

STATE OF SOUTH CAROLINA

In The Court of Appeals

 ORIGINAL

APPEAL FROM GREENVILLE COUNTY

D. Garrison Hill, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

WILLIAM TRAVIS CALVERT,

APPELLANT

APPELLATE CASE NO. 2014-001930

RECORD ON APPEAL

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## INDEX

|                                                    |    |
|----------------------------------------------------|----|
| INDEX .....                                        | i  |
| TRIAL TRANSCRIPT DATED SEPTEMBER 3 – 4, 2014 ..... | 1  |
| OPENING STATEMENT BY MR. WATTS .....               | 2  |
| OPENING STATEMENT BY MR. PROPST .....              | 5  |
| TESTIMONY                                          |    |
| CHRISTY CRAWFORD                                   |    |
| Direct Examination by Mr. Watts.....               | 7  |
| Cross Examination by Mr. Propst.....               | 11 |
| Redirect examination by Mr. Watts.....             | 14 |
| Recross examination by Mr. Propst.....             | 15 |
| BRIAN LOVELACE                                     |    |
| Direct Examination by Mr. Watts.....               | 16 |
| Cross Examination by Mr. Propst.....               | 32 |
| PIERRE FRAZILE                                     |    |
| Direct Examination by Mr. Watts.....               | 37 |
| Cross Examination by Mr. Propst.....               | 43 |
| Redirect examination by Mr. Watts.....             | 45 |
| TIMOTHY FULLER                                     |    |
| Direct Examination by Mr. Watts.....               | 46 |
| Cross Examination by Mr. Propst.....               | 58 |
| HANNAH HORNE                                       |    |
| Direct Examination by Mr. Watts.....               | 61 |
| Cross Examination by Mr. Propst.....               | 69 |
| STEPHEN DALE PEPPER                                |    |
| Direct Examination by Mr. Watts.....               | 73 |
| Cross Examination by Mr. Propst.....               | 79 |
| MOTION FOR DIRECTED VERDICT.....                   | 82 |
| RULING BY THE COURT .....                          | 93 |
| CHARGE CONFERENCE.....                             | 93 |

|                                     |     |
|-------------------------------------|-----|
| CLOSING ARGUMENT BY MR. WATTS.....  | 105 |
| CLOSING ARGUMENT BY MR. PROPST..... | 119 |
| CHARGE ON THE LAW.....              | 125 |
| VERDICT .....                       | 136 |
| SENTENCING .....                    | 138 |
| INDICTMENT .....                    | 139 |
| SENTENCE SHEET .....                | 141 |
| CERTIFICATE OF COUNSEL.....         | 142 |

STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

COURT OF GENERAL SESSIONS  
2014-GS-23-04271

STATE OF SOUTH CAROLINA, )

vs. )

TRANSCRIPT OF RECORD

WILLIAM TRAVIS CALVERT, )  
DEFENDANT. )

September 3 and 4, 2014  
Greenville, South Carolina

B E F O R E:

THE HONORABLE D. GARRISON HILL, JUDGE; and a jury.

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

AUSTIN F. WATTS, ESQ.  
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CHARLES S. PROPST, JR., ESQ.  
Attorney for the Defendant

HOLLIE M. JENKINS  
Circuit Court Reporter

1 Mr. Watts.

2 OPENING STATEMENTS

3 MR. WATTS: Thank you, Your Honor.

4 May it please the Court.

5 Mr. Propst.

6 Ladies and gentlemen of the jury, this case is about  
7 the peace and security of a person's home. You heard the  
8 indictment earlier that the Judge read it. And the  
9 Defendant seated at that table is charged with burglary in  
10 the first degree.

11 Again, my name is Austin Watts. And I'm an assistant  
12 solicitor here in Greenville. It's my job to prosecute  
13 people charged with crimes. Seated with me, again, is my  
14 investigator, Kathy Rains. And, today, we represent the  
15 State in the State v. William Travis Calvert.

16 Going forward, the State always has the burden of  
17 proof in a criminal defense case. All right. That burden  
18 of proof is beyond a reasonable doubt. Most everybody has  
19 heard of that, but what does that really mean? The first  
20 thing you notice is it does not mean beyond all doubt. It  
21 means beyond a reasonable doubt. And what the Judge will  
22 tell you is that it just means that you are firmly  
23 convinced.

24 Now, what must the State firmly convince you of to  
25 convict a person of burglary in the first degree? There

1 are four main elements. And these are what you need to be  
2 looking for as you hear the evidence and receive it today.  
3 You're looking for a person entering a dwelling without  
4 consent with the intent to commit a crime therein during  
5 the nighttime. We must convince you beyond a reasonable  
6 doubt of all four of those things.

7 Now, enter a dwelling. A dwelling can be defined --  
8 and the Judge will tell you it's a house or some place  
9 where someone sleeps. Okay. As for entering without  
10 consent, of course, that just means you don't have  
11 permission to be inside the residence or the house.

12 With intent to commit a crime therein, it's a -- this  
13 is a crime that is complete. Once you enter the house, it  
14 doesn't matter what you do in the house. If you enter the  
15 house and you want to commit a crime in the house, the  
16 crime is complete at that point in time. It doesn't  
17 matter whether you go in to steal a TV, whether you get  
18 the TV or not, it's complete when you enter the house.  
19 And, finally, at nighttime. And the Judge will define  
20 that, but I think we all understand what nighttime is.

21 Now, how will the State prove this to you today?  
22 Well, it's mostly going to come from testimony. You'll  
23 have a couple of exhibits, as you heard from the Judge.  
24 But, ultimately, it's going to come from right up here.

25 But let's talk a little bit about your job and your

1 rights. As jurors, you have two main rights in any trial.  
2 One, you can see and hear all the evidence. And, again,  
3 most of that is going to come from right up there on that  
4 witness stand. All right. And the second, everybody took  
5 an oath just a second ago to truly try this case. And you  
6 have a right to serve on a jury that follows the law and  
7 upholds that oath.

8 Now, as you're doing that today and you're receiving  
9 the evidence, keep in mind that the main things that you  
10 really need to decide this case are your common sense and  
11 all your real world experiences. This is not a  
12 complicated case.

13 What the evidence is going to show is that the police  
14 responded to Stephen Pepper's house. Mr. Pepper was not  
15 there. He was incarcerated. He was in jail and his house  
16 had a temporary commitment to shut it down as a meth lab.  
17 All right. When they got there, the police knew two  
18 people were inside, one of them is not on trial today.  
19 This is Mr. Calvert's day in court. All right. It was a  
20 young female. She was immediately taken out of the house  
21 and arrested.

22 The evidence will show that for 30 to 45 minutes,  
23 they attempted to get Mr. Calvert out, explained to him  
24 that he would be bitten by a dog if they had to search  
25 throughout the house with a dog. He never came out. The

1 evidence will show that they, indeed, called the dog and  
2 the K9 unit came. They found him in the house hidden  
3 where he was, and then was taken to the hospital. He was  
4 treated for some bites to his arm. And he was arrested.  
5 That's going to be the substance of the case.

6 There are will be some other details that come out.  
7 And, like I said, I encourage you to pay attention and  
8 watch what comes out. Because at the end of the trial  
9 today, I believe you'll be firmly convinced beyond a  
10 reasonable doubt that the Defendant is guilty of burglary  
11 in the first degree.

12 Thank you.

13 THE COURT: Thank you, Mr. Watts.

14 Mr. Propst.

15 MR. PROPST: So on TV and in the movies, a very  
16 popular crime to portray is burglary. And most people  
17 have seen numerous shows, Law & Order, different crime  
18 movies. It's a very general broad crime. People like to  
19 hear about it. In reality and, especially, in South  
20 Carolina, burglary is very a complicated and nuance  
21 statute.

22 And, as the Judge alluded to just a little while ago,  
23 proving burglary is like putting together a jigsaw puzzle.  
24 Each piece of the puzzle has to fit just right. Each  
25 element of burglary or piece has a place. And the State

1 has the burden to prove to you that each of those pieces  
2 exists and each has a place to fit into.

3 Now, I ask you, and the Prosecutor did, too, listen  
4 closely to all the evidence, everything that's said today.  
5 The Prosecutor has briefly explained to you what the law  
6 is. And he will again in his closing statement. And the  
7 Judge will thoroughly define everything and tell you all  
8 about what first degree burglary, actually, is and how  
9 someone can be convicted of it. But, again, throughout  
10 all the testimony and all the evidence presented, pay  
11 attention to the details of the case.

12 Now, if you're paying attention to the details,  
13 you'll see that all of these pieces just don't fit. And  
14 if the pieces just don't fit, the Prosecution, the State,  
15 has not proved their case. When they haven't proved their  
16 case, you have reasonable doubt. That means that the  
17 puzzle cannot be put together because a piece is missing  
18 and it just won't fit.

19 At the end of this trial, we believe that you'll find  
20 Mr. Calvert not guilty.

21 THE COURT: Thank you, Mr. Propst.

22 Mr. Watts, you may call your first witness.

23 MR. WATTS: Thank you, Your Honor.

24 May it please the Court.

25 The State calls Christy Crawford to the stand.

1 THE CLERK: Ma'am, if you'll, please, come forward.  
2 If you'll, please, pause at the end of the bench. Please  
3 place your left hand on the Bible and raise your right  
4 hand.

5 WHEREUPON,

6 CHRISTY CRAWFORD,  
7 after first having been duly sworn, testified as follows:

8 THE CLERK: Thank you.

9 Please be seated.

10 Would you, please, state your name for the record?

11 THE WITNESS: Christy Crawford.

12 THE CLERK: Thank you.

13 DIRECT EXAMINATION

14 BY MR. WATTS:

15 Q Ms. Crawford, how are you doing today?

16 A Good.

17 Q Could you, please, tell the jury who you are and what  
18 you do? Where are you employed?

19 A I'm a bartender.

20 Q And where do you live?

21 A At [REDACTED]

22 Q And where is [REDACTED] located?

23 A In Piedmont.

24 Q Piedmont. Okay. And who lives beside you?

25 A Stephen Pepper.

1 Q Okay. And do you know the address of his house?

2 A [REDACTED]

3 Q Is that, also, in Piedmont?

4 A Yes.

5 Q Do you know what county that's in?

6 A Greenville.

7 Q All right. And are you friends with Mr. Pepper?

8 A Yes.

9 Q How long have you known Mr. Pepper?

10 A About 20 years.

11 Q About 20 years. How long have you lived next to him?

12 A Four or five.

13 Q Does he still live at [REDACTED]

14 A Yes.

15 Q He was there yesterday?

16 A Yes.

17 Q And I want to take you back to November the 18th of  
18 2013. Was Mr. Pepper at the house that night?

19 A No.

20 Q Do you know where he was?

21 A He was in jail.

22 Q Okay. Did you ever have occasion to go over and look  
23 at the house while he was in jail?

24 A I went in.

25 Q Did you look at the outside?

1 A Yeah.

2 Q Did you notice anything on the outside?

3 A As far as objects or --

4 Q Sure. Did you notice anything suspicious on the  
5 outside of the house?

6 A Well, everyday someone was coming and breaking into  
7 it.

8 Q Fair enough. Because of those actions, did  
9 Mr. Pepper ask you to do anything?

10 A To watch over his house.

11 Q Okay. And did you do that for him?

12 A I did.

13 Q How did you do that?

14 A I placed a baby monitor in the house and ran it to my  
15 house.

16 Q And on the night of November 18th, 2013, did you hear  
17 anything going on in the house?

18 A Yes.

19 Q All right. What did you hear?

20 A Talking, doors opening, closing. It was so clear, I  
21 thought it was in my home.

22 Q Was it scary for you?

23 A Yeah, it was a little bit, but.

24 Q All right. About what time was that occurring?

25 A 11:00 or 12:00. It woke me up.

1 Q You were sleeping during that time?

2 A Uh-huh.

3 Q Was it light outside?

4 A No.

5 Q All right. And what did you do when you heard --  
6 first off, how many voices did you hear on the baby  
7 monitor in the house?

8 A Like two.

9 Q Two. Could you make out whether they were male,  
10 female?

11 A I heard one male, one female. I didn't know if there  
12 was another male or not.

13 Q Excuse me. I apologize. What?

14 A I said I heard a male and a female. But I was unsure  
15 if there was another male or not. I couldn't really tell.

16 Q Okay. And what did you do when you heard that?

17 A That's when I called 911.

18 Q Okay. And after 911 was called, did anything occur  
19 at the house?

20 A The police came.

21 Q The police came?

22 A Uh-huh.

23 Q And were they able to secure the house before they  
24 left?

25 A After they carried Travis to jail?

1 Q Yes. There were no disturbances after that?

2 A As far as getting broken into again?

3 Q That night, yes, ma'am.

4 A Oh, no.

5 MR. WATTS: Thank you very much.

6 That's all the questions I have for you. Please  
7 answer any questions Mr. Propst may have for you.

8 THE COURT: Cross-examination.

9 MR. PROPST: Thank you.

10 CROSS-EXAMINATION

11 BY MR. PROPST:

12 Q Ms. Crawford --

13 A Yes.

14 Q -- now, you live next door to Mr. Pepper; correct?

15 A Yes.

16 Q And on this night in November of 2013, he was  
17 incarcerated?

18 A Yes.

19 Q So he wasn't living at the house?

20 A No.

21 Q Okay. Now, let's -- you mentioned a baby monitor?

22 A Yes.

23 Q Let's back up to when you put that baby monitor into  
24 the house.

25 A Yeah.

1 Q Okay. Now, you didn't go over to that house just on  
2 your own and put a baby monitor in there; correct?

3 A No.

4 Q Okay. The police were, actually, there investigating  
5 another disturbance?

6 A That's correct.

7 Q And that's when you went over to the house?

8 A Yes.

9 Q And they let you in?

10 A Yes.

11 Q And then you put the baby monitor in?

12 A Yes.

13 Q Okay. At that time or any time leading up to this  
14 incident, were you able to view the house in daylight?

15 A Yes, I mean.

16 Q Okay.

17 A I mean, yeah. It's kind of close to my house.

18 Q Okay. And there were signs posted on the house,  
19 weren't there?

20 A Yes.

21 Q Posted on the doors?

22 A Yes.

23 Q And that -- those signs prohibited entry; correct?

24 A That's correct.

25 Q It prohibited anyone from going in the house, from

1 occupying the house?

2 A Yes.

3 Q From living in the house; correct?

4 A Yes.

5 Q And that applied to everyone?

6 A Yes.

7 Q As far as you know?

8 A Yes.

9 Q And these signs were posted by the Greenville County  
10 Sheriff's Office?

11 A Yes, they was.

12 Q And you read that?

13 A Yes.

14 Q Okay. And it said -- those signs told you that  
15 anyone that went in the house could be prosecuted for  
16 trespassing?

17 A Yes.

18 Q And those signs were placed there and explained on  
19 the sign because there were unsafe living conditions?

20 A That's correct.

21 Q Because it was a suspected meth lab; right?

22 A Yes.

23 Q Okay. And just to back up, when did you put that  
24 baby monitor in the house? Can you give us a time frame?

25 A Probably about three or four days before it happened.

1 Q And those signs were posted at that time?

2 A Yes.

3 Q As well as after this --

4 A Yes.

5 Q -- November, I believe, 28th [sic] incident?

6 A Yes.

7 MR. PROPST: Okay. Nothing further, Your Honor.

8 MR. WATTS: Briefly, Your Honor.

9 THE COURT: Redirect?

10 REDIRECT EXAMINATION

11 BY MR. WATTS:

12 Q Ms. Crawford, how close did you get to those signs?

13 A How close did I get to the signs?

14 Q Yeah. I'm just wondering --

15 A I had to pass by it to get into the house.

16 Q And you stopped to read them?

17 A No. But I already knew what they said.

18 Q You knew what they said without reading them?

19 A No. Whenever that happened, when they took him to  
20 jail, they posted the signs. I read them. I had to go  
21 over there and get the dog.

22 Q And he was living there before he was taken to jail;  
23 correct?

24 A Yes.

25 Q He's still living there now?

1 A Yes.

2 Q And, ultimately, you said you saw him yesterday.  
3 He's still living there?

4 A Yes.

5 MR. WATTS: No further questions.

6 MR. PROPST: Just briefly, Your Honor.

7 THE COURT: Sure.

8 RECROSS-EXAMINATION

9 BY MR. PROPST:

10 Q At the time of this incident, Mr. Pepper was not  
11 living there; correct?

12 A He was incarcerated.

13 Q And you had, clearly, seen those signs; right?

14 A Yeah. They were everywhere.

15 MR. PROPST: Nothing further.

16 THE COURT: Thank you, ma'am.

17 You may step down.

18 MR. WATTS: Your Honor, may she be released from  
19 subpoena?

20 THE COURT: Yes.

21 All the witnesses are excused, unless there's some  
22 objection.

23 So, yes, ma'am, you're excused.

24 MR. WATTS: The State calls Deputy Brian Lovelace.

25 THE CLERK: Sir, if you'll, please, come forward.

1           Please place your left hand on the Bible and raise  
2 your right hand.

3 WHEREUPON,

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

6           THE CLERK: Thank you.

7           Please be seated.

8           Please state your name for the record.

9           THE WITNESS: It's Brian Lovelace.

10          THE CLERK: Thank you.

11                               DIRECT EXAMINATION

12 BY MR. WATTS:

13 Q   Deputy, could you, please, tell the jury where you  
14 work?

15 A   I work for the Greenville County Sheriff's Office.

16 Q   And approximately how long have you been doing that?

17 A   Coming up on four years.

18 Q   All right. And where do you work now? What are your  
19 duties?

20 A   I work for uniform patrol, Bravo platoon. So I  
21 answer calls for service.

22 Q   And was that -- were you in the Bravo platoon uniform  
23 patrol back in 2013?

24 A   That's correct.

25 Q   And were you dispatched to [REDACTED] on

1 November 18th, 2013?

2 A I was.

3 Q And do you remember what time you got there?

4 A It was after midnight, I believe around 12:40.

5 Q And can you describe the conditions that night?

6 A It was very dark. I ended up, actually, passing the  
7 house. And I remember it was wet, because it had rained  
8 earlier in the night.

9 Q And where did you park when you got there?

10 A I parked at -- let's see, Ms. Crawford's house at  
11 181.

12 Q Okay. And can you describe the scene for the jury?  
13 Explain to them approximately how far Ms. Crawford's house  
14 is, and what the house looks like at 175.

15 A Ms. Crawford's house is probably about 50 to a  
16 hundred yards away. If you're facing 175, Mr. Pepper's  
17 residence -- Ms. Crawford's house is, actually, to the  
18 left of it. It's about 50 to a hundred yards away.

19 And when I pulled up, I observed a small house with  
20 lights on at 175, which, of course, was the victim's  
21 house. And I was told, you know, nobody was supposed to  
22 be in the residence.

23 Q Okay. Were you the first one to arrive on scene?

24 A I was.

25 Q Okay. And what did you do once you got there on the

1 scene?

2 A I pulled my patrol car in, blacked out my lights, and  
3 then made a slow approach towards the house.

4 Q Why would you black out your lights?

5 A So I wouldn't be seen.

6 Q Okay. And just tell me what occurred as you were  
7 approaching the house.

8 A As I approached, like I said, I observed the lights  
9 on. And then I started hearing movement and commotion in  
10 the house, at which time, I began to try to figure out --  
11 I mean, I heard multiple voices. I couldn't tell exactly  
12 who it was. But I could hear multiple people on that side  
13 of the house, the left side, which we call the two side.  
14 Law enforcement --

15 Q Could you explain that to the jury, what a two side  
16 is?

17 A Yeah.. We -- well, it depends on how many sides the  
18 house has. But we always start with the side facing the  
19 roadway would be considered the one side of the house.  
20 And then you go clockwise, so it would be one, two, three,  
21 four.

22 Q And what direction was Ms. Crawford's house?

23 A Ms. Crawford's house was on the two side.

24 Q And you're approaching from there?

25 A I'm approaching from her house on the two side.

1 Q As you get there, you said you saw some lights on and  
2 some people in the house. Did you wait on back up?

3 A I did. At that time, I knew Master Deputy McMakin  
4 was on his way. I advised him that I was on the two,  
5 three corner of the house. I was going to hold my  
6 position. And I did hear movement within the house.

7 Q Was he the only person that showed up?

8 A He was not. At first, he did. Then other units  
9 heard that -- you know, I announced over the radio that I  
10 could hear movement. So, at that time, I believe Deputy  
11 Kilgore, Deputy Hunnicutt, and Deputy Frazile all stated  
12 they were en route to us.

13 Q Did you wait on all of them to get there?

14 A I did.

15 Q And once everybody got there, what did you do?

16 A We began doing call outs announcing ourselves as  
17 Greenville County Sheriff's Office. At that time, I could  
18 observe -- from where I was towards the backside of the  
19 house and on the two side, like I said, I observed an open  
20 window with an AC unit on the ground. And I began calling  
21 out towards the house and announced myself as the  
22 Greenville County Sheriff's Office, make yourself known.

23 Q Let me cut you off real quick. You said you saw an  
24 AC?

25 A An AC unit. An AC window unit was on the ground.

1 Q How big was that unit?

2 A It was maybe -- I mean, it wasn't very big. It was  
3 just for -- a window unit, like the bottom half of a  
4 window.

5 Q Did it look like it had been sitting there for a long  
6 time?

7 A No. It looked like it had been removed.

8 Q Did you suspect that as a possible point of entry?

9 A Yes, definitely.

10 Q And the next thing, you're hearing people and you're  
11 calling out. What happened at that point in time?

12 A We're trying -- I had Deputy Hunnicutt -- I believe  
13 she approached with me. There was, also, a shed that was  
14 to our left. And we didn't know -- I didn't know if  
15 anybody was in that shed either. So I had her concentrate  
16 on the shed while I still gave call outs towards the  
17 house.

18 At that point, I observed Ms. Horne come towards the  
19 window. And then I announced I had contact. I began  
20 giving Ms. Horne commands to go towards the front door  
21 where Master Deputy McMakin and Deputy Kilgore were at  
22 that time.

23 She complied with my commands and went towards it.  
24 And then she -- I was advised she couldn't get out the  
25 front door, that it was barricaded, or she couldn't figure

1 out how to get out of it. At which time, they announced  
2 she was going to come back towards the back door.

3 Q The back door would be on what side of the house?

4 A The back door was, also, on the three side, the  
5 backside, right near where the window was.

6 Q And, again, remind us who was watching the two, three  
7 corners of the house.

8 A It was myself, Deputy Hunnicutt, and Deputy Frazile  
9 had shown up.

10 Q Okay. And she's coming -- you, finally, got some  
11 response from inside the house. Y'all told her to go to  
12 the front, but she couldn't get out?

13 A That's correct.

14 Q So, at this point in time, she's coming back towards  
15 the back?

16 A She's coming back towards the back.

17 Q All right.

18 A She then exits the back door, still complying with  
19 our commands. We had her walk towards us and then turn  
20 around and back up to us. At that time, Deputy Hunnicutt  
21 patted her down for weapons and detained her.

22 I quickly asked her, I said, I heard multiple voices  
23 in the house. I said, Who else is in the house with you?

24 She then said, Travis.

25 I was like, Travis who?

1           And she's like, I don't know his last name, but his  
2           name is Travis.

3           I then began giving more call outs saying, Travis,  
4           this is the Greenville County Sheriff's Office, make  
5           yourself known. Come out with your hands up.

6           Q     And explain to the jury, are you the only one, at  
7           this time, calling out?

8           A     No. There was multiple -- I believe Master Deputy  
9           McMakin was giving call outs to the front. I was on the  
10          backside.

11          Q     Okay. And did you ever get any response from --

12          A     No response from --

13          Q     -- the Defendant?

14          A     No, sir.

15          Q     All right. What did you choose to do? What do you  
16          do when he's not responding?

17          A     At that time, Deputy Kilgore advised that he was  
18          familiar with the house. He had been out there  
19          previously. I then approached with him as he came around  
20          on the four side, which would be the opposite side of  
21          where I was. And we both made entry into the back door  
22          into the kitchen area.

23                As we were making entry, I moved to the left of the  
24          kitchen to start clearing. You had two open doors. You  
25          had one towards the front door in a living-room-type area,

1 and you had another open door to the bedroom, which,  
2 eventually, led to a bathroom. Like I said, the bathroom  
3 and the bedroom were facing towards the two side of the  
4 house where I had come from. And that's where I heard the  
5 movement.

6 Q If you would, Deputy Lovelace, how big was the house?

7 A It's not very big.

8 Q How many stories?

9 A It's one story. And the size of the house altogether  
10 is maybe the size of this room.

11 Q And, approximately, how many bedrooms did it have in  
12 it?

13 A Let's see. It had, I believe, three bedrooms, a  
14 living room, and a kitchen.

15 Q And when y'all entered from the three side, what was  
16 the first place that you were in?

17 A We were in the kitchen.

18 Q The kitchen?

19 A Yes, sir.

20 Q And from where to the kitchen did it lead?

21 A The kitchen, like I said, had two doors in the corner  
22 of it. One went towards the living room front door, and  
23 another went to another bedroom. At which time, when I  
24 started tactically going around the corner to make sure --  
25 because, you know, we were still announcing ourselves,

1 Sheriff's Office, make yourself known. We weren't getting  
2 any response.

3 Q And who all was in the house?

4 A At this time, it was just myself, Deputy Kilgore.  
5 And Deputy Frazile, he was at the back door getting ready  
6 to come in.

7 Q And all of y'all or just one of y'all is calling out  
8 to the Defendant?

9 A We were all calling out.

10 Q And what were you saying exactly?

11 A Greenville County Sheriff's Office. And then, at  
12 that time, I knew his name. I said, Travis, I know you're  
13 in here. Make yourself known. Come out with your hands  
14 up.

15 Q And, again, he's not coming out once y'all are in the  
16 house?

17 A No, not hearing a word, not hearing any movement,  
18 nothing.

19 Q So Deputy Kilgore is then making some decisions?

20 A Yeah. Well, actually, at that time, due to not  
21 hearing anything, it had been a while. We knew Ms. Horne  
22 had already heard our voices. She already complied with  
23 our demands. So she knew we were at the residence. We --  
24 for our safety, I then requested a K9 unit. Because, at  
25 that time, you know, you let the dog go first.

1 Q Why do you let the dog go first?

2 A It's for officer's safety. It's a partner and an  
3 animal, but, at the same time, its life is not as  
4 significant as ours.

5 Q Were you worried he might be armed?

6 A Yes.

7 Q And dangerous?

8 A Yes.

9 Q Anything to heighten those suspicions?

10 A Just somebody breaking into a house in the middle of  
11 the night, it's a violent crime. And just based on my  
12 past experience and knowledge, you know, if people aren't  
13 complying with your commands and they're trying to hide,  
14 they're hiding for a reason. And they either don't want  
15 to go to jail, or there's another reason to harm, you  
16 know, one of us.

17 Q And did a K9 ever appear on the scene?

18 A He did. It took him about 30 minutes to arrive on  
19 scene. And it was another, roughly, 30 to get ahold of  
20 Mr. Pepper and confirm that he did not know this Travis  
21 subject, and that he was not supposed to be in the house.

22 Q Did you continue calling out during that 30- to  
23 40-minute period?

24 A The entire time, me, and Deputy Kilgore, and Deputy  
25 Frazile were in the kitchen holding our position. We gave

1 several commands saying, Greenville County Sheriff's  
2 Office, make yourself known. We advised him the entire  
3 time that we had a K9 unit en route, that a police dog  
4 would be deployed and he would be bitten. And that he  
5 needed to come out and make himself known.

6 Q And before you got in the house for this 30-minute  
7 period, how long would you say you were calling out?

8 A The entire time. We called out a good 30 to  
9 45 minutes.

10 Q And when -- does the K9 ever come?

11 A Yes, it does.

12 Q He comes 30 minutes later, is that what you said?

13 A Around 30 minutes, yes.

14 Q And what do y'all do when the K9 unit gets there?

15 A He came in. Once we confirmed that nobody was  
16 supposed to be in the house, he, also, made call outs  
17 announcing himself as Greenville County K9 officer, that  
18 he had a police dog that -- that Travis was under arrest,  
19 the person was under arrest. And if he did not come out,  
20 he was going to be bitten by the police dog.

21 Q And was there any compliance with those orders?

22 A Still at this point, there was no movement, no words  
23 were said. It was complete silence.

24 Q So you didn't hear any response from the Defendant  
25 when you were calling in the yard?

1 A No, sir.

2 Q Did you hear any when you were in the house?

3 A No, sir.

4 Q Before the K9 came?

5 A No, sir.

6 Q And did you hear any after the K9 came?

7 A No, sir.

8 Q So what did you do at that point?

9 A At that point, we began clearing the house.

10 Q What do you mean by "clearing the house"?

11 A Just go from room to room and see, you know, where  
12 they're hiding. The dog, we use him as to tool, you know.

13 And so I followed in behind Deputy Fuller, who's the  
14 K9 officer, and he let -- I can't explain how he does his  
15 job with the dog. But he -- we just, basically, let the  
16 dog go around the corners first.

17 Because if somebody does have a weapon, the dog will  
18 engage. And they'll use the weapon on the dog, or they'll  
19 become, hopefully, incapacitated, or drop the weapon if  
20 they have one.

21 Q What were the conditions on the inside of the house?

22 A It was -- it looked like it had been ransacked.

23 There were items everywhere, clothes everywhere.

24 Q Did that make it easier, or more difficult?

25 A It makes it a lot more difficult. Because it's easy

1 to hide under --

2 Q Were you able to find him the first time you cleared  
3 the house?

4 A The first time, we did not. It was on our secondary  
5 search.

6 Q Explain to the jury about the secondary search and  
7 its purpose.

8 A The secondary search is the time when we clear the  
9 top of everything, and all the closets, and underneath the  
10 bed, you know, obvious spots. That's when we go back and  
11 start picking up clothes, start picking up mattresses and  
12 couches, and make sure nobody is hiding under those.

13 Q And, at this point in time, was that successful?

14 A At that point in time, I heard Detective Frazile  
15 start yelling, Contact, show me your hands, show me your  
16 hands.

17 Q And did you go to assist, or did you stay in the  
18 place where you were?

19 A No. I took off running to Deputy Frazile, at which  
20 time I saw shoes and a pile of clothes on top of the  
21 Defendant.

22 Q All right. Where was the Defendant?

23 A He was in that first bedroom to the right that I was  
24 talking about when you entered the kitchen. It was the  
25 first bedroom to the right where you could enter or go to

1 the left to the front door.

2 Q Approximately, how close was he in that bedroom to  
3 where y'all were calling out in the kitchen?

4 A Maybe 10 feet.

5 Q 10 feet?

6 A Uh-huh.

7 Q And can you describe where he was laying again?

8 A He was laying, I believe, it was on a bed that was  
9 covered with clothes and different items. But he was  
10 laying underneath a stack of clothes.

11 Q When you found him, what did y'all do?

12 A We began immediately yelling, Show me your hands,  
13 show me your hands. At which time, he didn't comply.  
14 Deputy Fuller engaged K9 Kroc. And the Defendant raised  
15 his left arm, at which time, Kroc engaged on his left arm.  
16 His right arm was still hidden.

17 So, at that time, we were yelling, Show me hands,  
18 show me your right hand. We still can't see it. We still  
19 don't know if he has a weapon, knife, gun, anything. I  
20 quickly reached in to try to grab his hand, pulled it out,  
21 at which time, he pulled it away from me.

22 MR. PROPST: Objection, Your Honor.

23 May we approach briefly?

24 THE COURT: Okay. Sure.

25 (WHEREUPON, a bench conference was held.)

1 BY MR. WATTS:

2 Q So you've now arrested him. Did you escort him out  
3 of the house?

4 A I did, yes, sir.

5 Q What did you do after you escorted him out of the  
6 house?

7 A EMS was called on the scene for dog bites to check  
8 him out.

9 Q Did they arrive?

10 A They arrived. They placed bandages on his wounds.  
11 And then at which time, we were still going to take him to  
12 the hospital. So I transported him to Greenville Memorial  
13 Hospital.

14 Q All right. And while at the hospital, did you have  
15 occasion to talk with the Defendant?

16 A I did.

17 Q Did you Mirandize him?

18 A I did.

19 Q And did you give him the normal Miranda warnings that  
20 we're all familiar with by now?

21 A I did, yes.

22 Q All right. And what did he say in response to his  
23 Miranda?

24 A After asking him if he wished to speak to me about  
25 the incident, he said he did not.

1 Q All right. And did you probe him any further?

2 A No. The only thing I further asked was per our  
3 policy to make sure we follow the K9 policy. Due to not  
4 having another K9 officer on the scene, I asked him if he  
5 would answer questions pertaining to -- to make sure we  
6 followed policy, and that everything was by the book,  
7 according to our procedures and policies.

8 Q What did he say?

9 A He stated that -- the first thing I asked him was,  
10 Did you hear us calling out announcing sheriff's office  
11 and K9 unit, and that if you didn't respond that you would  
12 be bitten by the police dog? And he said he did.

13 Roughly, he told me four to five times.

14 Q Did he give any reason for not coming out?

15 A When I asked him why he didn't respond if he knew he  
16 was going to be bitten by a police dog, he said that he  
17 was scared, that he was afraid he was going to go to jail.

18 Q Okay. And after EMS -- did they show up at the  
19 scene?

20 A They did, yes.

21 Q And then you transported him to the hospital, is that  
22 what you said?

23 A That's correct, yes.

24 Q So after he's been checked out by EMS and at the  
25 hospital, what did you do?

1 A I took him to the detention center.

2 Q Did that, ultimately, end your involvement in the  
3 case?

4 A It did, yeah. I obtained the warrants. And then  
5 that ended my involvement, yes, sir.

6 MR. WATTS: Thank you.

7 If you would, please, answer any questions Mr. Propst  
8 may have for you.

9 THE WITNESS: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. PROPST:

12 Q Deputy --

13 A Yes, sir.

14 Q -- so you were the responding officer that night?

15 A That's correct.

16 Q So would that -- that makes you the lead person  
17 dealing with this incident?

18 A Correct, yes, sir.

19 Q Okay. And you said that you've been in law  
20 enforcement about four years?

21 A Coming up on four years in October.

22 Q And have you been on uniform patrol that whole time?

23 A I have.

24 Q Okay. Now, this residence -- well -- okay. This  
25 residence, it had signs posted on it on the outside;

1 correct?

2 A That's correct.

3 Q Okay. And those signs were posted by the Greenville  
4 County Sheriff's Office vice and narcotics?

5 A That's correct.

6 Q And that's a part of the sheriff's office that you  
7 work for?

8 A Yes, sir.

9 Q And they're primarily tasked with drug offenses?

10 A That's correct.

11 Q So they deal with finding and breaking down meth  
12 labs?

13 A That's correct.

14 Q Among other things?

15 A Yes, sir.

16 Q Now, these signs were posted -- did you notice  
17 multiple signs?

18 A I did.

19 Q Okay. Were they posted on the doors?

20 A They were.

21 Q They were posted on walls?

22 A Uh --

23 Q Or the exterior of the house, in general?

24 A I believe just on the door, but it's been a while. I  
25 know I saw them on the doors.

1 Q And there were multiple signs?

2 A Yeah. I remember seeing one on the front door later  
3 on, and one on the back door where we entered.

4 Q And those signs prohibited anyone from living there  
5 or entering the home; correct?

6 A I believe they were contamination signs. Basically,  
7 after the house is contaminated, it's given over to codes  
8 enforcement. And until the problem is fixed, it's  
9 contaminated.

10 Q And by "contaminated," you mean the house is  
11 condemned?

12 A At the time, I believe so, yeah.

13 Q And that means no one is allowed in the residence?

14 A They have different guidelines. I can't say -- you  
15 know, they might be allowed in the residence during the  
16 day to fix the problem, but just not to be there at night.

17 Q Okay.

18 A It depends on how that code is enforced. I can't  
19 tell you which one -- how -- what the policy was on that  
20 one.

21 Q We spoke about this previously. It's standard to  
22 condemn houses if they're former meth labs; right?

23 A It is, yes.

24 Q And that's what this was?

25 A Yes.

1 Q Okay. And this -- I guess, condemnation of the  
2 house, it applies to the entire world?

3 A Yes.

4 Q And, as far as you know, no one was living at that  
5 house on this night; correct?

6 A As far as I know, yes.

7 Q The owner or the person who was supposed to be living  
8 in the house was, actually, incarcerated?

9 A He was.

10 Q Because of a meth lab?

11 A Correct.

12 Q And you talked briefly about the conditions of the  
13 house. You said it was, essentially, ransacked?

14 A It -- I mean, there were items everywhere. And I  
15 can't -- you know, obviously, I didn't have the victim on  
16 scene, so I can't confirm what was thrown, you know. But  
17 there were several, you know, like I said, piles of  
18 clothes and several bins full of items.

19 Q You, also, mentioned -- you were talking about how,  
20 you know, burglary at night and people hide for various  
21 reasons?

22 A Yes.

23 Q They're either evading arrest, or they have another  
24 motive?

25 A Correct.

1 Q You didn't find any weapons on the Defendant?

2 A Not that I can recall, no.

3 Q And there were none that you're aware of that were in  
4 his immediate vicinity?

5 A There -- I mean, you can use anything as a weapon.  
6 There's in the kitchen, knives. There's pots and pans.  
7 There's tools all over the house. There was a bin full of  
8 tools.

9 Q Nothing in your report indicates that the Defendant  
10 was armed?

11 A No. I didn't say the Defendant was armed, but  
12 there's always a possibility of a weapon.

13 MR. PROPST: Okay. Nothing further.

14 THE COURT: Redirect?

15 MR. WATTS: Nothing further from the State.

16 THE COURT: All right. Thank you, Officer Lovelace.  
17 You may call your next witness.

18 MR. WATTS: The State calls Deputy Frazile.

19 THE CLERK: Sir, please, come forward.

20 Please place your left hand on the Bible and raise  
21 your right hand.

22 WHEREUPON,

23 PIERRE FRAZILE,

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

25 THE CLERK: Thank you.

1 Please be seated.

2 Please state your name for the record.

3 THE WITNESS: Deputy Frazile with the Greenville  
4 County Sheriff's Office.

5 THE COURT: What's your first name?

6 THE WITNESS: Pierre.

7 DIRECT EXAMINATION

8 BY MR. WATTS:

9 Q Deputy Frazile, would you, please, tell the jury what  
10 your duties are with the Greenville County Sheriff's  
11 Office?

12 A I am a deputy in uniform patrol. I answer calls for  
13 service.

14 Q Okay. And how long have you been doing that on  
15 uniform patrol?

16 A Almost two years.

17 Q Were you doing that back in November of 2013?

18 A Yes, sir.

19 Q And were you dispatched to [REDACTED] on November  
20 18th of 2013?

21 A Yes, sir.

22 Q And what reason was that?

23 A It was a burglary in progress.

24 Q All right. And when you got there, what were your  
25 duties?

1       A     Deputy Lovelace and Deputy McMakin were already  
2       there.  So I got on the perimeter, at first.

3       Q     What do you mean by the "perimeter"?

4       A     We knew there were people in the house.  So we kind  
5       of stayed around there to make sure nobody came out of the  
6       front or back door.

7       Q     Okay.  And I don't want you to duplicate too much of  
8       Deputy Lovelace's testimony, but did you ever go into the  
9       house?

10      A     Yes, sir.

11      Q     Was that after a period where you were attempting to  
12      call out and get people to come out of the house?

13      A     Yes, sir.  When I first got on scene, I was at the  
14      back of the house.  When I first got there, I saw the rear  
15      window, half of it open and an air conditioning down.

16            I, also, noticed a white female walking by.  We ended  
17      up calling her out.  She came out.  I put handcuffs on her  
18      to detain her.  And then after a while, we called out and  
19      nobody came out.  But she told me there was a male in  
20      there.  And she told me he possibly had a knife on him.

21            So, at that point, we ended up going into the house.  
22      Once we got in the house, we made multiple calls out,  
23      sheriff's office, come out.  And we didn't get anything.

24      Q     Okay.  So where did you enter in the house?

25      A     It was through the back.  It was the kitchen.  It was

1 in the back. And we were in the kitchen at that point.

2 Q Okay. And what did you do once you entered the  
3 kitchen in the back of the house?

4 A We didn't want to go any further. We knew somebody  
5 was there. And we kept calling the person out. We were  
6 in there for maybe 20, 30 minutes calling out. Once we  
7 get in, we have to clear the residence to make sure there  
8 wasn't somebody in there.

9 Q All right. And did anybody ever respond to any --

10 A Nobody responded to the call outs.

11 Q And how long did y'all call out while you were inside  
12 the house?

13 A I'd say 20 to 30 minutes.

14 Q What did y'all do during that 20 to 30 minutes? What  
15 were you waiting on?

16 A We were waiting for a K9 unit with a dog.

17 Q And I'm assuming he got there right around 30  
18 minutes?

19 A Yes, sir.

20 Q And what happened when the Kilo unit -- or the K9 got  
21 there?

22 A When he gets there, he doesn't say anything. He  
23 calls out to let them know he's a K9 unit.

24 Q While you were waiting for the K9 unit to get there,  
25 were you involved in any warnings to the Defendant with

1        regards to dog bites?

2        A        That's not my job. He does that.

3        Q        Okay. But did you hear anybody warn the Defendant  
4        that he would be bitten?

5        A        The K9 officer.

6        Q        Okay. And did he ever respond to any of the K9  
7        officer's warnings?

8        A        No.

9        Q        What did y'all chose to do then?

10       A        So, at that point, once nobody comes out, we have to  
11       go and clear the residence. And the deputy with the dog  
12       is the lead deputy. And all I do is pretty much cover his  
13       back to make sure nobody or anything comes up on him.

14       Q        And did you do that?

15       A        Yes, sir.

16       Q        Did you ever find the Defendant?

17       A        The dog did not find the Defendant. That was our  
18       primary search. We do a secondary and a third one to make  
19       sure we have all the grounds covered.

20       Q        Okay. Did you do a secondary search?

21       A        Yes, sir. On the secondary one, everybody was pretty  
22       much on their part of the house. And in the room that I  
23       was looking in, I was looking behind -- it's like a  
24       closet.

25       Q        Okay. Before you get too far, where was that room in

1 relation to the kitchen?

2 A So the kitchen is right here. The room is directly  
3 next to it.

4 Q All right.

5 A So it's the next room over.

6 Q Did you find him in that room?

7 A Yes, sir.

8 Q Approximately, how far was he from the -- you know,  
9 where you were calling out earlier?

10 A Just a wall over.

11 Q And explain to us what that room looked like that you  
12 were in in the secondary search.

13 A So in one part of the room is a closet. The bed  
14 would be on this side of the room. And it was filled with  
15 everything. You had a passageway to go to the next room,  
16 which I never entered.

17 But as I'm looking through the closet to make sure  
18 there was nothing there, I looked back behind me. And I  
19 saw two boots just -- not floating, not imperfect, like  
20 somebody was laying. But it was sticking out and there  
21 was --

22 Q Sticking out from what?

23 A There was some -- it was a bed. And it was covered  
24 with a sheet and a lot of stuff under the bed.

25 Q On a -- what was on top of the bed?

1 A The Defendant was on top of the bed.

2 Q And what was on top of him?

3 A A bunch of stuff. I couldn't tell you exactly what.

4 Q And how was he positioned again? Can you explain  
5 that to the jury?

6 A So he was pretty much laying down. And his feet were  
7 sticking up like that out to me.

8 Q And how far off the end of the bed were they?

9 A Not too far, like right here. And they were just  
10 sticking out.

11 Q And did they look suspicious to you?

12 A Yeah. I mean, with everything out of place, I figure  
13 there's going to be two boots, I'm probably not going to  
14 get two perfectly spaced-out boots sticking out like that.

15 So, at that point, I tried to tug on it. And I was  
16 like, well, they're not coming off. There's a body there.

17 Q So what did you do once you found a body attached to  
18 the boots?

19 A Well, at that point, I know it's a person because it  
20 would have come out. I'm like, Show me your hands. And I  
21 have to keep in mind that the girl who came up front told  
22 me he possibly had a knife. And he's still hidden under  
23 the things. And I'm like, Show me your hands, show me  
24 your hands. And he's still not complying. And that's  
25 when the other deputies heard me in the other rooms. And

1       they all came rushing in to help me out with him.

2       Q     And then y'all arrested him?

3       A     Yes, sir.

4       Q     Was he transported out of the house?

5       A     Yes, sir.

6       Q     Okay. And, you know, after that, did you have any  
7       other involvement after he was transported out of the  
8       house?

9       A     No, sir. Once he was put in handcuffs, I just got in  
10      my car and left.

11      Q     You left the scene?

12      A     Yes.

13           MR. WATTS: Please answer any questions Mr. Propst  
14      might have for you.

15                           CROSS-EXAMINATION

16      BY MR. PROPST:

17      Q     Deputy --

18      A     Yes, sir.

19      Q     -- so you were one of the initial responders to the  
20      scene?

21      A     Yes, sir.

22      Q     And you, initially, stood on the perimeter of the  
23      incident location?

24      A     Yes, sir.

25      Q     Now, the perimeter, is that about -- just, in

1       general, when you're talking about perimeters, is it this  
2       far from the house?

3       A       There's not really a distance. I mean, you don't  
4       want to stand wide open so if anybody has a weapon that it  
5       might reach you. There's a tree close to it. And I was  
6       behind the tree.

7       Q       Okay. So what do you think? Tell me to stop as I  
8       walk backward. Show me how far away from the house you  
9       were.

10      A       You can walk a little bit. I'd say maybe about  
11      there.

12      Q       About right here?

13      A       Yes, sir.

14      Q       Okay. And you were at the back of the house at this  
15      point?

16      A       Yes, sir.

17      Q       Did you see any signs posted?

18      A       I didn't -- I wasn't looking for that. I was looking  
19      for body movement. At that point, I was looking for  
20      people, not signs.

21      Q       So you didn't see any signs on the house at all that  
22      night?

23      A       No, sir. I wasn't looking for that.

24      Q       You, actually, found Mr. Calvert in the house?

25      A       Yes, sir.

1 Q Was he armed?

2 A When we got him out, no, sir.

3 MR. PROPST: Nothing further.

4 MR. WATTS: Just quick re-follow-up, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. WATTS:

7 Q Detective Frazile, describe the conditions while you  
8 were out there in the perimeter.

9 A I think it rained before. And it was kind of cold.  
10 And the grass was wet.

11 Q What about the lighting?

12 A It was dark.

13 Q Dark?

14 A It was about 1:00 in the morning.

15 Q All right. And does that make it difficult to see  
16 some of the stuff on the house?

17 A I'm sorry?

18 Q Would that lighting make it difficult to see some of  
19 the stuff in and around the house?

20 A Yes, sir.

21 MR. WATTS: No further questions.

22 MR. PROPST: Nothing, Your Honor.

23 THE COURT: All right. Thank you, Deputy.

24 MR. WATTS: The State calls Deputy Tim Fuller.

25 THE CLERK: Sir, please, come forward.

1 Sir, please, place your left hand on the Bible and  
2 raise your right hand.

3 WHEREUPON,

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

6 THE CLERK: Thank you.

7 Please be seated.

8 Please state your name for the record.

9 THE WITNESS: Timothy Fuller.

10 THE CLERK: Thank you.

11 DIRECT EXAMINATION

12 BY MR. WATTS:

13 Q Deputy Fuller, can you, please, tell the jury where  
14 you work?

15 A I work for the Greenville County Sheriff's Office.

16 Q How long have you been with them?

17 A 11 plus years.

18 Q All right. During those 11 years, have you held  
19 multiple positions?

20 A I have.

21 Q All right. Can you explain to the jury kind of what  
22 those were?

23 A I worked in uniform patrol for three years. And  
24 since then, I've been in the K9 services unit.

25 Q All right. And are you exclusively assigned to the

1 K9 unit right now?

2 A Yes, I am.

3 Q What duties do you perform as a member of the K9  
4 unit?

5 A Well, it's a wide array of duties. But with the  
6 particular dog that I have, the dual purpose dog, he works  
7 the odor of illegal drugs, as well as human odor, which  
8 allows me to use him for a wide array of things. But,  
9 primarily, we assist uniform patrol.

10 Q And have you been through any training to be a K9  
11 unit specialist?

12 A Yes. Initially, we do a 500-hour course. It's,  
13 actually, 600 hours now. But when I started, it was a  
14 500-hour course with myself and the dog. That was our  
15 initial training.

16 Q And do you go through any weekly classes now?

17 A We do 10 hours a week of maintenance training, as  
18 well as training seminars, and things of that nature  
19 periodically.

20 Q And since you've been out in the field about eight  
21 years, I suppose you've been on a lot of searches?

22 A Yes, sir, I have.

23 Q Approximately, how many times have you been inside a  
24 house searching for a person?

25 A With deployments with myself and Kroc, building

1 searches such as this, we've done close to 400  
2 deployments. But as far as being a part of a search  
3 similar to that, that would be, at least, another 400 or  
4 500.

5 Q Now, you told the jury that your dog's name is Kroc;  
6 is that correct?

7 A That's correct, Kroc.

8 Q And what type of dog is Kroc?

9 A He's a German shepherd.

10 Q Okay. And you say he's a dual purpose dog. Could  
11 you explain again what that is to the jury?

12 A Dual purpose just means that he has more than one  
13 discipline. He does assist in sniffing out the odor of  
14 illegal drugs, as well as human odor. The human odor  
15 would allow him to do things like a building search or  
16 tracking article searches, things with human odor on them.  
17 And he, also, does apprehension work.

18 Q And are y'all certified together as a team?

19 A That's correct. The certification is for the dog and  
20 the handler together.

21 Q Okay. Does that mean you pretty much work  
22 exclusively with Kroc and no other --

23 A That's correct. There's no certification once the  
24 team is separated.

25 Q And how long have you and Kroc been together?

1 A For eight years plus.

2 Q And were you the K9 unit that responded to Stephen  
3 Pepper's house at [REDACTED] Piedmont?

4 A That's correct.

5 Q And about what time did you get there? Do you  
6 recall?

7 A I'm going to check my report. I arrived at 0158.

8 Q All right. Could you explain that in layman's terms?

9 A I'm sorry. 2:00 in the morning, close to 2:00 in the  
10 morning.

11 Q Thank you.

12 And when you got to the scene, can you explain to the  
13 jury kind of what you did?

14 A When I arrived, I had gotten some information on the  
15 radio. It was my responsibility to gather some more as  
16 far as using the dog. I had been requested for the  
17 assistance of the dog to clear the residence, that it was  
18 a burglary in progress with a suspect inside.

19 As I arrived, Master Deputy McMakin was out front  
20 with a female who had come outside of the residence. So I  
21 began to gather some more information, specifics of what  
22 was going on from him.

23 At that point, contact was being attempted at the  
24 detention center to get ahold of the occupant there -- the  
25 owner to confirm there was a burglary. We had a name I

1 was given of Travis. So we were asking if he knew anybody  
2 with that name, just making sure it was somebody that  
3 wasn't supposed to be there. Anyway, once he confirmed  
4 that nobody should be in there, he wanted to pursue  
5 charges for burglary if somebody was in there taking his  
6 stuff.

7 At that point, I went around to the back side of the  
8 house where the AC window unit had been removed. And I  
9 gave some call outs there, which is a standard call out  
10 that I give. I tailor -- if I know somebody's name, in  
11 this case, I said, Travis, this is the Greenville County  
12 Sheriff's Office K9 unit. I told him he was under arrest  
13 for burglary. I told him to come out and make himself  
14 known or you'll be bitten by a police dog. I yelled that,  
15 at that point, three times. There was no response.

16 At that point, I moved into the kitchen area where  
17 Deputies Lovelace, Kilgore, and Frazile were standing by.

18 Q All right. At that point in time -- well, was there  
19 ever a response from the Defendant?

20 A I had not heard a response at that point, no.

21 Q And, approximately, how long had you called out your  
22 warning for?

23 A Time frame, I'm not sure. But, typically, one after  
24 the other with a pause in between to see if I hear  
25 something. And in between after those three at the

1 window, you know, there was, at least, a minute before I  
2 got into the kitchen and spoke with those guys.

3 And we, also, had a deputy who was outside of that  
4 window who would have heard if there was a response. But,  
5 at that point, I gave additional ones from the kitchen as  
6 well.

7 Q All right. And after there was no response, what did  
8 you choose to do?

9 A At that point, I decided to deploy Kroc to search the  
10 residence for a suspect.

11 Q All right. And explain to the jury how that went.

12 A Well, I deployed him on a 15-foot lead. And what  
13 that does, that allows me to use him to go around corners  
14 to start the search.

15 Q A 15-foot lead. I'm sorry. Can you clarify that?

16 A I'm sorry. It's a leash on his collar. It's 15-foot  
17 long. So it allows him to be the first person in. He can  
18 clear using his nose corners, hiding places, things of  
19 that nature.

20 In this particular circumstance, it was kind of scary  
21 because the guy had been there for a long time. He knew  
22 we were out there, and he wasn't coming out. So to us, to  
23 law enforcement that just kind of screams ambush. So  
24 that's one reason we were using the dog. But -- so that's  
25 what we did, we deployed the dog.

1           The first room to the right of the kitchen was a  
2 bedroom. And then right beyond that was the area where  
3 the window was missing. And if I understand, they had  
4 said that's where they had seen some movement, and things  
5 of that nature. And then a bedroom right beside it. On  
6 this particular search, Kroc was showing a lot of behavior  
7 that was refreshing an odor, but he was not pinpointing  
8 the source of the odor.

9       Q     What were the conditions of the house like inside?

10      A     The conditions of the house were -- there was stuff  
11 piled everywhere, miscellaneous items piled. There was  
12 just things that had been stored, blankets, clothes,  
13 shoes.

14      Q     Did you see any tools?

15      A     There were -- in the very back bedroom, there was a  
16 bin that had some tools and stuff in it. And there was a  
17 couple of things that were out of place with -- it seemed  
18 like they had some tools and stuff like that gathered  
19 together.

20           But the rest of the place -- and that's what made it  
21 out of place, because those were the only like items kind  
22 of together. The rest of the place was all scattered with  
23 miscellaneous stuff.

24      Q     Did the conditions of the house make it easier or  
25 harder for Kroc to identify a smell?

1 A Well, the funny thing about odor is you can't see it.  
2 So I don't know the conditions -- what the odor was doing  
3 exactly. But it was -- whatever it was doing, it wasn't  
4 allowing him to pinpoint the source of it. You know,  
5 that's the thing. I don't know exactly why. But that  
6 probably had something to do with the way he was hidden,  
7 and all of the stuff that was everywhere, yes. But I  
8 don't know. It could have had something to do with the  
9 vents in the room or, you know. I don't know.

10 Q And did you ever find the Defendant on the search?

11 A We did. Kroc did not, initially, locate the source  
12 of the odor. He was, obviously, working. We go through  
13 the house on the initial search. We did not find him.

14 We were doing what we call a secondary search, where  
15 this time, we are digging deeper into and, especially, in  
16 a place like this with stuff piled everywhere. We were  
17 digging a little bit deeper just in case the dog were to  
18 not find the source of the odor.

19 And so as we're doing this, Deputy Frazile makes it  
20 known that he's got a boot. And I was right outside the  
21 doorway of that room, so I came in with Kroc. And it's a  
22 bed just piled with stuff on top of it.

23 So suspecting that he's underneath all of that stuff,  
24 I, actually, throw Kroc on top of the bed fearing that  
25 we're about to have an encounter. The subject starts to

1 peek out from under the covers. He's commanded to show  
2 his hands. He's not doing that.

3 Deputy Frazile is, actually, yelling to show your  
4 hands, show your hands. He told us he found the boot. He  
5 wasn't doing that. Kroc goes up on the bed. And then the  
6 subject pulls his left arm out and Kroc bites his left  
7 arm.

8 Q After all that, you -- you know, he's arrested; is  
9 that correct, and cuffed?

10 A Yes.

11 Q And he's transported out of the house at that point  
12 in time?

13 A Yes, after we, finally, get him handcuffed, yes.

14 Q And do your policies in the K9 unit require you to do  
15 anything in follow-up after he's been bitten?

16 A Certainly. It's required that he receive medical  
17 attention at a medical facility if there are abrasions,  
18 lacerations, things of that nature resulting from a dog  
19 bite.

20 Typically, we'll call EMS to the scene, initially.  
21 They'll look at it. Typically, if it's -- they'll say  
22 okay, you know, he's fine. You can take him to the  
23 hospital. So unless there's something major that they  
24 think that they want to transport him, which doesn't  
25 happen very often. But that's what we, typically, do.

1 And then we'll transport him to the hospital.

2 Q And did you transport him to the hospital?

3 A I did not. My vehicle is not equipped to transport.  
4 I believe Deputy Lovelace transported him.

5 Q Did you follow him to the hospital?

6 A Yes.

7 Q Did you do any follow-up there at the hospital with  
8 the Defendant?

9 A At the hospital, I asked Deputy Lovelace to interview  
10 him regarding the dog and what we did with the dog.  
11 That's, also, part of what we do is have somebody other  
12 than the dog handler speak with him just to make sure we  
13 follow policy with what the dog handler did and what the  
14 dog did.

15 I did ask him -- as I began to take some pictures of  
16 the injuries from the dog bite, which is standard. I'll  
17 take pictures of the rest of the person. I noticed red  
18 marks on his head. I asked him about those. He said they  
19 were from a recent four-wheeler accident. And he, also,  
20 had a red mark on his stomach that he said was an old  
21 mark.

22 I asked him if the dog bit him anywhere else, which I  
23 knew it didn't because I was right there. But I always  
24 ask that they're not complaining about something hurting  
25 somewhere else. He said the dog didn't bite him anywhere

1       else.

2       Q     You said you took some pictures; is that true?

3       A     I did take pictures.

4           MR. WATTS: I want to pre-mark these three exhibits.

5           (WHEREUPON, State's Exhibit Nos. 1, 2, and 3 were  
6           marked for identification only.)

7       BY MR. WATTS:

8       Q     Deputy Fuller, I'm going to show you State's Exhibit  
9       Nos. 1, 2, and 3. Can you just look at them and see if  
10      you recognize what they are?

11      A     Yes.

12      Q     Can you describe to the jury what those three items  
13      are I handed you?

14      A     The first is --

15      Q     If you could, refer to it by number, please.

16      A     I'm sorry. State's Exhibit No. 1, it's a picture of  
17      the Defendant and his right arm being held up. You can  
18      see his face -- part of his face in this picture. It's,  
19      basically, showing --

20      Q     Was that taken --

21      A     It was taken at the hospital. He's laying on a  
22      hospital bed.

23      Q     All right.

24      A     And that's, basically, showing there's no injury on  
25      the right arm.

1 Q All right.

2 A State's Exhibit No. 2 is showing the top side of the  
3 Defendant's left forearm.

4 Q All right. And State's Exhibit No. 3?

5 A State's Exhibit No. 3 is showing the inside portion  
6 of the Defendant's left forearm.

7 Q And are those fair and accurate representations of  
8 the way the Defendant appeared that night?

9 A Yes.

10 MR. WATTS: All right. Thank you.

11 Judge, the State would seek to introduce State's  
12 Exhibit Nos. 1, 2, and 3 into evidence and publish to the  
13 jury.

14 MR. PROPST: No objection.

15 THE COURT: They're in evidence.

16 (WHEREUPON, State's Exhibit Nos. 1, 2, and 3 were  
17 admitted into evidence.)

18 BY MR. WATTS:

19 Q Deputy Fuller, after you completed all your  
20 follow-up obligations after the bite, did that end your  
21 involvement?

22 A Yes, sir.

23 MR. WATTS: If you would, please, answer any  
24 questions Mr. Propst might have for you.

25 THE WITNESS: Certainly.

CROSS-EXAMINATION

BY MR. PROPST:

Q So you were called to the incident location, I guess, secondarily to the initial responding officers; correct?

A Correct.

Q And that was a long way to say that.

A Yes.

Q And you got there about 30 minutes after the initial people arrived?

A I'm not sure exactly what time they arrived. I can refer to my notes and tell you it took me, it looks like, 22 minutes to get there from the time I was called.

Q And when you arrived, you were, essentially, briefed on what was going on?

A Correct.

Q And that occurred outside of the house?

A Yes.

Q In the front yard?

A In the street in front of the house.

Q Did you have an opportunity to observe the house?

A It was dark. I could see the house from where I was, yes.

Q And you could see it in detail?

A I wouldn't say in detail.

Q Okay. There were signs posted on the house; correct?

1 A I think there were signs posted on the house, yes.

2 Q And those were posted by vice and narcotics?

3 A That's what I was told, yes.

4 Q And the -- Mr. Pepper was incarcerated?

5 A Correct.

6 Q Based on a meth lab being found by vice and  
7 narcotics?

8 A That's what I understand.

9 Q And the house -- these posted signs prohibited entry  
10 by anybody?

11 A I don't know what the signs said exactly.

12 Q Did they condemn the meth house?

13 A I don't know exactly what the signs said.

14 Q Okay. We can agree there were signs posted on the  
15 house --

16 A Yes.

17 Q -- by vice and narcotics?

18 A Yes.

19 Q Because there was formerly a meth lab in that house?

20 A Hazardous materials, or something like that.

21 Q Right. And we can agree, too, that Mr. Pepper was  
22 incarcerated as a result of that?

23 A That's what I was told, yes.

24 Q Okay. Now, I want to talk a little bit about the  
25 condition of the house. You just testified that it was a

1 mess?

2 A Yes.

3 Q There were piles of clothes everywhere?

4 A Various miscellaneous items, to include clothes.

5 Q It was just dirty. It looked ransacked, I guess?

6 A Ransacked probably, yes.

7 Q So much so that it was out of place to see like items  
8 grouped together?

9 A Yes.

10 MR. PROPST: Nothing further.

11 MR. WATTS: Nothing further from the State, Your  
12 Honor.

13 THE COURT: All right. Thank you, Deputy Fuller.

14 MR. WATTS: Judge, the State would call Hannah Horne.

15 THE CLERK: Ms. Horne, please, come forward. If  
16 you'll, please, pause at the end of the bench.

17 Place your left hand on the Bible and raise your  
18 right hand.

19 WHEREUPON,

20 HANNAH HORNE,

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

22 THE CLERK: Thank you.

23 Please be seated.

24 Would you, please, state your name for the record?

25 THE WITNESS: My name is Hannah Horne.

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MR. WATTS:

4 Q Ms. Horne, could you, please, tell the jury how old  
5 you are?

6 A I'm 18 years old.

7 Q And where do you live?

8 A I, currently, live with my mom. After this is over,  
9 I'll be going to a treatment center in Florida.

10 Q And where were you living back in November of 2013?

11 A At [REDACTED] Road at Chuck and Jay's house.

12 Q Who else was living there at that time?

13 A Travis.

14 Q All right. And by "Travis," do you mean the  
15 Defendant?

16 A Yes.

17 Q The person you see seated over here at this table?

18 A Yes.

19 Q All right. And is that how you knew him?

20 A Yes.

21 Q From living over there?

22 A Uh-huh.

23 Q I want to take you back to November 18th, 2013. All  
24 right. Did you have an occasion to take a ride with  
25 Mr. Calvert?

1 A Yes.

2 Q All right. Who was driving?

3 A Johnny Banks.

4 Q Okay. And how did that occur? How did you get in  
5 the car with him?

6 A I just kind of -- we had been waiting all day on  
7 drugs to get back. And I -- they just kind of asked me to  
8 go. And I just kind of hopped in the car with them. And  
9 I didn't ask questions, where we were going.

10 MR. WATTS: Judge, may we approach real quick?

11 THE COURT: Okay.

12 (WHEREUPON, a bench conference was held.)

13 THE COURT: All right. We're just going to take a  
14 short break, about five minutes. And then we'll resume  
15 with this witness.

16 Thank you.

17 Don't talk about the case, ladies and gentlemen.

18 And, if you would, select someone to be the  
19 Foreperson of the jury. Just write their name down and  
20 give it to the bailiff.

21 (WHEREUPON, the jury leaves the courtroom at  
22 approximately 5:10 p.m.)

23 THE COURT: We'll take a five-minute break.

24 (WHEREUPON, a break was taken.)

25 THE COURT: All right. Bring the jury back in.

1 Ma'am, if you'll come back up.

2 (WHEREUPON, the jury came into open court at  
3 approximately 5:22 p.m.)

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

5 MR. WATTS: Thank you, Your Honor.

6 May it please the Court.

7 BY MR. WATTS:

8 Q Ms. Horne, again, I want to take you back to  
9 November. Did you have an occasion to take a ride with  
10 the Defendant?

11 A Yes, sir.

12 Q And who was driving the car?

13 A Johnny Banks.

14 Q And where did y'all leave from?

15 A Chuck and Jay's where we -- me and Travis Calvert  
16 were living at the time.

17 Q And how far away is that from [REDACTED]

18 A Probably, at the most, a six- seven-minute ride.

19 Q Okay. And did you know where you were going when you  
20 hopped in the car?

21 A No.

22 Q Okay. Did Travis have anything with him when he  
23 hopped in the car?

24 A He had a flashlight and a pocket knife. And that was  
25 it.

1 Q Do you recall about what time it was when y'all went  
2 over there?

3 A It was probably about 11:00.

4 Q Okay. And let's cut right to the chase. You were  
5 arrested in the house that night; is that correct?

6 A Yes, sir.

7 Q And you're a co-defendant in this case?

8 A Yes, sir.

9 Q You're the young female the jury has heard had to  
10 back out the back door and was arrested that night?

11 A Yes, sir.

12 Q And that night, you were Mirandized; is that correct?

13 A Yes, sir.

14 Q And you gave a free and voluntary statement to the  
15 police that night?

16 A Yes, sir.

17 Q It was a written statement; is that correct?

18 A Yes, sir.

19 Q Approximately one page?

20 A Yes, sir.

21 Q All right. And what was the substance of that  
22 statement? Can you tell us, where did Mr. Banks drop you  
23 off?

24 A He dropped us off at the house next door. He pulled  
25 in the driveway of -- I believe it's Christy Crawford's

1 house, which was his ex-girlfriend. And we walked --

2 Q Christy Crawford is whose ex-girlfriend?

3 A Johnny Banks's ex-girlfriend.

4 Q Does she know you?

5 A No.

6 Q Does she know Travis?

7 A At the time, I didn't know. I guess she does. I'm  
8 not really sure.

9 Q Okay. But you're dropped off over there. And who  
10 stays over at Ms. Crawford's house?

11 A Johnny Banks goes to Christy Crawford's house. And  
12 me and Travis walked over to Stephen Pepper's house.

13 Q And when you get over there, what did you do?

14 A We were just looking around. We went to a building  
15 that was out to the right of the house.

16 Q You say a "building," can you describe it for the  
17 jury?

18 A It was just like a little rinky dink -- like a  
19 garage. It had a door on it, but it was a rinky dink  
20 building. It just wasn't -- it wasn't like a building --  
21 it wasn't a building with a lock on it, or nothing like  
22 that.

23 Q And why were you over there at that building?

24 A We were just out there looking around, I guess,  
25 scoping it out, really, just making sure everything was

1       okay to be there, I guess.

2       Q     So you were just looking in the middle of the night  
3       to see if it was okay to be over there?

4       A     I didn't know, at the time, why we were there.

5       Q     All right. Well, did you see any placards on the  
6       house that might indicate that you shouldn't be there?

7       A     Not until after I got arrested.

8       Q     Okay. Did you ever go in the house?

9       A     Yes.

10      Q     All right. Well, tell us how that all transpired.

11      A     Travis pulled the air conditioning unit out of the  
12      back window on the back side of the house and went through  
13      the window, opened the back door. And I went in the house  
14      and --

15      Q     Is there any particular reason that you went to this  
16      house?

17      A     To steal tools.

18      Q     Well, at this time, did you know where Stephen Pepper  
19      was?

20      A     No.

21      Q     All right. Did Travis know where Stephen Pepper was?

22      A     Yes.

23      Q     How do you know that?

24      A     Because he told me after we got there.

25      Q     Okay. When did he tell you that?

1 A When we were inside the house after he was already  
2 packing tools up in boxes.

3 Q Okay. And how long were you inside the house before  
4 the deputies arrived?

5 A 30, 35 minutes maybe.

6 Q All right. And about how many bins was the Defendant  
7 able to fill up with tools?

8 A I don't really recall how many. I'm not really sure.

9 Q Was it one?

10 A It was more than one.

11 Q What size were the bins?

12 A They were probably about this big, about this tall.

13 Q Okay. And what type of tools was he filling them  
14 with?

15 A I mean, they were power tools, wrenches, just  
16 anything, any kind of tool.

17 Q Did he tell you if he had any plans for the tools?

18 A He was going to sell them.

19 Q He was going to sell them for what reason?

20 A To get money.

21 Q And how did it go when the police got there?

22 A When the police got there, I was spotlighted through  
23 a window. They directed me to go to the front door of the  
24 house. And I couldn't get the front door opened. So they  
25 directed me to go to the back door of the house. I went

1 out.

2 Travis did not cooperate to come out. And they sent  
3 a dog in on him. And they came back out and they had him  
4 then.

5 Q All right. And after they came out and had him, was  
6 he transported off?

7 A Yes. They took him to the hospital.

8 Q Did you remain at the scene?

9 A Yeah.

10 Q Okay. And what occurred when you were at the scene  
11 after they took him to the hospital?

12 A That was when I, finally, seen the sign on the front  
13 door of the house that said, you know, Greenville County  
14 property, and that nobody was supposed to be in there.

15 And after they took him to the hospital was pretty  
16 much about 10 or 15 minutes later after I got took off to  
17 intake. So just long enough for them to read me my  
18 rights, and get in the car, and everybody be gone.

19 Q And they gave you -- that's the time when they took  
20 your statement?

21 A Uh-huh.

22 Q And you're not telling the jury anything right now  
23 that you didn't tell them at that point in time?

24 A No, sir.

25 Q And I haven't promised you anything in regards to

1 sentencing or anything, have I?

2 A No, sir.

3 MR. WATTS: Thank you.

4 Any questions Mr. Propst has for you, please, answer  
5 them.

6 CROSS-EXAMINATION

7 BY MR. PROPST:

8 Q Ms. Horne, now, on November 18th, 2013, you went to  
9 the house with Travis?

10 A Yes, sir.

11 Q Right?

12 A Yes, sir.

13 Q And no one was living there at the time?

14 A Mr. Pepper was in jail. So I guess you could say no  
15 one was living there at the time.

16 Q Mr. Pepper was in jail?

17 A Yes, sir.

18 Q Okay. And he was in jail because of a meth lab;  
19 right?

20 A Yes, sir.

21 Q And you knew the owner was in jail after you got  
22 there?

23 A Yes, sir.

24 Q You mentioned some -- you saw signs after you were  
25 arrested?

1 A Uh-huh.

2 Q Right?

3 A (Witness nodded.)

4 Q And you even -- you told the cops that you knew you  
5 weren't supposed to be there because of the signs on the  
6 door?

7 A Yes, sir.

8 Q And then you just testified when Mr. Watts asked you  
9 about those that they stated that they were Greenville  
10 County property -- the signs stated this house was  
11 Greenville County property and no one was supposed to be  
12 inside?

13 A Well, I never got close enough to read what the signs  
14 really, actually, said. But I seen there was a sign --  
15 there was one sign on the door, and it was only on the  
16 front door. And that was the only sign that stated it  
17 was -- nobody was supposed to be there.

18 Q But it did state that nobody was supposed to be  
19 there?

20 A Yes, sir.

21 Q Now, didn't you tell the cops -- or one of the  
22 officers that the house was unsafe that -- you knew based  
23 on the postings that the house was unsafe for occupation  
24 due to known chemical hazards and anyone entering would be  
25 prosecuted for trespassing?

1 A I don't recall telling the officers that.

2 Q You don't recall telling them that?

3 A No, sir.

4 Q But you did tell them that you knew you weren't  
5 supposed to be there because of the signs on the door?

6 A Yes, sir.

7 Q And no one was living there at the time?

8 A No, sir.

9 Q Now, tell me about -- I want to talk a little bit  
10 about the inside of the house. You said you were in there  
11 for about an hour before the cops came?

12 A We were in there for about 30 or 35 minutes.

13 Q And would you say that the house was cluttered with  
14 stuff?

15 A No. It was ransacked.

16 Q It was ransacked. And it was like that when y'all  
17 got there; right? There was stuff everywhere?

18 A Yes, sir.

19 Q Just random piles of stuff?

20 A Yes, sir.

21 Q Okay. Now, you're a co-defendant in this case;  
22 correct?

23 A Yes, sir.

24 Q And your charge is still pending?

25 A Yes, sir.

1 Q So you haven't pled guilty or been sentenced?

2 A No, sir.

3 MR. PROPST: Nothing further, Your Honor.

4 MR. WATTS: Nothing further for this witness, Your  
5 Honor.

6 THE COURT: Thank you, Ms. Horne.

7 You can step down, ma'am.

8 MR. WATTS: Judge, the State calls Stephen Pepper.

9 THE COURT: Well, I don't know if we're going to be  
10 able to get to that right now.

11 MR. WATTS: Okay.

12 THE COURT: We're going to go ahead and break for the  
13 evening.

14 How long would your direct be?

15 MR. WATTS: Judge, I don't expect it to be any longer  
16 than Ms. Horne's.

17 THE COURT: Well, we can try to squeeze it in here.

18 THE CLERK: Mr. Pepper, please, come forward, sir.  
19 If you'll, please, pause at the end of the bench over  
20 there.

21 Place your left hand on the Bible and raise your  
22 right hand.

23 WHEREUPON,

24 STEPHEN DALE PEPPER,

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

1 THE CLERK: All right. Please have a seat.

2 THE WITNESS: Right here?

3 THE CLERK: Yes, sir, right there.

4 And, sir, would you, please, state your name for the  
5 record.

6 THE WITNESS: Stephen Dale Pepper.

7 THE CLERK: Thank you.

8 DIRECT EXAMINATION

9 BY MR. WATTS:

10 Q Mr. Pepper, could you, please, tell the jury where  
11 you live?

12 A I live at [REDACTED] Piedmont, South Carolina.

13 Q All right. And are you employed?

14 A Am I employed?

15 Q Yes, sir.

16 A No, sir. I'm disabled because of a car wreck in  
17 2009.

18 Q Okay. And, as part of that car wreck in 2009, did  
19 you receive a large sum or settlement?

20 A Yes, I did. The insurance company of the other  
21 vehicle -- I got an insurance settlement.

22 Q Okay. And what did you use that money for?

23 A Well, to pay the remainder of my hospital bills to  
24 satisfy that, to buy my house. Now, the rest has been put  
25 in a conservatorship under a conservatorship by a probate

1 judge.

2 Q All right. Most of it went towards the house, that's  
3 how you purchased your house?

4 A Yeah. I, actually -- it's valued at 63,000. And I  
5 got it for 42,000.

6 Q Okay. And let's be honest, Mr. Pepper, you've had  
7 some run-ins with the law, haven't you?

8 A Yes.

9 Q In 2002, you were charged with possession of meth; is  
10 that correct?

11 A Yes.

12 Q You got five years suspended on three years of  
13 probation?

14 A No. I did -- they give me four years and I did two  
15 years down the road.

16 Q Well, I think that might be from 2003 when you  
17 were -- pled guilty to malicious injury to personal  
18 property. You got seven years suspended on four years and  
19 restitution; is that correct?

20 A Yes, sir. It's -- since that accident, things are a  
21 little fuzzy.

22 Q I understand. In 2006, you wouldn't dispute that you  
23 were convicted for failure to stop for a blue light and  
24 possession of a stolen vehicle where you got six years  
25 suspended on one year and three years probation. Does

1       that sound correct?

2       A     Yes.

3       Q     What about 2007, you were -- pled guilty to grand  
4       larceny and burglary; is that correct, where you got drug  
5       court?

6       A     Yes.

7       Q     What's drug court?

8       A     Drug court is a -- actually, it's downstairs here.  
9       You have to go to classes there five times a week and,  
10      basically, take drug tests every time you go. And,  
11      sometimes, they put a patch on you. And even if you're  
12      not using drugs and you're in the room with somebody, say,  
13      smoking marijuana, it turns black. And that's a failure.  
14      And it can cause you to be terminated.

15      Q     So it's safe to say that most of these convictions  
16      were drug related, and you sought treatment in the drug  
17      court program?

18      A     Yes, sir.

19      Q     It's fair to characterize that as a way to help you  
20      out and, also, defer a sentence?

21      A     Right, right. It was twofold.

22      Q     And that helped, for the most part. Your next  
23      conviction was in 2012 for grand larceny. You got two  
24      years suspended on two years of probation?

25      A     Right. And that's another story. Actually, I was

1 getting a ride to do some Christmas shopping --

2 Q Well, you pled guilty to it, didn't you?

3 A Yes, I did. Because I was in the vehicle, and the  
4 hand of one is the hand of all. I had no choice, you  
5 know.

6 Q Mr. Pepper, right now, you have some pending charges  
7 here for a possible -- an allegation of a meth lab --

8 A Right.

9 Q -- for which you were arrested in 2013?

10 A Right.

11 Q Now, let's move on to the crime charged here at bar.  
12 Let's say -- you purchased your house in 2009; is that  
13 correct?

14 A It was purchased in 2010. I moved in in 2011.

15 Q All right. And that's the same [REDACTED] --

16 A Yes, sir.

17 Q -- that Mr. Calvert was in on November the 18th;  
18 right?

19 A Yes.

20 Q Okay.

21 A I'm not quite sure on the exact date.

22 Q Sure.

23 A But, yeah. That sounds about right.

24 Q And did -- when you were incarcerated for this, the  
25 allegations of this meth lab, did you ever receive a phone

1 call?

2 A Yes. They took me out of my cell, took me down to  
3 intake. And the officer down there got on the phone and  
4 called a deputy. And I got -- he handed me the phone.  
5 And it was a -- he told me he was at my house and that he  
6 was calling from out there. He had Ms. Hannah Horne. But  
7 she had told him that somebody else was in the house and  
8 he won't come out. And they asked me if it was okay if he  
9 took the dog in there with him to find him.

10 Q Okay. So while you were in jail, did you ever give  
11 anybody permission to be in the house?

12 A No, sir.

13 Q Did you give the Defendant permission to be in the  
14 house?

15 A No, sir. I, actually, don't know him.

16 Q Do you know Hannah Horne?

17 A No.

18 Q Okay. So you know neither of the two people that  
19 were in your house that night?

20 A No.

21 Q But you do know your neighbor, Ms. Crawford?

22 A Right. And she has let me know -- she's a very good  
23 judge of character -- that he's a great kid --

24 Q I need to stop you right there. Because I don't want  
25 you to talk anything about his character.

1 A Okay. No, I wasn't. But I was through on the  
2 character part. But go ahead.

3 Q So you told the deputies that no one was allowed in  
4 there. You didn't give consent for anyone to be in the  
5 house; correct?

6 A Exactly. Correct.

7 Q And when you got out of jail -- did you, eventually,  
8 bond out? You're, obviously, out.

9 A Yes.

10 Q And where did you go to live when you got out of  
11 jail?

12 A Well, I couldn't legally live in my house until it  
13 was reexamined by DHEC and certified. But, you know, I --  
14 they tested it. And I moved back in thinking that they  
15 was going to turn that in. And they -- the officer went  
16 off to Myrtle Beach, whatever. And it -- they come out  
17 and fined me \$500 for being there. And then it was  
18 cleared up. And the Judge dropped it to \$150. And I'm  
19 legally now allowed to live in my house.

20 Q All right. And did that occur yesterday -- or you've  
21 been legally allowed to live in your house since when?

22 A Since January.

23 Q Okay. So you were, basically, only out of it for  
24 about 30 days?

25 A Yeah.

1 Q Okay.

2 A Besides the time I spent incarcerated.

3 Q And you live there now today?

4 A Yes, sir.

5 Q As if nothing ever occurred; is that correct?

6 A Right.

7 MR. WATTS: Okay. Please answer any questions

8 Mr. Propst may have for you.

9 THE WITNESS: All right.

10 CROSS-EXAMINATION

11 BY MR. PROPST:

12 Q Mr. Pepper, like you said, you've had a long history  
13 of run-ins with the law?

14 A Unfortunately, yes.

15 Q Including convictions for drugs, theft, possession of  
16 stolen items, all that stuff. So you know your way around  
17 the penal system, I guess?

18 A Yes, sir.

19 Q And you said you went to drug court?

20 A Yes.

21 Q And I apologize, what year was that?

22 A I was admitted into drug court in 2009. My accident  
23 happened in 2009. And then through physical recovery and  
24 everything, they activated my case in drug court again.  
25 And I, finally, graduated in 2011.

1 Q So you graduated from drug court in 2011. And, by  
2 2012, you're committing crimes again; right?

3 A I was -- I pled guilty to a crime..

4 Q So you pled guilty and you were convicted by the  
5 Court; correct?

6 A Right.

7 Q Okay. And, now, you have a pending meth charge;  
8 correct?

9 A A pending charge, yes.

10 Q And you were incarcerated due to that charge?

11 A Exactly, yes.

12 Q Now, when you were arrested for this charge, did you  
13 see signs posted on the house or --

14 A When I was arrested for the charge, there was no  
15 signs on the house.

16 Q Right. But when you got out of jail --

17 A Yes, sir..

18 Q -- there were signs. And they said -- what you just  
19 told the Court is you couldn't legally live in the house  
20 until it was reexamined by DHEC?

21 A Right. Correct.

22 Q And you, actually, received a fine for being there?

23 A Yes, sir.

24 Q In violation of that -- of the order?

25 A Yes.

1 Q And the police came and ticketed you for it?

2 A Correct.

3 Q Okay. And you went to the courthouse and you pled  
4 guilty to that, to the -- to that charge?

5 A The Judge that the ticket -- I had to go in front  
6 of -- I went in front of him and my caseworker, David  
7 Debrew [phonetic], went with me. And we explained the  
8 situation to him. And he cut it from \$500 down to \$150,  
9 which was the minimum. And --

10 Q So he found you guilty and let you pay the minimum?

11 A Yes.

12 MR. PROPST: Okay. Nothing further, Your Honor.

13 MR. WATTS: Nothing further from the State, Your  
14 Honor.

15 THE COURT: Thank you, sir.

16 You can step down.

17 THE WITNESS: Okay. Thank you.

18 THE COURT: All right. Ladies and gentlemen, we're  
19 going to recess for the evening. Don't talk about the  
20 case, or do any kind of outside investigation, or get on  
21 the Internet, or do anything else that would be improper  
22 or violate the oath you've given to decide this case based  
23 on the evidence you hear during the court session.

24 So I hope you have a good evening.

25 Mr. Williams, you were elected Foreperson?

1 consultation with your lawyer.

2 And have you had enough time to talk to your lawyer  
3 about your right to testify or not testify, and the  
4 strategy and consequences of your choice?

5 DEFENDANT CALVERT: Yes, sir.

6 THE COURT: All right. And did you understand all of  
7 my questions?

8 DEFENDANT CALVERT: Yes, sir.

9 THE COURT: Do you have any questions of me, sir?

10 DEFENDANT CALVERT: No, sir.

11 THE COURT: All right. Thank you very much.

12 So I'll let you rest in front of the jury.

13 Do you have any motions at this stage?

14 MOTIONS

15 MR. PROPST: I would just renew my previous motions  
16 pretrial and all objections. And I would make a motion  
17 for a directed verdict when that would be appropriate.

18 THE COURT: All right. Well, viewing the light most  
19 favorable to the State, I think under the standard of Rule  
20 19, I'd be constrained to deny your motion respectfully.

21 MR. PROPST: Is that as to the directed verdict?

22 THE COURT: Yes.

23 MR. PROPST: If I may, I'd like to argue the directed  
24 verdict.

25 THE COURT: Oh, I thought you just did. I'm sorry.

1           MR. PROPST: No.. I apologize, I thought you were --  
2 we would wait.

3           THE COURT: Certainly.

4           MR. PROPST: Thank you.

5           Your Honor, it's our position that with regard to  
6 first degree burglary, the State has not met the burden of  
7 establishing and proving every element of the crime.  
8 Specifically, the State has failed to meet the burden of  
9 establishing that the incident location was a dwelling  
10 house for the purposes of the burglary statute.

11           Under Section 16-11-10, a dwelling house is defined  
12 as any house in which there -- excuse me, in relevant  
13 part, any house that sleeps a person that lodges there  
14 with a view to protection of property shall be deemed a  
15 dwelling house.

16           In State v. Evans, the Court of Appeals held that  
17 whether a building is a dwelling turns on whether the  
18 occupant left with the intention to return. They -- this  
19 case dealt with a vacation home that was visited on  
20 occasion, I guess, every two weeks or so each month until  
21 the wife became ill, and then the visits became less  
22 frequent.

23           They determined with the -- the house was  
24 burglarized. And they determined, despite not living  
25 there, that this vacation house was a dwelling based on an

1 intent to return where the couple visited the home once  
2 every two weeks and then more sporadically. It was ready  
3 to be lived in at the time. And they had been living in  
4 the home off and on for a number of years.

5 Now, they based their findings of an intent to return  
6 on State v. Ferebee, a 1979 case that discussed the vacant  
7 apartment unit that was found not to be a dwelling. This  
8 apartment unit had been vacated the week before by the  
9 tenants and was vacant at the time of the burglary. It  
10 was still owned by someone, but no one was living there.

11 They found that Section 16-11-10 allowed the  
12 apartment to have an identifiable occupant sleeping or  
13 residing there. And although a temporary absence of  
14 occupants would not prevent a residence from becoming the  
15 subject of a burglary, it required that the occupant leave  
16 with the purpose of returning. They found that a house,  
17 although furnished as a dwelling, loses its character for  
18 the purpose of burglary if the occupant leaves without the  
19 intention to return.

20 The rational was that burglary is an offense against  
21 habitation, rather than property. So, essentially, if no  
22 one is living there, it cannot be a dwelling because it's  
23 not habitated. And, similarly, this code Section  
24 31-15-320 is dealing with dwellings unfit for human  
25 habitation. The code section explains when a home is,

1 actually, unfit for human habitation and precludes  
2 occupants from -- and when occupants are precluded from  
3 living there.

4 This section reads that, essentially, when the  
5 Government -- the county or the state finds that a  
6 dwelling is fit for -- unfit for human habitation due to  
7 dilapidation, defects, increasing the hazards of fire,  
8 accidents, or other calamities, lack of ventilation, lack  
9 of sanitary facilities, or other conditions rendering the  
10 house unsafe or unsanitary, dangerous or detrimental to  
11 the health, safety, or morals, or otherwise amenable to  
12 the welfare of the residence of the county, such county  
13 may exercise its police power to prepare to close or  
14 demolish any such building.

15 Your Honor, as you heard from the testimony, this  
16 house was, essentially, condemned. It was a former meth  
17 house that vice and narcotics had declared unsafe for  
18 occupancy. There were signs posted on all the doors  
19 around the house that multiple officers testified to.  
20 Essentially, any occupancy was in violation of the law.  
21 And, in fact, someone could be prosecuted for trespassing  
22 if they intended to return. This applies to the owner, as  
23 well as the general public.

24 The -- Deputy Lovelace testified it was, essentially,  
25 condemned. So, functionally, it was condemned. It was

1       unlivable, uninhabitable. You can't have an intent to  
2       return to somewhere that is illegal to be. It was, as you  
3       heard, rendered unsafe, unsanitary, dangerous, or  
4       detrimental to the health, safety, or morals, or  
5       otherwise. It was just at its core a meth lab that no one  
6       could live in. And, as a matter of law, it was not a  
7       dwelling house. It's impossible to have an intent to  
8       return to a structure where it's illegal to occupy.

9       Also, from just revisiting Evans, the first case I  
10      mentioned, there, they found that one of the factors was  
11      that the -- they found that a dwelling -- they found a  
12      vacation home a dwelling because one of the factors was  
13      the owners visited the home on occasion. This owner was  
14      incarcerated. He couldn't visit the home even if he  
15      wanted to. And it was illegal. He can't enter the home.  
16      He can't have an intent to return when it's prohibited by  
17      law. The Court in Evans, also, found it was ready to live  
18      in.

19      Here, the house, as you heard, was ransacked. It was  
20      a mess. It was even to the point that -- I'm not sure  
21      which deputy mentioned it, but when there were like items  
22      grouped together, that was unusual. That's how in  
23      disarray the house was.

24      And one of these cases says that even if it's -- even  
25      if the house is furnished, that's not indicative of a

1 dwelling. It loses its character if there's no intent to  
2 return. Again, I reiterate this guy is in jail. There's  
3 a meth lab here. The place was condemned. He legally  
4 cannot come back to this place.

5 And, also, finally, living in the home off and on  
6 from Evans, another factor, no one was living in this  
7 home. The guy, again, is incarcerated due to the meth  
8 lab, being, found. It's illegal to live in the home.  
9 Even the co-defendant stated in her testimony that she saw  
10 the signs and knew that this house was Greenville County  
11 property, and it was illegal to be there, and stuff. No  
12 one was supposed to be there, and stuff.

13 In sum, Your Honor -- and I sound like a broken  
14 record at this point. This house was functionally  
15 condemned. There was a meth lab that was found there. It  
16 was illegal to be in the house, whether due to trespassing  
17 or trying to live there. It was illegal to be there by  
18 the owner, general public, by anybody. As a result, you  
19 cannot have an intent to return to somewhere that you're  
20 not allowed to be. It's just at the core illegal.

21 So, based on those arguments, we'd move for a  
22 directed verdict due to the fact that the State has failed  
23 to meet its burden of establishing the incident location  
24 as a dwelling house.

25 THE COURT: Thank you, Mr. Propst.

1           Mr. Watts.

2           MR. WATTS: Thank you, Your Honor.

3           May it please the Court.

4           My first point would be that even if you were -- I  
5       don't think it would be proper to direct a verdict  
6       without, at least, including a lesser included offense of  
7       burglary second, if you were so inclined, Your Honor.

8           But I think Mr. Propst cites the same cases that  
9       we're going to argue that they mean different things,  
10      quite frankly, Your Honor. And I will, also, say that not  
11      only do we argue against directed verdict, but I think  
12      that after this, you'll see that including a lesser -- a  
13      charge on a lesser included offense of burglary second  
14      degree is not warranted in this case. I want to hang my  
15      hat, initially, on State v. White, Your Honor.

16          If you wouldn't mind, I'd pass that case up.

17          Judge, I believe this case is on all fours with what  
18      we've seen in State v. William Calvert. In this case,  
19      Your Honor, there was a motel in which a defendant stole  
20      the room keys while the tenants were down at the pool.  
21      Your Honor, he then went on and burglarized the place  
22      while they were down at the pool, and then argued it was  
23      vacant and it wasn't a dwelling.

24          Your Honor, much like Mr. Propst has already cited,  
25      the law regarding whether it is a dwelling, ultimately,

1 comes down to an initial characterization. And then you  
2 have to look at a temporary absent situation, which is  
3 what we have here. I don't think there's any doubt that a  
4 house, a residence that the Defendant -- or excuse me,  
5 Mr. Pepper in this case purchased -- all right -- lives  
6 there, left while he was incarcerated with the intent to  
7 return, and then came back and still lives there today. I  
8 think that, obviously, qualifies as a dwelling. I don't  
9 think there's any way that can't qualify as a dwelling.

10 Under the statute, it defines it as any house,  
11 outhouse, apartment, building, erection, shed, or box in  
12 which there sleeps a person. There can be no doubt this  
13 is a house and someone sleeps there. What we have is a  
14 situation where there is a temporary absence, Your Honor,  
15 from the dwelling.

16 All right. And this case, again, is on all fours.  
17 If you look -- I believe it's on Page 4 or 5, Your Honor,  
18 in the packet that I gave you. And, specifically, on Page  
19 38, Your Honor, of the South Carolina Reporter, Charges on  
20 lesser included offenses. He asserts the trial court  
21 erred in refusing a charge on the lesser included offenses  
22 of second and third. Essentially, he claims that since  
23 the hotel was a building, the jury could have found second  
24 or third degree.

25 As they went on, they said that -- if you look down

1 here at the last paragraph, Finally, the trial court held  
2 the motel room in question was being used as a dwelling.  
3 It's defined as any building in which there sleeps a  
4 tenant. It didn't matter that somebody wasn't in there,  
5 whether they could return.

6 The inquiry, Your Honor, is not on the reasons for  
7 the absence. It's on whether someone intends to return.  
8 There, they found this was, undoubtedly, a dwelling,  
9 people sleep there. The fact that somebody wasn't there  
10 had no bearing on the analysis, Judge. And they affirmed  
11 not charging second degree and third degree burglary.

12 Your Honor, also, I'll hand up Evans, also.

13 THE COURT: Thank you.

14 MR. WATTS: Judge, and, again, if you look on Page  
15 203, it says the only issue raised on appeal is whether  
16 the building met the statute -- did not meet the statutory  
17 definition of a dwelling. The undisputed evidence showed  
18 the property in question was just a storage building. It  
19 was used as a part-time residence. And nobody had even  
20 occupied it for three whole years, Your Honor.

21 If you recall, Mr. Pepper stated that he was only out  
22 of his house for effectively two months. He was arrested  
23 in November of 2013, and said he returned in January.  
24 Quite frankly, he had an intent to return. He even  
25 returned before he was able to get in the house and was

1       cited for a criminal offense.

2               Again, Ms. Crawford, his next door neighbor,  
3       testified that he purchased the house, had been living  
4       there since somewhere around 2010. And he lived there  
5       after he got out again. There's no question that he's got  
6       the intent to return to the house that he owns.

7               The fact of the matter is the reason for why he's  
8       in -- you know, the temporary absence has no bearing,  
9       absolutely no bearing on whether this is a dwelling or not.  
10      The fact of the matter is the house where he sleeps, that  
11      qualifies as a dwelling.

12              And the only question for the Court to answer is  
13      whether he has the intent to return. Quite frankly,  
14      there's been -- it's undisputed that he had the intent to  
15      return. Quite frankly, there's no doubt he had the intent  
16      because he, actually, returned. He's been living there  
17      since January.

18              And, finally, Your Honor, I would pass up State v.  
19      Phillips. Again, these three cases that I'm passing up,  
20      ultimately, again, they're all square with what we're  
21      dealing with. Once again, once it qualifies as a  
22      dwelling, the fact that it's empty is not an inquiry  
23      really for the Court to determine. And this case right  
24      here, this would be more akin to a reason why you would  
25      possibly grant summary judgment, or even charge second

1 degree burglary.

2 All right. There was evidence that there was no  
3 intent to return to this gentleman's place here. The  
4 Defendant removed stuff from his own house, talked to a  
5 neighbor -- all right -- said he was leaving, and then  
6 burned down his own place. However, a court -- he argued  
7 that they should direct a verdict because he left the  
8 mobile home the morning of the fire. Specifically, Your  
9 Honor, I'm on Page 406 of the packet and Page 413 of the  
10 South Carolina Reporter.

11 He says in the case of he -- Phillips where he left  
12 the mobile home on the morning of the fire intending never  
13 to return. He retrieved his gun from Johnston's care, and  
14 loaded his car with most of his belongings. However, he  
15 left his lawn mower, his father's golf clubs, and several  
16 live animals at the home. Phillips leaving his lawn mower  
17 is an ambiguous act that could support either his  
18 abandonment of the home or his intent to return. Judge,  
19 it was a factual issue there whether he had the intent to  
20 return. And this qualified as a dwelling or just a  
21 building that had been abandoned.

22 If you'll direct your attention to the last  
23 paragraph. Viewed together, this evidence supports the  
24 finding that Phillips left with the intention of  
25 returning, certainly, to care for his animals and,

1 possibly, resume living in the home. Your Honor, the  
2 house was burned down. If anything, it was -- you know,  
3 if anything, it was uninhabitable. It's probably a  
4 situation where he's burned the house, Your Honor.

5 And, again, I would just state to the Court and I  
6 would respectfully submit that there is no doubt that this  
7 man's house that he still lives in qualifies as a  
8 dwelling. The only inquiry for the Court in this directed  
9 verdict motion from the Defense viewed in the light most  
10 favorable to the State is whether there's an intent to  
11 return.

12 Judge, there's undisputed evidence -- there's  
13 absolutely no evidence to the contrary that he had an  
14 intent to return. In fact, he returned too early. He was  
15 criminally cited. He still lives there today. He  
16 testified to that. Ms. Crawford testified to that. And,  
17 as such, the only thing this case can be is a burglary in  
18 the first degree qualifying as a dwelling. It can't be a  
19 burglary in the second. There's no evidence to support  
20 this is a building at all.

21 And I would respectfully request that you deny this  
22 motion for directed verdict.

23 THE COURT: Thank you, Mr. Watts.

24 MR. WATTS: Thank you, Your Honor.

25 THE COURT: Okay. Of course, I have to view the

1 evidence in the light most favorable to the State. And,  
2 at this stage, I cannot weigh the evidence or construe any  
3 of the ambiguities in anyone's favor except for the State.

4 So I find that based on the statutory definition of  
5 dwelling and the case law refinement of that and fair  
6 being in Evans that it is a jury question about whether or  
7 not this structure constituted a dwelling in the context  
8 of the burglary first statute.

9 So what is your view on the lesser included offenses,  
10 Mr. Propst?

11 MR. PROPST: Your Honor, we would ask that because,  
12 as you stated, the issue with the dwelling is a factual  
13 issue whether or not the evidence can support, it is a  
14 question for the jury. We'd ask that you do charge the  
15 jury not only on second degree burglary, but on third  
16 degree as well.

17 And, obviously, you have to on first degree. But the  
18 main issue in this case, as you've heard, is whether or  
19 not this was a dwelling for the purposes of burglary  
20 first. I think it's only fair that the jury be charged on  
21 second degree burglary and third degree burglary as well.  
22 But, like you said, and in Phillips, which the Prosecution  
23 cited, it is a factual question of whether there was an  
24 intent to return.

25 It's our position that it's, also, a legal issue that

1 he couldn't be in the house. It was illegal. You can't  
2 have an intent to return to a place that's illegal to be  
3 in. But we would ask that you charge the jury on first,  
4 second, and third degree burglary.

5 And, Your Honor, if I may, this house, as you heard  
6 from the testimony, was posted with no trespassing signs.  
7 So if you're willing, we would ask for a trespassing  
8 charge to the jury as well.

9 THE COURT: You want a lesser included offense charge  
10 of trespass?

11 MR. PROPST: Yes, sir.

12 THE COURT: All right. What's the State's position,  
13 Mr. Watts.

14 MR. WATTS: Judge, first off, I would cite you to  
15 State v. Funchess, the trial judge's determination of what  
16 law should be charged is made from the evidence presented.  
17 I would -- before you grant a charge on second degree or  
18 third degree burglary, I would stress to the Court that I  
19 don't believe any evidence has been seen to show that this  
20 is not a dwelling, Your Honor. And I don't know -- he  
21 comes up with what he calls it's a legal conclusion it's  
22 not a dwelling. But there's no factual issue this is not  
23 a dwelling. It can't be anything other than a dwelling,  
24 Your Honor.

25 And, of course, as they put in State v. White, I

1 think it's improper to submit a charge on second or third  
2 degree burglary. And, quite frankly, Your Honor, trespass  
3 is not a lesser included offense of burglary. The  
4 elements are not even close to being the same. I don't  
5 see any way you can get a charge for trespass viewing the  
6 evidence that the State would have to prove on those two  
7 charges.

8 But, again, I would direct you to the point that  
9 there's been absolutely no evidence that the Defense can  
10 point to that came out during the trial that there was  
11 any -- there was a question as to whether anybody intended  
12 to return to the house, Your Honor.

13 THE COURT: Okay. Well, I disagree with the State's  
14 interpretation in that respect. I would have to say that  
15 it is a factual dispute, which would warrant the charge of  
16 the lesser included offenses of burglary. I don't know  
17 how trespass is a lesser included offense.

18 What's your reasoning for that, Mr. Propst?

19 MR. PROPST: Your Honor, it's my -- my only reasoning  
20 would be the house was marked as no trespassing. And the  
21 people, based on the testimony, that entered could be  
22 prosecuted for trespassing.

23 MR. WATTS: Judge, I apologize for interrupting. I'm  
24 pretty sure that's already been decided. I don't have the  
25 case law right now, but I recall reading that trespass is

1. not a lesser included of burglary.

2. THE COURT: Okay. Give me one minute.

3. Thank you.

4. (Pause.)

5. THE COURT: How would you be entitled to a charge on  
6. third degree burglary?

7. MR. PROPST: One moment, Your Honor.

8. (Pause.)

9. MR. PROPST: Your Honor, my only argument would be  
10. that it's -- since the issue is whether or not it's a  
11. dwelling, that third degree burglary includes a building.  
12. And if it's not a dwelling, if it's anything, it must be a  
13. building. But that's why we feel we're entitled to it.

14. THE COURT: Was there a lunar eclipse I'm not aware  
15. of?

16. MR. PROPST: Your Honor, I'm not aware of a lunar  
17. eclipse --

18. THE COURT: It was in the nighttime. That's  
19. undisputed; right?

20. MR. PROPST: Yes, sir.

21. I just felt it appropriate to ask for the third  
22. degree instruction.

23. THE COURT: Okay. But if it was in the nighttime and  
24. that's not in dispute, it has to be either a building or a  
25. dwelling; right?

1 MR. PROPST: For third degree, it's a building.

2 THE COURT: Well, third degree has to have the  
3 absence of --

4 MR. PROPST: I believe the nighttime elements are the  
5 distinguishing factor.

6 THE COURT: It can't be -- I mean, how could there be  
7 evidence it wasn't nighttime?

8 MR. PROPST: I understand, Your Honor. I was just  
9 asking for it and leaving it up to the Court to make the  
10 determination. But, ultimately, we would ask the Court  
11 for a charge on the second degree burglary with the --  
12 including the building.

13 THE COURT: All right. I'm going to look up the  
14 trespass as a lesser included. I don't have that at my  
15 fingertips.

16 Anything else about the jury charge?

17 MR. WATTS: Yes, Your Honor.

18 THE COURT: All right.

19 MR. WATTS: I have -- I want to pass up the jury  
20 charge from State v. White, Your Honor.

21 THE COURT: Okay, sir. Thank you.

22 MR. WATTS: Again, in dealing with this dwelling, I  
23 think the law is well settled. Quite frankly, if you  
24 review these cases, not only is the law about intent to  
25 return profusely through there, but they, also, cite that

1 from different jurisdictions, Your Honor. And they,  
2 specifically, say temporary absence from a dwelling is  
3 irrelevant to the charge of first degree burglary. Not  
4 only do they cite it, they cite in State v. White  
5 affirming that decision or that rule of the law. I think  
6 that is good law for burglary first, and it should be  
7 charged to the jury as such, Your Honor.

8 THE COURT: Well, I think it's a little bit  
9 misleading to say temporary absence from a dwelling is  
10 irrelevant to the charge of first degree burglary. That's  
11 not really correct.

12 It is relevant to the extent that temporary absence  
13 without an intention to return would be enough to find  
14 that it was not a dwelling at all; right?

15 MR. WATTS: Judge, well, I would respectfully request  
16 that you charge that in conjunction with the intent to  
17 return language. If you feel that it is relevant and  
18 that's misleading with that language, I would respectfully  
19 request that you charge that in addition to the intent to  
20 return.

21 THE COURT: Well --

22 MR. WATTS: I think that would be an accurate  
23 statement of the law, Your Honor. I think that's what  
24 each one of the cases cited -- each one of these cases is  
25 very clear. This is well settled. I don't think there's

1       any doubt that that would be good law in conjunction with  
2       attempt to return.

3             And, Judge, I just wanted to delineate, there's a  
4       difference between classifying something as a dwelling and  
5       then that dwelling being absent during the burglary.  
6       That's why I think this is good law.

7             It, also, kind of boot straps my earlier argument  
8       that you denied. I understand that. But this has nothing  
9       to do with the classification of the dwelling. He's free  
10      to argue that this isn't a dwelling, that it somehow is a  
11      building. But even when they -- once they find, as the  
12      finders of the facts, that this is a dwelling, they're  
13      still going to have to answer the question about why  
14      nobody was in there.

15            It's no different from the motel. It's no different  
16      from the vacation home shed that wasn't occupied for three  
17      years. That's another -- you know, once they qualify  
18      that -- excuse me, categorize that legally or factually as a  
19      dwelling, then they have to answer the question whether  
20      there was an intent to return.

21            MR. PROPST: Your Honor. The test is --

22            THE COURT: Well, wait a minute. I don't know if  
23      he's finished yet. That's why he's standing up. You  
24      should be sitting down.

25            MR. WATTS: Judge, like I said, I don't think there's

1 any doubt that's going to help them aid -- even if it's  
2 going to aid them in their decision. I think it's good  
3 law. I agree with you, quite possibly, it is misleading  
4 without the intent to return language. But, again, it's  
5 two separate issues that the jury is going to have to  
6 decide. One, does this house qualify as a dwelling? Two,  
7 why is it not occupied at the time of the burglary?

8 All right. And I think that, ultimately, Judge, with  
9 those two together, that tells them what the law of  
10 burglary is when somebody is not in either a building or a  
11 dwelling.

12 THE COURT: Well, I understand your point. And I  
13 think you're right in terms of what the test is. I simply  
14 think the language that you're requesting is confusing  
15 because it doesn't express the law correctly. It's  
16 misleading. And it may be what they said, but it's not  
17 helpful to the jury to be given that language in a vacuum  
18 without the context of what really is the test, which is  
19 whether the occupant was left with the intention to  
20 return.

21 So, respectfully, I would -- I'm not going to confuse  
22 the jury by using that language. It's too broad and could  
23 cause confusion without context.

24 So thank you.

25 MR. WATTS: Thank you, Your Honor.

1           If I could respectfully request just what the charge  
2           is going to be in regards to that?

3           THE COURT: Sure. Yes. I'll give you a copy of it  
4           before I tell them.

5           Is there anything else in terms of the charge?

6           MR. WATTS: Nothing from the State, Your Honor.

7           THE COURT: All right. Let's see here.

8           Well, State v. Gilliland, 402 S.C. 309, Court of  
9           Appeals 2012 held that neither statutory trespass nor  
10          common law criminal trespass was a lesser included offense  
11          of first degree burglary. Because each type of trespass  
12          requires the State to prove, at least, one element of  
13          first degree burglary.

14          I don't know of any reason why that wouldn't apply to  
15          second degree burglary as well, do you, Mr. Propst?

16          MR. PROPST: No, Your Honor.

17          THE COURT: All right. So we'll charge first degree  
18          and second degree.

19          And let me go work on this dwelling language for a  
20          minute.

21          We'll take about a 10-minute recess.

22          MR. WATTS: Thank you, Your Honor.

23          MR. PROPST: Thank you, Your Honor.

24          THE COURT: And we'll be ready for closing arguments.

25          Thank you.

1 (WHEREUPON, a break was taken.)

2 THE COURT: Anything further on the charge?

3 MR. WATTS: Judge, respectfully, I know you denied  
4 this. But, again, I dissent as to the no language as to  
5 the reason for the absence. I think that a full statement  
6 of the law would include the intent to return, as well as  
7 the reason for the absence.

8 THE COURT: I'm not sure I follow that, Mr. Watts.  
9 What do you mean?

10 MR. WATTS: Judge, in the burglary first degree in  
11 your charge at the end of the second paragraph, it says, A  
12 structure is a dwelling even if the occupants are  
13 temporary absent from the building as long as you find the  
14 occupant has left and intends to return. I feel like what  
15 I submitted earlier, also, helps to clarify the temporary  
16 absent part. I think it's a good statement of the law and  
17 it should be included in the charge.

18 THE COURT: So you want me to add after that sentence  
19 temporary absence is irrelevant?

20 MR. WATTS: Yes, Your Honor.

21 THE COURT: How would with the jury reconcile the two  
22 issues?

23 MR. WATTS: I think, again, it's two separate things.  
24 Once they qualify it is a dwelling -- all right -- which  
25 would be the second part of that sentence, As long as you

1 find the occupant has left with the intent to return.

2 THE COURT: Okay.

3 MR. WATTS: It's a dwelling. And then they're going  
4 to have to reconcile a second issue, which would be  
5 whether he is properly temporarily absent or not.

6 THE COURT: Well, I could say if, however, you find  
7 the occupant left and had no intent to return, then the  
8 structure would not be a dwelling.

9 Wouldn't that accomplish what you're seeking?

10 MR. WATTS: Judge, and I apologize. The more I'm  
11 thinking it through, it's somewhat a circular argument I'm  
12 making, obviously. I'm not entirely sure that -- Judge, I  
13 think you're right. It's going to have to be defined as  
14 written. I just don't know that I think it's an accurate  
15 statement of the law. I agree there's an intent to  
16 return.

17 THE COURT: Okay. Anything further?

18 MR. PROPST: Nothing, Your Honor.

19 THE COURT: Are y'all ready for the jury?

20 MR. PROPST: Yes, sir.

21 MR. WATTS: Yes, Your Honor.

22 THE COURT: All right. You can bring the jury in.  
23 Thank you very much.

24 I understand your argument, Mr. Watts. I'm just  
25 trying to make it as simple as possible for the jury.

1 THE COURT: Yes, sir, certainly.

2 Okay. We've reached the point where we have closing  
3 arguments.

4 So, Mr. Watts, yes, sir.

5 CLOSING ARGUMENTS

6 MR. WATTS: Thank you, Your Honor.

7 May it please the Court.

8 Mr. Propst.

9 Ladies and gentlemen of the jury, the Defendant is  
10 guilty of burglary in the first degree. He's not guilty  
11 because I say so, he's guilty because of what the evidence  
12 shows.

13 And what did the evidence show? Ultimately, this  
14 Defendant knew that Mr. Pepper wasn't going to be at his  
15 house that night. He knew he was incarcerated. So he  
16 gets somebody to drop him off at the neighbor's house. He  
17 walks approximately the 50, 75 yards over to Mr. Pepper's  
18 house.

19 The first thing he does is he cases the place. He  
20 looks at his structure outside, decides there's nothing of  
21 value. And he says, I'm going in the house. He takes out  
22 the window unit, air conditioning, puts it on the ground,  
23 and enters through the window.

24 And, at that point, the crime is complete. Because  
25 we all know that when he goes in, his intent is to steal

1 something of value. That's what he was looking for  
2 outside. And when he goes inside, he finds some tools.  
3 He's putting those in bins so that he can take them away  
4 from the house so he can complete the theft. He's only  
5 thwarted by the fact that the neighbor has a baby monitor  
6 in the house, somewhat ironic.

7 Ultimately, though, you, also, heard that this was a  
8 dangerous and scary situation for everyone involved. The  
9 actions he took that night in November of 2013 scared  
10 everyone involved. They scared Ms. Crawford, who  
11 testified first. She was sleeping in her house in the  
12 middle of the night. And it was so clear on her baby  
13 monitor, if you recall her saying, that she thought that  
14 the Defendant was in her house. She called the police.  
15 Thankfully, he wasn't in her house. He was next door at  
16 Mr. Pepper's.

17 And when the police get there, he doesn't come out of  
18 the house. He doesn't respond for, at least, 30 minutes  
19 while they're waiting on the K9 unit. And, presumably, if  
20 you recall, Deputy Lovelace testified for 10 or 15 minutes  
21 while they were calling out, and they were getting Hannah  
22 Horne out of the house.

23 You heard Hannah Horne testify that he left in the  
24 car with a flashlight and a knife. And in their actions  
25 to stay safe for themselves, they were worried about him,

1 possibly, using a knife. Although it may just be a small  
2 pocket knife that he had, and who knows whether he had it  
3 or ditched it in all the ramblings inside of the house,  
4 they were really scared. They were scared enough that  
5 when he didn't come out, they had to call in a K9 unit.

6 The K9 unit came and they called out. And he knew he  
7 was going to jail. He knew what he did was wrong. And he  
8 knew he was going to jail. That's why he was not coming  
9 out. He heard them call out that he was going to get bit.  
10 And, indeed, he did get bit. The only three exhibits in  
11 the trial, other than the testimony you heard from the  
12 witnesses, those will go back with you. He got bit. He  
13 knew he was going to jail. He meant to go in and  
14 burglarize that house.

15 Now, at the beginning, I told you we had the burden  
16 of proof in this case beyond a reasonable doubt that  
17 firmly convinced you of four things, four elements of the  
18 crime of burglary first degree, which I think we've done.  
19 The first I told you was he had to enter a dwelling. And  
20 we'll talk a little bit more about that in a minute. I  
21 think we can all probably see through the evidence in the  
22 trial, that's where the contention is going to be. But I  
23 think, ultimately, the rest of the stuff is  
24 self-explanatory.

25 He had no consent when he entered Mr. Pepper's house.

1 They all knew he wasn't supposed to be in there. He knew  
2 he wasn't supposed to be in here. Again, our common sense  
3 tells us that. How did he go in? Did he go in through  
4 the door? No. He took out the air conditioning unit. He  
5 went in through the back window.

6 If you recall, it was the three side of the house.  
7 And Lovelace explained to you if you're standing on the  
8 road and you're looking at the house, that's the one side  
9 where the front door is. And then you go clockwise, then  
10 you come to the two side. The three side is the back and  
11 the four side.

12 He went all the way where he's -- at night, no one  
13 can see him. And he's not visible from the road. Your  
14 common sense and everyday experiences tell you he didn't  
15 have permission to be in there. He was in there without  
16 consent, and Stephen Pepper confirmed that for you. He  
17 told you, I don't even know that gentleman. I don't even  
18 know that girl. He definitely didn't have permission to  
19 be in his house. No one had permission to be in my house.

20 He had to enter with the intent to commit a crime.  
21 And, again, I told you at the beginning, you don't have to  
22 complete the crime. You just have to enter. The burglary  
23 is complete when he goes through the window, if you find  
24 as the fact finders that he had the intent to commit a  
25 misdemeanor or felony inside the house, which, again, we

1 know he was planning on stealing tools.

2 You could tell what he did in the house. You heard  
3 the officers testify that the place was kind of in  
4 shambles. But one thing was highly suspicious was the  
5 fact that they had multiple bins and big bins filled with  
6 all sorts of tools, power tools, regular tools. And those  
7 are the only things that seemed odd. You know what was  
8 going on in there. Use your common sense.

9 But, again, Ms. Hannah Horne, the co-defendant, told  
10 you what was going on. Not only did she tell you he was  
11 stealing tools, she told you why, he was going to sell  
12 them. He was breaking in with the intent to get something  
13 of value. And he was going to steal the tools and sell  
14 them and make a profit. So he was going to make a profit  
15 on the stuff he gets free.

16 And, finally, the last element was it occurred at  
17 nighttime. If you recall, there's a mountain of evidence  
18 to that, too. First, Ms. Crawford testified she was  
19 sleeping. It occurred sometime after midnight. Each one  
20 of the officers told you what time they got there.

21 Deputy Fuller, if you recall, was the K9 handler. He  
22 said he didn't get there until 2:00. This is occurring at  
23 night. And, of course, we know they arrive at 11:00.  
24 And, again, with our common sense, in November, it's dark.  
25 It may not necessarily be dark at 9:00 p.m. in June, but

1 we know it's dark at 11:00, 12:00, 1:00 a.m. in the middle  
2 of November.

3 Now, the crux of this case is really going to turn on  
4 whether you, the finders of fact, determine that this  
5 house was a dwelling. Because what the Defense is going  
6 to argue, I suspect, is that you should -- a legal nuance  
7 qualifies this is not a dwelling, but a building. And,  
8 instead of finding him guilty of burglary in the first  
9 degree, you should find him guilty of burglary in the  
10 second degree. And I'm here to tell you, ladies and  
11 gentlemen, that would be an incorrect finding of fact the  
12 way I see the evidence.

13 First, the Judge is going to charge you that a  
14 dwelling is any building or portion of a building in which  
15 a person ordinarily sleeps. Dwelling is defined as any  
16 house, outhouse, apartment, building, erection, shed, or  
17 box in which there sleeps a person who lodges there with a  
18 view of protection of the property. It's a house. We all  
19 know what a dwelling is. Most people are very familiar  
20 with where they sleep. And that qualifies as a dwelling  
21 underneath the law.

22 What we have in this situation is it's temporarily  
23 absent. The dwelling is absent. It's a place where  
24 someone sleeps, but he's not there at the time. And as  
25 long as you find that there is an intent to return to that

1 place, it still qualifies as a dwelling and you should  
2 convict on burglary in the first degree.

3 Now, let's talk a little bit about intent to return.  
4 Number one, that makes perfect sense in the law. Because  
5 our common sense, again, tells us that burglaries normally  
6 occur when you're not there. People wait until you're  
7 gone. They wait until you're gone on vacation. They're  
8 waiting until you're gone just for the weekend, to work.  
9 Also, unfortunately, for pro athletes, they wait for them  
10 to go to a distant city to play in a ball game and they go  
11 there and break in the houses. That's when most  
12 burglaries occur is when people aren't there. But the law  
13 still protects you. The law protects your house. It is a  
14 burglary in the first degree if you intend to return to  
15 that dwelling.

16 Now, the argument, I suspect, that's going to come  
17 from the Defense is, how can you intend to return? How  
18 can you intend to return when the house is temporarily  
19 condemned, I think was the word he used, Mr. Propst:

20 Again, I will caution you that what the lawyers say  
21 is not evidence. If you recall, there were multiple  
22 different ways that was broached. And I think, again, our  
23 common sense knows it wasn't condemned. A condemned house  
24 would be unable to live in, and they'd demolish it, and  
25 you can't live in it anymore. That's not the case here.

1           Mr. Pepper told you that, unfortunately, he got in a  
2 bad accident in 2009, and he purchased this house. It's  
3 no different from -- you know, most everybody else in the  
4 community. He purchased his house. All right. And while  
5 he was incarcerated, he couldn't live there. He was  
6 absent.

7           When he got out, the first thing he did was return to  
8 the house. Quite frankly, he broke the law. There's no  
9 doubt he intended to return. He, actually, returned. He  
10 even came so early that they weren't able to let him in  
11 yet. He had to pay a fine because he came back too early  
12 before DHEC inspected the house. Quite frankly, it sounds  
13 like -- quite honestly, a money-making scheme where they  
14 just needed him to pay for something and they take the  
15 little placards off and there he goes. That's the way he  
16 made it sound. But the fact is that he intended to  
17 return.

18           And listen to the charge. The charge is not going to  
19 have anything about time. I suspect that you're going to  
20 hear an argument that, at the time of the burglary, it  
21 couldn't be a dwelling. But that's not the law. The law  
22 has nothing to do with the time of the burglary. It's  
23 whether he has an intent to come back to his dwelling.

24           And there's uncontroverted evidence. There's  
25 absolutely -- I would challenge you to find any evidence

1       that he didn't intend to return. He, actually, returned.  
2       And we heard that from two people, Ms. Christy Crawford,  
3       the first witness. And then he stood up there and told  
4       you that he came back in January. He was out for about  
5       60 days.

6       And I submit to you that it would be disingenuous for  
7       the Defense to argue that this house is so bad that  
8       Mr. Pepper can't go in it, but, yet, he can. If you think  
9       about that, he says Mr. Pepper can't go in the house, but  
10      I sure can steal your stuff. That place is condemned.  
11      It's terrible. You can't go in there, but I can steal  
12      your stuff, and something about burglary in the second  
13      degree.

14      Now, I want to talk a little bit about witness  
15      credibility. The Judge is going to instruct you on  
16      witness credibility and tell you, basically, that you can  
17      believe anything you want to believe. You can believe  
18      some, you can believe none, you can believe all. All  
19      right. And I want to talk a little bit about each one  
20      that came up.

21      First, we have Christy Crawford. As you could  
22      probably tell, she didn't really want to be here. She  
23      wasn't overly happy to answer any of my questions.

24      All right. But, nonetheless, she's the one that  
25      instigated -- not instigated, but started all the calls to

1 law enforcement. So that's why she was called. I don't  
2 think she has any reason to lie. She told you that she's  
3 known Mr. Pepper for about 20 years. And he's lived next  
4 to her for about the last five, which would correspond  
5 with exactly what he told you, since 2010, when he  
6 purchased the house.

7 She, also, told you that he lives there now. Again,  
8 that's strong evidence that he had an intent to return.  
9 Of course, he, also, owns the house. But, ultimately,  
10 that's someone else that doesn't really have -- you know,  
11 she's not [sic] a witness for the State. She's someone  
12 who would be very believable.

13 And, quite frankly, we found out through Hanna Horne,  
14 the co-defendant, that quite possibly she knows the  
15 Defendant. Maybe that's why she was a little bit more  
16 receptive to Mr. Propst's questions than mine.

17 Then you heard from a bunch of witnesses. You,  
18 first, heard from Deputy Lovelace. Again, most of the  
19 stuff that they all talked about, the fact that they set  
20 up a perimeter and arrested everybody on the scene, and  
21 called in a dog handler, most of that stuff is  
22 corroborated by everybody else.

23 And if you noticed, none of them were in the  
24 courtroom. So they couldn't hear what was going on.  
25 They're coming in. So I don't know why they would have

1 any reason to lie. But I think that they can't even  
2 tailor their testimony to what they might have heard  
3 before because they weren't here. So all of that is  
4 pretty good.

5 Let's get to Ms. Hannah Horne, because that was kind  
6 of a lightening rod, I would imagine, the co-defendant.  
7 If you recall, I asked her, I said, I didn't cut you any  
8 deals, did I, Ms. Horne?

9 And she said, No, you didn't.

10 I said, Quite frankly, I'm not asking you anything  
11 that you didn't already tell the police. I don't know  
12 that she had any motive to lie, because she's already told  
13 the police everything. She gave a written statement.  
14 Ultimately, all we did was call her and articulate  
15 everything in her statement.

16 And I'll tell you what, one of the best tools -- the  
17 best tool for finding out the truth is cross-examination.  
18 When she was up there, she was fair game. He could have  
19 asked her about any bias she might have. You didn't  
20 really hear much of that. Because, ultimately, she's  
21 already provided all of this information when she was  
22 arrested at the scene that night in a voluntary statement.  
23 She's a poor 18-year-old girl. I don't really understand  
24 how she got mixed up in this, but it's very sad for her,  
25 quite frankly.

1           But I don't think she has any reason to lie. It  
2           would be the absolute opposite. You know, there's no  
3           doubt that she's trying to help herself. She's trying to  
4           do the right thing because she wants help. It would be  
5           disingenuous for me to tell you she doesn't expect help.  
6           I think we all know that. Just because I haven't promised  
7           her anything doesn't mean that she's not going to try to  
8           help herself out. But, ultimately, she told you  
9           everything about what was going on in that house,  
10          explained it to you. And on that alone, you should  
11          convict on burglary in the first degree.

12                 But let's get to Mr. Pepper, finally. Because,  
13                 again, his testimony is going to be very important in  
14                 deciding the ultimate question in this case about whether  
15                 this qualifies as a dwelling for purposes of burglary in  
16                 the first degree.

17                 As a Prosecutor, I don't get to pick my victims.  
18                 There's an old saying that, sometimes, we don't get to  
19                 deal with teachers or preachers. Mr. Pepper, he's neither  
20                 a teacher or a preacher. He had a lengthy, lengthy  
21                 criminal history. But I submit to you he still has no  
22                 reason to lie about anything that went on in the case, no  
23                 reason to lie.

24                 In fact, most of this stuff occurred in 2002 and 2007  
25                 before he got help for his drug addiction. He told you he

1       went to drug court. And, if you recall, he got in that  
2       bad wreck. He's, obviously, a little slow now,  
3       unfortunately. It's, obviously, affected him physically  
4       and mentally. In fact, he said he has a conservatorship  
5       because he really can't even -- he can't take care of his  
6       own affairs. It's probably easy to see how people take  
7       advantage of him right now. And I'm not telling you that  
8       makes him a better person, or anything like that. He  
9       appears to have gotten help for his situation.

10           And who knows, he'll have his day in court with the  
11       allegations that he's charged with right now. But,  
12       ultimately, I don't think he has any reason to lie about  
13       what went on. And the law protects him the same as it  
14       protects anyone else in the community, whether you're  
15       black, white, you're young, you're old. It doesn't matter  
16       whether you have a criminal history or not. The law  
17       doesn't make those type of distinctions.

18           It doesn't say, well, burglary first doesn't apply to  
19       your house because you have a criminal record. That's not  
20       how the law works. And I'm not asking to you like  
21       Mr. Pepper. I'm not -- you know, I'm just telling you the  
22       law -- and we all agree -- I think we all agree the law  
23       should work like that. It protects everybody. Because,  
24       as I told you in the opening, this case is about the peace  
25       and security of a person's house.

1       Before I let you go, I want to talk real quickly  
2 about a dwelling versus a building. You're, also, going  
3 to get charged on second degree burglary. And the Judge,  
4 he's going to talk to you about a building and define it  
5 as any structure, vehicle, watercraft, or aircraft where  
6 any person lodges or lives, or where people assemble for  
7 the purpose of business, government, education,  
8 entertainment, public transportation, or public use, or  
9 where goods are stored.

10       Ultimately, there is a distinction in the law between  
11 you breaking into a building, which when you think about  
12 all those things that it encompasses, it's more like  
13 breaking into your local Subway, breaking into a  
14 restaurant, breaking into a place of business -- all  
15 right -- as opposed to a dwelling where the primary  
16 purpose of that building is for somebody to live.

17       Okay. The argument today, I suspect, is going to be  
18 that this dwelling, because of the alleged meth  
19 laboratory, is transferred into something more akin to a  
20 building, a watercraft, an aircraft, you know, where a  
21 person lodges, lives, or people assemble for the purpose  
22 of business, basically. And I'll tell you, ladies and  
23 gentlemen, that's a stretch. That's a stretch. The fact  
24 that the Defendant was not there -- all right -- should --  
25 the reason shouldn't matter provided he has an intent to

1 return.

2 And the Judge is going to tell you that a structure  
3 is a dwelling, even if the occupants are temporarily  
4 absent from the building, as long as you find they have  
5 left with the intent to return. Don't be fooled by an  
6 argument that would close that in to a proximity.

7 In other words, don't let them say at the time of the  
8 burglary, he didn't have intent because you can't have an  
9 intent to live in a place that's condemned. I don't  
10 believe that to be the law. I don't believe that you can  
11 argue that he can go in to steal your stuff, but you can't  
12 go in because the place is in such bad condition.

13 Ladies and gentlemen, this qualifies as a dwelling.  
14 An avalanche of evidence shows you that he lived there  
15 before. Sure, he was arrested. And then he came right  
16 back -- actually, he came back too early. Not only did he  
17 have an intent to return, he, actually, did return. And,  
18 under that, you should convict for burglary in the first  
19 degree.

20 Thank you.

21 THE COURT: Thank you, Mr. Watts.

22 Mr. Propst.

23 MR. PROPST: Good morning.

24 Now, when we -- when I first spoke to you yesterday,  
25 we talked about how burglary -- it's not this big

1 generalized thing like the movies and TV portray. It's a  
2 very specific statute under which the Prosecution has to  
3 prove each element. And the Judge told you and I told  
4 you, it's like a jigsaw puzzle where you have to have each  
5 piece of the puzzle or elements to fit in the right spot.  
6 If it doesn't fit, you don't have a complete puzzle. You  
7 don't have a complete crime.

8 So let's talk about this case. What's the puzzle  
9 piece that doesn't fit here? What's missing? The big  
10 piece that's missing here is there was no dwelling house  
11 for the purposes of first degree burglary. You heard all  
12 kinds of testimony about the condition of the house, if  
13 anybody was living there, if anyone could live there, all  
14 that stuff.

15 But let's first start with, as the Prosecution  
16 already stated, what a dwelling house is. Essentially,  
17 the portion that is relevant to you is a dwelling house is  
18 defined as a house in which there sleeps a person who  
19 lodges there. And Solicitor Watts is absolutely right,  
20 whether it's a dwelling depends on if there's an intent to  
21 return. And that's law from the Supreme Court of this  
22 state. It's well settled. And people follow it. It's an  
23 intent to return.

24 Now, the biggest question is how can you have an  
25 intent to return to somewhere where it's illegal to be?

1       That doesn't make sense. If you legally can't be  
2       somewhere, how can you intend to return there? It's  
3       against the law. It just doesn't make sense.

4               Now, Mr. Watts was saying that we're arguing that  
5       it's okay for someone to come in this house and steal  
6       stuff, or do whatever, but it's not okay for the owner to  
7       be there. That's not at all what this is. This is  
8       whether this was a dwelling. No one could be in that  
9       house. You can't intend to return to that house because  
10      it's illegal to be there.

11             And you heard the testimony of Deputy Lovelace, among  
12      others, but let's start with him. He agreed that the  
13      building was condemned. It was functionally condemned.  
14      You could not be in the house. It's illegal to be there.  
15      No one is allowed in the building. If you're in the  
16      building, you're subject to prosecution. You simply  
17      cannot be there.

18             And, as you heard, it was a meth lab. There's  
19      alleged to have been a meth lab in the house, which is why  
20      the vice and narcotics unit, the police, the sheriff's  
21      office, they posted this place as unfit for occupation --  
22      occupancy by humans. It's unsafe in there. There was a  
23      meth lab. That's why it's condemned.

24             Further than that, you heard testimony that this  
25      place was a wreck. It was ransacked. It was a mess. It

1       wasn't just a little bit in shambles. It was an absolute  
2       wreck to the point where like items stacked together  
3       seemed out of place. If you go in your kitchen, all of  
4       your things -- all of the plates are in one spot. The  
5       silverware is in one spot. It's a liveable, habitable  
6       house. That's not the case here. It was an absolute  
7       mess, piles of junk everywhere on top of Mr. Calvert,  
8       stuff strewn about. It was a disaster area for all  
9       intents and purposes.

10             You, also -- let me back up. The postings make this  
11       house illegal to be there. Every -- pretty much every  
12       witness testified to that. And the essence of their  
13       testimony was all the same thing. There were signs posted  
14       on all the doors, signs posted by vice and narcotics, the  
15       sheriff's office, that the house was unsafe for occupancy.  
16       There were health hazards. There was danger to anyone  
17       that would go in there.

18             And, again, that doesn't make it right for anyone to  
19       be in there. And it, certainly, disallows anybody to  
20       occupy the house. That's why it can't be a dwelling. You  
21       can't have an intent to return to somewhere you cannot be.

22             And just briefly on credibility. Ms. Horne stated --  
23       and the Prosecution explained to you that you're the judge  
24       of the witnesses credibility. You hear what they have to  
25       say and you make the determination. You give it the

1 weight however you see fit.

2 Now, Ms. Horne stated she had not been promised  
3 anything, but her case is pending. I'm not saying  
4 anything is going to happen, but use your common sense.  
5 She's up here testifying for the Prosecution. Y'all have  
6 seen on TV shows and stuff how that works. Cooperation  
7 can help you. She had a self-interest here.

8 But, aside from that, the bottom line, it's literally  
9 illegal to live in this house. It's illegal to be in the  
10 house. It's illegal to live there. In order to live  
11 there, it's got to be legal. You can't live there. You  
12 can't intend to return there because it's illegal.  
13 There's no -- it's not a dwelling house under this  
14 burglary statute. And you'll hear the burglary statute  
15 from the Judge. He'll tell you all about it. And it's  
16 our position and I think it's clear in the law that you  
17 can't return to somewhere you can't be.

18 And, again, there was no testimony from anyone living  
19 at the house at that time because he was incarcerated.  
20 And the house was condemned as a result of these  
21 allegations that took him to jail that there was a meth  
22 lab in there. And that goes back to -- we'll talk about  
23 his credibility, too, Mr. Pepper.

24 He, as you heard, has a long history of offenses that  
25 stem from drug use. And, yeah, he sought help. That's

1 great. He sought help. He went into this diversionary  
2 program called drug court, which is something that  
3 Greenville County does. It's a great program. But you  
4 heard him say that he entered and I believe -- less than a  
5 year after entering that program, he's convicted of grand  
6 larceny. Less than a year after that, he's alleged to  
7 have been running a meth lab out of his house. So that  
8 goes towards his credibility, certainly. And you take his  
9 testimony for what it's worth.

10 But I'm not going to beat around the bush. I've told  
11 you my position. At the beginning, I told you to listen  
12 to the details of the case, look for the puzzle pieces,  
13 and see where they fit.

14 And, now, you've heard the most important detail, in  
15 my opinion and in Mr. Calvert's opinion, is that this  
16 wasn't a dwelling house. It was illegal to live there.  
17 And it remained illegal to live there. No one could be in  
18 the house. I can't be in the house. You can't be in the  
19 house. Mr. Pepper can't be in the house. There's no  
20 excuse for being in there. The State cannot prove this  
21 element, that it was a dwelling house. And they haven't.

22 And, as a result, that means your puzzle piece is  
23 missing. And, like I said at the beginning of this trial,  
24 when that puzzle piece is missing, that means you have  
25 reasonable doubt. And if you have reasonable doubt, you

1 have to find Mr. Calvert not guilty of first degree  
2 burglary.

3 Thank you.

4 CHARGE ON THE LAW

5 THE COURT: Thank you, Mr. Propst.

6 Ladies and gentlemen, we've reached the stage of the  
7 trial now where it's my duty to instruct you on the law  
8 that applies to this case. And it's your duty to find the  
9 facts from the evidence. And, to those facts, you must  
10 apply the law as I give it to you.

11 And you should not be concerned with what the law  
12 should be, but what it is. And you should not be  
13 influenced by any personal likes or dislikes, or opinions,  
14 or prejudices, or undue sympathy. And that means you must  
15 decide this case solely on the evidence and according to  
16 the law. And you will recall you took an oath yesterday  
17 to do just that when we began this trial.

18 Now, in following my instructions, you must follow  
19 all of them and not single out some and ignore others,  
20 because they're all equally important. And you should not  
21 read into anything I have said, or done, or into these  
22 instructions as to any indication as to what I think the  
23 facts are or what your verdict should be. Because you  
24 alone are the judges of the facts. And I'm not going to  
25 interfere with your prerogative given to you by the

1 Constitution to determine what the facts are, just as I  
2 know you're not going to interfere with my prerogative to  
3 tell you what the law is.

4 So how do you determine what the facts are? You do  
5 that by evaluating and weighing the evidence during this  
6 trial. It is a mental process. And you weigh and  
7 evaluate the evidence simply by using your good common  
8 sense, your sense of logic and reason, and your life  
9 experiences. And you bring those things to bear on the  
10 evidence you have heard.

11 I told you at the beginning that evidence consists of  
12 two things, sworn witness testimony and exhibits. I  
13 believe we've had both in this case. But those were the  
14 only two things you can use to determine the facts. What  
15 the lawyers say is not evidence. So if your memory is  
16 different from the lawyer's recollection, your memory  
17 controls. You must confine your decision to the evidence,  
18 and that is sworn witness testimony and exhibits.

19 I, also, told you that you would have to, by  
20 necessity, determine the credibility of the evidence. And  
21 I'm not going to repeat that because I know you heard me  
22 the first time. But I will tell you that you may believe  
23 everything a witness says, or you may believe nothing a  
24 witness says. You may believe parts of their testimony,  
25 and disbelieve other parts. You may believe one witness

1 over several, or several over one. But I know you will  
2 not decide this matter of credibility arbitrarily and  
3 casually. You will do it with sound reason and based on  
4 logic and common sense.

5 Now, ladies and gentlemen, the law, also, recognizes  
6 two types of evidence. And what I'm talking about now is  
7 direct evidence and circumstantial evidence. You've  
8 probably heard those terms before.

9 But the law defines direct evidence as the testimony  
10 of someone who asserts or claims to have actual and direct  
11 knowledge of a fact, such as an eyewitness.  
12 Circumstantial evidence is indirect evidence. It is proof  
13 of a chain of facts from which you could find that another  
14 fact exists, even though it has not been proven to you  
15 directly.

16 You're entitled to consider both kinds of evidence.  
17 There's not a greater degree of certainty required of one  
18 over the other. They are both equal in the eyes of the  
19 law. And it's up to you to determine how much weight to  
20 give any evidence. And if you decide -- it's up to you to  
21 decide whether a fact has been proven by direct or  
22 circumstantial evidence. And in making that decision, you  
23 must consider all the evidence in light of reasoned common  
24 sense and experience.

25 The State has the burden of proving the Defendant

1 guilty beyond a reasonable doubt. And this burden rests  
2 with the State whether the State relies on direct  
3 evidence, circumstantial evidence, or some combination of  
4 the two.

5 Now, ladies and gentlemen, this case involves a  
6 charge of burglary. And I'm going to define for you the  
7 offense of burglary first degree and second degree in just  
8 a moment.

9 Before I do that, I'm going to remind you, as I've  
10 already explained to you, that the mere fact that  
11 Mr. Calvert has been arrested and indicted doesn't  
12 constitute proof of anything. The indictment is simply  
13 the formal way the case begins. And it doesn't even  
14 create a suspicion of guilt. The document is not  
15 evidence. It's not a witness or exhibit. So it's not  
16 something you can take into account in determining whether  
17 he is guilty.

18 In fact, our Constitution, of course, makes anyone  
19 charged with a crime presumptively innocent. Anyone  
20 charged with a crime is always presumed innocent. And the  
21 burden of proof is entirely on the State to prove guilt.

22 Mr. Calvert doesn't have to prove himself innocent or  
23 prove himself not guilty. And this presumption of  
24 innocence does not end when you begin your deliberations.  
25 It stays with him throughout your deliberations. And it

1     can only be removed if you reach a verdict of guilt based  
2     on evidence satisfying -- based on evidence satisfying you  
3     of that guilt beyond a reasonable doubt.

4             Now, the presumption of innocence is not some legal  
5     technicality. It is a substantial right that all of us  
6     are entitled to. And it can only be removed if you find  
7     the evidence satisfies you of guilt beyond a reasonable  
8     doubt.

9             Now, the Constitution, also, grants each of us the  
10    right to remain silent. And the fact that a defendant  
11    does not testify in a trial is not something you can  
12    consider in any way in your deliberations. A party has  
13    the Constitutional right to remain silent. And claiming  
14    this right cannot be considered by you in your  
15    deliberations.

16            Under your oath, you are not to draw any conclusion  
17    whatsoever from the fact that the Defendant did not  
18    testify. And this fact should not even be discussed or  
19    referenced in the jury room. The burden of proof is  
20    entirely on the State. And the Defendant does not have to  
21    prove his innocence. The burden is on the State to prove  
22    guilt beyond a reasonable doubt.

23            Now, what is a reasonable doubt? The law defines a  
24    reasonable doubt as the kind of doubt that would cause a  
25    reasonable, sincere, honest, and conscientious person to

1 hesitate to act in an important matter in their own  
2 affairs. Proof beyond a reasonable doubt is proof that  
3 leaves you firmly convinced of the Defendant's guilt.

4 There are very few things we know with absolute  
5 certainty in this world. And, in criminal cases, the law  
6 does not require proof that overcomes every possible  
7 doubt. If, based on your view of the evidence, you are  
8 firmly convinced of Mr. Calvert's guilt, you must find him  
9 guilty. On the other hand, if you think there's a real  
10 possibility that he is not guilty, you must give him the  
11 benefit of that doubt and find him not guilty.

12 A reasonable doubt may arise from the evidence or  
13 from a lack of evidence. And a defendant is entitled to  
14 every reasonable doubt that may arise in a case. And that  
15 simply means that if upon any issue of fact that is  
16 essential to a conviction you have a reasonable doubt as  
17 to how that issue should be resolved, it's your duty to  
18 resolve it in favor of Mr. Calvert.

19 Now, ladies and gentlemen, Mr. Calvert is charged  
20 with burglary in the first degree. And I'm going to  
21 define that offense for you. And then I'm going to define  
22 what is called a lesser offense of second degree burglary  
23 that you may consider if, and only if, you find  
24 Mr. Calvert not guilty of first degree burglary.

25 The State, in order to convict Mr. Calvert of first

1 degree burglary, must first prove beyond a reasonable  
2 doubt that he entered a dwelling without consent. A  
3 dwelling is any building or portion of a building in which  
4 a person ordinarily sleeps.

5 Dwelling is defined as any house, outhouse,  
6 apartment, building, erection, shed, or box in which there  
7 sleeps a person who lodges there with a view to the  
8 protection of property. But a structure is a dwelling  
9 even if the occupant is temporarily absent from the  
10 building, as long as you find the occupant has left with  
11 the intent to return. If, however, you find the occupant  
12 left the structure with no intent of returning, then the  
13 statute -- then the structure cannot be a dwelling.

14 To prove that the Defendant entered the dwelling, the  
15 State does not have to prove that the Defendant's entire  
16 body entered the dwelling. The smallest entry is  
17 sufficient. It may be any part of the body, such as a  
18 hand, or foot, or an instrument such as a hook. In  
19 addition, the State does not have to prove that force was  
20 used to gain entry.

21 Next, the State must prove beyond a reasonable doubt  
22 that the Defendant intended to commit a crime, either a  
23 felony or misdemeanor, at the time he entered the  
24 dwelling. The mere entry into a dwelling without consent  
25 is not burglary. If the intent to commit a crime is

1       formed after the entry, it is not a burglary.

2               On the other hand, if the Defendant intended to  
3       commit a crime at the time of the entry, it is a burglary  
4       even if the intent was abandoned or frustrated after the  
5       entry occurred. It does not matter that the intended  
6       crime was not completed. Intent may be shown by acts and  
7       conduct of the Defendant and under circumstances from  
8       which you may naturally and reasonably infer intent.

9               Finally, in order to convict Mr. Calvert of first  
10       degree burglary, the State must prove beyond a reasonable  
11       doubt that the entry occurred during the nighttime.  
12       Nighttime is the period between sunset and sunrise during  
13       which there's not enough daylight to recognize a person's  
14       face, except by artificial light or moonlight.

15              Now, if you find the State has failed to prove beyond  
16       a reasonable doubt the Defendant committed first degree  
17       burglary, you may consider whether the State has proven  
18       beyond a reasonable doubt that Mr. Calvert committed  
19       second degree burglary.

20              Second degree burglary includes all the elements of  
21       first degree burglary, except the entry was into a  
22       building, rather than a dwelling. To prove second degree  
23       burglary, the State must first prove beyond a reasonable  
24       doubt that the Defendant entered a building without  
25       consent and with the intent to commit a crime in the

1 building.

2 A building is defined as any structure, vehicle,  
3 watercraft, or aircraft where any person lodges or lives,  
4 or where people assemble for the purpose of business,  
5 government, education, religion, entertainment, public  
6 transportation or public use, or where goods are stored.

7 Next, the State must prove beyond a reasonable doubt  
8 that the Defendant entered or remained in the dwelling in  
9 the nighttime.

10 Now, that covers the law. I'm just going to give you  
11 some final instructions about your deliberations, and  
12 explain to you a little bit about this verdict form. It's  
13 pretty straightforward. It just asks you to consider,  
14 first, the offense of first degree burglary. And if you  
15 find Mr. Calvert not guilty of that charge, you would move  
16 on to question two, which is the lesser offense. That's  
17 the only time you would go to question number two is if  
18 you find him not guilty of question number one.

19 Now, ladies and gentlemen, you were not selected to  
20 be jurors to be partisans or advocates for either the  
21 State or Mr. Calvert. You were selected because both  
22 sides believed you could be fair and impartial and could  
23 decide the case without any bias, or prejudice, or  
24 preconceived ideas.

25 So you're judges, judges of the facts. And your sole

1 interest is to determine the facts of this case, and  
2 determine whether the State has met its burden of proof.  
3 So you decide the facts, as I've said, by weighing the  
4 evidence. And once you determine what the facts are, you  
5 take the law I gave to you just then and you apply it to  
6 the facts as you found them, and you'll be able to reach a  
7 verdict in this case.

8 If you looked up the word "jury" in the dictionary,  
9 you would see it comes from an old word that means a  
10 company of people sworn to render a true answer. And, as  
11 I said, you're interest is to determine the true facts,  
12 and whether the State has met its burden of proof.

13 Now, the record is closed in this case. There are  
14 not going to be any more witnesses. There are not going  
15 to be any more exhibits. So if something was referred to  
16 during this trial that you don't have back there, I can't  
17 give it to you. So keep that in mind during your  
18 deliberations. You'll have to rely on your memory and the  
19 exhibits.

20 And the genius of our jury system is it allows 12  
21 people from different walks of life, and backgrounds, and  
22 life experiences to come together, discuss the evidence,  
23 and consider each others points of views and perspectives  
24 and, ultimately, reach a verdict.

25 Each of you has a vote. And your vote is that, it's

1     your vote and no one else's. So if during your  
2     deliberations if you are of different opinions, please,  
3     listen respectfully to each other's views. But don't be  
4     afraid to change your mind if the discussion persuades you  
5     that you should. But don't give up a sincerely, honestly,  
6     conscientiously held belief simply to get this case over  
7     with or to reach a unanimous verdict. Because this is an  
8     important day in court for both sides.

9             Mr. Foreperson, you're only authorized to sign the  
10     verdict, of course, when the verdict is unanimous.

11            And, as I said, the record is closed at this time.  
12     I'm going to let you go back to the jury room. Don't  
13     start talking about the case, though, until you get the  
14     exhibits. That will be your signal that you can start  
15     deliberating.

16            And thank you for your attention.

17            (WHEREUPON, the jury was excused from open court at  
18     approximately 11:12 a.m.)

19            THE COURT: Mr. Thompson, can you get Mr. Luther to  
20     come back out here, please?

21            THE BAILIFF: Yes, sir.

22            THE COURT: Thank you.

23            Is there any objection to the charge from the State?

24            MR. WATTS: Judge, I would just renew my objection  
25     for the lesser included offense of burglary in the second

1 verdict.

2 Thank you very much.

3 (WHEREUPON, the proceedings were recessed at  
4 approximately 11:15 a.m.)

5 THE COURT: Anything before we bring the jury in?  
6 I understand they have a verdict.

7 MR. WATTS: Nothing from the State, Your Honor.

8 THE COURT: I appreciate everyone's decorum  
9 throughout the trial. And if anyone doesn't think they're  
10 going to be able to control their emotions once the  
11 verdict is read, which I have no idea what it is, now is  
12 the time to leave.

13 Okay. You can bring the jury in.

14 Thank you.

15 (WHEREUPON, the jury came into open court at  
16 approximately 11:37 a.m.)

17 THE COURT: Mr. Foreman, has the jury reached a  
18 unanimous verdict, sir?

19 JUROR #157, WALTER WILLIAMS: Yes, we have, Your  
20 Honor.

21 THE COURT: If you'll give it to the bailiff, we'll  
22 receive it and publish it.

23 Thank you.

24 VERDICT

25 THE CLERK: Your Honor, in the case of

1       2014-GS-23-4271, the State of South Carolina v. William  
2       Travis Calvert, as to the charge of first degree burglary,  
3       we, the jury, unanimously find the Defendant, William  
4       Travis Calvert, guilty.

5               This is signed by our foreperson, Mr. Williams.

6               Ladies and gentlemen, if you agree this is the  
7       verdict you reached in your deliberation room, would you,  
8       please, raise your right hand.

9               (WHEREUPON, all jurors raised their right hand.)

10              THE CLERK: Thank you.

11              THE COURT: Any matters or motions before the jury is  
12       discharged?

13              MR. WATTS: Nothing from the State, Your Honor.

14              MR. PROPST: We'd ask for the verdict to be set aside  
15       based on the State's failure to prove the elements of  
16       first degree burglary, specifically, that a dwelling house  
17       was involved in this situation.

18              THE COURT: All right. We'll take it up in minute.

19              Do you want to have the jury polled, or anything?

20              MR. PROPST: Oh, I apologize. No, Your Honor.

21              THE COURT: Okay. Ladies and gentlemen, that  
22       concludes your service this week. We appreciate your  
23       service. The last case on the docket was this case. And  
24       we have another trial that won't be finished until later  
25       today, if today at all.

SENTENCING

THE COURT: Okay. Well, the sentence is you be committed to the Department of Corrections for a period of 15 years, complete the Addictions Treatment Unit while you're incarcerated. That's a form of rehab.

\*\*\*\*\*END OF TRANSCRIPT OF RECORD\*\*\*\*\*

004271

DOCKET NO. 2014-GS-23-

AFW

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May

TERM 2014

THE STATE

vs.

WILLIAM TRAVIS CALVERT

139

WITNESSES

B R Lovelace

*BR*

Greenville County Sheriffs Office

11/18/2013

ARREST WARRANT NUMBER

2013A2330209826

ACTION OF GRAND JURY

TRUE BILL

*Ridg T. Hall*

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

0079

BURGLARY FIRST DEGREE

VIOLATION §16-11-0311

ENTERED

ACCT. *mjt*

STATE OF SOUTH CAROLINA     )  
                                              )  
COUNTY OF GREENVILLE     )

INDICTMENT FOR  
BURGLARY FIRST DEGREE

At a Court of General Sessions, convened on

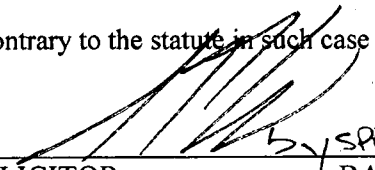
MAY 27 2014

the Grand Jurors of Greenville

County present upon their oath:

That WILLIAM TRAVIS CALVERT did in Greenville County, on or about the 18th day of November 2013, willfully and unlawfully enter the dwelling of STEVEN PEPPER located at [REDACTED] without consent and with the intent to commit a crime therein, and the burglary was accompanied by circumstances of aggravation, to wit: the entering and/or remaining did occur during the night time hours. This is in violation of §16-11-0311 of the South Carolina Code of Laws (1976) as amended.

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

  
SOLICITOR

by SPE  
BAR # 78848

## STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

1475489  
141

COUNTY OF Greenville  
 STATE VS.  
William Travis Calvert  
 AKA: \_\_\_\_\_  
 Race: WHITE Sex: M Age: 30  
 DOB: [REDACTED] SS#: [REDACTED]  
 Address: [REDACTED]  
 City, State, Zip: Pelzer, SC 29669-9596  
 DL#: [REDACTED] SID#: \_\_\_\_\_

INDICTMENT/CASE#: 2014GS2304271A/W#: 2013A2330209826Date of Offense: 11/18/2013S.C. Code §: 16-11-0311CDR Code #: 0079

## 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, First Degree☒ CONVICTED OF or ☒ PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079  
☐ 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. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Watts, Austin 78848 William Travis Calvert [Signature] 120399  
 SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
 for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
 probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 \_\_\_\_\_

Recipient: \_\_\_\_\_

\*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/ca \$ \_\_\_\_\_

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90

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: complete ATU

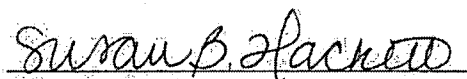
☐ Appointed PD or appointed other counsel,  
 § 47.12 requires \$500 be paid to Clerk  
 during probation.

Presiding Judge Ann L...Judge Code: 2138Sentence Date: 9-4-14Clerk of Court/ Deputy Clerk Paul B. WinklerCourt Reporter: Jenkins

## 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."

August 10th, 2015



Susan B. Hackett  
Appellate Defender

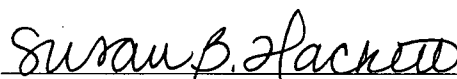
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

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August 10th, 2015



Susan B. Hackett  
Appellate Defender

RECEIVED

AUG 10 2015

SC Court of Appeals

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Greenville County

D. Garrison Hill, Circuit Court Judge

RECEIVED

AUG 10 2015

RESPONDENT SC Court of Appeals

THE STATE,

V.

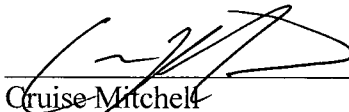
WILLIAM TRAVIS CALVERT,

APPELLANT

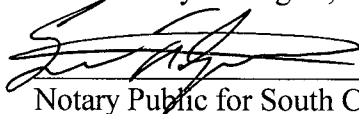
APPELLATE CASE NO. 2014-001930

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Susannah R. Cole, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 10th day of August, 2015.

  
Cruise Mitchell  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 10th day of August, 2015.

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: October 30, 2022.