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ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BARNWELL COUNTY

Doyet A. Early, III, Circuit Court Judge

RECEIVED
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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

STEPHON ROBINSON,

APPELLANT

APPELLATE CASE NO. 2014-002531

RECORD ON APPEAL

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INDEX

INDEX.....	i
TRIAL TRANSCRIPT DATED NOV. 1-2, 2011	1
JURY VOIR DIRE.....	5
MOTIONS HEARING.....	25
TESTIMONY	
JEFF CROFT (IN-CAMERA)	
Direct Examination by Mr. McAlister.....	25
Cross Examination by Mr. Walters	33
OPENING STATEMENT BY MR. MCALISTER	44
OPENING STATEMENT BY MR. WALTERS	47
TESTIMONY	
JEFF CROFT	
Direct Examination by Mr. McAlister.....	49
Cross Examination by Mr. Walters	73
Redirect Examination by Mr. McAlister	87
SHELLY LEANNA GUNNELS	
Direct Examination by Mr. McAlister.....	94
EDDIE WILLIAMS	
Direct Examination by Mr. McAlister.....	98
Cross Examination by Mr. Walters	110
Redirect Examination by Mr. McAlister	121
MOTION FOR DIRECTED VERDICT.....	122
MOTION REGARDING DEFENDANT'S PRIOR CONVICTIONS.....	127
TESTIMONY	
STEPHON ROBINSON	
Direct Examination by Mr. Walters.....	130
Cross-Examination by Mr. Miller.....	132

ARTHUR WALLACE	
Direct Examination by Mr. Walters.....	142
Cross-Examination by Mr. Miller.....	143
REGINALD FELDER	
Direct Examination by Mr. Walters.....	146
Cross-Examination by Mr. Miller.....	147
CLOSING ARGUMENT BY MR. WALTERS	159
CLOSING ARGUMENT BY MR. MCALISTER.....	169
JURY CHARGE.....	175
VERDICT	187
SENTENCE.....	190
OPINION IN <i>STATE V. ROBINSON</i> , 2014-UP-068 (Ct. App. Feb. 19, 2014).....	199
TRANSCRIPT OF REMAND HEARING DATED JUNE 9, 2014	202
REMAND COURT’S ORDER ENTERED NOV. 11, 2014.....	224
INDICTMENTS	232
CERTIFICATE OF COUNSEL.....	236

1 State of South Carolina) In the Court
2 County of Barnwell) Of General Sessions

3 Indictment No.: 2011-GS-06-00245
4

5
6 State of South Carolina,)
Plaintiff.)
7)
8 vs.) Transcript of Record
9)
10 Stephon Robinson,)
Defendant.)

11
12
13 November 1-2, 2011
14 Barnwell, South Carolina
15

16 B E F O R E:

17 The Honorable Doyet A. Early III, Judge and a jury.
18

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21 David W. Miller, Assistant Solicitor
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I N D E X

Page

Tuesday, November 2, 2011

1	Jury Voir Dire.....	5
2	Jury Selection.....	16
3	Bigger's Hearing.....	25
4	Jeff Croft	
5	Direct Examination - In Camera	
6	By Mr. McAlister.....	25
7	Cross-Examination - In Camera	
8	By Mr. Walters.....	32
9	Opening Remarks by the Court.....	38
10	Opening Statements	
11	By Mr. McAlister.....	44
12	By Mr. Walters.....	47
13	Jeff Croft	
14	Direct Examination by Mr. McAlister.....	49
15	Cross-Examination by Mr. Walters.....	73
16	Redirect Examination by Mr. McAlister.....	87
17	Shelly Leanna Gunnels	
18	Direct Examination by Mr. McAlister.....	94
19	Eddie Williams	
20	Direct Examination by Mr. McAlister.....	98
21	Cross-Examination by Mr. Walters.....	110
22	Redirect Examination by Mr. McAlister.....	121

	<u>Page</u>
1	
2	Mid-Trial Motions..... 122
3	Questioning of the Defendant
4	By The Court..... 124
5	Stephon Robinson
6	Direct Examination by Mr. Walters..... 130
7	Cross-Examination by Mr. Miller..... 132
8	Arthur Wallace
9	Direct Examination by Mr. Walters..... 142
10	Cross-Examination by Mr. Miller..... 143
11	Reginald Felder
12	Direct Examination by Mr. Walters..... 146
13	Cross-Examination by Mr. Miller..... 147
14	Closing Arguments
15	By Mr. Walters..... 159
16	By Mr. McAlister..... 169
17	Jury Charge..... 175
18	Verdict..... 187
19	<u>Wednesday, November 3, 2011</u>
20	Sentence..... 190
21	Certificate of Reporter..... 198
22	
23	
24	
25	

	<u>EXHIBITS</u>			
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>PAGE</u>
1				
2				
3	S-1	Photo Lineup.....	28.....	68
4	S-2	Photo Lineup.....	29.....	68
5	S-3	Photo Lineup.....	31.....	72
6	S-4	Photo Lineup.....	32.....	72
7	S-5	Photo.....		52
8	S-6	Photo.....		53
9	S-7	Photo.....		55
10	S-8	Photo.....		56
11	S-9	Photo.....		65
12	S-10	Not Entered		
13	S-11	Photo.....		97
14	D-1	Statement.....	117	
15	D-2	Statement.....	118	
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 **TUESDAY, NOVEMBER 1, 2011**

2 THE COURT: Call your first case, Mr. Solicitor.

3 MR. MCALISTER: Your Honor, the State calls State
4 versus Stephon Tenard Robinson, Indictment 2011-GS-06-245
5 for burglary in the first-degree, and Indictment
6 2011-GS-06-246 for possession of a weapon during a violent
7 crime.

8 THE COURT: All right. Where's your client.

9 MR. WALTERS: Right here.

10 (WHEREUPON the defendant entered the courtroom.)

11 THE COURT: Mr. Walters, you ready to strike the
12 jury?

13 MR. WALTERS: Yes, sir, Your Honor.

14 **JURY VOIR DIRE**

15 THE COURT: All right. Ladies and gentlemen, the
16 State has called the case of the State of South Carolina
17 versus Stephon, S-t-e-p-h-o-n, Tenard, T-e-n-a-r-d,
18 Robinson. Mr. Robinson has been indicted by the Barnwell
19 County Grand Jury on two offenses. One is for the offense
20 of burglary in the first-degree, and the other one is an
21 indictment for possession of a weapon during the commission
22 of a violent crime.

23 Mr. Robinson has pled not guilty to both of these
24 indictments, and under our constitution, a plea of not
25 guilty means that he is, under the constitution, presumed

1 to be innocent unless the State is able to prove his guilt
2 to you beyond a reasonable doubt as to each and every
3 element of both indictments. And obviously, I will explain
4 to you during the trial what burden of proof is, what
5 beyond a reasonable doubt is, what the elements of the
6 offenses are; but he has pled not guilty, so the State has
7 the burden of proving his guilt to you beyond a reasonable
8 doubt. And the fact that he has been charged and arrested
9 and indicted, that is not evidence in the case. These are
10 simply the formal documents by way a person is brought into
11 the courtroom. So don't infer anything from the fact that
12 he's been indicted.

13 I need to ask you a few questions about the case
14 before we strike the jury, so listen carefully. If any of
15 the questions apply to you, please stand and respond to the
16 question.

17 I remind you that you're still under oath.

18 Mr. Robinson, good morning. How are you?

19 THE DEFENDANT: Good morning.

20 THE COURT: Could you please stand and face the
21 jury panel.

22 (WHEREUPON the defendant stood and faced the jury
23 panel.)

24 THE COURT: Thank you, you may be seated.

25 Ladies and gentlemen of the jury panel, is

1 anybody -- any one of you ever been related by blood or
2 marriage or have you ever in the past or now had a close
3 personal or social relationship with the defendant, Stephon
4 Tenard Robinson? If so, please stand.

5 Your name, please?

6 THE JUROR: Timothy Slayton.

7 THE COURT: I can't hear you.

8 THE JUROR: Timothy Slayton.

9 THE COURT: What's your situation?

10 THE JUROR: I was just good friends with him. I
11 used to hang out with him.

12 THE COURT: You were good friends with him, you
13 used to what?

14 THE JUROR: I used to hang out with him. I know
15 his brother, too, Reggie.

16 THE COURT: Okay. Well, how close of friends were
17 you?

18 THE JUROR: I used to hang out with him a good bit.

19 THE COURT: Well, Son, I'm a lot older than you. I
20 don't know what hang out means.

21 THE JUROR: I used to go spend time with him like
22 as friends.

23 THE COURT: Like as friends. So y'all were close
24 friends.

25 THE JUROR: We were pretty good friends.

1 THE COURT: Okay. Would you feel uncomfortable
2 being on this jury?

3 THE JUROR: Yes, sir.

4 THE COURT: All right. I'll excuse you. Stay with
5 me now.

6 THE JUROR: All right.

7 THE COURT: Anyone else? And I really do know what
8 hang out means. I was just...

9 All right. Ladies and gentlemen, I'm going to read
10 out the list of potential witnesses in the trial of the
11 case -- that doesn't mean they'll all be called -- and I'm
12 going to ask you the same question:

13 Is Eddie Williams in the room? He's back here.

14 (WHEREUPON Mr. Williams stood.)

15 THE COURT: Mr. Williams, good morning. Thank you.
16 Be seated, please.

17 Shawn Washington. Shawn Washington, he's in back.
18 Stand up for me, Mr. Washington, please.

19 (WHEREUPON Mr. Washington stood.)

20 THE COURT: Thank you. Shelly Leanna Gunnels.
21 Ms. Gunnels are you in the courtroom?

22 (WHEREUPON there was no response.)

23 THE COURT: Deputy Eddie Thomas with the Barnwell
24 County Sheriff's Office; Deputy D. J. Boots, with the
25 Barnwell County Sheriff's Office; Investigator Jeff Croft;

1 with the Barnwell County Sheriff's Office; help me,
2 Stephanie -- Mr. Walters?

3 MR. WALTERS: Stephon.

4 THE COURT: Oh, Stephon. We've already called him.
5 Reggie Felder; is he in the courtroom?

6 (WHEREUPON there was no response.)

7 THE COURT: I'm sorry, Mr. Walters, is it Gerard?

8 MR. WALTERS: Jamal Wallace.

9 THE COURT: Jamal Wallace.

10 MR. WALTERS: And I believe you called Mr. Williams
11 and Mr. Felder.

12 THE COURT: I did.

13 Any member of the jury panel now or in the past
14 been related by blood or marriage or do you now or have you
15 in the past had a close personal or social relationship
16 with any of the witnesses that I have called? Please
17 stand.

18 Okay. Let's start on my right, your left.

19 Ma'am in the sort of blue and black diamond dress.

20 THE JUROR: I know Shawn. He's my cousin.

21 THE COURT: He's your cousin?

22 THE JUROR: Yes. And Eddie, he's my other cousin
23 's father.

24 THE COURT: My other cousin's father. All right.
25 I'm going to excuse you because you are related by blood or

1 marriage.

2 THE CLERK: What's her name?

3 THE COURT: Name, please?

4 THE JUROR: Teresa Worthy.

5 THE COURT: No, hold on.

6 THE JUROR: Dedra Jenkins.

7 THE COURT: Ms. Jenkins?

8 THE JUROR: Uh-huh.

9 THE COURT: Thank you, you may be seated.

10 THE JUROR: Okay.

11 THE COURT: Yes, ma'am, in the yellow.

12 THE JUROR: Teresa Worthy. Shawn Washington, we're

13 first cousins.

14 THE COURT: First cousins?

15 THE JUROR: Yes, sir.

16 THE COURT: I'll excuse you. Just have a seat.

17 THE CLERK: What was her name again?

18 THE COURT: Ms. Washington, right?

19 THE JUROR: Worthy.

20 THE COURT: Worthy.

21 THE CLERK: One, twenty-seven.

22 THE COURT: Ma'am?

23 THE JUROR: I'm Dionne Smalls. I'm --

24 THE COURT: I'm sorry, your name?

25 THE JUROR: Dionne Smalls. I know Shawn Washington

1 socially. I've done his hair a few times.

2 THE COURT: You've done his hair a few times?

3 THE JUROR: Yes.

4 THE COURT: Which one is he? At least he's got
5 hair to do, some of us don't.

6 All right. The fact that you have done his hair,
7 and you're friends, would that in any way keep you from
8 being a fair and impartial juror in the trial of this case?
9 In other words, could you listen to all the evidence and
10 determine the facts from what you hear in this courtroom
11 and not be influenced by any friendship with a potential
12 witness?

13 THE JUROR: I could.

14 THE COURT: You can do that, can't you?

15 THE JUROR: Yes.

16 THE COURT: Thank you, ma'am, you may be seated.

17 Ladies and gentlemen, in this case, the State of
18 South Carolina will be represented by two members of the
19 solicitor's office, Mr. Kip McAlister, Mr. David Miller.

20 (WHEREUPON Mr. McAlister and Mr. Miller stood.)

21 THE COURT: Thank you.

22 The defendant is being represented by Mr. Glen
23 Walters. Mr. Walters practices law over in Orangeburg.
24 Any member of the jury panel now or in the past have had
25 legal services provided to you by any of the lawyers?

1 (WHEREUPON there was no answer.)

2 THE COURT: Any member of the jury panel now or in
3 the past have had a close personal or social relationship
4 or have you ever been related by blood or marriage to any
5 of the lawyers? If so, please stand.

6 (WHEREUPON there was no answer.)

7 THE COURT: Ladies and gentlemen, it is alleged --
8 these are simply allegations, it is not evidence, but I
9 must tell you what is alleged so I can ask you if you know
10 anything about it. It is alleged in the indictments that
11 here in Barnwell County on or about February 20th of this
12 year, 2011, that the defendant, without consent and with
13 intent to commit a crime therein, unlawfully entered the
14 dwelling of Eddie Williams, located at [REDACTED] -- that's [REDACTED]
15 [REDACTED] in Barnwell, and at that time possessed or
16 visibly displayed either a firearm or other deadly -- or
17 other weapon during the commission of the alleged burglary.
18 In other words, it's a burglary -- alleged burglary that
19 took place on February 20th, 2011, at [REDACTED] -- [REDACTED]
20 Road in Barnwell.

21 Question: Any member of the jury panel know
22 anything about this situation, read anything about it --

23 (WHEREUPON a juror was moving around.)

24 THE COURT: You okay?

25 THE JUROR: Yes, sir.

1 THE COURT: The same bug that was trying to get me
2 is getting you.

3 -- know anything about it, read anything about it,
4 has anybody discussed it with you, formed any opinion, seen
5 anything about it on TV, computer, internet, whatever.
6 Know anything about it, please stand.

7 (WHEREUPON a juror stood.)

8 THE COURT: You've been excused, so you can sit
9 down. Know anything about it?

10 (WHEREUPON there was no answer.)

11 THE COURT: Ladies and gentlemen, one of my main
12 responsibilities as the trial judge, whether I'm here in
13 Barnwell or Cherokee County or Beaufort or Columbia or
14 where ever they send me, and whether it's a criminal case
15 or a civil case, one of my main responsibilities is to make
16 sure that both is State and the defendant receive a fair
17 trial. And the way that works is, is that in just a few
18 minutes we will select twelve people to serve as jurors in
19 the case. And actually, your title as juror is not quite
20 correct because the twelve of you, collectively acting as
21 one, you become the judges of the facts in the case. We
22 have two judges in the case. I'm the judge of the law. I
23 tell and instruct you what the law is. You're the judges
24 of the facts. And the way that works is, is that the State
25 has to call witnesses and present evidence by way of live

1 testimony or exhibits. The defendant has the right to
2 present it's defense by way of testimony or exhibits, and
3 most of the time, if not all of the time, you will hear
4 conflicting stories, conflicting facts. And you have to
5 determine what the true facts are. You have to determine
6 who you believe and what the true facts are. You take
7 those true facts as you find them to be, and you apply it
8 to the law as I give it to you, and then you're in a
9 position to render a verdict in the case.

10 So you have the most important job in this
11 courtroom. You are the judges of the facts in the case.
12 And we have to be able to judge those facts based solely on
13 what we hear in the courtroom. So my question is this:
14 Does anyone have any reason why they cannot perform that
15 task?

16 (WHEREUPON there was no answer.)

17 THE COURT: Thank you.

18 Does anyone have any personal belief, religious
19 beliefs, political beliefs, any kind of belief that would
20 keep or preclude you from performing your civic duty of
21 being a finder of fact or a judge of the facts in this
22 case? I need to know now. Please stand.

23 (WHEREUPON there was no answer.)

24 THE COURT: Any member of the jury panel know of
25 any reason why he or she should not serve, with particular

1 emphasis being placed on your ability to be fair and
2 impartial both to the State and to the defendant? If so,
3 please stand.

4 (WHEREUPON there was no answer.)

5 THE COURT: Any additional questions by the
6 defense?

7 MR. WALTERS: No, sir, Your Honor.

8 THE COURT: By the State?

9 MR. MCALISTER: None from the State, Your Honor.

10 THE COURT: All right. Ladies and gentlemen, give
11 me --

12 (WHEREUPON the Court was conferring with the
13 clerk.)

14 THE COURT: The way we select a jury in a criminal
15 trial or general sessions trial is that your names are now
16 being fed into the computer and it will randomly select you
17 one at a time from a random selection. If your name is
18 called, please come down and stand right here -- come
19 through that gate. Mr. Eddie will help you through.

20 The State has five strikes. The defendant has ten
21 strikes. And they can strike you for most any reason at
22 all within certain legal parameters that the lawyers know
23 about. So as you come down, the State will say either
24 swear the juror or strike him, and then likewise with the
25 defendant until we get 12 jurors and two alternates. Once

1 we complete that task, then we will be in a position to
2 start the trial of the case. If we were trying an
3 automobile wreck case or a medical malpractice or breach of
4 contract, a civil case, at this point of the game, we would
5 draw twenty names out of the computer, put them on a piece
6 of paper, and the person suing the plaintiff would have
7 four strikes. The person getting sued, the defendant would
8 have four strikes. So twenty less eight leaves us with
9 twelve. So it's done a little bit different in the general
10 sessions setting.

11 (WHEREUPON the lists were being printed by the
12 clerk.)

13 THE CLERK: Judge, are you ready?

14 **JURY SELECTION**

15 THE COURT: We are.

16 THE CLERK: Juror No. 106, Clinton Stephens.

17 (Black male)

18 THE CLERK: What says the State?

19 MR. MCALISTER: Please present this juror.

20 THE CLERK: What says the defense?

21 MR. WALTERS: Seat the juror.

22 THE CLERK: Juror No. 86, John Rhodes. (White
23 male)

24 THE CLERK: What says the State?

25 MR. MCALISTER: Please present this juror.

1 THE CLERK: What says the defense?
2 MR. WALTERS: Seat the juror.
3 THE CLERK: Juror No. 73, McKinley Nix. (Black
4 male)
5 THE CLERK: What says the State?
6 MR. MCALISTER: Please present this juror.
7 THE CLERK: What says the defense?
8 MR. WALTERS: Seat the juror.
9 THE CLERK: Juror No. 105 Brenda Steadman (White
10 female)
11 THE CLERK: What says the State?
12 MR. MCALISTER: Please present this juror.
13 THE CLERK: What says the defense?
14 MR. WALTERS: Seat the juror.
15 THE CLERK: Juror No. 83, Leon Priester. (Black
16 male)
17 What says the State?
18 MR. MCALISTER: Please excuse this juror.
19 (WHEREUPON the juror returned to his seat.)
20 THE CLERK: Juror No. 108 Lindsey Stillinger.
21 (White female)
22 THE CLERK: What says the State?
23 MR. MCALISTER: Please present this juror.
24 THE CLERK: What says the defense?
25 MR. WALTERS: Excuse this juror.

1 (WHEREUPON the juror returned to her seat.)
2 THE CLERK: Juror No. 52, Jerry James. (Black
3 male)
4 THE CLERK: What says the State?
5 MR. MCALISTER: Please present this juror.
6 THE CLERK: What says the defense?
7 MR. WALTERS: Seat the juror.
8 (WHEREUPON the juror took a seat in the jury box.)
9 THE CLERK: Juror No. 120, Clary Williams (Black
10 male)
11 THE CLERK: What says the State?
12 MR. MCALISTER: Please present this juror.
13 THE CLERK: What says the defense?
14 MR. WALTERS: Seat the juror.
15 (WHEREUPON the juror took a seat in the jury box.)
16 THE CLERK: Juror No. 12, Shirley Broughton.
17 (Black female)
18 THE CLERK: What says the State?
19 MR. MCALISTER: Please excuse this juror.
20 (WHEREUPON the juror returned to her seat.)
21 THE CLERK: Juror No. 25, Bobby Cuthbertson.
22 (Black male)
23 THE CLERK: What says the State?
24 MR. MCALISTER: Please excuse this juror.
25 (WHEREUPON the juror returned to his seat.)

1 THE CLERK: Juror No. 118, William Webb. (White
2 male)

3 THE CLERK: What says the State?

4 MR. MCALISTER: Please present this juror.

5 THE CLERK: What says the defense?

6 MR. WALTERS: Excuse the juror.

7 (WHEREUPON the juror returned to his seat.)

8 THE CLERK: Juror No. 130, Merisa Zorn. (White
9 female)

10 THE CLERK: What says the State?

11 MR. MCALISTER: Please present this juror.

12 THE CLERK: What says the defense?

13 MR. WALTERS: Seat the juror.

14 (WHEREUPON the juror took a seat in the jury box.)

15 THE CLERK: Juror No. 23, Kathryn Corley (White
16 female)

17 THE CLERK: What says the State?

18 MR. MCALISTER: Please present this juror.

19 THE CLERK: What says the defense?

20 MR. WALTERS: Excuse the juror.

21 (WHEREUPON the juror returned to her seat.)

22 THE CLERK: Juror No. 48, Mark Hiers. (White male)

23 THE CLERK: What says the State?

24 MR. MCALISTER: Please present this juror.

25 THE CLERK: What says the defense?

1 MR. WALTERS: Present the juror.
2 (WHEREUPON the juror took a seat in the jury box.)
3 THE CLERK: Juror No. 58, Lacolet Jones. (Black
4 female)
5 (WHEREUPON someone other than a juror stood.)
6 THE COURT: Hold on a second.
7 Ma'am, you need to leave?
8 (WHEREUPON the person returned to their seat.)
9 THE CLERK: What says the State?
10 MR. MCALISTER: Please present this juror.
11 THE CLERK: What says the defense?
12 MR. WALTERS: Present the juror.
13 THE CLERK: Juror No. 116, Teresa Walker. (Black
14 female)
15 THE CLERK: What says the State?
16 MR. MCALISTER: Please present this juror.
17 THE CLERK: What says the defense?
18 MR. WALTERS: Present the juror.
19 (WHEREUPON the juror took a seat in the jury box.)
20 THE CLERK: Juror No. 9, Owinthia Boan. (Black
21 female)
22 THE CLERK: What says the state?
23 MR. MCALISTER: Please present this juror.
24 THE CLERK: What says the defense?
25 MR. WALTERS: Present the juror.

1 (WHEREUPON the juror took a seat in the jury box.)

2 THE CLERK: Juror No. 40, Kathrine Gordon. (Black
3 female)

4 THE CLERK: What says the State?

5 MR. MCALISTER: Please present this juror.

6 THE CLERK: What says the defense?

7 MR. WALTERS: Present the juror.

8 (WHEREUPON the juror took a seat in the jury box.)

9 THE COURT: Two alternates, two and one.

10 THE CLERK: Juror No. 49, Andrea Hogan. (Black
11 female)

12 THE CLERK: What says the State?

13 MR. MCALISTER: Please excuse this juror.

14 (WHEREUPON the juror returned to her seat.)

15 THE CLERK: Juror No. 91, Debra Salley. (Black
16 female)

17 THE CLERK: What says the State?

18 MR. MCALISTER: Please present this juror.

19 THE CLERK: What says the defense?

20 MR. WALTERS: Seat the juror.

21 (WHEREUPON the juror took a seat in the jury box.)

22 THE COURT: All right. Give me one more. Two and
23 one.

24 THE CLERK: Juror No. 38, Otelia Gleaton. (Black
25 female)

1 What says the State?

2 MR. MCALISTER: Please excuse this juror.

3 (WHEREUPON the juror returned to her seat.)

4 THE CLERK: Juror No. 124, Robert Williams. (White

5 male)

6 THE CLERK: What says the State?

7 MR. MCALISTER: Please present this juror.

8 THE CLERK: What says the defense?

9 MR. WALTERS: Please excuse the juror.

10 (WHEREUPON the juror returned to his seat.)

11 THE CLERK: Juror No. 51, Tremaine Jackson. (Black

12 male)

13 THE CLERK: What says the State?

14 MR. MCALISTER: Please present this juror.

15 THE CLERK: What says the defense?

16 MR. WALTERS: Seat the juror.

17 (WHEREUPON the juror took a seat in the jury box.)

18 THE COURT: Any motions by the defense or State in

19 connection with the selection of the juror?

20 Mr. Walters?

21 MR. WALTERS: No, sir, Your Honor.

22 MR. MCALISTER: None from the State, Your Honor.

23 THE COURT: All right. Mr. Walters --

24 (WHEREUPON, there was a bench conference out of the

25 hearing of the jury and the Court Reporter.)

1 THE COURT: Ladies and gentlemen, I'm going to let
2 y'all -- Mr. Eddie will show you to the jury room back
3 there. I've got to dismiss this jury. I've got about ten
4 or fifteen minutes of pretrial before we get started. It's
5 a quarter until eleven. If you need to step out and get
6 some fresh air, a cigarette or whatever, soon as he shows
7 you where to be, just be back at about -- let's say about
8 five after eleven. That's twenty minutes. So you won't be
9 back there twiddling your thumbs, and we'll start right at
10 eleven and just march on from there.

11 Everybody else remain seated.

12 (WHEREUPON the jury left the courtroom at 10:45
13 a.m.)

14 THE COURT: All right. Ladies and gentlemen, as
15 represented, I will excuse you now for the balance of the
16 week.

17 THE CLERK: And an excuse for work will be put in
18 the mail to you. If you need one today, just go downstairs
19 and they'll go ahead and print you out one. Four or five
20 of you that were failure to locate, please go down and give
21 her your information so we can make sure you get your
22 money.

23 THE COURT: Thank you. You're excused to go.

24 (WHEREUPON the remaining members of the jury panel
25 left the courtroom.)

1 THE COURT: Look here --

2 (WHEREUPON, there was a bench conference out of the
3 hearing of the Court Reporter.)

4 (WHEREUPON the attorneys were conferring with the
5 court reporter to mark exhibits.)

6 THE COURT: Now, as I understand now that the jury
7 is drawn, the State has offered your client a plea -- nol
8 pros the possession of a weapon of a violent crime, let him
9 plea to burglary second violent. Is that correct?

10 MR. MCALISTER: That's correct, Your Honor.

11 THE COURT: Mr. Walters, have you expressed that to
12 your client.

13 MR. WALTERS: I conveyed to my client that the
14 offer is the fifteen years with regard to burglary second,
15 which would be considered violent and that he would be
16 eligible for parole after doing one-third of that
17 particular sentence.

18 THE COURT: That's correct. That's five years.

19 MR. WALTERS: I believe --

20 THE COURT: Under the current state of law, I
21 assume. I don't make any representations about parole, but
22 I think that is correct. Of course, on burglary first,
23 that's a minimum of fifteen to life and you do 85 percent
24 of that. So if you got a fifteen year sentence on that,
25 instead of doing five, you have to do 85. If my math is

1 correct, that's eight and a half -- somebody help me.

2 MR. WALTERS: A little over twelve years, Your
3 Honor.

4 THE COURT: Twelve years. You understand that
5 young man?

6 THE DEFENDANT: (The defendant shook his head.)

7 THE COURT: You ready to proceed? Are y'all ready
8 to proceed?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. I'll be glad to hear from
11 you on ID.

12 And I assume that is now off the table?

13 MR. MCALISTER: Yes, sir.

14 **BIGGER'S HEARING**

15 MR. MCALISTER: Your Honor, the State would call
16 Investigator Jeff Croft.

17 THEREUPON,

18 INVESTIGATOR JEFF CROFT,
19 after being duly sworn, testified as follows:

20 THE CLERK: Please be seated and state your name
21 for the record.

22 THE WITNESS: Jeff Croft.

23 **DIRECT EXAMINATION - IN-CAMERA**

24 By Mr. McAlister:

25 Q Investigator Croft, who do you work with?

Jeff Croft - Direct Examination - In-Camera by Mr. McAlister

1 A I work with the Barnwell County Sheriff's Office.

2 Q And how long have you been with the Barnwell County
3 Sheriff's Office?

4 A Since August of 2004.

5 Q And what is your title or your position?

6 A I am an investigator for Barnwell County.

7 Q Did you have an opportunity to come in contact with
8 the defendant and be involved in the investigation of this
9 case?

10 A Yes, sir, I did.

11 Q And how did you become involved with the
12 investigation of this case?

13 A I was at home and it was my weekend of call. I was
14 notified by central dispatch of the incident and was
15 requested to respond.

16 Q Did you have an occasion during the investigation
17 to conduct a photo display of a lineup in this case?

18 A I did.

19 Q Okay. And on what day did you do that -- or did
20 you initially do that?

21 A I think it was 2/24, I think was the initial
22 lineup -- 2/25.

23 Q So several days after the actual incident date?

24 A Yes, sir.

25 Q Which was what, February 20th?

Jeff Croft - Direct Examination - In-Camera by Mr. McAlister

1 A Yes, sir.

2 Q Okay. And do you recall where you -- where this
3 lineup took place? Where this photo lineup took place?

4 A It was at the victim's residence at [REDACTED]
5 Road in Barnwell.

6 Q What, if anything, did you tell the witness or the
7 victim before permitting him to see these photos?

8 A I advised the victim that I was going to display
9 what we consider a photo lineup of several individuals. I
10 advised the victim that the person in question may or may
11 not be displayed on the lineups. And I advised the victim
12 that if he was not 100 percent certain that he did not have
13 to make a choice.

14 Q And was Mr. Williams the only person to view those
15 lineups that day?

16 A He was.

17 Q All right. How many photos were displayed in
18 total?

19 A There was a total of three lineups shown to
20 Mr. Williams. Six pictures on each lineup page.

21 Q Can you describe the nature of those photos? Race,
22 age, build.

23 A The lineup was constructed by South Carolina Law
24 Enforcement Division and photos were used in individuals
25 similar in size, characteristics, facial characteristics.

Jeff Croft - Direct Examination - In-Camera by Mr. McAlister

1 Q I'm going to hand you what's been previously marked
2 as State's Exhibit No. 1. Do you recognize that item?

3 A I do.

4 Q Did you -- what is it?

5 A This is the photo lineup that was shown to
6 Mr. Williams for Mr. Robinson.

7 Q Okay. Have the contents of that composite been in
8 your care and custody since that day?

9 A It has been in the case file locked in a filing
10 room at our office.

11 Q Are they in substantially the same condition as
12 when you originally used them?

13 A Yes, sir. Other than the sticker that the State
14 has placed on it.

15 Q Other than the sticker, no material alterations or
16 deletions?

17 A No, sir.

18 Q Okay.

19 MR. MCALISTER: Your Honor, we would move at this
20 time to admit State's Exhibit 1 for purposes of this
21 hearing.

22 THE COURT: Any objection?

23 MR. WALTERS: No objection, Your Honor.

24 (WHEREUPON State's Exhibit one was entered into
25 evidence for the purposes of the Bigger's Hearing.)

Jeff Croft - Direct Examination - In-Camera by Mr. McAlister

1 By Mr. McAlister:

2 Q Did you also provide another picture -- picture
3 lineup for Mr. Williams?

4 A Yes, sir, I did.

5 Q I'm showing you what's been previously marked as
6 State's Exhibit 2. Do you recognize that?

7 A Yes, sir, I do. This is the actual lineup that I
8 presented to Mr. Williams.

9 Q Okay. And have the contents been changed at all?

10 A No, sir. It has not.

11 Q And did it remain in your care and custody until
12 today?

13 A It was also in the case file, locked in a filing
14 room at the Barnwell County Sheriff's Office.

15 MR. MCALISTER: Your Honor, again, for the purposes
16 of this hearing, the State would move to admit this into
17 evidence.

18 THE COURT: Any objection?

19 MR. WALTERS: No objection, Your Honor.

20 THE COURT: All right. Let me see it.

21 (WHEREUPON State's Exhibit No. 2 was entered into
22 evidence for the purposes of the Bigger's Hearing.)

23 By Mr. McAlister:

24 Q For this initial lineup, when you went out there to
25 question him about it, was the victim, Mr. Williams, able

Jeff Croft - Direct Examination - In-Camera by Mr. McAlister

1 to identify anyone?

2 A He was able to identify both Mr. Stephon Robinson
3 and the codefendant.

4 Q And how did he do that?

5 A By initialing and pointing at the number in which
6 reflected the photo of the defendant.

7 Q And was he correct in that identification?

8 A He was correct in identifying the person. He was
9 incorrect in the names.

10 Q Okay. And those two individuals that he named --
11 both were named in the actual alleged incident, correct?

12 A Yes, sir.

13 Q Okay. He just flip-flopped the names on them?

14 A That's all, yes, sir.

15 Q And those individuals are brothers?

16 A They are, yeah.

17 Q Okay. Did you -- did you go back out and present
18 to him an additional photo lineup?

19 A I did, using a more current photo of both of the
20 individuals.

21 Q Okay. And why did you do that?

22 A The facial features of both individuals had changed
23 dramatically over the six year period. The photo that was
24 used was a six-year-old driver's license photo, and I was
25 able to acquire a recent photo of both individuals to share

Jeff Croft - Direct Examination - In-Camera by Mr. McAlister

1 with Mr. Williams.

2 Q And you went out sometime later?

3 A I did.

4 Q Okay. And do you recall how long after the initial
5 photo lineup that you went with the second one?

6 A It was approximately three months.

7 Q Okay. I'm going to show you what's been marked as
8 State's Exhibit 3. Do you recognize that?

9 A Yes, sir, I do.

10 Q Has it been changed or altered in any way since you
11 initially had it?

12 A No, sir, it hasn't.

13 Q Okay. Did it remain in your care and custody until
14 this hearing today?

15 A It was also locked in the case file in the filing
16 room at the sheriff's office.

17 MR. MCALISTER: Your Honor, for purposes of this
18 hearing the State would move to admit State's Exhibit 3.

19 MR. WALTERS: No objection, Your Honor.

20 (WHEREUPON State's Exhibit No. 3 was moved into
21 evidence for the purposes of the bigger's hearing.)

22 By Mr. McAlister:

23 Q And was the witness or the victim able to identify
24 the defendant in this lineup?

25 A Yes, he was.

Jeff Croft - Direct Examination - In-Camera by Mr. McAlister

1 Q And he did that immediately?

2 A Yes, he did.

3 Q Was he correct?

4 A Yes, he was.

5 Q I'm also going to show you what's been previously
6 marked as State's Exhibit 4. Do you recognize that?

7 A Yes, sir, this is the second lineup that was
8 conducted on the codefendant.

9 Q And has it been changed or altered since your
10 initial meeting with the victim?

11 A No, sir.

12 Q And has it remained in your care and custody until
13 this hearing today?

14 A It has also been locked in the case file in the
15 filing room at the Barnwell County Sheriff's Office.

16 MR. MCALISTER: Again, Your Honor, people would
17 move to admit State's Exhibit 4 for purposes of this
18 hearing.

19 THE COURT: Any objections?

20 MR. WALTERS: No objection.

21 (WHEREUPON State's Exhibit No. 4 was entered into
22 evidence for the purposes of the Bigger's Hearing.)

23 By Mr. McAlister:

24 Q And was the witness able to identify anyone on
25 that?

Jeff Croft - Cross-Examination - In-Camera by Mr. Walters

1 A He was also able to identify the codefendant.

2 Q Okay. And who would that be?

3 A Reginald Felder.

4 Q And he was correct in the identification?

5 A Yes, he was.

6 MR. MCALISTER: No further questions at this time.

7 THE COURT: Any cross?

8 MR. WALTERS: May it please the Court.

9 CROSS-EXAMINATION IN-CAMERA

10 By Mr. Walters:

11 Q Mr. Croft, in this particular case, I believe that
12 on 2/25/11 is when you originally produced a lineup for
13 Mr. Williams to review; is that correct?

14 A Yes, sir.

15 Q All right. And I believe that lineup that you
16 produced on that particular day was pictures that were some
17 years, I believe about six years ago?

18 A It's approximately a six-year-old driver's license
19 photo that was used.

20 Q Okay. And I believe that in this process of
21 identifying the defendant in this particular case -- let me
22 back up. Originally when you investigated this matter, you
23 were told that there were three men that had broken into
24 the house; is that correct?

25 A That is correct.

Jeff Croft - Cross-Examination - In-Camera by Mr. Walters

1 Q All right. And I believe his testimony was that
2 there were three individuals that broke into the house and
3 he stated that he knew some of the individuals; is that
4 right?

5 A That is correct.

6 Q All right. And when given the opportunity on
7 2/25/11 to identify Mr. Robinson, he failed to do so?

8 A He identified the person in the photo lineup and
9 mixed the names of the two brothers up. But he identified
10 the actual photo.

11 Q All right. When you say he identified the photo,
12 you're saying he identified Mr. Robinson?

13 A He identified both Mr. Robinson and Mr. Felder as
14 being the two individuals that came into the house -- two
15 of the three individuals that came into the house. He got
16 their names mixed up.

17 Q Okay. As far as the third individual that was
18 alleged came into the house, did Mr. Williams ever identify
19 that individual?

20 A He was also given a lineup for the third
21 individual. He told me from the beginning he didn't get a
22 good look at the third guy. Out of six photos, he was able
23 to narrow it down to two, which did include the third
24 subject, but was not 100 percent sure and refused to mark
25 it because he said he didn't want to make a mistake.

Jeff Croft - Cross-Examination - In-Camera by Mr. Walters

1 Q All right. And after 2/25/11, we then move to
2 April 20th, '11; is that correct?

3 A I'm sorry?

4 Q April 20th, that's when you obtained new pictures;
5 is that right?

6 A Yes, sir, that is correct; on Mr. Robinson and
7 Mr. Felder.

8 Q All right. And you felt that you could go back
9 with another set of pictures?

10 A I was only able to acquire the lineup for
11 Mr. Robinson. The photo that I had acquired for Mr. Felder
12 at that time could not be used according to SLED.

13 Q Why is that?

14 A The eyes were partially closed, and they could not
15 accurately match up any other pictures.

16 Q Okay. And was there a positive identification on
17 4/20/11?

18 A Yes, sir, it was an immediate identification.

19 Q Then you approached Mr. Williams again on 5/23/11;
20 is that correct?

21 A That is -- yes, sir, that is correct.

22 Q All right. And what lineup was prepared in that
23 particular case?

24 A That was a new photo acquired for Mr. Felder that
25 SLED was able to put into a lineup.

Jeff Croft - Cross-Examination - In-Camera by Mr. Walters

1 Q Now, each one of the identifications that was done
2 in this particular case, did you perform at his home, I
3 believe it was on St. John Road?

4 A That's correct.

5 Q All right. Who else was present when that
6 occurred?

7 A The first lineup, myself and Investigator Peterson
8 were there. The second incident only myself was there.

9 Q Okay. And initially when they started this
10 investigation, I believe there was an issue with regard to
11 some of the activities that Mr. Williams was involved in?

12 A I don't understand what you're asking in reference
13 to the lineup, sir.

14 Q Isn't it true that he also had an illegal weapon
15 when this occurred?

16 A There was a weapon that was recovered that
17 Mr. Williams never was charged with because it was
18 identified and proven that he had nothing to do with the
19 illegal weapon other than he had purchased the weapon.

20 Q Okay.

21 MR. WALTERS: Your Honor, we have no further
22 questions.

23 THE COURT: Anything on redirect?

24 MR. MCALISTER: Nothing on redirect, Your Honor.

25 THE COURT: All right. You may step down.

1 Any additional witnesses?

2 MR. MCALISTER: No, sir.

3 THE COURT: Any motions by the defendant?

4 MR. WALTERS: No, sir, Your Honor. I -- just for
5 the record, I simply state that it's under the Neal v.
6 Biggers standard, of course, if a photo ID lineup is unduly
7 suggestive. In this circumstance, we have three different
8 incidents, the first incident where a photo lineup is
9 presented. The victim in this particular case does not
10 identify my client. There is some mix up with regards to
11 someone whose a blood relation to him. There's a second
12 approach in April, and of course, at that particular time,
13 Mr. Williams has still turned over this gun that there you
14 know sure of where it came from and if it was involved in
15 any illegal activity. But nevertheless, he knows that he's
16 in trouble because he's got a gun that doesn't have a
17 serial number on it.

18 And then, of course, we have a third incidence
19 where in May of 2011, they approach him again and at that
20 time he does the positive ID regarding Felder. We
21 respectfully submit our motion to the Court and we would
22 suggest that it is unduly suggestive.

23 THE COURT: I've listened to the testimony, heard
24 your arguments and reviewed the photo lineups myself, and I
25 find that they are not unduly suggestive and will deny your

1 motion.

2 Anything else before we start?

3 MR. WALTERS: Thank you, Your Honor.

4 MR. MCALISTER: Nothing from the State, Your Honor.

5 THE COURT: Ready to bring to jury in?

6 MR. MCALISTER: Yes, sir.

7 THE COURT: All right. Once I bring the jury in,
8 there's no turning around. Are you still okay with your
9 decision?

10 How old are you?

11 THE DEFENDANT: Twenty-five.

12 THE COURT: All right. Bring the jury.

13 All right. Fellows, in the back of the courtroom,
14 you're going to have to be quiet or leave. You, yes, sir.
15 Thank you.

16 (WHEREUPON the jury entered the courtroom at 11:12
17 a.m.)

18 **OPENING REMARKS BY THE COURT**

19 THE COURT: All right. Ladies and gentlemen, let
20 me sort of give you a little bit of a guesstimate on where
21 we are. It's obviously 11:15. We're going to run about
22 another hour and the County is going to buy your lunch down
23 at the HideAway. I don't know where it is because it's
24 hidden away, but -- (laughter .)

25 I think that's the old restaurant down on the four

1 lane. So we'll go up until about an hour and then we'll
2 break for long enough for y'all to go to lunch and come
3 back, and then we'll probably go until about five this
4 afternoon.

5 Is that an imposition with anybody? Anybody got
6 family problems, work problems? Children problems?

7 THE JUROR: I need to call work.

8 THE COURT: You can. You can call at lunch.

9 Okay. The first thing we have to do is -- please
10 stand and raise your right hand. You have to be sworn once
11 again for this case.

12 (WHEREUPON the jury was sworn at 11:15 a.m.)

13 THE COURT: Okay. Ladies and gentlemen, as I told
14 you a little bit when we were selecting the jury, in this
15 case, the -- Mr. Robinson is charged in two indictments.
16 One is burglary in the first-degree and the other one is
17 possession of a weapon during the commission of a violent
18 crime. He's pled not guilty to both of those indictments,
19 and obviously a plea of not guilty -- under the
20 constitution, he is presumed to be innocent unless the
21 State is able to prove each and every allegation contained
22 in the indictments to you beyond a reasonable doubt. And
23 the way we do that, because the State has the burden of
24 proof in the trial of the case, they will go first. They
25 have the burden of proof so they present their witnesses

1 first.

2 Once they have completed their testimony and their
3 witnesses, then the defendant has the opportunity to
4 present a defense if he chooses. Once that testimony is
5 in, the State then has the right to reply to any testimony.
6 So that's how it goes. Before the testimony is taken, the
7 State is entitled, as well as the defendant, to make an
8 opening statement. Please bear in mind that the opening
9 statements are not evidence in the case. It's simply what
10 the lawyers contend the issues are, sort of a road map as
11 to what they're going to follow in proving their case and
12 what their defense happens to be in this particular case.

13 So we do opening statements, testimony by the
14 State's witnesses, by the defense witnesses; the State once
15 again if they need to put up anything in reply. At the
16 conclusion of all of the testimony, both lawyers will make
17 their final arguments, and once that is done, then I will
18 charge or instruct you on the law in the case; and then it
19 will be turned over to you for a decision.

20 As I told you when we were selecting the jury, you
21 and I have different functions to perform. I have two main
22 tasks to perform. Number one is that I have to instruct
23 you or charge you on the law in the case --

24 (WHEREUPON someone stood up.)

25 THE COURT: Mr. Johnson, you need to go outside?

1 MR. JOHNSON: No, sir.

2 THE COURT: Well, you know better than that.

3 I have to instruct or charge you on the law in the
4 case. My position as the judge makes me the law -- the
5 judge of the law in the case, so if you came into the
6 courtroom with some preconceived idea about what the law is
7 or should be and it doesn't agree with what I tell you, you
8 have to set that aside and accept the law as I charge or
9 instruct you in the case. That's one responsibility I
10 have.

11 The second responsibility is I have to rule on the
12 admissibility of evidence that comes into the trial. The
13 lawyers have to perform their duties by complying with our
14 rules of evidence and our rules of criminal procedure. And
15 I would probably guess before we start that 99 percent of
16 what they ask and what they present will be admitted into
17 the trial of the case. Once it is admitted, once the
18 testimony is admitted, then it is up to you to determine
19 what the true facts are. It's not unusual in a trial of a
20 case where one witness says something that -- they'll tell
21 you it happened all day Wednesday and another witness will
22 say, No, it happened all day Friday; and another witness
23 will say it happened on Sunday, three different entire
24 stories. You have to determine from how they appear on the
25 stand and using your ordinary common sense what the true

1 facts are, who's telling the truth. What are the true
2 facts?

3 And as the judges of the facts, you determine what
4 those true facts are, and you apply it to the law as I give
5 it to you, and you'll be in a position to render a true and
6 just verdict in the case. So your job is the most
7 important in the courtroom. You are the judges of the
8 facts in the case. You take the facts as you find them to
9 be, apply it to the law as I give it to you, and you'll be
10 in a position the render a true and just verdict.

11 We'll take a break from time to time. We'll take
12 our lunch break, we'll come back after lunch, we'll take an
13 afternoon break before we break for the evening. We'll
14 take an evening break if we don't finish this afternoon.
15 When we take those breaks, I will tell you each time,
16 please do not start any discussions or deliberations
17 concerning the case. It is not proper for you to start
18 talking about the case until all the evidence has been
19 presented, the lawyers have given you their final
20 arguments, and I have instructed you on the law in the
21 case. So when you go back to the jury room, you can talk
22 about anything you want to except for the case until it's
23 turned over to you for deliberation.

24 I try to run an efficient courtroom by making
25 things run smoothly and run on time, but I'm not trying to

1 run an endurance race. So if at any time during the trial
2 of the case you become uncomfortable, you need to use the
3 bathroom, your back's hurting, you need to stand up, or you
4 just get tired or whatever, please raise your hand. Don't
5 get uncomfortable back there, and I will make sure any
6 personal needs are met; or if we need to take a break,
7 we'll take a break. So don't get uncomfortable. Raise
8 your hand.

9 When we break for lunch and you go to lunch and
10 come back, I'm going to ask the twelve of you, excluding
11 the alternates, to select a foreperson from the twelve of
12 you. The foreperson is simply the person who acts as the
13 spokesperson for the jury, brings any problems to my
14 attention, and leads up the deliberations at the conclusion
15 of the trial. We'll run until about five o'clock this
16 afternoon, as I said, and depending on where we are, we'll
17 see how we want to proceed, and I'll get your input on that
18 decision whether you want to stay late and finish or
19 whether you want to come back tomorrow or it may be that
20 we'll be finished mid-afternoon -- I don't know how long
21 it's going to last, but I'll let y'all have some input into
22 that decision.

23 In just a few seconds, we're going to hear the
24 opening remarks by both lawyers and then move right into
25 the testimony, and we'll go until about 12:15.

1 Any objections to my opening remarks by the State?

2 MR. MCALISTER: None from the State, Your Honor.

3 THE COURT: By the defendant?

4 MR. WALTERS: No, sir, Your Honor.

5 THE COURT: Thank you. Mr. McAlister?

6 **OPENING STATEMENTS**

7 MR. MCALISTER: May it please the Court, Mr.

8 Walters, ladies and gentlemen, our homes are a place of
9 comfort, a place of peace, a place of refuge. In this day
10 and age, we don't have much privacy, but our homes are one
11 place that we do have privacy. On February 20th, 2011, at
12 [REDACTED], our victim, Mr. Eddie Williams, was at
13 home. He was enjoying the peace and quiet. He's laying in
14 his back bedroom watching a race, just being lazy.
15 Sometime after one that day, the defendant, Stephon
16 Robinson, and his brother, Reginald Felder, came by the
17 house. They drove up in the yard.

18 Mr. Williams looked out the window, saw them in a
19 white car exiting the vehicle, coming to the door. The
20 defendant and his brother knocked. Mr. Williams didn't
21 want company. He decided not to answer the door. He
22 watched them get back in the car. They pulled away. He
23 went back to his bedroom and laid back down to watch the
24 race.

25 Dozing in and out of sleep, a few minutes later,

1 he's awakened again. This time it's an explosion. His
2 door, his front door, is being kicked in. He's startled.
3 He jumps up. We're talking about the middle of the
4 afternoon. He grabs a pistol that's laying near his
5 bedside, and he starts around the corner of his home to see
6 what in the world is going on. As he turns the corner down
7 a short hallway, he runs into the defendant standing just a
8 few feet away, face to face, no mask, no disguise, with a
9 gun in his hand.

10 Well, Mr. Williams, he has his pistol too. He sees
11 this gun, these guys in his home, they'd just kicked the
12 door in. He starts shooting. About that time, the
13 defendant ducks to run back out and in the process, fires a
14 shot and it hits the ceiling above Mr. Williams kitchen
15 table.

16 Now, the defendant and his brother exit the home,
17 and maybe a third individual who had not gotten completely
18 through the door, and they take off in that white car.
19 Now, Mr. Williams goes back to his bedroom and retrieves a
20 shotgun. He doesn't know if they're coming back. He's
21 scared. He goes to his front door, looks out the window
22 and makes sure that they're not going to return. He even
23 fires a shot up in the air, just in case he needs to scare
24 them off. At this point in time, he calls the police. The
25 police come out.

1 You're going to hear a lot of things today. Most
2 of it's just going to be direct testimony. There's not
3 going to be a ton of evidence that's entered, it's just
4 going to be these witnesses on the stand.

5 Primarily Mr. Williams, who's sitting in his home,
6 sees these individuals face to face. There's no mistake
7 there. At the end of the trial, the judge is going to
8 instruct you on the law, and I'm going to tell you a little
9 bit about it in a minute, but if I tell you something
10 that's different, you go with what he says. What he says
11 is correct. I promise you that.

12 The defendant's charged with burglary in the
13 first-degree. What that means is, he enters a dwelling, a
14 home, a house without consent, with intent to commit a
15 crime; and while doing so, while entering that dwelling,
16 that home or exiting that home, he's armed with a deadly
17 weapon or something that appears to be a deadly weapon.

18 He's also charged with possession of a weapon
19 during a violent crime, burglary first is considered a
20 violent crime. And the weapon in this case was a handgun,
21 was a pistol.

22 Now, just walking through the elements --
23 Mr. Williams is in his home. The defendant and his brother
24 enter without consent. They kick the door in. And with
25 intent to commit a crime, he's carrying a handgun.

1 Now, ladies and gentlemen, you won't hear from many
2 witnesses and this isn't a complicated case, but that
3 doesn't mean you won't have difficult decisions to make
4 when you go back in that jury room. Just use your common
5 sense. Listen to the testimony. Pay attention to the
6 witnesses. This was his home, his place of comfort, his
7 place of peace, his place of security. At the end of the
8 testimony, at the end of the day, there will be no doubt
9 that that defendant is guilty of burglary in the
10 first-degree. There will be no doubt that that defendant
11 is guilty of possession of a weapon during a violent crime.
12 Thank you.

13 MR. WALTERS: May it please the Court?

14 THE COURT: Yes, sir.

15 MR. WALTERS: Solicitor. When His Honor qualified
16 you as jurors, he inquired as to whether you've had any
17 relationship with anyone with regards to this case, any
18 friends to reward, any enemies to punish. And most
19 importantly during that process when he qualified you, we
20 wanted a jury that would be fair and would simply listen to
21 the facts of the case. And most importantly, when you took
22 your oath to serve as jurors, you agreed to abide by the
23 rules that His Honor will instruct. The State must be held
24 to their burden to prove their case beyond a reasonable
25 doubt; that the defendant, beyond a reasonable doubt,

1 committed the alleged offense that they eluded to.

2 I ask that you carefully listen to the facts and
3 the evidence, but most importantly, that you hold the State
4 to their burden of proving their case beyond a reasonable
5 doubt.

6 You'll hear from many witnesses that will testify.
7 You'll hear from the victim in this particular case and
8 what he has to say. I ask that you carefully evaluate all
9 that's put before you and most importantly, that you hold
10 the State to their burden of proving their case beyond a
11 reasonable doubt.

12 I'm confident after you review the evidence and the
13 testimony that will be given, you can reach your on
14 conclusion as to what happened, but most importantly, hold
15 them to their burden of proving their case beyond a
16 reasonable doubt. Thank you.

17 THE COURT: You may call your first witness.

18 MR. MCALISTER: The State calls Investigator Jeff
19 Croft.

20 THE COURT: Mr. Croft.

21 THEREUPON,

22 INVESTIGATOR JEFF CROFT,
23 after being duly sworn, testified as follows:

24 THE CLERK: If you would, be seated and state your
25 name for the record.

Jeff Croft - Direct Examination by Mr. McAlister

1 THE COURT: Hold on one second.

2 (WHEREUPON someone was moving around the
3 courtroom.)

4 THE WITNESS: Jeff Croft.

5 **DIRECT EXAMINATION**

6 By Mr. McAlister:

7 Q Investigator Croft, who are you employed by?

8 A I'm employed by the Barnwell County Sheriff's
9 Office.

10 Q And how long have you been employed with the
11 sheriff's office?

12 A Since August of 2004.

13 Q Did you work in law enforcement before joining the
14 sheriff's office?

15 A I worked reserve work with the Barnwell County
16 Sheriff's Office prior to going full time.

17 Q And today, what are your job responsibilities with
18 Barnwell County?

19 A I'm an investigator for the County. I process
20 crime scenes and investigate criminal activities.

21 Q And were you working on February -- in February of
22 2011?

23 A Yes, sir, I was.

24 Q How about on February 20th, 2011?

25 A Yes, sir.

Jeff Croft - Direct Examination by Mr. McAlister

1 Q How did you become involved with this case?

2 A I was on call that weekend and received a call from
3 our central dispatch and was advised of an incident which
4 took place at [REDACTED] [REDACTED] and was requested to
5 respond to that location.

6 Q Were you advised as to what kind of incident had
7 taken place?

8 A It was a home invasion -- put out as a home
9 invasion.

10 Q And [REDACTED] [REDACTED], that's here in Barnwell
11 County?

12 A Yes, sir, it is. That's off of Highway 3, south of
13 Barnwell in the County of Barnwell.

14 Q Do you recall what time you arrived on the scene?

15 A I think it was around three -- somewhere around the
16 three o'clock mark, maybe a little after three when I
17 arrived.

18 Q Any idea how long after the initial call went out?

19 A I think the initial call came out around 2:17, 2:20
20 that afternoon. The initial officer arrived, assessed what
21 he had and requested the on call investigator come out.

22 Q Who was that initial officer?

23 A That would have been Eddie Thomas.

24 Q And he's a deputy with the sheriff's office?

25 A That's correct. He's a sergeant with the sheriff's

Jeff Croft - Direct Examination by Mr. McAlister

1 office.

2 Q When you got out to [REDACTED] [REDACTED], what did you
3 do?

4 A I initially made contact with Sergeant Thomas to
5 obtain any information that he'd already gotten to try to
6 save time in this processing of the scene.

7 Q And did you meet with the victim?

8 A I -- after speaking with Mr. Thomas, I did meet
9 with the victim and did receive a statement, a verbal
10 statement from the victim.

11 Q Okay. At that point in time, what did you do?

12 A I'm sorry?

13 Q At that point in time, what did you begin to do?
14 Did you begin to process the scene? How does that work?

15 A Following acquiring the statements -- acquiring the
16 information from Mr. Thomas and the victim, I then observed
17 the scene as it was upon my arrival. I went back to my
18 car, began to -- I got my camera and started processing the
19 scene, which details as photographs of the scene as it was
20 when I got there and photographing any kind of evidence
21 that may be helpful in the case.

22 Q Let me show you what's been previously marked as
23 State's Exhibit 5. Do you recognize that?

24 A Yes, sir, I do.

25 Q And what is that?

Jeff Croft - Direct Examination by Mr. McAlister

1 A That is the front side of the residence at [REDACTED]
2 [REDACTED].

3 Q And how are you able to recognize that?

4 A I took the picture of this residence, and it was
5 taken from the driveway area.

6 Q Does this photo fairly and accurately depict the
7 scene at [REDACTED] [REDACTED] on February 20th of this year?

8 A Yes, it does.

9 Q Has it been altered or changed in any way?

10 A No, it hasn't.

11 Q And once again, can you just explain briefly what
12 that picture shows?

13 A This is the front of the residence at [REDACTED] [REDACTED]
14 Road where the incident took place.

15 MR. MCALISTER: Your Honor, at this time, I'd ask
16 that the State be allowed to admit this into evidence,
17 State's Exhibit 5.

18 MR. WALTERS: No objection, Your Honor.

19 MR. MCALISTER: I'd also request to be able to
20 publish it to the jury.

21 THE COURT: You can pass it down. Keep going.

22 (WHEREUPON State's Exhibit 5 was entered into
23 evidence.)

24 By Mr. McAlister:

25 Q I'm also going to show you what's been marked as --

Jeff Croft - Direct Examination by Mr. McAlister

1 previously marked as State's Exhibit 6. Do you recognize
2 this?

3 A Yes, sir, I do.

4 Q And how are you able to recognize that item?

5 A This is the drive going down to the incident
6 location, and I also took this picture. It's date and time
7 stamped also on the bottom right.

8 Q Does that picture fairly and accurately depict the
9 scene at [REDACTED] [REDACTED] on February 20th of 2011?

10 A Yes, sir, it does.

11 Q Has it been changed or altered in any way?

12 A No, sir, it hasn't.

13 Q And I think you've already stated, is the view from
14 the road?

15 A This is a view from the -- actually the front of my
16 car where I parked my car when I arrived.

17 MR. MCALISTER: Your Honor, the State would move to
18 admit State's Exhibit 6 into evidence.

19 MR. WALTERS: No objection, Your Honor.

20 MR. MCALISTER: We'd also like to publish it to the
21 jury.

22 MR. WALTERS: No objection, Your Honor.

23 THE COURT: You may.

24 (WHEREUPON State's Exhibit 6 was entered into
25 evidence.)

Jeff Croft - Direct Examination by Mr. McAlister

1 By Mr. McAlister:

2 Q As you processed the scene, did you find evidence
3 of forced entry?

4 A Yes, sir, I did.

5 Q And what did you find specifically?

6 A The door jam or door frame on the front door was
7 splintered into a number of pieces and scattered across the
8 floor, breaking the lock assembly and all that.

9 Q Now, I'm going to show you what's been previously
10 marked as State's Exhibit 7. Do you recognize that item?

11 A Yes, sir, I do. This is a photograph of the actual
12 door jam at [REDACTED] [REDACTED].

13 Q And did you also take that picture?

14 A Yes, sir, I did.

15 Q And does it fairly and accurately depict the scene
16 as you found it at [REDACTED] [REDACTED] that day?

17 A Yes, sir, it accurately reflects the damage to the
18 door, yes, sir.

19 Q And has it been changed or altered in any way?

20 A No, sir.

21 MR. MCALISTER: Your Honor, at this time, the State
22 would move to admit State's Exhibit 7 into evidence.

23 MR. WALTERS: No objection, Your Honor.

24 MR. MCALISTER: We'd also like to publish it to the
25 jury.

Jeff Croft - Direct Examination by Mr. McAlister

1 (WHEREUPON State's Exhibit 7 was entered into
2 evidence.)

3 By Mr. McAlister:

4 Q As you went into the house, what other things did
5 you find?

6 A I immediately noticed, even prior to going into the
7 residence, a -- what appeared to be a bullet hole exiting
8 the trailer. Also just inside the door, I observed what
9 appeared to be another bullet hole in the wall and further
10 into the residence, I could see what appeared to be a third
11 bullet hole in the direction of the door.

12 Q Okay. How many total bullet holes did you locate
13 in that residence?

14 A I only located four actual bullet holes.

15 Q And where exactly were those located, once again?
16 I'm sorry.

17 A There was three at the door area, which were in a
18 position of exit and there was one over the dining room
19 table just beside the light in a direction of going into
20 the house.

21 Q I'm going to show you what's been previously marked
22 as State's Exhibit 8. Do you recognize that photo?

23 A Yes, sir, this is a photo that's taken inside of
24 the residence located at [REDACTED] [REDACTED] from the position
25 that the victim stated he was standing.

Jeff Croft - Direct Examination by Mr. McAlister

1 Q Okay. And would it fairly and accurately depict
2 the scene from -- at [REDACTED] from where the victim would have
3 been standing that day?

4 A Yes, sir, it does.

5 Q Okay. It hasn't been changed or altered in any
6 way?

7 A No, sir, it hasn't.

8 MR. MCALISTER: Your Honor, at this time, the State
9 would move to admit State's Exhibit 8.

10 MR. WALTERS: No objection, Your Honor.

11 MR. MCALISTER: We'd also like to publish it to the
12 jury.

13 (WHEREUPON State's Exhibit 8 was entered into
14 evidence.)

15 By Mr. McAlister:

16 Q Now, you said you were able to locate four total
17 shots; is that correct?

18 A I was able to locate four places where a bullet had
19 struck, yes, sir.

20 MR. MCALISTER: Your Honor, at this time, we'd
21 request that the witness be able to step off the stand and
22 provide demonstrative evidence.

23 (WHEREUPON the witness walked down in front of the
24 jury.)

25 ///

Jeff Croft - Direct Examination by Mr. McAlister

1 By Mr. McAlister:

2 Q Can you draw for us the layout of the residence?

3 A You'll have to excuse my drawing, but I'll do the
4 best that I can.

5 (WHEREUPON the witness was drawing on the board.)

6 By Mr. McAlister:

7 Q What is that right here that you've drawn?

8 A This is the entrance door.

9 Q That's the door that's been kicked in already?

10 A Yes, sir, and the door is actually this way. The
11 wall, the living room wall here. The bed -- back bedroom
12 is here; and this is a hallway, and this goes into the
13 living room area, the kitchen area.

14 Q And the driveway is here in front?

15 A The driveway is -- it goes out to St. John Road.

16 Q Okay. And where did you determine that the
17 victim's bedroom was located?

18 A The victim's bedroom is here.

19 Q Does he have a window facing the drive?

20 A There's a window right here.

21 Q Okay. And during the course of your investigation
22 determining where gunshots hit and projectile holes were
23 found, where did you find those bullet holes?

24 A Okay. The kitchen -- this wall may not protrude
25 quite as far as I have it, but the kitchen table is right

Jeff Croft - Direct Examination by Mr. McAlister

1 in here just above the kitchen table there's a light, and
2 there was a bullet hole in the ceiling above the kitchen
3 table, a single bullet hole in this direction. On this
4 wall in the living room, there was a bullet hole
5 approximately six foot from the floor and then another
6 bullet hole approximately four foot from the floor; and
7 then there was another bullet hole exiting through the side
8 of the trailer to the outside.

9 Q And did you -- were you able to retrieve any of
10 these projectiles?

11 A We were able to retrieve the two projectiles that
12 was -- that hit the living room wall and came out -- both
13 bullets came out of the hall wall. One entered this closet
14 that's at the end of the hall you're facing and was located
15 on the shelf of that closet. The other bullet, which was
16 just a little lower, entered into the bedroom closet, which
17 is right here -- right behind this closet. It's a bedroom
18 closet and I did locate the hole -- it went through all the
19 wall and I found a pair of pants that had sheetrock dust,
20 and I found the second projectile there. I did recover
21 those two.

22 Q Were you able to retrieve the projectile above the
23 kitchen table.

24 A I did not retrieve the projectile above the table
25 due to the amount of damage that it would have caused to

Jeff Croft - Direct Examination by Mr. McAlister

1 the house, and I did not have a weapon to compare that
2 projectile to.

3 Q And who would that weapon have belonged to
4 according to --

5 A According to the direction of travel of that round
6 and the victim's testimony, it would have come from the
7 subjects that came in.

8 Q Okay. You didn't have a gun to compare that to, so
9 there was no need to get that projectile?

10 A I did not collect that.

11 Q Okay. Have a seat back up there.

12 (WHEREUPON the witness returned to the witness
13 stand.)

14 By Mr. McAlister:

15 Q Did you recover any other firearm at the residence
16 that day?

17 A I did recover a .357 that the victim had.

18 Q And were you the actual law enforcement officer
19 that recovered that gun initially?

20 A Deputy Boots actually took initial possession of
21 the firearm.

22 Q And then he turned it over to you?

23 A Yes, sir.

24 Q Okay. And whose gun was that?

25 A It belonged -- it was in the possession of the

Jeff Croft - Direct Examination by Mr. McAlister

1 victim.

2 Q Mr. Williams?

3 A Yes, sir.

4 Q And where was that gun located?

5 A It was located at Mr. Williams' residence.

6 Q Was that gun entered into your data base there at
7 the sheriff's office?

8 A Yes, sir, it was.

9 Q And what did you find?

10 A I found that that particular weapon had been
11 previously stolen out of Beaufort County.

12 Q Did you question Mr. Williams about this?

13 A I did.

14 Q And what did you ultimately determine?

15 A I determined that Mr. Williams did purchase the
16 weapon from an individual. He had no knowledge that the
17 gun was stolen, and he purchased it for his home.

18 Q Was he charged with a criminal offense or for
19 possession of that weapon?

20 A No, he wasn't.

21 Q And why is that?

22 A When he was advised that the gun was in the system
23 as stolen, he immediately said I don't want to have
24 anything to do with it. I'll turn it over to you.

25 Q Okay. And changing gears a little bit. You

Jeff Croft - Direct Examination by Mr. McAlister

1 received information about a vehicle, a suspect vehicle?

2 A Yes, sir.

3 Q Was the victim able to provide a description of
4 that vehicle?

5 A Yes, sir, he was.

6 Q Do you recall what that description involved or
7 what kind of make and model that was?

8 A He described the vehicle as being a white,
9 four-door vehicle. He thought it to be a Pontiac and
10 described what vehicle it actually was -- what vehicle he
11 thought it was.

12 Q Was the victim able to identify the subjects who he
13 stated had entered his home that day?

14 A Yes, he was.

15 Q Okay. And were you able through your law
16 enforcement resources to determine who that car ultimately
17 belonged to?

18 A Yes, I was.

19 Q And how did you establish that connection?

20 A Through what the information that the victim had
21 shared with me, the location at that -- the individual who
22 owned the car, I was able to run it through our central
23 dispatch and was able to get some information that the
24 individual did indeed own this make and model car.

25 Q Okay. Was the victim that day able to give you any

Jeff Croft - Direct Examination by Mr. McAlister

1 identifying information about the subjects that came into
2 the house? Was he able to identify those subjects?

3 A Yes, he was. He identified by name, initially,
4 down to the family. And he kept referring to Mr. Robinson
5 as having facial hair, a goatee. He kept doing his hands
6 on his face and describing the goatee, which --

7 Q And that's Stephon Robinson?

8 A That is correct.

9 Q Okay. As you continued your investigation, what
10 did you do next? Where did you go?

11 A Once I left the scene at [REDACTED] [REDACTED], I
12 traveled to [REDACTED], which is the residence of
13 Stephon Robinson.

14 Q Okay. Anyone else live there with him?

15 A Under my -- my understanding is no. His brother
16 stays there sometimes.

17 Q And how far is that location from the victim's
18 residence?

19 A It's approximately two miles, three miles at the
20 most.

21 Q When you arrived there that day -- was it the same
22 day that you were called out to the scene?

23 A Yes, sir. I left the scene and went straight to
24 that location.

25 Q Okay. How long were you at the scene?

Jeff Croft - Direct Examination by Mr. McAlister

1 A An hour and a half, two hours, maybe.

2 Q Okay. So at some point thereafter, that afternoon,
3 late in the afternoon, you went to the suspect's location,
4 or their home?

5 A Yes, sir.

6 Q Was the defendant there?

7 A The defendant was there, yes, sir.

8 Q Who was with him?

9 A His brother, Reginald Felder and his cousin was
10 also there.

11 Q Okay. Do you have his cousin's name?

12 A Can I look at my paper?

13 Q Yes, sir.

14 A I can use yours.

15 (WHEREUPON the witness was looking at his notes.)

16 THE WITNESS: Mr. Jamal Wallace.

17 By Mr. McAlister:

18 Q And did you have an opportunity to meet with the
19 defendant?

20 A Yes, sir.

21 Q Was he willing to speak with you?

22 A Yes, sir.

23 Q And what did he say when you questioned him about
24 his whereabouts?

25 A He stated he was asleep. He had just gotten up.

Jeff Croft - Direct Examination by Mr. McAlister

1 Q Okay. And this was late in the afternoon?

2 A Yes, sir.

3 Q Did you ask him about the white car?

4 A I did ask him about the white Pontiac and -- yes,
5 sir, I did.

6 Q And what did he tell you about that white car?

7 A He stated that it belonged to a girlfriend or a
8 good friend, a female friend of his and that he borrowed
9 the car the night before and had returned it that morning.

10 Q Okay. And what time did he say he returned that
11 vehicle?

12 A He said he returned that vehicle around 10 a.m.

13 Q Was he -- was the defendant willing to provide a
14 statement in writing?

15 A No, he wasn't.

16 Q Okay. This interview that you conducted with him
17 initially, was it taped?

18 A It was taped, but the audio on the tape didn't pick
19 up.

20 Q But you weren't aware of that when you went out to
21 meet with him?

22 A No, sir.

23 Q And from this information and based on the
24 information given to you by the victim, were you able to
25 verify -- I think I asked you this -- the make and model of

Jeff Croft - Direct Examination by Mr. McAlister

1 Ms. Gunnel's car?

2 A It was a Pontiac G6, four door, white in color.

3 Q I'm showing you what's been previously marked as
4 State's Exhibit 9. Do you recognize that item?

5 A Yes, sir, this is a photo that was taken at [REDACTED]
6 John Road of the hole in the ceiling over the table.

7 Q Does that photo fairly and accurately depict the
8 scene as it would have appeared that day, on February 20,
9 2011?

10 A Yes, sir.

11 Q Has it been changed or altered in any way?

12 A No, sir.

13 MR. MCALISTER: Your Honor, at this time, the State
14 would move to admit State's Exhibit 9 into evidence.

15 MR. WALTERS: No objection, Your Honor.

16 MR. MCALISTER: I'd also like to publish it to the
17 jury.

18 (WHEREUPON State's Exhibit 9 was entered into
19 evidence.)

20 By Mr. McAlister:

21 Q After you met with the defendant that day, did you
22 initially put him under arrest?

23 A No, sir, I did not.

24 Q What did you do next?

25 A I met with the other two individuals at that

Jeff Croft - Direct Examination by Mr. McAlister

1 residence --

2 Q Okay.

3 A -- Mr. Felder and Mr. Wallace.

4 Q And did you also have an opportunity to meet with
5 Ms. Gunnels?

6 A I did.

7 Q Did you go back out to the residence where the
8 incident occurred and provide a photo lineup?

9 A Yes, sir --

10 Q To the victim?

11 A I did.

12 Q I'm going to show you what's been previously marked
13 as State's Exhibit 1 and State's Exhibit 2. On what day
14 did you go out there and provide those photo lineups to the
15 victim?

16 A On February 25th, 2011.

17 Q So this was several days after the incident
18 actually occurred?

19 A Yes, sir.

20 Q Okay. Where did this photo display take place?

21 A I'm sorry?

22 Q Where did it take place? Where did you actually
23 show him the lineup?

24 A It was at Mr. Williams residence at [REDACTED] [REDACTED]

25 Road.

Jeff Croft - Direct Examination by Mr. McAlister

1 Q What, if anything, did you tell the victim -- the
2 witness before he was allowed to see those photos?

3 A I advised Mr. Williams that the -- I was going to
4 present him with a photo lineup which would have a number
5 of pictures on it. I advised Mr. Williams that the
6 individuals may or may not be displayed on the photo
7 lineups. And I advised Mr. Williams that if he wasn't 100
8 percent sure of the identity of the individuals that he did
9 not have to make a choice.

10 Q And was Mr. Williams the only person that viewed
11 the display that day?

12 A Yes, he was.

13 Q How many photos were actually displayed to
14 Mr. Williams?

15 A There was three sets -- three lineups presented to
16 Mr. Williams with six photos on each lineup.

17 Q Can you describe the nature of those photos, how
18 they were comprised, how they're put together?

19 A They were put together using similarities in facial
20 features, height, weight characteristics of each
21 individual.

22 Q And after showing Mr. Williams this photo lineup,
23 was he able to identify any of the subjects?

24 A Yes, he was. He was able to identify two of the
25 individuals. Mr. Stephon Robinson and Mr. Felder.

Jeff Croft - Direct Examination by Mr. McAlister

1 Q And he selected them from that photo lineup?

2 A Yes, he did.

3 Q And I know I've already handed them up there to
4 you. Do you recognize the contents of those lineups?

5 A The State's Exhibit 1 is a lineup for Mr. Stephon
6 Robinson.

7 Q And how about State's Exhibit 2?

8 A State's Exhibit 2 is a lineup from Mr. Reginald
9 Felder.

10 Q Are those lineups in the same condition when you
11 originally provided them and presented them to
12 Mr. Williams?

13 A Yes, sir, they are.

14 Q Okay. Are there any material alterations or
15 deletions to those photo lineups?

16 A No, sir, there's not.

17 MR. MCALISTER: Your Honor, at this time the State
18 would move to admit State's Exhibit 1 and State's Exhibit 2
19 into evidence.

20 MR. WALTERS: No objection, Your Honor.

21 (WHEREUPON State's Exhibits 1 and 2 were entered
22 into evidence.)

23 By Mr. McAlister:

24 Q Now, did you go back out and meet with Mr. Williams
25 again in regards to lineups?

Jeff Croft - Direct Examination by Mr. McAlister

1 A I did.

2 Q Okay. And why did you do that?

3 A The photographs that were used in the initial
4 lineups were retrieved using the South Carolina driver's
5 licenses. The photos were approximately six years old and
6 there was a number of features that had changed about both
7 individuals. So I was able to acquire a new photo of the
8 two individuals and was able to share it with Mr. Williams.

9 Q And why did you do that? Was there something wrong
10 initially?

11 A When we -- on the initial lineups, Mr. Williams
12 picked out two individuals that he positively stated came
13 into his residence, but Mr. Williams reversed their names.

14 Q Okay. So he picked Reginald Felder as Stephon and
15 Stephon Robinson as Reginald Felder?

16 A That is correct.

17 Q Okay. And was he able to -- did he initial what
18 picture he thought was his or how did he mark or signify
19 what was what?

20 A He stated he was going to place an X on the ones
21 which he could eliminate. And he placed an X on all five
22 of the six pictures.

23 Q Okay.

24 A And --

25 Q And who did he not place the X on?

Jeff Croft - Direct Examination by Mr. McAlister

1 A He did not place an X on Stephon Robinson.

2 Q How about in the second photo lineup initially that
3 was presented?

4 A Again, he stated he was going to place an X on the
5 photos which he could eliminate, and he eliminated five.
6 He did not eliminate No. 5, which is Reginald Felder.

7 Q Okay. Did you also present a lineup that showed
8 the third suspect?

9 A I did.

10 Q Okay. Was he able to identify anyone in that
11 lineup?

12 A He again stated he wanted to put an X on the ones
13 which he could eliminate. He eliminated immediately four
14 of the six photographs. He did identify the third person,
15 but said he was not 100 percent sure because he didn't get
16 a look at him; and he refused to put a mark on it because
17 he didn't want to make a mistake on identity.

18 Q And on what date did you return out there to his
19 residence to show the second photo lineup?

20 A The photo lineup for Mr. Robinson I think was on
21 4/20 or 4/23, so...

22 Q So around April 20th?

23 A Yes, sir.

24 Q Okay. And what did this lineup entail?

25 A This was a new picture of Mr. Stephon Robinson, a

Jeff Croft - Direct Examination by Mr. McAlister

1 current picture which I was able to acquire, sent to SLED
2 and SLED put together a lineup using that photograph.

3 Q And again, was it based on facial features?

4 A Again, based on facial features, similarities in
5 all the individuals.

6 Q Okay. And when you went out there subsequently,
7 did you give the witness any instructions prior to him
8 viewing those photos?

9 A Same instructions as before. I advised him I was
10 going to show him a lineup which consisted of six pictures,
11 and the individual may or may not be displayed on the
12 lineup. I advised him if he wasn't 100 percent sure, he
13 did not have to make a mark.

14 Q I'm going to hand you what's been previously marked
15 as State's Exhibit 4 and State's Exhibit 3 -- excuse me 3
16 and 4 -- and when presented those lineups, was Mr. Williams
17 able to identify the defendant?

18 A I presented the one on Stephon Robinson first,
19 which was presented on the 20th of April, and when he
20 looked at it, he immediately placed his finger on Stephon's
21 picture and said, I told you that's him right there.

22 Q And did he give any other details of why he felt
23 that that was --

24 A He continued to describe the goatee, which he had
25 explained to us from the very beginning that Mr. Robinson

Jeff Croft - Direct Examination by Mr. McAlister

1 had on his face.

2 MR. WALTERS: I object, Your Honor. I believe
3 that's hearsay. He's testifying as to what Mr. Williams
4 said.

5 THE COURT: The victim's right back there, he's
6 going to testify. Move along.

7 By Mr. McAlister:

8 Q And how about when you provided him the other photo
9 lineup?

10 A The other photo lineup was shared on 5/23 of
11 Reginald Felder and he did pick Mr. Felder out of the
12 lineup.

13 Q Okay. And have either one of those lineups been
14 changed or altered in any way?

15 A No, sir, it hasn't.

16 Q Okay. Have they been in your custody and care?

17 A They have been in the case file, locked in a filing
18 room at the Barnwell County Sheriff's Office.

19 Q And they are substantially in the same condition as
20 when you originally used them?

21 A Yes, sir.

22 Q Your Honor, at this time, the State would move to
23 admit Exhibits 3 and 4 into evidence.

24 MR. WALTERS: No objection, Your Honor.

25 (WHEREUPON State's Exhibit 3 and 4 were entered

Jeff Croft - Cross-Examination by Mr. Walters

1 into evidence.)

2 MR. MCALISTER: Beg the Court's indulgence real
3 quick.

4 No further questions at this time.

5 THE COURT: Cross-examination.

6 MR. WALTERS: May it please the Court?

7 THE COURT: Yes, sir.

8 **CROSS-EXAMINATION**

9 By Mr. Walters:

10 Q Investigator Croft, in this particular case during
11 your investigation, there's no gun that you found that my
12 client had in his possession?

13 A A gun never was retrieved, no, sir.

14 Q And in this particular case, there were no
15 fingerprints of my client's found at the residence?

16 A There was no prints at the scene, no, sir.

17 Q And in this particular case there's no empirical
18 data or evidence that substantiates that my client was
19 inside this trailer?

20 A Can you repeat that?

21 Q Do you have anything other than the allegation made
22 by Mr. Williams that my client was inside this trailer?

23 A The investigation revealed that through
24 identification and the vehicle, that it was Mr. Robinson
25 that was in the residence, yes, sir.

Jeff Croft - Cross-Examination by Mr. Walters

1 Q And I believe your testimony is that it was an
2 allegation made by Mr. Williams that there was a gentleman
3 named Stephon Robinson; is that correct?

4 A Yes, sir.

5 Q All right. And I believe that you stated that two
6 hours after this occurred you went to Mr. Robinson's
7 residence; is that right?

8 A I did.

9 Q And you've been doing this a long time, if he fired
10 a gun, you could simply bag him --

11 A There are certain procedures that must be done in
12 order to do that, yes, sir.

13 Q And what I'm eluding to, to make sure the jury
14 understands. When a person fires a gun, there's residue
15 left on their hands or their arms, correct?

16 A It can, yes, sir.

17 Q And how many times have you performed a gun
18 residue -- a gunshot residue kit?

19 A A number of times, I'm not sure.

20 Q Right. And explain to the jury how that process
21 goes about when you perform a gunshot residue test?

22 A The residue kit must be performed within a certain
23 period of time. It is prepackaged, sealed, which we get it
24 prepackaged and sealed. You test the back of the hand, the
25 fingers, the palm, and neutral locations; and it can be

Jeff Croft - Cross-Examination by Mr. Walters

1 sent to South Carolina Law Enforcement Division to
2 determine whether or not the traces of evidence show that
3 that person could have fired a weapon.

4 Q And would you describe to the jury what you place
5 on the front of the hand and the back of the hand in order
6 to prepare this test to be sent to SLED. Is it a powder?
7 Is it a chemical?

8 A It's actually -- the kit comes with a collection
9 tool, which you dab on the -- just dab on the hand, which
10 actually picks up -- it's sticky. It picks up particles on
11 the back of the hand, the palm of the hand, inside the
12 fingers. There's a liquid acid which you use to dilute on
13 a Q-tip which you can swab the hands, which also picks it
14 up.

15 Q All right. I want to make sure I'm clear about
16 your testimony. You arrived at Mr. Williams' residence.
17 He informs you that this individual has fired a gun within
18 his home. He's less than two miles away. You go to his
19 home. Did you perform the test?

20 A No, sir.

21 Q Now, Mr. Williams also eluded to, there was someone
22 else there, and he eluded to this person named Felder; is
23 that right?

24 A That's correct.

25 Q All right. And I believe Felder is the brother of

Jeff Croft - Cross-Examination by Mr. Walters

1 Stephon Robinson; isn't that right?

2 A That's correct, yes, sir.

3 Q And I believe that he was present at the home that
4 was two miles away; is that correct?

5 A That is correct, yes, sir.

6 Q So I want you to explain to this jury, Mr. Williams
7 has alleged that there is a shooting that's occurred. His
8 home has been broken into, someone's fired a gun, he's
9 fired a gun back at them. You stayed there about an hour
10 and a half, and you go down to road two miles. You go to
11 the actual residence where these individuals are present,
12 and it's alleged that they committed this heinous crime
13 because no one wants someone to fire into their home. It
14 is very serious.

15 And you walk in and Mr. Robinson is there and also
16 his brother is there. Why didn't you simply just perform a
17 kit on both of them and determine if they had fired a gun?

18 A The time allotted to collect that kit, it was
19 getting very close to that timeline and I did not perform
20 the kit.

21 Q It was getting close to the timeline --

22 A Yes, sir.

23 Q -- but you were told initially when you walked in
24 that house -- this is your testimony -- that these are the
25 individuals. You knew where their home was. I believe you

Jeff Croft - Cross-Examination by Mr. Walters

1 said it was on Cocoa Road; is that right?

2 A That's correct.

3 Q You travel to Cocoa Road?

4 A Yes, sir.

5 Q All right. And you could have simply driven over
6 to the house, Hold your hands out, let me get a sample,
7 we'll see what we've got. Mr. Williams has made a serious
8 allegation against you, that you've done something within
9 his home.

10 And at that time you could walk in front of this
11 jury and simply tell them, look, I found gunshot residue on
12 the hands of Felder and Robinson within minutes after this
13 alleged event occurred at Mr. Williams' house; isn't that
14 right?

15 A My duty when I arrived on scene at [REDACTED] [REDACTED]
16 Road was to process the crime scene and collect evidence
17 from the crime scene, initially, before it was contaminated
18 by any activities. Once I acquired the statements and
19 acquired information, my duty then was to attempt to get --
20 collect any other evidence that may be located with the
21 subjects. So my initial contact was to process the crime
22 scene at [REDACTED] [REDACTED] Road.

23 Q Okay. In your experience as a police officer, why
24 don't you tell the jury how long you have to conduct a
25 gunshot residue kit?

Jeff Croft - Cross-Examination by Mr. Walters

1 A SLED will not test beyond six hours.

2 Q Right. And if you arrived at the house -- he says
3 he called the police after this happened, and you were
4 there an hour and a half. And then you said you drove two
5 miles down the road. You were well within the six hours;
6 is that right?

7 A I arrived on scene around three. The initial call
8 came into our dispatch around 2:15, 2:16, somewhere in that
9 neighborhood. It was around five or six before I ever made
10 it to [REDACTED]. It was a couple of hours that I was
11 actually at the scene.

12 Q All right. But you would agree that you determined
13 they had fired guns, that may substantiate the allegation
14 by Mr. Williams?

15 A If I could have performed the test -- I could have
16 tested to see if there was gunshot residue on their hands,
17 and it may or may not have been conclusive.

18 Q Now, we served a Rule 5 on the solicitor's office,
19 and I carefully went through it; and when you arrived at
20 Robinson's house, was there a white Pontiac there?

21 A No -- at Mr. Robinson's residence?

22 Q Yes, sir.

23 A No, sir, it wasn't.

24 Q All right. And as far as this car in this
25 particular case, at what time did you locate the car?

Jeff Croft - Cross-Examination by Mr. Walters

1 A I knew where the car should be immediately that
2 afternoon, but it was not at home. I actually made
3 contact -- I think it was the next day, with the individual
4 who owns the car.

5 Q You also answered a question of the solicitor in
6 this particular case -- there was a question in regards to
7 Mr. Robinson and the conversation. You remember answering
8 those questions?

9 A Yes, sir.

10 Q All right. And you stated he was not willing to
11 provide a statement. I think that's your words; is that
12 right?

13 A He said he did not want to write a statement at
14 that time.

15 Q Right. But Mr. Robinson, he answered all of your
16 questions; is that correct?

17 A He did.

18 Q He was cooperative?

19 A He answered my questions, yes, sir.

20 Q And he told you that he had borrowed his girlfriend
21 or friend's car; is that correct?

22 A He said she was a good friend. That's the way he
23 worded it, yes, sir.

24 Q All right. In fact, in most of your
25 investigations -- and we've dealt with each other before --

Jeff Croft - Cross-Examination by Mr. Walters

1 you have a habit of recording conversations, don't you?

2 A Yes, sir.

3 Q All right. In fact, you attempted to record the
4 conversation with Mr. Robinson; is that right?

5 A We wear what is known as a scorpion. It is a video
6 and audio recorder. The video picks up fine. You can see
7 the picture. The audio did not. It was immediately
8 replaced because of the malfunction.

9 Q Well, let me ask you this. Let's make sure the
10 jury's aware of when you say scorpion, what are you talking
11 about?

12 A It's a video and audio recording device. It's a
13 small device that we wear for the purposes of capturing
14 video and audio with anybody.

15 Q I apologize. I didn't mean to interrupt you.

16 A That's okay.

17 Q I sometimes get ahead of myself. The scorpion that
18 you were wearing, can you wear it under a necktie?

19 A No, sir, it's exposed.

20 Q All right. And how big is it? Is it a business
21 card?

22 A No, sir, it's approximately an inch and a half, two
23 inches and maybe a half inch wide. You can wear it on your
24 business tie. It clips on and is readily visible on the
25 front or you can clip it on here.

Jeff Croft - Cross-Examination by Mr. Walters

1 Q And does it record the audio? or video? or what
2 does it record?

3 A It records both.

4 Q Right. And of course that would reflect the
5 conversation you had with Mr. Robinson?

6 A The audio did not pick up. You can see mouths
7 moving, but the video -- excuse me the audio does not pick
8 up. And it was immediately replaced.

9 Q And I believe you also were -- I'll use your words,
10 the scorpion, when you talked to Mr. Felder; is that
11 correct?

12 A I did.

13 Q And did you wear the scorpion also when you talked
14 to Ms. Gunnels?

15 A I did.

16 Q And I believe Ms. Gunnels was on a different date;
17 isn't that right?

18 A It was.

19 Q All right. And that audio did not work?

20 A It wasn't -- when it was downloaded was when we
21 discovered it wasn't working. It didn't work either when I
22 talked to Mr. Williams at the initial scene.

23 Q All right. But if it worked that might be the best
24 measure of what happened that day; right?

25 A I would have liked for it to work, yes, sir, but it

Jeff Croft - Cross-Examination by Mr. Walters

1 didn't.

2 Q Now, let's talk about something else that you
3 eluded to in your testimony. You also talked about
4 Mr. Williams and the .357 that he had in his home; is that
5 right?

6 A That's correct.

7 Q Right. And initially when you talked to
8 Mr. Williams about this particular weapon, you eluded to
9 the fact that it didn't have a serial number?

10 A No, sir, I did not say it didn't have a serial
11 number.

12 Q Did it have one?

13 A Yes, it did.

14 Q Okay.

15 A That's the way we identified the weapon as being
16 one from Beaufort.

17 Q All right. And who initially did Mr. Williams buy
18 this weapon from?

19 A I don't recall the name of the individual that he
20 gave us. I did share that with the investigator that was
21 handling the case in Beaufort.

22 Q All right. Because we served you a Rule 5. It
23 eluded to the fact that the gun was stolen. Did you go
24 back and tell Mr. Williams that the gun was stolen?

25 A I did.

Jeff Croft - Cross-Examination by Mr. Walters

1 Q All right. What was his reaction?

2 A He said he didn't want anything to do with it. He

3 told me who he purchased it from.

4 Q And what is that person's name?

5 A I don't recall his name. I shared that information

6 with Beaufort.

7 Q Did you make a report?

8 A Of that information?

9 Q Yes, sir.

10 A I didn't include it in this report, no, sir.

11 Q Did you ever make a report?

12 A I made a report to Beaufort and they got a copy of

13 where it was run in the CAD system -- or excuse me NCIC

14 system, which reflected that it was stolen.

15 Q Okay. I don't want to belabor the point, but we

16 served you a Rule 5. He said he fired this weapon during

17 this alleged event. And you determined that the person

18 that he purchased this gun from that was stolen, did you

19 ever write out a report?

20 A No, sir.

21 Q So did you just call the phone to Beaufort and tell

22 them that this was what Mr. Williams has said with regards

23 to this gun?

24 A When we run it through NCIC, it immediately comes

25 up as a hit. What we call a hit. Beaufort is notified via

Jeff Croft - Cross-Examination by Mr. Walters

1 computer, which says that we -- that that gun has been
2 recovered. They immediately send a response to our
3 dispatch and advise that it is the gun which is entered.
4 At that point, their investigator contacted me and asked
5 about the gun. I told him we had just recovered the
6 weapon, and I could turn it over to him when we were
7 through with this case.

8 Q I want to refer your attention to the photo ID
9 lineups that you referred to. Have there been cases where
10 you have to conduct three to four photo ID lineups?

11 A There's times when certain circumstances to clarify
12 what the victim has pointed out, yes, sir.

13 Q Well, these pictures -- you can say is it Glen
14 Walters or isn't it?

15 A Okay. On the photo lineup, we're not asking for
16 names to be identified. We're only asking for you to
17 identify the person which you know, and whether they put a
18 name with it or not, it's not -- it's not a name
19 identification. It's a photo identification.

20 Q All right. But you would agree that you conducted
21 a photo lineup on February 25th of 2011.

22 A That's correct.

23 Q And you did it at the home?

24 A That's correct.

25 Q Then you did a photo lineup on 4/20/11?

Jeff Croft - Cross-Examination by Mr. Walters

1 A That's correct.

2 Q All right. And you came back and you did another
3 photo ID lineup on May 23rd of 2011?

4 A That's correct.

5 Q All right. And the first time there was a mix up
6 with regards to the actual person that he was referring to?

7 A There was no mix up on identifying the two people
8 who entered the residence. Absolutely none as far as the
9 photo goes. There was a mix up in what their names were.

10 Q Okay. And the second time around, I believe you
11 said that you had pictures that were six years older and
12 then you had pictures that were more recent with regards to
13 DMV?

14 A They weren't DMV pictures used the second time.

15 Q Okay. And then, of course, we have the May 23rd,
16 2011 lineup. In that particular case -- and I believe you
17 stated that four out of the six he was able to eliminate --

18 A I'm sorry, say that again.

19 Q Well, I'll go through your testimony -- I don't
20 want to mix you up. On May 23rd, 2011, that's where you
21 produced a photo ID lineup where Mr. Williams eliminated
22 four of the six people in this lineup; is that correct?

23 A I don't think that was the May lineup.

24 Q All right. Well, which lineup was it where the
25 four out of the six were eliminated?

Jeff Croft - Cross-Examination by Mr. Walters

1 A That was on the initial lineups that were shown on
2 2/25.

3 Q And there were three people that he wasn't sure
4 about.

5 A There was two people --

6 Q Okay.

7 A -- he narrowed it down to two people and said he
8 would rather not mark the individual because he did not
9 want to make a mistake.

10 Q Okay. So in looking at your testimony there, I
11 want to make sure I'm clear. No fingerprints.

12 A No, sir.

13 Q Okay. There's no gunshot residue kit?

14 A No, sir.

15 Q Was there a search of the vehicle?

16 A What vehicle, sir?

17 Q The white Pontiac?

18 A No, sir.

19 Q Okay. And did you search Mr. Robinson's house
20 where he and Mr. Felder were staying?

21 A No, sir.

22 MR. WALTERS: Your Honor, I have no further
23 questions.

24 THE COURT: Thank you. Redirect.

25 ///

Jeff Croft, - Redirect Examination by Mr. McAlister

REDIRECT EXAMINATION

By Mr. McAlister:

Q When you went to the defendant, Stephon Robinson's home, on February 20th, did you search his house for a weapon that day?

A He wouldn't allow us to come into his residence. He actually came outside and talked.

Q And you've already indicated that that white Pontiac, that car was not there?

A It was not at that location at that time, no, sir.

Q Did you have a chance to search that car for a weapon?

A No, sir, I did not.

Q Can you collect a GSR, a gunshot residue kit without a search warrant or consent?

A Under certain circumstances, yes, sir.

Q Did you do that in this case?

A No, sir, like I said, the time was stretching. There were some circumstances that was obvious and I didn't do it.

Q Okay. Would you expect to find GSR on the hands of a suspect after those hands had been washed?

A No.

Q In the amount of time in this incident was several hours?

Jeff Croft - Redirect Examination by Mr. McAlister

- 1 A That's correct.
- 2 Q Did the defendant consent to allow you to search
- 3 his home at all?
- 4 A No, he did not.
- 5 Q Did he allow you to search his car at all?
- 6 A No, we wasn't in possession of any -- of the
- 7 vehicles at that time, no, sir.
- 8 Q Did he allow you to search his person?
- 9 A No, sir.
- 10 Q So he didn't allow you to do a GSR kit?
- 11 A No, sir.
- 12 Q And did you have a warrant to do any of those
- 13 things, a search warrant?
- 14 A No, sir, I did not.
- 15 Q There's been a lot made here about these ID's, and
- 16 just for clarity, initially when you went out on the 25th,
- 17 you had three different sets of photo lineups, correct?
- 18 A Yes, sir, and the three sets consisted of eighteen
- 19 pictures.
- 20 Q Okay. And the first two sets were one was Stephon
- 21 Robinson and one with Reginald Felder?
- 22 A That's correct.
- 23 Q And the third was a possible third codefendant?
- 24 A That's correct.
- 25 Q And that third lineup that's been mentioned, I

Jeff Croft - Redirect Examination by Mr. McAlister

1 think Mr. Walters's referenced it just a minute ago on
2 cross, that third lineup is the one of that third
3 codefendant where Mr. Williams was not able to identify a
4 certain person, correct?

5 A That is correct.

6 Q Okay. And because he couldn't identify that third
7 person, y'all didn't charge that third person, correct?

8 A No, sir, no charges have come at this time.

9 Q Okay. So that's the first time you went out?

10 A That is correct, yes, sir.

11 Q Okay. The second time you went out, was in May?

12 A Yes, sir.

13 Q Or April or May?

14 A April.

15 Q Okay. And you initially approached him with whose
16 lineup at this point in time?

17 A Stephon Robinson's.

18 Q Okay. But you didn't go with one for Reginald
19 Felder?

20 A I couldn't. The one that we had -- the picture
21 that we had for Reginald Felder, which would have been on
22 that same day, we didn't use because there was some issues
23 with the photo.

24 Q Okay. And so that's why you went out a third time
25 specifically with Reginald Felder's lineup?

Jeff Croft - Redirect Examination by Mr. McAlister

1 A The third time?

2 Q Yes.

3 A That is correct, yes, sir.

4 Q Okay. And that was several days later after you

5 got a lineup that you could use?

6 A Yes, sir.

7 Q Okay. And that's the only reason you went out

8 three times?

9 A That's it.

10 Q Okay. The day that the incident occurred, was the

11 victim able to ID the defendant by name?

12 A Yes, he was.

13 Q Okay. When you went back on the 25th, was he able

14 to ID him by photo?

15 A Yes, he was.

16 Q Okay. And then when you went back in April, was

17 the victim able to identify the defendant Stephon Robinson

18 by photo?

19 A Yes, he was.

20 Q Okay. And was he able to identify the codefendant,

21 Reginald Felder, by photo?

22 A Yes, he was.

23 Q Okay. And that's all y'all asked him to do?

24 A That's all we asked him to do, yes, sir.

25 MR. MCALISTER: No further questions.

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

2 I don't allow recross.

3 MR. WALTERS: I apologize.

4 THE COURT: It's discretionary with the Court.

5 MR. WALTERS: I'm sorry.

6 THE COURT: I'm consistent with both sides and in
7 every case I try.

8 MR. WALTERS: Yes, sir.

9 THE COURT: How are you going to get them out to
10 the restaurant?

11 THE CLERK: I'm hoping they'll be able to drive
12 their own vehicles because I don't have transportation.

13 THE COURT: We're going to take a break for lunch.
14 We'll start back at two, but if you're not finished by two,
15 I'm not going to start without you. Can y'all -- you each
16 got your own vehicle or you want to share rides out there
17 or however? You know how to get there.

18 (WHEREUPON the jury nodded in affirmation.)

19 THE COURT: You got a room set up for them?

20 THE CLERK: Yes, in the private room and a couple
21 of the bailiffs will go as well.

22 THE COURT: The bailiffs will go, and they'll take
23 care of the bill. So have -- I think they've got a big
24 buffet, so enjoy your lunch and if you want the desert, get
25 that and thank the clerk for agreeing to do it. And we'll

1 start back at two o'clock. Please don't discuss the case,
2 don't let anybody discuss it with you, and don't,
3 obviously, start any kind of deliberations.

4 Everybody else remain seated.

5 Y'all go with Mr. Eddie, and he'll get y'all lined
6 up.

7 (WHEREUPON the jury left the courtroom at 12:25
8 p.m.)

9 THE COURT: All right. Anything for the record on
10 behalf of the State before we break for lunch?

11 MR. MCALISTER: Nothing from the State, Your Honor.

12 THE COURT: Mr. Walters?

13 MR. WALTERS: Nothing, Your Honor.

14 THE COURT: All right. We're -- the defendant's in
15 custody. We'll start back at two clock.

16 (WHEREUPON a recess was observed for lunch.)

17 THE COURT: All right. Mr. Walters, you ready to
18 proceed?

19 MR. WALTERS: Yes, sir, Your Honor.

20 THE COURT: Did you talk to him?

21 MR. WALTERS: Yes, sir, thoroughly.

22 THE COURT: State ready to proceed?

23 MR. MCALISTER: Yes, we are, Your Honor.

24 THE COURT: Mr. Walters?

25 MR. WALTERS: Yes, sir, Your Honor.

1 THE COURT: Bring the jury in.

2 (WHEREUPON the jury entered the courtroom at 2:11
3 p.m.)

4 THE COURT: Did y'all appoint me a foreperson?

5 (WHEREUPON there was no response from the jury.)

6 THE COURT: You ate so much and you forgot to do
7 that. Well, since you didn't do it, I'm going to do it.

8 I'm just going to do this -- y'all want to do it
9 when you take a break at three o'clock.

10 THE JURY: We can do it then.

11 THE COURT: Was lunch okay.

12 THE JURY: It was good.

13 THE COURT: I peaked in there. I saw one
14 particular lady, her plate was piled particularly high.
15 I'm glad we were able to find -- thank Ms. Rhonda for that.
16 It's difficult enough having to be on jury duty and I know
17 it's an imposition being away from your jobs and your
18 family, so hopefully lunch was a little help to you.

19 We're going to try to go until about five to see
20 how we are. We'll get to that point and see where we are,
21 and I'll let y'all sort of make the call on what to do
22 about -- if we can finish in just a few minutes, we'll
23 finish it up, but if it's 4:15 or 4:20, we'll decide how we
24 want to handle it. Fair?

25 THE JURY: Yes, sir.

Shelly Leanna Gunnels - Direct Examination by Mr. McAlister

1 THE COURT: Call your next witness, please.

2 MR. MCALISTER: The State calls Shelly Leanna
3 Gunnels.

4 THE COURT: Ma'am, if you would come around and
5 place your left hand on the Bible and raise your right.

6 THEREUPON,

7 SHELLY LEANNA GUNNELS,
8 after being duly sworn, testified as follows:

9 THE CLERK: Be seated and state your name for the
10 record.

11 THE COURT: Ma'am, you're going to have to speak
12 up, please.

13 THE WITNESS: Leanna Gunnels.

14 THE COURT: That's not going to work.

15 THE WITNESS: Leanna Gunnels.

16 THE COURT: A little bit higher.

17 THE WITNESS: Leanna Gunnels.

18 THE COURT: Thank you, ma'am. Take a deep breath,
19 everything will be fine. You want a glass of water?

20 THE WITNESS: No.

21 THE COURT: All right. Listen to his questions and
22 answer them, please.

23 **DIRECT EXAMINATION**

24 By Mr. McAlister:

25 Q Ms. Gunnels, how old are you?

Shelly Leanna Gunnels - Direct Examination by Mr. McAlister

1 A Nineteen.

2 Q And where are you from?

3 A Hampton.

4 Q Where did you go to high school?

5 A Hampton and Barnwell.

6 Q And where were you living in February of this year?

7 A In Barnwell.

8 THE COURT: Speak up, please.

9 By Mr. McAlister:

10 Q And where do you live now?

11 A In Georgia.

12 Q How long have you known the defendant, Stephon
13 Robinson?

14 A Almost seven years.

15 Q Where did you meet?

16 A Through my uncle and at a club, like a teen club.

17 THE COURT: At a what?

18 THE WITNESS: A teen club.

19 By Mr. McAlister:

20 Q A teen club here in Barnwell?

21 A (Witness nodded head.)

22 Q Were y'all in a relationship for that six or seven
23 years or what was the nature of that relationship?

24 A On and off.

25 Q Did the defendant ever use your vehicle?

Shelly Leanna Gunnels - Direct Examination by Mr. McAlister

1 A Yes, sir.

2 Q I'm going to show you what's been previously marked
3 as State's Exhibit 11. Do you recognize that?

4 A Yes, sir.

5 Q And what is that?

6 A My car.

7 Q Is that the car that you were driving back in
8 February of 2011?

9 A Yes, sir.

10 Q Do you still own that car?

11 A No, sir.

12 Q Okay. Was that the car that you allowed the
13 defendant to use on occasion?

14 A Yes, sir.

15 Q How often?

16 A Whenever.

17 Q Whenever he wanted to use it?

18 A Uh-huh.

19 THE COURT: Yes or no?

20 THE WITNESS: Yes, sir.

21 By Mr. McAlister:

22 Q On February 19th of this year, did the defendant
23 borrow your car?

24 A Yes, sir.

25 Q When did he return the car?

Shelly Leanna Gunnels - Direct Examination by Mr. McAlister

1 A The next day.

2 Q That would be February 20th?

3 A I guess.

4 Q Do you recall when he returned it?

5 A Like --

6 Q Do you recall?

7 A I guess around that afternoon.

8 Q Okay. Do you recall who was with the defendant
9 when he returned the car?

10 A I don't remember.

11 MR. MCALISTER: No further questions at this time.

12 THE COURT: Hold on a second.

13 MR. MCALISTER: Your Honor, one more thing. I do
14 need to enter the picture into evidence if that's okay.

15 THE COURT: All right. Any objection?

16 MR. WALTERS: No objection, Your Honor.

17 THE COURT: All right. Thank you.

18 MR. MCALISTER: Thank you, Your Honor.

19 (WHEREUPON State's Exhibit 11 was entered into
20 evidence.)

21 THE COURT: Mr. Walters?

22 MR. WALTERS: I have no questions, Your Honor.

23 THE COURT: All right. Ma'am, you may step down.

24 Can she be excused to leave?

25 MR. MCALISTER: She can.

Eddie Williams - Direct Examination by Mr. McAlister

1 THE COURT: Thank you.

2 Next witness.

3 MR. MCALISTER: State calls Eddie Williams.

4 THEREUPON,

5 EDDIE WILLIAMS,

6 after being duly sworn, testified as follows:

7 THE CLERK: Please be seated and state your name
8 for the record.

9 THE COURT: Mr. Williams, how you doing.

10 THE CLERK: State your name for the record.

11 **DIRECT EXAMINATION**

12 By Mr. McAlister:

13 Q Mr. Williams, how you doing today?

14 A Pretty good.

15 Q Can you tell the Court where you live?

16 A [REDACTED] [REDACTED].

17 Q Is that here in Barnwell County?

18 A Yes, sir.

19 Q Okay. Where at in Barnwell County?

20 A South on -- south on Highway 3, about five miles
21 from Barnwell.

22 Q Okay. Are you originally from there?

23 A Yes.

24 Q Have you always lived there?

25 A No, I stayed in New York for a while.

Eddie Williams - Direct Examination by Mr. McAlister

1 Q All right. But your family is from that area?

2 A Yes.

3 Q Here in Barnwell?

4 A Yes.

5 Q Where did you live previously to moving into this
6 residence at [REDACTED] [REDACTED]?

7 A [REDACTED], Barnwell.

8 Q And when did you move back to [REDACTED] [REDACTED]?

9 A I moved back -- I think it was July of 2010, June
10 or July, 2010.

11 Q And what do you do for a living?

12 A I used to drive trucks, tractor trailer.

13 Q Do you work anywhere now?

14 A No, sir.

15 Q How do you survive?

16 A I'm on social security disability.

17 Q What made you stop driving trucks?

18 A I had a bad accident in the truck over the road.

19 Q Okay. When did that occur?

20 A That was February of 2003.

21 Q Let's go back to February of this year, 2011. Do
22 you remember February 20th of 2011?

23 A Yes, sir, it was my birthday.

24 Q Do you recall what day that actually was? What day
25 of the week?

Eddie Williams - Direct Examination by Mr. McAlister

- 1 A That was on a Sunday.
- 2 Q And why do you remember that day? Why does that
- 3 day stick out other than your birthday?
- 4 A Well, I was laying down getting ready to watch a
- 5 NASCAR race and thought I heard a car outside and got up
- 6 and looked. It was a white car. I recognized the car and
- 7 I recognized the people, so I didn't answer the door
- 8 because they didn't really come to see me, you know, so I
- 9 figured they weren't coming to see me. I got a little
- 10 nephew that stay with me.
- 11 Q So they knocked on your door?
- 12 A Yes. They knocked on the door.
- 13 Q But you didn't answer?
- 14 A No, I didn't answer. And then when I didn't
- 15 answer, I said, Let me go into the front part of the room,
- 16 and they was getting back in the car.
- 17 Q Okay. And what did you do then?
- 18 A Well, I got me a drink, some Kool-aid and fixed me
- 19 a sandwich and went back to my bedroom.
- 20 Q Okay. So you went back to your bedroom to continue
- 21 watching the race?
- 22 A Yes, sir.
- 23 Q Okay. And what happened -- what happened right
- 24 after that?
- 25 A It was about ten minutes later, I thought I heard a

Eddie Williams - Direct Examination by Mr. McAlister

1 car back out there. I didn't know it was that particular
2 car, but I thought I heard a car came back up. So I said,
3 Well, I'm not moving. You know, I had me a sandwich and
4 watching the race. Next thing I know my door came in.

5 Q Okay. And that startled you?

6 A Yes -- yes, it did.

7 Q Okay. What did you do when you heard your door
8 being kicked in?

9 A Well, I grabbed a gun off the nightstand that I had
10 and --

11 Q Okay.

12 A -- jumped up.

13 Q Just backtracking a little bit, when they -- when
14 the individuals first came up in that white car, did you
15 see who got out of the car?

16 A Yes, sir.

17 Q Who was that?

18 A It was Stephon Robinson.

19 Q Okay. Anybody else with him?

20 A I didn't see the people right then and there, I
21 just seen him at the time.

22 Q Okay. And when he got back in the car to leave,
23 who was driving?

24 A It was Stephon.

25 Q Okay. Your driveway, let's explain to the jury, do

Eddie Williams - Direct Examination by Mr. McAlister

1 you have a long driveway? You are able to see cars coming
2 up, as far as coming up?

3 A Yes, sir, yes.

4 Q So your house sits back off the road?

5 A Yeah, it sits back off about 75 yards.

6 Q The car that they were in, did you recognize that
7 car?

8 A Yes, I recognized it. I recognized the car.

9 Q How did you recognize that car?

10 A Well, he been -- he been up into the house I think
11 probably one or two times before in that car.

12 Q Okay. So the defendant had been to the house
13 before?

14 A Yes, sir.

15 Q And he was in that vehicle?

16 A Yes, sir.

17 Q Okay. What did they do when they were over at your
18 house on these previous occasions?

19 A They get on that TV and play that little Nintendo
20 game or whatever they call it, them -- whatever they call
21 the little game that they were --

22 Q Xbox?

23 A Yeah, Xbox.

24 Q Okay. And that would be in your den?

25 A Yes, sir.

Eddie Williams - Direct Examination by Mr. McAlister

1 Q You have a big TV in there?

2 A Yes, sir.

3 Q Okay. Now, you said that they'd been over there
4 before. How well do you know the defendant, Stephon
5 Robinson?

6 A Well, I really know his parents. I knowed his
7 father and his mother. I knowed his grandmother also. You
8 know the kids, they get bigger and, you know, you don't
9 recognize them. You know their parents and then you'll
10 know them. But I know him. Not personally, but I know
11 him.

12 Q All right. Going back to when they kicked in the
13 door and you got up and you grabbed your pistol. You said
14 it was laying where?

15 A It was laying on the nightstand.

16 Q Okay. And what did you do once you grabbed your
17 pistol?

18 A I proceeded down the hall and -- I slipped coming
19 down the hall and when I looked up, he couldn't have been
20 no more from here to the gentleman sitting down, looking
21 right in the face.

22 THE COURT: Which gentleman?

23 THE WITNESS: The -- yeah.

24 THE COURT: Mr. Miller?

25 THE WITNESS: Yes, sir.

Eddie Williams - Direct Examination by Mr. McAlister

1 THE COURT: That big guy right there.

2 THE WITNESS: Yes, sir.

3 By Mr. McAlister:

4 Q And did you know who it was?

5 A Yes, sir.

6 Q And you saw him face to face?

7 A Face to face.

8 Q Was he wearing a mask?

9 A No, sir.

10 Q Did you notice anything distinguishing about him or
11 just looking at him in the eye?

12 A No, he just was coming -- he just coming -- he was
13 coming in the house, coming down back toward the room.

14 Q Okay. What did you do once you saw him?

15 A I started to shoot.

16 Q Okay. And why did you do that?

17 A I was scared.

18 Q Okay. And how did he react once you started
19 shooting?

20 A Well, he turned to run. And I didn't see the gun
21 initially until he turned around and started to running, he
22 threw his hands back up and that's when he fired one shot.

23 Q And that's the one that's lodged above your --

24 A Lodged in the ceiling.

25 Q -- kitchen table? And that was just above where

Eddie Williams - Direct Examination by Mr. McAlister

1 you were standing?

2 A Yes, sir.

3 Q Okay. Did you see anybody else in the house with
4 him? Who else came in with him?

5 A It was three of them. I seen Stephon, I seen the
6 brother, Reginald. I couldn't make the last person out
7 because they liked to ran him over going back out, so I
8 couldn't make him out.

9 Q So he never actually made it through the door?

10 A Well, he made it in the house too, but just like I
11 said, when you come down -- when you come into my door,
12 they had to come about 15 feet into the house, 15, 20 feet
13 into the house. But when I started to shooting, they
14 turned around and the guy, the last guy that was coming
15 through the door, I never did made him out.

16 Q Okay. And what kind of pistol did you have?

17 A I had a .357 revolver.

18 Q And you said it was laying by your bed. What did
19 you do with it once they left? Did you go back to your
20 bedroom or what did you do once they ran back out the door?

21 A When they ran back out the door, after I emptied
22 the gun, I ran back and got the shotgun because I didn't
23 know if they was, you know, still out there and were going
24 to come back in.

25 Q Did you see them getting in the car and leaving?

Eddie Williams - Direct Examination by Mr. McAlister

1 A Yes. When I got back to -- when I got the shotgun
2 and came back, they been -- they been done turned back
3 around and was headed out the driveway.

4 Q Okay. Was it the same car that had been there --

5 A Yes, sir.

6 Q -- a few minutes earlier that day?

7 A Yes, sir.

8 Q Did you go onto your porch with the shotgun? Did
9 you shoot your shotgun?

10 A Yes, I went to the porch. I -- to be honest with
11 you, I aimed it at the car and I thought better and I --

12 Q Why did you think --

13 A -- but I --

14 Q -- better of that?

15 A I didn't want to shoot them because they was
16 running away and I didn't want to, you know...

17 Q They were no longer in your house?

18 A Yeah, they -- but I did shot it up in the air
19 anyway. But I had it at the car to start off with and then
20 I took and put it up in the air and shot it.

21 Q So the defendant was several feet away from you
22 within your house?

23 A Yes, sir.

24 Q Along with his brother, Reginald Felder?

25 A Yes, sir.

Eddie Williams - Direct Examination by Mr. McAlister

1 Q And the third individual, you couldn't make out?

2 A I couldn't make him out.

3 Q Okay. After you grabbed your shotgun and you saw
4 them driving off, did you call police?

5 A Yes, sir.

6 Q All right. When investigators got there -- came
7 out to the house, did they show you a photo lineup?

8 A Yes, they did.

9 Q Was it that day or was it several days later?

10 A It wasn't that day. It could have been three,
11 four, five days later. Yeah about three, four or five days
12 later.

13 Q I'm going to show you what's already been marked as
14 State's Exhibit 1 and 2. Are those the lineups that you
15 were shown?

16 A Yes, sir.

17 Q And who did you point out in those lineups?

18 A I pointed out on this lineup right here, I pointed
19 out No. 4.

20 THE COURT: Which number is that on the back?

21 THE WITNESS: That's Exhibit No. 1.

22 THE COURT: All right, sir.

23 By Mr. McAlister:

24 Q Is that why you had the X's on the others?

25 A Yeah, I have the X on the others that I crossed

Eddie Williams - Direct Examination by Mr. McAlister

1 out.

2 Q And how about on the second one there in your hand?

3 A On Exhibit No. 2, I pointed out No. 5.

4 Q And are those your initials by that picture?

5 A Yes, sir.

6 Q Okay. Why did you initial that photo?

7 A That's Stephon, that's the one I recognized him as.

8 Q Okay. And were you instructed to do that by law
9 enforcement or sign it to verify that that was --

10 A Yes, sir.

11 Q That's what you did?

12 A Yeah.

13 Q Okay. After you initialed beside the photo, did
14 you tell Investigator Croft anything about facial
15 appearances or anything significant?

16 A Yes, sir, he asked me was I sure I know him. I
17 told him, Yes, I know him because he got the goatee and
18 all, but I looked him right in the face.

19 Q Did Investigator Croft bring you another photo
20 lineup?

21 A Yes, he did.

22 Q And that was sometime later?

23 A Yeah, it could have been about six weeks later.

24 Q Okay. All right. I'm going to show you what's
25 been marked as State's Exhibit 3 and 4. Do you recognize

Eddie Williams - Direct Examination by Mr. McAlister

1 those lineups?

2 A Yes, sir.

3 Q Are those the ones that were presented to you on --
4 on Investigator Croft's subsequent trips out there to meet
5 with you?

6 A Yes, sir.

7 Q Okay. And what -- what do you see on Exhibit 3?
8 Can you identify what you marked there?

9 A Yes, sir.

10 Q And who is that?

11 A This would be Stephon.

12 Q Okay. Did you initial it?

13 A Yes, sir.

14 Q Did you sign the back?

15 A Yes, I did.

16 Q Okay. How about on Exhibit 4, the second one there
17 in your hand? Who is that that you identified?

18 A That's Reginald.

19 Q Okay. Did you initial that one?

20 A Yes, sir.

21 Q And did you sign it?

22 A Yes, sir.

23 Q And is the defendant who entered your home that day
24 on February 20th of 2011, that shot in your home, is he
25 here in the courtroom today?

Eddie Williams - Cross-Examination by Mr. Walters

1 A Yes, sir.

2 Q Can you point him out?

3 A Yes, sir, right over there.

4 Q What is he wearing?

5 A The blue shirt with the tie, Khaki pants.

6 Q And who is that?

7 A That's Stephon there.

8 Q Stephon who?

9 A Stephon Robinson.

10 MR. MCALISTER: No further questions at this time.

11 MR. WALTERS: May it please the Court, Solicitor.

12 **CROSS-EXAMINATION**

13 By Mr. Walters:

14 Q Mr. Williams, when this initially happened, do you
15 remember talking to the various police officers?

16 A Yes, sir.

17 Q All right. And I believe you had an opportunity to
18 discuss your case with Mr. -- Officer, I'm sorry Eddie
19 Thomas, and also you spoke to Investigator Croft that's
20 sitting here?

21 A Yes.

22 Q Okay.

23 MR. WALTERS: It is Croft?

24 (WHEREUPON Investigator Croft nodded his head.)

25 MR. WALTERS: I wanted to make sure I didn't say it

Eddie Williams - Cross-Examination by Mr. Walters

1 incorrect.

2 By Mr. Walters:

3 Q Now, in your discussions with them, were you honest
4 and frank about what happened inside of your home?

5 A Well, not right off at the beginning, but with
6 Thomas -- I told him I didn't shoot -- shot the gun. I was
7 a little scared because I thought the gun was supposed to
8 have been registered. So at the time I didn't tell them I
9 fired the gun.

10 Q In fact, in your conversations with the police
11 officers, you kept changing your story over and over again.

12 A I don't know about changing it, but I didn't tell
13 them that I fired the gun to start off with. I thought I
14 was supposed to have a license to have it.

15 Q All right. In fact, you were sitting inside the
16 courtroom here --

17 MR. WALTERS: If Your Honor would allow me to look
18 at the exhibits here.

19 By Mr. Walters:

20 Q You were here when Investigator Croft talked about
21 these pictures and they identified your home.

22 I'm showing you what's marked as Plaintiff 's
23 Exhibit No. 5. And that is your home; is that correct?

24 A Yes, sir.

25 Q All right. And I'm showing you Plaintiff's

Eddie Williams - Cross-Examination by Mr. Walters

1 Exhibit -- State's Exhibit No. 6. That is your home?

2 A Yes, sir.

3 Q All right. And then you -- there's a picture here,
4 State's Exhibit 7, where the door was ajar and it looks
5 like someone broke in your home?

6 A Yes, sir.

7 Q And then there's State's Exhibit No. 8, and there's
8 a bullet hole and things of that nature?

9 A Yes, sir.

10 Q Is that right?

11 A Yes, sir.

12 Q All right. And I believe that if we go into
13 State's Exhibit No. 10, that also shows another bullet
14 hole?

15 A Yeah.

16 Q All right. Isn't it true that you stated that you
17 talked to numerous officers that day and your testimony was
18 that the home was shot up; is that correct?

19 A Say that again, sir?

20 Q You told the police officers that your home was
21 shot up and it was just this battle, so you shot back?

22 A Yes, yes.

23 Q But isn't it true that on February 20th, on the
24 date of the incident, you told Officer Thomas that the
25 bullet holes in your home were already there when you

Eddie Williams - Cross-Examination by Mr. Walters

1 purchased it?

2 A No, sir, I didn't told them that.

3 Q I want you to look at the report. This is your
4 statement you gave them. It starts right there with the
5 word after.

6 A Uh-huh.

7 Q Could you read that sentence and then -- read that
8 sentence?

9 A Okay.

10 Q What does it state?

11 A Now, where do you want me to start from, sir?

12 Q Well, let me point it out to you?

13 A Okay.

14 Q It starts with the word --

15 A Start with after?

16 Q Uh-huh.

17 A After bullet holes were found in his residence, the
18 victim stated he bought the trailer and it was already
19 there and the bullet hole was in it.

20 Q So in other words -- and I just want to make sure I
21 repeat what you said --

22 A Uh-huh.

23 Q -- it said after bullet holes were found in his
24 residence, victim stated -- the victim being you?

25 A Uh-huh.

Eddie Williams - Cross-Examination by Mr. Walters

1 Q He bought the trailer and it already had bullet
2 holes in it?

3 A Uh-huh.

4 Q Is that right?

5 A Yes, sir.

6 Q All right. So these pictures that they presented
7 before the jury with regards to the bullet holes inside of
8 your home, you told the police they were already in your
9 home?

10 A Well, as I stated earlier, just like I said, I was
11 afraid about the gun and I did tell them at the start of
12 it, but after I found out that it was legal for me to have
13 a gun in the house -- I thought it had to be registered --
14 that's when I changed my story and told them the truth.

15 Q All right. But, today, which version do you want
16 the jury to believe?

17 A I want them to believe the truth.

18 Q Well, is it the statement you gave on the date of
19 the incident where you stated that the home was purchased
20 and it already had bullet holes in it?

21 A No, it did not.

22 Q Okay. Well, tell us which version you want to jury
23 to believe.

24 A I want them to believe that I put those bullet
25 holes there. I'm the one that shot in the trailer --

Eddie Williams - Cross-Examination by Mr. Walters

1 Q Isn't it true --

2 A To protect my house.

3 Q I apologize, I don't mean to interrupt you. Go
4 ahead and finish.

5 A No, I'm finished.

6 Q All right. Isn't it true on that particular day,
7 you had an illegal weapon in your home?

8 A I don't know -- I don't know whether it was
9 illegal, but I had a weapon in my home.

10 Q Well, I want to go over your testimony that you
11 just gave.

12 A Uh-huh.

13 Q It appears that the police did inform you that the
14 gun --

15 A Was stolen.

16 Q -- was illegal. You already knew that, didn't you?

17 A No, I didn't.

18 Q Then why did you tell the police a false statement
19 when you simply could have told them the truth?

20 A I said it already. I thought I was going to get in
21 trouble by not having a gun registered. I thought I had to
22 have it registered.

23 Q Okay. And you didn't think that that was illegal,
24 having a gun that wasn't registered?

25 A If you're in a house, I think -- any gun in your

Eddie Williams - Cross-Examination by Mr. Walters

1 house, it's pretty good to have. I didn't know whether it
2 was legal or not.

3 Q Okay. Now, you also testified when you talked to
4 the police, not you testifying today, but you gave
5 statements to the police officers. And you also gave
6 statements about how many times you fired this .357; is
7 that correct?

8 A Correct.

9 Q All right. On the date of the incident, the
10 testimony was that you never got a shot off and you never
11 fired the gun; isn't that correct?

12 A I said a lot of things, so hopefully, I'm telling
13 the truth now. Just like I said, I was afraid that I was
14 going to get in trouble for not having a registered gun.

15 Q All right.

16 A Yes.

17 Q And then you gave another statement --

18 THE COURT: Is that his statement?

19 MR. WALTERS: Yes, sir, it's dated February 20th
20 and it's signed by --

21 MR. MCALISTER: Your Honor, I'd request that we
22 could take a look at these statements.

23 THE COURT: Yes.

24 MR. WALTERS: You can take a look at it.

25 (WHEREUPON the attorneys were looking over the

Eddie Williams - Cross-Examination by Mr. Walters

1 statements.)

2 THE COURT: What's your objection.

3 MR. MCALISTER: Objection is he can't testify to
4 someone -- the statement will be hearsay, the officer's
5 statement.

6 THE COURT: Correct. So object to it when you have
7 to.

8 MR. WALTERS: May it please the Court?

9 THE COURT: Yes, ask the question.

10 By Mr. Walters:

11 Q In this particular case --

12 THE COURT: Let me see -- which one are you talking
13 about?

14 MR. WALTERS: I'm referring to the statement --

15 THE COURT: Well mark it.

16 MR. WALTERS: We'll mark this as Defendant's
17 Exhibit --

18 THE COURT: Just mark it for identification.

19 MR. WALTERS: Defendant's Exhibit No. 1.

20 THE COURT: For identification.

21 MR. WALTERS: For identification.

22 (WHEREUPON Defense Exhibit 1 was marked for
23 identification.)

24 THE COURT: All right. It's been marked. What's
25 your question?

Eddie Williams - Cross-Examination by Mr. Walters

1 MR. WALTERS: And, Your Honor, if I could, I'd like
2 to have marked for identification a statement signed by
3 Mr. Williams and it's dated February 21st.

4 MR. MCALISTER: No objection from the State, Your
5 Honor.

6 THE COURT: That's No. 2 for ID, right?

7 MR. WALTERS: Yes, sir.

8 (WHEREUPON Defendant's Exhibit 2 was marked for
9 identification.)

10 By Mr. Walters:

11 Q All right --

12 THE COURT: Hold on a second. You ready Brenda?

13 THE COURT REPORTER: Yes, sir, I'm ready.

14 MR. WALTERS: May it please the Court.

15 By Mr. Walters:

16 Q Defendant's Exhibit No. 1, is that your
17 handwriting, sir?

18 THE COURT: Can you identify that?

19 THE WITNESS: To my knowledge, that's my
20 handwriting.

21 By Mr. Walters:

22 Q Okay. Where does it state within the statement
23 that you fired your weapon?

24 A It don't say it here.

25 Q I'm going to show you what's marked as Defendant's

Eddie Williams - Cross-Examination by Mr. Walters

1 Exhibit No. 2. Can you identify that document?

2 A Yes, I can.

3 Q All right. And how many times does it state that
4 you fired --

5 THE COURT: What is the document? What is that?
6 Is that a statement that you signed?

7 THE WITNESS: It's a statement that I wrote.

8 THE COURT: Okay. And then the question is, Mr.
9 Walters?

10 By Mr. Walters:

11 Q How many times does that statement state you fired
12 your gun?

13 A Three times.

14 Q Yes, sir.

15 THE COURT: Now, are you introducing that, Mr.
16 Walters?

17 MR. WALTERS: No, Your Honor.

18 THE COURT: Just marked for identification?

19 MR. WALTERS: Just marked it for identification.

20 By Mr. Walters:

21 Q Now, I believe that you talked to Investigator
22 Croft with regards to what occurred; is that right?

23 A Yes, sir.

24 Q At any time did the police ask of you to take a
25 gunshot residue sample from your hands to see if you

Eddie Williams - Cross-Examination by Mr. Walters

1 actually fired a weapon?

2 A No, sir.

3 Q So no one ever inquired and said, we want to know
4 if you did fire a weapon?

5 A No, sir.

6 Q Who did you buy the illegal weapon from?

7 A I bought it from a friend called Tank. I don't
8 know his real name, I just know him by Tank.

9 Q Okay. Were regards to the photo ID lineup, I
10 believe that you had informed and you testified in front of
11 the jury, that you knew the individuals; is that right?

12 A Yes, sir.

13 Q Do you have any idea why the police came back to
14 you three and four times with regards to pictures to
15 identify someone?

16 THE COURT: Why -- does he know why the police came
17 back?

18 MR. WALTERS: Does he have any knowledge.

19 THE WITNESS: Well, I told them who it was and so
20 they brought me the lineup back to make sure, I imagine.

21 MR. WALTERS: Okay. Beg the Court's indulgence,
22 Your Honor.

23 Your Honor we have no further questions.

24 THE COURT: Redirect?

25 ///

Eddie Williams - Redirect Examination by Mr. McAlister

REDIRECT EXAMINATION

1
2 By Mr. McAlister:

3 Q Mr. Williams, this first statement that you gave,
4 Defense Exhibit 1 --

5 THE COURT REPORTER: Mr. Walters's has them.

6 MR. WALTERS: Your Honor, I apologize.

7 By Mr. McAlister:

8 Q The first statement you gave, was it a complete
9 statement? Did you sign it that day?

10 A No, I didn't sign it. This wasn't a complete
11 statement. I wrote that one -- I wrote -- to be honest
12 with you, I wrote this one and then he told me to tell the
13 truth about firing the gun and I come out and told them
14 that I did fire the gun, so I had to write it back over
15 after he'd told me to tell the truth.

16 Q So in this first statement, nowhere in here did it
17 talk about you not firing a gun, it just didn't say that
18 you did?

19 A Yeah, yes, sir.

20 Q But in the second statement, the complete
21 statement, which you signed, you said that you fired the
22 gun three times?

23 A Yes, sir.

24 Q Mr. Williams, is there any doubt that the
25 defendant, Stephon Robinson came in your house that day?

1 A There's no doubt.

2 MR. MCALISTER: No further questions.

3 THE COURT: You may step down.

4 Next witness.

5 MR. MCALISTER: Your Honor, the State would rest at
6 this time.

7 THE COURT: All right. Ladies and gentlemen,
8 let's -- I'm going to have to take up a few matters with
9 the lawyers. That's the end of the State's case. Let me
10 find out what the defense is going to do. Y'all step back
11 to your jury room. Don't discuss the case, don't start
12 deliberating. Please select me a foreperson between the
13 twelve.

14 (WHEREUPON The jury left the courtroom at 2:44
15 p.m.)

16 THE COURT: Anything by the State?

17 MR. MCALISTER: Nothing from the State, Your Honor.

18 THE COURT: Mr. Walters?

19 **MID-TRIAL MOTIONS**

20 MR. WALTERS: May it please the Court. I'm sorry,
21 Your Honor, I was talking to him in regards to the motions
22 after the jury stepped out.

23 THE COURT: Whatever you want.

24 MR. WALTERS: May it please the Court. Your Honor,
25 at this time, we believe that the State has failed to meet

1 the requisite elements in regards to these offenses. For
2 the record, we would make a motion that the charges be
3 dismissed. Under the circumstances, each and every element
4 of the offense must be substantiated and the witness -- the
5 key witness, the victim, the person who has the personal
6 knowledge of what occurred, has consistently waffled with
7 regard to the elements of what exactly happened. By his
8 own admission, he stated he was afraid he would get in
9 trouble. And we would ask that the Court carefully look at
10 each element and we believe that the State has failed to
11 substantiate those elements and under the circumstances we
12 would ask for a dismissal.

13 THE COURT: Thank you. I respectfully deny it.
14 There's ample evidence in the evidence for the jury to
15 consider whether or not your client did, in fact, commit
16 the crime as alleged in the indictments.

17 Anything else before we move forward?

18 MR. WALTERS: No, sir, Your Honor.

19 THE COURT: All right. Mr. Robinson, please stand
20 and raise your right hand.

21 THEREUPON,

22 STEPHON ROBINSON,
23 after being duly sworn, testified as follows:

24 THE COURT: You may be seated.

25 ///

QUESTIONING OF THE DEFENDANT

1
2 THE COURT: Mr. Robinson, we're at the stage of the
3 trial now where you have the opportunity to present your
4 case or your defense, tell the jury your side of the story.
5 And obviously, you can do that by calling witnesses and
6 introducing relevant exhibits. You also have the right to
7 testify in your own defense and tell the jury your side of
8 the story. However, you also have protections guaranteed
9 you by the Fifth Amendment to the Constitution of the
10 United States, which basically says that no one can be
11 compelled to testify in a criminal case where they've been
12 charged. In other words, you have the right to remain
13 silent. If you decide to testify, obviously, you will be
14 subjected to the same rules on cross-examination as any
15 other.

16 Does he have any impeachable offenses? Prior
17 record?

18 MR. MCALISTER: He has. Yes, sir.

19 THE COURT: And you also have convictions for --

20 MR. MCALISTER: Strong-armed robbery. He's got
21 several burglary convictions as well, Your Honor.

22 THE COURT: You've gotten convictions in the past
23 for burglary and strong-armed robbery. If I determine that
24 these prior crimes can be testified or introduced to attack
25 your credibility or believability, if I decide that the

1 probative value outweighs the prejudicial effect of it, I
2 will tell the jury if I do allow that in that they can only
3 consider those as dealing with your credibility and it
4 can't be used in determining whether or not you're guilty
5 in this case.

6 So if you testify, perhaps those prior record can
7 come in and you will be subjected to cross-examination. If
8 you exercise your constitutional right to remain silent,
9 then, obviously, I will tell the jury that it is an
10 important rule of law, a constitutional rule that you have
11 the absolute right remain silent and they cannot hold the
12 fact, that you did not testify against you in any manner
13 whatsoever and I will instruct them that they can't even
14 talk about it. They can't even consider the fact that you
15 didn't testify when they deliberate your innocence, that
16 they're absolutely not to draw any inference from the fact
17 that you did not testify.

18 Now, Mr. Robinson, do you understand your right to
19 testify.

20 MR. ROBINSON: Yes, sir.

21 THE COURT: You understand your right to remain
22 silent and the precautions I'll give concerning them?

23 MR. ROBINSON: Yes, sir.

24 THE COURT: You understand that if you do testify,
25 that you will be subjected to cross-examination and perhaps

1 the armed robbery coming in as a prior record for
2 impeachment purposes, in order to attack your credibility?
3 You understand that?

4 MR. ROBINSON: Yes, sir.

5 THE COURT: You further understand that if you
6 decide not to testify, that I will instruct the jury as I
7 just told you that they can't hold the fact that you did
8 not testify against you in any manner whatsoever? You
9 understand all that?

10 MR. ROBINSON: Yes, sir.

11 THE COURT: You have any questions you want to ask
12 me?

13 MR. ROBINSON: No, sir.

14 THE COURT: Any questions you want to discuss with
15 your lawyer?

16 (WHEREUPON the defendant was conferring with his
17 attorney.)

18 MR. ROBINSON: No, sir.

19 THE COURT: All right. So have you made a decision
20 as to whether you're going to testify?

21 MR. ROBINSON: Yes, sir.

22 THE COURT: And what is that decision?

23 MR. ROBINSON: Yes, sir.

24 THE COURT: You will?

25 MR. ROBINSON: Yes.

1 THE COURT: All right. Anything else before we
2 start back? How many witnesses have you got?

3 MR. WALTERS: As it stands you, Your Honor, I
4 believe I have two.

5 THE COURT: Okay. Well, let's bring the jury back
6 and complete the testimony and then we'll see where we are.

7 MR. MILLER: Your Honor, before -- when the
8 defendant does take the stand, he does have multiple prior
9 convictions for burglary. The burglary convictions from
10 2009 for a burglary second degree, for which he received a
11 YOA, an attempted -- the rap sheet says attempted robbery
12 that he got a YOA, a burglary third that he got a YOA and
13 then ultimately he went to the department of corrections on
14 those. Obviously, the State would seek to use the prior
15 burglary convictions to impeach him.

16 THE COURT: How about the armed robbery you talked
17 about?

18 MR. MILLER: It was an attempted robbery, Your
19 Honor.

20 THE COURT: So which ones are you attempting to
21 use, or want to use?

22 MR. MILLER: Burglary second degree in 2009. That
23 was an offense date of 11/2/2007, conviction date of May
24 15, 2009. And on that same day, he has an attempted
25 robbery conviction, May 15th of 2009.

1 THE COURT: Those are the ones you want to use for
2 impeachment purposes?

3 MR. MILLER: Yes, sir.

4 THE COURT: Mr. Walters?

5 MR. WALTERS: Your Honor, I believe the prejudicial
6 value of allowing that outweighs the probative value.

7 THE COURT: Your argument is that the prejudicial
8 value outweighs the probative value?

9 MR. WALTERS: Yes, sir, Your Honor.

10 THE COURT: Any other argument?

11 MR. WALTERS: Your Honor, I believe under the
12 circumstances, he's currently charged with a burglary
13 offense and the jurors may conclude that once a burglar,
14 always a burglar.

15 THE COURT: Mr. Miller?

16 MR. MILLER: Your Honor, the -- obviously the
17 Court's going to give a limiting instruction as to the
18 impeachment use of the prior convictions; and I would point
19 out, additionally, Your Honor, that there are two
20 convictions from 2007 in the State of Georgia for breaking
21 into an automobile, which would also be with attempt to
22 commit a theft or a felony. Those convictions should also
23 come in.

24 Your Honor, as far as the burglary conviction goes,
25 we could certainly -- if it was -- if it would please the

1 Court, we could refer to that as a felony conviction. They
2 carry more than a year as opposed to saying burglary, but
3 as far as the attempted robbery and the two breaking into
4 motor vehicles, those are all within ten years and each
5 carries more than a year.

6 THE COURT: I find that they come within the
7 statute and I will -- in order to preclude any prejudicial
8 value, I will make you refer to the burglary as you just
9 stated, a felony, which carries a penalty in excess of one
10 year and you will be precluded to use the others for
11 impeachment purposes.

12 Mr. Walters, please discuss that with your client.

13 MR. WALTERS: Yes, Your Honor.

14 THE COURT: Or just tell him what it means.

15 (WHEREUPON the defendant was conferring with his
16 attorney.)

17 THE COURT: All right. We've got the jury coming
18 back. Y'all still -- he still going to testify?

19 MR. WALTERS: Yes, sir.

20 THE COURT: All right. Tell Mr. Eddie he can bring
21 the jury in.

22 (WHEREUPON the jury entered the courtroom at 2:55.)

23 THE COURT: All right. Who got selected?

24 (WHEREUPON a juror raised her hand.)

25 THE COURT: Ms. Steadman. Y'all want to switch and

Stephon Robinson - Direct Examination by Mr. Walters

1 let Ms. Steadman sit down here in the foreperson's chair.

2 Y'all can move around.

3 Ma'am, just slide down if you would for me, please.

4 Y'all just slide down one.

5 Thank you, Ms. Steadman.

6 Mr. Walters?

7 MR. WALTERS: May it please the Court. Your Honor
8 at this time, we'd call Mr. Stephon Robinson.

9 THE COURT: All right. Mr. Robinson come around.
10 Place your left hand on the Bible and raise your right.

11 THEREUPON,

12 STEPHON ROBINSON,
13 after being duly sworn, testified as follows:

14 THE COURT: Just have a seat.

15 MR. WALTERS: May it please the Court?

16 THE COURT: Yes, sir.

17 **DIRECT EXAMINATION**

18 By Mr. Walters:

19 Q Mr. Robinson, could you state your full name for
20 the record.

21 A Stephon Tenard Robinson.

22 Q How old are you Mr. Robinson?

23 A Twenty-five.

24 Q And where do you live?

25 A [REDACTED].

Stephon Robinson - Direct Examination by Mr. Walters

1 Q All right. Mr. Robinson, you're here and this
2 trial is going on. Would you tell us where you were that
3 day when this incident occurred?

4 A [REDACTED]

5 Q Explain to the jury what was going on in your home?

6 A Me, my brother and my cousin was home. I woke up
7 that morning and took a shower and took the owner of the
8 car, her car back home and been home ever since.

9 Q Did you cooperated with Officer Croft when he came
10 to your house?

11 A Yes, sir.

12 Q And did you explain to him where you were?

13 A Yes, sir.

14 Q All right. And in this particular case, you've
15 heard the testimony of Mr. Williams?

16 A Yes, sir.

17 Q All right. Do you know Mr. Williams?

18 A I -- not personally, but I know him, yes, sir.

19 Q Okay. How do you know him?

20 A I went to -- like he said, I was going to their
21 house to get things from them.

22 Q Okay. All right. And how many times have you been
23 to Mr. Williams' house?

24 A A good bit of times. I don't know exactly how
25 many, but a lot -- a lots amount.

Stephon Robinson - Cross-Examination by Mr. Miller

1 Q Okay. All right. And did you have anything to do
2 with kicking the door down and brandishing a weapon?

3 A No, sir.

4 Q Or attempting to take something out of his home?

5 A No, sir.

6 Q Okay.

7 MR. WALTERS: Your Honor, I have no further
8 questions.

9 THE COURT: Cross.

10 **CROSS-EXAMINATION**

11 By Mr. Miller:

12 Q Mr. Robinson, when you talked to Investigator Croft
13 on the day that this happened -- well, let me ask you this:
14 When did you take your girlfriend's car back to her?

15 A About twelve clock that day, twelve, one, somewhere
16 up in there.

17 Q Okay. Twelve or one?

18 A Yes, sir.

19 Q Okay. And you were completely cooperative with
20 Investigator Croft?

21 A Yes, sir.

22 Q You didn't lie to him?

23 A No, sir.

24 Q Okay. Did you or did you not tell him you had
25 taken that car back to her at ten o'clock that morning?

Stephon Robinson - Cross-Examination by Mr. Miller

1 A No, sir.

2 Q So Investigator Croft is lying if he's the one that
3 said that in the report because you told him that?

4 MR. WALTERS: Objection, Your Honor.

5 THE WITNESS: Yes, sir.

6 THE COURT: Hold on. Hold on.

7 THE WITNESS: I --

8 THE COURT: Hold on.

9 Mr. Walters?

10 MR. WALTERS: He's pitting the witnesses against
11 each other.

12 THE COURT: Sustained. Ask another question.

13 By Mr. Miller:

14 Q What did you have the car for?

15 A I went to the club the night before.

16 Q And who were you with?

17 THE COURT: Hold on. You did what?

18 THE WITNESS: I went to the club the night before.

19 By Mr. Miller:

20 Q And who were you with?

21 A My brother and my cousin.

22 Q And who's your cousin?

23 A Jamal Wallace.

24 Q And who's your brother?

25 A Reginald Felder.

Stephon Robinson - Cross-Examination by Mr. Miller

1 Q Okay. What time did you get back from the club?

2 A I got out of the club about three O'clock.

3 THE COURT: Three o'clock a.m.?

4 THE WITNESS: Yes, sir. And I didn't take the
5 owner her car back then because I called her and let her
6 know that I was going to bring the car back in the morning
7 when I got up because I didn't want to drive across town
8 under the influence of alcohol and catch a charge.

9 Q Okay. So you just drove it from the club back to
10 your house instead?

11 A Yes, sir, in the country because the club in the
12 country toward my house.

13 Q It's not illegal to drive a car in the country
14 under the influence of alcohol?

15 A Yes, sir, but I'd rather take the chance going
16 through the country than through town where all the law is.

17 Q So what time did you get home?

18 A I got home around 3:30.

19 Q So it took you a half hour to get from the club to
20 your house?

21 A Not a half hour, but that's about what time I got
22 home.

23 Q And then what did you do?

24 A I went to sleep.

25 Q And where was the car?

Stephon Robinson - Cross-Examination by Mr. Miller

1 A In my yard.

2 Q And what time did you get up?

3 A I'd say around eleven.

4 Q And who was with you at that time?

5 A My brother and my cousin, Jamal Wallace and
6 Reginald Felder.

7 Q The same two people you'd been at the club with?

8 A Yes, sir.

9 Q Okay. And where did you go?

10 A I went to give the owner of the car her car back.

11 Q Okay.

12 A But before I did that, my brother woke me up around
13 ten. He wanted to go to Shorty's and see he got the car at
14 around ten o'clock and went to Shorty's and came back home
15 and Shorty's has cameras, so you can check the camera that
16 day; and so why would I tell Croft I took the car back at
17 ten o'clock when I know my brother had it then and he went
18 to the store.

19 Q Because you knew if you had the car after ten
20 o'clock you would be in possession of the car when this
21 happened.

22 A No, I had the car after ten. But my brother took
23 the car to the store at ten o'clock, Shelton's.

24 Q And who was with your brother when he went to
25 Shelton's?

Stephon Robinson - Cross-Examination by Mr. Miller

1 A He was -- he went by himself.

2 Q Okay. Who else drives your girlfriend's car?

3 A As far as my knowledge, just her.

4 Q Okay. Now, you've heard the testimony from
5 Mr. Williams that three males, black males came up to his
6 house in a white car that matches the description of your
7 girlfriend's car and knocked on his door and then they
8 left, correct?

9 A Yes, sir.

10 Q That wasn't you?

11 A No, sir.

12 Q It wasn't your girlfriend's car because you had it?

13 A No, sir, exactly.

14 Q And then fifteen minutes later, three people come
15 to his house in the same car and they kick in his door and
16 it wasn't you. That's your testimony?

17 A Yes, sir. At the time of the -- that he's saying
18 the crime actually happened, the owner of the car had her
19 car back. She got a statement that she gave to Croft
20 telling him that and he signed it.

21 Q Are you the same Stephon Robinson that was
22 convicted of strong-armed robbery in 2009?

23 A Yes, sir.

24 Q And you're the same Stephon Robinson that had
25 another felony conviction in 2009 that carried more than a

Stephon Robinson - Cross-Examination by Mr. Miller

1 year, aren't you?

2 A Yes, sir.

3 Q And you're the same Stephon Robinson that in 2007
4 had two convictions for breaking and entering automobiles
5 with the intent to commit a felony or theft?

6 A Yes, sir.

7 Q But you want this jury to believe that you don't
8 know anything about this?

9 A Yes, sir, because for one, I plead guilty to all my
10 charges and take my responsibility because I know I was
11 guilty of those charges. And two, that was back in my past
12 when I did stupid things to get a little money to do things
13 because I didn't have. But my parents recently passed away
14 and we got insurance money and all kind of money back off
15 that and I have no reason to kick in this man's door.
16 Nothing.

17 Q Let me ask you this, in 2007, was your brother with
18 you whenever you broke into the cars?

19 A Yes, sir.

20 Q Did he plead guilty to his charges?

21 A Yes, sir.

22 Q And in 2009, with the strong-armed robbery, was
23 your brother with you then?

24 A Yes, sir.

25 Q Who else was with you?

Stephon Robinson - Cross-Examination by Mr. Miller

- 1 A No one.
- 2 Q You and your brother?
- 3 A Yes, sir.
- 4 Q And that other felony charge from 2009, was your
- 5 brother with you then?
- 6 A No, sir.
- 7 Q He wasn't?
- 8 A No, sir. You talking about the burglary, right?
- 9 Q The charge that you pled guilty to in 2009, the
- 10 felony charge that carried more than a year.
- 11 A Yes, sir, yes, sir.
- 12 Q Was your brother with you on that?
- 13 A No, sir.
- 14 Q Okay. So in three out of the four times when you
- 15 committed a crime, your brother was with you?
- 16 A Yes, sir.
- 17 Q How long have you known Mr. Williams?
- 18 A I known of him for about a year and a half now.
- 19 Q Are you friends with his nephew?
- 20 A Who his nephew?
- 21 Q Why were you in his house?
- 22 A When was I in his house?
- 23 Q You testified you went to his house a lot?
- 24 A Oh, I went to buy things from them.
- 25 Q You went to buy things from him?

Stephon Robinson - Cross-Examination by Mr. Miller

- 1 A Yes, sir.
- 2 Q Okay. What kind of things did you buy from him?
- 3 A Marijuana.
- 4 Q You bought marijuana from him?
- 5 A Yes, sir.
- 6 Q So you figured that there was marijuana in the
- 7 house?
- 8 A I guess marijuana in the house. That's where I
- 9 bought it.
- 10 Q You played video games at his house?
- 11 A Never.
- 12 Q Never played video games over at his house?
- 13 A No, sir, I don't play video games, sir.
- 14 Q Okay. You don't know anybody else that's in that
- 15 house with him?
- 16 A Yes, sir, I know somebody else in the house with
- 17 him.
- 18 Q How do you know that person?
- 19 A Because I buy marijuana from him too.
- 20 Q How long have you known him?
- 21 A I've known him for a while now, a couple of years.
- 22 Q So what kind of problems did you have with them in
- 23 the past?
- 24 A No problems. I ain't never had no problems with
- 25 neither one.

Stephon Robinson - Cross-Examination by Mr. Miller

1 Q Never had a problem with either one of them? .

2 A No, sir.

3 Q So why is it that they're going to come out here
4 and accuse you of breaking into the house?

5 A I don't know, sir, that's another thing I want to
6 find out.

7 Q You don't have any idea?

8 A No, sir.

9 Q How would Eddie Williams know that you had your
10 girlfriend's car on the day when he accused you of breaking
11 into his house?

12 A For one, the night before I went to the club, I
13 know one of them was at the club and I had the car. But I
14 didn't even have the car at the time of the accident. When
15 this incident occurred, I didn't even have the car.

16 Q What accident?

17 A This incident. His door got kicked in. I
18 didn't --

19 Q Okay.

20 A -- I didn't have the car. The owner of the car had
21 the car.

22 Q So it's your testimony that it's just an incredible
23 stroke of bad luck for you that at the time that Eddie
24 Williams says you were kicking in his door and you were
25 driving your girlfriend's car that you had been seen in

Stephon Robinson - Cross-Examination by Mr. Miller

1 your girlfriend's car the night before and your girlfriend
2 testified right there on the stand that she didn't get the
3 car back from you until that afternoon of the incident?

4 A That afternoon, twelve to one, yes, sir.

5 Q But he doesn't have any reason to lie about you,
6 does he?

7 A No, sir. Not that I know of.

8 Q He just did it for what reason?

9 A I can't tell you that. You'll have to ask him
10 that, sir..

11 MR. MILLER: No further questions, Your Honor.

12 THE COURT: Redirect?

13 MR. WALTERS: Your Honor, we have no questions.

14 THE COURT: All right. Step down.

15 Next witness.

16 MR. WALTERS: May it please the Court, at this time
17 we'd call Mr. Jamal Wallace.

18 THE COURT: Come around Mr. Wallace.

19 THEREUPON,

20 JAMAL WALLACE,
21 after being duly sworn, testified as follows:

22 THE CLERK: Please be seated. State your name for
23 the record.

24 THE WITNESS: Arthur Wallace.

25 THE COURT: Speak up.

Arthur Wallace - Direct Examination by Mr. Walters

1 THE WITNESS: Arthur Wallace.

2 DIRECT EXAMINATION

3 By Mr. Walters:

4 Q Mr. Wallace, you know Mr. Stephon Robinson, don't
5 you?

6 A Yes, sir.

7 Q All right. And you are aware of what was going on
8 that day on February 20th; isn't that correct?

9 A Yes, sir.

10 Q Please tell the jury what happened that day?

11 A Like he said, we went to the club that night. All
12 of us came back home. We was feeling pretty good, so we
13 went home. Everybody went to sleep. So when we woke up
14 the next day, Reggie did, in fact go to the store, because
15 when I woke up, he had a soda and he was eating --

16 THE COURT: Who went to the store?

17 THE WITNESS: Reginald Felder. He was eating
18 stuff. So I asked him where he got it from and he said he
19 went to the store and that when I went to look to see where
20 T was because he was quiet --

21 By Mr. Walters:

22 Q Who's T?

23 A I meant Stephon Robinson.

24 Q Okay.

25 A He was in the bed asleep. That when he got up and

Arthur Wallace - Cross-Examination by Mr. Miller

1 then he stayed there -- he about to take her her car back
2 because she did, in fact, say she had to go somewhere.

3 Q All right. And about what time was that?

4 A Around twelve to one.

5 Q At any time did you speak to Investigator Croft?

6 A Yes, sir, I did.

7 Q All right. And were you honest with him?

8 A Yes, sir.

9 Q And what did you tell him?

10 A That we was at the house, that he did take her her
11 car back around that time. He asked me what my name was
12 and if he was show me the dude, would he know me and I
13 said, No, sir, he wouldn't know me because I'm not from
14 here.

15 Q Okay.

16 MR. WALTERS: Your Honor, I have no further
17 questions.

18 THE COURT: Cross, if any?

19 **CROSS-EXAMINATION**

20 By Mr. Miller:

21 Q Mr. Wallace, you said you were cooperative with
22 Investigator Jeff Croft?

23 A Yes, sir.

24 Q Do you recall about what time he came by the house?

25 A I know it had to be somewhere in between two

Arthur Wallace - Cross-Examination by Mr. Miller

1 something.

2 Q Okay. And what were you doing at that time?

3 A In the house. Me and my cousin was just in the
4 house.

5 Q Just hanging out?

6 A Yes, sir.

7 Q Why were you over there?

8 A Because that's my family and we went to the club
9 together.

10 Q So, two, three o'clock the next day, you're still
11 over there just hanging out?

12 A Yes, sir.

13 Q Why didn't you catch a ride back to your house
14 whenever he took that car back at twelve or one like you
15 just stated?

16 A Because we always hang out like that, every day.

17 Q Mr. Wallace, are you the same Arthur Wallace that
18 was convicted of a burglary second in 2008?

19 A Yes, sir.

20 Q Had you ever been over to Mr. Williams' house?

21 A To who house.

22 Q Mr. Eddie Williams, the victim?

23 A One time.

24 Q One time. What did you go over there for?

25 A Just riding with my cousin.

Arthur Wallace - Cross-Examination by Mr. Miller

1 Q Was it riding over there with your cousin over
2 there that day, February 20th?

3 A No, sir.

4 Q So y'all didn't go by and knock on the door just
5 prior to this incident occurring?

6 A No, sir.

7 Q Do you know why Mr. Williams would fabricate this
8 story, would make this up?

9 A No, sir.

10 Q So it was you, Stephon Robinson, and your cousin,
11 his brother, Reginald Felder all hanging out that day?

12 A Yes, sir.

13 Q How would Mr. Williams have known there were three
14 of y'all there together?

15 A I have no idea.

16 Q So that was just a coincidence?

17 A I guess.

18 Q Three black males came to the door, in the white
19 car that y'all were in previously that night, earlier that
20 day -- three black males came to him, one was Stephon
21 Robinson, one was Reginald Felder and the other third one
22 was one that couldn't be identified. That's just a
23 coincidence?

24 A It's -- I really don't know. You'll have to ask
25 him. I really don't know.

Reginald Felder - Direct Examination by Mr. Walters

1 MR. MCALISTER: Thank you. No further questions.

2 THE COURT: Redirect?

3 MR. WALTERS: I have no questions, Your Honor.

4 THE COURT: You may step down.

5 Next witness.

6 MR. WALTERS: Your Honor at this time, we'd call
7 Reginald Felder.

8 THE COURT: All right. Bring out Reginald Felder.

9 (WHEREUPON Mr. Felder entered the courtroom.)

10 THEREUPON,

11 REGINALD FELDER,

12 after being duly sworn, testified as follows:

13 THE CLERK: Be seated. State your full name for
14 the record, okay.

15 THE WITNESS: Reginald Lamar Felder.

16 THE COURT: Speak up, please.

17 THE WITNESS: Reginald Lamar Felder.

18 THE COURT: Thank you.

19 **DIRECT EXAMINATION**

20 By Mr. Walters:

21 Q Mr. Felder, you're Stephon Robinson's brother; is
22 that correct?

23 A Yes, sir.

24 Q All right. And you were with your brother on
25 February 20th of 2011; is that right?

Reginald Felder - Cross-Examination by Mr. Miller

1 A Yes, sir, I was.

2 Q Were you with him the day before, that night?

3 A Yes, sir.

4 Q Would you please tell this jury what happened that
5 night and then the following next day?

6 A Okay. On February 19th, my brother called Leanna
7 Gunnels to get her car so we could go to the club. So we
8 got the car and went to the club. We woke up -- well, he
9 told her that he couldn't bring the car back that night
10 because he didn't want to catch a DUI so he would bring it
11 back the next morning. So she said okay. So then we went
12 home and went to sleep after the club. Then that morning,
13 I woke up, went to get some cigarettes at like ten o'clock
14 because my brother and them was asleep.

15 My brother and Jamal Wallace was still asleep
16 because they were tired from the club. Okay. Then when I
17 came back, I realized that they were still asleep. So when
18 my brother woke up at one o'clock, he took the car back and
19 Leanna Gunnels brought him back home..

20 MR. WALTERS: Your Honor, I have no further
21 questions.

22 THE COURT: Mr. Miller?

23 **CROSS-EXAMINATION**

24 By Mr. Miller:

25 Q Mr. Felder, your brother is the defendant, correct?

Reginald Felder - Cross-Examination by Mr. Miller

1 A Yes, sir.

2 Q Y'all live together?

3 A Yes, sir.

4 THE COURT: Speak up, please.

5 THE WITNESS: Okay.

6 By Mr. Miller:

7 Q Were you convicted in 2007 of breaking into motor
8 vehicles to commit a felony or a theft in Georgia?

9 A I was, but I didn't do it.

10 THE COURT: Wait a minute. What? Say that again.

11 THE WITNESS: I was. But I didn't do it.

12 By Mr. Miller:

13 Q You were convicted but you didn't do it?

14 A Yes, sir.

15 Q Okay. Well, when you weren't breaking into these
16 motor vehicles that you were later convicted of breaking
17 into, were you with your brother?

18 A Sir?

19 Q Were you with your brother when you were supposedly
20 breaking into these motor vehicles that you have a
21 conviction for?

22 A My brother was doing community service at the time,
23 but the guy that really did it said that me and my brother
24 did it, which we didn't do it.

25 Q Okay. I'm asking you the question though, were you

Reginald Felder - Cross-Examination by Mr. Miller

1 convicted in 2007 of breaking into motor vehicles?

2 A Yes, sir.

3 Q Okay. And in 2009, were you convicted in July of a
4 strong-armed robbery?

5 A Yes, sir.

6 Q And were you with your brother when that happened?

7 A Yes, sir.

8 Q Now, what time was it that Officer Croft showed up
9 at your house on February 20th?

10 A Sometime that evening.

11 Q Sometime that evening. It wasn't two o'clock in
12 the afternoon?

13 A I think it was a little after that.

14 Q A little after that. Okay. What time -- were you
15 with Stephon whenever he took the car back to his
16 girlfriend?

17 A No, sir. He was by himself.

18 Q He was by himself?

19 A Yes, sir.

20 Q And you said your testimony, he woke up at one
21 o'clock and that's when he took the car to his girlfriend?

22 A Yes, sir.

23 Q And y'all live out in the country?

24 A Yes, sir.

25 Q Because he didn't want to drive into town --

Reginald Felder - Cross-Examination by Mr. Miller

1 A And catch a DUI when we left the club.

2 Q And catch that DUI?

3 A Yes, sir.

4 Q Okay. So how long does it take for him to get from
5 your house to his girlfriend's house and back?

6 A Probably like fifteen minutes.

7 Q Okay. Do you know the defendant -- I mean, the
8 victim, Eddie Williams?

9 A Yes, sir.

10 THE COURT: Speak up, please.

11 THE WITNESS: Yes, sir.

12 By Mr. Miller:

13 Q And you've been over to his house before.

14 A Yes, sir.

15 Q And you're obviously incarcerated right now, aren't
16 you?

17 A Yes, sir.

18 Q For this crime?

19 A Yes, sir, but I didn't do it.

20 Q So you're up here saying that your brother was with
21 you and that's why this jury should believe that
22 Mr. Williams didn't see what he testified to?

23 A Yes, sir.

24 Q But you're charged with being there too?

25 A I am.

Reginald Felder - Cross-Examination by Mr. Miller

1 Q Isn't it true that you and your brother were
2 together on February 20th of 2011, and you and your brother
3 and your other witness back there were the three people
4 that went into that house?

5 A No, sir, that's not true.

6 Q So it's just a coincidence that Mr. Williams said
7 or testified that three people came up to his house, two of
8 whom he knew, you and your brother in a car owned by your
9 brother's girlfriend, and he saw you and you knocked on the
10 door and he didn't come to the door and ten or fifteen
11 minutes later, the door gets kicked in, it's three black
12 males and it's the same white car?

13 A That's not true.

14 Q That's just a coincidence?

15 A It is, sir.

16 Q How long after this break in occurred was it before
17 Investigator Croft came and saw you?

18 A Like an hour or so.

19 Q Okay.

20 A Like an hour or so.

21 Q Okay. So in that hour or so, did you take a
22 shower?

23 A No, sir.

24 Q Did you wash your hands?

25 A No, sir.

Reginald Felder - Cross-Examination by Mr. Miller

1 Q What were you doing in that hour or so between the
2 time the break in happened and Investigator Croft came and
3 saw you?

4 A Watching TV at the house.

5 Q But nobody was doing anything between the time of
6 the break in and the time the investigator came and saw
7 you. Y'all weren't getting rid of the gun?

8 A No, sir. We don't have guns.

9 Q You weren't getting rid of the car?

10 A No, sir.

11 Q What were y'all doing for that period of time?

12 A Like usual, watching TV, smoking cigarettes.

13 Q Well, if you didn't have anything to do with the
14 break in, how do you know how long it was after the break
15 in before Investigator Croft came and talked to you?

16 A Sir?

17 Q If you don't have anything to do with the break in,
18 don't know anything about it --

19 A I just was going by what Croft told me when he got
20 to the house. I didn't do nothing.

21 Q So Croft told you when he got to the house --

22 A What time that it occurred.

23 Q Did he tell you that before or after y'all said
24 that the girlfriend had gotten her car back prior to that
25 time?

Reginald Felder - Cross-Examination by Mr. Miller

1 A Sir?

2 Q Did you tell Investigator Croft, we took the car
3 back to his girlfriend?

4 A Yes, sir. He took the car back to his girlfriend.
5 We didn't even have the car.

6 Q Did you already know what time the burglary had
7 occurred?

8 A No, sir.

9 Q You didn't?

10 A (Witness shook head.)

11 Q Isn't it true you knew exactly when the burglary
12 occurred because you were standing right there?

13 A No, sir.

14 Q It's not?

15 A No, sir.

16 Q It's just a coincidence?

17 A Yes, sir.

18 Q And the charges you picked up in 2007, those
19 charges were you being falsely accused again?

20 A Yes, sir. The person with me did it but I didn't
21 do it.

22 Q Who was the person with you?

23 A My cousin.

24 Q Who?

25 A Shannon Miller. You're talking about 2007 right?

1 Q In 2007.

2 A That's what I'm talking about.

3 Q Okay. And in 2009, that charge -- was it 2009 or

4 2008, you had a strong-armed robbery?

5 A 2009, I think.

6 Q Was that you that did that?

7 A No, sir.

8 Q Okay. It's not you that did this either; is it?

9 A No, sir.

10 Q No further questions.

11 THE COURT: Redirect.

12 MR. WALTERS: I have no questions, Your Honor.

13 THE COURT: All right. You may step down.

14 Next witness.

15 MR. WALTERS: Your Honor, the defense at this time

16 rests.

17 THE COURT: Thank you. Anything in reply?

18 MR. MCALISTER: Nothing in reply, Your Honor.

19 THE COURT: All right. Madame Forelady, and ladies

20 and gentlemen of the jury, that concludes all of the

21 testimony. Here's what we have left. I have to spend

22 about ten minutes with the lawyers and they have to argue.

23 That would be two arguments and I have to instruct you on

24 the law. That probably would mean that y'all would start

25 deliberating 4:30. It's 3:30 now, twenty minutes to five.

1 Once you start deliberating, I need to keep you
2 together and finish up the case. We can do that and I
3 don't know how long you might go. You might not go long,
4 you might go long. I don't know what's going to happen.

5 Or, it's 3:30 now, I can let y'all go home, I can
6 finish up everything with the lawyers, come back in the
7 morning at 9:30 or ten and finish it up. I'll buy you some
8 breakfast. Finish it up and -- y'all want to go back and
9 talk about which way you want to do it and let me know?

10 THE FOREPERSON: Uh-huh.

11 THE COURT: All right. Just discuss that and I'm
12 going to ask the foreperson to come back out in just a
13 second and tell me which way y'all would want to do it.
14 I'm agreeable to either way. You're in charge. Don't
15 discuss the case though, just discuss...

16 (WHEREUPON jury left the courtroom at 3:24 p.m.)

17 THE COURT: Anything for the record on behalf of
18 the State?

19 MR. MCALISTER: Nothing for the record on behalf of
20 the State, Your Honor.

21 THE COURT: Mr. Walters?

22 MR. WALTERS: No, sir, Your Honor.

23 THE COURT: You going to renew any motions?

24 MR. WALTERS: Yes, sir, Your Honor.

25 THE COURT: Respectfully denied.

1 MR. WALTERS: Thank you, Your Honor.

2 THE COURT: Charge? Regular charge on credibility
3 of witnesses, reasonable doubt, duties of judge and jury
4 and presumption of innocence, prior record of the
5 defendant, prior record of witnesses, burglary first,
6 possession of a weapon during the commission of a violent
7 crime.

8 Anything else? By the State.

9 MR. MILLER: The State would request hand of one,
10 Your Honor.

11 THE COURT: Anything else? Mr. Walters?

12 MR. WALTERS: No, sir.

13 THE COURT: And this -- I think it's all or
14 nothing. This is burglary first. There's no lesser
15 included.

16 MR. MILLER: No, sir, Your Honor, either he had a
17 weapon or he didn't.

18 THE COURT: All right. Let's everybody take a
19 bathroom break. You going to waive opening on the law?

20 Mr. Walters, you ready the start if they want to go
21 this afternoon?

22 MR. WALTERS: Yes, sir.

23 THE COURT: All right. Let's take a bathroom
24 break. Do y'all have any -- I'm going to go back to my
25 chambers. When the forelady lets Mr. Eddie know, can I

1 find out what she wants to do in my chambers and come back
2 out and report to y'all?

3 MR. WALTERS: Yes, sir.

4 THE COURT: Any problem with that? Just on the
5 logistics of how they want to do this afternoon.

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

7 THE COURT: All right. Well let's stand at ease
8 for a second. Make sure the defendant has access to the
9 restroom.

10 (WHEREUPON a recess was observed.)

11 THE COURT: All right. Bring your client in here.

12 All right. Is the State ready to proceed?

13 MR. MCALISTER: Yes, Your Honor.

14 THE COURT: Mr. Walters?

15 MR. WALTERS: Yes, sir, Your Honor.

16 THE COURT: All right. Bring the jury in.

17 (WHEREUPON the jury entered the courtroom at 3:38
18 p.m.)

19 THE COURT: All right. Madame Forelady, as I
20 understand, y'all want to go ahead and try to conclude this
21 afternoon?

22 THE FOREPERSON: Yes, sir.

23 THE COURT: What we have left is the final
24 arguments by the defendant going first and then the State
25 going second. Please bear in mind that you've heard all of

1 the evidence. You won't hear anymore evidence. The
2 arguments, obviously, these lawyers are advocates for their
3 own particular side of their respective sides. So they
4 will be arguing the evidence in the light most favorable to
5 their client. But that is simply what it is, argument.
6 You've already heard the testimony. You'll make a decision
7 from the testimony as to what the true facts are. So
8 please pay close attention to Mr. Walters and to the State.
9 Once we do that, I will charge or instruct you on the law.
10 It's not a very long charge and then I'll give you the case
11 to deliberate.

12 Ma'am, you want me to cut the air down, some?

13 A JUROR: If you don't mind.

14 THE COURT: Cut it down?

15 THE JUROR: Yes.

16 THE COURT: You want it colder?

17 A JUROR: I'm frozen.

18 THE COURT: Madame Clerk, I don't want a frozen
19 juror.

20 THE CLERK: I have not touched it, believe it or
21 not today.

22 THE COURT: I don't believe it.

23 Mr. Walters?

24 MR. WALTERS: May it please the Court.

25 THE COURT: Yes, sir.

CLOSING ARGUMENTS

MR. WALTERS: Solicitors, ladies and gentlemen of the jury, as I stated in the beginning, his Honor qualified you as a jury that will could carefully evaluate the facts, the evidence and the testimony that was presented before you today. And most importantly, that you would hold the State to their burden of proving their case beyond a reasonable doubt.

If we carefully evaluate the evidence, the testimony, the witnesses that have come forward and what has been presented by the State in this particular case, I believe that you can only reach one conclusion: The State has failed miserably. Eddie Williams came before this Court as the victim, arguing that somehow he had suffered some type of crime, that there was some type of issue that occurred within his home. But later in the testimony, you found out that Eddie Williams, he wants you to believe his words, but his words are those of a drug dealer.

Why do we question Eddie Williams and what he has to say? And why do we believe the State has failed miserably to prove their burden or proving their case beyond a reasonable doubt? These are great police officers. They do a great job. The solicitors do a great job and they can only work with the people that come forward, report a crime honestly, and, of course ask their

1 participation to solve whatever issues have occurred in
2 their life. I ask that you evaluate the testimony of Eddie
3 Williams. The inconsistencies and the contradictions over
4 and over and over again. Let's start with the first one,
5 the bullets to the trailer. I'd ask that you examine the
6 exhibits that were presented before you. He had a police
7 officer come out to his place where he lived and he's
8 taking all these pictures. Remember they were published to
9 the jury. Pictures of his home and what occurred at his
10 home. There's a bullet hole in the ceiling, things of that
11 nature. And the question with regards to this particular
12 home, he went on to talk about what ensued inside of the
13 house. He made it even seem dramatic. He said he slipped
14 down the hall as if his life was under siege and something
15 was going to happen. But when asked on cross-examination,
16 you purchased this mobile home and when you purchased the
17 mobile home, it already had bullet holes in it. And what
18 was his response? Yeah, that's true, I just didn't want to
19 tell the truth at that time. See what you're going to find
20 out about Eddie Williams when you carefully go through the
21 evidence and the testimony of Eddie Williams, what he's
22 done today is rotten to the core because he sat on that
23 witness stand and what did he tell you under oath? He told
24 you, I wanted to tell the truth, but I couldn't tell the
25 truth because of the gun that I had in my possession.

1 In addition to that, he allowed the officers while
2 sitting there to present these pictures of this trailer to
3 you and pass it around to everyone and said, Oh, my God,
4 the trailer's been shot up. A hole above where he eats his
5 dinner. There's a hole with regard to this trailer in
6 somebody's living room. Even had police officers come
7 before you and what do they do? They pulled out a magic
8 marker and said this is the hole. This is the angle of the
9 bullet and this is where it came from. And he knew all
10 along that the home was shot up when he purchased it. In
11 addition to that, a good police officer, Investigator
12 Croft, he went out there to do his job. In doing his job,
13 he stayed there about an hour and a half while listening to
14 Mr. Williams. Mr. Williams and this so called story of
15 what was going on. And in that process of gathering
16 evidence, I simply inquired of Investigator Croft, I said,
17 Well, what evidence do you have? Do you have any
18 fingerprints? No. Have you seen any bullets? No.

19 Have you seen any evidence that substantiates that
20 my client was inside of this home when this alleged event
21 occurred? No. What did you determine? Well, I determined
22 that there was a gun that was there and the gun, it was an
23 illegal gun. I determined that the gun was purchased from
24 someone we later found out to be named Tank and somehow it
25 led back to the Beaufort Police Department or Sheriff's

1 Department. When we inquired where's that paperwork,
2 where's that information with regards to, we served a Rule
3 5, we'd like a copy of this information, and who he bought
4 it from and where was the information forwarded to. He
5 said I just simply made a phone call.

6 We then went on and I said, well, he has a tough
7 job, let's find out what's going on. And what do we find
8 out? At that time, we said, well, if there was an
9 allegation that this individual that shot a gun or
10 brandished a gun inside of that house and fired at someone,
11 you could simply get in a car because he said Cocoa Road
12 was less than two miles away. All he had to do was get in
13 the car and drive over there and say give me your hands.
14 You notice how he didn't want to go into detail about the
15 gunshot residue kit. It's real simple. He said you take a
16 sample, just rub the hand, the front and the back, place
17 inside a bag and you send it to SLED.

18 Well, if a shooting occurred, Eddie Williams was
19 somehow in danger and he identified the individual, the
20 question was raised, why didn't you simply do it. But
21 there's a greater question there. If Eddie Williams
22 claimed that he fired a gun -- and that's interesting
23 because in one statement, he says what? He never fired a
24 weapon. In his second statement -- and this all goes to
25 his inconsistencies and contradictions over and over again.

1 In his second statement, he stated what? That he fired a
2 gun three different times. We then inquired and said,
3 Well, why the ambivalence? And then of course, my question
4 simply was, which version do you want the jury to believe?
5 You've lied with regards to the bullets.

6 Now, they're -- there's some type of contradiction
7 with regards to the gun being fired. All this information
8 was given to Investigator Croft, a good police officer.
9 But he didn't stop and raise one question: Well, if you
10 fired your gun on three different shots and got these
11 people outside of your house, he simply could have asked
12 him what? Hold your hands out and let me get a sample from
13 you and I'll find out if you fired that .357. That was
14 never done.

15 In this particular case, we went on, and then we
16 found out exactly what was going on. The gunshot residue
17 kit was never performed when they ran up on Stephon
18 Robinson. And he said, well, why wasn't it done then? He
19 said it was getting close to the time. We said, what time
20 are you referring to? He says, about six hours, we're not
21 sure exactly, but it was getting close to the time. I
22 said, well you could have performed the test and you simply
23 could have found out and said, look, Mr. Robinson, it
24 appears that on your hands, it looks like you fired a
25 weapon. I'm going to arrest you. I'm going to take you

1 in. And do you remember the key question that was asked by
2 the solicitor? Could you go and take a sample from someone
3 without their permission if you believe they fired a
4 weapon. And the response of Officer -- or Investigator
5 Croft was what? Yes, I could do that. No other question
6 was raised. But you ask the question. Why wasn't a sample
7 taken from Mr. Robinson simply swipe it from him and say,
8 you fired a gun. It appears that someone's alleged you
9 fired a gun, but under those circumstances, it was never,
10 ever done.

11 And in this particular case, let's go further into
12 the inconsistencies and the contradictions over and over
13 again of Mr. Williams and his behavior and why I believe
14 that his testimony, as I stated, is rotten to the core. It
15 robs justice. What did he say? He said, they come over to
16 the house and they played Nintendo. So they play games.
17 And then the truth finally came out. What did Mr. Robinson
18 say? I don't play video games. I bought marijuana from
19 you. You don't have the full story of what went on in that
20 house with Mr. Williams. The inconsistencies with regards
21 to the bullet holes, the inconsistencies with regards to
22 the illegal weapon, the inconsistencies that he somehow put
23 into the story to somehow get you to buy it -- that's what
24 he's doing. He's like a car salesman. He wants you to buy
25 into his story. And then he went on and stated they come

1 over and play with my nephew. They played Nintendo, they
2 play those games. But the reality is that Mr. Robinson
3 testified, we didn't play games. You're a drug dealer.

4 He stated they did numerous times. And he
5 purchased drugs from him. But in addition to that, we went
6 on further with his testimony. And of course, in this
7 particular case, the words of a drug dealer are sometimes
8 laced with deceit and he couldn't make up his mind as to
9 where he was going with this story. He simply sat down and
10 he said, well, I identified them. And that's something
11 interesting. You have to draw upon your own life
12 experiences. I didn't know you would be here today and
13 certainly I didn't know the case would come up this week,
14 but we're all here together. We were notified. And if you
15 simply take a picture of the individual sitting beside you
16 and you come back tomorrow, you simply ask is that the
17 person that was sitting beside you yesterday.

18 In this particular case, they went back over three
19 times to attempt to identify Mr. Robinson and Mr. Felder.
20 How many times does it take for a drug dealer who's
21 consistently changed his story over and over again to
22 simply identify an individual that he claims has been to
23 his house on two or three different occasions, who he has
24 played video games within his home or with someone within
25 his home because he didn't play video games. And he stated

1 that I know their mother and I also know their father.

2 How many times does it take for someone to come in
3 and simply say, is that the picture of the individual that
4 broke into your house when you slid down the hall and you
5 looked up at him and he stated I saw his face and I saw the
6 goatee. That was his testimony. In this particular case,
7 we have visits from the police that began after 2/20/11 and
8 it went on consistently over and over and over again. And
9 simply trying to do one thing: Identify the individual
10 that committed this crime. So he claims he knows the
11 family. He claims he's associated with the mother, he
12 knows the father. He states they've been in the house
13 playing video games. You have to draw upon your own life
14 experiences. Kid comes into your home. He plays video
15 games. I'm sure you'd recognize that kid. And if he's
16 been there two or three times, it doesn't require three or
17 four visits from the police to identify a child when you
18 know their parents.

19 And in this particular case, if we go further, we
20 have to sit down and evaluate the testimony that was
21 further given. Mr. Robinson, he got on that stand. He
22 admitted every crime that he had ever committed. He also
23 stated, I assumed responsibility for what I've done. I've
24 pled guilty. I assume responsibility for what I've done.
25 But in this particular case, the inquiry was, well, did you

1 do this. And his response was no, I didn't do it. Art
2 Wallace got on the stand. The same testimony with regards
3 to what went on. I ask that you carefully evaluate the
4 State's case in totality. No fingerprints. No weapon. A
5 photo ID lineup that takes two, three times to try to sit
6 down and identify some local boys in Barnwell. The sale of
7 marijuana -- because when he testifies, Mr. Williams, when
8 he told you that I didn't want the police to think bad of
9 me because I had an illegal weapon or a weapon that might
10 not have been right.

11 You draw upon your own life experiences. He didn't
12 want the police to get into whatever was going on in his
13 life, like the sale of drugs, the sale of marijuana. We'll
14 never know what went on in that home on that particular
15 night, but we do know this, that Mr. Williams, as far as a
16 witness, has he been candid? Has he been frank? Has he
17 been forthcoming? Can you rely upon his testimony to take
18 away a man's liberty and their freedom? The
19 inconsistencies and contradictions of Mr. Williams'
20 testimony over and over again, you ask Your Honor, what is
21 reasonable doubt and his Honor will define it for you.

22 You know what reasonable doubt is? When I tell you
23 the State has failed to prove their case beyond a
24 reasonable doubt? What gives you reasonable doubt? What
25 makes you hesitate to act? Well, when a child gets ready

1 to walk across the road and you know it's a busy street and
2 you jump up and you say, Hold up, Honey, let me walk you
3 across. Let me make sure you're okay. What's reasonable
4 doubt in this particular case? A man that lied with
5 regards to the bullets. A man that lied with regards to
6 the gun. A man in this particular case that took three
7 times to identify someone that he claimed he knew their
8 parents, their family and they've been to his house on
9 numerous occasions. A man that lied and said these
10 children had been in his home and somehow entertained
11 themselves and that's how he knew them when they're was no
12 entertainment, there were no video games. A man in this
13 particular case who was simply scared that the police were
14 going to find out, this fine officer right over here, he
15 was afraid that he was going to smoke him out and find out
16 exactly what he was doing.

17 And now he set things in motion. He can't back
18 out. He's got to take it all away and show up in this
19 courtroom and testify in front of you. But today, he's
20 been put on the stand and he admits back in February when I
21 said that, it might not have been true. Back in February
22 when I said that, I was a little frightened and afraid.
23 The inconsistencies on the part of Mr. Williams gives you
24 reasonable doubt and under the circumstances can you walk
25 in that jury room, can you get up in the morning and look

1 at yourself and know that you've done the right thing by
2 relying with regards to his testimony.

3 The only position that you can take with regards to
4 the testimony of Mr. Williams in this particular case,
5 before you take away someone's liberty, is simply to come
6 back and say, not guilty. Because he's failed and the
7 State, in putting their resources and time and energy
8 behind this man and his allegations, he's the reason the
9 State has failed to prove their case beyond a reasonable
10 doubt. I ask that you simply hold the State to their
11 burden. It's not the solicitor's fault, it's not Officer
12 Croft's fault. The problem is that the so-called victim
13 here, he's not a victim. He's a player. I ask that you
14 carefully evaluate all of it. But in the bottom line, they
15 can't sit here and say they've proved their case beyond a
16 reasonable doubt. They did the best they could relying on
17 the statements of a man that's frightened by what he has
18 done and set in motion and he's still afraid that someone
19 may find out something about it.

20 I ask that you return the proper verdict in this
21 case and that's simply a verdict of not guilty. Thank you.

22 MR. MCALISTER: May it please the Court, ladies and
23 gentlemen, when we started today, I told you that this
24 wasn't going to be a complicated case. There aren't going
25 to be many witnesses, you're not going to hear a ton of

1 testimony, there's not going to be a ton of forensic
2 evidence. I just ask that you use your common sense.
3 Let's walk back through everything that's gone on here
4 today and start with the testimony.

5 You've got Eddie Williams' home, right here in
6 Barnwell, South Carolina. His door kicked in. He's not
7 making that up. He didn't kick his own door in. You heard
8 Officer Croft, Investigator Croft talk about the bullets
9 that he found within the home. He just shot up his own
10 home and then he called the police out there after he
11 kicked his own door in? That doesn't make any sense. Use
12 your common sense.

13 You know, yeah, there were situations today where
14 Mr. Williams told you that he initially misspoke to police.
15 He initially told them he didn't fire any shots because he
16 was scared. But he sat right on that stand and told you
17 the truth about why he did that. And there's no doubt
18 these bullet holes were in this. Take a look at the car.

19 Now, Ms. Gunnels sat there on the stand and said,
20 yeah, this is my car. A white Pontiac four-door G6. I let
21 the defendant, Mr. Robinson use it all the time. He just
22 so happened to have it that day. Now, Mr. Walters and the
23 defense would have you believe that there's no evidence in
24 this case. Eyewitness testimony is the best evidence we've
25 got. Mr. Williams was laying in bed. He didn't ask for

1 somebody to come over and kick his door in. He got up out
2 of bed and he confronted Mr. Robinson. He stood right
3 there and looked him dead in the eye. A guy that's been in
4 his house before. Mr. Robinson and his brother. Somebody
5 that's been welcome into his own home. Why would he make
6 that up?

7 Now, there's also been a lot been made about these
8 IDs, these photo lineups. Don't get it twisted. The first
9 two lineups that were presented to Mr. Williams, he was
10 able to identify both suspects. He put X's on everyone
11 except No. 4 and he initialled No. 5. Well, it just so
12 happened those were old pictures. They were six years old.
13 They weren't accurate. You heard Investigator Croft and
14 Mr. Williams testify that he didn't -- he said it didn't
15 look like him, it didn't have the facial hair. He didn't
16 have the goatee. So he went back out a couple of weeks
17 later when Investigator Croft got a new, more accurate
18 photo and put it in the lineup. And he immediately picked
19 No. 4. He immediately picked the defendant. He's not
20 making that up. There isn't three, four, five times that
21 he went out there trying to get an ID. He told them from
22 the get go it was Stephon Robinson. He identified the
23 vehicle that they drive. It had come to his house fifteen
24 minutes prior. He saw them twice. He identified photos of
25 Stephon Robinson and his brother Reggie Felder. The same

1 individual that's sitting ten feet away from him in his
2 home after they kicked in the door. They're not making
3 that up.

4 We talked about burglary in the first-degree before
5 the trial. Burglary in the first-degree is entering a
6 dwelling, a home without consent with intent to commit a
7 crime. And in this case, while carrying a firearm.

8 Now, all the testimony you've heard today, it's
9 every element: His door was kicked in; the defendant
10 entered the home without consent; he obviously came in to
11 commit a crime. I don't know if he's coming in there to
12 steal a TV -- I don't know what he's doing. We don't have
13 to prove that. He's coming in to commit a crime because
14 he's got a gun in his hand.

15 Broad daylight. He fires that gun. The projectile
16 is still lodged above Mr. Williams' kitchen table.

17 Credibility. It all comes down to credibility.
18 You've heard everybody take the stand today under oath and
19 testify.

20 Now, as a jury, it's your ability to believe all of
21 what a witness says, part of what a witness says or none of
22 what a witness says.

23 Now, let's walk through those witnesses. The first
24 person to take the stand was Investigator Croft. He sat
25 there and he told you how he walked through the

1 investigation. He found those projectiles. He went out
2 and took pictures of the scene on Sunday afternoon. From
3 there he followed it up and went around the corner to the
4 defendant's home, where he questioned him about it. And
5 the defendant first said he was asleep. Said that he took
6 a car back at 10 a.m. Why would Jeff Croft lie about that?
7 Why would he make that 10 a.m. time up?

8 Now, the girlfriend, Leanna Gunnels took the stand.
9 She was scared to death. She didn't want to be here. It's
10 a rock and a hard place. She doesn't want to have to
11 testify against a guy she dated on and off for six or seven
12 years. She cares about him. But she also sat there and
13 told you that they didn't return that car until later that
14 afternoon. She wasn't sure when they returned it, but they
15 returned it later that afternoon. She did say that.

16 Now, let's talk about the defendant. He got on the
17 stand. He admits to having the vehicle. Just a
18 coincidence though that he has a vehicle, the same vehicle
19 that's named by Mr. Williams. Just a coincidence that he's
20 with his brother, Reginald Felder, and his cousin Jamal
21 Wallace. What motive do they have to lie? Every motive.
22 Jamal Wallace takes the stand. Obviously, he wasn't there
23 because if he's going to tell you the truth, he'd be facing
24 charges as well. And then Mr. Felder gets on up here, his
25 brother. He admits, maybe the only thing he told the truth

1 on, I don't know, about the crimes he committed in the
2 past. I got some mixed testimony. He went back and forth
3 on what he did do and what he didn't do. He was convicted
4 of crimes that he says he was wrongfully convicted of.
5 He's facing these same charges. Obviously, he has
6 motivation to lie.

7 And then you got Mr. Williams. Now, he has just
8 been drug through the mud. He's laying in bed watching a
9 race on Sunday afternoon and three young men kick a door in
10 at his house and all of the sudden he's a villain. He's
11 doing what every one of us would have done, picked up a
12 gun. Somebody comes into my house, I have every right to
13 shoot at them and to protect myself. That's called the
14 Castle Doctrine. He's in self-defense. He's in his own
15 home. He didn't do anything wrong. Did he have a pistol
16 that was later determined that he probably shouldn't have
17 had? Yeah. Did he face criminal charges? No. Because
18 it's not illegal -- the word illegal was used a lot. It's
19 not illegal to own that pistol. He didn't have knowledge
20 that it was stolen. He bought it from a buddy of his. It
21 happens all the time. That's not illegal. There's nothing
22 illegal about that. The only thing that he sat here and
23 told you and told the truth about was he was scared to
24 death. They came to his house. He didn't know what to do.
25 He just fired in his house. He was not sure if that's

1 proper. He has this gun. He's not sure if he's supposed
2 to have a permit for it. He's scared to death. Don't let
3 that be mischaracterized in closing because that's not what
4 went on on the stand.

5 Now, the State has the burden of proof and we have
6 to prove that the defendant is guilty of all of those
7 elements that I've already talked to you about: Burglary
8 in the first-degree, going into a dwelling, a house,
9 without consent with intent to commit a crime, carrying a
10 handgun. The handgun is also part of the possession of a
11 weapon during a violent crime. All a reasonable doubt is
12 or all we have to prove is it leaves you firmly convinced
13 that the defendant's guilty.

14 Now, ladies and gentlemen, there's no denying that
15 the defendant was in that house. He looked him face to
16 face from ten feet away. He talked about his goatee. He
17 talked about the car. He made subsequent IDs from the get
18 go. There's no doubt he's guilty of burglary in the
19 first-degree. And there's no doubt he's guilty of
20 possession of a weapon during a violent crime. Just use
21 your common sense. Thank you.

22 THE COURT: Everybody okay? You warm up?

23 **JURY CHARGE**

24 THE COURT: All right. Madame Forelady, ladies and
25 gentlemen, let me go through what we generally charge in

1 all criminal cases, and then I'll charge you specifically
2 the facts in this case or the law in this case. Let me
3 remind you that the fact that the defendant was arrested --
4 everybody all right -- charged and indicted in the case is
5 not evidence in the case and cannot be considered as
6 evidence in the case. The indictments for the burglary
7 first and possession of a weapon during the commission of a
8 crime are simply the documents or formal written
9 instruments by way a case is brought into the courtroom.
10 So please do not infer anything from the fact that he was
11 indicted. The indictments in this case allege two
12 different offenses against the defendant, as I said,
13 burglary first and the possession of a weapon during the
14 commission of a violent crime.

15 Now, you have to decide each indictment separately
16 on the evidence and the law applicable to it, uninfluenced
17 by your decision as to any other indictment.

18 Now, to the indictments, both indictments, the
19 defendant has pled not guilty to each indictment. And a
20 plea of not guilty puts the burden on the State of South
21 Carolina to prove the defendant guilty beyond a reasonable
22 doubt. A person charged with committing a criminal offense
23 in South Carolina is never required to prove himself
24 innocent. I charge and instruct you that it is an
25 important constitutional rule of law that a defendant in a

1 criminal trial, no matter what the seriousness of the
2 charge may be, will always be presumed to be innocent of
3 the crime for which the indictments were issued unless
4 guilt is proven by evidence satisfying you of that guilt
5 beyond a reasonable doubt. The presumption of innocence
6 does not end when you begin your deliberations, but it
7 stays with the defendant throughout the trial until you
8 reach a verdict of guilt based on evidence satisfying you
9 of that guilt beyond a reasonable doubt. The presumption
10 of innocence is not a mere legal theory, nor is it just a
11 legal phrase. It is a substantial, constitutional right to
12 which every defendant is entitled unless you, the jury, are
13 satisfied from the evidence of the defendant's guilt beyond
14 a reasonable doubt..

15 Now, what is a reasonable doubt? Our Supreme Court
16 and appellate courts have defined a reasonable doubt in a
17 very succinct way and a very short way and then they've
18 expanded on it somewhat, so let me tell you. To find a
19 reasonable doubt, it is the kind of doubt that would cause
20 a reasonable person to hesitate to act. Proof beyond a
21 reasonable doubt is proof that leaves you firmly convinced
22 of the defendant's guilt. There are very few things in
23 this world that we know with absolute certainty, and in
24 criminal cases, the law does not require proof that
25 overcomes every possible doubt. If based on your

1 consideration of the evidence you are firmly convinced that
2 the defendant is guilty of the crimes charges, you must
3 find the defendant guilty. If, on the other hand, you
4 think there's a real possibility that he's not guilty, you
5 must give the defendant the benefit of the doubt and find
6 him not guilty.

7 Now, let me remind you once again, as I've told you
8 several times during the trial of this case, you and I have
9 had two distinct responsibilities. My responsibility is
10 the judge of the law. I charge you and instruct you on the
11 law. More importantly, your job is the judge of the facts.
12 You are the judges of the facts and so you determine what
13 the true facts are.

14 So I tell you, if at any time during the trial of
15 the case you think that I may have had an opinion about the
16 facts, please set that aside. The law does not allow me to
17 have any opinion whatsoever about the facts. So if at any
18 time during the trial of the case I have yawned or rolled
19 my eyes or smiled or shook my head or acted like I was
20 disgusted or happy or whatever, don't infer anything from
21 that. I sit up here and listen to them day in and day out.
22 I can't have any opinion about the facts, so don't think
23 from anything that I've done during the trial of the case
24 that I have an opinion about the facts. You are the sole
25 judges of the facts, the finders of the facts in the case.

1 As I told you when we started this case, this case
2 would probably be like all others that I try and sure
3 enough, we hear testimony that's over here and testimony
4 that's over here. I mean, it's just a wide convergent
5 between what the two sides are saying. So when we have
6 somebody saying one thing and somebody saying another
7 thing, you, as the finders of the facts must determine the
8 credibility of the witnesses who have testified in the
9 case. Credibility simply means believability. It becomes
10 your duty as jurors to analyze and to evaluate the evidence
11 and determine which evidence convinces you of its truth.

12 Now, in doing this, in determining the
13 believability of witnesses who have testified in the case,
14 please use your ordinary common sense. You deal with
15 husbands, wives, children, employees, employers, people on
16 the street. You know how to judge somebody as to whether
17 or not they're telling the truth. So don't leave that
18 outside the courtroom when you go back and try to make your
19 decision on what the true facts are. Apply that common
20 sense you've gained over your years and determine who's
21 telling the truth.

22 You have the right to believe one witness over
23 several, several over one. You can disbelieve everything
24 somebody says, you can believe everything somebody says,
25 you can believe a part and disregard the other part. You

1 have the right to determine what the true facts are in the
2 case. You may consider whether any witnesses exhibited to
3 you any interest, bias, prejudice or other motive in the
4 case and you may also consider the appearance and manner of
5 a witness while on the witness stand. So, use your common
6 ordinary sense in determining what the true facts are in
7 the case in determining who was telling the truth. We had
8 a witness who -- a witness who testified with a past
9 criminal record. The law in this case is that a person who
10 has a past criminal record is competent to testify as a
11 witness during a trial. A past criminal record does not
12 affect the ability of that witness to testify. The past
13 record may only be considered by you, if at all in
14 determining the witnesses credibility and/or believability.
15 You are the sole judges of the facts. The believability of
16 any and all witnesses in the case is up to you.

17 You also heard in this case evidence that the
18 defendant had been, in the past, convicted of crimes other
19 than the one for which he is now on trial. This evidence
20 may be considered by you if you conclude it's true only in
21 deciding whether the defendant's testimony is believable or
22 credible and for no other purpose. You must not consider
23 the defendant's prior record as any evidence of the
24 defendant's guilt of the charge we are trying here today.

25 Now, let's talk about the two indictments. The

1 first indictment, the defendant is charged with
2 first-degree burglary. The State must prove first, beyond
3 a reasonable doubt, that the defendant entered a dwelling
4 without consent. They must prove beyond a reasonable doubt
5 that the defendant entered a dwelling without consent. Our
6 law defines a dwelling as any building or portion of a
7 building in which a person ordinarily sleeps. So they must
8 first prove beyond a reasonable doubt that the defendant
9 entered a dwelling without consent and the dwelling is any
10 type of building where a person sleeps.

11 Secondly, the State must prove beyond a reasonable
12 doubt that the defendant intended to commit a crime at the
13 time of the entry. The mere entry into a dwelling without
14 consent is not burglary. If the intent to commit a crime
15 is formed after the entry, it is not burglary. On the
16 other hand, if the defendant intended to commit a crime at
17 the time of the entry, it's burglary even if the intent was
18 abandoned after the entry. It does not matter that the
19 intended crime was not completed. That's the first two
20 things they have to prove, that the defendant entered a
21 dwelling.

22 I've defined to you that the dwelling is a building
23 where someone sleeps, without consent and secondly, the
24 State must prove beyond a reasonable doubt that the
25 defendant intended to commit a crime when he entered the

1 building, upon entry of the building or before he entered
2 the building.

3 And last, the State must prove, and finally, beyond
4 a reasonable doubt, the State must prove that while
5 entering the dwelling, the defendant was armed with a
6 deadly weapon. And our law has defined a deadly weapon as
7 an instrument which is likely to cause death or great
8 bodily harm. An example, obviously, is a pistol or gun.

9 So when you consider the crime of burglary in the
10 first-degree, it's pretty much boiled down to you entered a
11 dwelling without consent, with intent to commit a crime
12 therein, while armed with a deadly weapon.

13 The other indictment, is possession of a weapon
14 during commission of a violent crime. That's set out in
15 our Code of Laws in Section 16-23-490 and that's pretty
16 much self-explanatory. In this case, he's charged with
17 possession of a weapon during the commission of a violent
18 crime. The State must prove beyond a reasonable doubt that
19 the defendant was in possession of a firearm during the
20 commission of a violent crime. It says what it says, it is
21 what is it. A firearm, obviously, means any type of gun,
22 pistol or revolver. In order to find the defendant guilty
23 of possession of a weapon during the commission of a
24 violent crime, you must first find the defendant guilty of
25 committing a violent crime and I charge you that burglary

1 in the first-degree is a violent crime. There is a
2 principal of law that says if a crime is committed by two
3 or more people who are acting together and committing a
4 crime, the act of one is the act of all. A person who
5 joins with another to accomplish an illegal purpose is
6 criminally responsible for everything done by the other
7 person which occurred as a natural consequence of the acts
8 done in carrying out the common plan or purpose.

9 Now, Madame Forelady, ladies and gentlemen of the
10 jury, obviously, your verdict must be based on what we have
11 heard here in the courtroom. You absolutely have no
12 friends to reward or enemies to punish. You are the moral
13 conscious of Barnwell County. You take the testimony that
14 you find it to be true and you apply it to the law as you
15 hear it here today and determine whether or not the State
16 has proven their case beyond a reasonable doubt.

17 There are two types -- there are two verdict forms,
18 one for the burglary charge and one for the possession of a
19 weapon during a violent crime. Your verdict must be
20 unanimous. All twelve of you must agree. So obviously,
21 you need to consider the burglary first -- burglary first,
22 first -- the crime of burglary in the first-degree first
23 because if you find him not guilty of that, obviously, he
24 wasn't committing a violent crime. So the verdict is
25 simply this: We find the defendant not guilty or guilty.

1 It's one or the other. Don't put any emphasis on the way
2 I've got it on here. I've got to put one before the other.

3 Check it, sign your name as foreperson.

4 If you do find him guilty of the burglary, then
5 obviously, you would consider the possession of a weapon
6 during the commission of a violent crime. You will have in
7 the jury room the exhibits that have been introduced in the
8 trial of the case. You'll have the verdict form. When you
9 reach a verdict, knock on the door, let the bailiff know
10 and I'll receive you back in the courtroom.

11 A lot of times during deliberations, juries have
12 questions to ask or want questions answered. Sometimes I
13 can answer them, sometimes I can't. It just depends on
14 what the question is. So you'll have a pad in there. So
15 if y'all have a question or concern or anything, write it
16 out on a piece of paper and Mr. Eddie will bring it to me
17 and I will try to answer it by writing an answer out and if
18 I can't, I'll just tell you I can't do it because rules
19 sometimes preclude me from doing it.

20 So in just a second, I'm going to let you go back
21 to the jury room. Please don't start deliberating. I have
22 to ask the lawyers if I've left anything out and then they
23 have to gather up the exhibits. That shouldn't take us but
24 about two minutes, three minutes. And then you can start
25 deliberating when he delivers the exhibits and the verdict

1 form.

2 Thank you very much. I'm going to let y'all step
3 back to the jury room.

4 Mr. Eddie, separate the alternates for me now.

5 THE BAILIFF: Yes, sir, they're in the two chairs.

6 THE COURT: I know that, but don't put them in the
7 jury room.

8 THE BAILIFF: All right, sir.

9 (WHEREUPON the jury left the courtroom at 4:23
10 p.m.)

11 THE COURT: All right. Any requested additions,
12 deletions, objections to the charge by the State.

13 MR. MCALISTER: No objection to the charge by the
14 State, Your Honor.

15 THE COURT: By the defendant?

16 MR. WALTERS: No, sir, Your Honor.

17 THE COURT: All right. Y'all please come up and
18 verify the exhibits and verdict form..

19 (WHEREUPON the attorneys were looking at the
20 exhibits and verdict form.)

21 THE COURT: Y'all agree all the exhibits are in
22 order?

23 MR. WALTERS: Yes, sir, Your Honor.

24 MR. MCALISTER: Yes, sir.

25 THE COURT: Have you looked at the verdict form and

1 approve of the same?

2 MR. WALTERS: Yes, sir.

3 MR. MCALISTER: Yes, sir.

4 THE COURT: All right. I'm sending it to the jury.
5 According to the clock, it's 4:27 p.m.

6 Mr. Eddie, take that back and tell them they can
7 start deliberating.

8 THE BAILIFF: All right, sir.

9 (WHEREUPON the jury began deliberations at 4:27
10 p.m.)

11 (WHEREUPON it was reported to the Court that the
12 jury had received a verdict at six o'clock p.m.)

13 THE COURT: All right. Is the State ready to
14 receive the verdict?

15 MR. MCALISTER: Yes, Your Honor.

16 THE COURT: Defendant ready?

17 MR. WALTERS: Yes, sir, Your Honor.

18 THE COURT: All right. Bring the jury in, please.

19 (WHEREUPON the jury entered the courtroom at 6:03
20 p.m.)

21 THE COURT: Madame Forelady, have y'all reached a
22 verdict?

23 THE FOREPERSON: Yes, we have.

24 THE COURT: Hand it to the bailiff, please.

25 THE FOREPERSON: Both charges?

1 THE COURT: Yes, ma'am.

2 Mr. Eddie?

3 (WHEREUPON the bailiff gave the verdict forms to
4 the Court.)

5 **VERDICT**

6 THE CLERK: State of South Carolina versus Stephon
7 Tenard Robinson in the Court of General Sessions for
8 Indictment No. 2011-GS-06-00245, as to offense of burglary
9 first-degree, We the jury find the defendant guilty.
10 Signed by the foreperson, Brenda Steadman.

11 As to the charges of State of South Carolina versus
12 Stephon Tenard Robinson, in the Court of General Sessions
13 for the Second Judicial Circuit, Indictment No.
14 2011-GS-06-00246, as to the offense of possession of a
15 weapon during a violent crime, We the jury find the
16 defendant guilty; signed by Brenda Steadman, Foreperson.

17 THE COURT: Anything from the jury before I release
18 them by the State.

19 MR. MCALISTER: Nothing from the State, Your Honor.

20 THE COURT: Mr. Walters?

21 MR. WALTERS: No, sir, Your Honor.

22 THE COURT: Thank you.

23 Madame Forelady, ladies and gentlemen, I can't
24 thank you enough. You've paid absolutely you know
25 believable attention. The only thing that went wrong was

1 my two alternates fussed, they wanted to go back and
2 deliberate with you. They wanted to sit out here. Y'all
3 all did an excellent job.

4 We can't run the criminal court system without
5 jurors being ready, willing, and able to serve. It's an
6 important civic function. You know, when you're accused of
7 something, there's no better way to let it be decided than
8 to let twelve citizens from the community make a decision
9 on what the true facts are. It's a wonderful system. You
10 know, we look around the world today and -- like you look
11 over in Libia, how they handle their differences over there
12 with guns and out in the streets. So we live by a rule of
13 law.

14 Y'all have participated in it. I thank you. Quite
15 frankly, I sat up here and listened to it all and I
16 wholeheartedly agree with your decision. I thank you. I
17 will have to impose sentence, but I'll probably do that
18 tomorrow. It's late and I'll let everybody get a fresh
19 night's sleep.

20 We don't have anything else for them, do we?

21 MR. MCALISTER: No, Your Honor.

22 THE COURT: The rest of them have been excused. As
23 promised, you are excused now for the balance of the week.
24 Ms. McElveen will mail you a check.

25 Does anyone need a work excuse for today?

1 (WHEREUPON several jurors raised their hands.)

2 THE COURT: All right. If you'll just sit tight,
3 we'll get that.

4 Ms. Steadman, I need you to sign the actual
5 indictment, if you would for me, please.

6 THE FOREPERSON: Okay.

7 THE COURT: Ms. McElveen will walk back in the jury
8 room with you.

9 Once again, I thank you very, very much. I enjoy
10 coming to Barnwell. I married a girl from Barnwell -- none
11 of y'all will believe this, but 42 years ago. And we're
12 still married. But her mother and father lived here. So I
13 enjoy coming over here. I got married right over there in
14 the First Baptist Church, so Barnwell is like my second
15 home.

16 Thank y'all. Y'all were wonderful and I appreciate
17 it. Some of you won't have to eat supper tonight. I saw
18 those plates. (Laughter) I ate there too. I know how it
19 is. But thanks, really, from the bottom of my heart. I
20 really appreciate it. Y'all did a great job. I hope you
21 have a very pleasant evening and the holiday season is
22 coming up. I hope you have a wonderful holiday season.

23 Thank you very much. Y'all can just go back there.

24 (WHEREUPON the jury left the courtroom at 6:08
25 p.m.)

1 THE COURT: All right. I think it's probably best
2 to sentence tomorrow. Everybody's tired and -- I don't
3 want tiredness interfering with my decision making process.

4 Mr. Walters, what time suits you tomorrow?

5 MR. WALTERS: Whenever the Court orders, Your
6 Honor.

7 THE COURT: Well, no. Eleven? Give you time to --
8 you tell me if you'd rather do it early, mid-morning, or
9 lunchtime?

10 MR. WALTERS: Ten o'clock, Your Honor.

11 THE COURT: I'll be here bright and early.

12 MR. MILLER: Your Honor, we have reviewed the
13 sentencing sheet with Defense Counsel and we're in
14 agreement on the sentencing sheet.

15 THE COURT: Okay. All right. He's in custody and
16 we'll reconvene in the morning at what time, solicitor?

17 MR. MCALISTER: Ten is fine unless you want to
18 start earlier.

19 THE COURT: Let's start at 9:30.

20 (WHEREUPON court was in recess for the day.)

21 **WEDNESDAY, NOVEMBER 2, 2011**

22 **SENTENCE**

23 THE COURT: All right. We have back before me
24 Stephon Robinson, who was found guilty yesterday by the
25 jury of Barnwell County or a Barnwell County jury for

1 burglary in the first-degree and possession of a weapon
2 during a violent crime.

3 Is he on probation?

4 PROBATION OFFICER: He's on YOA, Your Honor.

5 THE COURT: All right. Well, how do we handle
6 that?

7 PROBATION OFFICER: Once you sentence, Your Honor,
8 I'll take care of the paperwork.

9 All right. I know I heard yesterday while we were
10 talking about prior record for impeachment purposes, I
11 heard -- let's put on the record for sentencing purposes,
12 Mr. Miller and Mr. McAlister, his prior record.

13 MR. MILLER: Your Honor, we did an extensive review
14 of his prior record. His NCIC rap sheet was a little bit
15 confusing. His prior record started with the 2005
16 shoplifting in Georgia, which he was granted first offender
17 act status for; however in February of 2007, he was
18 convicted of financial transaction theft and breaking into
19 motor vehicles with intent to commit a felony in Georgia,
20 which revoked the first offender status on that
21 shoplifting. So he's got three convictions from Georgia.

22 THE COURT: That's an '05 shoplifting, an '07
23 financial transaction card fraud --

24 MR. MILLER: Theft.

25 THE COURT: Or theft, and breaking into a motor

1 vehicle.

2 MR. MILLER: Yes, sir.

3 THE COURT: That's three times and '05, he would
4 have been what -- how old were you in '05, sir?

5 MR. MILLER: Nineteen, eighteen.

6 THE COURT: Eighteen. All right. Go ahead.

7 MR. MILLER: Your Honor, in 2007, November of 2007,
8 Mr. Robinson was arrested for burglary second, violent in
9 Barnwell County and was released on bond. He was
10 thereafter arrested again in April of 2009 while the
11 burglary charge was still pending and charged with
12 attempted armed robbery. In May of 2009, Mr. Robinson pled
13 guilty to the burglary second, nonviolent and a
14 strong-armed robbery and was sentenced to an active
15 sentence under the Youthful Offender Act.

16 THE COURT: When was that?

17 MR. MILLER: That was in May -- excuse me May of
18 2009. Mr. Robinson was actually released from prison on
19 his YOA sentence --

20 THE COURT: Was that my sentence in May of '09?

21 MR. MILLER: Yes, sir. Mr. Robinson was released
22 from prison on his YOA sentence in March of 2010 and this
23 incident occurred less than a year later. It was in
24 February of 2011 when this incident occurred.

25 THE COURT: While on YOA parole?

1 MR. MILLER: Yes, sir.

2 THE COURT: So this will be one, two, three,
3 four -- this will be his sixth offense?

4 MR. MILLER: Yes, Your Honor.

5 THE COURT: And he's 25 years of age.

6 MR. MILLER: Yes, Your Honor and the State would
7 note --

8 THE COURT: Second burglary --

9 MR. MILLER: -- each offense is escalating in
10 severity. You go from the shoplifting to breaking and
11 entering motor vehicle to a burglary to an attempted armed
12 robbery that was pled as a strong-armed robbery and now
13 we're here on a burglary first.

14 THE COURT: Anything else by the State?

15 MR. MILLER: Nothing further from the State, Your
16 Honor. The victim did not want to make a statement to the
17 Court.

18 THE COURT: Mr. Walters?

19 MR. WALTERS: Good morning, Your Honor.

20 THE COURT: Good morning, how are you?

21 MR. WALTERS: Fine, Your Honor.

22 Your Honor, as my client stated to you, he's 25
23 years old. He's a member of Jordan Baptist church. Your
24 Honor, during the last couple of years, it looks like the
25 last two or three years, his father died, his mother died

1 and his grandmother died. He's essentially lived on his
2 own and attempted to take care of his family. Your Honor,
3 under the circumstances --

4 THE COURT: What kind of family does he have? Does
5 he have children?

6 MR. WALTERS: He has a sister and a nephew that he
7 attempts to take care of. He has essentially tried to take
8 care of the family.

9 THE COURT: Work anywhere at all?

10 MR. WALTERS: Cutting grass for a gentleman named
11 Mr. Harris. His highest educational level is in the 12th
12 grade. Under the circumstances, this is a young man
13 that -- he's made some terrible mistakes.

14 THE COURT: That's sad, because he looks like a
15 nice -- clean cut -- Mr. Walters, how about sign these
16 sentence sheets for me.

17 MR. WALTERS: Yes, sir.

18 THE COURT: And if your client wishes to, he may.

19 (WHEREUPON the defense was signing the sentence
20 sheets.)

21 THE COURT: Anything else, Mr. Walters?

22 MR. WALTERS: Your Honor, you met his brother
23 yesterday. There have been numerous issues in his family
24 because of -- there wasn't sufficient funds. And of course
25 the parenting role disappeared after the deaths of his

1 entire family, his father or mother and dad and the
2 grandparent. We would ask the Court under the
3 circumstances to please consider his youth. There's still
4 some good in this young man. He's made some terrible
5 mistakes since the age of eighteen.

6 Perhaps after this ordeal, he could learn from it
7 and move forward with his life.

8 THE COURT: Mr. Robinson anything you want to say?

9 THE DEFENDANT: No, sir.

10 THE COURT: Mr. Williams, anything you want to tell
11 me in regards to being the victim?

12 MR. WILLIAMS: No, sir.

13 THE COURT: Mr. Robinson, you certainly can't
14 complain. The State offered you a plea to burglary second
15 violent that carries fifteen years and it's not an 85
16 percent sentence. Your lawyer, as I understand, certainly
17 encouraged you to do that. And even after the trial
18 started, I was considering your young age. I once again
19 told your lawyer that I would get the State to open that
20 back up for you. Even I thought that I could give you less
21 than the fifteen years. You exercised your right to trial,
22 which you absolutely have the right to do so. But you've
23 never accepted responsibility for your actions. I thought
24 the evidence was overwhelming and supported the verdict
25 rendered by the jury.

1 Young man, I'm not sure what's going on with you,
2 but you're on a pattern to be a menace to society. You
3 start off by a simple shoplifting in 2005; you escalated to
4 stealing financial transaction cards, breaking into motor
5 vehicles in '07. The same year you burglarized another
6 house. You get out on bond and while out on bond, you get
7 involved in an attempted armed robbery two years later.

8 The State, once again, gives you a break and allows
9 you to plea to both of those together. Actually the
10 burglary first pled down to a burglary second, violent. I
11 gave you an active YOA trying to help you and then you went
12 to the Youthful Offender Detention Center in Columbia,
13 segregated from the mainstream inmates. You stayed there,
14 as I understand, from May of '09 until March of 2010.
15 What's that? About ten months. You were released on
16 parole, being supervised by our agents and within thirteen
17 months, you're kicking in the door of a home with a weapon,
18 shooting at someone.

19 As I told my law clerk on the way over here this
20 morning, we're not but about 6 inches, 12 inches, 18 inches
21 away from Mr. Williams being dead or you being dead or your
22 brother or your cousin. I'm not sure what's going on with
23 the segment of our young people today and their use of guns
24 and their just cavalier attitude about what guns are.
25 There was an article in the paper this morning, I think it

1 was in New Orleans, Halloween, they had sixteen killings
2 over Halloween in New Orleans from young people with guns
3 and acting like thugs.

4 So I just think that you need to be separated from
5 the rest of us if you want to live this lifestyle. We'll
6 let you live it in Columbia with the other people who
7 decide to live their lives like you.

8 Sentence of the Court on the burglary charge, that
9 you be sentenced -- committed to the State Department of
10 Corrections for a period of twenty years. On the
11 possession of a weapon, that's a five year sentence to run
12 concurrent. I'll give you credit for your time served.
13 Good luck to you.

14 MR. WALTERS: Thank you, Your Honor.

15 * * * * * END OF TRANSCRIPT * * * * *

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1 State of South Carolina)
2 County of Aiken) **Certificate of Reporter**

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6 I, THE UNDERSIGNED, Brenda J. Sigwald, Official
7 Court Reporter for the Fifth Judicial Circuit of the State
8 of South Carolina, do hereby certify that I reported the
9 proceedings in the captioned case in the Court of General
10 Sessions in and for the State of South Carolina on the 1st
11 and 2nd days of November, 2011.

12 I FURTHER CERTIFY that the foregoing pages,
13 numbered 3 through ^ # constitute a true, accurate and
14 complete transcript of said hearing.

15 I FURTHER CERTIFY that I am neither kin, counsel,
16 nor of interest to any party hereto.

17 IN WITNESS WHEREOF, I have hereunto set my hand and
18 seal at Aiken County, this 15th day of May, 2012.

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Brenda J. Sigwald
Brenda J. Sigwald,
Court Reporter and Notary Public
For the State of South Carolina
My commission expires
January 4, 2020.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Stephon Robinson, Appellant.

Appellate Case No. 2011-202987

Appeal From Barnwell County
Doyet A. Early, III, Circuit Court Judge

Unpublished Opinion No. 2014-UP-068
Submitted December 1, 2013 – Filed February 19, 2014

REMANDED

Appellate Defenders Dayne C. Phillips and Carmen
Vaughn Ganjehsani, both of Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General John Benjamin Aplin, both of
Columbia, for Respondent.

PER CURIAM: Stephon Robinson appeals his convictions for first-degree burglary and possession of a weapon during the commission of a violent crime. Robinson argues the trial court erred in admitting his prior convictions and failing

to conduct an on-the-record balancing test weighing the probative value of the prior convictions against their prejudicial effect. Specifically, Robinson contends the trial court erroneously admitted his 2009 conviction for attempted robbery and two 2007 Georgia convictions for breaking into an automobile with intent to commit a theft or felony. We remand.

Examining the record, we conclude the trial court did not conduct a meaningful analysis balancing the impeachment value of Robinson's prior convictions against their prejudicial effect. *See State v. Scriven*, 339 S.C. 333, 344, 529 S.E.2d 71, 76 (Ct. App. 2000) (stating the trial court must conduct "a meaningful analysis to balance the impeachment value of [a defendant's] prior convictions, if any, against the prejudicial impact, as clearly required under Rule 609(a)(1)[, SCRE]"). Although the trial court found Robinson's prior convictions were "within the statute" and ordered the State to refer to his 2009 second-degree burglary conviction as a "felony," the trial court did not analyze the prejudicial impact of admitting his 2009 attempted robbery conviction and two 2007 Georgia convictions for breaking into an automobile with intent to commit a theft or felony. *See id.* (stating if the trial court does not conduct a meaningful on-the-record balancing test, a decision to admit a defendant's prior convictions is an error of law resulting in an abuse of discretion).

On remand, the trial court should hold a hearing and carefully balance the probative value of his prior convictions for impeachment purposes against their prejudicial effect. If the trial court finds the prejudicial impact of the prior convictions outweighs their impeachment value, the trial court shall order a new trial. Otherwise, subject to further appellate review, the convictions and sentences are affirmed. *See State v. Howard*, 384 S.C. 212, 222, 682 S.E.2d 42, 48 (Ct. App. 2009) (remanding for an on-the-record balancing test weighing the probative value of the defendant's prior convictions against their prejudicial effect); *Scriven*, 339 S.C. at 344, 529 S.E.2d at 77 (remanding to the trial court "with instructions to hold a hearing on the admissibility of [the defendant's] prior convictions, applying the proper burden of establishing admissibility, and carefully weighing the probative value for impeachment of the prior convictions against the prejudice to [the defendant]").

REMANDED.¹

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

SHORT, WILLIAMS, and THOMAS, JJ., concur.

State of South Carolina
County of Aiken

Court of General Sessions

State	)	
	)	
	)	Transcript of Record
v.	)	2011-GS-06-245; 246
	)	
Stephon Robinson	)	
	)	
<u>Defendant.</u>	)	

June 9, 2014
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

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

David Miller, Assist. Solicitor
Attorney for the State

Carmen Ganjehsani, Esq.
Attorney for the Defendant

Bethanie K. Creppon
Circuit Court Reporter

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1 (The following proceedings were held on June 9,
2 2014.)

3 THE COURT: All right. This is *State vs.*
4 *Stephon Robinson*.

5 Mr. Robinson, how are you today?

6 THE DEFENDANT: All right.

7 THE COURT: 2011-GS-06-245. Mr. Robinson was
8 convicted in this court of first-degree burglary and
9 possession of a weapon during the commission of a
10 violent crime. He appealed that conviction in the
11 South Carolina Court of Appeals in an unpublished
12 opinion, 2014-UP-068; remanded the case to -- or
13 back to me for me to hold a hearing and carefully
14 balance the probative value of his prior convictions
15 for impeachment purposes against their prejudicial
16 effects.

17 I find that the prejudicial impact of the prior
18 convictions outweighs their impeachment values, then
19 I shall order a new trial; otherwise, convictions
20 and sentences are affirmed. Subsequent to receiving
21 this, I received -- we received a note -- or I got a
22 copy of a note from Ms. Carmen Ganjehsani and said
23 that she'd be representing Mr. Robinson.

24 So I've ordered a copy of the transcript from
25 the trial, I have reviewed the same. I suspect,

1 ma'am, that -- I'll just give you about a five- or
2 ten-minute argument; Mr. Miller, you can respond,
3 and then I'll make a decision.

4 MS. GANJEHSANI: Well, you went through the
5 background of the case. And the two convictions --
6 or the three convictions at issue are the 2009
7 attempted common-law robbery and --

8 THE COURT: '09 attempted common-law robbery.

9 MS. GANJEHSANI: Or strong-arm robbery, and
10 then there are also two 2007 Georgia convictions for
11 breaking into an automobile.

12 THE COURT: B&E auto. So one was in '09 and
13 two in '07.

14 MS. GANJEHSANI: Right.

15 THE COURT: And he was tried --

16 MS. GANJEHSANI: In November 2011 for
17 first-degree burglary, possession of a weapon during
18 the commission of a violent crime.

19 THE COURT: So he's tried some two years after
20 the strong-arm robbery and some four years after the
21 breaking into an automobile.

22 MS. GANJEHSANI: Correct.

23 THE COURT: Both within the ten-year statute.

24 MS. GANJEHSANI: Right. We don't have any
25 issue with remoteness. But under Rule 609 (a)(1),

1 those prior convictions can only be admitted if you
2 determine the probative value of that evidence
3 outweighs its prejudicial effects.

4 THE COURT: That's correct.

5 MS. GANJEHSANI: And I'll go through. The
6 Supreme Court has listed five factors in *State vs.*
7 *Colf*; the impeachment value of the crime, the point
8 and time of the conviction and the witness'
9 subsequent history, the similarity of the prior
10 crimes and the charged crime, the importance of the
11 defendant's testimony, and of centrality of the
12 credibility issue.

13 And I first want to argue that prior crimes,
14 they must be probative of the defendant's
15 credibility. So we're looking at whether the prior
16 convictions have any impeachment value whatsoever.
17 Prior crimes can be admitted to show that he had a
18 bad character or is capable of committing the
19 charged offense. The Court of Appeals said that in
20 *State vs. Howard*. The Court of Appeals also said in
21 *State vs. Black*, you can't admit a prior crime just
22 to show he's a bad person. In that case, the only
23 legitimate purpose of admitting a prior crime is to
24 impeach the witness' credibility.

25 And again, the Supreme Court, in a 2006 case,

1 *State vs. Bryant*, says the prior crime cannot be
2 used to show that the defendant gets in trouble a
3 lot and continues to commit crimes. Our State
4 Supreme Court in that *State vs. Bryant* case in 2006
5 has also held that convictions for robbery,
6 burglary, and theft, beyond the basic crime itself,
7 are not probative of truthfulness.

8 So I would submit, the prior crimes of
9 attempted common-law robbery and breaking into an
10 automobile, they don't have any probative value
11 whatsoever because they don't go to his
12 truthfulness, they don't show his veracity, they
13 don't go to his credibility. So I submit there's no
14 probative value of those prior crimes. And then in
15 addition, it's inescapable that he was prejudiced by
16 the admission of those prior crimes; they're not
17 identical to the charged offense, but they're very
18 similar.

19 He was charged with first-degree burglary, so
20 we have a jury hearing that he was previously
21 convicted of attempted common-law robbery, breaking
22 and entering into an automobile. Obviously for a
23 jury, you know, they're looking at that and the
24 common thread is that there's theft, taking of
25 property, and they're going to think of a burglary,

1 going into a indwelling, usually that's to go in and
2 take property. So those crimes are so similar
3 that -- you know, I think it really -- the
4 similarity of the prior crimes to what he was
5 charged with really heightens the prejudicial
6 effect.

7 And the State Supreme Court in Bryant, again
8 has said, when that prior offense is similar to the
9 offense on trial, the danger of unfair prejudice
10 weighs against its admission, especially when we
11 have a prior crime that has nothing to do with the
12 defendant's credibility, like these crimes here;
13 they don't go to his veracity, his credibility, and
14 when these crimes are very prejudicial, the State
15 Supreme Court has said it will find that the trial
16 Court errs in admitting those prior convictions.

17 So we contend that, you know, under
18 Rule 609 (a)(1), those prior convictions should not
19 have been admitted into trial, he's entitled to a
20 new trial, Mr. Robinson is entitled to a fair trial
21 where a jury is making a decision not based on some
22 prior character or based on something that he may
23 have done during a previous conviction. We don't
24 want a jury to think if he did it once, he did it
25 again; we want the jury to be looking and making a

1 decision on the facts of the case.

2 And in this case credibility was very
3 important. The only evidence basically we had --
4 Mr. Eddie Williams was the victim. He says that
5 Mr. Robinson and his brother and a third
6 unidentified man came into his house and that he
7 recognized them. And, of course, Mr. Robinson took
8 the stand and his brother and a friend took the
9 stand and he said they were at their own house at
10 the time.

11 There was no physical evidence linking Mr.
12 Robinson to this crime; you know, they never
13 recovered the gun that he allegedly had, there were
14 no fingerprints. So it really becomes kind of a
15 he-said-versus-he-said type of case. So credibility
16 is important. And so when you're admitting crimes
17 that have, you know, nothing to do with credibility.
18 That's very prejudicial when a jury is hearing that
19 when they're trying to make a decision, you know,
20 based on the facts and trying to decide whose story
21 is correct and, therefore, we do not think the
22 admission of those prior convictions was harmless
23 either. So for that reason, I'm asking you today to
24 grant him a new trial and to hold that those prior
25 convictions of attempted common-law robbery and the

1 two breaking and entering into automobiles should
2 not have been admitted in the trial.

3 THE COURT: Thank you.

4 Mr. Miller.

5 MR. MILLER: Thank you, Your Honor.

6 We do agree with something that was just said,
7 and that is that credibility was the central issue
8 in this case.

9 THE COURT: Did he have an alibi?

10 MR. MILLER: It was an alibi, Your Honor. He
11 stated that he was with his brother and that he and
12 his brother were at the girlfriend's house. They
13 had taken car back to the girlfriend and they didn't
14 even have the car, even though they said they had
15 had the car the night before this alleged -- the
16 incident was alleged to have taken place.

17 Your Honor, first of all, there's a rule -- and
18 it's been stated that this doesn't have anything to
19 do with the impeachment value of the prior crime.
20 It doesn't have anything to do with honesty. But,
21 Your Honor, there's actually two rules in 609;
22 there's the general rule under 609 (a)(1) that
23 specifically addresses what we have here, and then
24 there's 609 (a)(2). And under 609 (a)(2), evidence
25 of any witnesses who have been convicted of a crime

1 shall be admitted if it involved dishonesty of false
2 statements, regardless of the punishment. And
3 that's not what we're trying to get these in under.

4 The Supreme Court case that Ms. Ganjehsani
5 cites that says robberies and breaking and entering
6 into autos without anything other than that base
7 offense, it's not a crime of dishonesty, so it
8 doesn't come under 609 (a)(2).

9 We're talking about 609 (a)(1). And 609 (a)(1)
10 says when a witness -- excuse me; evidence that an
11 accused has been convicted of such a crime shall be
12 admitted if the Court determines the probative value
13 of admitting the evidence outweighs its prejudicial
14 effects of the accused. And what they're talking
15 about there is evidence of conviction of a crime if
16 the crime was punishable by death or imprisonment in
17 excess of one year under the law that the witness
18 was convicted under.

19 Now, all of these, they can see, carry more
20 than a year; all of these, they concede, were within
21 the ten-year timeframe. And if you're looking at
22 the Colf factors whenever you're discussing that and
23 looking and weighing them, there's a significant
24 difference between Colf which sets out the test and
25 this case, and that is in Colf, the crimes that they

1 were trying to get in were actually outside of the
2 ten-year time limitations. And in that case, the
3 Court found that the specific facts and
4 circumstances had to substantially -- the probative
5 value had to substantially outweigh the prejudicial
6 effect. That's not the test or the standard here.

7 Here, the standard is, it's a balancing test,
8 51 percent one side or the other. So with that in
9 mind, we look at the impeachment value of the prior
10 crime. I don't know how, Your Honor, we presume
11 what the jury thought about these crimes, certainly
12 there was not any objection from Mr. Walters at the
13 time of trial that they were so closely related to
14 the crime of burglary; in fact, there was the one
15 burglary conviction, and in that conviction we
16 specifically said that we would not refer to it as a
17 burglary, instead we would refer to it in the
18 parlaments of the rule as being a crime that
19 carried more than a year and within ten years,
20 obviously, and that would be the burglary conviction
21 from 2009.

22 The robbery charge, the jury sat there and
23 listened to all of the allegations in the case.
24 This was not presented as a robbery that went wrong.
25 Everybody, including the -- well, the victim is the

1 everybody, said that these individuals broke into
2 his house, he believed, not knowing that he was
3 home. So there was nothing similar about the
4 victim's version of what happened to a robbery. It
5 was a burglary. They were trying to break into his
6 house.

7 As far as the cars go, the breaking and
8 entering into automobiles in 2007, that's less than
9 five years prior to the time. But there's a large
10 difference, and the law recognizes it, between
11 breaking into somebody's car and breaking into
12 somebody's home. So I don't think that the jury --
13 I don't think we can assume that the jury
14 automatically just heard, oh, he steals stuff and
15 he's a thief, therefore he must have committed this
16 burglary, this -- when it actually turned out to be
17 an armed home invasion whenever he came into this
18 man's house with a gun.

19 And that was what the jury had heard. The jury
20 had heard that the defendant came into the victim's
21 house, armed with a gun, and shots were fired before
22 the defendant ran away. And so if the jury was
23 listening to the testimony, which I presume that
24 they were doing, whenever they hear subsequent to
25 that and this guy's got a charge for breaking and

1 entering automobiles, it's just as likely to assume
2 that the jury is going to sit there and go, this guy
3 breaks into cars, he doesn't invade people's homes.

4 So having said that, I just don't believe that
5 you can presume what the jury was thinking whenever
6 they heard this because these are not similar
7 crimes; burglary first is not a similar crime to
8 breaking and entering into an automobile.

9 Furthermore, Your Honor, these convictions were
10 not only within ten years of the date of this
11 alleged offense, they were within five years, even
12 the most remote one was in 2007. This case -- as a
13 matter of fact, it was the case -- two cases out of
14 Georgia. They were February the 20th of 2007 was
15 when he was convicted of those two counts of
16 entering an automobile or other motor vehicle with
17 intent to commit a theft or a felony. They were
18 pled in the same day. There was another case, Your
19 Honor, that he pled guilty to that same day that was
20 financial transaction card theft. But at the time,
21 we actually had discussed it -- we hadn't discussed
22 it, our office had discussed it, and we were
23 concerned about the paperwork on that and we weren't
24 sure whether or not that was a conviction at the
25 time. The record -- the rap sheet is pretty clear

1 now that it was a conviction, but we didn't try to
2 get that in because we weren't sure of it.

3 Your Honor, these are not similar crimes, they
4 are well within the statutorily allowed or period
5 allowed by the rules to have these things come in.
6 And in this case, when you have a defendant who is
7 saying, it wasn't me, I didn't do it, his testimony
8 is exceedingly important because there was not any
9 kind of physical evidence. There was the testimony
10 and the recollection of the victim. The victim
11 talked extensively about all of the different things
12 that he saw and all of the different things that
13 happened that day. The victim talked about the car
14 that they were in. And that became a very important
15 piece of evidence, but it was still circumstantial
16 evidence because the car, it turned out, was later
17 admitted to, was the car that belonged to
18 Mr. Robinson or one of his compatriots' girlfriends
19 and that they had been -- they admitted that they
20 had been riding around in the car the night before
21 whenever they had gone to the club. And they
22 actually tried to say that that's the reason why the
23 defendant -- or the victim knew what kind of car
24 that they were driving in was because he must have
25 seen them at the club in the car the night before

1 and then he decided to blame this armed home
2 invasion of his house on them.

3 Your Honor, this alibi testimony that was
4 offered not only by the defendant but also by his
5 brother who was also charged in the crime with him
6 and a third individual who came in really put the
7 issue of credibility squarely as the deciding factor
8 in the case. The entire case had to be decided on
9 the credibility because if that jury did not believe
10 Mr. Williams and did not think they could trust his
11 statement, then Mr. Williams -- the case isn't a
12 burglary case. I mean, that was it. It all came
13 down to, do we believe Mr. Williams or do we believe
14 the defendant and his brother and this third guy who
15 have been put up on the stand to say this guy didn't
16 do it, he wasn't there, it's just a coincidence that
17 Mr. Williams knew what kind of car they were driving
18 that day and told the police and told the jury
19 exactly how the car came up, somebody knocked on the
20 door, they went back to the car, the car disappears
21 for a few minutes, the car comes back and then
22 somebody kicks in his door and -- causing him to get
23 up and go investigate what's going on.

24 So certainly credibility was the central issue
25 in the case. None of these prior convictions are

1 remote in time, but they also are not similar to the
2 crime with which he was charged. The one that we
3 had that was similar to the crime for which he was
4 charged, we did not elicit the details or did not
5 elicit the discussion of that crime by the name
6 burglary because, obviously, that was something that
7 would have been potentially more prejudicial than
8 probative. But in this case, Your Honor,
9 particularly in light of the standard of the
10 balancing test, it is a 50/50 or weighing both sides
11 and seeing which one it is; is it more probative or
12 is it more prejudicial?

13 Your Honor, the State takes the position that
14 it was absolutely highly probative and, in fact,
15 other than the fact that it was probative of his
16 veracity, other than it was probative of his telling
17 the truth, to the extent that the jury decided
18 against him, then, yes, in that respect it was
19 prejudicial against him. But it wasn't because -- I
20 don't think that the Court -- or we would assume
21 that it was because of the fact that he just thought
22 he was a bad guy who did bad guy things and,
23 therefore, he must have done this thing. And that's
24 certainly the rationale, which I appreciate and
25 understand, from the prior opinions that have been

1 cited, but that's exactly why we couched the
2 burglary conviction in the terms that we did when we
3 were talking about it. Thank you, Your Honor.

4 THE COURT: Anything in response?

5 MS. GANJEHSANI: Yes. I just want to point out
6 again, as the solicitor says, credibility was -- it
7 was essential to this case and we admit that. But
8 we say, what was the probative value of those prior
9 convictions? And there was -- there was none. The
10 solicitor can't articulate what is the probative
11 value because, like I said, our State Supreme Court
12 and Court of Appeals have time and time again said
13 that convictions of robbery, burglary, theft, are
14 not probative of truthfulness, they do not go to
15 impeachment because the *State vs. Bryant* case and
16 the Court of Appeals case *State vs. Broadneck* says
17 that; *State vs. Black* also from Court of Appeals,
18 *State vs. Cheeseboro* from the Supreme Court that
19 says that housebreaking and grand larceny are not
20 generally considered probative of truthfulness. So,
21 therefore, we don't have any probative value.

22 And so when credibility is the central issue of
23 this case, which the solicitor admits, the Supreme
24 Court in *State vs. Bryant* has said that the State
25 should not be allowed to attack a defendant's

1 credibility with inadmissible prior convictions
2 where the credibility is essential to the defendant
3 where credibility is the essential part of the case.

4 There should not be prior convictions that do
5 not go to impeachment admitted. And, like I said, I
6 don't say, you know, our harmless error analysis
7 focus on can we say beyond a reasonable doubt that
8 those prior convictions did not contribute to that
9 jury's verdict? And I don't think we can say that.
10 They heard it, you know, they heard about strong-arm
11 robbery, they heard about breaking and entering, you
12 know, and they -- I don't think we can say beyond a
13 reasonable doubt that the jury hearing that does not
14 get into their head and think, you know, he's done
15 something like this before, he may also do something
16 like a burglary which -- I think these crimes are
17 all similar, they're not identical.

18 But for a layperson jury, I think when you have
19 that kind of thread of maybe taking property from
20 others, going into a house, you know, strong-arm
21 robbery, you're taking from the person, burglary,
22 you're going into a house to take something, that's
23 very similar to a jury. I don't think we can say
24 that those are dissimilar crimes. And I think when
25 they are similar, the prejudice is there. The

1 Supreme Court has noted it's inescapable that
2 there's prejudice when you have similar crimes.

3 So, here, when I think we're weighing the
4 probative value, which I contend is none, versus the
5 prejudice, which is -- is great -- I mean, there's
6 no doubt it's great. Our Courts have always agreed
7 that committing the similar crimes is highly
8 prejudicial to the defendant. I think when you tip
9 the scales, especially when there's no probative
10 value, the prejudice outweighs -- and I agree under
11 609 (a)(1), it doesn't have to substantially
12 outweigh the probative value, but here it does
13 outweigh it, and I think he's entitled to a new
14 trial.

15 THE COURT: Thank you.

16 Okay. I'm going to take it under advisement.
17 Ma'am, can you send me a cite to those cases
18 that you just argued about in --

19 MS. GANJEHSANI: Do you want me to just e-mail
20 them or --

21 THE COURT: Yes, ma'am.

22 MS. GANJEHSANI: Okay. I'll do that.

23 THE COURT: And send a copy to Mr. Miller.

24 All right. I'll take it under advisement and
25 get an order out shortly.

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the captioned cause, relative to appeal in the General Sessions Court for Aiken County, South Carolina, on the 9th of June, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 20, 2015

/s/Bethanie K. Creppon
Circuit Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF BARNWELL

STATE OF SOUTH CAROLINA,

Plaintiff,

v.

STEPHON ROBINSON,

Defendant.

IN THE GENERAL SESSIONS COURT

SECOND JUDICIAL CIRCUIT

2011-GS-06-00245

2011-GS-06-00246

ORDERRHONDA D. McELVEEN
CLERK OF COURT
BARNWELL COUNTY, S.C.

2014 NOV 11 AM 10:19

FILED FOR RECORD

This matter came before this Court on remand from the South Carolina Court of Appeals for a hearing to determine whether, under Rule 609(a)(1), SCRE, the prejudicial impact of admission of Defendant Stephon Robinson's prior convictions for burglary, attempted robbery, and breaking into an automobile with intent to commit a theft or felony outweighed their probative value.

The remand hearing was held in Aiken County on June 9, 2014. The Defendant was present for the hearing and was represented by Carmen V. Ganjehsani of the South Carolina Commission on Indigent Defense. Deputy Solicitor David W. Miller appeared on behalf of the State. This case was initially tried over two days beginning November 1, 2011 in Barnwell County. For the purposes of the remand hearing, the parties agreed to waive venue and have the matter heard in Aiken County.

I. PROCEDURAL HISTORY

On October 25, 2011, the Barnwell County Grand Jury indicted Robinson for first-degree burglary and possession of a weapon during the commission of a violent crime.

Robinson proceeded to trial before this Court and a jury in Barnwell County on both indictments. Glen Walters represented Robinson, and Assistant Solicitors A. Keith McAlister

STATE OF SOUTH CAROLINA
COUNTY OF BARNWELL
Rhonda D. McElveen, Clerk of Court
South Carolina do hereby certify that the foregoing
constitutes a true and correct copy of the original
documents which have been filed in my office.

By: *[Signature]* Date: 11-11-14
Clerk of Court, Barnwell County, SC

X12-PS12675 RED

and David W. Miller represented the State. The jury found Robinson guilty as charged on November 2, 2011. Robinson was sentenced to twenty (20) years imprisonment on the first-degree burglary conviction and a concurrent five (5) years imprisonment for possession of a weapon during the commission of a violent crime.

Following his conviction, Robinson filed an appeal to the South Carolina Court of Appeals. In his appeal, Robinson presented the following issue to the Court of Appeals:

Did the trial court err in admitting [Robinson's] prior convictions for strong-arm robbery and breaking and entering into a motor vehicle under Rule 609(a)(1), SCRE when the trial court failed to conduct the required on-the-record balancing test set forth by State v. Colf, 337 S.C. 622, 525 S.E.2d 246 (2000), and [Robinson] was prejudiced by the admission of his prior convictions given the similarity of his prior convictions to his charges for first-degree burglary and possession of a weapon during the commission of a violent crime?

The Court of Appeals issued its Opinion No. 2014-UP-068 on February 19, 2014, remanding the case to this Court to "hold a hearing and carefully balance the probative value of [Robinson's] prior convictions for impeachment purposes against their prejudicial effect." The Court of Appeals instructed that if this Court "finds the prejudicial impact of the prior convictions outweighs their impeachment value, [this Court] shall order a new trial. Otherwise, subject to further appellate review, the convictions and sentences are affirmed."

After considering the instructions of the Court of Appeals, reviewing the transcript of the trial in this matter, hearing the arguments of counsel, and conducting the balancing test set forth in State v. Colf, this Court hereby finds Robinson should not be granted a new trial for the reasons set forth below.

II. RELEVANT FACTS OF TRIAL

Eddie Williams, a resident of Barnwell County, claimed that Robinson, Robinson's brother, and an unidentified third man entered his home on the afternoon of Sunday, February

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20, 2011. Williams testified that he heard the door to his home broken in by someone while he [Williams] was in another part of the residence. Williams testified he retrieved a gun and went to investigate the disturbance. Williams confronted the intruders in the hallway of the residence and started to shoot at the intruders. As the intruders ran from the home, one of them, identified by Williams as Stephon Robinson, turned and fired a shot into the ceiling above Williams' head. Trial Tr. 99-107. Williams testified that Stephon Robinson was one of the intruders and the second intruder was Stephon Robinson's brother, Reginald Felder¹. Williams was never able to identify the third individual that entered his home that day because, "they liked to ran over him going back out, so I couldn't make him out". Id. at 105. After the intruders fled the residence, Williams called law enforcement to report the burglary.

Williams initially did not tell the officer investigating the incident that Williams himself had shot his gun at the intruders. Williams testified he was afraid to tell the truth to law enforcement because the gun in his possession had not been registered. Trial Tr. 111. Subsequent investigation of the pistol Williams used determined that it had been reported stolen out of Beaufort County. Trial Tr. 60. Williams also told law enforcement on the date of the incident that the bullet holes in his home were already there when he purchased the home. Trial Tr. 112-113.

At trial, Robinson testified that he was at his home with his brother Reginald Felder and his cousin when the incident occurred at Williams' home. Robinson testified he woke up in the morning, took a shower, took a car he borrowed from Shelly Leanna Gunnels back to her house, and then came back home and was home for the rest of the day. Trial Tr. 130-132.

¹ After testifying for the defense in this trial, Reginald Felder pled guilty to Burglary 2nd Degree (Violent) related to this incident on January 4, 2012. He was sentenced to twelve (12) years.

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Gunnels testified that Robinson did borrow her car on February 19th and then returned it on February 20th "around that afternoon." Trial Tr. 96-97.

III. LAW AND ANALYSIS

During the trial, this Court heard from counsel for the State and the Defense outside the presence of the jury regarding what, if any, prior convictions of the Defendant should be allowed to be admitted for impeachment purposes if the Defendant chose to testify.

Under Rule 609(a)(1), SCRE, "evidence that an accused has been convicted of [a crime punishable by death or imprisonment in excess of one year under the law under which the witness was convicted] shall be admitted if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused."

Four prior convictions were discussed. The only prior conviction Defense counsel presented any argument on was a prior 2009 burglary conviction. Additionally, the Defendant had a prior conviction in 2009 for strong-arm robbery and two 2007 Georgia convictions for breaking and entering into an automobile with the intent to commit a felony or theft.

As to the 2009 burglary conviction, I find that the prior conviction was probative as to the believability of the Defendant and that any undue prejudice from introduction of the conviction would be diminished by this Court's limiting instruction as well as the requirement that the State refer to the conviction only as a "conviction for a felony offense that carried more than a year". The State was prohibited from mentioning to the jury that the conviction was for a prior burglary. Accordingly, the probative value of this conviction outweighs its prejudicial effect.

As to the 2009 strong-arm robbery conviction and the two 2007 Georgia convictions for breaking and entering into an automobile with the intent to commit a felony or theft, I likewise find that the probative value of these convictions outweighs their prejudicial effect.

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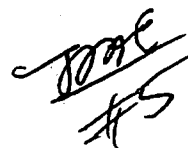
In conducting the Colf balancing test, each of the four convictions is considered together because the analysis remains the same for each conviction. In making this determination, this Court has considered:

1. The impeachment value of the prior convictions

“Impeachment value refers to how strongly the nature of the conviction bears on the veracity, or credibility, of the witness.” State v. Black, 400 S.C. 10, 21-22, 732 S.E.2d 880, 886-87 (2012). The only legitimate purpose for introducing evidence of past convictions is to impeach a witness’s credibility, not the witness’s general character. Id. at 23, 732 S.E.2d at 887. This Court finds the admission of the four prior convictions has value for impeachment purposes and that the prejudicial effect of the admission of the prior convictions, if any, is not outweighed by their admission. While no specific details of the prior convictions were provided to this Court or the jury in this case, the mere fact that the Defendant had twice been convicted of serious crimes within a few years of the alleged offense would tend to impact the Defendant’s credibility. Simply put, convictions for breaking into motor vehicles and strong-arm robbery don’t imply that the accused was an armed burglar, as was alleged in this case, but they do imply that the accused is not someone to be trusted - that he might not be credible. The Court’s instructions to the jury reflect this reality. After carefully weighing the prejudicial effect of these prior convictions with their probative value, I find that the probative value outweighs any prejudicial effect.

2. The point in time of the convictions and the witness’s subsequent history

Each of the prior convictions in this case were well within the ten (10) year boundary set forth by Rule 609(b). “Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness

Handwritten signature and initials, possibly "J. S." and "JS", in dark ink.

from the confinement imposed for that conviction, whichever is the later date..." Id. The Defendant's 2007 convictions in Georgia resulted in a sentence of probation for a period of five (5) years commencing on February 20, 2007. His subsequent 2009 convictions for burglary and strong-arm robbery resulted in an active YOA sentence not to exceed six (6) years, commencing on May 18, 2009. The Defendant would have been released from confinement on the active YOA sentence less than one year before the February 20, 2011 burglary of the Williams' home. At the time of this offense, and at the time of trial in November 2011, the Defendant was ostensibly still being supervised by Georgia and South Carolina authorities for these prior convictions. All of the Defendant's prior convictions occurred within five (5) years of the trial, and were therefore well within the time frame provided for by the Rule.

3. The similarity between the past crimes and the charged crime

The Defendant claims that his prior convictions are so similar in nature to his current charge that they are unfairly prejudicial to him in this case. In fact, there is very little similarity between his prior convictions and the charge in this matter. As stated above, the State was prohibited from mentioning the Defendant's 2009 burglary conviction during the trial. Instead, the State was required to simply refer to the conviction as "a felony conviction that carries more than a year". There is nothing about that characterization of the prior conviction to make it similar to the offense that the Defendant faced. As to the strong-arm robbery and breaking into motor vehicle charges, there is no indication that any of those charges involved the use of a deadly weapon (a crucial element of the burglary charge), or that they involved entering someone's home (also an element of the burglary charge). Despite Defense counsel's claim, there is no similarity between the prior convictions and the offenses for which the Defendant was on trial in this case.



4. The importance of the Defendant's testimony

The defense presented an alibi defense at trial. Specifically, testimony was offered that the Defendant was at his home with his brother, who had also been charged with first degree burglary in this case but was not being tried, and his cousin, who was not facing any charges from this incident. Reginald Felder and his cousin Arthur Wallace testified that the Defendant was with them at the time of the burglary and that none of them participated in the burglary of Mr. Williams' home. Given the fact the Defendant's testimony was entirely cumulative to the testimony of the two other defense witnesses, it was not necessary for the Defendant to take the stand in his defense. In fact, the only thing the Defendant testified to that his other witnesses did not confirm was that he [Robinson] had bought marijuana from Mr. Williams at the home prior to the date of the burglary. Trial Tr. 139.

5. The centrality of the credibility issue.

The credibility of Williams, Robinson, and Robinson's witnesses was central to the case. There was no physical evidence linking Robinson to the break-in at Williams' home. The only evidence linking Robinson to the crime was Williams' statement that Robinson was one of the three men who entered his home. The Defense called Williams' credibility into question in an effort to discredit his unwavering identification of Robinson and his brother as the perpetrators of the crime. Additionally, Robinson's brother and cousin testified consistently with Robinson that Robinson was with them and not at Williams' home on the day of the burglary.

Having weighed the admission of each prior conviction after applying the analysis set forth in Colf, I hereby find Robinson's prior convictions had impeachment value and that their admission was more probative than prejudicial. I further find the Defendant's prior convictions were sufficiently close in time to the trial in this matter. I find that the prior convictions were not

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substantially similar to the crime for which the Defendant was being charged, except for the prior burglary conviction, and as to that conviction, the State was properly limited in the introduction of that matter. I additionally find that the Defendant's testimony was not important to advance his defense of an alibi in this matter, as he had two other witnesses that could, and did, corroborate his testimony. Finally, I find that credibility of *all* witnesses, for the State and the Defense, was an essential element of this trial, as it is with every trial.

The defense strategy was to discredit the victim's identification of the Defendant and his brother as the perpetrators of this crime- in other words, to convince the jury that the victim was not credible. In an effort to that end, the jury was given the task of determining whether the victim really did see the Defendant and his brother breaking into his home or that the victim was lying. This could have been done even without the Defendant's testimony. Having offered his testimony in support of his defense and his own witnesses, I find the Defendant's prior record was properly presented to the jury for them to give it the consideration, within the confines of my instructions, they saw fit.

IV. CONCLUSION

BASED ON THE FOREGOING, I find that the probative value of the introduction of the Defendant's prior record outweighed any prejudice to him under Rule 609(a)(1), SCRE in this matter. Accordingly,

IT IS ORDERED that Defendant Stephon Robinson's motion for a new trial should be, and hereby is, DENIED.


~~Greenville~~, South Carolina
 November 10, 2014.


 Doyet A. Early, III
 Resident Judge,
 Second Judicial Circuit

WITNESSES

Barnwell Sheriffs Office

Jeff Croft

Law Enforcement Case #: C11-02-1265

AKM

ARREST WARRANT NUMBER

M545278

ACTION OF GRAND JURY

June Bill

Mark Guillot

Foreperson of Grand Jury

Date: October 25, 2011

VERDICT

Guilty

Ananda Steelman

Foreperson of Petit Jury

Date: 11/1/11

DOCKET NO. 2011GS0600245

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

OCTOBER TERM 2011

THE STATE

vs.

STEPHON TENARD ROBINSON

CDR #: 0079

Indictment for

BURGLARY FIRST DEGREE

§ 16-11-0311

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL)
)

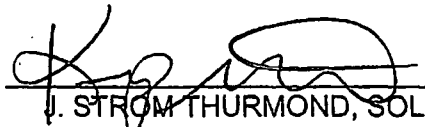
INDICTMENT FOR
BURGLARY FIRST DEGREE

§ 16-11-0311

At a Court of General Sessions, convened on October 25, 2011, the Grand Jurors of Barnwell County present upon their oath:

That **STEPHON TENARD ROBINSON** did in Barnwell County on or about February 20, 2011, willfully and unlawfully enter the dwelling of Eddie Williams located at [REDACTED] [REDACTED] in Barnwell, South Carolina, without consent and with the intent to commit a crime therein and the defendant was armed with a deadly weapon (firearm), all in violation of §16-11-311, *Code of Laws of South Carolina* (1976), as amended.

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


J. STROM THURMOND, SOLICITOR For

WITNESSES

Barnwell Sheriffs Office

Jeff Croft

Law Enforcement Case #: C11-02-1265

AKM

ARREST WARRANT NUMBER

M545279

ACTION OF GRAND JURY

True Bill

Mark D. Sullivan

Foreperson of Grand Jury

Date: October 25, 2011

VERDICT

Guilty

Andrea D. Headman

Foreperson of Petit Jury

Date: 11/1/11

DOCKET NO. 2011GS0600246

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

OCTOBER TERM 2011

THE STATE

vs.

STEPHON TENARD ROBINSON

CDR #: 0549

Indictment for

POSSESSION OF WEAPON DURING A
VIOLENT CRIME

§ 16-23-0490

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL)
)

INDICTMENT FOR
POSSESSION OF WEAPON DURING A
VIOLENT CRIME

§ 16-23-0490

At a Court of General Sessions, convened on October 25, 2011, the Grand Jurors of Barnwell County present upon their oath:

That **STEPHON TENARD ROBINSON** did in Barnwell County on or about February 20, 2011, possess or visibly display a firearm or visibly display a knife during the commission or attempted commission of a violent crime, to wit: BURGLARY FIRST DEGREE, all in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

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

 FOR
J. STROM THURMOND, 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."

January 28th, 2016



Laura R. Baer
Appellate Defender

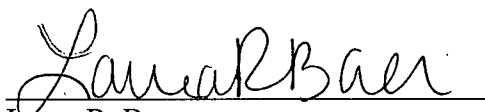
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

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."

January 28th, 2016


Laura R. Baer
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEY FOR APPELLANT