

 ORIGINAL

VOLUME II OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM MARLBORO COUNTY

Michael G. Nettles, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DERRICK DUPREE,

APPELLANT

APPELLATE CASE NO. 2014-002442

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT #1 (NOTE WITH FINGERPRINTS)
STATE'S EXHIBIT #24 (VIDEO STATEMENT FROM 9/16/2013)
STATE'S EXHIBIT #54 (DVD – KADEEM HOOKS)

1 A. Yeah.

2 Q. Once again, Miss Mance ---

3 A. Cause I'm ready to get off the stand.

4 Q. I know. Did you, however, 9/11, gave another
5 statement to the department, Sheriff's Department?

6 A. I don't remember. I keep having strokes. I don't
7 remember what happened. I don't remember that long, but I
8 can just tell it like this. I'm going to tell it like it
9 is.

10 That Sunday all I know is you left the house. I
11 begged you not to leave. You left. You know, I begged
12 you not to leave. I asked you to stay home to eat. You
13 didn't want to do that. You said, "Babe, I'll be back.
14 Okay." When you left I know you were gone. And about 45
15 minutes at the most, and when you called me you called me
16 from the other house to come pick you up.

17 Q. Okay. Well ---

18 A. I went to the house, picked you up and came back
19 home. That's all I know.

20 Q. That's all you know. Okay. Miss Mance, but do you
21 ---

22 A. Take you nowhere and ---

23 Q. Okay, Miss Mance ---

24 A. I just picked you up. I took you ---

25 Q. Okay. I ---

1 A. I took you home. That's all I know.

2 Q. Okay. Miss Mance ---

3 A. I don't know nothing about nothing. That's my right
4 hand on my dead child. I don't know anything about
5 nothing.

6 Q. No further question questions.

7 A. They got the cell phones.

8 Q. Madam, there will be no further questions.

9 A. They got your phone.

10 THE COURT: All right. Any cross-examination?

11 MR. REDMOND: Absolutely not, Your Honor.

12 THE COURT: You may step down. You're free to leave.
13 All right. Let's have order. You may call your next
14 witness.

15 MR. DUPREE: Your Honor, that would be all, sir.

16 THE COURT: Okay. Madam Forelady, ladies and
17 gentlemen of the jury, I'm going to ask tat you retire to
18 the jury room. Do not discuss the case. Do not discuss
19 the case. Everyone remain seated while the jury exits the
20 courtroom.

21 (WHEREUPON, the jury panel was excused from the
22 courtroom at 12:00 p.m.)

23 COLLOQUY

24 THE COURT: All right. I'll be happy to entertain
25 motions at this time.

1 MR. REDMOND: None from the State, Your Honor.

2 MR. DUPREE: No, sir, Your Honor.

3 THE COURT: All right. At this time I'm going to
4 engage in a brief charge conference. I'm going to charge
5 the law we regards to the indictment not being evidence.
6 I'm going to charge how to evaluate multiple charges.
7 They have to be decided separately and distinctly. I'm
8 going to charge presumption of innocence. I'm going to
9 charge reasonable doubt. The duty of a trial jury and a
10 trial judge, direct and circumstantial evidence,
11 credibility of witnesses, how to evaluate an expert
12 witness. I'm going to charge the law concerning the
13 statement of a defendant and whether they are to give it
14 any consideration.

15 I'm going to charge the law concerning
16 identification. I'm going to charge first -- the
17 substantive law with regard to first degree burglary.
18 First degree criminal sexual conduct. Charge the
19 substantive law regarding kidnapping. Possession of a
20 weapon during the commission of a violent crime. I'm
21 going to charge the law concerning alibi.

22 Any objections and, of course, y'all are going to
23 have an opportunity to listen to the complete text of the
24 charge and make an objection at the appropriate time. But
25 as a preliminary matter is there anything that you object

1 to or anything you want to add, Mr. Redmond?

2 MR. REDMOND: And, Your Honor, I apologize if I
3 missed it. The only thing I think I had written down was
4 voluntary intoxication. I don't know if you had indicated
5 an instruction, but in the defendant's 9/16/13 statement
6 he indicated I think on a couple of occasions of being
7 drunk, being out of his mind and being drunk, and I would
8 respectfully ask for voluntary intoxication instruction
9 based on that.

10 THE COURT: I'm give that some consideration.
11 Anything that you would like? Any objections that you
12 would have or additions, Mr. Dupree?

13 MR. DUPREE: No, sir. But I -- however, Your Honor,
14 I did ask about the video being plaid again. The video
15 being plaid again, sir, at the close.

16 THE COURT: All right. What part -- what do you want
17 plaid?

18 MR. DUPREE: Just September the 11th of Derrick
19 Dupree when he was first arrested and I think it was
20 Derrick Dupree and Kim Mance on September 11th and I
21 think -- not quite sure. I had wrote it down. I keep
22 forgetting what I wanted. I know for sure September 11th
23 of Derrick Dupree and Kim Mance.

24 THE COURT: Where he admitted -- where he made a
25 statement that would inculcate him? You want the

1 statement that was plaid?

2 MR. DUPREE: Well, to be honest, this statement --
3 no, this is -- when he was arrested on September 11th.
4 That will be fine. Just of Derrick Dupree. That will be
5 it. I already asked him, and he said he will agree with
6 the one of Derrick Dupree, and that's the one I just asked
7 for.

8 MR. REDMOND: That isn't exactly what I said. Just
9 to be clear, Your Honor. When he asked me about it I made
10 it clear that if he wanted to introduce it during his
11 testimony or during his case I didn't have a problem with
12 it. He didn't do that. So it's not in evidence, the one
13 from the 11th.

14 The one he's referring to, which we had indicated,
15 Your Honor, that he had invoked his Miranda rights. So
16 we -- agreement of the parties at the time of the Jackson
17 v. Denno Hearing, we have no intention -- I don't think we
18 even marked that particular exhibit due to that -- those
19 circumstances. So that's why we didn't get into that.

20 THE COURT: Well, certainly, we aren't going to
21 introduce any additional -- the only thing you can have
22 plaid is what is already been introduced into evidence and
23 shown to the jury. That's all that we -- that's why I'm
24 trying to ascertain what portion do you want plaid and you
25 want in.

1 MR. DUPREE: Your Honor, I think I asked you that one
2 time, too, as far as introducing that at my closing for
3 the jury to see again. I don't remember did I ask that
4 September 11th be introduced or not, but I did if I'm not
5 mistaken, I did want it to be introduced at closing.
6 Okay. He said it would have to be ---

7 THE COURT: Regardless of what you said to anybody.

8 MR. DUPREE: Yes, sir.

9 THE COURT: Regardless of whatever discussion has
10 taken place you're not going to be able to introduce a
11 video to the jury that not been shown to the jury already
12 and introduced into evidence.

13 MR. DUPREE: Oh, yes, sir, if I'm not mistaken, it
14 has been shown to the jury.

15 THE COURT: I think we are -- we have no idea what
16 you're talking about. What portion, you know, we sat
17 there and we showed some video to the jury. And you can
18 select any portion of that to show them in your closing
19 argument. What portion of that do you want shown?

20 MR. DUPREE: Well, sir, like I said, it was just the
21 September the 11th. They saying that the only one that
22 was shown was September the 16th so if I'm not allowed ---

23 THE COURT: Do you want that?

24 MR. DUPREE: If I'm not allowed to have September the
25 11th, sir, I have no questions. No requests, no, sir.

1 THE COURT: Okay. All right.

2 MR. REDMOND: And, Your Honor, just so the record is
3 clear, briefly. He's referring to the 11th. We plaid the
4 16th and we plaid the interview from Kadeem Hooks. Those
5 are the only two statements that were plaid in front of
6 the jury. What he's requested is one that is not in
7 evidence. So that's why I want to make sure everybody was
8 clear on what we discussed.

9 THE COURT: Already. Very good. What is the State's
10 pleasure with regard closing arguments? You think we can
11 proceed? How long do you anticipate going?

12 MR. REDMOND: I'm actually -- we were just discussing
13 that. I think I'm going to yield to Ms. Johnson Lee as
14 it relates to the closing. As we've preliminarily been
15 talking.

16 THE COURT: Okay.

17 MS. JOHNSON LEE: About 25 minutes.

18 THE COURT: All right. And how long do you
19 anticipate, Mr. Dupree?

20 MR. DUPREE: Sir, I can't really say. I'll try to go
21 as quick as I can.

22 THE COURT: That's not a problem. You're not going
23 to be limited in time. I was just trying to get an idea
24 for timing with regard to the lunch break. I think that
25 we have enough time. We're going to take about a three

1 process. The State goes first under the rules of criminal
2 procedure. They will be going first under these
3 circumstances. And then -- actually, the Defense will go
4 first and then the Solicitor will have an opportunity to
5 present closing arguments. Then we will break for lunch
6 and we will come back and I'm going to charge you the law.
7 Then we'll begin deliberations.

8 But do not begin deliberations or discuss it among
9 yourselves or with anyone else until I give you
10 instructions to do so. Mr. Dupree, you're recognized.

11 CLOSING STATEMENT BY MR. DUPREE

12 MR. DUPREE: Like I said, again, I'm not here to like
13 dispute, you know, assume things or say that things that
14 was said is not true or isn't true. However, some things
15 I will bring up that wasn't true. I mean it will be on
16 y'all to figure out if those statements were true which is
17 what these statement that I am referring to are on
18 S.L.E.D. which I know that y'all heard from a few forensic
19 scientist that is experts.

20 And, once again, the Judge did tell y'all that, you
21 know, that even through they are experts doesn't mean that
22 they statements can be true. But, once again, I'm not
23 here to see if it was true or not. I'm just here to state
24 truths and facts. Like I said I am going to show some
25 statements they could not have been true. It will be up

1 to y'all to judge it and balance it out on the scale how
2 it went and stuff like that.

3 But like I said I was in Bennettsville the day of the
4 crime. Had no where and knowing of going walking about to
5 commit a crime. Never have committed a crime that was
6 violent in my life. Have been arrested which I will get
7 into that later in my closing.

8 But like I said I did -- I received a lot of the
9 evidence late. So it was kind of hard for me to just
10 break down the truth or find out the truth and the facts.
11 As you heard from my last witness, Miss Mance, whereas,
12 she did stated that she knew the defendant, the victim's
13 son and things like that which is the chief of police.
14 And I'm quite sure she was scared to just take sides. And
15 I don't know how that went about or anything like that.

16 Only thing I can say relevant to that is that she did
17 state we was in Bennettsville that day on the 10th. Now,
18 on the 11th she was -- she was interviewed by some of the
19 polices from Marlboro County Sheriff's Department. And
20 what it was they basically told her that she was involved
21 with the case. And when someone tell you, especially a
22 female, when somebody that don't know nothing about the
23 law, don't have any understanding about the law, when they
24 tell you that you pretty much scared. See what I'm
25 saying.

1 Like I said it's a real serious crime so you're
2 scared, and they telling you that, 'if you don't tell us
3 something then, you know, we're going to charge you with
4 conspiracy and stuff like that and you can catch 20 to
5 life and so on and so on'. They already knew that she
6 didn't know nothing about the law, but I guess they did
7 that to manipulate her to change her story.

8 However, she changed her story, and stated in her
9 story that -- well, she stated that, you know, she did it
10 because she felt like the defendant did not commit the
11 crime, and she felt that by him being -- by her placing
12 him on Shanty Road, which is not where the crime took
13 place at, she felt like that doesn't place him at the
14 crime.

15 So like I said she changed her story, and like I said
16 she was more scared. But, however, you heard most of the
17 story were she said Mr. Hooks was identified -- spotted by
18 eye witnesses in the area. Just like you heard the story
19 where Mr. Hooks did stated, you know, certain things about
20 the victim as well without no one directing him. He made
21 his own statements which was accurate and true.

22 Like I said the defendant already heard most about
23 what took place at the crime which he did state what he
24 heard. Like I said earlier in the testimony in reference
25 to hoping to be out on bond with his family, which he

1 thought to be family anyway which was his fiance since he
2 thought that she loved and cared so much about.

3 But, anyway, he was hoping to get back out there to
4 her and the rest of his family. However, you heard the
5 statements from his stepfather which stated that he was in
6 Bennettsville, and he did leave Bennettsville at 3:30.
7 Like I said the time might not be accurate so I don't want
8 y'all to say, 'well, we just gone go off the time', but I
9 still want to bring it to y'all attention anyway.

10 But for him to -- I don't know. Like I said do y'all
11 know where the area is Amelia Street which is located in
12 Bennettsville close to 15/401 Bypass. And I don't know if
13 y'all know where 177 is located which is in Wallace, South
14 Carolina.

15 But, however, like I said earlier in my testimony
16 from Bennettsville, Amelia Street, to Wallace, [REDACTED] Plum
17 Lane, is approximately -- I'm a say a 30 to 40 minute
18 drive. But like I said the defendant's father did say he
19 left around 3:30. I'm just going by what he said. Like I
20 said y'all don't have to -- both times or whatever. I'm
21 just going by what he said.

22 But I'm saying if he left at 3:30 or four o'clock and
23 it take that much time to get to Wallace, and that would
24 mean that he got to Wallace maybe four o'clock or close to
25 four o'clock. I'm going to say he left at three o'clock.

1 I'm not going to say he left at 3:30. I'm going to say he
2 left at three o'clock, and if he left there and went
3 straight to Wallace he didn't go nowhere else. He left
4 there and went straight to Wallace.

5 Okay. That would have gave it maybe four o'clock in
6 the afternoon. Close to four o'clock in the afternoon.
7 Okay. Now, for the defendant to walk from 177, which I
8 don't know if they have Highway 177 on the -- in the
9 evidence. I'll find out later, but from 177 to [REDACTED] [REDACTED]
10 Plum Lane to -- I don't know the victim -- I mean I don't
11 know where the crime scene, the address of the crime
12 scene.

13 But from [REDACTED] to [REDACTED] Plum Lane where the defendant
14 and his girlfriend were staying to where the crime took
15 places it's like in walking distance. It probably would
16 take a person, I know, at least -- I'm approximate. I
17 don't want to give y'all the wrong information. I'm going
18 to say at least 30 minutes top. Thirty minutes top as far
19 as walking the distance. And it could be more than that.
20 I'm quite sure it's 30 minutes or more.

21 But at that time that would be 4:00, 430 or maybe
22 4:40. They said the crime took place around that time and
23 stuff like that. Okay. But what I want y'all to see is
24 that this person left from one place, Bennettsville, one
25 town, went back to another town, left there walking his

1 destination where he went to, left there walking and went
2 and committed a crime and left there and walked somewhere
3 else. Walked back to Shanty Road where they said where he
4 was said saw by a few people and he made a statement
5 saying relevant that he was with a female girl, Kiara and
6 he was asking about a D.N.A. test.

7 But, anyway, walked from where the crime scene is at
8 which is Old Wire Road, back to the Shanty Road which is
9 approximately a three to five minute walk. Called his
10 girlfriend. Went back, I guess, back to Bennettsville. I
11 would presume he went back to Bennettsville cause the
12 defendant said he was in Bennettsville all that day.

13 But what I'm showing is that if the defendant saying
14 that he was in Bennettsville that day I'm just trying --
15 I'm basically trying to get y'all to see if a lot of stuff
16 don't add up as far as with the statements that was made
17 and things of that nature.

18 However, like I said I didn't call as many -- as many
19 witnesses as I could. I tried to, but sometimes it's hard
20 to locate some of the witnesses that would have stated,
21 'yeah, I saw the defendant at that day'. Like I said I
22 wasn't -- I'm not here to get someone to lie or get
23 someone to do anything other than tell the truth.

24 So like I said some of the witnesses I wasn't able to
25 reach to verify that, yes, I did saw this person at this

1 time which would, like I said, it wouldn't add up for the
2 person to leave one place, go all the way back cross town
3 almost to another end of town, leave there walking almost
4 an hour to commit a crime, leave there and go here and go
5 back there and be back in Bennettsville to someone else
6 house at this time.

7 Like I said it would -- it would be real kind of
8 complicated and difficult for all that to have took place.
9 Like I said once again I couldn't here everybody hard
10 because it was hard for them to be found which I did
11 subpoena them to Court. At this time I'm going to
12 introduce Item 15 and Item Eight. I'm going to get into
13 it a little bit more about the evidence, the print
14 evidence. I think this is Eight.

15 This is the -- I'm going to the beginning of this
16 trial where the first person was called which was the
17 latent print analysis who said she did identify the person
18 print on her -- through her examination, whereas, it was
19 said that they need to have the person's prints to
20 identify.

21 The chain of custody. I believe that's Defendant's
22 Three. Okay, chain of custody was on -- the latent prints
23 was on Kimberly D. Mears. First, I'm going to show -- I'm
24 going to state that y'all -- I mean you, ladies and
25 gentlemen of the jury, you did hear that Mr. Albert Smith,

1 the defendant's probation officer, did say that he did
2 however sent these cards of the defendant's prints,
3 Derrick Dupree, on February the 1st of 2012.

4 He said he sent these prints to S.L.E.D. on February
5 the 1st 2012 to be entered into the A.F.I.S. System which
6 is a automatic fingerprint index system which holds a
7 person's fingerprint just in relevant to just in case a
8 crime they warrant to use the person evidence for a crime
9 or what not. And he said that he took these on February
10 the 1st of 2012.

11 Okay. If it serves right I'm looking at the chain of
12 custody, and I'm thinking she said that she -- any way,
13 I'm going to come back to it, but right now what I want
14 y'all to see is that he stated that he sent these to
15 S.L.E.D. to be entered into A.F.I.S. once again on
16 February the 1st 2012.

17 Well, I did state at cross-examination that, sir, I
18 was arrested. I was still incarcerated at Kershaw County
19 which is -- I forgot. Well, it's a correctional
20 institution that's in Kershaw County. I stayed for a --
21 well, sir, I still was incarcerated at that time. I
22 didn't get out until March the 1st of 2012. I asked him,
23 I said, "Sir, can you -- could you provide a record
24 showing the exact date that the defendant got out." And
25 he stated -- well, he said, "Well, you got out on February

1 the 1st. I know this." And I mean this is a person of
2 the law. This is someone of the law.

3 So like I said it's, you know, it's -- I had a
4 printout from which my assistant, my counselor, had me
5 print out. And I'm going to let y'all see the exact date
6 that the defendant was released from the Department of
7 Corrections. Whereas, this lady, Miss Kimberly DeMears
8 [sic], said that -- and she needed these to do this now.

9 She needed these prints to get her report because
10 they said these prints were sent and that's how she found
11 out about Dupree hand prints because these prints were
12 sent to her on February the 1st and they were entered --
13 submitted through A.F.I.S. which was scanned and submitted
14 through a machine that each county may hold but it
15 transfers it through it electronically.

16 But I'm -- she said she found these prints which like
17 I said came from this card that was sent on February the
18 1st. I just want y'all to look over this as far as to see
19 that it was impossible for her to have these prints when
20 this person never took -- this person was locked up on
21 that day. So he never could have took these prints in
22 Bennettsville, South Carolina when he was all the way in
23 Kershaw County up under -- still completing his sentence.

24 I will, however.

25 MR. DUPREE: Sir, can I introduce this? Let the jury

1 see this, Your Honor?

2 THE COURT: If it's in evidence you can show it.

3 MR. DUPREE: Thank you, Your Honor.

4 BY MR. DUPREE:

5 That's the date said that S.L.E.D. sent ---

6 COURT REPORTER: Keep your voice up.

7 BY MR. DUPREE:

8 Okay. That's the -- I'm sorry. That's the date as
9 you see -- do you see it. Okay, and you can show the next
10 person as you go down.

11 Okay. On this I'm showing you the date that the
12 defendant was released where he was incarcerated
13 terminated date. Hold on. Let me see that again. I'm
14 sorry. Maybe i looked at this wrong, and I'm going to
15 ask -- and I'm going to ask that that I have -- yeah --
16 excuse me, please.

17 MR. DUPREE: Your Honor, may I approach the bench for
18 a second, please?

19 THE COURT: Yes.

20 (WHEREUPON, a bench conference was held off the
21 record in the presence of the jury, but out of the
22 hearing of the jury.)

23 BY MR. DUPREE:

24 Q. Well, it has been a little misunderstand, and like I
25 said I'm kind of going through -- I'm not focused right

1 now, so, I kind of like lost -- well, I overlooked the
2 date, whereas, the date still says it was February the 1st
3 2012.

4 But, however, like I said I was released on
5 March 2012. Like I said by me overlooking I don't know
6 how that happened. I asked just now -- tried to go back
7 and have it done over just to make sure. However, you,
8 like I said, on March the 1st I was released. And I can
9 give you a little explanation to that why I wasn't
10 released on February the 1st, whereas ---

11 MR. REDMOND: Your Honor, we object to him testifying
12 to facts not in evidence.

13 THE COURT: It's his closing argument. Let him say
14 whatever he wants to say.

15 BY MR. DUPREE:

16 Like I said at the time I'm going through a lot, but
17 my date, my actual date, was January the 27th of 2000 --
18 well, my first date was February -- I mean December of
19 2011 which the Department of Correction don't release you
20 on the end of the month or the middle of the month. They
21 release you on the first of the month which is the 1st.

22 It's not the middle or the end, so my date actually
23 was like December the 20th or something. But, however,
24 during my time of incarceration I had got into some
25 trouble where I was placed in a lockup unit where I had

1 got found with, which I don't mind saying, I was found
2 with contraband of tobacco and cell phone.

3 However, like I said, I was placed on lockup during
4 that time so my conviction date release changes from
5 December to January. Whereas, I was a 85 percenter. When
6 you're 85 percent it means that you do 85 percent. But
7 you can, however, run it up and do more time. But it
8 won't just jump like how non-violent offenders time may
9 jump where a non-violent offender time may jump three to
10 six months because they can earn work credit. A
11 85 percenter don't get work credits so they pretty much
12 can get away and not have their time pushed up.

13 But, however, like I said, my time went from December
14 to January. And when I went on lockup, automatically when
15 you're on lockup you don't have a job. So automatically
16 it pushes back another month which went to February --
17 which went to March.

18 However, I can't remember the exact date, but I do
19 know that I was released on March the 1st 2012. Like I
20 said I'm sorry I could provide that to better explain my
21 information. And I'm not going to try to do much
22 explaining on that.

23 But like I said a lot of things was said that I know
24 wasn't true because I didn't commit the crime, and I
25 wasn't there. However, that will be on y'all to judge and

1 figure out. You know, like I said a lot of things I can't
2 remember. And like I said throughout this crime and
3 hearing some of the stuff its kind of messed me up even
4 more. It's kind of confusing me. You know what I'm
5 saying. So right now it's hard for me to really explain a
6 lot of things. Just like as you see I made a mistake on
7 getting that because I felt like that would have showed a
8 lot as far as the difference in explaining it or an expert
9 testimony expert giving a lie.

10 But if you notice when I was asking most of them
11 about their reports and stuff a lot of them got offended.
12 You know, like I was asking them something wrong. Some
13 didn't get offended. I don't know if that means something
14 or not to y'all, but you looking at a person that's
15 government official. That's here to serve and protect and
16 make sure that people is treated fairly. And for them to
17 get offended to a person question who is only trying to
18 defend himself or whoever it don't adds up.

19 I mean like I said it's just things that it will be
20 up to y'all to see. It will be up to y'all to judge. It
21 will be up to y'all to figure out. I'm not going to sit
22 here and try to answer to most of the things that was said
23 and brought forth because like I said I'm not here to put
24 on a show or to assume anything or that nature.

25 Only thing I want to state is I know once again that

1 I didn't commit this crime. I'm sorry I wasn't able to
2 prove that. Once again, I'm sorry I wasn't able to prove
3 that. But I feel that -- I feel that -- that right now
4 y'all the ladies and gentlemen. Right now y'all have my
5 life in y'all hands. I mean y'all the ones that make the
6 decision on rather, you know, this person leaves here for
7 the rest of his life or whatever. Whether he goes back
8 home or things like that. It's on y'all to judge. It's
9 on y'all to figure out is he innocent or guilty. It's on
10 y'all to tell. What y'all say or what y'all think is on
11 y'all.

12 I mean y'all are entitled to y'all own opinions. The
13 Judge told y'all that. Y'all are entitled to your own
14 opinion. Like I said, my life is in y'all hands. Just to
15 give a brief summary about myself cause like I said I
16 can't do much as far as with this statements and stuff
17 like that. I'm not going on the evidence that's in here.
18 I'm not trying to do much. I'm not even going to try to
19 take up much of people's time.

20 You know, I hate that I wasn't able to break things
21 down, but I hate that I wasn't able to present properly
22 evidence cause, you know, because like I said, you know,
23 at the end I had to represent myself cause I felt like the
24 close association that law has to this case, I mean, I
25 felt like, man, I don't have a chance. The only chance I

1 got is to represent myself. See what I'm saying. I tried
2 hard to learn as much as I can about the law.

3 It's still a lot of things, of course, that I didn't
4 know because I did not study law. But as far as things
5 like the case, I've been trying to look up to go with the
6 evidence I already had received then. And, you know,
7 that's what I was trying to do. Like I said I'm going to
8 give a little brief summary about me, myself, the
9 defendant.

10 I come from a good background. You know, raised in a
11 church. You know, I can say that I have kids, but as far
12 as me saying that I live or I'm still with the kids'
13 mother no, I can't say that. For me to say that I have
14 been a part of their life. No, I can't say that either. I
15 can say that.

16 Like I said, I've been a good citizen in this County
17 as far as respect. I have done and treated a lot of
18 people good, especially my elderly people. I never
19 disrespected my elderly people. Never. Like I said I'm
20 not saying that I'm perfect, but I always had a lot of
21 respect. And a lot of people always said that, man, that
22 dude there. He all right. He got a lot of respect. I
23 like Dupree. You know what I'm saying. Things like that.

24 I helped a lot of people especially my elders. I
25 helped them. A lot of them, and like I said I'm just

1 giving you a little bit about me because like I said I'm
2 not going to sit here and try to argue these documents
3 cause I don't have no proof. So I can't sit here and
4 argue something that I don't have no proof to argue with.
5 You see what I'm saying.

6 But like I said, you know, I'm -- my life as who I
7 was I consider me to be a very honorable and respectable
8 young man. But like I said I'm not perfect. I have been
9 incarcerated before. I have not don't nothing violent
10 like breaking in nobody's house. Not for none of that.
11 The only charge I have been incarcerated for is crack.
12 Whereas, I come up -- I came from a family that wasn't
13 wealthy. You see what I'm saying. So I'm going to say I
14 grew up somewhat the slums.

15 I'm not going to say the slums. The Hood. I grew up
16 where, you know, you had to fit in if you wanted to be
17 somebody. So as a young man you saying to yourself,
18 'well, hey, I want to be somebody', but, you not knowing
19 that the tension you about to take, you know, could be
20 fatal mistake.

21 But, anyway, I was introduced to things that could
22 have helped me gain money to, you know, get the things
23 that I liked in life as a little child having dreams of
24 having a nice car and a nice house and things of that
25 nature. And nice, you know, as a man, a nice, young woman

1 and stuff like that. So I'm thinking, well, man, can't
2 get no job. You're still in school walking about school
3 with these raggedy shoes on. Everybody picking at me, you
4 know.

5 So, you know, I started selling crack, and I got
6 arrested for selling crack. And I went and served -- I
7 think it was a little over 12 months. A little over a
8 year for my first offense of selling crack. I got
9 released on that in 2003. And I'm still that good dude,
10 but I still haven't really learned my lesson yet with
11 selling crack, you know. But I'm still the same dude who
12 wanted to obtain -- wanted to make a difference in his
13 life.

14 I always gave to people. I always try to help young
15 people. You know, never lead nobody to the wrong way.
16 Even though I sold crack I never took nobody and said,
17 'look, man, if you're going to be like me you're going to
18 sell this dope'. I ain't never wanted nobody to be like
19 me cause I knew what I was doing wasn't good, but, like I
20 said, I'm caught up.

21 So when I'm caught up -- when you caught up, you
22 know, it's hard to tell yourself that. It's hard to make
23 yourself believe what you're doing is good, but you don't
24 want nobody else to be like you. Like if you had a child,
25 and I'm just saying, you out there and you getting high

1 and you doing whatever, I'm just gone just say you smoking
2 dope and stuff like that, you don't want your child to go
3 and smoke dope. You don't want your child to grow up
4 smoking dope like you and drinking like you.

5 But like I said I came home in 2003, and I didn't
6 have nothing as far as clothes and stuff because a lot of
7 my stuff I had outgrewed. You know I tried to get a job.
8 I applied for job. I worked at the Rehabilitation Center
9 for maybe a couple of months, and I felt like that wasn't
10 enough. So I felt like, man, I'm going to sling a few
11 more rocks, man, until, you know, I can get a job and
12 stuff.

13 I'm just going to sling a few rocks and sell a few
14 crack or whatever. Try to get me some new clothes, shoes,
15 maybe a new car or whatever. And I started back selling
16 dope. And I was a convicted in a trial, whereas, a went
17 to trial on that because at the time, and I'm not going to
18 lie, I did went to trial on that, whereas, a person stated
19 that I sold the dope. I sold him the dope. They never
20 caught me with no dope in my pocket or nothing like that.

21 It was said that somebody was going to testify and
22 say that I sold them dope. So I felt like -- and they
23 offered me five years. And I felt like, man, they I
24 didn't get no dope off me. Man, I'm not about to the seel
25 nothing and then they didn't catch me with no crack or

1 nothing and stuff like that. I mean, like I said, I'm
2 giving you the truth, you know, because that's all I can
3 do right now.

4 So I was convicted, but the Judge -- whereas, I was
5 facing 35 years, but the Judge told me, he said, and I
6 forgot the judge name at that time. He said, "Mr. Dupree,
7 I see something nice in you." He said, "I see potential
8 in you, sir." He said, "Sir, I'm not going to give you
9 the max for this crime that you was found guilty of by a
10 jury." He said, "I'm not going to give you the max." He
11 said, "Mr. Dupree, I'm going to give you the minimum."

12 And he gave me ten years for distribution of crack,
13 and he gave me ten years for the proximity to school and
14 playground. And I said, "Man, that's 20 years, man.
15 Golly. I don't want to be gone for 20 years of my life,
16 you know." And he said, "Dupree, the good thing about it,
17 sir, he says I'm going to run your ---"

18 MR. REDMOND: Your Honor, at this point, I hate to
19 interrupt.

20 THE COURT: I will allow him to finish.

21 MR. REDMOND: Yes, sir.

22 BY MR. DUPREE:

23 He said ---

24 THE COURT: If he wants to.

25 MR. DUPREE: Yes, sir.

1 BY MR. DUPREE:

2 He said, "Mr. Dupree, I'm going to run that
3 concurrent," he said, "whereas, you would serve ten years
4 and you will be back home." So throughout my time in
5 incarceration after the ten years I told myself I'm like,
6 man, enough is enough, man. You got to tighten up. You
7 got to do better than you were doing, man. You know, you
8 getting old. By this time I was like getting -- about to
9 get out to be released from prison. So I'm like in my
10 30's. Close to my 30's. Might have been 29 or 30.

11 And like I said I was caught with a cell phone so I
12 had to be about 30 cause when I got out I was close to 31.
13 But, anyway, I said, 'man, it's time to change and do
14 better with yourself'. So when I was released from
15 Kershaw Correctional Institution, when I was released,
16 what I done was my -- I paroled out in Columbia, South
17 Carolina.

18 When I paroled out in Columbia, South Carolina I
19 paroled out to a halfway house, whereas, some people told
20 me that, well, Dupree, you can get into a halfway house.
21 Man, they will help you get a job and it won't be as hard
22 as far as you going out there to find a job by yourself.
23 Whereas, these people will help you get a job. So I
24 paroled out to the halfway house in Columbia.

25 But my mother and my great-uncle them, they was

1 concerned and they was calling the institution, whereas
2 they came to pick me up from Kershaw Correctional
3 Institution, but I had caught the bus to Columbia, South
4 Carolina. And I found out that my people were trying to
5 contact me, whereas, when I got to Columbia, South
6 Carolina, whereas, I had a check where I worked at this
7 plant. They got plants at the Department of Corrections
8 that they call, 'P.I.' Prison Industries. You can make
9 minimum wage making money doing certain jobs and stuff.
10 Pre-assembly work.

11 However, I had a check that I earned from working at
12 this plant. So when I got to Columbia I went and
13 bought -- went straight and bought me a phone, you know,
14 cause I'm thinking everybody need a phone. You know, you
15 need communications, you know. So I went and bought a
16 phone, and I called my family. So they was like, "Man,
17 where you at. We looking for you. We done went to
18 Kershaw and everything to pick you up."

19 So I was like, "I'm in Columbia, man. You know, I'm
20 about to go to this halfway house." So my mother them,
21 you know, and my grandmother, bless her soul, they were
22 like, well, no, you need to come home cause they felt like
23 I get in some trouble in Columbia. You know, they was
24 like, 'no, Derrick, you need to come home'.

25 So I was -- my uncle, my great-uncle, which is more

1 like my godfather, he accepted me in his home, he and his
2 new wife, whereas, his first wife, which was my godmother
3 passed years ago, bless her soul. But him and his new
4 wife, they accepted me in their home. Nice brick home.
5 So, you know, pretty much I had things pretty much that I
6 needed. I had, you know, like I said, I had money so I
7 brought me clothes and stuff like that, shoes. Living in
8 a nice home with my uncle which is, like I said, something
9 like my godfather.

10 I'm the only child there at that time. Well, adult.
11 Area adult. Young adult rather. And things all right for
12 me, you know. Things was pretty much looking good for me.
13 So, you know, at that time I got a job cause I knew living
14 with my great-uncle, well, I knew I was going to have to
15 do -- I was going to have to tighten up. You know what
16 I'm saying, cause as far as he wasn't going to allow me to
17 do just anything I want to up under his roof.

18 Whereas some of my uncles, my mother's brother, told
19 done told me like, 'boy, look don't mess up, you know,
20 cause your uncle's giving you a chance that ain't going,
21 you know, have something to do something.

22 Whereas, you know, he might inherit a lot of things
23 to you if he ever leave this earth. So I was like I'm
24 going to do right, you know. So, anyway, I went and got a
25 job. I applied for a job at the Rehabilitation Center. I

1 went and got a job at the Rehabilitation Center. I worked
2 there for a couple of months, and I was real specific in
3 them finding me a job.

4 So they was like, 'Dupree a good worker. Go ahead
5 and get Dupree a job. Find Dupree a job'. So they found
6 me a job in Dillon, South Carolina working at Perdue.
7 Okay. That didn't work out well at the time because of
8 transportation, so what happened was I went back to the
9 Rehabilitation Center.

10 So after that I found a job on my own. I found a job
11 on my own at Mountaineer that's located in I think Red
12 Springs, North Carolina. It's in Maxton County. But, I
13 found a job at Mountaineer as a -- I was working debone.
14 I was deboning the breast.

15 THE COURT: Mr. Dupree, I've given you some leeway.
16 We might want to start focusing on the case. I'm going to
17 allow you a lot of leeway we regard to closing arguments.
18 You might want to focus more on the relevant issues on
19 this case.

20 MR. DUPREE: Okay.

21 BY MR. DUPREE:

22 Q. Well, like I said I can't say much on the case and I
23 guess I'm going to go ahead and bring it -- try to sum it
24 up.

25 MR. DUPREE: Maybe I can have five more minutes, Your

1 Honor, sir, if that's okay?

2 THE COURT: Sure. I'm not cutting you off. I'm just
3 saying that you need to focus more on the substance of
4 this case.

5 MR. DUPREE: Well, like I said, Your Honor, it's not
6 much I can say on the case so I'm going to go ahead and
7 just sum it up with a little more brief -- briefing on
8 myself as far as with the jury.

9 THE COURT: Very good.

10 BY MR. DUPREE:

11 Okay. Like I said, and I'm going to try to go ahead
12 and sum it up, but like I said my life is in y'all hands.
13 I mean it's up to y'all, you know, and I hope that y'all
14 think about and consider my life as well. Not saying --
15 I'm not asking y'all to overlook what was said or none of
16 that. I'm just asking y'all to see that this is a young
17 man that says he innocent. That's on y'all to believe.

18 That says he innocent, and that would love nothing
19 more to be back to his life. Productive, being
20 productive. Y'all are going to hear from the State, and
21 I'm sure they're going to tell you some things that might
22 not be good, you know.

23 But I mean the decision is still on y'all. Decision
24 still only y'all. What y'all are thinking, and like I
25 said, you know, everyone might not agree. Everyone might

1 not say he innocent. It don't matter. Everyone don't
2 have to say. It only take but one of two to say he
3 innocent. Just one to say he innocent. It don't take
4 five to say he innocent or six.

5 So like I said, you know, I just ask that if not all
6 that y'all make a decision not just relevant to what y'all
7 heard, you know. Cause like I said these still not to be
8 true facts. But like I said, I'm not telling y'all to not
9 believe that. I ask that y'all make a decision relevant
10 to my life as a young black man striving and hoping to get
11 back to his life and be productive.

12 And with that said, you know, that, like I said, I
13 hope that y'all think about that, and like I said, I'm
14 sorry I wasn't able to introduce the fact that I was
15 released on March the 1st, whereas, my public defender did
16 look that up for me which, like I said, there wasn't very
17 much existing in the beginning any way. So, I mean, I
18 can't say it was meant for me to -- meant not to be the
19 right date or not the -- if I could have got it myself, if
20 I was approved to get it myself, I'm quite sure I could
21 have got the right date.

22 But it wasn't, even though I was pro se, I still
23 wasn't authorized to get that. So I had to go through
24 them still. So like I said, he did got that for me and it
25 still say the same. So, like I said, I'm sorry that I

1 wasn't able to introduce the truth where it could of have
2 had balance a few things out. Anyway, maybe, a little
3 help.

4 But like I said, I hope y'all just basically just
5 base y'all decision on my life as far as, you know, a
6 young man hoping to be back out in society doing something
7 productive. And as a matter of fact, if I'm blessed to be
8 back out in society, man, I'm -- truthfully, man, I'm -- I
9 would love to do nothing more than get from South
10 Carolina; to get out of Bennettsville, South Carolina
11 especially.

12 So, you know, I mean, like I say, I'm not a problem.
13 I definitely will never be committed -- commit another
14 crime. Not saying that I committed this crime. I'm
15 talking about never sell another piece of crack or
16 anything of that nature. And like I said, I just ask
17 y'all to judge me by that, and you know, like I said I am
18 a good man and respectful man. And like I said I was
19 brought up in the church, and I have prayed a lot
20 throughout this time. I prayed for even the victims.

21 I prayed for everybody in this courtroom, the Judge
22 and everybody. I asked God bless all of us; that he work
23 through these people to help me. I'm not sitting here and
24 lie. I asked and prayed that he will work through these
25 people to help me be back out there in society with my

1 freedom. You know, so I just ask that y'all will look
2 more and respectfully. Judge me by that cause like I said
3 y'all are the judges. You know, it's in y'all hands to
4 judge wether I be back out there in society. Back out
5 there to my family. Back out there with my life as a free
6 man.

7 It's up to y'all, and like I said, it don't take
8 everybody to say he innocent. Just one, two, three. It
9 don't matter. That's all I have. I don't want to hold up
10 the Court so that will be all. Thank you.

11 THE COURT: Yes, ma'am, you're recognized.

12 MS. JOHNSON LEE: May it please the Court, Mr.
13 Dupree.

14 CLOSING STATEMENT BY MS. JOHNSON LEE

15 MS. JOHNSON LEE: Ladies and gentlemen of the jury,
16 that quite well spoken man who was standing here talking
17 to you all this time is the same quite well spoken man
18 that tricked Lottie Thomas into letting her [sic] into her
19 house on September 8th 2013; that same quite well spoken
20 man who presents himself so well in an instant had a knife
21 to her throat, was bending her over the couch and was
22 raping her while she's begging for her life, praying to
23 God, and he was telling her I'm going to kill you if you
24 don't shut up.

25 You heard a lot of witnesses. You've seen a lot of

1 evidence introduced. Some of it you haven't seen up
2 close, but everything is going to go back with you to the
3 witness room -- to the jury room. And I'm going to touch
4 on the highlights of what you have heard and seen because
5 that's very important. The most important thing you heard
6 this week was Lottie Thomas, who sat up on this stand as
7 the first witness and told you her story. She told you
8 what happened to her, and she told you that Derrick Dupree
9 is the one who did it. She looked right at him. She
10 showed him that she wasn't agreed of him. She talked to
11 him. She said, "You. You did this to me."

12 And let's look at how the evidence bears out what she
13 said. She talked about how he brought -- he came into the
14 house. Tricked his way to going through the house to the
15 back because he wanted to leave a note, leave name and
16 number, in case she ever wanted to sell the house.

17 Well, we have the note. Now, one of the officers,
18 John Walters, wrote on the back of it, so please disregard
19 that. But on the front of it there is a 537-9389, Dwayne
20 Stanton. Fake name. Fake number.

21 S.L.E.D. got his fingerprint out of A.F.I.S. Got his
22 fingerprint card, and his fingerprint is on there. His
23 fingerprint is on there, an John Walters' fingerprint is
24 on there. This is what first identified Derrick Dupree.
25 If the State was just looking for somebody to send to

1 prison like he danced all around without coming right out
2 and saying, if we were just looking for somebody to send
3 to prison, my God, we already had Kadeem Hooks with
4 somewhat of a confession. We could just send him down the
5 road if that's all we wanted to do.

6 But was weren't. They kept investigating because
7 they did their jobs. They wanted to make sure they had
8 all the evidence, and the first piece of evidence comes
9 through saying, hey, it was somebody else. Derrick
10 Dupree's name. It's his print. It is Derrick Dupree's
11 print. And his name is on the report that came later from
12 S.L.E.D.

13 And Derrick had already gotten suspicious because
14 Wilbert and Perry and Lisa, they all talked about how
15 Derrick had been standing in the road right outside
16 Perry's house on that afternoon. And how Kim came through
17 to pick him up. And then Wilbert talked about how Derrick
18 admitted to him that he had just raped somebody, and he
19 claimed that it was a girl from Cheraw that he had just
20 raped.

21 And I know it's nasty, but the language used was he
22 nuttied in her which is ejaculating and wanted to know
23 about D.N.A. tests, and you know, getting -- the police
24 getting the D.N.A. So he admitted to raping somebody. He
25 just wasn't going to say that it was an elderly lady there

1 in Wallace.

2 So he knew that they were at the Sheriff's Office
3 telling what happened. So he goes up there. Kim, you
4 heard Kim. She told him you've got to get up there. They
5 did go up there, and he made a statement to Investigator
6 Alderman about not having anything to do with it. And at
7 that point he was not a suspect. They had not gotten that
8 information about the note back yet. They just thought
9 that he was somebody in there just trying to clear
10 himself.

11 You heard Agent Alderman. They took his statement.
12 Talked to all the people he brought with him, and they let
13 him go. The next day she gets a call from S.L.E.D.
14 saying, "We've got a print off this note that matches a
15 person in the system whose name is Derrick Dupree." And
16 they were like, oh, my God.

17 Of course, they begin the necessary paperwork to let
18 Kadeem Hooks go and begin getting arrest warrants for
19 Derrick Dupree. Well, let's go forward. After Derrick is
20 arrested on September 11th, of course, S.L.E.D. is still
21 doing their job, evidence is still being collected,
22 S.L.E.D. is still examining evidence, the underwear goes
23 to S.L.E.D. The rape kit from the hospital went to
24 S.L.E.D. The gown that Miss Lottie was wearing went to
25 S.L.E.D.

1 All of those things are over there, and you heard the
2 serologist. You heard Miss Gibson. The cutting from what
3 looks like it could be physical evidence was taken from
4 the nightgown. A cutting was taken out of the underwear.
5 And, of course, there is the rape kit. Certain things
6 tested positive for semen. The cuttings from the
7 underwear tested positive for semen. The cutting from the
8 nightgown, the stains on the nightgown, tested positive
9 for semen. The -- let me get the S.L.E.D. report cause I
10 don't want to say anything incorrect in my closing.

11 Also tested positive for semen were the vaginal swab
12 and the rectal swab. All those things were sent to D.N.A,
13 and D.N.A. still did their job. Now, when D.N.A. got the
14 first positive test for something; that Item 2.1, which
15 was the cutting from the nightgown, the first positive
16 they get, they go enter that sample that was developed
17 from the profile from that sample and they put it in
18 C.O.D.I.S.

19 The folks in the C.O.D.I.S. Department then check
20 that sample that was put in there against the national
21 database, and whose name comes out? None other than
22 Derrick Dupree. That's just one more piece of evidence.
23 One more piece of evidence showing that he did it. That
24 C.O.D.I.S. hit was September 23rd. Derrick's had already
25 been arrested. You saw the order that we discussed

1 earlier in testimony yesterday.

2 We actually went to Court and got a Court order that
3 Derrick consented to get another buccal swab from him just
4 to reverify that this C.O.D.I.S. hit is correct. That is
5 his D.N.A. Susan Alderman goes. She swabs him. That
6 swab goes to S.L.E.D. They test everything. It comes
7 back to him. All of those things come back to Derrick
8 Dupree. His D.N.A. was in the vagina of Lottie Thomas.
9 How in the heck did it get there if he didn't put it
10 there?

11 His D.N.A. was on the stain on her nightgown. His
12 D.N.A. was on the underwear that she put on to go to the
13 hospital. Derrick Dupree. Now, the statement that he
14 gave on September 16th after he had wrote that note at the
15 jail saying, "I want to come talk to you," when he came in
16 at first he tried to lie his way again. Then he said,
17 "Yeah, I did go to the house, and I did write a note."
18 And he admitted writing the name, 'Dwayne Stanton'.

19 Well, before that time that name, Dwayne Stanton,
20 wasn't in the newspaper. There was nothing whatsoever in
21 the newspaper or on the media saying that the name of
22 Dwayne Stanton was written on a note with a certain
23 number. Yet, he knew that information.

24 Then later on in the interview when he finally
25 confesses to the rape think of the things that he knew

1 that nobody but the perpetrator would know. He said the
2 gown was red in color. Now, to me it's like a hot pink or
3 a lightish, reddish pink. Lottie calls it red. He called
4 it red. No matter what color it was he knew the color.
5 That was not public knowledge. That was not made
6 available to the media.

7 Also in his statement he talked about how she was
8 bent over the sofa. How she was raped was never made
9 public knowledge. That was not in the media. Getting
10 raped from behind. He said he natted her from behind.
11 That was never public knowledge. That was not in the
12 media. All of those things are things that only the
13 perpetrator of this heinous crime would know.

14 And those are things that Derrick Dupree himself said
15 in that interview. You will have the video from
16 September 16th. If you want to watch any portion of it or
17 all of it we can make that available to have everything
18 taken back there for you to watch it because that is in
19 evidence.

20 In closing, I'm not going to hold you up too much
21 longer. I know we are we are late and it's lunchtime and
22 you're hungry, but I'm not going to hold you up much
23 longer. A couple of things I wanted to put out.

24 He keeps mentioning how he got the evidence late.
25 Remember he also mentioned he had attorneys. His

1 attorneys had everything. Also, he kept trying to tell
2 you what Kim said. You heard the witness. You look back,
3 and you remember what the witness said. If you have a
4 question about what a witness said you can ask for some
5 portion of that to be read to you or provided to you.
6 Just send a note out for the Judge.

7 Also, the incarceration term date, that exhibit was
8 his, the item from the Community Supervision Program
9 Certificate. Defendant's Exhibit Eight shows he was
10 incarceration termination date was February 1st 2012.
11 That's his exhibit.

12 Also, and then the one final thing. When he was
13 giving his closing argument he started to say something at
14 one time, and I wrote it down. He started to say -- he
15 was referring to the victim's house, and he said, "Where
16 the victim" and he stopped and corrected himself and said,
17 "I don't know the address of the crime scene."

18 He started to say where the victim lived. He knew
19 where it was at, but then he corrected himself. And that
20 was something he said just a few minutes ago. But we do
21 ask that you find him guilty of all charges. The burglary
22 charge, burglary first. If you trick your way into
23 somebody's house, lie to them, give false information in
24 order to get access that's burg first.

25 Kidnapping, obviously, she couldn't go anywhere when

1 he had her bent over that sofa with that knife to her
2 throat. And if you have any doubt about whether he had a
3 knife to her throat, whether it was a pen versus a knife,
4 you have the picture here.

5 The C.S.C, obviously, you have the evidence for that.
6 And possession of a weapon during the commission of a
7 violent crime, you heard the victim say she felt the knife
8 at her throat, and then you have the pictures again
9 showing that that weapon was pressed against her throat.

10 We just ask you to please find him guilty as indicted
11 on all charges. He did say government officials are here
12 to serve. Yes, they are. Police officers, they're the
13 first line of defense in the war on crime. They're the
14 ones that come running when any of us call 911. But
15 you're the last line of defense. You're the one's who
16 say, "We are not going to let you get away with raping an
17 elderly woman in Marlboro County. We are not going to let
18 you go free so you can move away from here and start your
19 life all over again. We're holding you accountable.
20 Thank you.

21 COLLOQUY

22 THE COURT: Madam Forelady, ladies and gentlemen of
23 the jury, we've completed all the evidence. You heard the
24 close arguments. We're going to break until 2:15 allow
25 you to get some lunch. Come back at 2:15. 2:15 sharp.

1 MR. REDMOND: No, sir, Your Honor.

2 THE COURT: Anything, Mr. Dupree?

3 MR. DUPREE: No, sir, Your Honor.

4 THE COURT: We're ready for the jury. Court.

5 (WHEREUPON, the jury panel enters the courtroom at

6 2:20 p.m.)

7 CHARGE OF THE COURT

8 THE COURT: Madam Forelady, ladies and gentlemen of
9 the jury, at this juncture it's my responsibility to
10 charge you the substantive law that pertains in this case.
11 Y'all have sat through some very long days listening to
12 testimony. I've watched each of you. You've paid very
13 close attention, so y'all have the tools necessary to
14 determine what the facts are in this case. But you have
15 to do two things. You have to find out what the truth is
16 and you have to apply it to the law.

17 I wish there was an easy way to do that, but there is
18 really no easy way to do it. You're going to have to perk
19 up and pay close attention because this is a very
20 important matter. I know that you've already had some
21 lunch. Sometimes we have a tendency to fade, but you need
22 to paid very close attention because these are important
23 matters.

24 Madam Forelady, ladies and gentlemen of the jury, the
25 indictment charges the defendant with burglary first

1 degree, kidnapping, criminal sexual conduct first degree,
2 possession of a weapon during the commission of a violent
3 crime. I remind you of the fact that even though the
4 defendant was arrested, charged, and indicted is not
5 evidence and cannot be considered by you as evidence of
6 guilt.

7 Nor does it create any presumption or inference of
8 guilt. This document is simply the formal written
9 instrument which contains the charges made against the
10 defendant. It is the formal document by which this case
11 is brought into the Court.

12 Each indictment charges a separate and distinct
13 offense. You must decide each indictment separately on
14 the evidence and the law after, to wit, uninfluenced by
15 your decision as to any other indictment.

16 The defendant may be convicted or acquitted on any or
17 all offenses charged. You will be asked to write a
18 separate verdict of guilty or not guilty for each
19 indictment. The defendant has pled not guilty to this
20 indictment, and that plea puts the burden on the State to
21 prove the defendant guilty. A person charged with
22 committing a criminal offense in South Carolina is never
23 required to prove himself innocent.

24 I charge you that as an important rule of law that
25 the defendant in a criminal trial, no matter what the

1 seriousness of the charge may be, will always be presumed
2 to be innocent of the crime for which the indictment was
3 issued unless guilt has been proven by evidence satisfying
4 you of that guilt beyond a reasonable doubt.

5 This presumption of innocence does not end when you
6 begin your deliberations, but it accompanies the defendant
7 throughout the trial and until you reach a verdict of
8 guilt based on evidence satisfying you of that guilt
9 beyond a reasonable doubt.

10 The presumption of innocence is like a robe of
11 righteousness placed about the shoulders of the defendant
12 which remain with the defendant until it has been striped
13 from the defendant by evidence satisfying you of the
14 defendant's guilt beyond a reasonable doubt.

15 The presumption of innocence is not a mere legal
16 theory. It's not just a legal phrase. This is a
17 substantial right which every defendant is entitled unless
18 you the jury are satisfied from the evidence of the
19 defendant's guilt beyond a reasonable doubt.

20 What is reasonable doubt in the law? A reasonable
21 doubt is the kind of doubt that would cause a reasonable
22 person to hesitate to act. The State as the burden of
23 proving the defendant guilty beyond a reasonable doubt.
24 Some of you may have served as jurors in civil cases where
25 you were told that it is only necessary to prove that a

1 fact was more likely true than not true, such as by the
2 greater weight or by the preponderance of the evidence.

3 In criminal cases the State's proof must be more
4 powerful than that. It must be beyond a reasonable doubt.
5 Proof beyond a reasonable doubt is proof that leaves you
6 firmly convinced of the defendant's guilt. There are very
7 few things in this world that we know with absolute
8 certainly, and in criminal cases the law does not require
9 proof that overcomes every possible doubt. If based on
10 your consideration of the evidence you are firmly
11 convinced of the defendant's guilt of the crime charged
12 you must find the defendant guilty.

13 If on the other hand you think there is a real
14 possibility that the defendant is not guilty you must give
15 the defendant the benefit of the doubt and find him not
16 guilty.

17 Ladies and gentlemen of the jury, I remind you that
18 during this trial that you and I have certain duties to
19 perform. As the trial judge it is my responsibility to
20 preside over the trial. I also have the duty to rule on
21 the admissibility of evidence. You are to consider only
22 the competent evidence before you. You are to consider on
23 the testimony which has been presented from this witness
24 stand, any exhibits which had been made a part of the
25 record and any stipulations of counsel.

1 I have the additional duty to charge you the law
2 applicable to this case. As the presiding judge I am the
3 sole judge of the law, and it is your duty as jurors to
4 accept and apply the law as I now state it to you. You
5 already have an idea as to what the law is or what the law
6 ought to be and it does not agree with what I now tell you
7 the law is you must abandon this idea cause you are sworn
8 to accept and apply the law exactly as I state it to you.

9 In every case tried in this Court before the jury the
10 jury becomes is sole and exclusive judge of the facts. A
11 trial judge cannot intimate, state, comment on or make any
12 statement to the trial jury about the facts.

13 Since you the jury are the sole judge of the facts
14 you are not infer from what I've said during the progress
15 of this trial in ruling upon the admissibility of evidence
16 or otherwise or anything that I say now during the course
17 of this instruction to you that I have any opinion about
18 the facts. The law simply does not allow me to have an
19 opinion about the facts. This is a matter solely for you
20 the jury to determine. As jurors it is your duty to
21 determine the effect, the value, the weight and truth of
22 the evidence presented during this trial.

23 Madam Forelady, ladies and gentlemen of the jury,
24 there were two types of evidence which are generally
25 present during a trial, direct evidence and circumstantial

1 evidence. Direct evidence is the testimony of a person
2 who claims to have actual knowledge of a fact, such as an
3 eyewitness, as evidence which immediately establishes the
4 main fact to be proved. Crimes maybe proven by
5 substantial evidence.

6 Substantial evidence is based on inference and not on
7 personal knowledge or observation. The law makes no
8 distinction between the weight or value to be given to
9 either direct or circumstantial evidence. However, to the
10 extent that the State relies on circumstantial evidence
11 all the circumstances must be consistent with each other
12 and when taken together point conclusively to the guilt of
13 the accused beyond a reasonable doubt.

14 If these circumstances merely portray the defendant's
15 behavior as suspicious, proof has failed. The State has
16 the burden of proof of proving the defendant guilty beyond
17 a reasonable doubt. This burden rests with the State
18 regardless of whether the state relies on direct evidence,
19 circumstantial evidence or some combination of the two.

20 Necessarily, you must determine the credibility of
21 the witnesses who have testified in this case.
22 Credibility simply means believability. It become your
23 duty as jurors to analyze and to evaluate the evidence and
24 determine which evidence convinces you of its truth. And
25 in determining the believability of witnesses who have

1 testified you may believe one witness over several
2 witnesses or several witnesses over one witness. You may
3 believe part of the testimony of a witness and reject the
4 remaining part of the testimony of that same witness.

5 You may believe the testimony of a witness in its
6 entirety or reject the testimony of a witness in its
7 entirety. You may consider whether any witness has
8 exhibited to you any interest, bias, prejudice or other I
9 motive in this case. You may also consider the appearance
10 and manner of a witness while on the witness stand, their
11 demeanor.

12 The rules of evidence ordinarily do not permit
13 witnesses to testify to opinions or conclusions. An
14 exception to this rule exists for witnesses we call expert
15 witnesses. A witness who by education and experience has
16 become an expert in some art, science, or profession or
17 calling may state an opinion as to the relevant material
18 matter which the witness claims to be an expert may also
19 state the reason for the opinion.

20 You should consider any expert opinion received into
21 evidence in this case and like any other evidence give it
22 the weight you think it deserves. If you decide that the
23 opinion of an expert is not based on sufficient education
24 or experience, if you conclude that the reasons given in
25 support of the opinion are not sound, the opinion is

1 outweighed by other evidence, you may disregard the
2 opinion entirely. An expert witness's testimony is to be
3 given no greater weight than that of any other witnesses
4 simply because the witness is an expert. Further, you are
5 not required to accept an expert's opinion even though it
6 is not contradicted.

7 Madam Forelady, ladies and gentlemen of the jury, a
8 statement alleged to have been made by the defendant has
9 been admitted into evidence in this case. While the Court
10 had determined that the statement is admissible I instruct
11 you that you make the ultimate decision on whether or not
12 the defendant made the statement. If the defendant did
13 make the statement you must determine whether the
14 statement made by the defendant was made voluntarily and
15 of his own free will. This means that the statement was
16 not caused by pressure, force, fear, threats or coercion
17 or intimidation or by hope or a promise of lenience or a
18 reward of any kind.

19 In determining whether the statement was voluntary
20 you should consider both the characteristics of the
21 defendant and the details of the questioning. Some of the
22 factors that you must consider are the age of the
23 defendant, the defendant's education or lack thereof, the
24 defendant's mental ability or capacity, the defendant's
25 I.Q. or intelligence, the defendant's background and

1 environment, place and length of detention, the nature of
2 questioning, advice or lack thereof to the defendant of
3 his constitutional rights including but not limited to his
4 right to remain silent.

5 That any statement could be used against him in a
6 court of law. The right to have an attorney present; that
7 he could not afford -- that if he could not afford a
8 lawyer a lawyer would be appointed to him; and that he
9 could stop making a statement at any time. You must
10 carefully consider all of the surround8ng circumstances
11 before you give any weight to an alleged statement.

12 The State has the burden of proving beyond a
13 reasonable doubt that the alleged statement was voluntary.
14 If you determine it was you may give the statement any
15 further consideration you deem proper. You must decide
16 what weight, if any, should be given to the alleged
17 statement. If you determine that the alleged statement
18 was not the free and voluntary statement of the defendant
19 you should not consider the statement at all.

20 An issue in this case is the identification of the
21 defendant as the person who committed the crime charged.
22 The State has the burden of proving identity beyond a
23 reasonable doubt. You must be satisfied beyond a
24 reasonable doubt of the accuracy of the identification of
25 the defendant before you could convict the defendant.

1 Identification testimony is an expression of belief
2 or impression by a witness. You must determine the
3 accuracy of the identification of the defendant. You must
4 consider the believability of each identification witness
5 in the same way as any other witness. You must consider
6 whether the witness had an adequate opportunity to observe
7 the offender at the time of the offense. This will be
8 affected by things like how long or short a time was
9 available, how far or close the witness was, lighting
10 conditions and whether the witness had the chance to see
11 or know the person in the past.

12 Once again, I instruct you that the burden of proof
13 is on the State, and extends to every element of the crime
14 charged. And this specifically includes prove beyond a
15 reasonable doubt the identify of the person who committed
16 the crime. If after examining the testimony you have a
17 reasonable doubt as to the accuracy of the identification
18 you must find the defendant not guilty.

19 The defendant is charged with first degree burglary.
20 I'm going to charge you the substantive law as to what
21 first degree burglary is. The State must first prove
22 beyond a reasonable doubt that the defendant entered a
23 dwelling without consent. A dwelling is any building or
24 portion of a building in which a person ordinarily sleeps.
25 A building constructed as a dwelling that has never been

1 occupied cannot be considered a dwelling for purposes of
2 burglary.

3 But a dwelling is a building even if the residents
4 are temporarily absent from the building. In order to
5 prove that the defendant entered the dwelling the State
6 does not have to show that the defendant's entire body
7 entered the dwelling. The smallest entry is sufficient.
8 It may be any part of the body such as a hand, a foot or
9 an instrument such as a hook or other instrument.

10 In addition, the State does not have to prove that
11 force was used to gain entry. If a person enters a
12 building by using deception, artifice, trickery,
13 misrepresentation to get consent to enter this is an entry
14 without consent.

15 Next, the State must prove beyond a reasonable doubt
16 that the defendant intended to commit a crime, either a
17 felony or a misdemeanor at the time of the entry. The
18 mere entry into a dwelling without consent is not
19 burglary. If the intent to commit a crime is formed after
20 the entry it is not burglary.

21 On the other hand, if the defendant intended to
22 commit a crime at the time of the entry it is burglary
23 even if the intent was abandoned after the entry. It does
24 not matter that the intended crime was not completed.
25 Intent may be shown by acts and conduct of the defendant

1 and other circumstances from which you may naturally and
2 reasonably infer intent.

3 Finally, the State must prove beyond a reasonable
4 doubt, one, when entering while in the dwelling or when
5 fleeing the defendant or accomplice was armed with a
6 deadly weapon or explosive. A deadly weapon is any
7 article, instrument or substance which is likely to cause
8 death or great bodily harm. Whether an instrument has
9 been used as a deadly weapon depends on the facts and
10 circumstances of each case.

11 The following are examples of instruments which are
12 deadly weapon: A pistol, a shotgun, a rifle, a dirk, a
13 dagger, a knife, a slingshot, metal knuckles, a razor,
14 gasoline, fire bomb or Molotov cocktail and lighter fluid.
15 When entering while in the dwelling or fleeing the
16 defendant or an accomplice used or threatened to use a
17 dangerous object. When entering while in the dwelling or
18 when fleeing the defendant or an accomplice displayed or
19 what appeared to be a knife, pistol, revolver, rifle,
20 shotgun, machine gun, or other firearm.

21 The defendant is charged with criminal sexual conduct
22 in the first degree. The first element which must be
23 proved beyond a reasonable doubt is that the defendant
24 engaged in a sexual battery with the victim. Sexual
25 battery is sexual intercourse, cunnilingus, fellatio, anal

1 intercourse or any intrusion however slight of any part of
2 a person's body or of any object into the genital or anal
3 openings of another person's body except when the
4 intrusion is accomplished for medically recognized
5 treatment or diagnostic purposes.

6 If you find that the State has not shown beyond a
7 reasonable doubt that a sexual battery occurred you would
8 stop deliberating, and your verdict would have to be not
9 guilty. If you find that a sexual battery did occur you
10 must then decide whether the State has proven beyond a
11 reasonable doubt that the defendant used aggravated force
12 to accomplish the sexual battery.

13 Aggravated force means the use of physical force or
14 physical violence of a high and aggravated nature to
15 overcome the victim. This includes the threat of using a
16 deadly weapon. The victim submitted to sexual battery
17 while the victim was also the victim of a forceable
18 confinement, kidnapping, robbery, extortion, burglary,
19 housebreaking or any other similar act or offense.

20 I charge you the substantive law with regard to the
21 offense of kidnapping. The defendant is charged with
22 kidnapping. The State must prove beyond a reasonable
23 doubt that the defendant knowingly and unlawfully seized,
24 confined, inveigle, decoyed, kidnapped, abducted or
25 carried away another person without authority of law.

1 To do a thing unlawfully is to do it willfully
2 against the law.

3 Knowingly means with knowledge consciously, not
4 accidentally.

5 Seized means to take hold or suddenly or forcibly.

6 Confine means to limit or restrict or enclose within
7 bounds, imprison or shut or keep in.

8 Inveigle means to lure, entice or lead astray by
9 false representation, promises or deceitful means.

10 Decoy means to lure by as if by decoy. A decoy is
11 something to entice a person into a trap.

12 Kidnap is to remove a person against his will by
13 unlawful force or by fraud.

14 Abduct means to carry off secretly or by force or for
15 an illegal purpose.

16 Carry away means to remove.

17 The State does not have to prove that the defendant
18 did all these things. Instead if you find beyond a
19 reasonable doubt that the defendant did any of these
20 things you may find the defendant guilty of kidnapping.
21 Something done without authority of law is something which
22 the law does not sanction, permit, allow, condone or
23 provide justification for.

24 Kidnapping does not have to be for any personal or
25 monetary gain or for any illegal purpose, but may be for

1 any reason whatsoever.

2 The defendant is charged with possession of a weapon
3 during the commission of a violent crime. The State must
4 prove beyond a reasonable doubt that the defendant visibly
5 displayed a knife during the commission of a violent
6 crime. A knife means an instrument or tool with a sharp
7 cutting blade, whether or not fastened to a handle which
8 can be used to inflict a cut, slash or wound.

9 In order to find the defendant guilty of possession
10 of a weapon during the commission of a violent crime you
11 must first find the defendant guilty of either committing
12 a violent crime or attempting to commit a violent crime.

13 For purposes of these deliberations burglary first
14 degree, criminal sexual conduct first degree, kidnapping,
15 all are violent crimes. The State must prove beyond a
16 reasonable doubt that the weapon further advanced or
17 helped in the commission of the crime.

18 There has been testimony concerning an alibi. I want
19 to charge you the law with regard to that. The defendant
20 has raised the defense of alibi. In order to establish an
21 alibi it must be shown that the defendant was at another
22 specified place at the time the crime was committed. And
23 that it was, therefore, impossible for the defendant to
24 have been at the scene of the crime.

25 Mere denial of presence at the scene of a crime does

1 not constitute an alibi. There is no burden on the
2 defendant to prove an alibi. The burden is on the State
3 to prove beyond a reasonable doubt that the defendant was
4 actually present at the scene of the crime, actually
5 participated in it, and was not somewhere else. In other
6 words, the State has the burden of disproving the
7 defendant's alibi defense.

8 I want to come forward and share with you the verdict
9 form. Madam Forelady, I'm going to ask if you would stand
10 while I go over this form with you. This is a document
11 entitled, 'Verdict Form. It's got numbers here. It says
12 we're in General Sessions Court here in Marlboro County,
13 the Fourth Circuit. And there are -- each one of the
14 offenses, are set out in Roman numerals.

15 The first of which is burglary first degree. It
16 says, "We the jury find by unanimous consent the
17 Defendant, Derrick Dwayne Dupree, is," and there are two
18 choices; not guilty or guilty. It's critical that you
19 understand that these verdicts must be unanimous. It
20 can't be 11 to one, six to six or eight to four. Everyone
21 has to agree. It has to be unanimous.

22 Have the same thing with regard to kidnapping. "We
23 the jury find by unanimous consent that the Defendant,
24 Derrick Dwayne Dupree, is not guilty or guilty."

25 Criminal sexual conduct in the first degree. "We the

1 jury find by unanimous consent that the Defendant, Derrick
2 Dwayne Dupree, is not guilty or guilty."

3 If you find that the defendant is not guilty of all
4 of those violent crimes, the ones I've list, one through
5 three, if you find him not guilty of all of those
6 discontinue deliberations because you heard the law. In
7 order for you to be convicted of possession of a weapon
8 during the commission of a violent crime you have to be
9 guilty of that or attempting to do that.

10 So, obviously, if you do find him not guilty of all
11 those three offenses stop deliberations cause he can't be
12 guilty of that one. However, if he guilty of one of these
13 three in your deliberations, if you make that
14 determination, then you could give that some
15 consideration.

16 The verdict must be unanimous, and there is a place
17 for the date and place for you to sign. Madam Forelady,
18 you can have a seat. Madam Forelady, you are charged with
19 the responsibility of making sure that everybody's voice
20 is heard, preside over the deliberation process. I am
21 confident that you will do a good job in that regard.

22 There might be an occasion where you have a question,
23 and if there is a question I'm going to ask y'all to relay
24 that question or concern to the Forelady. She will reduce
25 it to writing, give it to the bailiff and if it's

1 something I can help you with I will. But there are
2 certain things, you know, you've listened to the law, and
3 I understand that y'all have certain jobs to do, and I
4 have a certain job. Y'all have the difficult job of
5 determining the truth in the case, what the truth is. And
6 my job is to preside over the deliberation -- I mean
7 preside over the trial, rule on the admissibility of
8 evidence and charge you the law. That's my job.

9 If you have a question with regard to a legal issue,
10 obviously, I can answer that. If it's a factual issue
11 that's your call. You've got to make it. If there is a
12 question in your mind whether it's a legal question or a
13 factual question write it down. If it's something I can
14 help you with I will. I don't anticipate y'all having any
15 questions. Y'all have listened to the evidence. Y'all
16 paid very close attention as I charged you the law. I'm
17 certain that y'all have the tools with which to resolve
18 this matter.

19 I'm going to ask the alternates if y'all will stay
20 with us here in the courtroom. When I release the jury I
21 want y'all to stay here with us. And, Madam Forelady, I'm
22 going to ask if you could to return to the jury room.
23 Once again, do not begin your deliberations yet cause I'm
24 going to have to ask these very fine lawyers and Mr.
25 Dupree if they have an objection to the manner in which is

1 charged the jury. If I inadvertently left something out,
2 misstated something or haven't charged something that you
3 should hear. I'm going to have an opportunity to talk
4 with them about that.

5 If I don't have to bring you back in here then we
6 will gather up all the documentary evidence. Bailiff will
7 present the documents to you along with pads and paper to
8 assist you in your deliberation process and tell you to
9 begin deliberations.

10 Once again, do not begin deliberations. Don't talk
11 about this case until you receive instructions to do so.
12 Bear with us, and Madam Forelady, I'm going to ask that
13 you take the jury back to the jury room. Thank you.

14 (WHEREUPON, the jury panel was excused from the
15 courtroom at 3:45 p.m.)

16 COLLOQUY

17 THE COURT: All right. Let me speak with the
18 alternates at this time if I could. I want to thank y'all
19 for being here. I know that y'all sort of feel like y'all
20 got invited to the dance and didn't get to dance. At any
21 rate, y'all are here. I think probably, maybe, 20 or 30
22 percent of the time we have exercise the alternate and put
23 them in with the regular jury.

24 A lot of times people get sick. Sometimes people
25 oversleep. Sometimes people discover throughout the trial

1 that they know someone. They knew them as Bubba and their
2 name is Theodore. The didn't know until they show up and
3 conflicts develop in that regard. There are a number of
4 reasons why jurors can't complete their service. And if
5 that were to happen, particularly in criminal cases, then
6 we would have to start this all over cause the
7 Constitution affords them to be tried by a jury of 12.
8 And if there is less than 12 then we would just have to do
9 this all over again. So y'all have been a very important
10 part in that.

11 Thank you so much for your service. You're going to
12 be paid handsomely for your service. It's -- how much is
13 it, Madam Clerk?

14 CLERK OF COURT: It's \$10.

15 THE COURT: \$10 a day and what is it? Thirty-five
16 cents a mile?

17 CLERK OF COURT: Thirty-five cents a mile.

18 THE COURT: That more than in Florence, but that's
19 hardly enough to go and buy a new pair of britches or nice
20 dinner. But it's better than a polk in the eye. It's a
21 small token of our appreciation on behalf of the State of
22 South Carolina. It's truly been a service.

23 Have any of you served on a jury before? Hopefully,
24 it's been a learning experience for you. Very good. I
25 hopefully, it has not been too much of a burden. The good

1 news is that you're going to get paid a small amount. If
2 you are called to serve on a jury in this County within
3 the next three years you can exercise an exemption.
4 Doesn't apply to Municipal Court, Magistrate's Court or
5 Federal Court.

6 But is you're subpoenaed to this court room you can
7 tell them that you served this week and you will be free
8 to leave. You're welcomed to stay if you like, but you
9 can exercise that exemption. And the other good news is
10 you have completed your service for the week. You're free
11 to go, and thank y'all so much.

12 Y'all have any questions? All right. Y'all are free
13 to go. This is a public forum. If you've like to hang
14 around y'all can do that as well. Good luck to you.
15 Thank you. And the Clerk has some excuses for you.

16 (WHEREUPON, the jury alternates was excused from the
17 courtroom at 3:47 p.m.)

18 THE COURT: All right. Is there any objections to
19 the jury charge from the State?

20 MR. REDMOND: No objection, Your Honor, and I
21 apologize. Ms. Johnson Lee and I were conferring. We
22 didn't know whether or not the Court had actually
23 instructed on voluntary intoxication or had decided not
24 to. And we just wanted to inquire on that.

25 THE COURT: You know, you had asked me that, and do

1 you want a charge on voluntary intoxication?

2 MR. DUPREE: Sir, if I'm found guilty, sir, if that's
3 what they -- yes, sir.

4 THE COURT: You want a charge on involuntary
5 intoxication? Speak with your assistance there and see if
6 that is what you want.

7 MR. DUPREE: Oh, no, sir.

8 THE COURT: You do not want a charge on ---

9 MR. DUPREE: No, I misunderstood what you said, sir.
10 I apologize.

11 THE COURT: Given the fact that really wasn't an
12 issue in this case and the fact -- and I asked you to
13 remind me before I did that. And maybe did and maybe you
14 didn't, but I don't really think it's a relevant issue in
15 this case. And you're protected on the record. I'm not
16 going to charge it.

17 MR. REDMOND: Yes, sir.

18 THE COURT: All right. Very good.

19 MR. REDMOND: And that would be all the matters the
20 State has.

21 THE COURT: Do you have any objection to the jury
22 charge?

23 MR. DUPREE: No, sir, Your Honor. At the end when
24 you explained to them about that unanimous agreement as
25 far as to the guilty or not guilty, sir, when you

1 explained that to them they may not understand that it's
2 still -- that one of them or two of them could still stick
3 with not guilty or guilty verdict. Whereas, the hung
4 jury, I was basically trying to get that understood that
5 it could be the formally of a hung jury, Your Honor.

6 THE COURT: Well, that's what the whole essence of a
7 unanimous verdict is. If it's not unanimous then you --
8 it doesn't resolve the case.

9 MR. DUPREE: And I understand that, but like I said
10 you explained to them as far as I interpret you said that
11 they have to come up with an unanimous meaning that
12 everybody have to come up with the same ---

13 THE COURT: That is correct.

14 MR. DUPREE: --- verdict.

15 THE COURT: Or it would be mistrial or a hung jury.

16 MR. DUPREE: That's what I'm saying. I wanted them
17 to know that if they didn't then it would be a mistrial or
18 a hung jury, if it's okay.

19 THE COURT: All right. Well, you might not have
20 understood it that way, but I think they did. And I do.
21 So your motion the noted, but I think it's clear to them
22 that in order for there to be a victim it has to be
23 unanimous. Anything further?

24 MR. DUPREE: No, sir.

25 THE COURT: All right. Very good. Let's come

QUESTION FROM THE JURY

THE COURT: I received a note from the Forelady of the jury, and it says, "We need the definition of burglary which is simple. I'll charge them the law concerning burglary." I'll make that a part of the record and ask that the jury be brought in.

(WHEREUPON, Court's Exhibit No. 1 was marked for identification and received into evidence.)

(WHEREUPON, the jury panel enters the courtroom at 3:12 p.m.)

THE COURT: Thank you. Madam Forelady, ladies and gentlemen of the jury, pay very close attention as I define the law with regard to first degree burglary.

The defendant is charged with first degree burglary. The State must first prove beyond a reasonable doubt that the defendant entered a dwelling without consent. A dwelling is any building or portion of a building in which a person ordinarily sleeps. A building constructed as a dwelling that has never been occupied cannot be considered a dwelling for purposes of burglary.

But a dwelling is a building even if the residents are temporarily absent from the building. In order to prove that the defendant entered the dwelling the State does not have to show that the defendant's entire body entered the dwelling. The smallest entry is sufficient.

1 It may be any part of the body such as a hand, a foot or
2 an instrument such as a hook or other instrument.

3 In addition, the State does not have to prove that
4 force was used to gain entry. If a person enters a
5 building by using deception, artifice, trickery,
6 misrepresentation to get consent to enter this is an entry
7 without consent.

8 Next, the State must prove beyond a reasonable doubt
9 that the defendant intended to commit a crime, either a
10 felony or a misdemeanor, at the time of the entry. The
11 mere entry into a dwelling without consent is not
12 burglary. If the intent to commit a crime is formed after
13 the entry it is not burglary.

14 On the other hand, if the defendant intended to
15 commit a crime at the time of the entry it is burglary
16 even if the intent was abandoned after the entry. It does
17 not matter that the intended crime was not completed.
18 Intent may be shown by acts and conduct of the defendant
19 and other circumstances from which you may naturally and
20 reasonably infer intent.

21 Finally, the State must prove beyond a reasonable
22 doubt, one, when entering while in the dwelling or when
23 fleeing the defendant or accomplice was armed with a
24 deadly weapon or explosive. A deadly weapon is any
25 article, instrument or substance which is likely to cause

1 death or great bodily harm. Whether an instrument has
2 been used as a deadly weapon depends on the facts and
3 circumstances of each case.

4 The following are examples of instruments which may
5 be deadly weapon: A pistol, a shotgun, a rifle, a dirk, a
6 dagger, a knife, a slingshot, metal knuckles, a razor,
7 gasoline, fire bomb or Molotov cocktail.

8 You may return to the jury room.

9 (WHEREUPON, the jury panel was excused from the
10 courtroom to continue deliberations at 3:16 p.m.)

11 THE COURT: Any objections from the State?

12 MR. REDMOND: None from the State, Your Honor.

13 THE COURT: Any from Defense?

14 MR. DUPREE: No, sir, Your Honor.

15 THE COURT: All right. Very good. We'll stand at
16 ease.

17 (WHEREUPON, Court was in recess at 3:16 p.m. and
18 reconvenes at 4:10 p.m.)

19 VERDICT OF THE JURY

20 THE COURT: Anything from the State before I bring
21 the jury out?

22 MR. REDMOND: Nothing from the State.

23 THE COURT: Anything from Defense, Mr. Dupree?

24 MR. DUPREE: No, sir, Your Honor.

25 THE COURT: All right, sir. I understand that they

1 good. I'm going to ask that you to publish the verdict.

2 CLERK OF COURT: State of South Carolina, County of
3 Marlboro, State of South Carolina v. Derrick Dwayne
4 Dupree, defendant. Indictment Numbers 2014-GS-34-0159,
5 2014-GS-34-0304, 2014-GS-34-0303, 2014-GS-34-0305.

6 Burglary first degree, we the jury find by unanimous
7 consent that Defendant, Derrick Dwayne Dupree, is guilty.

8 Kidnapping, we the jury find by unanimous consent
9 that Defendant, Derrick Dwayne Dupree, is guilty.

10 Criminal sexual conduct first degree, we the jury
11 find by unanimous consent that Defendant, Derrick Dwayne
12 Dupree, is guilty.

13 For possession of a weapon during the commission of
14 or attempting to commit a violent crime, we the jury find
15 by unanimous consent that Defendant, Derrick Dwayne
16 Dupree, is guilty.

17 Foreperson, Jessica King McDuffie. October 15, 2014.

18 THE COURT: Any request for poling?pole.

19 MR. REDMOND: None from the State, Your Honor.

20 THE COURT: Mr. Dupree, any requests for poling?

21 MR. DUPREE: Say that again, sir.

22 THE COURT: There is procedure that you can request
23 where the roll -- where the jury roll is called and each
24 one will be required to respond and confirm this is indeed
25 their verdict. Do you wish that or do you waive that?

1 MR. DUPREE: No, I wish that, but I would like to
2 converse with my assistant in reference to that, sir.

3 THE COURT: Certainly you can.

4 MR. DUPREE: No, Your Honor. I wish not.

5 THE COURT: Okay. So you waive the polling?

6 MR. DUPREE: Yes, sir.

7 THE COURT: All right. I'm going to ask the
8 Solicitor if they could bring forward the sentencing
9 sheets.

10 MR. REDMOND: Yes, sir, Your Honor.

11 THE COURT: All right. Madam Forelady, ladies and
12 gentlemen of the jury, you have discharged your duty and
13 for that I'm grateful. Clearly, y'all have paid close
14 attention and taking your responsibility very seriously.
15 You will be paid handsomely for your services here today.
16 The Clerk will reimburse you at least a small token of
17 appreciate on behalf of the State of South Carolina.

18 You have earned a three year exemption for the next
19 three years. If you're subpoenaed to participate in this
20 courtroom over the next three years you can exercise an
21 exemption and elect not to serve. It does not apply to
22 municipal, magistrate and federal court, but in this
23 courtroom you have earned a three year exemption.

24 And I always ask the jurors are there any questions.
25 I'll be happy to answer them. Y'all have any questions?

1 things. And I try to -- I believe in redemption. I
2 believe people can do better. But your conduct reveals a
3 fundamental flaw in your character.

4 And my job as a judge I think the most difficult
5 thing I do as a judge is sentence people because when I
6 sentence someone it's not just a number. Somebody has to
7 end up serving that sentence. And they're not just
8 numbers. They're years. I understand that, and I realize
9 that and it's a huge responsibility. And in doing that
10 typically what I'm called upon to do is to try to
11 distinguish the wayward from the wicked, and believe that
12 you fall squarely within the latter. I think that you are
13 a wicked person. Anybody who would do something like that
14 is fundamentally flawed.

15 The role of the law is to protect those in the
16 shadows of society. The feeble, the children, the
17 elderly.

18 And for that your sentence, Mr. Dupree, on Indictment
19 2014-GS-34 0159, burglary first degree, the sentence of
20 the Court is that you be committed to the State Department
21 of Corrections for a period of 30 years. The sentence is
22 to run concurrent with other sentences, but consecutive
23 with the possession of a weapon during the commission of a
24 violent crime.

25 With regard Indictment 2014-GS-34-0303, criminal

1 sexual conduct first degree, the sentence of the Court is
2 you be committed to the State Department of Corrections
3 for a period of 30 years. Sentence is to run concurrent
4 with other sentences today, however, consecutive with
5 possession of a weapon during the commission of a violent
6 crime.

7 With regard to Indictment 2011-GS-34-0304,
8 kidnapping, the sentence of the Court is that you be
9 committed to the State Department of Corrections for a
10 period of 30 years. Sentence is to run concurrent with
11 other sentences, but consecutive with the possession of a
12 weapon during the commission of a violent crime.

13 We regard the Indictment 2014-GS-34-0305, possession
14 of weapon during the commission of a violent crime, the
15 sentence of the Court is that you be committed to the
16 State Department of Corrections for a period of five
17 years. This sentence is to run consecutive to all other
18 sentences.

19 And how much time is he entitled to credit for,
20 Mr. Redmond?

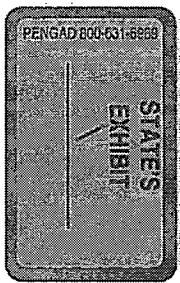
21 MR. REDMOND: He was incarcerated since the 11th of
22 September 2013.

23 THE COURT: How many days is that?

24 MR. REDMOND: I have not calculated the number of
25 days. I apologize, Your Honor.

573

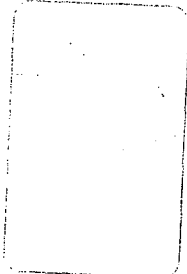
FILED
CASE 13-1140
JUL 11 2013
CLERK OF COURT
MARLBORO COUNTY



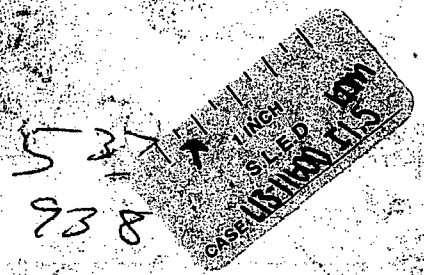
SHORT CUT
13/m
10/1/2013
W.H. + S. Short

US 11000
21 EDM

A CERTIFIED
TRUE COPY
William B. Sunderbunk
CLERK OF COURT
MARLBORO COUNTY



US 11600 11.5



537
938
Dewayne
Stanton



US 11600 11.5

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

Inv. Susan Alderman
Marlboro County Sheriff's Department
P.O. Box 577
Bennettsville, SC 29512

QUESTIONED DOCUMENT

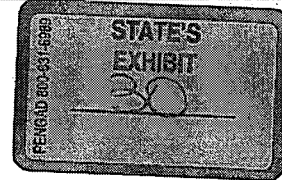
September 15, 2014
SLED LAB: L13-11600
Your Case No: 2013004852
Incident Date: 09/08/2013
[V] Lottie Thomas
[S] Kadeem Hooks
[S] Derrick Dupree

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

SUPPLEMENTAL REPORT

ITEMS OF EVIDENCE:



- Item: 1** Machine copy of torn, lined sheet of note paper containing entries, "537 9389" and "Dewayne Stanton"
- Item: 17** Twenty-nine (29) standards submitted as known writing of Derrick Dupree

A CERTIFIED
TRUE COPY

RESULTS OF EXAMINATION:

William B. Zunderburg

CLERK OF COURT

The Item 17(17.1-17.29) (Derrick Dupree) requested exemplars are inconsistent with the normal course of business writings on Item 12(12.1-12.16) previously submitted as known writing of Derrick Dupree. Further, the requested exemplars, Item 17 (17.1-17.29), do not appear to have been freely and naturally written and contain features consistent with an attempt to disguise; therefore, no further determination could be made from that which was reported on a laboratory report dated September 30, 2013.



SLED LAB No. L13-11600
September 15, 2014

Page 2 of 3

This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.

Gaile Neale

Gaile Heath
Forensic Scientist

A CERTIFIED
TRUE COPY

William B. Burdick

CLERK OF COURT
MARLBORO COUNTY



SLED LAB No. L13-11600
September 15, 2014

Page 3 of 3

The following is a progressive scale of results, ranging from the most positive to the most negative, to assist in the interpretation of results.

REPORT TERMINOLOGY

IDENTIFICATION

STRONG PROBABILITY

PROBABLE

INDICATIONS

NO CONCLUSION

INDICATIONS DID NOT

PROBABLY DID NOT

STRONG PROBABILITY DID NOT

ELIMINATION

A CERTIFIED
TRUE COPY
William B. Zundorff
CLERK OF COURT
MARLBORO COUNTY



WITNESSES

Susan Alderman

Marlboro County Sheriff

Law Enforcement Case #: 2013-004852

Dusan Cole

583

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2013A3410100406

ARRESTED ON: 2013-09-12

ACTION OF GRAND JURY

*True Bill**Kelly Dashi*

Grand Jury Foreperson

Date *04/29/14*

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2014-GS-34-0159

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

Term:
April 2014

THE STATE

vs.

Derrick Dewayne Dupree

INDICTMENT FOR

Burglary / Burglary (After June 20, 1985) -
First degree

§16-11-0311

CDR Code: 0079

A CERTIFIED
TRUE COPY

William B. Sunderland

CLERK OF COURT
MARLBORO COUNTY

William B. Rogers, Jr., Solicitor

MARLBORO COUNTY, S.C.
CLERK OF COURT
WILLIAM B. FUNDENBERG

APR 29 PM 1:03

FILED

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF MARLBORO)

Burglary / Burglary (After June 20, 1985) - First
degree

§16-11-0311

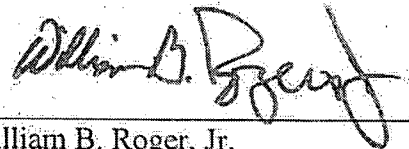
At a Court of General Sessions, convened on April 29, 2014, the Grand Jurors of Marlboro County present upon their oath:

BURGLARY, 1ST DEGREE

CDR: 0079 16-11-0311

That Derrick Dewayne Dupree did in Marlboro County on or about September 8, 2013 enter the dwelling of Lottie Thomas located at [REDACTED] Old Wire Rd., Wallace, SC without consent and with the intent to commit a crime therein and the defendant did so while armed with a deadly weapon (Knife) and causing physical injury to the victim, in violation of Section 16-11-0311(A), Code of Laws of South Carolina, 1976, as amended.

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



William B. Roger, Jr.
Solicitor

WITNESSES

Susan Alderman

Marlboro County Sheriff

Law Enforcement Case #: 2013 004852



583

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER

2013A3410100407

ARRESTED ON: 2013-09-12

ACTION OF GRAND JURY

True Bill

Kelly Jashen

Grand Jury Foreperson

04/29/14

Date

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:

2014-GS-34-0303

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

Term:

April 2014

THE STATE

vs.

Derrick Dewayne Dupree

INDICTMENT FOR

Sex / Criminal sexual conduct - First degree

§16-03-0652

CDR Code: 0160

William B. Rogers, Jr., Solicitor

WILLIAM B. ROGERS, JR.
CLERK OF COURT
MARLBORO COUNTY, S.C.

2014 APR 29 PM 1 03

FILED

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF MARLBORO)

Sex / Criminal sexual conduct - First degree

§16-03-0652

At a Court of General Sessions, convened on April 29, 2014, the Grand Jurors of Marlboro County present upon their oath:

CRIMINAL SEXUAL CONDUCT, FIRST DEGREE

CDR: 0160 16-03-0652

That Derrick Dewayne Dupree did in Marlboro on or about September 8, 2013, engage in sexual battery with, using aggravated force, in violation of Section 16-03-0652, S. C. Code of Laws, 1976, as amended.

A CERTIFIED
TRUE COPY

William B. Zundorff

CLERK OF COURT
MARLBORO COUNTY

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

William B. Rogers, Jr.

WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Susan Alderman

Marlboro County Sheriff

Law Enforcement Case #: 2013-004852

583

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2013A3410100408

ARRESTED ON: 2013-09-12

ACTION OF GRAND JURY

Grand Jury Foreperson

Date

VERDICT

Petit Jury Foreperson

Date

Amended

DOCKET NUMBER:

2014-GS-34-0304

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

Term:

April 2014

THE STATE

vs.

Derrick Dewayne Dupree

INDICTMENT FOR

Kidnapping / Kidnapping

§16-03-0910

CDR Code: 0095

A CERTIFIED
TRUE COPY

William B. Zunderburg

CLERK OF COURT
MARLBORO COUNTY

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF MARLBORO)

Kidnapping / Kidnapping

§16-03-0910

At a Court of General Sessions, convened on April 29, 2014, the Grand Jurors of Marlboro County present upon their oath:

KIDNAPPING

CDR: 0095 16-03-0910

That Derrick Dewayne Dupree did in Marlboro County on or about September 8, 2013, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Lottie Thomas, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

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


WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Susan Alderman

Marlboro County Sheriff

Law Enforcement Case #: 2013-004852



583

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER

2013A3410100409

ARRESTED ON: 2013-09-12

ACTION OF GRAND JURY

True Bill

Grand Jury Foreperson

Date

04/29/14

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:

2014-GS-34-0305

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

Term:

2014 April

THE STATE

vs.

Derrick Dewayne Dupree

INDICTMENT FOR

Weapons / Poss. weapon during violent crime, if
not also sentenced to life without parole or
death

§16-23-0490

CDR Code: 0549

A CERTIFIED
TRUE COPY

William B. Zunderbush

CLERK OF COURT
MARLBORO COUNTYMARLBORO COUNTY, S.C.
CLERK OF COURT
WILLIAM B. ZUNDERBUSH

APR 29 1 03 PM 2014

FILED

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF MARLBORO)

) Weapons / Poss. weapon during violent crime, if not
also sentenced to life without parole or death

§16-23-0490

At a Court of General Sessions, convened on 2014 29, April, the Grand Jurors of Marlboro County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME

CDR: 0549 16-23-0490

That Derrick Dewayne Dupree did in Marlboro County, on or about September 8, 2013, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

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


WILLIAM B. ROGERS, JR.
SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Marlboro

STATE

INDICTMENT/CASE# 2014-GS-34-0159

VS
Derrick P. Dupree

A/W#: 2013A3410100406

AKA

Date of Offense: 9/8/2013

Race: Black Sex: Male Age: [REDACTED]

S.C. Code § 16-11-311

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 0079

Address: Plum Lane

City, State, Zip: Wallace, SC 29512

SENTENCE SHEET

DL# SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐☒ CONVICTED OF or ☐ PLEADS

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

TO Burglary First Degree

In violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45(CSC w/minor 1st or Lewd Act)The charge is ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (Def.'s initials)The plea is ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$ provided that upon the service of days/months/years and or payment of \$ plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ 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 Department of Corrections 397 days

☐ 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 \$ 4 plus 20% fee: \$

days/hours Public Service Employment

Payment terms

Obtain GED ☐☐ Set by SCDC/PPS

Attend Voc. Rehab. Or Job Corp

Recipient

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine

Random Drug Alcohol Testing

\$14-1-206 (Assessments 10%)

Fine may be pd. in equal consecutive weekly/monthly

\$14-1-211 (A)(1) (Conv. Surcharge) \$100

pmts. of \$

\$14-1-211 (A)(2) (DUI Surcharge) \$100

\$56-5-2995 (DUI Assessment) \$12

\$56-1-286 (DUI Breath Test) \$25

Proviso 47.9 (Public Def/Prob) \$500

\$14-1-212 (Law Enforce Funding) \$25

\$14-1-213 (Drug Court Surcharge) \$150

\$50-21-114 (BUI Breath Test Fee) \$50

\$56-5-2942 (J) (Vehicle Assessment) \$40/ea

Proviso 90.5 (SCCA Surcharge) \$5

\$44-53-450 (C) (Conditional Discharge) \$350

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter

Other:

☐ Conditional Discharge, §44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Marlboro

STATE

INDICTMENT/CASE# 2014 GS 34 0303

VS.
Derrick D Dupree

AW#: 2013A3 410100407

Date of Offense: 9/8/2013

S.C. Code §: 16-03-0652

CDR Code #: 0160

Race: Black Sex: Male Age: [REDACTED]

DOB: [REDACTED]

City, State, Zip: Wallace, SC 29512

DL#: [REDACTED] SID#: [REDACTED]

CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was, ☒ CONVICTED OF or ☐ PLEADS

TO Sex / Criminal Sexual Conduct - First Degree

In violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code #: 0160

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

ATTEST:

Solicitor

SC Bar # 066583

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$ provided that upon the service of days/months/years and or payment of \$ plus costs and assessments as applicable, the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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 397 days

☐ 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

Total \$ plus 20% fee: \$

Payment Terms

I Settle SCDPS

Recipient:

Fine

§14-1-206 (Assessments 107 %)

§14-1-211 (A)(1)(Conv. Surcharge) \$100

§14-1-211 (A)(2)(DUI Surcharge) \$100

§56-5-2995 (DUI Assessment) \$12

§56-1-286 (DUI Breath Test) \$25

Proviso 47-9 (Public Def/Prob) \$500

§14-1-212 (Law Enforce. Funding) \$25

§14-1-213 (Drug Court Surcharge) \$150

§50-21-114 (BUI Breath Test Fee) \$50

§56-5-2942(J) (Vehicle Assessment) \$40/ea

Proviso 90-5 (SCCJA Surcharge) \$5

§44-53-450(C) (Conditional Discharge) \$350

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter

Quinta M. Williams

Hallie Gordon

FILED

OCT 15 PM 4

WILLIAM B. FUNDERBURK

CLERK OF COURT

MARLBORO COUNTY, SC

2014 OCT 15

MARLBORO COUNTY, SC

MARLBORO COUNTY, SC

MARLBORO COUNTY, SC

MARLBORO COUNTY, SC

MARLBORO COUNTY, SC

PTUP

days/hours Public Service Employment

Obtain GED ☐Attend Voc. Rehab. ☐

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:

☐ Conditional Discharge, §44-53-450(C) requires

\$350 be paid to the Clerk prior to case disposition

☐ Appointed PD or appointed other counsel,

\$47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge

Judge Code: 2140

Sentence Date: 10-15-14

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Marlboro

STATE

VS

INDICTMENT/CASE# 2014 GS 34 0304

AM#

2013A3410100408

Date of Offense

9/18/2013

S.C. Code §

16-03-0910

CDR Code #

0095

AKA

Race

DOB

City, State, Zip

Wallace, SC 29512

DL#

SID#

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSIn disposition of the said indictment comes now the Defendant who was
TO

In violation of §

16-03-0910

of the S.C. Code of Laws, bearing CDR Code #

0095

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST-SERIOUS☐ Mandatory GPS☐ §17-25-45

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

[Signature]

066583

[Signature]

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections☐ County Detention Center,

for a determinate term of

30

days/months/years or

☐ under the Youthful Offender Act not to exceed

years

and/or to pay a fine of \$

provided that upon the service of

days/months/years and or payment

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on*consecutive w/ possession of weapon by commission of violent crime*☒ 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

397 days

☐ 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 \$

49

plus 20% fee

\$

days/hours Public Service Employment

Payment Terms

☐ Set by SCPPPS

Recipient

Fine

\$14-1-206 (Assessments)

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 Enforcement Funding)

\$25

\$14-1-213 (Drug Court Surcharge)

\$150

\$50-21-114 (BUI Breath Test Fee)

\$50

\$56-5-2942(J) (Vehicle Assessment)

\$40/ea

Proviso: 90-5 (SCCJA Surcharge)

\$5

\$44-53-450(C) (Conditional Discharge)

\$350

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Antia M. Williams

Court Reporter

*Hattie Gordon*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:

☐ Conditional Discharge, §44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel; \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code

Sentence Date

Michael Pitt
2148
10-15-14

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Marlboro

STATE

VS

Derrick D. Dupree

AKA

Race

Sex

Age

DOB

City, State, Zip

Wallace, SC 29512

DL#

SID#

CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☒ CONVICTED OF or ☐ PLEADSTO Pass. of weapon during a violent crime, if not also sentenced to life without parole or deathIn violation of 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45The 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 066583 Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed 5 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: 10-15-14☒ 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 397 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

Pursuant to 16-23-0490, 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:

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

PTUP

Total \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms: Obtain GED ☐I Set by CDR

Attend Voc/Kenau-Crider Corp

Recipient

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be paid in equal consecutive weekly/monthly

pts. of \$

Training Public Defender Fund

CLERK OF COURT

Other: MARLBORO COUNTY☐ Conditional Discharge, §44-53-450(C) requires

\$350 be paid to the Clerk prior to case disposition

☐ Appointed PD or appointed other counsel,

\$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge Judge Code: 2140Sentence Date: 10-15-14

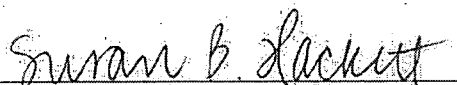
*Fine	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100
§14-1-211 (A)(2)(DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§50-21-114 (BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
§44-53-450(C) (Conditional Discharge)	\$350
3% to County (if paid in installments)	\$
TOTAL	\$

Clerk of Court/Deputy Clerk Quida M. WilliamsCourt Reporter

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."

February 11th, 2016



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED

FEB 11 2016

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SC Court of Appeals
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."

February 11th, 2016

Susan B. Hackett

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Appellate Defender

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ATTORNEY FOR APPELLANT