

 ORIGINAL

**VOLUME II OF II**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable D. Craig Brown, Circuit Court Judge

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**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

Demetrius Derrick Henderson,

APPELLANT

APPELLATE CASE NO. 2015-001075

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:**

- STATE’S EXHIBIT NO. 57 (GPS MAP-PHOTO)
- STATE’S EXHIBIT NO. 58 (GPS MAP-PHOTO)
- STATE’S EXHIBIT NO. 59 (GPS MAP-PHOTO)
- STATE’S EXHIBIT NO. 60 (GPS MAP-PHOTO)
- STATE’S EXHIBIT NO. 61 (GPS MAP-PHOTO)

1 during closing arguments, let me remind you all what the  
2 attorneys tell you is not evidence in this case. It is not  
3 evidence in this case.

4 The process or the procedure that we will go forward  
5 from here the State will close first, followed by Defense  
6 counsel, and then I will give you the charge on the law.

7 Therefore, at this time, I am going to recognize the  
8 State for closing argument.

9 MS. ALL: Thank you, Your Honor.

10 Ladies and gentlemen, when my co-counsel, Mr. Shenkar,  
11 spoke to you in his opening on Wednesday afternoon, he used  
12 language such as "caught in the act," "caught red-handed,"  
13 "all of the evidence was there to see." And we worked  
14 together on that case, that was something that we -- we  
15 worked on together.

16 And so I looked up "caught red-handed." I didn't know  
17 what -- where the phrase came from. And it turns out that  
18 for hundreds of years, it was a very common crime for  
19 people to steal someone else's livestock and butcher it.  
20 And you were considered "caught in the act," -- could only  
21 be proven guilty if you were caught with the carcass of the  
22 animal and the animal's blood on your hands. Because see,  
23 if you only had one, if you only had the carcass, then  
24 maybe you just stole it. If you only had the blood on your  
25 hands, then maybe you just slaughtered it. But because you

1 had both, you were definitely guilty.

2 Demetrius Henderson had the victim's belongings in his  
3 car and everything else in his pockets. Don't be confused  
4 or side-tracked by other issues in this case. It doesn't  
5 matter if there was a second person. There is no evidence  
6 that there was a second person and there is no second  
7 person on trial. Demetrius Henderson is on trial for this  
8 burglary.

9 It also isn't *State v. Travis Brimfield*. What Travis  
10 Brimfield did is not at issue today. It doesn't matter  
11 what Travis Brimfield did was right or wrong, whether he  
12 was charged or not charged, where he got his weapon,  
13 whether he actually hunts. None of that matters. What  
14 matters is that he caught the Defendant in the act, and by  
15 doing so, he completely froze the crime scene.

16 If Travis Brimfield hadn't shot the Defendant, we  
17 might not have had a suspect. If he hadn't shot the  
18 Defendant, the Defendant might have gotten in the car and  
19 driven away. In fact, Travis Brimfield testified that he  
20 didn't even remember there being a car when he pulled up.  
21 He also testified that he couldn't see the Defendant's  
22 face. We wouldn't have had an ID. We wouldn't have had a  
23 license plate. He would have gotten away with it,  
24 potentially.

25 If Travis Brimfield hadn't shot the Defendant,

1 everything wouldn't have been frozen and preserved the way  
2 that it was. All of the evidence of a burglary in progress  
3 was completely preserved for y'all. He dropped right in  
4 place, and everything was exactly as if he'd been doing it  
5 at that moment. Just frozen.

6 So let's talk about that evidence. Let's talk about  
7 what was in his car. Now, remember he had the keys to the  
8 car in his pocket, right? And he had his ID in his pocket  
9 with his keys. So we know that he drove the car. We also  
10 know he drove the car because it's supported by GPS data.  
11 We know that he drove in a car to this location from  
12 nearby. We know where he was right before that. We also  
13 know it's his car because all his stuff is inside. His  
14 identifying documents, his records, all of that is located  
15 in the car.

16 And what else is in the car? Everything that was  
17 missing from April Jenkins's house. April Jenkins's  
18 belongings, not Brimfield's belongings, not Costell's  
19 current belongings. They were going to be Costell's, but  
20 April Jenkins's belongings. She recovered all of those  
21 items. In fact, the only things that were in the car,  
22 other than a few unclaimed electronics, that weren't April  
23 Jenkins, were the Defendants.

24 We also look at the evidence that was found on the  
25 Defendant. As I said, when he was shot, he went down.

1       There was no time for him to pull anything out of his  
2       pockets or throw it away. Actually, there probably was  
3       time. But once you've been shot, the burglary is over. He  
4       pulls the glove off his hand. He's laying there trying not  
5       to die. He wasn't thinking about covering up his act.

6               He had everything else that he needed in the apartment  
7       in his pockets. Everything that was small enough for him  
8       to carry. It wasn't just TV remotes, he also had a  
9       portable speaker. If he could shove it in his pockets, he  
10      did. And when he fell, he fell on top of all of those  
11      items.

12             When EMS arrived, they cut his pants off, right? So  
13      as soon as they hear the shooting, we've got the people  
14      that come out and look right out the balcony and all they  
15      see is Costell Johnson run away. And then other than that,  
16      they don't see anybody. It's so dark that they can't even  
17      see the Defendant lying on the ground. They don't even  
18      know he's there because it's dusk, too dark to discern his  
19      presence, until they come down and hear him moaning.

20             So when he was moved by EMS, they left his pants  
21      behind. Those pants were not tampered with. Nobody else  
22      was there. Officer Everatt saw him wearing those pants  
23      when he arrived on scene. And in the pants was Costell  
24      Johnson's watch, jewelry that belonged to the victim's  
25      boyfriend, along with the Defendant's wallet and his ID and

1 the car keys to the car parked right near there, which  
2 Investigator McCoy later used to open it, to execute the  
3 search warrant, and a 20-gram bag of cocaine within the  
4 pocket of the pants. That is the very definition of actual  
5 possession. It was physically on his person. You heard  
6 Doug Robinson testify about the weight. It was 20 grams.

7 I want to know that he had taken everything in the  
8 apartment that he wanted. Because recalling the pictures,  
9 there were some wrapped presents that he didn't take  
10 because those might have been like toys or something he  
11 didn't want, right? He wanted the cologne, the toothpaste,  
12 the stuff he could actually use. He took the unwrapped  
13 presents, loaded them in a crate, and put them in the front  
14 seat of his car. He went through her entire house. This  
15 was methodical. This was not a "grab and go." We know  
16 from the GPS data that he drove from the neighboring  
17 apartment complex. We don't know what he was doing there,  
18 but if he was familiar with that location, maybe he was  
19 familiar with this one.

20 And then we know, from the GPS data and because of  
21 where this particular building was located, that he drives  
22 all the way back to the very back, literally the farthest  
23 away that he can go. He passes by every other building.  
24 He doesn't know anybody in Building . Everybody testified  
25 that they didn't know Demetrius Henderson.

1           He goes all the way to the back to the farthest one,  
2           which is by a cut that non-residents use, non-residents  
3           like the people that live at the neighboring  
4           Apartments. And then he parks his car in the last spot  
5           next to the dumpster. And then you could see, on the GPS  
6           dots (indicating) he's been over here, goes over here, this  
7           looks good.

8           It's no coincidence that he picks the one building  
9           that's shielded on two sides by woods and parks his car on  
10          the third side. It was just window to car, back and forth.  
11          That was intentional. It was also intentional that he  
12          parked his car right next to the dumpster at the very end  
13          of that parking lot. He could see everything coming at him  
14          and nobody could come from the other direction. It was  
15          intentional that there were no witnesses.

16          You heard Brimfield testify, when they got out of the  
17          car, they heard kind of like a scuffling, thought maybe it  
18          was an animal. He looked at his cousin, his cousin was, "I  
19          -- I don't know." They look over there. It's too dark for  
20          them to see Demetrius Henderson. Maybe he was hiding  
21          behind the building. He had that direct line of sight so  
22          that whenever somebody pulled up, he could shimmy behind  
23          the building. That's why nobody saw him.

24          It was from 5:30 to 6:30. It was intentional on his  
25          part to find a secluded spot that was covered by all these

1 woods. Daryl Stallings said it was the most secluded  
2 wooded area in the apartment complex.

3 When he got there, he took off his shoe, he took off  
4 his sock, and he put his shoe back on. He was confident.  
5 Confident burglary: We're just going to pick this place.  
6 It's right over here. I forgot a glove, I'll use my sock.

7 And then he walks up to the window on the most removed  
8 isolated wall of the building, and he pops out the screen.  
9 There's a picture of it. And then he pushes the window  
10 until the latch breaks.

11 It was December. It was December 18th. I don't know  
12 where y'all are from, but in December, I am inside. I have  
13 huge heat bills. I'm -- got a space heater in the  
14 bathroom. I'm not putting the window open in December and  
15 neither was April Jenkins.

16 Demetrius Henderson opened the window, and then he  
17 climbed inside. And the first thing he did was take that  
18 chair and shove it up under the door knob because he was  
19 there without permission. Not only was he there without  
20 permission, he's going to prevent the people who had  
21 permission from coming in, which is exactly what happened.

22 But before they got home, he went through every single  
23 room and pulled out every drawer. Pulled them out from the  
24 chest and went through a lady's clothes, bunched them all  
25 up, dumped them on the floor. Some of them pulled all the

1 way out onto the floor. He flipped over every shopping  
2 bag. He looked in every box. He went in every closet.  
3 He'd pick it up, he'd look at it, "I don't know if I want  
4 this one. I'll put this one on the bed. Maybe I'll just  
5 unplug this one." He shopped all the way around the entire  
6 apartment, and he was there for a long time.

7 Now, Mr. Pournaras asked the GPS data expert some  
8 really good questions and they were true. We don't know in  
9 what order those dots happened, and we don't know when he  
10 was inside and when he was outside. I mean, her wall is  
11 less than a foot, and you have the 10-foot error margin  
12 there. We don't know.

13 But those dots are moving all over the place. He was  
14 going in and out of the car, taking what he wanted from the  
15 apartment, and he took his time. He didn't have to hurry.  
16 There's a chair under the door. If somebody came home,  
17 he's going to know about it. It took a 400-pound man to  
18 push it open. You would hear that and jump out of the car  
19 -- or jump out of the window and run back to the car.

20 He also prioritized what he was going to take. He had  
21 moved certain items, and it's no coincidence that he loaded  
22 up the two nicer TVs and was coming back for the smallest  
23 one. He left an old laptop. There wasn't as -- wasn't as  
24 good as the tablet or notebook that he'd already loaded up  
25 into his car.

1           He went through everything in her entire house because  
2 he had time, because he knew what he was doing. And he  
3 took exactly what he wanted and he put it in the car. He  
4 took so much time that he went back to get the remotes. He  
5 went back in the apartment, instead of buying a universal  
6 remote, to make sure that he had all of the accessories.  
7 That is a confident burglary.

8           He unloaded everything into the car and was keeping  
9 the small items in his pockets. When he was going back for  
10 the next trip, Brimfield and Johnson came home.

11           Now, let's talk about some of the other evidence that  
12 -- that we've provided. We've provided testimonial  
13 evidence, and you can assess those people's credibility.  
14 Assess whether they looked honest, assess whether they have  
15 a reason to lie, assess if there was a reason for them to  
16 be here, anything for them to get out of it.

17           There's also the physical evidence that we put in, all  
18 of those photographs. Obviously, y'all didn't get a lot of  
19 the physical evidence. You didn't all of it because a lot  
20 of it went back to April Jenkins.

21           And then there was the GPS data, which was not  
22 perfect, but it was probable and it was too good not to  
23 submit. Obviously, we can't tell exactly where he was.  
24 Nobody contended that we could draw a line for every action  
25 and every movement he made, but it corroborates the State's

1 story.

2 We didn't need it to prove he committed burglary. We  
3 didn't need it to prove he made all those trips. There was  
4 no way he could load all that stuff up in his car at once.  
5 We didn't need to prove he stole it. The stuff's in his  
6 car. It's -- it's on his person. He admitted to Brimfield  
7 that he stole it.

8 We used it to prove that he was somewhere else before  
9 that, to give you a full story. We used it to prove how  
10 long he was there and when he got there. The evidence that  
11 is called into question, where we don't know exactly what  
12 these arrows mean or we don't know where exactly when --  
13 which dot went where. We didn't submit it to prove that.  
14 It corroborates the evidence that we already have.

15 In fact, what it -- it doesn't corroborate is the  
16 Defense's theory. There were questions about technically,  
17 all of these dots could have happened if you had just been  
18 standing still, right? That is correct. All of those dots  
19 happening and you're standing still totally ignores the  
20 fact that all of that stuff ended up in his car. How did  
21 everything get loaded into his car? How did her apartment  
22 get broken into? How did he make so many trips back and  
23 forth if he was standing in the same place?

24 So let's talk about the law. The first charge is  
25 trafficking in cocaine, and the Judge will read this in the

1 instructions. If I misstate anything, just -- just forgive  
2 me. But it is possession of the cocaine or you attempted  
3 to possess the cocaine, and that it weighed between 10 and  
4 28 grams. It's not trafficking, like, we have to prove  
5 that he was actually driving it up from Mexico. We just  
6 prove the weight, that it was cocaine, and that he had it.

7 Actual possession is, in its definition, on your  
8 person. You are actually -- I am actually possessing this  
9 blouse. I'm constructively possessing those cough drops.  
10 I have dominion and control over them, but the cocaine in  
11 his -- actually, I don't have cough drops, but the dominion  
12 and control is in his pocket. There was no way for the  
13 cocaine to end up in his pants other than him putting it  
14 there because when people arrived on scene, they thought it  
15 was an attempted murder.

16 Nobody was tampering with him or messing with him. It  
17 was there because he put it in his pocket. EMS cut off the  
18 pants and they remained there the entire time. And you  
19 heard from Agent Robinson of the South Carolina Law  
20 Enforcement Division, that the weight of the cocaine -- it  
21 tested positive as cocaine and that the weight of it was 20  
22 grams.

23 The second charge, possession with intent to  
24 distribute marijuana, is a little bit different. It's not  
25 as cut and dry as trafficking where you just prove the

1 weight, but the weight is part of it. So it's the same  
2 theory that you possess it, you either have it on your  
3 person, in your pocket, or it's somewhere that you had  
4 custody and control over. Somehow you have dominion and  
5 control over the item. And you can infer that dominion and  
6 control if you were in possession of the property in which  
7 the substance was found.

8 Well, we've covered over and over that this was his  
9 car. I mean, the most obvious way to prove it was his car  
10 is that he arrived in it and he intended to leave in it.  
11 Because after he left with the ambulance and before he'd  
12 been working the scene for six hours, he said this car's  
13 been behind this crime scene tape this whole time. I  
14 wonder what's going on here? Because it was the  
15 Defendant's car. He had the keys. He couldn't leave  
16 because he'd been shot.

17 The marijuana was in his car. There was no indication  
18 that anybody else was in the car with him; but regardless,  
19 the law states that you can infer that knowledge and  
20 possession when the substance is found on the property,  
21 under the Defendant's control. He had the keys to the car.  
22 He controlled the car.

23 Also, as the second part proved, intent to distribute.  
24 And instead of just flat out weight, like with the  
25 trafficking, this one requires a little bit more finesse.

1 The Legislature decides what is personal use. It set a  
2 number. If it's less than this number, you probably just  
3 had it for yourself. If it's more than that number -- that  
4 seems like a Sam's Club buy -- you might have intended to  
5 distribute it a little bit. 28 grams is that number.

6 But that's not enough. We don't just rely on that.  
7 We look for these other circumstances. Intent can be shown  
8 by the act and conduct from the Defendant in other  
9 circumstances. And the Judge will flesh that out more.

10 But one of those circumstances, which explains why  
11 Investigator McCoy made such a point to mention it to  
12 y'all, is scales. That is the biggest indicator that we  
13 have as prosecutors that somebody intends to distribute.  
14 So not only do you have more than what the law has defined  
15 as personal use, but you also have scales.

16 Another indicator is the presence of other drugs. He  
17 had cocaine on his person. He had more than one kind of  
18 drug in a very large quantity. He was also engaged in an  
19 entirely separate illegal activity. All of those  
20 indicators together prove possession with intent to  
21 distribute marijuana.

22 The grand larceny is similarly as simple. One of the  
23 elements of grand larceny is proving that the items are  
24 valued at more than \$2,000. Ms. Jenkins -- "grand larceny"  
25 means stealing.

1 Ms. Jenkins testified that the items were worth more  
2 than \$2,000. She estimated them to be between 8 and 10.  
3 She's going off replacement value. Investigator McCoy told  
4 you that they were worth more than \$2,000. And the key is  
5 -- and I -- you know, we listed out the items: It's a 60-  
6 inch TV, another TV, a tablet, an external hard drive, all  
7 of these brand new Christmas gifts.

8 The elements involve the taking of someone else's  
9 property without their permission. It's in his car. It's  
10 on his person. They did not know him. Even if there was  
11 some kind of crazy obtuse argument about that, he came in  
12 through the window. So even if there was some argument  
13 that somehow he was allowed to have these items, maybe they  
14 were on the side of the road, I don't -- he climbed in and  
15 out of a window whose latch he broke. That's an indicator.

16 And everything in the car that had an accessory was in  
17 his pocket because he physically, himself, was carrying  
18 away the property with the intent to keep it.

19 And the last one is burglary in the first degree. So  
20 we have several elements -- or several different levels of  
21 burglary in the South Carolina Code. This requires  
22 evidence that he entered a dwelling -- which is a place  
23 where somebody is actively living, -- without their  
24 permission, with the intent to commit a crime therein and  
25 that it occurs at nighttime. So we'll get the easy ones

1 out of the way.

2 April Jenkins lived there. Arguably, Costell Johnson  
3 and Travis Brimfield also lived there, which again, doesn't  
4 even matter. Their domicile, whether they had a key, none  
5 of that matters. What matters is the shooting and that's  
6 how he got caught. April Jenkins stayed there. Her name  
7 was on the lease, clothes, her bed.

8 Without permission, well, we know he entered without  
9 permission because she said that she didn't know him.  
10 Travis Brimfield said that he didn't know him. And he came  
11 in through the bedroom window, with an intent to commit a  
12 crime therein, that being the larceny, that he broke in to  
13 steal things.

14 And then entering or remaining occurs at nighttime,  
15 that some part of the burglary occurs during the nighttime  
16 hours. So it can -- it started during the daytime and then  
17 you stayed until nighttime, or you could have started it at  
18 three o'clock in the morning and then you don't leave until  
19 8 a.m.

20 But this nighttime issue is important because it was  
21 dusk. When we think of nighttime, we think, like,  
22 Halloween, pitch black. But there's really only these two  
23 choices: There's -- there's nighttime or burglary in the  
24 second degree, which is this, which is not nighttime.  
25 Well, does that mean daytime?

1           This was burglary in the first degree even though it  
2 occurred at dusk because it wasn't day, because it was  
3 night. If we're deciding whether it was daytime or  
4 nighttime, it was nighttime.

5           We've got a definition of nighttime that the Judge  
6 will instruct you on. It is very typical of the law in  
7 that it is slightly confusing. But this is what we've got.  
8 This is the only definition of nighttime, so this is what  
9 y'all have to work with. And I'm going to break it down  
10 because I've thought about it a lot and I think it's really  
11 -- it's difficult, but it's clear. It's worth thinking  
12 about, that's y'all's job. But it's clear that it's  
13 nighttime.

14           It's this period between sunset and sunrise, during  
15 which there is not enough daylight -- but inference being  
16 that there can be some -- to recognize a person's face,  
17 except by artificial light -- like a street light or a  
18 motion detector light -- or moonlight.

19           We have data that the Judge has taken judicial notice  
20 of, that you'll be able to -- to take back when you go  
21 deliberate, that sunset was at 5:18. We know that civil  
22 twilight was over -- that time between sunset and the end  
23 of twilight was over at 5:45. So it was definitely past  
24 sunset because the instinct is that nighttime is after  
25 sunset, right? But then you have a case like this where

1 the sun has set; but people can still see. So where --  
2 where does that fall?

3 Well, the key here are those second two elements.  
4 There's not enough daylight to recognize a person's face  
5 except by artificial light or moonlight. The most  
6 important testimony was Travis Brimfield's.

7 So Travis Brimfield comes out of his house and is  
8 holding a gun. So you know somebody broke into your house,  
9 you realize you've heard scuffling outside, a lot of stuff  
10 is gone. Was it one person? Is it more? He grabs a gun  
11 that he, you know, may have never shot and we -- we don't  
12 really know.

13 At that moment, the amount of adrenaline, that is  
14 fight or flight. That is a life or death situation. He  
15 grabbed the gun because he was scared. That's one of those  
16 moments where your senses are heightened, where you notice  
17 everything. You see every different facial feature. He  
18 could not tell police if this man was white or black. He  
19 couldn't tell police if it was a man. He couldn't tell  
20 police that he had long dreadlocks. He couldn't see his  
21 face. He could not discern the features of Demetrius  
22 Henderson's face.

23 And Demetrius Henderson counted on that because when  
24 he got caught, Travis Brimfield said, "Were you up in my  
25 shit?" And Demetrius Henderson was silent. He knew that

1 Travis Brimfield couldn't see his face. "Were you up in my  
2 shit?" And he was silent. He knew that he couldn't be  
3 identified. He was trying to think of where to go. That  
4 was with street lights.

5 One of the things that might come to mind in those  
6 first few witnesses that Mr. Shenkar and I called, Deputy  
7 Byrd, Officer Everatt, and Caliph Branham and Daryl  
8 Stallings. Well, they're telling you what they saw. The  
9 purpose of their testimony -- we're telling a story with  
10 these witnesses. The purpose of their testimony was, "I  
11 heard the shots, I came out, this is what I saw." Not it  
12 was so dark that this is what I couldn't see, but that it  
13 was light enough for them to see a 450-pound man, wearing a  
14 traffic-cone-orange shirt, running in the other direction.

15 The street lights were also on, that may have helped.  
16 And it was also, as you'll note in the document from the U.  
17 S. Navel Observatory, one day past the full moon.

18 But this is all still a little bit subjective, this  
19 part of the definition of nighttime, which is why it's  
20 hard; feels a little bit subjective. So it -- I don't  
21 know, eight o'clock last night, I left the office. Turns  
22 out -- I didn't notice at the time, but it turns out that  
23 sunset last night was at 8:12. So I stopped ---

24 MS. EIGENBROT: Your Honor.

25 THE COURT: Yes. Yes.

1 (Bench conference.)

2 MS. ALL: So last night, watching outside, the sun set  
3 at 8:12. At 8:15, was at nighttime. It didn't seem quite  
4 like nighttime to me. But then at 8:20, it was a little  
5 bit darker, there was a little bit more royal blue.  
6 Remember Deputy Byrd said there was still a little bit of  
7 blue in the sky. It was a little bit more toward navy than  
8 sky blue. That seemed like nighttime. That's entirely  
9 subjective.

10 So if we think about how we can determine nighttime  
11 objectively, just thinking about how do you know when it's  
12 nighttime, well, you know it's nighttime when the street  
13 lights come on, right? Because why do we have street  
14 lights? We all pay at a -- tax for street lights because  
15 we need them to discern a man's face. We need the street  
16 lights because we're affected by that amount of darkness  
17 that we can't discern certain amounts of detail. The  
18 street lights were on.

19 How bout headlights, when you have to turn on your  
20 headlights? Under South Carolina Code, you have to have  
21 your headlights on 30 minutes after sunset, up until 30  
22 minutes before sunrise because that's nighttime. It's not  
23 darkness.

24 The question is not the hours of darkness. It's  
25 nighttime. There's so much overlap with dark, night, but

1 what this language requires is nighttime.

2 Why do you put your headlights on? So that you can  
3 see because there's enough darkness that you can't discern  
4 enough detail. And so the law requires that for 30 minutes  
5 after sunset, we have our headlights on.

6 If sunset was at 5:18, that means that at 5:48, you  
7 had to have your headlights on. At 5:45, that was end of  
8 twilight. Twilight is when the sun has dropped behind the  
9 horizon and you need artificial ---

10 MS. EIGENBROT: Your Honor.

11 THE COURT: Yes.

12 MS. EIGENBROT: I believe we had a discussion earlier  
13 about -- regarding the speculation about what twilight is.

14 THE COURT: Can y'all approach, please?

15 (Bench conference.)

16 MS. ALL: So according to the document from the U.S.  
17 Navel Observatory, twilight was over at 5:45. So this is  
18 past twilight. We know that he was shot at 6:22.

19 So these two kinds of burglary, the reason that  
20 nighttime is important -- so we charge it on both. This is  
21 burglary first, requires nighttime. This is burglary  
22 second, no nighttime. The reason that that's important is  
23 because nighttime is an aggravating factor. It's worse  
24 because we are vulnerable at nighttime.

25 The Defendant has the cloak of darkness to provide him

1. with that anonymity. We're vulnerable because we can't see  
2. or vulnerable because we are at home -- we are coming home  
3. between 5:30 and 6:30. It's more dangerous to break into  
4. somebody's house when they're home because somebody might  
5. get shot. And it's more dangerous because you can't see  
6. the suspect's face.

7. One thing that might become important -- it is  
8. important -- is that we don't know what time Demetrius  
9. Henderson started his burglary. According to the GPS data,  
10. he got there, I think, like 5:30/5:20, somewhere in there.  
11. But let's say for arguments sake that that's daytime. What  
12. matters is that when he was shot, it was nighttime. And  
13. the reason that that's important is because the entering or  
14. remaining has to occur at nighttime.

15. Well, how do we know that the burglary was ongoing?  
16. We don't know when he got there, but we know that when he  
17. was shot, he was going back in because, as we discussed  
18. earlier, he parked his car next to that dumpster. As we  
19. all acknowledge, people were coming home and in and out at  
20. 5:30. How was he not seen? He had an advantage point, and  
21. he was careful as he carried stuff back and forth. Maybe  
22. he didn't have his hoodie on then.

23. But when Travis Brimfield and Costell Johnson came  
24. home, they didn't notice that car, and Demetrius Henderson  
25. wasn't standing at that car. He was making noise and then

1 it stopped. And they looked and they couldn't see anything  
2 because it was nighttime. And then Demetrius Henderson  
3 waited.

4 How many other people must have come and gone during  
5 the time that he was carrying stuff in and out? It was a  
6 Wednesday. 5:30 to 6:30 on a Wednesday. Demetrius  
7 Henderson banked on the fact that of all of the apartments  
8 in that building, what are the odds that this odd couple,  
9 these two men, belonged to the woman's apartment that he  
10 just ransacked. He could have gotten in the car and left.

11 Why didn't he leave? Why didn't he cut his losses and  
12 -- and get in the car and leave? Because he was confident.  
13 Because other people had come and gone and not seen him,  
14 and he hedged his bets and he wasn't done. He had that  
15 last TV, maybe a room left. He thought he could get more.  
16 The window was still open. The sock was still on his hand.  
17 The stuff was still in his pockets. The burglary was  
18 ongoing.

19 Travis Brimfield had the time to get out of the car,  
20 go to the door, which was in the back of the -- the  
21 building, right, mess with the door, put the key in.  
22 "Costell, wonder what's going on here?" Costell comes  
23 over, takes 400 pounds to get the door open. Then the time  
24 that it takes them to go from room to room to room and  
25 figure out what happened.

1           That entire time Demetrius Henderson stood in the  
2 darkness, under the cover of the woods, and waited. He  
3 didn't leave because he wanted to go back. And he thought  
4 that they probably belonged to a different apartment.  
5 There's no other reason.

6           When he was shot at 6:22, the burglary was still going  
7 on. He was caught in the act. The only way that the  
8 burglary wasn't still going on is if he was finished. And  
9 if he was finished, he would have gotten in the car.

10           In fact, it was so dark at that time that Travis  
11 Brimfield could not tell whether he was wearing a sock on  
12 his hand or a glove. Now, we know that he went to the  
13 hospital with EMS with two shoes on because they got two  
14 shoes back. And they also only got one sock back and then  
15 he was laying next to the sock.

16           And we also heard Travis Brimfield saying that all he  
17 could see was that white. He didn't notice a red hoodie,  
18 he noticed a white hand. It was so dark that he couldn't  
19 even tell if it was gloves, like a white glove, or if it  
20 was a sock. Remember, he said that he could tell it was a  
21 sock because how far it came up his arm, because it's a  
22 tube sock.

23           That moment when he was shot, when it was too dark for  
24 Demetrius Henderson [sic] to see his face, when it was too  
25 dark to be able to tell if he was wearing a glove or a

1 sock, when it was past the end of twilight, when the sun  
2 had long since set in the sky, when there was artificial  
3 light and he still couldn't see his face, that's not  
4 daytime. That's nighttime.

5 And at the end of it, Demetrius Henderson gave a  
6 confession. He may not have intended on going in during  
7 the nighttime. He may not have intended on staying into  
8 the nighttime. But when it came time to use the nighttime,  
9 he did. If it's daytime and you're confronted, they can  
10 see your face. If he was confronted at nighttime -- and so  
11 those first two questions, "Were you up in my shit? Were  
12 you up in my shit," he was silent and didn't look back  
13 because he knew that they couldn't see his face. And it's  
14 that moment of decision, "I can't leave because this guy's  
15 got a gun. But I know it's really dark. Maybe I should  
16 run that way." And he realizes there's nothing he can do.

17 "Were you up in my shit?" "Yes." He confesses to  
18 Travis Brimfeild. Brimfeild didn't need that to feel  
19 justified by what'd done. We let him testify about how he  
20 had seen the white hand reaching into the front of his  
21 waistband. He didn't make that up. That happened.  
22 Demetrius Henderson confessed to Travis Brimfeild.

23 During opening statements, Defense said, you know,  
24 there's not a lot of people that know what happened that  
25 night and questions will be raised. But they weren't going

1 to be raised right then. Perhaps that's because they  
2 didn't have an alternate theory at that time. Perhaps  
3 that's because they had to wait as we presented our  
4 evidence to just do what they could with it.

5 And that's because there is no alternate theory.  
6 There's just the evidence and the evidence is the truth.  
7 And the truth is that Demetrius Henderson is guilty of  
8 trafficking cocaine, possession of marijuana with the  
9 intent to distribute, grand larceny valued between two and  
10 \$10,000, and committing a burglary during nighttime.

11 Thank you, Your Honor.

12 THE COURT: Defense counsel?

13 MS. EIGENBROT: Thank you, Your Honor.

14 Good afternoon, members of the jury. Now, my co-  
15 counsel, Mr. Pournaras, came before you at the beginning of  
16 this trial and told you that the State was going to attempt  
17 to present a simple story about what happened on December  
18 18th, 2013, and that there would be some questions.

19 And I'm going to go over some of those questions with  
20 you during this closing argument. But I want to keep -- I  
21 want you to keep in mind about what we've all heard over  
22 the past couple of days.

23 First and foremost, we have an individual get up here  
24 and testify about GPS data. He's qualified as an expert,  
25 so he could give you his opinion of what the GPS data

1 represented. And the State made a big deal about the fact  
2 that it showed my client present at the scene, that he was  
3 there, that he was moving around.

4 We have never once denied my client was present at the  
5 scene. Mr. Henderson -- there was -- without question, was  
6 shot. He was -- his body was found in the cut, by the  
7 apartments, with four bullet wounds, rushed to the  
8 hospital. That has never been a question here today, not  
9 once.

10 Essentially, the GPS expert eventually tells you that  
11 the only real thing that he can tell you with certainty was  
12 that my client was in the general area, which again, we  
13 never disputed.

14 Now, I will submit to you that something else was  
15 going on here. I don't know what it was. We weren't  
16 there. There was two individuals that could have told us  
17 what else happened that evening. Mr. Johnson, who  
18 unfortunately passed away, which is out of my and the  
19 State's control. There was also Mr. Brimfield, which you  
20 heard from during the course of this trial.

21 Now, I want to talk about Mr. Brimfield. Ms. All  
22 pointed out that, no, he was not charged. He is not on  
23 trial. That's absolutely right.

24 However, she brought up a point that it doesn't matter  
25 if he was right or wrong. I submit to you that's

1 incorrect. I say that is incorrect because if he is  
2 wronged, he has every motivation to get up on that stand  
3 and tell you a different version of events than what  
4 actually happened that night. If he would have given a  
5 different story, he could have been charged with attempted  
6 murder. He could potentially have been charged with a  
7 weapons violation.

8 I submit to you that he had every reason to get on  
9 that stand and tell you a different story. He tried to  
10 tell you that he had this weapon for hunting purposes.

11 You heard -- the State's ballistics expert testified  
12 that, sure, it could have been used for hunting. But then  
13 he also admitted the stock of that weapon is missing, and  
14 the stock is used to help you with aim and accuracy. Who  
15 goes hunting without trying to have an accurate shot? That  
16 doesn't make any sense.

17 He also told you that he stayed, probably, at Ms.  
18 Jenkins's apartment at least once a week, that he -- had  
19 his own key. Right afterwards, Ms. Jenkins got on the  
20 stand and said, no, he rarely stayed there. He did have  
21 his own key, shouldn't have had his own key; had no idea he  
22 was keeping an assault rifle in the spare bedroom. And she  
23 also tells you that she had no -- no idea what else he  
24 could have been keeping there.

25 His testimony is the only -- he was the only person

1 that was there before my client was shot. My client was  
2 gunned down, he fled the scene, and he was faced -- facing  
3 potential criminal charges. Again, he has every reason to  
4 get up on the stand and tell a different version of events  
5 than what actually happened that night.

6 Now, we made a really big deal about this nighttime  
7 issue, and there's a reason for that, as Ms. All told you.  
8 It's a very big difference.

9 And I want you to think about some of the witnesses  
10 the State's presented. The first one was Mr. Branham. He  
11 was one of the first people that called 911, the first  
12 people to look outside and recognize there was somebody  
13 hurt when he was moaning. He got on that stand and  
14 testified that when he looked outside, after hitting the  
15 ground, getting back up, walking to the window, that he --  
16 it was so light outside that he could see clear across the  
17 parking lot. Okay. Clear across the parking light.

18 Now, he did say that the street lights were on. Sure.  
19 But street lights come on very early on because they take  
20 time to warm up. They have to get -- come on a little bit  
21 early, otherwise they don't work it -- work right away.  
22 You have to let them warm up.

23 So I -- I would submit to you it was still light  
24 enough outside for people to see. And as Ms. All stated to  
25 you, the law states that nighttime is between sunset and

1 sunrise and at the time where a man's face is not  
2 discernible without aid of artificial light or moonlight.

3 Now, you've heard a lot about street lights and  
4 artificial light. In that area, down the hill behind --  
5 hidden behind the dumpster -- and in a few of the pictures,  
6 you can see a light in front of the dumpster. That is the  
7 only artificial light available in that section, the  
8 section of area, right?

9 And again -- now, Mr. Brimfield is the only person  
10 that says, "I couldn't see his face." There are several  
11 reasons for that. I would submit to you again that his  
12 version of the events is not the truth, and that he  
13 immediately gunned down Mr. Henderson when he walked out  
14 there, which is the reason he couldn't ID him or recognize  
15 him. He went outside and shot him. He didn't have time to  
16 discern what was on Mr. Henderson or what his face looked  
17 like.

18 Now, you also had two officers, two responding  
19 officers, that arrived on scene, both of which say it was  
20 dusk to dark. Neither said that it was too dark, you  
21 couldn't see details on someone's face. Neither said it  
22 was so dark that they had trouble seeing any type of  
23 detail. And they were called -- and they arrived on scene  
24 10, 15, 20 minutes later than the shooting actually  
25 occurred.

1           Now, we've also made a big deal about this continuing  
2 burglary issue. When Mr. Henderson was shot, whatever may  
3 have been happening before that was then over. He is now  
4 laying on the ground. He is not capable of getting up and  
5 running. At that point in time is when you have to  
6 determine whether it was light or dark, whether it was  
7 nighttime, whether somebody could have discerned the  
8 details of his face. And I would submit to you that  
9 someone could. He just got on the stand and lied about it.

10           Now, there was also an issue made about some of the  
11 witnesses that called 911 or heard the shots not being able  
12 to see Mr. Henderson. And we've seen a lot of pictures  
13 today or over the past -- over the course of the last few  
14 days of the scene itself. And as you can see from these  
15 pictures, his body is located at the bottom -- the base of  
16 a small hill, right over here (indicating.)

17           So someone looking out their window is not going to  
18 see his face. They're not going to be able to see where he  
19 is or what he's looking like. You almost have to walk up -  
20 - come down this hill or walk around this area in order to  
21 see his body. So them not being able to see Mr. Henderson  
22 initially has no bearing on whether or not it was light or  
23 dark for this nighttime issue.

24           Now, we also heard Investigator McCoy testify. And  
25 while eventually his investigation became a burglary

1 investigation, at some point, this -- there was -- there  
2 were other possible theories bouncing around. I'm not an  
3 investigator, not a cop, but that doesn't mean that there  
4 aren't a range of different things that could have been  
5 happening.

6 There are circumstances in this case, like the  
7 cocaine, the marijuana, that make it likely something else  
8 was going on. Those questions were never answered.

9 Two days after Mr. Brimfield and Mr. Johnson flee the  
10 scene of the shooting, instead of calling the police and  
11 reporting the issue like they should have, they come in and  
12 give statements. Once those statements are given, arrest  
13 warrant's taken out for Mr. Henderson. There's no further  
14 questioning to their background. There's no further  
15 investigation as to what else could have possibly been  
16 going on. It was left at that.

17 Mr. McCoy also testified that he made the assumption  
18 it was dark out based on the time he received the call and  
19 what he heard other officers say. And again, those other  
20 officers were not on the scene of the shooting when it  
21 actually occurred. It was minutes later.

22 And sure, when the -- at night, when that sun starts  
23 to set and things start to turn dark, it can happen pretty  
24 quickly. It happened in the course of minutes. Your job  
25 is to determine when he was shot, if it was light enough

1 outside for someone to see his face and to give details.  
2 And the only person that can tell you differently is Mr.  
3 Brimfield, who again has every reason to get on that stand  
4 and lie to you all.

5 And to address a few of the other charges, yes, Ms.  
6 Jenkins gave a -- an estimate as to how much her  
7 possessions were worth. Generally, people tend to  
8 overvalue some of their things because we've worked hard  
9 for those items, because we have paid for them, because we  
10 -- they're ours. They're -- it's our stuff. Nothing today  
11 has presented that gives receipts of when she -- when items  
12 were purchased, how much they were worth. We have no -- no  
13 value estimates, nothing. It was just her word. And  
14 again, we tend to overvalue things that are ours because we  
15 worked so hard for them.

16 The marijuana, Ms. All mentioned that the law for  
17 possession with intent to distribute depends upon, one, an  
18 inference weight; another, acts of conduct. Yes, the  
19 marijuana is over the inference weight.

20 But you also heard a few things about the policies and  
21 methods how it was weighed, and you heard that the expert  
22 in this situation checked his scale once a week. But then  
23 he also mentioned that there was no plus or minus. That's  
24 not standard policy. There's -- he -- they said -- he was  
25 -- there was no room for error on those Monday checks. And

1 he only had a professional, possibly, come calibrate that  
2 machine quarterly or every six months. It's not very  
3 often.

4 And sure, yes, there was a digital scale found in Mr.  
5 Henderson's vehicle. It was there, we're not denying it.  
6 Again, though, the weight itself is only an inference  
7 weight. That is it.

8 Ladies and gentlemen, the State has the burden in this  
9 case. They have to prove all of these elements, all of  
10 these crimes to you beyond a reasonable doubt, which  
11 practically means that, as the Defense, we can sit at that  
12 table and do absolutely -- do nothing the entire course of  
13 the trial. We chose not to do that, but we could have.

14 And reasonable doubt, ladies and gentlemen, the Judge  
15 is going to instruct you on reasonable doubt. It is not  
16 beyond all doubt. They don't have to answer every single  
17 question. However, I do think there are certain questions  
18 -- again, it's not every single question has to be  
19 answered, but if there's substantial amounts of questions,  
20 which I think there are in this case, I submit to you there  
21 are, that is reasonable doubt, especially this nighttime  
22 issue.

23 You've got a couple witnesses saying different things  
24 about what -- how light it is outside. That is reasonable  
25 doubt. Not a single witness could agree how dark or how

1 light it was, whether they could discern a man's face  
2 without the aid of artificial light or moonlight. That is  
3 reasonable doubt as to the issue of nighttime.

4 And these other questions, the other things that were  
5 not investigated, were not done, is reasonable doubt. Yes,  
6 this apartment is at the very end. This building is off at  
7 the very end of the apartment building, very end of the  
8 complex. Sure, it's a little bit more secluded than maybe  
9 some of the other areas are. There are plenty of things  
10 people can do in secluded areas, plenty of things they are  
11 not supposed to be doing or could -- or are supposed to be  
12 doing. They just want privacy.

13 It is approximately between 5:30 and 6:30 when most  
14 working Americans are getting off of work. It's an  
15 apartment complex. It's not a residential area. It's not  
16 a private area. And Ms. All made a big deal about there  
17 being a line of sight as to who's coming and going.

18 One of the items they're alleging he carried to his  
19 car is a 50-inch TV. That's a big television. If someone  
20 was driving in, it's not like you pick up the TV and run  
21 back and hide. It's not like you can shove it in a car  
22 really fast without damaging it.

23 So I think this -- the theory that he was so  
24 comfortable that he was able to see what was coming at him,  
25 which is why he was able to take so many items, is false.

1           You also heard -- heard Investigator McCoy agree with  
2 me that, generally speaking, burglaries are done in -- in  
3 and out. People grab what they can and go. They don't  
4 take all the valuable items. They can't take all the  
5 valuable items. So again, I think there are some questions  
6 that have not been answered, and those, ladies and  
7 gentlemen, are reasonable doubt.

8           Beg the Court's indulgence.

9           (Brief pause.)

10          MS. EIGENBROT: Thank you for your service and time.

11          THE COURT: All right. Ladies and gentlemen, it is  
12 now my duty as the trial judge, under the constitution of  
13 this State, to charge and instruct you on the law  
14 applicable to this case. It is your duty as jurors to  
15 accept and apply the law as I will now state it to you.

16          Furthermore, it is your exclusive duty to decide all  
17 the issues of fact in this case and to determine the  
18 effect, the value, the weight, and truth of the evidence.

19          Both the State and the Defendant have a right to  
20 expect that you will carefully consider and -- and evaluate  
21 the evidence and apply the law of this case to it, so that  
22 in the end, both the State of South Carolina and the  
23 Defendant will receive a fair and impartial trial.

24          I want you to understand that when I use the word  
25 "defendant," I refer to Mr. Demetrius Derrick Henderson.

1           The charges alleged in the indictments are burglary  
2 first degree; grand larceny, 2,000, but less than 10,000;  
3 trafficking in cocaine, 10 to 28 grams; and possession with  
4 intent to distribute marijuana.

5           Now, to these charges, the Defendant has entered a  
6 plea of not guilty. This plea of not guilty places the  
7 burden of proof on the State to prove the guilt of the  
8 Defendant to you, the jury, beyond a reasonable doubt.

9           I remind you, ladies and gentlemen, that the fact that  
10 the Defendant was arrested, charged, and indicted in this  
11 case is not evidence in this case and cannot be considered  
12 by you as evidence of guilt in this case. Nor does it  
13 create any presumption or inference of guilt. The  
14 indictment, ladies and gentlemen, is simply the formal  
15 written instrument which contains the charges made against  
16 the Defendant. It is the formal document by which this  
17 case is brought into this court.

18           As I mentioned above, ladies and gentlemen, the  
19 indictment in this case alleges four separate and distinct  
20 offenses against the Defendant. You must decide each  
21 charge separately on the evidence and the law applicable to  
22 it, uninfluenced by your decision as to any other charge.

23           The Defendant may be convicted or acquitted on any or  
24 all of the offenses charged. As stated previously, you  
25 will be asked to write a separate verdict of guilty or not

1 guilty for each charge alleged in the indictment.

2 It is vital, ladies and gentlemen, that you understand  
3 that the Defendant is presumed under the law to be innocent  
4 of these charges. The Defendant has no obligation to prove  
5 his innocence. It is a fundamental rule of our law that a  
6 defendant, irrespective of the seriousness of the charges  
7 against him, is always presumed innocent of the crimes for  
8 which he is charged, unless and until his guilt has been  
9 proven by evidence that satisfies you, the jury, beyond a  
10 reasonable doubt.

11 The presumption of innocence is not a mere legal  
12 theory or a legal phrase. The presumption of innocence is  
13 very important, and you need to understand that this  
14 presumption accompanies the Defendant from the time of his  
15 arrest and appearance in this court and continues with the  
16 Defendant even after you retire to the jury room to  
17 deliberate.

18 In other words, the Defendant receives the benefit of  
19 the presumption of innocence until the very end of this  
20 trial when you, the jury, will deliberate upon the evidence  
21 and decide whether the State has proven his guilt beyond a  
22 reasonable doubt.

23 Now, what is a reasonable doubt in the law? A  
24 reasonable doubt is the kind of doubt that would cause a  
25 reasonable person to hesitate to act. Proof beyond a

1 reasonable doubt is proof that leaves you firmly convinced  
2 of the Defendant's guilt.

3 Now, there are very few things in this world that we  
4 know with absolute certainty. So even in criminal cases,  
5 the law does not require proof that overcomes every  
6 possible doubt. However, if based on your consideration of  
7 the evidence, you are firmly convinced that the Defendant  
8 is guilty of the crime charged, you must find him guilty.  
9 If on the other hand, you think there is a real possibility  
10 that he is not guilty, you must give him the benefit of the  
11 doubt and find him not guilty.

12 Jurors, please understand that reasonable doubt may  
13 arise from evidence which has been presented in the case or  
14 from the lack of evidence in the case. It is your  
15 responsibility to determine whether or not reasonable doubt  
16 exists as to the guilt of this Defendant. I charge you  
17 that the Defendant is entitled to every reasonable doubt  
18 arising in the whole case.

19 Now, if, upon any issues of fact essential to  
20 conviction and a verdict of guilty, you have a reasonable  
21 doubt as to how that issue should be resolved, it would be  
22 your duty to resolve that reasonable doubt in favor of the  
23 Defendant.

24 Now, during this trial, ladies and gentlemen, you and  
25 I have had separate duties to perform. As the trial judge,

1 it is my responsibility to preside over this trial. And I  
2 also have the duty to rule upon the admissibility of the  
3 evidence offered during the process of this trial. In that  
4 regard, you are to consider only the competent evidence  
5 before you; and you are to disregard from your mind any  
6 testimony ordered stricken from the record of this case  
7 during the progress of the trial if there was any. And you  
8 are to consider only the testimony which has been presented  
9 from this witness stand, together with any exhibits  
10 admitted into the record of this case, and any stipulations  
11 of counsel made into the record.

12 Furthermore, I have the additional duty to charge you  
13 on the applicable law in this case. And in that regard, I  
14 am the sole judge of the law in this case. It is your duty  
15 to accept and apply the law as I state it to you. If you  
16 have any preconceived ideas as to what the law is or what  
17 the law ought to be and it does not agree with what I tell  
18 you the law is, you are obligated, under your oath, to  
19 abandon these preconceptions because you are sworn to  
20 accept the law precisely as I state it to you.

21 Now, in this trial, you, ladies and gentlemen, you are  
22 the sole and exclusive judge of the facts and I am the  
23 judge of the law. Do not infer that I have any opinion  
24 about the facts in this case from anything that I have said  
25 during the course of this trial in ruling upon the

1       admissibility of evidence or otherwise, or from anything  
2       that I say during the course of this charge to you.

3             In this regard, the law simply does not permit me to  
4       have an opinion about the facts. As jurors, it is your  
5       duty alone to determine the effect, value, weight, and  
6       truth of the evidence presented during the course of this  
7       trial.

8             Now, in determining what the facts in this case are,  
9       you must judge, ladies and gentlemen, the credibility,  
10      which simply means the believability of the witnesses and  
11      the value of weight to be given to their testimony. You  
12      alone must decide the force, effect, and truth of the  
13      testimony.

14            Now, in making this decision, there are many things  
15      that you may and should take into consideration, such as  
16      the appearance and manner of the witness on the stand, a  
17      characteristic often referred to as the "demeanor of the  
18      witness." Was the witness forthright or hesitant? Was the  
19      witness's testimony consistent or did it contain  
20      discrepancies? What was the ability of the witness to know  
21      the facts about which he or she testified? Did the witness  
22      have a cause or reason to be biased and prejudiced in favor  
23      of the testimony he or she gave? Was the testimony of the  
24      witness corroborated or made stronger by other testimony  
25      and evidence, or was it made weaker or impeached by such

1 other testimony and evidence?

2 As jurors please understand that you have the right to  
3 believe a small portion of a witness's testimony and  
4 discard the larger portion or vice versa. You may believe  
5 all of a witness's testimony or none. You may believe the  
6 testimony of a single witness against that of many  
7 witnesses or the other way around. In exercising your  
8 mental processes and attempting to decide the truth, the  
9 law simply requires that you exercise your good judgment,  
10 your common sense, your sense of logic and reason, and your  
11 experiences in life. You then apply these attributes to  
12 the evidence and apply the law as I state it to you, and  
13 thus arrive at a verdict.

14 Now, there are two types of evidence, ladies and  
15 gentlemen, which are generally presented during a trial,  
16 direct evidence and circumstantial evidence. Direct  
17 evidence directly proves the existence of a fact and does  
18 not require deduction. Circumstantial evidence is proof of  
19 a chain of facts and circumstances indicating the existence  
20 of a fact. Crimes may be proven by circumstantial  
21 evidence, and the law makes no distinction between the  
22 weight or value to be given to either direct or  
23 circumstantial evidence.

24 However, to the extent the State relies on  
25 circumstantial evidence, all of the circumstances must be

1 consistent with each other, and when taken together, point  
2 conclusively to the guilt of the accused beyond a  
3 reasonable doubt.

4 If these circumstances merely portray the Defendant's  
5 behavior as suspicious, the proof has failed. The State  
6 has the burden of proving the Defendant guilty beyond a  
7 reasonable doubt. This burden rests with the State  
8 regardless of whether the State relies on direct evidence  
9 or circumstantial evidence or some combination of the two.

10 Now, during the course of the trial, you heard the  
11 testimony of an individual who has a past or a prior  
12 criminal record. Let me instruct you that an individual  
13 who has a prior or a past criminal record is competent to  
14 testify during a trial. A prior or past criminal record  
15 does not affect the ability of that witness to testify.  
16 The past record may only be considered by you, if at all,  
17 in determining the witness's believability. Remember, you  
18 are the sole judge of the facts in this case and of the  
19 believability of any and all of the witnesses.

20 You also heard the testimony of individuals that were  
21 qualified as experts. I previously gave you a charge on  
22 that, but I am going to give you another charge.

23 As I told you, the rules of evidence ordinarily do not  
24 permit witnesses to testify to opinions or conclusions. An  
25 exception to this rule exists for witnesses that we call

1 "expert witnesses." A witness, who by education and  
2 experience has become expert in some art, science,  
3 profession, or calling, may state an opinion as to relevant  
4 and material matter in which the witness claims to be an  
5 expert and may also state the reasons for the opinion.

6 You should consider any expert opinion received in  
7 evidence in this case, and like any other evidence, give it  
8 the weight that you think it deserves. If you decide that  
9 the opinion of an expert witness is not based on sufficient  
10 education and experience, or if you conclude that the  
11 reasons given in support of the opinion are not sound or  
12 that the opinion is outweighed by other evidence, you may  
13 disregard the opinion entirely. An expert witness's  
14 testimony is to be given no greater weight than that of  
15 other witnesses simply because the witness is an expert.  
16 Further, you are not required to accept an expert's opinion  
17 even though it is not contradicted.

18 Now, ladies and gentlemen, in this case, the Defendant  
19 chose not to testify. I instruct you, ladies and  
20 gentlemen, and I emphasize to you that the fact that the  
21 Defendant did not testify is not a factor, is not a factor  
22 to be considered by you in any way in your deliberations  
23 and in your consideration on the question of the guilt or  
24 the innocence of the Defendant. It must not be considered  
25 by you in any manner whatsoever.

1           A defendant has the constitutional right to remain  
2           silent and the assertion of this right must not be  
3           considered by you in your deliberations. I repeat, under  
4           your oath, you are to draw no conclusions whatsoever from  
5           the fact that the defendant in this case did not testify.

6           The fact that this -- that this defendant did not  
7           testify should not even be discussed in the jury room. The  
8           burden of proof, as I have stated to you, is on the State.  
9           The Defendant is not required to prove his innocence. The  
10          burden of proof remains on the State to prove guilt beyond  
11          a reasonable doubt.

12          Now, ladies and gentlemen, in order -- in order to  
13          establish criminal liability, criminal intent is required.  
14          For example, the mental state required to be proven by the  
15          State for a particular crime might be purpose, intent,  
16          knowledge, recklessness, or criminal negligence. Criminal  
17          intent must be proven by the State beyond a reasonable  
18          doubt.

19          Criminal intent is always a matter that must be  
20          determined by the jury from the circumstances surrounding  
21          the situation. There is no way, ladies and gentlemen, to  
22          prove intent to a mathematical certainty. There is no way  
23          that medical science can dissect a person's brain and  
24          determine what the person had in mind. So the law says  
25          that criminal intent may be inferred from the circumstances

1 shown to have existed. This is how you make a  
2 determination of whether or not the element requiring  
3 intent was present.

4 It is not necessary to establish intent by direct and  
5 positive evidence. But intent may be established by  
6 inference in the same way as any other fact, by taking into  
7 consideration the acts of the parties and all the facts and  
8 circumstances of the case.

9 Criminal intent is a mental state, a conscious  
10 wrongdoing. It is up to you to determine what the  
11 Defendant intended to do based on the circumstances shown  
12 to have existed. Criminal intent can arise from action or  
13 a failure to act. It may arise from negligence,  
14 recklessness, or an indifference to duty or to consequences  
15 that is considered by the law to be the equivalent of  
16 criminal intent.

17 Now, the Defendant, ladies and gentlemen, in this case  
18 is charged with first degree burglary. The State must  
19 prove beyond a reasonable doubt that the Defendant entered  
20 a dwelling without consent. A dwelling is any building or  
21 portion of a building in which a person ordinarily sleeps.  
22 A building constructed as a dwelling that has never been  
23 occupied cannot be considered a dwelling for purposes of  
24 burglary. But a building is a dwelling even if the  
25 residents are temporarily absent from the building.

1           In order to prove that the Defendant entered the  
2 dwelling, the State does not have to show that the  
3 Defendant's entire body entered the dwelling. The smallest  
4 entry is sufficient. It may be any part of the body, such  
5 as a hand or foot; or even an instrument, such as a hook or  
6 other instrument.

7           In addition, the State does not have to prove that  
8 force was used to gain entry. If a person enters a  
9 building by using deception, artifice, trick, or  
10 misrepresentation to -- to get consent to enter, this is an  
11 entry without consent.

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

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

25           Finally, ladies and gentlemen, the State must prove

1 beyond a reasonable doubt that the Defendant entered or  
2 remained in the dwelling in the nighttime. Nighttime is  
3 defined as the period between sunset and sunrise during  
4 which there is not enough daylight to recognize a person's  
5 face except by artificial light or moonlight.

6 Now, ladies and gentlemen, if you find that the State  
7 has failed to prove beyond a reasonable doubt that the  
8 Defendant committed first degree burglary, you may also --  
9 you must also consider whether the State has proven beyond  
10 a reasonable doubt that the Defendant committed second  
11 degree burglary. To prove burglary in the second degree,  
12 the State must prove all of the elements of first degree  
13 burglary, except that the Defendant entered or remained in  
14 the dwelling in the nighttime.

15 Now, the Defendant is also charged with grand larceny.  
16 The State must prove beyond a reasonable doubt that the  
17 Defendant took and carried away the property of another  
18 against the will or without the consent of the other  
19 person. The slightest removal of the property or the  
20 complete possession of the property, even for an instant by  
21 the Defendant, is enough to show a taking and carrying away  
22 of the property.

23 The State must also prove beyond a reasonable doubt  
24 that the Defendant intended to permanently deprive the  
25 owner of the property.

1           Finally, the State must prove that the value of the  
2 thing taken was between 2,000, but less than \$10,000.

3           The Defendant is also charged with trafficking in  
4 cocaine. The State must prove beyond a reasonable doubt  
5 that the Defendant knowingly sold, manufactured,  
6 cultivated, delivered, purchased, brought into the state,  
7 provided financial assistance, or otherwise aided, abetted,  
8 attempted or conspired to sell, manufacture, cultivate,  
9 deliver, purchase or bring into the state, or was knowingly  
10 in actual or constructive possession or knowingly attempted  
11 to become in actual or constructive possession of cocaine.

12           Now, there are three elements to the offense of  
13 trafficking in cocaine that the State must prove beyond a  
14 reasonable doubt. They are, number one, that the substance  
15 involved was in fact cocaine. Two, that the Defendant had  
16 possession of that cocaine, either actual possession or  
17 constructive possession. And three, that there was in fact  
18 10 grams or more, but less than 28 grams of cocaine  
19 involved.

20           To prove possession, the State must prove beyond a  
21 reasonable doubt that the Defendant had both the power and  
22 the intent to control the disposition or use of the  
23 cocaine. Possession may be either actual or constructive.  
24 Actual possession means that the cocaine was in the actual  
25 physical custody of the Defendant. Constructive possession

1 means that the Defendant had dominion and control or the  
2 right to exercise dominion or control over either the  
3 cocaine itself or the property in which the cocaine was  
4 found.

5 Mere presence at the scene where the drugs were found  
6 is not enough to prove possession. The Defendant's  
7 knowledge and possession may be inferred when a substance  
8 is found on the property under the Defendant's control.  
9 However, this inference is simply an evidentiary fact to be  
10 taken into consideration by you, along with other evidence  
11 in the case, and to be given the weight you decide it  
12 should have.

13 Now, the Defendant is also charged with possession  
14 with intent to distribute marijuana. The State must prove  
15 beyond a reasonable doubt that the Defendant possessed  
16 marijuana with the intent to distribute it. To prove this,  
17 the State must prove the same elements as I have explained  
18 in my earlier charge regarding possession with intent --  
19 excuse me. To prove this ...

20 (Brief pause.)

21 THE COURT: Can the lawyers approach a minute, please?

22 (Bench conference.)

23 THE COURT: Bear with me just a minute, ladies and  
24 gentlemen.

25 (Brief pause.)

1 THE COURT: Let me -- the Defendant, ladies and  
2 gentlemen, is also charged with possession with intent to  
3 distribute marijuana. The State must prove beyond a  
4 reasonable doubt the Defendant possessed marijuana with the  
5 intent to distribute it. Distribute means to deliver other  
6 than by administering or dispensing a drug. Intent may be  
7 shown by acts and conduct of the Defendant and other  
8 circumstances from which you may naturally and reasonably  
9 infer intent.

10 In determining whether the Defendant had the intent to  
11 distribute the marijuana, you may consider the  
12 circumstances surrounding the Defendant's alleged  
13 possession. You may also consider the amount of the  
14 substance alleged to have been possessed, the manner in  
15 which it was allegedly possessed, the place where it was  
16 allegedly possessed, and other factors which you consider  
17 to be important. You must find that the Defendant did not  
18 intend to have the marijuana solely for his own use.

19 Furthermore, possession of more than 28 grams or one  
20 ounce of marijuana creates an inference that the Defendant  
21 possessed the marijuana with the intent to distribute it.  
22 Again, this inference does not relieve the State from  
23 proving beyond a reasonable doubt that the Defendant had  
24 the intent to distribute. It is simply an evidentiary fact  
25 to be taken into consideration by you, along with the other

1 evidence in the case, and to be given the weight you decide  
2 it should have.

3 (Brief pause.)

4 THE COURT: If you find, ladies and gentlemen, that  
5 the State has failed to prove beyond a reasonable doubt  
6 that the Defendant is guilty of possession with intent to  
7 distribute marijuana, you may also consider whether the  
8 State has proved beyond a reasonable doubt that the  
9 Defendant is guilty of simple possession of marijuana.

10 Simple possession does not require an intent to  
11 distribute the marijuana. To prove simple possession of  
12 marijuana, the State must prove beyond a reasonable doubt  
13 that the Defendant knowingly or intentionally possessed  
14 marijuana. Knowingly means that knowledge -- knowingly  
15 means with knowledge, consciously, not accidentally.  
16 Intentionally means willfully, intending the result which  
17 actually occurs, not accidentally or involuntary.

18 Again, possession, actual or constructive possession  
19 as previously defined of marijuana, is a crime unless the  
20 marijuana was obtained directly from or through a valid  
21 prescription or order of a practitioner acting in the  
22 course of professional practice. A practitioner is a  
23 physician, dentist, veterinarian, podiatrist, scientific  
24 investigator, pharmacy, hospital, or other person or  
25 institution licensed, registered, or otherwise permitted to

1 distribute, dispense, conduct research with respect to, or  
2 administer a controlled substance in the course of  
3 professional practice of research in this state.

4 Now, ladies and gentlemen, I'm drawing near -- I am  
5 now drawing near the conclusion of this charge. And I want  
6 you to understand that you -- that you are not partisans or  
7 advocates for the State of South Carolina or the Defendant.  
8 It is your duty, by your joint deliberations, to determine  
9 the truth in this case, giving to the Defendant the benefit  
10 of every reasonable doubt on each and every issue. Then to  
11 the facts, which you determine to be true, you should take  
12 and apply the law which has been given to you by this  
13 Court, and thus arrive at a verdict which speaks the truth  
14 in this case. In fact, the word "verdict," which has a  
15 Latin derivative, means "a true saying." Thus when you  
16 have accomplished these responsibilities, you will have  
17 satisfied your oath as jurors, and you will have discharged  
18 your duty to this Court.

19 Once you retire to the jury room, the bailiff will  
20 give the verdict form to you, Madam Forelady.

21 When you, the jury -- when you, the jury, arrive at a  
22 verdict as to the offenses charged in this case, you, Madam  
23 Forelady, will select the verdict as to each charge on the  
24 verdict form.

25 If the State has failed to prove the guilt of the

1 Defendant beyond a reasonable doubt, your verdict, ladies  
2 and gentlemen, will be not guilty. Likewise, if the State  
3 has proven the guilt of the Defendant beyond a reasonable  
4 doubt, your verdict will be guilty.

5 Now, once a decision has been made, the forelady will  
6 check whichever choice is the verdict of the jury to the  
7 charge.

8 Let me explain to you all and let me emphasize, ladies  
9 and gentlemen, that the verdict that you render in this  
10 case must be, must be the verdict of each and every juror.  
11 It must be your unanimous verdict. All 12 jurors must  
12 agree on the verdict which you authorize the forelady to  
13 write for the jury.

14 I want you to further understand, ladies and  
15 gentlemen, that the order in which the choices of verdict  
16 appear on the verdict form are not suggestive of any  
17 verdict on the part of this Court. The verdict in this  
18 case is to be determined by you, the jury, not the Court.

19 Furthermore, ladies and gentlemen, please understand  
20 that even though I will give the verdict form to the  
21 forelady, it is not her verdict alone. It is the verdict  
22 of all 12 of you, and I again emphasize that it must be  
23 your unanimous verdict.

24 I am, also, ladies and gentlemen, going to give you a  
25 copy of these instructions in written form. During your

1 deliberations, you may refer to the instructions to guide  
2 your decision making. However, you must consider the  
3 instructions as a whole and not follow some and ignore  
4 others.

5 Please, Madam Forelady, return these instructions to  
6 the Court at the time that your verdict is rendered.

7 Now, I am going to ask you all to retire to the jury  
8 room, but do not, do not begin your deliberations until  
9 you're instructed to do so. The law requires that I  
10 consult with the attorneys to ensure that I have not left  
11 any -- anything out of these instructions.

12 After I have consulted with the attorneys, the bailiff  
13 will bring in a copy of these instructions, along with the  
14 verdict form and the items of evidence that have been  
15 introduced, and will instruct you to begin your  
16 deliberations.

17 During your deliberations, if you should have any  
18 questions, Madam Forelady, it will be your responsibility  
19 to reduce such questions to writing, knock on the door, let  
20 the bailiff know that you have a question, give it to them.  
21 They will get it to me, and I will answer it however the  
22 Court deems appropriate.

23 Once you all have reached a verdict in this case,  
24 ladies and gentlemen, and filled out the verdict form,  
25 signed and dated, Madam Forelady, please knock on the door.

1 Let the bailiff know that you all have reached a verdict,  
2 and we will get you back in the courtroom as promptly as  
3 possible.

4 Before I excuse you all to the jury room, does  
5 everyone on the jury feel okay? Anyone not feeling well?

6 (No audible response.)

7 THE COURT: All right. I'm going to ask that all of  
8 you step to the jury room, but do not begin your  
9 deliberations until you're instructed to do so.

10 (Jury exits the courtroom at 12:41 p.m.)

11 THE COURT: (To the bailiff) Close that door, please.  
12 Thank you.

13 Any exception or objection to the charge by the State?

14 MR. SHENKAR: Nothing from the State, Your Honor.

15 THE COURT: Defense counsel?

16 MS. EIGENBROT: Nothing from the Defense.

17 THE COURT: All right. If you all would come up here  
18 and make sure all of the items of evidence are here.

19 (Brief pause as attorneys confer with the court  
20 reporter regarding exhibits.)

21 THE COURT: I'll be right back.

22 (Briefly off the record.)

23 THE COURT: The two alternates are back here on the  
24 hall, out of the room. Any objection to me releasing them  
25 back here?

1 MS. EIGENBROT: No objection.

2 MS. ALL: No, Your Honor.

3 THE COURT: And on the possession with intent to  
4 distribute cocaine, because it was so convoluted, what had  
5 happened, when I pulled out the possession with intent to  
6 distribute cocaine, which had all of the elements, leaving  
7 in possession with intent to distribute marijuana,  
8 reference back that portion of the charge, which had all  
9 the elements except the change in the drugs. Okay.

10 But I need to bring them back out because I -- I did  
11 not charge them, you know, the 28 grams or one ounce  
12 creates that inference. I charged them on the trafficking  
13 on the inference, but I didn't charge them, I don't think -  
14 -

15 MR. SHENKAR: I believe you did.

16 MR. POURANARAS: I think you did.

17 MS. ALL: I thought you did as well.

18 MR. SHENKAR: Yeah. You did charge them on the  
19 inference.

20 THE COURT: Okay. Well, are y'all satisfied whether I  
21 charged them on the PWID marijuana?

22 MR. POURNARAS: Yes, Your Honor.

23 THE COURT: Okay.

24 MR. SHENKAR: That ---

25 THE COURT: Let me get it printed and I'll look at it

1 again, and we'll -- we'll send it all back and tell them to  
2 start their deliberations.

3 MR. SHENKAR: Okay. Thank you, Your Honor.

4 (Briefly off the record.)

5 THE COURT: Y'all have looked at the verdict form,  
6 good to go.

7 MS. ALL: Yes.

8 THE COURT: Looked at the charge, good to go.

9 (No audible response.)

10 THE COURT: (To the bailiff) You can take the items of  
11 evidence in there.

12 Do we have any -- I don't recall -- there aren't any  
13 unspent ---

14 MR. POURNARAS: No, Your Honor.

15 THE COURT: --- casings. Okay.

16 MR. POURANARAS: Six casings and the one ---

17 THE COURT: Do y'all have any objection to the firearm  
18 going back?

19 MR. POURNARAS: Absolutely not.

20 MR. SHENKAR: No, Your Honor.

21 (Off the record at 1:11 p.m. Verdict form and  
22 exhibits taken to the jury room at 1:12 p.m.)

23 (On the record at 1:45 p.m.)

24 THE COURT: I'm going to mark this note as a Court's  
25 exhibit requesting a list of items for the grand larceny.

1 No list was introduced ---

2 MR. POURANARAS: Right.

3 THE COURT: --- into evidence. I mean, the only -- do  
4 you disagree with that?

5 MS. ALL: I'm sorry, Your Honor, I didn't hear you.

6 THE COURT: I said no list was introduced into  
7 evidence. They're asking for a list of items for the grand  
8 larceny.

9 MS. ALL: That's correct. We -- we introduced it  
10 through testimony ---

11 THE COURT: Ms. Jenkins.

12 MS. ALL: --- and pictures. And instead of -- yes.  
13 And through Investigator McCoy and Investigator Moore. And  
14 instead of listing it out as a list, we simply referenced  
15 items and then testified, through multiple witnesses, as to  
16 the value, that it was over \$2,000.

17 THE COURT: Well, I can just tell them there's a --  
18 there has been no list of such introduced into evidence, it  
19 was through testimony. If they want to hear all this  
20 testimony again, that's their option. Fair enough?

21 MS. ALL: And the --

22 MS. EIGENBROT: Fair enough.

23 MS. ALL: --- and the photographs. I mean,  
24 everything's -- would be photographed in the car.

25 THE COURT: Okay. All right. I'm going to go get my

1 robe.

2 (Brief pause.)

3 THE COURT: All right. The Defendant is back in the  
4 courtroom with his attorneys.

5 The jury had sent out a note requesting a list of  
6 items for the grand larceny charge. Discussing such with  
7 the lawyers, no such list had been introduced into  
8 evidence.

9 I'm going to bring the jury back out and inform them  
10 that no such list was introduced into evidence; however, it  
11 was introduced through testimony of various witnesses. If  
12 they want to rehear testimony, we will certainly  
13 accommodate them.

14 Any exception or objection by the State?

15 MS. ALL: None, Your Honor.

16 THE COURT: Defense counsel?

17 MS. EIGENBROT: None, Your Honor.

18 THE COURT: (To the bailiff) Will you bring me the  
19 jury, please, sir?

20 All right. I'll say through testimony and/or  
21 exhibits.

22 (The jury enters the courtroom at 1:55 p.m.)

23 THE BAILIFF: The jury's seated, Your Honor.

24 THE COURT: Thank you, sir.

25 Madam Forelady, ladies and gentlemen of the jury, I

1 received a note that you handed -- or sent out requesting a  
2 list of items for the grand larceny charge. I will tell  
3 you that a specific list was not introduced into evidence  
4 during the course of the trial. There was -- with regards  
5 to the grand larceny, there was testimony from witnesses  
6 concerning such, along with exhibits introduced into  
7 evidence.

8 Therefore, the Court -- since a list was not  
9 introduced, you cannot get a list. It was not introduced  
10 into evidence; therefore, the Court cannot provide you with  
11 a list of such.

12 You are to consider, in your deliberations, only the  
13 testimony that's been elicited from this stand, along with  
14 any exhibits that have been introduced. If you wish to  
15 hear the testimony of any witnesses to assist you in your  
16 decision pertaining to any of the charges, the Court will -  
17 - not the Court, but Madam Court Reporter over here will  
18 accommodate.

19 I'll ask that you all return to your jury room,  
20 continue your deliberations. If you have any further  
21 questions, again, please reduce them to writing, sign,  
22 Madam Forelady, and date, and let us know. Okay. Thank  
23 you. You all may return to the jury room.

24 (The jury exits the courtroom at 1:57 p.m.)

25 THE COURT: Any objection or exception to anything

1 that I said to the jury by the State?

2 MS. ALL: None, Your Honor.

3 THE COURT: Defense counsel?

4 MS. EIGENBROT: None, Your Honor.

5 THE COURT: All right. We will stand down. I have  
6 made that note, I think I told you all, a Court's Exhibit.  
7 All right. We'll stand down.

8 (Marked Court's Exhibit No. 2, juror note.)

9 (Off the record at 1:58 p.m.)

10 (Back on the record at 2:48 p.m.)

11 THE COURT: All right. It's my understanding the jury  
12 has a verdict. I would remind everyone, regardless of what  
13 the verdict is, to keep your emotions in check. Failure to  
14 do so could result in being held in contempt, either by  
15 virtue of fine and/or incarceration. If you do not believe  
16 that you can keep your emotions in check, now is your time  
17 to leave the courtroom.

18 Anything from the State before I bring the jury in?

19 MR. SHENKAR: Nothing from the State, Your Honor.

20 THE COURT: Defense counsel?

21 MS. EIGENBROT: Nothing from the Defense.

22 THE COURT: All right. (To the bailiff) Bring me the  
23 jury, please, sir.

24 Madam Clerk, you're going to publish the verdict?

25 MADAM CLERK: Yes, sir.

1 THE COURT: If you'll retrieve it, let me look at it,  
2 make sure it's in order, and then I'll give it back to you  
3 to publish it.

4 (Jury enters the courtroom at 2:49 p.m.)

5 THE BAILIFF: The jury is present, Your Honor.

6 THE COURT: Madam Forelady, ladies and gentlemen of  
7 the jury, have you all reached a verdict?

8 MADAM FORELADY: We have, Your Honor.

9 THE COURT: Madam Clerk, would you obtain the verdict,  
10 please -- verdict form? Thank you.

11

12 THE COURT: (To the forelady) You may be seated,  
13 ma'am.

14 (The court clerk complies, hands the form to the  
15 Court, and after looking over the form, the Court hands the  
16 form back to the court clerk.)

17 THE COURT: All right. Madam Clerk, you may publish  
18 the verdict.

19 COURT CLERK: Thank you, Your Honor. (As read) "The  
20 State of South Carolina, in the Court of General Sessions,  
21 in the matter of the *State of South Carolina vs. Demetrius*  
22 *Derrick Henderson*, on Indictments Nos. 2014-GS-40-6872,  
23 2014-GS-40-6873, 2014-GS-40-6874, 2014-GS-40-6877, as to  
24 the charge of burglary first degree, we, the jury,  
25 unanimously find the Defendant, Demetrius Derrick

1 Henderson, guilty.

2 "As to the charge of grand larceny, 2,000, less than  
3 10,000, we, the jury, unanimously find the Defendant,  
4 Demetrius Derrick Henderson, guilty.

5 "As to the charge of trafficking in cocaine, 10 and  
6 less than 28 grams, we, the jury, unanimously, find the  
7 Defendant, Demetrius Derrick Henderson, guilty.

8 "As to the charge of possession with intent to  
9 distribute marijuana, we, the jury, unanimously find the  
10 Defendant, Demetrius Derrick Henderson, guilty."

11 Signed by the Forelady and dated May 8, 2015.

12 Madam Foreperson, is this your verdict and the verdict  
13 of the entire jury?

14 MADAM FORELADY: It is.

15 COURT CLERK: Thank you.

16 THE COURT: All right. Anything from Defense counsel  
17 at this time?

18 MS. EIGENBROT: Your Honor, we'd ask that the jury be  
19 polled, please.

20 THE COURT: Madam Clerk.

21 COURT CLERK: Madam Forelady and ladies and gentlemen  
22 of the jury, I'm going to call out your name. As I call  
23 out your name, I'm going to ask you two questions and I  
24 need you to answer me "yes" or "no" to both the questions.

25 Steve Sprowls, was this your verdict?

1 MR. SPROWLS: Yes.

2 COURT CLERK: Is it still your verdict?

3 MR. SPROWLS: Yes.

4 COURT CLERK: Thank you.

5 THE COURT: (To the jury) And you all do not have to  
6 stand if you don't want to, okay.

7 Go ahead, Madam Clerk.

8 COURT CLERK: Natalie Carter, was this your verdict?

9 MS. CARTER: Yes.

10 COURT CLERK: Is it still your verdict?

11 MS. CARTER: Yes.

12 COURT CLERK: Lisa Drakes, was this your verdict?

13 MS. DRAKES: Yes.

14 COURT CLERK: Is it still your verdict?

15 MS. DRAKES: Yes.

16 COURT CLERK: Terry Morgan, was this your verdict?

17 MR. MORGAN: Yes.

18 COURT CLERK: Is it still your verdict?

19 MR. MORGAN: It is.

20 COURT CLERK: Terry Hicks, was this your verdict?

21 MR. HICKS: Yes.

22 COURT CLERK: Is it still your verdict?

23 MR. HICKS: Yes.

24 COURT CLERK: Rebecca Perryman, was this your verdict?

25 MS. PERRYMAN: Yes.

1 COURT CLERK: Is it still your verdict?

2 MS. PERRYMAN: Yes.

3 COURT CLERK: Kenneth Barr, was this your verdict?

4 MR. BARR: Yes.

5 COURT CLERK: Is it still your verdict?

6 MR. BARR: Yes.

7 COURT CLERK: Maria Sophocleous, was this your  
8 verdict?

9 MS. SOPHOCLEOUS: Yes.

10 COURT CLERK: Is it still your verdict?

11 MS. SOPHOCLEOUS: Yes.

12 COURT CLERK: Omar Haygood, was this your verdict?

13 MR. HAYGOOD: Yes.

14 COURT CLERK: Is it still your verdict?

15 MR. HAYGOOD: Yes.

16 COURT CLERK: Thomas McCullough, was this your  
17 verdict?

18 MR. MCCULLOUGH: Yes.

19 COURT CLERK: Is it still your verdict?

20 MR. MCCULLOUGH: Yes.

21 COURT CLERK: Joseph Guy, was this your verdict?

22 MR. GUY: Yes.

23 COURT CLERK: Is it still your verdict?

24 MR. GUY: Yes.

25 COURT CLERK: William McLeod, was this your verdict?

1 MR. MCLEOD: Yes.

2 COURT CLERK: Is it still your verdict?

3 MR. MCLEOD: Yes.

4 COURT CLERK: The jury's polled, Your Honor.

5 THE COURT: All right. Anything further from Defense  
6 counsel at this time?

7 MS. EIGENBROT: No, Your Honor.

8 THE COURT: (To the jury) All right. Ladies and  
9 gentlemen, you all have fulfilled your responsibilities as  
10 jurors this week. When I release you this week, you cannot  
11 be summoned back up here for jury duty at -- at least for  
12 the next three years.

13 Now, that does not mean that you can't be summoned for  
14 city court, magistrate's court, or federal court. You just  
15 can't be summoned back up here to this court to serve as  
16 jurors for common pleas or general sessions.

17 I want to thank each of you for your service this  
18 week. I appreciate your attentiveness throughout the trial  
19 of this case. I hope you all learned that this isn't  
20 television. This is a lot different than television.

21 But I want to thank you for your service. There is  
22 absolutely no price that can be put upon the value of your  
23 service to this country, to this state, and to this county.

24 Jury service never ever comes at a convenient time.  
25 It is only -- it is the only truly remaining service that

1 we all have as citizens in this country anymore. It is not  
2 a situation wherein individuals are drafted in the  
3 military, such as our grandparents, et cetera, to -- to  
4 serve for a couple of years. This is truly the only  
5 remaining service.

6 Jury service never comes at a convenient time and it  
7 takes sacrifice -- sacrifice from you all to be here this  
8 week. I know that it pulled you out of your ordinary,  
9 daily lives, and I appreciate the sacrifices you all made  
10 to be here this week.

11 As you all went through that qualification process on  
12 Monday, I believe, with Judge Hood, you had a glimpse --  
13 from each potential juror, just a small glimpse of your  
14 back -- what you do, if you're married, what your spouse  
15 may do. But as you sat through that qualification process,  
16 you would see that everybody comes from a little bit  
17 different background, so to speak, and that's what it  
18 takes. It's not a situation where me or any other judge in  
19 this state or -- or country, for that matter, comes in on a  
20 Monday morning and looks at one of the sheriff's deputies  
21 or other law enforcement officers and says, "Go out and  
22 find me the first 12 people you can find and let's try this  
23 case." It is not that type of situation at all.

24 I can promise you, if you all were seated as an  
25 individual at one of these two tables, whether it be a

1 plaintiff or a defendant in a criminal case or a victim or  
2 a defendant in a criminal case for that matter, you would  
3 want people such as yourselves serving on juries, just like  
4 you all did this week.

5 Now, when I release you here today, I know that the  
6 clerk will have a work excuse for you. She may have checks  
7 --

8 Do you already have checks printed?

9 MADAM CLERK: Yes, sir.

10 THE COURT: She has checks that have been printed for  
11 your service this week. I will tell you that it in no way,  
12 shape, or form can come close to what your -- the value of  
13 your service has been this week. It is a small, small  
14 token.

15 As I've told you -- throughout the last few days that  
16 you've served as jurors, I told you not to talk about the  
17 case. When I release you here today, you may talk about  
18 the case, but only if you so desire to talk about the case.  
19 No one, and I repeat, no one can make you talk about this  
20 case if you do not wish to. All right. If someone  
21 approaches you and asks you to talk about this case and you  
22 tell them you don't want to talk about it, you let the  
23 clerk's office know, and me or some other judge or -- or  
24 law enforcement will make sure that it is handled. Okay.

25 Anything -- well, after you all have completed your

1 responsibility as jurors, it will -- now -- the  
2 responsibility of sentencing will now fall to the Court.  
3 That will be my responsibility at this stage. You all,  
4 ladies and gentlemen, are free to go at this time if you so  
5 desire. However, you may stay if you wish to stay for that  
6 -- for that procedure to take place.

7 But if -- if you wish to go, I will allow you and give  
8 you the opportunity at this time to leave. If you wish to  
9 leave, you can go.

10 Madam Clerk, you can give them their work excuses.  
11 All right.

12  
13 (The jury exits at 2:58 p.m.)

14 THE COURT: Madam Clerk, does the Forelady need to  
15 sign the indictments?

16 MADAM CLERK: Some judges have them sign them and some  
17 don't ---

18 THE COURT: Well, I was here before and the clerk --  
19 we don't in Florence, but I was here before and they wanted  
20 them signed. Up here after I left, I think they were  
21 scrambling trying to find the forelady. So if you'll take  
22 those back.

23 All right. Does the State have sentencing sheets?

24 MS. ALL: Yes, Your Honor.

25 THE COURT: Let me ask this before we proceed:

1 Anything from Defense counsel before we proceed with  
2 sentencing?

3 MS. EIGENBROT: Yes, Your Honor. At this time, the  
4 Defense would make a motion for a new trial based on all of  
5 our prior objections, our prior motions, including --  
6 particularly the mistrial motion in regards to the mention  
7 of an ankle bracelet, including the brevity of the  
8 deliberation by the jury, Your Honor.

9 THE COURT REPORTER: Including the brevity of ...?

10 MS. EIGENBROT: The deliberation of the jury.

11 THE COURT: As previously stated by this Court, such  
12 objections are so noted for the record, but are  
13 respectfully -- the Court's prior rulings remain the same.

14 Defense counsel's motion for a new trial is hereby  
15 denied. I think there was more than sufficient evidence  
16 for this jury to return the verdict that they returned as  
17 to each of these counts. Therefore, based upon the  
18 sufficiency of the evidence, I respectfully deny Defense  
19 counsel's motion, but I do so make a note of the motion as  
20 well as objections. All right.

21 (Brief pause.)

22 THE COURT: All right. Anything from the State?

23 MR. SHENKAR: Nothing at this point, Your Honor.

24 THE COURT: The State have any position with regard to  
25 sentencing?

1           MR. SHENKAR: Yes, Your Honor. May it please the  
2 Court. We will, obviously, defer to Your Honor with  
3 regards to the length of sentencing, but I do want to  
4 mention to the Court related to some of the issues that we  
5 discussed earlier.

6           We put the various offers that the State made on the  
7 record, by notifying the Court of all the history of Mr.  
8 Henderson and burglaries. He has a conviction for a  
9 burglary back in 2010, for which he received a suspended  
10 YOA sentence. And in addition to that, from 2010, he also  
11 has a conviction for obtaining goods under false pretense,  
12 as well as simple possession of marijuana. That YOA  
13 sentence was --

14          THE COURT: Hold on a minute. Individuals walking  
15 back in here -- jurors.

16          (Brief pause.)

17          THE COURT: All right. Go ahead, Mr. Shenkar.

18          MR. SHENKAR: Yes, Your Honor. That burglary that he  
19 pled guilty to, back in 2010, he received a Youthful  
20 Offender Act sentence for six years and that was suspended.  
21 I guess it was before the omnibus was passed, so he was  
22 allowed to go on probation for five years.

23          In addition to that, he also has a conviction for  
24 trespassing, between that conviction and the new set of  
25 burglary charges that he had in our office, which we were

1 going to try initially. That charge consisted of a  
2 burglary second degree, nonviolent, and a petit larceny.

3 At this point, he refused to accept a plea offer that  
4 would have suggested to revoke his YOA sentence and give  
5 him an active YOA of three years, and elected to proceed to  
6 trial.

7 Based on my motion, the judge then ordered him to get  
8 on electronic monitoring, which he was wearing at the time  
9 of this particular burglary from December 18 of 2013.

10 Your Honor, this pattern, based on the State's opinion  
11 and his failure to accept responsibility on all these  
12 various burglaries, the one that was reduced from burglary  
13 to trespassing because of lack of evidence, show a pattern  
14 of his behavior. He was never -- never taken the chances  
15 that were given to him, never accepted responsibility,  
16 continued to break into people's homes, continued to steal  
17 their things. We feel that based on his failure to accept  
18 responsibility and of the fact that he was on electronic  
19 monitoring after he had been in front of circuit court  
20 judge that put him on electronic monitoring, and still  
21 elected to proceed and burglarize people's homes should  
22 give him the sentence that Your Honor would give him. We  
23 ask that that sentence would be lengthy.

24 THE COURT: All right. Anything further? Ms. All,  
25 anything from you?

1 MS. ALL: Yes, Your Honor, if I may approach, I have  
2 that final fine sheet.

3 (Ms. All hands a document to the Court.)

4 THE COURT: All right. Be happy to hear from Defense  
5 counsel.

6 MS. EIGENBROT: Thank you, Your Honor. May it please  
7 the Court. Your Honor, Mr. Henderson's 24 years old. At  
8 the time of this incident, when he was shot, he was in  
9 school. He was attending school for business  
10 administration. I do have some school records if Your  
11 Honor would like to see those.

12 He was working at the time.

13 Your Honor, I know he's got a little bit of a history.  
14 I disagree with Mr. Shenkar's belief that Mr. Henderson's  
15 never taken responsibility, as he pled to his 2010 charge.

16 Further, Your Honor, the 2012 pending charge, we had  
17 initially planned on taking that one to trial be -- because  
18 the lack of evidence in that case was so outstanding.

19 Your Honor, Mr. Henderson has always maintained his  
20 innocence in these matters, which is why he rejected the  
21 offers. I think that is his constitutional right. He has  
22 a right to -- to be in trial. He does not have to accept  
23 an offer, especially when he's maintained his innocence the  
24 entire time, which he still does today.

25 And Your Honor, most importantly though, I think I

1 would like Your Honor to take into consideration the fact  
2 that even though he's maintaining his innocence right now,  
3 he did almost pay the ultimate price. He almost lost his  
4 life.

5 He is now forever disabled. He is unable to pretty  
6 much get around on his own. He -- he pretty much always  
7 needs assistance, either with a wheelchair or a walker. He  
8 has a colostomy bag he will forever have to deal with. He  
9 still has some impending surgeries to continue his care  
10 that he will not receive, especially while at the  
11 Department of Corrections or at the jail. I'm hoping to  
12 make those happen, but at this time, there's no guarantee  
13 that he can receive the care that he needs.

14 And Your Honor, my understanding is those surgeries  
15 are pretty serious as he does have some bullet fragments  
16 still floating around his body.

17 And Your Honor, it's no -- no secret that Mr.  
18 Henderson and I have not always seen eye to eye on  
19 everything, but I think that comes from a critical thinking  
20 and challenging me standpoint. It's not because he wanted  
21 to be difficult. It's because he wanted to ask questions  
22 because he thinks critically, because he is an intelligent  
23 young man despite the fact that he's maybe made some stupid  
24 decisions in his past.

25 I think he is capable. I think he could do great

1 things given the opportunity. I think he was on the right  
2 path until this happened, Your Honor. And despite  
3 everything, it has been a pleasure to represent him.

4 I believe his uncle would like to speak on the  
5 family's behalf, Mr. Brown, at the appropriate time, Your  
6 Honor.

7 (Audience member stands.)

8 MR. BROWN: My name is Bobby Brown.

9 THE COURT: Yes, sir.

10 MR. BROWN: Your Honor, the Court, I am Mr.  
11 Henderson's uncle. And I would just like to start by  
12 saying as an uncle, I kind of feel like I failed, but I  
13 know my sister did not fail, as she has been a single  
14 parent the majority of her life, raising her children. She  
15 did raise them with integrity, decency, and to care about  
16 other people and their belongings.

17 Now, my nephew, he's an impressionable --  
18 impressionable young man. He is definitely a follower, not  
19 a leader, and we have discussed that term on many cases,  
20 even when he was a youngster in high school. And I would  
21 always try to convince him, you know, you got to think for  
22 yourself, and sometimes you can't run with the in crowd all  
23 the time, you know.

24 And upon him getting in some of that trouble early on  
25 in 2010, I think once he found out the severity of it, he

1 did start turning hisself [sic] around.

2 He was working on the job. And I know for a fact that  
3 they arrested him on some, like, hearsay because of  
4 appearance. There's a lot of young men that look like him.  
5 But his job, they kept it open for him. So that should  
6 speak a little bit about his character. If he was  
7 incarcerated and his boss still held the position open  
8 because they wanted him to come back to work, because they  
9 had that much faith in him.

10 And I think being young, he has made some -- some  
11 decisions that haven't been beneficial to him, but I don't  
12 think that should cost him the rest of his life.

13 As I expressed to him, myself, I am now a prosthetic  
14 person. I have a right leg prosthetic. And -- and that's  
15 probably due to some of the stuff that I did in my youth.  
16 And I was explaining to him that, you know, my leg got  
17 amputated, but that didn't stop the fact that I wanted to  
18 turn my life around and do something different and better.

19 And I was expressing that with him also, because when  
20 he was shot, Your Honor, I do believe that he -- he should  
21 not have survived that shot. So I think that there's  
22 something in store for him that my Higher Power, which I  
23 choose to call "God," has something more in store for  
24 Demetrius.

25 So I just ask the Court to -- to -- to please show

1 leniency, even though it may seem like this terrible  
2 convict is sitting there in front of you. But he is not a  
3 terrible convict, Your Honor. He's a decent young man.  
4 He's a decent human being. He's just made some -- some bad  
5 decisions and -- and followed a difficult crowd to follow.

6 And I know I may sound repetitious, but it's -- it's  
7 just heart wrenching because my sister really did try her  
8 best to do what she needed to do for her kids.

9 And as the Defense stated, that he did enroll in  
10 college. He started, you know, participating in other  
11 activities along. And -- and I mean, it has rubbed off  
12 because my other nephew, who's in the courtroom, that  
13 favors him, he's working towards becoming a manager at Auto  
14 Zone and raising his little young son.

15 So you know, it's -- it's about the choices that we  
16 make, Your Honor. And I think Demetrius made some pretty  
17 bad choices that have severely affected him and going to  
18 affect him for the rest of his life.

19 As I told him about myself, I don't like having to get  
20 up every morning and strap my leg on, but I -- I have to do  
21 it, sir, if I want to get out there and -- and continue on  
22 life because I could have gave up a long time ago.

23 And -- and I want him to understand that his life is  
24 not over. Irregardless of -- of the sentences, he still  
25 can come out and be a productive member in society and --

1 you know, and continue on that path that he was on before  
2 this tragic incident happened.

3 And I -- I'm just nervous, Your Honor. I just want to  
4 say on behalf of -- of my family that we love and we  
5 totally support Demetrius. This was a hard decision for us  
6 to follow with because I didn't know all the facts of the  
7 case, and -- and I was struggling, arguing with him about  
8 some stuff.

9 And I just have to respect the fact that he -- he --  
10 he's doing what he feel is right for himself, and I have to  
11 respect him as a man for that.

12 And I just pray that from this experience, that he  
13 just take a different path. Whatever the outcome may be,  
14 that -- that this is not life -- your life is not worth  
15 getting ended over something so trivial, basically, when  
16 it's so much more out there and many more opportunities  
17 that he's capable of -- of obtaining, considering he is at  
18 an age that he can still get out and do some productive  
19 stuff in society and for society, you know, as far as --  
20 hopefully, he may be able to have a family.

21 I'm not sure about the extent of -- the extent of his  
22 injuries, but I know they're pretty bad. So he may not  
23 have a family in his future, but he can definitely reach  
24 out and help other youngsters, and keep them from something  
25 tragic like this happening in their lives.

1 THE COURT: All right.

2 MR. BROWN: Thank you, sir.

3 THE COURT: Thank you.

4 MS. EIGENBROT: And Your Honor, I just wanted to point  
5 out that his family has been here in support of him  
6 throughout the entire trial. And again, we would ask for  
7 the minimum in consideration of all those things,  
8 especially his health, Your Honor.

9 THE COURT: Mr. Pournaras, anything you want to add,  
10 sir?

11 MR. POURNARAS: Nothing further, Your Honor.

12 THE COURT: Anybody else from his family wish to  
13 speak?

14 MS. EIGENBROT: No, Your Honor.

15 THE COURT: How much time has he done in jail? How  
16 much time is he entitled to credit on?

17 MS. EIGENBROT: Your Honor, he has credit from the day  
18 he was arrested, the end of April of 2014. The reason it  
19 took so long to arrest him was because he was in the  
20 hospital.

21 MR. POURNARAS: And he was in the hospital since the  
22 night of the incident we've been discussing, Your Honor.  
23 That would be December the 18 of 2013.

24 MS. ALL: And the day he was booked was April 18,  
25 2014.

1 THE COURT: I'm sorry, what was that? The day ---

2 MS. ALL: The day he was booked. I was just  
3 volunteering. I just happened to have it printed out  
4 because -- it was April 18, 2014.

5 MR. POURNARAS: Was when he was discharged from the  
6 hospital ...

7 THE COURT: All right.

8 (Brief pause.)

9 THE COURT: Make sure, Madam Solicitor, that I am  
10 correct on this: Trafficking cocaine, 28 grams -- excuse  
11 me, 10 grams or more, but less than 28 grams, 0 to 10? Is  
12 that -- 3 to 10, excuse me, 3 to 10?

13 MS. ALL: That's correct, Your Honor, and it's serious  
14 and violent. And 85 percent under 17-25-45.

15 THE COURT: Burglary first carries a mandatory minimum  
16 of 15 years up to life imprisonment?

17 MS. ALL: Yes, Your Honor. Violent, most serious in  
18 25 -- 17-25-45.

19 THE COURT: Possession with intent to distribute  
20 marijuana, 0 to 5?

21 MS. ALL: Yes, Your Honor, those are the statutory  
22 qualifications.

23 THE COURT: Grand larceny is 0 to 5.

24 MS. ALL: Yes, Your Honor, the same.

25 (Brief pause.)

1 THE COURT: Mr. Shenkar, let me ask you this real  
2 quick. I want to make sure that I have documented my  
3 review. In March of 2010, he was charged with burglary  
4 third degree; and that's what he pled guilty to, received a  
5 sentence, under the Youthful Offender Act, looks like in  
6 November of 2010. Is he still on YOA supervision?

7 MR. SHENKAR: Yes. It was a burglary second, Your  
8 Honor, not a burglary third.

9 THE COURT: A burglary second.

10 MS. EIGENBROT: Your Honor, that is still a matter  
11 we're going to have to deal with at some point.

12 THE COURT: Have y'all been before the YOA parole  
13 group? Did he do any time on that?

14 MS. EIGENBROT: No, Your Honor, he was allowed to  
15 remain on probation ---

16 THE COURT: His probation with deal with the  
17 revocation of that.

18 MS. EIGENBROT: Yes, Your Honor ---

19 THE COURT: And he was -- I'm sorry, go ahead.

20 MS. EIGENBROT: Generally, what they'll do is they'll  
21 just send paperwork over and run whatever it is concurrent.

22 THE COURT: All right. He was also convicted of  
23 possession of marijuana, as well as receiving stolen goods  
24 as a result of that?

25 MR. SHENKAR: Yes. I think those were separate

1 incidents, but he has those convictions from 2010.

2 THE COURT: All right. Also, on his rap sheet that I  
3 was provided earlier, it was no -- excuse me, it was a  
4 December 27, 2010 arrest for burglary.

5 MR. SHENKAR: Yeah. That burglary was reduced to a  
6 trespassing, which he pled to. It is not reflected on the  
7 rap sheet, but --

8 THE COURT: Okay.

9 MR. SHENKAR: -- it was reduced to a trespassing.

10 THE COURT: And he was also convicted of a marijuana  
11 charge at that time, as well as giving false information to  
12 law enforcement?

13 MR. SHENKAR: Yes, Your Honor.

14 THE COURT: All right. Then in November of 2012, he  
15 was arrested again on a burglary second.

16 MR. SHENKAR: Yes. Non-violent.

17 THE COURT: And that was the one that's still pending  
18 for which he was out on bond when he was convict -- or  
19 arrested for this charge.

20 MR. SHENKAR: Yes, Your Honor.

21 THE COURT: So in essence this is his -- albeit one  
22 was reduced to trespass, his fourth burglary?

23 MR. SHENKAR: Yes, Your Honor.

24 THE COURT: Mr. Henderson, I will give you an  
25 opportunity to say -- say anything if you so desire;

1           however, I don't want you to say anything that could affect  
2           any appellate rights that you may have. Do you wish -- do  
3           you wish to address the Court?

4           THE DEFENDANT: No, sir.

5           THE COURT: Okay.

6           (Brief pause.)

7           THE COURT: All right. On indictment 2014-GS-40-  
8           06784, trafficking cocaine charge, the Defendant's hereby  
9           committed to the State Department of Corrections for a  
10          period of 10 years, given credit for 386 days.

11          On the 2014-GS-40-06877, possession with intent to  
12          distribute marijuana, the Defendant's hereby committed to  
13          the State Department of Corrections for a period of one  
14          year.

15          On indictment 2014-GS-40-06872, grand larceny, the  
16          Defendant's hereby committed to the State Department of  
17          Corrections for a period of three years.

18          On indictment 2014-GS-40-06873, as it relates to his  
19          burglary first, the Defendant's hereby committed to the  
20          State Department of Corrections for a period of 15 years.

21          Each of these charges are to run consecutive,  
22          consecutive.

23          MR. SHENKAR: Thank you, Your Honor.

24          THE COURT: Thank you. Anything further from the  
25          State?

1 MR. SHENKAR: Nothing from the State, Your Honor.

2 THE COURT: Defense counsel?

3 MR. POURNARAS: Nothing other -- just a matter of  
4 clarity. I believe Ms. All said that the trafficking  
5 charge would be a no parole offense and I -- and I'm --

6 THE COURT: No parole offense is the burglary first,  
7 as well as the trafficking cocaine. Both of those were  
8 serious, most -- most serious offenses, I believe.

9 MR. POURNARAS: Thank you, Your Honor.

10 THE COURT: Thank you.

11 (Marked Court's Exhibit No. 2, Juror note.)

12 (Off the record at 3:26 p.m.)

13 -- END OF TRANSCRIPT RECORD --

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**CERTIFICATE**

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth 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 evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fifth Circuit Court for Richland County, South Carolina, on the 6 - 8 days of May, 2015.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.

---

Bonnie H. Kelly, CVR  
Official Court Reporter

Columbia, South Carolina  
December 31, 2015

**WITNESSES**

**(S) Matthew David Mccoy**  
**- Columbia Police Department**

**ARREST WARRANT NUMBER**

**2014A4021600101**

**ACTION OF GRAND JURY**

**TRUE BILL**

*Matthew Mccoy*  
Foreperson of Grand Jury

Date:

**OCT 09 2014**

**VERDICT**

*Guilty*

*Rebecca Perryman*  
Foreperson of Petit Jury

Date:

**DOCKET NO. 2014GS4006877**

**The State of South Carolina**

**County of**

**Richland**

**COURT OF GENERAL SESSIONS**

**OCTOBER TERM 2014**

**73**

**THE STATE**  
**vs.**

**Demetrius Derrick Henderson**

**Indictment for**  
**DRUGS / MANUF., POSS. OF OTHER SUB.**  
**IN SCH. I, II, III OR FLUNITRAZEPAM,**  
**W.I.T.D. - 3RD OR SUB. OFFE**

SC Code: 44-53-0370(b)(2)

CDR Code: 0188

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

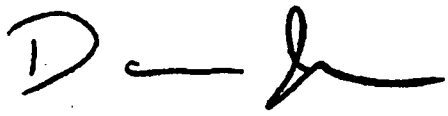
**INDICTMENT**

At a Court of General Sessions, convened on OCTOBER 8 , 2014,  
the Grand Jurors of Richland County present upon their oath:

**POSSESSION OF MARIJUANA WITH INTENT TO DISTRIBUTE**  
**3<sup>RD</sup> OFFENSE & ABOVE**

That Demetrius Derrick Henderson did in Richland County, on or about December 18, 2013, possess with intent to distribute, dispense or deliver, or did aid, abet, attempt or conspire to distribute, dispense or deliver, a quantity of Marijuana, a controlled substance under provisions of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized by law [and such being the defendant's second or subsequent offense], and in violation of Section 44-53-0370(b)(2), S. C. Code of Laws, 1976, as amended.

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

  
\_\_\_\_\_  
DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
STATE VS. Demetrius Derrick Henderson
AKA:
Race: BLACK Sex: M Age:
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:

INDICTMENT/CASE#: 2014GS4006877
A/W#: 2014A4021600101
Date of Offense: 12/18/2013
S.C. Code § : 44-53-0370(b)(2)
CDR Code #: 0186

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: Drugs / Manuf., poss. of other sub. in Sch. I, II, III or flunitrazepam or analogue, w.i.t.d. - 1st

in violation of § 44-53-0370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0186
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45
w/minor 1st or Lewd Act

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Shenkar, Joseph SC Bar# 77169 Defendant Attorney for Defendant SC Bar# 101190

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 180 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment
of \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.
CONCURRENT or CONSECUTIVE to sentence on: All convictions of 5-8-15
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 386 days
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments), TOTAL.

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Jeanette McBrick
Court Reporter: Kelly
SCCA/217 (03/2011)

Presiding Judge D. Chappell
Judge Code: 2760
Sentence Date: 5-8-13

589

**WITNESSES**

**(S) Matthew David Mccoy**  
**- Columbia Police Department**

**ARREST WARRANT NUMBER**

**2014A4021600100**

**ACTION OF GRAND JURY**

**TRUE BILL**

*[Signature]*  
Foreperson of Grand Jury

Date: **OCT 09 2014**

**VERDICT**

*Guilty*

*[Signature]*  
Foreperson of Petit Jury

Date:

**DOCKET NO. 2014GS4006874**

**The State of South Carolina**

**County of**

**Richland**

**COURT OF GENERAL SESSIONS**

**OCTOBER : TERM 2014**

**73**

**THE STATE**  
**vs.**

**Demetrius Derrick Henderson**

**Indictment for**  
**DRUGS / TRAFFICKING IN COCAINE, 10 G**  
**OR MORE, BUT LESS THAN 28 G - 1ST**  
**OFFENSE**

**SC Code: 44-53-0370(e)(2)(a)1**  
**CDR Code: 0278**

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF RICHLAND        )

**INDICTMENT**

At a Court of General Sessions, convened on OCTOBER 8 2014,  
the Grand Jurors of Richland County present upon their oath:

**TRAFFICKING IN COCAINE (10-28 GRAMS)**

That Demetrius Derrick Henderson did in Richland County on or about December 18, 2013 was in actual or constructive possession, or attempted to become in actual or constructive possession of a quantity of Cocaine in an amount of more than ten (10) grams, but less than twenty-eight (28) grams, the same being a controlled substance, all within the meaning of Section 44-53-370, et. seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized, and being in violation of Section 44-53-370(e)(2)(a), S. C. Code of Laws, 1976, as amended, for the crime of Trafficking.

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

  
\_\_\_\_\_  
DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

591

COUNTY OF Richland
STATE VS.
Demetrius Derrick Henderson
AKA:
Race: BLACK Sex: M Age:
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:

INDICTMENT/CASE#: 2014GS4006874
A/W#: 2014A4021600100
Date of Offense: 12/18/2013
S.C. Code §: 44-53-0370(e)(2)(a)1
CDR Code #: 0278

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Drugs / Trafficking in cocaine, 10 g or more, but less than 28 g - 1st offense

CONVICTED OF or PLEADS

in violation of § 44-53-0370(e)(2)(a)1 of the S.C. Code of Laws, bearing CDR Code # 0278
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury (defendant's initials)

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

ATTEST: Shenkar, Joseph SC Bar# Defendant Attorney for Defendant SC Bar# 101190

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on: 2014 GS 4006873 (All convictions) § 24-13-40 to be calculated and applied 5-8-15
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied 5-8-15 by the State Department of Corrections. 386 days
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Recipient:

Table with 3 columns: Description, Amount, Total. Rows include § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments), TOTAL

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Court Reporter: B. Kelly

Presiding Judge Judge Code: 2160 Sentence Date: 5-8-15

**WITNESSES**

**(S) Matthew David Mccoy**  
**- Columbia Police Department**

**ARREST WARRANT NUMBER**

**2014A4021600098**

**ACTION OF GRAND JURY**

**TRUE BILL**

*[Signature]*  
Foreperson of Grand Jury  
Date:

**OCT 09 2014**

**VERDICT**

*Guilty*

*[Signature]*  
Foreperson of Petit Jury  
Date:

**DOCKET NO. 2014GS4006873**

**The State of South Carolina**

**County of**

**Richland**

**COURT OF GENERAL SESSIONS**

**OCTOBER TERM 2014**

**73**

**THE STATE**  
**vs.**

**Demetrius Derrick Henderson**

**Indictment for**  
**BURGLARY / BURGLARY (AFTER JUNE**  
**20, 1985) - FIRST DEGREE**

SC Code: 16-11-0311  
CDR Code: 0079

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.



STATE OF SOUTH CAROLINA

COUNTY OF Richland  
STATE VS.  
Demetrius Derrick Henderson

AKA: \_\_\_\_\_  
Race: BLACK Sex: M Age: \_\_\_\_\_  
DOB: \_\_\_\_\_ SS#: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was  
TO: Burglary / Burglary (After June 20, 1985) - First degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS4006873 ✓  
A/W#: 2014A4021600098  
Date of Offense: 12/18/2013  
S.C. Code § : 16-11-0311  
CDR Code #: 0079

SENTENCE SHEET

CONVICTED OF or  PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC w/minor 1st or Lewd Act)  §17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST: [Signature] 77769 [Signature] 101190  
Shenkar, Joseph SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
for a determinate term of 15 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

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

CONCURRENT or  CONSECUTIVE to sentence on: 2014GS4006874 (All conditions)  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied 386 days 7-8-15  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

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

PTUP \_\_\_\_\_  
\_\_\_\_\_ days/hours Public Service Employment  
Obtain GED   
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling   
Random Drug/Alcohol testing   
Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund  
Other: \_\_\_\_\_

Appointed PD or appointed other counsel,  
§ 47.12 requires \$500 be paid to Clerk  
during probation.

Clerk of Court/ Deputy Clerk Jeanette McBride  
Court Reporter: B. Kelly  
SCCA/217 (03/2011)

Presiding Judge [Signature]  
Judge Code: 260  
Sentence Date: 5-8-15

595

**WITNESSES**

**(S) Matthew David Mccoy**  
**- Columbia Police Department**

**ARREST WARRANT NUMBER**

**2014A4021600099**

**ACTION OF GRAND JURY**

**TRUE BILL**

*[Signature]*  
Foreperson of Grand Jury  
Date:

**OCT 09 2014**

**VERDICT**

*Guilty*

*Rebecca S Perryman*  
Foreperson of Petit Jury  
Date:

**DOCKET NO. 2014GS4006872**

**The State of South Carolina**

**County of**

**Richland**

**COURT OF GENERAL SESSIONS**

**OCTOBER TERM 2014**

**73**

**THE STATE**  
**vs.**

**Demetrius Derrick Henderson**

**Indictment for**  
**LARCENY/GRAND LARCENY, VALUE**  
**MORE THAN \$2000 BUT LESS THAN**  
**\$10,000**

SC Code: 16-13-0030(B)  
CDR Code: 3420

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

597

COUNTY OF Richland  
STATE VS.

INDICTMENT/CASE#: 2014GS4006872

Demetrius Derrick Henderson

A/W#: 2014A4021600099

AKA: \_\_\_\_\_

Date of Offense: 12/18/2013

Race: BLACK Sex: M Age: \_\_\_\_\_

S.C. Code § : 16-13-0030(B)

DOB: \_\_\_\_\_ SS#: \_\_\_\_\_

CDR Code #: 3420

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

CONVICTED OF or  PLEADS

In disposition of the said indictment comes now the Defendant who was  
TO: Larceny/Grand Larceny, value more than \$2000 but less than \$10,000

in violation of § 16-13-0030(B) of the S.C. Code of Laws, bearing CDR Code # 3420

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45  
w/minor 1st or Lewd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST: \_\_\_\_\_ SC Bar# \_\_\_\_\_ Defendant \_\_\_\_\_ Attorney for Defendant \_\_\_\_\_ SC Bar# 101190

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
for a determinate term of 3 <sup>SCDC</sup> days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

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

CONCURRENT or  CONSECUTIVE to sentence on: All convictions of 5-8-15  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections. 386 days

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_

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

Payment Terms: \_\_\_\_\_

Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

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

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

Appointed PD or appointed other counsel,  
§ 47.12 requires \$500 be paid to Clerk  
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: \_\_\_\_\_

SCCA/217 (03/2011)

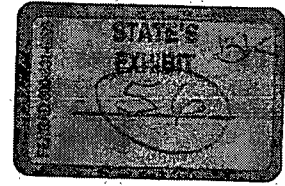
Jeanette McBride  
B. Kelly

Presiding Judge

Judge Code: 2100

Sentence Date: 5-8-15

<u>Event Date (Local)</u>	<u>Latitude</u>	<u>Longitude</u>	<u># Sats</u>	<u>Speed</u>
12/18/13 15:00	34.051651	-81.091718	9	0
12/18/13 15:01	34.051651	-81.091718	5	0
12/18/13 15:02	34.051657	-81.091712	8	0
12/18/13 15:03	34.051662	-81.091712	6	0
12/18/13 15:04	34.051662	-81.091718	8	0
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## 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 South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully submitted,

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JUL 05 2016  
SC Court of Appeals

*Susan B. Hackett for*  
Kathrine H. Hudgins  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
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ATTORNEY FOR APPELLANT

This 5<sup>th</sup> day of July, 2016.