage, or a close
16 personal friend of counsel for the defendant, Stephanie
17 Smart-Gittings? If so, please stand at this time.

18 (JUROR STANDS.)

19 JUROR: John Roberts, juror 128.

20 THE COURT: Counsel, this is Mr. John Roberts, juror
21 128. Mr. Roberts, are you related by blood to Ms. Gittings?

22 JUROR: No.

23 THE COURT: are you connected by marriage to Ms.
24 Gittings?

25 JUROR: No.

1 THE COURT: Are you a close personal friend of Ms.
2 Gittings?

3 JUROR: Yes.

4 THE COURT: How long?

5 JUROR: About

6 THE COURT: The fact that you've known her as a friend
7 for seven or eight years, would that in any way affect your
8 ability to give the State of South Carolina or the
9 defendant, Andre Green, a fair and an impartial trial?

10 JUROR: No.

11 THE COURT: It would not?

12 JUROR: No.

13 THE COURT: Thank you. Be seated. Danny, got another
14 one. Name and juror number, please.

15 JUROR: Loretta Beckett, number seven.

16 THE COURT: Counsel, this is juror number seven,
17 Loretta Beckett. Ms. Beckett, are you related by blood to
18 Ms. Smart-Gittings?

19 JUROR: Yes.

20 THE COURT: How are you related to her?

21 JUROR: We're third cousins.

22 THE COURT: You're third cousins to her?

23 JUROR: Yes, sir.

24 THE COURT: Congratulations. I'm going to excuse you
25 only from service in the trial of this case. Please remain

1 with us. Anyone else related by blood, connected by
2 marriage, or a close personal friend of Stephanie Smart-
3 Gittings, attorney for the defendant, Andre Green? If so,
4 please stand at this time.

5 (NO RESPONSE.)

6 THE COURT: Let the record reflect, no one else is
7 standing. Any member of my jury panel ever been represented
8 in the past or currently represented by Stephanie Smart-
9 Gittings? If so, please stand at this time. (NO RESPONSE.)

10 THE COURT: Let the record reflect, no one else is
11 standing. Now, I told you what these documents are. We
12 call them indictments. They're the formal written
13 instruments by which the case is brought into the Court of
14 General Sessions. The indictments are not evidence. They
15 merely contain the allegations made against the defendant.
16 If you are selected as a juror in the trial of this case, it
17 will be your job to determine from the evidence whether or
18 not the elements of any offense in the indictment has been
19 proven to you beyond a reasonable doubt.

20 The indictments allege the following. First, in
21 indictment 2013 at 312. I'm going to read you the
22 allegations to ask you if you've heard about, read about, or
23 know anything about the facts which are alleged in this
24 case.

25 This indictment, 2013 at 312, charges the defendant,

1 Andre Green, of Ridgeland, South Carolina, with the offense
2 of arson, third degree. It alleges that on or about August
3 2nd, 2013, the defendant did set fire to Building H, as in
4 "hotel," of the Varnville Area Housing Apartments. It is
5 alleged that the defendant set fire to Building H, which is
6 comprised of apartments , H30, , and .

7 Indictment 2013 at 311, charges the defendant with
8 malicious injury to real property. It is alleged in this
9 indictment that on or about August 2nd, 2013, the defendant,
10 Andre Green, did destroy the real property of the Varnville
11 apartment. It is alleged that the defendant set fire to
12 apartments , H30, , and of the Varnville Area
13 Housing Apartments.

14 Indictment 2013 at 310, charges the defendant, Andre
15 Green, with the offense of malicious injury to personal
16 property. This indictment alleges that on or about August
17 2nd, 2013, the defendant, Andre Green, did maliciously
18 destroy the personal property of the victim, Tamara Duncan,
19 D-U-N-C-A-N, by setting fire to the Varnville Area Housing
20 Apartment H Building.

21 Next indictment 2013 at 309, charges the defendant with
22 malicious injury to personal property. It alleges that on
23 or about August 2nd, 2013, the defendant, Andre Green, did
24 maliciously destroy the personal property of the victim,
25 Theresa, T-h-e-r-e-s-a, Pope, P-o-p-e, by setting fire to

1 the Varnville Area Housing Apartment H Building.

2 Indictment 2013 at 308, charges the defendant, Andre
3 Green, with the offense of malicious injury to personal
4 property. It alleges that on or about August 2nd, 2013, the
5 defendant, Andre Green, did maliciously destroy the personal
6 property of a victim, Kwanisha Fludd, K-w-a-n-i-s-h-a F-l-u-
7 d-d, by setting fire to the Varnville Area Housing
8 Apartment H Building.

9 Indictment 2013 at 307, charges the defendant with
10 malicious injury to personal property. It alleges that on or
11 about August 2nd, 2013, the defendant, Andre Green, did
12 destroy personal property of the victim, Monica Haynes,
13 H-a-y-n-e-s, by setting fire to the Varnville Area Housing
14 Apartment H Building.

15 Indictment 2013 at 306, charges the defendant with
16 burglary, second degree. It alleges that on or about August
17 2nd, 2013, the defendant, Andre Green, did break and enter
18 into the Varnville Area Housing Apartment Building H30
19 through a broken window. Apartment H30 was a dwelling that
20 was being leased by Monica Haynes. While in the dwelling,
21 the defendant allegedly set a fire.

22 Finally, in indictment 2013 at 305, charges the
23 defendant, Andre Green, with the offense of Arson, third
24 degree. It alleges that on or about August 2nd, 2013, the
25 defendant, Andre Green, did break into the Varnville Area

1 Housing Apartment Building H30, which was being leased by
2 Monica Haynes and set a fire.

3 To each of these indictments, the defendant has pled
4 not guilty. As I told you, that places the burden on the
5 State of South Carolina to prove the elements of the
6 offenses alleged in the indictments. I tell you about those
7 allegations in order to ask you this: has any member of my
8 jury panel heard about, read about, or know anything
9 whatsoever about the facts which are alleged in these
10 indictments? If so, please stand at this time.

11 (SEVERAL JURORS STAND.)

12 THE COURT: They're going to have to come forward for
13 this one. Please come forward one at a time. Counsel
14 approach.

15 (WHEREUPON, THE JUDGE AND THE ATTORNEYS MEET AT THE
16 DESK OF THE COURT REPORTER.)

17 BAILIFF: Juror 143, Ms. Singleton.

18 THE COURT: This is juror 143. I asked you have your
19 read about, heard about, or do you know anything about the
20 facts which are alleged in this case, and you stood up.
21 Tell me why you stood up.

22 JUROR: Monica Haynes is my niece.

23 THE COURT: Monica Haynes is your niece?

24 JUROR: Right.

25 THE COURT: She is alleged to be -- I'm going to get to

1 this later, but she is alleged to be one of the victims in
2 the indictment. The fact that she is your niece and she is
3 an alleged victim, does that in any way affect prevent you
4 from giving the State or the defendant in this case a fair
5 and an impartial trial?

6 JUROR: No, sir.

7 THE COURT: You're certain?

8 JUROR: Yes, sir.

9 THE COURT: Okay. Have you discussed this case with
10 her?

11 JUROR: Yes.

12 THE COURT: You have. And what did you discuss this
13 case with her about?

14 JUROR: What happened.

15 THE COURT: About what happened. Did she believe she
16 knew who did this?

17 JUROR: No.

18 THE COURT: She did not?

19 JUROR: No.

20 THE COURT: The fact that you've had discussions about
21 this with her and the fact that she is also your niece, can
22 you put aside any relationship you have with her and any
23 conversation you have had with her and decide this case
24 solely upon the evidence presented in this courtroom when
25 both sides are present with the right of cross-examination?

1 JUROR: No, sir, I don't think I can.

2 THE COURT: Then, I'll excuse you from service in this
3 case only. You may return to your seat and remain with me.

4 Juror 143, Madame Clerk, is going to be excused from
5 service in the trial of this case only.

6 BAILIFF: Juror 116.

7 THE COURT: Ms. Naulder, I asked you if you had read
8 about, heard about, or knew anything about the actions that
9 are alleged in this case and you stood up. Why did you
10 stand up?

11 JUROR: I read about it in the newspaper and I saw
12 something on the TV about it.

13 THE COURT: All right. The fact that you've read about
14 it in the newspaper, and you also saw something on
15 television -- perfectly normal. We understand that. The
16 fact that you've read about it and you've seen something on
17 television, can you put aside anything that you've read
18 about and watched on television and decide this case solely
19 on the evidence introduced in this case when both sides are
20 present with the right of cross-examination?

21 JUROR: Yes, I think so.

22 THE COURT: You think you can?

23 JUROR: I think so.

24 THE COURT: Okay. That's all I need to know. Because
25 you must decide the case solely upon the evidence inside

1 this courtroom; do you understand that?

2 JUROR: Uh-huh.

3 THE COURT: You have to say "yes" or "no," not uh-huh.

4 JUROR: Yes, sir.

5 THE COURT: All right. Now, is there any other reason
6 that you stood up other than you've read about it and saw it
7 on TV?

8 JUROR: Our family is very close with Andre. He grew
9 up with my ---

10 THE COURT: You told me that before and you told me
11 that would not affect your ability to be fair and impartial.
12 Are you changing your mind now? Do you believe you can be
13 fair and impartial to the State and to the defendant?

14 JUROR: Yes.

15 THE COURT: You do?

16 JUROR: Yes.

17 THE COURT: And you believe you can put aside anything
18 you may have heard about this case and decide this case
19 solely upon the evidence?

20 JUROR: Yes, sir.

21 THE COURT: Very good. Thank you. You may return to
22 your seat. Juror 116 is going to remain with us.

23 BAILIFF: Juror number 136.

24 THE COURT: Good afternoon. You are Mr. Schaffer?

25 JUROR: Correct.

1 THE COURT: Counsel, this is juror 136, Deckie
2 Nathaniel A. Schaffer. Mr. Schaffer, I asked if anybody had
3 heard about, read about, or knows anything about the facts
4 which are alleged in this case, and you stood up. Why did
5 you stand?

6 JUROR: I'm the mayor of the town of Varnville and play
7 an administrative role. I've seen some of the indictments
8 and some of the photos and am privy to a little bit of
9 information.

10 THE COURT: I understand that. The fact that you have
11 seen information through photos, the fact that you've read -
12 - I just read you the indictments, so everybody knows what
13 is in the indictments. The fact that you've seen photos,
14 I'm not sure what information -- how did you get any other
15 information?

16 JUROR: The police department is housed in the same
17 building.

18 THE COURT: The fact that you've heard from policemen
19 in this case, would that prevent you from giving the State
20 or the defendant in this case a fair and an impartial trial?
21 In other words, can you put aside any information you may
22 have gotten from any source, whether it be newspaper,
23 television, police department, looking at a photograph,
24 somebody reading you the indictment, and decide this case
25 solely upon the evidence introduced in this courtroom when

1 both sides are present with the right of cross-examination?

2 JUROR: Yeah.

3 THE COURT: You feel certain you can?

4 JUROR: I can.

5 THE COURT: Thank you, sir. You may return to your
6 seat.

7 JUROR: Thank you.

8 THE COURT: Juror 136 is going to remain with us.

9 BAILIFF: One-zero-five.

10 THE COURT: Becky, counsel, this is juror number 105,
11 Corinne Miller. Ms. Miller, I asked if any member of my
12 jury panel had read about, heard about or know anything
13 whatsoever about the facts which are alleged in this case,
14 and you stood up. Can you tell me why you stood up, please?

15 JUROR: Because my niece was one of the names you
16 called.

17 THE COURT: Who is your niece?

18 JUROR: Tamara Duncan.

19 THE COURT: All right. It is alleged -- I think I've
20 read this to you, and I'm going to go through all of the
21 witnesses in just a moment. It is alleged that Tamara
22 Duncan is allegedly a victim in a malicious injury to
23 personal property in one of the indictments, and she's your
24 niece; is that right?

25 JUROR: Yes.

1 THE COURT: All right. The fact that she's your niece
2 and she is alleged to be the victim in one of these
3 indictments, would that in any way affect your ability to
4 give the State or the defendant in this case a fair and an
5 impartial trial?

6 JUROR: It could. I'll be honest.

7 THE COURT: All right. I'll excuse you from service in
8 the trial of this case only. You may return to your seat.

9 JUROR: Thank you.

10 THE COURT: Juror 105 is excused from service in the
11 trial of this case only. Has anyone else read about, heard
12 about, or know anything whatsoever about the facts which are
13 alleged in this case? If so, please come forward at this
14 time.

15 (NO RESPONSE.)

16 THE COURT: Let the record reflect, no one else has
17 come forward.

18 (WHEREUPON, THE JUDGE AND THE ATTORNEYS TAKE THEIR
19 SEATS.)

20 THE COURT: All right. Ladies and gentlemen, I'm
21 advised that the potential witnesses -- and I emphasize
22 potential, that doesn't mean they're going to testify, but
23 they potentially could be a witness in the trial of this
24 case. The list has got quite a few names on it, so I want
25 you to listen. If they are here when I call the names,

1 please stand so my jury can see a face as well as hear a
2 name called. These are potential witnesses. When I've
3 finished calling out the list, I'm going to ask you if you
4 you're related by blood, connected by marriage, or a close
5 personal friend of any potential witness in the trial of
6 this case.

7 The potential witnesses are as follows. If you are
8 present, please stand and face my jury panel. Daniel
9 Russell, South Carolina Law Enforcement Division. Mr.
10 Russell, if you'll stand so they can see you. Thank you,
11 please be seated. John Brown, Ridgeland, South Carolina.
12 Monica Haynes, Hampton, South Carolina. Ms. Haynes is
13 standing in the back of the courtroom on the back row.
14 Thank you, you may be seated. Eugene Jenkins, Jr., Hampton,
15 South Carolina, standing in front of you. Thank you, you
16 may be seated.

17 Robert Warren, Hampton, Standing to your left, ladies
18 and gentlemen, Hampton, South Carolina. Thank you, you may
19 be seated. Isaac Crosby, Hampton, South Carolina. Standing
20 to your left, ladies and gentlemen. Thank you, you may be
21 seated. Renee Burisson, Ridgeland, South Carolina. That's
22 B-u-r-i-s-s-o-n. Teddy Scott, Hampton, South Carolina.
23 Standing to my left, holding his hand up for you. Mary
24 Chapers, Hampton, South Carolina. Tyrone Smith -- Mr.
25 Smith, if you'll turn around and face my jury panel so they

1 can see you. Tyrone Smith, Hampton, South Carolina. Thank
2 you, you may be seated.

3 Hoe Tanh, South Carolina Law Enforcement Division.
4 Thomas Smith, Hampton, South Carolina. Ryan Wright, W-r-i-
5 g-h-t, Hampton, South Carolina. Anthony Russell, Hampton,
6 South Carolina. Holding his hand up, standing to my left.
7 Lakeisha Wolf, Ridgeland, South Carolina. John Roberts,
8 South Carolina Law Enforcement Division. Teresa Pope, P-o-
9 p-e, Hampton, South Carolina. Kwanisha Fludd, Hampton,
10 South Carolina.

11 Donna Hipp, Ridgeland, South Carolina. James Sullivan,
12 Hampton, South Carolina. Michael Smith, Hampton, South
13 Carolina. Cynthia Williams, Hampton, South Carolina. Dr.
14 Sunny Parks, Hampton, South Carolina. Allen Dean, Hampton,
15 South Carolina. Lt. J. Ginn, Ridgeland Police Department.
16 Lt. Litchfield, Ridgeland Police Department. Captain Mador,
17 M-a-d-o-r, Ridgeland Police Department. Monica Haynes,
18 Hampton, South Carolina.

19 Any additional witnesses from the State?

20 ASST. SOL. WRIGHT: None, Your Honor.

21 THE COURT: Any additional witnesses from the
22 defendant?

23 MS. SMART-GITTINGS: No, Your Honor.

24 THE COURT: Any member of my jury panel related by
25 blood, connected by marriage, or a close personal friend of

1 the potential witnesses in the trial of this case whose
2 names I have just called? If so, please stand at this time.
3 (JURORS STAND.)

4 JUROR: Juror 130, Jackie Rozier.

5 THE COURT: Counsel, this is juror 130, Mr. Jackie
6 Rozier. Mr. Rozier, yes or no. Are you related by blood to
7 any of the witnesses?

8 JUROR: Yes, sir.

9 THE COURT: Which witness?

10 JUROR: Ginn.

11 THE COURT: Mr. Ginn?

12 JUROR: Yes, sir.

13 THE COURT: All right. You're related by blood how to
14 Mr. Ginn? How close of a relative is he of yours?

15 JUROR: His granddaddy and my daddy are brothers.

16 THE COURT: His granddaddy and your daddy are brothers?

17 JUROR: Yes, sir.

18 THE COURT: The fact that you have this relationship to
19 Mr. Ginn, who is a potential witness in the trial of this
20 case, would that in any way affect your ability to give the
21 State of South Carolina or the defendant, Andre Green, a
22 fair and impartial trial?

23 JUROR: No, sir.

24 THE COURT: Thank you, sir. You may be seated. Pass
25 the microphone to the next person. Name and juror number,

1 please

2 JUROR: Brenda Housey, Juror number 77.

3 THE COURT: Just one moment. Let me check your number.
4 Counsel, Becky, this is juror number 77, Brenda Housey, Ms.
5 Housey, are you related by blood to any of the potential
6 witnesses?

7 JUROR: Yes, sir.

8 THE COURT: Have you already told me about your
9 relationship?

10 JUROR: No, sir.

11 THE COURT: Okay. What witness are you related to?

12 JUROR: To Martha Haynes.

13 THE COURT: How are you related to Martha Haynes?

14 JUROR: I'm her second cousin.

15 THE COURT: Is that the only witness that you're
16 related to and the reason you stood?

17 JUROR: Yes, sir.

18 THE COURT: The fact that she is a potential witness
19 and the fact that you're related to her, would that in any
20 way affect your ability to give the State of South Carolina
21 or the defendant, Andre Green, a fair and an impartial
22 trial?

23 JUROR: No, sir.

24 THE COURT: It would not?

25 JUROR: No, sir.

1 THE COURT: Very well. Pass the microphone. Please be
2 seated.

3 JUROR: Number 57, Ed Goodman, Jr.

4 THE COURT: Counsel, this is juror number 57, Ed
5 Goodman, Jr. Mr. Goodman, are you related by blood to any
6 of the potential witnesses?

7 JUROR: No, sir.

8 THE COURT: Are you connected by marriage to any of the
9 potential witnesses?

10 JUROR: Yes, sir.

11 THE COURT: What witness?

12 JUROR: Captain Anthony Russell.

13 THE COURT: And how are you connected by marriage to
14 that witness?

15 JUROR: I'm married to his sister.

16 THE COURT: All right. The fact that you have that
17 relationship, would that in any way affect your ability to
18 give the State of South Carolina or the defendant in this
19 case a fair and an impartial trial?

20 JUROR: No, sir.

21 THE COURT: Very well. Is that the only witness that
22 you have a relationship with?

23 JUROR: Yes, sir.

24 THE COURT: Thank you. You may be seated. Let the
25 record reflect, no one else is standing. Any member of my

1 jury panel currently or previously employed by any law
2 enforcement agency? If so, please stand at this time.

3 JUROR: Loretta Beckett, juror number seven, employed
4 with the Estill Police Department.

5 THE COURT: Counsel, this is juror seven, Loretta
6 Beckett. Thank you, ma'am. You may sit down. I don't need
7 anything further from you.

8 JUROR: Number 97,

9 THE COURT: Counsel, this is juror number 97, Mr.
10 Kenneth Long. Mr. Long, what do you want to tell me?

11 JUROR: I was a law enforcement officer with Allendale
12 Correctional Institution for 19 years. I retired December
13 2nd in 2008.

14 THE COURT: The fact that you previously -- and what
15 was the law enforcement agency?

16 JUROR: Allendale Correctional Institution.

17 THE COURT: The fact that you retired from Allendale
18 Correctional, would that in any way affect your ability to
19 give the State in this case or the defendant in this case a
20 fair and an impartial trial?

21 JUROR: No, sir.

22 THE COURT: Thank you; you may be seated.

23 JUROR: Gina Jarrell, number 86.

24 THE COURT: Counsel, this is number 86, Gina Jarrell.
25 Ms. Jarrell, are you currently or previously employed with

1 law enforcement agency?

2 JUROR: Previously.

3 THE COURT: What agency?

4 JUROR: I worked for Estill Police Department as a
5 dispatcher part-time, approximately 20 years ago.

6 THE COURT: The fact that you worked as a dispatcher 20
7 years ago at Estill Police Department, would that in any way
8 affect your ability to give the State of South Carolina or
9 the defendant a fair and an impartial trial?

10 JUROR: No, sir.

11 THE COURT: Thank you, ma'am. You may be seated. Any
12 member of my jury panel employed by or married to anyone
13 employed by the Solicitor's Office, attorney general, or any
14 prosecuting attorney's office? If so, please stand at this
15 time.

16 (NO RESPONSE.)

17 THE COURT: Let the record reflect, no one is standing.
18 Any member of my jury panel a member of or a contributor to
19 any group which has as its primary concern the promotion of
20 law enforcement or victim's rights? These groups would
21 include, but not be limited to, MADD, SADD, CAVE or CADRE.
22 CAVE is Citizens Against Violence and CADRE is Citizens
23 Advocating A Return to Ethics, or any similar group
24 organization? If so, please stand at this time.

25 (NO RESPONSE.)

1 THE COURT: Let the record reflect, no one is standing.
2 Any member of my jury panel who is previously a member
3 of the Hampton County Grand Jury who found the indictments
4 in this case? If so, please stand.

5 (NO RESPONSE.)

6 THE COURT: Let the record reflect, no one else is
7 standing. Any member of my jury panel formed any opinion
8 whatsoever about the facts which are alleged in this case?
9 If so, please stand at this time.

10 (NO RESPONSE.)

11 THE COURT: Let the record reflect, no one is standing.
12 Any member of my jury panel know of any bias or prejudice
13 they may have about the facts which are alleged in this
14 case? Any of the parties, thereto? Any of the attorneys or
15 offices involved therein, or witnesses involved, therein?
16 If so, please stand at this time.

17 (NO RESPONSE.)

18 THE COURT: Let the record reflect, no one else is
19 standing. Any member of my jury panel know of any reason
20 whatsoever why they can't give the State of South Carolina
21 or the defendant in this case, Andre Green, of Ridgeland,
22 South Carolina, a fair and an impartial trial? If so,
23 please stand at this time.

24 (NO RESPONSE.)

25 THE COURT: Let the record reflect, no one else is

1 standing. Any additional voir dire from the State?

2 ASST. SOL. WRIGHT: No, Your Honor.

3 THE COURT: From the defendant?

4 MS. SMART-GITTINGS: None, Your Honor.

5 THE COURT: Counsel, it is my understanding that you
6 both agree that the strikes are five and five. You agree to
7 waive an alternate juror and proceed with whatever number
8 necessary to complete the trial of the case. Is that
9 correct from the State of South Carolina?

10 ASST. SOL. WRIGHT: Correct, Your Honor.

11 THE COURT: Correct, from the defendant?

12 MS. SMART-GITTINGS: Correct, Your Honor.

13 THE COURT: Madame Clerk, it is my understanding they
14 agree to waive an alternate. Strikes are five and five;
15 would you give us a jury, please.

16 (WHEREUPON, THE CLERK OF COURT PRODUCES A JURY STRIKE
17 SHEET PRINTED FROM THE COMPUTER.)

18 THE COURT: Now, ladies and gentlemen, what's happening
19 right now is the computer is drawing those people I've
20 qualified for this case at random and I haven't seen it,
21 nobody's seen it. She's handing me the list right now.
22 She's giving one to my court reporter, one to my law clerk,
23 and one to me. She's going to call your name. If your name
24 is called, come down the middle aisle, come all the way to
25 the clerk's desk, turn around and face the direction I'm

1 sitting in right now. Each side will then be able to see
2 you and exercise their strikes. Please bring your
3 belongings with you, if you've got a pocketbook or a coat,
4 don't leave it in the pew; bring it with you when you come.
5 Madame Clerk, please give us a jury.

6 MS. SMART-GITTINGS: Your Honor, may we approach?

7 THE COURT: Counsel approach. Hold on, Mylinda.

8 MADAME CLERK: Yes, sir.

9 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
10 AND OUT OF THE HEARING OF THE JURY.)

11 THE COURT: All right. Counsel, it's my understanding,
12 based on the statute, that you agreed -- even though you
13 earlier told me five and five, you now agree that the
14 strikes are, under 14-7-1110, are ten and five; is that
15 correct, from the State?

16 ASST. SOL. WRIGHT: Correct, Your Honor.

17 THE COURT: Is that correct, from the defendant?

18 MS. SMART-GITTINGS: That's correct, Your Honor.

19 THE COURT: But you still agree to waive an alternate;
20 is that correct from the State?

21 ASST. SOL. WRIGHT: Correct, Your Honor.

22 THE COURT: Correct, from the defendant?

23 MS. SMART-GITTINGS: Correct, Your Honor.

24 THE COURT: Madame Clerk, the strikes are now ten for
25 the defendant; five for the State. Give us a jury, please.

1 MADAME CLERK: Number 153, Robin Stanley. What says
2 the State?

3 ASST. SOL. WRIGHT: Please strike the juror.

4 THE COURT: Have a seat back with the jury.

5 MADAME CLERK: Number eighty, Robert Hutchinson. What
6 says the State?

7 ASST. SOL. WRIGHT: Please present this juror.

8 MADAME CLERK: What says the defense?

9 MS. SMART-GITTINGS: Please seat the juror.

10 MADAME CLERK: Number 130, Jackie Rozier. What says
11 the State?

12 ASST. SOL. WRIGHT: Please present this juror.

13 MADAME CLERK: What says the defense?

14 MS. SMART-GITTINGS: Please excuse this juror.

15 MADAME CLERK: You can have a seat. Number forty-six,
16 Gerald Freeman. What says the State?

17 ASST. SOL. WRIGHT: Please present this juror.

18 MADAME CLERK: What says the defense?

19 MS. SMART-GITTINGS: Please seat this juror.

20 THE COURT: Have a seat in the jury box for me, Mr.

21 Freeman.

22 MADAME CLERK: Number One seventy-three, Emma Wright.

23 What says the State?

24 ASST. SOL. WRIGHT: Please present this juror.

25 MADAME CLERK: What says the defense?

1 MS. SMART-GITTINGS: Please seat this juror.

2 THE COURT: Have a seat in the jury box, Ms. Wright.

3 MADAME CLERK: Number one hundred and ten, Charles
4 Moore. What says the State?

5 ASST. SOL. WRIGHT: Please present this juror.

6 MADAME CLERK: What says the defense?

7 MS. SMART-GITTINGS: Please seat this juror.

8 THE COURT: Have a seat in the jury box, Mr. Moore.

9 MADAME CLERK: Number twenty-two, Willie Buckner. What
10 says the State?

11 ASST. SOL. WRIGHT: Please present this juror.

12 MADAME CLERK: What says the defense?

13 MS. SMART-GITTINGS: Please seat the juror.

14 THE COURT: Have a seat, Mr. Buckner.

15 MADAME CLERK: Number one thirty-nine, Simmons. What
16 says the State?

17 ASST. SOL. WRIGHT: Present the juror, please.

18 MADAME CLERK: What says the defense?

19 MS. SMART-GITTINGS: Please seat this juror.

20 THE COURT: Have a seat in the jury box, Mr. Simmons.

21 MADAME CLERK: Number one sixty-one, Justin Tobias.
22 What says the State?

23 ASST. SOL. WRIGHT: Please present this juror.

24 MADAME CLERK: What says the defense?

25 MS. SMART-GITTINGS: Please excuse this juror.

1 MADAME CLERK: Number one sixty-three, Jordan Tsitlidis

2 -- I know I didn't say it right, did I?

3 THE COURT: If you'll pronounce it for us.

4 JUROR: Sounds like Tis-li-dis, sir.

5 THE COURT: Thank you.

6 MADAME CLERK: What says the State?

7 ASST. SOL. WRIGHT: Please present this juror.

8 MADAME CLERK: What says the defense?

9 MS. SMART-GITTINGS: Please seat this juror.

10 THE COURT: Have a seat in the jury box for me, please.

11 ADAME CLERK: Number one twenty-four, Sharon Rice.

12 What says the State?

13 ASST. SOL. WRIGHT: Please excuse the juror.

14 MADAME CLERK: Juror number sixteen, Mary Joe Bradley.

15 What

16 says the State?

17 ASST. SOL. WRIGHT: Please present this juror.

18 MADAME CLERK: What says the defense?

19 MS. SMART-GITTINGS: Please seat the juror.

20 THE COURT: Have a seat in the jury box, Ms. Bradley.

21 MADAME CLERK: Number seventeen, Tiffany Brantley.

22 What says the State?

23 ASST. SOL. WRIGHT: Please present this juror.

24 MADAME CLERK: What says the defense?

25 MS. SMART-GITTINGS: Please seat the juror.

1 THE COURT: Have a seat in the box for me.

2 MADAME CLERK: Number one-oh-eight, Thomas Mixon. What
3 says the State?

4 ASST. SOL. WRIGHT: Please present this juror.

5 MADAME CLERK: What says the defense?

6 MS. SMART-GITTINGS: Please excuse this juror.

7 MADAME CLERK: Number one seventy-one, John Wooten.
8 What says the State?

9 ASST. SOL. WRIGHT: Can we approach, Your Honor?

10 THE COURT: Counsel approach.

11 (WHEREUPON, COUNSEL APPROACH AND A BENCH CONFERENCE IS
12 HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

13 ASST. SOL. WRIGHT: Please present this juror.

14 MADAME CLERK: What says the defense?

15 MS. SMART-GITTINGS: Please excuse the juror.

16 MADAME CLERK: Number one forty-seven, Willisee Smart.
17 What says the State?

18 ASST. SOL. WRIGHT: Please present this juror.

19 MADAME CLERK: What says the defense?

20 MS. SMART-GITTINGS: Please seat this juror.

21 MADAME CLERK: Number one fifty-four, Marvin Sutton.
22 What says the State?

23 ASST. SOL. WRIGHT: Please present this juror.

24 MADAME CLERK: What says the defense?

25 MS. SMART-GITTINGS: Please seat the juror.

1 MADAME CLERK: Number ninety-seven, Kenneth Long. What
2 says the State?

3 ASST. SOL. WRIGHT: Please present this juror.

4 MADAME CLERK: What says the defense?

5 MS. SMART-GITTINGS: Please excuse this juror.

6 MADAME CLERK: Number one fifty-five, Susan Sutton.

7 What says the State?

8 ASST. SOL. WRIGHT: Please present this juror.

9 MADAME CLERK: What says the defense?

10 MS. SMART-GITTINGS: Please excuse this juror.

11 MADAME CLERK: Number sixty-four, Joe Grant. What says
12 the State?

13 ASST. SOL. WRIGHT: Please present this juror.

14 MADAME CLERK: What says the defense?

15 MS. SMART-GITTINGS: Please seat this juror.

16 THE COURT: Are there any matters of law pertaining to
17 the selection of the jury that need to be decided before the
18 jury is sworn, by the State of South Carolina?

19 ASST. SOL. WRIGHT: None, Your Honor.

20 THE COURT: From the defendant?

21 MS. SMART-GITTINGS: None, Your Honor.

22 THE COURT: All right. Ladies and gentlemen of the
23 jury, they are going to take excellent care of you. You
24 haven't heard any evidence. We're not going to start the
25 trial today. We're going to start in the morning. I don't

1 want you to discuss the case amongst yourselves, but I do
2 want you to do a little bit of work for me. I'm going to
3 ask you to step to your jury room and I want you to select a
4 foreperson. Let me tell you the duties of a foreperson.
5 Any of the 12 of you are eligible to be the foreperson. The
6 foreperson will be the jury spokesperson out here in the
7 courtroom should that need arise during the trial of the
8 case. It will also be the foreperson's job to write the
9 jury's verdict, but I will give you a verdict form and the
10 foreperson will sign for the entire jury on the verdict
11 form.

12 The foreperson's main job is to see once deliberations
13 begin that each and every member of the jury has a full and
14 fair opportunity to voice their opinions in the jury room
15 once deliberations begin. I don't want you to engage in
16 deliberations until I instruct you to do so.

17 So the foreperson speaks for the jury out here in the
18 courtroom, presides in the jury room, just like the
19 chairperson of a committee would preside at a committee
20 meeting to see that every person has a full and fair
21 opportunity to voice their opinions, and the foreperson
22 writes the jury's verdict.

23 One of the jobs of the foreperson is to sign also on
24 the indictments. My law clerk, Wilder Harte, knows that's
25 his job. That means the foreperson can't leave until their

1 signature is on each indictment showing what the verdict was
2 at the conclusion of the case. But you will have a verdict
3 form with you in the jury room and then the foreperson will
4 sign whatever is on the verdict form with my law clerk after
5 the case is concluded.

6 I'm going to ask you to go to your jury room, pick a
7 foreperson, knock on your jury room door. They will give you
8 a pad and a pen. Write the name on a piece of paper. Knock
9 on the door and give it to my bailiff. I'm going to bring
10 you back out into the courtroom and excuse you for the day.
11 We will start in the morning.

12 Please do not discuss the case amongst yourselves or
13 with anybody else. You have not heard any evidence in the
14 case and it would be improper for you to discuss the case.
15 Please retire to your jury room.

16 (5:20 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND
17 THE FOLLOWING IS HELD ON THE RECORD.)

18 THE COURT: All right. Ladies and gentlemen that were
19 not selected as jurors in the trial of this case, on your
20 way out of the courtroom, you're going to pass a security
21 desk just as you did coming in. They're going to have a
22 piece of paper with the telephone number on it. What is it,
23 Mylinda?

24 MADAME CLERK: It's 9-1-4-2-2-5-7.

25 THE COURT: 9-1-4-2-2-5-7. Do not leave without

1 picking up that card. If you go to the security desk and
2 they don't give you one, come back up here and see Mylinda
3 Nettles, because I don't want you to leave without that
4 number. I'm going to ask you to call that number after 6:00
5 tonight. I will leave a taped message on that number
6 telling you when, if at all, I might need you to return.

7 If I do ask you to return, please return and be on time
8 and report to the area of the courtroom you're seated in
9 now. If anybody needs transportation, let one of my
10 bailiffs know before you leave, I'll provide it for you so
11 you can get here on time.

12 I don't know whether I'll see you again. I want to
13 thank you for your patience. I know it's after 5:00, but we
14 had to get the jury selected and we moved as quickly as we
15 can, but I had to take up some matters during our break.
16 Call that number after 6:00 tonight. Do not call that
17 message number before six. There will be one message for
18 all jurors and it will tell you when to return. I want to
19 thank you on behalf of Hampton County and this Court. You
20 are now excused. Pick up your card with the telephone
21 number on the way out. You are excused for the balance of
22 today.

23 (WHEREUPON, THE REMAINING JURY PANEL EXIT THE COURTROOM
24 AND THE FOLLOWING IS HELD ON THE RECORD.)

25 THE COURT: All right. The jury has chosen Jordana

1 Tsitlidis as the Foreperson. Any objection from the State
2 to making the jury's note a court exhibit?

3 ASST. SOL. WRIGHT: No objection, Your Honor.

4 THE COURT: From the defendant?

5 MS. SMART-GITTINGS: No, Your Honor.

6 (WHEREUPON, COURT'S EXHIBIT NUMBER ONE, NOTE NAMING
7 JURY FOREPERSON, IS RECEIVED INTO EVIDENCE.)

8 THE COURT: You both understand your decision
9 concerning the selection of the jury is now irrevocable; you
10 understand, Solicitor?

11 ASST. SOL. WRIGHT: Yes, Your Honor.

12 THE COURT: You understand, Stephanie?

13 MS. SMART-GITTINGS: Yes, Your Honor.

14 THE COURT: Bring me the jury.

15 (JURY ENTERS AND THE FOLLOWING IS HELD ON THE RECORD.)

16 THE COURT: All right. Madame Foreperson, Ms.
17 Tsitlidis, congratulations on your selection. That will be
18 your seat. The rest of you can sit anywhere you want to but
19 I ask that you do this. The foreperson should come in last,
20 not first, because that's going to be your seat and I don't
21 want anybody to have to crawl over anybody. So if you want
22 to sit by anybody, just line up that way.

23 Now, I don't know if anything will be in the newspaper
24 or on television or on the radio. Don't listen to such,
25 watch such, or read such. You must decide this case solely

1 on evidence introduced in this courtroom when both sides are
2 present with the right of cross-examination, so it would be
3 improper for you to do that.

4 I don't want you to do any research on your computer or
5 your cell phone or your smart phone. Even if you think it
6 would be helpful to you; that's improper. So no research on
7 a Smart phone at any time while you're on jury duty, no
8 reading, watching or listening to a radio account. Your job
9 is to listen to the evidence that's going to be presented.
10 Both sides have the absolute right to know what you're
11 basing your decision on.

12 We're going to start this case in the morning at 10:00.
13 When you come in the morning, come to your jury room. They
14 will have something for you to drink and they will take
15 excellent care of you. Over the overnight recess, if
16 anybody tries to talk to you about this case, just be nice
17 and say, "I'm on the jury. The judge asked me not to talk
18 about it." If the person persists in wanting to talk to you
19 about this case, you get their name and give it to me and
20 I'll handle that problem for you, ladies and gentlemen.
21 That person won't bother you anymore.

22 So please don't discuss this case with anybody. I will
23 swear you in the morning when we begin the case. Thank you
24 for your patience today. I know it took a while. On behalf
25 of Hampton County and this Court, I thank you for your

1 patience. See you in the morning. You are now excused for
2 the day. You may leave the courtroom at this time.

3 (5:30 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND
4 THE FOLLOWING IS HELD ON THE RECORD.)

5 THE COURT: Counsel, I'll swear the jury in the
6 morning. I believe that takes of all matters for tonight.
7 Anything on the record from the State of South Carolina
8 outside the presence of the jury before we adjourn for the
9 evening?

10 ASST. SOL. WRIGHT: Nothing, Your Honor.

11 THE COURT: All right. Stephanie, before I ask you,
12 you made a motion for sequestration, and I went over this
13 with Mr. Wright and with you in chambers. If I'm going to
14 sequester your witnesses in this trial, I'm also going to
15 sequester theirs. Your client gets to stay in here and
16 obviously, Mr. Wright, your chief investigative officer gets
17 to stay in and your victims get to stay in. Who do you want
18 to stay in?

19 ASST. SOL. WRIGHT: My two officers.

20 THE COURT: Both of which are your investigating
21 officers?

22 ASST. SOL. WRIGHT: Yes, Your Honor.

23 THE COURT: All right. You understand that, Stephanie?

24 MS. SMART-GITTINGS: I do, Your Honor.

25 THE COURT: All right. Now, Mylinda, I'll expect them

1 to come to you and you give each one a room for their
2 witnesses. Now, Stephanie, you've got to tell your
3 witnesses that they have to be in that room, because we're
4 not going on an Easter egg hunt for your witnesses when you
5 start putting up your case. That probably won't be before
6 tomorrow afternoon, but I expect you to have them in that
7 room; you understand that?

8 MS. SMART-GITTINGS: Yes, Your Honor.

9 THE COURT: The train is going to go down the track.
10 Now, Mr. Wright, I expect you to do the same thing and I
11 expect you and Stephanie to instruct your witnesses that
12 they can't have any discussion with anybody else who has
13 testified about what happened, because I'm granting
14 Stephanie's motion for sequestration.

15 All right. Ms. Smart-Gittings, anything else from you
16 outside the presence of the jury before we adjourn for the
17 evening?

18 MS. SMART-GITTINGS: Nothing, Your Honor.

19 THE COURT: In that case, court is in recess until
20 tomorrow morning.

21 (WHEREUPON, COURT IS ADJOURNED IN THE TRIAL OF THIS
22 CASE FOR THE EVENING. THEREFORE, ON TUESDAY MORNING, JUNE
23 10, 2014, 9:35 A.M., COURT RESUMES AND THE FOLLOWING IS
24 PLACED ON THE RECORD.)

25 THE COURT: Is the State ready to proceed?

1 ASST. SOL. WRIGHT: The State is ready, Your Honor.

2 THE COURT: Is the defendant ready to proceed?

3 MS. SMART-GITTINGS: The defendant is ready, Your
4 Honor.

5 THE COURT: All right. Danny, bring us the jury.

6 (9:40 A.M., WHEREUPON THE JURY ENTERS THE COURTROOM AND
7 THE FOLLOWING IS HELD ON THE RECORD.)

8 THE COURT: Welcome back, ladies and gentlemen of the
9 jury. I hope you had a good evening, got some rest, and are
10 now ready to begin with the trial. Mylinda, please swear
11 the jury.

12 MADAME CLERK: Would you please stand and raise your
13 right hand?

14 (WHEREUPON, the jury is duly sworn.)

15 THE COURT: All right. Now, ladies and gentlemen, I
16 told you we would get started. Let me go over a couple of
17 housekeeping rules, some of which I touched on yesterday.
18 While you're selected to serve on the jury and until your
19 service is concluded, please don't discuss this case with
20 others, including your other jurors, until I ask you to
21 discuss it. Believe me, there will come a time when I do.
22 However, it is improper for you to engage in what we call
23 "premature deliberations." The reason for that is very
24 simple, because of the very last thing said by a lawyer or
25 by the Court might change your mind. It is dangerous to

1 engage in premature opinions or deliberations until the
2 entire matter has been submitted to you under my
3 instructions at the conclusion of the case.

4 Now, I am going to ask that you not read or listen to
5 any news report about the case or watch anything about the
6 case. I am going to ask that you not use a computer, cell
7 phone, or any other electronic devices with communication
8 capabilities to do any type of research, even if you thought
9 the information would be helpful to you because of some
10 topic that's been raised during the trial. That is
11 prohibited.

12 You are not to do any research on your own. The
13 parties have the absolute right to know exactly what you are
14 basing your decision on. When everybody is in the courtroom
15 together in the courtroom, I know what has been given to you
16 because part of my job is to make sure you get reliable
17 information; that's why we have the rules of evidence.

18 So, please, don't try to do any research or collecting
19 any information or do any juror research on any topic, even
20 if you, as juror might think, "Gosh, they should have
21 covered this and it would be helpful to me in deciding the
22 case." That is improper. You can't communicate with anyone
23 about the case on your cell phone, thru e-mail, Blackberry,
24 iPhone, text messaging or Twitter, through any blog website,
25 through any chat room or any social networking website,

1 which would include Facebook, MySpace, Linked In and You
2 Tube.

3 Everybody thinks now that their world is around their
4 Smart phones, their computers or their laptops. Every single
5 person carries one, it seems. We've had quite a debate this
6 year in the legislature. I don't know if you are aware of
7 it, about people texting and driving because we have had so
8 many collisions as a result of it. So I am going to ask
9 please don't use any of those devices while you're serving
10 on the jury and I thank you for your cooperation.

11 Now, before we begin this trial, which we are getting
12 ready to do in just a moment, ladies and gentlemen. I want
13 to tell you a little bit about how we are going to proceed
14 so you will have a better idea and understanding of what
15 might be going on. Worst thing I am going to tell you is
16 this trial, probably, is going to be different from what you
17 might expect. Most people do not have the chance, as each
18 of you are doing right now, to attend an actual court
19 session.

20 Many people think from watching television, going to a
21 movie, or reading in a book, that trials are always full of
22 high drama and tense action and riveting, entertaining
23 circumstances, because you think the real world is what you
24 see on television on such programs as Cold Case and things
25 of that nature.

1 Well, ladies and gentlemen, while all those things may
2 be true at times, an actual trial is not for entertainment.
3 An actual trial, ladies and gentlemen, is a fundamental part
4 of our democracy. It is a search for the truth in an effort
5 to make sure justice is done between parties before the
6 court.

7 Searching for the truth and trying to make sure that
8 justice is done is often slow, it is often repetitive, it is
9 often deliberate. It is the exact opposite of what you may
10 have seen on television or read in a book or seen in a
11 movie. This courtroom, ladies and gentlemen, is a place of
12 honor. It is dedicated to the protection and the
13 preservation of citizen's rights, through what many people
14 have called the greatest justice system in the world.

15 The attorneys who are going to be appearing before you,
16 they're advocates for the parties they represent, the State
17 of South Carolina and the defendant. But even before they
18 are advocates, first and foremost, the attorneys are
19 officers of this Court. And as officers of this Court, they
20 took an oath. They swore they would the fairness of our
21 judicial system, and they are here to help you in the search
22 for the truth. You should expect the attorneys, therefore,
23 to be prepared, to be professional, to be courteous, to be
24 ethical in the representation of their respected client's
25 interests.

1 Now I'll remind you that you all have taken an oath
2 from the Clerk of Court. And in that oath each of you just
3 took, you said you would try this case and you would reach a
4 fair, and you would reach a just verdict in this case. Just
5 like the attorneys and myself that took an oath, you took an
6 oath. And you, as jurors, are also expected to be ethical,
7 to be reasonable, and to be professional in the discharge of
8 your duties as jurors.

9 Before we begin the trial, I want to thank each and
10 every one of you for accepting this important responsibility
11 of jury service. I want to thank you, ladies and gentlemen,
12 before we start because of your contribution to our justice
13 system. Without you, ladies and gentlemen on the jury,
14 justice cannot be accomplished in a courtroom, and I thank
15 you for that service.

16 Now, ladies and gentlemen, and Madame Foreperson, the
17 case we are getting ready to try is the State of South
18 Carolina v. Andre Green. Mr. Green is charged in these
19 indictments at this point with numerous offenses. I read
20 them to you yesterday. They were arson, third degree,
21 malicious injury to real property, malicious injury to
22 personal property, one, two, three, four counts, a burglary,
23 second degree, and another arson, third degree. Those are
24 the allegations in the indictment.

25 Now, Madame Foreperson, you notice that I am handing

1 these indictments to my law clerk. You notice he is taking
2 them out of my hand? He knows that part of his job is that
3 you don't go anywhere after this case is over until you sign
4 your name on the indictment. I have seen him chase, on
5 foot, a foreman across the lawn of the courthouse. I hope
6 he won't have to do that when it comes to you. Whatever you
7 write on the verdict form, he's going to want you to write
8 the exact same words and sign your name on the indictment.

9 Now, although the defendant is charged in the
10 indictments filed with this court of these crimes, the
11 elements of all those offenses, whether it be burglary,
12 arson, malicious injury to personal property, or malicious
13 injury to real property, I will explain the ones you need to
14 consider in my charge to you on the law at the conclusion of
15 the case. I haven't heard any evidence in this case, and you
16 haven't either. The reason we ask you all the questions
17 about your impartiality is we intend it that way. We don't
18 want you to have a preconceived opinion. The law doesn't
19 want me to have a preconceived opinion. I'll be hearing it
20 for the first time, just as you will. I'll explain what
21 elements and what offenses to you at the appropriate time.

22 For right now, you on the jury should simply understand
23 the indictments are simply the charges by which the case in
24 brought into this court. The indictment is not in any sense
25 evidence of any of the allegations contained in the

1 indictment.

2 Now the defendant, Andre Green, has pled not guilty to
3 all the indictments. The State of South Carolina therefore
4 has the burden of proving each of these essential elements
5 of the indictment beyond a reasonable doubt. And it will be
6 your duty, ladies and gentlemen, to decide whether or not
7 the State has met that burden. It will be your solemn
8 responsibility to determine guilt or the innocence of the
9 defendant.

10 Your verdict must be based solely on the evidence as it
11 is presented to you in this trial and on the law as I
12 instruct it to you during the trial and at the conclusion of
13 the trial in my charge to you on the law.

14 In just a minute, the Assistant Solicitor will make
15 what is called an opening statement, in which he will
16 explain to you the issues in this case, or at least as an
17 advocate for the State of South Carolina, what he contends
18 to be the issues in this case. And following the opening
19 statement by the Solicitor, we have rules for this, ladies
20 and gentlemen, the attorney for the defendant will make an
21 opening statement.

22 Now, I want to tell you, the attorneys have worked hard
23 to prepare the case for you, and I want you to listen to
24 them. But what the attorneys tell you in opening
25 statements, what the attorneys suggest to you, and the

1 questions they ask witnesses on this witness stand, what the
2 attorneys argue to you at the conclusion of the case, none
3 of that is evidence. So what the attorneys say is not
4 evidence; they are advocates for their clients. I've told
5 you, you must base your decision as a juror solely only on
6 the evidence in this case.

7 What is evidence? Well, the evidence in this case will
8 be presented to you by a testimony of sworn witnesses who
9 are going to take this witness stand, and they are going to
10 take an oath, or by some exhibit, or photograph, or a model.
11 You will hear me say, as part of my job is to rule on the
12 admissibility of evidence as trial judge. And you will hear me
13 say they can't show you any exhibit until I allow them to do
14 so. You will hear me say of some photograph, model, or
15 exhibit, that it is in evidence and the court reporter will
16 mark it. Anything that's in evidence, you will have with
17 you, like an exhibit, with you in your jury room during your
18 deliberations.

19 Evidence will also take the form, I don't know if it
20 will happen in this case, of a stipulation. The parties
21 might actually agree that a fact is true and therefore not
22 necessary to be proven.

23 So, evidence is sworn testimony from a witness, an
24 exhibit, it may be a photograph placed into evidence, or it
25 can be in the form of a stipulation.

1 Now, in consideration of the evidence, you should
2 remember at all times in a trial of this case, that under
3 the Constitution of the state of South Carolina, you, and
4 you twelve jurors alone, are the sole judges of the facts in
5 this case. And the same law that makes you the judges of the
6 facts makes me the judge of the law.

7 I cannot invade your province, comment to you, or make
8 any statement to you about what the facts are from the
9 evidence, and you should not invade my province and differ
10 with me about what the law is. Everything that I say during
11 the course of this trial is being taken down by my court
12 reporter, Becky Hill, and if I make a mistake as to the law,
13 one of the parties can appeal the case to the Appellate
14 Court, and if the Appellate Court feels that I've made a
15 mistake on the law, they will reverse the case and send it
16 back for a new trial.

17 So don't any of you on the jury worry about whether or
18 not I've told you the law correctly, that is somebody else's
19 worry. That is not your concern. Your job, under that oath
20 you took, is to take the law and apply it to the facts as
21 you find them to be based on evidence introduced during the
22 trial of the case, and that means testimony from the witness
23 stand, any exhibits that may be introduced into evidence,
24 and any stipulations that may occur during the course of
25 presenting evidence.

1 Now, after doing that at the conclusion of the trial,
2 you will render your verdict under that oath which each of
3 you just took from the Clerk of Court, a true and just
4 verdict based solely and only on the evidence.

5 Now, from time to time during the trial of this case,
6 you may hear one of the lawyers say something like, "Your
7 Honor, I believe we have a question of law," or "May we
8 approach the bench?" or I, myself, might say, "Madame
9 Foreperson, ladies and gentlemen of the jury, please step
10 into the jury room." We are not trying to hide anything
11 from you. You notice we take up things to decide why we are
12 doing that. The reason for this is exactly what I've just
13 told you. You, the jury, are the sole judges of the facts;
14 I'm the sole judge of the law.

15 I can't make any comment to you about the facts, and
16 sometimes, when I'm talking to the attorneys about a matter
17 of law, by necessity, I have to make a comment about the
18 facts in order to rule on whether or not a particular piece
19 of law applies to this case.

20 So, since I'm not supposed to tell you what the facts
21 are, or make any comment to you about the facts, the
22 practice in our state is to excuse you from the courtroom,
23 or to take the matter up out of your earshot, so that we can
24 keep the trial moving while any discussions take place so
25 that you will not be influence any way by anything I might

1 say or do in connection with the facts and ruling on a
2 matter of law.

3 And in that connection, let me tell you again, the
4 twelve of you alone are the sole judges of the facts in this
5 matter and I don't want you to forget that. And if you
6 should gather from anything that I may say or do during the
7 course of this trial, that I have any opinion whatsoever as
8 to the facts in this case, I'm going to ask you now before
9 we start to erase that from your mind, because as I've said,
10 you and you alone are the sole judges of the facts.

11 Now, I'm often asked this question by jurors, "How will
12 I be able to determine what the true facts are?" Well,
13 ladies and gentlemen, part of your job, of necessity, you
14 will have to pass upon, as a jury, the credibility, or the
15 believability, of the witnesses who are going to testify
16 during the trial in this case.

17 It will be my responsibility as the presiding judge to
18 rule as a matter of law as to whether or not certain
19 testimony is admissible or not, but once I've allowed the
20 testimony to be admitted into evidence, whether or not you
21 as a jury believe the testimony is solely a matter for you,
22 the jury, to determine.

23 And in passing upon the credibility or the
24 believability of the witnesses who will testify to you, the
25 jury, have the right to take into consideration the interest

1 of any witness, the bias of any witness, the prejudice of
2 any witness, opportunity that the witness may have had to
3 observe the matters about which he or she might testify.
4 You may take into consideration what we call the demeanor of
5 the witness. The appearance of the witness while the
6 witness is on the witness stand, which is why the witness
7 stand is located closest in proximity to you.

8 The appearance of the witness while the witness is on
9 the witness stand, the demeanor, anything in evidence, you,
10 as a jury, have the right to consider that you feel will aid
11 and assist you in evaluating the testimonies of the
12 witnesses that will testify in this case. And that means,
13 Madame Foreperson, and ladies and gentlemen of the jury, I
14 can't emphasize this enough, that it is now your sworn
15 obligation to pay close attention to the witnesses, to
16 listen to the witnesses.

17 Don't let your thoughts wander, but give strict
18 attention to the testimony of the witnesses so that at the
19 conclusion of all the testimony and after the final
20 arguments of the attorneys and my charge to you on the law
21 after I hear the evidence that I believe as a judge applies
22 to this case. You will, because you have listened, will put
23 yourself in a position to determine from listening, what you
24 believe to be the true facts, and thus to apply the law as I
25 give it to you to the facts as you find them to be and thus

1 render a true and just verdict.

2 Now, you must not consider anything that you may have
3 read or heard about this case outside of this courtroom,
4 whether before or during this trial, and until this case is
5 submitted to you, you must not discuss it with anyone, as I
6 have told you, not even your fellow jurors, or member of
7 your own family. And after I submit the case to you, you
8 must discuss it only in your jury room with your fellow
9 jurors.

10 It's very important that each of you keep an open mind
11 and not decide the case until the entire matter has been
12 submitted to you under my instructions at the conclusion of
13 the trial.

14 It will be your added duty, Madame Foreperson, to
15 preside in the jury room, to be the jury spokesperson out
16 here in the courtroom. It will also be your duty to write
17 verdict. I will give you a verdict form and explain to you
18 in my charge how to complete it. And my law clerk -- I have
19 sent him on a matter so that we don't have to stop. He will
20 be gone for a little while, but believe me, he will be back.
21 He will also be asking you to sign the indictments. I will
22 give you further instructions about all that in my charge at
23 the conclusion of the case.

24 Now, a little bit of housekeeping, and we are ready to
25 start. If at any time -- and I always use my friend, Peggy

1 Grill, and I as examples, because both of us have what you
2 call, "hearing problems." I've shot a shotgun all my life
3 and I'm deaf in the right ear from it. I wear a hearing aid
4 in this ear. Peggy knows all about this. I see her
5 nodding. Deaf people, like myself, talk loud. We are going
6 to have people come in court and whisper, and Becky is going
7 to look at me, as she is doing now, to say, "What in the
8 world did that person say?" It's very important that we be
9 able to hear. If you can't hear, just raise your hand.

10 I will be watching all twelve of you throughout the
11 trial of the case. I want you to be able to hear, and
12 believe me, I can turn it up. Just let me know if you can't
13 hear by raising you hand. If you hear me say an exhibit has
14 been introduced into evidence, and you will hear me say,
15 "Exhibit so-and-so is in evidence." And I will usually say,
16 "You may publish to the jury." And if for some reason,
17 maybe the screen comes down over here, because during the
18 day we have all kinds of lighting issues. On the screen
19 above your heads and you can't see, just raise your hand. I
20 want you to be able to see and hear at all times throughout
21 the trial. Just let me know; I will be watching. If you
22 can't see or you can't hear, you let me know.

23 Normally, we do not allow jurors to ask questions here
24 in the courtroom. If, however, a member of the jury has a
25 question, Madame Foreperson, here is the procedure we have

1 to follow. If you're not already in your jury room, the
2 entire jury, all twelve of you, must retire to the jury
3 room. You will write the question on a piece of paper,
4 knock on the jury door, give it to my bailiff and he will
5 bring it out to me. I will then have to rule as a matter of
6 law whether or not the question can or cannot be answered,
7 just as I would any question asked by either one of the
8 parties during the trial of the case.

9 Now, I've tried it both ways, and there is a bit of an
10 argument about this in our state about this, but I ask that
11 you do not take written notes. Now, you are going to see
12 that I've got a pen in my hand and I've got my notebook, and
13 you are going to see me writing.

14 Here's why I ask that you not take notes. I've found
15 that if a member of the jury takes written notes and makes a
16 mistake in the written notes, the notes can be harmful,
17 rather than helpful, in your jury room. Plus, we have to
18 keep all notes. So I am going to ask that you not take
19 written notes. The time tested system is for each of you to
20 listen and listen carefully.

21 Now, if you are worried about remembering, Becky Hill,
22 our resident court reporter, and I don't like it when I
23 don't have her, she knows I know her well and she knows me
24 well. She does a great job. She's recording an audio
25 recording of a witness, so we can play the entire recording

1 back, if necessary. It takes a while, but if you want it,
2 she can do that; so don't worry about memory, just listen.
3 But I am going to ask that you not take written notes.

4 Now, I do not intend that you or anyone construe what
5 I've just said to you in these opening remarks that I have
6 just made as a charge on the law because it is not that. I
7 will charge you the law that applies to this case after I
8 hear the evidence, because I have no idea yet what law will
9 apply; that's why we do it at the conclusion of the trial.
10 This has been merely an attempt on my part to explain to you
11 some of the procedure that we follow in the courtroom in the
12 trial of the case so that you may have a better
13 understanding as to what may be happening as a juror from
14 time to time.

15 Nevertheless, in order to protect everyone's rights,
16 I'll give the parties an opportunity to object to anything
17 I've said if they have any such objections or exceptions.

18 Any objections or exceptions to the Court's comments to
19 the jury, from the State?

20 ASST. SOL. WRIGHT: No, Your Honor.

21 THE COURT: From the defendant?

22 Ms. SMART-GITTINGS: Not from the defendant, Your
23 Honor.

24 THE COURT: Ladies and gentlemen of the jury, we will
25 now begin the trial of this case. Please give the attorneys

1 your careful consideration. Mr. Wright.

2 ASST. SOL. WRIGHT: May it please the Court, Your
3 Honor?

4 THE COURT: Yes, sir.

5 OPENING STATEMENT

6 BY ASST. SOL. WRIGHT:

7 Madame Foreperson, ladies and gentlemen of the jury,
8 motive, opportunity, and confession. Those are the main
9 themes I need you to think about today. When you listen to
10 the evidence presented from the jury stand: motive,
11 opportunity, and confession.

12 I'm Kelvin Wright. I work for the State. I represent
13 the people of the State, the people of this community, and
14 we hope, and I assert, that at the end of this trial you
15 will have the tools to go into the deliberation room and
16 come back with a guilty verdict, saying that Andre Green,
17 the young man in the teal polo shirt, is guilty. Guilty,
18 guilty, guilty.

19 He's going to be guilty of burglary, arson, malicious
20 injury to property, real and personal. I'm going to explain
21 to you what that means, and if you don't get it when I say
22 it, the judge will explain to you what it means. If there
23 are any discrepancies, go with the judge, because that is
24 his lane I may try to skirt it a little bit, but that's
25 his lane. He handles the law. We present the facts as

1 attorneys; you decide what the facts mean.

2 This morning I was getting dressed, getting my kids
3 ready for school -- well, camp. My daughter is going to
4 camp and my son goes to daycare. She is seven and he is
5 three. I was walking around the house. Well, before I got
6 out of bed, I had a quilt over me; my grandmother made it
7 for me, so a lot of sentimental value. She made it; it's a
8 handmade quilt. I take pride in that kind of stuff.

9 I went to the kitchen, got a glass, and thought about
10 the glass. I was like, "Man, I was drinking from this glass
11 when so-and-so was at the house." You know, pour something
12 to drink, had a drink, went and woke the kids up, turned the
13 TV on, and I thought about the TV and thought "Man, I bought
14 this TV before I moved here". I went and got the kids
15 dressed and thought about when I bought their clothes, and
16 what I am trying to get to is all the things that you own
17 have a sentimental value.

18 When you buy something with somebody, you think of that
19 person when you look at that item. And I say that to say
20 the victims in this case lost all of that. They lost
21 everything due to no fact that they can ascribe to the
22 burning of their property. The victims in this case were --
23 I'm going to say the names correctly -- from Varnville Area
24 Apartments. It's off of Ginn Street here in Hampton County,
25 in the Varnville area, and they house a lot of different

1 people who are there for different reasons, but what they
2 have in those apartments are their stuff.

3 Some of the ladies' names, Teresa Pope, Tamara Duncan,
4 Kwanisha Flood, and also Ms. Monica Haynes, all of those are
5 going to be on the jury stand today and they are going to
6 tell you about their homes and approximate values of their
7 items inside the home, and kind of let you understand that
8 they did live there. We've got to establish that as part of
9 my duties here as Solicitor. And also, there will be a
10 member of the staff from the housing association. They are
11 going to testify that their apartment building was burnt and
12 how much of a damage, monetarily, that was to them. We
13 don't get to go into the sentimental value. We get to go
14 into the monetary value. That is what the Court ascribes as
15 to what we can charge based on the value.

16 Motive, opportunity and confession. We are going to
17 present witnesses to establish that Mr. Green was dating one
18 of the young ladies that lived in this apartment complex,
19 Ms. Monica Haynes. We're going to present evidence and show
20 that they had an altercation, which created the motive.

21 We are going to present evidence to show that Mr. Green
22 caught a ride to the apartment complex. He didn't have a
23 key. We want to show evidence he didn't have a key to get
24 inside, but somehow he got inside the residence. And I
25 assert to you that if you believe he went inside the

1 residence after we present our evidence that he's guilty of
2 burglary. Burglary is defined as the breaking and entering
3 into a dwelling, in this situation, with the intent to
4 commit a crime therein. It's kind of a legal way of saying
5 they went in someone's house without permission and did
6 something bad inside.

7 Arson. Arson generally is defined as burning
8 somebody's stuff. You have different degrees; third, second,
9 and first. First is if you burn somebody's place and
10 somebody dies as a result of you burning the place; that is
11 first.

12 Second is if someone is injured, so if somebody gets
13 burnt while they're in there and they get out, then that
14 will be second. Third is if the place burns and nobody gets
15 hurt, so that's the differences. And we are asserting, in
16 this case, that it's third; nobody was hurt. We are not
17 going to present any evidence that anybody go hurt. So
18 that's why it is third:

19 Malicious injury to personal property is if I have ill
20 will and I burn your stuff or if I mess your stuff up. If I
21 kick your dog and kill it. If I shoot your car and I have
22 some ill will and it wasn't an accident; that is malicious
23 injury to personal property. We will get into all the
24 details of that, that maliciousness can be inferred based on
25 I might come over here and want to burn your stuff, and I

1 burn everybody's stuff as part of that, it's still
2 malicious, because I meant to burn his stuff.

3 And then malicious injury to real property is like a
4 house, anything that's connected to the earth, to the
5 ground, is considered real property. So it's just kind of a
6 legal distinction between personal property and real
7 property, so that's why there is that distinction in what he
8 has been charged with and there's four, because there are
9 four people that lived there and then one, because one
10 person owned the property, and one burglary because they
11 went into one property.

12 Then, we also have one charge with arson for burning
13 down the whole complex, and then also arson for burning just
14 the one apartment down, and that was done to kind of give
15 you options, so when you hear the evidence you will have all
16 the tools you need to do what you need to do.

17 Motive, opportunity, confession. Opportunity came, as
18 we will present from the jury stand, one of the witnesses
19 will say that he was approached by the defendant who said,
20 "Hey, I need a ride." People do it all the time. "I need a
21 ride from A to B." And the guy was, like, "Okay, I'll give
22 you a ride." On the way to the destination he said, "Let me
23 put some gas in your vehicle," that sounds like a plus.
24 They stop, get some gas. I think it's about \$8 worth of
25 gas, and puts some gas in a container, which is kind of odd,

1 but not unheard of, you know, he may be going to cut grass.
2 Who knows what he was thinking.

3 So it's in the car, and he asks him, and from the jury
4 stand you'll hear that, you know, "What's that for?" "Don't
5 worry about it." All right. So he will try to stay in his
6 lane. I'm just going to drive you from A to B. He goes to
7 drop him off and he says, "Hey, don't leave me. I'll be
8 back in two or three minutes; just hold tight. Just stay
9 right here and I will be right back." Nothing out of the
10 ordinary. The guy leaves out of the vehicle, the defendant,
11 is what the evidence is going to show. And he's gone for
12 about two or three minutes, but when he comes back, he's
13 bleeding; he doesn't have the gas can. That is what the
14 evidence is going to show.

15 The person driving the car is kind of like, "Hey,
16 you're bleeding. What's going on? You're bleeding so much.
17 You're bleeding on everything." He said, "Don't worry about
18 it. Just get me back to my destination and it will be
19 okay." So he gets in the car and he's like, "Man, you need
20 to tell me what's going on. You bleeding real bad and I see
21 some smoke." And he confesses. You're going to hear it
22 from the stand. I don't want to say -- I don't want to
23 paraphrase. I want you to hear it from the stand, what he
24 says to him. But, that is the confession. Motive,
25 opportunity, and confession.

1 You are going to hear it from the jury stand. And I
2 submit to you that when you hear motive, opportunity, and
3 confession that he went to this property and burnt his
4 girlfriend's place, which resulted in everybody's stuff
5 being burned, that when you go into the jury room to
6 deliberate at the end of this case that you come back with a
7 guilty verdict on all charges, because he had the motive,
8 the opportunity, and he confessed.

9 I thank you in advance. You guys were chosen. You
10 didn't end up here by happenstance. You saw how long it took
11 to get you up here. You were chosen. And before everybody
12 got presented to go sit down, I said, "Please present this
13 juror." That means I looked at your information, I looked
14 at you, and I believed that you could be impartial and fair
15 and listen to the information and do the right thing.

16 And the judge has asked you many times, you're not
17 going to use anything outside of this courtroom or anything
18 to influence you. You are going to look at the evidence and
19 come back with a verdict based on the evidence. And I
20 submit to you, that based on the evidence, a guilty verdict
21 is what should come out of the jury room. I want to thank
22 you and I'm going to have a seat. Thank you.

23 THE COURT: Ms. Smart-Gittings?

24 MS. SMART-GITTINGS: May it please the Court, Your
25 Honor?

1 THE COURT: Yes, ma'am.

2 OPENING STATEMENT

3 BY MS. SMART-GITTINGS:

4 Good morning, ladies and gentlemen of the jury.

5 JURY: Good morning.

6 The defense will submit to you that this case is about
7 an anonymous tip; an anonymous tip. An anonymous tip.
8 Someone called law enforcement, but they're not going to be
9 able to tell you today who called law enforcement, and
10 someone called law enforcement and said, "I may have some
11 information about the apartment burning down near
12 Varnville."

13 Now, they didn't call the Hampton County Law
14 Enforcement Officer; they called a Jasper County law
15 enforcement officer, and they didn't tell the law
16 enforcement officer who they were. They didn't tell the law
17 enforcement officer how they came about that information.
18 They just had a tip.

19 Based on that tip, and that tip alone, law enforcement
20 officers descended upon an eighteen year old young man. And
21 he said, "I believe you are going to be forthright. I
22 believe you are going to be truthful, and then there were
23 some issues as to whether or not he should give any
24 information, if he had that information, to law enforcement.

25 And that particular eighteen year old man was

1 concerned. His mother was concerned. The other person
2 there was concerned, and after some talk, the SLED agent
3 said, "Well, I believe you are forthright. I believe you
4 are honest. And I believe you want to cooperate, but if you
5 don't want to cooperate, I might think you are hiding
6 something. And if I think you are hiding something, I am
7 going to charge you as an accessory."

8 So we have an anonymous tip. We have an eighteen year
9 old. And now that eighteen year old feels like he has to
10 tell law enforcement what they want or he is going to be
11 charged. It's simple. So he gives his statement. He tells
12 laws enforcement that "Yes, I was the driver. Yes, we
13 stopped at the gas tank. Yes, I drove him there. And yes,
14 I looked in the mirror on the way back and I saw a flame."

15 One of the tools that law enforcement has is the
16 ability to corroborate statements. If I tell the law
17 enforcement something, they have the ability to do more
18 investigation to find out if in fact I am credible. To find
19 out if I am telling the truth, because that is what we all
20 expect. We all expect that they are telling the truth. But
21 that didn't happen here. There was no one that did a
22 follow-up investigation to find out if, in fact, the
23 evidence or the statement that Mr. John Brown gave was in
24 fact true.

25 John Brown said that Mr. Green used a gas container,

1 but he didn't bring the gas container back. So one would
2 believe that the gas container must have been some place
3 around the apartment, but low and behold, there is no gas
4 container. No one else, out of all the 23 witnesses that
5 the State will bring to you today, will say that they saw
6 Andre Green at the apartment at the time the fire started.
7 No one else is going to tell you that Andre Green broke into
8 Monica Haynes's house and started a fire. No one else is
9 going to tell you that Andre Green didn't have permission to
10 be in Monica Haynes's apartment. As a matter of fact, you
11 will hear testimony that Andre Green spent the night at
12 Monica's apartment the night before, that Thursday night,
13 and that Monica left Andre in the apartment.

14 So we can use our deductive reasoning, and if he was
15 the last person in the apartment, then why would he have to
16 break the window to gain entry into the apartment? He could
17 have just gone back in the door. Why break the window out?

18 Well, law enforcement wants you to believe that he
19 broke the window out and went into the apartment and started
20 the fire, but no one else is going to tell you that but John
21 Brown.

22 SLED has the capability to do certain types of testing,
23 and that is what, in fact, they did in this particular case.
24 They collected the debris from Monica Haynes's apartment,
25 because that is where the fire originated. They sent it up

1 and they had their analyst, their forensic scientist, to
2 analyze that debris, and I think you will find interesting
3 the results of that analysis.

4 Now, remember, corroboration. John Brown is going to
5 testify that he took, prior, that Andre took gas and started
6 the fire. But your SLED analyst will not testify that they
7 found any gasoline in the items that they collected. So you
8 use your reasoning to determine, whether or not, the only
9 witness to be a fact witness about what happened, whether or
10 not it is true. The SLED agent is an expert. They tested
11 it. Law enforcement had access to John Brown's car. They
12 took pictures of the car, but what they did not take was
13 samples to determine whether or not, in fact, the gasoline
14 can was in the car.

15 Again, corroboration to give you something else other
16 than an anonymous tip. Give you something else other than
17 the word of an eighteen year old who was interviewed by SLED
18 agents, who had concerns about giving information.

19 At the end of this trial, if you feel as if the State
20 has not proved to you, beyond a reasonable doubt, that, in
21 fact, Andre Green started the fire maliciously in Monica
22 Haynes' apartment, I submit to you that the true and just
23 verdict will be a verdict of not guilty.

24 If the State cannot prove to you that that fire did not
25 start because of natural causes, then the State has not met

1 his burden of proof of arson.

2 If the State can't prove to you that Andre Green didn't
3 have permission to be in Monica Haynes' apartment, the State
4 has not met his burden of proof for burglary.

5 And if the State did not prove arson, they certainly
6 can't prove malicious injury to personal property or
7 malicious injury to real property.

8 Listen attentively. We ask at the end of the trial
9 that you give the fair and the just verdict. Thank you.

10 THE COURT: Call you first witness.

11 ASST. SOL. WRIGHT: The State calls Eugene Jenkins, Jr.

12 (WHEREUPON, THE WITNESS ENTERS THE COURTROOM.)

13 THE COURT: Mr. Jenkins, if you will come around and be
14 sworn by the Clerk of Court, please.

15 MADAME CLERK: Please come forward. Place your left
16 hand on the Bible and raise your right.

17 (WHEREUPON, MR. EUGENE JENKINS, JR. IS DULY SWORN.)

18 THE COURT: Please have a seat on the witness stand.

19 THE COURT: Watch your step for me. Have a seat. Pull
20 that chair up and adjust that microphone. It's going to
21 amplify your voice. I want you to begin by stating your
22 full name and spelling your last name for the court
23 reporter.

24 MR. JENKINS: Okay. My name is Eugene Jenkins, Jr.

25 THE COURT: Spell your last name.

1 MR. JENKINS: J-E-N-K-I-N-S.

2 THE COURT: Back up just a little bit from the
3 microphone, Mr. Jenkins. You don't have to get far away,
4 but you don't have to get right on top of it.

5 THE COURT: Your witness, counsel. Direct examination.

6 ASST. SOL. WRIGHT: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY ASST. SOL. WRIGHT:

9 Q Mr. Jenkins, please tell the jury who you are.

10 A I am Eugene Jenkins, Jr.

11 Q All right. You can just -- let's have a conversation,
12 you are telling the jury, I know you are a little nervous in
13 the courtroom testifying for the first time. What do you do
14 for a living?

15 A I am Managing Administrator of Varnville Area Housing,
16 in Varnville, South Carolina.

17 Q Briefly, what is Varnville Area Housing?

18 A Varnville Area Housing is a complex, low-income,
19 handicap rental unit. It's subsidized through HUD and South
20 Carolina Housing Authority.

21 Q How long have they been in business?

22 A We have been in business for 37 years. I have been
23 serving in the capacity of President and Administrator for
24 the last eight years.

25 Q And where exactly is it located?

Direct examination of Eugene Jenkins by Mr. Wright

1 A It is located at Ginn Street, in Varnville, South
2 Carolina.

3 Q All right. Thank you very much. Were you working
4 There on August 2nd, 2013?

5 A Yes, I was.

6 Q Did anything catastrophic or significant occur on that
7 day?

8 A Yes.

9 Q Can you please elaborate?

10 A On the afternoon of August 2nd, approximately between
11 the hours of 3:30 and 4:00, I was in my office, along with
12 my secretary, and someone came in the office and said ---

13 Q You can't say what they said, but based on what they
14 said, what did you know?

15 A It was a fire.

16 Q Okay. And what did you do next?

17 A In the H building. I immediately called 9-1-1.

18 Q And you relayed to them, what?

19 A What was happening.

20 Q And as a result of that, what did you do next?

21 A Next, I called my maintenance guys by cell phone and
22 they came over to assist with the fire that had started in
23 H, apartment .

24 Q And who lives in that apartment?

25 A Monica Haynes.

1 Q All right. The names of your maintenance workers, what
2 are they?

3 A Isaac Crosby is maintenance supervisor, Robert Warren
4 is his helper, and electrical/air conditioner tenant is
5 James Freeman.

6 Q Okay. So there was a fire. What occurred next as
7 pertaining to the fire? And I think you said your workers
8 did some stuff. What did you observe them do?

9 A What I observed them, well, I went on the outside and
10 when I called them, they came over, and James Freeman went
11 to the door and he thought someone was in the apartment, so
12 they searched all the apartments to see if any tenants was
13 in the apartments at that time, which was only one tenant
14 was in , Ms. Teresa Pope.

15 Q All right. Let's back up. Which apartment did Monica
16 Haynes stay in?

17 A Monica Haynes lived in .

18 Q Are you sure?

19 A Oh, I'm sorry, in 30.

20 Q Just to recap what you said earlier, where did the fire
21 originate, as far as you know?

22 A Thirty, Apartment 30

23 Q Did you personally go into any of the apartments when
24 the fire was going?

25 A No, I went to the door of apartment 30.

Direct examination of Eugene Jenkins by Mr. Wright

1 Q Okay. Did you observe the door to be locked or open?

2 A When I got there, the door was open.

3 Q Had it been open, as far as you know?

4 A Not as far as I know.

5 Q Okay. Did you go inside the apartment?

6 A I did not go inside the apartment.

7 Q All right. At some point, did anybody else arrive to
8 assist putting out the fire?

9 A The only people to assist was my maintenance guys.

10 There were a few other people around, but I don't know who
11 they were...

12 Q Did anyone come in their official capacity to come and
13 assist with the fire?

14 A No.

15 Q Did any members of public safety come to assist with
16 the fire?

17 A Yes. The Varnville Fire Department came down. Also,
18 the Varnville Police Department came down.

19 Q Anybody in particular that you dealt with on the
20 Varnville Fire Department?

21 A Not personally, no.

22 Q Would you be abreast as to the value of that building
23 that burned down? It can be an estimate.

24 A I have the complete figures right here; it's \$318,000.

25 I have that in the records right here.

1 Q Okay. So the value of the building was over \$300,000?

2 A Right, over \$300,000; and that does not include the
3 personal goods that was in each individual apartment. That
4 was just for the building.

5 Q Okay. What else did you do as it pertains to the fire
6 and your residents in this situation?

7 A Well, I got the residents together, which they were not
8 at home at the time of the incident. My secretary, we
9 phoned them, and they came back and they came into my
10 office, and we told them what had happened, and I think Red
11 Cross, I think that afternoon came down and I set up a
12 building, an empty, vacant apartment I had right in front of
13 my office, and they talked with each one of the victims and
14 assured them of help at that particular time.

15 Q Do you have rules or regulations that pertain to
16 guests?

17 A Yes.

18 Q Can you explain a little bit of that to the jury?

19 A Well, we have policies, rules and regulations, that
20 each tenant receives at the time of move in. And they sign
21 to this policy of rules and regulations that they
22 understand. If they have any questions, we answer for them.
23 Usually, my secretary goes over the part of the rules and
24 regulations with them, but we do have a policy of rules and
25 regulations.

1 Q And to kind of cut to the chase, out of those rules and
2 regulations, can you tell the jury a little bit about how
3 guests and visitors and things of that nature, can you tell
4 the jury some of that?

5 A Yes. Guests are allowed -- tenants are allowed to
6 have guests from 10:00 in the morning until 10:00 at night.

7 Q So that would exclude 10:00 at night to 10:00 in the
8 morning overnight; so, no overnight?

9 A Right, no overnight. The tenants get 14 days per year
10 that they can have an overnight guest of anyone of who they
11 so desire; only 14 days per year for overnight guests.

12 Q Okay. And how is that regulated?

13 A Beg your pardon?

14 Q Who regulates that, you?

15 A Yes, the corporation does, yes. We try to enforce it.

16 Q All right. And I imagine it's some type of sheet or
17 something?

18 A Yes. They have a copy of the policy of rules and
19 regulations, right.

20 Q Okay. Have you guys rebuilt the burnt down apartment
21 complex yet?

22 A Yes. It took us several months to get everything
23 worked out with the insurance company and contractors and
24 whatnot. So, we have just finished this building last week.
25 We are down to the punch list, which I went in with my

1 maintenance staff and we did a punch last week, and the
2 contractors are supposed to be finishing that up within two
3 weeks.

4 Q So, as of right now, you are not able to make money for
5 the organization by leasing the places, and you haven't be
6 able to do that since?

7 A Since August 2nd. Right, that is correct.

8 Q So, rough estimate, about how much are you out of
9 potential revenues that you could have made?

10 A Say eight months, probably close to \$70,000 or \$80,000,
11 roughly.

12 Q Please answer any questions that Ms. Smart-Gittings may
13 ask. Thank you.

14 THE COURT: Cross-examination?

15 MS. SMART-GITTINGS: I don't have any questions for
16 this witness.

17 THE COURT: As to this witness, Solicitor?

18 ASST. SOL. WRIGHT: May he be excused?

19 THE COURT: Any objection?

20 MS. SMART-GITTINGS: No objection, your Honor.

21 THE COURT: Mr. Jenkins, you may step down from the
22 witness stand and you are excused from the trial of the
23 case. You may leave the courtroom at this time. Thank you.
24 Call your next witness.

25 ASST. SOL. WRIGHT: The State calls Allen Dean.

Direct examination of Allen Dean by Mr. Wright

1 (WHEREUPON, THE WITNESS ENTERS THE COURTROOM.)

2 THE COURT: Mr. Dean, come around and be sworn, please.

3 MADAME CLERK: If you would place your left hand on the
4 Bible and raise your right hand.

5 (WHEREUPON, MR. ALLEN DEAN IS DULY SWORN.)

6 THE COURT: Have a seat for me, Mr. Dean. Pull your
7 chair up. She is going to adjust the microphone for you.
8 That microphone is going to amplify your voice. You don't
9 have to get too close to it, but it will pick up your voice.
10 I need you to speak up so everybody in the jury can hear
11 you. Would you begin by stating your full name and spelling
12 your last name for the court reporter, who is in front of
13 you.

14 MR. DEAN: Okay. Allen Morris Dean. My last name is
15 D-E-A-N.

16 THE COURT: Your witness, counsel. Direct examination.

17 ASST. SOL. WRIGHT: Yes sir, Your Honor.

18 DIRECT EXAMINATION

19 BY ASST. SOL. WRIGHT:

20 Q Mr. Dean, please tell the jury what your position is
21 work-wise.

22 A I am the Chief of the Varnville Fire Department.

23 Q How long have you been in that field?

24 A Thirty-three years.

25 Q How long have you been the Chief?

1 A Five years this time.

2 Q Okay. So on August 2nd, 2013, what capacity were you
3 in at Varnville?

4 A I was at work. I think the alarm went off at 3:30 or a
5 quarter after three; I'm not sure. We got paged out. The
6 first engine in -- I wasn't on the first engine, I was on
7 the second engine. When I got there, I seen the apartments
8 on fire, and they already had the water started to the first
9 truck. I arrived and went to the incident Commander, which
10 was Tommy Smith, and asked him what was going on and I
11 assisted as I could.

12 Q Are you familiar with that area?

13 A Yes, sir.

14 Q Okay. The jury may not be. Can you kind of describe
15 how the area is laid out to the best of your ability? I
16 know you are not there on a daily basis.

17 A Well, I mean, you go in, it's a tight road. Of course,
18 the fire trucks are kind of big. You pull straight up there
19 to them and the apartments are straight in front of the
20 trucks. Engine 61 was the first truck in. I was on 62.

21 Q So when you got there, was the fire active?

22 A Yes, sir, it was. It wasn't fully involved. I would
23 say 30 to 40 percent. There was heavy smoke and flames
24 showing. It got in the attic and it pretty much spread
25 everywhere.

Direct examination of Allen Dean by Mr. Wright

1 Q Do you know where the fire started?

2 A No, sir, not exactly; about, but I don't know.

3 Q About where it started?

4 MS. SMART-GITTINGS: Objection. Speculation, your
5 Honor.

6 THE COURT: Grounds?

7 MS. SMART-GITTINGS: He said he didn't know.

8 THE COURT: He said "about," and the question was
9 "about where?" Overruled. I will allow you to answer the
10 question "about where it started."

11 A The truck was here, and it started in the back two
12 apartments away from the truck. I don't know what 1, 2, 3,
13 4 -- I don't know the apartment numbers, but it appears that
14 it started in the back two.

15 Q Okay. In your capacity as a firefighter, what did you
16 do at the scene?

17 A We started -- I mean, I got there a little late, but
18 anyway, they already had hose lines attacking the fire. We
19 were just trying to put the fire out. I mean, it had gotten
20 in the attic and had spread to all four units, and all you
21 could do was get into one door or window. You couldn't do an
22 interior attack; you had to do an exterior attack. In a
23 defensive mode, we started putting water on the fire.

24 Q Were you able to save any of the building or was the
25 whole building destroyed?

1 A The whole building was destroyed.

2 Q All right. Were you required to bring in additional
3 resources, by any chance?

4 A Oh, yes, sir. Hampton and Varnville has got all the --
5 Hampton responded, Varnville responded. Then, we called a
6 ladder truck from Estill, which is how we, finally, really
7 got it out. They got the ladder in and went above it and you
8 could, you know, put it out.

9 Q Would it be safe to say that was a bigger unit or
10 something?

11 A Oh, yes, sir.

12 Q So the fire, you basically had to get a bigger unit to
13 help extinguish it?

14 A Oh, yeah, it was more than we could handle with the
15 trucks we had.

16 Q Please answer any questions that Ms. Smart-Gittings has
17 for you. Thank you very much.

18 THE COURT: Cross-examination?

19 MS. SMART-GITTINGS: I don't have any questions for
20 this witness, Your Honor.

21 THE COURT: As to this witness, Solicitor?

22 ASST. SOL. WRIGHT: May he be excused?

23 THE COURT: Any objection?

24 MS. SMART-GITTINGS: No objection, Your Honor.

25 THE COURT: Mr. Dean, you may step down from the

Direct examination of Robert Warren by Mr. Wright

1 witness stand and you are excused from the trial of the
2 case. You may leave the courtroom at this time. Thank you.
3 Call your next witness

4 ASST. SOL. WRIGHT: The State calls Robert Warren.

5 (WHEREUPON, THE WITNESS ENTERS THE COURTROOM.)

6 THE COURT: Mr. Warren, come around and be sworn,
7 please.

8 (WHEREUPON, MR. ROBERT WARREN IS DULY SWORN.)

9 THE COURT: Have a seat for me. Pull your chair up and
10 she is going to adjust the microphone for you. That
11 microphone is going to amplify your voice. I want you to
12 speak into the microphone so everybody on the jury can hear
13 you and the people in the courtroom can hear you. I would
14 like for you to begin by stating your full name and spelling
15 your last name for the court reporter.

16 MR. WARREN: Robert, W-A-R-R-E-N.

17 THE COURT: Your witness, counsel. Direct examination.

18 ASST. SOL. WRIGHT: Yes sir, Your Honor.

19 DIRECT EXAMINATION

20 BY ASST. SOL. WRIGHT:

21 Q Mr. Warren, please tell the jury what it is you do for
22 a living.

23 A I am a maintenance guy at Varnville Area Housing. I've
24 been there 10 years.

25 Q Okay. Were you there on the day of August 2nd, 2013?

1 A Yes, I was.

2 Q Can you tell the jury anything significant that
3 occurred that day? Walk us through your day at work.

4 A It was just a normal day, hot, you know like August
5 always is. I was on the side where the building caught
6 fire; can I say that?

7 Q Yeah, you can.

8 A Okay. But when I was over there, during that time, the
9 building wasn't on fire, so I went to another part of where
10 I work at, and Mr. Jenkins, my boss, he called me back
11 around there and told me.

12 Q Who was with you?

13 A Isaac Crosby, the maintenance supervisor, and me and
14 him went back around there and we seen the smoke so, the
15 first thing I did was go to 32 and open up the door.

16 Q Why did you go to 32?

17 A Because 30 was on fire, and I said I would check it out
18 to see if anybody was in there. So I went and got a fire
19 extinguisher.

20 Q Who lives in 30 -- or lived in 30?

21 A Miss --- Miss --- I don't know. I know her, but I
22 can't recall her name.

23 Q If you don't know, that's okay.

24 A Okay.

25 Q Okay. You went to . . . Did you get a fire

Direct examination of Robert Warren by Mr. Wright

1 extinguisher?

2 A Yes, I got a fire extinguisher out of there.

3 Q You said nobody was home in 30?

4 A Yes, nobody was home.

5 Q All right. What did you do next?

6 A I run around on the side of the apartment that was on
7 fire. I pulled the pin on the fire extinguisher. It was
8 smoking, and shot it in there. While I was shooting it in
9 there, I noticed fire on the wall, just climbing up on the
10 wall.

11 Q What type of material was that?

12 A Sheetrock. Sheetrock don't burn.

13 Q You said you understand that sheetrock don't burn?

14 A Sheetrock? No, it don't. You just have to take a
15 match to it and it catch a fire.

16 Q But this sheetrock was burning?

17 A This sheetrock had fire on it going up the wall.

18 Q And exactly which room was that, in apartment 30?

19 A The bedroom, right next to the bathroom.

20 Q How many bedrooms are in these apartments?

21 A It was two.

22 Q All right. Is one considered a master and one

23 considered something else?

24 A Yeah, a master and ---

25 Q And which room was this, the master?

1 A The master, yeah.

2 Q Okay. So the master bedroom was on fire?

3 A Yes.

4 Q And the pattern on the wall was irregular, based on
5 Your knowledge?

6 A Yeah, the fire on the wall. I mean, you could see it
7 clean as day.

8 Q Okay. That the fire was on the wall in that apartment?

9 A Yeah.

10 Q All right. You ever had an opportunity to meet the
11 defendant, Mr. Andre Green?

12 A I seen him around and spoke to him, you know, that's
13 about it.

14 Q About how many times have you seen him? More than
15 once?

16 A Once or twice, yeah.

17 Q And based on your knowledge, who was he there to visit?

18 A I guess -- well, I ain't going to guess the lady in 30;
19 the lady in 30.

20 Q Can you describe her? Was she tall? Short? Black?
21 White?

22 A Black, the lady.

23 Q She lived in 30?

24 A Yeah.

25 Q All right. That's good enough. Let's go back to the

Direct examination of Robert Warren by Mr. Wright

1 window. Tell me a little about the window at the time when
2 you arrived.

3 A As I was shooting the fire extinguisher, it ran across
4 my mind that the window broke, you know.

5 Q Did you break the window?

6 A No, unh-unh. I said, "Dern, the window broke."

7 Q Did anybody with you break the window?

8 A No.

9 Q Okay. As far as you know, when you arrived, the window
10 was broken?

11 A The window was broken, yeah

12 Q Did you notice anything else about the window?

13 A No, that was about it. I didn't pay attention to the
14 blood or nothing like that. I just sprayed the fire. It
15 wasn't even hot enough for the window to be broken because
16 it was just about the smoke.

17 Q So, it was just smoking at that point, but the window
18 was already broken?

19 A Yeah

20 Q Did you see this defendant on August 2nd? Do you have
21 any recollection of seeing him on this particular day?

22 A No, I didn't see him.

23 Q Did you see the occupant of H30 on this particular day?

24 A No, I didn't see her.

25 Q So you didn't see anybody out of that house?

1 A No.

2 Q Please answer any questions the defense attorney has
3 for you. Thank you.

4 THE COURT: Cross-examination?

5 MS. SMART-GITTINGS: I don't have any questions for
6 this witness, Your Honor.

7 THE COURT: As to this witness, may he be excused? Any
8 objection?

9 MS. SMART-GITTINGS: No objection, Your Honor.

10 THE COURT: Mr. Warren, you may step down from the
11 witness stand and you are excused from the trial of the
12 case. You may leave the courtroom. Thank you. Call your next
13 witness.

14 ASST. SOL. WRIGHT: The State calls Isaac Crosby.

15 (WHEREUPON, THE WITNESS ENTERS THE COURTROOM.)

16 THE COURT: Mr. Crosby, come around and be sworn,
17 please.

18 (Whereupon, Isaac Crosby is duly sworn.)

19 THE COURT: Have a seat up there for me Mr. Crosby.
20 Pull that chair up and she is going to adjust the microphone
21 for you. That microphone is going to amplify your voice. You
22 don't have to get right on top of it but you've got to speak
23 up so everyone on the jury can hear you and the people in
24 the courtroom. Begin by stating your full name and spell
25 your last name for the court reporter.

1 so we tried the side window. The window was broken, the
2 fire exploded with a roar.

3 Q Was the window broken when you got there?

4 A Yes, uh-huh.

5 Q So you didn't break a window?

6 A No.

7 Q What did you do next?

8 A Then, we tried to put it out. We went and got fire
9 extinguishers and water hose. If you hit it, it would get
10 faster, the fire.

11 Q Did you have the opportunity to look inside the window?

12 A Did I look inside? Uh-huh, yes.

13 Q What did you observe?

14 A I observed the fire on the wall, running the wall.

15 Q It was on the wall?

16 A Yes

17 Q What type of wall was that?

18 A Sheetrock.

19 Q Is that normal for sheetrock to have fire running?

20 A No, not that quick.

21 Q Did you go into any of the other apartments?

22 A I didn't.

23 Q To your knowledge, was anybody still inside, one of the
24 residents, in H building?

25 A No.

Direct examination of Isaac Crosby by Mr. Wright

- 1 Q Did you make a phone call to 9-1-1 or anything of that
2 nature?
- 3 A No.
- 4 Q Did you observe the fire when it was fully engaged?
- 5 A Right.
- 6 Q Did you assist in any way?
- 7 A Most of it, it was in the back room.
- 8 Q The fire, most of it was in the back room?
- 9 A Right..
- 10 Q What that the same room window that you were at that
11 was broken?
- 12 A Right.
- 13 Q Which bedroom would that be?
- 14 A In 30.
- 15 Q Okay. In H30?
- 16 A Yep, right.
- 17 Q All right. How many bedrooms are in these apartments?
- 18 A Two. It was in the back bedroom.
- 19 Q So, the back bedroom of H30?
- 20 A Right.
- 21 Q All right. Do you know who lives there?
- 22 A Monica.
- 23 Q Monica who? What is Monica's last name?
- 24 A I didn't know her last name.
- 25 Q Okay. Did she have a boyfriend or someone that visited

1 her on a regular basis?

2 A I guess. I saw him a couple of times.

3 Q And who would that be?

4 A Who? That I seen out there?

5 Q Yes. Do you see him in here? Can you point him out?

6 A (WITNESS INDICATES DEFENDANT.)

7 Q How is his hair styled?

8 A He had braids.

9 Q All right. The person sitting beside the young lady in
10 the black outfit?

11 A Right

12 Q And how often would you see him?

13 A Not regular.

14 Q But you would know him if you saw him?

15 A Right. I might have saw him once or twice the whole
16 time.

17 Q All right. Did you see him on this particular day?

18 A No, I didn't.

19 Q All right. Prior to the incident, you worked on the
20 other side; correct? Is that what you said?

21 A Right.

22 Q How far away is that from these other areas?

23 A I guess about 500 yards, I'm guessing.

24 Q All right. Is there a fence near H building?

25 A Right.

Direct examination of Isaac Crosby by Mr. Wright

- 1 Q What's on the other side of that fence?
- 2 A Dirt road.
- 3 Q A dirt road?
- 4 A Right.
- 5 Q Is there an entry/exit point along the fence?
- 6 A No, most of the time they already have it cut.
- 7 Q Who cuts it?
- 8 A I don't know.
- 9 Q You don't cut it, do you?
- 10 A No.
- 11 Q And no one from your organization cuts it?
- 12 A No.
- 13 Q Just somebody, in general, cuts it?
- 14 A Right.
- 15 Q During this time, was there a cut in the fence?
- 16 A Yes, it was.
- 17 Q All right. And was the cut near the H building?
- 18 A Yes sir.
- 19 Q Do you know the names of the other people living in H
- 20 building?
- 21 A It's Teresa Pope, a Duncan girl, Flood.
- 22 Q So Flood, Duncan, Pope?
- 23 A Right.
- 24 Q And you said Haynes?
- 25 A Right.

1 Q That was the four people that lived there?

2 A Yes, right.

3 Q Thank you for your testimony and please answer any
4 questions the defense counsel has for you. Thank you.

5 THE COURT: Cross-examination?

6 MS. SMART-GITTINGS: Nothing from the defense, Your
7 Honor.

8 THE COURT: As to this witness, may he be excused?

9 ASST. SOL. WRIGHT: We ask that he be excused, Your
10 Honor.

11 THE COURT: Any objection?

12 MS. SMART-GITTINGS: No objection, Your Honor.

13 THE COURT: All right. Mr. Crosby, you may step down
14 from the witness stand and you are excused from the trial of
15 the case. Call your next witness.

16 ASST. SOL. WRIGHT: I'd like to call Mr. Freeman.

17 THE COURT: Who counsel? Counsel approach ---

18 ASST. SOL. WRIGHT: I apologize; Mr. James Sullivan. I
19 apologize for the wrong name.

20 THE COURT: James Sullivan.

21 (WHEREUPON, THE WITNESS ENTERS THE COURTROOM.)

22 THE COURT: Mr. Sullivan, come around and be sworn,
23 please.

24 (Whereupon, Mr. James Sullivan is duly sworn.)

25 THE COURT: Have a seat up there for me Mr. Sullivan.

1 How are you? Make yourself comfortable. She is going to
2 adjust the microphone that is going to amplify your voice.
3 You don't have to get too close to it. You see how far back
4 I get from mine. Just speak up so everyone on the jury can
5 hear you and the people in the courtroom can hear. That
6 microphone will amplify your voice. State your full name
7 and spell your last name for the court reporter.

8 JAMES SULLIVAN: James Carlyle Sullivan, Jr. I will
9 spell my last name, S-U-L-L-I-V-A-N.

10 THE COURT: Your witness, counsel. Direct examination.

11 DIRECT EXAMINATION

12 BY ASST. SOL. WRIGHT:

13 Q Thank you, Mr. Sullivan, please tell the jury what it
14 is you do for a living.

15 A I am a heating and air conditioning and electrician at
16 Varnville Area Housing.

17 Q And about how long have you been doing that?

18 A About 4 to 5 years.

19 Q Were you employed there on August 2nd, 2013?

20 A Yes sir, I was.

21 Q All right. On that day -- well, let me ask you, do you
22 recognize the defendant in this case?

23 A Yes, I do.

24 Q All right. Do you know his name by any chance?

25 A No, sir.

1 Q Do you recognize him?

2 A Yes, sir

3 Q And how do you recognize him?

4 A He dated a girl that lived in

5 Q Okay. Would it be in -- could it be in a different
6 home, apartment? How sure are you it's versus any
7 other?

8 A H30, excuse me; was there and 30 was here. We just
9 had a problem when they rebuilt and phase 2 got switched up.

10 Q All right. So H30?

11 A H30.

12 Q Are you sure?

13 A Yes.

14 Q All right. He dated a young lady in H30. Did you have
15 opportunity to see him on August 2nd?

16 A Yes, sir.

17 Q Please tell the jury about that.

18 A I was coming back from Project 1, on the old side,
19 driving a golf cart to go get some tools and he was walking
20 across to Project 1 side.

21 Q About what time was this?

22 A 11:00 in the morning, maybe. This would have been a
23 year and a half ago.

24 Q But it was the morning part of the day and not the
25 afternoon?

1 A Yes, sir.

2 Q Did you interact with him, speak with him?

3 A No, sir.

4 Q Just observed him?

5 A (WITNESS NODS.)

6 Q When the fire started, where were you at and what did
7 you do as it relates to the fire?

8 A I was working in an apartment adjacent to that
9 building. I heard some screaming from one of the tenants
10 that there was something smoking, so I ran over there, saw
11 where it was. I wasn't sure which apartment it was coming
12 out of. I opened the one door and it wasn't coming from
13 there so I went next door.

14 Q Which door was that? Do you remember?

15 A It was the one that was adjacent to . And then saw
16 the smoke coming out of there, so I tried to open the door
17 but the door knob was sort of hot. So I stepped to the side
18 and I kicked the door in and it was just full of smoke.

19 Q So you kicked the door in to 30, H30?

20 A Yes sir.

21 Q And was it opened or unlocked?

22 A I beg your pardon?

23 Q Was the door locked or unlocked?

24 A I don't know, because you naturally stick your master
25 key in because it only has a deadbolt and you really don't

1 whether it is open or not.

2 Q So you had a deadbolt?

3 A Yeah, there was a deadbolt there, but I just stick my
4 key in naturally.

5 Q But that apartment was fully ---

6 A Was fully engulfed in smoke.

7 Q Yeah?

8 A Yeah.

9 Q What did you do next?

10 A Tried to go get a fire extinguisher from the
11 maintenance shop and that was it.

12 Q Did you check any other apartments?

13 A Yeah, I went around to see if there was anybody in the
14 front side.

15 Q Was there anybody?

16 A No sir.

17 Q All the apartments, as far as you know, were empty at
18 that point?

19 A Yes sir.

20 Q Did you interact with the fire department, assisting
21 them in any way?

22 A Just, you know, was there to tell them where we thought
23 the hottest part of the fire was.

24 Q And based off your observations, was the whole building
25 lost?

1 A Was the whole building? Oh, yes sir.

2 Q It is my understanding it has been rebuilt, is that
3 correct?

4 A Yeah.

5 Q Did you participate in rebuilding it.

6 A No sir.

7 Q You just do the maintenance part? You don't do any of
8 that?

9 A Right, exactly, yeah.

10 Q Thank you very much. Oh, one second, you said that --
11 did you observe the window when you were walking around the
12 building?

13 A Yeah.

14 Q And what was the condition of the window?

15 A It was broken out.

16 Q Did you break it out?

17 A No, sir.

18 Q All right. Please answer any questions that defense
19 counsel has for you. Thank you.

20 THE COURT: Cross-examination?

21 MS. SMART-GITTINGS: None for the witness, Your Honor.

22 THE COURT: As to this witness, may he be excused?

23 MR. WRIGHT: I ask that he be excused.

24 THE COURT: Any objection?

25 MS. SMART-GITTINGS: No objection, Your Honor.

1 THE COURT: All right. Mr. Sullivan, you may step down
2 from the witness stand and you are excused from the trial of
3 the case and you may leave the courtroom.

4 Ladies and gentlemen of the jury panel, I am going to
5 take my mid-morning break at this point. I am going to let
6 you stretch your legs, use the restroom. I will be right
7 back with you. Please do not discuss the case. We'll be
8 right back with you. You may retire to your jury room at
9 this time.

10 (11:40 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM
11 AND THE COURT IS IN RECESS FOR A BRIEF TIME. THEREAFTER, AT
12 11:55 A.M., THE FOLLOWING IS HELD ON THE RECORD.)

13 THE COURT: All right. Did everyone have a chance to
14 use the restroom? All right. Bring me the jury.

15 ASST. SOL. WRIGHT: Your Honor?

16 THE COURT: Hold on a second, just a minute. Mr.
17 Wright, my understanding from your assistant is that you
18 wanted to wait until you got a witness here to do that?

19 ASST. SOL. WRIGHT: No, this is the witness I'm getting
20 a bench warrant for. All right. Let me explain it to you.
21 The State would like to make a motion to get a bench warrant
22 on Paula Ford. She is the mother of John Brown, who is a
23 witness in this case. We effectuated service on her to be
24 here and she is not present.

25 THE COURT: Hold on a second, now. Tell me what this

1 Paula Ford has to do with as far as being a witness in this
2 case. What are you talking about, for the record? I don't
3 understand why you want the bench warrant on her.

4 ASST. SOL. WRIGHT: All right. We went to the witness's
5 home, who is Paula Ford's home. She is his mother. They
6 live together.

7 THE COURT: So the witness -- and you're talking about
8 one of the witnesses on your witness list, and Paula Ford is
9 the mother of the witness; and that would be witness John
10 Brown?

11 ASST. SOL. WRIGHT: Correct, Your Honor.

12 THE COURT: And Paula Ford is John Brown's mother?

13 ASST. SOL. WRIGHT: Correct, Your Honor.

14 THE COURT: And you consider John Brown to be a
15 material witness to the trial of this case?

16 ASST. SOL. WRIGHT: Correct, Your Honor.

17 THE COURT: And you effected service of the subpoena on
18 John Brown through his mother, Paula Ford?

19 ASST. SOL. WRIGHT: Correct, Your Honor.

20 THE COURT: And did she intimate to you that he resided
21 in the house with her?..

22 ASST. SOL. WRIGHT: She then -- she accepted service on
23 behalf of her son. A couple of days later, she came back
24 and said he didn't live with her. So we got service on her
25 to come explain to the Court why she accepted service the

1 first time if he didn't live there and she hadn't showed.
2 So, at this point, I just ask for a bench warrant for her,
3 to bring her in, and then we can figure out where he's at
4 and what's going on, because we have suspicions, but we're
5 not going to voice those to the Court at this time. We
6 would like to have her here.

7 THE COURT: So she first told you he did live there
8 and then she told you he didn't live there?

9 ASST. SOL. WRIGHT: That is my understanding. I need
10 to get that cleared. That's why we got service on her,
11 because we were confused as to exactly what was going on
12 with his living status, whether he lived with her or didn't
13 live with her.

14 THE COURT: I understand you need her presence, and I
15 certainly don't want her placed in custody. I'll require
16 that any law enforcement officer with the Hampton County
17 Sheriff's Department ask her to come so that she can be
18 placed under oath, so I can determine whether or not we have
19 good service or not on the witness in the trial of this
20 case.

21 I'm not asking that she necessarily be arrested at
22 this point, but I'm going to require her appearance, and I
23 will direct the law enforcement officer to pick her up and
24 bring her here so we can put her under oath and determine
25 whether you have accomplished service on your witness.

1 ASST. SOL. WRIGHT: Thank you, Your Honor.

2 THE COURT: All right. Who do you want to designate to
3 be that person?

4 ASST. SOL. WRIGHT: I would like to defer to Detective
5 Singleton to suggest someone.

6 DET. SINGLETON: I will take care of it.

7 THE COURT: If you'll bring her here. I would
8 appreciate it. All right. Anything else?

9 ASST. SOL. WRIGHT: Nothing, Your Honor.

10 THE COURT: Stephanie, are you ready to proceed?

11 MS. SMART-GITTINGS: Yes sir, Your Honor.

12 THE COURT: Very well. Bring us the jury.

13 (12:00 A.M., WHEREUPON THE JURY ENTERS THE COURTROOM
14 AND THE FOLLOWING IS HELD ON THE RECORD.)

15 THE COURT: All right. Madame Foreperson, ladies and
16 gentlemen of the jury, we will now continue with the
17 testimony in the trial of this case. Call your next
18 witness.

19 ASST. SOL. WRIGHT: Thank you, Your Honor. The State
20 calls Kwanisha Fludd.

21 THE COURT: Kwanisha Fludd.

22 (WHEREUPON, THE WITNESS ENTERS THE COURTROOM.)

23 THE COURT: Ms. Fludd, come around and be sworn,
24 please.

25 (Whereupon, Kwanisha Fludd is duly sworn.)

1 THE COURT: Have a seat up there for me. I want you to
2 pull that chair up and she is going to turn the microphone
3 for you. You don't have to get right on top of it. It's
4 going to amplify your voice, but I want you to speak up loud
5 enough through the microphone so everyone on the jury can
6 hear you and the people in the courtroom. Begin by stating
7 your first and last name, and spelling your last name for
8 the court reporter.

9 KWANISHA FLUDD: Kwanisha Fludd. Last name, F-L-U-D-D.

10 THE COURT: Your witness, counsel. Direct examination.

11 DIRECT EXAMINATION

12 BY ASST. SOL. WRIGHT:

13 Q Ms. Fludd, please tell the jury where it is you reside?

14 A Where I stay at right now?

15 Q Yes, ma'am.

16 A Varnville Apartments on Ginn Street.

17 Q Which apartment do you live in now?

18 A

19 Q Have you ever lived in another apartment?

20 A Yes, sir.

21 Q Which apartment would that be?

22 A

23 Q All right. And why do you no longer live in ?

24 A Because it had caught on fire.

25 Q All right. And when did it catch on fire?

1 A I don't know the date.

2 Q Was it in fall or winter?

3 A It was during the summertime.

4 Q All right. If I said it was August the 2nd, would you
5 say I was incorrect?

6 A (NO RESPONSE.)

7 Q You don't remember the exact day?

8 A No, I don't remember.

9 Q Do you personally know who set the fire? Not what you
10 heard, now.

11 A No, sir.

12 Q Okay. Do you know which apartment the fire started in?

13 A No, sir.

14 Q Okay. So you don't know where the fire started?

15 A I don't remember, unh-unh.

16 Q Who lived with you in your apartment?

17 A Just me and my little boy.

18 Q And what is you little boy's name?

19 A Eric Fludd.

20 Q All right. Did you have personal items inside the
21 home?

22 A Yes, sir.

23 Q Not per item, but you had the whole place furnished?

24 A Yes, sir.

25 Q What happened to those items as a result of this fire?

- 1 A They caught on fire.
- 2 Q Were you able to salvage your items?
- 3 A No.
- 4 Q So you lost everything?
- 5 A Yes.
- 6 Q Can you give the jury an approximate value of the items
7 that you lost?
- 8 A About \$6,000.
- 9 Q So it was more than \$2,000?
- 10 A Yes.
- 11 Q Have you been able to replace your items at this point?
- 12 A No, sir.
- 13 Q You're still in the process of trying to recoup?
- 14 A Yes, sir.
- 15 Q Were you home when the fire happened?
- 16 A No, sir.
- 17 Q How did you find out about the fire?
- 18 A When I got home, I saw it.
- 19 Q You saw the fire when you got home?
- 20 A Yes, sir.
- 21 Q All right. Was the whole place lost?
- 22 A Yes, sir.
- 23 Q All right. Please answer any questions that defense
24 counsel may have for you. Thank you.
- 25 THE COURT: Cross-examination?

1 MS. SMART-GITTINGS: Nothing from the defense, Your
2 Honor.

3 THE COURT: As to this witness, may she be excused?

4 ASST. SOL. WRIGHT: I ask that she be excused.

5 THE COURT: Any objection?

6 MS. SMART-GITTINGS: No objection, Your Honor.

7 THE COURT: All right. Ms. Fludd, you may step down
8 from the witness stand and you are excused from the trial of
9 the case and you may leave the courtroom at this time.
10 Watch your step on the stairs. Call you next witness.

11 ASST. SOL. WRIGHT: State calls Ms. Teresa Pope.

12 (WHEREUPON, THE WITNESS ENTERS THE COURTROOM.)

13 THE COURT: Ms. Pope, please come around and be sworn.

14 (Whereupon, Teresa Pope is duly sworn.)

15 THE COURT: Watch your step. Have a seat and make
16 yourself comfortable. She is going to adjust the microphone
17 that is going to amplify your voice. You don't have to get
18 right on it, but close enough to speak up so everyone on the
19 jury can hear you and the people in the courtroom. State
20 your full name and then spell your last name for the court
21 reporter.

22 MS. POPE: Teresa Pope. Last name, P-O-P-E.

23 THE COURT: Your witness, counsel. Direct examination.

24 DIRECT EXAMINATION

25 BY ASST. SOL. WRIGHT:

1 Q Ms. Pope, please tell the jury where you live?

2 A Ginn Street, Apartment .

3 Q Have you ever lived in a different apartment?

4 A Yes, sir.

5 Q You said Apartment ; Apartment of where?

6 A Varnville Area Housing.

7 Q And that is located where? What street?

8 A Ginn.

9 Q Why did you move from the first apartment to the second
10 apartment?

11 A There was a fire.

12 Q All right. And would it be safe to say that occurred
13 around August 2nd, 2013?

14 A Yes, sir.

15 Q Do you have any information about the fire to tell the
16 jury, that you personally saw and that you personally know?

17 A That someone just came knocking on the doors saying one
18 of the apartments was on fire, where it started at.

19 Q Okay. And what did you do as a result of somebody
20 warning you that there was a fire going on?

21 A I got my children out of there; me and my children out
22 of there.

23 Q How many kids do you have?

24 A Two.

25 Q So when the fire started, you were in the house with

1 your two kids?

2 A Yes, sir.

3 Q And what were you doing?

4 A I was in the bathroom doing my hair.

5 Q All right. Were you flat ironing it? What were you
6 doing?

7 A Bumping it with the curling iron.

8 Q All right. So you were working on your hair, getting
9 your do right, and you find out there's a fire. Were you
10 able to grab any of your items?

11 A No, sir.

12 Q As a result of this fire, did you lose anything?

13 A Everything.

14 Q All right. Can you estimate the value of the items
15 lost in the fire?

16 A Around 2000 -- maybe \$2000.

17 Q Would it be safe to say more than \$2,000, or less than
18 \$2,000?

19 A Less than \$2,000; around about \$2,000.

20 Q So around about \$2,000?

21 A Yes, sir.

22 Q Have you been able to recover all your items since the
23 time?

24 A No, sir.

25 Q And they put you up in a new place.

1 A Yes, sir.

2 Q Thank you very much. Please answer any questions the
3 defense attorney may have for you.

4 A Okay.

5 THE COURT: Cross-examination?

6 MS. SMART-GITTINGS: None for this witness, Your Honor.

7 THE COURT: As to the witness, Solicitor?

8 ASST. SOL. WRIGHT: We ask that she be excused.

9 THE COURT: Any objection?

10 MS. SMART-GITTINGS: No objection, Your Honor.

11 THE COURT: Ms. Pope, you may step down from the
12 witness stand and you are excused from the trial of this
13 case. You may leave the courtroom.

14 MS. POPE: Thank you.

15 THE COURT: Call your next witness.

16 ASST. SOL. WRIGHT: The State calls Ms. Duncan.

17 THE COURT: Just a moment. Counsel approach.

18 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
19 AND OUT OF THE HEARING OF THE JURY.)

20 THE COURT: Sustained. You can call another witness.
21 What do you want to do with this witness?

22 ASST. SOL. WRIGHT: I ask that she be excused.

23 THE COURT: The witness needs to stay if he's going to
24 call another witness, so she can talk to the Solicitor.

25 CLERK OF COURT: Do you want her to talk in the back

1 room or stay in the courtroom?

2 THE COURT: Mr. Wright, what do you want to do?

3 ASST. SOL. WRIGHT: She can stay.

4 THE COURT: Any objection?

5 MS. SMART-GITTINGS: No objection, Your Honor.

6 THE COURT: All right. Ma'am, you are excused from the
7 trial of this case. Call another witness.

8 ASST. SOL. WRIGHT: Monica Haynes.

9 (WHEREUPON, THE WITNESS ENTERS THE COURTROOM.)

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

12 (WHEREUPON, MS. MONICA HAYNES IS DULY SWORN.)

13 THE COURT: Ms. Haynes, watch your step there for me.

14 Have a seat. She's going to pull the microphone around for
15 you. That microphone is going to amplify your voice. We
16 want everyone in the courtroom to hear you. Please state
17 your full name, first and last, and spell your last name for
18 the court reporter.

19 MS. HAYNES: It's Monica Haynes, H-A-Y-N-E-S.

20 THE COURT: Very well. Your witness, counsel.

21 DIRECT EXAMINATION

22 BY ASST. SOL. WRIGHT:

23 Q Ms. Haynes, where did you live on August 2nd, 2013?

24 A In Varnville Apartments.

25 Q Which apartment?

1 A H30.

2 Q All right. Were you dating anybody during that
3 timeframe?

4 A Yes.

5 Q And who were you dating?

6 A Andre Green.

7 Q And is he in the courtroom?

8 A Yes.

9 Q Do you mind pointing him out?

10 A He's right there. (WITNESS INDICATES BY POINTING.)

11 Q All right. What does he have on?

12 A He has on a blue shirt.

13 Q All right. I just want to make sure that the jury
14 knows. Tell me about your relationship with him. Do you
15 have any kids for him? Are you dating?

16 A We don't have any kids, but it was okay.

17 THE COURT: Don't get too close to the microphone.
18 Just speak up for me.

19 Q All right. So let's go to the day of this -- has he
20 ever spent the night at your apartment?

21 A Yeah.

22 Q Okay. Did he have a key to your apartment?

23 A No.

24 Q Did he have full access to your apartment at any time?

25 A I mean, he came on the weekend.

1 Q While you were there?

2 A Uh-huh (affirmative).

3 THE COURT: You have to say "yes" or "no." Don't say
4 uh-huh, for the court reporter.

5 A Yes.

6 Q Did he have permission to go into your apartment while
7 you weren't there?

8 A Pretty much, yeah, because usually when he's there, I'm
9 there.

10 Q Did he have permission to be there when you're not
11 there?

12 A Yes.

13 Q Did he have permission to enter your apartment with a
14 key? Did he have a key to get into your apartment?

15 A He never had a key.

16 Q All right. So how would he enter if he didn't have a
17 key?

18 A Because I was always there when he come there.

19 Q All right. Let's say was there any situation while you
20 were dating when you weren't there and you didn't have the
21 door unlocked for him, how would he get inside your place?

22 A He never came there if I wasn't there.

23 Q So would it be safe to say he had permission to be
24 there while you weren't there and leaving the door open for
25 him gave him permission?

1 A Excuse me?

2 Q Would it be safe to say that if you didn't leave the
3 door open for him and say, "Hey, Andre, the door's open.
4 You can come in." Then, he wouldn't have permission to come
5 in the house. Is that safe to say?

6 A Yes.

7 Q Okay. So if the door was locked, he didn't have
8 permission to go inside; is that safe to say?

9 A I mean ---

10 Q I'm just asking in general. If the door was not open,
11 and he didn't have a key ---

12 A No, he didn't have permission.

13 Q Okay. Thank you very much. Are you still in a
14 relationship with him now?

15 A No.

16 Q Do you still love him?

17 A What?

18 Q Do you still love him?

19 A Yes.

20 Q All right. Have you communicated with him since this
21 incident occurred?

22 A Yes.

23 Q When's the last time you communicated with him?

24 A I don't know.

25 Q Today?

1 A No.

2 Q Yesterday?

3 A No.

4 Q The day before?

5 A About two weeks ago.

6 Q All right. Did he communicate anything to you about
7 this fire?

8 A Never.

9 Q Never had any conversations?

10 A Unh-unh, no.

11 Q All right. Does he know a guy named John Brown as far
12 as you know?

13 A Do he know him?

14 Q Yeah.

15 A I don't know.

16 Q You don't know?

17 A No.

18 Q You never seen John Brown?

19 A I seen him one time.

20 Q So he does know a guy named John Brown?

21 A (NO RESPONSE.)

22 Q I'm not saying how much he knows him, but he knows a
23 guy named John Brown.

24 A Oh, yeah.

25 Q Okay. And as far as you know, John Brown, that one

1 time you saw him, he was doing what?

2 A He brought Andre to my house.

3 Q So John Brown drove him to your house that one time you
4 saw him?

5 A Uh-huh (affirmative).

6 Q So as far as you know ---

7 THE COURT: You've got to say "yes" or "no," and not
8 uh-huh.

9 Q Let's go into the day of this incident. Tell the jury
10 what was occurring between you and Mr. Green on the day of
11 this incident. Nothing before this day; the day of this
12 incident. Please limit it to that day. Start it from when
13 you first saw him, prior to that day, until the last time
14 you saw him. Please tell the jury exactly what occurred.

15 A That day, it was on that Friday. I came home from work
16 and I didn't even get out my car yet, Andre had told me to
17 come pick him up, and we was halfway down the road when I
18 pick him up, and he told me to take him to Ridgeland. And
19 we was on the way going to Ridgeland and ---

20 Q Let's back up a little bit before. Was that the first
21 time you saw him?

22 A No. I mean, he came to my house that night, that
23 Thursday night.

24 Q Okay. Let's start there.

25 A Well, he came to my house late that Thursday night.

1 Q Yeah, let's start there.

2 A He came to my house late that Thursday night and he
3 stayed with me. I got up that Friday morning and I left
4 from there, so he had permission to be there.

5 Q Okay. Then, you said you got home. Start from there,
6 please.

7 A And when I got home, I never did went in my apartment;
8 he called me and told me to come pick him up just down the
9 road. So I picked him up and we went on to Ridgeland.

10 Q So let's get all the details out. When was the last
11 time he went into your apartment prior to this fire?

12 A That morning when I went to work.

13 Q I'm asking to create a timeline for the jury, so they
14 can understand. So Thursday night, he came to your
15 apartment. You slept, you woke up, and then what did you
16 do?

17 A I got ready for work. I left home about 8:30, 8:00.

18 Q So you leave at 8:30, and you come back when?

19 A I want to say about 2 or 3, 2:00.

20 Q So after 8:30, you didn't go back to your house at all?

21 A Unh-unh. When I did got there, I never went inside my
22 apartment. I was in the parking lot. I never had the
23 chance to get out my car, because Andre had called me. I
24 went and picked him up from the guy's house down the road
25 and we went on down to Ridgeland.

1 Q Why wasn't he in your apartment?

2 A Because he always go down there to the guy -- he knows
3 the guy that lives down there.

4 Q All right. When he normally leaves your apartment,
5 what does he do?

6 A When he leave there?

7 Q Leave the door wide open?

8 A Yeah, because the only way to lock it is if you got a
9 key, and I had my key. He don't have a key.

10 Q So he didn't lock the door?

11 A He couldn't. I mean, he couldn't. The only way to
12 lock it is with the key on the outside.

13 Q All right. So 8:00 is the last time you were inside
14 your apartment, you're sure?

15 A Yeah.

16 Q All right. So you come back. You get a phone call to
17 go pick him up?

18 A Yes. He told me to come pick him up.

19 Q He called your from where?

20 A From -- I think he was using someone's cell phone.

21 Q And you went and picked him up. And what did you do
22 then?

23 A I picked him up and then we went on to Ridgeland.

24 Q All right. Anything occur between Hampton and
25 Ridgeland -- Varnville and Ridgeland?

1 A On our way, I mean, when we got halfway to Ridgeland,
2 we got into an argument and -- and he had hit me, or
3 whatever.

4 Q Back up a second. You said "hit you or whatever."

5 A He had hit me.

6 Q Well, what were y'all arguing about?

7 A I don't remember. He was just -- well, the only thing
8 I can remember there, he was saying that I had changed on
9 him, or whatever, like that.

10 Q What does that mean? What did that mean to you; let me
11 say that. Tell us everything, now, please.

12 A I'm telling you. I just started hanging out with some
13 of the local project girls and stuff; I don't know.

14 Q So had you changed?

15 A No. (Laughing.)

16 Q All right. So he felt you had changed, and then what
17 did he do as a result of feeling that you had changed?

18 A Me and him started arguing and then he hit me. He had
19 hit me in my face.

20 Q All right. What did you do as a result of getting hit
21 in the face?

22 A I didn't do anything -- as I was driving, I look in my
23 mirror and I seen my moma was behind me.

24 Q So, let's back up now. Someone hit you in the face and
25 you didn't do anything? You didn't argue back with him?

1 You didn't use some choice words for him? You just got hit
2 in the face and you just kept driving?

3 A Uh-huh (affirmative).

4 Q Why would a person do that? Why did you do that?

5 A I don't know.

6 Q All right. So you get hit in the face and then what
7 happens next?

8 A Like I say, I look in the mirror and I see my moma
9 close behind me and I pull over and she pull over and I got
10 out and asked her could I use her phone or whatever.

11 Q Did you wave her down? Did she already know you were
12 going to be in front of her? Was it a caravan trip where
13 you were in the front and she was in the back or just by
14 happenstance?

15 A I looked in my mirror and she was behind me. She was
16 on the way coming that way anyway.

17 Q What does your mom drive?

18 A She drives a red Neon.

19 Q And that was distinctive enough that you knew it was
20 her red Neon behind you?

21 A Yeah, I know her car, yeah.

22 Q Special plates or something like that?

23 A Uh-huh (affirmative).

24 Q Okay. So you pull over and she pulls over behind you;
25 what happens next?

Direct examination of Monica Haynes by Mr. Wright

1 A I got out the car and she said, "What's wrong?" I
2 said, "Nothing. I just want to use your phone." So I took
3 the phone and came back to the car and I told Andre to get
4 out, and he said, "Well, let me use the phone." And I give
5 him my moma's phone by mistake. I had my phone, but I
6 messed around and give him my moma's phone. So when he got
7 out, I pulled off.

8 Q Why did you mess around and give him the phone?

9 A I don't know. I was just -- I don't know. I was
10 confused.

11 Q Just confused?

12 A Uh-huh (affirmative).

13 Q Anything else? Any other emotions you want to share?

14 A Unh-unh.

15 Q So who was in the car with you when you got punched in
16 the face?

17 A Me and my daughter.

18 Q All right. How old is your daughter?

19 A She's six.

20 Q So your daughter saw you get punched in the face by the
21 defendant?

22 A Yeah.

23 Q And that didn't stir anything inside you?

24 A (NO RESPONSE.)

25 MS. SMART-GITTINGS: Your Honor, objection. Relevance

1 to the arson.

2 THE COURT: Counsel approach.

3 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
4 AND OUTSIDE OF THE HEARING OF THE JURY.)

5 THE COURT: Objection is withdrawn, correct, Ms. Smart-
6 Gittings?

7 MS. SMART-GITTINGS: Yes, Your Honor.

8 THE COURT: Question is withdrawn, correct, Mr. Wright?

9 ASST. SOL. WRIGHT: Yes, Your Honor.

10 THE COURT: Proceed.

11 Q All right. So you're on the side of the road and you
12 give him your mother's phone. Your mother didn't ask for
13 her phone back?

14 A Like I said, I pulled off, and she pulled off behind
15 me. I went to this little police station and I got out the
16 car and I knocked on the door and this Officer Ginn came to
17 the door and --

18 Q Don't say what anybody said to you. Only say what you
19 said.

20 A And I told him what happened. I said I messed around
21 and give my boyfriend my moma's phone and I need to get it
22 back, and so my moma pulled up. I said, "Moma, I'm trying
23 to get your phone." Because she started -- she was saying -
24 ---

25 Q Don't say what she said now. Only what you said now.

1 If she said something to you and you did something because
2 of that, but you can't say what she said.

3 A Okay. And so the officer -- we went down the road and
4 we didn't see Andre. So he told me there wasn't nothing he
5 could do.

6 Q So Andre wasn't where you left him at?

7 A No. But when I went back, he was down the road. He
8 was still down there in Ridgeland, because when I came back,
9 his daddy was coming through ---

10 Q Back up, back up, back up. Give me some type of
11 timeline so ---

12 A I don't know the time.

13 Q So between the side of the road and until the time your
14 place got burned, you're telling me that you saw Mr. Andre
15 Green?

16 A It was about four-something, three-something.

17 Q Do you remember giving a statement to law enforcement?

18 A Uh-huh (affirmative).

19 THE COURT: Please say "yes" or "no."

20 A Yes, sir.

21 Q And do you remember what you said in that statement?

22 A Uh-huh (affirmative).

23 THE COURT: Say "yes" or "no."

24 A Yes.

25 Q Did you ever convey to any law enforcement officer that

1 you saw Andre Green on August the 2nd between the hours of
2 approximately 11:00 and 7:00? Did you ever convey that you
3 saw him at all after 11:00?

4 A After 11:00?

5 Q On the 2nd?

6 A No. I didn't see Andre. Like I said, until after I
7 came back from work until about two.

8 Q And did you ---

9 A --- we had been in Ridgeland by three-something.

10 Q Back up now. Say that one more time.

11 A I'm thinking we got in Ridgeland by three.

12 Q "We" got to Ridgeland?

13 A Yeah; me, Andre and my daughter.

14 Q Didn't you say that your daughter got in the car with
15 your mom?

16 A I didn't say that. No, I didn't.

17 Q All right. So let's go forward with this. You said
18 you went to the police station. What time was that?

19 A I'm not sure what time that was.

20 Q No, we got to get to this. Let's piece through it. So
21 you done with your mom, the phone was missing, you went to
22 the police station. About how long did it take to get from
23 the spot where you let Mr. Andre Green out to get to the
24 police station?

25 A About five minutes -- about five minutes.

1 Q So you were in Ridgeland when this occurred?

2 A Uh-huh (affirmative). Yes.

3 Q And you went back to the location where he was supposed
4 to be and you were concerned to get this phone, and he
5 wasn't there?

6 A When me and the police went there, he wasn't at the
7 spot, and when I left and came back, he was there walking.

8 Q He was where walking?

9 A Andre was still in the road walking.

10 Q So you drove down there with law enforcement and you
11 didn't see him walking and then you ---

12 A They wouldn't go with me all the way down the road;
13 they only went half. And I told them they would have to go
14 farther down.

15 Q So law enforcement wouldn't drive five minutes down the
16 road?

17 A Not the part that we could see, because they said they
18 couldn't.

19 Q All right. Tell me some more about your interaction
20 with law enforcement. What else did you do with law
21 enforcement?

22 A He told me that he would have to call 9-1-1.

23 Q He who?

24 A Officer Ginn.

25 Q So the officer had to call 9-1-1?

1 A Yes. So he called them and he told me to stay to some
2 building -- to the 9-1-1 building or something, and it took
3 them about an hour and a half to get there, and Andre daddy
4 came, too, and I talked to his daddy, and he said, "Andre is
5 walking down the road."

6 MS. SMART-GITTINGS: Objection. Hearsay.

7 THE COURT: Sustained. (SPEAKING TO WITNESS.) Don't
8 refer to what somebody else said. Just what you said and
9 what you know of your own personal observation. Objection
10 is sustained.

11 Ask a question, counsel. Direct examination.

12 Q All right. So about how much time has passed by from
13 when you first got punched in the fact until the time you're
14 talking about now when you saw Andre's dad?

15 A I'm not sure.

16 Q You just now said an hour or something about when you
17 had to sit down and wait for somebody to come. So we're
18 down to almost 5:00 at this point in your storyline. I need
19 you to back up and tell ---

20 MS. SMART-GITTINGS: Your Honor, objection. He's
21 badgering the witness.

22 THE COURT: Direct examination. Objection is
23 sustained. Rephrase your question. Direct examination.

24 Q Please help the jury with the timeline.

25 A It was probably about four.

1 Q Four what?

2 A I'm saying about 4:30.

3 Q 4:30 when what happened?

4 A When I seen Andre's father.

5 Q It was 4:30 when you saw Andre's father. And what did
6 you do when you saw Andre's father?

7 A I talked to him. And then by that time, the police was
8 coming up and they took my report, or whatever, like that
9 and that's all they did.

10 Q So you saw Andre's father; you didn't see Andre at
11 4:30?

12 A No. But like I said, his father say -- his father say
13 ---

14 MS. SMART-GITTINGS: Objection, Your Honor.

15 THE COURT: Sustained. Don't testify to what his
16 father said. Objection is sustained. Proceed, counsel.

17 Q What did you do as a result of speaking to Andre's
18 father and dealing with law enforcement?

19 A (NO RESPONSE.)

20 Q Well, let's back up. You understand what kind of case
21 this is, correct?

22 A Yes.

23 Q What kind of case is this?

24 A (NO RESPONSE.)

25 THE COURT: Did you understand the question?

1 A What did you say, sir?

2 Q What type of case is this that we're here for? What is
3 this defendant being charged with, as far as you know?

4 A The fire.

5 Q The fire. Have me and you spoken prior to this day?

6 A Yes. About the fire; about how he burned down the
7 apartment, my apartment.

8 Q How many times have you spoken to Andre Green since
9 your place has been burned?

10 A Probably about three or four.

11 Q Only three of four times?

12 A Uh-huh (affirmative). Yes.

13 Q And how did those conversations initiate?

14 A It wasn't nothing about the fire.

15 Q No, no, no. How did they initiate? Did you call him
16 or ---

17 MS. SMART-GITTINGS: Objection. Relevance to the fact
18 of the arson, Your Honor.

19 THE COURT: Ask in direct form, counsel. I sustain the
20 objection, because it is direct examination. Don't suggest
21 an answer. Ask a direct question. I overrule the objection
22 as to relevancy. I'll allow you to ask the question, but
23 ask it in direct testimony form.

24 Q Who initiated the phone calls?

25 A He called.

1 Q All right. And when he called you, did you guys talk
2 about love?

3 MS. SMART-GITTINGS: Objection, Your Honor; relevance.

4 THE COURT: Sustained as to leading. Rephrase the
5 question.

6 Q Did you guys talk about the future?

7 A No.

8 Q Did you guys talk about what was going to happen when
9 he gets out of jail?

10 MS. SMART-GITTINGS: Objection, Your Honor.

11 THE COURT: Sustained, as to leading. Don't suggest an
12 answer.

13 Q Did you guys talk about what was going to happen when
14 he got out?

15 MS. SMART-GITTINGS: Objection, Your Honor.

16 THE COURT: Counsel approach.

17 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
18 AND OUT OF THE HEARING OF THE JURY.)

19 THE COURT: Proceed.

20 Q Specifically, what did you and Mr. Green talk about
21 during these three to four conversations?

22 A We was just talking about different stuff; we wasn't
23 talking about the fire.

24 Q Please tell the jury the stuff you talked about that
25 wasn't the fire.

1 MS. SMART-GITTINGS: Your Honor, asked and answered.

2 THE COURT: Overruled. I'll allow her to answer that.

3 A He did ask me how I was doing and stuff, and that was
4 mainly it. We never stayed on the phone long.

5 Q Would you, please, elaborate?

6 A Excuse me?

7 Q Would you please go more in depth into your
8 conversations?

9 A We talked about his kids, my kids, my baby, that's it.
10 It wasn't really much.

11 Q All right. On August 2nd, we established that your
12 residence burned down. What was the approximate value of
13 your items inside the home?

14 A Six thousand.

15 THE COURT: I'm sorry. I couldn't hear you.

16 MS. HAYNES: Six thousand.

17 Q Have you been able to replace those items?

18 A No.

19 Q Where do you currently live?

20 A I stay with my sister.

21 Q All right. Let's go back to how did you end up living
22 here, was it an application or -- to stay where you were at
23 in the Varnville Area Housing?

24 A I went and got an application.

25 Q All right. Where did you live before you lived there?

Direct examination of Monica Haynes by Mr. Wright

1 A With my sister.

2 Q So you went from living with your sister, to living
3 there, to living with your sister. Where did you live
4 before you lived with your sister?

5 A I was staying up in Hampton.

6 Q With who?

7 A Me, my daughter and my husband.

8 Q All right. Are you currently still married?

9 A Yeah.

10 Q All right. So do you own a gas jug?

11 A No.

12 Q Did you own a gas jug during the time of this incident?

13 A No.

14 Q So you wouldn't have a gas jug in your bedroom?

15 A No.

16 Q Do you keep gas, in general, spread out in your
17 bedroom?

18 A No.

19 Q And you said the lock on your front door was a
20 deadbolt?

21 A Yes. I could only lock it with the key from the
22 outside.

23 Q And on the day of this incident, did Mr. Green have a
24 key?

25 A No.

1 Q And when you left your apartment that morning, was he
2 still in your apartment?

3 A Uh-huh (affirmative).

4 THE COURT: You have to say "yes" or "no."

5 A Yes.

6 Q So would it be safe to say that your apartment was
7 unlocked?

8 A Yes, it was unlocked, unless he got up and locked the
9 door when I left. But the only way to lock it is if I lock
10 it from the outside, and I didn't lock it.

11 Q So your apartment was unlocked. You went near your
12 apartment and you didn't go lock the door?

13 A Excuse me, sir?

14 Q Would it be safe to say, based on what you just said,
15 that Mr. Green doesn't have a key, so he can't lock the
16 door; you knew he wasn't in your apartment. You were near
17 your apartment and you didn't go lock it with the key; is
18 that safe to say?

19 MS. SMART-GITTINGS: Your Honor, leading.

20 THE COURT: Counsel, this is direct.

21 ASST. SOL. WRIGHT: She asked me to explain what I was
22 asking.

23 THE COURT: Counsel, don't argue. I'm not asking for
24 argument. Rephrase the question.

25 Q What was the condition of your door when you left out

1 of the apartment that morning? Was it locked or unlocked,
2 that's what I'm asking?.

3 A It was unlocked.

4 Q And you're the only person who can lock it?

5 A From the outside, yes, with the key.

6 Q No further questions. Please answer any questions the
7 defense attorney has for you.

8 THE COURT: Cross-examination?

9 MS. SMART-GITTINGS: May it please the Court, Your
10 Honor?

11 THE COURT: Proceed.

12 CROSS-EXAMINATION

13 BY MS. SMART-GITTINGS:

14 Q Ms. Haynes, you went to the Ridgeland Police
15 Department, correct?

16 A Yes.

17 Q And you attempted to file a police report, correct?

18 A Yes.

19 Q You attempted to charge Mr. Green with criminal
20 domestic violence for hitting you in the face, correct?

21 A No, I didn't tell him that.

22 Q But the officer -- you weren't able to do that,
23 correct? He looked at you and he didn't see any injuries,
24 correct?

25 A Yes.

1 Q He didn't see any bruises?

2 ASST. SOL. WRIGHT: Your Honor, I object. It's
3 hearsay. She's talking about what somebody else saw or did,
4 not anything that she said or she observed.

5 THE COURT: I agree. Sustained. Rephrase the
6 question.

7 Q You weren't given a court date for a criminal domestic
8 violence charge, were you?

9 A No.

10 Q But you were given a court date for a breach of trust
11 case, correct?

12 A Yes.

13 Q And that was because of the telephone?

14 A Yes.

15 Q So law enforcement did sign a warrant against Mr. Green
16 for ---

17 ASST. SOL. WRIGHT: Objection, Your Honor. She's
18 talking about something that law enforcement did.

19 THE COURT: She can answer. Counsel, you're going to
20 ask her -- instead of making the conclusion, this is cross,
21 I'm letting you lead, but you'll have to ask if she knows of
22 her own knowledge, and not make a statement, as if it is a
23 fact. Proceed. Ask a question.

24 Q You were given a victim impact statement regarding a
25 breach of trust case against Mr. Green, correct?

Cross-examination of Monica Haynes by Ms. Smart-Gittings

1 A Yes.

2 Q Now, on the date in question, Mr. Green came to your
3 house that Thursday night?

4 A Uh-huh (affirmative). Yes.

5 Q Spent the night?

6 A Yes.

7 Q And you went to work the next morning?

8 A Yes.

9 Q You left him in the house?

10 A Yes.

11 Q He had permission to be there?

12 A Yes.

13 Q You don't know whether the door was locked from the
14 inside?

15 A I didn't know.

16 Q But you can testify with certainty that you did not
17 lock the door when you left, correct?

18 A I did not lock the door.

19 Q Okay. Now, with regard to the permission to be in your
20 house, specifically, Friday, August the 2nd, did Andre Green
21 have permission to be at your house?

22 A Yes.

23 Q And if he was inside and the door was unlocked, would
24 he have had to break the window to gain entry?

25 A No.

1 MS. SMART-GITTINGS: I don't have any other questions.

2 THE COURT: Redirect?

3 ASST. SOL. WRIGHT: Court's indulgence.

4 (BRIEF PAUSE IN THE COURTROOM.)

5 ASST. SOL. WRIGHT: Just one quick question.

6 REDIRECT EXAMINATION

7 BY ASST. SOL. WRIGHT:

8 Q Which apartment did you stay in again?

9 A H-30.

10 Q All right.

11 ASST. SOL. WRIGHT: I have no further questions.

12 THE COURT: Recross, limited to redirect?

13 MS. SMART-GITTINGS: Nothing, Your Honor.

14 THE COURT: As to this witness, Solicitor?

15 ASST. SOL. WRIGHT: I ask that she be excused.

16 THE COURT: Any objection?

17 MS. SMART-GITTINGS: No objections.

18 THE COURT: Ms. Haynes, you may step down and you are

19 excused from the trial of this case. You may leave the

20 courtroom at this time.

21 Call your next witness.

22 ASST. SOL. WRIGHT: The State calls Tyrone Smith.

23 THE COURT: Chief Tyrone Smith.

24 (WHEREUPON, CHIEF TYRONE SMITH IS DULY SWORN BY THE

25 CLERK OF COURT.)

1 THE COURT: Have a seat for me, Mr. Smith. Speak up
2 for me. You know what to do. State your full name and
3 spell your last.

4 CHIEF SMITH: Tyrone Smith, last name is S-M-I-T-H.

5 THE COURT: Your witness, counsel.

6 DIRECT EXAMINATION

7 BY ASST. SOL. WRIGHT:

8 Q Chief Smith, did you have an opportunity to be involved
9 in this case?

10 A Yes, I did.

11 Q Please tell the jury how you were involved in this
12 case.

13 A Briefly, between 3:30 and 4:00 on August the 2nd, I was
14 getting off to head home and I heard on the scanner of a
15 fire in the projects.

16 Q The projects would be what?

17 A The Varnville Housing Area, Ginn Street. I went to
18 the projects to see if I could assist and when I got there,
19 I seen the smoke and -- it just appeared that it was fully
20 engulfed. I utilized dispatch that the apartments were
21 fully engulfed.

22 Q All right. What did you do next?

23 A I went to the side of the window. Mr. Isaac and a
24 couple more of the employees was at, they had hose pipes,
25 fire extinguishers, trying to out the fire. I noticed a

1 window. The window was broken out on the side. Also, there
2 was a blood stain on the window.

3 MS. SMART-GITTINGS: Objection, Your Honor. He's not
4 an expert to testify whether or not it was a blood stain.

5 THE COURT: He can testify to what he saw from his own
6 personal observation. The objection is overruled. Proceed,
7 counsel.

8 Q There was a blood stain on the window, and then what
9 else happened?

10 A It was a blood stain on the window. From my
11 recollection, Mr. Sullivan stated that he got one of the
12 occupants out of the building, but at that time, we didn't
13 know where Ms. Haynes was at. I noted that it was Ms.
14 Haynes' apartment, but we didn't know where she was at and
15 the fire was rolling. So at that time, while the fire
16 department was responding, not knowing where Ms. Haynes was
17 at, or thinking she could be in the home being burned.

18 Q Did anybody attempt to go inside the apartment?

19 A No, sir. You couldn't. So what I did then was I
20 immediately called SLED and requested the arson team to
21 respond.

22 Q Okay. As far as you or anybody else, what else did you
23 do in response to this fire?

24 A Briefly, after the State Agent Russell responded, he
25 got to the scene after the fire department out the fire, he

1 took photos. He requested the officers to sit on the place
2 for the remainder of the night, which we did; then, we
3 started investigating the scene. Approximately, around, I'd
4 say 6:00, Monica Haynes showed up, along with her sister,
5 and I asked her was anybody in her apartment that day,
6 because she stated that the young man right here was in her
7 apartment, Mr. Andre.

8 She said she picked up Andre from Richard Speaks'
9 house. Richard Speaks live at -- lives on Maple Street,
10 which is down from Ginn Street. I asked her to describe him
11 and she described him. That he had dreds and had like a
12 George Jefferson part right there. Anyway, once she
13 described him, I recognized him because I've been at Richard
14 Speaks house about 1:00 that afternoon myself and Assistant
15 Chief, Bobby Anderson, went to the home, and we seen that
16 young man there at the home. He had on a white t-shirt and
17 blue jeans. I asked her when was the last time she seen
18 him, and she stated that he called her around 3, 3:30 when
19 she came back to Ridgeland. On the way to Ridgeland, they
20 got into a verbal argument. He assaulted her and took her
21 mother's cell phone. She stated that she reported the
22 incident to the Ridgeland Police Department and that was the
23 last time that she seen Andre.

24 Q Okay. Did she tell you about seeing him later on that
25 day?

1 A No. On that Friday, she said that was the last time
2 she seen Andre. Also, I interviewed her, I think, that
3 Monday on video. She never said she seen Andre. As a
4 matter of fact, the first time I heard her say that she seen
5 Andre was today in Court.

6 Q Okay. What did you do after that?

7 A Well, basically, like I stated, we called SLED for
8 investigation. Agent Russell did a lot of investigation in
9 Jasper County, along with I think Detective Hipp. That
10 Tuesday, we had Court. Agent Russell advised me that he had
11 a witness that came forward, I think it was a Mr. Brown, who
12 stated that he gave Mr. Andre a ride to ---

13 MS. SMART-GITTINGS: Objection. Hearsay, Your Honor.

14 THE COURT: Sustained. Rephrase your questions,
15 counsel.

16 Q Just try not to say anything that anybody else said.

17 A Gotcha. Agent Russell called me and stated that he had
18 a witness to arson.

19 Q I don't want you to ---

20 THE COURT: Sustained. Don't refer to what someone
21 else told you. Just what you know of your own personal
22 observation. Ask a question.

23 Q All right. Based on communicating with Agent Russell,
24 what did you do next?

25 A Based on communicating with Agent Russell, we obtained

1 a warrant for Mr. Andre that Tuesday. Myself and Lt. Smith
2 went to the Ridgeland Police Department and met with the
3 Ridgeland Police Department and Agent Russell. Went to an
4 apartment complex in Ridgeland and arrested him.

5 Q Okay. Do you remember any distinguished marks --
6 anything distinguishing on him upon arrest?

7 A After we arrested him, we transported him to the
8 Hampton County Detention Center. Cpl. Scott met us to serve
9 the warrants. The detention center would not accept him
10 because he had cuts on his hand. He had to be transported
11 to the Hampton Hospital. He had cuts on his left hand, the
12 wrist area. He was seen by the doctor and had to get
13 several stitches.

14 ASST. SOL. WRIGHT: All right. Court's indulgence.

15 ASST. SOL. WRIGHT: May I approach the witness?

16 THE COURT: You may.

17 Q Do you recognize what is in this photo?

18 A I do.

19 Q Do you agree that this is also the same thing?

20 A That's color; and that's black and white.

21 Q But you agree that it's the same thing?

22 A Yes, sir.

23 Q All right. Please tell me what is depicted in those
24 pictures.

25 A Basically, these are lacerations. One above his wrist

1 area, and several lacerations on his hand.

2 Q And who is "he"?

3 A That young man right over there, Mr. Andre.

4 Q And you recognize those pictures to represent the
5 condition of his hands at the time of his arrest?

6 A Yes, sir. I was at the hospital when those pictures
7 were taken.

8 Q Okay. Did you take those pictures?

9 A No, sir.

10 Q But you recognize what's in those pictures?

11 A Yes, sir.

12 ASST. SOL. WRIGHT: Your Honor, at this time, I would
13 make a motion that these items be entered into evidence as
14 State's Exhibit One and Two.

15 THE COURT: Have they been marked?

16 ASST. SOL. WRIGHT: They have not.

17 THE COURT: Any objection?

18 MS. SMART-GITTINGS: No objection, Your Honor.

19 THE COURT: Come get them and have the court reporter
20 mark them. Then, ask him to identify which is One and which
21 is Two for the record, and then I'll allow you to publish
22 for the jury without objection.

23 ASST. SOL. WRIGHT: Thank you, Your Honor.

24 (COURT REPORTER MARKS DOCUMENTS.)

25 Q I'm going to hand back to you what's been marked as

1 Exhibit One and Exhibit Two. When you refer to these
2 pictures, please refer to them as One and Two.

3 A Okay.

4 Q What's depicted in, for identification purposes,
5 State's Exhibit One?

6 A Exhibit One is a laceration right above the wrist area.

7 Q Okay. And you still agree that that's pictures of the
8 defendant's hands?

9 A Yes, sir.

10 Q And what's depicted in what's been marked for
11 identification purposes in State's Exhibit Two?

12 A There's several lacerations on his hand; several cuts
13 on his hand.

14 Q And approximately, or specifically, which date was
15 this?

16 A The injury occurred on August the 2nd. We had Court
17 that following Tuesday. I believe it was August the 6th.

18 Q All right.

19 ASST. SOL. WRIGHT: At this time, Your Honor, I would
20 like to make a motion to move these two exhibits into
21 evidence.

22 THE COURT: They're in evidence, without objection.

23 (STATE'S EXHIBIT NUMBER ONE, PHOTO OF CUTS ABOVE WRIST,
24 IS RECEIVED INTO EVIDENCE.)

25 (STATE'S EXHIBIT NUMBER TWO, PHOTO OF CUTS TO HAND, IS

1 RECEIVED INTO EVIDENCE.)

2 THE COURT: Ladies and gentlemen, State's Exhibits One
3 and Two will be admitted into evidence in the trial of this
4 case without objection. You may publish to the jury.

5 ASST. SOL. WRIGHT: Thank you, Your Honor.

6 (MR. WRIGHT GIVES STATE EXHIBIT'S ONE AND TWO TO THE
7 JURY TO PASS AND REVIEW.)

8 Q So warrants were served. What happened next?

9 A Like I stated, the jail wouldn't accept him until he
10 got released from the hospital due to his injuries. Once
11 Dr. Fox stitched the subject up, we transported him back to
12 Hampton County Detention Center.

13 Q Okay. Did you have any other interactions as it
14 pertains to this case or this defendant?

15 A No, sir.

16 Q All right. You said one of your officers sat on the
17 house?

18 A Yes, sir.

19 Q What does that mean?

20 A Well, basically, at that time, that was a crime scene.
21 You had an arson. and Cpl. Scott, he came to work at 6:00,
22 well, we called him out, and he sat on the house until the
23 next morning, until I relieved him the next morning. Then,
24 I stayed to the house until SLED relieved me.

25 Q All right. And what was the purpose of him staying at

1 the house?

2 A The purpose of him staying at the house was to make
3 sure no one contaminated the crime scene. No one could
4 enter the premises or anything like that.

5 Q Okay.

6 ASST. SOL. WRIGHT: Court's indulgence real quick.

7 THE COURT: Yes, sir.

8 ASST. SOL. WRIGHT: May I approach the witness?

9 THE COURT: You may.

10 Q I'm going to give you some orientation and you tell me
11 if you recognize what's in this picture, okay?

12 A Okay.

13 Q All right. This is a baseball field. Based on that,
14 can you tell me if you recognize what's within this picture,
15 as it pertains to this case?

16 A Oh ---

17 Q No, don't tell me anything. Just tell me do you
18 recognize it?

19 A Yes -- yes, I do.

20 Q All right. Now, you didn't take this picture, correct?

21 A No, sir.

22 Q But you recognize what's in it?

23 A Yes, sir.

24 ASST. SOL. WRIGHT: All right. Can I get this marked?

25 THE COURT: Absolutely. Becky, that will be State's

1 Three?

2 COURT REPORTER: Yes, sir.

3 THE COURT: Have her mark it. Show it to opposing
4 counsel if you're going to offer it.

5 ASST. SOL. WRIGHT: Thank you, Your Honor.

6 (SHOWS STATE'S EXHIBIT NUMBER THREE TO DEFENSE
7 COUNSEL.)

8 Q Can you identify this?

9 A Yes.

10 ASST. SOL. WRIGHT: Your Honor, at this time, I would
11 make a motion to ---

12 THE COURT: Ask him what it is, Solicitor.

13 ASST. SOL. WRIGHT: Okay.

14 Q Can you tell the Court what's depicted in this photo?

15 A Basically, what I see in this photo, I see the
16 ballpark, which is a ballpark. I see a dirt road. Across
17 from the ballpark is the Varnville Housing Authority.

18 Q And which county would that be in?

19 A It's Hampton County.

20 ASST. SOL. WRIGHT: Your Honor, at this time, I would
21 make a motion that what's been previously marked ---

22 THE COURT: As to State's Exhibit Number Three, Ms.
23 Smart-Gittings?

24 MS. SMART-GITTINGS: No objection, Your Honor.

25 THE COURT: Ladies and gentlemen of the jury, State's

1 Exhibit Number Three will be admitted into evidence in the
2 trial of this case, without objection.

3 (WHEREUPON, STATE'S EXHIBIT NUMBER THREE, PHOTO WITH
4 BALLFIELD DEPICTED, IS RECEIVED INTO EVIDENCE.)

5 THE COURT: You may publish.

6 ASST. SOL. WRIGHT: May I have permission for this
7 witness to step down to publish to the jury?

8 THE COURT: You may, counsel, but I remind you that
9 you're going to have your back to my court reporter and she
10 needs to hear you. You're going to have to speak up. So
11 are you if you're going to turn and face the jury away from
12 her and she can't see your mouth. You may step down. Ms.
13 Smart-Gittings, you may come around outside the jury's box
14 if you wish to view what's being shown to the jury. Becky,
15 let me know if you cannot hear.

16 Q And so there won't be a communication issue, show the
17 jury the dirt road that goes beside the complex, without
18 speaking, so we won't have an issue.

19 A This is the baseball field; this is the ballpark lane;
20 this is the dirt road section, and this is the Varnville
21 Housing Authority.

22 Q So you're showing them the dirt road that goes beside
23 the -- by the fence?

24 A The dirt road right here (INDICATING.) the baseball
25 field, and then the Varnville Housing Area.

1 Q Okay. That's all I want to show them. You may have a
2 seat back on the stand.

3 ASST. SOL. WRIGHT: May I retrieve the exhibit?

4 THE COURT: It's in evidence. You may publish it.

5 Q And you said you actually went and retrieved this
6 defendant from Jasper County; is that correct?

7 A Myself and Lt. Smith.

8 Q Can you give me some of the details related to that
9 incident? Generally, just generally, not anything specific.

10 A You're talking arrest?

11 Q Yes, sir.

12 A We went to the apartment complex in Ridgeland. I don't
13 know the young lady who owned it was, but anyway, we knocked
14 on the door and asked if Andre was at home. At first ---

15 MS. SMART-GITTINGS: Objection. Hearsay.

16 THE COURT: Sustained. Don't refer to what someone
17 else said. Ask a direct question, counsel.

18 Q Was this his home?

19 A It wasn't his home.

20 Q Was it his mother's home?

21 A No.

22 Q Whose home was it?

23 A Don't know.

24 Q Okay. Please answer any questions that the defense
25 attorney has for you.

1 THE COURT: Cross-examination?

2 MS. SMART-GITTINGS: May it please the Court, Your
3 Honor?

4 THE COURT: Proceed.

5 CROSS-EXAMINATION

6 BY MS. SMART-GITTINGS:

7 Q Chief Smith, you indicated that you had seen Andre
8 Green earlier that day about 1:00?

9 A Yes.

10 Q But you're not presenting to this Court that you saw
11 him any time after 1:00?

12 A No.

13 Q And you're not presenting to this Court that you -- you
14 weren't there when the fire started, correct?

15 A No, ma'am.

16 Q And you don't have any personal knowledge of him --
17 Andre Green being there at the time the fire started,
18 correct?

19 A No, ma'am.

20 Q Now, you were in charge of securing the scene, correct?

21 A Yes, ma'am.

22 Q You didn't find a gas container anywhere around the
23 scene, did you?

24 A We did not. We had not entered the home that Friday.
25 We said to preserve it until SLED got there that Saturday

1 morning.

2 Q But to your knowledge, a gas container was not found?

3 A I don't -- when SLED got there Saturday morning, I
4 don't know what they say inside the home, SLED did.

5 Q Okay. Now, did you check the surrounding area, the
6 perimeter, to check to see if there was a gas can?

7 A We didn't find nothing.

8 Q Okay. You didn't take any pictures of the window, did
9 you?

10 A No, didn't have a chance to.

11 Q Okay. And although you suspect that it was blood on
12 the window, you don't know for certain that it was blood on
13 the window, do you?

14 A It was a red substance that I believed to be blood.

15 Q Okay. And you certainly can't tell this Court that it
16 was Andre Green's blood, can you?

17 A No, ma'am.

18 Q Okay.

19 MS. SMART-GITTINGS: I don't have any other questions,
20 Your Honor.

21 THE COURT: Redirect?

22 ASST. SOL. WRIGHT: No additional questions.

23 THE COURT: As to this witness?

24 ASST. SOL. WRIGHT: I ask that he be excused.

25 THE COURT: Any objection?

1 MS. SMART-GITTINGS: No objection, Your Honor.

2 THE COURT: Now, if he wishes to, he can remain with us
3 subject to my order concerning sequestration. You may step
4 down. You may leave or stay as you wish. Counsel approach.

5 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
6 AND OUT OF THE HEARING OF THE JURY.)

7 THE COURT: Madame Foreperson, and ladies and gentlemen
8 of the jury, I'm going to stop at this point and give you a
9 chance to go get lunch and come back. I'm going to give you
10 an hour and a half. That will give you plenty of time. I've
11 got other work that I have to do, so we're going to continue
12 to work while you're gone.

13 During the lunch hour, please do not discuss this case
14 with each other or with anybody else. If somebody tries to
15 talk to you about it, just say I'm on the jury and the judge
16 asked me not to talk about it. If they persist, get their
17 name and give it to me. I'll handle it for you. I hope
18 everybody has a pleasant lunch. Be back in your jury room
19 at 2:30. So come back and report to your jury room. That
20 gives you plenty of time. You may leave the courtroom at
21 this time. Thank you very much.

22 (12:55 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM
23 AND THE FOLLOWING IS HELD ON THE RECORD.)

24 THE COURT: All right. As far as this case is
25 concerned, anything on the record from the State outside the

1 presence of the jury?

2 ASST. SOL. WRIGHT: Nothing, Your Honor.

3 THE COURT: From the defendant?

4 MS. SMART-GITTINGS: Nothing, Your Honor.

5 THE COURT: All right. Mr. Green, you're excused for
6 lunch. The officers will take you with them.

7 (WHEREUPON, THE COURT IS IN RECESS FOR LUNCH.

8 THEREAFTER, AT 2:30 P.M., THE FOLLOWING IS HELD ON THE
9 RECORD.)

10 THE COURT: Is the State ready?

11 ASST. SOL. WRIGHT: Yes, Your Honor.

12 THE COURT: Is the defendant ready?

13 MS. SMART-GITTINGS: We are, Your Honor.

14 THE COURT: Bring me the jury.

15 (2:32 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
16 AND THE FOLLOWING IS HELD ON THE RECORD.)

17 THE COURT: I hope everybody had a pleasant lunch. We
18 will now continue with the testimony in the trial of this
19 case. Solicitor, call your next witness.

20 ASST. SOL. WRIGHT: SLED Agent, Brian Wright.

21 (WHEREUPON, THE WITNESS ENTERS THE COURTROOM.)

22 MADAME CLERK: Place your left hand on the Bible and
23 raise your right.

24 (WHEREUPON, AGENT WRIGHT IS DULY SWORN.)

25 THE COURT: Have a seat up there for me, Mr. Wright.

1 Make yourself comfortable. She's going to pull the
2 microphone over, adjust it, so it will amplify your voice.
3 State your full name and spell your last name for the court
4 reporter.

5 It's Brian Wright, B-R-I-A-N W-R-I-G-H-T. Special
6 Agent, State Law Enforcement Division.

7 THE COURT: Your witness, counsel. Direct examination.

8 ASST. SOL. WRIGHT: Yes, sir. May I approach and
9 retrieve some pictures from the court reporter?

10 THE COURT: You may.

11 DIRECT EXAMINATION

12 BY ASST. SOL. WRIGHT:

13 Q Mr. Wright, please tell the jury your occupation.

14 A I work for the State Law Enforcement Division, SLED. I
15 also have an accelerant K-9, a black Labrador Retriever, and
16 I'm assigned to the Arson Division.

17 Q Okay. How does one get that job?

18 A Well, it's just like anything else. You put in and --
19 you mean, what you have to go through to be a K-9?

20 Q Yes, sir.

21 A You have to go through a vigorous process. I was sent
22 to school, spent five or six weeks up there, Monday through
23 Friday. We also worked weekends, so about six weeks when
24 you add all of that together. You go up, you get assigned a
25 dog, you learn the dog, and you are tested with the dog.

1 You spend the whole time with the dog. You are not with
2 your family. You learn how to work the dog and to work
3 fires with the dog. You go through a four-step process.
4 You have a written test. The second is a proficiency exam.
5 The third is a scent discrimination; and then, finally, they
6 grade you on the way that you keep your daily logs. Being
7 that it's a canine, you have to work it every day.

8 Q How sensitive is a dog's nose compared to a human's?

9 A Compared to a human, we have olfactors in our nose
10 which can smell. Dogs have about 200 million olfactors; we
11 have 10 million. For example, they use, like, when your mom
12 is cooking spaghetti, when you're a kid and you smell that,
13 the chili, the peppers. A dog comes into that scene, he can
14 smell every ingredient, so it just kind of puts it into
15 perspective.

16 Q Okay. On the day of August the 2nd, 2013, were you
17 employed -- where were you employed?

18 A I was employed with State Law Enforcement Division and
19 also in the Arson unit with the K-9.

20 Q All right. And what's your K-9's name?

21 A Gunner.

22 Q Okay. And how long -- on August 2nd, 2013, how long
23 had you been working with Gunner?

24 A I acquired Gunner in April of 2013, so several months.

25 Q And not that I'm going to ask you to see them, but do

1 you keep records of your interactions with Gunner?

2 A Yes. I keep daily records. Gunner is a food reward
3 dog, where he is working for food. He doesn't eat out of a
4 bowl; he eats out of my hand. We have to -- you can't
5 develop a pattern. You have to feed him at different times
6 every day, different amounts every day, and to keep that
7 drive going with him.

8 Q All right. Let's go to August the 2nd, 2013. You
9 weren't there on that day. At some point, you got there.
10 Kind of enlighten the jury.

11 A Yes, sir. I got there the day we were called. I was
12 notified. I live in the upstate, so it takes a while to get
13 down here. So about three and a half hours later, I got to
14 the scene where I met with Special Agent Russell and Special
15 Agent Roberts.

16 Q And what did you do once you met up with those agents?

17 A Usually, we have a certain pattern when we work scenes,
18 so we will go in and kind of look over it. I always do a
19 safety sweep, because I don't want my dog getting hurt. I
20 take a lot of pride in my dog and he can walk on a nail or
21 something and it could actually hurt him, so we don't want
22 that.

23 So we will go in, and once everything is kind of
24 cleared of objects that could potentially harm him, I'll go
25 in and run him around the interior of the structure and the

1 exterior of the structure; every room through around the
2 furniture and all of that.

3 Q Okay. So you actually did that on the night of the
4 fire?

5 A The day of the fire.

6 Q The day of the fire; all right. And I guess, kind of
7 tell the jury about the results of your going around and
8 going into the ---

9 A The way that we were taught to work the dog, the K-9,
10 is we'll go in, and I won't throw any -- we have, you know,
11 we have signs about telling the dog what to do. He goes by
12 motions, and you know, your voice, so I'll put him to work
13 and he will run around inside just to check on things. At
14 this particular fire, we went to the back bedroom where it
15 was pretty heavily damaged, and he did stop and alert at the
16 bottom of the window sill, pawing the floor.

17 Q All right. I have to ask the judge for permission to
18 approach.

19 ASST. SOL. WRIGHT: Permission to approach?

20 THE COURT: You may.

21 Q I'm going to show you some pictures. Pick out the ones
22 that will assist you with explaining to the jury what you're
23 talking about.

24 A Yes.

25 Q And then, I'm going to get them marked. So take a

1 couple of seconds and look at them.

2 A (WITNESS REVIEWS PICTURES.)

3 Q For purposes of the record, I'm ---

4 ASST. SOL. WRIGHT: May I approach, again, Your Honor?

5 THE COURT: You may.

6 Q I'm going to hand this witness what's been marked for
7 identification purposes as State's Exhibits Four through
8 Eight. And when you refer to them, please refer to the
9 exhibit number for the record. Don't show them to the jury;
10 we're not publishing them to the jury yet, I'm just asking
11 you, and then we'll try to get them admitted.

12 A Okay.

13 Q So please explain what is going on in the picture
14 that's related to State's Exhibit Four for identification
15 purposes.

16 A Okay. Exhibit Five is the actual structure, the whole
17 structure ---

18 Q I apologize. Let me ask it a different way. Do you
19 recognize what's depicted in picture Four?

20 A Yes, sir.

21 Q Okay. And is that a true and accurate representation
22 of what you saw in the day?

23 A Yes, sir.

24 Q All right. Please go to picture number Five. Do you
25 recognize what's depicted in that picture?

1 A Yes, sir.

2 Q Is that a true and accurate representation of what you
3 observed on the day in question?

4 A Yes, sir.

5 Q All right. Please go to the next picture. Is that a
6 true and accurate representation of what you observed on the
7 day in question?

8 A Yes, sir.

9 THE COURT: What exhibit number?

10 ASST. SOL. WRIGHT: That's number Six, correct?

11 AGENT WRIGHT: Yes.

12 THE COURT: All right.

13 Q All right. Exhibit Number Seven, is that a true and
14 accurate representation of what you observed on the day in
15 question and is it a true and accurate representation of
16 what you saw that day?

17 A Yes, sir.

18 Q I believe this is the last one, number Eight. Is that
19 a true and accurate representation of what you observed on
20 that day?

21 A Yes, sir.

22 Q Okay.

23 ASST. SOL. WRIGHT: Your Honor, at this time, I would
24 ask that these four pictures be admitted into evidence.

25 THE COURT: Actually, they're five; four through eight,

1 inclusive, is that correct?

2 ASST. SOL. WRIGHT: Yes, sir, Your Honor.

3 THE COURT: As to State's Exhibits Four, Five, Six,
4 Seven, and Eight, counsel, any objection?

5 MS. SMART-GITTINGS: No objection, Your Honor.

6 THE COURT: ladies and gentlemen of the jury, State's
7 Exhibits Four, Five, Six, Seven, and Eight will be admitted
8 into evidence in the trial of this case without objection.

9 (WHEREUPON, STATE'S EXHIBIT NUMBER FOUR, PICTURE, IS
10 RECEIVED INTO EVIDENCE.)

11 (WHEREUPON, STATE'S EXHIBIT NUMBER FIVE, PICTURE, IS
12 RECEIVED INTO EVIDENCE.)

13 (WHEREUPON, STATE'S EXHIBIT NUMBER SIX, PICTURE, IS
14 RECEIVED INTO EVIDENCE.)

15 (WHEREUPON, STATE'S EXHIBIT NUMBER SEVEN, PICTURE, IS
16 RECEIVED INTO EVIDENCE.)

17 (WHEREUPON, STATE'S EXHIBIT NUMBER EIGHT, PICTURE, IS
18 RECEIVED INTO EVIDENCE.)

19 THE COURT: You may publish to the jury.

20 ASST. SOL. WRIGHT: All right. May I get permission
21 for the witness to step down and stand closer to the jury so
22 that he can explain?

23 THE COURT: Ms. Smart-Gittings, you may come around.
24 Mr. Wright, if you're going to stand down there, you're
25 going to have your back to my court reporter. She needs to

1 be able to hear you. Mylinda, do you have a portable
2 microphone with a battery?

3 CLERK: Yes, sir.

4 THE COURT: Let's give it to the witness, for the sake
5 of my court reporter who likes to be able to look at the
6 people who are speaking, please speak up. If anybody on the
7 jury cannot hear or cannot see, please let me know by
8 raising your hand. Becky, if you have a problem, you let me
9 know.

10 Agent, you may step down.

11 (AGENT WRIGHT STEPS DOWN FROM THE WITNESS STAND AND
12 BEGINS TO TELL THE JURY ABOUT THE EXHIBITS.)

13 A Okay. This is Exhibit Four. This is the structure
14 part of it. This is the victim's apartment. These are
15 attached apartments. Okay, this is State's Exhibit Five.
16 This is where we take a photo on a high angle, the fire
17 truck, on the ladder part. This gives us a better way to
18 look at the structure. This is State's Exhibit Six. This
19 is the bedroom of this structure here.

20 THE COURT: Walk back this way, if you would please, so
21 they can see it down here. (WITNESS COMPLIES.)

22 A This is the bedroom of this structure here. This is
23 inside that bedroom. This is a mattress that was burned.
24 This is the door. This is another angle, State's Exhibit
25 Seven. This is just another angle inside that same room.

1 This is State's Exhibit Eight. This area here, in Seven, is
2 below the window seal of the previous room I was showing
3 you. The paint can is directly against this wall right
4 here. You can see the concrete. This is the concrete block
5 right here. What we did is we took this wood and all this
6 part right in here of where the dog loitered, and put it
7 into this can.

8 THE COURT: Are you done, Solicitor?

9 ASST. SOL. WRIGHT: I'm done with him presenting the
10 exhibits.

11 THE COURT: Have a seat back up on the witness stand
12 for me, please.

13 (WITNESS SITS BACK ON WITNESS STAND.)

14 THE COURT: They're in evidence. You may publish.

15 Q So you're a dog handler specifically for fires. Are
16 you trained also for interpretations of what you observed
17 during the fire -- not fire, during the, I guess, the
18 charred remains of the fire?

19 A Correct. I also work arson investigations. I work the
20 scenes as well. Usually, when I'm there, I do everything
21 that an investigator does, I just don't follow up because
22 I'm the only K-9 unit for the State Law Enforcement Division
23 and have to run the whole state, and so I usually go from
24 one fire to another. This year, well, actually, since I got
25 my dog last May, I've been to 82 fires, structure fires, so

1 I'm pretty busy, so I can't -- I don't have enough time to
2 finish the investigation.

3 Q Can you tell the Court some of the training you had in
4 order to get you to the point to be able to understand
5 what's going on in a fire?

6 A Yes. I go through the National Fire Academy. We have
7 a certified site that we go through. I've been through 42
8 hours of continuing education on that on different types of
9 fires. I have also been, like I said, to over 100 fires
10 with and without my dog. During training, we actually go up
11 and work fires in other states, like when I was in Maine, so
12 I've been to a lot of different type fires and seen a lot of
13 different patterns and can, kind of, determine, you know,
14 the most logical place for that fire, wherever it occurs is
15 the origin. Like I was showing you the black where the room
16 was where it was black.

17 Q Have you ever been qualified to give your opinion as it
18 pertains to the location of where the fire started?

19 A No, I have not.

20 Q Have you been trained to do that?

21 A No, I have not.

22 Q Okay. What specifically are the limits of your
23 training? What can you do with your training, other than
24 your dog and general observation of the fire scene?

25 A Generally, I run my dog and that's usually it. I do

1 assist with shoveling. We have to shovel all of that debris
2 out -- out of the way so we can see the floor and see if
3 there are patterns on the floor, because all of the stuff in
4 your ceilings fall down, especially if the fire gets up in
5 the attic, then it covers everything that you really need to
6 see, so I do a lot of shoveling. I also take photos of the
7 scene, just like you've seen. So I still do everything,
8 except I don't do the follow up, just because of the dog.

9 Q Okay. And you talked about shoveling. Is that
10 required to be done in this case?

11 A Yes, it was.

12 Q All right. Was there any shoveling done in the area
13 where you said it was charred?

14 MS. SMART-GITTINGS: Objection. Leading, Your Honor.

15 THE COURT: Sustained. Rephrase the question.

16 Q In reference to the pictures that you presented, that
17 are being published to the jury now, was there any shoveling
18 done in those areas?

19 A Yes, sir.

20 Q Particularly where?

21 A That bedroom that I showed you and all through the
22 house.

23 Q Were there any samples collected?

24 A There was a sample taken from the area that I showed
25 you against the wall, that wood area.

1 Q That would be under the window?

2 A Yes, sir. Under the window.

3 Q All right. Were any other samples taken?

4 A No, sir.

5 Q And what about the wall?

6 A We took part of the wall -- the wall was already pretty
7 much -- the inside -- the sheetrock and all was pretty much
8 burnt through the fire. The part that we collected was the
9 weather -- like the stripping, the threshold comes down with
10 the molding at the bottom of your floor and the piece of
11 wood that goes up to hold the window. In fact, that's where
12 the sheetrock nails to, against the block wall.

13 Q All right. Please tell the jury what samples, if any,
14 were collected on the sheetrock wall. If you look at the
15 window, there's a wall here.

16 A Yes.

17 Q If any samples were taken there, please tell the jury
18 about those samples.

19 A No, there was no samples. The only samples we took
20 were the ones under that window seal.

21 Q And what was the reason why a sample wasn't taken from
22 that wall?

23 A That's where my dog alerted.

24 Q So the dog didn't alert to the wall that was charred?

25 A No, sir.

1 Q Okay. And you said the dog alerts to where there are
2 hydrocarbons or something?

3 A Yes, sir. It detects hydrocarbons.

4 Q Are hydrocarbons ---

5 MS. SMART-GITTINGS: Objection. Leading.

6 THE COURT: Sustained. Direct examination, counsel.

7 Q What influences hydrocarbons still being there to be
8 sampled?

9 A Well, as far as, you know, any type of product like a
10 rubber product, or any type of, you know, anything that
11 could have been there from times before could have melted
12 and created -- if it's made from a petroleum-based product,
13 it can show positive for a dog, for a K-9 alert.

14 Q How does heat play into that?

15 A Heat usually will paralyze the object, which means,
16 just basically, it melts it. And once it's melted, it gives
17 off a gas, which if a petroleum product is made or the
18 product is made from a petroleum, it will just melt and give
19 off the same smell to the dog that gas or any other type of
20 accelerant will.

21 Q At what temperature is there -- during a fire, do
22 temperatures get high enough to evaporate hydrocarbons?

23 A Absolutely.

24 Q Is there any way to, I guess, diagnose that that's what
25 happened in that situation?

1 A No.

2 Q So you wouldn't be able to explain to the jury if --
3 the only thing you could say is that there was an alert
4 here. You can't say what happened in this other area, based
5 on not getting an alert or getting an alert?

6 A If the temperature gets hot enough, any type of
7 material there that can burn or possibly accelerant, will
8 actually -- actually just -- I'm trying to think of the
9 word, dissipate, I guess would be the best way to say. Or
10 as far as, if it gets to a certain temperature, that
11 accelerant will flash over, it will flame up and then go
12 out, and then all that fuel is gone.

13 Q Okay. You have no way of knowing if that happened in
14 this case?

15 A No, sir.

16 Q Okay. After your dog alerted and a sample was taken,
17 what did you do next?

18 A I put the -- of course, I, after I put the sample up, I
19 ran my dog again and he didn't alert again, so we thought at
20 that time that we had the actual sample that we needed.
21 Once we did that, another agent, Agent Roberts, who works
22 with the South Carolina Law Enforcement Division, took that
23 sample and took it to the lab. At that time, I placed my K-
24 9 back in my vehicle.

25 Q All right. You didn't see a gas can at this scene, did

1 you?

2 A Not that I can recall.

3 Q All right. When you say you didn't see a gas can, what
4 do you mean by that?

5 A I didn't actually see a red gas can or a can full of
6 gas. If that would have been there, my K-9 would have
7 alerted to it.

8 Q Is that the type of material that you normally find at
9 a scene?

10 A We do find red gas cans and other bottles that people
11 put gas in.

12 Q Do you happen to know like at what temperature those
13 items would burn?

14 A I don't; it's according to the amount of liquid inside
15 versus what type of gas can and what that plastic is made
16 out of.

17 Q All right. Would you be able to enlighten the jury as
18 to whether or not those type of items could withstand the
19 type of temperatures that were present in this fire?

20 A Through my knowledge and experience, I don't believe a
21 plastic jug would have survived that -- that intense of a
22 fire.

23 Q You think it would have burned up?

24 A I think it would have burned up.

25 Q Okay. And it's possible that the gas would have burned

1 up?

2 A Correct.

3 Q And that wouldn't be able to be detectable by your dog
4 because it was burned up?

5 A Right, correct.

6 Q What else did you do after that? Did you take the
7 samples anywhere?

8 A Special Agent Roberts took the samples to SLED where
9 our lab -- we can put them into the lab and they do their
10 analysis after that.

11 Q Okay. But you packaged it up and all that kind of
12 stuff and it was taken by someone other than you?

13 A Yes, sir. We place it in an empty can; a sterile,
14 clean can... We don't remove the lid until we get to the
15 scene of where we're going to take the sample. We put the
16 sample inside of it and seal it and then remove the
17 evidence. Then, it's not reopened until it gets to the lab.

18 Q Okay. Did you do anything else related to this case?

19 A No, sir.

20 Q All right. As it pertains to your observations at the
21 scene, did you have the opportunity to observe anything else
22 that you think is important for the jury to know?

23 A No.

24 Q Please answer any questions that the defense attorney
25 has for you.

1 THE COURT: Cross-examination?

2 MS. SMART-GITTINGS: No questions for this witness,
3 Your Honor.

4 THE COURT: As to this witness, Solicitor?

5 ASST. SOL. WRIGHT: I ask that he be excused.

6 THE COURT: Any objection?

7 MS. SMART-GITTINGS: No objections, Your Honor.

8 THE COURT: Mr. Wright, you may step down from the
9 witness stand and you're excused from the trial of this case
10 and you may leave this courtroom. Thank you very much.

11 (WITNESS LEAVES THE COURTROOM.)

12 ASST. SOL. WRIGHT: Your Honor, may we approach?

13 THE COURT: Counsel approach.

14 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
15 AND OUT OF THE HEARING OF THE JURY.)

16 THE COURT: Call your next witness, Solicitor.

17 ASST. SOL. WRIGHT: SLED agent Hue Tahe.

18 (WITNESS ENTERS THE COURTROOM AND IS SWORN BY THE CLERK
19 OF COURT.)

20 THE COURT: Mr. Tahe, I want you to begin by stating
21 your first name and your last name, and spelling your last
22 name for the court reporter, please, sir.

23 AGENT TAHE: Hue Tahe, last name is spelled T-A-H-E.

24 THE COURT: And your first name is spelled?

25 AGENT TAHE: H-U-E, pronounced "Way."

1 THE COURT: Very well. That microphone will amplify
2 your voice. Please use it so that everybody on the jury can
3 hear you and the people in the courtroom. Your witness,
4 counsel. Direct examination. The witness has been sworn.

5 DIRECT EXAMINATION

6 BY ASST. SOL. WRIGHT:

7 Q Agent Tahe, please tell the jury what it is that you do
8 for a living.

9 A I can't hear you, sir.

10 Q What's your occupation?

11 A I'm employed by South Carolina Law Enforcement Division
12 as a forensic chemist.

13 Q And in your duties as a forensic chemist, what is it
14 that you do?

15 A I examine all the evidence that is submitted throughout
16 the state and my section specializes in trace evidence. It
17 covers fire debris, explosives, glass, paints, fireworks,
18 bank dye, and any other kind that do not fit into a
19 category; we classify them as trace evidence.

20 Q Did you have the opportunity to analyze anything as it
21 relates to this case?

22 A Yes, sir.

23 Q Can you tell me what you analyzed as it relates to this
24 case?

25 A In this case, I received a one gallon can containing

1 fire debris.

2 Q Do you happen to remember visually seeing the can; by
3 any chance? If you don't, it's okay.

4 A I'm not quite sure I understand your question.

5 Q Do you have any recollection of seeing the can?

6 A It's typical gallon can, tin can.

7 Q Okay. Please tell me about the analysis to what you
8 did that what was in the can?

9 A We examined by insert a copper wire with carbon strip,
10 activated carbon, and we place it in oven for overnight for
11 16 hours. Then, we removed a sample and we cut half of the
12 carbon strip and place in a test tube and we wash it off
13 with carbon disulfide and we sinocate (sic) it for ten
14 minutes. Then, we place the sample in a sample valve and we
15 put it in a mask valve, an instrument, and once a sample ran
16 through that instrument and gave me a data, and we interpret
17 the data on that run and that's how we draw conclusion.

18 Q Okay. And what was the conclusion from this case?

19 A This case is there is no ignitable liquid evidence of
20 fire. Volatile component found are consistent with
21 pyrolithic (sic) product generate form natural or synthetic
22 material.

23 Q Okay. What does that mean?

24 A That mean no ignitable liquid detected in this sample.

25 Q In this sample?

1 A Uh-huh (affirmative).

2 Q Okay. What does that mean in the grand scheme of
3 things?

4 A That mean no flammable was detected in fire debris that
5 the agent collected at the scene.

6 Q And what does that mean? What is a flammable?

7 A Flammable could be hydrocarbon material, could be
8 kerosene, diesel fuel, gasoline, would have oxygenate-like
9 alcohol material. And we have candle fuel. We have
10 aromatic component.

11 Q All right. Let me make sure I understand this. So
12 what you're saying is that in this sample, there was no
13 sign that it contained any type of gasoline, all those type
14 of ---

15 A Any of the hydrocarbon fuel that I just mentioned; none
16 of them would be detected at the scene.

17 Q All right. Does that mean that -- how does that line
18 up with the idea of whether there ever been any hydrocarbon
19 in that area?

20 A Not following your question, sir.

21 Q Can you make any -- based on that, on your results, can
22 you make any conclusions as to whether or not there was ever
23 any hydrocarbons in that area?

24 A I did not detect any flammable liquid of sample, but is
25 it possible that it ---

1 MS. SMART-GITTINGS: Objection. Speculation, Your
2 Honor.

3 THE COURT: Sustained. Confine your opinion. Counsel
4 approach.

5 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
6 AND OUT OF THE HEARING OF THE JURY.)

7 Q Mr. Tahe, let's take a step back. Let's talk about
8 your education. Enlighten the Court about your education.

9 A I received Bachelors of Science with major in Chemistry
10 from University of South Carolina. I complete training in
11 forensic chemist discipline, specific in fire debris I
12 received training in basic training and advanced training
13 fire debris analysis with national fire academy. I'm sorry,
14 NFSC, National Forensic Science Center.

15 Q Have you ever been qualified in Court?

16 A Yes, sir, I have.

17 Q In which areas?

18 A In controlled substance, fire debris, trace evidence,
19 gunshot residues, glass, fracture match.

20 Q When you say you've been qualified, qualified to make
21 opinions or what? Can you elaborate?

22 A Testify to my finding and my expert opinion to the
23 case.

24 Q And specifically, what's going on in this case is a
25 fire; you said you have been qualified to testify about

1 fires. Have you ever been qualified to testify specifically
2 about what the origin of the fire was or what the chemical
3 could have done as it pertains to the fire?

4 A I can testify to the fine science as to how fire
5 sustains, yes, sir.

6 Q All right. I'm going to ask you some questions about
7 that.

8 ASST. SOL. WRIGHT: Your Honor, at this time, I would
9 like to make a motion to have this witness qualified to be
10 an expert in -- as it relates to the science involved in
11 arson-based cases, specifically hydrocarbons, to make
12 opinions.

13 THE COURT: Any objection?

14 MS. SMART-GITTINGS: Your Honor, I would not object to
15 this forensic scientist testifying to that.

16 THE COURT: No objection?

17 MS. SMART-GITTINGS: No objection.

18 THE COURT: Very well. Ladies and gentlemen of the
19 jury, you are about to hear testimony or have heard
20 testimony previously from a witness who claims to have
21 special knowledge, skill, training or experience in a field.
22 Normally, the law does not permit witnesses to get on the
23 witness stand and give opinion testimony. An exception to
24 that opinion rule is for those witnesses, whom we call
25 "expert witnesses," who are qualified by the Court are

1 permitted to give an opinion as an expert as to matters in
2 which they claim to be skilled.

3 In determining the weight to be given such opinion, you
4 should consider the qualifications and credibility of the
5 expert and the reasons given for his or her opinion. You
6 are not bound by any expert opinion. You give it the
7 weight, if any, to which you deem it should be entitled.
8 The witness is qualified without objection.

9 Proceed, Solicitor.

10 Q As it pertains to this particular case, there was a
11 sample given to you and you said you tested it, and it came
12 back that it was no liquids ---

13 A Ignitable liquid.

14 Q Ignitable liquids. To a degree of certainty, what does
15 that most likely mean?

16 A This sample is more consistent with the burn substrate
17 and this one more indicative of polymer material, like
18 polypropylene, and also I detect some chemical from like a
19 wooden product, like pine. And I also detect styrene, more
20 consistent of polyurethane, polystyrene material.

21 Q And how does that -- are you aware of where the sample
22 came from?

23 A No, sir.

24 Q All right. So when you do the test, you say there's no
25 ignitable liquids here? You can't give any opinion as to

1 what that material may have been that caused anything else?

2 A No, sir. I wasn't at the scene, so I only examine the
3 content of the inside of the can which from my notes is a
4 melt similar appearance of melted plastic.

5 Q Metal plastic?

6 A Melted plastic.

7 Q Melted plastic?

8 A Yes.

9 Q No additional questions of this witness. Please answer
10 any questions the defense attorney has for you.

11 THE COURT: Cross-examination?

12 MS. SMART-GITTINGS: May it please the Court, Your
13 Honor?

14 THE COURT: Proceed.

15 CROSS-EXAMINATION

16 BY MS. SMART-GITTINGS:

17 Q Sir, you did not detect any gasoline in your analysis?

18 A I did not detect any ignitable liquid.

19 MS. SMART-GITTINGS: No further questions.

20 THE COURT: Redirect?

21 ASST. SOL. WRIGHT: No additional questions.

22 THE COURT: As to this witness?

23 ASST. SOL. WRIGHT: I ask that he be excused.

24 THE COURT: Any objection?

25 MS. SMART-GITTINGS: No objection, Your Honor.

1 THE COURT: Mr. Tahe, you may step down from the
2 witness stand and you're excused from the trial of this
3 case. You may leave the courtroom. Thank you very much.
4 Call your next witness.

5 ASST. SOL. WRIGHT: I'd like to ask for a brief recess.
6 I have a witness who is here, but I have another witness ---

7 THE COURT: Very well. We will take our mid-afternoon
8 break at this point. Ladies and gentlemen, I'm going to let
9 you stretch your legs, use the restroom. Please do not
10 discuss the case. I'll be back with you in just a moment.
11 You may retire to your just room.

12 (3:20 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND
13 THE FOLLOWING IS HELD ON THE RECORD.)

14 THE COURT: Let the record reflect that we took extra
15 time because I had located Mr. Plexico, who of course has
16 disappeared again, but I let him. Yes, sir?

17 ASST. SOL. WRIGHT: We want to know if you want me to
18 put the offer on the record that we talked about in the
19 back. The offer to Stephanie on the record -- you said you
20 wanted me to put it on the record.

21 THE COURT: In this case?

22 ASST. SOL. WRIGHT: Yes, sir.

23 THE COURT: Ms. Smart-Gittings, do you have any
24 objection to putting the offer on the record?

25 MS. SMART-GITTINGS: No objection, Your Honor.

1 THE COURT: Go ahead, Solicitor.

2 ASST. SOL. WRIGHT: Your Honor, in reference to
3 indictment 2013-GS-25-00305, 306, 307, 308, 309, 310, 311,
4 312, the State has offered a plea of 10 years suspended to
5 eight on the charge of burg second, non-violent, and arson
6 third.

7 THE COURT: And did you give a time limit on the offer?

8 ASST. SOL. WRIGHT: The offer has been outstanding for
9 over two or three months, and it's my understanding that as
10 of my last communication with Ms. Smart-Gittings that her
11 client has rejected the offer.

12 THE COURT: Ms. Smart-Gittings, is that your
13 understanding of the offer?

14 MS. SMART-GITTINGS: That is correct, Your Honor.

15 THE COURT: Have you communicated that offer to your
16 client?

17 MS. SMART-GITTINGS: I did, Your Honor.

18 THE COURT: And what was his response?

19 MS. SMART-GITTINGS: Prior to today, his response was
20 no. I will communicate it again to see if he has changed his
21 mind. Court's indulgence.

22 (SOTTO VOICE DISCUSSION BETWEEN MS. SMART-GITTINGS AND
23 MR. GREEN.)

24 MS. SMART-GITTINGS: He has rejected the offer, Your
25 Honor.

1 THE COURT: Very well. The offer has been placed on
2 the record and rejected by the defendant, Solicitor. Is the
3 State ready to proceed?

4 ASST. SOL. WRIGHT: We are, Your Honor.

5 THE COURT: Is the defendant ready to proceed?

6 MS. SMART-GITTINGS: Yes, Your Honor.

7 THE COURT: All right. Bring us the jury, Danny.

8 (4:00 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
9 AND THE FOLLOWING IS HELD ON THE RECORD.)

10 THE COURT: All right. Madame Foreperson, I know I
11 took longer than normal, but I had a matter come up
12 involving this case that I had to take care of. We will now
13 continue with the testimony in the trial of this case. Call
14 your next witness.

15 ASST. SOL. WRIGHT: The State calls Officer Teddy
16 Scott.

17 (WITNESS ENTERS THE COURTROOM.)

18 THE COURT: Mylinda, would you swear the witness for
19 me, please?

20 MADAME CLERK: Yes, sir.

21 (WHEREUPON, THE OFFICER TEDDY SCOTT IS DULY SWORN.)

22 THE COURT: Have a seat on the witness stand for me.
23 Make yourself comfortable. She's going to adjust that
24 microphone which is going to amplify your voice. You don't
25 have to get right on top of it, but speak up for me so

1 everybody on the jury can hear you. State your full
2 name, first and last, spell your last name for the court
3 reporter.

4 MR. SCOTT: Teddy Scott, S-C-O-T-T.

5 THE COURT: Very well. Counsel, direct examination.
6 Your witness.

7 ASST. SOL. WRIGHT: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY ASST. SOL. WRIGHT:

10 Q Officer Scott, where are you employed?

11 A At Varnville Police Department.

12 Q Were you employed there in August of 2013?

13 A Yes, sir.

14 Q All right. Did you have the occasion to be involved in
15 some type of probe into a fire investigation?

16 A Yes, sir.

17 Q Please tell the jury exactly what you did.

18 A What I did, I was starting my shift, and this was a
19 little bit after this incident took place. I roped off the
20 place with the crime scene tape and I watched the building
21 throughout the night.

22 Q And what was your objective based on what you were
23 doing? What were you trying to accomplish?

24 A Basically, just keep a -- just keep a check on the
25 building. Make sure nobody doesn't tamper with anything.

Direct examination of Officer Teddy Scott by Mr. Wright

- 1 Q Did anyone attempt to tamper?
- 2 A No, sir.
- 3 Q Did you accomplish your goal?
- 4 A Yes.
- 5 Q All right. What time were you relieved of your duties
6 as it pertains to this building and keeping it secure?
- 7 A It was around 5:30, 6:00.
- 8 Q And who relieved you?
- 9 A Officer Chambers and Chief Thomas Smith.
- 10 Q Okay. They took over the scene?
- 11 A Yes.
- 12 Q Okay. Was there a lot of activity in the area during
13 this time?
- 14 A No, sir.
- 15 Q All right. And based on what you observed, what was
16 the condition of the building?
- 17 A It was burned.
- 18 Q All right. Did you do anything else as it pertains to
19 investigating this matter?
- 20 A No, sir.
- 21 Q Okay.
- 22 ASST. SOL. WRIGHT: Court's indulgence.
- 23 Q Please answer any questions that defense attorney has
24 for you.
- 25 THE COURT: Cross-examination?

1 MS. SMART-GITTINGS: I have no questions for this
2 witness.

3 THE COURT: As to this witness, Solicitor?

4 ASST. SOL. WRIGHT: I ask that he be excused.

5 THE COURT: Any objection?

6 MS. SMART-GITTINGS: No objection, Your Honor.

7 THE COURT: Mr. Scott, you may step down from the
8 witness stand and you are excused from the trial of this
9 case and you may leave the courtroom. Call your next
10 witness.

11 ASST. SOL. WRIGHT: May I approach?

12 THE COURT: Counsel approach.

13 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
14 AND OUT OF THE HEARING OF THE JURY.)

15 THE COURT: All right. Ladies and gentlemen, a matter
16 of law has arisen in this case. I told you it would happen.
17 It happens in every trial. Rather than keep you here, ladies
18 and gentlemen, today is election day and I want to make sure
19 everybody -- I understand the polls are open to 7:00. I
20 want everybody to have a chance to vote. We're going to
21 complete this trial in the morning. We have some matters we
22 have to handle outside of your presence and rather than keep
23 you waiting, I'm going to stop at this point. Please be in
24 your jury room in the morning before 9:30.

25 I want to start at 9:30, rather than 10:00, in the

1 morning so that we can complete this trial in a timely
2 fashion and I can return you to your homes as I promised you
3 that I would so. Over the overnight recess, please do not
4 discuss this case. I will be back with you in the morning.
5 Thank you for your patience. You may leave the courtroom at
6 this time.

7 (4:10 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND
8 THE FOLLOWING IS HELD ON THE RECORD.)

9 THE COURT: Anything else on the record outside the
10 presence of the jury from the State before we adjourn this
11 trial for the evening?

12 ASST. SOL. WRIGHT: Nothing, Your Honor.

13 THE COURT: From the defendant?

14 MS. SMART-GITTINGS: Nothing, Your Honor.

15 THE COURT: All right. We're going to start back as
16 close to 9:30 as we possibly can. That means everybody has
17 to be here. Solicitor, you have to have your witnesses
18 here. I'm giving you a break of stopping about 55 minutes
19 early today so you can have all of your witnesses here at
20 9:30 in the morning; that means here. Not coming here, on
21 the way here, looking for them to be here. Either here or
22 not here; do you understand, Solicitor?

23 ASST. SOL. WRIGHT: Yes, sir.

24 THE COURT: And conversely, Ms. Smart-Gittings, because
25 I anticipate the State will be resting tomorrow morning, you

1 should be prepared to put up your witnesses from the list if
2 you choose to do so following the resting of the State.
3 We're not going to stop to look for witnesses. It will be
4 your responsibility to be ready to go when the State rests;
5 do you understand that?

6 MS. SMART-GITTINGS: Yes, sir, Your Honor.

7 THE COURT: Very well. As to this trial, we are
8 adjourned until tomorrow morning.

9 (WHEREUPON, THE TRIAL IN THIS CASE IS RECESSED FOR THE
10 EVENING AND RESUMES ON WEDNESDAY MORNING, JUNE 13th, 2014.)

11 (9:53 A.M., WHEREUPON, THE FOLLOWING IS HELD ON THE
12 RECORD.)

13 THE COURT: Is the State ready to proceed?

14 ASST. SOL. WRIGHT: Yes, Your Honor.

15 THE COURT: Is the defendant ready to proceed?

16 MS. SMART-GITTINGS: We are, Your Honor.

17 THE COURT: All right. Let the record reflect that
18 the defendant is present. Let the record reflect that I met
19 with counsel in chambers this morning concerning the fact
20 that I intend to complete this trial. They assure me that
21 they are ready to go. The jury is now all present.
22 Therefore, we will continue with the testimony in the trial
23 of this case. Bring me the jury, please.

24 (9:55 A.M., WHEREUPON, THE JURY ENTERS THE COURTROOM AND
25 THE FOLLOWING IS HELD ON THE RECORD.)

Direct examination of John Brown by Mr. Wright

1 THE COURT: Good morning, Madame Foreperson. Good
2 morning, ladies and gentlemen of the jury. Hope everyone
3 had a pleasant evening. We will now finish the evidence in
4 this case and this trial. Solicitor, you may call your next
5 witness.

6 ASST. SOL. WRIGHT: The State calls John Brown.

7 (WHEREUPON, JOHN BROWN ENTERS THE COURTROOM AND IS DULY
8 SWORN BY THE CLERK OF COURT.)

9 THE COURT: Have a seat right here in this chair. Now,
10 that microphone is going to amplify your voice. I want you
11 to speak up so everyone on the jury can hear you. Do you
12 understand?

13 MR. BROWN: Yes.

14 THE COURT: All right. Speak up, now. State your full
15 name and spell your last name for the court reporter.

16 MR. BROWN: My name is John Wesley Brown, B-R-O-W-N.

17 THE COURT: Your witness, counsel.

18 ASST. SOL. WRIGHT: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY ASST. SOL. WRIGHT:

21 Q Mr. Brown, please tell the Court where you live.

22 A I stay in Logan Lane, Ridgeland, South Carolina.

23 Q Have you ever had the occasion to meet Mr. Andre Brown?

24 A From time to time, around Logan Lane.

25 Q Do you know Mr. Andre Brown?

1 A I've seen him around.

2 Q Can you point him out in the courtroom?

3 A (NO RESPONSE.)

4 Q I apologize. I said "Mr. Brown." I mean Mr. Andre
5 Green?

6 THE COURT: Hold on, counsel. Rephrase your question
7 so that the witness understands what you're asking him.

8 Q All right. Do you know Mr. Andre Green?

9 A From seeing him around Ridgeland.

10 Q Can you point him out in the courtroom?

11 A (WITNESS POINTS TO DEFENDANT, MR. ANDRE GREEN.)

12 Q All right. Do you remember the events of August the
13 2nd, 2012?

14 A What -- what happened that day?

15 Q Yes.

16 A I was upstairs. He asked me if I would run him to see
17 his girlfriend.

18 Q I apologize -- I meant 2013. Do you remember the
19 events of that day?

20 A Yes, sir.

21 Q Can you tell the Court about that day?

22 A I was sleeping and he asked my mom could I run him
23 somewhere. I came downstairs and he said, "I got \$20. Can
24 I run him to see his girlfriend?"

25 Q Okay. What was his condition at the time? How did he

1 look?

2 A White shirt -- like street clothes?

3 Q Yeah. Did he have any cuts on him?

4 MS. SMART-GITTINGS: Objection, leading.

5 THE COURT: Sustained.

6 Q What were the conditions of his hands?

7 A Little bruises, little cuts on it.

8 Q No, at the time you picked him up.

9 MS. SMART-GITTINGS: Objection, leading.

10 THE COURT: Sustained.

11 Q When you picked him up, what were the conditions of his
12 hands?

13 A When I picked him up from Hampton or from Ridgeland?

14 Q When he got in the vehicle at Logan Lane.

15 A His hand? Oh, they was good. Ain't nothing been on
16 there.

17 Q Okay. Then what happened next?

18 A We started riding and we went to BP and he asked could
19 he pump the gas.

20 Q Did he have anything with him?

21 A A jug.

22 Q What color was the jug?

23 A I think it was red; a mini-jug.

24 Q Okay. And what are those jugs commonly used for?

25 A Gas, holding gas.

1 Q All right. Then, what happened at the gas station?

2 A He asked to pump; I let him pump. I ain't did nothing.
3 I ain't got out the car. He came back and we went to
4 Hampton.

5 Q Did you see him do anything with the red jug?

6 A He put it in the trunk.

7 Q Did you see him put anything in the red jug?

8 A Gas.

9 Q He put gas in the red jug?

10 A Yeah.

11 Q All right. And what happened next?

12 A We went to Hampton. He asked me -- I was sitting at
13 his old man's house and he said he would be back. He was
14 supposed to go see his girlfriend.

15 Q What type of road was ---

16 MS. SMART-GITTINGS: Objection. He didn't say anything
17 about a road.

18 THE COURT: Rephrase your question, counsel. I remind
19 you that it's direct. No leading.

20 Q All right. He asked you to park. Where did he ask you
21 to park at?

22 A Down this dirt road.

23 Q All right. And go from there. So you parked down this
24 dirt road, and then what happened next?

25 A He got out. He say he would be back.

1 Q Do you know where he was going?

2 A He said he was going to see his girlfriend.

3 Q Okay. Do you happen to know his girlfriend's name?

4 A No, sir. No, sir.

5 Q You ever seen her before this day?

6 A One time -- one time before.

7 Q All right. So he was going to see his girlfriend.

8 Then, what happened next?

9 A He come back to the car. He came back and he said can
10 you take me back to Ridgeland, come back bleeding.

11 Q He was bleeding -- why was he bleeding?

12 A He must be -- he explained what he had done.

13 MS. SMART-GITTINGS: Objection.

14 THE COURT: Is there an objection?

15 MS. SMART-GITTINGS: Withdrawn, Your Honor.

16 THE COURT: Very well. Proceed.

17 A He explained what he did. On the way back ---

18 Q Hold up. Before we get to explaining what he did, you
19 said he was bleeding. Why was he bleeding? Or where was he
20 bleeding from?

21 A He was bleeding from his right hand. He explained that
22 he had cut himself.

23 Q Okay. Now, did he ever get into the vehicle? I think
24 you just said that, but I want to make sure on the timeline.

25 Start from there.

1 A Did he get back in my vehicle?

2 Q Yes.

3 A Yes.

4 Q All right. And you guys had a conversation. Can you
5 tell the jury what the conversation was about?

6 A From the time he got back in my vehicle all the way
7 back to Ridgeland?

8 Q Just from the beginning part.

9 A He was telling me about like how -- what was the
10 question?

11 Q All right. You said he got in the vehicle and y'all
12 were talking. I was asking you what were you all talking
13 about.

14 A When we got back in the vehicle?

15 Q Yes.

16 A On the way back to Ridgeland?

17 Q Yes, sir.

18 A He was telling me about what he had done and about the
19 situation he was making phone calls.

20 Q Okay. Let's start with what did he tell you he had
21 done?

22 A He burned down some of his girlfriend's house or
23 apartment.

24 Q He told you that?

25 A Yes.

1 Q All right. Did he tell you why he did it?

2 A I think she tried to play him. She tried to play him
3 or something. I don't know.

4 Q Did he explain to you what that meant?

5 A What it meant?

6 Q Yeah, what did he mean by she tried to play him; did he
7 explain that to you?

8 A No, sir.

9 Q All right. What was he doing in the car?

10 A On the way back, he was sniffing a bag.

11 Q What does that mean?

12 A Sniffing a bag of coke. On the way back, he changed up
13 music ---

14 MS. SMART-GITTINGS: Objection, Your Honor.

15 THE COURT: Just a moment. Yes, ma'am?

16 MS. SMART-GITTINGS: Sidebar?

17 THE COURT: Counsel approach. Come on around.

18 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
19 AND OUTSIDE THE HEARING OF THE JURY.)

20 THE COURT: Proceed.

21 Q Let's go back a little bit further. When he got out of
22 the vehicle to go see his girlfriend, did he take anything
23 with him?

24 A He took the jug.

25 Q The red jug you talked about earlier?

1 A Yes. He asked me to pop the trunk and he took the jug.

2 Q Why did he ask you to pop the trunk? Was there
3 anything in the trunk?

4 A I guess that red gas jug.

5 Q Come on, I know that's your guess, but for purposes of
6 the jury, what did he get out of the trunk?

7 A A red gas jug.

8 Q Okay. Did he take anything with him when he went to
9 his girlfriend's place?

10 A No, sir. I seen -- he ask me to pop the trunk for a
11 red gas jug, he took it, and that was it.

12 Q All right. Then he went, he came back, and you guys
13 started driving. Tell me more about when he got to your
14 vehicle, did you notice anything in the environment?
15 Anything going on?

16 A I noticed a cut. I asked him about the cut.

17 Q What about in the air?

18 A I know I started hearing sirens on the way leaving out.

19 Q Okay. Did you observe anything in the air? Did you
20 observe anything coming from the apartment, anything of that
21 nature?

22 A No, sir. I seen -- I couldn't hardly see. I seen
23 smoke, but I ain't know where it was coming from.

24 Q Okay. And when did you start seeing that smoke; after
25 you got back or before you left or when?

Direct examination of John Brown by Mr. Wright

1 A After the fact.

2 Q I'm going to need a little bit more. Either it was
3 after you back or before you got back. I want to make sure
4 the jury gets a ---

5 A After.

6 Q Okay. So you're going back -- can you tell me -- on
7 the way back, you talked about some things you did. Let's
8 go beyond that first set of statements. Did he make any
9 phone calls or anything of that nature? That's what I want
10 to talk about. I want to talk about what he did in the car.

11 A Well, back when he was calling people, I guess he was
12 calling his old lady or his girlfriend ---

13 Q You're saying you "guess," why do you say you guess
14 he's calling his old lady?

15 A Because from the time we left, I knew that must be the
16 lady's place he been to, so that was the lady he was calling
17 on the phone.

18 MS. SMART-GITTINGS: Your Honor, he's speculating.

19 THE COURT: I agree. Don't enage in opinion or
20 speculation. The objection is sustained. Rephrase your
21 question, counselor.

22 Q All right. Don't speculate on who he was speaking to.
23 Did you hear what he said to the person on the other end?

24 A Yes.

25 Q What did he say to that person?

1 A He say, "I got something for your ass, now." Things
2 like that.

3 Q With as much detail as possible, can you tell the jury
4 what you heard him say?

5 A He called and he kept telling her, "I got something for
6 your ass," and just kept repeating it, didn't say too much,
7 and then hang up.

8 Q Did he have any keys on him that you observed?

9 A No, sir.

10 Q Okay. Have you communicated with the defendant since
11 this occurred?

12 A No, sir.

13 Q Have you gotten any phone calls from him?

14 MS. SMART-GITTINGS: Leading, Your Honor.

15 THE COURT: Sustained. Rephrase the question.

16 Q Has anybody communicated to you in general from your
17 community, and if so, can you tell us who that person is?

18 A Like?

19 Q Have you been contacted by anybody?

20 A No, sir.

21 Q Okay. Are you nervous?

22 A A little bit.

23 Q Can you tell us why you're nervous?

24 A I never been in nothing like this before. It's my
25 first time -- never did crime, never did nothing. This is

Direct examination of John Brown by Mr. Wright

1 my first time, so I'm sheltered.

2 Q Okay. Did this defendant say anything else to you on
3 the way back that you believe the jury should know about
4 this incident?

5 A No, sir.

6 Q About what time was it when you left Logan Lane?

7 A 3:00, around 3:00, 3:30 or 4.

8 Q About what time was it when you arrived to Varnville?

9 A About 5, 5:30.

10 Q What time did you get back to Logan Lane?

11 A Six, 6:20, 6:30.

12 Q All right. Did you have a watch on at the time?

13 A No, sir. I turned my phone off.

14 Q So you're kind of going off guestimations?

15 A Yes.

16 Q Okay. After you left Varnville and you drove toward
17 Ridgeland, where exactly did you take the defendant?

18 A Fordville.

19 Q Where's that at? What county is that in?

20 A In Ridgeland.

21 Q It's in Ridgeland? Is that like an apartment complex
22 area?

23 A No, a stop sign. He asked me to take him back to
24 Ridgeland and drop him off at the stop sign.

25 Q Okay. What did he have on, on this day?

1 A He -- he had a ripped-up shirt, he tied his head, he
2 tied his hand where he got cut, and I don't know about pants
3 or shoes.

4 Q All right. And you said he tied his hand; did he tie
5 his hand after you guys left the apartment complex, right?

6 A Yes.

7 Q And he tied his head after he left the apartment?

8 A Yes.

9 Q Did he tell you why he was tying his head?

10 A Nope, he didn't explain why.

11 Q Please answer any questions that defense attorney has
12 for you.

13 THE COURT: Cross-examination.

14 CROSS-EXAMINATION

15 BY MS. SMART-GITTINGS:

16 Q Mr. Brown, you went to Ridgeland Police Department to
17 be interviewed; is that correct?

18 A Yeah.

19 Q And you went with your mother and someone else,
20 correct?

21 A Yes.

22 Q And you met with the agent from the SLED department?

23 A Yes, about three from SLED and two detectives, and Lt.
24 MacIntosh.

25 Q And while you were there, they asked you ---

Cross-examination of John Brown by Ms. Smart-Gittings

1 ASST. SOL. WRIGHT: Objection, hearsay.

2 THE COURT: Counsel approach.

3 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD.
4 AND OUT OF THE HEARING OF THE JURY.)

5 THE COURT: Proceed. Cross-examination.

6 Q You gave a statement, correct?

7 A Yes.

8 Q And it was on video?

9 A Yes.

10 Q Now, do you remember during that statement, you told
11 law enforcement that you left Logan Lane between 3 and 4, 4
12 to 5?

13 A During the statement? I don't have the statement to
14 see what I said, but ---

15 THE COURT: Hand him the statement, counsel.

16 MS. SMART-GITTINGS: It's not a written statement,
17 Judge. He said it on tape. It was a video interview.

18 THE COURT: Do you have a written copy?

19 MS. SMART-GITTINGS: I do not.

20 THE COURT: Counsel?

21 ASST. SOL. WRIGHT: It was a video.

22 THE COURT: Proceed.

23 Q Do you remember telling law enforcement that you only
24 knew what time it was based on your missed phone calls?

25 A I had a -- I got a -- yes, I got a statement at my -- I

1 got a paper at my house.

2 Q Okay. You don't remember the interview back in August
3 of last year?

4 A No, ma'am.

5 Q But you can clearly remember today what happened almost
6 10 months later?

7 A Yes.

8 Q But you can't remember what you said during the
9 interview?

10 A Yeah, I remember -- I remember a little of what I said.

11 Q Did you refresh your memory last night so you could
12 remember today?

13 A No, ma'am.

14 Q Did you tell anyone that you took Andre Green to
15 Hampton? Like, any of your friends; did you tell any of
16 your friends that?

17 A My close friends that I stay with.

18 Q You told them that you took him to Varnville?

19 A That same day.

20 Q Okay. Now, what else did Mr. Green have on when you
21 took him to Varnville?

22 A A white shirt, maybe some khaki's, some shoes. That's
23 about it.

24 Q That's about it?

25 A Yes.

1 Q So it was a white t-shirt?

2 A (WITNESS NODS.)

3 THE COURT: Don't shake your head. Say "yes" or "no."

4 A Yes.

5 THE COURT: There you go. For the court reporter.

6 Q Okay. So when he came back to the car, he didn't have
7 a shirt on?

8 A Half -- well, like, red speckles of blood and then he
9 started tearing it apart.

10 Q So did he have a shirt on his body?

11 A Yes.

12 Q He did?

13 A Yes.

14 Q And he had another shirt, you're telling the jury that

15 ---

16 A He only had one shirt on.

17 Q Okay.

18 A One.

19 Q One shirt?

20 A One shirt.

21 Q Now what did you tell -- you don't remember anything
22 you told law enforcement that day?

23 A I told them the same thing I'm saying today.

24 Q You were supposed to be here yesterday, correct?

25 A Yes.

1 Q But you didn't come?

2 A Yes.

3 Q And law enforcement had to find you?

4 A No.

5 Q Law enforcement had to find your mother?

6 A Yes.

7 Q And as a result of that, you turned yourself in?

8 A No. My moma didn't want me to come, period. She was
9 just -- she had wanted to take it upon herself, but I told
10 her since things are coming towards her, this way I'm just
11 going to come.

12 Q So that's why you came, because law enforcement
13 detained your mother -- or had your mother report to the
14 police department yesterday?

15 A No. She turned all the papers back in. Anything that
16 came towards my way, she turned those things back in, but
17 that's not the reason.

18 Q Okay. But you didn't come yesterday like you were
19 supposed to?

20 A I think Court started June the 6th; I didn't. No, no,
21 ma'am.

22 Q Okay. You didn't -- you don't recall telling law
23 enforcement that Andre gave you \$8 or he paid \$8 for gas?

24 A No. The day he asked me, he handed -- as soon as I
25 walked up, I was taking a nap. As soon as I walked out the

1 door, he handed me \$20. He said I'm going -- can I take him
2 to see his girlfriend.

3 Q So you didn't say "\$8" -- that he pumped \$8 worth of
4 gas in teh car?

5 A No, sir -- no, ma'am.

6 Q You didn't say that you stopped the car and he put the
7 gas can in the back of your car?

8 A When we was at the store?

9 Q Yes.

10 A Yes.

11 Q And you stopped halfway to Hampton and he took the gas
12 can out the back of the car and put it in the front of the
13 car?

14 A (BRIEF PAUSE.) That was before or after? Before?
15 Yes.

16 Q But that's not what you testified to here, today, is
17 it?

18 A What did you ask me?

19 Q I asked you about the gas can.

20 A Yes.

21 Q The alleged gas can.

22 A Uh-huh (affirmative).

23 Q And I asked you, from your previous statement, you
24 indicated that he put the gas can ---

25 THE COURT: Just a moment.

1 Q --- in the car ---

2 THE COURT: Just a moment.

3 Q --- in the front ---

4 A --- yes ---

5 THE COURT: Whoa, counsel. Hold it. When I tell you
6 to stop, counsel, you stop with a question when your
7 opposing counsel is objecting; do you understand?

8 MS. SMART-GITTINGS: My apologies.

9 THE COURT: You don't continue. Yes, sir?

10 ASST. SOL. WRIGHT: Can we approach?

11 THE COURT: Counsel approach.

12 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
13 AND OUT OF THE HEARING OF THE JURY.)

14 THE COURT: Move along. Cross-examination.

15 Q John, you're not telling this jury that you saw Andre
16 go to the apartment and start a fire, are you?

17 A Am I telling them?

18 Q Yes. You're not saying that you saw him start a fire
19 at the apartment, are you?

20 A (BRIEF PAUSE.) From where I been parked, yes.

21 Q So you're saying that you saw him?

22 A Well, the smoke rises and from like the things I can
23 see from how things were adding up, yes.

24 Q So you saw him?

25 A Well, I ain't seen him lit it or nothing like that.

1 Q So you're just guessing that that's what happened?

2 A Yes, I'm assuming that's what happened.

3 Q Do you remember getting a phone call or missing a phone
4 call starting about 4:35 or 4:45?

5 A Yes.

6 Q And you remember saying that you got back in Logan Lane
7 at 5:27?

8 A I'm not certain -- I don't exactly what time, but when
9 I turned my phone back on, I seen missed calls and that's
10 when SLED -- rolling down all the missed calls; I don't know
11 exactly how they came, but it was a missed when I turned my
12 phone back on.

13 Q Okay. How long did it take to get from Jasper to
14 Varnville -- from Logan Lane to Varnville?

15 A Probably a good 25 minutes.

16 Q Twenty-five minutes? And how long did you stay at the
17 gas station; do you remember?

18 A When we first -- it's like, ain't been no gas in the
19 car. He was paying for gas to get down there.

20 Q Okay. How long did you stay there?

21 A In Hampton or in Ridgeland?

22 Q At the gas station to get to Hampton?

23 A Two minutes, maybe.

24 Q About two minutes?

25 A Yeah.

1 Q And you say you left Ridgeland about three or four?

2 A Yes.

3 Q Do you know was it closer to four or closer to three?

4 A Probably closer to three, about 3:30.

5 Q So about 3:30?

6 A Uh-huh (affirmative).

7 Q And it takes 25 minutes to get there?

8 A 25 to 30 minutes to get there.

9 Q Okay. No further questions.

10 THE COURT: Are you done, Ms. Smart-Gittings?

11 MS. SMART-GITTINGS: I am, Your Honor.

12 THE COURT: Redirect?

13 ASST. SOL. WRIGHT: Yes, Your Honor.

14 REDIRECT EXAMINATION

15 BY ASST. SOL. WRIGHT:

16 Q All right. I believe Ms. Smart asked you about the
17 vehicle that you guys went in?

18 MS. SMART-GITTINGS: Your Honor, I didn't ask what make
19 or model of the vehicle. I asked about ---

20 THE COURT: Counsel, sit down. Unless there is an
21 objection, it's redirect. Come to the microphone,
22 solicitor. Ask your question. Redirect.

23 Q All right. You were talking about the ride. She was
24 asking you about going inside the car and what he had on. I
25 want to ask you specifically about that on redirect. I'm

1 going to hand you some pictures. Tell me if you recognize
2 these pictures.

3 THE COURT: Yes, you may approach the witness, counsel.

4 ASST. SOL. WRIGHT: I apologize, Your Honor. May I
5 approach the witness?

6 Q Take a second and look at those pictures.

7 THE COURT: Take a step back so the jury can see the
8 witness.

9 Q All right. I'm going to hand you what has been
10 previously marked for identification purposes as State's
11 Exhibits 18, 19, 20, 21, 22 and 23.

12 ASST. SOL. WRIGHT: May I approach the witness, Your
13 Honor?

14 THE COURT: You may.

15 Q Please, if you recognize what is in the picture, please
16 tell me what is in the picture.

17 A Little specks of blood ---

18 MS. SMART-GITTINGS: Objection, Your Honor. Exceeds
19 cross.

20 THE COURT: Counsel approach.

21 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
22 AND OUT OF THE HEARING OF THE JURY.)

23 THE COURT: Proceed.

24 Q Can you tell me what's depicted in those pictures and
25 if you recognize them and just say or mention what you last

1 saw what is in the picture.

2 A Little speckles of blood. You asking if they still
3 look the same?

4 Q No, at the time of the picture, is that a fair and
5 accurate representation of how the situation looked?

6 A No, sir. It looked a little deeper than this.

7 Q So explain what you just said.

8 A Like there was more blood.

9 MS. SMART-GITTINGS: Objection, Your Honor. He doesn't
10 recognize it.

11 THE COURT: Whoa -- whoa -- whoa. That hasn't been
12 asked, counsel. Don't characterize testimony. I'm not
13 asking you for argument. The objection is overruled. Ask a
14 question, counsel. Redirect.

15 Q Explain what you were saying.

16 A There was more blood than this. Like, I wiped some
17 off, because I knew my mom was going to trip when I got back
18 to the Lane, so but yeah, this is the passenger side where
19 he been at, and there was blood.

20 Q Just clarify, you're saying it had more, but you
21 cleaned it up, and it ended up looking like that; is that
22 what you said?

23 A Yes.

24 Q Okay.

25 ASST. SOL. WRIGHT: Your Honor, at this time, I would

Redirect examination of John Brown by Mr. Wright

1 like to move those exhibits into evidence.

2 THE COURT: Eighteen through twenty-three?

3 ASST. SOL. WRIGHT: Yes, sir.

4 THE COURT: As to State's Exhibits 18 through 23?

5 MS. SMART-GITTINGS: Your Honor, I object. He said the
6 pictures are not accurate.

7 THE COURT: Let me hold the pictures. Counsel
8 approach.

9 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
10 AND OUTSIDE THE PRESENCE OF THE JURY.)

11 THE COURT: Objection is withdrawn. State's Exhibits
12 18 through 23 are admitted into evidence in the trial of
13 this case without objection; is that correct, Ms. Smart-
14 Gittings?

15 MS. SMART-GITTINGS: That is correct, Your Honor.

16 THE COURT: You may now publish the pictures to the
17 jury.

18 (STATE'S EXHIBIT NUMBER 18, PHOTO, IS RECEIVED INTO
19 EVIDENCE.)

20 (STATE'S EXHIBIT NUMBER 19, PHOTO, IS RECEIVED INTO
21 EVIDENCE.)

22 (STATE'S EXHIBIT NUMBER 20, PHOTO, IS RECEIVED INTO
23 EVIDENCE.)

24 (STATE'S EXHIBIT NUMBER 21, PHOTO, IS RECEIVED INTO
25 EVIDENCE.)

1 (STATE'S EXHIBIT NUMBER 22, PHOTO, IS RECEIVED INTO
2 EVIDENCE.)

3 (STATE'S EXHIBIT NUMBER 23, PHOTO, IS RECEIVED INTO
4 EVIDENCE.)

5 ASST. SOL. WRIGHT: Your Honor, after they get done
6 looking at the pictures ---

7 THE COURT: Counsel, do you have anything else for
8 redirect?

9 ASST. SOL. WRIGHT: No further questions.

10 THE COURT: All right. Take a seat.

11 THE COURT: Ms. Smart-Gittings, it is recross, and you
12 are limited now to redirect, but I will allow you if you
13 want to wait or proceed since the jury is passing the
14 exhibits which have just been admitted. What's your
15 preference?

16 MS. SMART-GITTINGS: No recross, Your Honor.

17 THE COURT: Very well. As to this witness, Solicitor?

18 ASST. SOL. WRIGHT: I ask that he be excused and
19 allowed to go home.

20 MS. SMART-GITTINGS: No objection, Your Honor.

21 THE COURT: Mr. Brown, you may step down from the
22 witness stand. You're excused from the trial of this case
23 and you may leave the courtroom at this time.

24 Call your next witness.

25 ASST. SOL. WRIGHT: State calls Agent Russell.

1 (WHEREUPON, SLED AGENT RUSSELL APPROACHES THE WITNESS
2 STAND.)

3 MADAME CLERK: Raise your right hand, place your left
4 hand on the Bible.

5 (WHEREUPON, SLED AGENT RUSSELL IS DULY SWORN.)

6 THE COURT: Have a seat. Make yourself comfortable.
7 I'm going to ask you if you would begin by stating your
8 first and last name and spelling your last name for the
9 court reporter.

10 AGENT RUSSELL: Yes, sir. Daniel Lee Russell, Jr.,
11 Russell, R-U-S-S-E-L-L.

12 THE COURT: Direct examination, counsel. Your witness.

13 ASST. SOL. WRIGHT: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY ASST. SOL. WRIGHT:

16 Q Please tell the jury where you are currently employed.

17 A I'm employed by the South Carolina Law Enforcement
18 Division as an Arson Investigator.

19 Q And what are your duties as an arson investigator?

20 A I assist agencies within the State of South Carolina
21 concerning suspicious fires.

22 Q And how does one get that job?

23 A You're hired by SLED.

24 Q Well, let me rephrase that. What type of training did
25 you have in order to become an Arson Specialist?

1 A I attended a training when I was first hired at a
2 public agency training institute for a week in Myrtle Beach,
3 and then I finally went to the National Fire Academy
4 approximately four years ago in Emmettsburg, Maryland, for
5 two weeks where I was certified as a fire investigator.

6 Q And how long have you been working as an Arson
7 Investigator?

8 A In August, it will be seven years.

9 Q Okay. Did you have occasion to be involved in this
10 case?

11 A Yes, sir, I did.

12 Q Can you please tell the jury how you were involved in
13 this case?

14 A On the date, August 2nd, 2013, I was contacted by my
15 Lieutenant, Craig Collier, concerning a fire investigation
16 assistance in the city of Varnville, South Carolina.

17 Q Okay. Let me take a step back. Have you ever been
18 qualified to testify your opinion in fire-related matters?

19 A Yes, sir, I have.

20 Q All right. How many times?

21 A Once.

22 ASST. SOL. WRIGHT: Your Honor, at this time, I would
23 like to present this witness as an expert in fire-related
24 investigations.

25 THE COURT: Counsel, any objection as to qualifications

1 in the area of fire investigation?

2 MS. SMART-GITTINGS: No objection, Your Honor.

3 THE COURT: Ladies and gentlemen of the jury, recalling
4 my earlier comments to you, you're about to hear the
5 testimony of a witness who claims to have special knowledge,
6 skills, training, or education in the field of fire
7 investigation.

8 Normally, as I told you, the law does not allow
9 witnesses to get on the witness stand and give opinion
10 testimony. An exception of that rule is for those witnesses
11 whom we call "expert witnesses" if qualified by the Court.
12 In this case, the witness is qualified without objection.
13 Therefore, he will be permitted to give an opinion as to an
14 expert as to matters in which the witness claims to be
15 skilled. In determining the weight to be given to such
16 opinion, you should consider the qualifications and the
17 credibility or believability of the expert and reasons given
18 for his opinion. You are not bound by such opinion. You
19 give it the weight, if any, to which you deem it should be
20 entitled. The witness is qualified without objection. You
21 may proceed, counsel.

22 Q Did you have the occasion to be involved in this
23 matter?

24 A Yes, sir.

25 Q Will you please tell the jury how you were involved in

1 this matter?

2 A When the initial fire call came to the fire department
3 at 4:32 p.m., I received a phone call shortly thereafter. I
4 responded from my residence to the area at approximately
5 near 6:00 p.m.

6 Q Was it dark at that time?

7 A No, it was not. It was still light; it was August.

8 Q And what did you do next?

9 A I contacted Chief Tyrone Smith and the chief of fire
10 departments in that area and they were informing me of what
11 they had.

12 Q Okay. What exactly did you do after you met with Chief
13 Tyrone Smith?

14 A I reassured that they had a search warrant for me to
15 begin my investigations, so my initial start is to process
16 the scene through, first, visual, to see exactly what the
17 damage is.

18 Q I'm going to hand you some pictures?

19 ASST. SOL. WRIGHT: May I approach, Your Honor?

20 THE COURT: Are they marked?

21 ASST. SOL. WRIGHT: Yes, sir.

22 THE COURT: You may approach.

23 Q Do you recognize what's depicted in those photos?

24 A Yes, sir. I was the one who took these pictures.

25 Q Is that a true and accurate representation of ---

1 THE COURT: Give the numbers for the record, please.
2 Mr. Russell, would you read the numbers on the exhibits,
3 please?

4 A Yes, sir. They are State's Exhibits 14, 15, 16, 17.
5 Number 9, number 10, number 11, number 12 and number 13.

6 Q And all those pictures are true and accurate
7 representations of the condition on that day?

8 A Yes, sir.

9 ASST. SOL. WRIGHT: Your Honor, at this time, I would
10 move to have these put into evidence.

11 THE COURT: All nine?

12 ASST. SOL. WRIGHT: Yes, sir.

13 THE COURT: As to 9, 10, 11, 12, 13, 14, 15, 16 and 17,
14 Ms. Smart-Gittings?

15 MS. SMART-GITTINGS: No objection, Your Honor.

16 THE COURT: Ladies and gentlemen of the jury, State's
17 Exhibits 9, 10, 11, 12, 13, 14, 15, 16 and 17 will be
18 admitted into evidence in the trial of this case without
19 objection.

20 (STATE'S EXHIBIT NUMBER 9, PHOTO, IS RECEIVED INTO
21 EVIDENCE.)

22 (STATE'S EXHIBIT NUMBER 10, PHOTO, IS RECEIVED INTO
23 EVIDENCE.)

24 (STATE'S EXHIBIT NUMBER 11, PHOTO, IS RECEIVED INTO
25 EVIDENCE.)

1 (STATE'S EXHIBIT NUMBER 12, PHOTO, IS RECEIVED INTO
2 EVIDENCE.)

3 (STATE'S EXHIBIT NUMBER 13, PHOTO, IS RECEIVED INTO
4 EVIDENCE.)

5 (STATE'S EXHIBIT NUMBER 14, PHOTO, IS RECEIVED INTO
6 EVIDENCE.)

7 (STATE'S EXHIBIT NUMBER 15, PHOTO, IS RECEIVED INTO
8 EVIDENCE.)

9 (STATE'S EXHIBIT NUMBER 16, PHOTO, IS RECEIVED INTO
10 EVIDENCE.)

11 (STATE'S EXHIBIT NUMBER 17, PHOTO, IS RECEIVED INTO
12 EVIDENCE.)

13 THE COURT: You may publish, Solicitor.

14 Q All right. Do you see anything significant in those
15 pictures that assisted you in determining where the fire
16 started?

17 A Well, the aerial photograph always helps the
18 investigator to determine an area of origin, not necessarily
19 the point of origin, but the area of origin and the aerial
20 photograph did help me assist in where the fire possibly
21 started.

22 Q Can you let us know which picture is the aerial
23 photograph?

24 A Number 9 shows an accurate representation.

25 Q After we go through them, I'm going to ask you to show

1 the jury, but if you want to get your information first.

2 ASST. SOL. WRIGHT: May I approach, Your Honor?

3 THE COURT: You may.

4 Q From looking at the pictures, do you know which
5 apartment the fire started in?

6 A According to my investigation, it's going to be
7 Apartment H30.

8 Q Do you know who resided in that apartment?

9 A Monica Haynes.

10 Q Okay. Based on investigations, do you know who Monica
11 Haynes' boyfriend was at this time?

12 A After we furthered our investigation, yes, sir.

13 Q And who was that?

14 A That was the defendant seated at the table, Mr. Andre
15 Green.

16 Q All right. Any of these pictures assist you in seeing
17 where the fire started in that apartment?

18 A It assisted me, but that's not the only tool that we
19 used to photograph.

20 Q Can you elaborate?

21 A Well, after photography, we want to make sure that
22 whatever we disturbed during our processing of the crime
23 scene that we have an accurate photographs of the before,
24 before we start moving items around. So as we begin to go
25 inside the apartments, we sort of look from the least damage

1 to the most damage and that's how we begin our
2 investigation.

3 Q Can you explain that to the jury about what you did in
4 this particular case to show where the fire started?

5 A Well, what we did is we went into H30 and we began to
6 process the scene, and as we processed the scene, this
7 particular area was more damaged and charred than a lot of
8 the other areas. And you have to have pretty much a trained
9 eye because normally when you look at a fire scene,
10 everything is burned, but because of the training and
11 knowledge that I have acquired over seven years, I was able
12 to determine what area was possibly an area of origin.
13 Because there is a difference between area of origin and
14 point of origin. Point of origin, you can kind of pinpoint
15 if you set fire to a particular area and you can sort of
16 determine that's the point where it started versus an area
17 of origin where so much is damaged, so you have to sort of
18 make that assessment.

19 Q Did you have an area or a point of origin in this
20 particular case?

21 A Yes, I did. In that picture, it was in the master
22 bedroom, if you will, in the closet area of the victim,
23 Monica Haynes.

24 Q Okay. Does that include the window and the bottom of
25 the window?

1 A Yes, right in that area, the closet, facing the closet
2 and to the left, which is that window and also there is a
3 entrance/exit on that side as well. There is a window on
4 that side as well, so you got to play into oxygen, air and
5 things like that, that also hastens the intensity of the
6 fire.

7 Q And based on your investigation, do you know how the
8 fire was started?

9 A Not if -- if you're asking how the fire was started or
10 if anything was used, no, sir, I can't determine that.

11 Q And why is that?

12 A Because there was nothing that came back at that time
13 that we used that could make an explicit determination.
14 Though we used a dog, an accelerant dog, to help us
15 determine if anything was used, but as further investigation
16 came back, we could not make an assessment of what was used
17 to actually start the fire.

18 Q Okay. How did you gain entry into the apartment?

19 A Well, the fire department helped us do that. They made
20 entrance and all I had to do was follow behind them.

21 Q Which door did you go through?

22 A Well, I went through -- the front door was open, as
23 well as where the fire was. The fire created some entrances
24 for us as well.

25 Q Do you have any pictures of the door in that group?

1 A Yes -- yes, I do. This is one of the door, number 10.

2 THE COURT: Are you referring to the exhibit number?

3 AGENT RUSSELL: Yes, sir. Exhibit Number 10, yes, sir.

4 A And this was the front door to apartment number H30
5 with the lock still engaged.

6 Q So you're saying the lock -- the door wasn't opened,
7 basically?

8 A Yeah, it was still in the locked position. The tumbler
9 was pointed out.

10 Q Okay. Anything else about the condition of the room
11 that you saw and thought was significant in your
12 investigation?

13 A Well, what we try to do is process of elimination to
14 try to -- I'm not an engineer, but we try to eliminate
15 possible fire hazards, possible igniting sources, electrical
16 situations with the expertise that I do have. You know, I'm
17 not fast in the electrical aspect of it, but we try to
18 eliminate that and in that area of the closet, as well as
19 the window area, that door area, we were able to eliminate
20 any accidental fire sources.

21 Q Did you interview anybody in reference to this case?

22 A Yes. We interviewed quite a few people. We
23 interviewed the victim, as well as ---

24 Q When you say "victim," who do you mean?

25 A Monica Haynes. We interviewed her. Myself and Chief

1 Tyrone Smith, as well as the manager of the Varnville
2 Housing Complex, also some of the maintenance individuals,
3 you know, to find out if they had any problems with
4 electrical situations that might have played in this fire.

5 Q All right. Let's go to your interview with Ms. Monica
6 Haynes. Was information she presented to you during her
7 interview consistent to what she testified to on the stand?

8 A I didn't hear her testimony. I wasn't in here for
9 that.

10 Q All right. What about Mr. John Brown?

11 A His was consistent.

12 Q Okay. Did you have opportunity to see inside Mr. John
13 Brown's vehicle?

14 A Yes. On that day, yes.

15 ASST. SOL. WRIGHT: May I approach the witness, Your
16 Honor?

17 THE COURT: You may.

18 Q I'm going to hand you what's been entered into the
19 record as Exhibits 18, 19 and 20. Can you please explain
20 what is depicted in those pictures?

21 A These pictures were taken by Ridgeland Police
22 Department who assisted me. This was explained by Mr. Brown
23 as blood stains that were scrubbed by him on the date of the
24 fire.

25 Q Okay. Did he explain to you how they got inside his

1 vehicle?

2 A Yes. He explained that he was riding a passenger, a
3 Mr. Andre Green, who was bleeding from his arm and hand and
4 he had got it on the seat and he knew his moma was going to
5 be upset if he brought that car back with blood on the seat.

6 Q Okay.

7 ASST. SOL. WRIGHT: Your Honor, permission to approach
8 the witness?

9 THE COURT: You may.

10 Q I'm going to hand to you what's previously been
11 admitted into evidence as State Exhibits one and two. Do
12 you recognize what's in those pictures?

13 A No, I don't. I did not take these pictures. He was
14 taken into custody by another police department.

15 Q Okay.

16 ASST. SOL. WRIGHT: Permission to approach?

17 THE COURT: You may.

18 Q I'm going to hand you what's been previously marked as
19 State Exhibits 4, 5, 6, 7 and 8. Can you explain to the
20 jury what is depicted in those pictures?

21 A Exhibit 4 and 5 are aerial photos of the four units
22 that were affected by the fire. Exhibit 6 is considered the
23 master bedroom of Monica Haynes with the mattress intently
24 damaged by the fire.

25 Q Does that give you any information about the character

1 of the fire? The fact that the mattress was ---

2 A That is was hot. Pretty much because the integrity of
3 the mattress springs are gone, so it was a very hot fire.

4 Q Does that give you any information on what could have
5 started the fire of that nature?

6 A No, sir. No, sir.

7 Q All right.

8 A Exhibit 7 is the area where the dog alerted to and
9 Exhibit 8 is the debris that was moved concerning what the
10 dog alerted to.

11 Q Okay. Based on your investigation, did you develop any
12 suspects?

13 A After speaking with Mr. John Brown and obtaining his
14 interviewing, yes, we did.

15 Q And were you a part of getting the arrest warrant?

16 A Chief Tyrone Smith, as I interviewed and gathered all
17 of the information, I informed Chief Smith of what I had and
18 he was responsible for obtaining the arrest warrants.

19 Q Okay. Did you interview the victims other than Ms.
20 Monica Haynes? I believe Ms. Flood and ---

21 A No, sir.

22 Q You didn't interview any of those?

23 A No, sir.

24 Q Okay. Did you interview anybody else other than the
25 victim and you said Mr. Brown. Anybody else?

1 A Some of them, like I said, were maintenance people.
2 You know, I interviewed one person who observed the fire,
3 and that was Mr. James Sullivan.

4 Q Okay.

5 A And he had observed Mr. Green in the area and ---

6 MS. SMART-GITTINGS: Objection, Your Honor.

7 THE COURT: Sustained. You can't testify to what
8 someone else said. Just a moment, counsel. Rephrase your
9 question.

10 Q What did you gather from that interview with Mr.
11 Sullivan?

12 A He was in the area when the fire started and he began
13 to go around to knock on doors and make sure nobody was in
14 the complexes while that fire was going.

15 Q Okay. Based on your investigation, do you believe that
16 the whole four-apartment complex was destroyed?

17 A Yes, sir.

18 Q All right. Do you believe that the personal items
19 inside the apartments were destroyed?

20 A Yes, sir.

21 Q All right. Based on your investigation and the
22 condition of the lock do you believe that whoever went
23 inside there and started the fire had permission to go
24 inside?

25 MS. SMART-GITTINGS: Objection, Your Honor.

1 THE COURT: Sustained.

2 Q Based on your investigation, what was the most likely
3 route of entry into the apartment?

4 A I can't answer that.

5 Q Okay. I believe you said earlier, and I want to ask
6 you one more time, do you believe this fire was an accident
7 from wires or anything or do you believe it was set?

8 A I believe it was an intentional fire.

9 Q Okay. Please answer any questions that defense counsel
10 has for you.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MS. SMART-GITTINGS:

14 Q Agent Russell, good morning.

15 A Good morning.

16 Q You -- during your investigation of the arson, you
17 interviewed Mr. Brown at the Ridgeland Police Department,
18 correct?

19 A Yes, ma'am.

20 Q And there was some hesitation about him giving a
21 statement, correct?

22 A Yes, ma'am.

23 Q And you advised the people with him that if he wasn't
24 forthcoming that you might get an arrest warrant for him,
25 correct?

1 A Well, not knowing his role other than him carrying him
2 out there, it was a possibility that he might have been an
3 accessory, so we didn't know until we were able to talk to
4 him.

5 Q Right. And you said, as a matter of fact, if you take
6 him out here right now, and I believe he's hiding something,
7 I will get an arrest warrant for him?

8 A It's possible I could have said that; Yes, ma'am.

9 Q And after that, he gave you a statement, correct?

10 A Well, it wasn't a coercing, if that's what you're
11 trying to imply.

12 Q No, I just asked a question.

13 A But there's a reason behind you're asking.

14 Q Can you just answer the questions that I ask you?

15 A And I did.

16 Q Now, with regard to the timeline in this matter, would
17 you admit that the fire started prior to 4:30?

18 A That's correct.

19 Q And the fire started probably around three-something?

20 A I can't answer that.

21 Q So during your investigation, you don't know exactly
22 what time the fire started?

23 A All I had received was the initial fire alarm call that
24 the fire department receives.

25 Q And that was at 4:30?

1 A Yes, ma'am.

2 Q Would you admit that John Brown's statement is somewhat
3 different from his statement on, I believe, August the 6th,
4 2013? A No, ma'am.

5 Q You believe it's consistent?

6 A From what I have written in my report down to she's
7 trying to play him, that's in my report, so that was
8 accurate.

9 Q As far as consistent, not accurate, but consistent.

10 A Accurate, consistent, play on words, I just believe
11 it's both accurate and consistent.

12 Q You didn't hear the conversation, correct?

13 A Between who?

14 Q Between -- I believe John Brown testified that Mr.
15 Green was on the phone talking to someone. That you weren't
16 in the car that day, correct?

17 A No, I was not.

18 Q So you did not hear that alleged conversation, did you?

19 A No, I did not.

20 Q So you can't testify that that conversation was
21 accurate?

22 A Well, what conversation were you talking about? You
23 didn't specify what kind of conversation you were talking
24 about.

25 Q You can't testify that any alleged conversation was

1 accurate if you didn't hear it, correct?

2 A I thought you were talking about the conversation I had
3 with Mr. Brown.

4 Q No.

5 A You mentioned a conversation in the car. You didn't
6 say anything about that.

7 Q The conversation in the car.

8 A No, I can't attest to that. No, ma'am.

9 Q Thank you. Now, you can't testify that Andre Green did
10 not have permission to be in Monica Haynes' apartment, can
11 you?

12 A No, ma'am. I can't testify to that either.

13 Q Thank you. I appreciate that as well. You also didn't
14 see Mr. Green on August 2nd, 2013, did you?

15 A No, ma'am, I didn't.

16 Q And during the course of your investigation, there were
17 no other witnesses who saw him after about 2:00; is that
18 correct? Other than John Brown?

19 A Well, the hearsay that I couldn't attest to, I can
20 answer that, but I can't answer that, because somebody did
21 see him during the course of that day.

22 Q At 11:00, Mr. Sullivan saw him, correct?

23 A That's correct.

24 Q You found that out during the course of your
25 investigation?

1 A That's correct.

2 Q And he was in that area around 11:00?

3 A Yes, ma'am.

4 Q But not after that, correct?

5 A That's correct.

6 Q The only person that saw him in the area after 11:00
7 was Mr. Brown, correct?

8 A That saw him in the -- you mean after he transported
9 him out there?

10 Q Correct.

11 A That's correct.

12 Q And during the course of your investigation, you did
13 not find a gas can?

14 A No, ma'am, I did not.

15 Q And there was on gas can entered into evidence or
16 collected?

17 A No, ma'am.

18 Q And when you were at the Ridgeland Police Department
19 with regards to this car, there wasn't any DNA samples taken
20 from the car?

21 A No, ma'am.

22 Q So we don't have any evidence that -- other than Mr.
23 Brown's testimony that Mr. Andre Green was in the car; there
24 is no DNA evidence, correct?

25 A That's correct.

1 Q And then there's no DNA evidence at the house either,
2 correct?

3 A That's correct.

4 Q And with regard to the pictures that you took, you
5 didn't see any blood at the window at the house, correct?

6 A There was no window left.

7 Q Okay. No window left by the time that you got there?

8 A That's correct.

9 Q Okay.

10 MS. SMART-GITTINGS: Your Honor, I don't have any other
11 questions for this witness.

12 THE COURT: Redirect?

13 REDIRECT EXAMINATION

14 BY ASST. SOL. WRIGHT:

15 Q Agent Russell, as it pertains to the gas can, DNA,
16 blood on the window, as an expert in investigations related
17 to fires, do you have any opinion as to how that relates to
18 the heat? The heat that burned up the mattress in that
19 room?

20 A You mean if DNA is left after a fire?

21 Q Yes.

22 A Well, if I was able to find glass with blood on it,
23 then you know, we could possibly utilize that. But when
24 you start talking about fingerprints and things of that
25 nature, when it comes to fire, fire has a very strong heat

1 intensity to destroy those kind of things.

2 Q What about gas cans?

3 A Well, if a gas can, you know, if it's plastic, you
4 know, it will melt under 700 to 1000 degrees of heat, but
5 during our overhaul of the area, we didn't locate a gas can.

6 Q Were those types of temperatures present in this fire?

7 A That's correct.

8 Q All right.

9 ASST. SOL. WRIGHT: No further questions.

10 THE COURT: Recross, limited to redirect.

11 RECROSS EXAMINATION

12 BY MS. SMART-GITTINGS:

13 Q Agent Russell, but there would have been an accelerant?
14 It is possible to obtain samples of accelerant after a fire,
15 correct?

16 A If there's an accelerant there, but you know, you can
17 also use available material. You don't have to have an
18 accelerant or gas necessarily to start a fire. You can use
19 available material, you know, clothes, curtains, mattress,
20 bedspread, so yes.

21 MS. SMART-GITTINGS: No further questions, Your Honor.

22 THE COURT: Very well. Agent Russell, you may step
23 down from the witness stand and stay with us or if your
24 schedule requires, you may leave the courtroom.

25 AGENT RUSSELL: Thank you, Judge.

1 THE COURT: I assume he is excused; is that right,
2 counsel?

3 ASST. SOL. WRIGHT: Yes, sir.

4 AGENT RUSSELL: I'm going to stay, Judge.

5 THE COURT: He's going to remain with us. Now, do I
6 have all of the exhibits now, counsel? Nobody took an
7 exhibit back to their table? Becky, we will do a count.
8 Call your next witness.

9 ASST. SOL. WRIGHT: The State rests, Your Honor.

10 THE COURT: Very well. All right, ladies and
11 gentlemen of the jury, I'm going to have to take up a
12 matter of law, so I'm going to ask you to go to your jury
13 room. Don't worry about those pictures. I can promise
14 you're going to have all of those in your jury room with
15 you. So just leave those out here with me because I've got
16 to count and make sure I've got all of the exhibits.

17 Please do not discuss the case. You've not heard from
18 the defendant. You've not heard the closing arguments of
19 the attorneys or my charge to you on the law. So it would
20 be premature for you to discuss the case. I'll be back with
21 you as soon as I can. Please retire to your jury room.

22 (11:00 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM
23 AND THE FOLLOWING IS HELD ON THE RECORD.)

24 THE COURT: All right. The State has rested; and Ms.
25 Smart-Gittings, I will be happy to hear from you.

1 MS. SMART-GITTINGS: Your Honor, may it please the
2 Court? I'd like to move for a directed verdict. Rule 19
3 requires that the State prove the elements of the case
4 beyond a reasonable doubt, specifically, in reference to
5 indictment 306 for burglary second, the State has not met
6 its burden or proved that Mr. Green did not have consent to
7 be in Monica Green's apartment -- Monica Haynes' apartment.
8 In fact, Ms. Haynes said that he did have permission to be
9 there.

10 Also with respect to indictment 309, referenced by Ms.
11 Polk, her testimony was that the value of her household
12 goods was less than \$2,000. The State has not met the
13 burden of proof that the goods were valued at \$2,000 or more
14 as required by the statute.

15 Also with reference to the arson, indictment 312, I
16 believe specifically Special Agent Russell testified that he
17 can't determine how the fire started, so the State has not
18 met its burden of proof that Mr. Green willfully and
19 maliciously started the fire in Building H30.

20 THE COURT: All right. Now, counsel, before I hear
21 from Mr. Wright, I want to make sure I understand. You're
22 moving for directed verdict as to the one and only burglary
23 indictment, is that correct?

24 MS. SMART-GITTINGS: That's correct, Your Honor.

25 THE COURT: And that would be 2013 at 306.

1 MS. SMART-GITTINGS: That's correct.

2 THE COURT: And you're also moving for directed verdict
3 as to which malicious injury to personal property?

4 MS. SMART-GITTINGS: 309.

5 THE COURT: 309 is the one involving Teresa Pope.

6 MS. SMART-GITTINGS: That's correct.

7 THE COURT: So you're moving for directed verdict on
8 the basis of the monetary testimony of Teresa Pope?

9 MS. SMART-GITTINGS: That's correct.

10 THE COURT: You're also moving for directed verdict on
11 305 on the basis that you believe that Mr. Russell failed to
12 give sufficient evidence to create an issue for the jury as
13 to arson third degree?

14 MS. SMART-GITTINGS: That's correct, Your Honor, but
15 it's actually indictment 312 because ---

16 THE COURT: Hold on. Don't hold your head down and
17 read and talk. Lift your head up and tell me what you're
18 saying because it's mumbling when you do that.

19 MS. SMART-GITTINGS: I quoted the wrong indictment.
20 It's indictment 312 because the State has already nol
21 prossed indictment 305.

22 THE COURT: And I want to ask that first, because that
23 hasn't been done.

24 MS. SMART-GITTINGS: I'm sorry.

25 THE COURT: Solicitor, it's my understanding that you

1 do not wish to proceed on Indictment 2013 at 312; is that
2 correct?

3 ASST. SOL. WRIGHT: No, we pulled out ---

4 THE COURT: Don't say "no," the answer is -- you told
5 me in my chambers this morning that as to that, you were not
6 going to proceed on 312, which is --- wait a minute. I want
7 to make sure I'm quoting it right.

8 ASST. SOL. WRIGHT: It's 305.

9 THE COURT: I'm wrong. You told me you weren't going
10 to proceed on 305.

11 ASST. SOL. WRIGHT: And 310.

12 THE COURT: All right. Hold on a second. Is that
13 right?

14 ASST. SOL. WRIGHT: That's correct, Your Honor.

15 THE COURT: You are not proceeding on 305?

16 ASST. SOL. WRIGHT: Correct, Your Honor.

17 THE COURT: Now, Ms. Smart-Gittings, I'm assuming your
18 motion now doesn't -- he's not proceeding on 305, so your
19 motion on arson is dealing with 312?

20 MS. SMART-GITTINGS: That's correct.

21 THE COURT: All right. It's my understanding that
22 you're also not proceeding on malicious injury to personal
23 property in 307, Solicitor?

24 ASST. SOL. WRIGHT: No, Your Honor, it was 310, the one
25 involving Duncan.

1 THE COURT: All right. So you're not proceeding on
2 2013 at 310, Tamara Duncan, who never testified in this case
3 nor was ever listed as a witness?

4 ASST. SOL. WRIGHT: Correct, Your Honor.

5 THE COURT: So that now leaves us with six. Solicitor,
6 you're moving as to the six remaining indictments, you're
7 moving as to 2013-306, burglary second; 2013-309, malicious
8 injury to personal property involving Teresa Pope; and 2013-
9 312, which is arson third degree as to building H of the
10 Varnville Area Housing; is that correct, Ms. Smart-Gittings?

11 MS. SMART-GITTINGS: That's correct, Your Honor.

12 THE COURT: Thank you, please be seated. Now, Mr.
13 Wright, I'll be happy to hear from you.

14 ASST. SOL. WRIGHT: The State concedes that 309 as it
15 relates to Ms. Pope, her testimony didn't meet the
16 requirements. But as to ---

17 THE COURT: In light of the fact that you concede that,
18 do you wish that case to go to the jury as a magistrate's
19 court offense, or are you nol prossing that case?

20 ASST. SOL. WRIGHT: A magistrate's court offense.

21 THE COURT: All right.

22 ASST. SOL. WRIGHT: I will remand it.

23 THE COURT: You're going to remand it?

24 ASST. SOL. WRIGHT: Remand it down to magistrate court.

25 THE COURT: Counsel approach.

1 ASST. SOL. WRIGHT: Maybe I said the wrong term, but I
2 want it to go down to magistrate court.

3 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
4 AND OUT OF THE HEARING OF THE COURTROOM.)

5 ASST. SOL. WRIGHT: I stand corrected, Your Honor.

6 THE COURT: You concede, then, that as to 309, Teresa
7 Pope, and I've had Becky check the record and her testimony
8 was that she lost everything in the fire. She first said
9 around \$2,000, then you asked her and she said it was less
10 than \$2,000. So it does not meet the monetary requirement
11 for the malicious injury to personal property of \$2,000.

12 ASST. SOL. WRIGHT: Correct, Your Honor.

13 THE COURT: But you want to submit that as a 30-day
14 offense, since she said it was less than \$2,000?

15 ASST. SOL. WRIGHT: Correct, Your Honor.

16 THE COURT: So you agree with the defendant's motion,
17 but you want the lesser offense submitted?

18 ASST. SOL. WRIGHT: Correct, Your Honor.

19 THE COURT: All right. Now, let's move to the burglary
20 second degree.

21 ASST. SOL. WRIGHT: Your Honor? The testimony from Ms.
22 Haynes on the stand was that when she was home or when she
23 allowed him to be there, he had permission to be there and I
24 specifically asked her if the door was locked would he have
25 permission to be there. She said there is no way the door

1 would be locked because when I left, the door was unlocked.
2 And it's clear the door was locked when the fire started,
3 and that goes to show that he didn't have permission to be
4 there. Whenever the door was open, he had permission to be
5 there. When the door was locked, he didn't have permission
6 to be there. If he started the fire, he had to do it
7 without permission. We presented evidence for the jury to
8 look at, more than a scintilla for them to conclude that the
9 door was locked and therefore he had no permission to be
10 there.

11 THE COURT: Very well. Please be seated. I'm going to
12 hear you on this, Ms. Smart-Gittings. There is testimony
13 here from which the jury could infer. There's testimony
14 from a witness in this trial that a window was broken. It
15 appeared to be blood. There is testimony in evidence from
16 exhibits that there was blood of the defendant on Mr.
17 Brown's vehicle, or his mother's vehicle.

18 There is testimony from Ms. Haynes who did say that he
19 didn't have a key, but when she was there, he had permission
20 to be there and she left him in the apartment where he
21 stayed the night before the fire. She does not recall it
22 being locked, although it could have been locked from the
23 inside.

24 So at the very least, there is an issue from which the
25 jury could infer because the elements of burglary second

1 degree are that the defendant did break and enter into a
2 dwelling. In this case, H30, of the Varnville Area Housing
3 apartments, and it was being leased by Ms. Haynes, and that
4 while in the dwelling, he allegedly set the fire.

5 There is testimony from which the jury could infer
6 that. Let me hear from you.

7 MS. SMART-GITTINGS: May it please the Court, Your
8 Honor?

9 THE COURT: Yes, ma'am.

10 MS. SMART-GITTINGS: Ms. Haynes said that when she
11 left, he was in the apartment and that the only way it could
12 be locked was from the outside and that she didn't lock it.
13 So that means the apartment was unlocked. And if it was
14 unlocked, then I would submit to the Court that she ---

15 THE COURT: You're forgetting the testimony that you
16 just heard of Daniel Russell who testified that when he
17 examined the lock after the fire, that it was in the locked
18 position.

19 MS. SMART-GITTINGS: I don't recall that testimony,
20 Judge. I'm sorry.

21 THE COURT: Becky, would you play back, please, the
22 question, so that I can refresh Ms. Smart-Gittings's memory.
23 It would be at the beginning of direct of Daniel Russell.
24 He was asked to describe the condition of the building and
25 in particular of the apartment. He talked about the type of

1 deadbolt lock and that it was in the locked position when he
2 examined it after the fire. Am I quoting that correctly,
3 solicitor?

4 ASST. SOL. WRIGHT: Correct, Your Honor. We even
5 entered these pictures showing the door in the locked
6 position with the deadbolt sticking out.

7 THE COURT: Show me the exhibits so that I can show it
8 to Ms. Smart-Gittings as well.

9 (SOLICITOR WRIGHT LOCATES STATE EXHIBIT NUMBER 17 AND
10 GIVES TO THE COURT.)

11 THE COURT: I'm handing you State's Exhibit 17, which
12 was admitted into evidence without objection for you to take
13 a look at, which shows a photograph of what the witness,
14 Daniel Russell, testified.

15 MS. SMART-GITTINGS: Yes, sir, Your Honor.

16 THE COURT: Anything else you want to tell me?

17 MS. SMART-GITTINGS: Nothing further, Your Honor.

18 THE COURT: Becky, you found it?

19 COURT REPORTER: Yes, sir.

20 THE COURT: Would you like to hear it?

21 MS. SMART-GITTINGS: Yes, Your Honor.

22 THE COURT: All right. Becky, you got a microphone?

23 COURT REPORTER: I do.

24 (WHEREUPON, THE COURT REPORTER PLAYS BACK THE AUDIO
25 PORTION OF AGENT DANIEL RUSSELL'S TESTIMONY IN REFERENCE TO

1 THE LOCKED DOOR OF APARTMENT H30.)

2 THE COURT: Stop right there. Did you hear it, Ms.
3 Smart-Gittings?

4 MS. SMART-GITTINGS: I did, Your Honor, but I also
5 wanted to remind the Court about the testimony from Mr.
6 Sullivan when he said he put his key in and he turned the
7 key.

8 THE COURT: I understand, but we are now having to
9 decide what the jury chooses to believe, and that's a matter
10 for the jury. We're not dealing with the weight of the
11 evidence or the credibility of the evidence. We're dealing
12 with the existence of the evidence, and for that reason, Ms.
13 Smart-Gittings, your motion for directed verdict as to
14 burglary is respectfully denied.

15 MS. SMART-GITTINGS: Thank you, Your Honor.

16 THE COURT: Now, that brings us to the motion, Mr.
17 Wright, of Ms. Smart-Gittings as to arson, third degree, in
18 which Ms. Smart-Gittings opines that she does not think
19 there is sufficient evidence, and that's the arson
20 indictment of 2013-312 that alleges that the defendant set
21 fire to Building H30 and that the State did not present
22 sufficient evidence to show arson. I'll be happy to hear
23 from you on that.

24 ASST. SOL. WRIGHT: Your Honor, we had evidence from
25 the maintenance workers, Mr. Warren, Mr. Crosby, and I

1 believe even Mr. Sullivan saying that when they arrived to
2 the location, the window was broken out and that the gas was
3 on the dry wall in a pattern that they believed wasn't
4 normal. We have testimony from Mr. Brown saying that he
5 went to the home with a gas can and when he came back he
6 said expletively he burned down his girlfriend's -- I'm
7 paraphrasing and not using cuss words, but he burned down
8 her place.

9 That in conjunction with the fact that the point of
10 origin was in the defendant's girlfriend's place and his
11 statements on the phone to someone saying that he was going
12 to do something bad to them -- or did something bad to them,
13 I think all of that in conjunction shows that he did
14 something that falls in line with what he said he did, which
15 was burn down his girlfriend's place. I believe the agent
16 said that based on the type of fire, he knew it wasn't a
17 naturally occurring fire, that somebody had to have set the
18 fire. I believe that's enough to take it to the jury with
19 the allegations of arson; arson third requires the
20 destruction of property, no injury or death, and therefore,
21 I think we're definitely within the realm of arson third.

22 THE COURT: Very well. I agree that the standard that
23 I'm required to use for directed verdict at this stage, I
24 believe there is sufficient evidence to submit the case to
25 the jury as to arson, third degree, in indictment 2013 at

1 312, and therefore the defendant's motion for directed
2 verdict is respectfully denied. Ms. Smart-Gittings, would
3 you and your client please come to the microphone? Madame
4 Clerk, would you swear the defendant?

5 MADAME CLERK: Yes, sir.

6 (WHEREUPON, THE DEFENDANT, MR. ANDRE GREEN, IS DULY
7 SWORN.)

8 THE COURT: All right. State your full name for the
9 record.

10 MR. GREEN: Andre Green.

11 THE COURT: Mr. Green, you understand that you're under
12 oath?

13 MR. GREEN: Yes, sir.

14 THE COURT: All right. At this time, Mr. Green, I'm
15 going to explain to you certain of your rights. If you do
16 not understand anything that I say, I want you to let me
17 know. If you want me to explain anything in further detail,
18 please let me know. Do you understand?

19 MR. GREEN: Yes, sir, Your Honor.

20 THE COURT: We've now reached the stage of the trial
21 where you may present your defense. You have the right to
22 testify on your own behalf. However, no one, not this
23 Court, not your lawyer, no one can make you testify. In the
24 event you have a record -- Solicitor, does he have a record
25 that you intend to use?

1 ASST. SOL. WRIGHT: Yes, sir, Your Honor.

2 THE COURT: Do you have a copy of it?

3 MS. SMART-GITTINGS: I do, Your Honor.

4 THE COURT: Do you agree there are offenses which could
5 potentially be admitted?

6 MS. SMART-GITTINGS: I do, Your Honor.

7 THE COURT: If you have a record, Mr. Green, for any
8 conviction involving dishonesty or false statement, or for
9 any crime punishable by imprisonment for more than one year,
10 and this Court determines as a matter of law that the
11 probative value of admitting this evidence outweighs its
12 prejudicial effect to you, the solicitor would be able to
13 introduce your criminal record for impeachment purposes to
14 attack your credibility or your believability.

15 If you elect not to take the stand, I will charge the
16 jury that they are not to give the fact that you did not
17 testify any consideration whatsoever, and there is to be
18 absolutely no legal prejudice to you because you did not
19 testify. You have the constitutional right to remain
20 silent. The burden of proof is on the State of South
21 Carolina to prove your guilt beyond a reasonable doubt. The
22 decision as to whether or not you testify will be left
23 entirely up to you.

24 You certainly can talk to your attorney, but the ultimate
25 decision is yours as to whether or not you will testify in

1 the trial of this case. Do you want me to have the
2 solicitor publish his record, Ms. Smart-Gittings or do you
3 think you're familiar with it?

4 MS. SMART-GITTINGS: I'm familiar with it, Your Honor.

5 THE COURT: Very well. Mr. Andre Green, have you
6 understood what I've just told you?

7 MR. GREEN: Yes, sir.

8 THE COURT: All right. Would you like a moment to talk
9 to your attorney?

10 MR. GREEN: No, sir.

11 THE COURT: Are you ready to make a decision as to
12 whether or not you will testify in the trial of this case?

13 MR. GREEN: No, I will not testify.

14 THE COURT: That's your decision?

15 MR. GREEN: Yes, sir.

16 THE COURT: No one else's decision but yours?

17 MR. GREEN: Yes, sir.

18 THE COURT: Nobody forced you into that decision? You
19 made it of your own free will and accord?

20 MR. GREEN: Yes, sir.

21 THE COURT: Nobody promised you anything or threatened
22 you?

23 MR. GREEN: No, sir.

24 THE COURT: And it's your decision not to testify; is
25 that correct?

1 MR. GREEN: That's correct.

2 THE COURT: Very well. Thank you, sir. You may return
3 to your seat.

4 All right. At this point, counsel, having heard
5 motions from the defendant, I believe what we have left,
6 please make a note, because I'm going to need to see you in
7 chambers for a moment for a charge conference; we have left,
8 arson, third degree, 2013-GS-25-312, which is Building H.
9 We have left malicious injury to personal property involving
10 Teresa Pope, but it's only less than \$2,000, which is 2013
11 at 309. We have burglary, second degree, at 2013-306. We
12 have malicious injury to real property, 2013 at 311. We
13 have malicious injury to personal property over \$2,000 with
14 Kwanisha Fludd, 2013 at 308.

15 Finally, we have malicious injury to personal property,
16 2013-307, Monica Haynes. The other indictments I've dealt
17 with, one of which is a lesser included offense because the
18 monetary threshold was not introduced into evidence. Have I
19 accurately stated what remains, insofar as the State is
20 concerned?

21 ASST. SOL. WRIGHT: Yes, Your Honor.

22 THE COURT: Insofar as the defendant is concerned?

23 MS. SMART-GITTINGS: You have, Your Honor.

24 THE COURT: All right. That leaves us with eight
25 rather than six. I'm in the process of preparing a verdict

1 form and I'm in the process of finalizing my charge. I need
2 to see counsel in chambers. We will take about a ten minute
3 recess.

4 (11:35 A.M., OFF THE RECORD, BRIEFLY. 11:50 A.M., THE
5 FOLLOWING IS HELD ON THE RECORD.)

6 THE COURT: Let the record reflect I've been over each
7 of the charges with the attorneys. I've changed the verdict
8 from now twice; the attorneys tell me they're satisfied with
9 the verdict form. They are aware of every single thing I'm
10 going to charge and we are down now to six indictments; we
11 started with eight. The counsel for the defendant, the
12 defendant tells me he has elected not to testify and it's my
13 understanding that when I bring the jury back, that Ms.
14 Smart-Gittings says she is not going to put up any
15 witnesses. Therefore, we are going right into closing
16 arguments and the defendant will get final argument because
17 the defendant did not put up any evidence, if that is the
18 case. Is that still your intention, Ms. Smart-Gittings?

19 MS. SMART-GITTINGS: That's correct, Your Honor.

20 THE COURT: You will get the final argument, then. You
21 will argue first, you will have 20 minutes. When you're
22 reached 15, you will hear the familiar what, Mr. Wright?

23 ASST. SOL. WRIGHT: Tapping.

24 THE COURT: The tapping on the bench to let you know
25 that you're at 15 minutes and to wrap it on up. You will

1 have 20 minutes. You will get the tap after 15 if you need
2 it. Have I accurately stated what occurred in chambers,
3 insofar as the State is concerned?

4 ASST. SOL. WRIGHT: Yes, Your Honor.

5 THE COURT: Insofar as the defendant is concerned?

6 MS. SMART-GITTINGS: You have, Your Honor.

7 THE COURT: Very well. By the way, I've amended the
8 verdict form again to comply with y'all's request concerning
9 the monetary requirement for malicious injury to real
10 property, so that's been done. I think that covers
11 everything. Anything further from the State before we bring
12 the jury?

13 ASST. SOL. WRIGHT: Nothing further, Your Honor.

14 THE COURT: Anything further from the defendant before
15 we bring the jury in?

16 MS. SMART-GITTINGS: Nothing further, Your Honor.

17 THE COURT: Very well. Bring us the jury.

18 (11:53 A.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
19 AND THE FOLLOWING IS HELD ON THE RECORD.)

20 THE COURT: Madame Foreperson, ladies and gentlemen of
21 the jury, thank you for your patience. You've heard the
22 evidence from the State. We will now hear from the
23 defendant. Ms. Smart-Gittings, you may call your first
24 witness.

25 MS. SMART-GITTINGS: The defense rests, Your Honor.

1 THE COURT: Well, you've heard all of the evidence in
2 the case. You will now hear the final arguments of the
3 attorneys, followed by my charge to you on the law. I ask
4 that you give the attorneys your careful consideration. Mr.
5 Wright.

6 ASST. SOL. WRIGHT: Thank you, Your Honor.

7 CLOSING ARGUMENT

8 BY ASST. SOL. WRIGHT:

9 When we started this, I told you motive, opportunity
10 and confession. And I gave you motive, opportunity and
11 confession. The motive was the defendant felt that he was
12 getting played. The details of that are what they are.

13 Opportunity, he had a ride from Mr. John Brown to the
14 location of where Monica Haynes and all the other residents'
15 property was destroyed; personal property and real property.

16 He gained entry -- and let me take a step back. This
17 defendant is charged with burglary. Burglary is the
18 unlawful entrance into a person's property. Now, if I go to
19 your house and I stick my hand in the window, I've committed
20 burglary even if I hadn't intended to commit a crime. If
21 I'm trying to grab your wallet, if I'm trying to grab your
22 watch, if I break that threshold and I enter into your
23 property, that's burglary.

24 In this case, you don't have a surveillance camera,
25 don't have an eyewitness who seen him go inside, but he had

1 to get inside somehow, shape, form or fashion. You can't
2 start a fire inside without either throwing something
3 inside, breaking the window and putting your hand in, going
4 through whatever entrance.

5 In this case, the front door was locked. We had
6 testimony from Mr. Sullivan that when he tried to open the
7 door, he put his key to the lock and it was so hot that he
8 snatched his hand back and then they kicked the door open.
9 And then we have the picture that Agent Russell entered into
10 evidence of the deadbolt. You can't open a deadbolt -- you
11 can't lock a deadbolt from the inside and get out of the
12 house, unless you've got a back door and there is no back
13 door in this place.

14 There's been no testimony that there is a back door.
15 And if he went out of a window, the window would have been
16 open. This window was broken. Take that for what it means,
17 for whatever you ascribe to it.

18 He broke into the house. He's been charged with
19 burglary, second degree, which means you break into a
20 dwelling without consent with the intent to commit a crime
21 therein. And the State has proven that and I ask that when
22 you go back to deliberate that you him guilty of burglary in
23 the second degree.

24 All right. Confession. He confessed. It rarely
25 happens, but in this case, he confessed. I'm not going to

1 use the exact terms that he used, but he said to John Brown,
2 "I burned down her place. She tried to play me." Don't
3 make much sense to me, but apparently it made sense to him
4 when he burned down her place.

5 Motive, opportunity and confession. I'm going to go
6 through what was presented and the witnesses that were
7 presented and explain to you what I feel you should take
8 from that particular witness, or from that piece of
9 evidence, to help get you to the point where I feel you
10 should be, which is guilty on all six charges. Oh yeah,
11 it's going to be six charges presented to you at the end of
12 this trial. I think in the beginning we said there were
13 eight. We did some -- there are going to be six charges.

14 All right. Let me start from the beginning, when you
15 go in the back, you will have this picture, which is Exhibit
16 1 that shows the cut. It's definitely aligned when John
17 Brown says that he had a cut on the hand and you saw the
18 blood in his vehicle. That's what you get from that picture.

19 There are some cuts to his fingers that show, you know,
20 when you break glass, you never know what it's going to do,
21 and that's what we're talking about the type of glass in the
22 picture of Exhibit 2.

23 Exhibit 3, this was presented mostly to show you that
24 there's a dirt road beside -- let me turn it for
25 orientation. That there's a dirt road that comes -- it looks

1 better this way. This is, again, there is a dirt road
2 beside it. We got testimony from John Brown saying that
3 when he came down the dirt road, he told him to park in
4 front of this man's yard and then he went to Monica Haynes'
5 apartment and burned it down. So that's what this was
6 represented for. You will have this in the back when you go
7 to deliberate.

8 Exhibit Four just kind of shows the condition that
9 everything is burnt and ruined, but this particular
10 apartment is totally charred; and that's the 30H where
11 Monica Haynes lived at. Same thing, this picture is kind of
12 showing it from further away that this apartment is burnt
13 more than the other apartments. It's kind of showing that's
14 the area of origin, I think is the correct term.

15 Now, this picture, Exhibit 6, was impressive to me and
16 I wanted to make sure you guys get to see this one. The
17 whole mattress is burnt. When I was a kid, we use to jump
18 on mattresses. We used to see mattresses at the dump and
19 all that stuff, but for a mattress to burn to this point,
20 that was some serious heat. You know, I'm afraid of fire.
21 I done got burned before. It don't take much to burn the
22 skin. It don't take much to burn items. There was
23 testimony that the temperature that would be required to
24 burn this mattress in this type of condition would be in
25 excess of seven hundred degrees, and that that excess of

1 seven hundred degrees would burn a gas can. There was
2 testimony about that, so I wanted you to see that there was
3 -- he wasn't just making a conjecture. Something did get
4 burned to the point that it was almost -- everything that is
5 not metal is gone, so a little plastic gas thing, you know,
6 is going to burn up.

7 All right. This is the area where the dog alerted. As
8 you can see, everything got scraped. We talked about how
9 they shuffled stuff to get it out the way and talked about
10 how bad things were burnt. See how charred that actual wood
11 is? All the -- the -- the board is burnt and I wanted you
12 to see this one, so you can see that if an accelerant was
13 used, it could've been burnt up. If that type of heat that
14 burns that mattress in this area, and testimony from Agent
15 Wright and from the chemical analyst said that liquids like
16 those hydrocarbons can evaporate, you know.

17 So the fact that nothing was there you take that for
18 whatever, you put weight to it. But there was enough heat
19 to evaporate it out; so it was there, it evaporated out.
20 This is just to show that they couldn't take a whole room,
21 so the part they took was sent to the lab was just one part.
22 There is no way they can afford to take a whole room and
23 send it off to the lab. This is a can that got sent to the
24 lab. It's just a small bit of something that was on the
25 window. Who knows if that came from the top part where

1 there was no accelerant put. We don't know. You can only
2 deal with the situation you got. That's why I wanted you to
3 see that.

4 All right. This one kind of shows -- we're kind of
5 getting into the door mechanism lock. This is Monica
6 Haynes' apartment and its charred real bad. You can see
7 that -- like even the roof part is kind of shoved over to
8 the front, kind of shows you the gravity of the situation.

9 This one kind of jumped out to me and you will see a
10 little bit more as you go through the pictures. This is the
11 lock mechanism engaged in this picture and the door was
12 burnt real bad, so you can imagine going to the door and
13 trying to open it and the door is so hot that the metal is
14 boiling up on it.

15 It kind of shows that the door is in a locked position
16 and there is no way -- he didn't have a key, according to
17 the testimony from Monica Haynes, so there is no way he got
18 in there, opened it, and set fire and went back and locked
19 it, because he didn't have a key. So if he went in there,
20 he had to go a different route, which falls in line with the
21 maintenance guy saying that the window is broken out and he
22 has cuts on his hand and the blood and -- you understand
23 what I'm saying.

24 All right. This is another angle showing her room with
25 all of her items destroyed. This kind of goes to the

1 malicious injury to personal property that her items were
2 gone.

3 All right. Here is another picture from a higher view.
4 This is the other residents and you can see like their stuff
5 is burnt up, too. You know, they didn't ask for any of
6 this.

7 All right. While I'm talking about that, when we had
8 Monica Haynes on the stand, she's in love. I'm in love.
9 I've been married for ten years. I love my wife. You know,
10 so you take that with a grain of salt; her statements. She
11 wanted to talk about it, but you know, how much do you want
12 to confide in the person you love and how much are you going
13 to say and when you start sitting around thinking about it
14 and say, if I say this, then you know, this might happen.
15 So take all that with a grain of salt.

16 I don't feel any ill-will about her changing her
17 statements; but she is in love, so take that for whatever
18 way you want to take it. When you go in the back and
19 deliberate the case, I still contend that there was motive,
20 opportunity and confession, and that he should be found
21 guilty on all six of these charges.

22 All right. This is another picture showing the damage.
23 This is actually the front. This is Monica Haynes'
24 apartment. This is like the front side. There are
25 different angles, so this is that front side that is showing

1 in that picture. You can see the door in this picture. And
2 this is like a -- I believe in the burglary case, this is
3 the main picture. There is no way to argue that that door
4 wasn't locked.

5 All right. Then we get to the blood. John Brown said,
6 "Man, I was scared. I couldn't just take this car home with
7 all this blood in it. I had to clean it up a little bit.
8 It was a whole lot worse." So that's kind of showing that
9 even after he cleaned it, to get it up to standards for his
10 momma to see, it still had blood in there. You know, kind
11 of go through -- you saw that gash and how deep it was and
12 the meat was all rolled up and everything, so it kind of
13 shows that there was a lot of blood. Even if you cleaned it
14 up, you still got this, but he had to take this car home to
15 moma. Let's take it for what it's worth. This is showing
16 some blood drops. Different versions of the same blood
17 drops.

18 This is showing the tag in front. This was his moma's
19 car; it wasn't his car. This kind of goes to show he was
20 telling the truth. It's a decent car; it's not tore up.
21 It's not a beater. He had permission. He had it squared
22 away, you know, you're moma got a nice car and you giving
23 somebody a ride and they bleed all in it, then you got to
24 clean it up before you get home. So that's what I hope you
25 take from those pictures. And you'll have these in the back

1 when you're deliberating. The judge is going to give you
2 the law, so you'll have all the tools you need when you go
3 in the back to come back with these guilty verdicts that I'm
4 asking for.

5 All right. Mr. Green has six indictments for six
6 charges that you will be considering when you go in the
7 back. They're going to be burglary, second degree, and I
8 told you based on the fact that the picture that the dead
9 bolt was still engaged, I feel that that should go -- even
10 though she said, "I gave him permission to be there when I'm
11 there. If I'm not there, he can't be there." I said well,
12 what about this situation? Well, the door was unlocked, so
13 he had permission to be there. The door wasn't unlocked, so
14 he didn't have permission to be there.

15 So when you go in the back, it should be guilty of
16 burglary, second, because he didn't have permission to be
17 there because the door was locked. Based on her statement,
18 you know, she was trying to cover her tracks and help him
19 out, but you know, she told the truth a little bit, and you
20 know, and the door was locked; so he didn't have permission
21 to be there.

22 All right. Malicious injury to real property. You
23 heard testimony from Mr. Jenkins that it was in excess of
24 \$300,000. The verdict form is going to say if you find that
25 it's more than \$10,000, then you find that he's guilty. It

1 was way above \$10,000. It was \$300-some odd thousand, so I
2 contend to you that that should be a guilty verdict. When
3 you look at that one, that's what we're talking about
4 malicious injury to real property. The difference between
5 malicious injury to real property and malicious injury to
6 personal property is that the personal property is like
7 their personal stuff, so if I'm renting a house from my
8 moma, I don't own the house, so if it burns up, she has a
9 claim for real property and I have a claim for my TV and my
10 video games, my personal property; so that's the difference.
11 And I believe on one of the charges I charged, one of the
12 questions on the verdict form is that if you find that, in
13 Ms. Pope's case, it's less than \$2,000, find him guilty. I
14 believe she said on the stand that it was less than \$2,000
15 for her personal items. So in that particular case, that's
16 going to be one that's different from the other malicious
17 injury to personal property's; there's a total of three
18 malicious injury to personal property that's being presented
19 to you, and one of them is less than \$2,000 and the other
20 one is above \$2,000, but I contend to you and you look at it
21 and read it for yourself, but it should be a guilty on all
22 three of those malicious injury to personal properties.

23 Arson. Arson is basically burning somebody's stuff.
24 You can burn your own stuff, but you can't burn somebody
25 else's stuff. And if you burn your own stuff, you can't try

1 to get money for it and that's one of the things: But in
2 this particular case, it's all about burning somebody else's
3 stuff. So when he broke into her place, either by breaking
4 the window or whatever, when he got inside there and started
5 a fire, that wasn't his stuff. He burned it up and then
6 definitely the charge that you have is for the whole
7 building. He didn't own the building. He didn't own any
8 stuff. So by burning other people's stuff, he's guilty of
9 arson.

10 All right. So let's go through real briefly the
11 witnesses that I presented. As I was presenting the
12 witnesses, some of them, you know, I don't know what's in
13 the mind of a juror, but you were probably like why is he
14 asking this guy these questions. I'm explaining to you why I
15 was asking everybody their questions. I'm going to do Agent
16 Russell last, because he was the last person. But we
17 started with -- I believe Mr. Jenkins is who we started
18 with. But we started with Mr. Jenkins and he kind of just
19 established the value of the property and who owned the
20 property, the Varnville Area Housing, so that was just like
21 a matter of fact. This is who owns this and we're out of
22 our money because this stuff got destroyed. That's what I
23 wanted you to get from him.

24 Then we had the maintenance workers. I believe we
25 started with Mr. Robert Warren. He talked about the pattern

1 on the wall, that sheetrock doesn't burn like that.
2 Something was on it. "Sheetrock don't burn like that."
3 What I wanted you to get from that is that the window was
4 broken and when they arrived there they did everything they
5 could to try to put it out, but it was of the nature that
6 when you put something on it, it keeps going. Put two and
7 two together, you know, it was just -- a little campfire,
8 you can stomp those out; but if it's a fire and you're
9 putting an extinguisher on it and it's flaring up, you're
10 putting water on it and it's flaring up, something's got
11 that fire going. There's a source in there that's got that
12 fire going. They talked about the irregular pattern;
13 something was going on. Now, the fact that it all burned
14 up, you know, during the fire above 700 degrees, that
15 shouldn't be something that you say, well, since you did a
16 good job burning up all the evidence, now you get to go."
17 No, guilty.

18 All right. Now, we've got Isaac Crosby who just
19 corroborated that the window was broken and they did
20 everything they could. We had Mr. James Sullivan; he's the
21 one who said they checked all the doors and he wanted to
22 make sure -- he went to the door, took his key to the door,
23 and the heat was so bad that he had to pull his hand back.
24 They kind of kicked the door open or something or I think he
25 said he may have just left the door in the position that it

1 was, but we know somehow, somebody opened the door; whether
2 they kicked it -- they had to kick it to break the frame,
3 because the lock was still engaged. But nobody opened that
4 door and for purposes of this case, I'm glad nobody opened
5 that door because then we wouldn't have that evidence. But
6 the door was kicked open because of the heat would show that
7 if somebody got in there, they had to break in, which I
8 think is more than enough evidence for you to find him
9 guilty of burglary.

10 All right. We had victims: we had Ms. Polk. She
11 testified and I think she's the one who said her property is
12 less than \$2,000, so you'll see that on there. I believe
13 that's a question and you'll see on there where it talks
14 about less than \$2,000 while the other ones say above.

15 Ms. Kwanisha Fludd. I believe she's the one who went
16 first. She talked about her stuff and she said around
17 \$6,000. All of them said this was a devastating part of
18 their life. They haven't had a chance to get all of their
19 stuff back. I imagine if my stuff got burned up 10 months
20 ago, I wouldn't have everything back either, so I feel for
21 the ladies.

22 You also had Ms. Monica Haynes. She started out and
23 then she started giving me a little bit and then she
24 basically -- "I love him, but you know, he punched me in the
25 face in front of my daughter; I didn't do nothing. He

1 burned my place; I didn't do nothing. He broke in my
2 place, but I gave him permission to be there sometimes when
3 I'm there." Take that for what it's worth. I understand
4 the affairs of the heart is nothing for me to get involved
5 in, because I can never understand that kind of love, but
6 she's told you she got punched in the face in front of her
7 daughter and the only thing she wanted to do was help him
8 out.

9 We also had testimony from the SLED agents. (JUDGE
10 TAPS ON THE BENCH.) We went to Brian Wright, the dog
11 handler. We talked about the fact that a dog's nose has 200
12 different olfactory glands and we only have ten-hundred.
13 You know, the dog alerted to something. Then, we had Way
14 Tang said that what he alerted to may not have been the
15 accelerant. It may have just been rubber burning. Take
16 that for what it's worth. I just wanted to give you a clear
17 picture of the whole -- I didn't want to hide anything from
18 you. I wanted you to see the whole picture. So you may
19 say, that didn't add anything to your case, but I didn't
20 want to not show you -- I wanted you to see everything. I
21 wanted to be as honest to you as possible, because I'm
22 asking you to find a guilty verdict and I don't want to hide
23 anything from you.

24 All right. We had officers. I'm going to be real
25 quick. We had Teddy Scott who said the scene was secure.

1 Nobody messed with it. If it was there, it was still there
2 when agents had a chance to look at it. We had Tyrone
3 Smith. He talked about the fact that they investigated the
4 situation and he was one of the first people there. They
5 called SLED and SLED took it over. Then, Agent Russell
6 talked about the fact that they arrested Mr. Green and he
7 was back a couple of days later, and they arrested him in
8 Ridgeland.

9 We talked about John Brown, the star witness. John
10 Brown tied it all together. Confession, talked about what
11 they were doing on the way up, the fact that he bought the
12 gas, the fact that he had the gas can, talked about the fact
13 that he went over there, came back bleeding. Smoke. It
14 don't get no better than that. John Brown, star witness.

15 Then, we had, also, Agent Russell who tied in other
16 pieces. He showed the fact that the door was locked and
17 they couldn't have went through the front door because the
18 door was locked, and according to Ms. Haynes, he didn't have
19 a key.

20 So that tied that in and he kind of explained some of
21 the other stuff that he observed and the area of origin,
22 point of origin. Kind of gave us an educational session on
23 how fires work and kind of explained some of the pictures
24 that we saw.

25 So those are all of the tools that you will need to go

1 in the back and I ask that when you go in the back, you
2 agreed when you started this case that you would look at the
3 facts and you would make a ruling based on the facts. Not
4 based on "I know Jimmy Joe's cousin from down the road.
5 They go to church with my aunt."

6 The facts. The facts are what we have here and the law
7 is what the judge is going to give you. Please use those
8 tools. Go in the back and come back with the only verdict
9 that is fair to the people in this community, which is
10 guilty on all six charges. Thank you.

11 THE COURT: Ms. Smart-Gittings?

12 MS. SMART-GITTINGS: May it please the Court, Your
13 Honor. Mr. Wright.

14 CLOSING ARGUMENT

15 BY MS. SMART-GITTINGS

16 Good afternoon, ladies and gentlemen of the jury. We
17 are at the bottom of the trial and you've lasted; you've
18 survived. Now, its time for you to do your job. After you
19 have heard the Solicitor and I have done our jobs, the
20 witnesses have done their jobs, and now it's time for you to
21 take all of the testimony that you have heard, piece it
22 together, and find out the true facts. Find out what really
23 happened on August the 2nd of 2013.

24 Now, the State has given you several pictures and these
25 pictures are in evidence. There are just a few that I want

1 to focus on. One of the things that we won't deny was that
2 a fire occurred. That did occur, and unfortunately, as a
3 result of that, people lost their valuable items and that is
4 something that we -- it's a tragedy. We should feel badly
5 about that.

6 However, that does not entitle our law enforcement to
7 rush to judgment. Just because people have been out of
8 things and just because there is a fire, it doesn't mean
9 that you make a rush determination. What it means is that
10 you make an effort to determine how this fire started and
11 who, in fact, started it. So it's your job to determine
12 whether or not law enforcement made a determination as to
13 how the fire started and did they arrest the person that
14 started the fire, if, in fact, the fire did not start from
15 accidental reasons or for any other type of reasons.

16 Now, one of the things that is the State's theory --
17 one theory the State has is that this fire was caused by
18 gasoline. And they developed that theory based on John
19 Brown, the only witness that gave factual testimony
20 regarding what happened. That witness said that they
21 stopped, he got gas in a little gas can, and that Andre got
22 out of the car. He was gone about two or three minutes and
23 that he saw smoke and that he heard sirens. He said that
24 when he came back, he had a cut and that there was blood all
25 over his car.

1 So the State has given you pictures of a cut. That's a
2 pretty big cut. That's a nice chunk of meat. That's all
3 the blood. He tried to clean it up. These are little
4 droplets of blood -- droplets of blood that came from this
5 cut, allegedly. John Brown wants you to believe that this
6 little bit of blood came from this cut.

7 So why is that important? It's called corroboration.
8 Don't you want more than John Brown? In determining whether
9 or not John Brown is credible, whether or not John Brown is
10 telling you the truth, you look for things to determine
11 whether or not he is telling the truth. You don't just
12 accept it because he said it. Well, why not? Because he
13 was dragged to the Ridgeland Police Department and while he
14 was there he was told, "If you don't give this statement, I
15 might just arrest you. If you leave out of here right now
16 without giving me this statement, I might arrest you for an
17 accessory."

18 Not only that, he didn't show up when he was supposed
19 to. He didn't show up Monday. He didn't show up Tuesday.
20 He only showed up today after they picked his mother up.
21 That's when he showed up. And then he says, "I'm telling
22 you the truth. Um, I, uh, I'm telling you everything I told
23 law enforcement. Uh, I'm not making this up," basically.
24 He wants you to believe that. He wants you to believe his
25 testimony. Even though it's testimony that he gave after he

1 was told that he might have been arrested if he did not give
2 it. So that is the only witness to put Andre Green at the
3 apartment complex right before this fire allegedly started.

4 So, let's talk about the timeline. The State didn't
5 give you a specific timeline, did they? Of course they
6 didn't. Mr. Sullivan -- well, first, one of the tenants saw
7 the fire. They saw smoke. They told Mr. Morris. Mr.
8 Morris said he went over there and the door was open, but he
9 said that anyone could have opened the door. Then, he
10 called Mister -- he called Mr. Sullivan, Mr. Crosby, and Mr.
11 Warren. Well, why is that important? They fought that
12 fire. They attempted to put the fire out before they called
13 the fire department.

14 Now, remember Monica said that -- if you don't even
15 want to believe what Monica told you from the stand, Chief
16 Smith said that Monica told him that they were on the way to
17 Ridgeland between 3 and 3:30. So obviously, Chief Smith
18 believes her because that's what he told you from the
19 witness stand.

20 So if, in fact, they were on the way to Ridgeland
21 between 3 and 3:30, the fire department was called at 4:30.
22 The people at the apartment complex attempted to fight the
23 fire before they called the fire department. What time did
24 the fire start and where was Andre when the fire started?
25 Was he in Ridgeland or was he in Hampton? Because you have

1 testimony that you have to decide whether or not you believe
2 he was in Ridgeland or whether or not you believe he was in
3 Hampton.

4 Interestingly enough, John Brown says, from his
5 testimony, that they were here. That they were back in
6 Varnville, I believe, about 5:00. I don't want to misquote
7 -- between 5 and 5:30. That was his testimony. That they
8 came here between 5 and 5:30 and he also said that he heard
9 the sirens.

10 Again, think about what happened. If they fought the
11 fire within before they called the fire department, they
12 only stayed there two to three minutes; did they hear
13 sirens? Is he telling you the truth? We don't know how
14 long the smoke started before the tenant called Mr. Morris
15 before Mr. Morris got in touch with Mr. Sullivan. Remember,
16 they weren't even on the property. They were at the other
17 project. They had to come back over to this project. So
18 all that time, all this time, where was Andre when it
19 happened? Because according to Mr. Brown, he said 5 to 5:30
20 that he was in Jasper County; they weren't even in Hampton.

21 So if they weren't in Hampton, then Andre couldn't have
22 possibly started the fire. So what's the big deal about the
23 door being locked and the door being unlocked? That goes to
24 consent. That goes to element of burglary. Because in
25 order for you to find Mr. Green guilty of burglary, you have

1 to find that he didn't have permission to be in Monica
2 Haynes' apartment.

3 Now, I specifically asked whether or not the door was
4 locked because Monica says that if her door was locked he
5 couldn't have permission to be there because he didn't have
6 a key. Mr. Sullivan said, "Well, Monica said, 'I left Andre
7 at the house. When I came back to pick him up, I didn't go
8 back to the house to lock the door.'" Mr. Sullivan said his
9 natural instinct was to put the key in the door to turn the
10 lock. So he doesn't know whether or not the door was locked
11 or unlocked. But the State has provided you a picture that
12 shows the door locked.

13 Now, you've got testimony from Mr. Sullivan that says
14 he stuck his key in the door and he turned it. And then he
15 had to kick the door open because the knob was too hot. But
16 he verified that it was a deadbolt that had to be locked or
17 unlocked from the outside, so that means that Monica was
18 telling the truth, that that is true. That you have to lock
19 or unlock the door.

20 So did he have consent to be in the house? You have to
21 decide whether or not the door was locked or unlocked. And
22 if you decide that that door was unlocked and you believe
23 that he had permission to be in the house, then he is not
24 guilty of burglary in the second degree.

25 So conversely, if she did not lock the door, why would

1 he have to break the window to gain entry into the house
2 that was open? It was open. If the door was open, if he
3 was the last one to leave the house, the door was not
4 locked. Why are you going to break a window out and
5 possibly cut your hand? Just go in the door and walk out
6 the front door.

7 The fire started in the bedroom in the back. Throw the
8 match and walk out the door. Don't run the risk of cutting
9 up your hand. But that's what the State wants you to
10 believe. They want you to believe that although the front
11 door might have been open, or was open, that he would break
12 out the window and pour gasoline.

13 Now, you noticed I didn't have a lot of questions for a
14 lot of the witnesses, because they never said that Mr. Green
15 was present. So there was no need for me to ask them any
16 questions. But I did ask the forensic scientist about
17 gasoline. And I specifically asked him, "Was there gasoline
18 found?" And he said "no ignitable liquids found of
19 evidentiary value."

20 The State wants you to believe -- they want you to
21 believe John Brown. They want you to believe that they
22 stopped to get gas. They want you to believe that gas was
23 used. But their very own expert witness said that they did
24 not find gasoline in the debris. They didn't find it.

25 Now, interestingly enough to me, when Agent Wright

1 testified about his K-9, he testified that the K-9 hit at
2 the bottom of the window sill. But Mr. Sullivan and Mr.
3 Crosby and Mr. Warren, they all talked about the fire going
4 up the sheetrock. How fire doesn't travel up the sheetrock;
5 how sheetrock doesn't burn. But the dog didn't hit on that
6 area. He hit on the window sill. But even if all the
7 shoveling of all the debris, there was still no gasoline.

8 So can the State have it both ways? Can they just
9 throw theories out there and expect you to grab them and put
10 them all together and decide that "yes, he committed this
11 offense" when they didn't bother to prove a timeline. We
12 don't have a definite timeline from the State. You have to
13 piece that together. You have to think about, goodness,
14 well what did they say about the timeline?

15 The one witness, John Brown, you can determine whether
16 you want to believe some of his testimony, you can believe
17 none of his testimony, you can believe all of his testimony.
18 Well, what you do know is that he said he left Ridgeland at
19 5:00 and what you do know is that fire report was called in
20 at 4:30. So he either told the truth about what time he
21 left or he didn't. Those are the things that we ask that
22 you pay careful consideration to. If your memory is
23 anything like mine, you may not remember, and that's the
24 beauty of our system. If you can't recall, it's all been
25 recorded and those portions of the testimony can be played

1 back. I ask that if you can't recall, request the testimony
2 to be played back. You all have to agree whether or not --
3 all twelve of you have to have a unanimous decision, guilty
4 or not guilty.

5 But I would submit to stand firm to your convictions.
6 If you believe as an individual that the State has not
7 proved to you beyond a reasonable doubt that each and every
8 element has been met, stand firm to your convictions of not
9 guilty. Regardless of what your other jurors say, stand
10 firm to your convictions. That is your right.

11 I submit that the State has not met its burden of proof
12 and the truth, the right verdict, would be not guilty.
13 Thank you.

14 JURY CHARGE

15 THE COURT: All right. Madame foreperson, ladies and
16 gentlemen of the jury, it is now my duty to charge you on
17 the law of this case. First of all, the State of South
18 Carolina has charged the defendant Andre Green with burglary
19 in the second degree, malicious injury to personal property,
20 malicious injury to personal property a second time, and
21 malicious injury to personal property a third time,
22 malicious injury to real property, and finally, arson in the
23 third degree.

24 There are indictment numbers and we give an indictment
25 number to every case. Indictment numbers were given here,

1 2013 GS, GS means General Sessions Court, 25 means Hampton
2 County, so every indictment in 2013 will begin 2013-GS-25,
3 and then they will have a number based on the consecutive
4 numbers and that is what you have here. The indictment
5 number 2013-GS-25-306, 307, 308, 309, 311 and 312. There
6 are six remaining charges. We started with eight and we are
7 down to six.

8 Now, I remind you that the fact that the defendant was
9 arrested, the fact that the defendant was charged and
10 indicted in this case is not evidence in this case, nor does
11 it create any presumption or inference of guilt. The
12 indictments are simply the formal, written instruments by
13 which the charges made against the defendant and they are
14 the documents by which the case is brought in to this Court
15 so that the case can be heard by a jury in the Court of
16 General Sessions.

17 Now, to the indictments, the defendant has pled not
18 guilty, and that puts the burden on the State of South
19 Carolina to prove the defendant guilty beyond a reasonable
20 doubt. A person charged with committing a criminal offense
21 in South Carolina is never required to prove himself
22 innocent.

23 I charge you, ladies and gentlemen, that it's an
24 important rule of the law that the defendant in a criminal
25 trial, no matter what the seriousness of the charge may be,

1 will always be presumed to be innocent of the crime for
2 which the indictment was issued, unless guilt has been
3 proven by evidence satisfying you of that guilt beyond a
4 reasonable doubt.

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

10 A presumption of innocence is not a mere legal theory,
11 it is not just a legal phrase, it is a substantial right to
12 which every defendant is entitled, unless you, the jury, are
13 satisfied from the evidence of the defendant's guilt beyond
14 a reasonable doubt

15 Now, I instruct you and charge you, ladies and
16 gentlemen, that the fact that the defendant did not testify
17 in this case is not a factor to be considered by you in any
18 way in your deliberations in your consideration on the
19 question of the guilt or innocence of the defendant. It
20 must not be considered in any manner whatsoever.

21 But the defendant has the constitutional right to
22 remain silent and the assertion of that constitutional right
23 must not be considered by you in your deliberations. So you
24 are to draw no conclusion whatsoever from the fact that the
25 defendant in this case did not testify. That should not be

1 discussed in your jury room. The burden of proof, as I've
2 stated to you, is on the State. The defendant is not
3 required to prove his innocence. The burden of proof
4 remains on the state to prove guilt beyond a reasonable
5 doubt.

6 What is a reasonable doubt in the law? A reasonable
7 doubt is the kind of doubt that would cause a reasonable
8 person to hesitate to act.

9 The State has the burden of proving the defendant
10 guilty beyond a reasonable doubt. Some of you on the jury
11 today may have served as jurors in the past in a civil case,
12 like a contract case or a wreck case in court, where you
13 were told by the judge that it was only necessary to prove
14 that a fact is more likely true than not true. We call
15 that, in a civil case, the burden of by the greater weight,
16 or the preponderance of the evidence. In a criminal case,
17 such as the case here today, the State's proof must be more
18 than that. It must be beyond a reasonable doubt.

19 Now, proof beyond a reasonable doubt is proof that
20 leaves you firmly convinced of the defendant's guilt.
21 Ladies and gentlemen, there are very few things in this
22 world that we know with absolute certainty. And in criminal
23 cases, the law does not require proof that overcomes every
24 possible doubt. If, based on your consideration of the
25 evidence, you are firmly convinced that the defendant is

1 guilty of the crime, or crimes charged, you must find the
2 defendant guilty. On the other hand, if you think there's a
3 real possibility that the defendant is not guilty, you must
4 give the defendant the benefit of the doubt and find the
5 defendant not guilty.

6 I remind you, ladies and gentlemen, that throughout
7 this trial, you and I have had certain duties to perform.
8 As a trial judge, it has been my responsibility to preside
9 over the trial of the case, and I also have the duty to rule
10 on the admissibility of evidence offered during the trial of
11 the case.

12 I remind you that you are to consider only the
13 competent evidence offered during the trial. If there was
14 any testimony ordered stricken from the record by me during
15 this trial, you must disregard that testimony and not use it
16 as a basis of your decision. You are to consider only the
17 testimony which was presented from the witness stand by the
18 sworn witnesses, any exhibits which have been introduced
19 into evidence during the trial of the case, and if there
20 were any, any stipulations of counsel.

21 Now, I also, as the presiding judge, have the
22 additional duty to charge you the law that applies to this
23 case. As the presiding judge, I told you that I am the sole
24 judge of the law in this case, and it is your duty as
25 jurors, under that oath you took at the beginning of this

1 trial, it's your duty to accept and to apply the law as I
2 now state it to you.

3 So if any of you on this jury already have any idea as
4 to what you think the law is, or even what you feel the law
5 ought to be, and it does not agree with what I now tell you
6 the law is, you must abandon any of your preconceived ideas
7 or any of your preconceived opinions, because each of you
8 took an oath from the Clerk of Court. And in that oath, you
9 swore, or affirmed, that you would accept the law as given
10 to you, and apply the law exactly as I now state it to you.

11 In every case tried in this Court before a jury, the
12 jury becomes the sole and the exclusive judges of the facts
13 in the case. A trial judge, such as myself, cannot
14 intimate, comment on, or make any type of statement to a
15 trial jury, such as you, about the facts in a case.

16 Since you, the jury, are the sole judges of the facts
17 in this case, you are not to infer from what I have said
18 during the progress of this trial in ruling upon the
19 admissibility of evidence or otherwise, or anything that I
20 say now during the course of this instruction to you, that I
21 have any opinion whatsoever about the facts in this case.

22 The law does not allow me to have an opinion about the
23 facts in this case. This is a matter solely for you, the
24 jury, to determine. As jurors, then, it is your duty to
25 determine the effect, the value, the weight and the truth of

1 the evidence that's been presented during the trial of this
2 case..

3 Now, ladies and gentlemen, there are two types of
4 evidence that are generally presented during a trial. And
5 like many things in the law, we have names for those general
6 types of evidence. The two types of evidence presented
7 during a trial are called direct evidence and circumstantial
8 evidence.

9 Direct evidence, ladies and gentlemen, is testimony of
10 a person who claims to have actual knowledge of a fact, such
11 as an eyewitness to an event. Direct evidence is evidence
12 which immediately establishes the main fact to be proved.

13 Circumstantial evidence, as contrasted with direct
14 evidence, is proof of a chain of facts and circumstances,
15 indicating the existence of a fact. Circumstantial evidence
16 is evidence which immediately establishes a collateral fact
17 from which the main fact may or may not be inferred. The
18 law school example of circumstantial evidence is a person
19 walks in your house, their clothes are wet, and they take an
20 umbrella in and shake the water out of it and they have on
21 galoshes, and therefore, you infer that it must be raining
22 outside. But you did not see it raining outside.
23 Circumstantial evidence is based on inference and not on
24 personal knowledge or personal observation.

25 The law makes absolutely no distinction whatsoever

1 between the weight or the value to be given to either direct
2 evidence or to circumstantial evidence. Nor is a greater
3 degree of certainty required of circumstantial evidence than
4 of direct evidence.

5 Ladies and gentlemen of the jury, you should weigh all
6 of the evidence in this case. You should consider all the
7 evidence in this case, both direct and circumstantial
8 evidence. After weighing and considering all the evidence
9 in this case, if you're not convinced of the guilt of the
10 defendant beyond a reasonable doubt, you must find the
11 defendant not guilty.

12 On the other hand, after weighing and hearing and
13 considering all the evidence in this case, if you're
14 convinced of the guilt of the defendant beyond a reasonable
15 doubt, you must find the defendant guilty.

16 Necessarily, ladies and gentlemen, you must determine
17 the credibility, meaning the believability, of the witnesses
18 who have testified during the trial of this case. It
19 becomes your duty as a juror to analyze. It becomes your
20 duty as a juror to evaluate the evidence, and determine
21 which evidence convinces you of its truth.

22 In determining the believability, or the credibility,
23 of the witnesses who have testified in this case, you may
24 believe one witness over several witnesses. You may believe
25 several witnesses over one witness. You may believe a part

1 of the testimony of a witness and reject the remaining part
2 of the testimony of that same witness. You may believe the
3 testimony of a witness in its entirety, or you may reject
4 the testimony of a witness in its entirety.

5 You may consider whether any witness has exhibited to
6 you any interest, any bias, any prejudice or other motive in
7 this case. You may also consider the appearance and manner
8 of the witness while the witness is on the witness stand.
9 We call it the demeanor of the witness in judging the
10 believability of the witnesses who have testified in the
11 trial of the case.

12 Now, ladies and gentlemen, as I told you during the
13 trial, the rules of evidence ordinarily do not allow a
14 person to get on this witness stand and take the oath and
15 say, "My name is so-and-so, and my opinion is so-and-so."
16 That's prohibited. So we don't allow witnesses normally to
17 testify to a conclusion or opinion.

18 An exception to this exists for witnesses we call
19 expert witnesses, or witnesses who by education or training
20 or experience claim to be an expert in some art, science,
21 profession or calling. They may, if qualified by the
22 Courts, state an opinion to you in which they claim to be an
23 expert and they may give you reasons for their opinion. You
24 should consider any expert opinion received in evidence in
25 this case, and like any other evidence, you give it the

1 weight you think it deserves. If you decide that the
2 opinion of an expert witness is not based on sufficient
3 education and experience, or you conclude that the reason
4 given in support of the opinion is not sound or that the
5 opinion is outweighed by other evidence, then you may
6 disregard the opinion entirely.

7 Now, ladies and gentlemen, I charge you that ordinarily
8 in a criminal case in order to establish criminal liability,
9 that criminal intent is required. For example, and these
10 are examples of other cases, we're talking about the mental
11 state that may be required to be proven by the State for a
12 particular crime; and I'm going to give you examples of
13 criminal intent.

14 It might be purpose. It might be intent. It might be
15 knowledge. It might be recklessness. It might even be
16 criminal negligence. Those are examples of criminal intent.
17 Criminal intent must be proven by the State beyond a
18 reasonable doubt. Criminal intent is always a matter that
19 must be determined by the jury from the circumstances
20 surrounding the situation based on the evidence introduced
21 during the trial of the case.

22 Now, ladies and gentlemen, there is no way to prove
23 intent to a mathematical certainty. There is no way that
24 medical science can dissect a person's brain and determine
25 what that person had in mind. So the law says, ladies and

1 gentlemen, that criminal intent may be inferred from the
2 circumstances shown to have existed, based on the evidence
3 introduced during the trial the case.

4 This, ladies and gentlemen, is how you, as a jury, make
5 the determination of whether or not any element in any crime
6 requiring a certain intent was present. It is not necessary
7 to establish intent by direct evidence, but intent may be
8 established by inference, in the same way as any other fact,
9 by taking into consideration the acts of the parties, and
10 all the facts and consideration and circumstances of the
11 case, based on evidence introduced during the trial of the
12 case.

13 Criminal intent is a mental state. It is a conscious
14 wrongdoing. It is up to you, the jury, from the evidence,
15 to determine what the defendant intended to do, based on the
16 circumstances shown to have existed from evidence introduced
17 during the trial of the case.

18 Now, ladies and gentlemen, let's deal with the
19 indictments in this case. You notice I have them in my
20 hand. I have all six of them. You will see Wilder is right
21 behind me. I'm going to be handing those to him because
22 he's going to want your signature on there. Let's deal with
23 the indictments first, they allege different offenses
24 against the defendant, Andre Green.

25 As I've told you, the charges are that Andre Green is

1 charged in indictment 2013 at 306 for burglary in the second
2 degree of Monica Haynes. He's charged in indictment 2013 at
3 307 for malicious injury to personal property greater than
4 \$2,000, but less than \$10,000, for Monica Haynes. He's
5 charged in indictment 2013 at 308 for malicious injury to
6 personal property greater than \$2,000, less than \$10,000 of
7 Kwanisha Fludd. He's charged in indictment 2013 at 309 for
8 malicious injury to personal property, less than \$2,000 of
9 Teresa Pope. He's charged in indictment 2013 at 311 for
10 malicious injury to real property, greater than \$10,000, and
11 he's charged in indictment 2013 at 312 for arson in the
12 third degree of the Varnville Area Housing Apartment
13 Building H.

14 Each charge is a separate and distinct criminal
15 offense. You must decide each charge separately on the
16 evidence and the law that applies to the charge uninfluenced
17 by your decision as to any other charge. You will be asked
18 to write a separate verdict of guilty or not guilty for each
19 charge, following the instructions that I'm going to give
20 you and on your verdict form.

21 I will now define the charges for you. Let's begin
22 with arson in the third degree. In order to prove third
23 degree arson, the State must prove beyond a reasonable doubt
24 that the defendant willfully and maliciously caused an
25 explosion, set fire to, burned, caused to be burned, aided,

1 counseled or procured the burning of certain properties.
2 Willfully means it was not done by accident, but was done
3 knowingly or intentionally. It must be shown that the
4 burning was by the willful act of some person and not as a
5 result of an accident or a natural cause.

6 Maliciously means with hatred, with ill will, with
7 hostility towards another person. A person who
8 intentionally does a wrongful act without legal
9 justification or excuse does the act maliciously. A
10 malicious burning is an act done with the condition that
11 shows a heart bent on mischief showing a design to do an
12 intentional wrong act towards another or towards the public
13 without any legal justification or excuse.

14 Burning means actual combustion of some portion of a
15 piece of the property. It is not necessary that the
16 property be consumed. It doesn't have to be completely
17 destroyed. Charring of the material of which the property
18 is constructed or change in the fiber or composition of the
19 structure is required for a burning. Singeing, smoking,
20 blistering, scorching or discoloring by the heat is normally
21 not enough to constitute a burning. The State must prove
22 beyond a reasonable doubt for arson third and property which
23 was burned was a dwelling house, a dwelling building, or a
24 dwelling structure, or any of the like. A dwelling house is
25 a building in which a person ordinarily sleeps.

1 Finally, the State must prove beyond a reasonable doubt
2 that the burning directly or indirectly resulted in damage
3 to the property for arson third degree.

4 Next, is burglary, second degree. To prove burglary,
5 second degree, the State must first prove beyond a
6 reasonable doubt that the defendant entered the dwelling
7 without consent. A dwelling is any building or portion of a
8 building in which a person ordinarily sleeps. A building
9 constructed as a dwelling that has never been occupied
10 cannot be considered a dwelling for purposes of a burglary,
11 but a building is a dwelling even if the residents were
12 temporarily absent from the building.

13 In order to prove the defendant entered the dwelling,
14 the State does not have to show the defendant's entire body
15 entered the building. The smallest entry without consent is
16 sufficient. It may be any part of the body, such as a hand,
17 or a foot, or even an instrument, such as a hook or other
18 instruments. In addition, the State does not have to prove
19 that force was used to gain entry. For burglary, second,
20 though, next the State must prove beyond a reasonable doubt
21 that the defendant intended to commit a crime at the time of
22 the entry.

23 At the time of the entry, he or she must have criminal
24 intent to be guilty of burglary. The mere entry into a
25 dwelling without consent is not burglary. If the intent to

1 commit a crime was formed after the entry, it's not
2 burglary. On the other hand, if the defendant intended to
3 commit a crime at the time of the entry, it is burglary even
4 if the defendant abandons the intent to commit a crime after
5 the entry. It does not matter that the intended crime was
6 not completed; it matters from the evidence whether intent
7 to commit the crime was shown by the acts and conduct of the
8 defendant of the circumstances from the evidence which has
9 been admitted during the trial of this case.

10 Malicious injury to personal property. The defendant
11 is also charged with malicious injury to personal property.
12 The State must prove this offense beyond a reasonable doubt
13 that the defendant willfully and maliciously cut, shot,
14 maimed, wounded, or otherwise injured or destroyed the goods
15 and chattels or personal property of another.

16 Willfully means voluntarily and intentional. Specific
17 intent to do something the law forbids. Maliciously means
18 involving malice, as I told you malice is hatred, ill will,
19 or hostility towards another person. It is intentional
20 doing of a wrongful act without just cause and with an
21 intent to inflict an injury under circumstances that the law
22 will infer intent.

23 Malice can be express or inferred. These terms express
24 and inferred are not different kinds of malice, but merely
25 the manner in which malice may be shown to exist. That is

1 either by direct evidence or by inference from the facts and
2 circumstances which are proved.

3 Express malice, ladies and gentlemen, so that you will
4 know what I'm talking about, is when a person actually
5 speaks words that express hatred or ill will, or when the
6 person prepares beforehand to do the act which was later
7 accomplished. For example, lying in wait for someone. Any
8 other act of preparation going to show that the deed was
9 within the defendant's mind would be examples of express
10 malice. Malice may be inferred to a conduct showing a total
11 disregard for human life.

12 As to indictments 2013-307, and I've put it on your
13 verdict form, and 2013-308, both charging the defendant with
14 malicious injury to personal property, the State must also
15 prove beyond a reasonable doubt that the value of the
16 personal property was more than \$2,000.

17 As to the third indictment, 2013 at 309, which also
18 charges the defendant with the offense of malicious injury
19 to personal property, the State must also prove beyond a
20 reasonable doubt that the value of the property was between
21 zero and less than \$2,000.

22 Malicious injury to real property. The defendant is
23 also charged with the criminal offense of malicious injury
24 to real property. For this offense, the State must prove
25 beyond a reasonable doubt that the defendant willfully and

1 maliciously cut, mutilated, defaced, or otherwise injured
2 any fixture of another person or committed a trespass on the
3 real property and otherwise injured a tree or house, an
4 outside fence, or fixture of another person, or committed
5 any other trespass on the real property of another person.

6 Once again, for malicious injury to real property,
7 willfully means voluntarily, intentional, with the specific
8 intent to do something the law forbids. Maliciously means
9 involving malice. Malice is hatred, ill will, or hostility
10 towards another person. It is the intentional doing of a
11 wrongful act without just cause or excuse. As I explained
12 to you earlier, malice may be expressed or inferred; those
13 are different kinds of malice, that's just the way in which
14 manner may be shown to exist, either by direct evidence or
15 by inference from the facts and circumstances which are
16 proved from the evidence introduced during the trial of the
17 case.

18 Express malice, as I told you, is shown when a person
19 expresses hatred, expresses verbally ill will, or when a
20 person prepared beforehand to do the act which was later
21 accomplished. Malice may be inferred from conduct showing a
22 total disregard to human life. As to this indictment, which
23 is indictment 2013 at 311, for the offense of malicious
24 injury to real property, the State must also prove beyond a
25 reasonable doubt that the value of the real property was

1 \$10,000 or more.

2 Now, Madame Foreperson, I have prepared the verdict
3 form for you.. Pay absolutely no attention to the order in
4 which I wrote the verdicts. I obviously had to write one
5 before the other and the order has no significance
6 whatsoever.

7 Now, I have placed the title and case number at the
8 top. The title says, "State of South Carolina, County of
9 Hampton." I put "Court of General Sessions," which is
10 criminal court. I listed all five indictment numbers, and I
11 listed this case, which is: "The State of South Carolina v.
12 Andre Green, defendant." And I wrote the words "verdict"
13 under the caption.

14 It's got six questions, because there are six
15 indictments. Question number one: we, the jury, by
16 unanimous consent, find the defendant, Andre Green, in
17 indictment number 2013-306, and I have two verdicts for you,
18 but the first form of verdict under Question one is guilty
19 of burglary in the second degree of Monica Haynes. If that
20 be your form of verdict, you would check on the line for the
21 entire jury that verdict.

22 The second form of verdict under question one not
23 guilty of burglary in the second degree of Monica Haynes.
24 If that be your form of verdict, Madame Foreperson, you
25 would check on the line for the entire jury by that form of

1 verdict. You must find one form of verdict or the other.
2 The jury cannot find both.

3 Question two: we, the jury, by unanimous consent, find
4 the defendant, Andre Green, in indictment number 2013-307,
5 either guilty of malicious injury to personal property
6 greater than \$2,000, but less than \$10,000 of Monica Haynes.
7 That would be the first form of verdict under question two.
8 If that be your form of verdict, you would check on the line
9 for the entire jury that verdict.

10 The second form of verdict under Question two is not
11 guilty of malicious injury to personal property greater than
12 \$2,000, but less than \$10,000 of Monica Haynes. If that be
13 your form of verdict, you would check on the line beside
14 that form of verdict. You must find one form of verdict or
15 the other.

16 Question Three: We, the jury, by unanimous consent,
17 find the defendant, Andre Green, in indictment number 2013-
18 308, guilty of malicious injury to personal property greater
19 than \$2,000, but less than \$10,000 of Kwanisha Fludd. If
20 that be your form of verdict, you would check on the line
21 beside that form of verdict. Or under Question three, the
22 second form of verdict is not guilty of malicious injury to
23 personal property, greater than \$2,000, less than \$10,000 of
24 Kwanisha Fludd. If that be your form of verdict, you would
25 check on the line beside that form of verdict for the entire

1 jury. You must find one form of verdict or the other, you
2 cannot find both under question three.

3 Question four, we, the jury by unanimous consent, find
4 the defendant, Andre Green, in indictment 2013-309 guilty of
5 malicious injury to personal property less than \$2,000 as to
6 Teresa Pope. If that be your form of verdict, you would
7 check on the line beside that form of verdict.

8 The second form of verdict under question four if not
9 guilty of malicious injury to personal property less than
10 \$2,000 of Teresa Pope You must find one or the other.

11 Question five, we, the jury by unanimous consent, find
12 the defendant, Andre Green, in indictment 2013-311, guilty
13 of malicious injury to real property \$10,000 or greater to
14 the Varnville Area Housing Apartment. If that be your form
15 of verdict, you would check on that form of verdict under
16 question five.

17 Or the second form of verdict under question five is
18 not guilty of malicious injury to real property, \$10,000 or
19 greater of the Varnville Area Housing Apartment. If that be
20 your form of verdict, you would check on that form of
21 verdict. You must find one form of verdict or the other.

22 Finally, question six: we, the jury, by unanimous
23 consent, find the defendant, Andre Green, in indictment
24 2013-312, the first form of verdict, guilty of arson in the
25 third degree of the Varnville Area Housing Apartment. If

1 that be your form of verdict, you would check on the line
2 beside that form of verdict.

3 The second form of verdict under question six, not
4 guilty of arson in the third degree of Varnville Area
5 Housing Apartment. If that be your form of verdict, you
6 would check on the line beside that form of verdict. You
7 must find one form of verdict or the other. You cannot find
8 both.

9 When you have completed your verdict form by putting in
10 the appropriate checkmarks on the appropriate lines for the
11 jury, Madame Foreperson, you would sign your name at the
12 bottom where it says foreperson. I have already put in
13 today's date and Hampton, South Carolina. You will indicate
14 the findings for the entire jury by checking the appropriate
15 lines. You certify the findings by your signature on the
16 verdict form. When you have reached a verdict, you will
17 knock on the jury room door and inform the bailiff that you
18 have reached a verdict; we will then bring you back into the
19 jury room to publish your verdict.

20 Now, ladies and gentlemen, your verdict must be
21 unanimous. It must be the verdict of each and every one of
22 you. All 12 of you must agree on the verdict.

23 Now, Madame foreperson and ladies and gentlemen of the
24 jury, I've now charged on the law in order to help guide you
25 to a fair and a just result in this case. As I've told you

1 repeatedly, you're the sole judges of the facts in this
2 case, based on your determination of the facts and the law
3 as I've now explained it to you and you're going to soon
4 begin your deliberations.

5 Each of you were selected as fair and impartial jurors.
6 You have no friends to reward; you have no enemies to
7 punish. You swore that you would fairly and impartially try
8 and determine the facts in this case and when you comply
9 with that oath, no one can criticize you. You are to decide
10 this case based solely on the evidence that you've heard
11 from the sworn witnesses who have testified, along with the
12 exhibits and if there were any, stipulations, that were
13 entered in the record.

14 Now, ladies and gentlemen of the jury, you must decide
15 the issues in this case without any bias or prejudice toward
16 either of the parties in this case. Do not allow yourself
17 to be governed by prejudice for or against any person. You
18 can't allow yourself to be governed by public opinion or by
19 any other arbitrary factors, such as your own emotions. You
20 must base your decision solely on the evidence in this case.
21 Both the defendant, Andre Green, and the State of South
22 Carolina have the absolute right to expect that each of you
23 on this jury will carefully and impartially consider all of
24 the evidence in this case and that you will follow the law
25 as I have instructed it to you to be in reaching your

1 verdict in this case.

2 Now, Madame Foreperson, and ladies and gentlemen of the
3 jury, I'm going to ask you at this time if you would retire
4 to your jury room. Do not begin your deliberations quite
5 yet. I might have to bring you back out for some brief
6 additional instructions. When it is time for you to begin
7 your deliberations, I will send the verdict form in to you,
8 along with all of the exhibits which have been introduced
9 into evidence during the trial of the case, and have the
10 bailiff inform you that you may now begin your
11 deliberations. Please retire to your jury room.

12 (1:15 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND
13 THE FOLLOWING IS HELD ON THE RECORD.)

14 THE COURT: Any exceptions or additions to the charge,
15 From the State?

16 ASST. SOL. WRIGHT: None, Your Honor.

17 THE COURT: From the defendant?

18 MS. SMART-GITTINGS: None, Your Honor.

19 THE COURT: Very well. Counsel, I ask you to come
20 forward to certify on the record by telling me when I ask
21 you that you're satisfied the court reporter has all of the
22 exhibits, and you have no objection to the bailiff taking
23 the verdict form, which you previously approved in chambers,
24 as well as all of the exhibits in to the jury, and the
25 bailiff informing the jury that they may now commence their

1 deliberations. Please come forward.

2 (WHEREUPON, COUNSEL FOR THE STATE OF SOUTH CAROLINA AND
3 COUNSEL FOR THE DEFENDANT REVIEW ALL EXHIBITS AND CONFIRM
4 THEIR APPROVAL.)

5 THE COURT: Is the State so satisfied that the court
6 reporter has all of the exhibits?

7 ASST. SOL. WRIGHT: No objection, Your Honor.

8 THE COURT: How about from the defendant?

9 MS. SMART-GITTINGS: No objection, Your Honor.

10 THE COURT: All right. Give all of the exhibits to the
11 bailiff. Danny, if you will take the verdict form and the
12 exhibits into the jury and tell them they may now commence
13 their deliberation.

14 (1:20 P.M., WHEREUPON, THE VERDICT FORM AND THE
15 EXHIBITS ARE TAKEN INTO THE JURY ROOM FOR THE JURY'S
16 DELIBERATION.)

17 THE COURT: All right. Counsel, as to this case, we
18 will be at ease while we await the jury's verdict.

19 (4:10 P.M., THE BAILIFF INFORMS THE COURT THAT THE JURY
20 HAS REACHED A VERDICT. THE DEFENDANT, ANDRE GREEN, IS
21 BROUGHT INTO THE COURTROOM AND SEATED AT THE DEFENSE TABLE.)

22 THE COURT: All right. I understand from the bailiff
23 that the jury has reached a verdict. Anything from the
24 State before we publish the verdict?

25 ASST. SOL. WRIGHT: Nothing from the State, Your Honor.

1 THE COURT: From the defendant?

2 MS. SMART-GITTINGS: Nothing from the defendant, Your
3 Honor.

4 THE COURT: Now, ladies and gentlemen, I'm happy for
5 you to be in the courtroom, but I'm not going to allow any
6 emotional outburst. If you can't control your emotions, get
7 up and walk out right now when this verdict is published. I
8 will enforce that with the powers of the Court's contempt.
9 I do not allow any comments, yelling, or comments of any
10 type yay or nay when a verdict is published. Okay, Danny,
11 bring us the jury, please.

12 (4:20 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
13 AND THE FOLLOWING IS HELD ON THE RECORD.)

14 MADAME CLERK: Ms. Forelady, have you reached a
15 verdict?

16 FORELADY: Yes, we have.

17 MADAME CLERK: (RETRIEVES VERDICT FORM AND GIVES TO THE
18 COURT.)

19 THE COURT: Will the defendant and counsel please rise?

20 (COUNSEL AND DEFENDANT STAND.)

21 THE COURT: On Indictments 2013-GS-25-306, 2013-GS-25-
22 307, 2013-GS-25-308, 2013-GS-25-309, 2013-GS-25-311, and
23 2013-GS-25-312, the verdict of the jury: we, the jury, by
24 unanimous consent, find the defendant, Andre Green, in
25 indictment 2013-GS-25-306, guilty of burglary in the second

1 degree of Monica Haynes.

2 We, the jury, by unanimous consent, find the
3 defendant, Andre Green, in Indictment number 2013-GS-25-307,
4 guilty of malicious injury to personal property, greater
5 than \$2,000 and less than \$10,000 of Monica Haynes.

6 We, the jury, by unanimous consent find the defendant,
7 Andre Green, in Indictment number 2013-308, guilty of
8 malicious injury to personal property, greater than \$2,000,
9 but less than \$10,000 of Kwanisha Fludd.

10 We, the jury, by unanimous consent, find the defendant,
11 Andre Green, in Indictment number 2013-GS-25-309, guilty of
12 malicious injury to personal property, less than \$2,000 of
13 Teresa Polk.

14 We, the jury, by unanimous consent, find the defendant,
15 Andre Green, in Indictment number 2013-GS-25-3011, guilty of
16 malicious injury to real property, \$10,000 or greater of the
17 Varnville Area Housing Apartment.

18 We, the jury, by unanimous consent, find the defendant,
19 Andre Green, in Indictment number 2013-GS-25-312, guilty of
20 arson in the third degree of the Varnville Area Housing
21 Apartment. Signed by the Foreperson on the verdict form,
22 dated June the 11th, 2014.

23 Ladies and gentlemen of the jury, if this be your
24 verdict as published by the Court, please indicate by
25 raising your right hand.

1 (ALL JURORS HANDS RAISED.)

2 THE COURT: Thank you; put your hands down. Let the
3 record reflect that 12 hands were raised. Ms. Smart-
4 Gittings, is there anything further from the defendant
5 concerning the jury for purposes of this case?

6 MS. SMART-GITTINGS: Nothing further, Your Honor.

7 THE COURT: Ladies and gentlemen of the jury, please be
8 seated, as well as counsel and the defendant. On behalf of
9 Hampton County and this Court, I want to thank you for your
10 service. I told you I would get you home early this week.
11 This concludes your service for the week. You will now be
12 exempt from jury service for three years as a result of your
13 service this week. I hope it's been an educational
14 experience for you. I hope that we've treated you okay and
15 that you've had an opportunity to see what actually happens
16 in a real trial as opposed to television or a movie, because
17 I think our forefathers knew what they were doing when they
18 gave us the right to trial by jury in our Constitution.

19 I watch juries every week and I believe in the jury
20 system. I believe when you bring 12 people from all walks
21 of life into a room, they normally get it right. And I
22 believe in that system and I want to thank you very much for
23 your service in this case.

24 Now, ladies and gentlemen, let me go over a couple of
25 things. Right now, my job begins, because sentencing in

1 this case is going to take place. If you would like to
2 stay, we would love for you to. You can sit right there in
3 the jury box and you don't even have to move, because I'm
4 going to go straight into sentencing of Mr. Green and if you
5 would like to stay for that, I would be happy for you to.
6 You will hear things that you were not able to hear in the
7 trial, such as the defendant's record. You will be able to
8 hear other things if you would like to stay. You do not
9 have to if you want to leave. You can step out through this
10 door. Before you leave, I need to tell you a couple of
11 things. First of all, we are going to be sending you that
12 exorbitant check that we pay jurors for their service. How
13 much is it, Mylinda?

14 MADAME CLERK: Twenty dollars a day.

15 THE COURT: Twenty dollars per day. We will be sending
16 you that check at the address that we served you with the
17 subpoena. If anybody on the jury needs a work excuse
18 because you've been with me this week, go to the Clerk's
19 Office downstairs, we will be happy to, before you leave,
20 provide a work excuse for your employer for your service on
21 the jury.

22 Now, if you want to discuss your service on the jury
23 and your deliberations with someone, sometimes people think
24 they can learn something through talking with the jurors.
25 You may, but you don't have to. It's entirely up to you.

1 If you don't want to discuss it, you just tell the person
2 asking you about it that you don't want to talk about that.
3 So it's entirely up to you as to whether you want to talk
4 about it or not.

5 Now, sentencing -- and you are now obviously excused
6 for the week, so when you leave, you will not be coming back
7 to me, but we will be mailing your check to you. I thank
8 you very much. All a judge can ask a jury to do, and you
9 heard me say this to you, is listen. I watched all 12 of
10 you during this trial and that's exactly what you did and I
11 want to thank you for listening and for your service. On
12 behalf of Hampton County and this Court, I thank you. Now,
13 if you would like to stay for sentencing, just keep your
14 seat right there. If you would like to leave, you may do
15 so.

16 Solicitor, Ms. Smart-Gittings, are there any post-
17 verdict motions, from the defendant?

18 MS. SMART-GITTINGS: None, Your Honor.

19 THE COURT: Ms. Smart-Gittings, I want the record to
20 reflect that since the defendant elected not to put up any
21 testimony in this case, that you advised me in my chambers
22 and we failed to put it on the record that you wanted to
23 renew your motions for directed verdict at the close of all
24 the evidence, but we went straight into closing argument
25 because you rested and you did not get an opportunity to do

1 so. So the Court is directing the court reporter to note on
2 the record for you that you renewed your motions for
3 directed verdict, which I handled at the close of the
4 State's case, and for the very same reasons I enunciated on
5 the record at the close of the State's case, I am obviously
6 declining an invitation from you to change my ruling on the
7 close of all the evidence in the case so the record will be
8 reflective of your request; do you understand?

9 MS. SMART-GITTINGS: Thank you, Your Honor.

10 THE COURT: You're welcome. You and your client,
11 please come around. Solicitor, I need a sentence sheet from
12 you. Madame Clerk, I hand you the verdict form. My law
13 clerk is getting the foreperson to sign the indictments
14 consistent with the verdict form.

15 MADAME CLERK: Yes, sir.

16 THE COURT: Now, ladies and gentlemen of the jury, the
17 foreperson is just writing the exact same words on the
18 indictment that are on your verdict form so that we have a
19 record with the Clerk's office. We write all dispositions
20 of the indictment on there, and obviously, there are some
21 blanks on the back of the indictment that says verdict and a
22 signature for the foreperson, just like on your verdict
23 form, and that's what he's handing to the clerk.

24 Before I begin, so you will know the procedure, you
25 will see the Solicitor looking in a book, and we call that

1 the Stricker book and it contains every criminal offense and
2 every penalty, and what he is doing is he is writing the
3 title of the case because we have six indictments and he has
4 been writing what you found on there and it will be my job
5 to sentence the defendant. So what you're going to be
6 observing in just a moment is an actual sentencing
7 proceeding. We are just waiting on the paperwork to be
8 completed.

9 All right. Ms. Smart-Gittings, I understand there are
10 no post-verdict motions. I'm happy to hear from you in
11 mitigation. I will also hear from the Solicitor. I might
12 add that I think there was ample evidence for the jury to
13 have reached the verdict that they did and I understand your
14 decision concerning post-verdict motions. What would you
15 like to tell me on behalf of the defendant for purposes of
16 sentencing?

17 MS. SMART-GITTINGS: May it please the Court, Your
18 Honor? Present with Mr. Green in the courtroom is his
19 mother. She's in the back on the back row. He is from
20 Jasper County and has lived there most of his life. Your
21 Honor, we just ask that you sentence him to a 10-year
22 sentence. If the Court is inclined to sentence him to any
23 active period of time, of course, he would ask that I ask
24 you for a probationary sentence. He does have somewhat of a
25 criminal record and I know that the Court is going to take

1 that into consideration.

2 THE COURT: I'm going to hear his record right now; you
3 know that.

4 MS. SMART-GITTINGS: So I would just ask the Court for
5 a 10-year sentence.

6 THE COURT: Very well. Does your client wish to
7 address the Court?

8 MS. SMART-GITTINGS: No, sir, Your Honor.

9 THE COURT: Is that right, Mr. Green? You don't wish
10 to tell me anything before sentencing?

11 MR. GREEN: No, sir.

12 THE COURT: Solicitor, tell me about his record.

13 ASST. SOL. WRIGHT: Your Honor, in 2002, he had a
14 conviction for simple possession of marijuana and
15 trespassing. In 2004, he had a conviction for distribution
16 of crack, possession with the intent to distribute
17 proximity, crack. In 2006, he had a conviction for
18 possession of crack. In 2010, he had a conviction for
19 failure to stop for a blue light and petty larceny. In
20 2012, he had a conviction for possession of cocaine, simple
21 possession of marijuana, possession of cocaine, failure to
22 stop for a blue light and assault and battery, second
23 degree.

24 THE COURT: So he has three prior drug convictions or
25 four?

1 ASST. SOL. WRIGHT: If you count marijuana, you've got
2 one, two, three, four, five, six, seven -- seven total.

3 THE COURT: Starting when and ending when?

4 ASST. SOL. WRIGHT: 2002 ending in 2012.

5 THE COURT: Very well. Does the State wish to have any
6 victim address the Court prior to sentencing?

7 ASST. SOL. WRIGHT: None of the victims have expressed
8 to me that they wanted to address the Court. The only thing
9 they talked to me about is they've lost everything, which
10 they gave to the Court on the jury stand, so nothing
11 additional would be needed.

12 THE COURT: Very well. Anything else that you wish to
13 tell me?

14 ASST. SOL. WRIGHT: Yes, I do, Your Honor. Based on
15 this defendant's actions and the damage that he caused and
16 the amount, the State has no indication that he will be able
17 to repay the community or the victims back the amount of
18 money, and we would ask that he receive the maximum sentence
19 of each charge and that they not run concurrent; we would
20 like for them to be consecutive on all sentences. That's
21 the position of the State. We would ask that he has the
22 maximum sentence on each charge and that they run
23 consecutive.

24 THE COURT: Very well. Anything further from you, Ms.
25 Smart-Gittings?

1 MS. SMART-GITTINGS: Nothing further, Your Honor.

2 THE COURT: Anything further from the State?

3 ASST. SOL. WRIGHT: Nothing further, Your Honor.

4 THE COURT: All right. First of all, I'm going to turn
5 first to my arson charge. Ladies and gentlemen of the jury,
6 so that you know, the maximum penalty for arson third, we
7 have degrees, is 15 years. On Indictment 2013-GS-25-00312,
8 the State v. Andre Green, the sentence of the Court is the
9 defendant is committed to the State Department of
10 Corrections for a term of 15 years.

11 Next, I turn to the burglary second charge, and that's
12 indictment 2013-GS-25-00306, the sentence of the Court is
13 the defendant is committed to the State Department of
14 Corrections for a term of 10 years, which is the maximum for
15 burglary second.

16 Next, I turn to the malicious injury to real property.
17 Indictment 2013-GS-25-00311, carries a maximum of 10 years.
18 The sentence of the Court is defendant is committed to the
19 State Department of Corrections for a term of 10 years.

20 Next, I turn to malicious injury to personal property.
21 Indictment 2013-GS-25-00308, the sentence of the Court is
22 defendant is committed to the State Department of
23 Corrections for a term of five years.

24 Next, is indictment 2013-GS-25-00309, this is the
25 malicious injury to personal property that was less than

1 \$2000, which is a maximum sentence of 30 days. The
2 defendant is committed to the State Department of
3 Corrections for a term of 30 days.

4 Finally, on Indictment 2013-GS-25-00307, malicious
5 injury to personal property. This is the one involving in
6 307 Monica Haynes. The sentence of the Court is defendant
7 is committed to the State Department of Corrections for a
8 term of five years. Indictment 307 will run consecutive to
9 the other indictments, so Mr. Green, indictment 307, which
10 is malicious injury to personal property, will be five years
11 on top of the 15 years for arson, for a total of 20 years.
12 The other indictments will run concurrent to each other.
13 Defendant is to be given credit for time served, pursuant to
14 South Carolina code section 24-13-40; that is to be
15 calculated and applied by the State Department of
16 Corrections. Thank you very much. This concludes
17 sentencing. The defendant is in custody.

18 Ladies and gentlemen of the jury, I want to thank you
19 very much for your patience and your time. The defendant
20 has now been sentenced to 20 years imprisonment as a result
21 of my sentences which I've handed down. I thank you for
22 your service. Your service now on the jury is complete for
23 the week. You're exempt for three years. Thank you very
24 much. You may leave the courtroom at this time.

25

WITNESSES

Tyrone Smith

ARREST WARRANT NUMBER

2013A0250400043

Date of Arrest: August 6, 2013

ACTION OF GRAND JURY

TRUE BILL

John M. Wester
Foreperson of Grand Jury
Date: 2-3-14

VERDICT

guilty

Nordana Trilliss
Foreperson of Petit Jury
Date: 6/11/2014

INDICT

DOCKET NO. 2013GS2500306

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

February Term 2014

THE STATE

VS.

Andre Green

Indictment for

Burglary/ Burglary 2nd Degree

SC Code: 16-11-312

CDR Code:0080

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

INDICTMENT
2013GS2500306

At a Court of General Sessions, convened on February 3, 2014, the Grand Jurors of Hampton County present upon their oath:

Burglary Second Degree

That on or about August 2, 2013, the Defendant Andre Green did break and enter into the Varnville Area Housing Apartment Building H-30 through a broken window. Apartment H-30 was a dwelling that was being leased by Monica Haynes. While in the dwelling Defendant set a fire; all in violation of Section 16-11-312 Code of Laws of South Carolina, (1976, as amended).

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



Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

1133001

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

0-10 yrs

COUNTY OF Hampton
 STATE VS.
Andre Green
 AKA: _____
 Race: _____ Sex: _____ Age: _____
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: _____
 DL#: _____ SID#: _____

INDICTMENT/CASE#: 2013GS2500306
 A/W#: 2013A0250400043
 Date of Offense: 8/2/2013
 S.C. Code § : 16-11-0312
 CDR Code #: 0080

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was
 TO: Burglary / Burglary (Non - Violent) (After June 20, 1985) - Second degree

CONVICTED OF or PLEADS

in violation of § 16-11-0312 of the S.C. Code of Laws, bearing CDR Code # 0080
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Wright, Kelvin D 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 10 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: 2013-65-25-0000-308-309-311, and -312
 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 the 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
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 Set by SCDPPPS _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient: _____

*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
3% to County (if paid in installments)	\$
TOTAL	\$ 133.90

RECEIVED

JUN 18 2014

Appointed PD or appointed other _____
 § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Melinda D. Nuckles
 Court Reporter: Becky Wild
 SCCA/217 (03/2011)

Presiding Judge [Signature]
 Judge Code: 0122
 Sentence Date: 6/11/2014

WITNESSES

Tyrone Smith

ARREST WARRANT NUMBER

2013A0250400044

Date of Arrest: August 6, 2013

ACTION OF GRAND JURY

TRUE BILL

John M. Wash
Foreperson of Grand Jury
Date: 2-3-14

VERDICT

guilty

Nordana Trillo
Foreperson of Petit Jury
Date: 6/11/2014

INDICT

DOCKET NO. 2013GS2500307

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

February Term 2014

THE STATE

vs.

Andre Green

Indictment for

Malicious Injury to personal property

SC Code: 16-11-510 (A)

CDR Code:3416

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

INDICTMENT
2013GS2500307

At a Court of General Sessions, convened on February 3, 2014, the Grand Jurors of Hampton County present upon their oath:

Malicious Injury to personal property

That on or about August 2, 2013, the Defendant Andre Green did destroy the personal of Victim Monica Haynes by setting fire to the Varnville Area Housing Apartment H Building; all in violation of Section 16-11-510 Code of Laws of South Carolina, (1976, as amended).

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



Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

JUNE 2014

STATE OF SOUTH CAROLINA

0-515 IN THE COURT OF GENERAL SESSIONS

COUNTY OF Hampton VS. STATE Andre Green

INDICTMENT/CASE#: 2013GS2500307 A/W#: 2013A0250400044 Date of Offense: 8/2/2013 S.C. Code §: 16-11-0510(A) CDR Code #: 3416

AKA: Race: Sex: Age: DOB: SS#: Address: City, State, Zip: DL#: SID#:

SENTENCE SHEET

*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: Malicious Injury to animals, personal property, injury value >\$2,000 or less than \$10,000

in violation of § 16-11-0510(A) of the S.C. Code of Laws, bearing CDR Code # 3416 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Wright, Kelvin D 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: 2013-6-5-25-306, -308, -309, -311, and -312

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 the 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 days/hours Public Service Employment

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 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, 3% to County (if paid in installments) \$, TOTAL \$ 133.90

Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public

RECEIVED

JUN 18 2014

SC Court of Appeals

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge Judge Code: 0122 Sentence Date: 6/11/2014

Clerk of Court/ Deputy Clerk Melinda D. Needer Court Reporter: Beckie Hill SCCA217 (03/2011)

WITNESSES

Tyrone Smith

DOCKET NO. 2013GS2500308

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

February Term 2014

ARREST WARRANT NUMBER

2013A0250400045

Date of Arrest: August 6, 2013

THE STATE

vs.

Andre Green

ACTION OF GRAND JURY

TRUE BILL

James M. Wood
Foreperson of Grand Jury
Date: 2-3-14

VERDICT

guilty

Indictment for

Malicious Injury to personal property

SC Code: 16-11-510 (A)

CDR Code:3416

Fordeana Isitt
Foreperson of Petit Jury
Date: 6/11/14

INDICT

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

INDICTMENT
2013GS2500308

At a Court of General Sessions, convened on February 3, 2014, the Grand Jurors of Hampton County present upon their oath:

Malicious injury to personal property

That on or about August 2, 2013, the Defendant Andre Green did maliciously destroy the personal property of Victim Kwanisha Fludd by setting fire to the Varnville Area Housing Apartment H Building; all in violation of Section 16-11-510 Code of Laws of South Carolina, (1976, as amended).

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



Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

JIB BIFF

STATE OF SOUTH CAROLINA

0-5 yrs IN THE COURT OF GENERAL SESSIONS

COUNTY OF Hampton
STATE VS. Andre Green
AKA:
Race: Sex: Age:
DOB: SS:
Address:
City, State, Zip:
DL#: SID#:

INDICTMENT/CASE#: 2013 GS 2500308
A/W#: 2013A0250400045
Date of Offense: 8/2/2013
S.C. Code §: 16-11-0510(A)
CDR Code #: 3416

SENTENCE SHEET

*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: Malicious Injury to animals, personal property, injury value >\$2,000 or less than \$10,000

in violation of § 16-11-0510(A) of the S.C. Code of Laws, bearing CDR Code # 3416
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Wright, Kelvin D 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: 2013-GS-25-306, -309, -311 and -312
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 the 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: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 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, 3% to County (if paid in installments) \$3.90, TOTAL \$133.90

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

RECEIVED

JUN 18 2014

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid during probation. SC Court of Appeals

Presiding Judge
Judge Code: 0122
Sentence Date: 6/11/2014

Clerk of Court/ Deputy Clerk

Court Reporter: Bedy Hill

SCCA/217 (03/2011)

WITNESSES

Tyrone Smith

ARREST WARRANT NUMBER

2013A0250400046

Date of Arrest: August 6, 2013

ACTION OF GRAND JURY

TRUE BILL

Jan M. Wood
Foreperson of Grand Jury
Date: 2-3-14

VERDICT

guilty

Verdiana Tsittles
Foreperson of Petit Jury
Date: 6/11/14

INDICT

DOCKET NO. 2013GS2500309

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

February Term 2014

THE STATE

vs.

Andre Green

Indictment for

Malicious Injury to personal property

SC Code: 16-11-510 (A)
CDR Code:3416

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

INDICTMENT
2013GS2500309

At a Court of General Sessions, convened on February 3, 2014, the Grand Jurors of Hampton County present upon their oath:

Malicious Injury to personal property

That on or about August 2, 2013, the Defendant Andre Green did maliciously destroy the personal property of Victim Thereas Pope by setting fire to the Varnville Area Housing Apartment H Building; all in violation of Section 16-11-510 Code of Laws of South Carolina, (1976, as amended).

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



Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

JUNE 2014

STATE OF SOUTH CAROLINA

0-30 days

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Hampton
STATE VS. Andre Green

INDICTMENT/CASE#: 2013GS2500309
A/W#: 2013A0250400046
Date of Offense: 8/2/2013
S.C. Code §: 16-11-0510(A)
CDR Code #: 3416

AKA:
Race: Sex: Age:
DOB: SS/
Address:
City, State, Zip:
DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Malicious Injury to Personal Property

in violation of § 16-11-510 CA of the S.C. Code of Laws, bearing CDR Code # 3416
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Wright, Kelvin D 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 30 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: 2013-GS-25-306, -308, -311, and -312
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 the 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
Total: \$ plus 20% fee: \$
Payment Terms:
Sct by SCDPPPS

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

RECEIVED

JUN 18 2014

SC Court of Appeals

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Table with 3 columns: Description, Amount, Total. Includes items like § 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, 3% to County (if paid in installments) \$3.90, TOTAL \$133.90

Clerk of Court/ Deputy Clerk Melinda D. Neaves
Court Reporter: Deaky Hill
SCCA/217 (03/2011)

Presiding Judge [Signature]
Judge Code: 0172
Sentence Date: 6/11/2014

WITNESSES

Tyrone Smith

ARREST WARRANT NUMBER

2013A0250400048

Date of Arrest: August 6, 2013

ACTION OF GRAND JURY

TRUE BILL

Jan Mitchell
Foreperson of Grand Jury

Date: 2-3-14

VERDICT

guilty

Arclena Pitts
Foreperson of Petit Jury

Date: 6/11/2014

INDICT

DOCKET NO. 2013GS2500311

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

February Term 2014

THE STATE

vs.

Andre Green

Indictment for

Malicious Injury to real property

SC Code: 16-11-520 (A)

CDR Code:3430

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

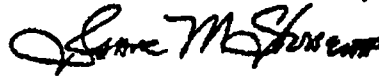
INDICTMENT
2013GS2500311

At a Court of General Sessions, convened on February 3, 2014, the Grand Jurors of Hampton County present upon their oath:

Malicious Injury to real property

That on or about August 2, 2013, the Defendant Andre Green did destroy the real property of the Varnville Apartment, to wit: Defendant set fire to Apartments , H 30, and of the Varnville Arca Housing Apartment; all in violation of Section 16-11-520 Code of Laws of South Carolina, (1976, as amended).

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



Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

JIB EURT

STATE OF SOUTH CAROLINA

0-1015 IN THE COURT OF GENERAL SESSIONS

COUNTY OF Hampton
STATE VS. Andre Green
AKA:
Race: Sex: Age:
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:

INDICTMENT/CASE#: 2013GS2500311
A/W#: 2013A0250400048
Date of Offense: 8/2/2013
S.C. Code §: 16-11-0520(A)
CDR Code #: 3430

SENTENCE SHEET

*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: Malicious/ Malicious Injury to tree, house, trespass upon real property, injury value more than \$10,000

in violation of § 16-11-0520(A) of the S.C. Code of Laws, bearing CDR Code # 3430
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Wright, Kelvin D 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 10 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: 2013-65-25-306, -308, -309 and -312
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 the 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% fec: \$
days/hours Public Service Employment

Payment Terms:
Set by SCDPPPS
Obtain GED
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 \$
§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$
§ 14-1-212 (Law Enforce. 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
3% to County (if paid in installments) \$ 3.90
TOTAL \$ 133.90

Other:
\$ paid to Public Defender Fund

RECEIVED

JUN 18 2014

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to SC Court of Appeals during probation.

Clerk of Court/ Deputy Clerk Melinda S. Naylor
Court Reporter: Ashley Hill
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 00122
Sentence Date: 6/11/2014

323

WITNESSES

Tyrone Smith

ARREST WARRANT NUMBER

2013A0250400049

Date of Arrest: August 6, 2013

ACTION OF GRAND JURY

TRUE BILL

Jan M. Wood
Foreperson of Grand Jury
Date: *2-3-14*

VERDICT

guilty

Merleona Trilledis
Foreperson of Petit Jury
Date: *6/11/2014*

INDICT

DOCKET NO. 2013GS2500312

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

February Term 2014

THE STATE

vs.

Andre Green

Indictment for

Arson - Third Degree

SC Code: 16-11-110

CDR Code:3435

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

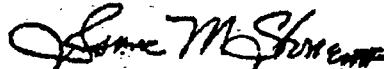
INDICTMENT
2013GS2500312

At a Court of General Sessions, convened on February 3, 2014, the Grand Jurors of Hampton County present upon their oath:

Arson – Third Degree

That on or about August 2, 2013, the Defendant Andre Green did set fire to Building H of the Varnville Area Housing Apartment, to wit: Defendant set fire to Building H which is comprised of Apartments H 30, and ; all in violation of Section 16-11-110 Code of Laws of South Carolina, (1976, as amended).

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



Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

JUNE 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

0-15 yrs

COUNTY OF Hampton
STATE VS. Andre Green
AKA:
Race: Sex: Age:
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:

INDICTMENT/CASE#: 2013GS2500312
A/W#: 2013A0250400049
Date of Offense: 8/2/2013
S.C. Code §: 16-11-0110(C)
CDR Code #: 3435

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Arson/ Arson- Third Degree

CONVICTED OF or PLEADS

in violation of § 16-11-0110(C) of the S.C. Code of Laws, bearing CDR Code # 3435
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
ATTEST:

Wright, Kelvin D 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: 2013-GS-45306 -308, -309 -311
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 the 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: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 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 (SCCA Surcharge) \$5, 3% to County (if paid in installments) \$3.90, TOTAL \$133.90

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

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JUN 18 2014

SC Court of Appeals

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Signature of Presiding Judge

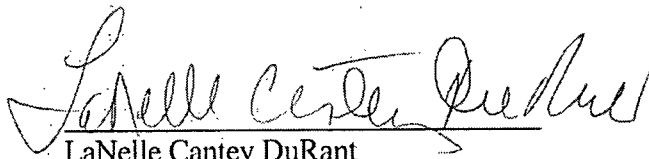
Presiding Judge
Judge Code: 00122
Sentence Date: 6/11/2014

Clerk of Court/ Deputy Clerk: Melinda D. Naylor
Court Reporter: Bealey Hill
SCCA/217 (03/2011)

CERTIFICATE OF COUNSEL FOR APPELLANT

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

March 18th, 2015



LaNelle Cantey DuRant
Appellate Defender

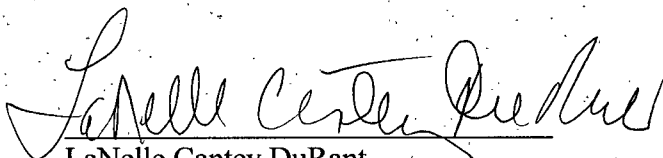
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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LaNelle Cantey DuRant
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEY FOR APPELLANT

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County

Perry M. Buckner, Circuit Court Judge

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MAR 18 2015
SC Court of Appeals

THE STATE,

RESPONDENT,


V.

ANDRE GREEN,

APPELLANT

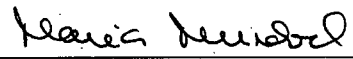
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 18th day of March, 2015.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 18th day of March, 2015.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2023.