



227 50

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County
Craig D. Brown, Circuit Court Judge

RECEIVED

AUG 01 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ANTWAN JAMAL JETT,

APPELLANT

APPELLATE CASE NO. 2015-001042

RECORD ON APPEAL

LANELLE CANTEY DURANT
Appellate Defender

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

Attorney for Appellant

ALAN WILSON
Attorney General

KAREN RATIGAN
Senior Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

EDGAR LEWIS CLEMENTS, III
Solicitor, Twelfth Judicial Circuit

Attorneys for Respondent

INDEX

INDEX.....	i
TRIAL TRANSCRIPT DATED APRIL 20, 2015	1
PRE TRIAL MOTIONS.....	8
<u>JACKSON V. DENNO HEARING</u>	
LEGRANDE GOWDY	
Direct Examination by Mr. Jupertinger	14
Cross Examination by Mr. Meetze	21
FELICIA JONES	
Direct Examination by Mr. Jupertinger	23
OPENING STATEMENT BY MR. JEPERTINGER.....	35
OPENING STATEMENT BY MR. MEETZE	41
TRIAL TESTIMONY	
MICHAEL BARR	
Direct Examination by Mr. Jupertinger	46
THOMAS HERMAN, JR.	
Direct Examination by Mr. Jupertinger	63
Cross Examination by Mr. Meetze	71
WILLIAM BLACKMON	
Direct Examination by Mr. Jupertinger	73
LACEY ALLEN	
Direct Examination by Mr. Jupertinger	80
CATHERINE LEISY	
Direct Examination by Mr. Jupertinger	90
LEGRANDE GOWDY	
Direct Examination by Mr. Jupertinger	101
Cross Examination by Mr. Meetze	116
FELICIA JONES	
Direct Examination by Mr. Jupertinger	119
Cross Examination by Mr. Meetze	127

MOTION FOR DIRECTED VERDICT..... 128

CLOSING ARGUMENT BY MR. JEPERTINGER 128

CLOSING ARGUMENT BY MR. MEETZE..... 145

CHARGE ON THE LAW..... 163

STATE’S EXHIBIT 54 PLAYED FOR THE JURY 187

VERDICT 188

MOTION FOR NEW TRIAL 192

SENTENCE..... 193

INDICTMENT AND SENTENCE SHEETS..... 195

CERTIFICATE OF COUNSEL..... 202

**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE’S EXHIBIT #54 (CD OF RECORDED STATEMENT OF ANTWAN JETT)**

1 MR. JEPERTINGER: Your Honor, the State
2 would call the State against Antwan Jamal Jett,
3 2014-525 charges him with burglary first degree,
4 possession of a weapon during the commission of a
5 violent crime, armed robbery, and criminal
6 conspiracy.

7 THE COURT: Ladies and gentlemen of the
8 jury, I previously read to you the indictment for
9 each of the charges Mr. Antwan Jamal Jett is before
10 the Court on. They are burglary first degree,
11 possession of a weapon during the commission of a
12 violent crime, armed robbery, and criminal
13 conspiracy. I read to you the indictment as
14 previously called as it applies to this particular
15 case that Mr. Jepertinger, or the State, has called
16 at this time. After I read that indictment in its
17 entirety to you, I told you then and I'm telling you
18 now, Mr. Antwan Jamal Jett has plead not guilty to
19 each of these charges; therefore, the State of South
20 Carolina bears the burden of proving his guilt as to
21 each of these charges to you, the jury. I had
22 called the attorneys up here at side bar. My court
23 reporter was coming back in. I explained to them
24 that I was not gonna read these indictments back in
25 their entirety. Any exception or objection to this

1 Judge. Your Honor, Mr. Barr had a record for a
2 manslaughter conviction. I think the manslaughter
3 happened in 2001. He was — it was completed or
4 convicted upon pleading guilty back on July 11th,
5 2002. Subsequently, I think the probation after, he
6 tells me he spent six years in prison, and then I
7 think parole was transferred here to the State of
8 South Carolina.

9 Your Honor, normally I would say that —
10 and Mr. Meetze knows this, that manslaughter
11 obviously carries more than a year in any way,
12 shape, or form, if it's involuntary or voluntary,
13 either scenario apply. I would say that it's not a
14 crime of moral turpitude. Your Honor, I would ask
15 if the Court would consider excluding that
16 conviction under South Carolina rule of evidence
17 403. Obviously evidence of a conviction must be
18 admitted if probative value of admitting the
19 evidence substantially outweighs the danger of
20 unfair prejudice, confusion of the issues or
21 misleading the jury. Your Honor, the State would
22 allege in this case that Mr. Barr was at his home
23 when three individuals who had their faces covered
24 by artifice got themselves into his house by saying
25 that they were individual by the name of BJ. He

1 this case and is the victim in the case; and I
2 think, just as any other witness, he's allowed to be
3 impeached by any prior criminal convictions that he
4 has that either happened within the last ten years
5 or if he was released from incarceration within the
6 last ten day years, and if that crime carries more
7 than one year — and I think this one fits all
8 that — and I don't think this one that would, if
9 the Court should rule it admissible, based on
10 prejudicial effect and outweighing probative value.

11 THE COURT: What is the probative value,
12 Mr. Meetze?

13 MR. MEETZE: Well, you know, I think there
14 will be some — he gave a couple of different
15 statements. There's some, will be some issues with
16 regards to consistency on those statements so,
17 again, it's just, it goes to credibility.

18 THE COURT: Anything further, Mr.
19 Jepertinger?

20 MR. JEPERTINGER: No, sir.

21 THE COURT: I'll take it under
22 consideration, I'll let you know. In what order you
23 plan on putting him up?

24 MR. JEPERTINGER: Well, early on, Judge.

25 THE COURT: Okay. Well, I'll think about

SW - L. GOWDY -- DIRECT

1 identification Mr. Jett by the victim Mr. Barr based
2 on the fact of out-of-court conversation informed
3 Mr. Barr was unable to identify.

4 MR. JEPERTINGER: He could not identify.
5 The perpetrators were, at least when he was dealing
6 with the perps, they were all, had their faces
7 covered and there's not — he can identify clothing
8 and that will become an issue in this case which we
9 think circumstantial evidence but —

10 THE COURT: Okay.

11 MR. JEPERTINGER: —in terms of saying
12 that — and he can identify voices and tense,
13 whether it's a person that sounds young or old. I
14 think that's, that's all been delivered to the
15 defendant in terms of discovery. But no, he cannot
16 say Antwan Jett was one of the individuals that
17 robbed me.

18 MR. MEETZE: Right, and that motion was
19 strictly in regards to any question of Mr. Barr
20 regarding do you see the individual in the courtroom
21 who was in your house that night, that kind of
22 thing. And that's the kind of testimony that we
23 were asking to find inadmissible and it doesn't
24 sound like that's going to be testimony that's
25 elicited so.

SW - L. GOWDY - DIRECT

1 A Yes, sir.

2 Q Okay. What were you called out to?

3 A To a possible home invasion at, on Pawley Street.

4 Q Okay. And did you go out with anyone
5 specifically there, or did you go in a separate
6 squad car or how did you go?

7 A I, we went, there was multiple officers in the
8 area. I did have a trainee with me, but he was
9 placed with another officer at that time.

10 Q All right, okay. And when you got — did you get
11 to any specific location in regards to the Pawley
12 Street?

13 A We started — there was a chase with one subject
14 and myself and officer, another officer, Officer
15 Adams who will be here in a little bit, we started
16 backtracking the area and looking for other
17 subjects.

18 Q Okay. And when you backtrack and searched
19 looking for other subjects, did you come across any
20 particular individual?

21 A Yes, sir, we located Mr. Jett.

22 Q Okay. And where did you find Mr. Jett?

23 A Up under a car in front of the apartments on the
24 Layton Street side of the apartments right there at
25 Oakland Avenue.

SW - L. GOWDY - DIRECT

1 notice anything unusual?

2 A I had her stand by with the clothing and; as I
3 started moving further around the corner, and
4 Officer Allen immediately alerted me that she saw
5 someone up under the car.

6 Q Okay. And that was a car parked by Layton
7 Street?

8 A Parked in front of the apartments, yes, sir.

9 Q And what did you do? If you have your report.

10 A Well, I can tell you. I don't have my report
11 with me. If you got it right there I can read it to
12 you. But I —

13 Q You don't need to read it to me, but go ahead,
14 what did he do?

15 A I immediately responded back to her location and
16 she was pointing at a vehicle parked in front of I
17 believe it was — I can't remember the exact
18 address, but pointed at a vehicle, stated he's under
19 this vehicle, he's under this vehicle. I went to
20 the passenger side first, done a quick peek up under
21 there and observed the suspect coming out of the
22 driver's side. I come around on the driver's side
23 of the vehicle where I observed the suspected. As I
24 was approaching he started backing up under the
25 vehicle again.

SW - L. GOWDY - DIRECT

1 Q Okay. Please read to the Court what you read to
2 Mr. Jett.

3 A "You have the right to remain silent. Anything
4 you say can and will be used against you in a court
5 of law. You have the right to talk to an attorney
6 or to have him or her present while you're being
7 questioned" — oh, "with you while you're being
8 questioned. If you cannot afford to hire an
9 attorney one will be appointed to represent you
10 before any questioning if you want. You can decide
11 at any time to exercise these rights and not make,
12 answer any questions or make any statements. Do you
13 understand the rights I have read and explained to
14 you? Having these rights in mind do you wish to
15 talk to us now."

16 Q What was his response to you when you asked him
17 if he understood his rights?

18 A He told me that he didn't know anything about a
19 gun.

20 Q Was that the first statement he gave you?

21 A That's the first thing he said to me was I don't
22 know anything about a gun.

23 Q All right. Did he appear to be under the
24 influence of any substances, alcohol, or drugs or
25 anything of that nature?

SW - L. GOWDY - CROSS

1 he gave you?

2 A I put Jett stated he had been out drinking and
3 was tired, he crawled up under the car to go to
4 sleep.

5 Q Okay. And once again you didn't smell anything
6 on him?

7 A No, sir.

8 Q Okay. Please answer any questions that
9 Mr. Meetze may have for you.

10 A Yes, sir.

11 THE COURT: Mr. Meetze.

12 MR. MEETZE: Thank you, Your Honor.

13 **CROSS-EXAMINATION**

14 BY MR. MEETZE:

15 Q All of the statements that you indicate he said
16 to you, were all of those after you had read him his
17 Miranda rights?

18 A Except for the, what he said about the gun. Like
19 I say, I was trying to get him up, and he said I
20 don't know anything about a gun.

21 Q But in your testimony you just said that he said
22 that after —

23 A Right.

24 Q —or you said you read his Miranda rights and
25 then Mr. Jepertinger —

SW - F. JONES - DIRECT

1 this witness.

2 THE COURT: Sir, you may step down.

3 THE WITNESS: Thank you, sir.

4 MR. JEPERTINGER: I will call Investigator
5 Jones.

6 WHEREUPON,

7 **FELICIA JONES,**

8 having been duly sworn by the Clerk, testified
9 as follows:

10 THE CLERK: Please be seated, state your
11 full name for the record.

12 THE WITNESS: Felicia Jones.

13 BY MR. JEPERTINGER:

14 Q Investigator Jones, I take you back to
15 December 31st, 2013. Were you called out to an
16 incident at Pawley Street, Layton Street —

17 A Yes, sir.

18 Q —intersection I guess?

19 A Yes, sir.

20 Q Okay. When you got to the scene what did you
21 find?

22 A When I first got to the scene I actually met with
23 Corporal Gowdy so he could tell me what had actually
24 transpired. We did a walk-thru of the evidence that
25 was dropped along the way, and I was advised that

1 compact disk; is it not?

2 A Yes, sir.

3 Q Have you listened to what's on that disk in terms
4 of the matters you just testified to?

5 A Yes, sir.

6 Q Okay.

7 MR. JEPERTINGER: At this time I would
8 like to play that, Your Honor.

9 THE COURT: All right.

10 (Court Exhibit 1 was played for the Court.)

11 MR. JEPERTINGER: That's it. Thank you.
12 That's all I have in regards to that issue. Okay,
13 please answer any questions Mr. Meetze might have
14 for you.

15 THE COURT: Mr. Meetze.

16 MR. MEETZE: Your Honor, I don't have any
17 questions, just would have a motion.

18 THE COURT: All right, you may step down.
19 Thank you.

20 MR. JEPERTINGER: Your Honor, that's the
21 last witness I have in regards to the two
22 statements. Let me go over Officer Gowdy's
23 testimony first before Mr. Meetze makes his motion.
24 I would say the first statement comes in completely,
25 Judge. I think he gave him his Miranda warnings;

1 where's my lawyer, would qualify as that, Judge; but
2 I present that case to you for your consideration
3 and that's all I have on that matter.

4 THE COURT: All right.

5 MR. JEPERTINGER: Thank you.

6 THE COURT: Mr. Meetze.

7 MR. MEETZE: Thank you, Your Honor. Your
8 Honor, I would submit that the statement played in
9 the recording I would say that Mr. Jett did indeed
10 affirmatively and unambiguously assert his right to
11 an attorney prior to any questioning in that regard
12 and would ask that any statement made after that be
13 found inadmissible. He said, where's my lawyer at.
14 I don't think that's ambiguous at all. The case
15 that Mr. Jepertinger cited, he indicates that the
16 statement in question there says maybe I should
17 speak to a lawyer. That's even formed in the form
18 of a question. Mr. Jett didn't question anything.
19 He said, where's my lawyer at, and I don't think
20 that's ambiguous at all. He's saying I want an
21 attorney. And I would say that pursuant to his
22 statement there the questioning should have stopped,
23 and you know, I don't think that's ambiguous. I do
24 think there's also law out there that says when you
25 do bark in front of a, with ambiguous issues that

1 evidence that an accused has been convicted of such
2 a crime shall be admitted if the Court determines
3 that the probative value admitting this evidence
4 outweighs it's prejudicial effect. While the
5 defendant asserts that such conviction is
6 probative — and correct me if I'm wrong, Mr.
7 Meetze — asserts such probative value does go to
8 credibility. Is that what you argue there?

9 MR. MEETZE: Yes, sir, it's — I think the
10 rule is based on impeachment of witnesses and
11 certainly we feel like he should be able to be
12 impeached with that conviction.

13 THE COURT: All right. Pursuant to State
14 v. Black, 400 SC 10, 732 S.E. 2(b) (a) (a) which is a
15 2012 case, State v. Black says that manslaughter
16 conviction, while — excuse me, the manslaughter
17 conviction, while crimes of violence, are not
18 particularly probative of a specific trait of
19 truthfulness. Consequently, their impeachment value
20 is limited. It goes on to cite United States v.
21 Johnson which is a 1999 case holding attempted
22 manslaughter as a crime of violence, not a crime of
23 dishonesty or false statement so it does not
24 directly involve veracity and has only limited
25 amount of probativeness as to honesty. Based upon

1 been given his Miranda rights by, not only by
2 Officer Gowdy but also by Officer Jones. The Court
3 in prior case law has stated ambiguous invocation of
4 right to an attorney would allow such statements to
5 be admitted. Under State v. Wannaker, 346 S.C. 495,
6 552 S.C. 2(d) 284, police do not have to stop
7 questioning a suspect who makes an ambiguous request
8 for counsel, nor do they have to ask questions to
9 clarify if he really wants counsel present. Citing,
10 that is citing Davis v. U.S. which is a 114, Supreme
11 Court 23-50, which is a 1994 case. While Wannaker
12 says it's good practice to do so to further clarify
13 that request the law does not require that law
14 enforcement do inquire further. It's not required
15 law enforcement inquire further as to the defendant
16 requesting the defendant clarify. In this
17 particular case not only were the rights read to the
18 defendant, he continued, continued to talk and
19 throughout, I guess, until he was placed in the
20 police car. Anything further at this time,
21 Mr. Jepertinger?

22 MR. JEPERTINGER: No, sir, not in regards
23 to that. I, for another matter I believe Mr. Meetze
24 has agreed that State's Exhibit 1, the aerial
25 photograph, is allowed to come in to evidence.

1 before I bring the jury out?

2 MR. JEPERTINGER: No, sir.

3 THE COURT: Mr. Meetze?

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

5 THE COURT: All right, if you'll bring me
6 the jury please.

7 THE BAILIFF: Yes, sir.

8 (Whereupon, the jury was returned to the courtroom
9 at 2:24 p.m.)

10 THE COURT: Madam Clerk, would you swear
11 the jury please.

12 THE CLERK: Members of the jury, if you
13 will stand and raise your right hand to be sworn.

14 (Whereupon, the jury was sworn.)

15 THE COURT: Ladies and gentlemen of the
16 jury, we are about to try the case of State of South
17 Carolina versus Antwan Jamal Jett. Before we begin
18 this trial though, I want to tell you that this
19 trial probably will be different from what you might
20 expect. Many people do not have the chance to
21 attend actual court sessions as you're doing now and
22 may think from watching television or movies or
23 reading books that trials are always full of high
24 drama, intense action, and rivetting circumstances.
25 Now while all of these things may be true at times

1 that we have, if you think about it, is there's no
2 place like home. I know it's a very simplistic
3 statement but so very true. Now folks, it doesn't
4 matter if you live in Taj Mahal or some shack across
5 the tracks; when it's your home, it's your home.
6 And a couple of things about home are very special.
7 It's the one place where you should feel most safe
8 and secure where you can kick back and enjoy your
9 family, eat what you want to eat, watch what you
10 want to watch, and enjoy the quiet of the day and be
11 sound when you are asleep. On New Years Eve 2013,
12 the early morning hours, not towards New Year but
13 right after the 30th, at about 3:30 in the morning
14 Michael Barr, that gentleman with the gray suit and
15 white shirt, was at his house over at
16 , and I want to show you that here in a
17 second. He had gone to bed watching television like
18 a lot of us do, probably 10:00 on the 30th, and he
19 had fallen asleep in front of the TV. At about
20 3:30, 3:30 in the morning, about 3:30 in the morning
21 he gets a knock at the front door of
22 here in Florence and the voice says, it's BJ.
23 Well, he happens to know a BJ in the community.
24 He's not related to BJ, but BJ is a friend. In
25 fact, this BJ guy calls Mr. Barr up so he gets up

1 They keep saying, where is it, where, give it up,
2 give it up, where are your bills, where are your
3 bills. Now at first the guy with the green hoodie
4 is standing with the gun in the living room where
5 Mr. Barr is sprawled out. The tall guy with the
6 dreads and the third fella go into his room and take
7 bottles of medicine prescribed to Mr. Barr. After
8 they had beat him they reached into his pocket and
9 took the money he was carrying on him. Mr. Barr
10 also had a knife, hunting knife sheathed up, a
11 sheath, sitting next to the chair that he had been
12 sitting in. And when they saw that knife one of the
13 individuals asked him, are you gonna stick me with
14 it, and they grabbed that knife. At that point —
15 Mr. Barr has a roommate at that time. Mr. Barr will
16 tell you that he doesn't know where she is now. But
17 she's in a closed room. The guy with the green
18 hoodie has the guy with the dreads watch over him,
19 watch over Mr. Barr; and he, the guy with the green
20 hoodie and a third guy, knock open the door where
21 the young lady was. Mr. Barr hears some screaming,
22 hears some talking, and then they get out of there
23 and they leave, one, two, and three.

24 By this time someone had notified the
25 police about this burglary, and the police officers

1 front of that apartment is parked a Cadillac. And
2 the officers will tell you it's December 31st
3 between 3:30 and 4:00 in the morning, and it is
4 cold. And what do they find under that Cadillac?
5 They find Antwan Jett, the defendant in this case,
6 not more than 10 to 15 feet in front of the strewn
7 green hoodie and the other clothes. Now the
8 significance of the other clothes, when you see the
9 photographs of how those clothes are strewn, on one
10 of those items you will — we will have someone from
11 SLED come in and tell you, we found Mr. Antwan
12 Jett's DNA on a gray sweatshirt that was lying on
13 top of the green hoodie. In a T-shirt on a very
14 cold, cold morning between 3:30 and 4, and what are
15 we gonna hear and see? A young man with gloves on,
16 a T-shirt, and when Officer Gowdy, the gentleman in
17 the back, all the way in the back, gets him out from
18 under the car, his first words to Officer Gowdy as
19 he begins reading his Miranda warnings to him, his
20 rights — you have a right to remain silent and all
21 that good stuff — is, I don't know nothing about a
22 gun. The officers who are out there in mass begin
23 looking, including Investigator Jones who you'll
24 hear from and some of the other officers, and they
25 begin walking the trail and it's almost like Hansel

1 knife, they took pills, they took cell phones from
2 this individual, Mr. Barr. You're gonna hear that
3 they're also charged with conspiracy. And a
4 conspiracy is an agreement between two or more
5 people to commit a criminal act. And no, we don't
6 have any words that they would have spoken before
7 they went into the house; we weren't there. But you
8 can tell their agreement by their actions, as you
9 can tell what type of fruit tree it is by the type
10 of fruit it bears.

11 There's also another charge of possession
12 of a weapon during the commission of a violent
13 crime, and His Honor will tell you what that
14 involves too at the end of all the proceedings.

15 Did we catch all three? No. But in this
16 case we caught Antwan Jett, and it's his day in
17 court; and it's Michael Barr's day in court, and we
18 ask that you listen to this evidence to render a
19 fair and just verdict which we believe will be
20 guilty in this case. Thank you.

21 THE COURT: Mr. Meetze.

22 MR. MEETZE: Thank you, Your Honor, may it
23 please the Court. Ladies and gentlemen, as I said
24 to you earlier, my name is Vick Meetze. I work in
25 the Public Defender's Office here in Florence County

1 has to do that. And that's the same with Mr. Jett.
2 So as he sits here right now he's as innocent as you
3 or I or anybody else in this courtroom, and he's
4 gonna remain that way. He's gonna remain that way
5 until such time as the State can convince you all
6 beyond a reasonable doubt. And Mr. Jepertinger
7 stood up here and he sort of gave you what he
8 intends the evidence to show and his opinion on that
9 evidence, and that's his job. He's a prosecutor and
10 he's been doing that a long time and does it very
11 well. And he started out his opening statement with
12 a little catch phrase so-to-speak saying there's no
13 place like home and that's in attempt to sort of put
14 some emotion into this thing. And again, that's a
15 prosecutor's job. But I remind you that anything
16 that's said or shown to you to this point is not
17 evidence in this case. At this point in time
18 nothing that I have said and nothing that's been
19 said to any of y'all is considered evidence because
20 the only evidence you're gonna hear is testimony
21 from this witness stand, evidence, pictures, and
22 other exhibits that may be introduced and none of
23 that is before you yet. So nothing that you've
24 heard is evidence. And of course, it's hard to
25 detach our emotions from things. But I submit to

1 justice ever so slightly in one party's favor, then
2 that's the party that they rule on. That's the
3 difference. That's all it is. Just by the slimmest
4 of margins.

5 In criminal court it's different, the
6 standard is different, beyond a reasonable doubt.
7 And that's because in this court you're not dealing
8 with just money and money is not important to
9 everybody, okay. Money makes the world go around,
10 all that kind of stuff. There's no question nobody
11 wants to be forced to have to give up any kind of
12 financial money involuntarily, but it's not as
13 important as your very liberty. And that's what
14 you're dealing with in criminal court. You're
15 dealing with people's lives. You're dealing with
16 their very liberty, it doesn't get anymore important
17 than that. The stakes don't get any higher than
18 that, and that's why in this court the burden is so
19 high, proof beyond any reasonable doubt. If you
20 think those same scales of justice the State has to
21 present evidence that tips those scales extremely in
22 their direction in order to meet that burden. And
23 again, that's because in criminal court, in general
24 sessions court, what we deal with is the most
25 important thing you can deal with. You're dealing

SW - M. BARR - DIRECT

1 neighborhood where I lived at on Pawley Street.

2 Q All right. And does it include other streets in
3 that area?

4 A Yes.

5 Q All right. Is this a photograph, I guess, an
6 accurate description of what your neighborhood looks
7 like or looked like in 2013?

8 A Yes.

9 MR. JEPERTINGER: At this time I would
10 move State's Exhibit 1 into evidence.

11 THE COURT: Any objection?

12 MR. MEETZE: No, Your Honor.

13 THE COURT: Let me see the lawyers at side
14 bar just a minute.

15 (WHEREUPON, State Exhibit No. 1
16 was admitted into evidence.)

17 (WHEREUPON, counsel approached the
18 Bench for an off-the-record discussion.)

19 BY MR. JEPERTINGER:

20 Q All right. Now back on December 31st, 2013, did
21 anything unusual happen in the early morning hours?

22 A On December 31st I was at home, I was watching
23 television. And I had my recliner by my front door
24 and I fell asleep in my living room, and I heard a
25 knock on the door about 3:30 in the morning. I say

SW - M. BARR - DIRECT

1 has a lot of respect for me so that's how I know
2 him.

3 Q All right. And at 3:30 in the morning were you
4 awake or asleep, or were you —

5 A Asleep.

6 Q You were asleep, okay. Had you been watching
7 television for a long while?

8 A Yes, I was.

9 Q All right. Did you start on December 30th
10 watching TV, the night before?

11 A I watched — yes.

12 Q Okay. What time do you think you dozed off?

13 A Probably about 11:00.

14 Q All right.

15 A 11:00.

16 Q And when you dozed off which room were you in?

17 A My living room.

18 Q All right. So you get the knock at the door.

19 Tell the ladies and gentlemen of the jury what
20 happens once you hear it's BJ.

21 A I went to the door. I opened the door. Three
22 people with hoodies on tied across their face came
23 in and started punching me in my face, kicking me to
24 the ground, and kicking me — kicking me and beating
25 me up. I tried to resist but I couldn't. They

SW - M. BARR - DIRECT

1 Derringer.

2 Q All right. And what did you do in response to
3 what they were doing to you at that time?

4 A I did nothing. I just was, I just was saying, I
5 did nothing, I just shut up. I wasn't...

6 Q All right, I understand. And at that point what
7 did they do?

8 A They said -- they reached in my pockets and said
9 where's the money, where's the money, where's the
10 money? I said I don't have any.

11 MR. MEETZE: Objection.

12 THE COURT: So noted for the record.

13 Overruled pursuant to Rule 801(b)(2)(e). Go ahead,
14 Mr. Jepertinger.

15 BY MR. JEPERTINGER:

16 Q And what did they say?

17 A Where's the money, where's the money, where's the
18 bills. I said I don't have any money. I said I
19 don't have any bills. Then they punched me again,
20 started kicking me again, and I just looked at them.
21 And then I was, I was like, I was like, I was like
22 starting to cry a little bit. I, you know, like I
23 don't have anything, get away from me. Then they --
24 the guy with the gun told the other guy that was
25 with him, he said, watch him. Then the guy with the

SW - M. BARR - DIRECT

1 and we're -- that's kind of generally what happened.
2 Now let me ask you, when they first came in to your
3 house you said three of them had, the three had
4 hoodies on, correct?

5 A Yes.

6 Q Now the first guy that came into the, into the,
7 your living room, was he a big fella, small fella,
8 or was he about my size or what?

9 A He's about your size.

10 Q All right.

11 A About 5'10", something like that, about my height
12 5'10".

13 Q All right. And could you tell if he was a white
14 man like me, black man, Hispanic, or whatever?

15 A I could tell it was all African American.

16 Q All three of them?

17 A Yes.

18 Q All right. Now the first guy that came in that
19 was about 5'10" you say, was he dark complected,
20 light complected, medium complected?

21 A Like brown skin complected.

22 Q How was -- in the scale, I mean, is that light,
23 is that dark, or how would you --

24 A It's not dark but it's not light.

25 Q So medium?

SW - M. BARR - DIRECT

1 Q He was darker?

2 A He had dreads in his hair.

3 Q He had dreads in his hair?

4 A Yes.

5 Q And was he dark, he was darker than the first
6 individual, correct?

7 A Correct.

8 Q All right. And how was he dressed?

9 A He had like a hoodie on, but he had like a hat
10 like one of those Russian hats that come down with
11 the flaps. And he was taller, and he had on like a
12 darker — I was — he had on like a darker color
13 like a, I could say like a dark brown, dark brown,
14 or black color hoodie with a darker color hoodie. I
15 can't exactly tell what color it was. It was
16 darker, a darker hoodie though.

17 Q Can I ask you, how do you know he had dreads?

18 A 'Cause I could see them sticking out from the
19 sides of the hat, whatever he had on, the dreads.

20 Q Okay.

21 A Longer hair. It wasn't a short hair cut like I
22 had.

23 Q Okay, it was longer hair?

24 A Right.

25 Q And were they — I guess, was it long flowing

SW - M. BARR - DIRECT

1 A No.

2 Q All right. And of the three, who do you recall
3 having the gun?

4 A It's the one with the green hoodie.

5 Q Okay. Now, I think you said that two of them
6 went into a room with, I guess, your room?

7 A Yes.

8 Q Which two would have gone into your room?

9 A The two that went in my room was, what you call
10 it, the one with the gun and the taller one.

11 Q All right. So the third guy was doing what?

12 A Watching, standing over me.

13 Q All right. Now, after -- and I'm just gonna
14 scoot way ahead here but I'm gonna come back, okay.
15 After they left your residence did you have an
16 opportunity to go into your room?

17 A Yes.

18 Q All right.

19 MR. JEPERTINGER: Beg the Court's
20 indulgence one second as I...

21 THE COURT: Yes, sir.

22 BY MR. JEPERTINGER:

23 Q I'm going to show you State's Exhibit 23-A for
24 identification and State's Exhibit 23-B for
25 identification. Can you identify those photographs.

SW - M. BARR - DIRECT

1 knife with a case in it.

2 Q I'm gonna show you State's 27-A and 27-B, if you
3 can identify those please.

4 A That's my living room, and that's the case that I
5 had bought the knife in.

6 Q Would that be — well, another word for that a
7 sheath that you keep a knife in?

8 A Yeah, a sheath. Uh-huh, you call it a sheath.

9 MR. JEPERTINGER: Okay. I'm gonna move
10 State's 27-A and -B in.

11 MR. MEETZE: No objection, Your Honor.

12 THE COURT: Without objection so admitted.

13 (WHEREUPON, State Exhibit Nos. 27-A and
14 27-B were admitted into evidence.)

15 BY MR. JEPERTINGER:

16 Q All right. Now in 27-A and -B I just see a
17 sheath. What happened to the knife and where was
18 the knife?

19 A The guy that they had watching me in the living
20 room, the medium sized guy, thought I was going to
21 pick the knife up because it was right by — it was
22 on the floor next to me. He hit me again. He said
23 are you trying to stick me, are you trying to strick
24 me. I said, no, I'm not trying to stick you. He
25 took the knife off the floor.

SW - M. BARR - DIRECT

1 THE COURT: No objection, so admitted.

2 (WHEREUPON, State Exhibit Nos. 29-A and
3 29-B were admitted into evidence.)

4 BY MR. JEPERTINGER:

5 Q How long did you have to wait before the police
6 got there?

7 A The police was already there when they ran out
8 the back door. I didn't have to wait.

9 Q All right. And did a police officer come to talk
10 to you about this case?

11 A Yes.

12 Q All right. Now can you tell us if you remember
13 whether the individuals, if you can, were wearing
14 anything on their hands?

15 A It happened so fast I don't — I seen gloves on
16 some. I don't know if all of them had gloves on.
17 It just happened so fast. I really, I wasn't paying
18 attention to it. I don't know who had gloves on or
19 who didn't have gloves on, but I know I seen gloves.

20 Q All right. When they initially had you in the
21 living room, you already told this jury that they
22 got some money out of your pocket; is that correct?

23 A Yes.

24 Q Do you know how much money you had in your
25 pocket?

SW - T. HERMAN - DIRECT

1 THE WITNESS: Thomas Bernard Herman, Jr.

2 **DIRECT EXAMINATION**

3 BY MR. JEPERTINGER:

4 Q Officer Herman, how long have you worked for the
5 city police?

6 A Just about three years now.

7 Q Okay. And what are your responsibilities with
8 the city police?

9 A I patrol in north side and east side.

10 Q Okay. Would the area around Pawley, Layton, and
11 Rose Street be on the north side or the east side?

12 A Yes, sir, it would. It was district —

13 Q Which side?

14 A It would be the north side.

15 Q Is that your district?

16 A Yes, sir.

17 Q All right. Did you respond to
18 on the early morning hours of December 31st, 2013?

19 A Yes, sir.

20 Q Okay. Why were you sent out to that area?

21 A We had dispatch come in for a possible home
22 invasion at

23 Q Okay. Now I'm gonna ask you to get off the stand
24 and I'm gonna show you State's Exhibit 1, which is
25 evidence which is the aerial photograph. If you can

SW - T. HERMAN - DIRECT

1 A Officer Blackmon.

2 Q All right. And did anything catch your attention
3 when you got up to that area?

4 A Yes, sir. As I was exiting my patrol car I heard
5 Officer Blackmon as he got out of his patrol car
6 yell for somebody to stop. At that time I directed
7 my eyes to where he was looking which would have
8 been actually towards the rear of the home right
9 about up in here (indicating) as I seen two subjects
10 running. I guess it would be southwest out of the
11 house.

12 Q Okay. And which way did they run?

13 A Towards Rose street at an angle towards Layton.
14 Actually come out of the back of the house
15 approximately right here where I seen them and they
16 had come right up this way. I guess it was actually
17 right around this parking lot behind, this is 707
18 Rose Street, which is an apartment complex. That's
19 where I lost sight of them from here.

20 Q Okay. And did you see how either one of these
21 two parties were dressed?

22 A Yes. I saw one was wearing either a green or
23 gray hoodie, it was dark. And the other one was in
24 dark, and I would say that color dark blue, black,
25 possibly hooded sweatshirt.

SW - T. HERMAN - DIRECT

1 Q Okay. And what did you observe?

2 A I observed two people running down Layton Street.
3 I guess it would be midways between Rose and Oakland
4 Avenue. At first I thought it was both suspects;
5 but you know, the more I thought about it it was
6 actually one suspect along with Officer Blackmon
7 behind him.

8 Q Okay. So Officer Blackmon was chasing one
9 subject at that point?

10 A Yes, sir.

11 Q What -- did you observe what that individual had
12 on?

13 A It was a dark clothing, real dark clothing.

14 Q How about the individual that you described
15 wearing the green gray outfit?

16 A I had no idea where he went. I had lost sight of
17 him.

18 Q All right. And did you pursue that individual?

19 A Yes, sir.

20 Q Okay. And what happened? Tell the ladies and
21 gentlemen of the jury what happened once you started
22 pursuing that individual.

23 A As I was pursuing him towards Oakland Avenue and
24 Layton, the subject had crossed over Oakland Avenue.
25 I parked my patrol car in the middle of Oakland

SW - T. HERMAN - DIRECT

1 A Well, at that moment we had, I just stayed in the
2 area looking behind houses and the backyards to make
3 sure I, you know, you -- or at least if I could find
4 him. I was continuing to search for him.

5 Q So you took a period of time to look for him?

6 A Yes, sir.

7 Q Okay. After that period of time passed did you
8 find the guy you've been chasing, the one in the
9 dark clothing?

10 A No, we did not find him.

11 Q All right. Did you come back to this area?

12 A Yes, sir, I did. I did come back.

13 Q Now I'm gonna talk about that. Initially when
14 you saw the two individuals run out the house did
15 you see any third individual?

16 A No, sir.

17 Q What is the condition of behind that, those
18 houses? I see, I guess those will be trees here in
19 State's Exhibit 1.

20 A Yes, it's very dark back there. There's a light
21 pole here at the corner of Pawley. There's a light
22 pole in front of Rose Street which is basically
23 covered by these trees and directly across the
24 street is a light pole. This area was fairly lit.
25 They're not the brightest lights; but with the trees

SW - T. HERMAN - CROSS

1 running from this area of the home. This is a
2 little hard to tell because it's the actual back of
3 the house which I could not see from my point of
4 view.

5 Q Okay, very good. Thank you. That's all the
6 questions I have. Please answer any questions that
7 Mr. Meetze may have for you.

8 THE COURT: Sir, you can have a seat back
9 here.

10 Cross-examination.

11 **CROSS-EXAMINATION**

12 BY MR. MEETZE:

13 Q Officer, you testified that you showed up at
14 Pawley's Street at that morning on the 31st.

15 A Yes, sir.

16 Q And saw two people exiting the back of the house?

17 A Yes, sir.

18 Q And from there you saw them run in a particular
19 direction which you describe during your testimony;
20 is that right?

21 A Yes, sir.

22 Q And then lost them at that point?

23 A Yes, sir.

24 Q Correct?

25 A Yes, sir.

SW - W. BLACKMON - DIRECT

1 Officer William Blackmon.

2 THE CLERK: If you will, sir, place your
3 left hand on the Bible, raise your right hand.

4 WHEREUPON,

5 **WILLIAM BLACKMON,**

6 having been duly sworn by the Clerk, testified
7 as follows:

8 THE CLERK: Please be seated, state your
9 full name for the record.

10 THE WITNESS: Officer William Timmy
11 Blackmon.

12 **DIRECT EXAMINATION**

13 BY MR. JEPERTINGER:

14 Q Officer Blackmon, how long have you worked for
15 the city police?

16 A September of this year will be my three year
17 mark.

18 Q All right. And have you always been on patrol?

19 A Yes, sir. I've been on patrol ever since I
20 started. I actually at that time when this incident
21 took place I was patrolling west Florence area, but
22 I was over more towards the northeaster side over
23 this way — the norther side, excuse me.

24 Q All right. And did you get a dispatch to respond
25 to

SW - W. BLACKMON - DIRECT

1 A Coming this way (indicating). End up crossing
2 Rose Street through the apartments over here.

3 Q All right. Now the two individuals that you
4 observed, did you observe what they were wearing?

5 A Yes, sir, I did.

6 Q Can you tell the ladies and gentlemen of the jury
7 what they were wearing.

8 A One of them was wearing a green in color hoodie
9 and the other one was wearing like a dark blue or
10 black hoodie. I really couldn't make that out, but
11 that was the two colors they had on.

12 Q Okay. What did you do when you saw them cut
13 across the street?

14 A I immediately yelled to them, you know, please
15 stop. They didn't pay me no mind. So I immediately
16 began running on foot straight across here. They
17 already had a very good lead on me 'cause, like, I
18 was back here, you know, exiting out my car. They
19 were already over here running so I had to run
20 around the car and run this way. We ran all the way
21 across here, all the way through the apartments this
22 way, and I had lost sight of them. As soon as we
23 come through this corner right here they already had
24 such a good gain on me as soon as we cut that
25 building I couldn't see anyone.

SW - W. BLACKMON - DIRECT

1 fella actually ended up going across Oakland as
2 Herman said. I kind of made my way across Oakland;
3 but by the time I got across Oakland, you know, they
4 had already been over the fence and just gone.

5 Q Okay. So did you run all the way to Oakland?

6 A At a slow pace after I got over here; but as I
7 got across the street, you know, over there I could
8 see Herman distance back there. And by the time I
9 got over that way he was, the other guy, the guy he
10 was chasing was gone.

11 Q And you took his word for it at that point,
12 correct?

13 A Well, at that time I keep going over that way and
14 I end up going to Brunson Street and we walked, just
15 like he said.

16 Q Okay.

17 A Looking to see if we could find somebody but we
18 never could at that time.

19 Q So after Herman got there and I guess he lost the
20 fella that he outran and you were winded by the time
21 you got up there, you walked -- did you walk back or
22 come back with Herman?

23 A We were actually over this way and we end up, you
24 know, eventually making our way back this way with
25 several other officers in the area just walking

SW - W. BLACKMON - DIRECT

1 hunting knife lying in the grass there.

2 Q Okay. And did you know any significance of that
3 knife?

4 A At that time, no.

5 Q All right. And I'm gonna show you State's
6 Exhibit 10-A and 10-B for identification. Can you
7 tell us what that is.

8 A That's the knife that was laying there.

9 MR. JEPERTINGER: I would move 10-A and
10 10-B into evidence at this time.

11 MR. MEETZE: No objection.

12 THE COURT: Without objection 10-A and
13 10-B is admitted in evidence.

14 (WHEREUPON, State Exhibits Nos. 10-A and
15 10-B were admitted into evidence.)

16 MR. JEPERTINGER: Let the record reflect
17 I'm left handed, and these look like the same ones
18 they gave me in the first grade, Judge.

19 BY MR. JEPERTINGER:

20 Q I'm gonna show you State's Exhibit 44. Can you
21 identify that.

22 A Yes, sir.

23 Q And what is that?

24 A That is the knife that was laid on that grass we
25 located that morning.

SW - L. ALLEN - DIRECT

1 A Yes, sir.

2 Q All right. What was your involvement in this
3 particular case, what did you do?

4 A When dispatch gave call out, my supervisor
5 Corporal Gowdy requested all patrol officers start
6 heading that way so we could set up a perimeter in
7 order to maybe catch the perpetrators or find
8 evidence, whatever needed to be done once we got
9 over there.

10 Q Okay. And once you got over to that area that
11 we've seen on the aerial map, which is State's
12 Exhibit 1, can you tell us what did you do and where
13 did you go and what happened.

14 A Corporal Gowdy requested that I assist him in
15 attempting to locate some evidence because at that
16 time Herman and Blackmon already chased the suspects
17 and they got away so we were looking for any
18 evidence that might lead us to the suspects or, and
19 we were looking at the 600, around the 600 block of
20 Layton Street.

21 Q Okay. And I'm gonna show you just without
22 getting the tripod out, the 600 block of Layton
23 Street would be in this area, ma'am, that I'm
24 showing you?

25 A Yes, sir.

SW - L. ALLEN - DIRECT

1 Q Okay. And —

2 A At the apartment.

3 Q And the bottom photo?

4 A And that's 611 Layton Street.

5 Q All right. And I'm gonna show you 8-A and 8-B.

6 What is that?

7 A That's the apartment where I found the evidence,
8 the hoodie, and the knit hat.

9 Q Okay. And on 8-B what, can you see the objects?

10 A I can see the hoodie and hat from that picture,
11 yes, sir.

12 Q Okay. And I'll show you 7-A and 7-B, what is
13 that?

14 A That's the hoodie and the knit hat at the
15 apartment.

16 Q Keep your voice up.

17 A I'm sorry, that's the apartment where I found the
18 hoodie and knit hat.

19 Q And 6-A and 6-B?

20 A That's the hoodie and the knit hat that we found
21 at the front of the building.

22 Q Is that a — are those closer up photographs?

23 A Yes, sir.

24 Q And 3-A and 3-B?

25 A And that is the Cadillac in which I found suspect

SW - L. ALLEN - DIRECT

1 Q Orange. I'm gonna ask you to get off the stand
2 one more time.

3 A Okay.

4 Q And I'm gonna ask you to show the jury what we've
5 been talking about here on these photographs. I'm
6 gonna ask you, show you 6-A and 6-B. Now what is
7 that stuff again?

8 A That's the hoodie and the hat that I found on the
9 porch.

10 Q And other clothing?

11 A And other clothing, yes.

12 Q All right. And on 3-A and 3-B I see a Cadillac
13 and it looks like a Chevy Lumina right behind there;
14 is that correct?

15 A Yes, sir.

16 Q What, what did you see in relation to that
17 Cadillac and this defendant?

18 A He was underneath the Cadillac.

19 Q He was underneath the Cadillac. And in relation
20 to where that Cadillac is parked, where would this
21 clothing be?

22 A It was like right there (indicating). I can't
23 see. It's been a while so. When I was standing it
24 would have been to my left so it would have been
25 right there.

SW - L. ALLEN - DIRECT

1 car.

2 Q All right, okay. At that point did you see
3 Corporal Gowdy get this individual out from under
4 the car?

5 A At that point, like I said, I had my weapon
6 drawn; and due to me having my gun drawn already,
7 Corporal Gowdy told him to come out. He wasn't
8 coming out so he deployed his taser in order to get
9 him to come out from the car and comply.

10 Q Okay. He tazed the individual?

11 A Yes, sir.

12 Q Okay. At that point did the individual come out
13 or did Corporal Gowdy have to drag him out a little
14 bit?

15 A Kind of had to scuffle with him. He did comply
16 after that.

17 Q And when he got out from underneath that Cadillac
18 how was this individual dressed?

19 A He had on short sleeve shirt and gloves.

20 Q A short sleeve shirt and gloves. A T-shirt?

21 A A T-shirt, yes, sir.

22 Q All right. Did y'all cuff him?

23 A Yes, sir.

24 Q I'm gonna show you State's 41-A and 41-B, 42-A
25 and 42-B. Is this — can you identify these

SW - L. ALLEN - CROSS

1 Q All right. Did you have an opportunity to get
2 near him?

3 A Yes, sir.

4 Q Did you notice any scent of alcoholic beverage on
5 his person?

6 A No, sir, I did not.

7 Q All right. Thank you. At that point once he was
8 cuffed did you have any further involvement in this
9 case?

10 A Other than standing with evidence so that nobody
11 would tamper with it, no, sir.

12 Q What evidence would that have been, ma'am?

13 A I stood with the pill bottles. I kind of was —
14 they were strung out. I just kind of stood there
15 and kept an eye on them.

16 Q Do you remember where you found the pill bottles,
17 ma'am?

18 A I do not to be honest with you. I'm really not
19 familiar with this side of town. I work over by the
20 mall.

21 Q Okay, very good. Thank you so much. Please
22 answer any questions Mr. Meetze may have for you.

23 THE COURT: Mr. Meetze, cross-examination.

24 **CROSS-EXAMINATION**

25

SW - C. LEISY - DIRECT

1 types of testing and analyses that I run. I'm
2 required to pass a competency test showing that I am
3 capable of running a test correctly before I can
4 work on an actual forensic casework. I'm also
5 required to participate in continuing education
6 which consists of seminars and training classes that
7 are specific to different types of testing analyses
8 we may use in the future.

9 Q In your nine years in that type of work that you
10 do, how many cases approximately would you say you
11 have analyzed in terms of DNA?

12 A In my time at SLED I would say probably
13 approximately one thousand cases. In terms of
14 individual items of evidence, well into the
15 thousands.

16 Q All right. And have you ever testified in court
17 as an expert in the field of DNA analysis?

18 A Yes, sir.

19 Q Okay. Have you been qualified as an expert every
20 single time you have testified in court as a DNA
21 analysis?

22 A Yes, sir.

23 Q All right.

24 MR. JEPERTINGER: At this time, Your
25 Honor, the State would move to have Special Agent

SW - C. LEISY - DIRECT

1 chromosomes, which contains our genes. And genes
2 are simply strands of DNA that go to our physical
3 characteristics such as height or eye color. We
4 receive one copy of DNA from our mother and one from
5 our father. We, therefore, have two copies of every
6 gene. And it's approximately 99.9 percent of an
7 individual's DNA is identical to that of everyone
8 else's, and it's that remaining one percent that
9 allows us to tell different people apart.

10 Q Okay.

11 MR. JEPERTINGER: I'd like to have this
12 marked for identification.

13 (WHEREUPON, State Exhibit No. 47 was
14 marked for identification only.)

15 MR. JEPERTINGER: Your Honor, at this time
16 I'm going to move to have it in as identification.
17 I understand based on bench conference that the
18 defendant has no problem moving State's Exhibit 47
19 in evidence at this point.

20 THE COURT: Any objection, Mr. Meetze?

21 MR. MEETZE: Not at all.

22 (WHEREUPON, State Exhibit No. 47 was
23 admitted into evidence.)

24 BY MR. JEPERTINGER:

25 Q In this particular case you got a set of five

SW - C. LEISY - DIRECT

1 to the standard.

2 Q All right. And once that was done, do you have
3 a conclusion as to — and we'll go down through each
4 of the items, but a conclusion within a reasonable
5 degree of analytical certainty in your field of
6 expertise of what the results show?

7 A I do.

8 Q Okay. Let's go over — and we'll do a little bit
9 different here. First one, the swabs from the
10 orange and blue toboggan that was submitted.

11 A That would be SLED item 1, again, a description
12 that I received was swabbed from an orange and
13 purple toboggan. A DNA profile developed from this
14 item is a mixture of at least two individuals. A
15 DNA profile developed from a major contributor to
16 this mixture is from an unidentified male
17 individual. And the partial DNA from file developed
18 from the minor contributor to this is insufficient
19 for reliable interpretation.

20 Q All right. And when you have two individuals, I
21 mean, logically does that mean that maybe two
22 individuals came in contact with this and left DNA
23 on the object?

24 A It does. Having a mixture indicates that it at
25 least two different individuals have at some point

1 Q All right. So at least four individuals and
2 Mr. Jett, the accused, in this case was excluded?

3 A Based on my comparison, yes, sir.

4 Q All right. And once again, if just, if Mr. Jett
5 did not leave any skin cells or sweat or any of that
6 other business, you couldn't tell. He's excluded
7 based on what you found?

8 A Correct. Based on the profile I was able to
9 develop Mr. Jett is excluded as a possible
10 contributor.

11 Q All right. Now let's go to item number 3.

12 A SLED item number 3 was identified as swabs from a
13 blue hat. The DNA profile developed from this set
14 of swabs is a mixture of at least three individuals.
15 Antwan Jett is excluded as a possible contributor to
16 this mixture.

17 Q Now later there was what they referred to — are
18 you familiar with the term a CODIS hit?

19 A Yes, sir.

20 MR. JEPERTINGER: I'm gonna have this
21 marked as well. This would be State's 48 into
22 evidence, Your Honor.

23 THE COURT: Without objection?

24 MR. MEETZE: Without objection.

25 (WHEREUPON, State Exhibit No. 48 was

1 Teresa Hines.

2 Q What the date of that hit?

3 A The letter was sent on February 4th of this year.

4 Q All right. And what did it say in regards to
5 item 3?

6 A The CODIS hit letter indicates that there is a
7 preliminary association made between the DNA from
8 file that I entered into the data base from item 3
9 with a known individual. I'm looking for the name.

10 Q Sure, go ahead.

11 A It indicates that a possible Matthew Thomas as a
12 possible contributor to the mixture.

13 Q Okay, Matthew Thomas, I'm gonna write that down.

14 (Writes on chalk board.)

15 BY MR. JEPERTINGER:

16 Q All right. Why don't we go to item number 4.

17 A SLED item number four was identified as swab from
18 a green jacket. And the DNA profile developed from
19 this item is a mixture of at least two individuals.
20 And due to the complexity of this mixture, the DNA
21 profile developed is not suitable for inclusionary
22 purposes but may be suitable exclusionary purposes
23 and Antwan Jett is excluded as a possible
24 contributor.

25 Q In terms of green jacket?

SW - L. GOWDY - DIRECT

1 Can I approach real quick?

2 (WHEREUPON, counsel approached the
3 Bench for an off-the-record discussion.)

4 THE COURT: You are excused. You have no
5 further responsibility under your subpoena. You're
6 free to go.

7 THE WITNESS: Thank you, Your Honor.

8 (Pause.)

9 THE COURT: Mr. Jepertinger, you may call
10 your next witness please, sir.

11 MR. JEPERTINGER: Yes, sir. The State
12 would call Legrande Gowdy to the stand.

13 THE CLERK: If you will, sir, place your
14 left hand on the Bible, raise your right hand.

15 WHEREUPON,

16 **LEGRANDE GOWDY,**
17 having been duly sworn by the Clerk, testified
18 as follows:

19 THE CLERK: State your full name please.

20 THE WITNESS: Otis Legrande Gowdy.

21 **DIRECT EXAMINATION**

22 BY MR. JEPERTINGER:

23 Q Okay. Office Gowdy, how long have you worked
24 with the police department?

25 A October will be 15 years.

SW - L. GOWDY - DIRECT

1 my arrival. I heard Officer Blackmon transmission,
2 also Officer Herman transmission of the chase that
3 was in progress. I parked my car in Oakland Avenue.
4 I had a trainee with me at that time. They had
5 already crossed Oakland Avenue so I sent him with
6 them to search the immediate area there while I
7 worked my way back and called other units to secure
8 the crime scene.

9 Q Okay. After you called the other units to secure
10 the crime scene what did you do?

11 A I started searching immediate area. We had
12 multiple units talking, I believe. We were given
13 description by Officer McCall who was already on
14 scene at the house of what he had there, the
15 suspects' identification -- or not identification,
16 but what they were wearing. I also listened, I also
17 reaffirmed the suspects that officer Blackmon and
18 Officer Herman had given out and started searching
19 the area for possible suspects or any kind of
20 evidence that may be related to the crime scene or
21 the home.

22 Q All right. I'm gonna ask you to step off of the
23 stand and go back to our State's Exhibit 1, which is
24 in evidence at this point. Stand over on the other
25 side, Officer Gowdy, so your voice will carry over

SW - L. GOWDY - DIRECT

1 I reckon you call it pullover. Also, a gray
2 pullover on the front porch of one of the
3 apartments.

4 Q All right. And I'm gonna show you State's
5 Exhibit 6-A and 6-B, a photograph. Are these the
6 items that you saw that piqued your interest?

7 A Yes, sir. That would be the green toboggan and
8 gray toboggan. There was also a hat that was
9 included with it, yes, sir.

10 Q Okay, and another smaller hat?

11 A Yes, sir.

12 Q Okay. And at that point what did you do?

13 A I instructed Officer Allen to stay with that,
14 kind of check right around the area, stay close to
15 that so nobody can tamper that evidence as I started
16 moving forward to look for more evidence.

17 Q Okay. Did you find anymore evidence at that
18 point?

19 A At that point I did not. I was walking away and
20 I heard Officer Allen yell, he's under the car. I
21 immediately come back and started going back to — I
22 believe I was at the corner of the apartments. I
23 started coming back till I observed that she drew a
24 weapon and was pointing under a blue Cadillac that
25 was parked in front of the location.

SW - L. GOWDY - DIRECT

1 towards that side of the vehicle so I went around
2 the back side of the vehicle to come up from behind
3 him which would be a safer approach than coming up
4 in front of someone. As I was approaching him,
5 Mr. Jett looked back and observed me coming. At
6 first he had his hands coming out from up under the
7 vehicle. When he saw me coming he started reaching
8 back like he was going back under the vehicle.

9 Knowing that we had a possible, you know, this is a
10 home invasion, there was possibly weapons involved,
11 or it was told weapons were involved, I pulled out
12 my taser. All our tasers have a red dot on them. I
13 put the red dot on his back. I yelled at him, you
14 know, come out, come out. He started backing up so
15 I deployed my taser to strike him in the back to
16 keep from any officers getting hurt or him getting
17 hurt.

18 Q At that point of after you tazed him what
19 happened?

20 A There was a brief struggle on the ground. It
21 runs a five second burst. I let it run through a
22 five second burst. After the five second burst I
23 moved in. Officer Allen still had her gun on him
24 giving commands. I moved in, attempted to detain
25 him, place him in cuffs.

SW - L. GOWDY - DIRECT

1 right here.

2 Q Okay. And just tell the jury what you read
3 Mr. Jett.

4 A It says, "Suspect rights, Miranda warning." I
5 would have read him the following: "You have the
6 right to remain silent. Anything you say can and
7 will be used against you in a court of law. You
8 have the right to talk to an attorney or have him or
9 her present while you're being questioned. If you
10 cannot afford to hire an attorney one will be
11 appointed to represent you before any questioning if
12 you want. You can decide any time to exercise these
13 rights and not answer any questions or make any
14 statements. Do you understand the rights as I
15 explained to you? Having these rights in mind do
16 you wish to talk with us now?"

17 Q Did anything unusual happen while you began
18 reading him his rights?

19 A Yes, sir. I had not completed reading him his
20 rights. I was just starting giving Miranda rights
21 the was as I was reading them, and Mr. Antwan
22 stated, or Mr. Jett stated, I don't know anything
23 about that gun.

24 Q Had you mentioned anything to him about a gun at
25 that point?

SW - L. GOWDY - DIRECT

1 Exhibit 49.

2 A Can I open it up?

3 Q Yes.

4 THE COURT: Any objection to those items,
5 Mr. Meetze?

6 MR. MEETZE: Let me see what they are.

7 THE COURT: If you will approach please.

8 (WHEREUPON, counsel approached the
9 Bench for an off-the-record discussion.)

10 MR. JEPERTINGER: Your Honor, at this time
11 the State would move item 49 into evidence.

12 THE COURT: Okay. Without objection so
13 admitted.

14 (WHEREUPON, State Exhibit No. 49
15 was admitted into evidence.)

16 THE WITNESS: Now I can remove them.

17 BY MR. JEPERTINGER:

18 Q You can remove them, yes, sir.

19 A That's looks like a wrapper from some kind of
20 burger or something.

21 Q All right.

22 A This is a digital scale which we normally would
23 see with any kind of -- that's just a digital scale.

24 Q Okay.

25 A Two condoms. We have cash. I'll count it out if

SW - L. GOWDY - DIRECT

1 A Two more condoms.

2 Q All right.

3 A And a receipt from Kelly's on Irby Street.

4 Q All right. And that was it?

5 A Yes, sir. Those items were in his pocket. Those
6 items were all removed from his person.

7 Q All right. We're just gonna put everything back
8 if we can. All right. After you searched him what
9 did you do then?

10 A He was placed in the back of a marked patrol car,
11 and I had an officer stand by with him while we
12 called investigation. They continued the search of
13 the area.

14 Q And the investigator that came out that evening
15 would be?

16 A Ms. Felicia Jones.

17 Q Felicia Jones, the lady dressed in blue, correct?

18 A Yes.

19 Q At that point what did you do?

20 A We continued the search of the area with other
21 officer to see if we could locate, like I said
22 earlier, any evidence pertaining to the crime and
23 any items that may have been taken from the crime or
24 any further suspects.

25 Q Did you find anything?

SW - L. GOWDY - CROSS

1 Q ---what did you do?

2 A At that time we just waited. We, I believe I
3 walked --- we had somebody stand by with that a few
4 minutes 'cause I walked back with the investigator
5 over to my vehicle with the subject detained, and I
6 gave her my voice recorder and I went and stood by
7 with the other, the medication bottles, until they
8 were collected.

9 Q All right. I'm gonna take you back a little bit
10 prior to that when you first met the defendant ---

11 A Okay.

12 Q ---and you arrested him. How was he --- well,
13 better that, I'm gonna show you State's Exhibit, I'm
14 gonna show you State's Exhibit 41-A and 41-B.

15 A Okay.

16 Q And 42-A and 42-B. And you're familiar with
17 those, correct?

18 A Yes, sir.

19 Q Now, how is he dressed in those photographs?

20 A T-shirt, blue jeans, and gloves.

21 Q Okay. When you were out there did he say
22 anything about those gloves?

23 A He stated those were his walking gloves.

24 Q Did --- how did you take that?

25 A I kind of didn't know how to take that. I asked

SW - L. GOWDY - CROSS

1 you indicated that you testified in regards to,
2 correct?

3 A Yes, sir.

4 Q And then shortly after that Officer Allen alerted
5 you to somebody being under the car?

6 A Yes, sir, within two minutes.

7 Q And you — she was on one side of the car and at
8 first you were on the other side of the car?

9 A Yes, sir, I had made my way on the front side of
10 the car.

11 Q And you were giving commands to the — and you
12 knew that, you verified there was somebody under the
13 car?

14 A Yes, sir.

15 Q You were giving commands to that individual?

16 A She was giving commands as I come around to the
17 other side of the vehicle.

18 Q And the command was, get out from under the car

19 —

20 A Yes, sir.

21 Q —essentially?

22 A Yes, sir.

23 Q And you indicated in your testimony that he was
24 complying with that to begin with?

25 A Yes, sir.

SW - T. MATTHEWS - DIRECT

1 WHEREUPON,

2 **FELICIA JONES,**

3 having been duly sworn by the Clerk, testified
4 as follows:

5 THE CLERK: Please be seated, state your
6 full name for the record.

7 THE WITNESS: Felicia Jones.

8 **DIRECT EXAMINATION**

9 BY MR. JEPERTINGER:

10 Q Officer Jones, you're not in uniform. For whom
11 do you work?

12 A At this point in time I am back in patrol. I'm
13 corporal in the patrol division.

14 Q Back in 2013; December of 31st, 2013, what was
15 your position with the Florence Police Department?

16 A I worked for criminal investigations division for
17 property crime.

18 Q Okay. How long had you worked as a investigator?

19 A For three years.

20 Q All right. How long in total have you been with
21 the Florence Police Department?

22 A Almost 19 years.

23 Q All right. Did you have an occasion to be called
24 out to Pawley Street, Layton Street area here in
25 Florence?

SW - T. MATTHEWS - DIRECT

1 voice recorder; and whenever I went to talk with him
2 before I did anything else, I read him Miranda
3 warnings to try to question him about the incident.

4 Q Did you — was your interaction with Antwan Jett
5 recorded?

6 A It was.

7 Q Okay. And I'm going to show you what has been
8 marked as Court's Exhibit 1. Have you had a chance
9 to review what's on Court's Exhibit 1?

10 A I have.

11 Q And what is on Court Exhibit 1?

12 A This is the brief encounter I had with Mr. Jett
13 before he, before we told him he was under arrest.

14 Q All right.

15 MR. JEPERTINGER: At this time I would
16 move to have Court's Exhibit 1 moved into evidence
17 as State's Exhibit 54.

18 THE COURT: Subject to defense counsel's
19 previous objection, so admitted.

20 (Court's Exhibit No. 1 was re-marked as State's
21 Exhibit No. 54 and admitted into evidence.)

22 MR. JEPERTINGER: And at this time I would
23 ask to publish that recording to the jury in this
24 case.

25 THE COURT: Go ahead.

SW - T. MATTHEWS - DIRECT

1 get the evidence collected.

2 Q Okay. Now I know you're a corporal, but you were
3 the investigator on this case?

4 A Yes.

5 Q You've alleged that Antwan Jett was involved with
6 this crime; did you not?

7 A Yes.

8 Q Okay. You were made aware of there being another
9 individual with dreadlocks that was tall?

10 A Yes.

11 Q And another individual that was, I guess for lack
12 of better term, more medium height?

13 A Yes.

14 Q Is your investigation ongoing in terms of trying
15 to figure out who those other two individuals are?

16 A Any time we have a case like this it is always an
17 active case. We investigate all the leads that we
18 have until it goes cold; and if anything new comes
19 up, then we would follow through with that.

20 Q Okay. As an example, I'm gonna show you what's
21 marked as State's Exhibit 48. Are you familiar with
22 State's Exhibit 48?

23 A I am.

24 Q And once again, can you tell the ladies and
25 gentlemen of the jury what State's Exhibit 48 was?

SW - T. MATTHEWS - DIRECT

1 incarcerated the whole time so he was in jail when
2 the crime happened.

3 Q Here at our local jail?

4 A Here, yes.

5 Q All right. Thank you. Any other leads that have
6 you, have you established, or are you still trying
7 to work on them?

8 A Early on in the investigation certainly my victim
9 was concerned with people that were in the area.
10 The unfortunate thing of this particular case is he
11 cannot identify anyone because their faces were
12 covered. We looked at a lot of people in the area
13 fitting the description. I went through tons of
14 mugshots, researched all kinds of different
15 individuals, but we never had any leads that came
16 back to identifying anyone else.

17 Q When Jett told you in the statement that he was
18 just walking from a friend's house, had been
19 drinking so tried to find a place to sleep under I
20 guess that Cadillac there, did you find that to be a
21 plausible and viable —

22 MR. MEETZE: Objection.

23 THE COURT: Let him finish his question.

24 BY MR. JEPERTINGER:

25 Q Viable reason to not arrest him?

SW - T. MATTHEWS - CROSS

1 A I didn't buy any of that, no, sir.

2 Q Okay. And is that the reason you had him, I
3 guess, arrested for these crimes that he's charged
4 with?

5 A Yes. He was only detained up until that point.

6 Q Okay, very good. Please answer any questions
7 that the defense attorney may have for you.

8 THE COURT: Cross-examination.

9 **CROSS-EXAMINATION**

10 BY MR. MEETZE:

11 Q Corporal Jones, you did more during your
12 investigation than what you testified to here today
13 as far as — I mean, you indicated you talked to the
14 victim in the case, but you didn't talk about what
15 he told you, did you, —

16 A No, sir.

17 Q —in your testimony? So in regards to talking
18 to him you talked to him at the scene that night?

19 A I did.

20 Q And then you also did two different interviews
21 with him later on; is that right?

22 A I did.

23 Q One was on January 6th I believe?

24 A I don't actually have that particular date
25 documented; but that's, if that's what it's logged

1 I think my pastor is a very wise man, and
2 he has a little phrase that he says that it just
3 resonates with me. And it's talking about common
4 sense because more so than anything else in this
5 case in looking at all this evidence, I'm gonna ask
6 you fine jurors to use your God given common sense
7 to reach a decision that speaks the truth.

8 Now I am fully aware and cognizant that
9 the State — that will be me, I guess, in this case
10 —bears a responsibility to prove guilt beyond a
11 reasonable doubt. And I'm not shirking that
12 responsibility, but it's so very important that you
13 listen to His Honor because it is not proof beyond
14 all shadow of a doubt. A lot of times people say
15 that it's got to be all shadow of a doubt. That
16 would be an impossible stand to reach because people
17 have doubts about everything and everything. It's
18 proof beyond a reasonable doubt, and he'll explain
19 to you what that, what the legal standard for that
20 is. But in reaching that decision, when you ask
21 yourselves has the State proven Antwan Jett guilty
22 of burglary in the first degree, armed robbery,
23 criminal conspiracy, possession of a weapon during
24 the commission of a crime of violence, you're gonna
25 need to ask this question, does it comport with

1 that infamous knock at the door, who is it? BJ. He
2 knows a BJ. Apparently one of the three knew that
3 he knew a BJ and they used that artifice or trick,
4 or however you want to call it — a ruse? — to get
5 in. Because common sense would dictate if someone
6 said it's three guys you don't know, we're wearing
7 hoodies and one of us has a gun, he ain't turning
8 the dead bolt which you'll see on a picture of —
9 and it's in here somewhere — of the apartment. You
10 won't turn that thing to let someone in. But he
11 opens the door and they rushed in. And when they
12 rushed in, one person was wearing a green hoodie,
13 someone that was about 5'9", 5'10", about my size,
14 medium complexion — I think he called it brown.
15 And what we know about this guy, if nothing else, is
16 the guy with the groan hoodies did not have
17 dreadlocks. The taller guy had dreadlocks. You'd
18 say, well, Mr. Jupertinger, there was a third guy.
19 Truth be known, I can't tell you what his hair
20 looked like, never got a description except that he
21 was about 6 feet. The tall guy had a brown hoodie;
22 he's not on trial. Pray to God that they find him.
23 It wasn't Matthew Thomas; we knew he was locked up.
24 Pray to God we find him. Pray to God we find the
25 third guy. This guy shouldn't — Antwan Jett

1 him. You've seen the gun, a small Derringer type,
2 holds five in the cylinder and had bullets in the
3 cylinder. And you know what, that thing can take a
4 life just as if it were a huge, huge gun. They go
5 into, back into the living room. Well, they ain't
6 happy with that. They see a locked door, no one is
7 watching him, and they bust into Brittany Foxworth's
8 room. And what did Mr. Barr say? I heard a yell
9 and scream. Then I heard one of them say, we ain't
10 got time for that, and they left.

11 Now my dear friend Mr. Meetze is gonna say
12 where is Brittany Foxworth. He's not gonna say it
13 like that — excuse me, Vick, I'm not trying to make
14 fun of you. We put up the witnesses that were
15 willing to testify and offered you the best case
16 that we could. I think Mr. Barr said she moved.
17 They come out. Before they come out remember, and I
18 don't, I can't exactly remember which one, do you
19 remember there was that sheath on the ground that's
20 in evidence that held that hunting knife. Oh,
21 you're gonna stick me with a knife, one of them
22 said, and they grab a hold of that. And then they
23 decide to go out the back door. Remember, it's 3:30
24 in the morning. You remember how Officer Herman, I
25 think he was the first police officer testified,

1 quick decision, gonna ditch the clothes and I'm
2 gonna get under a vehicle. If they find the clothes
3 I'm gonna be quiet. And when all those cops, with
4 all the officers running around, running around,
5 when they leave I'm gonna get out of there.

6 Now I'm gonna show you something and it's
7 right, it's right here in State's Exhibit 6-A and
8 6-B. You look at State's Exhibit 6-A and 6-B real
9 good. Beg the Court's indulgence one second.

10 (Takes his jacket off and puts on both gray and
11 green hoodie that's in evidence). And I'm gonna
12 take it — I can't zip it, I need my mother. But
13 you take it, this is zipped up. You got this on,
14 now you got to get it off. If you're wearing the
15 green hoodie on the outside because remember, that's
16 what Barr said, that's what Mr. Barr said. What
17 comes off first when you try to get your clothes
18 off? (Takes green hoodie off.) The green hoodie.
19 What comes off second when you're trying to get what
20 you got on off? The gray one. (Takes gray hoodie
21 off.) And when you're moving trying to get away
22 from the cops quickly and you drop it, what lands on
23 top? The gray would land on the green. The gray
24 lands on the green because you got to get it off
25 quickly.

1 of the world. Then I asked her what is the
2 population of the United States of America in which
3 we live. She said it's somewhere between 300 to
4 400 million people.

5 Antwan Jett was wearing that gray
6 sweatshirt. Another thing about this photograph,
7 and it is something that you can draw whatever
8 conclusion you want to draw from this, but it is in
9 evidence, is 6-A an 6-B. I notice there was a leaf
10 on top of the green jacket. It's the end of
11 December, leaves fall in the fall. That's why they
12 call it Fall, right? And I know they had a few
13 leaves in the back there, but someone rushing to get
14 those clothes off to get under a car that's about
15 10-feet away from these clothes, is that gingerly
16 gonna put that jacket down and walk off? He's gonna
17 be in a hurry, and I'm telling you, folks, he kicked
18 a leaf up to get under that Cadillac that was parked
19 right in front of location. And you see that was
20 3-A and 3-B. When they pulled him out from under
21 the car.

22 Now look, you know, we don't live in a
23 vacuum. It's unfortunate, there's a couple of
24 unfortunate things here; I'm gonna bring them out in
25 the open. It's unfortunate they had to taze him.

1 vehicle with the clothes 10-feet away. It's cold.
2 You got that — it's almost just a constant thing.
3 It was cold, it was cold, it was cold. In fact, two
4 officers, Gowdy and Jones said, I had to wear a
5 jacket, it was cold. Now here you have an
6 individual said in his statement to Investigator
7 Jones at the time, oh, I just had a little too much
8 to drink, I decided to sleep under the vehicle. Go
9 back to common sense. Makes no sense. Why does it
10 make any sense? How in the world, how in the world,
11 when he crawls under the vehicle if he's gonna sleep
12 one off doesn't he know that whoever owns this Chevy
13 Lumina and whoever owns this Cadillac isn't gonna
14 get into those vehicles while he's sleeping off,
15 crank him up and pull off and crush him to death.
16 It makes no sense. I was drinking. Well, it's
17 almost like cigarettes; isn't it? You know when a
18 heavy smoker comes up and he, my God, he needs to
19 get one of them patches or something, I can't stand
20 being in the room with him. We've had that. How
21 many times have we walked up to people in our lives
22 and said, my God, he smells like a distillery.
23 These officers, three of them, three of them, Lacey
24 Allen who was right there, the female officer;
25 Legrande Gowdy, the guy that got help out from under

1 point, at that point as he being pulled out from
2 under the car he doesn't know if Herman or Blackmon
3 or Gowdy's trainee who is dropped off, he doesn't
4 know if they caught that other fella, does he? He
5 doesn't know if they caught person number three and
6 maybe person number and person number two are faking
7 him out to the police. So he comes up with, I
8 didn't know anything about that gun. At that
9 moment, at that point in time he was trying to give
10 a story that would put him in a better light. They
11 search him and what, what do they find on him?
12 Well, they find a scale, they find condoms, they
13 find like a hamburger thing; that's stuff's neither
14 here nor there. Combs. But they do find it looks
15 like 65-dollars in cash on him. And of that 65, now
16 remember, Mr. Barr testified that he had about 20
17 bucks and included among one of those denominations
18 and he never told the police, he just told them I
19 got money was taken. They never asked him about
20 denominations of the money. But included, if you
21 recall, he said he had his what? His lucky two
22 dollar bill. And folks, in the pocket of Antwan
23 Jett is a two dollar bill. It doesn't take a rocket
24 scientist to figure out that those things are rare.
25 You hardly see them anymore in today's society. You

1 of at least two individuals. And Antwan Jett was
2 excluded as a contributor to this mixture on terms
3 of that green jacket. All of that is what it is.
4 However, what it does tell me that Antwan Jett and
5 cohorts if they're dropping clothes, share clothes.
6 That all, that's all that tells me. When you have
7 more than one person have clothes and their DNA show
8 up on it, more than one person is wearing it. It
9 would be literally as if this happened — Johnny,
10 can you help me with this. Yeah, let's switch
11 jackets. (Mr. Jepertinger and John Holt exchange
12 jackets.) There. Now potentially Holt's DNA and my
13 DNA are gonna be on this jacket. He's got my cell
14 phone now, he's happy. But the fact of the matter
15 is, that is a possibility not based on what I'm
16 telling you, but based on the results of the DNA
17 analysis and that's unfortunately what it shows, or
18 fortunately. But on that gray sweatshirt he had to
19 have it on, he had to have it on. And don't you
20 think when Felicia Jones gave him his Miranda
21 warnings that if anybody else had come running by
22 while he was under that vehicle — and remember, she
23 asked him, aren't you cold? He goes, oh, I don't
24 have a coat. Well, we know that's not true because
25 he wore a gray shirt, sweatshirt, no question about

1 viewpoint be about life; but you are going to try as
2 you swore to God, you were going to try this case on
3 the facts and evidence presented to you in this
4 case. And they lead to one conclusion, based on
5 this circumstantial evidence and certainly direct
6 evidence that someone with a green hoodie with a gun
7 came into the house and robbed him, you have sworn
8 this oath that you would base it on those facts and
9 those facts alone. And I thank you because I'm
10 confident that you're going to do that, not with
11 anyone to punish nor with anyone to reward; but as
12 you go to sleep tonight, you'll be able to say that
13 justice was done, and for that, you should be proud
14 of yourselves. Thank you.

15 THE COURT: Mr. Meetze.

16 MR. MEETZE: Thank you, Your Honor, may it
17 please the Court. Ladies and gentlemen, first off I
18 will echo Mr. Jepertinger's thanking y'all for your
19 attendance for your attention in the case and
20 listening to all of the evidence. We can't help
21 when we're speaking either in opening statement or
22 closing arguments you end up catching eyes here and
23 there and viewing during the course of trial. It's
24 not always the case that you always see everybody
25 attentive and, but in this case I certainly believe

1 other items of clothing so there's assumptions and
2 there's facts. First off, it's purely an assumption
3 that the person that was described as wearing the
4 green hoodie had a gray hoodie on under it.
5 Mr. Barr didn't give that description. There was
6 only one person that gave that description. That
7 was Officer Herman, said green, gray hoodie. It's a
8 little vague. He also said that when he had time to
9 view that individual it was dark. He told you, it
10 was obviously nighttime, early in the morning, but
11 certainly before the sun is up so it's dark outside
12 and there aren't very many lights. They pointed out
13 to you a few times. I think a few of the officers
14 pointed out on this board that there's a street
15 light here, there's a street light, but they're far
16 apart and they're far away from where they saw these
17 folks running. Mr. Barr saw the individuals in his
18 house where there is light and made no description
19 of seeing a gray hoodie. And you can have two
20 hoodies on; but even if you do, you'll be able to
21 see that there's a hoodie on underneath the other
22 hoodie but he made no description of that. There
23 was no testimony from Mr. Barr with regards to
24 seeing anybody wearing a gray hoodie. Green, dark,
25 either blue or black and brown are the only

1 assumptions versus facts, you don't have proof
2 beyond a reasonable doubt, you have not met your
3 burden. And so let's talk about — those are the
4 facts, and let's talk about the assumptions that the
5 State is asking you to rely on to make your
6 decision.

7 First off, here's a fact. Nobody can I.D.
8 Antwan Jett as having been in that residence,
9 nobody, okay. They located Antwan Jett a few blocks
10 away and want you to assume based on that that he
11 was in there but nobody saw him there, nobody can
12 put him in that house, all right. You had a
13 description from Mr. Barr of the individual in the
14 green hoodie, and let's make no mistake about it,
15 the States theory of this case is that Antwan Jett
16 is individual who was in the green hoodie. He gave
17 a description of the person of the green hoodie that
18 said, had a hoodie, on had something over his face.
19 At one time he said he could see parts of his head
20 between the mask and the hoodie. At another time he
21 said all of them had the hoodies cinched tight. Of
22 course, common sense will tell you when you cinch
23 you put it very tight, it covers almost all of your
24 face as it is. So there was conflicting testimony
25 in that regard, but says that he could see the

1 narrow the pool of potential suspects down very much
2 at all. That is a fact. Follow the facts, not the
3 assumptions.

4 Secondly, you've got the two dollar bill,
5 all right. Now Mr. Barr talked to a number of
6 officers at this time, didn't tell any of them about
7 a two dollar bill, okay. Told them he had some
8 money missing that was taken, didn't tell anybody
9 what denominations they were, said nothing about a
10 two dollar bill, comes in here today and all of a
11 sudden one of the items that was stolen was his
12 lucky two dollar bill. Well, if it's your lucky two
13 dollar bill, then that's a two dollar bill that you
14 carry around with you a while, you don't want to
15 spend it, you had it, all right. You keep it for
16 luck. It'd be one he had for a while, it'd be one
17 he could notice, he could look at, he could tell,
18 that's my two dollar bill. But nobody showed him
19 that two dollar bill. Do you recognize this, is
20 this your two dollar bill? It's your lucky two
21 dollar bill, you've had it for a long time, it would
22 have markings, it would have things on there that
23 you would recognize and be able to pick that two
24 dollar bill out over just any other two dollar bill.
25 But didn't do that. That evidence isn't before you.

1 says a two dollar bill was missing, Mr. Jett had a
2 two dollar bill and the assumption is it came from
3 the house. That's not evidence; that's an
4 assumption. And there is no evidence or testimony
5 in this record that any item found in Antwan Jett's
6 possession came from that house, none. That is a
7 fact; that's not an assumption. That's a fact.
8 Mr. Jett, as you heard, he gave a statement that he
9 was drinking, had been drinking, and he laid down to
10 fall asleep. All of the officers that were asked
11 this question said they did not smell any alcohol so
12 the assumption, Mr Jett is lying about that, lying
13 about drinking 'cause we don't smell alcohol. Well,
14 there's an easy way to tell whether or not he's
15 telling the truth or he's not. Every law
16 enforcement complex or building in this state has
17 data master machine. They can have him blow and it
18 can easily be done. It will be easy evidence to
19 have and bring for you here. Not everybody who
20 drinks is gonna smell of alcohol. Nobody is
21 presenting that as evidence. They want you to think
22 that. They want you to assume that 'cause that's
23 not the case. They want you to think he's not
24 telling the truth because nobody smelled alcohol.
25 Easy way to tell; it didn't happen. You didn't get

1 but not assumption to say he didn't run with the
2 other two guys. So Officer Herman gets in his car,
3 he's not going on the foot chase. He's gonna get in
4 his car. Officer Blackmon, he starts running after
5 him. He chases them. And he loses one and picks
6 the other one. The other one he picks up is the one
7 that was described as wearing the blue, navy blue,
8 dark blue, or black hoodie; but he ends up losing
9 him. And then, of course, as you heard, you know,
10 the other guy who would have been the one wearing
11 the brown hoodie, I would assume. Here I go, you
12 know, it can be contagious. He was never seen
13 outside the house, never got a whiff of him or a
14 scent or anything like that but. So they located
15 the green hoodie and the other items in this
16 apartment complex. The first assumption is with
17 regards to that is, that that's the green hoodie
18 that the person who committed this crime was
19 wearing. All right, that's an assumption, but
20 that's all that is, all right. They're telling you
21 Antwan Jett was wearing this hoodie. It's got a
22 symbol, a crest of some kind, a Nautica crest on it.
23 It's got other descriptive things. It's got a blue
24 hood there. It's got a number of different things.
25 Green is all that we have. Nothing else besides

1 are facts that point to the innocence of Antwan
2 Jett.

3 Then you got the gray hoodie, and it did
4 test positive for Antwan Jett's DNA. And as Special
5 Agent Leisy told you. All that means is that he's
6 come in contact with that hoodie and his DNA was in
7 it; can't say when that happened, could have been
8 five minutes, five days, five months earlier, but
9 his DNA is located and the one piece of, one piece
10 of article of clothing that Mr. Barr never described
11 as anybody in that house having worn. That is a
12 fact. The assumption is, well, his DNA is in this
13 gray hoodie he must have had the gray hoodie on
14 under the green hoodie; that's an assumption. The
15 fact is, Mr. Barr never described anybody that was
16 in that house as having been wearing a gray hoodie
17 and whether you got it on, over it, or under it or
18 however, if you got on two you can see there's two.
19 But there's no testimony or no evidences from
20 Mr. Barr that would indicate that anybody was
21 wearing a gray hoodie and that creates reasonable
22 doubt.

23 You know, the one item I think item three,
24 one of the hats that they got the CODIS hit that
25 turned out to be a match for Matthew Thomas' DNA;

1 based on what we see and hear and all on television.

2 Now a few other things that I do want to
3 bring up. One is, you've seen this, this is in
4 evidence and you'll be able to take this back into
5 the jury room with you and view it and look at it
6 all you want. And officers — the house is up here
7 and where the folks ran is down here and all of
8 that. It's a good block or more and all that from
9 there. And there's testimony that it was cold out
10 and things like that. Well, let me submit this to
11 you, you've been asked to use your common sense and
12 absolutely I believe that that's the biggest
13 characteristic that a juror can have is common
14 sense. Using your God given common sense is always,
15 I believe, in your best, your best way to go about
16 but whether it's cold or whether it's hot or whether
17 it's in between, nothing about being cold outside
18 that's gonna keep somebody from perspiring if they
19 have to do any kind of vigorous exercise, okay. You
20 heard testimony it was cold and this and that, but
21 the testimony is that these folks ran from his house
22 all the way in some cases way up over here and
23 Mr. Jett was found over here where this X is running
24 from here to there at break neck speed, officers
25 chasing. And common sense will tell you that when

1 the Layton Street he was out of breath, he was done.
2 He had to pull back the reins. And again, no
3 testimony or no evidence at all that when they
4 located Antwan Jett that he was in any way out of
5 breath, huffing, puffing, nothing. And again, the
6 testimony is that about the same time Officer
7 Blackmon is saying he was struggling to catch his
8 breath in the chase is when he's hearing they have
9 located a potential suspect. So we're talking about
10 the same basic time. It's not a length of time to
11 where somebody is gonna be able to catch their
12 breath and have no signs of having just run a great
13 distance. And keep in mind, It may not seem like —
14 it's not a long distance like a mile run or anything
15 like that, but it's a good distance to run at a
16 sprint. And I submit to you, even watching
17 television and watching world class trained athletes
18 running a hundred meter dash, when they get finished
19 they're out of breath. It might not be the longest
20 distance run but when you run it full speed you're
21 gonna be out of breath, and Officer Blackmon was and
22 he testified he was. But there's nothing in the
23 record or in the evidence or anything at all to
24 indicate that Antwan Jett was out of breath. I
25 submit to you had he been the person they were

1 you on the law applicable to this case. It is your
2 duty as jurors to accept and apply the law as I will
3 now state it to you. Furthermore, it is your
4 exclusive duty to decide all the issues of fact in
5 this case and to determine the effect, value,
6 weight, and truth of the evidence. Both the State
7 and the Defendant have a right to expect that you
8 will carefully consider and evaluate the evidence
9 and apply the law of this case to it so that in the
10 end both the State of South Carolina and the
11 Defendant will receive a fair and impartial trial.
12 I want you to understand that when I use the words
13 defendant I refer to Mr. Antwan Jamal Jett.

14 The charges alleged in the indictment are
15 burglary first degree, armed robbery, possession of
16 a weapon during a violent crime, and criminal
17 conspiracy. To these charges the defendant has
18 entered a plea of not guilty. This plea of not
19 guilty places the burden of proof on the State to
20 prove the guilt of the defendant to you, the jury,
21 beyond a reasonable doubt. Now I remind you, ladies
22 and gentlemen, that the fact that the defendant was
23 arrested, charged, and indicted in this case is not
24 evidence in this case and cannot be considered by
25 you as evidence of guilt in this case, nor does it

1 The presumption of innocence is not a mere
2 legal theory or a legal phrase. The presumption of
3 innocence is very important and you need to
4 understand that this presumption accompanies the
5 defendant from the time of his arrest and appearance
6 in this court and continues with a defendant even
7 after you retire to the jury room to deliberate. In
8 other words, the defendant receives the benefit of
9 the presumption of innocence until the very end of
10 this trial when you, the jury, will deliberate upon
11 the evidence and decide whether the State has proven
12 his guilt beyond a reasonable doubt.

13 Now what is a reasonable doubt in the law?
14 A reasonable doubt is the kind of doubt that would
15 cause a reasonable person to hesitate to act. Proof
16 beyond a reasonable doubt is proof that leaves you
17 firmly convinced of the defendant's guilt. There
18 are very few things in this world that we know with
19 absolute certainty, so even in criminal cases the
20 law does not require proof that overcomes every
21 possible doubt. However, if based on your
22 consideration of the evidence you are firmly
23 convinced that the defendant is guilty of the crime
24 charged, you must find him guilty. If on the other
25 hand you think there is a real possibility that he

1 any. And you are to consider only the testimony
2 which has been presented from this witness stand
3 together with the exhibits admitted into the record
4 of this case and any stipulations of counsel made
5 into the record, if any.

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

17 Now in this trial, ladies and gentlemen,
18 you are the sole and exclusive judge of the facts
19 and I am the judge of the law. Do not infer that I
20 have any opinion about the facts in this case from
21 anything that I have said during the course of this
22 trial in ruling upon the admissibility of evidence
23 or otherwise or from anything that I say during the
24 course of this charge to you. In this regard, the
25 law simply does not permit me to have an opinion

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

13 Ladies and gentlemen, there are two types
14 of evidence that are generally presented during a
15 trial, direct evidence and circumstantial evidence.
16 Direct evidence directly proves the existence of a
17 fact and does not require deduction. Circumstantial
18 evidence is proof of a chain of facts and
19 circumstances indicating the existence of a fact.
20 Crimes may be proven by circumstantial evidence.
21 The law makes no distinction between the weight or
22 value to be given to either direct or circumstantial
23 evidence. However, to the extent the State relies
24 on circumstantial evidence, all of the circumstances
25 must be consistent with each other and when taken

1 witnesses, a witness who by education and experience
2 has become expert in some art, science, profession,
3 or calling may state an opinion as to relevant and
4 material matter in which the witness claims to be an
5 expert and may also state the reasons or reasons for
6 the opinion. You should consider any expert opinion
7 received in evidence in this case, and like any
8 other evidence give it the weight that you think it
9 deserves. If you decide that the opinion of an
10 expert witness is not based on sufficient education
11 and experience, or if you conclude that the reasons
12 given in support of the opinion are not sound or
13 that the opinion is outweighed by other evidence,
14 you may disregard the opinion entirely. An expert
15 witness' testimony is to be given no greater weight
16 than that of other witnesses simply because the
17 witness is an expert. Further, you are not required
18 to accept an expert's opinion even though it is not
19 contradicted.

20 Now ladies and gentlemen, a statement was
21 alleged to have been made by the defendant and has
22 been admitted into evidence in this case. While the
23 Court has determined that the statement is
24 admissible, I instruct you that you make the
25 ultimate decision of whether or not the defendant

1 any weight to an alleged statement. The State has
2 the burden of proving beyond a reasonable doubt that
3 the alleged statement was voluntary. If you
4 determine it was, you may give the statement any
5 further consideration that you deem proper. You
6 must decide what weight, if any, should be given to
7 the alleged statement. If you determine the alleged
8 statement was not the free and voluntary statement
9 of the defendant, you should not consider the
10 statement at all.

11 I instruct you, ladies and gentlemen, and
12 I emphasize, that the fact that the defendant in
13 this case did not testify is not a factor to be
14 considered by you in any way in your deliberation
15 and in your consideration on the question of the
16 guilt or innocence of the defendant. It must not be
17 considered by you in any manner whatsoever. A
18 defendant has the constitutional right to remain
19 silent and the assertion of this right must not be
20 considered by you in your deliberations. I repeat,
21 under your oath you are to draw no conclusion
22 whatsoever from the fact that the defendant in this
23 case did not testify. The fact that this defendant
24 did not testify should not even be discussed in the
25 jury room. The burden of proof, as I have stated to

1 committed, is not sufficient to convict the
2 defendant as a principal. Guilt as a principal is
3 shown by action or constructive presence at the
4 scene as a result of prior arrangement. Therefore,
5 a finding of a prior arranged plan or common scheme
6 is necessary for a finding of guilt as a principal.
7 The State must prove beyond a reasonable doubt by
8 competent evidence the theory of the hand of one is
9 the hand of all. A principal in a crime is one who
10 either actually commits the crime or who is present
11 aiding, abetting, or assisting in committing the
12 crime. When a person does an act in the presence of
13 and with the assistance of another, the act is done
14 by both. Where two or more acting with a common
15 plan or intent are present at the commission of a
16 crime, it does not matter who actually commits the
17 crime, all are guilty. The hand of one is the hand
18 of all. Present at the commission of crime means to
19 be sufficiently near to aid and abet and assist in
20 the commission of the crime. However, mere presence
21 at the scene of a crime is not sufficient to convict
22 one as a principal on the theory of aiding and
23 abetting.

24 Intent is also necessary or also a
25 necessary element for there must have been a common

1 whether or not the element requiring intent was
2 present. It is not necessary to establish intent by
3 direct and positive evidence, but intent may be
4 established by inference in the same way as any
5 other fact by taking into consideration the acts of
6 the parties and all the facts and circumstances of
7 the case.

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

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

1 Finally, the State must prove beyond a
2 reasonable doubt that the defendant entered or
3 remained in the dwelling in the nighttime.
4 Nighttime is the period between sunset and sunrise
5 during which there is not enough daylight to
6 recognize a person's face to accept by artificial
7 light or moonlight.

8 Now the defendant is also charged with
9 armed robbery. In order to prove this offense the
10 State must prove beyond a reasonable doubt that the
11 defendant took personal property from the person or
12 presence of Mr. Michael Barr. Properties in the
13 presence of a person if it is within the person's
14 reach, inspection, observation, or control so that
15 the person could, if not overcome with violence or
16 prevented by fear, keep possession of the property.
17 The State must also prove beyond a reasonable doubt
18 that the defendant carried the property away
19 intending to permanently deprive the owner of the
20 property and to keep the property for the
21 defendant's own use. The slightest removal of the
22 property or the complete possession of the property
23 even for an instant by the defendant is sufficient
24 to show a taking and carrying away of the property.
25 The taking and carrying away of the property must

1 the defendant guilty of possession of a weapon
2 during the commission of a violent crime you must
3 first find the defendant guilty of either committing
4 a violent crime or attempting to commit a violent
5 crime. Armed robbery, an attempt — armed robbery
6 is a violent crime. The State must prove beyond a
7 reasonable doubt that the weapon further advanced or
8 helped in the commission of the crime.

9 Now the defendant is also charged with
10 conspiracy. The State must prove beyond a
11 reasonable doubt that the defendant combined with
12 one or more persons for the purpose of committing an
13 unlawful act or of committing a lawful act by
14 unlawful means. There must be a mutual
15 understanding, agreement, or common intention and
16 plan. Mere passive knowledge of or consent to the
17 criminal conduct of another is not enough to make a
18 person a conspirator. There must be guilty
19 knowledge and participation. Similarly, the mere
20 fact that the defendant may have associated with
21 another person or met with another person and
22 discussed common aims and interests does not
23 necessarily establish proof of the existence of a
24 conspiracy or that the defendant was involved in a
25 conspiracy. On the other hand, it is not necessary

1 determine to be true, you should take and apply the
2 law which has been given to you by this Court and
3 thus, arrive at a verdict which speaks the truth in
4 this case. And in fact, the word verdict which has
5 a Latin derivative, means a true saying. Thus, when
6 you have accomplished these responsibilities you
7 will have satisfied your oath as jurors and you will
8 have discharged your duty to this Court. Once you
9 retire to the jury room the bailiff will give the
10 verdict form to Madam Forelady. When you, the jury,
11 arrive at a verdict as to the offenses charged in
12 the indictment, the forelady will select the verdict
13 as to each charge on the verdict form. If the State
14 has failed to prove the guilt of the defendant
15 beyond a reasonable doubt, your verdict will be not
16 guilty. Likewise, if the State has proven the guilt
17 of a defendant beyond a reasonable doubt your
18 verdict will be guilty.

19 Once a decision has been made, Madam
20 Forelady, you will check whichever choice is the
21 verdict of the jury as to each charge. The verdict,
22 ladies and gentlemen, that you render in this case
23 must be the verdict of each and every juror. It
24 must be your unanimous verdict. All twelve jurors
25 must agree on the verdict which you authorize, Madam

1 of these instructions and the verdict form and
2 instruct you to begin your deliberations. Also,
3 should you have any questions during your
4 deliberations you must put them in writing. Pen and
5 paper will be provided, Madam Forelady. If you all
6 as a jury have any questions, that will be your
7 added responsibility to reduce such questions to
8 writing, knock on the door, let the bailiff know
9 that you have a question. She will get it to me and
10 I will answer it however the Court deems
11 appropriate, okay.

12 Once you all have reached a verdict in
13 this case and you have filled out the verdict form,
14 Madam Forelady, again, I emphasize whatever verdict
15 you all render it must be a unanimous verdict. But
16 once a verdict is rendered you will fill out the
17 verdict form, sign and date the verdict, Madam
18 Forelady after it has been filled out, knock on the
19 door, let the bailiff know that you have reached a
20 verdict. We will get you back into the courtroom as
21 promptly as quickly as possible. Now before I ask
22 you all to retire to the jury room, everybody on the
23 jury feeling okay?

24 (There was no response.)

25 THE COURT: All right, if you all will

1 State.

2 THE COURT: Defense counsel?

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

4 THE COURT: If you will play that recorded
5 statement.

6 (State's Exhibit No. 54 was played for the jury.)

7 THE COURT: All right, Madam Forelady,
8 ladies and gentlemen of the jury, I'm gonna ask you
9 to return to your jury room and continue your
10 deliberations please.

11 (WHEREUPON, the jury was removed from the
12 courtroom at 5:09 p.m.)

13 THE COURT: Anything from the State at
14 this time?

15 MR. JEPERTINGER: No, sir.

16 THE COURT: Defense counsel?

17 MR. MEETZE: No, Your Honor.

18 THE COURT: All right. I'm gonna stand
19 down.

20 (WHEREUPON, a recess was taken from the
21 proceedings.)

22 THE COURT: I'm going to bring the jury
23 out and send them home for the balance of the
24 evening, request they return tomorrow morning at
25 9:30 to continue their deliberations. Any objection

1 everyone. On his family, I don't want them to have
2 animosity towards me because I'm not to blame for
3 this, and I pray for y'all and I pray for my mother
4 and my family 'cause if I would have had a gun when
5 they came in the house, he could have been the one
6 that got shot. You know, I got to look at all the
7 circumstances of this case. And I have three sons
8 myself and three daughters, and my life could have
9 been taken from them with my nine grandkids. And I
10 just hope his family won't have any animosity
11 towards me. And that's all I have to say.

12 MR. JEPERTINGER: Thank you. Thank you,
13 Michael.

14 That's all we would have, Judge.

15 THE COURT: Mr. Meetze, happy to hear from
16 you.

17 MR. MEETZE: Thank you, Your Honor, may it
18 please the Court. Your Honor, Mr. Jett is 19 years
19 old. He's been in jail since he was arrested. He's
20 been there for 478 days as of today. As you know,
21 he's a young man who's now been convicted of some
22 very serious crimes. As the Court is aware the
23 absolute bare bones minimum he can receive here
24 today is 15 years, and that's pretty much a day for
25 day 15 years and that's a big sentence for somebody

1 serve time, but also to hopefully be rehabilitated
2 through the Department of Corrections or whatever
3 else and to where he will one day have a life to
4 live and all that. But you know, if his parents
5 wish to be heard we would ask the Court to hear from
6 them as well, but we would just ask for mercy on
7 Mr. Jett's behalf.

8 THE COURT: Mr. Jett, you're not required
9 to say anything and I certainly don't want you to
10 say anything to affect your appellate rights, but I
11 will give you an opportunity to speak if you so
12 desire.

13 THE DEFENDANT: Have mercy on me. Have
14 mercy on me, y'all.

15 THE COURT: Sir, anything you wish to tell
16 me? Please tell your name for the record.

17 THE FATHER OF DEFENDANT: Archie Jett.

18 THE COURT: Yes, sir, Mr. Jett.

19 THE FATHER OF DEFENDANT: I'm just sorry
20 for the victim. We don't have any remorse, no
21 regrets for anything that went on here. We just
22 sorry that it happened.

23 MR. MEETZE: One thing, Your Honor, before
24 you sentence — did you have anything else you wish
25 to say?

1 our own so to speak with one of the judges. One of
2 my mentors said, sentencing is the hardest part of
3 this job. In the five years I've been on the Bench
4 I've come to realize he was exactly right. I sit in
5 this courtroom, sat in this courtroom for the last
6 few days and listened two days and listened to
7 evidence in this case as the lawyers from the
8 solicitor's office and lawyers, defense lawyers are
9 in here weekend and week out listening to cases,
10 criminal cases that come before this court. It is
11 tragic the decisions that young people make that
12 absolutely destroyed their lives. Some of the most
13 important decisions that you make as a kid, as a
14 young man, young woman, is who you hang out with,
15 who you hang out with.

16 Anything further from the State?

17 MR. JEPERTINGER: No, sir.

18 THE COURT: All right, on indictment
19 2014-GS-21-525, which is the possession of a weapon,
20 the defendant is hereby committed to the State
21 Department of Corrections for a period of 478 days
22 on that particular offense, given credit for 478
23 days that he's done. On indictment, with regards to
24 criminal conspiracy, the defendant is hereby
25 committed to the State Department of Corrections for

5
191

WITNESSES

Felicia Cox Jones Florence Police Department

DOCKET NO. 2014-GS-21-00525

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

APRIL TERM 2014

THE STATE

vs.

ANTWAN JAMAL JETT

John C. Jepertinger

ARREST WARRANT NUMBER

2013A2120202100 (0253) 2014GS2100525A

2013A2120202105 2013A2120202107

2013A2120202108 2013A2120202109

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

Indictment for
BURGLARY FIRST DEGREE,
ASSAULT WITH INTENT TO COMMIT
CRIMINAL SEXUAL CONDUCT
FIRST DEGREE,
POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME,
ARMED ROBBERY
(TWO COUNTS)
AND
CRIMINAL CONSPIRACY

2014 APR -3 PM 1:11
CORPUS REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

FILED

ATTACHED TO AND BECOMING A PART OF THE ORIGINAL INDICTMENT FOR BURGLARY FIRST DEGREE, ASSAULT WITH INTENT TO COMMIT CRIMINAL SEXUAL CONDUCT FIRST DEGREE, POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME, ARMED ROBBERY (TWO COUNTS) AND CRIMINAL CONSPIRACY, WITH THE AFORESAID NAMES(S) OF ANTWAN JAMAL JETT SHOWN THEREON:

COUNT FOUR- ARMED ROBBERY

That ANTWAN JAMAL JETT did in Florence County on or about December 31, 2013, while armed with a deadly weapon, to wit: a handgun, take and carry away personal property of Michael Barr from or in the immediate presence of Michael Barr with intent to deprive Michael Barr of possession of a hunting knife, cell phones and cash by use of force, threats or intimidation, in violation of Section 16-11-0330, S. C. Code of Laws, 1976, as amended.

COUNT FIVE- ARMED ROBBERY

That ANTWAN JAMAL JETT did in Florence County on or about December 31, 2013, while armed with a deadly weapon, to wit: a handgun, take and carry away personal property of Britney Foxworth from or in the immediate presence of Britney Foxworth with intent to deprive Britney Foxworth of possession of cash by use of force, threats or intimidation, in violation of Section 16-11-0330, S. C. Code of Laws, 1976, as amended.

COUNT SIX- CRIMINAL CONSPIRACY

That ANTWAN JAMAL JETT did in Florence County on or about December 31, 2013 combine with two other unknown co-defendants for the purpose of accomplishing a criminal or unlawful object or an object that is neither criminal nor unlawful through criminal or unlawful means, to wit: burglary and larceny, in violation of Section 16-17-410, 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.



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

199

COUNTY OF Florence
STATE VS. Antwan Jamal Jett

INDICTMENT/CASE#: 2014-GS-21-00525
A/W#: 2013A2120202105
Date of Offense: 12/31/2013
S.C. Code §: 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

AKA:
Race: Black Sex: M Age: 10
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 CONVICTED OF or PLEADS TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death (0-5)

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
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: John C. Lepertinger, John C. SC Bar# 9826 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 478 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 9-22-15
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. 478 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. 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 \$105.00

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

Clerk of Court/ Deputy Clerk: [Signature]
Court Reporter: FR Baker [Signature]
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 2150
Sentence Date: 4-22-15

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

201

COUNTY OF Florence
STATE VS:
Antwan Jamal Jett

INDICTMENT/CASE#: 2014-GS-21-00525
A/W#: 2013A2120202107
Date of Offense: 12/31/2013
S.C. Code §: 16-11-0330(A)
CDR Code #: 0139

AKA:
Race: Black Sex: M Age: 17
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:

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: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (10-30)

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
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: John C. Jopertinger 9826 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 25 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*, the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 478 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 2 columns: Description and Amount. 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 \$105.00

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: N. B. ...
Court Reporter: E. ...
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 2160
Sentence Date: 4-22-15

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 1st day of August, 2016.


LaNelle Cantey DuRant
Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Craig D. Brown, Circuit Court Judge

ORIGINAL

RECEIVED

AUG 01 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ANTWAN J. JETT,

APPELLANT

APPELLATE CASE NO. 2015-001042

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Damonte Rivera #345876 at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 1st day of August, 2016.

George Vlasis
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 1st day of August, 2016.

(L.S.)

Notary Public for South Carolina
My Commission Expires: May 12, 2025.