

21977

STATE OF SOUTH CAROLINA

In The Court of Appeals

 ORIGINAL

APPEAL FROM LANCASTER COUNTY

Brian M. Gibbons, Circuit Court Judge

RECEIVED

JUL 23 2015

SC Court of Appeals
RESPONDENT

THE STATE,

V.

BENECO ANTWON GANSON

APPELLANT

APPELLATE CASE NO. 2014-001402

RECORD ON APPEAL

LANELLE CANTEY DURANT
Appellate Defender

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

Attorney for Appellant

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

RANDY E. NEWMAN, JR.
Solicitor, Sixth Judicial Circuit
Post Office Box 607
Lancaster, SC 29721-0607
(803) 283-3855

Attorneys for Respondent

INDEX

INDEX.....	i
TRIAL TRANSCRIPT DATED JUNE 24 & 25, 2014	1
JURY VOIR DIRE.....	8
JURY SELECTION	12
MOTION TO EXCLUDE PHOTOGRAPHS.....	16
RULING BY THE COURT.....	18
COURT'S INSTRUCTIONS TO THE JURY	21
OPENING STATEMENT BY MR. NEWMAN	29
OPENING STATEMENT BY MR. STEEN.....	31
TESTIMONY	
RODYNKA HOWZE	
Direct examination by Mr. Newman.....	32
Cross examination by Mr. Steen	42
Redirect examination by Mr. Newman.....	46
CHEYENNAE HOWZE	
Direct examination by Mr. Newman.....	47
Cross examination by Mr. Steen	48
DUSTIN BURLINGAME	
Direct examination by Mr. Newman.....	49
Cross examination by Mr. Steen	52
KEN TAYLOR	
Direct examination by Mr. Newman.....	53
MOTION TO QUALIFY WITNESS AS AN EXPERT.....	54
RULING BY THE COURT.....	54

TESTIMONY

KEN TAYLOR	
Direct examination by Mr. Newman.....	55
Cross examination by Mr. Steen	59
LINDA THOMPSON	
Direct examination by Mr. Newman.....	62
PHILLIP HALL	
Direct examination by Mr. Newman.....	64
Cross examination by Mr. Steen	70
STATE RESTS.....	72
MOTION FOR A DIRECTED VERDICT.....	73
RULING BY THE COURT.....	73
COLLOQUY REGARDING DEFENDANT'S RIGHT TO TESTIFY	74
DEFENSE RESTS	77
CLOSING ARGUMENT BY MR. NEWMAN.....	78
CLOSING ARGUMENT BY MR. STEEN	81
CHARGE ON THE LAW.....	83
VERDICT	96
STATE'S ARGUMENT	97
DEFENSE ARGUMENT	99
SENTENCING	100
INDICTMENT	102
SENTENCING SHEET	104
CERTIFICATE OF COUNSEL.....	105

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF LANCASTER) COURT OF GENERAL SESSIONS
3) No. 2014 GS 29 00445

4 STATE OF SOUTH CAROLINA)
5)
6 versus) TRANSCRIPT OF RECORD
7)
8 BENECO GANSON)
9 Defendant)

Lancaster, South Carolina

June 24, 25, 2014

B E F O R E :

HONORABLE BRIAN M. GIBBONS, Judge, and a Jury

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

For the State: RANDY NEWMAN, Esq.
Solicitor

For the Defendant: BRANDON STEEN, ESQ.

Reporter Present: BONNIE KELLY

HARRIET P. BENNETT
Reporter, S. C. Court Administration
46 Regency Oaks Drive
Summerville, S. C. 29485

I N D E X

Direct-Redirect Cross-Recross

1			
2			
3			
4	Jury Voir Dire	6	
5	Jury Selection	12	
6	Motions	14	
7	Jury sworn	21	
8	Preliminary charge by the Court	21	
9	Opening statements:		
10	By Solicitor	29	
11	By Mr. Steen	31	
12	RODYNKA HOWZE		
13	By Solicitor	32-	46
14	By Mr. Steen		42
15	CHEYENNEA HOWZE		
16	By Solicitor	46	
17	By Mr. Steen		48
18	DUSTIN BURLINGAME		
19	By Solicitor	49	
20	By Mr. Steen		51
21	KEN TAYLOR		
22	By Solicitor	53	
23	By Mr. Steen		59
24	Motion continuedd	60	
25			

1	INDEX CONTINUED		
2		Direct-Redirect	Cross-Recross
3	LINDA THOMPSON		
4	By Solicitor	62	
5	No Cross Exam		
6	PHILLIP HALL		
7	By Solicitor	64	
8	By Mr. Steen		70
9	Motions	73	
10	Court's Disc.		
11	w/Defendant	74	
12	Closing Statements		
13	By Solicitor	78	
14	By Mr. Steen	81	
15	Charge by the Court	83	
16	Verdict	95	
17	Sentencing	97	
18			
19			
20			
21			
22			
23			
24			
25			

1		EXHIBITS	
2			For ID. IN EV.
3	BY THE STATE:		
4	1 Photograph		19
5	2 Photograph		19
6	3 Photograph		19
7	4 Photograph		19
8	5 Photograph		19
9	6 Photograph		19
10	7 Photograph		19
11	8 Photograph		19
12	9 Photo line-up		19
13	10 Photo line-up		19
14	11 Copy of indictment 2008-344		15
15	12 Copy of indictment 2002-564		15
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

EXHIBITS

TRANSCRIPTION NOTE: No Defense Exhibits entered

There were no Court's Exhibits

1 (The within matter came before the Court for hearing
2 on June 24, 2014)

3 THE COURT: Be seated. Good afternoon.

4 It's a lovely day to be in the Lancaster County Court-
5 house.

6 Ladies and gentlemen, we are about to start the trial
7 of -- Solicitor, if you would go ahead and call your case.

8 SOLICITOR: Case Number 2014 GS 29 445, State versus
9 Beneco Antoine Ganson,

10 Burglary in the first degree.

11 THE COURT: Any other Indictments?

12 SOLICITOR: No, sir.

13 THE COURT: All right, ladies and gentlemen, the State
14 intends to call the case of the State versus Beneco Ganson.
15 He has been charged with the crime of burglary in the first
16 degree.

17 As I told you yesterday, this is a criminal court this
18 week in Lancaster County, what we call General Sessions
19 Court.

20 Again, this document which if you're on the trial jury
21 in this case I will explain a little further -- this is
22 just a piece of paper that brings the case to Court. It
23 alleges what the Defendant did but it doesn't mean anything
24 about the guilt of the Defendant. It is just saying what
25 the State is charging him with.

1 So before we begin the trial of the case or ask you
2 more questions, I have to ask you before I do that --
3 since you were not sworn today, I have to ask the Clerk
4 to go ahead and swear you before we start with the ques-
5 tions.

6 (Whereupon, the Clerk swore the jury for the trial
7 of the within matter)

8 THE COURT: All right. Any proposed voir dire from
9 the Defense?

10 MR. STEEN: Just the general questions, Your Honor.

11 THE COURT: Any from the State?

12 SOLICITOR: No, sir.

13 THE COURT: Ladies and gentlemen, I have several ques-
14 tions I have to ask you. Before I do that, I will have
15 the Solicitor's Office introduce themselves to you, as well
16 as the Defense introduce themselves to you, or any witnes-
17 ses or people they have with them.

18 Solicitor?

19 SOLICITOR: Randy Newman, Assistant Solicitor. (Naming
20 other members of the Solicitor's Office)

21 MR. STEEN: Brandon Steen, Public Defender. This is
22 Michael Utsey, Chief Public Defender.

23 THE COURT: All right, thank you.

24 The first question I have -- if the question applies
25 to you if you will please stand, and I will ask what your

1 juror number is. I'll have some more questions for you
2 then.

3 Is there anyone who is related by blood or marriage
4 or has any close social or personal relationship with any
5 of the attorneys involved in this case? If so, will you
6 please stand?

7 (Juror standing)

8 THE COURT: Yes, sir, your number?

9 JUROR: Number 145.

10 THE COURT: What's your situation?

11 JUROR: Me and Mr. Newman are real close friends.

12 THE COURT: All right. Thank you, sir. I will ex-
13 cuse you from the trial of this case.

14 SOLICITOR: He's free to leave. We're not going to
15 draw another jury.

16 THE COURT: That's Number 145.

17 All right, is anyone related by blood or marriage,
18 or has a close social or personal relationship with the
19 Defendant, Beneco Ganson? If so, please stand.

20 No response.

21 (No response from any juror)

22 THE COURT: There is no particular order, but these
23 are potential witnesses which is you are on the trial
24 jury you may hear from:

25 Rodynka Howze, Cheyennae Howze; from the Lancaster

1 Police Department Phillip Ball, Bill Johnson; Rustin
2 Burlingame from the Lancaster County Sheriff's Office;
3 Ken Taylor, from the Fort Mill Police Department and
4 formerly with the Lancaster Police Department Robert
5 Middleton.

6 Is anyone related by blood or marriage or has a
7 close personal or social relationship with any of those
8 potential witnesses? If so, please stand.

9 No response.

10 (No response from any juror)

11 THE COURT: Has any member of the jury panel formed
12 or expressed an opinion about any issue or matter in-
13 volving this case? I don't know how you can respond if
14 you know nothing about it.

15 No response.

16 (No response from any juror)

17 THE COURT: All right, is any member of the jury
18 panel aware of any bias or prejudice for either the
19 State or the Defendant? If so, please stand.

20 No response.

21 (No response from any juror)

22 THE COURT: Is there any member of the jury panel
23 who was a member of the Grand Jury that issued the In-
24 dictment in this case?

25 No response.

1 (No response from any juror)

2 THE COURT: Is there any member of the jury panel
3 who is a member of or a contributor to any group which
4 has as its primary concern the promotion of law enforce-
5 ment or victims' rights?

6 For example, MADD, CAVE which is Citizens Against
7 Violent Crime, SADD, or a police association, trooper's
8 association.

9 If so, please stand.

10 (Juror standing)

11 THE COURT: Yes, maam. Your juror number?

12 JUROR: Number 70.

13 THE COURT: Would that affect your ability to be fair
14 and impartial in this case?

15 JUROR: No.

16 THE COURT: Thank you.

17 Is there any member of the jury panel who has a
18 religious or moral reason why they could not be a fair
19 and impartial juror? If so, please stand.

20 Nobody standing.

21 (No response from any juror)

22 THE COURT: Is there any potential juror who has
23 or is related by blood or marriage or has a close social
24 or personal relationship with anyone who is a sheriff's
25 deputy or law enforcement officer? If so, please stand.

1 (Juror standing)

2 THE COURT: Yes, sir. Your number?

3 JUROR: Number 125.

4 THE COURT: Would that affect your ability to be

5 fair and impartial?

6 JUROR: No, sir.

7 THE COURT: What is your situation?

8 JUROR: My wife's cousin is a sheriff's deputy.

9 (Another juror standing)

10 JUROR: Number 63. My cousin is a sheriff's deputy.

11 THE COURT: Would that affect your ability to be fair and

12 impartial?

13 JUROR: No, sir.

14 (Another juror standing)

15 JUROR: Number 23. My husband's best friend is a

16 state constable.

17 THE COURT: Would that affect your ability to be

18 fair and impartial?

19 JUROR: No.

20 THE COURT: All right. Any other questions, voir

21 dire questions, from the State?

22 SOLICITOR: No, sir.

23 THE COURT: Defense?

24 MR. STEEN: No, sir.

25 THE COURT: Then that concludes voir dire. Juror

1 134 is protected for Thursday.

2 If you are selected for the trial jury, just follow
3 the bailiff on down to the jury room.

4 We won't be starting the trial of this case today.

5 It will be tomorrow before we start the trial of this case.

6 Just bear with us.

7 (Whereupon, a jury was selected as follows:

8 Juror 63, Greg Jachyn, struck by the Defense

9 Juror 78, Randy Lash, seated

10 Juror 16, Zachard Brigman, seated

11 Juror 85, Tia Mack struck by the State

12 Juror 24, Joshua Carpenter, seated

13 Juror 96, Sharon Murphy, struck by Defense

14 Juror 129, struck by Defense, Francis Terres, Jr.

15 Juror 128, Billy Taylor, seated

16 Juror 31, Jennifer Costello, struck by Defense

17 Juror 60, Joshua P. Hunter, seated

18 Juror 70, Ilean Johnson, seated

19 Juror 125, Mark Stevens, struck by Defense

20 Juror 144, Floyd Watts, struck by Defense

21 Juror 4, Cheryl Baker, seated

22 Juror 62, Debra Hyatt, seated

23 Juror 112, Michelle Reece, struck by Defense

24 Juror 15, Alice Brevard, struck by State

25 Juror 19, Patti Brown, seated

1 Juror 65, Jennifer Jaillette, struck by Defense

2 Juror 50, Kathryn Harrell, presented by State

3 MR. STEEN: May we approach?

4 THE COURT: Yes, sir.

5 (Conference at the bench between counsel and the
6 Court off the record)

7 THE COURT: Ms. Harrell, you may be seated. (Juror
8 excused)

9 Juror 133, Michael Tylicki, seated

10 Juror 147, Donna Whitlock, struck by Defense

11 Juror 27, Janira Cho, struck by Defense

12 Juror 103, Laura Patterson, was not present

13 Juror 34, Brent Cunningham, struck by the State

14 Juror 80, Rena Livengood, seated

15 Juror 23, Jennifer Carnes, seated

16 THE COURT: One and two on alternates.

17 Juror 100, Ruby Outen, excused by Defense

18 Juror 101, Scott Palmer, excused by Defense

19 Juror 37, Sheniqua Dowell, seated as alternate

20 THE COURT: Please follow the bailiff to the jury
21 room.

22 Thank you, Mr. Clerk. This is the jury selection
23 for the trial of this case. Ladies and gentlemen of the
24 jury panel, you are excused for today but call in this
25 evening after six to receive instructions, just like

1 you did today.

2 (Jurors who were not selected for the within trial
3 were excused)

4 (The matter was resumed on June 25, 2014)

5 THE COURT: The Defendant -- where is he? We need
6 Beneco Ganson up here.

7 All right, while we're getting him up here, let's
8 deal with any matters we need to deal with before we
9 bring the jury in.

10 Back in Chambers you told me that you're going to
11 -- that the State was intending to call two additional
12 witnesses.

13 Who are the two additional witnesses?

14 SOLICITOR: One is Linda Thompson, the Defendant's
15 mother. She was in Court and I do have a subpoena wait-
16 ing. I would like to call her just briefly.

17 The second one is Carol Williams from the Clerk's
18 Office.

19 THE COURT: The purpose of calling Ms. Williams
20 would be for what?

21 SOLICITOR: We have two prior burglary convictions
22 and I have certified copies of those convictions that
23 would be Exhibits that Ms. Carol Williams gave to me.

24 THE COURT: She wouldn't be testifying-- she would
25 just be to authenticate that?

1 SOLICITOR: Yes, sir.

2 THE COURT: What is the Defense's position as to
3 that?

4 MR. STEEN: We would stipulate that they are au-
5 thentic.

6 THE COURT: You would stipulate to the admission of
7 those?

8 MR. STEEN: Yes, Your Honor.

9 THE COURT: They are in evidence then.

10 SOLICITOR: They are State's Exhibits 11 and 12.

11 THE COURT: She won't need to authenticate them.

12 Having said that, we don't need Ms. Williams to testify.

13 There is no need for her to sit here through the whole
14 trial.

15 As far as Ms. Thompson, what's the State's posi-
16 tion on Ms. Thompson?

17 MR. STEEN: Your Honor, I just received notice
18 that she is going to be testifying, and I have not had
19 a chance to speak with her or anything.

20 SOLICITOR: Your Honor, she lives out of town. I
21 believe she lives in Atlanta. We had no idea she was
22 coming until we saw her here.

23 THE COURT: How far into our case would you be calling
24 her?

25 SOLICITOR: Probably third.

1 THE COURT: Okay, what I will do is I will withhold
2 ruling on your objection until you've had an opportunity
3 to talk to her.

4 She may actually say something that would help you
5 out. I don't know.

6 SOLICITOR: Or I may not call her.

7 THE COURT: That's right. Why don't we -- I will
8 withhold ruling on that until then.

9 Any other pre-trial issues?

10 MR. STEEN: We have moved to exclude some photo-
11 graphs the State intends to introduce.

12 THE COURT: Okay, I have made a preliminary ruling
13 back in Chambers on that, but for the record let's estab-
14 lish that.

15 Solicitor, tell me what you are offering and what
16 the video is.

17 SOLICITOR: It is a video of the house. She has a
18 cell phone, and it shows on the cell phone camera, and
19 there are some text messages on her cell phone as well
20 as still shots of the video.

21 As to the texts, Mrs. Ganson can testify about them.

22 THE COURT: Well, what are the facts of the alleged
23 burglary? Go into that.

24 SOLICITOR: Your Honor, as far as the texts are
25 concerned, he texted her before the burglary to see if

1 she was home. Then after the burglary he texted her . .

2 THE COURT: What did she say? Did she say I'm not
3 home?

4 SOLICITOR: She did.

5 THE COURT: Was she at home?

6 SOLICITOR: She was.

7 THE COURT: Okay, so did she actually -- did she see
8 him in the house?

9 SOLICITOR: She said she didn't want him to come in
10 so she told him she wasn't at home, but she heard somebody
11 on the porch and she walked down the hall and saw two
12 guys.

13 THE COURT: Okay.

14 SOLICITOR: One of which was the Defendant.

15 THE COURT: And she's going to testify about all
16 of that?

17 SOLICITOR: Yes, sir.

18 THE COURT: So she will testify about what he said
19 on the text, about seeing him in the house, and all of
20 that.

21 But in addition to that, you want to get in the
22 photographs or the actual texts?

23 SOLICITOR: Yes.

24 THE COURT: What is the Defense's position?

25 MR. STEEN: Under 901 B Six, the State must show

1 that the number was assigned by the telephone company to
2 a particular person. That has not been done.

3 THE COURT: Are you going to offer authentication
4 of that in your evidence?

5 SOLICITOR: Yes, sir.

6 THE COURT: What as that Rule again?

7 MR. STEEN: That's 901 B Six.

8 THE COURT: All right. So, Solicitor, the witness
9 is going to testify about the texts. She's going to
10 testify from memory as to what the texts say. She's
11 going to testify that she saw them on the phone, and
12 it's admissible.

13 Even though he may not testify, it's admissible
14 as an exception to hearsay. Do you agree with that?

15 MR. STEEN: Yes, sir.

16 THE COURT: Mr. Steen agrees it is an admission
17 against interests as an exception to hearsay.

18 Do you anticipate your client will testify?

19 MR. STEEN: No, Your Honor.

20 THE COURT: I will go over that at the appropriate
21 time, but -- well, I -- given the fact that she will be
22 able to testify from memory rather than just showing
23 them that document, I would agree with Mr. Steen.

24 I would exclude the actual photographs of the texts
25 coming in. Certainly her testimony, in my opinion,

1 and the Court rules, it is completely admissible.

2 Okay?

3 SOLICITOR: Thank you, Your Honor.

4 THE COURT: Anything else?

5 SOLICITOR: No, sir.

6 THE COURT: From anybody?

7 SOLICITOR: We do have some photos as well.

8 THE COURT: Whatever you all stipulate to we can go
9 ahead and admit them into evidence.

10 MR. STEEN: State's 1 through 8, photos of the
11 home, we stipulate to those.

12 THE COURT: Without objection then, Exhibits 1
13 through 8 are admitted into evidence.

14 (Photographs admitted without objection as State's
15 Exhibits 1 through 8)

16 SOLICITOR: State's 9 and 10 are photo lineups of
17 individuals, two different individuals.

18 MR. STEEN: Without objection, Your Honor.

19 THE COURT: Without objection State's 9 and 10 are
20 in evidence, and as I understand it the previous 11 and
21 12 were admitted in evidence without objection.

22 (Photographs admitted without objection in evidence
23 as State's Exhibit 9 and 10. Exhibits 11 and 12 pre-
24 viously admitted.)

25 THE COURT: That way we won't have to go through

1 the whole rigamorole. They're all in, and you can just
2 refer to them by number.

3 Anything else?

4 MR. STEEN: No, sir.

5 THE COURT: Okay, are we ready for the jury?

6 The only additional question, I'm going to ask the
7 jury do they have any close personal or social relation-
8 ship with, or are they related by blood or marriage, to
9 Linda Thompson. If there is a response we will deal
10 with it.

11 Bring the jury.

12 (Jury returned to Courtroom)

13 THE COURT: All right, all members of the jury are
14 present. You can be seated. Thank you.

15 Good morning, ladies and gentlemen. My apologies,
16 my sincere apologies, for keeping you back there until
17 almost or right at eleven o'clock. My fault.

18 I didn't realize we had some other matters we had
19 to deal with this morning out of your presence, so if
20 you get mad at anybody get mad at me. I didn't know that
21 or I would have told you to be here at eleven.

22 Again, I'm sorry. I assure you I haven't been sit-
23 ting here twiddling my thumbs all morning, and neither
24 has anyone else in this Courtroom. We've been working,
25 so thank you for your understanding and your patience.

1 Having said that, before I swear you in as the jury
2 in this case, I need to ask one more qualifying or voir
3 dire question.

4 There will be possibly another witness who may be
5 called in this case. You may recall the names of some
6 of the witnesses yesterday, but the other witness which
7 may be called is Linda Thompson.

8 So my question to you at this point in time is does
9 anybody have any close personal or social relationship,
10 or is anybody related by blood or marriage to Linda
11 Thompson, and I believe she's from Atlanta, Georgia.

12 Solicitor, does she live in Atlanta?

13 SOLICITOR: I think she lives in Georgia. I'm not
14 sure exactly where.

15 THE COURT: Okay. If so, please stand.

16 No response.

17 (No response from any juror)

18 THE COURT: Okay. Mr. Clerk, if you'll swear in
19 our jury.

20 (Whereupon, the jurors were sworn in for the trial
21 of the within case)

22 THE COURT: All right, ladies and gentlemen. As I
23 told you yesterday, we are holding General Sessions Court
24 here this week, and we are about to start the trial of
25 the State of South Carolina, represented by Mr. Randy

1 Newman, an Assistant Solicitor here in Lancaster County,
2 versus Mr. Beneco Ganson, who is seated to my left
3 across the Courtroom, who is represented by Mr. Brandon
4 Steen of Lancaster, South Carolina.

5 Mr. Ganson has pled not guilty to the charge of
6 burglary in the first degree, and it will be your role
7 as jurors then to determine the guilt or the innocence
8 of the Defendant.

9 I'm going to talk about that briefly and how this
10 trial is going to proceed before we start, and before
11 we begin the trial I want to tell you that this trial
12 is probably going to be different from what you may ex-
13 pect. If you don't have a chance to attend actual court
14 sessions you may think that what goes on is like in the
15 movies or on TV or what you read in books.

16 This is what actually happens in real life. You
17 know, people tend to think that a trial is high drama
18 and intense with action and riviting circumstances, and
19 sometimes that can be true, but usually it is not true.

20 This trial is not for entertainment, ladies and
21 gentlemen. It is a fundamental part of our democracy.
22 It is a search for the truth, to make sure that justice
23 is done between the parties before the Court.

24 A search for the truth and to make sure justice is
25 done can often be a slow, deliberate or repetitive process,

1 the opposite of what you may expect from movies or TV.

2 Now, ladies and gentlemen, this Courtroom is a place
3 of honor, dedicated to a preservation of citizens' rights
4 through what many have called the greatest justice sys-
5 tem ever created.

6 The attorneys who appear before you today and maybe
7 tomorrow are advocates for the parties they represent.
8 First and foremost, they are officers of this Court, and
9 sworn to uphold the integrity of our judicial system
10 and to help you in the search for the truth.

11 So you should expect them to be professional, compe-
12 tent and ethical in the representation of their respect-
13 ive clients.

14 Remember that you have taken an oath -- you have
15 just taken an oath today and yesterday to try this case
16 and to reach a fair and just verdict. So you are ex-
17 pected to be professional, reasonable and ethical.

18 Thank you for accepting this responsibility. Now,
19 let me talk to you about how typically a trial proceeds.
20 First, the State will make an opening statement. An
21 opening statement is not evidence. It is simply an out-
22 line to help you understand what the State intends to
23 prove.

24 The Defendant may if he wishes to through his attorney
25 make an opening statement as well, and he may likewise

1 give you an outline of what he expects the evidence to
2 show.

3 Following open statements, you will hear testimony
4 and evidence in this case. This will consist of testi-
5 mony from various witnesses, as well as any physical
6 evidence which may be introduced into evidence.

7 At the completion of testimony, the attorneys again
8 will have an opportunity to give you what is called a
9 closing argument. This is an opportunity for the at-
10 torneys to summarize the case from their respective points
11 of view.

12 Again, closing statements are not evidence, and fol-
13 lowing the closing statemnts I will then instruct you on
14 the law of South Carolina that pertains to the issues
15 which may have come up in this case.

16 When I have completed my legal instructions to you
17 that is when you will be able to go back in the jury room
18 to begin deliberations.

19 Now, as I said, this is a criminal case brought by
20 The State of South Carolina which has charged the Defen-
21 dant, Mr. Ganson, with the crime of burglary in the
22 first degree.

23 The charge against the Defendant is contained in
24 this Indictment. An Indictment is not evidence of any-
25 thing but is a description of the charge that has been

1 made by the State against the Defendant. The Defendant
2 has pled not guilty to this charge and is presumed to be
3 innocent unless and until he is proven guilty beyond a
4 reasonable doubt.

5 I will explain that more in detail at the end of
6 the trial, but briefly a reasonable doubt is the kind of
7 doubt that would cause a reasonable person to hesitate
8 to act.

9 A Defendant has the right not to testify and never
10 has to prove innocence or present any evidence. The
11 burden of proof is always on the State of South Carolina.

12 As I said, the statements and arguments of the law-
13 yers are not evidence, and the questions and objections
14 made by the lawyers are not evidence. Testimony that I
15 may instruct you to disregard is not evidence.

16 It is your duty, ladies and gentlemen, to decide
17 from the evidence that comes in what the facts are. You
18 and you alone are the judges of the facts. You will
19 hear the evidence, and you will decide what the facts
20 are, and then you will apply the law which I give to you
21 to reach your verdict.

22 In doing that, you must follow the law whether you
23 agree with it or not. You should not take anything I
24 say or do during the trial as indicating what I think
25 of the evidence or what your verdict should be.

1 Just like rules which govern sports, games and other
2 activities you are involved in, there are rules of evi-
3 dence which control what goes on here. When a lawyer
4 asks a question or offers something into evidence and
5 a lawyer on the other side thinks it should not be admit-
6 ted under the rules of evidence, the lawyer may object.
7 If I overrule the objection, the question can be answered
8 or the exhibit may be received in evidence.

9 If I sustain the objection, the question cannot be
10 answered or the exhibit cannot be received. So when-
11 ever I sustain an objection to a question or deny a mo-
12 tion to admit something in evidence, you must ignore the
13 question or the proposed exhibit, and you must not guess
14 or speculate what that would have been or what the ex-
15 hibit would have shown.

16 Remember, you only consider the evidence presented
17 to you.

18 Now, sometimes, ladies and gentlemen, it may be
19 necessary for me to request you leave the Courtroom so
20 I may discuss certain legal issues with the attorneys
21 that may come up during the trial. If this occurs,
22 while you are in the jury room do not speculate about
23 what we may be talking about.

24 Remember the reason you were asked to leave is
25 simply because that is what the law requires when certain

1 issues arise.

2 To keep you all from having to get up and go to
3 your jury room too many times during the trial, I may
4 ask the attorneys to approach the bench so we can dis-
5 cuss a legal issue in private.

6 I will do this as often as possible so you all won't
7 have to get up and go out. Again, what we are talking
8 about up here, do not speculate about or think we are
9 trying to hide anything from you.

10 We are not, but it is just simply a procedure fol-
11 lowed by lawyers and all courts to determine and decide
12 legal questions so the jury can receive the most compe-
13 tent and reliable evidence. Okay?

14 In deciding the facts in this case, you may have
15 to decide what witnesses to believe and which witnesses
16 not to believe. You can believe everything a witness
17 says, only part of what a witness may say, or none of
18 it. That is your role as a jury.

19 You are not going to be allowed to take notes dur-
20 ing the trial, so I urge you to pay close attention to
21 what a witness testifies to so that you will be able to
22 accurately reflect upon that during your deliberations.

23 In addition, it is very time consuming and it takes
24 a while for my Court Reporter, who is there right in
25 front of you -- she's speaking every word I say right

1 now into a mask she's wearing and she has all these
2 backup recorders to record everything. It's very time
3 consuming for her to have to pull up testimony when you
4 are back there deliberating, so please pay attention to
5 what goes on in here.

6 Let me say just a few more things. Until I advise
7 you to begin your deliberations, you must not discuss
8 this case with anyone, including your fellow jurors,
9 friends, family members, anyone involved in this case.
10 No social media whatsoever during the trial of this case,
11 during recesses, when you go home, until the trial con-
12 cludes.

13 No Twitter, Google, Facebook or independent re-
14 search at all because remember that your verdict can only
15 come from the evidence in this Courtroom.

16 During the trial don't read, listen to or watch any
17 news reports about this case which may be going on, and
18 this includes anything that may be in the newspaper or on
19 the radio or television.

20 You must not consider anything you may have read or
21 heard about this case outside of the Courtroom either be-
22 fore or during the trial, and after the case is submit-
23 ted to you you must discuss it only in the juryroom with
24 your fellow jurors.

25 If anyone attempts to talk to you about this

1 case in violation of these instructions I've just
2 given to you, please advise me so I can deal quickly
3 with it in an appropriate manner.

4 Now, it is important, ladies and gentlemen,
5 that you keep an open mind and not decide any issue in
6 this case until all of the evidence has been presented,
7 until the attorneys have made their closing arguments
8 and I have instructed you on the law of the case.

9 It is your solemn responsibility to determine the
10 guilt or the innocence of the Defendant, and your ver-
11 dict must be based solely on the evidence as it is pre-
12 sented in this trial and on the law as I instruct you at
13 the end of the trial.

14 All right, that is my pre-trial colloquy with you,
15 and we will proceed with the trial of the case.

16 Solicitor.

17 SOLICITOR: Thank you, Your Honor. May it please
18 the Court?

19 We are here today because Beneco Ganson committed
20 a burglary in the first degree. On December 6, 2013,
21 he kicked in the door at [REDACTED] North White Street, here in
22 Lancaster.

23 He was attempting to take a TV from the shelf when
24 Ms. Howze who lives there came down the hall and caught
25 him in the act. She told him, I'm going to call the

1 police, and he took off running.

2 Ladies and gentlemen, my name is Randy Newman.

3 I'm an Assistant Solicitor. I work for the Honorable
4 Solicitor Barfield.

5 I want to thank you for your service today. I know
6 there are definitely other places you'd rather be, and I
7 thank you again. You're here for a very important rea-
8 son, so that Mr. Ganson gets a fair trial.

9 It is up to you to decide this case. I will give
10 you the evidence and it will be up to you to decide who
11 is right and who's wrong.

12 I have to prove to you beyond a reasonable doubt by
13 the testimony that Mr. Ganson committed a burglary in the
14 first degree.

15 In presenting the case, there is no DNA, no fancy
16 stuff. We have a single mom at home with the kids when
17 Mr. Ganson comes and kicks in the door.

18 So what is burglary first? A person is guilty of
19 burglary in the first when one enters the dwelling of
20 another without consent.

21 Number two, with intent to commit a crime once they
22 gain entry.

23 Number three, the burglary is committed by a person
24 with a prior record of two or more convictions for burg-
25 lary.

1 Now, he has two or more convictions for burglary.

2 Ladies and gentlemen, throughout the trial you will
3 have to be patient with us. Like the Judge said, this
4 is not going to be like a TV show. We can't have it
5 all done in sixty minutes, and some of them do it a lot
6 shorter.

7 You will hear the testimony and see some evidence,
8 and when we finish you will know that Mr. Ganson is
9 guilty of burglary in the first degree.

10 Thank you.

11 THE COURT: Thank you, Solicitor. Mr. Steen.

12 MR. STEEN: Good morning. My name is Brandon Steen,
13 and it is my pleasure here today representing Beneco
14 Ganson.

15 As has been indicated, this will be a short trial.
16 The State has charged Mr. Ganson with burglary in the
17 first degree.

18 My goal here today is to show you that Mr. Ganson
19 did not enter the dwelling of Ms. Howze; that he did not
20 commit the crime or attempt to commit the crime.

21 The Solicitor stated that someone was trying to take
22 a TV from the residence. You will see evidence in the
23 trial that Mr. Ganson has his own TV and that it was not
24 Mr. Ganson who did that.

25 The State has the burden of proof with basically one

1 eye-witness, the victim in this crime.

2 The victim here has severe credibility issues. She
3 falsely accused someone in this very case already. You
4 will hear her testimony.

5 Your job here today is to be the tryer of the facts,
6 to hear the evidence. If you do not believe the testi-
7 mony of the State's witnesses, I ask you to find my client
8 not guilty.

9 Thank you all.

10 THE COURT: All right, thank you.

11 The State may call its first witness.

12 SOLICITOR: The State calls Rodnyka Porchlee Howze..

13 RODYNKA HOWZE, being
14 duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY SOLICITOR:

17 Q. State your name.

18 Q. Rodynka Porchlee Howze.

19 Q. Ms. Howze, back in December where did you live?

20 A. ...

21 Q. Back in December of 2013.

22 A. At [REDACTED] North White Street.

23 Q. Okay. Who did you live there with?

24 A. My sister and our kids.

25 Q. Now, do you know Beneco Ganson?

R. HOWZE ON DIRECT

- 1 A. . .
- 2 Q. Ms. Howze, is everything okay? You good?
- 3 A. . .
- 4 Q. Okay, do you know Beneco Gadson?
- 5 A. . .
- 6 THE COURT: You've got to answer, maam.
- 7 A. Yes.
- 8 BY SOLICITOR:
- 9 Q. You all were friends, weren't you?
- 10 A. . .
- 11 Q. You okay?
- 12 A. Yes.
- 13 Q. You see Mr. Ganson here in the Courtroom?
- 14 A. Yes.
- 15 Q. What's he wearing?
- 16 A. You say what's he wearing?
- 17 Q. Yeah.
- 18 A. Blue . . .
- 19 Q. There's three guys at this table. Which one is Mr.
- 20 Ganson?
- 21 A. In the middle.
- 22 Q. How do you know Mr. Ganson?
- 23 A. We've been friends, for a while.
- 24 Q. You've known him five years, ten years -- how long?
- 25 A. Maybe five or less.

R. HOWZE ON DIRECT

1 Q. Has he ever been a visitor in your home at Clyde
2 Street?

3 A. . . .

4 REPORTER: Is that a yes?

5 A. He was there the night before.

6 Q. The night before this incident?

7 A. Yes.

8 Q. Was that the only time?

9 A. No. One time before that.

10 Q. But he had been there?

11 A. Yes.

12 THE COURT: You've got to say yes or no.

13 Q. Who lived with you in that home?

14 A. My sister and our kids -- my kids and my nephew.

15 Q. Okay, how many kids have you got?

16 A. I have two, a boy and girl.

17 Q. How old are they or how old were they last December?

18 A. One was two and my little girl was three months.

19 Q. Now, did anything significant happen at [REDACTED] North
20 White Street on December 6, 2013?

21 A. What you mean, significant?

22 Q. Anything unusual?

23 A. Yes, that morning.

24 Q. Tell us what happened that morning?

25 A. Me and my kids were still sleeping, and I heard

R. HOWZE ON DIRECT

1 -- I'm not a morning person, but that morning I heard
2 him and he was constantly texting me on my phone.

3 Q. Okay.

4 A. He was trying to conversate with me.

5 Q. And he was just there the night before?

6 A. Yes.

7 Q. What time did he leave?

8 A. I don't remember.

9 Q. Do you have any idea what time he started texting?

10 A. That morning? No, but it was early morning.

11 Q. When you woke up?

12 A. Yes. I wasn't going to work that morning.

13 THE COURT: You've got to answer, maam. My Court
14 Reporter can't pick up nods of the head. You've got to
15 say yes or no.

16 A. Yes. It was early for me to talk on the phone, and
17 then I heard him on the front porch. He was trying to
18 text to see if I was home.

19 Q. You heard Mr. Ganson on your front porch?

20 A. Yeah, him and a friend or another person.

21 Q. And what did you do?

22 A. I text him and told him I'm not home. I had to
23 take the little girl to the doctor.

24 Q. You told him you were not home?

25 A. Right.

R. HOWZE ON DIRECT

1 Q. All right, and what happened next?

2 A. After that, I heard him and his friend, whoever it
3 was, I heard him say to kick the door in.

4 Q. You heard him say. .

5 A. See, with our house you can hear people through the
6 door. It's an older house and anybody out there you can
7 hear.

8 Q. He was by the door and you could hear them -- I show
9 you State's Exhibit 4. Do you recognize that?

10 A. Yeah, that's the front porch and the front door is
11 there.

12 SOLICITOR: Your Honor, may I have permission to
13 publish?

14 THE COURT: Yes, sir.

15 (Photograph shown to the jury)

16 THE COURT: That's the picture on your screen, ladies
17 and gentlemen.

18 SOLICITOR: Yes, sir.

19 BY SOLICITOR:

20 Q. And is that a screened-in porch?

21 A. It is.

22 Q. And was he inside that screened-in porch.

23 A. Yes, when I heard him say kick the door in.

24 Q. So he was inside the porch when you heard him say
25 that?

R. HOWZE ON DIRECT

1 A. Yes.

2 SOLICITOR: If you tap the screen, it should come on.

3 BY SOLICITOR:

4 Q. So he was between the screen door and the front
5 door to the house?

6 A. Right.

7 Q. Okay. All right, and what happened after you heard
8 someone say to kick the door in?

9 A. He kicked the door in.

10 Q. And where were you when the door got kicked in?

11 A. I was inside the front door. When you walk in
12 the front door there's a long hallway, and my room is
13 the last door back there.

14 When I had heard the door kicked in I took both my
15 kids and put them in the crib, and I tiptoed down the
16 hallway, and then I walked in and I was like, what the
17 fuck you all doing and they ran.

18 Q. And what were they doing?

19 A. . .

20 Q. When you saw them before they ran?

21 A. When I walked in they were moving the TV and had
22 their hands on my ring. (Portion not audible)

23 Q. That's your class ring?

24 A. For citizenship.

25 Q. And they moved the TV?

R. HOWZE ON DIRECT

1 A. Yeah, they moved it.

2 Q. Now, how many people did you see inside of your
3 home?

4 A. It was two people.

5 Q. Okay, and did you give the officers two names? Is
6 that correct?

7 A. Yeah, I did, and I was wrong about one of them.

8 Q. What's the other name?

9 A. Beneco.

10 Q. And do you know the name of Shawn Quavos?

11 A. Yes, but that was wrong.

12 Q. Two guys were in your house and you gave two names.
13 Did you know Shawn Quavos' name immediately, or did you
14 have to find out some place else?

15 A. . .

16 THE COURT: Hang on, maam.

17 MR. STEEN: Objection to leading.

18 THE COURT: Sustained.

19 BY SOLICITOR:

20 Q. How did you find out Shawn Quavos' name?

21 A. I know Shawn Quavos.

22 Q. Okay.

23 A. I know Beneco Ganson, and then I saw the side of
24 the other guy's face and thought it was Shawn Quavos.

25 Q. Okay.

R. HOWZE ON DIRECT

1 A. When he turned around after they started to run, I
2 could see the side of the guy's face, and he didn't have
3 any hair.

4 Q. Did you have a close personal relationship with Mr.
5 Ganson?

6 A. Personal? Okay, yes.

7 Q. So you knew him pretty well, or did you?

8 A. Yeah. Nothing to talk about really.

9 Q. I mean, how often did you see him?

10 A. Well, before that he was locked up so I didn't much
11 see him.

12 MR. STEEN: Objection.

13 THE COURT: Sustained.

14 A. Well, I heard . . .

15 Q. You can't say what you heard.

16 THE COURT: The jury will disregard that statement.

17 Q. We had been together more than three times. We had
18 got together before.

19 Q. Were you as close to Shawn Quavos as you were to
20 Mr. Ganson?

21 A. No, sir. I seen him at school.

22 Q. How long had it been since you'd seen him?

23 A. A couple of years maybe.

24 Q. Okay, and did you look at a photo lineup?

25 A. Yes.

R. HOWZE ON DIRECT

1 Q. Okay. Let's get back to the sequence of the
2 events.

3 You came out and what happened?

4 A. I said, I'm calling the police, and I did call the
5 police while they ran. Them coming in wasn't the only
6 reason. There were kids there.

7 (Portion not audible)

8 Q. Did you call the police right then?

9 A. Right then.

10 Q. Okay. Was there any damage to your home?

11 A. Yes, the front door was destroyed.

12 Q. And is this your front door?

13 A. Yes.

14 Q. Is the door broken completely?

15 A. Well, we could shut it.

16 Q. This is State's Exhibit 6. Is this the same door,
17 door frame?

18 A. Yes.

19 Q. Showing you State's 1. Is that the same door?

20 A. Yes.

21 Q. When you lived there was the door damaged before the
22 two came in that door?

23 A. No, it was not before that.

24 Q. Did either of the two men you saw in your house -- did
25 either of them have permission to be in your house?

R. HOWZE ON DIRECT

- 1 A. No. I had told him I wasn't home.
- 2 Q. When you picked Shawn Quavos out of that photo lineup you
- 3 you were pretty sure it was him?
- 4 A. Yeah, I thought it was. I thought I was sure.
- 5 Q. Do you know now if it was or wasn't him?
- 6 A. No. I heard it was . .
- 7 Q. Don't say what you heard. Do you know?
- 8 A. No.
- 9 Q. Are you certain that Mr. Ganson was in your home?
- 10 A. It was him, no doubt about that.
- 11 Q. Now, after they ran away and you called the police, did
- 12 anyone call you?
- 13 A. Yes. I got a text from Beneco.
- 14 Q. Tell me about the text that Beneco sent you.
- 15 A. He called to apologize.
- 16 Q. More than one time?
- 17 A. Yeah.
- 18 Q. What did he say?
- 19 A. He was sorry, he shouldn't have done it. No excuse for
- 20 what he done.
- 21 Q. Okay.
- 22 A. He just apologized.
- 23 SOLICITOR: Beg the Court's indulgence.
- 24 THE COURT: Yes, sir.
- 25 (Brief pause in proceeding)

R. HOWZE ON DIRECT

1 BY SOLICITOR:

2 Q. I've got no further questions for you. Please an-
3 swer anything Mr. Steen asks.

4 THE COURT: All right, Mr. Steen. Your witness.

5 CROSS EXAMINATION

6 BY MR. STEEN:

7 Q. Ms. Howze, two people kicked your door in on December
8 6th, correct?

9 A. Yes.

10 Q. And you gave the police two names, correct?

11 A. Yes.

12 Q. And you knew these people before this, correct?

13 A. Yes.

14 Q. And the next day you picked these individuals out of a
15 lineup without any problems, correct?

16 A. Yes.

17 Q. You were certain it was Mr. Ganson?

18 A. I was almost certain of the other one.

19 Q. So you were almost certain you told the police who did
20 this?

21 A. . .

22 Q. Did the police ask if you were almost certain when you
23 picked somebody?

24 A. They asked me if I was sure.

25 Q. What did you tell the officers?

R. HOWZE ON DIRECT

- 1 A. I told them yes.
- 2 Q. On both individuals?
- 3 A. Um hm.
- 4 Q. So you were wrong about Mr. Quavos?
- 5 A. Yes.
- 6 Q. You were wrong before . . .
- 7 A. But I was right about Mr. Ganson.
- 8 Q. You couldn't possibly be wrong about him?
- 9 A. No way possible. I'm sure it was him.
- 10 Q. You testified that you saw Mr. Quavos and Mr. Ganson
- 11 attempt to steal your TV?
- 12 A. Yes.
- 13 Q. Let's go back to December 6. You wrote a statement
- 14 that day, didn't you?
- 15 A. Yes.
- 16 Q. And since that incident had just happened, your mem-
- 17 ory was pretty good when you wrote that statement?
- 18 A. Yes.
- 19 Q. And this statement was given to law enforcement in
- 20 a criminal investigation, and it was complete and accur-
- 21 ate?
- 22 A. Except for saying it was Shawn everything
- 23 was accurate.
- 24 Q. And do you remember what you wrote?
- 25 A. (Inaudible response)

R. HOWZE ON CROSS

1 Q. You didn't mention Mr. Quavos or Mr. Ganson attempt-
2 ing to steal your TV at all in that statement, did you?

3 A. I don't remember what I put in the statement.

4 Q. You left out the two individuals were trying to
5 steal your TV?

6 A. I don't remember what I put in the statement. I can't
7 remember it word for word, and I was shook up.

8 THE COURT: Maam, just answer the question.

9 A. Yes.

10 Q. Yes, you left out saying the two were trying to steal
11 your TV?

12 A. Right.

13 Q. You didn't want company that morning, so you called
14 the cops because you didn't want someone there?

15 A. No, I called the cops because my house had got broken
16 into.

17 Q. By who?

18 A. Beneco.

19 Q. And who else?

20 A. Shawn Quavos.

21 Q. And it's your belief that it was not Beneco who kicked
22 in your door. Correct?

23 A. Maybe it was. I don't know.

24 Q. You said you heard a statement about kicking the door
25 in. Who do you say said that?

R. HOWZE ON CROSS

- 1 A. Beneco said that.
- 2 Q. So you would assume somebody else kicked in the
- 3 door?
- 4 A. . .
- 5 Q. Not Beneco?
- 6 A. . .
- 7 Q. Can you answer that?
- 8 A. Yes.
- 9 Q. Thank you.
- 10 A. I know he was in the house.
- 11 MR. STEEN: One moment, Your Honor.
- 12 THE COURT: Okay.
- 13 (Brief pause in the proceeding)
- 14 BY MR. STEEN:
- 15 Q. Just a few more questions, Ms. Howze. Do you have an
- 16 arrest for harrassment and assault?
- 17 A. Yes, but it wasn't my fault. I wasn't . . .
- 18 SOLICITOR: Objection, Your Honor.
- 19 THE COURT: Will you all approach?
- 20 (Conference at the bench between counsel and the Court
- 21 off the record)
- 22 THE COURT: Overruled. Please answer the question.
- 23 Ask the question again, Mr. Steen.
- 24 Q. Do you have a harrassment first charge, Ms. Howze?
- 25 A. Yes.

R. HOWZE ON CROSS

1 Q. Do you have an assault of a high and aggravated nature
2 charge, Ms. Howze?

3 A. I do, yes.

4 THE COURT: Redirect, Solicitor?

5 SOLICITOR: Briefly.

6 REDIRECT EXAMINATION

7 BY SOLICITOR:

8 Q. Let me ask you about that. When did that happen?

9 A. That was before I -- it happened a long time ago.

10 Q. I understand that, but did you serve time for that
11 or did you get probation?

12 A. Yes, and I completed probation successfully.

13 Q. He asked you about a statement. You gave a written
14 statement on the day this happened, the 6th?

15 A. The same day.

16 Q. Okay, and on the following day did you go to the police
17 department?

18 A. The next day.

19 Q. And did you talk to Officer Hall?

20 A. I can't recall but I did go there.

21 Q. No further questions.

22 THE COURT: You may step down. Call your next witness.

23 SOLICITOR: Cheyennae Howze.

24 (Witness excused from stand)

25 46

CHEYENNAE HOWZE, being duly

1 sworn, testified as follows:
2 DIRECT EXAMINATION
3 BY SOLICITOR:
4 Q. Ms. Howze, state your name for the record
5 A. Cheyennae Howze.
6 Q. Back on December 6 of 2013, where did you live?
7 A. At [REDACTED] North White Street here in Lancaster.
8 Q. In the photos you saw before, is that the same house
9 you lived in?
10 A. Yes.
11 Q. Do you still live there?
12 A. I do. We have an alarm system now.
13 Q. Okay, and is that home in the City of Lancaster?
14 A. It is.
15 Q. Now, on December 6, 2013, who lived in this house?
16 A. My sister and her two kids and my son and me.
17 Q. You had a child?
18 A. I did, my son.
19 Q. Okay, what is your relation to Ms. Rodynka Howze?
20 A. That's my sister.
21 Q. Do you know Mr. Ganson?
22 A. Not before this happened.
23 Q. Ever seen him in your home before this happened?
24 A. No.
25 Q. Speak up, please. You ever see him in your home?

C. HOWZE ON DIRECT

1 A. Never. I may have seen him one time out of my house.

2 Q. Were you at home on December 6th?

3 A. No, I was not at home. I was at work.

4 Q. Where do you work?

5 A. I work at Bojangles.

6 Q. What do you do there?

7 A. I'm a manager. I run my own store now. I was a
8 unit director.

9 Q. I want to show you State's 6.

10 A. That's our front door.

11 Q. Is that how your front door looked after this happened?

12 A. Yes. It was a metal front door, and this is a picture
13 of it after it was kicked out.

14 SOLICITOR: Beg the Court's indulgence.

15 Q. When you left for work that morning, what kind of shape
16 was that door in?

17 A. It was up and in place. It didn't look anything like
18 this when I got back home.

19 Q. Okay, I have no further questions.

20 THE COURT: Mr. Steen, Cross Examination.

21 CROSS EXAMINATION

22 BY MR. STEEN:

23 Q. Did you see Mr. Ganson on December 6th?

24 A. No, I did not.

25 Q. Thank you.

1 (Witness excused from stand)

2 THE COURT: Call your next witness.

3 SOLICITOR: State calls Officer Burlingame.

4 DUSTIN BURLINGAME, being duly sworn,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY SOLICITOR:

8 Q. Please state your name for the record, Sergeant.

9 A. Dustin Burlingame.

10 Q. And where are you employed?

11 A. Lancaster City Police Department..

12 Q. And how long have you been so employed?

13 A. Nine years.

14 Q. What are your duties there? Your current position?

15 A. I'm a detective sergeant.

16 Q. Were you a detective on December 6, 2013?

17 A. Yes, sir.

18 Q. And did you get called out to [REDACTED] North White Street
19 on that date?

20 A. Yes, sir, I did.

21 Q. And what were you called out for?

22 A. A burglary that had already occurred.

23 Q. And what were your duties on that day?

24 A. That day when I arrived the then Sergeant Hildreth
25 was on the scene taking photographs of the scene and

D. BURLINGAME ON DIRECT

1 I assisted with the crime scene investigation that day.

2 Q. Now, Hildreth was a Sergeant as well?

3 A. Yes, sir.

4 Q. What is the difference in your jobs?

5 A. He works patrol and answers calls as they come in,
6 and I get a call and come and investigate.

7 Q. And you were to investigate this home invasion?

8 A. Yes, sir.

9 Q. What did you do as a part of your investigation?

10 A. Well, that day I observed the damaged door, front
11 door, that was smashed in. I observed the television in
12 the house and the stand it had stood on.

13 I looked for any fingerprints on that television
14 and stand and lifted some fingerprints from it.

15 Q. All right.

16 A. The prints were taken to the Lancaster County
17 Sheriff's Office for analysis.

18 Q. Did you take them yourself?

19 A. I did.

20 Q. Is that the standard practice if you take finger-
21 prints in Lancaster?

22 A. Yes, sir.

23 Q. I show you State's 7. Is that the TV that you took
24 prints from?

25 A. Yes, sir, it is.

D. BURLINGAME ON DIRECT

1 Q. And how do you check for fingerprints?

2 A. Just observed them with a flashlight on the bottom right
3 of the TV. That's where I lifted the print from that I saw
4 on the television.

5 Q. Did you view anything else concerning the television or
6 the stand it was on?

7 A. Yes.

8 Q. What was that?

9 A. Because of the position of the TV on the stand and the
10 dust it was sitting in, you could see where it had been moved
11 from the position it was in.

12 Q. It's not that great a picture, I know, but is it hanging
13 off the shelf any?

14 A. Yes, it is close to hanging off.

15 Q. How many fingerprints did you retrieve?

16 A. I retrieved two, and only one was of any significance.

17 Q. When it went to the Lancaster Sheriff's Office, was it
18 turned over to any particular person?

19 A. Yes.

20 Q. That's all I have for you, Detective. Please answer any
21 questions Mr. Steen has for you.

22 THE COURT: Mr. Steen, Cross Examination.

23 MR. STEEN: Thank you, Your Honor.

24 CROSS EXAMINATION

25 BY MR. STEEN:

C. BURLINGAME ON CROSS

1 Q. You said you pulled two sets of fingerprints?

2 A. Yes, sir.

3 Q. Off the TV?

4 A. Yes, sir.

5 Q. Were either of them a match for Mr. Ganson?

6 A. No, sir.

7 Q. Were they matched to anyone?

8 A. No, sir.

9 Q. And you stated the TV was moved?

10 A. Yes.

11 Q. And you could tell that from the dust that was disturbed?

12 A. Yes.

13 Q. Can you conclusively say that Mr. Ganson was involved in
14 moving that TV?

15 A. No, sir.

16 Q. Thank you, Sergeant. I have no further questions
17 for you.

18 THE COURT: Any Redirect?

19 SOLICITOR: No, sir.

20 THE COURT: You may step down, Sergeant.

21 WITNESS: Thank you.

22 (Witness excused from the stand)

23 THE COURT: Call your next witness, please.

24 SOLICITOR: The State would call Ken Taylor to the
25 stand.

1 KEN TAYLOR, being duly sworn,
2 testified as follows:

3 DIRECT EXAMINATION

4 BY SOLICITOR:

5 Q. State your name for the record.

6 A. Ken Taylor.

7 Q. Mr. Taylor, where are you employed?

8 A. Lexington County Sheriff's Office.

9 Q. How long have you been so employed?

10 A. Nine years.

11 Q. What is your position there?

12 A. Crime scene investigator and latent print examiner.

13 Q. How long have you been a latent print examiner?

14 A. Since 2010.

15 Q. What is your educational background?

16 A. I have taken two latent print courses in 2009, and
17 a class at the South Carolina Criminal Justice Academy in
18 latent prints, basic examination and identification.

19 I've had some classes since then as refreshers, some
20 on-line through West Virginia University, and as continu-
21 ing education.

22 Q. Okay, and what are some of your responsibilities as
23 far as latent print examiner?

24 A. Out on the scene actually dusting for latents, lifting
25 them and bringing them back to office.

K. TAYLOR ON DIRECT

1 When we get them to the office we will -- I say we --
2 the other officers I work with they will bring them to me
3 and we compare the prints with known suspects or check
4 the system to see if we can match them up to any individ-
5 uals.

6 Q. Have you received any certification in this field?

7 A. Crime scene investigation, the certification from
8 the National Forensic Academy in 2010, and again -- well,
9 right now there is not a current requirement for certifi-
10 cation for latent print examiners.

11 However, the ongoing educational opportunities are
12 there, and I have taken advantage of those.

13 Q. Okay. Have you ever been qualified in the courts of
14 this State as an expert witness?

15 A. Yes.

16 SOLICITOR: Your Honor, at this time I would move
17 to qualify this witness as an expert in latent print
18 examination.

19 THE COURT: Any further voir dire?

20 MR. STEEN: Not at this time, Your Honor.

21 THE COURT: It is so ordered then that he is an ex-
22 pert in latent print examination.

23 Ladies and gentlemen of the jury, let me talk with
24 you a little bit about what you are going to hear and
25 what that means to be qualified as an expert witness.

K. TAYLOR ON DIRECT

1 Normally a person when testifying cannot give an
2 opinion. They have to testify as to what they saw or
3 heard or sensed by smell or something of that nature, but
4 there is an exception. Someone may be qualified as an
5 expert because they have education and experience in a cer-
6 tain field.

7 In that case, they are allowed to give you, the
8 fact-finders, or the jury, an opinion in a certain area if
9 the Court qualifies them that way. You heard the lawyers
10 just agree that this witness is an expert in that field
11 of latent print examination, and so he may give an ex-
12 pert opinion.

13 Just because he may give such an opinion that does
14 not mean you have to believe him, but it is evidence for
15 you to use in any way that you see fit.

16 Okay? Solicitor.

17 BY SOLICITOR:

18 Q. Everybody knows what a fingerprint is. What is a
19 latent print?

20 A. A latent print means it is not easily visible, that
21 there has to be some light put on it or some type of pow-
22 der, so that you can see it better.

23 Q. And how is a latent print lifted off of a surface it
24 is found on?

25 A. Usually it is put on a clear plastic type thing you

K. TAYLOR ON DIRECT

1 can see through once it is dusted or something is applied
2 to it in order to see it better.

3 It is lifted and applied to the card until they can
4 get it back and we can take a closer look at it.

5 Q. Are there other types of fingerprints other than latent prints?

7 A. Yeah, there are other terms. There are prints that
8 are called patent that are visible. You can see them without
9 any enhancement being applied. Maybe in grease or blood.

10 Q. Now, can you explain to the jury how you examine that
11 fingerprint?

12 A. Yes. Usually when we get a print in, there is a protocol we try to follow, called ACEV. That stands for analyzing
13 care evaluating and verification, or verifying.

15 One of the first steps is to analyze the print to find
16 details of that print before actually comparing it to the
17 known print of a person. Getting the fine details of the
18 print so you can take the next step and try to compare it
19 to a possible suspect. If you don't have enough points to
20 pursue it, then you don't need to go any further.

21 If you have enough quality and visible detail, you can
22 see if the details equates with the detail, the ending ridges
23 or the bifurcations and deltas, things like that, and you
24 can compare those to the known subject.

25 Q. And did you compare those prints with the exemplars

K. TAYLOR ON DIRECT

1 sent to you for comparison?

2 A. Yes. If you come to the conclusion, based on your
3 training, your skill -- if you come to the conclusion you
4 have an identification, you call that a formal identifica-
5 tion and notify the submitting party.

6 Q. And did you receive prints in this particular case
7 from the City of Lancaster?

8 A. Yes.

9 Q. And did you then examine them?

10 A. Yes.

11 Q. And, first of all, what are the possibilities you can
12 come up with a comparison?

13 A. You can generally come to one of three possibilities.
14 You either make an identification and say it is a formal
15 identification of a particular person with a particular
16 source, if you have sufficient detail, quality detail.

17 Or if you find sufficient detail to exclude that per-
18 son, you can say based on your training and skill that
19 these are unknown prints, and not a match to a particular
20 suspect.

21 You can say that print didn't come from that person,
22 or there is not sufficient detail or if the quality of the
23 print is so poor that you can't make a comparison to say
24 it is or it isn't, you have to say it is inconclusive.

25 Any form identification is based upon whether or not

K. TAYLOR ON DIRECT

1 you have good and reliable information.

2 So those are the three conclusions, that it is an iden-
3 tification, an exclusion or it is inconclusive.

4 Q. As regards the two prints that you received from the
5 Lancaster City Police Department in this case or relating to
6 this case of the State versus Beneco Ganson, what did you
7 determine?

8 A. As I recall, there were four prints -- three or four,
9 and there was only one with sufficient detail to try for a
10 comparison, and I determined it was not left by the source
11 or the suspected source.

12 The one with sufficient detail was not a match with
13 those of the suspect, and the others were of such poor
14 quality that I was not able to make a determination one
15 way or the other.

16 Q. Now, let me ask you this. If I touch, pick up this ob-
17 ject and carry it across here and sit it down here, is
18 there any possibility I may not leave a fingerprint on it?

19 A. There is a possibility, yes.

20 Q. And how long will my fingerprint stay on there?

21 A. I can't give you a -- necessarily a good answer for
22 that. It depends -- it depends on several things.

23 Q. If someone sat that object down last week and nobody
24 has cleaned it, would there be a chance of finding a fing-
25 erprint on that?

K. TAYLOR ON DIRECT

1 A. Yes.

2 Q. And would there be a chance of not finding a finger-
3 print on it?

4 A. Yes.

5 SOLICITOR: Beg the Court's indulgence.

6 (Brief pause in proceeding)

7 SOLICITOR: That's all I have. Please answer anything
8 Mr. Steen asks you.

9 THE COURT: Mr. Steen.

10 MR. STEEN: Thank you, Your Honor.

11 CROSS EXAMINATION

12 BY MR. STEEN:

13 Q. Mr. Taylor, in your experience as a law enforcement
14 officer, would you expect people who touched things to leave
15 fingerprints?

16 A. I would expect them to.

17 Q. And in this case with what was given to you, were you
18 able to identify the print to Mr. Ganson?

19 A. No, sir.

20 Q. Thank you. Nothing further.

21 SOLICITOR: No Redirect.

22 THE COURT: Thank you, sir. You may step down.

23 (Witness excused from stand)

24 THE COURT: Ladies and gentlemen of the jury, at this
25 time we'll go ahead and take our lunch recess. I will ask

1 you to be back in your jury room ready to go at one thirty.

2 Do not discuss the case or do any independent research
3 or anything.

4 I'll see you back at one thirty. Thank you very
5 much.

6 (Jury excused from the Courtroom for the lunch recess
7 at 11:53 A.M.)

8 THE COURT: We will recess at this time. If Ms.
9 Thompson is here now, you all go and talk with her.

10 We'll deal with that as soon as I come back.

11 (Court stood in recess, the matter being contin-
12 ued at 1:15 P.M.)

13 THE COURT: Hold off on the jury, if you would, on
14 bringing them in.

15 (Conference at the bench between counsel and the
16 Court)

17 SOLICITOR: I would like to publish the stipulation
18 to the jury about his prior burglaries.

19 As to Ms. Thompson, I do want to call her. She
20 can state she called the victims and offered to pay for
21 the damages.

22 THE COURT: Okay.

23 SOLICITOR: That's pretty much all she said.

24 THE COURT: All right. Your objection is already
25 in the record. So you are good to go with that, and

1 I think he is entitled to publish the stipulation to
2 the jury.

3 Do you intend to offer any evidence?

4 MR. STEEN: We're not sure.

5 THE COURT: Okay. Provided we move it along, I'm
6 going to give it to the jury today. Okay?

7 MR. STEEN: Yes, sir.

8 THE COURT: It's one forty-five now, so let's try to
9 limit our closing arguments and, accordingly, I can -- I
10 promise you with my charge I'll get it to the jury by
11 three.

12 All right, let's bring the jury in.

13 (Jury returned to Courtroom)

14 THE COURT: All right. Good afternoon, ladies and
15 gentlemen of the jury. I hope you had a good lunch.

16 At this point in the trial I appoint a Foreperson of
17 the jury. Mr. Tylicki, where are you? You're sitting
18 in the right chair, by happenstance.

19 But, anyway, I am going to appoint you as the Fore-
20 person of the jury. It is going to be your duty to pre-
21 side over the jury during the deliberations.

22 You also are going to be the jury's official
23 spokesperson here in Court.

24 You also will be the one who signs the verdict form
25 which I will go over with you more as I give you closing

1 instructions. Although you are the only one who can
2 sign the verdict form, it is not your verdict alone. It
3 has to be a unanimous verdict, and I will tell you
4 about that later on.

5 Okay, thank you.

6 Solicitor, call your next witness.

7 SOLICITOR: We call Linda Thompson.

8 LINDA THOMPSON, being duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY SOLICITOR:

12 Q. Please state your name for the record.

13 A. Linda Thompson.

14 Q. Ms. Thompson, what is your relationship to Mr.
15 Ganson?

16 A. Mr. Ganson is my oldest child, the oldest of
17 three.

18 Q. And I don't want your address, but where do you
19 reside?

20 A. In Atlanta, Georgia.

21 Q. How did you learn about the events that took place
22 on December 6?

23 A. My sister called me, and she told me that she and my
24 mother had seen something on the scanner about a
25 breaking-in, and then right after that they heard my son

L. THOMPSON ON DIRECT

1 Beneco Ganson's name called, and that is how I learned
2 about it.

3 Q. Does your sister live here in Lancaster?

4 A. Yes, she does.

5 Q. When you heard about the events, what did you do?

6 A. . . .

7 Q. Did you call Redynka?

8 A. The first thing I tried to do was to call Beneco.
9 That's the first thing I did.

10 Q. Did you actually speak to him?

11 A. No.

12 Q. Who else did you call?

13 A. My mother in law, and she told me what she knew, so
14 after she and I talked on the phone -- she told me she
15 had also tried to contact Beneco and couldn't get him
16 at that time.

17 So after that, that's when I called Ms. Howze.
18 We call her Porchlee. I went ahead and called her.
19 My mother had her phone number. She and my mother con-
20 versated a lot because of the relationship between
21 her and my son.

22 Q. What did you tell Ms. Howze?

23 A. I didn't tell her anything. I asked her what was
24 going on, what had happened, because my sister had called
25 and told me something happened.

L. THOMPSON ON DIRECT

1 About her house being broke into or a house being
2 broke into, and about three or four days later she
3 called me on the scanner.

4 Q. Did you offer to pay for the damage to the door?

5 A. Yes, I did, sir.

6 Q. That's all the questions I have. Please answer
7 anything Mr. Steen may ask.

8 A. Yes, sir.

9 THE COURT: Mr. Steen.

10 MR. STEEN: No questions.

11 THE COURT: You can step down.

12 Call your next witness.

13 SOLICITOR: The State calls Lieutenant Phillip

14 Hall.

15 PHILLIP HALL, being duly
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY SOLICITOR:

19 Q. Where are you employed?

20 A. City of Lancaster Police Department.

21 Q. And what are your duties?

22 A. I am currently the lieutenant over special opera-
23 tions. (Portion not audible)

24 Q. How long have you been with the City?

25 A. I've been with the City since 2000. I went with

P. HALL ON DIRECT

1 the Sheriff's Office in '96.

2 Q. How long have you been over the Detective Division?

3 A. Two and a half years.

4 Q. Were you working on December 6 of 2013?

5 A. I wasn't working when the actual call came in.

6 Q. How did you become involved in this particular
7 case?

8 A. We had on-call investigators and I was covering
9 for one of the officers in the rotation. So the inci-
10 dent happened on Friday before lunchtime, and I didn't
11 get anything until Saturday when I come on at five o'clock.

12 I received a phone call from Ms. Porchlee Howze
13 saying she had information in regard to this burglary.

14 Because it had happened on Friday and the case had
15 not been assigned I went ahead and picked up the case
16 to get that information.

17 Q. Now, did you ask Ms. Howze to come in to the Police
18 Department?

19 A. I did.

20 Q. Did you meet with her there?

21 A. Yes.

22 Q. When did she come in?

23 A. The next day, around six or seven that night.

24 Q. The next day meaning . .

25 A. The incident occurred on Friday and I met with her

P. HALL ON DIRECT

1 Saturday, the next day.

2 Q. Did you ask her if she had a relationship with Mr.

3 Ganson?

4 A. I did.

5 Q. What did she tell you?

6 A. She advised that he was a friend with benefits.

7 Q. Did she give you a second name?

8 A. She did.

9 Q. What was that name?

10 A. Allen Shaquavous. She knew him by his street

11 name.

12 Q. She knew him by a street name?

13 A. Correct.

14 Q. Did you show her a photo lineup?

15 A. I did.

16 Q. Tell the jury how that works, how you do a photo

17 lineup?

18 A. Usually we can do it in-house with a system which

19 consists of our original arrest pictures. I didn't have

20 a photo of Allen, so what we did was send a request to

21 SLED to their photo center, and they sent one back, using

22 the DMV pictures.

23 We put together pictures of people who almost look

24 like each other. They really need to know the person

25 pretty good to pick someone out.

P. HALL ON DIRECT

- 1 Q. I show you what's been marked State's Exhibit 10.
2 Is that the lineup you showed Ms. Howze?
3 A. Yes.
4 Q. And Number 2, is that the Defendant?
5 A. Yes, sir, it is.
6 Q. And is that the person Ms. Howze picked out from
7 the photo lineup?
8 A. Yes, it is.
9 Q. Does it have Ms. Howze's initials on it?
10 A. Yes. I also had her put the person's name beside
11 the picture if she knew what it was.
12 Q. Okay. Showing you State's Number 9, is this the
13 same photo lineup you showed her?
14 A. Yes, this is the second lineup and she circled num-
15 ber 5.
16 Q. That's who Ms. Howze picked out?
17 A. Yes.
18 Q. And is that Mr. Allen?
19 A. Yes, it is.
20 Q. Were you able to track down both of these guys?
21 A. Mr. Allen was found with no problem.
22 Q. What about Mr. Ganson?
23 A. Mr. Ganson was in Georgia, Dekalb County. That's
24 where he was arrested.
25 Q. Did you charge Mr. Allen?

P. HALL ON DIRECT

1 A. I did.

2 Q. And did you drop those charges?

3 A. I did.

4 Q. I was able to confirm that he wasn't present at
5 that time.

6 Q. And do you now have another suspect?

7 A. I do.

8 Q. Beneco Canson still your suspect?

9 A. He is.

10 SOLICITOR: Beg the Court's indulgence.

11 THE COURT: Yes, sir.

12 (Brief pause in the proceeding)

13 BY SOLICITOR:

14 Q. Mr. Hall, would you briefly walk us through the in-
15 terview with Ms. Howze on that Saturday.

16 A. She said she was at home by herself with her two
17 kids, a two year old and three month old. She said
18 she was awakened by a phone call and text message com-
19 ing in on her cell phone.

20 She said that she looked and seen it was Beneco.

21 She said that -- I asked what her relationship was with
22 Beneco, and she said friends with benefits.

23 She said he kept texting or calling her and he
24 wanted to know if she was at home. So she responded by
25 saying, no, I'm taking my baby to the hospital or to

P. HALL ON DIRECT

1 the doctor's office.

2 She said after she had sent that text message, within
3 mere seconds, she heard -- she said she heard some-
4 body that she pretty much thinks is Beneco.

5 She goes to the doorway and the next thing she
6 knows the door pops in. She said she was walking back
7 because she had seen them on the porch through the win-
8 dow and she was walking back to her room.

9 She said she got back in the bedroom as the door
10 was busted in, and she turned around. She said she had
11 her kids in the house, and she went back into the living
12 room and yelled at both Beneco and the other suspect
13 -- said I know who you are. Beneco was by the TV.

14 She said when she said that, they both ran out the
15 door. She said she screamed that she was calling the
16 police right then.

17 She said she never saw any vehicle but she knew
18 that there was one close by because he was fixing to grab
19 the TV, and that would be kind of standing out if they
20 went walking down the street with a big TV.

21 Q. Did she say she got any texts after that?

22 A. Yes. She said after the burglary she had received
23 a couple of phone calls from Mr. Ganson.

24 Q. I know you can't say word for word but what is the
25 gist of it? The gist of what they said?

P. HALL ON DIRECT

1 A. . .

2 Q. Did he apologize?

3 A. He apologized for it and told her not to call the
4 police.

5 Q. Do you remember how long it was after this burglary
6 that you found Mr. Ganson?

7 A. The burglary happened on December 6, and he was ar--
8 rested on January 9th.

9 Q. Where was he arrested?

10 A. In Georgia on December 18th, and was brought back
11 -- he waived extradition and was brought back to South
12 Carolina; one nine.

13 Q. And then he was arrested for this burglary?

14 A. Yes, sir.

15 Q. Please answer any questions Mr. Steen has for you.

16 A. Yes, sir.

17 THE COURT: Mr. Steen.

18 MR. STEEN: Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MR. STEEN:

21 Q. So the Co-defendant's GPS placed him at another
22 location?

23 A. That's correct.

24 Q. After Mr. Ganson's Codefendant was cleared, do you
25 know if there was a photo lineup with him?

P. HALL ON CROSS

1 A. I did not because of her relationship with him.
2 She said she went to school with him and it was years
3 ago. I asked if she was one hundred percent sure on
4 Ganson, and she said yes.

5 She said with Allen it had been years and she was
6 not that sure. We were able to determine his whereabouts
7 so he couldn't have been there breaking in.

8 We also cleared it up with his probation officer.

9 Q. But Ms. Howze in the photo lineup originally picked
10 Quavos?

11 A. She didn't show any more reaction to Allen than she
12 did to the others, but she was able -- I showed her
13 Beneco Ganson's lineup first, and she said that's him,
14 right there.

15 Q. When you showed her Allen Quavos' photo lineup,
16 what did she say?

17 A. She said this one fits the side profile.

18 Q. But you thought she was sure that day about those
19 -- about both those individuals?

20 A. Yes, and she said Quavos fit the side profile in her
21 mind.

22 Q. Did you ever speak with Mr. Ganson?

23 A. Mr. Ganson refused to talk to me.

24 Q. Mr. Ganson was down in Georgia?

25 A. Correct.

P. HALL ON CROSS

1 Q. Do you agree he has family members there?

2 A. I don't know. Based on what his mom said, that
3 she lived in Atlanta, I guess -- I don't know.

4 Q. Okay.

5 (Brief pause in proceeding)

6 BY MR. STEEN:

7 Q. How often would you say someone picked in a photo
8 line-up is incorrect?

9 A. Somebody picked the wrong guy?

10 Q. Yes.

11 Q. That would have been my first one.

12 Q. Okay. No further questions. Thank you.

13 THE COURT: Anything further?

14 SOLICITOR: No further questions.

15 THE COURT: You may step down.

16 (Witness excused from stand)

17 THE COURT: The State may call its next witness.

18 SOLICITOR: May we approach?

19 THE COURT: Okay.

20 (Conference at the bench between counsel and the
21 Court off the record)

22 SOLICITOR: The State rests, Your Honor.

23 THE COURT: All right, ladies and gentlemen of the
24 jury, at this point in time I'm going to ask that you go
25 back to the jury room.

1 I need to take up some matters of law with the at-
2 torneys, so go ahead and take a little break.

3 We'll call you back out shortly. Do not talk
4 about the case. Okay?

5 Thank you.

6 (Jury excused from Courtroom)

7 THE COURT: Mr. Steen?

8 MR. STEEN: First I would like to move for directed
9 verdict based on all of the things I have raised during
10 the trial, as well as that the State did not produce
11 sufficient evidence to support the charge.

12 THE COURT: The motion is denied.

13 Anything else?

14 MR. STEEN: No, sir.

15 THE COURT: Have you talked to your client about
16 testifying?

17 MR. STEEN: Yes, sir.

18 THE COURT: What has he indicated to you?

19 MR. STEEN: He does not intend to testify.

20 THE COURT: Anything else?

21 SOLICITOR: Your Honor, I would like to publish the
22 stipulation to the jury at this time.

23 THE COURT: You have already rested, so you cannot
24 talk about it now. You did talk about it and you can

25 73

1 -- it's in evidence and you can talk about it in your
2 closing argument.

3 I will give them a charge about that.

4 Okay, Mr. Ganson, if you would please
5 stand and raise your right hand.

6 (Defendant sworn for colloquy with the Court)

7 THE COURT: Thank you. You can be seated.

8 See the microphone in front of you. Pull it to
9 you and speak into it good and loud. Okay?

10 At this time I'm going to explain to you certain
11 rights that you have. If you don't understand anything
12 I say, let me know, and I will be glad to explain any-
13 thing you want me to explain.

14 Now, we have now reached the stage of the trial in
15 which you may present your defense. In doing that, I
16 want to make sure you understand that you have the right
17 under the Fifth Amendment of the United States Constitu-
18 tion which says that no person shall be compelled in any
19 criminal case to be a witness against himself.

20 That's what the Fifth Amendment says. In other
21 words, you do not have to testify, you cannot be required
22 to testify. You have a right to testify on your own,
23 but if you choose not to you don't have to.

24 Nobody can make you do that against your will. Do
25 you understand that right?

1 DEFENDANT: Yes, sir.

2 THE COURT: Now, I want to make sure you do under-
3 stand that if you wish to testify you may do so and
4 tell them your side of the story. You can deny it or
5 whatever you're going to do, but, you know, just like
6 with the other witnesses who have testified against you,
7 any particular crimes that would meet the legal standard
8 for what's called impeachment may come in, and, you know,
9 a jury may be able to hear that and may infer that
10 against you. Do you understand that?

11 DEFENDANT: Yes, sir.

12 THE COURT: Okay. Now, if you decide not to testify
13 then I will instruct the jury that they cannot consider
14 that whatsoever, the fact that you did not testify, and
15 it is of absolutely no prejudice to you because you do
16 not testify.

17 Do you understand that?

18 DEFENDANT: Yes, sir.

19 THE COURT: Did you go over this with your lawyer?

20 DEFENDANT: Yes, sir.

21 THE COURT: Are you satisfied with your lawyer?

22 DEFENDANT: Yes, sir.

23 THE COURT: Do you wish to testify?

24 DEFENDANT: No, sir.

25 THE COURT: Now, I don't know what, if any, prior

1 record you have. The same rule which covers other wit-
2 nesses would be applicable to you. That means that if
3 you have committed any offenses which involve dishonesty
4 or are punishable by incarceration by more than one
5 year and this Court determines the probative value sub-
6 stantially outweighs the prejudicial effect to you, the
7 Solicitor may possibly question you about them to attack
8 your credibility.

9 Do you understand that?

10 DEFENDANT: Yes.

11 THE COURT: Understanding all these things, do you
12 wish to testify?

13 DEFENDANT: No, sir.

14 THE COURT: You understand what we've been over?

15 DEFENDANT: Yes, sir.

16 THE COURT: Thank you. Do you intend on presenting
17 any defense?

18 DEFENDANT: No.

19 MR. STEEN: No, sir.

20 THE COURT: Then we will bring them back and so,
21 Solicitor, you will go first with closing argument, fol-
22 lowed by Mr. Steen's closing argument. Mr. Steen will
23 have the last word.

24 MR. STEEN: Could we have a brief break?

25 THE COURT: Yes, sir.

1 (The Court stood in recess from 2:09 to 2:14 P.M.)

2 THE COURT: Is there anything you would request I
3 charge?

4 SOLICITOR: No, sir.

5 MR. STEEN: No, sir.

6 THE COURT: Of course, I will give you a chance at
7 the conclusion of my charge if you wish me to charge
8 something else or explain something further.

9 THE COURT: All right, bring the jury in.

10 (Jury returned to Courtroom at 2:15 P.M.)

11 THE COURT: All right, thank you, ladies and gen-
12 tlemen.

13 The State has rested. Mr. Steen?

14 MR. STEEN: The Defense rests.

15 THE COURT: The Defense rests. Ladies and gentle-
16 men, that now concludes the evidence stage of the trial.
17 We're going to move into what is called the closing ar-
18 guments, both by the State and the Defense.

19 At the end of the arguments I will explain to you
20 the law applicable to this case.

21 I'd ask you to please pay very close attention to
22 the lawyers as they argue what they believe the facts
23 have proved.

24 Solicitor?

25 SOLICITOR: Thank you. May it please the Court?

1 THE COURT: Yes, sir.

2 SOLICITOR: Ladies and gentlemen, I know many of
3 you are tired and you want to get out of here. The
4 trial has been brief, and I will try to be brief as
5 well.

6 You have heard from a number of witnesses today,
7 and your job is to take what has been said and to put
8 it together and come up with the whole story.

9 I'll go over just a little of it. It started on
10 December 6, 2013, that morning, when Ms. Howze was at
11 home with her two children. She didn't have to get up,
12 so she didn't answer. She didn't want company.

13 The Defendant came to the home and she heard him
14 on the porch. She texted him that she wasn't home.

15 Instead of leaving, she heard him say, kick in
16 the f'ing door, and then, bam, the door was kicked
17 open.

18 And who did she see in the house? Her friend,
19 Beneco Ganson, and another person. She screamed at
20 them, I'm calling the police. They run.

21 As you've heard, Ms. Howze mis-identified one of
22 the guys because she had a personal relationship with
23 Mr. Ganson. She didn't have that relationship with
24 the other guy.

25 She had no relationship with the other guy and had

1 only seen him a couple of times since school.

2 Someone kicked the door in, and it doesn't matter
3 who kicked it. The guy who said to kick it in is just
4 as guilty as the guy who did that. All you need to
5 do to commit a burglary is enter the house without
6 permission.

7 The police came and you heard they looked for
8 fingerprints. They found two sets. The witness said he
9 looked at one set and he could determine it was not
10 those of Mr. Ganson.

11 On the other set of prints, he said they just were
12 not good enough to be conclusive.

13 But we already know there were two people in there,
14 two people moving a TV. Obviously, one set of the
15 prints could be from Mr. Ganson.

16 There are TV shows like CSI and Law and Order, and
17 we don't have DNA. What we have is a lot of testimony
18 from a young lady who put her hand on that Bible and
19 swore to you she would tell you the truth.

20 The Defendant's mother told you she called Ms.
21 Howze to try to cover the cost of any damages. Why
22 would she do that? That is something for you all to
23 decide.

24 The Judge is going to tell you about the law and
25 don't try to reach your verdict without applying the

1 law. He will tell you what law to apply.

2 He will tell you that a person is guilty of burg-
3 lary in the first degree when they enter the home of
4 another person without permission, by a person with a
5 prior record for two or more burglaries.

6 Ladies and gentlemen, you heard testimony and you
7 have all the elements of burglary in the first degree.
8 Mr. Ganson went in the home, tried to steal a TV,
9 has a conviction for two or more burglaries and we've
10 stipulated to that.

11 You will have the paperwork in evidence that you
12 can look at in the jury room.

13 Now, comes the hard part. You have to decide as
14 you go back there who is right and who is wrong.

15 The Judge will talk to you about reasonable doubt.
16 A reasonable doubt is the kind of doubt that would cause
17 a reasonable person to hesitate to act.

18 Ladies and gentlemen, you don't even have to look
19 for a reasonable doubt. There is no doubt at all as
20 to this case from the evidence. You cannot ignore it.
21 You have all the elements of burglary in the first de-
22 gree.

23 We would ask you when you go back to your jury
24 room to return a verdict of guilty.

25 Thank you.

1 THE COURT: Mr. Steen.

2 MR. STEEN: Thank you, Your Honor.

3 This has been a short trial but it is a serious
4 trial. Mr. Ganson is on trial for burglary in the
5 first degree.

6 The State has the burden of proving his guilt with
7 evidence that convinces you beyond a reasonable doubt.

8 They have to show that Mr. Ganson entered the dwell-
9 ing or this house of Ms. Howze and that he did that
10 with the intent to steal the TV. I don't believe they
11 have shown that here today.

12 Their only evidence is the victim, Ms. Howze, who
13 literally turned her back on us as soon as she sat down
14 in the Courtroom.

15 She said she was convinced it was Mr. Ganson and
16 Mr. Allen. Said she was sure. That was day one. Then
17 on day two, she claimed it was Mr. Ganson and Mr. Allen
18 came in the house and moved the TV.

19 Then Mr. Allen is cleared, and then she said it
20 was Mr. Ganson and another person who came in the
21 house, tried to steal the TV. Her story changed four
22 times since day one, and we definitely cannot rely on
23 such testimony.

24 As to Mr. Allen, she said she went to school with
25 him; she knew it was him, but here today after everything

1 has changed --- I wasn't sure -- now, I'm unsure.

2 On the stand, she knew one well but not the other,
3 but at first she knew both well. You cannot rely on
4 that.

5 The standard that the State faces here today is
6 reasonable doubt. They may not have DNA but they still
7 have to prove the Defendant's guilt beyond a reasonable
8 doubt.

9 If Mr. Ganson's fingerprints had been found on that
10 TV, we probably wouldn't be here today. The State
11 did not determine it was Mr. Ganson. They didn't find
12 his fingerprints anywhere.

13 You heard that the TV was moved slightly in the
14 dust. That dust probably was a cause of the problem
15 with the other fingerprints. You heard that prints were
16 taken but they did not match those of Mr. Ganson.

17 You heard his mom testify that he went to his mom's
18 house, but the Solicitor implied that he was running.

19 You heard that he came back to face these charges
20 on December 18th. He said, hey, come get me; I want
21 my trial.

22 (Portion not audible)

23 Consider reasonable doubt, and inconsistent testi-
24 mony causes a reasonable doubt. If someone falsely
25 identifies someone, that is reasonable doubt.

1 After you'll consider the evidence presented and
2 apply the law you are given, we ask that you find Mr.
3 Ganson not guilty. Thank you.

4 THE COURT: Thank you, Mr. Steen.

5 Now, ladies and gentlemen, I will ask that you
6 turn and look at me as I charge you on the law in the
7 case. Please listen very carefully as this is the law
8 you will use and apply to the facts as you find them
9 to be.

10 Mr. Foreman and members of the jury, you heard
11 the testimony, the evidence, and the arguments of
12 both the State and the Defense. Now I will charge you
13 the law that applies to this
14 case.

15 Under the Constitution and laws of South Carolina,
16 you are the finders of facts in this case. I do not
17 have a right to comment about the facts or even to ex-
18 press an opinion that I may have as to that, because
19 that is a matter solely for you, the jury, to deter-
20 mine.

21 As jurors then, it is your duty to determine the
22 facts by weighing the value and the truth of the evi-
23 dence presented during this trial.

24 Now, as the Trial Judge it has been my responsi-
25 bility to preside over the trial of this case and to

1 rule on the admissibility of evidence that may have
2 been offered during the trial. You are to consider
3 only the testimony which has been presented from this
4 witness stand together with any exhibits which were
5 made a part of the record in this case.

6 I have the additional duty to charge you the law
7 of the case. Just as you are the sole judges of the
8 facts, I am the sole judge of the law. It is your
9 duty as jurors to accept as correct and apply the law
10 as I now charge it to you to reach your verdict.

11 The fact that I may instruct you on various sub-
12 jects in this case must not be taken as indicating an
13 opinion of the Court as to what the facts should be
14 or what your verdict should be.

15 Finally, I charge you that you should not be con-
16 cerned with what you think the law ought to be, but only
17 what I charge you the law is.

18 You are the judges, the sole judges, of the credi-
19 bility of the witnesses, which is also called the be-
20 lievability of the witnesses who have testified and
21 the evidence presented during this trial.

22 In passing upon credibility, you may take into con-
23 sideration anything such as the demeanor or the manner
24 of the witnesses who testified, or whether the witness
25 had a reason to be biased or prejudiced; whether or not

1 the witness' testimony was contradicted on the one
2 hand or supported or corroborated on the other hand.

3 All of these things you will consider, bearing in
4 mind that you should give the Defendant the benefit
5 of every reasonable doubt. It becomes your duty as
6 jurors to analyze and evaluate the evidence and deter-
7 mine that evidence which convinces you of its truth.

8 Now, I instruct you and emphasize that the fact
9 the Defendant did not testify is not a factor to be con-
10 sidered by you in any way in your deliberations, or in
11 your consideration of the question of the guilt or in-
12 nocence of the Defendant.

13 It must not be considered by you in any manner what-
14 soever. A Defendant has the constitutional right to
15 remain silent, and the assertion of this right must not
16 be considered by the jury in their deliberations.

17 So I will repeat, you are to draw no conclusion
18 whatsoever from the fact that the Defendant in this
19 case did not testify. The fact that he did not testify
20 should not even be discussed in the jury room.

21 The burden of proof, as I have stated to you, is
22 on the State of South Carolina. The Defendant is not
23 required to prove his innocence. The burden of proof
24 is on the State to prove guilt beyond a reasonable
25 doubt.

1 A person who has a past criminal record is compe-
2 tent to testify during a trial. A past record does
3 not affect the ability of that person to testify. A
4 past record may only be considered by you as an element
5 in considering the witness' believability.

6 Remember that you are the sole judges of the facts
7 in the case, credibility and believability of all of
8 the witnesses in the case.

9 There has been evidence presented that a witness
10 may have made prior statements that were not consistent
11 with the witness' testimony.

12 You may use this evidence to decide whether or
13 not to believe a witness. You may also use this evi-
14 dence of the earlier statement to determine the truth-
15 fulness of the witness.

16 It is up to you to decide whether to believe an
17 earlier statement or the testimony given at trial.

18 Now, there are two types of evidence which are
19 generally presented during a trial, direct evidence and
20 circumstantial evidence.

21 Direct evidence is the testimony of a person who
22 claims to have actual knowledge of a fact, such as an
23 eye-witness. It is evidence which immediately estab-
24 lishes the main fact to be proven.

25 Now, circumstantial evidence on the other hand is

1 proof of a chain of facts and circumstances which in-
2 dicate the existence of a fact. It is evidence -- and
3 I will explain more in a minute to make you understand
4 -- it is evidence which immediately establishes col-
5 lateral facts from which the main fact may be inferred.

6 Circumstantial evidence is based on what you can
7 infer or an inference. It is not a matter of personal
8 knowledge or observation.

9 For example, imagine you are at home and happen
10 to look outside and see that your lawn is brown. You go
11 to bed and wake up the next morning and see snow on the
12 front lawn and tracks on your front lawn through the
13 snow.

14 You can infer the snow -- you didn't see it snow
15 but you can infer that it snowed. You can infer as
16 well that somebody walked on your lawn. These are
17 things you can infer, even though you didn't see it
18 snow and even though you didn't see somebody on your
19 lawn.

20 Now, the law makes absolutely no distinction, lad-
21 ies and gentlemen, between the weight or the value to
22 be given to either direct or circumstantial evidence,
23 nor is any greater degree of certainty required of
24 circumstantial evidence than direct evidence.

25 You should weigh all the evidence in the case, and,

1 after weighing all the evidence, if you are not con-
2 vinced of the guilt of the accused beyond a reasonable
3 doubt you must find him not guilty.

4 Now, as I've told you during the trial, our rules
5 of evidence ordinarily do not permit witnesses to tes-
6 tify as to opinions or conclusions. Normally the
7 person must testify to what they either saw or heard or
8 sensed by smell, or something of that nature.

9 However, when someone is qualified through educa-
10 tion or training, they can give an opinion in certain
11 areas if the Court finds that person is an expert wit-
12 ness.

13 There was one expert witness in this case, and so
14 that witness could offer an opinion. To give opinion
15 testimony in that area, that does not mean that you have
16 to accept the opinion, but is evidence for you, the
17 jury, to use in any way you see fit and give it the
18 weight and credibility you believe is appropriate.

19 An expert witness' testimony is to be given no
20 more weight than that of other witnesses, simply because
21 the person is an expert.

22 Now, the fact that the Defendant was arrested,
23 charged and indicted is not evidence in this case and
24 cannot be used by you as such. Nor does that create
25 any presumption or inference of guilt against the Defendant.

1 The indictment as I told you at the outset of the case
2 yesterday is simply a formal instrument which contains
3 the charge against the Defendant.

4 An indictment is simply the document by which the
5 case is brought into Court.

6 Now, the Defendant has pled not guilty to the charge
7 contained in the indictment, and that plea places the
8 burden of proof upon the State to prove the Defendant
9 guilty.

10 A person charged with committing a criminal offense
11 in South Carolina is never required to prove himself
12 innocent.

13 I charge you, ladies and gentlemen, that it is a
14 very important rule of law that a defendant, no matter
15 the seriousness of the charge, will always be presumed
16 to be not guilty of a crime for which the indictment
17 was issued unless and until guilt is proven by evidence
18 satisfying you of guilt beyond a reasonable doubt.

19 Now, the presumption of innocence does not end when
20 you begin your deliberations, ladies and gentlemen, but
21 it accompanies the Defendant throughout the trial until
22 you have reached a verdict.

23 The presumption of innocence is like a robe of
24 righteousness, and you can imagine in your mind that
25 being placed about the shoulders of the Defendant, which

1 remains with him until it is stripped from him by evi-
2 dence convincing you of his guilt beyond a reasonable
3 doubt.

4 This presumption of innocence is not a mere legal
5 theory. It is not just a legal phrase, but it is a sub-
6 stantial right to which every Defendant is entitled, un-
7 less you, the jury, are satisfied beyond a reasonable
8 doubt from the evidence of the Defendant's guilt.

9 A reasonable doubt is a doubt which makes an hon-
10 est, sincere, conscientious person, in search of the
11 truth, to hesitate to act.

12 Proof beyond a reasonable doubt must therefore be
13 proof of such a convincing character that a reasonable
14 person would not hesitate to act upon it in the most
15 important of his or her own affairs.

16 Now, proof beyond a reasonable doubt can also be
17 described as proof that leaves you firmly convinced of
18 the Defendant's guilt.

19 Now, there are very few things in this world that
20 we know with absolutely certainty, ladies and gentlemen.
21 In criminal cases, the law does not require proof that
22 overcomes every possible doubt, so that if based upon
23 your consideration of the evidence you are firmly con-
24 vinced the Defendant is guilty, then you must find him
25 guilty.

1 If, on the other hand, you believe there is a real
2 possibility that he's not guilty, you must give him
3 the benefit of the doubt and find him not guilty.

4 The Defendant is charged with first degree burg-
5 lary. The State must prove beyond a reasonable doubt
6 that the Defendant entered the dwelling without consent.

7 A dwelling is any building or portion of a building
8 in which a person ordinarily sleeps. In order to prove
9 the Defendant entered the dwelling, the State does not
10 have to show that the Defendant's entire body entered
11 the dwelling. The smallest entry is sufficient. It may
12 be a part of the body such as the hand or foot, or any
13 instrument.

14 The State does not have to prove that force was
15 used to gain entry.

16 Next, the State must prove beyond a reasonable
17 doubt that the Defendant intended to commit either a
18 felony or a misdemeanor at the time of the entry.

19 The mere entry into a dwelling without consent is
20 not burglary.

21 If the intent to commit a crime was formed after
22 the entry, it is not burglary.

23 On the other hand, if the Defendant intended to
24 commit a crime upon entry it is a burglary, even if
25 the intent was abandoned after entry.

1 It does not matter what the intended crime was or
2 that the intended crime may not have been intended.

3 Intent may be shown by acts and conduct of the De-
4 fendant in other circumstances from which you may rea-
5 sonably infer intent.

6 Finally, the State must prove beyond a reasonable
7 doubt that the Defendant has a prior record of two or
8 more convictions for burglary.

9 Evidence of prior offenses committed by the Defen-
10 dant was not offered to prove the Defendant has a bad
11 character or to prove the Defendant committed a burglary
12 on this occasion.

13 The prior conviction may be considered by you only
14 for the purpose of determining whether or not it satis-
15 fies that element of the offense that makes it first de-
16 gree burglary if you enter a dwelling without consent
17 and you have two prior convictions for burglary.

18 Before you can even consider the evidence of the
19 Defendant's prior convictions, you must first find the
20 State has proved beyond a reasonable doubt that a
21 burglary was committed by the Defendant.

22 If you find beyond a reasonable doubt that a burg-
23 lary was committed, then you may consider the evidence
24 of the prior convictions as evidence of circumstances
25 which would make the burglary first degree burglary.

1 If you do not find beyond a reasonable doubt that
2 the Defendant committed these alleged prior offenses,
3 you cannot return a verdict of first degree burglary.

4 Let me say something about your deliberations be-
5 fore you begin. The word deliberation is defined as
6 careful consideration with a view to a decision.

7 The genius of our jury system, ladies and gentle-
8 men, is that it allows twelve good people, twelve men
9 a women from different life experiences, to consider
10 the evidence, talk about it, and ultimately reach a ver-
11 dict.

12 The task of a juror is called deliberation for
13 a reason. You, the jurors, are to consider the evidence
14 carefully and deliberately, and to discuss it in a calm
15 and thorough and courteous manner.

16 Remember you are not partisans or advocates for
17 either side over the other. Your purpose is to judge
18 the facts. Your sole duty is to go through the informa-
19 you have received in this trial and find what you believe
20 to be the truth.

21 Now, the Constitution affords everyone a day in
22 court and a fair trial. This case is very important
23 to both sides because it is their day in court.

24 I charge you to listen carefully to the views of
25 your fellow jurors, carefully consider their viewpoints,

1 and courteously discuss the evidence. Remember that
2 you are doing something deliberately. You are not in
3 a big hurry, but you are tasked with the duty that is
4 of utmost importance.

5 In conclusion, ladies and gentlemen, you have been
6 selected by the State and the Defendant to be fair and
7 impartial jurors. It is your duty then in your deliber-
8 ations to determine the truth in this case, giving the
9 benefit of every reasonable doubt on the charge.

10 I have told you the standards you have to apply to
11 the charge of burglary. You have heard the evidence.
12 Now you've heard the law. Whatever your verdict is,
13 guilty or not guilty, Mr. Foreman, you will indicate it
14 and sign and date your verdict form. It will be back
15 there with you.

16 Now, although the Foreman is the only juror who
17 writes the verdict, but is not his verdict alone. The
18 verdict has to be unanimous which means all twelve of
19 you have to agree upon it.

20 Mr. Foreman, do not write on the verdict form or
21 sign until all of you agree upon what your verdict
22 should be.

23 Ladies and gentlemen, I will send you to your jury
24 room at this time, but do not begin to discuss the
25 case until you receive the exhibits and verdict form.

1 Once you receive these things, that will be your
2 signal to finally begin talking about the case. Once
3 you begin deliberations, deliberate until you reach a
4 verdict. Then knock on the door and advise the bailiff.
5 We will bring you out to receive your verdict.

6 All of you except Madam Alternate
7 are free to go back to your jury room.

8 (Juror excused from Courtroom at 2:43 P.M.)

9 THE COURT: Any exceptions to the charge from the
10 State?

11 SOLICITOR: No, sir.

12 THE COURT: From the Defense?

13 MR. STEEN: No, sir.

14 THE COURT: Thank you.

15 (Alternate juror excused)

16 THE COURT: We'll be at ease, awaiting the jury's
17 verdict.

18 (Court stood in recess until 3:34 P.M.)

19 THE COURT: All right, thank you. Be seated.

20 I understand we have a verdict. Bring the jury
21 in.

22 (Jury brought into Courtroom)

23 THE COURT: All right, all members of the jury are
24 present. Mr. Foreman, I understand the jury has been
25 able to reach a verdict?

1 FOREMAN: Yes.

2 THE COURT: Have you signed it?

3 FOREMAN: Yes.

4 THE COURT: And you've written on the verdict form?

5 FOREMAN: Yes.

6 THE COURT: Would you hand that to my Clerk?

7 You may publish the verdict.

8 CLERK: Case 2014 GS.29 0445, first degree burg-

9 lary. We, the jury, unanimously find the Defendant,

10 Beneco Antoine Ganson, guilty.

11 Signed, Michael Tylicki, Foreman, June 25, 2014.

12 THE COURT: Ladies and gentlemen of the jury, if

13 this be your verdict, so say you by raising your right

14 hands.

15 Let the record reflect all jurors raised their right

16 hands.

17 All right. Ladies and gentlemen, thank you so

18 much for your service to Lancaster County as well as to

19 the State of South Carolina this week.

20 (Jurors excused by the Court)

21 THE COURT: Will you approach for sentencing?

22 Let's do this. While we're waiting on the sentenc-

23 ing sheet -- I mean, that is just a form I have to sign

24 anyway -- let me hear any mitigation from the State so

25 96

1 I can determine the sentence.

2 SOLICITOR: Your Honor, this is not the most vio-
3 lent crime. However, he is an offender. I did promise
4 Ms. Howze that I would not ask for life. The range is
5 fifteen to life.

6 I will read you his record. It goes back to 2002,
7 possession of stolen pistol; 2004, burglary third,
8 assault and battery of a high and aggravated nature,
9 firing a firearm into a dwelling, another possession of
10 stolen pistol, simple assault and battery, petty lar-
11 ceny.

12 Also, public disorderly, violation of ABC law, a
13 minor in possession of alcohol; 2003, petty larceny,
14 trespassing, possession of marijuana, financial transac-
15 tion card fraud; 2004, possession of marijuana; then in
16 2009, burglary second degree, non-violent, and burglary
17 second degree, violent.

18 In 2010, criminal domestic violence, first offense,
19 criminal conspiracy, forgery less than Ten Thousand;
20 common law robbery or strong arm robbery; a DUI first
21 offense in 2013, and giving false information to police.

22 That's the extent of his record. You've heard the
23 facts so I won't go into that.

24 THE COURT: I'll be glad to hear from the victim,
25 Ms. Howze, and Officer Hall. After that's over I will

1 turn to Mr. Steen.

2 Yes, maam.

3 MS. HOWZE: I'm sorry. The only reason I came to-
4 day was (inaudible). I thought we were friends
5 but what he done when he broke in my door wasn't being
6 a friend. I forgave him.

7 I feel like he should be given one more chance,
8 and I ask you to please, please, please give him another
9 chance. (Portion inaudible)

10 He apologized and I have to think about his kids.

11 THE COURT: Thank you, maam.

12 SOLICITOR: Thank you, maam. Officer Hall also
13 wishes to address the Court.

14 THE COURT: Officer Hall?

15 OFFICER HALL: Your Honor, I would disagree with
16 that. You've heard his criminal history with several
17 burglaries, gun violations -- I think he's a menace to
18 society.

19 I think he needs to serve a little bit of time in
20 jail. I don't think he should get life but I think he
21 should spend time in jail to think about what he's done,
22 the people he has hurt, you know.

23 I believe life would be too much but he needs to
24 take his punishment.

25 THE COURT: Thank you.

1 THE COURT: Solicitor, the sentencing range for
2 burglary in the first degree is a minimum of fifteen
3 years.

4 SOLICITOR: Fifteen years, Your Honor, and the
5 State would also echo Officer Hall and ask for a sig-
6 nificant sentence.

7 THE COURT: Thank you. Mr. Steen?

8 MR. STEEN: Thank you, Your Honor. We would ask
9 for the minimum. Mr. Ganson is thirty. He has three
10 kids, two little girls and one boy.

11 I would turn over to Mr. Ganson and his mom, who is
12 here today, Your Honor.

13 THE COURT: Mr. Ganson.

14 DEFENDANT: Yes, sir. I have made a lot of mis-
15 takes and I can't at this time change anything I did, so
16 I've got to accept responsibility and take my
17 medicine.

18 THE COURT: Yes, sir.

19 Maam, would you like to say anything? Come up to
20 the microphone there.

21 MS. THOMPSON: This is hard. He does have a crim-
22 inal history. I know for a fact that by this thing hap-
23 pening it might make a difference now.

24 I don't know what happened because I wasn't there,
25 but I know before this happened he was trying to take the

1 necessary steps to get things on track. He wanted to
2 get custody of his daughters because the children's
3 mother was on drugs real bad. He was taking the neces-
4 sary steps through social services and was doing what
5 they asked him to do so he could get custody of his
6 children.

7 He has a three or four bedroom home where he can
8 come and take care of them there. He also was trying
9 to do what he had to do to get custody of his two little
10 girls because they are not being taken care of.

11 I know he has a prior record, but I ask you to show
12 some leniency to him.

13 THE COURT: Thank you. You have the sentencing
14 sheet. Right?

15 SOLICITOR: Yes, sir.

16 THE COURT: All right, Mr. Ganson. I hope you will
17 learn from the past mistakes in your life. You are a
18 young man, and you will have the ability to live your
19 life when you have completed your sentence.

20 From what I've heard and considering your past re-
21 cord, the sentence of the Court is twenty years.

22 Good luck to you.

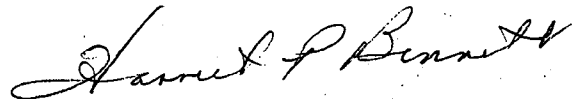
23 -----END OF REQUESTED TRANSCRIPT OF RECORD-----
24
25

1 CERTIFICATE

2 I, HARRIET P. BENNETT, Court Reporter for South
3 Carolina Court Administration, hereby certify that the
4 foregoing Transcript was prepared from the records of
5 Bonnie Kelly to the best of my ability, having been
6 heard in the Court of General Sessions for Lancaster
7 County on June 24 and 25, 2014.

8 FURTHER, I certify that I neither of kin nor
9 counsel to any party to this action, nor do I have any
10 interest in the same.

11 November 5, 2014

12 
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESSES

Hall - LPD #13-17578

ARREST WARRANT NUMBER/DOA

2013A2920301003 (DOA 01-09-14)

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 10 April 2014

VERDICT

TRUE BILL

Foreperson of Petit Jury

Date:

APR 10 2014

DOCKET NO. 2014-GS-29-445

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

APRIL TERM 2014

THE STATE

vs.

Beneco Antwon Ganson

Indictment for

Burglary, First Degree

SC Code: §16-11-311(A)(2)

CDR Code: 0079

Class: Felony, EXM

FILED
OFFICE OF CLERK
OF COURT

2014 APR 10 PM 12:12

CLERK OF COURT
LANCASTER, SC

CERTIFIED TO BE A TRUE COPY

Jeff Hammond

JEFF HAMMOND
CLERK OF FAMILY COURT
LANCASTER COUNTY, S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

INDICTMENT

At a Court of General Sessions, convened on April 10, 2014, the Grand Jurors of Lancaster County present upon their oath:

BURGLARY, FIRST DEGREE

That Beneco Antwon Ganson did in Lancaster County on or about December 6, 2013, enter the dwelling of Rodnykka Howze without consent and with intent to commit a crime in the dwelling and Beneco Antwon Ganson has a prior record with two or more convictions for burglary or housebreaking or a combination of both in violation of §16-11-311(A)(2), *Code of Laws of South Carolina, (1976), as amended.*

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



Douglas A. Barfield, Jr., SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

STATE

VS.

Beneo Antonio Ganson

AKA:

Race: BSex: MAge: 30DOB: [REDACTED]SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Lancaster, SC 29120DL# [REDACTED]SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Burglary First DegreeIn violation of § 16-11-311 (A)(2)of the S.C. Code of Laws, bearing CDR Code # 0079☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury,

(def.'s initials)

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

ATTEST:

Solicitor

SC Bar # 2867

Defendant

Attorney for Defendant

SC Bar # 100241WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections☐ County Detention Center,for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____

; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

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

SPECIAL CONDITIONS:

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

PTUP _____

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

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

§14-1-211 (A)(2)(DUI Surcharge)

\$100

§56-5-2995 (DUI Assessment)

\$12

§56-1-286 (DUI Breath Test)

\$25

Proviso 47.9 (Public Def/Prob)

\$500

§14-1-212 (Law Enforce. Funding)

\$25

§14-1-213 (Drug Court Surcharge)

\$150

§50-21-114 (BUI Breath Test Fee)

\$50

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

Proviso 90.5 (SCCJA Surcharge)

\$5

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter: [Signature]

_____ 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

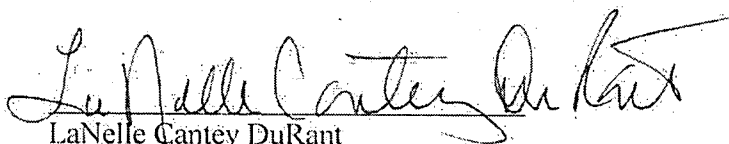
Other: _____

☐ Appointed PD or appointed other counsel, \$47.12 requires \$500 to be paid to Clerk during probation.Presiding Judge [Signature]Judge Code: 2108Sentence Date 6/25/14

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."

July 23rd, 2015



LaNelle Cantey DuRant
Appellate Defender

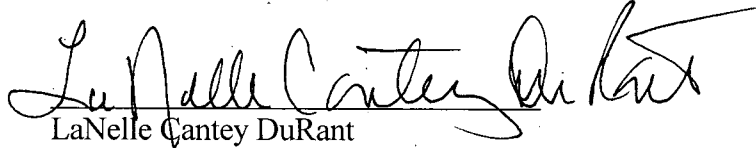
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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."

July 23rd, 2015



LaNelle Cantey DuRant
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED

JUL 23 2015

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Lancaster County

Brian M. Gibbons, Circuit Court Judge

RECEIVED

JUL 23 2015
RESPONDENT,
SC Court of Appeals

THE STATE,

V.

BENECO GANSON,

APPELLANT

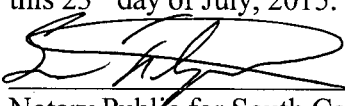
APPELLATE CASE NO. 2014-001402

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Beneco Ganson #306785, at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899, this 27th day of July, 2015.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 23rd day of July, 2015.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.