

22254

ANDERS

STATE OF SOUTH CAROLINA

In The Court of Appeals

NO DEFENDANT'S BRIEF

APPEAL FROM JASPER COUNTY

No Respondent's Brief Filed

Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHAD JUNIOR BUSSELL,

APPELLANT

APPELLATE CASE NO. 2015-000303

RECORD ON APPEAL

DAVID ALEXANDER
Appellate Defender

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

Attorney for Appellant

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Assistant Attorney General
Office of the Attorney General

PO Box 11549
Columbia, SC 29211

(803) 734-3727

ISSAC MCDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit
Post Office Box 2226
Beaufort, SC 29901
(803) 943-3580

Attorneys for Respondent

ORIGINAL

RECEIVED

OCT 13 2015

SC Court of Appeals

INDEX

INDEX	i
TRIAL TRANSCRIPT (dated February 9, 10, 11, 2015)	1
MOTION TO SUPPRESS	15
TESTIMONY	
OFFICER JARVIS LESSANE	16
DETECTIVE GARY MORRIS	25
CHAD JUNIOR BUSSELL	28
ARGUMENT	30
MOTION TO BE RELIEVED AS COUNSEL	41
MOTION TO CONTINUE	47
JUROR QUALIFICATION	52
VOIR DIRE	83
JUROR SELECTION	94
MOTION TO SEQUESTER	106
OPENING STATEMENT BY MR. TOPOREK	113
OPENING STATEMENT BY MR. HUGHES	116
TESTIMONY	
CARA KOERNER	119
ROSE WILLIAMSON	129
JAMES O'NEAL ABLE	131
KEEFE BLATCHLEY	141
DEPUTY JARVIS LESSANE	152

DETECTIVE ELVIN WRIGHT	169
TERRY WILLIAMSON	209
BRENDA FISCHER	230
SERGEANT JEFF CROSBY	237
THOMAS DARNELL	239
STATE RESTS.....	256
MOTIONS	256
DEFENDANT'S RIGHTS	259
TESTIMONY	
CHAD JUNIOR BUSSELL	263
DEFENSE RESTS	277
RENEWED MOTIONS	278
CLOSING ARGUMENT BY MR. HUGHES	287
CLOSING ARGUMENT BY MR. TOPOREK.....	295
JURY CHARGE.....	302
JURY QUESTION.....	313
VERDICT	316
SENTENCING	321
INDICTMENT	326
CERTIFICATE OF COUNSEL.....	328

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF JASPER
COURT OF GENERAL SESSIONS
CASE NUMBER 2013-GS-27-00505

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

FEBRUARY 9, 10, 11, 2015
PRETRIAL MOTIONS AND TESTIMONY
TRANSCRIPT OF TRIAL
RIDGELAND, SOUTH CAROLINA

CHAD JUNIOR BUSSELL

DEFENDANT

B E F O R E:

HON. BROOKS P. GOLDSMITH, JUDGE
AND A JURY

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

STATE V. CHAD BUSSELL JUNIOR

APPEARANCES

ON BEHALF OF THE STATE:

HON. M. ALEXANDER TOPOREK
ASSISTANT SOLICITOR
POST OFFICE BOX 187
RIDGELAND, SOUTH CAROLINA 29936-0187
TELEPHONE 843-717-4061
atoporek@bcgov.net

ON BEHALF OF DEFENDANT
CHAD JUNIOR BUSSELL:

HON. ROBERT M. HUGHES
JASPER COUNTY ASSISTANT
PUBLIC DEFENDER
RIDGELAND, SOUTH CAROLINA 29936

STATE V. CHAD BUSSELL JUNIOR

INDEX

DAY ONE, MONDAY

FEBRUARY 9, 2015

Caption.....	1
Appearances.....	2
Index.....	3

PRETRIAL MOTIONS AND TESTIMONY

Motion to Suppress.....	17

OFFICER JARVIS LESSANE

Direct Examination	
By Mr. Toporek.....	18
Cross-examination	
By Mr. Hughes.....	23

DETECTIVE GARY MORRIS

Direct Examination	
By Mr. Toporek.....	27
Cross-examination	
By Mr. Hughes.....	28

DEFENDANT CHAD JUNIOR BUSSELL

Direct Examination	
By Mr. Hughes.....	30
Cross-examination	
By Mr. Toporek.....	32
Argument.....	32

STATE V. CHAD BUSSELL JUNIOR

Ruling.....	39
Motion to Submit Affidavits for Chain Custody Testimony.....	40
Ruling.....	40
Motion to be Relieved as Counsel.....	43
Ruling.....	43
Motion to Continue.....	49
Ruling.....	49
OFF THE RECORD	
BACK ON THE RECORD	
Juror Qualification By the Court.....	54
Case Called By Mr. Toporek.....	84
Jurors Sworn By Madam Clerk.....	84
OFF THE RECORD	
BACK ON THE RECORD	
Voir Dire By the Court.....	85
Juror Selection.....	96

STATE V. CHAD BUSSELL JUNIOR

BEGIN DAY TWO, TUESDAY

FEBRUARY 10, 2015

By the Court.....108

Motion to Sequester
Witnesses.....108

Ruling.....108

OFF THE RECORD

BACK ON THE RECORD

By the Court.....110

OFF THE RECORD

BACK ON THE RECORD

By the Court.....110

Jurors Sworn
By Madam Clerk.....112

General Charge
By the Court.....112

Opening Statement
On Behalf of the State
By Mr. Toporek.....115

Opening Statement
On Behalf of Defendant
By Mr. Hughes.....118

STATE V. CHAD BUSSELL JUNIOR

CARA KOERNER

Direct Examination	
By Mr. Toporek.....	121
Cross-examination	
By Mr. Hughes.....	126
Re-direct Examination	
By Mr. Toporek.....	130

ROSE WILLIAMSON

Direct Examination	
By Mr. Toporek.....	131
Cross-examination	
By Mr. Hughes.....	132

JAMES O'NEAL ABLE

Direct Examination	
By Mr. Toporek.....	133
Cross-examination	
By Mr. Hughes.....	140

KEEFE BLATCHLEY

Direct Examination	
By Toporek.....	143
Cross-examination	
By Mr. Hughes.....	149
Re-direct Examination	
By Mr. Toporek.....	152

STATE V. CHAD BUSSELL JUNIOR

DEPUTY JARVIS LESSANE

Direct Examination	
By Mr. Toporek.....	154
Cross-examination	
By Mr. Hughes.....	167
OFF THE RECORD	
BACK ON THE RECORD	
By the Court.....	171

DETECTIVE ELVIN WRIGHT

Direct Examination	
By Mr. Toporek.....	171
Cross-examination	
By Mr. Hughes.....	200
Re-direct Examination	
By Mr. Toporek.....	207
Re-cross-examination	
By Mr. Hughes.....	208
OFF THE RECORD	
BACK ON THE RECORD	
By the Court.....	210

TERRY WILLIAMSON

Direct Examination	
By Mr. Toporek.....	211

STATE V. CHAD BUSSELL JUNIOR

Cross-examination	
By Mr. Hughes.....	220
Re-direct Examination	
By Mr. Toporek.....	229
Re-cross-examination	
By Mr. Hughes.....	230

BRENDA FISCHER

Direct Examination	
By Mr. Toporek.....	232
Cross-examination	
By Mr. Hughes.....	234

SERGEANT JEFF CROSBY

Direct Examination	
By Mr. Toporek.....	239

THOMAS DARNELL

Direct Examination	
By Mr. Toporek.....	241
Cross-examination	
By Mr. Hughes.....	252
State Rests.....	258
Motions.....	258
Ruling.....	260

OFF THE RECORD

BACK ON THE RECORD

STATE V. CHAD BUSSELL JUNIOR

Defendant's Rights	
By the Court.....	261

CHAD JUNIOR BUSSELL

Direct Examination	
By Mr. Hughes.....	265
Cross-examination	
By Mr. Toporek.....	277
Defense Rests.....	279
Renewed Motions.....	280
Discussion Regarding	
Jury Charge.....	281

DAY THREE, WEDNESDAY

FEBRUARY 11, 2015

By the Court.....	288
Closing Argument on	
Behalf of Defendant	
By Mr. Hughes.....	289
Closing Argument on	
Behalf of the State	
By Mr. Toporek.....	297
Jury Charge	
By the Court.....	304

OFF THE RECORD

STATE V. CHAD BUSSELL JUNIOR

Jurors Begin	
Deliberation.....	315
BACK ON THE RECORD	
Question from Jurors.....	315
Verdict.....	318
Jurors Polled	
By Madam Clerk.....	319
Sentencing.....	323
Sentence.....	326

ATTACHMENTS

Certificate of Reporter.....	327
Random Strike Sheet	
Keyword Index	

EXHIBITS

STATE'S:

1	Item Identified as Photograph.....	157
2	Item Identified as Photograph.....	157
3	Item Identified as Photograph.....	157
4	Item Identified as Photograph.....	157
5	Item Identified as Photograph.....	157

STATE V. CHAD BUSSELL JUNIOR

6	Item Identified as Photograph.....	161
7	Item Identified as Photograph.....	161
8	Item Identified as Photograph.....	161
9	Item Identified as Photograph.....	161
10	Item Identified as Photograph.....	161
11	Item Identified as Photograph.....	176
12	Item Identified as Photograph.....	176
13	Item Identified as Photograph.....	176
14	Item Identified as Photograph.....	176
15	Item Identified as Photograph.....	176
16	Item Identified as Photograph.....	176
17	Item Identified as Photograph.....	176

STATE V. CHAD BUSSELL JUNIOR

18	Item Identified as Photograph.....	183
19	Item Identified as Photograph.....	187
20	Item Identified as Photograph.....	187
21	Item Identified as Photograph.....	187
22	Item Identified as Photograph.....	187
23	Item Identified as Photograph.....	187
24	Item Identified as Photograph.....	187
25	Item Identified as Photograph.....	187
26	Item Identified as Photograph.....	187
27	Item Identified as Photograph.....	187
28	Item Identified as Photograph.....	187
29	Item Identified as Photograph.....	190

STATE V. CHAD BUSSELL JUNIOR

30	Item Identified as Photograph.....	190
31	Item Identified as Photograph.....	190
32	Item Identified as Photograph.....	190
33	Item Identified as Photograph.....	190
34	Item Identified as Photograph.....	190
35	Item Identified as Photograph.....	190
36	Item Identified as Photograph.....	190
37	Item Identified as Photograph.....	190
38	Item Identified as Photograph.....	195
39	Item Identified as Photograph.....	195
40	Item Identified as Photograph.....	195
41	Item Identified as Photograph.....	195

STATE V. CHAD BUSSELL JUNIOR

42 Item Identified as
 Photograph.....195

43-A, 43-B, 43-C
 Item Identified as
 Envelope Containing
 Three Sets of Fingerprints.....247

43-D Item Identified as
 Fingerprint Card.....247

DEFENDANT'S:

No defendant exhibits were admitted.

COURT:

1 Item Identified as
 Note from Jurors.....316

2-9-14 STATE V. BUSSELL

MOTION TO SUPPRESS

1 DAY ONE, MONDAY, FEBRUARY 9,
2 2015, 12:56 P.M.

3 PRETRIAL MOTIONS AND TESTIMONY:

4 MOTION TO SUPPRESS:

5 THE COURT: Solicitor.

6 MR. TOPOREK: Thank you, your Honor. This is the
7 State of South Carolina versus Chad Bussell, Indictment
8 2013-GS-27-00505. This is the first case on our trial
9 docket, and this is a motion to suppress Defense has
10 made, and we're ready to proceed with testimony.

11 THE COURT: Mr. Hughes. Your motion to suppress is
12 to help you suppress?

13 MR. HUGHES: I beg your pardon?

14 THE COURT: Suppress what? I'm sorry.

15 MR. HUGHES: There was two bags that my client was
16 carrying when stopped by law enforcement. I'm moving to
17 suppress anything in those bags and their existence.

18 THE COURT: I've got it. Okay. All right.
19 Solicitor.

20 MR. TOPOREK: Thank you, your Honor. State calls
21 Jarvis Lessane.

22 MADAM CLERK: Come forward. Raise your right hand,
23 and put your left hand on the *Bible*. The testimony you
24 give the Court to be the truth, the whole truth, nothing
25 but the truth, so help you God?

1 JARVIS LESSANE: I do.

2 OFFICER JARVIS LESSANE

3 DIRECT EXAMINATION, BY MR. TOPOREK:

4 Q All right, Officer. Were you working with the
5 Jasper Sheriff's Office in October of 2013?

6 A Yes, sir.

7 Q And do you recall responding to a possible home
8 break-in on or about October 17th of 2013?

9 A Yes.

10 Q And please tell us, what information did you
11 receive about this possible break-in, and what did you
12 do after that?

13 A I was advised there was a white, male around
14 someone resident [sic]. The witness stated that he knew
15 the homeowner was out of town. He said that he observed
16 suspicious behavior of the subject. He stated the
17 subject was messing around the resident, owner's
18 resident. He stated he observed the subject walking on
19 carrying two large bags, and he
20 went on down to check out the subject.

21 Q And were you informed that the witness had
22 suspected a break-in?

23 A Yes.

24 Q Okay. And where did you actually respond to?

25 A I met -- I made contact with the subject on

1 , in the Ridgeland area.

2 Q Okay. And tell us about -- what did you see when
3 you responded, and talk about your initial contact with
4 the suspect.

5 A I observed the description that was given through
6 Dispatch. I observed the subject fitting the
7 description on , so I made contact
8 with him. I advised him the reason for the contact, and
9 I requested some sort of identification from him.

10 Q Okay. And when you say he matched the description,
11 did you observe him carrying any bags?

12 A Yes. He was carrying two large bags.

13 Q Okay. And were these bags -- was there a zipper?
14 Was it zipped shut, or was it shut in any way? Closed
15 off with a clasp in any way?

16 A No, it wasn't. You could've -- the middle was
17 open.

18 Q Okay. And when you made this initial contact with
19 him, were you able to see inside of those bags?

20 A Yeah, I did.

21 Q And what did you see?

22 A I observe a lot of cigar boxes, I believe in one of
23 the green-colored bag that he was carrying.

24 Q Okay.

25 A That was visible.

1 Q And again, you saw that when you just made this
2 initial contact with him.

3 A Correct.

4 Q Okay. After you got his I.D. and told him why you
5 were stopping him, what did you do after that?

6 A I ran his I.D. through the Jasper County
7 Communications Center, and at the time, Dispatch advised
8 me that the witness wanted a telephone call. So, I
9 called the witness, or the person that made this call to
10 Dispatch, and he told me that he had eyes on me and the
11 subject at that time. He told me I was with the correct
12 person.

13 Q Okay. So, did you contact this witness to make
14 sure you had the right guy?

15 A Correct.

16 Q Okay. What did you do after that? You had made
17 contact with him, and then you confirmed you had the
18 right guy. Did you ask him anything after that?

19 A I did ask for a consent to look inside the bags
20 that he was carrying.

21 Q Okay. And how did he respond?

22 A He told me that was fine.

23 Q Okay. Now, at that time, had you told him that he
24 was under arrest?

25 A No.

1 Q Was he placed in handcuffs during that time?

2 A No.

3 Q To you, did he appear impaired on intoxicated in
4 any way?

5 A No.

6 Q Was there anybody else out at that scene with you
7 at that time?

8 A Me, Major Hipp, Detective Crosby, Detective Morris,
9 and Detective Wright responded, too, I think.

10 Q Okay. Now, were they in the area, or were they
11 with you, speaking with the suspect?

12 A No, they was in the area.

13 Q They were just in the area?

14 A Correct.

15 Q Did you observe them speaking to the subject or
16 anything like that?

17 A Not at the time while I was speaking with him.

18 Q Okay. So, during that time, were you the only one
19 that had any verbal contact with the defendant? At the
20 time -- up until you asked for a consent to search the
21 bag, had any law enforcement spoken to the defendant,
22 other than you?

23 A I believe they made contact with him once I
24 gathered my information.

25 Q Okay. Specifically when you were asking for a

1 consent, was anybody else speaking to him either right
2 before or right after you asked him that?

3 A I believe --

4 Q What I'm trying to find out is if -- were there
5 multiple officers trying to maintain a conversation with
6 him?

7 A No, no.

8 Q Or were you the only one talking to him?

9 A I was the only one.

10 Q Okay. Now, let's kind of go back just a little
11 bit. Based on the information that you received from
12 Dispatch, plus what you observed when you saw the
13 suspect walking down the street, did you suspect that he
14 was involved in any criminal activity?

15 A Based on the information that I was given, and from
16 what I observed at the time, yes, it was some sort of
17 suspicious going on.

18 Q Okay. Did you suspect that he had been involved in
19 a break-in?

20 MR. HUGHES: Objection, your Honor. That's
21 extremely leading.

22 THE COURT: I'll sustain the objection.

23 MR. TOPOREK: Okay. Thank you, Officer. I don't
24 have anything further right now.

25 OFFICER JARVIS LESSANE,

1 CROSS-EXAMINATION BY MR. HUGHES.

2 Q Okay. Officer, when you saw my client walking down
3 the street, was he on the same side of the road as you
4 are, or on the other side?

5 A The direction that I was traveling, he was on the
6 same side I was on.

7 Q What were you in?

8 A A deputy sheriff patrol car.

9 Q Okay. Got your blue lights on?

10 A I did.

11 Q That car equipped with a video camera?

12 A I don't think it was.

13 Q Isn't it true that you actually saw him on the
14 other side of the street, and because he was walking,
15 facing traffic, and you were going with the traffic?

16 A What do you mean by that?

17 Q I mean, he was walking on the left side of the
18 road, facing traffic that would be coming toward him.
19 You were driving down the right-hand side of the road,
20 as we do in America. And you pulled up beside him.

21 A That may be true.

22 Q Okay. And you walked up to him, and you talked to
23 him. Correct?

24 A Correct.

25 Q And he sat his bags on the ground. He sat the bags

1 down, correct?

2 A Correct.

3 Q Now, isn't it true that, on the very top of the
4 bags were -- inside the bag were two other trash bags.

5 A I don't recall seeing any trash bags.

6 Q Okay. Then, you had him leave the bags and walk
7 over to the front of your patrol car. Correct?

8 A Correct.

9 Q Okay. Why would you have him go in front of your
10 patrol car?

11 A I asked him to step in front of my patrol car while
12 I made contact with Dispatch, be on the radio to run his
13 I.D. through, so that I could keep a clear vision of him
14 in my eyesight.

15 Q Okay. Standard procedure. I mean, it's what you
16 do. You want him where you can see him while you're in
17 the car working on the radio.

18 A Correct.

19 Q Was he under arrest?

20 A He wasn't.

21 Q Was he detained?

22 A After it was confirmed that the incident location
23 where he was stated to be, it was a break-in.

24 Q But while you were talking to him, was he free to
25 go?

2-9-15 STATE V. BUSSELL

PRETRIAL

CROSS - JARVIS LESSANE

1 A Yes.

2 Q Did you have his I.D. with you?

3 A I did.

4 Q Okay. So, he could not leave without his I.D.

5 Now, how many officers showed up to this scene?

6 Detective Hipp, Detective Morris, at least two other
7 detectives. Anymore uniforms?

8 A I may have been the only uniform officer at the
9 time.

10 Q But at least five law enforcement officers were
11 standing there talking to him, or around him, before he
12 was even taken into custody. Correct?

13 A Correct.

14 Q And you never returned his I.D. to him. Correct?

15 A Correct.

16 Q So, he was not free to leave, was he?

17 A Yes, he was free to leave.

18 Q Did you give him his I.D. back?

19 A No, sir.

20 Q Now, when you asked him if he could search -- if
21 you could search his bag, were there any detectives
22 around you?

23 A Yes.

24 Q Who?

25 A I believe Detective Morris.

1 Q Okay. And where was the bag when you asked that
2 permission?

3 A The last location he placed it at.

4 Q So, it was across the street from the car while he
5 was in front of the car.

6 A Yes.

7 Q And where was Detective Hipp parked? Detective
8 Hipp was in the pickup truck. Where was he parked?

9 A I don't recall.

10 Q Was anybody parked in front of your car?

11 A I don't recall.

12 Q Okay. When you first stopped my client, did you
13 move some trash bags away from the top of the other
14 bags, so that you could look inside?

15 A I didn't.

16 MR. HUGHES: No further questions, your Honor.

17 THE COURT: Any re-direct?

18 MR. TOPOREK: None, your Honor.

19 THE COURT: Thank you, sir. You may step down.
20 Anything else?

21 MR. TOPOREK: Yes. I do have one more witness.

22 THE COURT: Okay.

23 MR. TOPOREK: Detective Gary Morris.

24 MADAM CLERK: Raise your right hand, and place your
25 left hand on the *Bible*. The testimony you're about to

2-9-15 STATE V. BUSSELL

PRETRIAL

DIRECT - GARY MORRIS

1 give the Court be the truth, the whole truth, and
2 nothing but the truth, so help you God?

3 DETECTIVE GARY MORRIS: I do.

4 MADAM CLERK: Have a seat in the witness box.

5 DETECTIVE GARY MORRIS

6 DIRECT EXAMINATION, BY MR. TOPOREK.

7 Q Detective Morris, do you recall responding to this
8 Smith's Crossing area on October 17, 2013, in reference
9 to this case?

10 A Yes, sir.

11 Q And do you recall Deputy Lessane having a
12 conversation with the suspect?

13 A Yes, sir.

14 Q Where were you when he was having that
15 conversation?

16 A I believe I was standing at the rear of the car,
17 with Detective Wright and Major Hipp.

18 Q Okay. And at that time, were you having any
19 conversation or asking any questions of the suspect?

20 A No.

21 Q Okay. Did you overhear any of the conversation
22 between Deputy Lessane and the suspect?

23 A I heard Deputy Lessane ask for permission to look
24 in the bags.

25 Q Okay. And did you hear the defendant's response to

1 that?

2 A He said, yeah.

3 MR. TOPOREK: No further questions.

4 DETECTIVE GARY MORRIS

5 CROSS-EXAMINATION, BY MR. HUGHES:

6 Q Detective, you were at the back of the patrol car?

7 A Yes.

8 Q Two other detectives there?

9 A Yes.

10 Q And this conversation you overheard occurred at the
11 front of the patrol car?

12 A I believe they were more towards the front end,
13 between the fender and the passenger-side door.

14 Q On the left side or the right side of the car?

15 A Passenger side of the car.

16 Q Off the road?

17 A Off the road.

18 Q And who else was there with you, besides the -- was
19 it just the four officers, the two -- the one uniformed
20 and the three detectives? Or were there others?

21 A The witness was parked back down the road a piece.

22 Q Were there any other uniformed officers there?

23 A Not that I can recall.

24 Q Do you know if the uniformed officer's vehicle was
25 ever equipped with video cameras?

2-9-15 STATE V. BUSSELL

PRETRIAL

CROSS - GARY MORRIS

1 A Some are, some aren't. It depends on the car.

2 Q Were you the lead detective on this?

3 A No, I wasn't. Detective Wright is.

4 MR. HUGHES: No further questions, your Honor. Oh,
5 if I may?

6 BY MR. HUGHES:

7 Q Did you look in the bag?

8 A No.

9 MR. HUGHES: Okay. No questions.

10 THE COURT: Any re-direct?

11 MR. TOPOREK: None, your Honor.

12 THE COURT: Thank you. You may step down.

13 Anything else from the State?

14 MR. TOPOREK: The State doesn't have any further
15 witnesses for this motion.

16 THE COURT: Argument?

17 MR. HUGHES: I can put my client up, too, if you'd
18 like, your Honor.

19 THE COURT: I'd be glad to.

20 MR. HUGHES: Okay. Chad Bussell.

21 MADAM CLERK: Raise your right hand, and place your
22 left hand on the *Bible*. The testimony you're about to
23 give the Court be the truth, the whole truth, and
24 nothing but the truth, so help you God?

25 DEFENDANT BUSSELL: I do.

1 MADAM CLERK: Have a seat, and spell your name.

2 DEFENDANT CHAD JUNIOR BUSSELL

3 DIRECT EXAMINATION, BY MR. HUGHES:

4 Q Mr. Bussell, first, would you spell your last name,
5 for the court reporter.

6 A B/u/s/s/e/l/l.

7 Q Okay. Mr. Bussell, I'm going to limit my questions
8 to the bags, at first. When you were stopped by the
9 officers, what'd you do with the bags?

10 A As soon as I realized they pulled up next to me, I
11 stopped and sat the bags down. Myself.

12 Q What type of bags were these?

13 A One was a pillowcase-type material bag. Just open
14 at one end. And the other one had two of the rope
15 handles, like -- you know, it was a paper -- plastic-
16 type shopping bag with two handles on it.

17 Q Okay. Could you see inside those bags?

18 A No.

19 Q Why not?

20 A I had trash bags -- two clear -- well, they were
21 the white tran -- transition, whatever. They white
22 trash bags over top of the bag.

23 Q And did you ever touch the bags after the officer
24 came -- got there?

25 A No.

1 Q What did the officer do when you -- after he
2 stopped you?

3 A He approached me and asked for my license, which I
4 gave him. And he asked me if I had any guns, knives,
5 drugs, weapons, anything of that sort on me, and I said,
6 no, sir. At that time, he asked me to walk across the
7 road and step in front of his car. He never got back in
8 his car. He stood there with me, and called my license
9 in, and he made a phone call. And from there, people
10 started showing up.

11 Q Okay. Do you have any idea how many people showed
12 up?

13 A I'd say there was at least eight people there. A
14 couple I know were not officers. Well, at least one of
15 them I knew wasn't. The rest of them were detectives,
16 not in uniform. The only officer I knew there in
17 uniform was the officer here.

18 Q Did you feel like you were free to leave at any
19 time?

20 A Absolutely not.

21 Q Why not?

22 A Well, he -- he asked me to set my things down on
23 the other side of the road and step in front of his car
24 and stand in front of his car as he called my driver's
25 license in. At that point, I was following his orders,

1 and I was waiting for --

2 Q Did he ever ask if he could look in the bags?

3 A No.

4 Q Did you ever see him look in the bags?

5 A Yes.

6 Q Did you object to him looking in the bags?

7 A No. I just stayed in front of the car and never
8 said nothing.

9 Q Okay.

10 MR. HUGHES: No further questions, your Honor.

11 MR. TOPOREK: Very briefly.

12 DETECTIVE GARY MORRIS

13 CROSS-EXAMINATION, BY MR. TOPOREK:

14 Q There was no zipper on these bags that could have
15 been closed or anything like that, right?

16 A No.

17 Q There wasn't like a clasp or any type of clip that
18 would have shut the bags completely. Is that right?

19 A That's right.

20 Q Okay.

21 MR. TOPOREK: I don't have anything further.

22 THE COURT: You may step down, sir.

23 ARGUMENT:

24 MR. HUGHES: Your Honor, what we have is basically
25 a custodial interrogation. We have a search that was

1 done on a person's property without their permission.

2 The State has the ability to have recorded this.

3 Since the items that were inside the bag were
4 covered up, they were not in plain view. Somebody had
5 to move the covering to even see inside. The State
6 acted without permission. They violated my client's
7 rights for illegal search and seizure.

8 They also violated my client's *Miranda* rights by
9 taking him into custody, even though not officially. If
10 you've got five officers standing around you, and you're
11 holding someone's driver's license, they are in custody,
12 whether it has been officially or not. My client was
13 not free to leave. They questioned him.

14 Your Honor, I move to suppress the bags, the items
15 in the bags, and any mention of the bags, based upon a
16 violation of my client's civil rights, and the illegal
17 search and seizure on the part of the State.

18 THE COURT: All right. Thank you.

19 MR. TOPOREK: Thank you, your Honor. First, the
20 officer certainly had reasonable suspicion that he was
21 involved in some sort of criminal activity. Witness
22 calls Dispatch, tells them that he sees the guy messing
23 around the house, leaving the house carrying these two
24 bags, knew that the owner was out of town, and suspected
25 a break-in. The officer finds the person in that area

1 matching the description given carrying those bags, and
2 stops him.

3 We think, at that point, he certainly had
4 reasonable suspicion to stop him, find out who he was,
5 and what was going on. He even calls the witness prior
6 to even asking for consent or going further, to make
7 sure that he was with the right guy. Certainly, we
8 think that's reasonable suspicion.

9 As far as getting into the bag, the officer
10 testified that these bag -- and the defendant himself --
11 that these bags were open and that they were able to be
12 seen into. The officer testified under oath that he was
13 able to see several cigar boxes in one of the bags, in
14 plain view, and that was prior to -- that was when he
15 made the initial contact with the suspect.

16 We think it comes in through the plain view
17 exception. We also think it comes in through consent.
18 Two officers testified that consent was asked for and
19 consent was given to look into these bags. While there
20 were multiple officers out there, there was one that was
21 actually having contact that was actually talking to the
22 suspect at this time. He stated he wasn't impaired in
23 any way, didn't appear intoxicated. And he could have
24 said no. He didn't have handcuffs on. Certainly, there
25 was some blue lights flashing, and there were officers

1 there. But he could have said no, you don't -- you
2 can't look in my bags, and that would have been fine.

3 Certainly, we think consent was given voluntarily,
4 freely, and knowledgeably. If your Honor finds that it
5 doesn't come in under either of those exceptions, we
6 would say that it -- inevitable discovery clause. After
7 they searched the bag -- actually, while they were
8 searching the bag, during this process, detectives were
9 going back to the victim location, and when they got
10 there, they saw a broken window. And that that point,
11 they decided to place him under arrest. These bags
12 would have been searched incident to arrest, certainly
13 thereafter.

14 Your Honor, this isn't much -- this isn't different
15 from a traffic stop where an officer smells marijuana.
16 They walk up to a car, they pull them over, smell the
17 marijuana, and ask to look into the car, and they say,
18 yes, then, they can get into that car. They don't need
19 to be placed under arrest, read *Miranda*, served with a
20 search warrant at that point.

21 Same thing here. Officer gets information that
22 this guy carrying bags down the street leaving the house
23 was involved in a break-in. He goes up to him, gets his
24 I.D. information, and asked him if he can look into his
25 bag, and he says, yes. We think it comes in under any

1 of those exceptions.

2 Certainly, he had reasonable suspicion to stop the
3 guy and talk to him and find out what was going on. He
4 even took the extra step of contacting the witness
5 himself to make sure he had the right guy. Certainly,
6 he should have -- I mean, it would have been absurd for
7 him to just let him go. I mean, he had a guy saying
8 that he thought he broke into his neighbor's house, and
9 he got the guy.

10 THE COURT: Thank you, sir.

11 MR. HUGHES: Your Honor, I appreciate the State's
12 trying in this, but we have safeguards in this country.
13 At the time my client was stopped, there was no reported
14 crime, there was a reported suspicion. At the time the
15 bags were searched, there's been no testimony that a
16 crime was actually known about.

17 It is quite simple for law enforcement to get a
18 search warrant. They do it every day. Smith's Crossing
19 is approximately a quarter mile from the magistrate's
20 office. This was during the day. The magistrate was in
21 chambers or on the Bench. It would have been very
22 simple for them to have gotten a search warrant. They
23 didn't.

24 They took shortcuts, and are now depending upon the
25 Solicitor's Office to say, well, we didn't need -- we

1 took shortcuts, but it doesn't matter, cause, well, we'd
2 have done it right -- we'd have got it cleared up
3 anyway, because we were going to arrest him. They can't
4 do that, Judge. I mean, we have a process that is very
5 simple. They find out a crime has taken place, they've
6 got a suspect. Then, they can get a search warrant.
7 But finding someone, searching the bags, and then
8 discovering a crime, and then, after you've searched the
9 person's possessions, Judge, they did it wrong. They
10 shouldn't benefit from it.

11 THE COURT: Thank you, sir. I've read the State's
12 memorandum in opposition to the motion to suppress.
13 There are a few facts asserted in the memorandum, but
14 perhaps have not been testified to. Is there any
15 specific fact, though, that the Defense takes issue
16 with? There may be a couple of things in here that
17 haven't actually been testified to.

18 MR. HUGHES: Your Honor, I apologize. I skimmed
19 this. I did not read it in detail. I would question
20 the reasonable suspicion that a crime had been committed
21 to justify this under *Terry*.

22 THE COURT: Well, yes, I didn't mean conclusions.

23 MR. HUGHES: Okay.

24 THE COURT: What I meant, did you have any issues
25 with any of the allegations about the facts? I feel

1 sure you would disagree with the --

2 MR. HUGHES: Yes, sir.

3 THE COURT: -- conclusions.

4 MR. HUGHES: Well, your Honor, for one thing,
5 they're saying that a person other than the witness is
6 the one that identified -- this fact pattern that was
7 given, they say that the witness contacted a person, and
8 he's the one that identified the --

9 THE COURT: Say that again, sir.

10 MR. HUGHES: Okay.

11 THE COURT: Missing -- I'm missing something.

12 MR. HUGHES: The way I understand, someone sees the
13 suspicious person.

14 THE COURT: Right.

15 MR. HUGHES: Not only do they call law enforcement,
16 they call a third party. Blatchley was not the witness,
17 on the bottom of the first page. Blatchley was the
18 third person -- third party that was called. So. And
19 then, according to this, it was Blatchley was the one
20 that was following. Then, your Honor, like I said, I
21 have only skimmed this, so.

22 MR. TOPOREK: Your Honor, if I may? I've got
23 O'Neal Able and Keefe Blatchley here to testify, but I
24 don't know that it's necessary for this hearing, since
25 it goes back to what knowledge the officer had at the

1 time. And what he testified to was, he was informed a
2 witness had seen the defendant on the property, knew the
3 property owner wasn't home, saw him walking away from
4 the property carrying these bags, and the witness
5 suspected a break-in. I mean, this is the information
6 that the officer had when he made the stop, and that's
7 the basis of his reasonable suspicion for making that
8 stop. I was trying to avoid trying the whole case right
9 now, but we --

10 RULING:

11 THE COURT: Well, I agree. I find it was
12 reasonable suspicion to stop and detain, based on the
13 call that had been made from the neighbor, who knew the
14 owner was away, suspected a break-in, and saw the
15 individual carrying two bags away from the area of that
16 residence; and that the defendant matched the
17 description, generally.

18 The Court also finds that the consent to search was
19 given; that the detention was not unreasonable. The
20 period of time was not unreasonable. And that,
21 regardless, once the fact had been established that
22 there had been a break-in, they would have been
23 arrested, and the property would have been, inevitably,
24 discovered. And for all those reasons, I deny the
25 Defense motion. What else?

2-9-15 STATE V. BUSSELL PRETRIAL MOTION TO SUBMIT/RULING

1 MOTION TO SUBMIT AFFIDAVITS FOR
2 CHAIN WITNESS TESTIMONY:

3 MR. TOPOREK: Thank you, your Honor. We discussed
4 earlier, and I guess we should probably put this on the
5 record. As far as the SLED chain witnesses, I've drawn
6 up a motion as far as allowing a couple of the -- just
7 the custodial chain witnesses submitting affidavits in
8 place of their live testimony. I don't believe the
9 State's -- or, the Defense is going to object to that,
10 but I'll allow them to address that.

11 MR. HUGHES: Your Honor, I thank the Solicitor for
12 filing that motion. I generally do not object to the
13 middle of the chain, as provided that they -- because
14 it's simple. They come in, did you handle this, yes;
15 did you pass it on, yes. But I do thank the State for
16 going ahead and filing that motion, and I will not
17 object to the motion.

18 RULING:

19 THE COURT: All right. The motion is granted.
20 What else do we need to do?

21 MR. TOPOREK: I think that covers it, as far as
22 pretrial. I don't think any statements were made.
23 There's no *Jackson-Denno*. I think that's about it, as
24 far as pretrial.

25 THE COURT: Well, let's talk about it. We had

2-9-15 STATE V. BUSSELL PRETRIAL MOTION TO SUBMIT/RULING

1 ?talked briefly in chambers about this.

2 MR. TOPOREK: Um-hmm.

3 THE COURT: About the scheduling issue you have on
4 Wednesday that we may not know about until tomorrow
5 sometime, but whether we've got a court reporter
6 available on Wednesday or not.

7 Solicitor, did you tell me that, even if we started
8 and got a witness out of the way today, that we probably
9 could not give the case to the jury tomorrow?

10 MR. TOPOREK: I can't guarantee that. It's
11 possible, and I know -- I think Mr. Hughes -- we usually
12 can work pretty fast during these. I know it's a -- I'm
13 not trying to hand-tie anybody as far as questioning or
14 anything like that, but we typically work pretty fast.
15 I'm not sure. Is Wanda's appointment in the afternoon
16 on Wednesday or?

17 THE COURT: Yes, but the problem is --

18 MR. HUGHES: We don't want the jury to be coming --

19 THE COURT: -- we couldn't give it to the jury --
20 couldn't argue and charge and give the case to the
21 jury before lunch. And then, it's like, oh, and, by the
22 way --

23 MR. TOPOREK: Um-hmm. Right.

24 THE COURT: -- see you tomorrow.

25 MR. TOPOREK: I see that. I see that.

2-9-15 STATE V. BUSSELL PRETRIAL MOTION TO SUBMIT/RULING

1 THE COURT: That's going to be the problem. All
2 right. You all be prepared to at least make opening
3 statements today if we get to that.

4 MR. TOPOREK: Um-hmm.

5 THE COURT: If we get to that point.

6 MR. TOPOREK: Yes, sir.

7 THE COURT: But you actually have a witness you
8 could put up today?

9 MR. TOPOREK: I could -- that shouldn't be an
10 issue. It should be a very short witness. And I'm 99
11 percent certain she's available. We'll check on that
12 right now, but that shouldn't be a problem.

13 MR. HUGHES: Your Honor, I do --

14 THE COURT: You need one alternate juror?

15 MR. HUGHES: Sir?

16 THE COURT: You need one alternate, you think,
17 would be fine?

18 MR. HUGHES: I've seen too many cases fall apart
19 when we lose two jurors if we do that, your Honor.

20 MR. TOPOREK: I will say, for some reason, we got
21 bad luck when it comes to that.

22 THE COURT: All right.

23 THE COURT: We'll pick -- have two alternates.

24 MR. HUGHES: Okay. Your Honor, there is a Juror
25 Number 167, Rose Williamson.

2-9-15 STATE V. BUSSELL

PRETRIAL

MOTION TO BE RELIEVED

1 MADAM CLERK: I've already transferred her.

2 MR. HUGHES: You've already changed her? Okay.
3 Never mind. She's going to be a witness in this case.
4 I did not want her in the pool.

5 THE COURT: That would be a good idea.

6 MR. TOPOREK: Well, it's my victim's ex-wife, so I
7 don't know how helpful she would have been.

8 MR. HUGHES: I want her in the pool, your Honor.

9 REPORTER'S NOTE: Laughter.

10 THE COURT: All right. We'll be in recess 'til the
11 jury comes in. I guess you're getting ready to start
12 that now?

13 MADAM CLERK: Yes, sir.

14 OFF THE RECORD 1:34 P.M.

15 IN-CHAMBERS, MOTION TO BE RELIEVED

16 AS COUNSEL. PRESENT: THE COURT,

17 MR. TOPOREK; MR. HUGHES; DEFENDANT

18 BUSSELL:

19 THE COURT: All right. Solicitor, you indicated
20 there was a motion?

21 MR. TOPOREK: Yes. And again, this is for State
22 versus Chad Bussell, 2013-GS-27-00505. And I believe
23 the Defense has a motion.

24 MR. HUGHES: Yes, your Honor. My client has
25 requested that I move before this Court for my being

1 relieved as his counsel. He indicates that he wishes to
2 hire a private attorney.

3 THE COURT: You were appointed?

4 MR. HUGHES: Yes, sir. I'm with the Public
5 Defender's Office, so I was appointed to him.

6 THE COURT: All right.

7 MR. HUGHES: In 2013.

8 THE COURT: Were there grounds? Were there any
9 other grounds, or he just wanted to get a --

10 MR. HUGHES: That was it, your Honor. I'll let you
11 talk to him.

12 THE COURT: All right. I'd be glad to hear from
13 you on your reasons.

14 DEFENDANT BUSSELL: Yes, sir.

15 THE COURT: Why you wish to have another attorney.

16 DEFENDANT BUSSELL: Well, this is actually the
17 first time since October of 2013, when I was arrested,
18 that I've been in front of a judge to even ask for this,
19 because I've been -- I was informed that I'd have to ask
20 you; I couldn't do it any other way; that you were the
21 only one that could do it. So, this is my first time in
22 front of a judge since then. I -- I've been wanting to
23 do this for some time. I actually wasn't able to a year
24 ago, though, but now I've -- I'm working two jobs, and
25 I'm financially able to hire a court-appointed lawyer

1 [sic].

2 But not only that reason, but he has been my lawyer
3 since 2013, the end of, since October. And we haven't,
4 in over a year, almost two years, haven't really had a
5 chance to sit down and really speak with him. He's --
6 he's been so busy. He wasn't able to come see me that
7 often at the jail. And he told me somewhere right
8 around January of 2014 that the fingerprints came back
9 from the -- from my case, a set of fingerprints came
10 back, and that they were mine. And I asked him about
11 that, and he says, *well, I haven't had a chance to read*
12 *that yet, so I can't really speak with you on it.* You
13 know, he didn't know what to say. So, I said, *okay.*

14 Well, today, when I spoke with him, he told me
15 that, yesterday, he was actually handed the paperwork
16 for the -- of the fingerprints. So, now, he's actually
17 looking at the proof. So, he's had a year to look at
18 it. I feel like my lawyer isn't ready for trial, and I
19 didn't know I was going to be even starting trial this
20 week. I was under the impression that I would be having
21 a suppression hearing, but I didn't know that picking
22 jurors right after that is the process. I thought that
23 there would be more of a process than that, than going
24 straight in. I didn't know I was going to trial this
25 week, you know. And that may be my own ignorance, but I

1 didn't know that, your Honor. And I just --

2 And as you heard earlier, when you asked him about
3 the piece of paper where -- you asked him if there was
4 anything in that paper that he wanted to talk about,
5 remember? And he said, *well, I've only skipped over it;*
6 *I hadn't really had a chance to read it.* And that's the
7 kind of things that I'm talking about, like, if I'm
8 right here at this point, and my trial is this week,
9 this is my freedom and my life we're talking about. I
10 need my lawyer to be prepared for that, and not say,
11 well, your Honor, I haven't read it yet, you know.

12 I would like to hire -- I would like to hire a
13 lawyer that I know is going to be prepared, and has
14 talked with me, and -- and he -- he can convince me that
15 we're prepared for a trial, because I would like to take
16 this to trial.

17 THE COURT: Well, have you talked to a lawyer about
18 taking your case?

19 DEFENDANT BUSSELL: Well, no, I haven't, because I
20 -- I've just recently became able to financially hire a
21 lawyer. I don't have no family in this town, and just
22 recently, in the last two or three months, I've met some
23 really decent people, a husband and wife. They -- she
24 owns landscaping company; he owns a concrete company;
25 and I work for both of them. I work for her full-time,

1 and I work for him part-time. So, I'm making good money
2 now, and I can afford to get my own lawyer. I wasn't
3 able to do that up until this point.

4 But yes, I've definitely been trying to figure out
5 ways to come up with money to get a lawyer, and I had
6 not -- when I was in the county jail, I tried contacting
7 -- my mom contacted three or four lawyers for me, to see
8 if they could do a pro bono case for me, and she
9 couldn't find nobody to do that for me.

10 I've just been -- I was homeless when I got out of
11 jail last year. It would be in March of last year, I
12 believe it was. And I've, you know, I've worked hard to
13 get where I'm at now in just a year, financially stable.
14 And I don't even have my own place. I'm staying with
15 friends, so. But I am financially able to obtain a
16 lawyer or hire a lawyer now, if you would allow that.

17 THE COURT: What's the State's position on the -- I
18 guess, if the defendant does not have -- if we relieve
19 current counsel, he won't have a lawyer, which means, of
20 course, we'd have to postpone the trial to some other
21 date 'til he hires some other lawyer. And of course --
22 the problem, of course, is, if he can't hire another
23 lawyer, you're back in the boat of having to have a
24 public defender.

25 DEFENDANT BUSSELL: Your Honor, I will hire a

1 lawyer. That's -- I mean, if me and you have to make
2 some kind of agreement between me and you to where I
3 have a lawyer within the next two weeks, I can agree to
4 that, and I can -- I can assure you that I'll have a
5 paid lawyer between now and then. I'd just ask that you
6 give me a week or two to be able to prove that I can --
7 I can hire a lawyer. But yeah, that's -- that would be
8 -- that would be what I'd like.

9 MR. TOPOREK: Your Honor, obviously, I can't
10 comment on any discussions or meetings, or anything that
11 Mr. Hughes has done with his client, but, I mean, he was
12 arrested on October 17th of 2013. This is not a new
13 case by any stretch. The facts have stayed the same
14 since then.

15 We got some fingerprint results a couple months
16 after that. Those were given to Defense counsel. You
17 know, we're ready to go for trial. I mean, this was put
18 on the trial docket on January 22nd. Defense was aware
19 of that, and we, obviously, were aware of that. We've
20 been getting it ready. We're ready to try the thing.

21 DEFENDANT BUSSELL: Your -- your Honor, may I say
22 one more thing?

23 THE COURT: Sure.

24 DEFENDANT BUSSELL: He just said that, a couple
25 months after my arrest, the fingerprints were presented

2-9-15 STATE V. BUSSELL PRETRIAL MOTION TO CONTINUE/RULING

1 to the Defense. He's my defense, right? He just told
2 me today that he just got the paperwork yesterday on the
3 fingerprints.

4 MR. HUGHES: I can explain that, your Honor. I was
5 informed by the Solicitor's Office that the fingerprints
6 had come back positive my client. I did not get the
7 paperwork saying that until last week. But I trust the
8 Solicitor's Office to tell me the truth, and I relayed
9 that to the client.

10 MOTION TO CONTINUE:

11 Your Honor, on behalf of my client, I will move to
12 continue this case until the April term of court, to
13 give him a chance to hire a private attorney.

14 RULING:

15 THE COURT: I'm going to have to deny the motion.
16 Which, I guess, means, if things are going, as the
17 Solicitor indicated earlier, we'll be picking a jury, or
18 qualifying a jury, beginning in about thirty minutes,
19 picking a jury and proceeding with the case this
20 afternoon or in the morning.

21 MR. HUGHES: Your Honor, in that case, I would
22 request that the jury not be sworn until tomorrow
23 morning, giving my client at least time to contact
24 attorneys to see if they -- this afternoon, after the
25 jury has been selected, to see if there's a possibility

2-9-15 STATE V. BUSSELL PRETRIAL MOTION TO CONTINUE/RULING

1 of a private attorney being hired, or saying that he's
2 willing to take the case, and coming in before your
3 Honor tomorrow morning to move at that time on his
4 behalf.

5 DEFENDANT BUSSELL: I could do that, your Honor. I
6 could hire a lawyer by tomorrow.

7 THE COURT: All right. We'll wait until 9:15 in
8 the morning to swear a jury.

9 MR. HUGHES: Thank you, your Honor.

10 MR. HUGHES: And we'll still pull the jury --

11 THE COURT: But if there's anybody -- if there's
12 any thought that we won't swear the jury because some
13 lawyer says he might take the case, --

14 MR. HUGHES: No, I want it --

15 THE COURT: -- that's not an option.

16 MR. HUGHES: Let the lawyer come in, appear before
17 you --

18 THE COURT: There's got to be a lawyer on the
19 record that says he's going to take the case before we
20 would consider not doing it.

21 MR. HUGHES: All right. You understand?

22 THE COURT: And of course, the Solicitor is still
23 going to object to doing it then.

24 DEFENDANT BUSSELL: Um-hmm. Yes, I am.

25 THE COURT: He's still going to object to a

2-9-15 STATE V. BUSSELL PRETRIAL MOTION TO CONTINUE/RULING

1 continuance. I assume.

2 MR. TOPOREK: Yes.

3 THE COURT: Based on what you've said so far.

4 MR. TOPOREK: Yes, that is true, your Honor.

5 THE COURT: All right. But we'll wait 'til in the
6 morning, just to see.

7 MR. HUGHES: Thank you.

8 THE COURT: Okay.

9 MR. TOPOREK: Okay. So, obviously, that was -- no
10 openings or witnesses today if we wait until tomorrow.

11 THE COURT: Yes. Okay. We'll do it that way.

12 MR. TOPOREK: All right.

13 THE COURT: Okay.

14 MR. TOPOREK: Thank you, your Honor.

15 MR. HUGHES: Alex, about how long are you -- you're
16 going to have probably between 3:45 and 5:00 o'clock to
17 get your lawyer.

18 DEFENDANT BUSSELL: I'll have between when?

19 MR. HUGHES: Between 3:45 --

20 MR. TOPOREK: Well, it sounds like you need to have
21 him here at 9:15 tomorrow morning.

22 MR. HUGHES: Yeah, they're going to have to be here
23 at 9:15 in the morning, so you're going to have to --

24 DEFENDANT BUSSELL: Between now and then.

25 MR. HUGHES: Um-hmm. Let me ask you a quick

2-9-15 STATE V. BUSSELL PRETRIAL MOTION TO CONTINUE/RULING

1 question. Do you mind if I waive your presence here
2 today, and go ahead and select a jury without you here,
3 while you attempt to find an attorney for yourself?

4 DEFENDANT BUSSELL: That would be fine.

5 MR. HUGHES: Okay. Your Honor, I am waiving my
6 client's presence at the jury selection.

7 THE COURT: And qualification, I guess?

8 MR. HUGHES: And qualification.

9 THE COURT: Okay.

10 MR. HUGHES: You understand what that means. I'll
11 pull a jury today.

12 DEFENDANT BUSSELL: Right.

13 MR. HUGHES: And if you do not get an attorney by
14 9:15 in the morning, that will be the jury that we will
15 be going forward with trial tomorrow.

16 DEFENDANT BUSSELL: Right.

17 MR. HUGHES: Okay.

18 THE COURT: And while we're talking about all that,
19 I guess we ought to go ahead and say, if he doesn't --
20 well, either way, your client has to be here --

21 MR. HUGHES: Right. At 9:15.

22 THE COURT: -- in the morning --

23 MR. HUGHES: Right. Or a bench warrant will be --

24 THE COURT: -- or the trial will go on without him.

25 MR. HUGHES: Right.

2-9-15 STATE V. BUSSELL PRETRIAL MOTION TO CONTINUE/RULING

1 THE COURT: If he fails to appear. Okay.

2 MR. TOPOREK: And --

3 MR. HUGHES: Your best interests is to go now. If
4 you want an attorney, you've got three hours to find
5 one, and they have to be here at 9:00 o'clock tomorrow
6 morning, and so do you.

7 DEFENDANT BUSSELL: Okay.

8 MR. HUGHES: Because, if you are not and he is not,
9 they will have a trial. I may be sitting next to an
10 empty chair, but --

11 DEFENDANT BUSSELL: Okay.

12 MR. HUGHES: -- that's where we stand right now.

13 DEFENDANT BUSSELL: I understand.

14 MR. HUGHES: Okay.

15 DEFENDANT BUSSELL: All right.

16 THE COURT: Okay.

17 MR. HUGHES: Is there anything else you can think
18 of?

19 THE COURT: Solicitor?

20 MR. TOPOREK: Nothing else. I do have voir dire
21 and a witness list I put on your desk.

22 MR. HUGHES: Yeah, it's not a problem.

23 THE COURT: Okay. All right. Thank you.

24 MR. TOPOREK: Thank you, sir.

25 MR. HUGHES: Mr. Bussell, come back tomorrow

1 morning with an attorney, or --

2 DEFENDANT BUSSELL: 9:00 o'clock.

3 MR. HUGHES: -- prepare for trial.

4 DEFENDANT BUSSELL: All right.

5 COURT REPORTER: On the record? Off the record?

6 MR. HUGHES: Off the record.

7 END IN-CHAMBERS CONFERENCE.

8 OFF THE RECORD 2:03 P.M.

9 BACK ON THE RECORD 2:33 P.M.

10 JUROR QUALIFICATION, BY THE COURT:

11 THE COURT: Good afternoon, ladies and gentlemen.

12 RESPONSES FROM JURORS.

13 THE COURT: Please be seated. My name is Brooks
14 Goldsmith. I'm a retired circuit judge. About a year
15 and a half ago, up until about a year and a half ago, I
16 was a resident circuit judge in the 6th Circuit,
17 Chester, Fairfield, and Lancaster County. I lived in
18 Lancaster County. I retired, moved to Edisto Island,
19 and now working a what's called an active retired
20 schedule of two or three weeks a month. It's my
21 pleasure to be with you for this one-week term of
22 General Sessions, sometimes referred to as criminal
23 court.

24 Your duty or obligation of jury duty is not
25 expected to last any longer than this week.

1 We do understand that you being here, for the most
2 part, most of you would prefer not to be here, and we
3 understand you'd rather be somewhere else. We're going
4 to try to not inconvenience you anymore than we have to.
5 We'll do our best. And sometimes I know it may not seem
6 like that as the week goes on, but we are going to try
7 to do our best.

8 In just a few moments, I'm going to ask you some
9 questions to determine your qualification and your
10 eligibility to serve as jurors. For the most part, none
11 of you will have to respond or do anything, but I do ask
12 you this. If you need to respond, stand, try to speak
13 distinctly. We might have to get a microphone over to
14 you. But when you stand, give me your name and your
15 juror number, and tell me why you stood. And once
16 again, most of you won't be required to respond at all.

17 As to a couple of you, it's possible that a couple
18 of the questions you might find to be personal, and
19 prefer not to answer it in the presence of everyone in
20 the building. And if that's the way you feel, just tell
21 me. When you stand up, give me your name and number and
22 say, can I answer that later? And at the end of all the
23 questioning, what I'll let you do is come down front,
24 and we'll speak a little more privately about it.

25 Once again, if you need to respond, try to speak

1 distinctly so that I can hear you, and give me your name
2 and number, and tell me why you stood. But, as you will
3 see, for the most part, you won't be required -- most of
4 you won't be required to stand or respond at all.

5 The first question, for instance, is there any
6 member of the jury panel who is not a citizen of the
7 United States of America? If so, please stand.

8 Is there any member of the jury panel who is not a
9 resident and citizen of Jasper County, South Carolina?
10 If so, please stand.

11 Is there any -- I do have one standing. Every now
12 and then, somebody moves out of the county, and still
13 gets a jury notice.

14 MADAM CLERK: Number 140.

15 THE COURT: Juror 140. Yes, sir.

16 JUROR NUMBER 140: Peter Singleton. I'm moving to
17 Hampton County.

18 THE COURT: You are going to, or you already have?

19 JUROR NUMBER 140: Already have.

20 THE COURT: Have you changed your driver's license?

21 JUROR NUMBER 140: No, sir.

22 THE COURT: You're going to need to do that. Every
23 now and then, I'll run into somebody who has moved and
24 forgot to change their driver's license at the
25 Department of Motor Vehicles, and notices concerning

2-9-15 STATE V. BUSSELL

JUROR QUALIFICATION

1 your license go to your last known address. If you
2 don't have a forwarding, or if you outlive your
3 forwarding, and somebody use your driver's license and
4 number when they get stopped -- and I've actually had
5 that happen a couple of times -- your license gets
6 suspended, you don't even know it.

7 What's your address in Hampton County?

8 JUROR NUMBER 140: , Yemessee,
9 South Carolina 29905.

10 THE COURT: All right. We'll see that the clerk in
11 Jasper County puts your name on the roll. But you don't
12 have to stay here with us. You're excused.

13 JUROR NUMBER 140: Thank you.

14 THE COURT: Thank you for coming.

15 Is there any member of the jury panel who is unable
16 to read, write, speak, or understand the English
17 language? If so, please stand?

18 Does any member of the jury panel have less than a
19 sixth grade education or its equivalent? If so, please
20 stand.

21 Is there any member of the jury panel who is unable
22 because of a mental or physical infirmity to render
23 efficient jury service this week, for example, does any
24 member of the jury panel have a medical condition that
25 would interfere with your ability to serve on jury duty?

1 If so, please stand.

2 JUROR NUMBER 27: I'm Adrena Chatman.

3 THE COURT: And let me get your name and number.
4 Yes, ma'am.

5 JUROR NUMBER 27: I'm Juror Number 27.

6 THE COURT: Yes, ma'am.

7 JUROR NUMBER 27: I do have medical conditions with
8 my heart, my lungs and all that. And I don't know if
9 that's -- but I do have those problems.

10 THE COURT: Let me ask you a couple questions. I
11 wasn't here earlier. Are you employed anywhere?

12 JUROR NUMBER 27: No.

13 THE COURT: Okay. This is really -- this question,
14 really, is for everybody here, but we typically try to
15 take a break every half -- hour and a half or so.

16 JUROR NUMBER 27: Um-hmm.

17 THE COURT: We typically try to conclude the
18 business of the Court by 5:00 o'clock. Sometimes, it's
19 a little bit later. But most of the time, we try to
20 conclude it by 5:00 o'clock.

21 JUROR NUMBER 27: Um-hmm.

22 THE COURT: Start at 9:00 or 9:30 in the morning,
23 take a lunch break. And if, at any time, you were
24 selected on a jury, if, at any time, you need to take a
25 personal break and I haven't said anything about, let's

2-9-15 STATE V. BUSSELL

JUROR QUALIFICATION

1 take a recess, I'd like for you or anyone else who needs
2 a break to raise their hand, or do something to get my
3 attention or a bailiff's attention, so that we can take
4 a break.

5 I oftentimes tell people this, that, if I need a
6 break, all I really do is say, all right, we're going to
7 be at recess for ten minutes. But if you're a juror,
8 you know, you can't really do that. But if you'll just
9 raise your hand and, you know, get my attention, we'll
10 take a break.

11 Now, having said all of that, do you think that
12 your conditions that you've described would permit you
13 to serve on jury duty? I mean, could you do it?

14 JUROR NUMBER 27: Yeah, I think I could do it, but
15 like, after you put it that way, that, if I need a
16 break, I can raise my hand.

17 THE COURT: Yes, ma'am.

18 JUROR NUMBER 27: Then, that's good.

19 THE COURT: That applies to you and everybody else
20 out here.

21 JUROR NUMBER 27: Okay. Thank you.

22 THE COURT: All right. Thank you, ma'am.

23 Has any member of the jury panel been convicted by
24 way of a guilty plea or a trial, in a state or federal
25 court of record, of a crime punishable by imprisonment

1 for more than one year, and your civil rights have not
2 been restored by way of pardon or amnesty?

3 And punishable by more than one year means that you
4 could have received a sentence of more than one year,
5 regardless of what sentence you may have actually
6 received. So, if that applies to you, please stand and
7 give us your name and juror number. Yes, sir.

8 JUROR NUMBER 12: Michael Benton, Juror Number 12.

9 THE COURT: Yes, sir.

10 JUROR NUMBER 12: I was arrested in Beaufort County
11 about four years ago, and I was looking at four or five
12 years, but all charges got dismissed in court, though,
13 and I have not had my record expunged yet.

14 THE COURT: Well, let me ask you this. You said
15 that you were facing a certain amount of time, but when
16 you got to court, eventually, everything was dismissed?

17 JUROR NUMBER 12: Yes, sir.

18 THE COURT: Which, I take it, means you don't have
19 a conviction on your record.

20 JUROR NUMBER 12: No, sir, there's no conviction on
21 my record.

22 THE COURT: Might be an arrest or a charge or
23 something.

24 JUROR NUMBER 12: It was a felony arrest with no
25 conviction.

2-9-15 STATE V. BUSSELL

JUROR QUALIFICATION

1 THE COURT: Well, the good news and the bad news is
2 that you still get to stay with me on jury duty.

3 JUROR NUMBER 12: Okay.

4 THE COURT: All right?

5 JUROR NUMBER 12: All right.

6 THE COURT: Thank you, sir. Only a conviction
7 would disqualify you from serving on jury duty.

8 JUROR NUMBER 12: Okay.

9 THE COURT: Is there any member of the jury panel
10 who is a clerk or a deputy clerk of court, a constable,
11 a sheriff, or some other commissioned law enforcement
12 officer, or a probate judge, a county commissioner, a
13 magistrate, or some other county officer, or are you
14 employed within the walls of any courthouse? If so,
15 please stand.

16 UNIDENTIFIED JUROR: Would you repeat that again,
17 your Honor?

18 THE COURT: I will. It covers a lot. I agree with
19 you. Is there any member of the jury panel who is a
20 clerk or a deputy clerk of court, a constable, a
21 sheriff, or some other commissioned law enforcement
22 officer, a probate judge, a county commissioner, a
23 magistrate, or some other county officer; or are you
24 employed within the walls of any courthouse? And this
25 is referring to, are you currently one of these, as

1 opposed to previously.

2 In other words, you may have been a clerk of court
3 at one time, but that wasn't the question. So, okay.
4 Thank you.

5 Is there any member of the jury panel who has
6 previously served on jury duty in circuit court this
7 year? If so, please stand.

8 And is there any member of the jury panel who has
9 served as a member of the Jasper County Grand Jury in
10 the past few years? If so, please stand. And give us
11 your name and number.

12 JUROR NUMBER 56: My name is Jackie Ford. I served
13 last year. I think it might have been last year or a
14 couple years ago. I can't remember.

15 THE COURT: All right. Give me your -- your
16 number, again, is what?

17 JUROR NUMBER 56: I don't remember, actually.

18 MADAM CLERK: 56.

19 THE COURT: 56?

20 MADAM CLERK: I will check.

21 THE COURT: Hold on one minute. You think you
22 served on the Jasper County Grand Jury last year?

23 JUROR NUMBER 56: I can't remember, sir.

24 THE COURT: And could check on that, Madam Clerk?

25 MADAM CLERK: I'm checking.

2-9-15 STATE V. BUSSELL

JUROR QUALIFICATION

1 THE COURT: We're checking on it, and I'll be right
2 back with you. And there's someone else who stood.
3 Yes, ma'am. Your name and number?

4 JUROR NUMBER 168: Kemia Wilson, Juror Number 168.
5 I served last year. I think it was last year, also.

6 THE COURT: We're going to check on that, too.

7 MADAM CLERK: Mr. Ford was 2011.

8 THE COURT: Okay.

9 MR. TOPOREK: Was that for grand jury, or for --

10 MADAM CLERK: No, that was regular jury.

11 THE COURT: Not the grand jury. Okay.

12 MADAM CLERK: Ms. Wilson was 2013.

13 THE COURT: Time flies. Is that going to be an
14 issue, Solicitor, 2013?

15 MR. TOPOREK: Um-hmm.

16 MADAM CLERK: Can't serve in the last twelve
17 months, but can serve in three, if they so desire.

18 THE COURT: I'm sorry?

19 MADAM CLERK: They can serve in the last three if
20 they want to, but it's a three-year exemption.

21 THE COURT: I want to make sure she wasn't on the
22 grand jury.

23 MADAM CLERK: She wasn't on the grand jury.

24 THE COURT: Okay.

25 MADAM CLERK: No, she was a regular juror.

1 THE COURT: Oh, 168? Oh, I'm sorry. I
2 misunderstood.

3 MADAM CLERK: Neither one with grand jury.

4 THE COURT: I misunderstood. Okay.

5 MR. TOPOREK: That was for a petit jury?

6 MADAM CLERK: Petit jury.

7 THE COURT: Petit jury.

8 THE COURT: All right. We now move to jury
9 exemptions. State law provides for several exemptions
10 to jury service. You may be qualified, but the
11 Legislature has determined that, for certain individuals
12 or certain categories of people, you just simply do not
13 have to serve on jury duty if you choose not to.

14 For instance, those of you who may be 65 years of
15 age or older have the right not to serve. We would like
16 for you to serve. We welcome you serving. But the
17 Legislature has determined, if you are 65 or older, you
18 simply are not required to serve unless you wish to.
19 So, if anyone is in that category and wishes to be
20 exempted, please stand. And you'll have to give me your
21 name and number again.

22 JUROR NUMBER 8: I don't remember my number.

23 MADAM CLERK: Juror Number 8.

24 THE COURT: Number 8. You may speak. Yes, ma'am.

25 JUROR NUMBER 8: I am over 65.

2-9-15 STATE V. BUSSELL

JUROR QUALIFICATION

1 THE COURT: I know.

2 JUROR NUMBER 8: Yes, sir.

3 THE COURT: I can see it here. Does that mean we
4 can't talk you into staying?

5 JUROR NUMBER 8: No, sir.

6 THE COURT: Well, we appreciate you coming, anyhow,
7 but you are excused, if that's what you wish.

8 JUROR NUMBER 8: Yes, thank you.

9 THE COURT: Yes, ma'am. And yes, ma'am.

10 JUROR NUMBER 54: Jacquelyn A. Fields. Ms.
11 Bostick, I don't remember the number.

12 MADAM CLERK: Juror Number 54.

13 THE COURT: 54.

14 JUROR NUMBER 54: Thank you.

15 THE COURT: Yes, ma'am. And --

16 JUROR NUMBER 54: I would very much like to serve,
17 but I am the caregiver for two people, my 92-year-old
18 mother and an 83-year-old cousin, who is in the nursing
19 home in Savannah. And I primarily take care of the two
20 of them.

21 THE COURT: And you don't have anybody else to take
22 care of them, anyhow?

23 JUROR NUMBER 54: 24/7 for my mother, and whenever
24 I transport myself between Ridgeland and Georgia.

25 THE COURT: Well, actually, that was a question

1 that I was going to ask in just a few moments. And I
2 can go ahead and ask it now --

3 JUROR NUMBER 54: Okay.

4 THE COURT: -- while you're standing here, but it
5 sounds like to me you qualify.

6 If you are the caretaker of someone who is 65 years
7 of age or older, or a severely disabled person who can't
8 be left alone and has to have care, and there's no one
9 available to care for them, you may be exempted from
10 jury duty. So, you wish -- you would like to, but you
11 need to be exempted, is what you're telling me?

12 JUROR NUMBER 54: I would -- I would like to. I
13 would very much like to, because I've never have served.
14 So, it would be a pleasure, but because of my mother
15 illness and my other relative illness, it's -- for me to
16 stay for the remainder of the week would be a difficulty
17 for me and for them.

18 THE COURT: Okay. And what was your -- her number,
19 again, was what?

20 MADAM CLERK: 54.

21 THE COURT: 54. All right. We will excuse you.

22 JUROR NUMBER 54: Thank you very much.

23 THE COURT: Yes, ma'am.

24 JUROR NUMBER 54: Have a good day.

25 THE COURT: Anyone else fall in that category of

2-9-15 STATE V. BUSSELL

JUROR QUALIFICATION

1 being a care taker for someone 65 or older, or a
2 severely disabled?

3 Another exemption concerns prior jury service. No
4 person is required to serve on jury duty more often than
5 once every three calendar years. Therefore, if anyone
6 has served on jury duty in the prior two calendar years
7 and you wish to be exempted, please stand. But you
8 don't have to. All right. And let me go ahead -- and
9 let me get -- let me go down the list again. I've
10 forgotten your number, ma'am.

11 JUROR NUMBER 168: 168.

12 MADAM CLERK: She served in 2013.

13 THE COURT: Thank you. You're in that category.

14 JUROR NUMBER 168: Thank you.

15 THE COURT: Thank you, ma'am. And the lady in the
16 middle there. Yes, ma'am. Your name and number?

17 JUROR NUMBER 90: Joanna Lake, 90.

18 THE COURT: All right.

19 JUROR NUMBER 90: I think it was two years ago I
20 served.

21 THE COURT: You served when?

22 JUROR NUMBER 90: Two years ago.

23 THE COURT: Two? Hang on one minute. It was here
24 in this --

25 JUROR NUMBER 90: Yes, it was.

1 THE COURT: While we're looking. And then, let me
2 try -- yes, sir, your number again?

3 JUROR NUMBER 12: Number 12. I believe it was last
4 year, and I served here in this courtroom.

5 MADAM CLERK: Ms. Lake, was it under another name?

6 JUROR NUMBER 90: No, ma'am.

7 MADAM CLERK: I have 2010, Joanna Lake. Joanna
8 Lake.

9 JUROR NUMBER 90: It couldn't have been that long
10 ago. I hope it was two years ago.

11 THE COURT: Could have been a few years ago,
12 though?

13 MADAM CLERK: I'll have to check.

14 JUROR NUMBER 90: No, it wasn't 2010.

15 MADAM CLERK: Okay. We can check down -- I'll
16 check downstairs and make sure. You go check her card?

17 And Mr. Benton was May of 2013. He served in 2013,
18 Mr. Benton.

19 THE COURT: So, you -- all right. I'm sorry, which
20 number was that?

21 MADAM CLERK: Number 12.

22 THE COURT: Number 12. Mr. Benton, you apparently
23 do have the option not to serve on jury duty, if you
24 choose not to serve. What's your pleasure?

25 JUROR NUMBER 12: Appreciate it.

2-9-15 STATE V. BUSSELL

JUROR QUALIFICATION

1 THE COURT: Thank you for coming. You're excused.
2 And I believe we're still checking on Ms. Lake?

3 MADAM CLERK: Yes, sir.

4 THE COURT: We'll be back with you shortly, Ms.
5 Lake. I'm going to move ahead with some other
6 questions, though.

7 A similar question to one I asked earlier. Is
8 there anyone who has served on the Grand Jury in the
9 past five calendar years and wishes to be exempted? If
10 you served on the Grand Jury in the past five calendar
11 years, you have the right to be exempted. So, if that
12 applies to you and you wish to be exempted, please
13 stand.

14 The next exemption deals with those of you who have
15 legal custody of young children. That you may be exempt
16 if you have a child under the age of seven and you have
17 legal custody of the child, and you have the principle
18 care, responsibility, and control of the child, and
19 you're unable to make arrangements for anyone to take
20 care of the child while you are on jury duty. If all of
21 these requirements apply to you and you wish to be
22 exempted, please stand.

23 MADAM CLERK: You have someone standing.

24 THE COURT: Your name and number. Yes, ma'am.

25 JUROR NUMBER 124: Shanika Pinckney, and I don't

1 know my number.

2 MADAM CLERK: Number 124.

3 THE COURT: 124. Yes, ma'am. Tell me about your
4 situation, and try to speak up.

5 JUROR NUMBER 124: My child is nine months and I --

6 COURT REPORTER: I'm sorry, I can't hear you.

7 JUROR NUMBER 124: This my first time and going --

8 COURT REPORTER: We're going to need the
9 microphone. I'm sorry. Just -- there you go.

10 JUROR NUMBER 124: My child is nine months, and
11 this is my first time on this --

12 THE COURT: Try it one more time.

13 JUROR NUMBER 124: I'm having troubles finding
14 somebody to keep him.

15 THE COURT: You got that, Wanda?

16 COURT REPORTER: I did. Thank you.

17 THE COURT: Did you say you had a child that's nine
18 months old?

19 COURT REPORTER: She has a child that's nine months
20 old, and she's having trouble finding someone to keep
21 her. Right?

22 JUROR NUMBER 124: Yes.

23 THE COURT: Is that it? Okay. If you're unable to
24 find anyone to take care of the child while you're
25 performing jury duty, you're entitled to be exempted.

2-9-15 STATE V. BUSSELL

JUROR QUALIFICATION

1 Do you wish to be exempted?

2 JUROR NUMBER 124: (Nodded head.)

3 THE COURT: Okay. All right. Thank you, ma'am.
4 Thank you, sir.

5 The next exemption involves those who may be
6 attending school or working at a school, and if this
7 applies to you, we could arrange for a transfer to
8 another term of court that wouldn't interfere with your
9 school responsibilities. But if you are a full-time
10 student or working at a school in some capacity, and you
11 wish to apply for a transfer, please stand.

12 And your name and number. Yes, ma'am.

13 JUROR NUMBER 170: Number 170, Marcella Woods. I'm
14 working at a school full-time, and if we could do it in
15 the summer, it would be better.

16 THE COURT: We can do that. And you will send them
17 another notice?

18 MADAM CLERK: Yes, sir, I will.

19 THE COURT: Let me tell you a quick story about
20 school teachers. I had a lady stand up one time -- or,
21 didn't stand up, I'm sorry -- who had already identified
22 herself as a teacher at a middle school. And when she
23 didn't stand up to ask to be exempted, I said, *Ms.*
24 *Johnson*, or whatever her name was, I said, *you know,*
25 *you're entitled to be exempted if you want to.* She

1 looked at me like I was crazy. She said, *oh, no, I'm*
2 *going to take my free week off and stay here with you.*

3 But we'll transfer you to another term, and you'll
4 get another notice.

5 JUROR NUMBER 170: Okay.

6 THE COURT: Thank you for coming.

7 JUROR NUMBER 170: Thank you.

8 MR. TOPOREK: I'm sorry, your Honor. What --

9 MADAM CLERK: That's 170.

10 THE COURT: 170.

11 MADAM CLERK: Ms. Lake, Juror Number 90, was it
12 here in this courtroom?

13 JUROR NUMBER 90: Yes.

14 MADAM CLERK: And it was not under another name?

15 JUROR NUMBER 90: No.

16 MADAM CLERK: The only time I have you is 2010.
17 She's checked our cards, and we keep those for four
18 years.

19 JUROR NUMBER 90: Okay.

20 MADAM CLERK: We don't have a card on you.

21 JUROR NUMBER 90: Okay. All right.

22 MADAM CLERK: Okay.

23 THE COURT: Is there any member of the jury panel
24 who is employed with the Department of Corrections at a
25 penitentiary and would like to be exempted? If so,

1 please stand.

2 Is there any juror who performs services for a
3 business, a commercial or agricultural enterprise, and
4 you are so essential to the operation of that business
5 that, if you are required to serve on jury duty, the
6 business would be required to close or cease
7 functioning? If that applies to you and you wish to be
8 exempted, please stand.

9 And your name and number. Yes, ma'am.

10 JUROR NUMBER 171: Linda Woods, 171.

11 THE COURT: 171. Yes, ma'am.

12 JUROR NUMBER 171: I'm a martial arts instructor.
13 The only instructor, other than my teenaged daughter,
14 who cannot run the business alone.

15 THE COURT: So, this is your business.

16 JUROR NUMBER 171: Yes.

17 THE COURT: And you operate what hours and days?

18 JUROR NUMBER 171: Monday and Wednesday, 5:00 to
19 7:00; Tuesday and Thursday, 4:00 to 8:00.

20 THE COURT: Generally, evening hours. Is that --

21 JUROR NUMBER 171: Yes, sir. Well, wait. The
22 first class on Mondays and Wednesday is 5:00; Tuesday
23 and Thursday is 4:00, so late afternoon.

24 THE COURT: You're talking about 4:00 and 5:00 p.m.

25 JUROR NUMBER 171: Yes.

1 THE COURT: Okay.

2 JUROR NUMBER 171: Late afternoon.

3 THE COURT: Let me ask you this. What happens when
4 you (a) are either are sick or take a vacation?

5 JUROR NUMBER 171: I don't get sick, and I only
6 take vacation once a year. That's in Vegas, when I go
7 to train for two weeks, and we close for those two
8 weeks.

9 THE COURT: So --

10 JUROR NUMBER 171: Only my teenaged daughter does
11 assist me, but she's home today with a fever, so she
12 does get sick. If you can tell me I can be out of here
13 by 4:00 o'clock, that's one thing.

14 THE COURT: I can't do that.

15 JUROR NUMBER 171: I know. That's why I --

16 THE COURT: I can't do that. Let me tell you the
17 problem I have. There are a lot of people, and I say a
18 lot of people, a number of people are in similar
19 situations to yours. And I may be getting ready to hear
20 from this gentleman here, I don't know. But self-
21 employed carpenters, plumbers, all kind of people like
22 that, if they have to serve on jury duty, they just --
23 they don't get -- they don't go to work.

24 JUROR NUMBER 171: And it hurts us all.

25 THE COURT: All right. Let me ask you this first

2-9-15 STATE V. BUSSELL

JUROR QUALIFICATION

1 question. On Mondays, you -- give me the hours again,
2 on Monday.

3 JUROR NUMBER 171: The actual teaching hours, 5:00
4 to 7:00.

5 THE COURT: All right.

6 JUROR NUMBER 171: But I'm usually there a half
7 hour before to clean the building.

8 THE COURT: I can probably get you out of here
9 today before 5:00 o'clock. I can't promise anything
10 about tomorrow.

11 Of course, this is all conditioned on whether you
12 get selected to sit on the jury or not. You know,
13 you're here just on a big panel now. We'll have twelve
14 jurors picked, hopefully, in a little while, and have
15 two alternates. So, there will be, out of a group of
16 forty or so here, we'll have twelve and two, to sit over
17 here.

18 I don't know about Wednesday. We may be through on
19 Wednesday. I can possibly get back -- if we don't -- if
20 we get out of here on Wednesday before you open, we may
21 have to come back on Thursday, but probably we'll finish
22 before you open on Thursday. So, it sounds to me as
23 though this is going to interfere with your business,
24 maybe tomorrow, for an hour or so, at best.

25 JUROR NUMBER 171: It's -- whatever. I'm not going

1 to try to explain the classes and the ranks, students.
2 It's just -- it's confusing. You know, you've got this
3 age group and these belt colors, and this age group and
4 these belt colors. If you think I can get out of here,
5 I'll sit down, so.

6 THE COURT: I said I could get you out of here
7 today.

8 JUROR NUMBER 171: Maybe nobody likes me. I'm a
9 violent person.

10 THE COURT: They might like -- that might be
11 exactly what they want. All right. Thank you for
12 staying with us. Yes, sir.

13 JUROR NUMBER 151: I work in a restaurant.

14 THE COURT: Name and number, I'm sorry.

15 JUROR NUMBER 151: It's Roberto Toscano, 151.

16 THE COURT: 151. Yes, sir.

17 JUROR NUMBER 151: So, this place runs seven days a
18 week, and I usually work 65 to 70 hours in that place.
19 So, the place depends on me to open, because if I'm not
20 there, there's nobody to do the cleaning, and then
21 there's nobody to clean the tables. And the tables that
22 I clean, people can't sit down at the tables. I work
23 almost seven days a week, so I can't really --

24 THE COURT: I'm going to have to go through the
25 same thing I went through with the other lady, Juror

2-9-15 STATE V. BUSSELL

JUROR QUALIFICATION

1 171. What happens if you're sick or take a vacation?

2 JUROR NUMBER 151: I have -- I have had to work
3 sick sometimes.

4 THE COURT: I'm sorry?

5 JUROR NUMBER 151: I've had to work sick sometimes,
6 because there's nobody to cover.

7 THE COURT: Well, I mean, what do you do on a
8 vacation?

9 JUROR NUMBER 151: I don't -- I haven't got
10 vacation yet.

11 THE COURT: Okay. How long have you been working
12 this job?

13 JUROR NUMBER 151: A year and a half.

14 THE COURT: And they don't give you a vacation. Do
15 they know you're here today?

16 JUROR NUMBER 151: Sorry?

17 THE COURT: Do they know that you might be on jury
18 duty this week?

19 JUROR NUMBER 151: Yeah. Actually, I got the day
20 off, but this is the only one that I would get, because
21 -- actually, my uncle is out of town for two weeks, so
22 he can't have anybody to cover for me just because I've
23 got to come this week or whatever.

24 THE COURT: And what time do you report for duty?
25 What time do you go to work?

1 JUROR NUMBER 151: Oh, I go to work -- well, they
2 open at 11:00. I've got to be there at 10:00, so I do
3 the cleaning. So, 10:00 on the days. And when I work
4 doubles, I work 10:00 to 10:00, or 10:00 to 11:00,
5 depending on how busy we are.

6 THE COURT: Well, I can give you a transfer to
7 another term. I don't know if that's going to help you
8 or not, but that's the best I can do. Next time, if you
9 have more notice, maybe they can find someone to take
10 your place.

11 JUROR NUMBER 151: Well, I couldn't really tell,
12 because the owner's not here right now, so.

13 THE COURT: All right. I'll transfer you to
14 another term. You'll get another notice, but when you
15 get this next notice, you've got to talk to the boss and
16 say, hey, I may have to serve on jury duty next week.
17 Of course, you may not, also. You'll remember, you're
18 just in a pool of people from which fourteen people are
19 going to be selected.

20 JUROR NUMBER 151: Either I can take the risk, and
21 if I'm selected, well, I'll just show up. I'll figure
22 something out. I just thought I was on the case on that
23 question.

24 THE COURT: Say that again.

25 JUROR NUMBER 151: Oh, oh. What I'm saying is,

2-9-15 STATE V. BUSSELL

JUROR QUALIFICATION

1 I'll just sit down, and if I get -- if I don't get
2 choose, well, that's okay. And if I do get, well, I'll
3 just figure something out, so somebody can cover, or
4 I'll try to figure something out.

5 THE COURT: All right. So, you're saying you're
6 going to stay with us, and if you get picked, you're
7 going to stick it out. Is that right?

8 JUROR NUMBER 151: Yeah.

9 THE COURT: Okay. All right. Thank you. And yes,
10 sir, I forgot, name and number.

11 JUROR NUMBER 34: Mike Colter. I think it's 24.

12 MADAM CLERK: 34.

13 THE COURT: 34?

14 JUROR NUMBER 34: 34. I own my own business. It's
15 a wrecker service.

16 THE COURT: Yes, sir.

17 JUROR NUMBER 34: I'm on 24-hour call with the
18 state and city and the county police department, and I
19 don't have anybody else to take my wrecker calls and so
20 forth. And I've just been informed by a deputy that my
21 wife has already called and said I have a call pending
22 now. And it's just going to be a hardship on my part if
23 I lose all that business for the entire week. And I do
24 have police departments who depend on me for our
25 services.

1 THE COURT: Well, I guess, probably, based on what
2 I've been saying to the others, you probably know where
3 we're headed with this. But --

4 JUROR NUMBER 34: Business is so bad, I can't
5 hardly afford to pay someone just to sit in my office,
6 in hopes that we will get a call.

7 THE COURT: Right.

8 JUROR NUMBER 34: Therefore, you know, it's -- it's
9 just a one-man operation, and I'm him. It's, you know.
10 And I haven't had a vacation -- I don't even remember
11 when the last time I had vacation. I mean, --

12 THE COURT: Well, we --

13 JUROR NUMBER 34: Being self-employed, not --

14 THE COURT: Let me try to give you my best estimate
15 of the amount of time that's going to be involved. It's
16 my best guess. Of course, we've pretty much blown
17 today. We may have another hour or so here this
18 afternoon. And we may have two more days, and that's
19 all. In other words, this -- it's highly likely -- am I
20 right on this, Solicitor? Does that sound like what I'm
21 saying is correct?

22 MR. TOPOREK: Yes, your Honor.

23 THE COURT: All right. It's highly likely that
24 this is only going to be a three-day week, so to speak,
25 in time, as opposed to a five-day week. You've already

2-9-15 STATE V. BUSSELL

JUROR QUALIFICATION

1 lost one day.

2 JUROR NUMBER 34: Like I say, I've got a call
3 pending right now. I mean, so, you know.

4 THE COURT: And if we can get you out of here, you
5 can potentially make that call. But --

6 JUROR NUMBER 34: No, sir. By then, they'll be
7 calling somebody else.

8 THE COURT: Okay. Yeah, yeah, yeah. I would.

9 JUROR NUMBER 34: You know, so. I mean --

10 THE COURT: I could transfer you, but I don't know
11 how that's going to help you. Is that --

12 JUROR NUMBER 34: You said that anyone who had
13 served within the last five years earlier? I believe I
14 have served within the last five years.

15 MADAM CLERK: It would be three years.

16 THE COURT: If you serve on the grand jury in the
17 last five years.

18 MADAM CLERK: He hasn't been -- he hasn't been on
19 my grand jury.

20 THE COURT: She's saying no. You served on --

21 MADAM CLERK: You've been on the petit jury, but
22 you haven't been on the grand jury.

23 JUROR NUMBER 34: Been on which jury?

24 MADAM CLERK: Petit jury.

25 THE COURT: This jury.

1 MADAM CLERK: The jury here. But you've never been
2 on a petit -- a grand jury.

3 THE COURT: But that has to be --

4 JUROR NUMBER 34: Oh, the grand jury is when you
5 have to go to Charleston.

6 MADAM CLERK: Huh-uh.

7 THE COURT: The grand jury is five years. This
8 jury is two years.

9 JUROR NUMBER 34: Okay. All right, sir.

10 THE COURT: I can transfer you. The disadvantage
11 to you, potentially, in me transferring you is this.
12 You come back the next time, you're in the same
13 situation, you get picked on a five-day case. I'll let
14 you decide. I can do -- you can stay and risk two more
15 days after today, or I can transfer you to another term,
16 and you can take your chances. You pick it.

17 JUROR NUMBER 34: I guess I'll stay.

18 THE COURT: All right. Thank you, sir. I
19 appreciate it. All right.

20 Now, ladies and gentlemen, that actually concludes
21 the statutory list of qualifications and exemptions from
22 jury duty.

23 It may be, though, that you're qualified, and no
24 specific exemption applies to you, but, nevertheless,
25 this turns out to be a terrible week for you. So, in

1 certain circumstances, we can arrange for transfers, as
2 you've already heard. So, if anybody wishes to apply
3 for a hardship transfer that hasn't already applied,
4 please stand. All right. Yes, ma'am. Your name and
5 number.

6 JUROR NUMBER 72: I believe my number is 72, Imani
7 Henderson.

8 MADAM CLERK: 72.

9 THE COURT: She's 72?

10 MADAM CLERK: Yes, sir.

11 JUROR NUMBER 72: My boyfriend works at an airport,
12 and he's unable to take off more than one day this week,
13 and I do not drive. I don't know how to drive.

14 MADAM CLERK: We provide transportation.

15 JUROR NUMBER 72: Yes, he is my only mode of
16 transportation.

17 MADAM CLERK: No, we will provide you with
18 transportation.

19 JUROR NUMBER 72: Oh, okay.

20 THE COURT: All right. I find the jury panel
21 qualified.

22 Solicitor, is there a case ready for trial?

23 MR. TOPOREK: I'm sorry, your Honor?

24 THE COURT: A case ready for selection of a jury?

25 MR. TOPOREK: Yes, your Honor.

1 THE COURT: All right.

2 CASE CALLED BY MR. TOPOREK:

3 MR. TOPOREK: Your Honor, the State calls the State
4 versus Chad Bussell. It's Indictment 2013-GS-27-00505.

5 JURORS SWORN, BY MADAM CLERK:

6 MADAM CLERK: If I could have your attention, could
7 I ask everyone to please stand. If you would raise your
8 right hand. Do you swear or affirm the answers you are
9 about to give the Court will be the truth, the whole
10 truth, and nothing but the truth, so help you God?

11 RESPONSES FROM JURORS.

12 MADAM CLERK: Thank you. You may be seated. Did
13 anyone not take the oath?

14 THE COURT: This next process, ladies and
15 gentlemen, is probably going to take about 30, 45
16 minutes. Is everybody going to be okay? Remember the
17 rule, if it's not okay, you wave your hand.

18 UNIDENTIFIED JUROR: I just need to run out for a
19 few minutes to use the restroom -- restroom.

20 THE COURT: I'm sorry.

21 UNIDENTIFIED JUROR: Restroom.

22 THE COURT: I've got three hands going up. We'll
23 take a ten-minute break, ladies and gentlemen. I ask
24 you to be back in ten minutes.

25 OFF THE RECORD 3:11 P.M.

2-9-15 STATE V. BUSSELL

VOIR DIRE

1 BACK ON THE RECORD 3:25 P.M.

2 VOIR DIRE, BY THE COURT:

3 THE COURT: We are about to begin the selection of
4 a jury in the case of the State of South Carolina versus
5 Chad Junior Bussell. Am I pronouncing that correctly?

6 COURT REPORTER: Yes, your Honor.

7 THE COURT: Who has been charged by way of an
8 indictment. I'll explain that to you later, the
9 significance of the indictment. That the defendant did
10 enter the dwelling of one Terry Williamson, which is
11 located at in Ridgeland, without
12 consent and with the intent to commit a crime, in
13 violation of the laws of this state, being charged with
14 burglary in the second degree. And that this apparently
15 occurred -- the allegations are that it occurred October
16 the 17th of 2013.

17 And I tell you all that, ladies and gentlemen,
18 because, in a few moments, I'm going to ask you some
19 questions concerning your knowledge, or lack thereof,
20 about with these events or the people involved.

21 In just a few moments, I'll ask you, also, some
22 questions about your relationship with the lawyers, with
23 witnesses, the defendant. But before that, I'll ask the
24 attorneys who are going to be involved in this case if
25 they will identify themselves, identify any potential

1 witnesses that may be called in the case, after which
2 I'll begin asking you questions. And we will begin with
3 the State.

4 MR. TOPOREK: Thank you, your Honor. Good
5 afternoon. My name is Alex Toporek. I am an attorney
6 with the Solicitor's Office, and I work out here in
7 Jasper County. With me is Cozette McNeil, who is also
8 an attorney with the Solicitor's Office, and she's going
9 to be helping me out. And also sitting with me is
10 Detective Elvin Wright, who is going to be sitting with
11 us, and he's also a witness in the case.

12 The State's potential witnesses include: Jarvis
13 Lessane, who works with Hampton Sheriff's Office. He
14 used to work for the Jasper County Sheriff's Office.
15 Detective Wright, who works for the Jasper County
16 Sheriff's Office. Jeff Crosby, who works for the Jasper
17 County Sheriff's Office. Donald Hipp, who works for the
18 Jasper County Sheriff's Office. And Gary Morris who
19 works for the Jasper County Sheriff's Office.

20 Also, we have Terry Williamson, who is from
21 Ridgeland, South Carolina. Mr. Williamson is -- stand
22 up, Mr. Williamson. Rose Williamson, who is from
23 Ridgeland, South Carolina. Keefe Blatchley of
24 Ridgeland. James O'Neal Able of Ridgeland. Cara
25 Koerner of Ridgeland.

2-9-15 STATE V. BUSSELL

VOIR DIRE

1 Amy Stephens of the South Carolina Law Enforcement
2 Division. Patricia Crooks of the South Carolina Law
3 Enforcement Division. Lesa Chapman from the South
4 Carolina Law Enforcement Division. And Thomas Darnell
5 of the South Carolina Law Enforcement Division. Also,
6 Brenda Fischer of Ridgeland, South Carolina.

7 THE COURT: Thank you, sir.

8 MR. HUGHES: Good morning. How do you do? I'm
9 Robert Hughes. I am the public defender assigned to
10 Jasper County. And if you all were in here earlier, you
11 saw my client, Mr. Chad Bussell, come out of that door
12 with Mr. Thorpe and myself, and the judge. Mr. Bussell,
13 I believe, he will be back this morning. But if you saw
14 him and you recognized him, that is who the gentleman is
15 that is my client.

16 THE COURT: Thank you, Mr. Hughes.

17 The first question I have for you, ladies and
18 gentlemen, is this. Is there any member of the jury
19 panel who has ever been related by blood or related by
20 marriage to any of the attorneys involved in the case,
21 or to any of the witnesses that have been identified to
22 you, or to the defendant himself? If you've ever been
23 related by blood or marriage to any of these
24 individuals, please stand. And I've forgotten your name
25 -- I've forgotten your name and number, sir.

1 JUROR NUMBER 34: 34. My sister was married to
2 O'Neal Able.

3 COURT REPORTER: My sister was married to whom?

4 JUROR NUMBER 34: O'Neal Able, one of the witnesses
5 in the case.

6 THE COURT: She was married?

7 JUROR NUMBER 34: Yes.

8 THE COURT: Okay. All right. Thank you. Anyone
9 else?

10 Next question. Is any member of the jury panel
11 ever had a close personal or social relationship with
12 any of the attorneys involved with the case, with any of
13 the witnesses that have been identified to you, or with
14 the defendant himself? If so, please stand. If you've
15 ever had a close personal or social relationship with
16 any of those individuals. And your name and number.
17 Yes, ma'am.

18 JUROR NUMBER 171: Linda Wood, 171.

19 THE COURT: 171.

20 JUROR NUMBER 171: Chad Bussell used to come to
21 church with us. He and my daughter went to school
22 together. I was familiar with him as a child, and, I
23 believe, was one of my karate students.

24 THE COURT: All right.

25 COURT REPORTER: Believe he was what?

2-9-15 STATE V. BUSSELL

VOIR DIRE

1 JUROR NUMBER 171: One of my karate students.

2 THE COURT: Let me ask you, let me ask you a quick
3 question.

4 JUROR NUMBER 171: Yes, sir.

5 THE COURT: If he did go to school with your
6 daughter, it would have been how long ago?

7 JUROR NUMBER 171: She's been home schooled since
8 third grade, so they were together K-4, K-5. Maybe
9 first grade, too. I don't remember.

10 THE COURT: All right.

11 JUROR NUMBER 171: I know they were together in
12 kindergarten.

13 THE COURT: If he was, at one time, a student of
14 yours, that would have been approximately how long ago?

15 JUROR NUMBER 171: Ten years.

16 THE COURT: Okay.

17 JUROR NUMBER 171: Or more.

18 THE COURT: All right. Wait a minute. One more.
19 Wait, maybe two, maybe two. From a social standpoint,
20 have you ever visited in his home?

21 JUROR NUMBER 171: No.

22 THE COURT: Has he ever visited in your home?

23 JUROR NUMBER 171: No, sir.

24 THE COURT: Okay. All right. Thank you, ma'am.
25 Anyone else?

1 Has any member of the jury panel or member of your
2 immediate family ever been represented by any of the
3 attorneys involved this case? If so, please stand.

4 Has any member of the jury panel or member of your
5 immediate family ever been the victim of a burglary or a
6 home break-in? Have you or your immediate family ever
7 been a victim of a burglary or a home break-in? If so,
8 please stand. And yes, ma'am, your number and name?

9 JUROR NUMBER 39: 39.

10 THE COURT: 39.

11 JUROR NUMBER 39: Karen Detweiler.

12 THE COURT: Ms. Detweiler. And?

13 JUROR NUMBER 39: I believe it was 2007, I think it
14 was, burglarized.

15 THE COURT: Your home?

16 JUROR NUMBER 39: Yes, sir.

17 THE COURT: 2007. Okay. Any arrests? Was anybody
18 ever charged with the --

19 JUROR NUMBER 39: I don't believe they ever caught
20 him.

21 THE COURT: Okay. All right. Thank you, ma'am.

22 And yes, sir. In the back of the room.

23 JUROR NUMBER 136: Chad Scott, and I believe my
24 number was 134.

25 MADAM CLERK: 136.

2-9-15 STATE V. BUSSELL

VOIR DIRE

1 JUROR NUMBER 136: 136, I'm sorry.

2 THE COURT: 136. Mr. Scott.

3 JUROR NUMBER 136: Yes. I was a victim of a home
4 invasion. I was actually home. Somebody came in my
5 house. I actually shot at them.

6 THE COURT: How long ago?

7 JUROR NUMBER 136: They were never caught. That
8 was back in '95.

9 THE COURT: Okay. Was that in this county?

10 JUROR NUMBER 136: Yes, sir.

11 THE COURT: Okay. All right. Thank you, sir. And
12 yes, your name and number.

13 JUROR NUMBER 15: Pete Birmingham, Number 15. Home
14 break-in, stole a motorcycle. Nobody ever caught them.

15 THE COURT: Was anybody home, and did --

16 JUROR NUMBER 15: Yeah, we were asleep.

17 THE COURT: Okay. How long ago, I'm sorry?

18 JUROR NUMBER 15: A long time ago.

19 THE COURT: Long?

20 JUROR NUMBER 15: Yeah.

21 JUROR NUMBER Okay. Thank you, sir. And again,
22 your name and number, for the record.

23 JUROR NUMBER 34: 34.

24 THE COURT: Yes, sir.

25 JUROR NUMBER 34: My place of business was

1 burglarized in 2012, here in Ridgeland. No one was ever
2 caught.

3 THE COURT: Okay. All right. Thank you, sir. And
4 yes, ma'am.

5 JUROR NUMBER 62: Sandra Gerow. I think I'm 62.

6 MADAM CLERK: 62.

7 THE COURT: 62.

8 JUROR NUMBER 62: My nephew was broken into
9 Saturday night, just this past week. They stole stuff
10 out of the car and the truck. Tried to steal a four-
11 wheeler.

12 THE COURT: Okay.

13 JUROR NUMBER 62: And they haven't done anything
14 with that yet.

15 THE COURT: That was in this county?

16 JUROR NUMBER 62: Yes.

17 THE COURT: Okay. All right. Thank you, ma'am.

18 Has any member of the jury panel formed or
19 expressed an opinion about any issue or any matter
20 involved in this case? If so, please stand.

21 Is any member of the jury panel aware of any bias
22 or any prejudice that they may have towards either the
23 State or towards the defendant? If so, please stand.

24 Is there any member of the jury panel who is a
25 member of or a contributor to any group which has as its

2-9-15 STATE V. BUSSELL

VOIR DIRE

1 primary concern the promotion of law enforcement or
2 victims' rights? And these groups would include but not
3 be limited to MADD or SADD or CAVE, or such similar
4 organizations. If so, please stand.

5 Does any member of the jury panel know of any
6 reason whatsoever why he or she should not serve as a
7 juror in this case, with particular emphasis being
8 placed on your ability to be fair and impartial to both
9 the State and to the defendant? If so, please stand.

10 Additional questions not already requested from the
11 State?

12 MR. TOPOREK: Not from the State, your Honor.

13 THE COURT: From the defendant?

14 MR. HUGHES: Your Honor, since we have a number of
15 law enforcement, I would like the jury pool -- if they
16 are related by blood or marriage to anyone in law
17 enforcement.

18 THE COURT: Is any member of the jury panel related
19 by blood or related by marriage to anyone who is
20 currently a member of law enforcement?

21 JUROR NUMBER 148: Yes, sir. I'm Juror -- let me
22 see here -- 148.

23 THE COURT: 148. Yes, ma'am.

24 JUROR NUMBER 148: My son-in-law is a state
25 trooper.

1 THE COURT: State of South Carolina?

2 JUROR NUMBER 148: Yes, sir.

3 THE COURT: And okay. All right. Thank you,
4 ma'am. Yes, ma'am, in the blue.

5 JUROR NUMBER 93: Bonny Lowery, Number 93. My son
6 works for the Jasper County Sheriff's Department.

7 THE COURT: He currently works for Jasper County
8 Sheriff's Department.

9 JUROR NUMBER 93: Yes, sir.

10 COURT REPORTER: What was your number, ma'am?

11 MADAM CLERK: Number 93.

12 JUROR NUMBER 148: 148. Let me just check.

13 MADAM CLERK: You talking about the blue?

14 COURT REPORTER: Peach. 148?

15 JUROR NUMBER 148: 148.

16 COURT REPORTER: Thank you.

17 THE COURT: I got lost then. Okay. Thank you,
18 ma'am. Yes, sir. I've forgotten your number already.

19 JUROR NUMBER 15: My name is Pete Birmingham,
20 Number 15. My son-in-law is a police officer.

21 THE COURT: And where would that be?

22 JUROR NUMBER 15: Syracuse, New York.

23 THE COURT: Okay. Yes, ma'am.

24 JUROR NUMBER 85: Number 85, Catherine Kennedy.

25 THE COURT: 85.

2-9-15 STATE V. BUSSELL

VOIR DIRE

1 JUROR NUMBER 85: And my stepdaughter is currently
2 working as a deputy for Beaufort County Sheriff's
3 Office.

4 THE COURT: Okay. All right. Thank you, ma'am.
5 And yes, sir.

6 JUROR NUMBER 45: Juror Number 45, Jonathan Dunham.
7 My brother works with the Sheriff's Department in Jasper
8 County.

9 THE COURT: He currently works for the Sheriff's
10 Office. Did you say your brother-in-law?

11 JUROR NUMBER 45: My brother.

12 THE COURT: Brother. And I forgot.

13 JUROR NUMBER 171: Linda Woods, 171. My brother-
14 in-law works for the police in Las Vegas, Nevada.

15 THE COURT: Brother-in-law.

16 JUROR NUMBER 171: Sir?

17 THE COURT: Your brother-in-law?

18 JUROR NUMBER 171: Brother-in-law, yes, sir.

19 THE COURT: Okay. Thank you, ma'am. All right.
20 Is the State ready for us to select a jury?

21 MR. TOPOREK: We are, your Honor.

22 THE COURT: Is Defense ready?

23 MR. HUGHES: The Defense is ready, your Honor.

24 THE COURT: Madam Clerk, would you please give us a
25 jury.

1 MADAM CLERK: Yes, sir.

2 THE COURT: Ladies and gentlemen, the computer is
3 randomly selecting names of potential jurors that will
4 be called. The juror's name and number will be called
5 in the manner selected by the computer, which is a much
6 quicker way of drawing it than the way it used to be
7 done.

8 In the days before computers, some of you may
9 remember, there was a barrel with capsules that
10 contained names. And at one time, the law actually
11 required the person drawing the names out of the barrel
12 to be either blind or be a child. And in courthouses,
13 oftentimes, had people who were blind there for the
14 selection of juries. It's much quicker when using our
15 computer. We think.

16 JUROR SELECTION:

17 MADAM CLERK: As I call your name, will you please
18 stand. Juror Number 24, Nicole Campanella. Stand right
19 there. How says the State?

20 MR. TOPOREK: Please present the juror.

21 MADAM CLERK: How says the Defense?

22 MR. HUGHES: Please seat the juror.

23 MADAM CLERK: Come forward, ma'am. Have a seat in
24 the jury box. Juror Number 85, Catherine Kennedy. How
25 says the State?

2-9-15 STATE V. BUSSELL

JUROR SELECTION

1 MR. TOPOREK: Please present the juror.

2 MADAM CLERK: How says the Defense?

3 MR. HUGHES: Please excuse the juror from the trial
4 of this case.

5 MADAM CLERK: Thank you, ma'am. Please have a
6 seat. Juror Number 56, Jackie Ford. How says the
7 State?

8 MR. TOPOREK: Please present the juror.

9 MADAM CLERK: How says the Defense?

10 MR. HUGHES: Please seat the juror.

11 MADAM CLERK: Come forward, sir, and have a seat in
12 the jury box. Juror Number 6, Alvara Baltazar. How
13 says the State?

14 MR. TOPOREK: Please present the juror.

15 MADAM CLERK: How says the Defense?

16 MR. HUGHES: Please seat the juror.

17 MADAM CLERK: Come forward, sir, and have a seat in
18 the jury box. Juror Number 143, Stephen Smith, Jr. How
19 says the State?

20 MR. TOPOREK: Please present the juror.

21 MADAM CLERK: How says the Defense?

22 MR. HUGHES: Please seat the juror.

23 MADAM CLERK: Come forward, sir, and have a seat in
24 the jury box. Juror Number 69, George Hall, Jr. How
25 says the State?

1 MR. TOPOREK: Please present the juror.

2 MADAM CLERK: How says the Defense?

3 MR. HUGHES: Please excuse the juror from the trial
4 of this case.

5 MADAM CLERK: Thank you, sir. Please have a seat.
6 Juror Number 95, Kim Malphrus. How says the State?

7 MR. TOPOREK: Please present the juror.

8 MADAM CLERK: How says the Defense?

9 MR. HUGHES: Please excuse the juror from the trial
10 of this case.

11 MADAM CLERK: Thank you, ma'am. Please have a
12 seat. Juror Number 72, Imani Henderson. How says the
13 State?

14 MR. TOPOREK: Please present the juror.

15 MADAM CLERK: How says the Defense?

16 MR. HUGHES: Please seat the juror.

17 MADAM CLERK: Come forward, ma'am. Have a seat in
18 the jury box. Juror Number 13, Kathleen Berntson. How
19 says the State?

20 MR. TOPOREK: Please present the juror.

21 MADAM CLERK: How says the Defense?

22 MR. HUGHES: Please seat the juror.

23 MADAM CLERK: Come forward, ma'am. Have a seat in
24 the jury box. Juror Number 90, Joanna Lake. Come
25 forward, ma'am. Come right around. How says the State?

2-9-15 STATE V. BUSSELL

JUROR SELECTION

1 MR. TOPOREK: Please excuse the juror.

2 MADAM CLERK: Thank you, ma'am. Please have a
3 seat. Juror Number 136, Chad Scott. How says the
4 State?

5 MR. TOPOREK: Please present the juror.

6 MADAM CLERK: How says the Defense?

7 MR. HUGHES: Please excuse the juror from the trial
8 of this case.

9 MADAM CLERK: Thank you, sir. Please have a seat.
10 Juror Number 132, Alvenia Robiston. How says the State?

11 MR. TOPOREK: Please present the juror.

12 MADAM CLERK: How says the Defense?

13 MR. HUGHES: Please seat the juror.

14 MADAM CLERK: Come forward, ma'am. Please have a
15 seat in the jury box. Juror Number 32, Diane Coker.
16 How says the State?

17 MR. TOPOREK: Please present the juror.

18 MADAM CLERK: How says the Defense?

19 MR. HUGHES: Please seat the juror.

20 MADAM CLERK: Come forward, ma'am. Have a seat in
21 the jury box. Juror Number 26, Catherine Chaney. How
22 says the State?

23 MR. TOPOREK: Please present the juror.

24 MADAM CLERK: How says the Defense?

25 MR. HUGHES: Please excuse the juror from the trial

1 of this case.

2 MADAM CLERK: Thank you, ma'am. Please have a
3 seat. Juror Number 77, Nell Housey. How says the
4 State?

5 MR. TOPOREK: Please excuse the juror.

6 MADAM CLERK: Thank you, ma'am. Please have a
7 seat. Juror Number 10, John Bennett. How says the
8 State?

9 MR. TOPOREK: Please present the juror.

10 MADAM CLERK: How says the Defense?

11 MR. HUGHES: Please excuse the juror from the trial
12 of this case.

13 MADAM CLERK: Thank you, sir. Please have a seat.
14 State, two; Defense, six. Juror Number 171, Linda
15 Woods. How says the State?

16 MR. TOPOREK: Please excuse the juror.

17 MADAM CLERK: Have a seat, ma'am. Juror Number
18 151, Roberto Toscano.

19 JUROR NUMBER 151: Toscano.

20 MADAM CLERK: Stacano? Close? Junior. How says
21 the State?

22 MR. TOPOREK: Please excuse the juror.

23 MADAM CLERK: Thank you, sir. Please have a seat.
24 Juror Number 148, Patricia Tanner. How says the State?

25 MR. TOPOREK: Please present the juror.

2-9-15 STATE V. BUSSELL

JUROR SELECTION

1 MADAM CLERK: How says the Defense?

2 MR. HUGHES: Please excuse the juror from the trial
3 of this case.

4 MADAM CLERK: Thank you, ma'am. Please have a
5 seat. Juror Number 62, Sandra Gerow. How says the
6 State?

7 MR. TOPOREK: Please present the juror.

8 MADAM CLERK: How says the Defense?

9 MR. HUGHES: Please excuse the juror from the trial
10 of this case.

11 MADAM CLERK: Thank you, ma'am. Juror Number 86,
12 Trey Kimberly. How says the State?

13 MR. TOPOREK: Please present the juror.

14 MADAM CLERK: How says the Defense?

15 MR. HUGHES: Please seat the juror.

16 MADAM CLERK: Please come forward, sir, and have a
17 seat in the jury box. Juror Number 25, Shaquilla
18 Campbell. How says the State?

19 MR. TOPOREK: Please present the juror.

20 MADAM CLERK: How says the Defense?

21 MR. HUGHES: Please seat the -- excuse me -- please
22 seat the juror.

23 MADAM CLERK: Please come forward, ma'am, and have
24 a seat in the jury box.

25 THE COURT: Madam Clerk, I'm going to call a strike

1 on the next juror number.

2 MADAM CLERK: Yes, sir. Juror Number 27, Adrena
3 Chapman. How says the State?

4 MR. TOPOREK: Please present the juror.

5 MADAM CLERK: How says the Defense?

6 MR. HUGHES: Please seat the juror.

7 MADAM CLERK: Please come forward and have a seat
8 in the jury box, ma'am. Juror Number 42, Carol Dodd.
9 How says the State?

10 MR. TOPOREK: Please present the juror.

11 MADAM CLERK: How says the Defense?

12 MR. HUGHES: Please seat the juror.

13 MADAM CLERK: Please come forward, ma'am, and have
14 a seat in the jury box. Alternate One. Juror Number
15 45, Jonathan Dunham, Senior. How says the State?

16 MR. TOPOREK: Please present the juror.

17 MADAM CLERK: How says the Defense?

18 MR. HUGHES: Please excuse the juror from the trial
19 of this case.

20 MADAM CLERK: Thank you, sir. Please have a seat.
21 Juror Number 63, Pamela Glassberg. How says the State?

22 MR. TOPOREK: Please present the juror.

23 MADAM CLERK: How says the Defense?

24 MR. HUGHES: Please seat the juror.

25 MADAM CLERK: Come forward, ma'am, and have a seat

2-9-15 STATE V. BUSSELL

JUROR SELECTION

1 in alternate chair number one. Alternate two, Juror
2 Number 15, Peter Birmingham. How says the State?

3 MR. TOPOREK: Please present the juror.

4 MADAM CLERK: How says the Defense?

5 MR. HUGHES: Please excuse the juror from the trial
6 of this case.

7 MADAM CLERK: Thank you, sir. Juror Number 146,
8 Shaquita Sumpter.

9 JUROR NUMBER 146: Shaniqua.

10 MADAM CLERK: Shaniqua Sumpter.

11 MR. TOPOREK: Please excuse the juror.

12 MADAM CLERK: Thank you, ma'am. Please have a
13 seat. Juror Number 4, Lorenzo Ansley. Does the State
14 have cause for strike?

15 MR. TOPOREK: We do not, your Honor -- or, we do
16 not, Madam Clerk.

17 MADAM CLERK: How says the Defense?

18 MR. HUGHES: Please seat the juror.

19 MADAM CLERK: Please come forward, sir. In
20 alternate chair number two.

21 THE COURT: Now, gentlemen, are there any matters
22 of law the Court needs to consider before the jury panel
23 is discharged? From the State?

24 MR. TOPOREK: None from the State, your Honor.

25 THE COURT: From the Defense?

1 MR. HUGHES: None from the Defense, your Honor.

2 THE COURT: Ladies and gentlemen, we're getting
3 ready to let you go. I want to thank you for your
4 service. This is the only case that's going to be tried
5 this week. It may take three days or so. Anybody have
6 a question? Getting ready to let you go, but you don't
7 have to go. You can stay if you want to stay.
8 Question?

9 UNIDENTIFIED JUROR: I have a question. So, how
10 often will I have to come back again and sit here?

11 MADAM CLERK: This week?

12 THE COURT: None. None.

13 UNIDENTIFIED JUROR: That's not like a two-year
14 thing, is it? It could be next month?

15 THE COURT: Oh, no, no. This will be -- what
16 you've just done satisfies your jury duty obligation in
17 circuit court for this year.

18 UNIDENTIFIED JUROR: Okay. So, it could be next
19 year.

20 THE COURT: It gives you a two-year option to get
21 out of jury duty for the following two years, if you
22 want the option. You may have to come to court to
23 exercise the option. You could get picked again, or
24 summonsed to come back next January or next February or
25 something.

2-9-15 STATE V. BUSSELL

JUROR SELECTION

1 UNIDENTIFIED JUROR: Okay. Thank you.

2 THE COURT: Okay. Anyone else? Check's in the
3 mail?

4 MADAM CLERK: Yes, sir.

5 THE COURT: Ladies and gentlemen, thank you for
6 coming. You're excused.

7 JURORS NOT SELECTED LEAVE COURTROOM.

8 THE COURT: Ladies and gentlemen, I'm getting ready
9 to let you go in a few minutes, but for other reasons we
10 can't begin the trial of the case until tomorrow
11 morning. I'm going to ask you back in the jury room --
12 the bailiffs will show you the jury room before you
13 leave. 9:30 in the morning, but I'm going to tell you a
14 couple of things.

15 Until this case is completely over, you can't let
16 anybody talk to you about the case. You can't talk to
17 anybody about the case. You can't let people tell you
18 what they think about cases like this. You can't let
19 people tell you what they would do if they were in your
20 shoes, you know. You've been selected as a fair and
21 impartial jury, and what you're going to do is decide
22 this case based on evidence presented from the witness
23 stand. There may be documents or other type evidence
24 presented during the trial, but for the most part, it's
25 going to come from witnesses who are going to sit here,

1 that your friends and relatives and loved ones who might
2 tell you what they would do, won't have a chance to see
3 or hear. If they knew something about this case, they'd
4 be here, and you'll find out.

5 I don't want you to do any research on the case.
6 You can't get on the Internet to see if there was
7 anything published back when it went on. You can't get
8 on the Internet and find out who I am or who the people
9 are that are going to be coming. You just need to make
10 a decision based on what happens in here, and that's
11 all.

12 In case I forget it, one other thing that you may
13 find hard to believe, and that is, until the case is
14 completely over and you go to the jury room for the
15 final time to begin deliberating the case, you can't
16 even talk about the case among yourselves. And I'll
17 tell you more about that later.

18 Does anybody have any problem being here at 9:30 in
19 the morning?

20 MADAM CLERK: I need to talk to Ms. Henderson.
21 She's going to need transportation, before she leaves.

22 JUROR NUMBER 72: Well, I was wondering if I could
23 be here earlier than 9:30.

24 THE COURT: Can you?

25 JUROR NUMBER 72: If that was possible. Would it

2-9-15 STATE V. BUSSELL

JUROR SELECTION

1 be possible?

2 MADAM CLERK: Yes.

3 JUROR NUMBER 72: Okay. Then, I don't need
4 transportation.

5 MADAM CLERK: Okay.

6 THE COURT: Okay. All right. Ladies and gentlemen,
7 you're excused. See you in the morning. Thank you so
8 much for coming.

9 UNIDENTIFIED JUROR: Where do we go -- come in the
10 morning again?

11 THE COURT: She's going to show you.

12 MADAM CLERK: She's going to show you.

13 UNIDENTIFIED JUROR: Okay.

14 THE COURT: I didn't make that clear, but she's
15 going to --

16 UNIDENTIFIED JUROR: Okay.

17 THE COURT: -- back to the jury room, and she's
18 going to show you where that is.

19 JURORS LEAVE COURTROOM 4:00 P.M.

20 THE COURT: Anything we need to take care of today
21 before we adjourn? State? Defense?

22 MR. HUGHES: I don't believe so.

23 MR. TOPOREK: No, your Honor.

24 THE COURT: Let's adjourn until 9:15 tomorrow
25 morning.

1 MR. TOPOREK: Yes, sir.

2 THE COURT: 9:15. All right. See you then.

3 MR. TOPOREK: Thank you.

4 MR. HUGHES: Court is in recess?

5 THE COURT: 'Til 9:15.

6 END DAY ONE, MONDAY,

7 FEBRUARY 9, 2015, 4:01 P.M.

8 DAY TWO, TUESDAY

9 FEBRUARY 10, 2015, 9:15 A.M.

10 BY THE COURT:

11 THE COURT: All right. Let's let the record
12 reflect that it's 9:15 or thereabouts. Mr. Hughes,
13 where are we?

14 MR. HUGHES: We're ready to go to trial, your
15 Honor. I do have a motion before we bring the jury in.

16 THE COURT: Okay. State ready to hear the motion?

17 MR. TOPOREK: We are, your Honor.

18 MOTION TO SEQUESTER WITNESSES:

19 MR. HUGHES: Your Honor, I'm just moving to
20 sequester the witnesses in this case.

21 THE COURT: What says the State?

22 MR. TOPOREK: We would just ask that the victim and
23 my detective be allowed to stay in the courtroom.

24 RULING:

25 THE COURT: All right. And let's make -- okay. I

1 would agree with that. Let me make sure I understand
2 the request. The sequestration, you mean that they not
3 be in the courtroom?

4 MR. HUGHES: Yes, sir.

5 THE COURT: Until after they testify?

6 MR. HUGHES: Until after they've been excused.

7 THE COURT: All right. Okay. All right.

8 MR. TOPOREK: And your Honor, I guess, as far as
9 scheduling goes, I planned on my last witness being
10 Thomas Darnell from SLED. I've told him to plan on
11 being here around 2:00 o'clock this afternoon.
12 Hopefully, we're going to get to him. If it doesn't
13 look like we're going to get to him, do we know what our
14 plan is, as far as tomorrow, and Thursday, maybe?

15 THE COURT: Well, I can be here tomorrow.

16 MR. TOPOREK: Yes, sir.

17 THE COURT: I guess we don't know about our court
18 reporter situation.

19 COURT REPORTER: Well, I can call in and see if
20 they have someone to be here, or I can be here -- I
21 wouldn't have to leave until 1:30.

22 MR. HUGHES: Your Honor, I think that probably the
23 safest thing to do is just to make sure, because we're
24 not going to make her show up and then the jury out, she
25 has to leave, we don't have a court reporter. I would

2-10-15 STATE V. BUSSELL

1 suggest that we wait until Thursday before doing
2 closings and instructions, just to be on the safe side.

3 THE COURT: Well, why don't we do this? Why don't
4 we see if we can make a phone call and find out whether
5 they have somebody lined up or not?

6 MR. HUGHES: Okay.

7 THE COURT: If they have somebody lined up, we
8 don't have a problem.

9 MR. HUGHES: Okay.

10 THE COURT: Let's see. Wanda, can we do that now?

11 COURT REPORTER: We can.

12 THE COURT: All right. We'll be at ease for a few
13 moments, and just see what we can find out.

14 OFF THE RECORD 9:18 A.M.

15 BACK ON THE RECORD 9:24 A.M.

16 BY THE COURT:

17 THE COURT: Court administration is responding to
18 our inquiry by saying that they do not, at this point in
19 time, have anyone, although that may change by the end
20 of the day. So, I guess what we're going to have to do
21 is just see where we are and play it by ear, and we'll
22 call them at the end of the day and find out what's
23 going on.

24 MR. TOPOREK: Sounds like a plan.

25 THE COURT: That was actually what we were afraid

2-10-15 STATE V. BUSSELL

1 the response was going to be, is that they weren't going
2 to tell us anything until the end of the day.

3 MR. HUGHES: But we will know by the end of the
4 day? We're not going to have to show up here tomorrow
5 morning, and then not have a reporter?

6 THE COURT: I don't want to do that. I agree with
7 you, I don't want everybody to show up here, and then we
8 can't do anything. Anyhow. Okay.

9 Well, let's see. How are we doing with our jury?

10 MADAM CLERK: We don't have all yet, sir.

11 THE COURT: Okay.

12 MR. TOPOREK: And your Honor, just to clarify, I
13 know I asked for the victim to be allowed in here.
14 There's actually two victims. His sister lives with
15 him. She's going to testify. But she's here, as well,
16 and she wanted to know if she could stay in the
17 courtroom.

18 THE COURT: Yes, she can stay.

19 MR. TOPOREK: Okay. Thank you.

20 THE COURT: And we'll be at ease until we hear from
21 our jurors.

22 OFF THE RECORD 9:26 A.M.

23 BACK ON THE RECORD 9:35 A.M.

24 BY THE COURT:

25 THE COURT: Okay. All right. Let's bring our jury

2-10-15 STATE V. BUSSELL

GENERAL CHARGE

1 in.

2 JURY ENTERS COURTROOM 9:37 A.M.

3 THE COURT: Good morning, and welcome, ladies and
4 gentlemen. The first thing we're going to do this
5 morning is, I'm going to ask your clerk of court if she
6 would administer to you your oath as jurors.

7 JURORS SWORN, BY MADAM CLERK:

8 MADAM CLERK: Good morning. Could I ask you to
9 please stand and raise your right hand. You shall well
10 and truly try and true deliberance make between the
11 State of South Carolina and the prisoner and the Bar, a
12 true verdict render, according to the evidence, so help
13 you God?

14 RESPONSES FROM JURORS.

15 MADAM CLERK: Thank you. You may be seated.

16 GENERAL CHARGE, BY THE COURT:

17 THE COURT: Just a few things before we begin,
18 ladies and gentlemen. As you heard, the defendant in
19 this case is charged by way of an indictment with the
20 offense of burglary in the second degree. The elements
21 of this crime will be explained to you at a later time,
22 but I need to tell you this.

23 The defendant has pled not guilty to this
24 indictment. This puts the burden upon the State to
25 prove each of the elements of this indictment to your

2-10-15 STATE V. BUSSELL

GENERAL CHARGE

1 satisfaction, beyond a reasonable doubt. And it becomes
2 your duty, ladies and gentlemen, to determine whether or
3 not, when the case is all over with, the State has met
4 this burden of proof. Your purpose as jurors is to
5 determine the facts of the case. You are the sole
6 judges of the facts of this case.

7 If, at any time, I do anything to cause you to have
8 an opinion that I have an opinion about the facts of the
9 case, you must disregard it. Under the law, I am
10 prohibited from discussing the case in your presence.

11 You decide what the facts of the case are, and I
12 decide what the law is. You know, I decide what
13 evidence is admissible in the trial of the case. I will
14 tell you, at the end of the case, about the law that
15 applies in the case, and it will be your duty to accept
16 the law as I give it to you.

17 And if you have any idea that the law is different
18 or should be different than I tell you it is, you must
19 put that out of your mind, because under your oath,
20 you're obligated to accept the law as I tell you the law
21 is.

22 In a few moments, the attorneys will make their
23 opening statements to you, where they attempt to tell
24 you what they believe the evidence is going to show or
25 not show. Then, typically, we have witnesses testify

1 from the witness stand, as I told you yesterday. I
2 suspect there will be some documents introduced into
3 evidence. After all of that is done, the attorneys will
4 make their closing arguments to you, where they try to
5 convince you to see the case the way they see it. What
6 the attorneys say to you, what they say is not evidence.
7 Evidence comes from the witnesses and other documents
8 that may be introduced during the trial of the case.
9 After the attorneys make their closing arguments to you,
10 then I'll tell you about the law that applies in the
11 case. You retire to the jury room and begin your
12 deliberations.

13 From time to time, you may see the attorneys ask if
14 they can approach, if they can have a side Bar. They
15 may come up here, or we'll go over there and whisper,
16 and say things that are not intended for you to hear.
17 We do this, not to keep secrets from you, but most of
18 the time, it's because I'm required to discuss with them
19 a matter of law. But in doing that, it may require me
20 to discuss the facts of the case. And as I've already
21 told you, I cannot discuss the facts of the case in your
22 presence.

23 Ladies and gentlemen, having said all of that --
24 well, one more thing I meant to tell you. I mentioned
25 this yesterday, but I do need to say it again. Until

2-10-15 STATE V. BUSSELL

OPENING STATEMENT - STATE

1 the case is completely over, you can't let anybody talk
2 to you about the case. You can't talk to anybody about
3 the case, even among yourselves, even in the jury room.
4 Not until you make that final walk to begin
5 deliberations, which means after the attorneys make
6 their closing arguments, and after I tell you about the
7 law that applies in the case. Then, and only then, can
8 you, even among yourselves, discuss the case. You can
9 discuss the weather, politics, whatever, but not the
10 case.

11 Now, we'll have opening statements from the
12 attorneys, beginning with the State. Solicitor?

13 OPENING STATEMENT ON BEHALF OF

14 THE STATE, BY MR. TOPOREK:

15 MR. TOPOREK: Thank you, your Honor. May it please
16 the Court? Mr. Hughes, members of the jury, good
17 morning.

18 RESPONSES FROM JURORS.

19 BY MR. TOPOREK:

20 MR. TOPOREK: We cannot resolve criminal matters,
21 criminal cases, without you, without jurors. And
22 specifically, yesterday, you were chosen to resolve this
23 one. And that is exactly what you're going to have the
24 opportunity to do, and we're going to give you
25 everything that you need in order to resolve this case,

1 one way or the other.

2 As you just heard from Judge Goldsmith, we all have
3 certain roles here, certain jobs that we have to do, but
4 you have the most important job. Everything that
5 happened on October 17, 2013, the facts of this case,
6 the credibility, the believability of the witnesses, of
7 the evidence that comes in through those witnesses, that
8 is solely for you to decide. You are the only people in
9 this county that can make those decisions. And again,
10 we're going to give you everything that you need to find
11 those facts.

12 And once you find those facts -- and Judge
13 Goldsmith's going to tell you what the law is at the end
14 of this trial, and I'm going to talk a little bit more
15 about that towards the end -- you're going to have to
16 make two decisions, two determinations. And that's
17 whether, one, has a crime been committed; and second, is
18 the defendant the man that committed this crime?
19 Everything that you need to make those determinations,
20 we're going to give that to you.

21 And over the next day or so, what you're going to
22 hear is about a home break-in, a burglary of Terry
23 Williamson's home. And you're going to hear about
24 neighbors, a community, friends that looked out for one
25 another, friends that were keeping an eye on Terry's

1 property while he was out of town at Daytona Bike Week.
2 And you're going to hear how these witnesses saw this
3 case, and they're going to walk you through, step by
4 step, how this incident happened, and how they came to
5 find and link the defendant to this crime.

6 O'Neal Able, Terry's neighbor, Terry's good friend,
7 was just at his home. Looks out the window, keeping an
8 eye on his buddy's place, knew his buddy was out of
9 town, and he sees a man walking around the property,
10 messing around with the property, and thought something
11 was up. Later, he sees this same man walking away from
12 Terry's home carrying two large bags. And at that
13 point, he's going to tell you that he thought his
14 friend's home had be broken into. What did he do? He
15 follows him, he keeps an eye on him, and he calls for
16 help, and they stay with that suspect, the defendant,
17 until he is arrested.

18 You're going to get to see everything the defendant
19 had in those bags, the bags he was carrying away from
20 Terry's home. And you're going to get to see the
21 things, the items, the goods, that Terry kept in his
22 home, and you're going to get to compare the two. The
23 stuff that was found on the defendant and the stuff that
24 Terry kept in his home, you're going to get to see all
25 that. And you're going to get to see how the defendant

1 got in his home, a broken window at Terry's house, and
2 evidence from that window that's been taken that links
3 the defendant to the crime. All that's going to be
4 presented to you.

5 And one thing that I ask that you keep -- just kind
6 of keep in the back of your mind is that, everything you
7 need's going to come from that witness stand, evidence
8 and testimony. Everything that you need to resolve this
9 case is coming from right there. And what you're going
10 to hear is about how Terry's home was broken into, the
11 home that he stays at, broken into.

12 And at the end of this trial, I'm going to tell you
13 that's a crime, and I'm going to ask that you hold the
14 defendant responsible for committing that crime, and I'm
15 going to ask that you do that by finding him guilty.

16 THE COURT: Mr. Hughes.

17 OPENING STATEMENT ON BEHALF OF

18 THE DEFENSE, BY MR. HUGHES:

19 MR. HUGHES: If it pleases the Court? Mr. Toporek.
20 Good morning, ladies and gentlemen. My name is Bob
21 Hughes. We were introduced yesterday, and I told you
22 that my client had an emergency that he needed to take
23 care of. So, I want you to meet him now. Mr. Bussell,
24 please stand up. Ladies and gentlemen, this is Mr. Chad
25 Bussell. Thank you, Chad. Have a seat.

1 Now, the first thing I'm going to do is, I'm going
2 to make a promise to you, and when I come back at the
3 closing, and I'm going to tell you that I kept my
4 promise. My promise is this: you're about to see
5 something that you're not expected to, because your idea
6 of a trial you've seen on television, and my promise is
7 this. This is nothing like anything you've ever seen on
8 television.

9 I'm going to tell you a secret, too. Trials can be
10 boring. I know you're sitting there going, how can
11 something that's so exciting to watch on television and
12 the movies be boring? Because of the rules of evidence.
13 Certain things have to be said on the stand. For
14 example, Mr. Toporek is going to put up a police officer
15 to testify that Smith's Crossing is in Jasper County.
16 He's going to testify to things, and he's going to say
17 that Smith's Crossing is in Jasper County. You know
18 where Smith's Crossing is. It's in Jasper County, but
19 it has to be said because of the rules of evidence.

20 Now, the witness list that the State has, has four
21 people from SLED on it. Knowing that trials can be
22 boring, knowing that SLED'S not going to be here to add
23 to much, not wanting you to fall asleep, I've agreed
24 that some of those people don't need to show up, simply
25 because they're -- all they would get up there and

1 testify to is, yes, I received the piece of evidence
2 from so-and-so, and I gave it to so-and-so. And I would
3 stand up go, no questions, and they would drive back to
4 Columbia. And you'd be sitting there going, oh, my God,
5 would they please get on with it.

6 Now, even though it is boring, please, please,
7 please, pay close attention to everything. Everything
8 you hear is important.

9 Now, this courtroom is beautiful. This courtroom,
10 it's schizophrenic. It does not know if it is going to
11 be hot or cold. Be comfortable. If you get too hot,
12 let the Judge know. If you get too cold, let the Judge
13 know. If you need to take a break because you can't
14 think anymore, let the Judge know. We need for you be
15 paying close attention.

16 Your mind will wander, and you'll be going, wonder
17 what type of tie that is he's got on? Hmm. My wife
18 bought it. He's going to answer, who, what, when,
19 where, and how. There's another question, a question
20 that you, as human beings, ask every second when you're
21 talking to somebody. Why? Hopefully, we can get that
22 answer.

23 Pay close attention. When I come back at the
24 close, I'll point out that this is not like anything
25 you've ever seen on television. Thank you. Thank you

2-10-15 STATE V. BUSSELL

DIRECT - CARA KOERNER

1 for doing your job, and I'll talk with you all later.

2 THE COURT: Thank you, Mr. Hughes. Solicitor, you
3 may call your first witness.

4 MR. TOPOREK: Thank you, your Honor. State calls
5 Cara Koerner.

6 MADAM CLERK: If you'll raise your right hand, and
7 place your left hand on the *Bible*. The testimony you're
8 about to give be the truth, the whole truth, and nothing
9 but the truth, so help you God?

10 CARA KOERNER: Yes, ma'am.

11 MADAM CLERK: Come back around and have a seat.
12 Adjust this mic.

13 CARA KOERNER: Yes, ma'am.

14 CARA KOERNER

15 DIRECT EXAMINATION, BY MR. TOPOREK:

16 Q Good morning, Mr. Koerner.

17 A Good morning.

18 Q Do you mind spelling your last name, please, for
19 the court reporter?

20 A K/o/e/r/n/e/r.

21 Q Thank you, ma'am.

22 A You're welcome.

23 Q Where do you live?

24 A

25 Q And how long have you been there?

1 A Ten years.

2 Q And do you have neighbors?

3 A Yes.

4 Q How is your relationship with your neighbors?

5 A We're really close. We kind of look out for each
6 other.

7 Q Okay. Do you know Terry Williamson?

8 A Yes.

9 Q And how do you know Terry?

10 A He's my mechanic. He's my neighbor. He's one of
11 my friends. He does a lot of stuff for us.

12 Q But is he a neighbor of yours?

13 A Yes.

14 Q And where is his house, in relation to your
15 residence?

16 A My trailer sits like this. There's a brick house
17 here. His house is right here. So, I can look out my
18 front door and see his property.

19 Q Okay. Thank you. Do you recall an incident
20 happening at Terry's house around October of 2013?

21 A Yes.

22 Q And what do you remember about that incident? What
23 do you remember that you saw or did, in reference to
24 that?

25 A Well, we try to let each other know if somebody's

1 not going to be in town, or somebody's going away. We
2 look out for each other. We watch each other's
3 property. So, he had already come to me and told me the
4 dates that he was going to be gone, to keep an eye out
5 on his house.

6 Well, I have -- I have two Chow-Chows that sit in
7 my yard pretty much all day. They're not on chains.
8 They stay outside, and they started barking. And I
9 looked out the door, and at first, I didn't see nothing,
10 and they were up closer towards the mailbox. And they
11 saw somebody walking down the road.

12 I went out there, and that's when I encountered
13 Chad walking, as well. And I walked to the property
14 like this. We met at the pump house, which is -- it's
15 the pump house, the carport, his trailer, his shed, so,
16 the pump house was the first thing. And I asked him
17 what he was doing. He said that he was sent there by
18 Rose, which is his aunt, to check on the house, which I
19 didn't think anything of it, because I knew that he had
20 been staying with Rose.

21 Q Okay. Let me back up just a moment. Is that pump
22 house on Terry's property, or where is that located?

23 A It's on Terry's property.

24 Q Okay. Did you know -- I know you just identified
25 him by name. Did you know Chad prior to that?

1 A I had seen him before, but personally, no.

2 Q Okay.

3 A Like, I had been introduced to him, but it wasn't
4 somebody that I knew personally.

5 Q Did you know anything about his relationship with
6 Terry or anything like that?

7 A No.

8 Q And you mentioned Rose. Who is Rose?

9 A Mr. Terry's ex-wife. That's --

10 Q Okay. Does she live around that area?

11 A She lives on the corner of -- there's
12 , and then there's this road that goes like this,
13 where MP1 and Marmetta's (phonetic spell) is. I'm not
14 sure -- too sure of the name of the road, I'm sorry.
15 But she lives on the corner of that, in a fenced-in
16 yard. So, she's not even -- I mean, she rides her bike
17 to the house, or -- I've seen her ride the lawn mower to
18 the house. It's right around the corner.

19 Q Okay. And do you know -- do you know about what
20 date that would have been that you saw Chad on the
21 property?

22 A What day?

23 Q Yes.

24 A Yeah, no.

25 Q Okay. Would looking at your written statement

2-10-15 STATE V. BUSSELL

DIRECT - CARA KOERNER

1 refresh your memory as to what day it may have been?

2 A The -- I have my statement right here. I'm sorry.
3 I know what day -- I know what I put down on my
4 statement. And I put down the 17th, crossed out the
5 17th, and marked the 16th. But I'm a stay-at-home mom,
6 so when it comes to dates, like, I don't really keep up
7 with them. So, I had asked what the date was when I
8 filled out my statement, and I got two different
9 answers. That's why there's a scribble-out, and then
10 another correction. But as for like, the day of the
11 week, I'm not too sure.

12 Q Okay. So, possible either the 16th or 17th of
13 October?

14 A Yeah.

15 Q Was it at the time when -- had Terry informed you
16 that he was out of town at that time?

17 A Yes.

18 Q Okay. And --

19 A He informed me the night before he was leaving and
20 what time that they were leaving the next morning.

21 Q Okay. And do you see the person that you
22 confronted on Terry's property?

23 A Yes.

24 Q Either on the 16th or 17th, in the courtroom today?

25 A Yes.

1 Q And can you point him out for us? And the record
2 reflect --

3 A In the purple shirt.

4 Q Thank you.

5 A You're welcome.

6 MR. TOPOREK: Let the record reflect that she's
7 identified the defendant.

8 Thank you, Ms. Koerner. I don't have any further
9 questions.

10 A Okay.

11 THE COURT: Cross-examination?

12 CARA KOERNER

13 CROSS-EXAMINATION, BY MR. HUGHES:

14 Q Ms. Koerner, had you ever seen Mr. Bussell around
15 the property?

16 A Yes, sir.

17 Q He's done work around there.

18 A Not work. He had visited a couple times. I never
19 saw him actually do work. I had seen him come and
20 visit, say his hi's and --

21 Q Now, do you have a red truck?

22 A No.

23 Q Did you have a truck back then?

24 A I have a white truck.

25 Q I'm sorry?

2-10-15 STATE V. BUSSELL

CROSS - CARA KOERNER

1 A A white truck.

2 Q Okay. Do you ever get wood from Mr. Williamson?

3 A No.

4 Q Okay. So, you weren't loading up wood that day
5 that this happened?

6 A No, sir.

7 Q So, you can't testify that this happened the same
8 day that Mr. Bussell was arrested. You just seen --

9 A What -- what do you mean? I can't --

10 Q What you wrote down on your statement, you don't
11 know if that was the day he was arrested or not.

12 A I know the same day that he was arrested was the
13 same day that I saw him, yes. And you want me to tell
14 you why, is because when -- after I confronted him and
15 asked him why he was there, and he told me he was there
16 to check on the property, that Rose sent him over, I
17 called my partner and told her that I saw Chad over
18 there. She's a landscaper. At the time, she was doing
19 business properties here in Ridgeland. She actually
20 went to Rose's house and asked Rose. And then, in the
21 process of her going from where she was --

22 MR. HUGHES: Your Honor, I think we're getting into
23 hearsay.

24 THE COURT: All right. Well, ask her another
25 question.

1 MR. HUGHES: Okay.

2 BY MR. HUGHES:

3 Q Where was he on the property?

4 A When I confronted him, he was at the pump house.
5 He was walking down the road. And then, I walked from
6 my driveway, because my girls were barking. So, I
7 walked up my driveway, saw him coming down the road, and
8 confronted him right at the pump house.

9 Q Okay. The pump house is on the road.

10 A It's on the property. But like, when you -- when
11 you walk from my house to the driveway, up my driveway,
12 keep going straight, it goes to the pump house.

13 Q When he saw you, did he act nervous, or did he run
14 away?

15 A No.

16 Q He -- just like you and I are talking?

17 A Yeah. He just told me he was there on the property
18 checking it; Ms. Rose sent him over.

19 Q Okay.

20 A His aunt sent him over. Excuse me, that was his
21 exact words.

22 Q And where is the shed?

23 A The shed?

24 Q Yes.

25 A Right here.

2-10-15 STATE V. BUSSELL

CROSS - CARA KOERNER

1 Q Okay. In relation to the trailer and the pump
2 house, how close is it?

3 A From --

4 Q Just --

5 A Okay. For instance, where Mr. Williamson is
6 sitting, that's the distance between the shed and where
7 the -- his front door is. So, it's the shed, the
8 garage, it's all -- it's like, right there.

9 Q But --

10 A Shed's here, pump house here. He's got a awning
11 that where he parks his truck and his boat, and then the
12 garage and the house.

13 Q So --

14 A And the garage leads into the house, so they're
15 connected.

16 Q So, it's not that far from where you saw him, Mr.
17 Bussell, to the shed.

18 A Right.

19 Q It's not that far from where you saw Mr. Bussell.

20 A I never saw him at the shed. I saw him at the pump
21 house.

22 Q Okay. But I'm just asking the distance now.

23 A Right. And I'm -- I'm just letting you know where
24 I saw him. Where I saw.

25 Q How big is the pump house?

1 A It's taller than me, about the size of the box that
2 I'm sitting in.

3 Q Okay.

4 A And I didn't -- I didn't think nothing of it. I
5 turned around and went back home, because Ms. Rose sent
6 him over, from my understanding. And I knew Rose
7 watched the house, so.

8 MR. HUGHES: No further questions, your Honor.

9 THE COURT: Any re-direct?

10 MR. TOPOREK: Just very briefly, your Honor.

11 CARA KOERNER

12 RE-DIRECT EXAMINATION, BY MR. TOPOREK:

13 Q The pump house, the shed, whose property does all
14 that sit on?

15 A Mr. Williamson's.

16 MR. TOPOREK: Thank you. Nothing further.

17 THE COURT: All right. Thank you, ma'am. You may
18 step down. You may call your next witness.

19 MR. TOPOREK: May Ms. Koerner be excused?

20 THE COURT: Any objection? Yes, ma'am, you may be
21 excused.

22 CARA KOERNER: Okay. Thank you.

23 MR. TOPOREK: State calls Rose Williamson.

24 MADAM CLERK: Raise your right hand, and place your
25 left hand on the *Bible*. The testimony you're about to

2-10-15 STATE V. BUSSELL

DIRECT - ROSE WILLIAMSON

1 give the Court be the truth, the whole truth, and
2 nothing but the truth, so help you God?

3 ROSE WILLIAMSON: Yes, ma'am.

4 MADAM CLERK: Thank you. Come right around and
5 have a seat in the witness box.

6 ROSE WILLIAMSON

7 DIRECT EXAMINATION, BY MR. TOPOREK:

8 Q Good morning, Ms. Williamson. Where do you live?

9 A , Ridgeland, South Carolina.

10 Q Okay. And do you know Terry Williamson?

11 A Yes. He's --

12 Q How do you know Terry Williamson?

13 A He's my ex-husband.

14 Q And do you know where Terry lives at?

15 A Yes, I do.

16 Q How far away does Terry live from you, would you
17 say?

18 A A quarter of a mile?

19 Q So, roughly the same area?

20 A Yeah. Oh, yeah.

21 Q Do you know Chad Bussell?

22 A Yes, I do.

23 Q How do you know Chad Bussell?

24 A He's the nephew of my ex-husband.

25 Q Is he Terry's nephew?

2-10-15 STATE V. BUSSELL

CROSS - ROSE WILLIAMSON

1 A Yes.

2 Q Okay. Do you see Mr. Bussell in the courtroom
3 today?

4 A Yes, I do.

5 Q Can you point him out, identify him?

6 A Over there.

7 Q Let the record reflect Ms. Williamson's identified
8 Mr. Bussell. Do you recall Terry going out of town
9 around October of 2013?

10 A Yes, they went on a trip.

11 Q Did you ever ask Chad Bussell to go check on his
12 house or go to his property for any reason at that time?

13 A No, sir.

14 Q At any time, have you ever asked Chad Bussell --

15 A No, sir.

16 Q -- to go to his property?

17 A No, sir.

18 MR. TOPOREK: Thank you, Ms. Williamson. I don't
19 have anything further.

20 ROSE WILLIAMSON

21 CROSS-EXAMINATION, BY MR. HUGHES:

22 Q Had you ever asked Mr. Bussell to take things over
23 to Mr. Williamson?

24 A Not to my recollection, no. I've never.

25 MR. HUGHES: Begging the Court's indulgence. No

2-10-15 STATE V. BUSSELL

DIRECT - JAMES O'NEAL ABLE

1 further questions, your Honor.

2 THE COURT: Thank you, ma'am. You may step down,
3 and you may be excused from your subpoena.

4 ROSE WILLIAMSON: Okay. Thank you.

5 THE COURT: Call your next witness, Solicitor.

6 MR. TOPOREK: Thank you, your Honor. The State
7 would call James O'Neal Able.

8 MADAM CLERK: Come forward, Mr. Able. Raise your
9 right hand, and place your left hand on the *Bible*. The
10 testimony you're about to give the Court be the truth,
11 the whole truth, so help you God?

12 JAMES O'NEAL ABLE: Yes, ma'am.

13 MADAM CLERK: Come right around, and have a seat in
14 the witness box.

15 JAMES O'NEAL ABLE

16 DIRECT EXAMINATION, BY MR. TOPOREK:

17 Q Good morning, sir. Mr. Able, where do you live at?

18 A

19 Q And how long have you been at that residence?

20 A Oh, about five years.

21 Q And do you have neighbors?

22 A Yes, I do.

23 Q And how is your relationship with your neighbors?

24 A Been knowing him for quite a few years, and we have
25 conversations in the yard from time to time, and that's

1 basically it. We both ride motorcycles.

2 Q Okay. And when you say *both*, who are you referring
3 to?

4 A Terry Williamson.

5 Q Okay. So, you do know Terry Williamson.

6 A Yes, I do.

7 Q And how long have you known him?

8 A Probably twenty years or so.

9 Q Okay. And how is your relationship with Terry?

10 A We've never had a problem.

11 Q Would you -- I mean, are you all friends?

12 A Yes, we are.

13 Q Do you recall an incident involving Terry's house
14 that happened around October of 2013?

15 A Yes, I do.

16 Q And where is Terry's house in relation to your
17 house?

18 A Probably -- his house is turned long-ways, and
19 mine's turned this-a-way. So, I can't see his house out
20 the front. When I walk out of my back porch, I can see
21 his house.

22 Q Okay. And back to this incident, do you recall
23 exactly when this occurred?

24 A You talking about date and time?

25 Q Yes, sir.

2-10-15 STATE V. BUSSELL

DIRECT - JAMES O'NEAL ABLE

1 A No, I don't.

2 Q Do you know where Terry was on the day that this
3 happened?

4 A He was supposed to be in Daytona. He had spoken to
5 me a day or two before, kind of keep an eye out on the
6 place. They were going, and going to be gone for like,
7 I think he said a week, at that time, I believe, he
8 said.

9 Q And would this have been around October of 2013?

10 A Yeah, it was, because if I'm not mistaken, it was
11 during Daytona Bike Week.

12 Q Did he tell you that anybody would -- inform you
13 that anybody would be coming by the house, anyone to do
14 work on the house, anything like that?

15 A No, he did not.

16 Q To your knowledge, was anybody supposed to be at
17 his house?

18 A Best I knew, there was nobody supposed to be there.

19 Q Okay. What were you doing and what do you remember
20 seeing on the day of this incident?

21 A Well, I was replacing a kitchen floor, and I stood
22 up and went to the sink to get a glass of water. And
23 when I looked out the window, I saw the gentleman
24 walking by.

25 Q And a couple things. What time -- was this during

1 the day, or was this at night?

2 A It was daytime.

3 Q Was it raining, anything like that?

4 A Not that I can recall.

5 Q Was it a clear day?

6 A Yes, as far as I can remember.

7 Q Did you recognize this person that you saw walking
8 towards Terry's property?

9 A Yes, I did.

10 Q Did you know him by name, or anything like that?

11 A I did not him by name. He had came over to my
12 house at one time, like, a couple days before Terry and
13 them left. He was helping them load or whatever, just
14 helping them do some work at the house. And Terry came
15 over and spoke to me and introduced him, but I didn't
16 remember his name.

17 Q Okay. And well, what happened next, after you saw
18 him. You saw him on the property?

19 A Well, when I saw him walk by, I just thought it
20 kind of odd, you know, he knew they wasn't going to be
21 there. So, I walked out on the back porch, and I
22 watched him as he walked into the yard, and when he got
23 to the back porch, I lost sight of him. And I stood
24 right there, come off the back porch, and I walked out
25 into the yard, and I'll say maybe twenty minutes or so

2-10-15 STATE V. BUSSELL

DIRECT - JAMES O'NEAL ABLE

1 went by, and he came out. I -- when he came back into
2 my view, I did not see him come out of the house, and he
3 had two big bags in his hand, and he walked -- distance
4 from here to the back wall, he set them down, and he
5 come back.

6 Q Okay. You say you did not see him actually come
7 out of the house?

8 A No, I did not.

9 Q Where did you first see him when he was carrying
10 these bags?

11 A He was probably within ten foot of Terry's house.

12 Q Okay.

13 A Coming from the house.

14 Q And you stated -- you just testified that he would
15 walk some distance, and then set the bags down?

16 A Um-hmm.

17 Q All right.

18 COURT REPORTER: Is that yes or no?

19 A Yes.

20 Q What did that mean to you?

21 A Well, I took it they was filled with something, and
22 it had to be heavy if he had to keep putting them down.

23 Q What did you do after that?

24 A I walked out to the edge of the road, and when he
25 came out to the road, I asked him what he was doing.

1 And he never -- he set the bags down and looked at me,
2 and never answered me in no kind of way. He picked the
3 bags back up and started walking.

4 Q And what did you do after that?

5 A I went around the corner and got in my truck, and
6 came back out, and I let him keep walking, and I kept
7 him in my sight 'til -- the dirt road is probably three
8 or four hundred yards long, 'til you got to the end of
9 the road. And then, he took a left and started toward
10 town on Highway 336.

11 Q And what did you do after you saw him take that
12 left?

13 A I called Keefe Blatchley and told Keefe that I
14 suspected him of breaking into my neighbor's house, and
15 that I was -- I had him in my sight at that time, but,
16 if he would, how about see if he could get a deputy out
17 there.

18 Q And how did you know Keefe?

19 A Been knowing Keefe since he was a kid, and knew him
20 when he was with law enforcement, and he did mechanic
21 work for me. We've rode motorcycles together, just been
22 knowing him pretty much all his life.

23 Q Okay. And again, what did you actually tell Keefe?

24 A I told him that I suspected a man of breaking into
25 my neighbor's house, because he was toting two bags, and

2-10-15 STATE V. BUSSELL

DIRECT - JAMES O'NEAL ABLE

1 was walking down the road with them, and coming from
2 Terry's house.

3 Q And after you talked to Keefe and told him all
4 that, what did you do after that?

5 A I continued following him.

6 Q And were you -- I'm sorry if I missed this earlier
7 -- were you on foot, or were you in a van?

8 A No, I was in my van.

9 Q Okay. What did you see happen after that?

10 A He just continued walking, and like I said, a short
11 distance, sat the bags down, and every now and then, he
12 would look at me, and pick the bags up and keep going.
13 And that went on for approximately, I'll say, a half a
14 mile.

15 Q And what happened after that?

16 A Keefe came to me, and it wasn't but a few moments
17 after that, the deputy arrived.

18 Q And did you see the deputy actually make contact
19 with the suspect?

20 A Yes, I did.

21 Q And was that the same person that you had seen
22 leaving Terry's home carrying those bags?

23 A Yes, it was.

24 Q And do you see him in the courtroom today?

25 A Yes, I do.

1 Q Can you point him out for us.

2 A Yes, I can.

3 Q Can you do that for us?

4 A It would be right here.

5 MR. TOPOREK: The record reflect he has identified
6 the defendant as the person who he saw leaving Terry's
7 property.

8 BY MR. TOPOREK:

9 A Yes, sir.

10 Q After law enforcement showed up and made contact
11 with him, did you have any other involvement in the
12 investigation of this case?

13 A No. I sat right there until it was all over with,
14 and a couple of the officers came over and spoke with
15 me, but I don't remember which ones it were, and don't
16 really remember the conversation.

17 Q Thank you, Mr. Able.

18 A Okay.

19 MR. TOPOREK: I don't have any further questions.

20 A Okay.

21 THE COURT: Cross-examination, Mr. Hughes?

22 MR. HUGHES: Thank you, sir.

23 JAMES O'NEAL ABLE

24 CROSS-EXAMINATION, BY MR. HUGHES:

25 Q Okay. Mr. Williamson's trailer sits like this, and

2-10-15 STATE V. BUSSELL

CROSS - JAMES O'NEAL ABLE

1 yours sits like that.

2 A Correct.

3 Q And is the back pointed toward his trailer or the
4 front? Is the back of your trailer pointed toward his
5 trailer, or is the front?

6 A The back.

7 Q And where's the pump house?

8 A I don't have one.

9 Q No? Maybe Mr. Williamson's pump house.

10 A I didn't say nothing about a pump house.

11 Q Okay. Is there a pump house on that property?

12 A If it is, I wouldn't know which building it would
13 be.

14 Q Okay. There's not a separate one about the size of
15 where you're sitting, that you know of?

16 A He's got three or four different buildings in his
17 yard.

18 Q Okay. Can you see all of them from where you're --

19 A I can see the back of all of them. And then, a
20 couple of them just facing, I can see the front of.

21 Q Did you see anybody go into Mr. Williamson's house?

22 A No, I did not.

23 Q Did you see anybody go into any of the buildings on
24 Mr. Williamson's property?

25 A No, I did not.

1 Q Have you seen Mr. Bussell working around Mr.
2 Williamson's property?

3 A Yes, I have.

4 Q Now, how big a van do you have?

5 A It's a 17-passenger.

6 Q And how fast were you going when you were following
7 Mr. Bussell?

8 A Well, I would ride probably ten miles an hour, and
9 I would pull over and stop, and I'd let him proceed down
10 the road, and then I'd ease back up.

11 Q And at what point did he drop the bags and run?

12 A He never did.

13 Q Did he ever look back at you?

14 A Quite a few times.

15 Q So, he knew you were there.

16 A Of course.

17 Q And he knew you were following him.

18 A I would assume so.

19 Q And when law enforcement got there, you saw him
20 drop the bags and run away?

21 A No, he never run away, and he never dropped the
22 bags. He sat them down.

23 Q And he got into a fight with law enforcement, that
24 you saw?

25 A No, I did not.

2-10-15 STATE V. BUSSELL

DIRECT - KEEFE BLATCHLEY

1 Q So, he basically acted like somebody who was going
2 about their everyday business, walking down the street
3 carrying some heavy bags.

4 A I guess you could say that.

5 MR. HUGHES: No further questions, your Honor.

6 THE COURT: Any re-direct?

7 MR. TOPOREK: Nothing further.

8 THE COURT: Thank you, sir. You may step down, and
9 you may be excused from your subpoena. Call your next
10 witness, Solicitor.

11 MR. TOPOREK: Thank you, your Honor. State would
12 call Keefe Blatchley.

13 MADAM CLERK: Raise your right hand, and place your
14 left hand on the *Bible*. Is the testimony you're about
15 to give the Court will be the truth, the whole truth,
16 and nothing but the truth, so help you God?

17 KEEFE BLATCHLEY: So help me God.

18 MADAM CLERK: Thank you. Come right around and
19 have a seat in the witness box.

20 KEEFE BLATCHLEY

21 DIRECT EXAMINATION, BY MR. TOPOREK:

22 Q Good morning, Mr. Blatchley.

23 A Good morning.

24 Q Where do you work?

25 A Blatchley Brake and Tire in Ridgeland.

1 Q And where is that located at?

2 A Right here on 17.

3 Q Do you know Terry Williamson?

4 A Yes, I've -- I've known Terry for about all my
5 life.

6 Q Okay. And how is your relationship with Terry?

7 A I've done business with Terry before.

8 Q Okay. Do you know where Terry lives at?

9 A Yes.

10 Q Where is Terry's residence in relation to your
11 shop?

12 A I'd say approximately three miles away.

13 Q Okay. Do you know O'Neal Able?

14 A Yes.

15 Q How do you know Mr. Able?

16 A I've known O'Neal almost all my life, too. Grew up
17 here.

18 Q And how is your relationship with Mr. Able?

19 A Good. We're friends.

20 Q Okay. Do you recall an incident happening at Terry
21 Williamson's home around October of 2013?

22 A Yes, I do.

23 Q And do you recall the exact day of this incident?

24 A I can't recall the exact day or time.

25 Q Do you know where Terry was at the time of this

2-10-15 STATE V. BUSSELL

DIRECT - KEEFE BLATCHLEY

1 incident?

2 A Yes, he was in Florida.

3 Q He wasn't at his home?

4 A No, he wasn't at home.

5 Q Okay. And how did you get involved and what did
6 you learn about this incident?

7 A Well, I was at my shop, and O'Neal came up to the
8 shop, Mr. Able, and he told me, he said, *I think*
9 *somebody broke into Terry's house.* And --

10 MR. HUGHES: Your Honor, I think we're approaching
11 hearsay here.

12 A Okay.

13 MR. TOPOREK: Your Honor, the declarant's
14 testified. I think he's just --

15 A I can testify to what he told me.

16 THE COURT: I'm going to sustain the objection.

17 MR. TOPOREK: Okay.

18 BY MR. TOPOREK:

19 Q Did O'Neal contact you?

20 A Yes, he did.

21 Q And what did you do after he contacted you?

22 A I left my shop, and I located a subject that was
23 walking on Smith's Crossing.

24 Q And were you on foot or were you in a vehicle?

25 A I was in my vehicle.

1 Q And what did you do after you located the suspect?

2 A I called Dispatch.

3 Q And why did you call Dispatch?

4 A Because I had information that this suspect was
5 involved in a crime.

6 Q And you called Dispatch. What happened after that?

7 A It was a little bit while after that, I circled
8 around the area, and kept my eye on the suspect. And
9 that's when the deputy pulled up.

10 And then, I -- I notified Dispatch to have the
11 deputy call me, and which, I received a phone call from
12 him, and I advised him that that was the subject that --
13 that I was -- that I seen in the area.

14 Q Okay.

15 A Yeah.

16 Q And from the time that you first saw the suspect,
17 to the time that law enforcement arrived with the
18 suspect, did you lose eyesight of him at any time?

19 A No.

20 Q Did you observe anything about the suspect as far
21 as his appearance or anything that he was carrying?

22 A He was carrying two bags. They were pretty heavy.

23 Q And why do you say they were heavy?

24 A The way he was walking. And he sat them down and
25 picked them back up and walking again. I seen him set

2-10-15 STATE V. BUSSELL

DIRECT - KEEFE BLATCHLEY

1 them down one time, and then pick them back up.

2 Q Okay. After law enforcement arrived and -- did law
3 enforcement actually contact you?

4 A Yeah, the deputy did.

5 Q Okay. And I believe you testified that you
6 confirmed that he was with the correct suspect.

7 A Yeah, I confirmed that that was the guy.

8 Q Did you do anything --

9 COURT REPORTER: I'm sorry, I'm sorry. You
10 confirmed that he was with the?

11 Q With the correct suspect.

12 COURT REPORTER: And your answer was?

13 A And I confirmed that was the right suspect.

14 Q After that occurred, did you do anything after
15 that?

16 A Yes, I did.

17 Q And what was that?

18 A After all the -- I believe it was Donald Hipp
19 showed up. Detective Morris, Detective Crosby, and
20 Detective Wright showed up. I then -- I drove my
21 vehicle to where they were, and I was a few cars behind,
22 and I walked up there.

23 Q And at some point, did you ever go back to Terry's
24 home?

25 A Yes, I did. I spoke to Detective Wright, and he

1 asked me if he -- if I knew where Terry lived at. And,
2 of course, I did. And so, he said, *can you ride with me*
3 *and show me exactly where his home is*, and I did.

4 MR. HUGHES: Your Honor, we still getting into
5 hearsay here. If the officer is going to testify, I
6 have no problem with that, but let's stick to what he
7 did, please.

8 KEEFE BLATCHLEY: Okay.

9 THE COURT: Well, I'll overrule the objection. Go
10 ahead.

11 MR. TOPOREK: I'll --

12 BY MR. TOPOREK:

13 Q Did you take Detective Wright to Terry Williamson's
14 house?

15 A Yes. Yes, I did. I took him to Terry's home.

16 Q And how far was Terry's home from the point where
17 you met up with law enforcement and the suspect?

18 A I'd say approximately -- maybe two miles.

19 Q Okay. After you took the detective to the home,
20 did you do anything else, as far as investigating this
21 case or anything like that?

22 A Yes, I did. I helped Detective Wright make a
23 perimeter and walk around the residence. And as I
24 walked behind the residence, I located a window that had
25 been broken out.

2-10-15 STATE V. BUSSELL

CROSS - KEEFE BLATCHLEY

1 Q Okay. And you were with Detective Wright when you
2 did that?

3 A Yes.

4 Q Other than that, did you have any other further
5 involvement?

6 A No, nothing else.

7 MR. TOPOREK: Thank you, Mr. Blatchley. I don't
8 have anything further.

9 A Yes, sir.

10 THE COURT: Cross-examination?

11 MR. HUGHES: Okay.

12 KEEFE BLATCHLEY

13 CROSS-EXAMINATION, BY MR. HUGHES:

14 Q So, you got involved with this when Mr. Able came
15 to your shop.

16 A That's correct.

17 Q And you identified the suspect to law enforcement.

18 A Excuse me?

19 Q You were the one that identified the suspect to law
20 enforcement? Isn't that what your testimony was?

21 A Yes, sir.

22 Q Were you at Mr. Williamson's home that day?

23 A No, sir.

24 Q Did you see anybody at Mr. Williamson's home that
25 day?

1 A No, sir, I did not.

2 Q Then, how in the world were you able to identify
3 someone you didn't see?

4 A Through what was told to me.

5 Q Okay.

6 A With reasonable suspicion.

7 Q Where do you work?

8 A I work at Blatchley Brake and Tire.

9 Q Okay. You're not in law enforcement.

10 A No, I had six years in law enforcement, sir.

11 Q But you're not in law enforcement.

12 A No, sir, I'm not.

13 Q You don't have a badge.

14 A No, sir, I don't.

15 Q Okay. So, you have no way of knowing anything
16 about this crime, but yet, you're involved in the
17 investigation.

18 A Yes, sir. I'm a concerned citizen.

19 Q And how many officers were on the scene, that you
20 counted?

21 A I believe it was approximately five.

22 Q But you went to the crime scene and did a perimeter
23 sweep, correct?

24 A Yes, sir, I did.

25 Q And you're the one that's supposed to have

2-10-15 STATE V. BUSSELL

CROSS - KEEFE BLATCHLEY

1 discovered the broken-out window.

2 A Yes, sir.

3 Q But you're not law enforcement.

4 A No, sir.

5 Q Law enforcement let you do this?

6 A I was assisting law enforcement as a citizen.

7 Q So, the answer would be, yes, law enforcement let a
8 citizen walk around a crime scene.

9 A Yes, sir.

10 Q You're the one that identified the person, but you
11 didn't see anybody before, at the house.

12 A No, sir. I wasn't there.

13 Q And --

14 MR. HUGHES: Begging the Court's indulgence.

15 BY MR. HUGHES:

16 Q I keep wanting to call him Mr. O'Neal. Mr. Able
17 came to your shop.

18 A That's correct.

19 Q Did he leave your shop, or did he stay there?

20 A No, he stayed there.

21 Q He wasn't there when law enforcement stopped Mr.
22 Bussell.

23 A No, sir, he wasn't.

24 Q You're the one that identified Mr. Bussell.

25 A Yes, sir.

1 Q Even though you'd had no idea what the person -- or
2 who the person was.

3 A I know it's a puzzle.

4 Q No, sir, it's not a puzzle. It's a joke.

5 A Okay.

6 MR. HUGHES: No further questions, your Honor.

7 THE COURT: Any re-direct?

8 MR. TOPOREK: Very briefly.

9 THE COURT: Sure.

10 KEEFE BLATCHLEY

11 RE-DIRECT EXAMINATION, BY MR. TOPOREK:

12 Q How's your vision, Mr. Blatchley?

13 A Very good.

14 Q Do you know what a broken window looks like?

15 A Yes, sir, I do.

16 Q When you made this perimeter sweep, was Detective
17 Wright with you?

18 A Yes, he was.

19 Q Was Detective Wright with you when you spotted the
20 broken window?

21 A I spotted the window first, and then I advised
22 Detective Wright what I found, and he came right over.
23 I mean, I didn't -- I was probably about -- the window
24 was probably about five feet up. And so, I was probably
25 about four feet away from the window. And then, I

2-10-15 STATE V. BUSSELL

RE-DIRECT - KEEFE BLATCHLEY

1 motioned to Officer Wright, hey, there's a broken window
2 right here. And then, he came over.

3 Q And let me ask you this. Did the people that you
4 identified as being at the scene where the defendant was
5 stopped, were they in their vehicles, or were they out
6 on foot?

7 A They were out of their vehicles.

8 Q Okay. Had someone been parked down the street,
9 stayed in their vehicle, would you have noticed it at
10 that time?

11 A Yes, sir.

12 Q Did you notice --

13 A There was nobody else on the road. I was -- I was
14 parked. I was observing the suspect the whole time. I
15 was trying to call Dispatch and let them know where he
16 was, you know.

17 Q Had someone been parked half a mile behind you,
18 would you have noticed it?

19 A I believe so.

20 Q Do you recall looking to see if anyone was behind
21 you?

22 A I was looking down both sides of the road the whole
23 time, watching my surroundings, and the only thing I
24 seen was Mr. Bussell with the bags, walking down the
25 road.

1 MR. TOPOREK: I don't have anything further.

2 THE COURT: Any re-cross?

3 MR. HUGHES: Nothing, your Honor.

4 THE COURT: All right. Thank you, sir. You may
5 step down.

6 KEEFE BLATCHLEY: Yes, sir. Thank you.

7 THE COURT: And you're excused from your subpoena.
8 You may call your next witness, Solicitor.

9 MR. TOPOREK: Thank you, your Honor. State calls
10 Jarvis Lessane.

11 MADAM CLERK: Raise your right hand, and place your
12 left hand on the *Bible*. Is the testimony you're about
13 to give the truth, the whole truth, and nothing but the
14 truth, so help you God?

15 JARVIS LESSANE: I do.

16 DEPUTY JARVIS LESSANE

17 DIRECT EXAMINATION, BY MR. TOPOREK:

18 Q Good morning, Deputy.

19 A Good morning.

20 Q Sir, where do you currently work?

21 A Hampton County Sheriff Office.

22 Q And I just addressed you as Deputy, what was --
23 what is your position over there?

24 A Rural Patrol Deputy Sheriff.

25 Q And how long have you been with Hampton?

2-10-15 STATE V. BUSSELL

DIRECT - DEPUTY JARVIS LESSANE

1 A I just recently went back since December.

2 Q Okay. And prior to that, where did you work?

3 A Jasper County Sheriff Office.

4 Q And were you employed with Jasper County Sheriff's
5 Office in October of 2013?

6 A Yes.

7 Q And how long, total, have you been in law
8 enforcement?

9 A Approximately five years.

10 Q Do you recall responding to a possible home break-
11 in, on or about October 17, 2013?

12 A Yes.

13 Q And what information did you receive about the
14 incident and what did you do?

15 A Dispatch dispatched me in the area of
16 , stated a complainant called in, stating
17 they observed a white male at the incident location.
18 They stated that the white male subject was seen messing
19 around the home on the resident. They stated that --
20 the complainant stated that the white male subject was
21 walking down carrying two heavy
22 bags. The complainant also stated that he suspect a
23 possible break-in at the home on the resident.

24 Q And was this -- this information was -- was this
25 relayed to you through Dispatch?

1 A Yes.

2 Q And did you respond to the Smith's Crossing area?

3 A Yes.

4 Q And what happened when you responded to that area?

5 A When I got in the area, I observed the subject that
6 was -- who fitted the description through Dispatch. I
7 made contact with him on

8 Q And was he on foot? Was he in a vehicle? How was
9 he traveling?

10 A He was on foot.

11 Q And talk about how you made contact with him, and
12 then what happened when you initially started talking to
13 him.

14 A I got out my patrol vehicle. He placed his two
15 bags that he was carrying on the ground. I advised him
16 the reason for my contact, and he provided me his I.D.

17 Q Did you notice anything physically about the
18 defendant? Did he have any injuries or anything like
19 that?

20 A He appeared -- he had appeared to have fresh
21 bruises on his arm and hands area. He also had fresh
22 blood on his shirt.

23 Q Okay.

24 MR. TOPOREK: Court's indulgence.

25 May I approach, your Honor?

2-10-15 STATE V. BUSSELL

DIRECT - DEPUTY JARVIS LESSANE

1 THE COURT: You may.

2 MR. TOPOREK: Madam Court Reporter.

3 BY MR. TOPOREK:

4 Q I'm handing you what's been identified -- been
5 marked as, for identification purposes, as State's
6 Exhibits 1, 2, and 3..

7 Deputy Lessane, take a look at those. And do you
8 recognize those exhibits?

9 A I do.

10 Q And what are they pictures of?

11 A Of the suspect that I made contact of on this
12 incident date.

13 Q And are they a fair and accurate representation of
14 the suspect and his condition when you made contact with
15 him?

16 A Yes.

17 Q Have they been changed or altered in any way?

18 A No.

19 MR. TOPOREK: Your Honor, at this time, the State
20 would move to enter State's Exhibits 1, 2, and 3 into
21 evidence.

22 MR. HUGHES: Without objection.

23 THE COURT: They're entered without objection.

24 ITEMS IDENTIFIED AS PHOTOGRAPHS

25 MARKED STATE'S EXHIBITS 1, 2, AND

1 3, ADMITTED AS EVIDENCE.

2 MR. TOPOREK: Permission to publish.

3 THE COURT: Certainly.

4 MR. TOPOREK: Is this T.V. on, as well, Ms.
5 Bostick, or?

6 MADAM CLERK: You'll have to get a little bit
7 closer.

8 MR. TOPOREK: Sorry. Your Honor, permission for
9 the witness to step down, so that he can see the screen
10 up here.

11 THE COURT: Certainly.

12 BY MR. TOPOREK:

13 Q All right. Deputy Lessane, this is State's Exhibit
14 1 that's been moved into evidence. What is this a
15 picture of?

16 A Of the suspect.

17 Q And is that the suspect that you made contact with
18 on October 17, 2013?

19 A Yes.

20 Q And this is State's Exhibit 3. Well, it was. And
21 what do you see in this picture?

22 A A cut on his arm.

23 Q And State's Exhibit 2, what's going on in this
24 photo?

25 A That's the shirt he was wearing.

2-10-15 STATE V. BUSSELL

DIRECT - DEPUTY JARVIS LESSANE

1 Q And did you notice anything about the shirt that
2 stuck out to you?

3 A Yes, there's a cut towards the middle.

4 Q Okay. Thank you, Deputy. Where, exactly, were you
5 when you made contact with the suspect?

6 A

7 Q And is that in Jasper County?

8 A Yes.

9 Q And I believe you testified that you asked him for
10 identification information.

11 A Yes.

12 Q What did you do after you obtained that
13 information?

14 A I made contact with the complainant.

15 Q Okay. And how did you make contact with him?

16 A Telephone.

17 Q And why were you doing that?

18 A To confirm I was with the correct subject.

19 Q And were you able to confirm that?

20 A Yes.

21 Q And were you with the correct subject?

22 A Yes.

23 Q What did you do after you confirmed you were with
24 the right guy?

25 A I then asked for consent to search the bag.

1 Q And what did he say?

2 A Yes.

3 Q Did he appear intoxicated or impaired in any way?

4 A No.

5 Q Was he being uncooperative in any way?

6 A No.

7 Q And then, prior to searching the bags, were you
8 able to see into them already?

9 A Yes.

10 Q And can you kind of describe these bags, what they
11 were?

12 A One was a green-colored bag. I believe the other
13 bag was brown. Inside the green-colored bag, I observed
14 a lot of blunt boxes that was filled to the top.

15 Q Okay. And were they -- were they closed in any
16 way? Did they have a zipper that was closing it or
17 anything like that?

18 A No.

19 Q After he told you you could look in his bags, what
20 did you do?

21 A I then looked.

22 Q Okay. Deputy Lessane, I'm going to hand you what's
23 been marked as State's Exhibits 4, 5, 6, 7, 8, 9, and
24 10, and been marked for identification. Can you take a
25 look at those, and I'll give you just a second.

2-10-15 STATE V. BUSSELL

DIRECT - DEPUTY JARVIS LESSANE

1 Have you had a chance to review those exhibits?

2 A Yes.

3 Q And do you recognize those photos?

4 A Yes.

5 Q And what are they photos of?

6 A Photos of the items that was inside the bags on
7 that incident date.

8 Q And are those the items that you found when you
9 searched the bags?

10 A Yes.

11 Q Are those photos a fair and accurate representation
12 of the items as you found them on that day?

13 A Yes.

14 Q And have they been changed or altered in any way?

15 A No.

16 MR. TOPOREK: Your Honor, at this time, we would
17 move to admit State's Exhibits 4 through, I believe it
18 was 10, into evidence.

19 THE COURT: Any objection?

20 MR. HUGHES: Your Honor, I have no objection, but I
21 think I have a matter of law that needs to be taken up
22 outside the presence of the jury.

23 THE COURT: All right. We'll admit the photographs
24 into evidence.

25 ITEMS IDENTIFIED AS PHOTOGRAPHS

1 MARKED STATE'S EXHIBITS 4, 5, 6,
2 7, 8, 9, AND 10, ADMITTED AS EVIDENCE.

3 THE COURT: And ladies and gentlemen, looks like
4 we're going to take a short break here. I need to
5 discuss with the attorneys a matter of law outside of
6 your presence. I'd ask you to retire to your jury room,
7 and hope to be back with you shortly.

8 JURORS LEAVE COURTROOM 10:42 A.M.

9 ON-THE-RECORD BENCH CONFERENCE, OUT
10 OF PRESENCE OF JURORS. PRESENT: THE
11 COURT, MR. TOPOREK, MR. HUGHES.

12 THE COURT: All right.

13 MR. HUGHES: All right. Your Honor, one of those
14 photographs, if I might see them for just a second.
15 That's the top one. You just had it right there. No,
16 right here. The State's Exhibit 4 shows a number of --
17 excuse me -- Swisher Sweets cigarillos that the witness
18 referred to as blunts. A blunt is maybe the street
19 name, but it has a prejudicial connotation of being used
20 with marijuana and cocaine. I request that the witness
21 not refer to them as blunts, but as -- by their brand
22 name, or by their marketed name.

23 THE COURT: Solicitor?

24 MR. TOPOREK: I don't have a problem with that, and
25 I can -- I'll even clarify that before I go any further

2-10-15 STATE V. BUSSELL

DIRECT - DEPUTY JARVIS LESSANE

1 in front of the jury, if you want me to. I can just
2 ask, you know, when you referred to blunts, were you
3 referring to these cigars, or?

4 MR. HUGHES: All right.

5 MR. TOPOREK: If you want me to.

6 MR. HUGHES: I think that is the case of going,
7 hey, don't look at this. So, let's just have him refer
8 to them as cigarillos and not as blunts, and let's don't
9 mention the word *blunt* again.

10 THE COURT: Is that okay with the State?

11 MR. TOPOREK: That's fine with me.

12 THE COURT: And let's make sure the officer
13 understands. Do you have any questions about how we're
14 going to handle it from now on?

15 OFFICER JARVIS LESSANE: No, sir. Yes, sir.

16 THE COURT: All right. Let's tell the jury we're
17 ready whenever they're ready.

18 END BENCH CONFERENCE.

19 JURY ENTERS COURTROOM 10:46 A.M.

20 THE COURT: All right. Solicitor, you may
21 continue.

22 MR. TOPOREK: Thank you, your Honor. I believe I
23 had moved Exhibits 4 through 10 into evidence.

24 THE COURT: And I think I granted that motion
25 without objection.

1 MR. HUGHES: Without objection.

2 MR. TOPOREK: Thank you, your Honor. May I
3 approach briefly?

4 THE COURT: Certainly.

5 MR. TOPOREK: And permission to publish, your
6 Honor.

7 THE COURT: Certainly.

8 BY MR. TOPOREK:

9 Q Okay. Deputy Lessane, can you see this T.V. over
10 here?

11 A Yes.

12 Q And this is State's Exhibit 4. What is in this
13 picture?

14 A The open O Sweets boxes that I observed.

15 Q Okay. And were these inside one of the bags that
16 he had on him?

17 A Yes.

18 Q And what is seen -- this is State's Exhibit 5, what
19 is in this photo?

20 A Those the four items that were inside the bag,
21 along with containers of loose cigarettes.

22 Q Okay. Is that those blue containers in there?

23 A Correct.

24 Q And that was also in one of the bags that the
25 defendant had?

2-10-15 STATE V. BUSSELL

DIRECT - DEPUTY JARVIS LESSANE

1 A Yes.

2 Q And what are we looking at here?

3 A That's one of the -- that's the brown bag he was
4 carrying, as well.

5 Q And were those items pictured in this exhibit,
6 Exhibit 6? Were those inside of that bag?

7 A Yes.

8 Q And what's in this photo?

9 A That's all the items together that was in his
10 possession.

11 Q And what's going on here?

12 A That's a photo of the coins that was taken.

13 Q Were those also in the bag?

14 A Yes.

15 Q And what is that a picture of?

16 A That's a picture of the opened bags.

17 Q And last, what are we looking at here?

18 A That's a photo of the two cans of sodas that he
19 had.

20 Q And were those in the bag, or was he carrying that,
21 or?

22 A It was inside the bag.

23 Q Thank you, Deputy. After searching those bags,
24 what did you do next?

25 A After searching the bag, it was confirmed that the

1 -- some deputies, some detectives went out to the
2 resident and confirmed that it was a break-in. The
3 subject was then detained at that time.

4 Q Okay. And when you say *detained*, was he placed in
5 handcuffs?

6 A Yes, he was placed in handcuffs.

7 Q And what did you do with him after that?

8 A Shortly after, he was transported to the detective
9 office.

10 Q Did you ever actually go to the suspected victim's
11 residence?

12 A I did not.

13 Q Until the time that you detained the subject --
14 from the time that you first made contact with the
15 subject to the time he was detained, was he in your
16 presence, in your eyesight?

17 A Yes.

18 Q And do you see the person that you made contact
19 with and ultimately put handcuffs on in the courtroom
20 today?

21 A Yes.

22 Q And can you point him out for us.

23 MR. TOPOREK: Let the record reflect that he's
24 identified the defendant.

25 BY MR. TOPOREK:

2-10-15 STATE V. BUSSELL

CROSS - DEPUTY JARVIS LESSANE

1 Q After you detained him, did you have any other
2 further involvement with the investigation of this case?

3 A No.

4 MR. TOPOREK: Thank you, Deputy. I don't have
5 anything further.

6 THE COURT: Cross-examination.

7 MR. HUGHES: Thank you, your Honor.

8 DEPUTY JARVIS LESSANE:

9 CROSS-EXAMINATION, BY MR. HUGHES:

10 Q Good morning.

11 A Good morning.

12 Q Now, you were a road deputy, correct?

13 A Yes.

14 Q In Jasper County.

15 A Yes.

16 Q And you get a call from -- about a suspicious
17 person, and you pulled up beside him, and he dropped the
18 bags and ran away. Correct?

19 A No.

20 Q What did he do?

21 A He dropped the bags and spoke with me.

22 Q Did he drop them, or did he just sit them down?

23 A He sat them down.

24 Q He spoke with you? He didn't put up a fight?

25 A No, he didn't.

1 Q Didn't run away.

2 A No.

3 Q Walking down the road, an officer approaches him,
4 he sets the bags down and cooperates, correct?

5 A Yes.

6 Q You asked if he could -- if you could look in the
7 bags. He told you no, and fought you back, correct?

8 A No.

9 Q He said yes, and no problem, correct?

10 A Yes.

11 Q And Dispatch had told you that someone wanted you
12 to call them, and you called them, correct?

13 A Yes.

14 Q And as far as you knew, they were the person that
15 had seen the crime take place, correct?

16 A Yes.

17 Q So then, detectives show up, correct?

18 A Yes.

19 Q And someone radios back that there's been a break-
20 in, and you had been informed that this was the suspect,
21 so you could put him under arrest, correct?

22 A I detained him.

23 Q Okay. You detained him. You put him in handcuffs
24 and read him his *Miranda*, correct?

25 A I didn't.

2-10-15 STATE V. BUSSELL

CROSS - DEPUTY JARVIS LESSANE

- 1 Q Someone else did, though.
- 2 A Yes.
- 3 Q And he fought you the entire time, correct?
- 4 A No.
- 5 Q He cooperated fully with you.
- 6 A Yes.
- 7 Q Now, how far was where you met up with my client to
- 8 the scene of the crime?
- 9 A I believe it wasn't that far.
- 10 Q Okay. Wasn't it about two miles?
- 11 A I'm not exactly sure.
- 12 Q Because you were at . This
- 13 happened over in Granville, correct?
- 14 A Yes.
- 15 Q What time of day was this?
- 16 A It was during the daytime.
- 17 Q And just let me make sure I have this correct, you
- 18 were in a marked patrol car, correct?
- 19 A Yes.
- 20 Q You have blue lights on the roof. They might not
- 21 have been on or not, but they are up there, right?
- 22 A Yes.
- 23 Q You're wearing a uniform.
- 24 A Yes.
- 25 Q And this person who you -- had been identified to

2-10-15 STATE V. BUSSELL

1 you as the suspect was my client, correct?

2 A Yes.

3 Q He doesn't put up a fight, correct?

4 A Yes.

5 Q He doesn't make any arguments, correct?

6 A Yes.

7 Q He cooperates, correct?

8 A Yes.

9 MR. HUGHES: No further questions, your Honor.

10 THE COURT: Okay. Any re-direct?

11 MR. TOPOREK: Nothing further, your Honor.

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

13 You may call your next witness.

14 MR. TOPOREK: Thank you. May I approach, please?

15 THE COURT: I'm sorry?

16 MR. TOPOREK: May we approach?

17 THE COURT: Certainly.

18 OFF-THE-RECORD BENCH CONFERENCE, OUT

19 OF HEARING OF JURORS. PRESENT: THE

20 COURT, MR. TOPOREK, MR. HUGHES.

21 END BENCH CONFERENCE.

22 THE COURT: Ladies and gentlemen, we're going to
23 take a ten-minute break. I ask you to step in the jury
24 room and remind you, it's too early to begin discussing
25 the case. I hope to be back with you shortly.

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 JURORS LEAVE COURTROOM 10:56 A.M.

2 THE COURT: We'll be in recess for ten minutes.

3 MR. HUGHES: Thank you.

4 MR. TOPOREK: Thank you, your Honor.

5 OFF THE RECORD 10:57 A.M.

6 BACK ON THE RECORD 11:08 A.M.

7 BY THE COURT:

8 JURORS ENTER COURTROOM 11:00 A.M.

9 THE COURT: Welcome back, ladies and gentlemen. I
10 believe we are ready to resume with presentation of the
11 State's case. Solicitor.

12 MR. TOPOREK: Thank you, your Honor.. State calls
13 Elvin Wright.

14 MADAM CLERK: Is the testimony you're about to give
15 the Court be the truth, the whole truth, and nothing but
16 the truth, so help you God?

17 DETECTIVE ELVIN WRIGHT: Yes, ma'am.

18 MADAM CLERK: Adjust that mic.

19 DETECTIVE ELVIN WRIGHT

20 DIRECT EXAMINATION, BY MR. TOPOREK:

21 Q Detective Wright, where do you currently work?

22 A Jasper County Sheriff's Office.

23 Q And again, I just referred to you as detective, but
24 what is your -- what's your position over there?

25 A I'm a detective in the investigation division.

1 Q And how long have you been a detective?

2 A Approximately nineteen months.

3 Q And how long, total, have you been in law
4 enforcement?

5 A I've been in law enforcement approximately fourteen
6 years, total.

7 Q Do you recall being a part of an investigation of a
8 burglary at in October of 2013?

9 A Yes, I do.

10 Q And is that in Jasper County?

11 A Yes, it is.

12 Q And do you recall the exact date that this incident
13 occurred on?

14 A October 17th of 2013.

15 Q And please tell us, how did you get involved in
16 this case.

17 A We were dispatched to a possible burglary on -- in
18 the area, . I think by the time I got it,
19 it was said to have been a burglary. Suspect was
20 possibly walking on .

21 Q And where did you initially respond to?

22 A I initially responded to , just
23 west of the .

24 Q And is that in Jasper County?

25 A Yes, it is.

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 Q And what did you find when you got to that
2 location?

3 A Once I arrived, I found Deputy Lessane had one
4 suspect detained. The suspect had a couple of bags of
5 items. Also, there were, I believe, four other
6 detectives already on-scene, and also, Mr. Blatchley.

7 Q And at that time, did you speak to the suspect?

8 A No, I didn't.

9 Q Did you see the suspect?

10 A Yes, I did.

11 Q And do you see the same person in the courtroom
12 today?

13 A Yes, I do.

14 Q And can you point him out for us.

15 A He would be the defendant, Chad Bussell.

16 Q Okay. What did you do after you responded to the
17 location?

18 A At that time, I met with my supervisor, Major Hipp,
19 who was on-scene. He directed me to have Mr. Blatchley
20 to ride with me, to point out the residence that had
21 possibly been broken into, because Mr. Blatchley was
22 familiar with Mr. Williamson and his residence. And he
23 was also the person that made the complaint, from my
24 understanding, to Dispatch.

25 Q And did you actually go to Mr. Williamson's

1 residence?

2 A Yes, I did.

3 Q And what is the address of that residence?

4 A

5 Q And again, I know this is repetitive, but is that
6 in Jasper County?

7 A Yes, it is.

8 Q And what did you do when you got to his residence?

9 A Once we got to the residence, Mr. Blatchley pointed
10 out which residence was Mr. Williamson's, which was .
11 At that time, we exited the vehicle, and we began to
12 walk around the property. It had several, maybe three
13 or four different buildings on it. We checked round and
14 round each building, as we proceeded to check around the
15 house, because we got to the buildings before we
16 obviously got to the house. So, we just kind of made a
17 sweep going in.

18 Once we got to the house, we began to walk around
19 it, and we got, I believe, on the north side of it,
20 which is a -- would be the back side from the road. Mr.
21 Blatchley pointed out that he observed a broken window.
22 And at that time, I believe I -- I think I did it by
23 telephone -- I advised Major Hipp that there had been a
24 burglary at that location.

25 Q Okay. And I want to back up just a moment. You

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 said there were multiple buildings on this property?

2 A Yes.

3 Q Were you able to tell which one was the home, was
4 the residence, opposed to any other buildings?

5 A Oh, yes. Yes, clearly.

6 Q And where this window was, was that on the
7 residence?

8 A Yes, it was.

9 Q Okay.

10 MR. TOPOREK: Permission to approach.

11 THE COURT: Certainly.

12 BY MR. TOPOREK:

13 Q Detective, I'm going to hand you what's been marked
14 as State's Exhibits 11, 12, 13, 14, 15, 16, and 17..
15 They've been marked for identification purposes only.
16 If you could review those photos. Have you had a chance
17 to review those?

18 A Yes.

19 Q And do you recognize those photos?

20 A Yes, I do.

21 Q And what is depicted in those photos?

22 A In these photos are photos of Mr. Williamson's
23 property, round and round, from the outside. Photos
24 that I -- I snapped as I processed the scene.

25 Q You actually took those photos?

1 A Yes, I did.

2 Q And are they a fair and accurate representation of
3 how you found Mr. Williamson's property when you
4 responded on October 17, 2013?

5 A Yes, it is.

6 Q And have they been altered or changed in any way?

7 A No, sir.

8 MR. TOPOREK: At this time, the State would move to
9 admit -- I apologize, I forgot the exhibit numbers now.

10 COURT REPORTER: 11 through 17.

11 MR. HUGHES: 11 through 17.

12 MR. TOPOREK: 11 through 17 into evidence.

13 MR. HUGHES: Without objection.

14 ITEMS IDENTIFIED AS PHOTOGRAPHS

15 MARKED STATE'S EXHIBITS 11, 12,

16 13, 14, 15, 16, AND 17, ADMITTED AS

17 EVIDENCE.

18 MR. TOPOREK: Permission to publish?

19 THE COURT: You may publish.

20 BY MR. TOPOREK:

21 Q Detective, can you see that screen from where you
22 are?

23 A Yes, I can.

24 Q And this is State's Exhibit 11. What's going on in
25 this picture?

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 A This is Mr. Williamson's home,
2 And this is a shot that was taken from the dirt road,
3 which is , towards where his house
4 faces the dirt road, coming out.

5 Q Okay. And there's multiple buildings in this
6 photo, right?

7 A Yes.

8 Q It appears to be a Goodyear banner hanging on this
9 building on the right. Is that the residence?

10 A No. That's a garage, I believe, from talking to
11 him, that he uses for his shop on his cars. I think he
12 has a hobby of working on cars.

13 Q And it looks like the building to the left of that,
14 with the green awning, is that the residence that you're
15 referring to?

16 A Yeah. The building to the left of that, that sits
17 -- sits back a little bit, that would be his residence,
18 and that would be, I believe it's the front door. It's
19 a -- it's another entrance. The house has, if I'm
20 remembering right, two different entries. That's the
21 front entry that leads to the garage there, towards the
22 front, where the road is.

23 Q And is that the house that you walked around and
24 surveyed?

25 A Yes, it is.

1 Q And again, this is State's Exhibit 12. What is
2 that a picture of?

3 A That's a shot of his house. I took that from the
4 west side of it, towards where Mr. Able lives.

5 Q And is that broken window on this side of the home?

6 A No, sir, it's not.

7 Q And State's Exhibit 13, what's in this picture?

8 A That's another shot of Mr. Williamson's house from
9 the opposite side.

10 Q And again, is the broken window scene in this
11 photo?

12 A No, it's not.

13 Q And State's Exhibit 14, what is this a photo of?

14 A That's the far side, which identified as being the
15 north side of the house. This is where the broken
16 window was.

17 Q And is that the awning that we saw in the earlier
18 photo, on the front of the house?

19 A I believe on the first photo, we could see just,
20 maybe the front of it. That's not the shop that I
21 identified as where he worked on his cars at.

22 Q Okay. This was on the residence. Was this --

23 A Are you talking --

24 Q This was at the home.

25 A This was at the home, but it's -- if -- in that

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 first shop, it would have been to the left-hand side of
2 that shop. It's not the shop that's attached to the
3 house.

4 Q And what is that underneath the window?

5 A Underneath the window was a gray, five-gallon
6 bucket.

7 Q And State's Exhibit 14, is that that same window?

8 A Yes, it is.

9 Q State's 16, again, is that another photo of the
10 window?

11 A Yes, it is.

12 Q And is that the same bucket?

13 A Yes, it is.

14 Q And State's Exhibit 17, what is this a photo of?

15 A That's a photo of the top of the bucket, and what
16 appeared to, at that time, be, to me, prints from shoes.

17 Q Okay.

18 MR. TOPOREK: And your Honor, permission for the
19 witness to step down.

20 THE COURT: Certainly.

21 BY MR. TOPOREK: Detective Wright, could you
22 come down and -- it may be a tough reach, but can you
23 kind of point out what you were referring to as what you
24 believed to be a possible shoe print.

25 A Here, where you see the small, round dots and what

1 looked like might be mildew on the bucket, those small,
2 round dots are prints from shoes.

3 COURT REPORTER: I'm sorry. The small round spots
4 are?

5 A Yes.

6 A You can see likeness here, and more so over here.

7 Q Okay. And while I've got you up here, what is this
8 right here on -- down in this area?

9 A Looks like pieces of wood chip, glass.

10 Q Thank you. You can return to the witness stand.
11 And again, did you take all those photos?

12 A Yes, I did.

13 Q And what did you do after you took those photos of
14 Mr. Williamson's house?

15 A After I took photos of Mr. Williamson's house, I
16 continued on to -- to process the house, do fingerprint,
17 inside and out.

18 Q Okay. Before we get to that, did you ever go back
19 to the area where the defendant was?

20 A Yes. Once myself and Mr. Blatchley located the
21 broken window, we returned to -- I think I looked around
22 a little bit, and this is when I observed the -- the
23 prints on the top of the bucket. We went back to where
24 our suspect was. Mr. Blatchley got out of my vehicle.
25 I'm not sure what he did from that point on. But I went

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 on to observe the suspect and the items that he had. I
2 didn't interview him, because I was still in the process
3 of putting things together, and he didn't have anything
4 much that he said at all.

5 Then, I observed on his body some fresh scratches.
6 I also observed some blood on his shirt, and I noticed
7 that he had on, I believe it was a pair of like, flip-
8 flop type shoes. At that point, I began to photograph
9 him, and also the items that he had in his possession.
10 I also had him to lift up his feet, and I photographed
11 the bottom of his shoes.

12 Q Okay. And you mentioned the items that he had on
13 him. Were these the items that allegedly came from the
14 bags he was carrying?

15 A Yes, it was.

16 Q Were they still in the bags, or had they been taken
17 out of the bags at that point?

18 A If I remember correctly, when I first arrived and
19 got out -- well, I'm sorry -- when I returned from the
20 house, if I'm not mistaken, they were still in the bags.
21 One of the bags had -- had split, obviously, from -- I
22 don't know if it was from being dropped or from it being
23 loaded, but I could clearly see some of the items that
24 were in the bags.

25 Q And I believe you testified, did you photograph the

1 items that were in those bags?

2 A Yes, I did. Those items were -- were -- were
3 removed after -- by Deputy Lessane, the items that were
4 left, because a whole bunch of it had spilled out,
5 because the bag had split. So, we began to kind of
6 inventory what was in them.

7 Q Okay.

8 MR. TOPOREK: May I approach, your Honor?

9 THE COURT: Certainly.

10 BY MR. TOPOREK:

11 Q Detective, I'm going to hand you what's been marked
12 as State's Exhibits 4, 5, 6, 7, 8, and 9, which have
13 already been admitted into evidence. Can you take a
14 look at those photos? Did you recognize those photos?

15 A Yes, I do.

16 Q And what are those pictures of?

17 A Those are photos of the items that were found in
18 the bags.

19 Q And these were found -- those were the bags that
20 were on -- that the defendant had with him.

21 A Yes, they were.

22 MR. TOPOREK: May I approach, your Honor?

23 THE COURT: Certainly.

24 BY MR. TOPOREK:

25 Q Detective, I'm going to hand you what's been marked

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 as State's Exhibit 18, for identification purposes. Do
2 you recognize that photo?

3 A Yes, I do.

4 Q And what is that a photo of?

5 A That's a photo of the shoes that Mr. Bussell had
6 on.

7 Q And is that a fair and accurate representation of
8 what his shoe looked like on October 17, 2013?

9 A Yes, it is.

10 Q Has it been changed or altered in any way?

11 A No, sir.

12 MR. TOPOREK: Your Honor, the State would move to
13 admit State's Exhibit 19?

14 COURT REPORTER: 18.

15 MR. TOPOREK: 18 into evidence.

16 MR. HUGHES: Without objection.

17 THE COURT: Admitted without objection.

18 ITEM IDENTIFIED AS PHOTOGRAPH

19 MARKED STATE'S EXHIBIT 18, ADMITTED

20 AS EVIDENCE.

21 MR. TOPOREK: And permission to publish.

22 THE COURT: Certainly.

23 BY MR. TOPOREK:

24 Q And Detective, what is in this picture?

25 A That's the photo that I took of the bottom of Mr.

1 Bussell's shoe.

2 Q And why did you take that photo?

3 A Because it -- it matched with the shoe --

4 MR. HUGHES: Objection, your Honor. I believe that
5 calls for a conclusion.

6 THE COURT: Sustained.

7 MR. TOPOREK: Thank you, your Honor. I'll withdraw
8 the question.

9 BY MR. TOPOREK:

10 Q And after you had returned to -- let me get this
11 straight. You first went and responded to

12 .

13 A Yes.

14 Q After that, did you go to the home?

15 A Yes, I did.

16 Q And after that, did you return to
17 to meet with the defendant?

18 A No, I -- I met -- I returned to
19 and I met with the defendant when I brought Mr.
20 Blatchley back, I believe. Then, I returned back to the
21 house, and I began to process it.

22 Q Okay. And that was at ?

23 A Yes, it was.

24 Q And please tell us, what do you mean by processing,
25 and what did you do?

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 A I began to look around a little bit more, to look
2 for any physical evidence that might have been there.
3 If so, I would have collected it. I took photos of the
4 outside of the house, all the way around. I also took
5 photos of the bucket and the prints that I saw on the
6 bucket.

7 I went on to the inside, once Ms. Rose got there.
8 She came, because she was the key holder. She let us
9 in. Went inside. We did a brief inventory, based on
10 what she could visually see, because, obviously, she
11 didn't live there, that might have been out of place.
12 Once we got inside and did that, I began to take
13 photographs of the inside of the home, and that window
14 that was broken, and I took picture photos of it from
15 the inside.

16 Then, I observed that there had been additional
17 damage to a set of French doors that was in the same
18 bedroom where the window was broken. So, I went
19 outside, and I took a good look at it, and I noticed
20 that it had what appeared to be fingerprints, or hand
21 prints, on it. After that, I began to dust different
22 areas for fingerprints.

23 Q Detective Wright, --

24 MR. TOPOREK: May I approach, your Honor?

25 THE COURT: You may.

1 BY MR. TOPOREK:

2 Q -- I'm going to hand you what's been marked as
3 State's Exhibits 19, 20, 21, 22, 23, 24, 25, 26, 27, 28,
4 marked for identification purposes. If you could take a
5 moment to review those photos. Have you had a chance to
6 review those?

7 A Yes, sir.

8 Q And do you recognize those photos?

9 A Yes, I do.

10 Q And what are those photos of?

11 A Those are photos that I took from the inside on
12 that north-side bedroom, where the window was broken
13 from the outside. I took photos of the inside of the
14 window, the glass that was inside, I think on the
15 dresser, and wood splinters from the French doors that
16 was on the carpet in that area, and also a stack of DVDs
17 that obviously had been pulled from a DVD case that was
18 under that particular window.

19 Q Okay. And are those photos a fair and accurate
20 representation of how you found the inside of Terry's
21 residence on October 17, 2013?

22 A Yes, it is.

23 Q Have they been changed or altered in any way?

24 A No, sir.

25 MR. TOPOREK: At this time, the State would move to

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 admit State's Exhibits 19 through 28 into evidence.

2 MR. HUGHES: No objections.

3 THE COURT: They will be admitted without
4 objection.

5 ITEMS IDENTIFIED AS PHOTOGRAPHS

6 MARKED STATE'S EXHIBITS 19, 20, 21,

7 22, 23, 24, 25, 26, 27, AND 28,

8 ADMITTED AS EVIDENCE.

9 MR. TOPOREK: And permission to publish.

10 THE COURT: You may.

11 MR. TOPOREK: I apologize. Court's indulgence.

12 BY MR. TOPOREK:

13 Q Detective Wright, what is this a picture of?

14 A That's a photo of the French doors that were in
15 that room on the north side, where the window was
16 broken.

17 Q And what is this a photo of?

18 A That's the broken window that had been entered, on
19 the north side of that same bedroom.

20 Q And that's State's Exhibit 19. And this photo?

21 A If I'm facing that broken window, that would be to
22 the right side of that broken window in that same
23 bedroom, straight across from the French doors.

24 Q Okay. Is this the edge of that broken window right
25 here?

1 A Yes, it is.

2 Q And again, what is that a photo of?

3 A That's the broken window from the inside of that
4 same room.

5 Q And again.

6 A Yes, same broken window.

7 Q And what is that a photo of?

8 A Those are the DVDs? that had appeared to have been
9 pulled out from the case that was under that window.

10 Q Was that in that same room?

11 A Yes, it was.

12 Q And again, I know we're kind of going back, but
13 what is that a photo of?

14 A That's another photo of the French doors, and it
15 shows the damage that had been done to the top of it,
16 obviously by kicking or trying to -- someone trying to
17 bust it open.

18 That's a photo of the floor area, right in front of
19 the French doors, with a bunch of wood pieces and
20 splinters from the damaged door. That's a --

21 Q What are we looking at there?

22 A That's a photo of the glass that came from that
23 broken window. I believe it was on the dresser top.

24 Q And one last photo. What are we looking at there?

25 A That's a closer photo of the top of -- the top

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 damaged area of the French doors.

2 Q Thank you, Detective.

3 MR. TOPOREK: Court's indulgence.

4 THE COURT: All right.

5 BY MR. TOPOREK:

6 Q Detective, did you observe any items, goods, in the
7 house?

8 A Yes, I did.

9 MR. TOPOREK: May I approach, your Honor?

10 THE COURT: You may.

11 BY MR. TOPOREK:

12 Q Detective Wright, I'm going to hand you what's been
13 marked as Exhibits -- State's Exhibits 29 through 37,
14 which have been marked for identification purposes. If
15 you could take a moment to review those photos. Have
16 you had a chance to review those?

17 A Yes, I have.

18 Q And what are those photos of?

19 A Those are photos of items that Mr. Williamson kept
20 in his residence.

21 Q And did you take those photos?

22 A Yes, I did.

23 Q Are they a fair and accurate representation of how
24 you found those items in Mr. Williamson's house on
25 October 17, 2013?

1 A Yes, it is.

2 Q Have they been changed or altered in any way?

3 A No, sir.

4 MR. TOPOREK: Your Honor, at this time, the State
5 would move to admit State's Exhibits 29 through, I
6 believe it was 38.

7 COURT REPORTER: 7.

8 MR. TOPOREK: 37.

9 MR. HUGHES: I have no objections to that.

10 THE COURT: To be admitted without objection.

11 ITEMS IDENTIFIED AS PHOTOGRAPHS

12 MARKED STATE'S EXHIBITS 29, 30, 31,

13 32, 33, 34, 35, 36, AND 37, ADMITTED

14 AS EVIDENCE.

15 MR. TOPOREK: Thank you, your Honor. And
16 permission to publish.

17 THE COURT: You may publish.

18 MR. TOPOREK: Your Honor, permission for the
19 witness to step down.

20 THE COURT: Certainly.

21 MR. TOPOREK: Detective, if you don't mind to come
22 down here.

23 BY MR. TOPOREK:

24 Q Can you point out what is in this photo.

25 A In this photo is the bed from the room that had the

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 broken window. To the left side of that bed was a night
2 stand. On that night stand were several boxes of
3 tobacco cigarette items. Also containers of cigarettes
4 that were stored -- loose cigarettes that I believe was
5 made -- homemade cigarettes, and the containers that
6 were kept -- they were kept in.

7 Q And was this in the room with the broken window?

8 A Yes, it was.

9 Q And what is this a photo of?

10 A This is a photo of the inside of the refrigerator,
11 located in the kitchen where -- inside that refrigerator
12 were Sierra Mist and other soda items.

13 Q And again, what is that a photo of?

14 A That's an additional photo of the scene.

15 COURT REPORTER: I'm sorry, I need you to keep your
16 voice up just a little.

17 A That's an additional photo of the inside of the
18 refrigerator.

19 BY MR. TOPOREK:

20 Q And what is depicted in this photo?

21 A This is inside of Mr. Williamson's pantry, which is
22 located in the hallway, where he kept various tobacco
23 items, and also the same type of loose -- loose
24 cigarettes and soda drinks, such as Pepsis and Sierra
25 Mists.

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 This is another photo of -- of the same pantry
2 where there's tobacco items, also the same type of bag
3 that the defendant carried.

4 COURT REPORTER: Same type of bag that?

5 A The defendant carried.

6 BY MR. TOPOREK:

7 Q And you say tobacco items. Is that actually
8 tobacco?

9 A I believe that's what it is.

10 Q Okay.

11 A This -- from my understanding, this is how it comes
12 before it's turned into cigarette, before it's made.

13 This is an additional photo of the inside of the
14 same pantry, with more tobacco items. Inside of the
15 same pantry with the same containers that Mr. Williamson
16 stored the cigarettes in. Also matched the same
17 containers that our suspect carried in --

18 MR. HUGHES: Your Honor, I would object to that.
19 That's drawing a conclusion.

20 THE COURT: I'll sustain the objection.

21 MR. TOPOREK: Okay.

22 BY MR. TOPOREK:

23 Q Just tell us what's in the containers.

24 A That's a container similar to a Tupperware
25 container. There was further empty plastic containers,

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 and also four that has loose cigarettes in them.

2 Q And do you know where this is located?

3 A This is located in the bedroom.

4 Q And is that the room with the broken window?

5 A Yes, it is.

6 Q And again, what is that a photo of?

7 A That's a photo of more tobacco products and loose
8 cigarettes in a Tupperware container. Loose cigarettes
9 in a Tupperware container, and also more unopened
10 tobacco product. Loose-leaf -- loose cigarettes in the
11 same type of containers. Also, this was located in the
12 bedroom area.

13 Q Okay. Inside of his home.

14 A Yes.

15 Q Thank you, Detective. You can return to the
16 witness stand. Okay. Before we got started on all
17 those pictures, I believe you were beginning to tell us
18 about dusting for fingerprints. Did you dust for
19 fingerprints?

20 A Yes, I did.

21 Q And can you tell us, kind of, what that process is
22 like, and how you go about doing that?

23 A What I did on this day, we have many different
24 types of powders. I use a -- a black metallic powder
25 where I use a feather brush. And using that black

1 metallic powder, I dust the areas where I -- where I
2 spotted what I thought was fingerprints, lightly. And
3 usually, if there is any fingerprints on it, once you
4 dust with that, it'll -- it'll start to appear.

5 Once I located these prints and dusted them, and
6 recognized them to be fingerprints, then I went on to
7 photograph them. After I photographed them, then I
8 retrieved them from where I -- where I dusted them at,
9 and I replaced them on -- I retrieved them with a tape,
10 a clear tape. I take that tape and put it on a
11 fingerprint card, and it also secures it from being
12 damaged, because that tape will remain on the top of it
13 as it is stored and sent off the SLED.

14 Q Okay. And where did you -- where did you take
15 these fingerprints from?

16 A I took one set of fingerprints from the outside
17 from the broken window, from the frame of the screen.

18 Q Okay.

19 MR. TOPOREK: Court's indulgence. Your Honor, may
20 I approach?

21 THE COURT: You may.

22 BY MR. TOPOREK:

23 Q Detective, I'm going to hand you what's been marked
24 for identification purposes, State's Exhibits 38, 39,
25 40, 41, and 42. Can you review those photos.

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 Have you had time to review those?

2 A Yes, sir.

3 Q And what are those photos of?

4 A Those are photos of the prints that I dusted on the
5 frame of the broken window.

6 Q And are they a fair and accurate representation of
7 how the window looked after you dusted them for prints?

8 A Yes, it is.

9 Q Have they been changed or altered in any way?

10 A No, sir.

11 MR. TOPOREK: Your Honor, the State would move --
12 and I apologize, I keep forgetting what exhibit I'm on.
13 I believe it was 38 through --

14 COURT REPORTER: 38 through 42.

15 MR. TOPOREK: Exhibits 38 through 42 into evidence.

16 MR. HUGHES: I have no objections, your Honor.

17 THE COURT: Admitted without objection.

18 ITEMS IDENTIFIED AS PHOTOGRAPHS

19 MARKED STATE'S EXHIBITS 38, 39, 40,

20 41, AND 42, ADMITTED AS EVIDENCE.

21 MR. TOPOREK: Permission to publish.

22 THE COURT: You may.

23 BY MR. TOPOREK:

24 Q Okay, Detective. What are we looking at in this
25 photo?

1 A That's where I dust for fingerprints at the bottom
2 frame of the broken window.

3 Q And is that broken glass you can see, right above
4 that?

5 A Yes, it is.

6 Q And what are we looking at here?

7 A Looking at that same window where I dusted, towards
8 the top, left side of it.

9 Q And there?

10 A Just a closer photo of the same prints that I
11 dusted from the upper-left side of the window.

12 Q And there?

13 A Same window. It would be the bottom of the screen.

14 Q And that's actually, that's the bottom of the
15 screen, the --

16 A Right.

17 Q And this is all on the outside of the house?

18 A Yes.

19 Q Okay. And you collected these items, you collected
20 these fingerprints?

21 A Yes, I did.

22 Q And what did you do with them after you collected
23 them?

24 A After I collected them, I labeled them. I put -- I
25 stamped the time and date, location, all identifiers

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 that it required. And I kept them in my possession
2 until which time I had them sent up to SLED's lab.

3 Q Okay.

4 MR. HUGHES: May we approach, your Honor?

5 THE COURT: If you'd like to stand up and stretch a
6 moment while I talk to the attorneys, ladies and
7 gentlemen, please feel free to do so.

8 OFF-THE-RECORD BENCH CONFERENCE, OUT
9 OF HEARING OF JURORS. PRESENT: THE
10 COURT, MR. TOPOREK, MR. HUGHES.

11 END BENCH CONFERENCE:

12 MR. TOPOREK: May I approach?

13 THE COURT: You may.

14 BY MR. TOPOREK:

15 Q Detective Wright, I'm going to hand you what's been
16 marked as State's Exhibit 43, for identification
17 purposes. Do you recognize that envelope?

18 A Yes, I do.

19 Q And where did you get that envelope from?

20 A This is the envelope that was -- my set of prints
21 were returned from SLED.

22 Q Okay.

23 MR. TOPOREK: And your Honor, permission for him to
24 open that envelope?

25 THE COURT: Certainly. Is it without objection?

1 MR. HUGHES: I don't have any objection to him
2 opening the envelope, your Honor.

3 BY MR. TOPOREK:

4 Q Thank you, Detective. Do you recognize the items
5 that were inside of that envelope?

6 A Yes, I do.

7 Q And what are those items?

8 A Three sets of fingerprints that I lifted from
9 , and also a fingerprint card from SLED of
10 Chad Bussell, Jr.

11 Q Okay. The cards with the prints, then, you lifted,
12 do you have those with you?

13 A Yes, I do.

14 Q And are they in the same condition that they were
15 in when you collected them?

16 A Yes, they are.

17 Q And when you collected them, I believe that you
18 touched on this earlier, could they have been tampered
19 with or altered in any way after you put that tape down?

20 A No, sir.

21 Q And where did you keep these prints prior to
22 sending them to SLED?

23 A Before I sent them to SLED, I bagged them, I sealed
24 it, I placed all the identifying markings on it, date
25 time, place where they were lifted. I sealed it. Then,

2-10-15 STATE V. BUSSELL

DIRECT - DETECTIVE ELVIN WRIGHT

1 I kept it in my possession, until which time Sergeant
2 Crosby -- I turned them over to Sergeant Crosby to be
3 turned in to SLED.

4 Q And while they remained in your possession, were
5 they tampered with or altered in any way?

6 A No, sir.

7 Q And do you know the date that you transferred those
8 to Detective Crosby?

9 A Yes, sir.

10 Q And what day was that?

11 A November 19th of 2013.

12 Q And between the time that you lifted those prints
13 to the time that you transferred them to Sergeant
14 Crosby, did anybody else have access to those prints or
15 have them in their control?

16 A No, sir.

17 MR. TOPOREK: Thank you, Detective. I don't have
18 anything further.

19 MR. TOPOREK: Your Honor, I'm not sure, as far as
20 marking the exhibits that were inside of the envelope, I
21 marked the envelope 42. I don't know if we need to mark
22 those as 42-A, B, and C, or how we want to do that.

23 THE COURT: I think they need to be sub-
24 categorized, yes.

25 MR. TOPOREK: Okay.

1 MR. HUGHES: Was the envelope 42 or 43? Just for
2 my reference.

3 COURT REPORTER: It should be 43.

4 MR. TOPOREK: I thought you said it was 43.

5 COURT REPORTER: It is 43. And then, we'll mark --
6 we'll mark --

7 THE COURT: A, B, and C.

8 COURT REPORTER: The three sets of fingerprints 43-
9 A, 43-B, and 43-C each, and the one fingerprint card
10 from SLED will be 43-D.

11 MR. TOPOREK: Thank you, your Honor. I don't have
12 any further questions at this time.

13 THE COURT: Cross-examination.

14 DETECTIVE ELVIN WRIGHT

15 CROSS-EXAMINATION, BY MR. HUGHES.

16 Q We've been working together about the same amount
17 of time, about the last ten or fifteen years; haven't
18 we, Detective?

19 A Somewhere along in there.

20 Q And you started off as a patrolman?

21 A Yes.

22 Q We've known each other for awhile.

23 A Yes, sir.

24 Q And I know it is not your habit to have civilians
25 work a crime scene.

2-10-15 STATE V. BUSSELL

CROSS - DETECTIVE ELVIN WRIGHT

1 A No.

2 Q Your job is basically gathering evidence, correct?

3 A That was a part of it.

4 Q Okay.

5 MR. HUGHES: Your Honor, could we have this cut
6 off, so I can -- okay. I apologize to the Court and to
7 the jury, but it's going to take me awhile to go through
8 all the Solicitor's photographs, because I don't have a
9 fancy computer to -- okay.

10 BY MR. HUGHES:

11 Q Number 3. This is State's Exhibit Number 3. It is
12 a photograph of a scratch, correct?

13 A There's more than just a scratch on there.

14 Q Okay. What else is on that photo?

15 A If you shrink it down a little bit, you'll see on
16 the top part of the elbow, there's a -- a welt.

17 Q Okay. Right here?

18 A Yes, sir.

19 Q Okay. Zoom in just a tad, if I can figure out how.
20 But let's look at this cut.

21 A Um-hmm.

22 Q What is this area right in here? That's a cut, but
23 is that also a scab?

24 A I can't tell that there's a scab. I know that
25 there was a cut with dried blood and redness.

1 Q Okay. So, it bled. It bled, correct?

2 A Yes, it did. Yes, it did.

3 Q And let me go to State's Exhibit Number 2. Zoom
4 out some, so that everybody can see. This was, I
5 believe, the defendant's shirt?

6 A Yes, it was.

7 Q And what's this right here?

8 A I believe it's blood.

9 MR. HUGHES: May I approach, your Honor?

10 THE COURT: Yes, sir.

11 BY MR. HUGHES:

12 Q You want to look closer at it, Detective?

13 A Yeah. Okay. It appears to be holes.

14 Q Okay. So, there's really no blood on this shirt,
15 just some holes that you can point out to? Would you
16 like to look at the photo again?

17 A That's all I could see on it, just the holes. I
18 couldn't tell on the screen whether it was holes or
19 blood.

20 Q Okay.

21 A Looking at it closer, I see it was only holes.

22 Q Okay. Do you have any idea when those holes got
23 there?

24 A No, sir.

25 Q All right. Did you find any -- what color was this

2-10-15 STATE V. BUSSELL

CROSS - DETECTIVE ELVIN WRIGHT

1 shirt, black?

2 A That's what it appears to be. I don't -- I'm not
3 sure.

4 Q Did you find any black threads on -- at the scene
5 of the crime?

6 A No, sir.

7 Q Now, show you State's Exhibit Number 38. And
8 hopefully, there's not too much glare there. I'm going
9 to zoom in on part of this. What is this right in here?

10 A That's a piece of glass.

11 Q Okay. And zoom out some. This right in here?

12 A It's also glass.

13 Q And is this the top of the window or the bottom?
14 You want me to bring it to you and show it to you?

15 A Yes, sir, please.

16 MR. HUGHES: May I approach, your Honor?

17 THE COURT: Yes, sir.

18 BY MR. HUGHES:

19 A This is a photo of the bottom of the screen. No.
20 It's upside down. It's the bottom of the window and the
21 bottom of the screen. The number's upside down on it.
22 That will make you look at it the opposite way.

23 Q Yes, I agree. That's the reason why I wanted you
24 to clarify that. Let me zoom out again. So, this is
25 the picture of the bottom of the window that has been

1 broken out.

2 A Yes.

3 Q And all this right in here is broken glass.

4 A Yes, it is.

5 Q Was there any blood on that glass?

6 A No, sir. None that I found.

7 Q Any fibers?

8 A None that I found.

9 Q Okay. Did you find anything but broken glass?

10 A I didn't find anything, but the room was kind of
11 tumbled through, but I know that my victim did advise me
12 of what he found that might have broke the glass.

13 Q Okay.

14 MR. HUGHES: Now, begging the Court's indulgence.
15 Like I said, I don't have the computer. I also don't
16 appear to have -- do I have all the exhibits now?

17 COURT REPORTER: What you want? Tell me what
18 you're looking for and I'll get it.

19 MR. HUGHES: The French doors. I believe it is in
20 this one. Okay.

21 BY MR. HUGHES:

22 Q Didn't you say that you saw smudges and
23 fingerprints on the French doors?

24 A Yes, I did.

25 Q Did you take fingerprints from the French doors?

2-10-15 STATE V. BUSSELL

CROSS - DETECTIVE ELVIN WRIGHT

1 A Yes, I did.

2 Q Okay. I'm showing you State's Exhibit Number 28,
3 which I believe was the French doors from the inside.
4 That looks like somebody either hit or kicked that door
5 hard. Is that your -- would you agree?

6 A Yes, sir.

7 Q Is that how they got in? Did they actually open
8 this door, as far as you know?

9 A As far as I could tell, my opinion, I don't think
10 that they did. I can't be sure of that, because it was
11 secure, but it had been heavily damaged from being
12 kicked or pushed very hard.

13 Q Where's the bucket? Did you send that off to SLED?

14 A No, I didn't.

15 Q So, nobody analyzed the maybe footprint on the top
16 of that bucket?

17 A No, sir.

18 Q Did you check the other windows for fingerprints?

19 A No, I didn't.

20 Q And did you find any fingerprints anywhere on the
21 windows, other than on the screen?

22 A The only fingerprints I found that are -- that
23 were, in my opinion, good enough for me to lift were
24 those from the outside of the window and those from the
25 outside of the French doors.

1 Q Okay. Did you search the entire house?

2 A Depends on what you call search. We did a -- we
3 did a inventory through the house. I -- I visually
4 looked at specific things that I thought may be a
5 fingerprints or was safe to dust for fingerprints, and I
6 did accordingly.

7 Q Did you find any blood in the house whatsoever?

8 A No, I didn't.

9 Q Any hair follicles or anything like that, --

10 A No.

11 Q -- just like you would see on CSI.

12 A No, sir.

13 Q My client had scratches and scrapes on him, and as
14 you said, fresh blood.

15 A Yes, sir.

16 Q But you found nothing in the house.

17 A No, sir.

18 Q Did you find any blood on the window, the broken
19 pieces of glass?

20 A No, sir.

21 Q Who was there at the when you got
22 there the first time?

23 A If my memory serves me correctly, Detective Morris,
24 Detective Sergeant Crosby, Detective Major Hipp, Deputy
25 Lessane, Mr. Blatchley, and the defendant.

2-10-15 STATE V. BUSSELL

RE-DIRECT - DETECTIVE ELVIN WRIGHT

1 Q Do you know if the defendant ran from law
2 enforcement?

3 A No, sir.

4 Q Do you know if he put up a fight with law
5 enforcement?

6 A No, sir.

7 Q And the only fingerprints you found were on the out
8 -- were on the outside. You didn't dust any of the
9 other windows, other than the French door and that one
10 window.

11 A The fingerprints I found were on the outside of the
12 broken window, the outside of the French doors. I
13 dusted additional items in the house. That were not any
14 fingerprints noted, so I didn't lift anything from the
15 inside of the house.

16 MR. HUGHES: No further questions, your Honor.

17 THE COURT: Any re-direct-examination?

18 MR. TOPOREK: Yes, your Honor, briefly.

19 DETECTIVE ELVIN WRIGHT,

20 RE-DIRECT EXAMINATION, BY MR. TOPOREK:

21 Q Detective, I believe -- this is State's Exhibit 39
22 you and Mr. Hughes were just discussing. Are those
23 fingerprints from the window itself or from the screen?

24 A The screen has a -- has a frame, and that's
25 actually from the bottom frame of the screen.

1 Q And is the screen -- is the screen on the outside
2 of the glass?

3 A Yes, it is.

4 Q So, the glass was behind that screen, if you're
5 from -- if you're looking from the outside, you have the
6 screen, and then, the glass is behind it?

7 A Yes. This -- I don't know if this was a two-part
8 screen frame or -- it sat kind of strange like -- but
9 the bottom frame of that screen was actually above where
10 the broken glass was.

11 Q So, the screen wasn't all the way down.

12 A I'm -- I'm not sure. I can't say, was it -- if it
13 was all the way down, or if it was a two-part. But just
14 as it sat, that's the same way that I fingerprinted it.

15 Q Could you see broken glass below the bottom part of
16 the screen?

17 A Yes. Yes.

18 MR. TOPOREK: Thank you. I don't have anything
19 further.

20 MR. HUGHES: Just a few quick -- a couple quick
21 questions.

22 DETECTIVE ELVIN WRIGHT

23 RE-CROSS-EXAMINATION, BY MR. HUGHES:

24 Q Now, you take fingerprints, right?

25 A Yes, I do.

2-10-15 STATE V. BUSSELL

RE-CROSS - DETECTIVE ELVIN WRIGHT

1 Q How long do fingerprints last?

2 A That, I can't tell you. It depends on whether --
3 it's a lot of factors involved.

4 Q So, you can't say when those fingerprints got on
5 that bottom of that screen.

6 A I don't think I -- I don't think I can make that
7 determination.

8 Q Okay.

9 MR. HUGHES: No further questions, your Honor.

10 THE COURT: Thank you, sir. You may step down.
11 Solicitor, have you got another one before lunch, or is
12 this time for lunch?

13 MR. TOPOREK: I have three -- well, four witnesses
14 left. I don't anticipate they'll take too, too long.
15 We could probably do one more, or we could wait until
16 after.

17 THE COURT: Your choice.

18 MR. TOPOREK: Okay. Well, it probably would be a
19 good time to take a break.

20 THE COURT: You think so. All right. Ladies and
21 gentlemen, let's take a one-hour lunch break, then. Try
22 to get back by 1:15. When you come back after lunch,
23 what I would like for you to try to do, if you could, is
24 see if you can select a foreperson to represent the
25 jury. If you can't, don't worry about it. I'll do it.

2-10-15 STATE V. BUSSELL

1 I don't want you all to get in a fuss or a fight over
2 it, but anyway. See you back at 1:15.

3 Ladies and gentlemen, I remind you, don't talk to
4 anybody about the case, and don't let anybody talk to
5 you.

6 JURORS LEAVE COURTROOM 12:15 P.M.

7 THE COURT: We'll be in recess 'til 1:15.

8 OFF-THE-RECORD 12:16 P.M.

9 BACK ON THE RECORD 1:16 P.M.

10 BY THE COURT:

11 MR. TOPOREK: Your Honor, while we've got a minute.
12 I do have affidavits for those SLED chain witnesses. If
13 I need to move those into evidence, I will. I'm not
14 sure -- I just haven't done this before. I don't know
15 if Mr. Hughes is waiving that, if I don't need to do
16 that anymore or how that works.

17 THE COURT: I got that impression he's waiving it.

18 MR. HUGHES: I have no problem with waiving the
19 chain, your Honor. Like I said, I just want the start
20 and finish, so. Because I told the jury, there's no
21 reason for them to testify. And if he has affidavits,
22 which I firmly believe that he does, I have no problem
23 bypassing that step.

24 THE COURT: Whatever you want to do.

25 MR. TOPOREK: Sounds like I don't need to use them,

2-10-15 STATE V. BUSSELL

DIRECT - TERRY WILLIAMSON

1 then. I just wanted to be clear. Thank you.

2 MADAM CLERK: You ready?

3 THE COURT: We're ready.

4 JURY ENTERS COURTROOM 1:17 P.M.

5 THE COURT: Welcome back, ladies and gentlemen.

6 Were you able to select a foreperson? All right. We'll
7 do it next time. We'll do it next time we have a
8 chance. I believe we're still ready -- still in the
9 State's case.

10 Solicitor, you may call your next witness.

11 MR. TOPOREK: Thank you, your Honor. State calls
12 Terry Williamson.

13 MADAM CLERK: Raise your right hand, and place your
14 left hand on the *Bible*. The testimony you're about to
15 give to the Court be the truth, the whole truth, and
16 nothing but the truth, so help you God?

17 TERRY WILLIAMSON: Yes, ma'am.

18 MADAM CLERK: Thank you. Come right around. And
19 we'll pull that chair up just a little bit.

20 TERRY WILLIAMSON

21 DIRECT EXAMINATION, BY MR. TOPOREK:

22 Q Good afternoon, Mr. Williamson.

23 A Good afternoon.

24 Q Where do you live?

25 A

1 Q And do you -- is there a residence on that
2 property?

3 A Yes, sir.

4 Q And is that where you stay?

5 A Do you sleep there?

6 A Yes, sir.

7 Q Do you eat meals there?

8 A Yes, sir.

9 Q And you keep your belongings there?

10 A Yes, sir.

11 Q How long have you lived at that location?

12 A Approximately six years.

13 Q And do you have any neighbors?

14 A Yes.

15 Q And how is your relationship with your neighbors?

16 A We're all pretty close.

17 Q Do you know O'Neal Able?

18 A Yes, sir.

19 Q And how long have you known Mr. Able?

20 A I've known Mr. O'Neal probably fifteen years,
21 twenty years.

22 Q And does he live nearby you?

23 A Right next door.

24 Q And do you know Cara Koerner?

25 A Yes, sir.

2-10-15 STATE V. BUSSELL

DIRECT - TERRY WILLIAMSON

1 Q And how do you know Cara?

2 A She's the neighbor across the street.

3 Q And how long have you known her?

4 A Approximately six or eight years.

5 Q Thank you. Do you know an individual by the name
6 of Chad Bussell?

7 A Yes, sir.

8 Q And do you see Mr. Bussell in the courtroom today?

9 A Yes, sir.

10 Q And can you point him out for us?

11 A The defendant.

12 Q And how do you know Mr. Bussell?

13 A He's my nephew.

14 Q So, you are related to him?

15 A Yes, sir.

16 Q Can you tell the jury about your relationship with
17 the defendant before all of this happened?

18 A Fairly good. I thought it was pretty good.

19 Q Would you all --

20 A He would come over and visit, help me around in the
21 yard a little bit.

22 Q Okay. Did he ever do any work for you?

23 A Not really. I mean, he'd come over and he'd help
24 me do things. You know, split a lot of wood and stuff
25 like that out in the yard.

1 Q Did he ever do any work on your house?

2 A No, sir.

3 Q Had he been inside of your house before?

4 A Yes, sir.

5 MR. TOPOREK: Court's indulgence. May I approach
6 briefly?

7 THE COURT: You may, sir.

8 BY MR. TOPOREK:

9 Q Mr. Williamson, I'm going to show you what's
10 already been admitted into evidence, State's Exhibit 16.
11 Do you recognize that photo?

12 A Yes, sir. The back side of my house.

13 Q And what is in that photo?

14 A A broken window with a five-gallon bucket up
15 underneath it.

16 Q And what room does that window go to?

17 A My sister's bedroom.

18 Q To your knowledge, did the defendant ever do any
19 work on that window of your house?

20 A No, sir.

21 Q Did he install that window?

22 A No, sir.

23 Q What about the screen on that window? Did he
24 install that?

25 A No, sir.

2-10-15 STATE V. BUSSELL

DIRECT - TERRY WILLIAMSON

1 Q Did he ever do any work on that screen?

2 A No, sir.

3 Q How high off the ground is that window?

4 A Approximately six feet.

5 Q And how tall are you, sir?

6 A I'm about 5-8, 5-7.

7 Q And how tall, in relation to you, is the defendant?

8 A Probably a little bit taller than I am, not much.

9 Q For you, is that window in a place where you, if
10 you're hanging out, outside your house, could you
11 casually, inadvertently put your hand on that window?

12 A If you wanted to reach up, yes, sir. If you
13 reached -- I mean --

14 Q Is it in a position where --

15 A Just to walk up and place your elbow on the
16 windowsill, no, sir.

17 Q Okay. Do you recall where you were on October 17th
18 of 2013?

19 A Daytona, Florida.

20 Q And why were you down there?

21 A We were down there for Bike Week.

22 Q And how long -- when did you go down there?

23 A We went down there the day before this incident
24 happened.

25 Q Okay. And how long had you been planning on

1 staying in Daytona?

2 A One week.

3 Q Did you have anybody staying at your house while
4 you were out of town?

5 A No, sir.

6 Q Did you tell your neighbors that you were going to
7 be out of town at that time?

8 A Yes, sir.

9 Q Did you ask them to do anything?

10 A I just asked them to keep an eye on the property,
11 make sure, you know, nobody -- the only one that was
12 authorized was my ex-wife. She was going to feed our
13 fish.

14 Q And specifically, did you ask O'Neal Able to keep
15 an eye on your property?

16 A Yes, sir.

17 Q Did you give -- I believe you just testified you
18 had given your ex-wife permission to be inside of your
19 home?

20 A Yes, sir.

21 Q Did you give anybody else permission to be inside
22 of your home while you were out of town?

23 A No, sir.

24 Q Not even your neighbors?

25 A Nobody.

2-10-15 STATE V. BUSSELL

DIRECT - TERRY WILLIAMSON

1 Q Did you give Chad Bussell permission to go into
2 your home?

3 A Absolutely not.

4 Q What happened while you were in Daytona?

5 A We were -- like I say, we got there the day before
6 this incident, and the next morning, we got up and we
7 took off on the bike. When we got back later that
8 afternoon, I guess 5:00 or 6:00 o'clock that afternoon,
9 there was a note on the door of the motor home that
10 there was an emergency at home, to call home
11 immediately, and that's when we found out that our house
12 had been burglarized, and Chad had been arrested for the
13 crime.

14 Q And then, what did you find when -- you said you
15 did go back to your home?

16 A Yes, sir. We left immediately. We packed up
17 immediately and headed back home. It took us
18 approximately -- we got home about 1:30, 2:00 o'clock in
19 the morning.

20 Q Okay. And either at that time or later on, did you
21 go through your house and notice anything that seemed
22 out of place?

23 A Yes. When we -- when we got home, we went in and
24 went straight to my sister's bedroom first, because
25 that's where we was told he had come in through the

1 window there, and it was just a mess. Broken glass all
2 over the place, a chunk of firewood that he had chunked
3 through the window, and the dresser drawers were all
4 open, and stuff just everywhere.

5 Q Let me ask you this. Do you smoke cigars?

6 A Yes, sir.

7 Q And what kind of cigars do you smoke?

8 A Swisher Sweets.

9 Q And do you keep those in your house?

10 A Yes, sir.

11 Q And do you keep -- is it like a pack of -- one pack
12 of Swisher Sweets, or how do you purchase these, and how
13 are they stored?

14 A We purchase them in bulk and store them in a
15 hallway closet.

16 Q And do you keep cigarettes at your home?

17 A Yes.

18 Q And what kind of cigarettes do you keep in your
19 home?

20 A They're a -- I don't know what brand they are, but
21 you -- it's the type you can buy the tubes with the
22 filters already on them. Then, you just put the tobacco
23 in a machine, and it pushes the tobacco into it. It's
24 like a home-rolled cigarette almost.

25 Q And you keep those in your home?

2-10-15 STATE V. BUSSELL

DIRECT - TERRY WILLIAMSON

1 A Yes.

2 Q And how were they stored in your home?

3 A In Tupperware containers.

4 MR. TOPOREK: May I approach, your Honor?

5 THE COURT: Yes, sir.

6 BY MR. TOPOREK:

7 Q Mr. Williamson, can you see that photo from where
8 you are?

9 A Yes, sir.

10 Q And this is State's Exhibit 4 that's been admitted
11 into evidence. Do you recognize what's in those
12 pictures?

13 A Yes, sir. Cigars that I smoke.

14 Q And is that typically how they're stored in your
15 home?

16 A Yes, sir. That's the way we purchase them right
17 there, in a -- like a carton, almost. And then, they're
18 plastic wrapped, and you can un-plastic, and you can
19 take like two of the boxes out at a time.

20 Q Thank you, sir. And go ahead and take a look at
21 State's Exhibit 5, which has been admitted into
22 evidence. It may be a little difficult to see. But you
23 can you tell what is in that picture?

24 A Yes, sir.

25 Q And what is that?

1 A Well, it's a bunch of candies and fruits and stuff
2 out of our refrigerator. It's laying on top of the
3 Tupperware containers that we keep our cigarettes in.

4 Q And is that similar to how you store these
5 cigarettes in your home?

6 A That's exactly how we store our cigarettes.

7 Q Did you ever give Chad boxes of those cigars?

8 A No, sir.

9 Q Did you ever give Chad any of the Tupperware
10 containers containing those cigarettes?

11 A No, sir.

12 Q Did you ever tell Chad it was okay for him to break
13 into your home and take those things from you?

14 A No, sir.

15 MR. TOPOREK: Thank you, Mr. Williamson. I have no
16 further questions.

17 THE COURT: Cross-examination.

18 TERRY WILLIAMSON

19 CROSS-EXAMINATION, BY MR. HUGHES:

20 Q What, exactly, did Chad do for you, Mr. Williamson?

21 A Well, actually, I mean, he would come around, and
22 he'd be bored, because he didn't have nothing to do
23 where he was staying or whatever. He'd come around, we
24 would split wood and so forth. So, I'd clean up around
25 the yard or whatever.

2-10-15 STATE V. BUSSELL

CROSS - TERRY WILLIAMSON

1 Q All right. And how long did he do this?

2 A I want to say six or eight months from the time he
3 came here until the time of this incident.

4 Q Okay. And that's all he did, he just split wood.

5 A And helped me clean up around the yard when it
6 needed to be or whatever. Put my scrap iron together
7 and stuff like that, you know.

8 Q Where did you keep your scrap iron?

9 A Out in back of the chicken coop.

10 Q Okay. Okay. I'm going to put up State's 11.
11 Let's make sure you can see that okay.

12 A Yes, sir.

13 Q Okay. A little bit too far. What is this?

14 A That's my garage.

15 Q Okay. And right in here?

16 A That's our front porch.

17 Q Okay. And this area right here?

18 A That's the -- my sister's porch and back porch, I
19 guess we call it, the porch where my sister's bedroom
20 is, where the French double doors are.

21 Q Okay. The French double doors are on this side?

22 A Yes, sir.

23 Q And the --

24 A That's the awning over the top of her porch right
25 there.

1 Q And what's this over in here?

2 A That's my chicken coop.

3 Q Okay. That's where you kept the scrap steel?

4 A Yes, sir.

5 Q Isn't it true that you let Chad keep a few things
6 in your chicken coop?

7 A No, sir. He ain't never had nothing in there.

8 Q And what's over in this area? I'm sorry, let me
9 move this over. Where that red bucket's at.

10 A That's my tool shed.

11 Q Okay.

12 A That's --

13 Q Where's the pump house?

14 A The pump house, from what it looks like in that
15 picture to me, they were standing almost right beside
16 that pump house.

17 Q Okay. And where is Mr. Able's house?

18 A If you're looking at that picture, to the left of
19 that. He owns the property to the left of that picture.

20 Q So, over in this way.

21 A Yes, sir.

22 Q And his trailer, which way does it face? Does it
23 face your trailer, or does it face the road, or?

24 A His trailer --

25 Q If you look back -- if you look out your front

2-10-15 STATE V. BUSSELL

CROSS - TERRY WILLIAMSON

1 door.

2 A I'm looking at his back door.

3 Q You're looking at his back door.

4 A Yes, sir.

5 Q Now, let's look at State's Number 12. Dog house?

6 A Yes, sir.

7 Q What type of dog?

8 A Actually, it was an old hunting dog that roamed up
9 in our yard one time, and we felt sorry for it. I
10 didn't know whether to feed it or shoot it. So, I
11 started feeding it, and it wouldn't leave. So, I built
12 it a dog house, and it wouldn't never go near it. It
13 was scared to death of it.

14 Q But announced one day, hi, I live here, right?

15 A I'm sorry?

16 Q He announced one day, hi, I live here.

17 A Yes, sir, he found his own home.

18 Q Okay. What is this area right in here?

19 A That's our -- that's the front of our living room
20 area right there, them three bay -- them picture windows
21 right there, that's our living room inside there.

22 Q And this is a walkway?

23 A I'm sorry, I can't see.

24 Q I'm sorry.

25 A Yeah, right there. Yes, sir, that's our front

1 porch. You go in that front door.

2 Q Now, isn't it true that you have a key hidden in
3 this area right in here?

4 A No, sir.

5 Q You don't have it hidden under a spot?

6 A No, sir.

7 Q Did you ever have one there?

8 A No, sir.

9 Q Now, what damage was done to the French doors?

10 A Actually, they're still kind of damaged. I tried
11 to rig it together the best I could to keep it sealed
12 and shut, but it appeared that somebody had either body
13 slammed it or kicked it or something. And actually, I
14 couldn't believe it, but it actually held them out.

15 Q Now, do you use those buckets for deer meat
16 occasionally?

17 A Deer meat. We go -- usually, we go out and pick up
18 oysters or whatever, you know.

19 Q And Chad has done that with you?

20 A Yeah, as a matter of fact, he did help me cut up
21 deer meat one time, yes. Or a couple times, probably.

22 Q And have you ever used them as small stepping
23 stools?

24 A Not myself, no, sir.

25 Q Do you know if Chad has?

2-10-15 STATE V. BUSSELL

CROSS - TERRY WILLIAMSON

1 A Whoever went into my house did. Yes, sir.

2 Q How about before then, sir.

3 A Not that I know of.

4 Q Not that you know of.

5 A He could have, but I -- not that I know of.

6 Q Where were those buckets kept?

7 A In the van that sat next to my chicken coop.

8 There's a van sitting there, and I use it for storage of
9 tires and my buckets, keep everything out of the sun,
10 from -- keeping the sun from rotting them out.

11 Q Now, when did you buy those Swisher Sweets?

12 A Actually, my sister bought them. She bought them
13 up in -- I believe she bought them in Ohio. And it was
14 two or three months before that. July, I believe it
15 was. I believe she went up there for what my sisters
16 call Christmas in July or something, and she purchased
17 them.

18 Q Inside inventory. I think this is it.

19 Q Okay. I want to get you to educate me, sir. As
20 soon as this comes on. What is this? I'm sorry, this
21 is State's 36. The red boxes, what are those?

22 A Those are the tubes for the cigarettes that she --
23 my sister rolls.

24 Q Okay. And what is the --

25 A That's the rolling machine. It's inside of a box

1 that -- she keeps it in the box it come in.

2 Q And the loose tobacco is kept in bags?

3 A Yes, sir. It comes in a sealed bag.

4 Q I think we have -- I'm going to show you State's
5 Number 32. That's the loose tobacco?

6 A Yes, sir.

7 Q And all this is kept in the same location?

8 A Throughout the house. She -- she smokes one kind
9 of cigarette; I smoke the -- the menthols. She tries to
10 keep that separated, I guess.

11 Q And earlier, you testified, after the State showed
12 you pictures of some stuff in a bag, the food came from
13 your refrigerator.

14 A Yes, sir.

15 Q How do you know it was that -- that that came from
16 your refrigerator, sir?

17 A Because we had food items exactly like that in our
18 refrigerator when we left, and they weren't there when
19 we came home.

20 Q But you don't know that that was that. It was just
21 stuff that was like that.

22 A Exactly like that.

23 Q What else was missing?

24 A There was a bunch of stuff missing out of our
25 house.

2-10-15 STATE V. BUSSELL

CROSS - TERRY WILLIAMSON

1 Q What was it?

2 A There was \$2,000.00 cash. There was a Glock .45
3 automatic. My pain medicine, my medication, my
4 prescribed pain medicines was missing. There was just a
5 lot of stuff, you know.

6 Q Okay. What else?

7 A Well, all the stuff that he was caught with, the
8 cigarettes, the cigars, the food out of our
9 refrigerator. We had -- I have a five-gallon, like,
10 water container that you sit on top of a water cooler
11 that water comes in. I had one that somebody had gave
12 me, I kept all my pennies in. That was empty. I've got
13 a one-gallon glass jar that I keep all my nickels,
14 dimes, and quarters in. That was empty. There was just
15 -- like, it's been a year and a half now, sir, and it's
16 just hard to remember every little thing that was
17 missing.

18 Q Okay. But size-wise, we're talking about a gallon
19 of dimes and nickels.

20 A Yes, sir.

21 Q A Glock?

22 A A Glock .45 automatic. Yes, sir.

23 Q Okay. How many pennies were in this --

24 A Well, like I said, it was one of them five-gallon
25 plastic -- clear, plastic jugs, and it was probably

1 about that deep in pennies. Probably about five or six
2 inches deep in pennies.

3 Q How much did it weigh?

4 A It was pretty good weight.

5 Q Well, I can imagine. You're talking about six
6 inches of copper by about a foot.

7 A Yeah. A little over a foot in diameter, yeah.

8 Q Okay. Food from your refrigerator. Now, can you
9 think of anything else that you were missing? Oh, you
10 said \$2,000.00. How was that?

11 A Cash money. One hun -- crisp, one hundred dollar
12 bills that we had stashed in a filing cabinet for
13 emergency house fund.

14 Q And could you find any other way that someone came
15 in, other than the window?

16 A The window or that storm door, the French door.

17 Q But you're pretty sure, though, that the French
18 door didn't open.

19 A Right.

20 Q And exactly how is Mr. Bussell related to you?

21 A He's my nephew.

22 Q Okay. Now, his mother? Father?

23 A Mother is my sister.

24 Q Okay. And he came over often, or on a regular
25 basis.

2-10-15 STATE V. BUSSELL

RE-DIRECT - TERRY WILLIAMSON

1 A Yes, sir.

2 Q Do you know where he stayed?

3 A He stayed in several different places while he was
4 here.

5 Q Did he stay with your ex-wife?

6 A Yes.

7 Q And it was -- she's the one that -- who was
8 supposed to feed your fish?

9 A Yes, sir.

10 Q Was the gallon jug of coins full, or?

11 A It was all but full. I bet it wasn't three inches
12 from being full.

13 MR. HUGHES: No further questions, your Honor.

14 THE COURT: Re-direct?

15 MR. TOPOREK: Very briefly.

16 TERRY WILLIAMSON

17 RE-DIRECT EXAMINATION, BY MR. TOPOREK:

18 Q Who do you live with?

19 A My sister, Brenda Fischer.

20 Q And I just want to be clear. Is she the mother of
21 Chad Bussell?

22 A No, sir.

23 Q Chad's mother is a different sister here?

24 A Yes, sir.

25 Q Okay.

1 A I have four sisters.

2 Q Okay. And how long had you been out of town before
3 you learned that this incident occurred?

4 A One day. We had left the day before this incident.
5 And we got to Daytona 4 -- between 4:00 and 6:00 o'clock
6 that afternoon. And then, the next afternoon, when we
7 returned back to the motor home is when we found the
8 note on the door to call home, emergency.

9 Q And did you drive down to Daytona?

10 A Yes.

11 Q And how long of a drive is that?

12 A It's approximately three-and-a-half to four hours.

13 MR. TOPOREK: Okay. Thank you. I don't have
14 anything further.

15 TERRY WILLIAMSON

16 RE-CROSS EXAMINATION, BY MR. HUGHES:

17 Q Okay. We know you told Mr. Able you were leaving
18 town, correct?

19 A Yes, sir.

20 Q Who else did you tell?

21 A Ms. Cara.

22 Q And how many people -- how big is your
23 neighborhood? Is it just those three, or is there more?

24 A No, there's more. There's more. They're -- my
25 mother -- my mother's house was standing vacant. And

2-10-15 STATE V. BUSSELL

RE-CROSS - TERRY WILLIAMSON

1 then, there was some other people in a trailer right
2 next to Cara. Then, there's another trailer that's over
3 in front of O'Neal's house.

4 Q Anybody living there?

5 A Yes.

6 Q Old people? Young people?

7 A Middle-aged.

8 Q Any kids?

9 A Yes. A girl, little -- the one person has a little
10 girl about, I don't know, seven, eight years old, maybe.

11 Q Any teenagers?

12 A No.

13 Q Young adults?

14 A No.

15 MR. HUGHES: No further questions.

16 THE COURT: All right. Thank you, sir. You may
17 step down.

18 TERRY WILLIAMSON: Thank you, sir.

19 THE COURT: Call your next witness, Solicitor.

20 MR. TOPOREK: Thank you, your Honor. State would
21 call Brenda Fischer.

22 MADAM CLERK: Raise your right hand, and place your
23 left hand on the *Bible*. The testimony you're about to
24 give the Court be the truth, the whole truth, and
25 nothing but the truth, so help you God?

1 BRENDA FISCHER: Yes, ma'am.

2 MADAM CLERK: Come right around. Have a seat, and
3 speak into the microphone. You can pull that chair up a
4 little bit, if you need to.

5 BRENDA FISCHER

6 DIRECT EXAMINATION, BY MR. TOPOREK:

7 Q Good afternoon, Ms. Fischer. Where do you live at?

8 A

9 Q And who do you live with?

10 A My brother.

11 Q And who is your brother?

12 A Terry Williamson.

13 Q Does anybody else live in that home with you?

14 A Our two dogs.

15 Q I'm sorry?

16 A Nobody else. Animals.

17 Q Oh, okay. And how long have you lived there?

18 A Just a little over five years.

19 Q Do you know Chad Bussell?

20 A Yes.

21 Q And how do you know him?

22 A He's my nephew.

23 Q Do you see Chad in the courtroom today?

24 A Yes, I do.

25 Q And can you point him out for us?

2-10-15 STATE V. BUSSELL

DIRECT - BRENDA FISCHER

1 A He's right over there.

2 MR. TOPOREK: Let the record reflect that Ms.
3 Fischer has identified the defendant.

4 BY MR. TOPOREK:

5 Q During the time that you've lived with Terry at
6 , to your knowledge, has Chad had any reason
7 to be inside of your bedroom?

8 A No.

9 Q Do you recall, at any time, Chad doing any work on
10 the windows in your bedroom?

11 A Never.

12 Q Even on the outside of that window?

13 A No.

14 Q Do you recall where you were on October 17th of
15 2013?

16 A Yeah. We went to Daytona Bike Week.

17 Q And who were you with?

18 A My brother.

19 Q And that's Mr. Terry?

20 A Yes.

21 Q Did anyone stay at your all's house while you were
22 out of town?

23 A No.

24 Q Did you give anyone permission to go inside your
25 house while you were out of town?

2-10-15 STATE V. BUSSELL

CROSS - BRENDA FISCHER

1 A Just Rose, his ex-wife.

2 Q And why did you give Rose permission?

3 A She was the only one we gave a key to, to come in
4 and feed the fish and our kitty cat.

5 Q Did you give the defendant permission to go inside
6 of your home while you were out of town?

7 A No.

8 MR. TOPOREK: Thank you, Ms. Fischer. I don't have
9 any further questions.

10 BRENDA FISCHER

11 CROSS-EXAMINATION, BY MR. HUGHES:

12 Q Good afternoon, Ms. Fischer. Did you ever clean
13 that window?

14 A I clean it every six months.

15 Q Okay. Do you remember a time that it got stuck
16 open?

17 A If it did, Terry helped me. He does -- we -- he
18 does all the maintenance around the house.

19 Q Okay. Do you remember a time when the window got
20 stuck open?

21 A Once.

22 Q Was Chad there?

23 A Not that I remember.

24 Q Okay. But he could have been there.

25 A He could have been, but he wouldn't have touched

2-10-15 STATE V. BUSSELL

CROSS - BRENDA FISCHER

1 it. He had nothing to do with my room.

2 Q Okay. But from the outside, ma'am?

3 A No. No.

4 Q But the window did get stuck one time, didn't it?

5 A Yes.

6 Q Now, when did you clean the windows before? Okay.

7 You say you cleaned them once every six months.

8 A I do them every six months, inside and out.

9 Q Okay. So, when are we talking about? Is there a
10 set date?

11 A No, there's not a set date.

12 Q Okay.

13 A I, usually sometime in the spring, and then, in the
14 fall.

15 Q Okay. That's what I was basically going for,
16 ma'am. I know you don't have --

17 A Right.

18 Q Chad worked around the property occasionally?

19 A He helped Terry.

20 Q Were you missing anything?

21 A Yeah. Well, my room was just a mess, period.

22 Q Yes, ma'am. We've seen the pictures.

23 A I was missing a blanket. My bed was torn apart,
24 and the mattress was moved. Doors were open. I don't
25 know about clothes. I mean, I've got so much.

1 Q Well, I'm basically -- you're missing -- are we
2 talking about -- how big a blanket are we talking about?

3 A King-size.

4 Q Now, you said something about dogs. They went with
5 you to Daytona?

6 A Yes. We don't go anywhere without them.

7 Q What type?

8 A We have a lab and a shepherd.

9 Q Inside or outside dogs?

10 A Inside.

11 Q Rule the house?

12 A Oh, yeah.

13 Q Lab more than the shepherd?

14 A She's number one.

15 Q Been there and done that. Anything else besides
16 the blanket that you can recall?

17 A From my room --

18 Q Yeah.

19 A -- or from the house?

20 Q Well, from the house.

21 A Well, there was a list of stuff, like he listed.
22 The money, the gun, the change, food. There was candy
23 missing from my room, because I keep a stash in there.
24 My blanket. We kept finding things as we were going
25 through the house, weeks later. We -- oh, this is gone.

2-10-15 STATE V. BUSSELL

CROSS - BRENDA FISCHER

1 I just can't remember. It's been so long.

2 Q Okay. So, now, they searched your room.

3 A Yes.

4 Q Found money in a filing cabinet.

5 A Yes.

6 Q Stole a large bag of nickels -- a large jar of
7 nickels and dimes.

8 A And quarters. It had all but pennies in it,
9 change.

10 Q Took a huge thing of pennies.

11 A Um-hmm.

12 COURT REPORTER: Is that yes or no?

13 A Yes, ma'am.

14 Q A gun. Where were the Swisher Sweets stored?

15 A We keep -- I keep them in a cabinet above the
16 washer and dryer, in the hallway. And the cigarettes
17 that I had pre-rolled were gone, a couple containers.
18 That's all I had made up for his brand. He smoked what
19 my brother smokes, the menthols. I smoke the full-
20 flavors.

21 Q Was there anything saying what was what?

22 A Yes. I mark on the top which one's which.

23 Q And how many of the menthols did you have rolled?

24 A I think I had two -- two containers made up.

25 Q Now, have you all since replaced the window?

1 A Yeah. Well, yeah.

2 Q Yes, ma'am. That was a rhetorical question,
3 basically.

4 A We had it replaced within a -- about a few days to
5 a week. We had to special order it.

6 Q When you got there, was there still glass in the
7 window?

8 A It was glass -- very little in the window. It was
9 all over my carpet, my bed, my dresser, throughout the
10 bedroom, and the big chunk of wood that had been tossed
11 through the window to break it. And there was glass
12 outside the window on the ground. We picked it up for a
13 week.

14 Q Was this double-paned or single-paned?

15 A Well, it would have to be a double-pane, because we
16 got the -- the little stuff in the middle of it, the
17 cross things.

18 MR. HUGHES: No further questions, your Honor.

19 THE COURT: Re-direct?

20 MR. TOPOREK: Nothing further.

21 THE COURT: Thank you, ma'am. You may step down.

22 BRENDA FISCHER: Thank you.

23 THE COURT: Call your next witness, Solicitor.

24 MR. TOPOREK: Thank you, your Honor. The State
25 calls Jeff Crosby.

2-10-15 STATE V. BUSSELL

DIRECT - SERGEANT JEFF CROSBY

1 MADAM CLERK: Raise your right hand, and place your
2 left hand on the *Bible*. The testimony you're about to
3 give the Court be the truth, the whole truth, and
4 nothing but the truth, so help you God?

5 SERGEANT JEFF CROSBY: I do.

6 SERGEANT JEFF CROSBY

7 DIRECT EXAMINATION, BY MR. TOPOREK:

8 Q Sergeant Crosby, where are you currently employed?

9 A Jasper County Sheriff's Office.

10 Q And what is your position over there?

11 A I'm a sergeant in the detective's office.

12 Q And how long have you been in law enforcement?

13 A Almost 27 years.

14 MR. TOPOREK: May I approach, your Honor?

15 THE COURT: You may.

16 BY MR. TOPOREK:

17 Q Sergeant Crosby, I'm going to hand you what's been
18 marked as State's Exhibit 43. It's been, for
19 identification purposes. Do you recognize that
20 envelope?

21 A Yes, I do.

22 Q And can you take a look inside, and see what's in
23 there? And then, there should be Exhibits 43-A, B, C,
24 and D.

25 A Yes, there is.

1 Q And do you recognize, specifically, 42-A, B, and C?
2 Excuse me, 43-A, B, and C?

3 A Yes, I do.

4 Q And then, what are those?

5 A These are latent prints that were recovered at a
6 crime scene.

7 Q And where did you get those prints from?

8 A These prints were turned in to one of the drop
9 boxes in the Sheriff's Office. When deputies recover
10 evidence, they drop it into a secure drop box, either at
11 the main sheriff's office, or in the detective's
12 division. I take it from that drop box and do what they
13 call bar code it, or prepare it for SLED, and make sure
14 it gets to SLED for analysis.

15 Q And do you know what day that you took possession
16 of those items?

17 A I don't have the chain of custody with me.

18 MR. HUGHES: Your Honor, I'm happy to stipulate to
19 the chain, as far as Detective Crosby is concerned.

20 THE COURT: All right. Go ahead, sir.

21 MR. TOPOREK: Thank you, your Honor.

22 BY MR. TOPOREK:

23 Q Detective Crosby, did you submit items 43-A, B, and
24 C to SLED?

25 A Yes, I did.

2-10-15 STATE V. BUSSELL

DIRECT - THOMAS DARNELL

1 Q And what day did you do that on?

2 A I submitted those to SLED on November the 19th,
3 2013, at 12:52 p.m.

4 Q And while you had them in your possession, were
5 they tampered with, altered with in any way?

6 A No, they were not.

7 MR. TOPOREK: Thank you, Sergeant Crosby. I don't
8 have anything further.

9 MR. HUGHES: I have no questions for you,
10 Detective.

11 THE COURT: Thank you. You may step down. You may
12 call your next witness, Solicitor.

13 MR. TOPOREK: Thank you, your Honor. May I
14 approach?

15 OFF-THE-RECORD BENCH CONFERENCE, OUT
16 OF HEARING OF JURORS. PRESENT: THE
17 COURT, MR. TOPOREK, MR. HUGHES.

18 MR. TOPOREK: Your Honor, the State would call
19 Thomas Darnell.

20 MADAM CLERK: The testimony you're about to give
21 the Court be the truth, the whole truth, and nothing but
22 the truth, so help you God?

23 THOMAS DARNELL: Yes, ma'am.

24 THOMAS DARNELL

25 DIRECT EXAMINATION, BY MR. TOPOREK:

1 Q Good afternoon, Mr. Darnell.

2 A Good afternoon.

3 Q What do you do for a living?

4 A I am a latent print examiner at the State Law
5 Enforcement Division Forensic Laboratory in Columbia.

6 Q And can you tell the jury about your education and
7 employment, beginning with college.

8 A Yes, sir. I graduated from the University of South
9 Carolina in 1982, with a bachelor of science degree in
10 criminal justice. I started my employment at Ridgeland
11 County Sheriff's Office in 1982, where I was employed
12 'til about 1990.

13 I later started working at SLED, in the crime --
14 latent print crime scene department, where I was for
15 about fourteen years. My last six or eight years of
16 that, I was the supervisor over the latent print crime
17 scene department.

18 Additionally, I actually left the laboratory in '04
19 and worked in auto theft for a couple of years. And
20 then, I returned to the laboratory in -- in -- back in
21 the latent print laboratory as supervisor.

22 In 2009, I actually retired, with a total of 28
23 years of service. I retired and continued working. I
24 went back to Richland County, where I worked for about a
25 year in their crime scene department. I actually

2-10-15 STATE V. BUSSELL

DIRECT - THOMAS DARNELL

1 deployed to Afghanistan in support of Operation Enduring
2 Freedom as a forensic examiner. I then returned from
3 overseas, and I was re-hired by the State Law
4 Enforcement Division as a latent print examiner, where I
5 have now been for the past three years...

6 Q And during your time working with SLED and since
7 college, have you received any kind of continuing
8 education or training, in reference to fingerprints and
9 latent prints?

10 A Yes, I have. I have taken a number of courses
11 within our state, within our state law enforcement
12 academy. I've also taken a number of courses out-of-
13 state, to include the FBI academy in Quantico, Virginia.
14 And I've just -- and I've had continuing courses
15 throughout my career, just -- just a number of courses
16 that I've taken in the area of latent prints. Most any
17 type of course in dealing with crime scene investigation
18 that I -- that I have completed throughout my career.

19 Q And during your career, can you even put a number
20 on how many fingerprints you have analyzed or compared.

21 A To put a number on it, I really couldn't. Quite --
22 quite a few. I would have to say in the thousands,
23 easily, if you consider the fact that every fingerprint
24 card has ten -- ten prints on it. But I've looked at
25 latents for twenty-plus years, so I've looked at quite a

1 few.

2 Q And have you testified before?

3 A Yes, I have.

4 Q And have you been qualified as an expert in the
5 state courts of South Carolina?

6 A Yes, I have, in state and federal court. In this
7 state, as well as some out-of-state testimony.

8 MR. TOPOREK: Your Honor, at this time, the State
9 would offer Thomas Darnell as an expert in latent print
10 analysis.

11 MR. HUGHES: With no objection whatsoever, your
12 Honor.

13 THE COURT: All right. The motion's been granted.
14 Ladies and gentlemen, what we've just done is qualified
15 this witness as an expert witness. These witnesses, if
16 they are so qualified, are permitted to give their
17 opinions about matters within their area of expertise.
18 Normally, witnesses are prohibited from giving their
19 opinion. Normally, witnesses are restricted from
20 testifying about things that they can see, have seen or
21 heard, smelled, experienced with their senses. But an
22 exception is made for expert witnesses who, based on
23 their experience and training, are permitted to offer an
24 opinion about the matters, like I said, within the area
25 of their expertise. You take the testimony of this

2-10-15 STATE V. BUSSELL

DIRECT - THOMAS DARNELL

1 witness like you do any other witness, and you decide
2 what weight to give it.

3 Solicitor?

4 MR. TOPOREK: Your Honor, may I approach?

5 THE COURT: You may.

6 BY MR. TOPOREK:

7 Q Mr. Darnell, I'm going to hand you what's been
8 marked as State's Exhibit 43, and inside is 43-A, B, C,
9 and D. Would you take a moment to review those items.

10 A Yes, sir.

11 Q And do you recognize those items?

12 A I do.

13 Q And can you go through what each one of them is,
14 just briefly.

15 A I've got a total of four items here. State's
16 Exhibit A is a latent lift that received, and was asked
17 to compare these to an individual in this case. It's a
18 latent lift, and it says it came off of a broken window
19 screen. It has the date, case number. It also has my
20 laboratory number and the item number that I gave it at
21 SLED, and it has my initials, as well, on each item.

22 State's Exhibit B is a second latent lift, also
23 bearing the case number and so forth, and it has my
24 initials, as well, on the bottom, or on the right -- or
25 left side of the -- I'm sorry, right side of the latent

1 lift.

2 State's C is a -- is another latent lift that I
3 received, so I received a total of three latent lifts.

4 And then, State's D is a fingerprint card bearing
5 the name of Chad Junior Bussell.

6 Q And where does that fingerprint card come from?

7 A I actually was able to obtain his fingerprint card
8 at SLED.

9 Q And when you received those items, did they appear
10 that they had been altered or changed in any way?

11 A No, sir. These are how we typically receive this
12 type of evidence, is on a card, and it's got tape and so
13 forth, with all the identifiers on it. It doesn't
14 appear that it's been altered in any way.

15 MR. TOPOREK: Your Honor, at this time, State would
16 move State's Exhibits 43-A, B, C, and D into evidence.

17 MR. HUGHES: I would have no objection, I don't
18 think, but can I see them?

19 MR. TOPOREK: I apologize.

20 THE COURT: They've already been marked for
21 identification.

22 MR. TOPOREK: Yes, I believe so.

23 MR. HUGHES: No objections, your Honor.

24 THE COURT: They'll be so admitted.

25 ITEM IDENTIFIED AS AN ENVELOPE

2-10-15 STATE V. BUSSELL

DIRECT - THOMAS DARNELL

1 CONTAINING THREE SETS OF FINGERPRINTS,
2 ITEMS MARKED STATE'S EXHIBITS 43-A,
3 43-B, AND 43-C, AND FINGERPRINT CARD
4 MARKED STATE'S EXHIBIT 43-D, ADMITTED
5 AS EVIDENCE.

6 BY MR. TOPOREK:

7 Q And Mr. Darnell, did you analyze those prints?

8 A Yes, I did.

9 Q And can you explain to the jury, kind of talk about
10 how you go about doing that, and eventually what your
11 findings were. Do you need to step down? Do you have a
12 presentation with you?

13 A Yes, sir, I actually did bring a presentation.

14 Q Okay. If you do need to step down, the Court --
15 does he have permission?

16 THE COURT: Sure.

17 MR. HUGHES: May I stand besides of them, your
18 Honor?

19 THE COURT: Yes, you may.

20 BY MR. DARNELL:

21 A If I could first start by explaining what a latent
22 print is. First of all, we all have fingerprints. We
23 all have fingerprints that might be the same pattern.
24 We have three basic patterns that we look at when we're
25 dealing with fingerprint comparisons. Okay?

1 We -- but we also have unique characteristics
2 within that pattern that makes it unique to you and only
3 you, and that is the foundation when it comes to doing a
4 fingerprint comparison, is that the print is unique to
5 an individual. And it also remains permanent. It
6 doesn't change throughout one's life. It might get more
7 wrinkles in it as we get older, but the -- but the
8 actual characteristics within that print do not change.
9 They remain constant.

10 The word latent means chance, or means hidden or
11 invisible, if you will. By chance, what I mean is that,
12 when your hand comes in contact with a surface, it may
13 or may not leave a print behind. Okay? What that means
14 is that the majority of your print is nothing but
15 moisture, about 99 percent moisture. And depending on
16 how you touch something will determine whether or not
17 you leave a print.

18 It -- it depends on the surface that you've touched
19 as to whether or not a print might be left. You might
20 leave a print behind, and it might not be identifiable.
21 There might not be enough characteristics within that
22 print to be able to identify it.

23 In this case, I do have one that I can identify.
24 There was enough characteristics present for me to be
25 able to identify this print to one individual, and one

2-10-15 STATE V. BUSSELL

DIRECT - THOMAS DARNELL

1 individual only.

2 On my left -- and what I have here is simply a
3 demonstration. It's just a chart that I can demonstrate
4 how -- this is what I saw under my magnifier. Everyone
5 thinks that we have high-powered microscopes and things
6 like that, but in reality, we have a magnifier. And
7 once I look through the magnifier and I see the details
8 that I need, I'm able to reach a conclusion and render
9 my opinion in this case. The latent print -- if I could
10 just hold it?

11 Q Absolutely.

12 A The latent print, as I said, is the print that was
13 developed at the crime scene. That was the print that
14 was submitted by Jasper County Sheriff's Office. That
15 print was labeled as Item 2.1 when it came to SLED. As
16 we -- as I just testified to, I have a total of three
17 latent lifts, one of which was Item 2, and I made this
18 impression actually 2.1, for the purpose of
19 demonstration.

20 On my right is the known print. This is simply a
21 known print from an individual where ink, or in this
22 case, nowadays, it's done digitally, where the -- the
23 known -- this print, we know whose print this belongs
24 to. We -- we know -- and I know that this print belongs
25 to an individual by the name of Chad Junior Bussell, and

1 I'm basing that totally on what's on the card. I don't
2 know Mr. Bussell, but I know that the card has his name
3 on it, and this is his left middle finger, the known
4 print.

5 The latent print, as I said, was from the crime
6 scene. It came off the edge of a window screen. The
7 red numbers and the red lines that you see there
8 represent an individual characteristic, which makes this
9 print unique. And as you can see, I've got eight
10 numbers. There's actually about eleven or so in here,
11 but I just marked eight, just for demonstrating this to
12 you.

13 And it may be kind of hard to see, but I'm going to
14 start with -- let's just go to 6, 7, and 8. You'll see
15 that 6 is pointing to a -- a black line that kind of
16 comes to an end. That black line is what we call -- is
17 what we call friction ridge skin. That's what forms the
18 pattern. That red line is marking at what we call a
19 ridge ending. And you can see, Number 6, here, and the
20 Number 6 is pointing to the same ridge ending. It's in
21 the same relative position when you compare the two.

22 Number 6 points to this ridge ending here. You can
23 see the same ridge ending. Then on Number 8, which is
24 where a ridge starts out as one, and then it splits into
25 two, as you see here. It's kind of like a fork in the

2-10-15 STATE V. BUSSELL

DIRECT - THOMAS DARNELL

1 river. That's how I like to describe it. When you're
2 going down the river and it comes to a fork, that's what
3 -- that's kind of what I'm showing you here. See Number
4 8, it kind of comes to a fork. And it does the same
5 thing here. Got a fork here, and a fork here. Also got
6 another fork at Number 7.

7 So, these are the types of things that I look for
8 when I'm doing a print comparison. And then, once I
9 reach my conclusion, I'm able to render my opinion. And
10 in this opinion -- and my opinion is that this print was
11 made by the left-middle finger of a Mr. Bussell.

12 And every -- all eight of these numbers, like I
13 said, represents a characteristic. And you can go -- I
14 can start with Number 1, and go from 1 to 8. I can go
15 from 1 to 6. I can go from 4 back to 2, and I'll have
16 the exact same number of ridges between each
17 characteristic that makes it unique.

18 And then, notice that the latent print, it's sort
19 of smudged out here. But you can sort of see the -- the
20 looping pattern. Okay. I can't identify just on the
21 pattern, but I can identify it based on the
22 characteristics within the pattern, and that's what I've
23 done here. That's what I do in all the cases.

24 Keep in mind, this is on -- this is on a window
25 screen, according to the latent lift that I received.

1 This is done in a controlled environment where you've
2 got the person in front of you, and you have control of
3 that individual, so you're able to get a good, clear
4 print. This is not a clear print, in the center at
5 least, because it was not left on purpose. It was a
6 chance impression, and the Jasper County Sheriff's
7 Office was able to develop this at the scene.

8 So, just one -- just, in conclusion, as I stated,
9 this print, this latent print was made by the Number 8
10 -- or the left middle finger of Chad Bussell and -- and
11 no other individual.

12 MR. TOPOREK: Thank you, sir. I don't have any
13 further questions.

14 THE COURT: Cross-examination.

15 THOMAS DARNELL

16 CROSS-EXAMINATION, BY MR. HUGHES:

17 Q Mr. Darnell, do you have a title that I can call
18 you by, or just mister?

19 A Mister's fine. I was a -- I'm a retired
20 lieutenant, but I'm not active, so I -- I'm a -- I'm
21 called a forensic scientist at SLED, but mister's fine.

22 Q Let me ask you a question, if I may. And I
23 apologize to the Clerk of Court for this, because she's
24 going to call me on this.

25 Did I just leave fingerprints on that glass

2-10-15 STATE V. BUSSELL

CROSS - THOMAS DARNELL

1 outside?

2 A I -- I can't answer that question, because prints
3 are not always left. It -- it depends on the condition
4 of someone's hands. It depends on the condition of the
5 surface that was touched. It is possible to touch
6 surfaces and not leave prints, so there are a lot of
7 variables in play that determine whether or not a print
8 can be left. So.

9 Q But if I can actually see the prints that I just
10 left, would you say that there are fingerprints on that
11 glass, if you can see them with the naked eye?

12 A Glass is a -- is a good surface for latent prints.
13 And sometimes, I am able to see prints without having to
14 do any development to that print. But I mean, I'm just
15 going by what you're saying, if you have a print on the
16 glass. I don't -- I'm not looking at it, but.

17 Q Let's say I did leave fingerprints on that glass.
18 It's on the left side of the building. It's exposed to
19 the elements. How long can I expect those fingerprints
20 to last?

21 A Well, there's -- there's no scientific way to age a
22 print. As I stated, a latent print, chance print, is
23 about 99 percent moisture, and they're extremely
24 fragile. So, weather does affect -- weather affects the
25 longevity of prints. You know, again, how much moisture

1 was left behind, you know. But the bottom line is, a
2 latent print is very, very fragile. Obviously, a latent
3 print might tend to last longer on the inside versus on
4 the outside in some cases. And again, it just depends
5 on a lot of things. Weather certainly has an effect.

6 Q So, you cannot say that the fingerprint that you
7 identified as belonging to Mr. Bussell was placed on
8 that windowsill or window frame the day that that print
9 was taken, the day that the powder was used and the tape
10 was put down, and it was placed on the card.

11 A That's correct. I -- I have no way to age it. I
12 can't -- I can't look at it and -- there's no way to do
13 it. To -- to -- I can't say when the print was put
14 there. I can just say it was put there. But when --
15 when it was put there, I'm not even going to say.
16 That's -- that's -- and that's a different scientific
17 way to do that.

18 Q So, I might have to explain to the Clerk of Court
19 my fingerprints for the next year, on that outside
20 window?

21 A You know, again, you know, we're -- we're -- you
22 know, we're just saying, you know, a hypothetical
23 situation here. I -- I can't say that. I mean, I can't
24 say that it's going to last a year. I mean, it -- it
25 might come a rain storm in the next ten minutes and wash

2-10-15 STATE V. BUSSELL

CROSS - THOMAS DARNELL

1 it away, you know, or. It just depends on a lot of
2 things. It -- could it last a year? I mean, I can't
3 say that it could -- could or couldn't. It just --
4 there's too many variables to -- for me to be able to --
5 to put a time line on it. There's no way to age the
6 print.

7 I can say that, like I said, prints tend to last
8 longer if they're protected, if they're out of the
9 weather, those sorts of things, because of the fact that
10 the latent print is fragile.

11 Q Now, when you say moisture, are we talking water or
12 oil?

13 A Well, it's mostly, for lack of a better term,
14 sweat, perspiration. You know, we all -- we all sweat
15 differently. You know, we all -- some of us sweat year
16 around. Some of us don't, you know. That's just the
17 way we're made. So, it's basically perspiration, sweat,
18 oils, whatever you want to call it. It's the oils and
19 the perspiration that exudes from the pores in your
20 skin. That's the -- that's the moisture that I'm
21 referring to.

22 Q But people who have got to clean up after small
23 children, who leave fingerprints on everything, know
24 that sometimes fingerprints aren't fragile. Isn't that
25 correct? That the oils and stuff will stay there.

1 A Well, in that case, the -- it actually becomes --
2 it -- we have a latent print, which is a hidden or
3 invisible print. Okay? And then, we also have what we
4 call patent prints. Okay? It's latent spelled with a
5 P, P as in Paul.

6 A patent print is a visible print. A patent print
7 is a print that you might see with the naked eye. It
8 might be left behind, you know, you can have your -- you
9 can touch your hand in some oils, you can touch your
10 hand in some paint, in some grease, and those sorts of
11 prints we call patent prints, because they're visible.
12 They're not hidden.

13 But to answer your question, could a -- in that
14 situation, could that print be left from oils? Sure, it
15 could.

16 Q So, now, if you're not doing the investigation, if
17 you're not there, how can you say something is latent
18 versus patent?

19 A You know, I -- in this case, you know, I mean, I've
20 worked lots of crime scenes in my career, and I did not
21 work this crime scene. So, I can't -- I can't say what
22 type of print this is, except that, based on the fact
23 that they used black powder to develop it, I would have
24 to say that it was probably some sort of a hidden or
25 invisible print. They may have seen a portion of it. I

2-10-15 STATE V. BUSSELL

CROSS - THOMAS DARNELL

1 don't -- I have no way of knowing what they saw. I
2 wasn't on the scene, so -- but the black powder they
3 used actually enhances the print, so you're more easily
4 able to see it. And that's -- appears to be what was
5 used in this case.

6 Q So, you have no way of saying when that fingerprint
7 got on that window.

8 A I -- I can't say when. I can just say that it was
9 touched at some point.

10 MR. HUGHES: No further questions, your Honor.

11 THE COURT: Re-direct?

12 MR. TOPOREK: Nothing further.

13 THE COURT: All right. Thank you, sir. You may
14 step down.

15 THOMAS DARNELL: Yes, sir.

16 THE COURT: And you may be excused from your
17 subpoena.

18 MR. HUGHES: I have no objection to his being
19 excused.

20 THE COURT: And Solicitor?

21 COURT REPORTER: Does he have the exhibit?

22 THE COURT: Yes.

23 MR. TOPOREK: I'm sorry.

24 COURT REPORTER: Does he have the exhibit?

25 THOMAS DARNELL: I'm about to walk out with it.

1 MR. TOPOREK: I'm sorry.

2 COURT REPORTER: And the envelope?

3 MR. TOPOREK: And the envelope.

4 THOMAS DARNELL: I'm sorry.

5 MR. TOPOREK: I apologize, Madam Court Reporter.

6 COURT REPORTER: That's all right.

7 THE STATE RESTS:

8 MR. TOPOREK: Your Honor, at this time, the State
9 rests.

10 THE COURT: The State rests. Ladies and gentlemen,
11 we need to take a short recess while I discuss with the
12 attorneys some matters of law. I just ask you to step
13 in the jury room, and see, if this time, you can select
14 a foreperson. We hope to be back with you shortly.

15 JURORS LEAVE COURTROOM 2:23 P.M.

16 THE COURT: State rests. Mr. Hughes, any motions
17 from the Defense?

18 MOTIONS:

19 MR. HUGHES: Your Honor, I would move to dismiss,
20 on the grounds the State did not match all of the
21 elements. I don't believe they proved entry.

22 THE COURT: Solicitor?

23 MR. TOPOREK: Your Honor, obviously, there was not
24 an eyewitness that saw the defendant inside the house.
25 However, we think that a strong inference can be made,

1 based on the items that he had on him -- well, first, we
2 have a witness that has him leaving the property
3 carrying these items. The items found in the bag,
4 specifically this Tupperware with the cigarettes in it,
5 matches -- it's pretty unique and matches the Tupperware
6 with the cigarettes found at the house.

7 We also have the broken window that what we say is
8 the point of entry, with the defendant's fingerprints on
9 that window. We believe while, of course, there is no
10 eyewitness to him being inside that house, we do believe
11 there is strong circumstantial evidence putting him
12 inside.

13 MR. HUGHES: Your Honor, I don't believe I heard
14 anybody say anything matched the stuff taken from the
15 house.

16 THE COURT: I'm sorry, I couldn't hear you.

17 MR. HUGHES: I don't believe I heard anybody say
18 anything about matching the Tupperware or anything. I
19 don't even know if the Tupperware has been seen by
20 anybody, and I definitely have not heard any expert
21 opinion or even a lay witness opinion that it was the
22 same Tupperware.

23 THE COURT: There was testimony about the same
24 cigarettes, wasn't there?

25 MR. HUGHES: I don't think so, your Honor.

1 Nobody's handled the cigarettes that was found in the
2 bags to even know if -- including the person that was
3 supposed to have rolled them.

4 MR. TOPOREK: Your Honor, my recollection is that
5 Mr. Williamson watched the photos of the items found in
6 the bag, the cigars, as well as the Tupperware with the
7 cigarettes. He said that they did appear to be the
8 same; stored in the same way that he stores them in his
9 home. No, we did not have a forensic analysis of the
10 cigarettes to make sure they matched, but he did testify
11 that they looked like the cigarettes that he keeps in
12 his home.

13 RULING:

14 THE COURT: I'm going to deny the Defense motion,
15 because of the circumstantial evidence that would -- the
16 jury could conclude entry was made, and that this was
17 the property of the owner of the residence. Any other
18 motions?

19 MR. HUGHES: Not at this time, your Honor. I would
20 -- I don't think I'd move for anything. Sorry.
21 Nothing else.

22 THE COURT: Would this be a good time, then, for me
23 to talk to the defendant about his right to testify?

24 MR. HUGHES: Your Honor, I would like for about
25 five or six minutes, so I could talk to him before you

2-10-15 STATE V. BUSSELL

DEFENDANT'S RIGHTS

1 talk to him.

2 THE COURT: Okay. All right. We'll take a five-
3 minute recess, then. We'll be in recess for five
4 minutes.

5 OFF THE RECORD 2:27 P.M.

6 BACK ON THE RECORD 2:32 P.M.

7 DEFENDANT'S RIGHTS, BY THE COURT:

8 THE COURT: Mr. Bussell, I need to explain to you
9 some of your rights. If, at any time, you don't
10 understand anything I'm saying, please let me know.

11 DEFENDANT BUSSELL: Yes, Sir.

12 THE COURT: If you need for me to explain anything
13 in further detail, please let me know. We've apparently
14 now reached the stage in the trial where you have the
15 right to present your defense.

16 I tell you that you have the right to claim the
17 protections given to you by the *Fifth Amendment* to the
18 *Constitution of the United States of America*. This
19 amendment states, in part, as follows:

20 *No person can be compelled in any*
21 *criminal case to be a witness against himself.*

22 This means you cannot be required to testify. You
23 have the right to testify. However, no one can make you
24 testify. This is a personal right that you have, and no
25 one can waive this right except you. If you decide to

1 testify, you will be subject to the same rules that
2 govern other witnesses, and you may be examined and
3 cross-examined on any relevant issue in the case.

4 In addition, if you have any convictions involving
5 dishonesty or for false statement, or for crimes
6 punishable by imprisonment for more than one year, and
7 the Court determines that the probative value of
8 admitting this evidence outweighs its prejudicial effect
9 to you, the Solicitor would be able to introduce your
10 record to attack your credibility.

11 If you decide to testify, the decision on your part
12 must be made freely and voluntarily, with the knowledge
13 of the protections given to you by the *Fifth Amendment*,
14 and the consequences of your decision to testify.

15 If you decide not to testify, I will instruct the
16 jurors that they cannot give that fact that you didn't
17 testify any consideration whatsoever, because there is
18 to be absolutely no prejudice to you because you did not
19 testify. It's left entirely up to you whether or not to
20 testify. And you may talk to your attorney, family,
21 friends, or anyone else, but the final decision is left
22 entirely up to you. Do you understand what I've
23 explained to you so far?

24 DEFENDANT BUSSELL: Yes, your Honor.

25 THE COURT: Any questions about anything I've said?

2-10-15 STATE V. BUSSELL

DEFENDANT'S RIGHTS

1 DEFENDANT BUSSELL: No, your Honor.

2 THE COURT: Have you discussed with your attorney
3 whether or not you should testify?

4 DEFENDANT BUSSELL: Yes, your Honor.

5 THE COURT: Have you made a decision yet?

6 DEFENDANT BUSSELL: Yes, I have.

7 THE COURT: And your decision would be?

8 DEFENDANT BUSSELL: I'm going to take the stand.

9 THE COURT: You're going to testify?

10 DEFENDANT BUSSELL: Yes, sir.

11 THE COURT: Okay. Is there any question about any
12 record?

13 MR. HUGHES: Yes, your Honor. He does have some
14 prior burglary charges. I would object to that as being
15 extremely prejudicial.

16 THE COURT: Solicitor?

17 MR. TOPOREK: Your Honor, I don't intend to use
18 them.

19 THE COURT: Okay. Settles that, doesn't it? Is
20 the State ready for the jury?

21 MR. TOPOREK: We are, your Honor.

22 THE COURT: Defense ready for the jury?

23 MR. HUGHES: Yes, your Honor.

24 THE COURT: Let's bring the jury in.

25 JURY ENTERS COURTROOM 2:35 P.M.

1 THE COURT: Welcome back, ladies and gentlemen.
2 Were you able to select a foreperson?

3 JUROR NUMBER 13: Yes.

4 THE COURT: Who would that be? And I hate to do
5 this. I need to ask you your name and number.

6 JUROR NUMBER 13: Kathy Berntson, and I believe I'm
7 13.

8 MADAM CLERK: Yes. Juror 13.

9 THE COURT: All right. When we come back the next
10 time, I assume we'll be back again, but I'd like for you
11 to assume the seat right here on the end where this
12 gentleman's sitting.

13 JUROR NUMBER 13: Okay.

14 THE COURT: Okay? And a wise decision the jury
15 made, Ms. Berntson. I agree with their decision.

16 As you heard, ladies and gentlemen, the State has
17 presented to you all of the evidence that the State
18 intends to present. Now, the defendant has the
19 opportunity to submit evidence and testify or not, as
20 the defendant chooses. Mr. Hughes?

21 MR. HUGHES: It please the Court? Defense calls
22 Chad Bussell.

23 MADAM CLERK: Raise your right hand, and place your
24 left hand on the Bible. The testimony you're about to
25 give the Court be the truth, the whole truth, and

2-10-15 STATE V. BUSSELL

DIRECT - CHAD JUNIOR BUSSELL

1 nothing but the truth, so help you God?

2 DEFENDANT BUSSELL: Yes, ma'am.

3 MADAM CLERK: Come right around and have a seat.

4 Adjust that mic.

5 CHAD JUNIOR BUSSELL

6 DIRECT EXAMINATION, BY MR. HUGHES:

7 Q Good afternoon, Mr. Bussell.

8 A Hi.

9 Q To begin with, what is your full name?

10 A Chad Junior Bussell.

11 Q Okay. You know about the day we're talking about.

12 A Yes, sir.

13 Q Tell the jury what happened.

14 A Well, that day, I got up, and I was planning on
15 going to work out at Lowther's, out in Great Swamp. I
16 grabbed some munch -- munchies from the house, from my
17 Aunt Rose's house, and I left and went over to my Uncle
18 Terry's to get some cigars and cigarettes that I had
19 there, and go back into town. I was going to try to get
20 rid of some of the cigars for -- for money. I was broke
21 at the time and needed money.

22 Q What did you need the money for?

23 A I had two abscessed teeth, and I was in a lot of
24 pain, and I have no insurance. And I was trying
25 everything I could to come up with enough money to see

1 the doctor. I needed \$150.00 to see the dentist here in
2 town, and he wouldn't -- he wouldn't help me whatsoever
3 at all without the money.

4 Q What did you do when you got to your uncle's house?

5 A I walked to the back of the yard where the -- the
6 green shed is.

7 Q One second, please. Okay. I'm going to put up
8 State's 11. Can you see that picture on the screen over
9 there?

10 A Yes, sir.

11 Q Okay. Are we talking this building?

12 A Yes, sir.

13 Q Okay. Now, what did you do?

14 A Behind that building, my Uncle Terry allowed me to
15 put some of my items back there. At first, it was just
16 scrap. I would store -- I'd gather a little bit of
17 scrap here and there, and I'd bring it over, and he let
18 me store it behind the shed until I had enough to take
19 it to the scrap yard. And then, I had some other
20 personal items back there, underneath a container that
21 was upside down, so nothing could get wet. So, I'd --
22 I'd walked back there, and I turned that over, and I was
23 gathering some of my belongings together, and then I
24 left.

25 Q Okay. Did you see anybody there that day?

2-10-15 STATE V. BUSSELL

DIRECT - CHAD JUNIOR BUSSELL

1 A Yes.

2 Q Okay. Who did you see?

3 A Cara. Cara. I'm not sure her last name. She
4 testified earlier. She was one of the first ones to
5 testify.

6 Q Okay. Where did you see her at?

7 A She was out by the road at the other end of the
8 house, getting wood, putting it in her truck.

9 Q Over in this area?

10 A Yeah, it's just a little further to the right.

11 Q Past the garage?

12 A And behind -- exactly right behind the garage.

13 Q Okay. I don't think we have a picture of that.

14 A That's where I split -- split wood, cut and split
15 wood.

16 Q Okay. And what was she doing with that wood?

17 A Well, we had a specific pile of wood just for her
18 that my Uncle Terry told her she could come over and
19 get. And as far as I know, that's what she was doing.

20 Q Now, what did you have behind the building?

21 A A lot of scrap. That -- that big container. Three
22 or four different bags with different items in it. My
23 cigarettes, some change, just some pennies, though. I
24 had some decoration-type stuff that I'd -- I'd gathered
25 that I had nowhere to put. Just miscellaneous stuff.

1 Q Now, what cigarettes did you have?

2 A They were cigarettes that my Aunt Brenda rolled
3 with her -- with her machine.

4 Q Okay. And what were those in?

5 A They were in a plastic Tupperware container.

6 Q How did you get them?

7 A I worked for them. My aunt would roll them and
8 give them to me for working around the house. They
9 never paid me in cash. They just paid me in -- they fed
10 me and helped take care of me, and helped me out with --
11 with smokes and things like that.

12 Q Okay. I'm going to show you State's Number 5. Can
13 you see that okay?

14 A Yes, sir.

15 Q What am I seeing there?

16 A There's two Tupperware containers with the
17 cigarettes in it, and cheese and candy bars.

18 Q Okay. Where did the cheese and candy bars come
19 from?

20 A My Aunt Rose's.

21 Q How did they get into that bag?

22 A I put them there. I'd carried the stuff with me
23 from my Aunt Rose's, on the way to my Uncle Terry's,
24 when I picked up the rest of my stuff to head to town,
25 because I knew I was going to be working in town the

2-10-15 STATE V. BUSSELL

DIRECT - CHAD JUNIOR BUSSELL

1 rest of the day.

2 Q What are the blue containers?

3 A Those are the Tupperware containers with the
4 cigarettes in them.

5 Q And where were they?

6 A They were back with the rest of my stuff.

7 Q And where -- and you got them from who?

8 A From my Aunt Brenda.

9 Q And she gave them to you in exchange for?

10 A For work. Of course, I had to return the
11 Tupperware bowls when I was finished. She would re-
12 stock them for me and give it back to me. And that was
13 a regular basis.

14 Q Now, I show you State's Number 4. Can you see that
15 okay?

16 A Yes, sir.

17 Q What's that?

18 A Those are Swisher Sweets cigarillos.

19 Q That's a lot of cigarillos.

20 A Yes, sir, it is.

21 Q Where did you get those?

22 A From my Uncle Terry.

23 Q How did you get those?

24 A I worked for him. I worked for everything.

25 Q Where were they?

2-10-15 STATE V. BUSSELL

DIRECT - CHAD JUNIOR BUSSELL

1 A They were back with the rest of my stuff.

2 Q Now, let's look at State's Number 7. Can you see
3 that?

4 A Yes, sir.

5 Q What are we looking at in this picture?

6 A I believe there's a pack of cigarettes there. The
7 -- the night before, the 16th, I believe it would have
8 been, the night before, I had bought a new phone, and my
9 \$50.00 unlimited card for my Net 10. I also had my old
10 phone there that I use just for pictures and
11 miscellaneous stuff like that. It wasn't on at the
12 time.

13 And the red piece of paper is just another -- it
14 had my Social -- the Social Security number -- or, not
15 Social Security number, but the serial number to my new
16 phone. And I believe that's all I can make out there.

17 Q Can you tell me what that is.

18 A Oh, yes. That's my pepperoni for my cheese.

19 Q Okay. And State's Number 9. What is that?

20 A Those are pennies in one of the bags.

21 Q And where did they come from?

22 A Back with the rest of my stuff.

23 Q And how did you get them?

24 A How did I get them?

25 Q Yes.

2-10-15 STATE V. BUSSELL

DIRECT - CHAD JUNIOR BUSSELL

1 A Just saving them.

2 Q Why weren't they at your -- where you were staying?

3 A My aunt, she had a lot of people in and out of her
4 house. And like I said, I didn't always just stay
5 there. I stayed here and there, but at the time, I was
6 mostly staying with my aunt. She had a lot of dogs, at
7 least eight or ten in the house. She -- she rescues
8 dogs. And I kept quite a few things over at my uncle's.
9 That way, nobody got into them, or the dogs wouldn't get
10 into them. And that's the reason why I had it over
11 there.

12 Q Now, do you know how your fingerprints got on that
13 window?

14 A I've got a pretty good idea.

15 Q How?

16 A Well, my Uncle Terry and my Aunt Brenda -- I was
17 working for Wild Boys Game Processing --

18 Q I'm sorry, game processing?

19 A Yeah, game pro --

20 Q Okay.

21 A -- wild game processing, for deer. I actually quit
22 the day before I got arrested, at Wild Boys. I was
23 going to work for Ed Lowther. I told you I was headed
24 to town to go work for him, but.

25 My Uncle Terry's got two large dogs, the shepherd

1 and the lab, and they save on a lot of dog food by going
2 to Wild Boys and getting the scrap bones that they cut
3 the meat from. There would still be -- I mean, if you
4 got -- we were getting, you know, the big containers at
5 a time, and we would take them back to my Uncle Terry's,
6 and we'd cut them up with a sawzall, and we'd put them
7 in the five-gallon buckets. And my Aunt Brenda would go
8 inside, and she would boil the meat off of them, and
9 prepare them into a bag, and then she would freeze them.
10 And by the time deer season was over with, then they
11 would have enough dog food to feed their dogs, pretty
12 much all summer long. It was extra, you know.

13 Q Okay.

14 A Saved on money.

15 Q But how did that get your fingerprints on the
16 windowsill?

17 A Well, the -- one of the days that we were -- me and
18 my Uncle Terry were out there cutting up bones, my Aunt
19 Brenda was washing her window. Maybe all of the
20 windows, I don't know. But she was in her bedroom at
21 the time, and she -- they got the nice windows where you
22 can push the -- the tabs in at the top, and the window
23 will actually come into the house. You know what I'm
24 talking about?

25 Q Okay.

2-10-15 STATE V. BUSSELL

DIRECT - CHAD JUNIOR BUSSELL

1 A It actually -- the top part of it will actually
2 come loose from the frame. And me and Terry were out
3 there cutting up meat, and she's -- she yelled out that,
4 you know, she needed help, she couldn't get -- get the
5 window to shut back right. And I'd had walked over to
6 the window and was going to help, when my Uncle Terry
7 said that he -- he'd had it, and he went inside, and
8 ended up ultimately putting it back in for her.

9 Q Did you ever go in your aunt's bedroom?

10 A No.

11 Q And I'm going to show you now, State's Number 3.
12 Can you see that okay?

13 A Yes, sir.

14 Q What are we looking at there?

15 A To me, it just looks like some scratches, couple --
16 couple of red dots.

17 Q Any idea what caused this, right over in here?

18 A I'm not sure. It's hard to say. I use my elbows a
19 lot.

20 Q Now, after you left your uncle's house carrying two
21 bags, what did you do?

22 A I started walking towards town.

23 Q Okay. What road did you take?

24 A I took dirt road, all the way up to --
25 I'm not -- it used to be Route 1. I'm not sure of the

1 name of the road. But I took a left on the cement road,
2 and I walked up to the four-way, continued -- continued
3 through the four-way, towards the cemeteries. You know
4 where the cemeteries are over there?

5 Q Yes.

6 A And I was right before the cemeteries when I got
7 stopped by the officer.

8 Q Okay. Now, did you see anybody while you were in
9 the yard, other than the young lady?

10 A Other than Cara?

11 Q Yes.

12 A No.

13 Q Did you see anybody following you while you were
14 going down the road?

15 COURT REPORTER: I'm sorry, he didn't answer that.
16 Did you see anybody -- ask your previous question again,
17 please.

18 Q Okay. Did you see anybody in the yard, other than
19 the young lady?

20 A No.

21 Q Did you see anybody -- did you talk to anybody in
22 the yard?

23 A No.

24 Q As you were leaving?

25 A No.

2-10-15 STATE V. BUSSELL

DIRECT - CHAD JUNIOR BUSSELL

1 Q Did you see anybody following you down the road?

2 A After I got off the dirt road, yes.

3 Q Who did you see?

4 A Mr. O'Neal -- I'm not sure -- Able. Mr. Able?

5 Q And where was he?

6 A He was a little ways behind me in his van.

7 Q Did you --

8 A I stopped, you know, I was setting the bags down,
9 because the one bag with the -- with the pennies in it
10 was heavy. So, I would set my bags down periodically
11 and rest my arms for a minute. A couple times, I lit a
12 cigarette. I would turn around, and he would be right
13 there. I actually wasn't sure what he was doing, but
14 like I said, I stood there a couple of times and looked
15 back at him, and thought maybe he might come up and say
16 hi, or. I thought, apparently, he doesn't know who I
17 am. I thought he was -- I thought he knew that I was
18 Terry's uncle [sic]. And I'd seen him quite a few times
19 and said hi to him, but I'd only been over to his house
20 the one time with my uncle, and my uncle had introduced
21 me to him. But I wasn't for sure what he was doing, and
22 I didn't stop and go back and ask him.

23 Q But he never left you.

24 A No.

25 Q When law enforcement stopped you, did you run away?

1 A No.

2 Q Did you know why they were stopping you?

3 A No.

4 Q Did they tell you why they were stopping you?

5 A No. They didn't actually tell me anything until
6 after I was already arrested in handcuffs, and they took
7 me down to the detective's office for questioning.

8 Q Now, --

9 A They told me there that it was burglary charges or
10 something along those lines; that it was serious, or.
11 Can't exactly remember what they said, but I knew they
12 were bringing some kind of charges up on me. I still
13 wasn't for sure what was going on, though.

14 Q Did you go into your uncle's house that day?

15 A No, I did not.

16 Q Did you know where a key was hidden?

17 A Yes, I did.

18 Q Could you have gone into your uncle's house if you
19 had wanted to?

20 A Sure, I could have.

21 Q Did you take anything that did not belong to you
22 from that property?

23 A No, I did not.

24 Q Did you break that window?

25 A No, I did not.

2-10-15 STATE V. BUSSELL

CROSS - CHAD JUNIOR BUSSELL

1 Q Did you see the window broken?

2 A No, I did not.

3 Q Did you move the bucket over underneath the window
4 to climb into the window?

5 A No, I did not.

6 Q Do you have any idea who might have gone into that
7 house?

8 A I really have no idea.

9 MR. HUGHES: No further questions, your Honor.

10 THE COURT: Cross-examination?

11 MR. TOPOREK: Thank you, your Honor.

12 CHAD JUNIOR BUSSELL

13 CROSS-EXAMINATION, BY MR. TOPOREK:

14 Q You were living with Rose Williamson at this time?

15 A Yes, sir.

16 Q And you were going to work that day. Is that what
17 -- is that correct?

18 A Well, that was the plans. I was going out to Ed
19 Lowther's house to hopefully split and cut wood. At
20 that time, he had stopped using me full-time, because I
21 went to work for Wild Boys, and I didn't work for him
22 for a couple weeks. And then, when I quit at Wild Boys,
23 that was the first day that I was headed back out to
24 Ed's to see if he could put me to work, which, he
25 usually did.

1 Q But on the day you were arrested, you were heading
2 to Ed's house?

3 A Yes, sir. Well, I was headed to town first to try
4 to get rid of the cigars, and I was going to change --
5 cash my change in at Harvey's in the change machine.
6 And then, I was going to head out to Ed Lowther's.

7 Q You stated that you didn't keep your stuff at
8 Rose's house because she had too many dogs, too many
9 people coming around?

10 A Yeah, there was -- there was always things coming
11 up missing there, so --

12 Q You decided to leave your stuff outside in a shed
13 at your uncle's house? That was your solution to that?

14 A Yeah. Yeah, because I mean, he -- he's back,
15 hidden on the dirt road, and there's really not a lot of
16 people that -- other than his neighbors that he's close
17 to, there's not really a lot of people that go over
18 there. So, I knew my things were safer.

19 Q And he owns dogs, correct?

20 A Yes.

21 Q Is there any woods or any area around there?

22 A Yeah, there's plenty of woods.

23 Q Okay.

24 A Um-hmm.

25 Q But you felt your stuff was safer outside in a

2-10-15 STATE V. BUSSELL

DEFENSE RESTS

1 shed, instead of inside of your aunt's home where you
2 were staying?

3 A Absolutely.

4 Q Okay. And you do admit that you were on Terry's
5 property on October 17, 2013, correct?

6 A Yes, sir. Yes, sir.

7 Q And you left Terry's property carrying these two
8 full bags, correct?

9 A Yes, sir.

10 Q Full bags of cigars and cigarettes.

11 A And change, yes, sir.

12 Q And change. Okay.

13 MR. TOPOREK: I don't have anything further.

14 MR. HUGHES: Nothing. No further questions, your
15 Honor.

16 THE COURT: Thank you. You may step down.

17 You may call your next witness.

18 THE DEFENSE RESTS.

19 MR. HUGHES: Your Honor, the Defense rests.

20 THE COURT: Defense rests. Solicitor, anything in
21 reply?

22 MR. TOPOREK: Nothing, your Honor.

23 THE COURT: Ladies and gentlemen, it appears you
24 have heard all of the evidence that you're going to
25 hear. There's not going to be anything else presented

1 to you. The only thing that remains is for the
2 attorneys to make to you their closing arguments. Then,
3 I'll tell you about the law that applies.

4 I'm going to ask you to step in the jury room for
5 like ten more minutes while a talk to the lawyers about
6 a few things. But as soon as we come back in, I believe
7 we are ready to finish and wrap up this case. If you
8 would, please.

9 JURORS LEAVE COURTROOM 2:57 P.M.

10 THE COURT: Any special requests to charge from the
11 State, or any motions of any kind?

12 RENEWED MOTIONS:

13 MR. HUGHES: Your Honor, I renew my motions that I
14 made at the close of the State.

15 THE COURT: Okay.

16 MR. HUGHES: And I would respectfully request that
17 we do closings and charge not this late in the day,
18 because I don't want it going to the jury after 4:30. I
19 want them fresh and have had a chance to think about it.

20 THE COURT: It's only 3:00 o'clock. The jury would
21 get the case by 4:30, the way I see it. If we do this
22 tomorrow, we're going to end up potentially having to
23 bring in two different court reporters, and require the
24 jury to stay another day. I'm inclined to go forward,
25 but Solicitor, what do you say?

2-10-15 STATE V. BUSSELL

DISCUSSION RE JURY CHARGE

1 MR. TOPOREK: Your Honor, I'm good either way.
2 Obviously, we wouldn't have any certainty, but if we did
3 hold off until tomorrow -- and Ms. Wanda, I don't want
4 to speak for you -- but I think she needs to leave
5 around 1:00 o'clock tomorrow.

6 COURT REPORTER: 1:30.

7 MR. TOPOREK: And there's a pretty good chance we
8 could close and charge in the morning if we started
9 around 9:00 o'clock and everything could be finished.
10 Either way. We could do it this afternoon, as well. I
11 don't have a preference.

12 MR. HUGHES: Do we know if we could have -- has the
13 Court answered, as far as us getting any --

14 THE COURT: There's a possibility that we can have
15 a court reporter come, as best I can tell, around 11:00
16 tomorrow, if everything falls into place in the other
17 court, as they think it might.

18 MR. HUGHES: My preference would be to let the jury
19 sleep on what they've seen, but I am at the Court's
20 discretion.

21 DISCUSSION REGARDING JURY CHARGE:

22 THE COURT: All right. Well, let me go the next
23 question. Any specific requests to charge, other than
24 the standard request for -- or standard charges from the
25 State?

1 MR. TOPOREK: I don't have any additional.

2 THE COURT: From the Defense?

3 MR. HUGHES: Mere presence.

4 THE COURT: I'm not sure -- I'm not sure mere
5 presence is -- I'm not sure I agree about that.

6 But there is a charge -- and I'll be glad to hear
7 from you all on this. There's a separate charge of
8 possession of recently stolen goods. Arguably, there's
9 evidence that the defendant recently stole property.
10 The charge would go something like:

11 *If the defendant is found possessing*
12 *recently stolen goods, this may be used as*
13 *evidence that the defendant stole the goods.*
14 *This could simply be an evidentiary fact to*
15 *be taken into consideration by you, along*
16 *with other evidence in the case, and you may*
17 *give it the weight you decide it should have.*

18 That's a possible charge, but I'm not sure mere
19 presence is appropriate in this case.

20 MR. HUGHES: Well, I'm not particularly thrilled
21 with the first one, Judge.

22 THE COURT: I'm sorry, what?

23 MR. HUGHES: I'm not exactly thrilled with that
24 first charge that you were talking about, so I would
25 object to that one, definitely.

2-10-15 STATE V. BUSSELL

DISCUSSION RE JURY CHARGE

1 THE COURT: All right. Solicitor, what do you say?

2 MR. TOPOREK: I like that first charge. I don't
3 see any issues with it.

4 THE COURT: I mean, I understand there's evidence
5 going both ways on the issue of whether he did, in fact,
6 possess stolen goods. All right. Any other specific
7 charges?

8 MR. HUGHES: None from the Defense.

9 THE COURT: From the State?

10 MR. TOPOREK: None further, your Honor.

11 THE COURT: All right. I tell you what. Let me
12 ask -- let me do this. You all tell me what you -- how
13 you all feel about me doing this. What if I ask our
14 Clerk of Court to step into the jury room on behalf of
15 the Court, and to ask the jury if they wish to have the
16 case given to them, to begin deliberations, we think,
17 would be around 4:30 today. Or would they rather come
18 back tomorrow morning?

19 MR. HUGHES: I would have no objection to that.

20 THE COURT: Solicitor?

21 MR. TOPOREK: I don't have a problem with that,
22 either.

23 THE COURT: 9:30 in the morning?

24 COURT REPORTER: Oh, anytime.

25 THE COURT: No objection to that? Okay. Let's do

1 that, Madam Clerk.

2 MADAM CLERK GOES INTO JURY ROOM.

3 THE COURT: Regardless of when we do this, proposal
4 would be for me to merely give the jurors the
5 indictment. And once they reach a verdict, have them
6 write on the verdict form either guilty or not guilty.
7 Anybody have any problems with that?

8 MR. HUGHES: I have no problem with that.

9 MR. TOPOREK: I have no problem, as well.

10 THE COURT: Hearing no objection.

11 MADAM CLERK ENTERS COURTROOM.

12 MADAM CLERK: They're going to let me know.

13 THE COURT: They going to vote?

14 MADAM CLERK: They're going to vote.

15 THE COURT: They don't want you to be there.

16 MADAM CLERK: I told them I would step out.

17 THE COURT: Right.

18 MR. HUGHES: Your Honor, can we approach?

19 OFF-THE-RECORD BENCH CONFERENCE, OUT
20 OF PRESENCE OF JURORS. PRESENT: THE
21 COURT, MR. TOPOREK, MR. HUGHES.

22 END BENCH CONFERENCE.

23 THE COURT: In the event they vote to go forward,
24 are you all ready to go forward?

25 MR. HUGHES: Yes.

2-10-15 STATE V. BUSSELL

DISCUSSION RE JURY CHARGE

1 MR. TOPOREK: Yes.

2 THE COURT: If they want to stay tonight, are you
3 all ready? Okay.

4 MADAM CLERK RETURNED TO THE JURY
5 ROOM, THEN RETURNED TO THE COURTROOM.

6 MADAM CLERK: They're going to be there all night,
7 because they can't decide whether they want to do it or
8 not.

9 MR. HUGHES: Is it possible to have a hung jury on
10 a break?

11 MADAM CLERK RETURNED TO THE JURY
12 ROOM, THEN RETURNED TO THE COURTROOM.

13 MADAM CLERK: I just told them the alternates don't
14 vote. That's right; don't vote.

15 MADAM CLERK RETURNED TO THE JURY
16 ROOM, THEN RETURNED TO THE COURTROOM.

17 MADAM CLERK: Coming back tomorrow, your Honor.

18 THE COURT: All right.

19 Okay. Let's bring the jury back in.

20 JURORS ENTER COURTROOM 3:12 P.M.

21 THE COURT: Welcome back, ladies and gentlemen. We
22 had the same difficulty deciding that you all apparently
23 had in deciding. We couldn't decide whether you all --
24 whether it would be best for us to push forward and put
25 you into the evening hours, or ask you to come back in

1 the morning. But it looks like we'll come back in the
2 morning, 9:30.

3 Remember, this is all that's going to be presented.
4 No more paperwork, no more lawyers -- excuse me -- there
5 will be lawyers talking to you, but no more evidence.
6 I'm going to tell you about the law that applies in the
7 case. Between now and 9:30, don't let anybody talk to
8 you about the case. You don't talk to anybody about the
9 case. We'll still need our two alternates back in the
10 morning. I'll just tell you this quick story.

11 I, once upon a time, had a jury go start out to
12 leave, just like you might do tomorrow, head to the jury
13 room, and one of the jurors missed a step, as you could
14 do here, hit the floor, couldn't get up. We had to call
15 EMS, had to stop everything, and the alternate juror had
16 to step into place and participate. So, that's why we
17 still need the alternates show up tomorrow, just in case
18 something happens. Or, something could happen to one of
19 the other jurors. It could be sickness or, you know,
20 medical problems overnight, so we still need you.

21 Ladies and gentlemen, see you tomorrow morning,
22 9:30. You're excused.

23 JURORS LEAVE COURTROOM 3:14 P.M.

24 THE COURT: Anything else we can do this evening?

25 MR. TOPOREK: I'm don't have anything else lined

2-10-15 STATE V. BUSSELL

DISCUSSION RE JURY CHARGE

1 up, your Honor.

2 THE COURT: Well, now, Solicitor, let's talk about
3 this.

4 MR. TOPOREK: Yes.

5 THE COURT: Let's suppose that the jury begins
6 deliberating at 11:00 o'clock.

7 MR. TOPOREK: Yes, sir.

8 THE COURT: We got anything else to do while
9 they're deliberating?

10 MR. TOPOREK: I was just thinking, I'm going to
11 call Mr. Plexico and see what his status is. I know we
12 had planned on Thursday.

13 THE COURT: Yeah.

14 MR. TOPOREK: I've got a walk-in that's coming back
15 on Thursday. I know myself and Mr. Hughes are going to
16 be working with the trial some, but we could bring some
17 folks over from the jail. There could possibly end up
18 being pleas, if that's what you would like to do.
19 That's what I was planning on doing tomorrow, anyways.

20 MADAM CLERK: On Thursday? What are you doing
21 Thursday? Because, then, I've got Judge Mullen in here
22 also on Thursday.

23 MR. TOPOREK: Right. And that's for sentencing
24 with Mr. Plexico.

25 MADAM CLERK: Because that -- only I thought you

2-11-15 STATE V. BUSSELL

1 also had some pleas.

2 MR. TOPOREK: I'm hopeful we're going to end up
3 having some pleas. There are cases I think they are
4 going to end up pleading, but they needed to speak with
5 Mr. Plexico, so I'm kind of -- he asked me to have his
6 clients come back on Thursday. And that's what I did
7 yesterday. But I will get some people from the jail and
8 have them ready tomorrow morning. And once we're done
9 -- once the jury gets the case, we can take up some of
10 those matters.

11 THE COURT: All right. Court's adjourned until
12 9:30 tomorrow morning.

13 MR. TOPOREK: Thank you, sir.

14 END DAY TWO, TUESDAY,

15 FEBRUARY 10, 2015, 3:16 P.M.

16 BEGIN DAY THREE, WEDNESDAY,

17 FEBRUARY 11, 2015, 9:32 A.M.

18 BY THE COURT:

19 MR. HUGHES: Defense is ready, your Honor.

20 THE COURT: All right. Let's bring the jury in.

21 JURY ENTERS COURTROOM 9:32 A.M.

22 THE COURT: Good morning, ladies and gentlemen.

23 RESPONSES FROM JURORS.

24 THE COURT: I believe we are ready to begin with
25 the closing arguments of the attorneys. First, we'll

2-11-15 STATE V. BUSSELL

CLOSING - DEFENSE

1 hear from the State.

2 MR. HUGHES: Your Honor, I think I go first this
3 time.

4 THE COURT: You'll go first? I'm sorry.

5 MR. HUGHES: May it please the Court. Mr. Toporek.
6 Good morning.

7 RESPONSES FROM JURORS.

8 CLOSING ARGUMENT ON BEHALF OF THE

9 DEFENDANT, BY MR. HUGHES:

10 MR. HUGHES: Yesterday, I made a promise to you
11 that it was not going to be like anything you ever saw
12 on television, and I think I kept my promise. It's not
13 like anything I've seen in awhile, either.

14 What we're here today is to determine whether the
15 State proved beyond a reasonable doubt that Chad Bussell
16 committed the crime he's accused of. I'm going to tell
17 you what I think the State has managed to do, and it is
18 not prove anything of the sort. I'm going to talk about
19 what the witnesses saw, what the witnesses said. I'm
20 going to show you all pictures of the crime scene.
21 You're going to have all that back in the jury room.
22 You're going to be able to look over everything I'm
23 going to show you, and everything Mr. Toporek is going
24 to show you, and you're going to be able to have a
25 discussion about it.

1 First of all, I am very impressed with the
2 neighborhood watch in that area. Two neighbors see a
3 suspicious person, and they act. That is good
4 neighboring.

5 Now, the young lady -- and I'm going to have to
6 look at my notes -- Ms. Koerner was standing at the side
7 of the property. Mr. Able was next door to the
8 property, and they kept an eye on the property.
9 Somebody saw that it was a person that they didn't know,
10 and they -- was acting suspicious in their mind left,
11 Mr. Able got in his van and followed him all the way
12 until law enforcement showed up.

13 Now, the next witness, Mr. Blatchley, it was
14 obvious Mr. Blatchley wanted to play policeman, and I
15 feel sorry for the poor detective that took him to the
16 scene so that he could point it out to him, because it
17 must have been like herding cats for that poor
18 detective. Mr. Blatchley's testimony has little, if
19 any, meaning. I think what you heard was what he
20 thought should have happened.

21 Now, Detective Wright did his job. He went to
22 where a crime had been reported. He investigated. He
23 had to keep -- probably had to keep Mr. Blatchley on a
24 short leash, because it was obvious Mr. Blatchley wanted
25 to play cop. And he did exactly what he was supposed

2-11-15 STATE V. BUSSELL

CLOSING - DEFENSE

1 to. He photographed, he investigated, he checked
2 fingerprints, which is what his job was.

3 I beg your indulgence. I can't figure out how to
4 turn a piece of paper.

5 Mr. Williams, Mr. Terry Williams, the gentleman who
6 lived at the residence, obviously upset, goes to -- cuts
7 his vacation short, comes back to where his house had
8 been broken into, goes through it, looks for the things
9 that have been stolen, comes up with a list. His
10 sister, also been on vacation, adds to the list.

11 And the final witness, the gentleman from SLED, who
12 knew exactly what he was talking about -- I have looked
13 at these pictures, and he's right. This is Chad
14 Bussell's fingerprint, on the outside of that window.
15 But if you had asked me to look at the fingerprint taken
16 from the window, I would not have been able to point out
17 these eight things that he did. But then again, I don't
18 have twenty-something years of training. Chad Bussell's
19 fingerprint was on the outside of that building. My
20 fingerprint's on the outside of that window. My
21 fingerprints are on that desk. Why? Because my hand
22 has been there.

23 Now, how long has it been there? If anybody has
24 ever had to clean up fingerprints from a small child off
25 of a refrigerator door, you know fingerprints are going

1 to last a long time. So, let's go through these
2 witnesses.

3 To start off with -- and I'm learning how to do
4 high-tech things -- this is the window that they say
5 whoever went in that room -- that building went through.
6 Now, that is a five-gallon bucket or a three-gallon
7 bucket that does not -- that gives you some idea of
8 scale. So, that window is probably six feet off the
9 ground.

10 Now, it's a thin window. I couldn't get through
11 that window. But even more importantly, with that in
12 that window, with that broken glass -- and I'll let you
13 -- you'll have all the pictures to look at; you'll be
14 able to see how far that glass gets -- is across --
15 nobody is going to climb through that window, pulling
16 themselves up, pull themselves through that window,
17 without cutting themselves very, very badly, without
18 leaving blood, without leaving pieces of clothing. It's
19 simple. No one's climbing through that window. Not
20 without hurting themselves badly.

21 Now, Mr. Blatchley did have some scrapes on his
22 arm. I had a scrape on my hand. It looks about the
23 same condition as that scrape on his arm. This was done
24 two days ago, by a mean, vicious dog who is about this
25 high. But that's the only scrape and cut on Mr.

2-11-15 STATE V. BUSSELL

CLOSING - DEFENSE

1 Blatchley's arm.

2 You're not required to leave your common sense at
3 the door when you become a juror. You know what a
4 person climbing through that window would do to
5 themselves, and it would be a lot worse than this. You
6 know what the clothing of somebody who climbs through
7 that window would look like, and it wouldn't be small
8 holes like this, this, or this.

9 Here's another picture of the window. It wouldn't
10 have happened.

11 The State has not shown that my client climbed
12 through that window, because, if my client had climbed
13 through that window, my client's clothes would be
14 bloody; my client's arms would be cut up.

15 Now, my client did leave the scene that day
16 carrying two bags. Here's a picture of what was inside
17 of them. You're going to have that picture, too.
18 Cigarillos, some pennies, some food, some cigarettes.

19 Now, I asked Mr. Williams what was missing from
20 that house. A Glock, a pistol, was stolen that day.
21 \$2,000.00 in cash was stolen that day. Pain medicine,
22 pills, were stolen that day, or some time between when
23 the Williams' left and the police got to the scene. Ms.
24 Fischer reported a king-sized blanket was taken.

25 My client is seen leaving the scene. He was there.

1 He went there to get his cigarillos, his pennies, that
2 he kept out in the storage shed. And he walked away.
3 Mr. Able followed him. Saw him the entire time, from
4 the time he left the place, until the cops stopped him.
5 My client actually stopped, turned around, saw Mr. Able.
6 Knew that someone was following him. What does he do?
7 Does he run away? No. He stops, lights a cigarette,
8 watches this guy in the van who is parked up the road
9 that's been following him. Does he panic? No.

10 Law enforcement comes up to him. *Sir, who are you?*
11 *What you doing? Can we get your I.D.? Sure, sure.*
12 Sets the bags down. And these aren't bags -- I mean,
13 there are trash bags there. If he wanted to hide
14 something, all he has to do is pull those bags closed.
15 No. *May we search your bags? Sure. Go right ahead.*
16 You see the king-sized blanket? Do you see the pistol?
17 Do you see the pain medicine? Do you see the \$2,000.00
18 in cash? No. They're not there.

19 Now, Mr. Able and Ms. -- I apologize to the young
20 lady. I can't remember her name -- the first witness,
21 Ms. Koerner, testified that they were outside. It's a
22 quiet neighborhood. They did not say that they heard a
23 piece of firewood go through two panes of glass. If
24 they had, I guarantee you, with that neighborhood watch,
25 they'd have gone over and seen what was going on.

2-11-15 STATE V. BUSSELL

CLOSING - DEFENSE

1 Even more importantly, they did not hear someone
2 hitting those French doors hard enough to cause the lock
3 to splinter. Why didn't they hear this? I mean,
4 someone has got to hit this door very, very hard to make
5 this much damage. And the reason they didn't hear it or
6 hear the glass breaking is because it didn't happen when
7 Mr. Chad Junior Bussell was there. When they're
8 standing outside, easily within air shot.

9 Remember, the young lady was standing over here.
10 Mr. Able was over in this area. Everything occurred
11 right in here. They would have seen and they would have
12 heard the doors being kicked or slammed into. They
13 would have heard a piece of firewood go flying through
14 two panes of glass, but they didn't.

15 Now, I don't know who broke into Mr. Williams'
16 house and took his money, took his drugs, took a large
17 jar of dimes, quarters, and nickels, who took a king-
18 sized blanket. I know who didn't. Mr. Bussell didn't,
19 because if Mr. Bussell had taken that stuff, it would be
20 in that picture. And it's not like he had time to stash
21 it somewhere. Mr. Able saw him the entire time that he
22 -- after he left.

23 So, State has to prove to you beyond a reasonable
24 doubt that Mr. Bussell broke into this house, through
25 that window, without getting cut up, bloody, shirt torn

1 to pieces. Somehow or another, bypassing all that
2 broken glass. Took out of this window a gun, drugs,
3 large jar of quarters, dimes, nickels, king-sized
4 blanket, in that short period of time that Ms. Koerner
5 and Mr. Able didn't see him. And then, somehow or
6 another, made them vanish or transform into some food,
7 some cigarettes, some cigarillos, and some pennies.

8 Ladies and gentlemen, when you go back in the jury
9 room, think about all this. Think about what the State
10 has proven; what they haven't proven. But most
11 importantly, remember, beyond a reasonable doubt. If
12 you can say that yes, it is possible to climb in through
13 that window without getting cut up, without leaving
14 blood, without leaving clothes, then, that's beyond a
15 reasonable doubt. If you can say that, yes, you can
16 climb through a window like that, you can find the money
17 that's hidden in the filing cabinet, you can find the
18 pistol, you can find the drugs, you can carry out that
19 huge -- that jar of quarters, dimes, and nickels, you
20 can carry out that king-sized blanket in that amount of
21 time, and then make them disappear so that nobody's
22 found them in a year and a half, even though I think
23 fifteen minutes was the amount of time we're talking
24 about, then that's beyond a reasonable doubt.

25 But if you can't do that, then, that is reasonable

2-11-15 STATE V. BUSSELL

CLOSING - STATE

1 doubt, and you have to find Chad Junior Bussell not
2 guilty of burglary second. Thank you.

3 THE COURT: Thank you, sir.

4 MR. TOPOREK: Thank you, your Honor. May it please
5 the Court?

6 THE COURT: Just one second. All right. Go ahead.

7 CLOSING ARGUMENT ON BEHALF OF

8 THE STATE, BY MR. TOPOREK:

9 MR. TOPOREK: Thank you, your Honor. May it please
10 the Court, Mr. Hughes, and members of the jury? Good
11 morning, again.

12 RESPONSES FROM JURORS.

13 MR. TOPOREK: In just a few moments, Judge
14 Goldsmith's going to tell you what the law is. He is
15 going to tell you how a burglary is defined in this
16 state. And what you're going to hear is that burglary
17 is an unlawful entry into a dwelling with the intent to
18 commit a crime inside of that dwelling. And what does
19 that mean?

20 Well, a dwelling is just somebody's home, where
21 someone eats, sleeps, lives. That's why I had to ask
22 Terry those questions yesterday, because that's his
23 home. An unlawful entry into that home is just someone
24 going in that doesn't have permission, whether that's
25 through an open window or through an unlocked, open

1 front door. If someone doesn't have permission to be
2 inside the home, it's an unlawful entry.

3 And then, the last thing is that this entry has to
4 occur with the intent to commit a crime inside of that
5 home. And intent's a tricky thing, because we can't get
6 inside of anybody's head to know exactly what they're
7 intending to do at any given point in time. But we can
8 look at their actions, and we can look at the evidence
9 surrounding their actions, all the circumstances, and
10 from that, we can use our common sense and figure out
11 what someone had to be thinking. And that's called
12 circumstantial evidence, and you're going to hear about
13 that from Judge Goldsmith, as well.

14 But a good example, and I think we need to go
15 through this, because it's very important to this case,
16 a good example of circumstantial evidence is, let's
17 assume that we don't have all these great windows in the
18 courtroom, and you can't see outside, and someone walked
19 in through that door with an umbrella, rain jacket,
20 soaking wet. Your common sense tells you that it's
21 raining outside. You don't have to look outside to put
22 that together. That umbrella, the rain jacket, that's
23 circumstantial evidence.

24 And that's important to this case, because the
25 things that we know with direct evidence, and he's going

2-11-15 STATE V. BUSSELL

CLOSING - STATE

1 to go through that, as well, is, this was Terry's home,
2 and that no one was allowed in that home while he was
3 out of town. He told you that, he told his neighbors
4 that, and that's why he had them watch the property.
5 But the rest we proved with overwhelming circumstantial
6 evidence, and we're going to go through that.

7 At the beginning yesterday, I told you that,
8 ultimately, you're going to have to make two
9 determinations: whether a crime occurred and whether we
10 got the right guy that committed that crime. And I
11 usually like to go in order, but he answered the second
12 part, that we got the right guy. He sat there and told
13 you that:

14 *Yeah, I was the one leaving the property,*
15 *carrying these two full bags. Yes, O'Neal*
16 *Able saw me. I'm the one that he saw carrying*
17 *the bags and walked away.*

18 And O'Neal followed him until he was arrested. He
19 told you that.

20 I know Keefe got up there and said some things, and
21 I know that Mr. Hughes had some fun with him on the
22 stand, and it was pretty entertaining. But it was
23 pointless, because what Keefe did and what Able
24 testified to, the point was, and the most important
25 point was, to make sure that we had the right guy; that

1 the guy that was stopped on the side of the road was the
2 guy that Able saw leaving the home carrying these two
3 bags. That was the second part that you have to figure
4 out. Did we have the right guy? Sure, we did.

5 Let's go back to the first part. Was a crime
6 committed, and how do we show that? Terry told you that
7 he was out of town, that no one was supposed to be
8 coming by his property except for Rose. No one was
9 supposed to be there. That's what he told his
10 neighbors, and that's why O'Neal saw him and why he was
11 suspicious. He saw him at the home. Not at the shed,
12 at the home. And he saw him walking away from that
13 home. Not the shed, the home, carrying these two full
14 bags.

15 We know he was there, and we know he had no reason
16 to be there. How do we show that he was inside of that
17 home? We know he's walking away with these two full
18 bags, and Able told you why he was suspicious, because
19 it sure looked like to him that his buddy, Terry, was
20 getting robbed. How do we know? Because we know what
21 was in his house, and we know what was found on the
22 defendant.

23 You don't need to be a seasoned law enforcement
24 officer to tell that these Tupperware full of cigarettes
25 that the defendant had on him matches the Tupperware

2-11-15 STATE V. BUSSELL

CLOSING - STATE

1 full of cigarettes that Terry keeps in his home. You
2 can do that. You have these photos. This isn't
3 something that you just pick up from the store. This is
4 very unique, and Terry told you he kept this in his
5 home, not in the shed -- in his home. His sister Brenda
6 told you, he kept this stuff in his home, not in the
7 shed.

8 We also have this broken window with the
9 fingerprint, and you saw it. Mr. Hughes just went
10 through it. And I apologize, Court's indulgence. But I
11 want you to understand where this fingerprint was. It
12 was on the frame of the screen that is on the outside of
13 the broken window that had to be pushed up, and it was
14 pushed up, and his fingerprint is on that window.
15 Behind it is the window that was broken.

16 Thomas Darnell went through a great presentation,
17 and he walked through why and how he was able to look at
18 this print, and all of the little details, and how he
19 was able to match that print found on the screen to a
20 known print of the defendant. And that's important,
21 because we don't have an eyewitness that saw him inside
22 of the home, but everything else points to him being
23 inside of that home. He's seen walking from the home
24 carrying two full bags. In these bags, Tupperware full
25 of cigarettes that Terry keeps in his home.

1 And then, the broken window. Do I know if he
2 crawled through that broken window? I don't. But we
3 know that his fingerprints are on that window. He could
4 have very easily reached in and unlocked it, and pushed
5 it up from there and crawled through. He could have
6 walked out the front door, once he was inside. The
7 point is, we know he was there. That, plus the items
8 found on him, plus witnesses seeing him walking away
9 carrying those items. That's the rain jacket and the
10 umbrella. There's only one conclusion, that he's inside
11 of that home, and he was taking those things.

12 And we know his intent. He wasn't going in there
13 to clean the place up, fix the refrigerator. He took
14 those things. He was going in there to steal, and we
15 know that from his actions. Did he have the gun on him?
16 No. Did he have this blanket on him? No.

17 We also know that Terry was gone for two full days
18 before he was seen on the property walking away with
19 those bags. If someone else got in there and got it, so
20 be it. But that doesn't make it okay for him to follow
21 up on October 17th and come in and take these
22 cigarettes, and take those cigars, and take these things
23 that you know were in Terry's home. You can look at
24 them. That is unique.

25 I also want to talk about what the defendant said

2-11-15 STATE V. BUSSELL

CLOSING - STATE

1 yesterday. A little all over the place. He didn't want
2 to keep his things at his aunt's house because she had
3 dogs in there, didn't want them messing with it. So,
4 his solution is to keep them outside in an open shed, a
5 bunch of cigars open to the elements, where Terry has
6 dogs, where everyone in that area has dogs. It doesn't
7 make sense.

8 And then, he was getting these things because he
9 was going to work for Mr. Lowther, or maybe he didn't
10 really work for Mr. Lowther, because he didn't have a
11 job. But really, the whole thing was about him going to
12 the dentist. So, he went and picked up his bag full of
13 cigarettes and candy bars. It doesn't make sense, and
14 all the evidence and all of the testimony that you heard
15 and your common sense tells you it doesn't make sense.
16 It didn't happen that way.

17 And there's one witness in particular that
18 discredits every single word that this man said, and
19 that's Cara Koerner, the first witness that testified
20 yesterday. And it may not have seemed like a big deal
21 at the time, but it sure ended up being very important.
22 She told you that on the day that the defendant was
23 arrested that she confronted the defendant on Terry's
24 property. She told you that he said that Rose had sent
25 him over there to check on Terry's home.

1 What did she do? She went home. She didn't think
2 anything of it. She is not out to get this guy. She
3 doesn't know him. She didn't call the police. She
4 didn't follow him to make sure that he was arrested.
5 She didn't do any of that, because she's a good person,
6 and she has no reason to make anything up. If
7 everything went down the way that he said, then he would
8 have told her, I'm just here to get some of my
9 belongings. And you know what she would have done? She
10 would have gone home, and she would have not thought
11 anything of it. Because she doesn't know this guy,
12 she's not out to get this guy, and she has absolutely no
13 reason to lie about what he said to her.

14 But we know the reason why he said what he did, and
15 that's because he knows he got caught. He got caught
16 leaving a residence, leaving a home that he was not
17 allowed to be in, and he got caught with items, with
18 goods, with these Tupperwares full of cigarettes. It is
19 so important. That had to come from inside of that
20 home.

21 You have the evidence. You have everything that
22 you need to make your decision, and you are the only
23 ones that can hold him responsible.

24 JURY CHARGE, BY THE COURT:

25 THE COURT: Ladies and gentlemen, I'll remind you

2-11-15 STATE V. BUSSELL

JURY CHARGE

1 that the fact that the defendant was indicted, arrested,
2 and charged in this case is not evidence. It cannot be
3 considered by you as evidence. The defendant has pled
4 not guilty to these charges. Therefore, that puts the
5 burden on the State to prove the defendant's guilt to
6 you beyond a reasonable doubt.

7 I tell you that a person charged with committing a
8 criminal offense in South Carolina is never required to
9 prove himself innocent. I further tell you that it is
10 an important rule of law that a defendant in a criminal
11 trial, no matter what the seriousness of the charge may
12 be, will always be presumed to be innocent of the crime
13 for which the indictment was issued, unless guilt has
14 been proven by evidence that satisfies you of that guilt
15 beyond a reasonable doubt.

16 The presumption of innocence does not end when you
17 begin your deliberations, but it accompanies a defendant
18 throughout the trial until you reach a verdict of guilt,
19 based on evidence satisfying you of that guilt beyond a
20 reasonable doubt. The presumption of innocence is like
21 a robe of righteousness placed about the shoulders of
22 the defendant, which remains with the defendant until it
23 has been stripped from the defendant that satisfies you
24 of the defendant's guilt beyond a reasonable doubt.

25 The presumption of innocence is not mere legal

1 theory. It is not just a legal phrase. It is a
2 substantial right to which every defendant is entitled
3 unless you, the jury, are satisfied from the evidence of
4 the defendant's guilt beyond a reasonable doubt. A
5 reasonable doubt is the kind of doubt that would cause a
6 reasonable person to hesitate to act.

7 Some of you may have served on juries in civil
8 cases where you were told that it is only necessary to
9 prove that a fact is more likely true than not true,
10 such as by the greater weight, or the preponderance of
11 the evidence. In many criminal cases, the State's proof
12 must be more powerful, in that it must be beyond a
13 reasonable doubt. Proof beyond a reasonable doubt is
14 proof that leaves you firmly convinced of a defendant's
15 guilt.

16 There are very few things in this world that we
17 know of with absolute certainty, but in criminal cases,
18 the law does not require proof that overcomes every
19 possible doubt. If, based on your consideration of the
20 evidence, you are firmly convinced that the defendant is
21 guilty of the crime charged, you must find the defendant
22 guilty. If, on the other hand, you think there is a
23 real possibility that the defendant is not guilty, you
24 must give the defendant the benefit of the doubt, and
25 find him not guilty.

2-11-15 STATE V. BUSSELL

JURY CHARGE

1 I remind you that during this trial, you and I have
2 had certain duties and obligations to perform. As the
3 judge, it is my responsibility to preside over the
4 trial, to rule on the admissibility of the evidence.
5 You will consider only the testimony which has been
6 presented from the witness stand, and any exhibits which
7 were made part of the record in this case, and any
8 agreement or stipulations of the attorneys.

9 I also have the additional duty to tell you about
10 the law that applies in the case. As the presiding
11 judge, I am the sole judge of the law of the case, and
12 it's your duty as jurors to accept and apply the law as
13 I now state it to you. If you already have any idea
14 that the law is different than I tell you, you must put
15 that out of your mind, as I told you earlier, because
16 under your oath, you're sworn to accept the law and
17 apply the law as I state it to you.

18 In every case tried before a jury, the jury becomes
19 the sole and exclusive judge of the facts. And as I
20 previously told you, a judge such as myself cannot
21 intimate, state, comment on, or make any statement to a
22 jury about the facts of the case. Since you, the jury,
23 are the sole judges of the facts of the case, you are
24 not to infer from anything that I've said or done
25 through the progress of this trial that I have an

1 opinion about the facts of this case, for the law does
2 not permit me or allow me to have an opinion about the
3 facts of the case. This is solely a matter for you to
4 determine. It is your duty, ladies and gentlemen, as
5 jurors, to determine the effect, the value, the weight,
6 and the truth of the evidence that's presented.

7 Generally speaking, there are two types of evidence
8 presented during a trial: direct evidence and
9 circumstantial evidence. Direct evidence is the
10 testimony of a person who claims to have actual
11 knowledge of the facts, such as an eyewitness. It is
12 evidence which immediately establishes the main fact to
13 be proven.

14 Circumstantial evidence is proof of a chain of
15 facts and circumstances indicating the existence of a
16 fact. It is evidence which immediately establishes
17 collateral facts from which the main fact may be
18 inferred.

19 Circumstantial evidence is based on inference, and
20 not on personal knowledge or observation. The law,
21 though, makes no distinction between the weight or the
22 value to be given to either direct or circumstantial
23 evidence, nor is a greater degree of certainty required
24 of circumstantial evidence than of direct evidence.

25 You should weigh all of the evidence in this case.

1 After weighing all of the evidence, if you are not
2 convinced of the guilt of the defendant beyond a
3 reasonable doubt, you must find the defendant not
4 guilty.

5 Necessarily, ladies and gentlemen, you must
6 determine the credibility of the witnesses who have
7 testified, and this simply means the believability. It
8 becomes your duty as jurors to analyze, to evaluate the
9 evidence, and determine which evidence convinces you of
10 its truth.

11 In determining the believability of witnesses who
12 have testified in this case, you may believe one witness
13 over several witnesses, or several witnesses over one
14 witness. You may believe a part of the testimony of a
15 witness and reject the remaining part of the testimony
16 of that very same witness. You may believe the
17 testimony of a witness in its entirety, or reject the
18 testimony of a witness in its entirety.

19 And you may consider whether the witness has
20 exhibited to you any interest, bias, prejudice, or any
21 other motive in this case, and may also consider the
22 appearance and manner of a witness while on the witness
23 stand.

24 As I told you earlier, rules of evidence normally
25 do not permit witnesses to testify as to opinions or

1 conclusions, but an exception exists for expert
2 witnesses. That is a witness who, by education or
3 experience, has become an expert in some art, science,
4 profession, or some calling, and they may state an
5 opinion as to the relevant and material matter in which
6 the witness claims to be an expert, and they may give
7 their reasons for their opinion.

8 You should consider the expert opinion -- excuse me
9 -- any expert opinion received as evidence in this case,
10 and like any other evidence, you give it the weight you
11 think it deserves. If you decide the opinion of the
12 expert witness is not based on sufficient education or
13 experience, or if you conclude that the reasons given in
14 support of their opinion is not sound, or if the opinion
15 is outweighed by any other evidence, you may disregard
16 the opinion entirely.

17 An expert witness's testimony is to be given no
18 greater weight than any other witness simply because
19 that witness is an expert. You're also not required to
20 accept the expert's opinion, even if it's not
21 contradicted.

22 If the defendant -- if a defendant is found
23 possessing recently stolen goods, this may be used as
24 evidence that the defendant stole the goods. This would
25 simply be an evidentiary fact to be taken into

2-11-15 STATE V. BUSSELL

JURY CHARGE

1 consideration by you, along with all the other evidence
2 in the case, and you may give it the weight you decide
3 that it should have.

4 The defendant is charged with burglary. The State
5 must prove beyond a reasonable doubt that the defendant
6 entered a dwelling without consent. And I tell you that
7 a dwelling is any building or portion of a building in
8 which a person ordinarily sleeps. A building is a
9 dwelling even if the residents are temporarily absent
10 from the building.

11 In order to prove that the defendant entered the
12 dwelling, the State does not have to show that the
13 defendant's entire body entered the dwelling. The
14 smallest entry is sufficient. It may be any part of the
15 body, such as a hand or foot, or even an instrument.

16 In addition, the State does not have to prove that
17 force was used to gain entry.

18 Next, the State must prove beyond a reasonable
19 doubt that the defendant intended to commit a crime,
20 either a felony or a misdemeanor, at the time of the
21 entry. A mere entry into a dwelling without consent is
22 not burglary. If the intent to commit a crime was
23 formed after entry, it's not burglary. On the other
24 hand, if the defendant intended to commit a crime at the
25 time of the entry, it is a burglary, even if the attempt

1 is abandoned after entry.

2 Intent may be shown by acts and conduct of the
3 defendant and from other circumstances from which you
4 may naturally and reasonably infer intent.

5 Ladies and gentlemen, in a few minutes, you will
6 retire to the jury room, and you'll begin your
7 deliberations. For there to be a verdict in this case,
8 the verdict must be unanimous, meaning all twelve of you
9 must agree. And there are only two possible verdicts,
10 either guilty or not guilty.

11 Im going to ask our foreperson if she would, on
12 behalf of the jury, when the jury reaches a verdict,
13 write the verdict, once again, a unanimous verdict, on
14 the back of the indictment you will receive. There is a
15 portion that says, blank -- there are three or four --
16 there are three or four blank lines here. Under the
17 word *verdict*, you will insert either *guilty*, or you will
18 insert *not guilty* and then sign it as foreperson. Knock
19 on the door, and let us know that you have reached a
20 verdict, and we will receive you back into the Court.

21 At this time, I'm going to ask all of you to go to
22 the jury room, including our alternate jurors, but don't
23 yet begin deliberating until I send to the jury room the
24 indictment, as well as the exhibits. And when they come
25 into the courtroom, we will then ask our two alternate

2-11-15 STATE V. BUSSELL

JURY CHARGE

1 jurors to step out of the jury room, come back in the
2 courtroom, and you, ladies and gentlemen, can begin your
3 deliberations. So, if you would please retire to the
4 jury room, I hope to be in touch with you shortly.

5 JURORS LEAVE COURTROOM 10:21 A.M.

6 THE COURT: Exceptions from the State?

7 MR. TOPOREK: Not from the State, your Honor.

8 THE COURT: Thank you.

9 MR. HUGHES: I was not aware that we were actually
10 going to do the recently stolen property charge. You
11 mentioned it yesterday. I would have probably objected
12 stronger to it, but it's water under the bridge now, I'm
13 afraid. So, no other objections.

14 THE COURT: Okay. All right. Have you all looked
15 at the exhibits to make sure we have them all, and
16 they're all ready to go and that we are sending the
17 documents back?

18 COURT REPORTER, MR. TOPOREK, MR.

19 HUGHES REVIEWING EXHIBITS.

20 ALTERNATE JURORS ENTER COURTROOM.

21 MADAM CLERK: The Judge is going to talk to you a
22 minute.

23 BY THE COURT:

24 THE COURT: I want to thank you all for your
25 service. I could tell both of you all were paying

1 attention, and which is good, because if something would
2 have happened, I know I told you about it yesterday, but
3 somebody fell down and had to be excused. It would have
4 been kind of embarrassing if he hadn't been able to pay
5 attention to what's going on when you're sitting around
6 the table talking about the case. But at any rate, I
7 want to thank you for your service. This ends your
8 obligation for the week, and really for the year.

9 Now, you're welcome to either stay with us, or not.
10 You don't have to tell us; you just can't sit back here.
11 But if you want to stay, I invite you to sit back here.
12 Quite often, a juror will want to wait around and see
13 what's happened. Others want to get about their
14 business and get out of Dodge. It's whatever you want
15 to do.

16 ALTERNATE JUROR NUMBER 1: Okay.

17 THE COURT: Once again, I want to thank you for
18 your service.

19 ALTERNATE JUROR NUMBER 1: Thank you very much. I
20 appreciate it.

21 THE COURT: Thank you for serving.

22 ALTERNATE JUROR NUMBER 2: Yes, sir.

23 ALTERNATE JURORS LEAVE COURTROOM.

24 THE COURT: We'll be at ease, unless you all have
25 other business.

2-11-15 STATE V. BUSSELL

QUESTION FROM JURORS

1 MR. HUGHES: I may, your Honor.

2 THE COURT: Let me see both of you all at a quick
3 side Bar.

4 OFF-THE-RECORD BENCH CONFERENCE,
5 OUT OF PRESENCE OF JURORS. PRESENT:

6 THE COURT, MR. TOPOREK, MR. HUGHES.

7 OFF THE RECORD 10:22 A.M.

8 JURORS BEGIN DELIBERATION 10:25 A.M.

9 BACK ON THE RECORD 11:24 A.M.

10 QUESTION FROM JURORS:

11 MADAM CLERK: She's got two exhibits in her hand.
12 She has two exhibits she was trying to show me.

13 THE COURT: Oh, I think -- I think --

14 MADAM CLERK: Okay.

15 THE COURT: How many times did I tell the jury that
16 was all they were going to get? They weren't going to
17 get anymore facts or anymore information.

18 Question:

19 *When the detective arrived on-scene*
20 *and found broken window, was window up or down?*

21 Number 2:

22 *Did detective put window up and down to*
23 *photograph?*

24 Then, beneath that, they've written:

25 *Exhibit 15 and Exhibit 42.*

2-11-15 STATE V. BUSSELL

QUESTION FROM JURORS

1 Let's find out what those were. I don't know why

2 --

3 MADAM CLERK: Pictures of the window.

4 THE COURT: These pictures of the window?

5 MADAM CLERK: Of the window.

6 MR. TOPOREK: 42 would have been one of the ones
7 with dusted prints. And I'm guessing the earlier
8 exhibit was probably just the outside of the window.

9 THE COURT: Well, as far as I know, the only thing
10 I can do is bring them in, tell them that they are going
11 to have to decide this case based on what they've
12 already heard. I cannot give them additional
13 information on which -- that they can use to make their
14 decision. Anybody have a different thought? A
15 different thought?

16 MR. HUGHES: I don't think you can.

17 MR. TOPOREK: I mean, that's all we can do.

18 THE COURT: Let's bring the jury in. And mark this
19 a Court's exhibit.

20 COURT REPORTER: The question from the jurors will
21 be Court's Exhibit 1.

22 ITEM IDENTIFIED AS NOTE FROM JURORS

23 MARKED COURT'S EXHIBIT NUMBER 1.

24 JURORS ENTER COURTROOM 11:25 A.M.

25 THE COURT: Welcome back, ladies and gentlemen. I

2-11-15 STATE V. BUSSELL

QUESTION FROM JURORS

1 have a note that has, as I understand it, and I've
2 discussed this with the attorneys, two questions. One
3 is:

4 *When the detectives arrived on the*
5 *scene and found the window broken, was the*
6 *window up or down?*

7 The second question was:

8 *Did the detective put the window up or*
9 *down to photograph it?*

10 I have a response for you, but you're probably not
11 going to like the response. The response is this,
12 you're going to have to make your decision in this case
13 based on what you have already heard and seen, and have
14 been presented, and not any additional information.

15 Now, having said all of that, I'm going to ask you
16 to please retire to the jury room and resume your
17 deliberations.

18 FOREPERSON: Thank you.

19 THE COURT: It's not the first time a jury has
20 asked me a question, though.

21 JURORS LEAVE COURTROOM TO RESUME

22 DELIBERATION 11:20 A.M.

23 OFF THE RECORD 11:20 A.M.

24 BACK ON THE RECORD 11:24 A.M.

25 BY THE COURT:

1 MADAM CLERK: They've reached a verdict.
2 THE COURT: Verdict?
3 MR. TOPOREK: Yes, your Honor.
4 THE COURT: Is the State ready for the verdict?
5 MR. TOPOREK: We are.
6 THE COURT: Defense ready for the verdict?
7 MR. HUGHES: We are, your Honor.
8 THE COURT: All right. Let's bring the jury in.
9 JURORS ENTER COURTROOM 11:25 A.M.
10 BY THE COURT:
11 THE COURT: Welcome back, ladies and gentlemen.
12 The bailiff indicates that she believes the jury has
13 reached a verdict. Is that correct, Madam Foreperson?
14 FOREPERSON: That's true.
15 THE COURT: Let me ask you a couple questions. Was
16 it a unanimous verdict?
17 FOREPERSON: Yes.
18 THE COURT: Did you fill out the verdict form?
19 FOREPERSON: Yes, I did.
20 THE COURT: Would you please pass it forward.
21 FOREPERSON: And the pen is right here, too.
22 THE COURT: And Madam Clerk, would you please
23 publish the verdict.
24 VERDICT:
25 MADAM CLERK: Docket Number 2013-GS-27-00505, the

2-11-15 STATE V. BUSSELL

JURORS POLLED

1 State of South Carolina versus Chad Junior Bussell,
2 verdict of the jury: guilty. Signed by the foreperson.

3 MR. HUGHES: Request polling of the jury, sir.

4 JURORS POLLED, BY MADAM CLERK:

5 MADAM CLERK: When I call your name, would you
6 raise your right hand? Nicole Campanella, was this your
7 verdict? Is it still your verdict?

8 JUROR NUMBER 24: Yes.

9 MADAM CLERK: Jackie Ford, was this your verdict?
10 Is it still your verdict?

11 JUROR NUMBER 56: Yes.

12 MADAM CLERK: Alvaro Baltazar, was this your
13 verdict? Is it still your verdict?

14 JUROR NUMBER 6: Yes, ma'am.

15 MADAM CLERK: Thank you. Steven Smith, Jr. Was
16 this your verdict? Is it still your verdict?

17 JUROR NUMBER 143: Yes, ma'am.

18 MADAM CLERK: Thank you. Imani Henderson. Would
19 you raise your right hand? Was this your verdict? Is
20 it still your verdict?

21 JUROR NUMBER 72: Yes.

22 MADAM CLERK: Thank you. Kathleen Berntson. Was
23 this your verdict? Is it still your verdict?

24 JUROR NUMBER 13: Yes, ma'am.

25 MADAM CLERK: Thank you. Alvenia Robinson. Was

1 this your verdict? Is it still your verdict?

2 JUROR NUMBER 132: Yes.

3 MADAM CLERK: Thank you. Diane Coker. Was this
4 your verdict? Is it still your verdict?

5 JUROR NUMBER 32: Yes, ma'am.

6 MADAM CLERK: Thank you. Trey Kimberly. Was this
7 your verdict? Is it still your verdict?

8 JUROR NUMBER 85: Yes, ma'am.

9 MADAM CLERK: Thank you. Shaquilla Campbell. Was
10 this your verdict? Is it still your verdict?

11 JUROR NUMBER 25: Yes, ma'am.

12 MADAM CLERK: Thank you. Adrena Chatman. Was this
13 your verdict? Is it still your verdict?

14 JUROR NUMBER 27: Yes, ma'am.

15 MADAM CLERK: Thank you. Carol Dodd. Was this
16 your verdict? Is it still your verdict?

17 JUROR NUMBER 42: Yes.

18 MADAM CLERK: Thank you.

19 THE COURT: Anything else before the jury is
20 discharged, from the State?

21 MR. TOPOREK: Nothing from the State, your Honor.

22 THE COURT: From the Defense?

23 MR. HUGHES: None from the Defense, your Honor.

24 THE COURT: Ladies and gentlemen, I want to thank
25 you for your service. Previously, I told you, you

2-11-15 STATE V. BUSSELL

JURORS POLLED

1 couldn't talk to anybody about the case. Now, you're
2 free to talk or not talk. You can talk to anybody you
3 want to about what happened here and what happened in
4 there, if you want to. Once again, it's totally up to
5 you.

6 I don't have any reason to think anybody's going to
7 bother you about your verdict, but if you don't want to
8 talk to them, tell them you don't want to talk to them.
9 If they persist, tell them that I told you, you didn't
10 have to. And if they further persist and really bother
11 you, please report them to the Clerk of Court. But one
12 more time, I don't have any reason to think that's going
13 to happen. I just want to make sure everybody knows --
14 every juror knows they can do it or not do it.

15 One more thing. There's nobody that's in a
16 position to contradict your verdict, to question your
17 verdict, and I say that for this reason. Only the
18 twelve of you sat there, saw every witness testify from
19 the witness stand, saw the exhibits introduced, heard
20 the attorneys make their opening and closing statements
21 to you, have me tell you what the law was, and then went
22 in that room and sat around the table and discussed it
23 with your fellow jurors. Only the twelve of you did
24 that.

25 I suspect that what will happen next is that the

1 Court will be required to impose sentence in the case.
2 You are free to stay or not stay, and I don't want to
3 put any pressure on you. What I'm going to ask you to
4 do is exit the courtroom, but if you want to -- or at
5 least exit this portion of the Court. But if you want
6 to, come in the back part of the courtroom and have a
7 seat, if you want to watch the rest of the proceeding.
8 If you don't, you're free to leave. Does anybody have
9 any questions?

10 This completes your jury duty obligation for the
11 week. You shouldn't get another jury summons this year,
12 not from circuit court. Madam Clerk, anything you need
13 to tell the jury?

14 MADAM CLERK: The check is in the mail.

15 THE COURT: Once again, ladies and gentlemen, thank
16 you so much for your service, and you're excused.

17 FOREPERSON: Thank you.

18 MADAM CLERK: Thank you.

19 JURORS LEAVE COURTROOM 11:31 A.M.

20 THE COURT: You going to show them how to get back
21 in, if they want to?

22 BAILIFF: Yes, sir.

23 THE COURT: Now, any motions from the Defense?

24 MR. HUGHES: No, your Honor.

25 THE COURT: Is there any reason the Court should

2-11-15 STATE V. BUSSELL

SENTENCING

1 not proceed with sentencing, then, at this time?

2 MR. HUGHES: None from the Defense.

3 THE COURT: You --

4 MR. TOPOREK: I'm filling out the form right now,
5 in just a couple minutes.

6 THE COURT: Okay. Well, I told the jurors, if they
7 could, if they wanted to, to come back in the back of
8 the courtroom. You know, sometimes they want to, and
9 sometimes they don't. We'll give them a few minutes.

10 MR. TOPOREK: Your Honor, I believe we are ready to
11 proceed. I was informed that the jurors that do want to
12 be present are in the courtroom.

13 SENTENCING:

14 THE COURT: All right. Solicitor, I'd be glad to
15 hear from you on the issue of sentencing.

16 MR. TOPOREK: Thank you, your Honor. I do want to
17 go through the defendant's prior record. In 1999, he
18 picked up two shoplifting convictions; a breach of trust
19 conviction; a burglary second, non-violent conviction;
20 and a grand larceny conviction. He received a ten-year
21 sentence suspended to one year active time, three years'
22 probation.

23 In 2000, he was convicted of an unarmed robbery in
24 Michigan. His probation was revoked, and he served
25 additional time in prison at that point. While he was

1 in prison in Michigan, he was convicted of a prisoner in
2 possession of contraband.

3 Your Honor, based on his prior record, we're going
4 to ask that he be sentenced to every day of the ten
5 years that he's facing. This isn't his first time.
6 He's been put on probation for this before. He's served
7 prison time for this before. And this time he did it,
8 and did it to someone that he's related to, his uncle.
9 If he would do it to him, he would definitely do it to
10 someone else.

11 Mr. Williamson and Ms. Fischer are here. I believe
12 they do want to -- Mr. Williamson does want to address
13 the Court at the appropriate time, and --

14 THE COURT: We'll be glad to hear from you, sir.

15 TERRY WILLIAMSON: May I, your Honor?

16 THE COURT: That would be fine. Sure.

17 TERRY WILLIAMSON: Good morning, your Honor.

18 THE COURT: Good morning, sir.

19 TERRY WILLIAMSON: I just feel very angry that we
20 was on our vacation, and we had to cut it short by a
21 long shot, not because of a stranger, but because of my
22 own family, a man that I had been trying to help for six
23 or eight months.

24 And my main, and still main, concern was the pistol
25 that was taken. I'm just worried to death that it's

2-11-15 STATE V. BUSSELL

SENTENCING

1 going to be used in a violent crime against an officer,
2 or even a private citizen, anybody. That just -- that
3 really bothers me that he would put a gun out like that
4 into society that don't need to be there. There's too
5 many of them out there now. I had it in a locked, safe
6 environment until he came along.

7 THE COURT: All right.

8 TERRY WILLIAMSON: Thank you, sir.

9 THE COURT: Thank you, sir. Anything else from the
10 State?

11 MR. TOPOREK: Nothing further from the State, your
12 Honor.

13 MR. HUGHES: Your Honor, since he has bonded out of
14 jail, he has gained employment. He is working two jobs.
15 He is supporting his sixteen -- almost -- is he almost
16 sixteen, or is he sixteen now?

17 DEFENDANT BUSSELL: He's sixteen now.

18 MR. HUGHES: His sixteen-year-old son. He and I
19 have talked, and he knew that there was the possibility
20 that the jury would come back with a guilty verdict. We
21 are asking that you sentence him to eight years,
22 suspended on the service of five.

23 THE COURT: Mr. Bussell, anything that you wanted
24 to say?

25 DEFENDANT BUSSELL: No, your Honor. No, sir.

1 THE COURT: Mr. Bussell, in making this decision,
2 the Court is, in fact, compelled to consider the prior
3 history and the fact that you have, in fact, looks like,
4 served time on two different occasions. And I also take
5 into consideration the fact that it's been a number of
6 years since you've had a conviction. So, thirteen is
7 the best I can tell, between the time of the Michigan
8 robbery and this event.

9 SENTENCE:

10 THE COURT: I sentence you to the Department of
11 Corrections for a period of eight years, suspended upon
12 the service of six years, followed by five years'
13 probation. Good luck to you, Mr. Bussell.

14 DEFENDANT BUSSELL: Thank you, your Honor.

15 THE COURT: Yes, sir.

16 MR. HUGHES: Thank you, your Honor.

17 MR. TOPOREK: Thank you, your Honor.

18 END TRIAL 11:42 A.M.

2-11-15 STATE V. BUSSELL

SENTENCE

1 CERTIFICATE OF REPORTER

2 FEBRUARY 9, 10, 11, 2015 PRETRIAL MOTIONS

3 AND TESTIMONY, TRANSCRIPT OF TRIAL

4 STATE OF SOUTH CAROLINA

5 COUNTY OF BEAUFORT

6 I, Wanda H. Rowe, CVR-M, Official Court Reporter
7 for the State of South Carolina, do hereby certify that
8 the foregoing February 9, 10, 11, 2015, Pretrial Motions
9 and Testimony, Transcript of Trial is a true, accurate,
10 and complete record of the proceedings had and exhibits
11 admitted on said dates, in the case of State of South
12 Carolina versus Chad Junior Bussell, Jasper County,
13 Court of General Sessions, Case Number 2013-GS-27-00505;
14 that I am of neither kin, counsel, nor interest to any
15 party hereto.

16 A CERTIFICATE OF REPORTER IS ATTACHED TO THE
17 ORIGINAL OF THIS TRANSCRIPT AND CONTAINS MY DIGITAL
18 SIGNATURE. PURSUANT TO SCACR 607, REQUESTS FOR COPIES
19 OF THIS TRANSCRIPT MUST BE MADE TO THE COURT REPORTER.
20 UNAUTHORIZED COPYING OF THIS TRANSCRIPT IS PROHIBITED.

21 Witness my signature April 16, 2015.

22
23 S/ Wanda H. Rowe24 Wanda H. Rowe, CVR-M
25 Official Court Reporter

WITNESSES

Crosby - JCSO

ARREST WARRANT NUMBER

2013A2710200416

ACTION OF GRAND JURY

~~TRUE BILL~~ ✓

~~NO BILL~~

~~FOREMAN~~ J. Smith

~~DATE 12/19/13~~

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013GS2700505

The State of South Carolina

County of Jasper

COURT OF GENERAL SESSIONS

December Term 2013

THE STATE

VS.

Chad Junior Bussell

Indictment for

**Burglary / Burglary (Non - Violent) (After June
20, 1985) - 2nd Degree**

SC Code: 16-11-0312
CDR Code:0080

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

Witness:

C.C.C. PLS. and G.S.

COPY

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER)

INDICTMENT

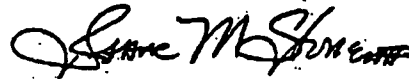
2013GS2700505

At a Court of General Sessions, convened on December 19, 2013, the Grand Jurors of Jasper County present upon their oath:

Burglary / Burglary (Non - Violent) (After June 20, 1985) - 2nd Degree

That in Jasper County, on or about 2013-10-17 the Defendant, Chad Junior Bussell, did enter the dwelling of Terry Williamson located at , Ridgeland without consent and with the intent to commit a crime therein in violation of Section 16-11-312(A) and 16-1-80 of the South Carolina Code of Laws (1976, as amended)

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

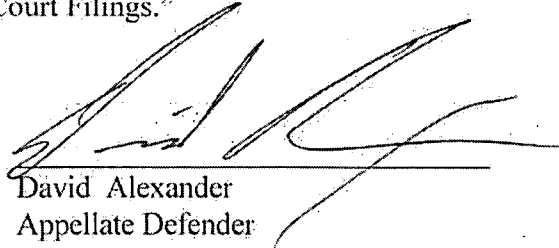


Solicitor

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."

October 13th, 2015



David Alexander
Appellate Defender

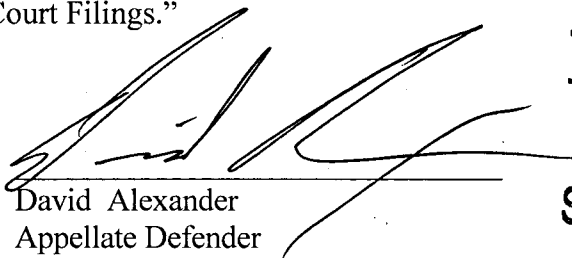
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

October 13th, 2015



David Alexander
Appellate Defender

RECEIVED

OCT 13 2015

SC Court of Appeals

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

ATTORNEY FOR APPELLANT