

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Florence County

Craig D. Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTWAN J. JETT,

APPELLANT

APPELLATE CASE NO. 2015-001042

AMENDED RECORD ON APPEAL

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

STATE OF SOUTH CAROLINA))
COUNTY OF FLORENCE) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

STATE,)

TRANSCRIPT OF RECORD
14-GS-21-00525

v.)

ANTIWAN J. JETT,)

DEFENDANT.)

April 20, 2015
Florence, South Carolina

BEFORE :

THE HONORABLE D. CRAIG BROWN, JUDGE;
AND JURY

APPEARANCES:

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Assistant Solicitor

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Circuit Court Reporter

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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 marked for identification only.)

2 THE COURT: We'll take these up in order.
3 Mr. Meetze, motion in limine, motion to determine if
4 the State complied with Rule 5 and Brady, first one,
5 Mr. Meetze?

6 MR. MEETZE: I think that's been
7 satisfied, Your Honor.

8 THE COURT: Okay.

9 MR. JEPERTINGER: Yes, we have the
10 physical items that we'll try to introduce during
11 the course of trial subject to Court's ruling.

12 THE COURT: All right. The next motion to
13 determine prior record of the defendant, the State
14 would intend to introduce should he choose to
15 testify?

16 MR. JEPERTINGER: Yes, Your Honor. And
17 while we are discussing this I have given Mr. Meetze
18 a copy of the only non-law enforcement individual,
19 it'd be the victim in this case, Your Honor. One
20 thing I am concerned about, Judge, is if any jurors
21 come in and out I think —

22 THE COURT: I've already talked to
23 Mr. Propps, any further that jurors come off that
24 elevator to put them in that room next door.

25 MR. JEPERTINGER: Thank you so much,

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 opened the door about 3:30 in the morning. They
2 bolted in and started beating him, robbing him with
3 a gun, and stealing various things from him and then
4 exiting the house. His conviction would do nothing
5 other than to confuse this jury, to prejudice him.
6 He was a victim in a case -- I mean, he was a
7 defendant in a case; he's a victim in this case. I
8 don't see how that conviction would do anything but
9 prejudice him in this case.

10 THE COURT: Mr. Meetze.

11 MR. MEETZE: Your Honor, certainly I would
12 say that under the rule it's admissible. He was
13 sentenced to eight years in 2002 and there's a
14 release date on the wrap sheet of March 31st, 2008,
15 so I think the rule says anything that's happened
16 within the last ten years, or if they were released
17 from incarceration within the last ten years fits
18 the rule. Certainly if he was released within the
19 last ten years, I don't think that there's any
20 concern of prejudicial effect outweighing probative
21 value. It's there for impeachment purposes.
22 Credibility has a lot to do with any trial, and I
23 think that -- I don't think that the probative value
24 is outweighed by any potential prejudicial effect.
25 He's not on trial. He's a witness for the State in

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

1 it. Anything? All right, I'll let you know before
2 we ---

3 MR. JEPERTINGER: But that was the only
4 conviction I think that's useable.

5 MR. MEETZE: That's correct, Your Honor.
6 That's the only one that fits the rule. We wouldn't
7 seek to try to enter anything else.

8 THE COURT: Motion, excuse me, number
9 three, I think you all have complied with that.

10 MR. MEETZE: Yes, sir.

11 THE COURT: Anything with regards to
12 number three?

13 MR. MEETZE: No, sir, Your Honor, nor
14 four.

15 THE COURT: All right, four has been
16 complied with?

17 MR. MEETZE: Yes, sir.

18 THE COURT: Number five, Mr. Jepertinger?

19 MR. MEETZE: We just discussed that.

20 THE COURT: And I think you said that was
21 all that of it. Mr. Barr is the only one?

22 MR. JEPERTINGER: Yes, sir. The other
23 individuals are all law enforcement.

24 THE COURT: All right now, number six, the
25 motion before the Court finding this in-court

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 THE COURT: All right. And finally number
2 seven, motion to determine admissibility any
3 statements by Mr. Jett pursuant to Jackson v.
4 Denno. That's what brings us to the final motion.
5 Mr. Jepertinger, State ready to proceed?

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

8 THE CLERK: If you would place your left
9 hand on the Bible, raise your right hand.

10 WHEREUPON,

11 **LEGRANDE GOWDY,**
12 having been duly sworn by the Clerk, testified
13 as follows:

14 THE CLERK: Please be seated and state
15 your full name for the record.

16 THE WITNESS: Otis Legrande Gowdy.

17 **DIRECT EXAMINATION**

18 BY MR. JEPERTINGER:

19 Q Okay. Mr. Gowdy, just tell -- we know you work
20 for the Florence Police Department?

21 A Yes, sir.

22 Q On December 31st, 2013, were you on patrol?

23 A Yes, sir.

24 Q Okay. And were you called out to a specific
25 location?

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 Q Now was -- if I say Layton, about how far was
2 that from the alleged scene of the ---

3 A Pawley Street, it's straight through the
4 courtyard maybe two hundred, three hundred yards at
5 the farthest point.

6 Q Would it be a half a block down? Would that be
7 ---

8 A Yes, sir.

9 Q ---a half a block, back somewhere there? And
10 when you said you found Mr. Layton, excuse me, Mr.
11 Jett, you said you found him under a car?

12 A Yes, sir, under a car.

13 Q How did that, can you tell the Court how that
14 came to be.

15 A We were searching the area looking for -- we had
16 been given the description, a basic description of
17 what they were wearing, a possible a green coat or
18 green pullover, and the other object was wearing
19 dark clothing. We located a green hoodie along with
20 a gray shirt up underneath it in front of a
21 apartment on Pawley Street, on the Layton Street
22 side, excuse me.

23 Q On Layton Street?

24 A Yes, sir.

25 Q Okay. And at this point did you or Officer Allen

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 So what did you do in regards to that?

2 A Knowing that there was a possible home invasion,
3 a home invasion had just occurred and maybe there
4 were weapons involved, I deployed my department
5 issued taser, ordered him to stop. He continued to
6 go and I deployed my taser and strike him in the
7 back.

8 Q Then once you tazed him what happened?

9 A I detained the subject using my department issued
10 handcuffs. As I was taking him out from up under
11 the car I started reading his Miranda rights to him.

12 Q Okay. And how did you read him his Miranda
13 warnings?

14 A I keep a card in my wallet.

15 Q Okay. And can you read what you read? Is that
16 the same card, excuse me, let me back up. Is that
17 the same card you would have had back in 2013?

18 A Yes, sir, it's a piece of paper I've had in here
19 for many years.

20 Q All right. And that would have been the card
21 that you would have read off to Mr. Jett on ---

22 A Yes, sir, I had.

23 Q ---December 31st, 2013?

24 A I've had the same piece of paper almost four
25 years now.

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 A No, sir. In looking at my report I made no
2 mention of smelling any alcohol or anything on it,
3 and I would normally put that in my report.

4 Q Okay. After he made that statement as, I don't
5 know anything about a gun, what happened then?

6 A I immediately stopped questioning him about it,
7 told him to stand by right there and had another
8 officer stand by with him while we called for an
9 investigator to come out.

10 Q Okay. At that point did you record a statement
11 at all?

12 A No, sir, I didn't record a statement. I didn't
13 have time to activate my voice recorder.

14 Q Okay. Is there anything else you'd like to,
15 would like to add to the Court about any statement
16 that he made to you?

17 A I know I did ask him about his gloves, why he was
18 wearing gloves. He told me it was his walking
19 gloves. The subject was wearing a T-shirt at the
20 time. I have in my report here that the temperature
21 was cold outside; it was in the low 30s, which would
22 not make sense to have gloves on and no coat and no
23 nothing or anything. I asked him about the clothing
24 there; he said it didn't belong to him.

25 Q All right. That's all the statements you gave --

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 A As he was getting up I was reading him his
2 Miranda rights, and he stated he didn't know
3 anything about a gun. I was still in the process of
4 reading the Miranda rights when he stated that.

5 Q I just wanted to get that clear.

6 A That's fine.

7 Q It's just the way it's testified to you said the
8 first thing you did was read him his Miranda rights,
9 and then Mr. Jepertinger asked a question, after you
10 did that what was the first thing he said to you and
11 you said then that he said the thing about the gun?

12 A Right. As I was pulling him out from the car, I
13 was reading his -- or standing him up, I was reading
14 his Miranda rights to him and he stated that.

15 Q Okay. So that was during reading Miranda?

16 A Yes, sir, I never asked him anything. He just
17 blurted that out as...

18 Q All right. And the rest of the statements that
19 you've testified to here today happened after ---

20 A Yes, sir.

21 Q ---he was read Miranda rights?

22 A Yes, sir.

23 MR. MEETZE: I don't have any further
24 questions, Your Honor.

25 MR. JEPERTINGER: That's all I have for

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

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1 Mr. Jett was detained in the back of patrol vehicle.
2 Once I did the walk-thru I went to talk with
3 Mr. Jett, and I did not have my voice recorder and I
4 used Corporal Gowdy's voice recorder and spoke
5 with -- when I went to speak with Mr. Jett, the
6 first thing I did for him was read him his Miranda
7 warnings before I asked him any questions.

8 Q All right. And did he seem to -- did you notice
9 if he was under the influence or anything of that
10 nature or anything of that?

11 A I didn't smell any alcohol or anything like that
12 coming from him whenever I was speaking with him.

13 Q Okay. And you say that you recorded whatever he
14 said to you on Officer Gowdy's voice recorder?

15 A Yes, sir.

16 Q Okay. And have you had an opportunity to listen
17 to what, something I'm gonna mark here?

18 A Yes, sir.

19 MR. JEPERTINGER: Can we do this as a
20 Court's exhibit right now, Judge?

21 THE COURT: Yes.

22 (Court's Exhibit Number 1, disk, was
23 marked and made a part of the record.)

24 BY MR. JEPERTINGER:

25 Q I'm going to show you Court Exhibit 1. It's a

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 and whatever he stated while those Miranda warnings
2 were going on, I think is admissible as a voluntary
3 statement. I don't think at that point he has to be
4 represented by counsel, which kind of blends over
5 into the second issue with Detective Jones. I think
6 what he said on that statement is, where's my
7 lawyer, somewhere at the incept of the statement.

8 The only thing that I can bring out,
9 Judge, and I think there's been a plethora of case
10 law in regards to Miranda, is that there has to be
11 an unambiguous request for an attorney. Judge, I
12 would tend to think the statement, where's my
13 lawyer, is an ambiguous indication right to an
14 attorney. In Davis versus United States which is
15 cited at 114 Supreme Court, it's a 1994 case, the
16 indication of an attorney which I think was
17 ambiguous, maybe I should talk to a lawyer. Now
18 obviously and I know and in this case of Davis --
19 and I love this language -- it says although a
20 suspect not speak with discrimination of an Oxford
21 don, he must articulate his desire to have counsel
22 present sufficiently, clearly, and that a reasonable
23 police officer under circumstances would understand
24 the statement to be a request for an attorney. Your
25 Honor, I don't know if his initial statement,

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 ambiguities are to be ruled in favor of the
2 defendant in circumstances so I don't submit that
3 that's ambiguous at all. I think he asserted his
4 right to an attorney before any questions. He'd
5 already had his Miranda rights read; nobody is
6 disputing that. He -- they indicate that he said he
7 understood them. And when Investigator Jones began
8 questioning him, that's the first thing that he
9 said. And we would submit that pursuant to that,
10 that all of the statements that he made after that,
11 which would pretty much be the entire CD we just
12 listened to, should be found inadmissible.

13 THE COURT: I'm gonna stand down for just
14 a minute. I want to look at something.

15 (WHEREUPON, a recess was taken from the
16 proceedings.)

17 THE COURT: We're back on the record with
18 State versus Antwan Jett. With regards to
19 questioning of Mr. Barr, I believe, as relates to
20 his prior manslaughter conviction, under Rule
21 609(a)(1) states evidence that a witness other than
22 accused been had convicted of a crime to be admitted
23 subject to Rule 403. If the crime was punishable by
24 death or imprisonment in excess of one year under
25 the law under which the witness was convicted, and

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 State v. Black as previously cited by the Court, I
2 do not believe that such should be admitted. I do
3 believe the probative value is outweighed by
4 prejudicial effect; therefore, pursuant to Rule 403
5 I am not gonna allow you to go into that.

6 MR. MEETZE: I would just renew my
7 objection at this time ---

8 THE COURT: All right.

9 MR. MEETZE: ---as we move forward.

10 THE COURT: All right. With regards to
11 the defendant's statement to law enforcement,
12 particularly to Officer Gowdy, I do not find -- or I
13 do find that such statement by the defendant was
14 freely and voluntarily given, knowingly and
15 intelligently done so without force, pressure, or
16 intimidation. Such statement by the defendant to
17 Officer Gowdy was given while he was being taken
18 under, from under the car, while such Miranda
19 warnings were being read to him. Without anything
20 further, as it relates to the testimony of officer
21 Gowdy I will allow such statement by the defendant
22 to come in.

23 With regards to defendant's statement to
24 Officer Jones, the statement being where is my
25 lawyer, the Court does find that the defendant had

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 MR. MEETZE: I mean, I'm not gonna have
2 any objection when he admits it. You know, I mean,
3 I don't know that it's, I mean, whether it's
4 admitted now or not. I mean, does it have to be
5 admitted for him to use it in opening statement, I'm
6 not aware of that. I mean, it's not, anything you
7 say is not ---

8 THE COURT: It's not evidence.

9 MR. MEETZE: It's not evidence. I don't
10 see whether there's any objection ---

11 THE COURT: You have any problem with
12 that?

13 MR. MEETZE: ---for him to you use it, no.
14 Judge, just for clarification, your ruling with the
15 Jackson versus Denno as pertains to the recording
16 that was heard in court, the statement that Mr. Jett
17 made was an ambiguous ---

18 THE COURT: It is, yes, sir. I do find it
19 is ambiguous, it is not inambiguous as required by
20 case law and pursuant to the law the law enforcement
21 is not required to further inquire as to his
22 clarification of such.

23 MR. MEETZE: That's what I thought, just
24 wanted to make sure.

25 THE COURT: All right. Anything further

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 the Court, you will then be in a position to
2 determine what the true facts are and to apply the
3 law to those facts and thus render a true and just
4 verdict.

5 Now later in this case, ladies and
6 gentlemen, a foreperson will be selected to preside
7 over the deliberations in the jury room. It will be
8 the foreperson's responsibility to preside in the
9 jury room and be the jury spokesperson here in
10 court. It will also be the foreperson's duty to
11 write the verdict, but I will give the foreperson
12 further instructions about that at the conclusion of
13 the case. Now in order to preserve everyone's
14 rights I will give the parties an opportunity to
15 object to anything that I have said to the jury.

16 Any exception or objection to anything
17 that I have said to the jury by the State?

18 MR. JEPERTINGER: No, sir.

19 THE COURT: Defense counsel?

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

21 THE COURT: All right, ladies and
22 gentlemen, we will now begin the trial of this case.

23 Mr. Jepertinger, you're so recognized.

24 MR. JEPERTINGER: Thank you. If it please
25 the Court, counsel. One of the sacred type sayings

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 out of the dead sleep, gets to the front door, and
2 when he opens the door he gets bull rushed by three
3 individuals. Now one of them is about my size,
4 about 5'9", 5'10", and he's wearing a green hoodie
5 and the thing is arranged so his face is covered.
6 One thing that Mr. Barr will tell you is that that
7 individual, in his mind, was a medium complected
8 African American male and had what he perceived a
9 younger voice. The next individual is wearing a
10 brown either hoodie or jacket and he's taller, about
11 6'2", 6'3", taller than the first individual with
12 the green hoodie. And that individual had small
13 dreadlocks or dreadlocks of some sort, but his face
14 is covered as well but he's darker complected than
15 the individual with the green hoodie. The third
16 individual is wearing dark clothes, and he's between
17 the person in terms of the green hoodie and the guy
18 with the dreads, in between them at height wise.
19 And he's in darker clothes. They bull rush Mr. Barr
20 into his home, and they begin beating him. And one
21 of them -- and it's really an academic point -- but
22 one of them is armed with what Mr. Barr said was a
23 Derringer pistol, a small pistol, a Derringer, small
24 Derringer. They begin to hit him with their fists.
25 They kick him. They knocked him to the ground.

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 who respond on scene happen to catch sight of two of
2 the three come out of this back door. They didn't
3 see all three but they caught sight of two of them.
4 The two of them began running across Rose street
5 with Officer Blackmon in pursuit, of the Florence
6 Police Department. He introduced himself to you
7 earlier today; you'll hear from him this afternoon.
8 Officer Blackmon begins chasing them. Officer
9 Herman is also there. He shoots down Rose street in
10 his patrol vehicle, turns right on Layton Street.
11 And what happens? He sees the two come up this way,
12 he turns, then at a point he sees only one
13 individual come out. And Herman chases that
14 individual that way and Blackmon loses sight of the
15 other individual.

16 Shortly thereafter, because at this point
17 as you see all these officers out here, they're out
18 like fire ants and they're combing the area, combing
19 this area knowing one had gone that way and got
20 away, and got away, outran the police. They come
21 back to this apartment complex, this duplex right
22 here; and in front of Layton Street, low and
23 behold, what do they find. Right on the stoop of
24 Layton they find a green hoodie, a gray
25 sweatshirt, and two types of caps. And directly in

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 and Gretel of the fairy tales from years ago 'cause
2 they find a string of things. They find the gun,
3 the Derringer that was used in that home invasion,
4 Mr. Barr's house at , which is right here.
5 They find his hunting knife strewn there. They find
6 an orange -- and I call a Clemson toboggan, but they
7 find a Clemson toboggan there. And I don't know
8 whose that was, whether it was, whether he was
9 wearing it or whether it was guy number two. I
10 think it might have been guy number two who headed
11 that way. And they found, they found the pill
12 bottles from the pills taken from Mr. Barr.

13 And all of that, ladies and gentlemen, all
14 of it, not just one fact but all of them, point to
15 one inevitable conclusion that this defendant along
16 with two other individuals, decided to go into
17 Mr. Barr's home in the early morning hours of
18 December 31st, 2013. And the evidence will show
19 that he committed a burglary, a burglary as his
20 Court has told you is what he's charged with, and
21 that is the entry into the dwelling of another
22 without consent with the intent to commit a crime
23 therein. He's charged with armed robbery for the
24 very reason that one of them was armed with a
25 Derringer, and they took money, they took a hunting

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 and I represent Antwan Jett in this case. And I'm
2 probably gonna rehash some things that you've
3 already heard here today, but I do that primarily
4 because it's just, it's that important that you hear
5 these things and that you hear it over and over
6 again 'cause when you hear things over and over
7 again, it sort of does trigger off flags in your
8 head to say, you know, I heard that before, that
9 might be important. And that's the case here.

10 As you've heard we're in the court of
11 general sessions. In South Carolina that's what we
12 call our criminal court, okay. And in criminal
13 court the State has to prove somebody guilty beyond
14 a reasonable doubt. That's a principle of law that
15 you've heard before and you'll hear again. There's
16 another principle of law that you've heard and will
17 hear again, and that is the presumption of
18 innocence. Now what that means is that as he sits
19 here today he's as innocent as anybody in this
20 courtroom. The presumption of innocence is not a
21 fiction; it's a real thing. It's a, it's an ideal
22 of our law in this country that runs as deep as any
23 other rule of law that we have, and it's very, very
24 important because in criminal court nobody has to
25 come into court and prove their innocence, nobody

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 you, that in order to effectively do your job that's
2 what you need to do in this case because in any
3 criminal case because we can't let our emotions
4 rule. You have to let the evidence, you have to let
5 the evidence be the determining factor in this case;
6 and I submit to you, that the State in this case
7 will not be able to sufficiently present evidence to
8 convince you beyond a reasonable doubt that Mr. Jett
9 is guilty of anything. And that's a very high
10 burden, beyond a reasonable doubt.

11 As you've already heard there's two
12 different types of court. In circuit court there's
13 common pleas or civil court where you have things
14 like car wrecks where somebody may be injured and
15 they sue for damages for whatever, if they may be
16 out-of-pocket financially or whatever. And those,
17 this court hears those kind of cases too along with
18 criminal cases. In a civil case the burden is
19 different; it's not as high. It's called by a
20 preponderance of the evidence, or a more reasonable
21 than not standard, and it's just sort of 51 percent,
22 49 percent. If in that case both sides present
23 their evidence, if a jury believes that after that
24 evidence is presented they find just ever so
25 slightly that that evidence tilts those scales of

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

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1 with people's very lives and people's very liberties
2 so that's why the burden is so high. And again, you
3 haven't heard anything yet. You haven't heard
4 anything. You got nothing before you to even form
5 an opinion on this case. That's to come after I sit
6 down. We would ask you to listen closely, look
7 closely at the evidence from all angles. I submit
8 to you, if you do that, if you do that, you'll come
9 to the only conclusion that is just, the only
10 conclusion that speaks the truth, and we would ask
11 you that that conclusion in this case be not guilty.
12 Thank you.

13 THE COURT: Mr. Jepertinger.

14 MR. JEPERTINGER: Yes, sir. The State
15 would call Michael Barr to the stand.

16 THE CLERK: If you would, sir, place your
17 left hand on the Bible.

18 WHEREUPON,

19 MICHAEL BARR,
20 having been duly sworn by the Clerk, testified
21 as follows:

22 THE CLERK: Please be seated. State your
23 full name for the record.

24 **DIRECT EXAMINATION**

25 BY MR. JEPERTINGER:

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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

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1 who is it knocking on the door this time of night,
2 and the person said, BJ.

3 MR. MEETZE: Objection. .

4 THE COURT: Hold on a minute. What's your
5 objection?

6 MR. MEETZE: Hearsay.

7 MR. JEPERTINGER: I would say I'm not
8 offering it for the truth of the matter asserted.

9 THE COURT: Restate your question again.
10 BY MR. JEPERTINGER:

11 Q Did anything unusual happen, and what happened?

12 You heard a knock at the door and ---

13 A I heard a knock at the door. I said who's
14 knocking on the door this time of night, and the
15 person said, BJ.

16 THE COURT: Overruled, go ahead.

17 BY MR. JEPERTINGER:

18 Q All right. Do you know a BJ in the community?

19 A Yes, I do.

20 Q Okay. Is it a -- how do you know BJ in the
21 community?

22 A I know him 'cause he's like a friend of mine's
23 that I talk to in the street and sometimes, you
24 know, I talk to him and sometimes I call him my
25 nephew sometimes. He calls me Uncle Mike 'cause he

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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

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1 overpowering me and I fell on the floor. I was
2 crying and saying why you doing this to me, what's
3 going on, and they said give me your money.

4 MR. MEETZE: Objection.

5 MR. JEPERTINGER: Your Honor, I would say
6 that anything that is said is -- remember the charge
7 with conspiracy, and I would say these are all
8 statements in furtherance of conspiracy.

9 MR. MEETZE: May we approach, Your Honor.

10 THE COURT: Yes.

11 (WHEREUPON, counsel approached the
12 Bench for an off-the-record discussion.)

13 MR. JEPERTINGER: Objection is overruled?

14 THE COURT: Yes.

15 BY MR. JEPERTINGER:

16 Q So continue on where you were at. So they
17 knocked you to the ground. Then you said what
18 happened?

19 A One of the, one of the men told me to shut up and
20 put the gun in my face.

21 Q What type of gun was it that you could see?

22 A Small gun.

23 Q All right. And do you know the type of gun that,
24 what they call those type small guns?

25 A It looked like a small Derringer, a two shot

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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

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1 gun and the other guy went in my bedroom, and they
2 started searching my bedroom. And the other guy,
3 the big tall guy was in the room watching over me.
4 He went in my bedroom tossing and turning out of it,
5 and then I heard one of the -- I didn't hear
6 anything. And one, the guy with the gun said who is
7 in this room. I heard a voice say, who is in this
8 room 'cause my roommate had the door closed. And I
9 said, I didn't say anything. And then he kicked the
10 door open and she started screaming. I heard her
11 screaming and yelling.

12 MR. MEETZE: Objection. Just, I mean, I
13 understand, I guess my objection is not to what he
14 said to this point, but if it goes any further than
15 that with regards to the roommate.

16 THE COURT: Objection overruled at this
17 point.

18 BY MR. JEPERTINGER:

19 Q Okay, you heard her screaming and yelling. Then
20 what happened?

21 A I heard her screaming and yelling and then they
22 came out of her room and one of these guys said, we
23 don't got time for this, we don't got time for this,
24 and then they ran out through my back door.

25 Q All right. Now let me ask you a couple of things

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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?

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1 A Yeah, probably my complexion.

2 Q Okay. Did he say anything while he was in your
3 house?

4 A Told me to shut up. That's the one that was
5 punching me. That's the one that had the gun with
6 the, he had the green hoodie on.

7 Q He had the green hoodie on, okay. Did he have
8 what I call a man's voice, deep voice, or was it a
9 old voice like an older gentleman, or what type of
10 voice did he have?

11 A It was, it was like a young man voice. It wasn't
12 an older person voice. It was like a young man's
13 voice.

14 Q All right. Now, the -- so the first one was you
15 say was, had the green hoodie?

16 A Yes, sir.

17 Q Okay, all right. Now the second guy, was he my
18 size, shorter than me, or taller than me?

19 A Taller.

20 Q About to estimate, how tall would you say this
21 fella was?

22 A He was tall, about maybe about 6'3", 6'2", 6'3".

23 Q All right. Did you -- in terms of skin
24 complexion, light, medium, dark, or how did he fall?

25 A He was darker with dreads.

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- 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

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1 like what I call guys that look like the predator,
2 or was it shorter perhaps?

3 A Short, about below the ear.

4 Q Okay, all right. And the color of his hoodie
5 again?

6 A He had -- it was dark, maybe brown or black, but
7 he had a hat on also.

8 Q Okay. How about the third individual?

9 A He had on about the same color hoodie. He had
10 like a wrapped tight around his head, and I
11 couldn't, I couldn't, I don't want to talk, I
12 couldn't really see any faces 'cause it was pulled
13 tight.

14 Q All right.

15 A And I was, I got hit in my eye, I couldn't really
16 focus too good.

17 Q All right. Now was he taller than 6'2" or 6'3"
18 or shorter or ---

19 A No, he was, he was about, I say he was about 6
20 feet, 6 feet, something like that, taller than me.

21 Q So he would be in between the first guy with the
22 green hoodie and the guy with the dreads?

23 A Yes.

24 Q All right. Now did you see any more than one
25 gun?

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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.

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1 BY MR. JEPERTINGER:

2 Q State's 25-A and -B?

3 A That's a picture of my front door and another
4 picture of my living room.

5 MR. JEPERTINGER: I would move at this
6 time State's 25-A and -B into evidence at this time.

7 MR. MEETZE: No objection.

8 THE COURT: Without objection so admitted.

9 (WHEREUPON, State Exhibit Nos. 25-A and
10 25-B were admitted into evidence.)

11 BY MR. JEPERTINGER:

12 Q Now I'm gonna pause here for a second. You say
13 that the guy with the green hoodie who had the gun
14 and the tall guy went into your room, all right.
15 What did they come out of the room with, that you
16 found missing?

17 A I couldn't see what they came out room with, but
18 my pill bottles was missing. I think I had a
19 hydrocodone bottle in there and some, a Motrin
20 bottle. I'm not sure of the specific description.
21 My medication bottle was missing.

22 Q All right. Now when they got back to the living
23 room did you have an object on the floor that
24 belonged to you?

25 A Yeah, I had a hunting knife. I had a hunting

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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.

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1 (WHEREUPON, State Exhibit Nos. 21-A and
2 21-B were admitted into evidence.)

3 BY MR. JEPERTINGER:

4 Q Now once they came out, the two came out -- one
5 with the green hoodie and you say the tall guy ---

6 A Yes.

7 Q ---came out the door, did they go back and
8 congregate in the living room again where you were
9 at?

10 A No.

11 Q What did they do?

12 A I heard a voice inside my roommate room say, we
13 don't have time for this. And then the guy watching
14 me and them two ran out my back door.

15 Q Okay. And I'm gonna show you State's 20-A and-B.
16 Can you identify 20-A and -B.

17 A That's a picture of my back door and my kitchen,
18 but my kitchen was lead to my back door.

19 MR. JEPERTINGER: All right. I'm gonna
20 move 20-A and -B into evidence at this time.

21 MR. MEETZE: No objection.

22 THE COURT: Without objection, so
23 admitted.

24 (WHEREUPON, State Exhibit No. 20-A and
25 20-B were admitted into evidence.)

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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?

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1 Q And any of the other objects taken from you?

2 A I think they found my money. I think they found
3 my roommate's money. They found my cell phone and
4 some empty pill bottles, pill bottles they found.

5 Q You think that, okay. All right. That's all I
6 have. Thank you so much.

7 MR. JEPERTINGER: I have nothing further
8 for this witness.

9 THE COURT: Anything?

10 MR. MEETZE: Sir?

11 THE COURT: Anything further?

12 MR. MEETZE: I do not have anything
13 further at this time..

14 THE COURT: Mr. Barr, you may step down.
15 Thank you.

16 MR. JEPERTINGER: Okay. Your Honor, the
17 State would call Officer Thomas Herman to the stand.

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

20 WHEREUPON,

21 **THOMAS HERMAN, JR.,**

22 having been duly sworn by the Clerk, testified
23 as follows:

24 THE CLERK: Please be seated and state
25 your full name for the record.

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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

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1 come off the stand please, and I'm gonna ask you to
2 stand on this side and speak as loudly as possible
3 so the court reporter can hear you. Stand over
4 there on the other side of that please.

5 A (Complies.)

6 Q If you have any notes with you can refresh your
7 recollection. All right, now can you tell the
8 ladies and gentlemen of the jury what you observed,
9 where you went first, and what you saw when you got
10 there, how you got there, okay?

11 A Yeah.

12 Q This is Pawley Street up here. This is Rose
13 Street. That's Layton Street, okay.

14 A My response I had come down Maxwell Street which
15 is not on here. It's up on this side north of
16 Pawley. I made a right hand turn on to Rose Street
17 and I responded by parking my patrol car right here
18 at this corner, the intersection of Pawley Street
19 and Rose Street, with the front of my vehicle facing
20 directly towards the house.

21 Q All right. And were there any other officers
22 present that you saw at that time?

23 A Another officer did respond and pulled up
24 directly beside me.

25 Q And who was that Officer?

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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
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.

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1 Q Okay. Do you know -- it's early morning hours,
2 correct?

3 A Yes, sir.

4 Q It wasn't Miami Beach. What was it, cold, warm,
5 what was it?

6 A It was very cold. I say I believe the
7 temperature that night was in the mid to low 30s.
8 No rain, it was fairly -- I don't know if it was
9 clear or cloudy but I know it was dry. I know that,
10 like I said, when I exited my patrol car I saw him
11 look at him. I watched him immediately go in a foot
12 chase.

13 Q At that point what did you see Officer Blackmon
14 do when you saw, or when I guess when he observed
15 the two suspects run?

16 A He immediately got into a foot chase with him.

17 Q What did you do?

18 A I realized I didn't have a chance to catch up
19 with him. They were already a good ways ahead of me
20 so I got back in my patrol car and proceeded to go
21 down Rose Street to assist with Blackmon and try and
22 cut him off on to Layton Street.

23 Q Okay. So did you cut the corner on Layton Street
24 here?

25 A Yeah, I made a right-hand turn on to Layton.

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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

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1 Avenue, exited my patrol car, and proceeded in a
2 foot chase. We ended up going through a yard. I
3 watched him climb over one of the chain link fence
4 approximately 6, 7 feet high. I was probably in the
5 area of, you know 40, 50 yards behind him. He had a
6 good lead on me. I climbed over the fence as well.
7 And then there was another privacy fence, a wooden
8 privacy fence you couldn't see through the back of
9 that property, which by the time I got over the
10 chain link fence he was already climbing over the
11 privacy fence. As I got to that fence I had lost
12 him by the time I got over the top of it and had no
13 idea where he went.

14 Q You weren't fast enough?

15 A Nope.

16 Q All right. So at that point did you -- and
17 Blackmon was still on foot?

18 A Yes, he was -- I really don't know exactly where
19 he was at. I mean, I don't know if he was behind me
20 or not. I had got ahead of him with the car.

21 Q Obviously. And so I guess you got on your radio
22 to say I've lost the guy I'm chasing, correct?

23 A Yes.

24 Q At this point what do you do? I mean, you just
25 ---

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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

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1 it just, it blocked out a lot of light so it was
2 very dark in that area.

3 Q So you never saw a third individual, correct?

4 A No, sir.

5 Q Okay. Now, do you come back to this, what I call
6 the general area as shown in State's Exhibit 1?

7 A Yes, sir.

8 Q What do you do when you get back to this area?

9 A Well, I began searching for anything, any items,
10 any, anything found in their path seeing, just
11 backtracking.

12 Q And can you show the ladies and gentlemen of the
13 jury where you would have backtracked to?

14 A Yes. I had walked in between the apartments in
15 this area and kind of circumferenced this area right
16 here in between these apartments and all in this
17 back field. I didn't know exactly where so we just
18 started making large circles and cutting out, small
19 circles getting larger to make sure no evidence was
20 left behind.

21 Q All right. And did you find anything?

22 A Yes, sir. I happened to find a small caliber
23 handgun, a small revolver style Derringer, a silver
24 and black if I'm not mistaken.

25 Q Okay. And at that point did you pick that

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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.

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1 Q And then got in your patrol car and drove for a
2 piece till you saw what at first you thought were
3 the two suspects running, was it down Layton towards
4 Oakland you said?

5 A Yes, sir.

6 Q Okay. And you testified that rethinking it you
7 think it was one suspect and Officer Blackmon?

8 A Yes, sir.

9 Q But, and that's -- you're certain that's what you
10 saw?

11 A Yes, sir.

12 Q The -- so from there you joined the foot chase at
13 that point or did ---

14 A Just after.

15 Q Just after?

16 A Yes, sir.

17 Q And eventually lost that suspect?

18 A Yes, sir.

19 Q And then went back, searched, found the gun that
20 you just identified during a search of the
21 surrounding area; is that right?

22 A Yes, sir.

23 Q You weren't -- and that was -- and you didn't
24 touch the gun, handle the gun, do anything like
25 that, correct?

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 Yes, sir, I did.

2 Q Okay. And once again, I'm gonna ask you to step
3 off the stand 'cause I think this will help explain
4 your testimony perhaps a little bit better and stand
5 where Officer Herman stood. Please keep your voice
6 up. All right, tell the ladies and gentlemen of the
7 jury, this is Pawley Street, this is Rose Street,
8 this is Layton Street. Here is as
9 identified by the V. Okay. I got you up here.
10 Keep your voice up. When you got to the scene where
11 did you wind up?

12 A As Officer Herman said we had come up Maxwell
13 this way right here, made a right on to Rose Street,
14 and actually pulled in right here just on the edge
15 of the roadway right here, right here where this is
16 702. Pulled in right here and stopped the vehicle
17 right there.

18 Q And what did you see when you got to that
19 location?

20 A Okay. Like I said, as I had stopped right here
21 as soon as I exited my vehicle I immediately seen
22 two subjects running from that corner of the house,
23 running -- would have been running this way across
24 the yard right here.

25 Q And where were they headed, which direction?

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 Q When they cut through the building on you where
2 were you?

3 A Sorry, I would have been like right in here as
4 they come around the corner here. I would have been
5 right back in here.

6 Q All right. And then when was the next time that
7 you saw an individual that you perceived coming from
8 the back of that house?

9 A As they come across here, by the time I made it
10 to the corner here I didn't see them nowhere in
11 between here. I completely kept running this way
12 right here. As I got right in here I could see, I
13 could see one running over on this way. There was
14 only one left. On that side of the road right there
15 I couldn't tell the color of the hoodie because all
16 this is dark on this side right here.

17 Q Okay. Did you see that individual go that way or
18 go that way?

19 A He was going this way.

20 Q Towards Oakland Avenue?

21 A Uh-huh. As soon as I came through here I was
22 like right in here, and he was going this way
23 towards Oakland. There was patrol cars coming this
24 way up the street. I was about winded at that time
25 so I started slowing down right there. The other

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 through.

2 Q Safe to say that your whole probably unit or
3 division, or whatever you call it, was out there?

4 A Yes, sir. Yes, sir, pretty much everybody
5 working on the street was over that way.

6 Q Okay. At that point did you come back to what's
7 shown here in State Exhibit 1, that area?

8 A When we were still over this way actually still
9 kind of the Brunson Street area, we had heard on the
10 radio Corporal Gowdy said they had had somebody over
11 this way up underneath a car so we immediately come
12 back that way to see if there's any way we could
13 assist them.

14 Q And when you got back to the area what did you
15 do?

16 A Once they already had him detained and everything
17 we immediately just started walking, you know, back
18 the path where I had ran, you know, chasing them
19 from the beginning from up there to here.

20 Q Okay.

21 A And discovered, you know, several items on the
22 ground as we back, walked back through there.

23 Q What items, several items, on the ground did you
24 find that are pertinent to this case?

25 A I located a hunting knife, appeared to be a

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 THE COURT: Without objection you're
2 excused. You have no further responsibility under
3 your subpoena. You're free to go.

4 Can the lawyers approach a minute please.

5 (WHEREUPON, counsel approached the
6 Bench for an off-the-record discussion.)

7 THE COURT: Call your next witness please.

8 MR. JEPERTINGER: We call Officer Lacey
9 Allen to the stand.

10 THE CLERK: Come around, place your left
11 hand on the Bible, raise your right hand.

12 WHEREUPON,

13 **LACEY ALLEN,**

14 having been duly sworn by the Clerk, testified
15 as follows:

16 THE CLERK: Please be seated and state
17 your full name for the record.

18 THE WITNESS: My name is Officer Lacey
19 Allen.

20 **DIRECT EXAMINATION**

21 BY MR. JEPERTINGER:

22 Q Officer Allen, are you a patrol officer?

23 A I am.

24 Q And were you so employed back on December 31st,
25 2013?

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 did you walk that area?

2 A Yes, sir.

3 Q Okay. What did you observe?

4 A Well, it was me and Corporal Gowdy, like I said,
5 and we were just using our flashlights looking. And
6 I observed a green hoodie laying on the, I guess the
7 front porch of an apartment, and also had I believe
8 it was a mask, a hat, was laying right there in
9 front of a flower pot and it matched the description
10 of the one that the suspect was wearing.

11 Q Okay. And can you just, I guess I'm gonna ask
12 you to step down just one second because it's kind
13 of awkward here. Can you point to where you saw
14 that stuff that you just said.

15 A It was this way, right there.

16 Q Okay.

17 A It was B.

18 Q That one there?

19 A Uh-huh.

20 Q Okay. And you can take a seat again. I'm gonna
21 show you what's been marked for identification as
22 State's 2-A and 2-B. Do you recognize that?

23 A Yes, sir.

24 Q And what is that?

25 A That's the hoodie and the hat that I found.

SW - L. ALLEN - DIRECT

- 1 Q Okay. And ---
- 2 A At the apartment.
- 3 Q And the bottom photo?
- 4 A And that's 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 underneath it.

2 MR. JEPERTINGER: Okay. I'm gonna ask
3 that 3-A, 3-B, 6-A, 6-B, 7-A 7-B, 8-A, 8-B, 2-A, and
4 2-B all admitted into evidence.

5 THE COURT: Any objection?

6 MR. MEETZE: No, Your Honor.

7 THE COURT: Without objection, so
8 admitted.

9 (WHEREUPON, State Exhibits Nos. 2-A, 2-B,
10 3-A, 3-B, 6-A, 6-B, 7-A, 7-B, 8-A, 8-B
11 were admitted into evidence.)

12 BY MR. JEPERTINGER:

13 Q Now you saw those items on the stoop in front of
14 the apartment at What did you, what did you do
15 then when you saw that stuff?

16 A At that point Corporal Gowdy was like 15 feet
17 away from me. I said, I think I found the hoodie
18 and hat that the suspect had on, and he came over
19 there to take a look at it.

20 Q All right. And then what did you do?

21 A And at that point I started looking to see if I
22 could find anything else being in the area. And
23 when I did, I did like that with, you know, I shown
24 my flashlight around, and when I did I observed
25 someone laying underneath the car.

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 Q Approximately how far was it from the Cadillac
2 where, I guess he was under that Cadillac ---

3 A Yes.

4 Q ---how far was it from that clothing?

5 A Maybe 10 feet, 15 feet at the very most. It was
6 right there.

7 Q Tell me when to stop.

8 A It was about like this.

9 Q All right. When you were aware of the individual
10 being under the Cadillac in front of Layton
11 Street, what did you do?

12 A I drew my weapon because at that point we weren't
13 sure where the gun was or anything like that so I
14 drew my weapon and started telling him to get out
15 from underneath the car.

16 Q Did that individual get out from underneath the
17 car?

18 A At first he started to comply and was coming, in
19 the process of coming out; but when Corporal Gowdy
20 came around he started hesitating, didn't want to
21 come out right when we were trying to go get him to
22 come out.

23 Q How did you let Corporal Gowdy know that there
24 was an individual under the car?

25 A I screamed, he's under the car, he's under the

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 - DIRECT

1 photographs.

2 A Yes, sir.

3 Q Can you tell the jury what these photographs are?

4 A These are photographs of the individual right
5 after we handcuffed him after we had detained him
6 and had him detained so we could figure out what was
7 going on with him.

8 MR. JEPERTINGER: At this time I would
9 move State's 41-A and 41-B and 42-A and 42-B into
10 evidence.

11 THE COURT: Any objection?

12 MR. MEETZE: No objection.

13 THE COURT: Without objection, so
14 admitted.

15 (WHEREUPON, State Exhibit Nos. 41-A, 41-B,
16 42-A, and 42-B were admitted into
17 evidence.)

18 BY MR. JEPERTINGER:

19 Q Now on 41-A I -- what is he wearing again?

20 A A T-shirt.

21 Q What was the approximate temperature of that
22 morning? Was it cold or was it warm, was it like
23 Miami Beach, tell the ladies and gentlemen of the
24 jury.

25 A It was very cold that night.

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 as follows:

2 THE CLERK: Please have a seat, state your
3 full name for the record.

4 THE WITNESS: Catherine Leisy.

5 **DIRECT EXAMINATION**

6 BY MR. JEPERTINGER:

7 Q Special Agent Leisy, where do you work?

8 A I work with the South Carolina Law Enforcement
9 Division, more commonly known as SLED.

10 Q And how long have you worked for them?

11 A Nine years.

12 Q And what are your responsibilities at SLED?

13 A I am a forensic scientist assigned to the DNA
14 department. My responsibilities include processing
15 forensic cases, generating reports based on the
16 results and conclusions drawn on those cases, and
17 testifying to those reports if necessary. I also
18 assist in quality control testing within the
19 laboratory, as well as in the training of newly
20 hired personnel.

21 Q Do you have any special education to analyze DNA?

22 A I have a bachelor of science degree in genetic
23 engineering from Cedar Crest College in Allentown,
24 Pennsylvania. I have received in-house training by
25 other court qualified analysts in all the different

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 Leisy qualified as an expert in the field of DNA
2 analysis..

3 THE COURT: Mr. Meetze?

4 MR. MEETZE: No objection.

5 THE COURT: Ladies and gentlemen, let me
6 give you this short instruction before we go any
7 further. Normally a person cannot give opinion
8 testimony. Normally when a person testifies they
9 must testify as to what they either saw, heard, or
10 sense by smell, or something of that nature.
11 However, there is an exception when someone is
12 qualified because of education or experience. They
13 are permitted to give their opinion in certain areas
14 if the court qualifies them that way. This witness
15 will be qualified in the area of DNA analysis to
16 give opinion testimony in that area. It does not
17 mean, it does not mean that you must accept the
18 opinion, but it is evidences for you to use in any
19 way that you see fit and give it the weight and
20 credibility that you believe is appropriate.

21 Mr. Jepertinger.

22 MR. JEPERTINGER: Yes, sir. Thank you.

23 BY MR. JEPERTINGER:

24 Q Agent Leisy, could you tell the ladies and
25 gentlemen of the jury how you come to receive -- and

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 swabs submitted to you by the police of various
2 items per your report, correct?

3 A That's correct.

4 Q And I'm gonna just switch my report for your
5 report that I saw that you brought for note's day
6 cause this is in evidence. All right.

7 A Okay.

8 Q And you compared them with State's Exhibit 45 of
9 the buccal swab or mouth swabs of Antwan Jett, the
10 accused in this case, correct?

11 A That's correct.

12 Q Now what was submitted to you in terms of the
13 swabs independent of the buccal swab, what was
14 submitted to you?

15 A There were five sets of swabs submitted that was
16 itemized as SLED item one was a set of swabs from an
17 orange purple toboggan SLED item two is a set of
18 swabs from a blue toboggan. SLED item three were
19 swabs from a blue hat. SLED item four was swabs
20 from a green jacket and SLED item 5 were swabs from
21 a gray sweatshirt jacket.

22 Q Okay. And you ran your DNA test in the magic
23 DNA, machine, correct?

24 A Not necessarily magic, but yes, sir, I did run
25 profiles on all those items of evidence to compare

SW - C. LEISY - DIRECT

1 to the standard.

2 Q All right. And once that was done d 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

SW - C. LEISY - DIRECT

1 left their DNA on this particular object.

2 Q May I ask you this question, would that include
3 someone, say a third individual, from having worn
4 that item?

5 A Not necessarily. The fact an individual DNA is
6 not detected doesn't necessarily mean they weren't
7 in contact. It could be that not enough DNA
8 material was left that another individual left so
9 much more DNA that the minor contributor couldn't be
10 detected or just that the portion of material they
11 were in contact with was not the portion that was
12 detected.

13 Q All right. Now we'll go to item number 2, what
14 was that?

15 A SLED item 2 was identified as swabs from a blue
16 toboggan.

17 Q And what was, what were your results in regard to
18 item number 2?

19 A DNA profile developed from swabs from blue
20 toboggan is a mixture of at least four individuals
21 and due to the number of contributors to this
22 mixture it is not suitable for inclusionary purposes
23 but may be suitable for exclusionary purposes, and
24 Antwan Jett is excluded as a possible contributor in
25 this mixture.

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 marked for identification and admitted
2 into evidence.)

3 BY MR. JEPERTINGER:

4 Q In terms of item 3 can you tell what your
5 conclusions were in regards to that again?

6 A Yeah, the swabs from the blue hat I developed a
7 mixture of at least three individuals with Antwan
8 Jett being excluded as a possible contributor.

9 Q Okay. And in State's Exhibit 4 I see a date on
10 this report in terms of CODIS. Can you tell the
11 ladies and gentlemen of the jury what a CODIS is
12 again.

13 A A CODIS stands for Combined DNA Index System.
14 It's an electronic database maintained by the FBI
15 that contains DNA from files both found at crime
16 scenes as well as DNA from files of known citizens.
17 We can use this database to compare it to
18 unidentified profiles that we may develop to try
19 either do you have contributor or even potentially
20 that case to another case.

21 Q Okay. And there's a report generated from SLED,
22 correct?

23 A Yes, sir.

24 Q By whom?

25 A It was generated by DNA database unit and Miss

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 - C. LEISY - CROSS

1 A Yes, sir.

2 Q Okay, let us go to item number 5.

3 A SLED item number 5 is swabs from a gray
4 sweatshirt jacket. A DNA profile developed from
5 this item matches DNA pro file of Antwan Jett, and
6 the probability of randomly selecting an unrelated
7 individual having a DNA profile matching this item
8 is approximately one in 590 million.

9 Q Are you generally familiar with the population of
10 planet Earth?

11 A It's currently approximately 7 billion.

12 Q All right. And the figure here is one in -- what
13 is it?

14 A It's one in 590 million.

15 Q Okay. And based on that finding do you make
16 those numbers up, or how do you come to a conclusion
17 of one in 590 million?

18 A When we have a DNA profile from an item of
19 evidence that matches the profile of a known
20 individual, we enter any of the DNA types present in
21 that profile that meet our criteria into a data
22 base. The data base generates the frequency that we
23 would expect to find that particular profile in the
24 general population. And that is the one in 590
25 number. The database generates that that's how rare

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 Q And what are your responsibilities with the
2 police department?

3 A I am currently a corporal in the patrol division
4 which I'm a supervisor for the, half of the city
5 most of the time, which will be the north side, west
6 side, and east side of the city.

7 Q So the gentleman and lady we saw yesterday would
8 be people you supervise?

9 A Yes, sir, Officer Allen, Officer Blackmon, and
10 Officer Herman.

11 Q Okay. Can you tell the ladies and gentlemen of
12 the jury on this particular evening of
13 December 31st, 2013, did you receive a call or
14 dispatcher how that worked for you?

15 A Yes. We were dispatched to, I believe it was
16 seven — I got it right here. in
17 reference to a possible home invasion. Usually when
18 we have a dispatch like that I have multiple units
19 respond to that location, not just one or two.

20 Q Okay. And you drove over there yourself?

21 A Yes, I drove over there in my department issued
22 squad car.

23 Q Okay. And when you got on scene what did you do?

24 A As I arrived on scene, while I was in route
25 Officer Blackmon and Officer Herman arrived prior to

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 to the court reporter. We're gonna move this so
2 hopefully everybody can see it. All right, you get
3 back on scene. What -- you said you started looking
4 for suspects or evidence. What is the first things
5 you do when you get there?

6 A I didn't actually go to the house. I actually
7 parked out on Oakland Avenue here which would have
8 been right at Layton so ---

9 Q Layton is not here.

10 A Layton is not here, I apologize. I was -- parked
11 out on Oakland Avenue. And according to Officer
12 Blackmon and Officer Herman's description they ran
13 through the courtyard here off the apartments off of
14 Rose Street so I parked right here, and I called
15 other officers. I waited till I could get another
16 officer on scene because of the situation, again
17 being a home invasion with weapons would be
18 involved, have them come over, have officer come and
19 walk with me. We started walking back through the
20 area here.

21 Q Did you find anything that piqued your interest?

22 A Yes, sir. As we were walking back through, like
23 I say, they sat in there and ran between the
24 apartments. We started walking back and we found --
25 or myself and Officer Allen located a green in color

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 Q All right. And what did you find when you saw --
2 you can take a seat again.

3 A Okay.

4 Q And what did you find when you got over to that
5 blue Cadillac?

6 A I approached from the passenger side to start
7 with, and she was already on the driver's side. I
8 observed she had a weapon out. I didn't want to go
9 cross fire so I wouldn't get between her and the
10 gun, you know, in front of her gun. I approached on
11 the passenger side and I kind of quick peeked under
12 and I observed a black male head facing towards the
13 apartment up under the vehicle.

14 Q So if this is the front of the apartment ---

15 A He would have been facing this way, laying this
16 way.

17 Q All right. And was under the Cadillac?

18 A Yes, sir was under the Cadillac.

19 Q All right. And do you see the person in the
20 courtroom that you found under the Cadillac?

21 A Yes, that would be the defendant here, Mr. Jett.

22 Q All right. And what did you do when you saw Mr.
23 Jett under this Cadillac?

24 A I heard Officer Allen give him commands, come out
25 from under the car, come out. I seen him moving

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 Q Okay. And did you?

2 A Yes, I did place him in handcuffs.

3 Q Okay. And I think State's Exhibit 42-A and 42-B
4 would be about the time after you put him in
5 handcuffs; is that correct?

6 A Yes, sir. Yes, sir.

7 Q All right. Now after you placed him in handcuffs
8 and he's detained, what is the next things that you
9 did with him?

10 A I was attempting to get him out from under the
11 car, and he kept saying, why are you locking me up,
12 why are you detaining me. Before I do, make any
13 statements to anyone pertaining the case, I go ahead
14 and read their Miranda rights.

15 Q Okay, let's stop there. We hear Miranda rights
16 all the time. Do you have a copy of the Miranda
17 rights that you would have read to him?

18 A Yes, sir, I keep a copy in my wallet at all
19 times. That way, whenever I read it to anybody
20 there's no mistakes in it. It's read the same way
21 every time.

22 Q Did you, did you pull them out of your wallet on
23 December 31st, 2013?

24 A Yes, I do. I keep a little paper right here
25 where I can see through, but I always keep the paper

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 A At that point, no. Like I said, as I stated
2 before, at that point we were just trying to make
3 contact with him trying to get him detained, trying
4 to do our job at that point and get it under and
5 control the situation before we started any
6 questioning or talked to him about it.

7 Q All right. Now part of the arrest process, when
8 you arrest someone and you put cuffs on him like
9 we've seen in 42-A and 42-B, what do you do? Do you
10 stick him in a squad car, or do you do something
11 prior to confining him in a patrol vehicle?

12 A Prior to placing anyone in the back of our patrol
13 vehicle, by our city policy we check the back seat
14 of the vehicle to make sure there's no contraband
15 items in the vehicle. Then before you place anyone
16 in the vehicle you pat them down and you search
17 them. You remove any items in their pocket and
18 place it in a secure location and put them in the
19 vehicle.

20 MR. JEPERTINGER: I'm going to have this
21 marked.

22 (WHEREUPON, State Exhibit No. 49 was
23 marked for identification only.)

24 BY MR. JEPERTINGER:

25 Q Can you identify what's been marked as State's

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 that's okay.

2 Q Yeah, let's see what you got here. You -- count
3 it with me. If you'd come off the stand.

4 A (Complies.)

5 Q You got a 20, another 20 ---

6 MR. MEETZE: I would object, Your Honor.

7 BY MR. JEPERTINGER:

8 Q What do you have there?

9 THE COURT: What's the grounds for your
10 objection?

11 MR. MEETZE: He's testifying.

12 MR. JEPERTINGER: I am leading.

13 THE COURT: Restate your question.

14 MR. JEPERTINGER: I am leading.

15 THE COURT: Thank you.

16 BY MR. JEPERTINGER:

17 Q What is that denomination?

18 A I have one 20 and another 20, one 10, one 5, a 1,
19 1, another 1, a 1, a 1, a 1, 1, a 1, and a 2 dollar
20 bill.

21 Q All right. What else did you find on him?

22 A May I have a seat again, sir?

23 Q Yes, sir.

24 A Two hair combs.

25 Q All right.

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 - DIRECT

1 A Yes, sir. Officer Blackmon located a knife.
2 Officer Herman located a gun and I believe I also
3 located several pill bottles and the items taken
4 from the home.

5 Q Okay. Do you remember where you located the pill
6 bottles?

7 A Yes, sir, they were in the courtyard of the
8 apartments.

9 Q Okay. We're just gonna put this up real quickly
10 and ask you to step off the stand to show the ladies
11 and gentlemen of the jury.

12 A (Complies.)

13 Q All right.

14 A We were here when we located him. After we
15 detained him and had everything secured at that
16 location we started going back through the area. We
17 located several items. This is where I located the
18 pill bottles and several items, pill bottles and
19 other items.

20 Q Thank you. You can have a seat again.

21 A (Complies.)

22 Q Okay. I'm gonna show you what's been marked as
23 State's Exhibit 15-A, 15-B, 17-A, 17-B, 18-A and
24 18-B. Can you identify those pictures please?

25 A This is the apartment complex here across the

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 him I said, you know, you don't have a coat or
2 anything else. He said it was not cold outside.
3 When he leaves his house he wears his walking
4 gloves.

5 Q All right. Now he said it wasn't cold outside.
6 How -- what was the temperature that you recall?

7 A It was in the low 30s that night.

8 Q Were you cold?

9 A Yes, sir, I had to put a coat on.

10 Q All right. Thank you. That's all the questions
11 that I have. Please answer any questions that the
12 defense attorney may have for you.

13 THE COURT: Cross-examination.

14 MR. MEETZE: Thank you, Your Honor.

15 **CROSS-EXAMINATION**

16 BY MR. MEETZE:

17 Q Corporal Gowdy, you arrived in your patrol car
18 and you say you went up towards Oakland?

19 A I was on Oakland Avenue when I arrived in my
20 patrol car.

21 Q You were on Oakland. And when showing it on that
22 it was sort of -- you arrived on a area that was
23 sort of off of this aerial photo or just on the edge
24 of it?

25 A Just on the edge of it, sir.

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 - L. GOWDY - CROSS

1 Q And but you say in your mind you saw him sort of
2 reach back underneath the?

3 A That wasn't in my mind. He went under the car.

4 Q Right, I understand. But, and you were concerned
5 he may be reaching for a weapon is what you ---

6 A I was unsure what he was ---

7 Q You got ---

8 A I was unsure what was reaching for. Due to the
9 nature of the crime I wanted to make sure for his
10 safety and our safety.

11 Q You thought that was a possibility?

12 A Yes, sir.

13 Q Okay. And certainly that entered your mind?

14 A Yes, sir.

15 Q Okay. And you testified to that a little bit
16 ago?

17 A Yes, sir.

18 Q That you'd been informed that there was
19 investigation of an incident that involved a weapon?

20 A Yes, sir.

21 Q And so that's a natural thing for an officer to
22 assume in the circumstances you found yourself in a
23 little bit later?

24 A Yes. When he started going back under the car
25 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 A I did.

2 Q Can you tell the ladies and gentlemen of the jury
3 what did you do and when you got on scene?

4 A Yes. As investigator there were ten of us and we
5 pull nights on call; and that particular night I was
6 on call, so when a major crime like that happens our
7 patrol division is going to call investigations.

8 And I was called a little after four that morning,
9 and I was advised about the home invasion. At that
10 point in time they didn't have anyone detained.
11 They did, however, have some items of evidence that
12 they had found at the scene. So of course, they
13 told me at that point there was a dog that was gonna
14 respond because of the hat and that kind of stuff
15 they might be able to track. Once I got in my car
16 to go I heard that there was someone that was
17 detained. Once I arrived on scene I found out later
18 it was Mr. Jett. When I first got to the scene I
19 met with Corporal Gowdy. He advised me of the
20 situation, the information that was given to him.
21 We did a walk-thru of where all the evidence was
22 found, and then I went to meet with Mr. Jett. He
23 was detained in the back of a patrol vehicle, and
24 than I had my voice recorder with me. I think I
25 left it in the car. Corporal Gowdy gave me his

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

2 BY MR. JEPERTINGER:

3 Q Corporal Jones, when you were interacting with
4 Mr. Jett did you note any odor of alcohol about his
5 person?

6 A I did not.

7 Q All right. And what was the temperature like out
8 there?

9 A It was very cold. The jacket that I wore in here
10 today was the jacket I had to wear that night it was
11 so cold.

12 Q All right. Okay. After you interacted with him
13 and you -- what happened then?

14 A Once Mr. Jett didn't want to speak with me, then
15 I went over to the house at to
16 meet with the victims.

17 Q Okay. And I think the other officers have
18 testified to what was told, correct?

19 A Yes, sir.

20 Q Okay. At that point what did you do? Did you
21 ever call crime scene?

22 A I called crime scene before I ever met with Mr.
23 Jett. I mean, once I had a trail of evidence
24 because it went across the street and around the
25 apartment building, I had to get him out there to

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 A This was the CODIS hit notification that was
2 mailed from SLED on February 4th, 2015.

3 Q Now it was sent to Thomas Myers.

4 A That is the crime scene unit sergeant. He
5 actually had -- his log-in number was used so this
6 CODIS hit came back to him instead of to Matthews.

7 Q Okay. And that CODIS hit said on item number
8 three that Special Agent Leisy testified to here
9 earlier this morning, that there was a CODIS hit on,
10 I guess, a blue hat, that the CODIS hit came back to
11 a Matthew Thomas; isn't that correct?

12 A Yes.

13 Q All right. Did I ask you when you made me aware
14 of this to check out the whereabouts of one Matthew
15 Thomas during the time of this crime, December 31st,
16 2013?

17 A Yes.

18 Q Could you include Matthew Thomas as being
19 available to commit this crime on December 31st,
20 2013?

21 A I could not.

22 Q And why is that?

23 A He was arrested on December 22nd, 2013. He was
24 not released until March of 2014. I actually called
25 the Florence County Jail to confirm that he was

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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?

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1 THE COURT: Any objection?

2 MR. MEETZE: I object to that. It's --
3 well.

4 THE COURT: What's the grounds for your
5 objection?

6 MR. MEETZE: I just think it's a matter
7 for the jury.

8 THE COURT: Objection overruled.

9 Ma'am, you may answer the question.

10 THE WITNESS: A reason to arrest him? Is
11 that -- I'm sorry.

12 BY MR. JEPERTINGER:

13 Q Did you view his statement to you that he was
14 looking for a place to sleep and he, I guess,
15 sleeping it off for lack of better term, under a
16 car, did you find that to be a plausible and viable
17 reason?

18 A Yes, it was all the circumstance that led up to
19 that point.

20 Q No, did you view his, what he told you to be a
21 plausible or believable --

22 A Not believable with the concrete on car 'cause he
23 originally said I just fell asleep and didn't even
24 realize he was up underneath the car.

25 Q You didn't buy that?

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 motions as well as objections. Ladies and
2 gentlemen, you have heard, you all have heard all of
3 the testimony that you're going to hear in this
4 case. At this time, that which remains is closing
5 arguments by the attorneys and my charge on the law
6 to you, and then the case will be given to you for
7 you to decide. I will remind you, ladies and
8 gentlemen, what the attorneys tell you during their
9 closing arguments is not evidence in this case.
10 It's not evidence in this case. The manner and
11 method in which closing arguments will take place is
12 the State will go first, then Mr. Meetze will close,
13 and then I will give you the charge on the law.

14 Mr. Jepertinger, you're so recognized.

15 MR. JEPERTINGER: Thank you, Your Honor,
16 Mr. Meetze. I want to thank you first for your
17 careful attention. I've been able to look over here
18 during the course of this trial, and you've been
19 paying attention. And that's all we can ask both as
20 the Defense and for the State, pay careful
21 attention. And ultimately this case is gonna rest
22 in your hands, I guess, in a little bit, but I do
23 want to thank you on behalf of myself and Mr. Barr
24 and everybody involved with the State and with the
25 system as a whole.

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 common sense? Now, here's the saying, when common
2 sense makes good sense you need find no other sense
3 or you'll wind up with nonsense. In this particular
4 case, if you look at the evidence as we see it not
5 at one part and parse it out and say, well, you
6 know, I'm not sure about that, or look at this, oh,
7 I'm not sure about that, I look another this, I'm
8 not sure about that, I'm not sure about that. The
9 bottom line, I'm not asking to look at each
10 individual part, I want you to look as a whole.
11 Just like when you look at making a cake or baking a
12 cake, I should say, you don't look at baking soda or
13 baking powder and say we got a cake. Or the flour
14 or the eggs or the milk or what else you add to it,
15 you don't have a cake; but when you put all that
16 stuff together and you add it together and mix it
17 and you bake it, obviously you come up with a
18 desired result. You come out with something that
19 makes sense when you look at the whole instead of the
20 individual parts.

21 In this particular case, think about it,
22 Mr. Barr is at home. Now I know I have introduced a
23 gazillion photos, some that you have seen, some you
24 have not seen; but at 3:30 in the morning while he's
25 asleep in his living room in an easy chair, he gets

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. Jepertinger, 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 shouldn't ride the rail alone, but we don't know who
2 it is. I'll still be here, Lord willing, if they
3 catch the other two.

4 But it wasn't, it wasn't this guy with the
5 dreadlocks, was it? A young guy with a young voice.
6 Remember, that's what Michael Barr said, he had a
7 young voice. And you got to hear his young voice on
8 the tape and it sounded like a young guy's voice.
9 It wasn't a deep baritone, very light type voice.
10 It wasn't -- no offense to Mr. Propps -- but it was
11 not an elderly citizen. It wasn't a man; it was a
12 young person's voice.

13 As a result of what happened to Mr. Barr,
14 was they whipped him, they bait him. Now I
15 understand Mr. Barr's got a record. He paid his
16 debt to society. He was at his house at 3:30 in the
17 morning. No, he's not perfect; who is? But he got
18 whipped. And it was just not his words saying he
19 got whipped; but you remember Jamey McCall, the
20 African American police officer, when he got in
21 there his mouth was bleeding. He didn't do that to
22 himself, folks. He didn't do it to himself.

23 They go into his room to look for pills.
24 And they open the dresser drawers and look for what
25 they want because someone has got a Derringer on

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 saying you know, I checked it, you only got light
2 here, there was light there and light at the other
3 place and he showed you on this big aerial
4 photograph it's dark. We -- and it's woods back
5 there, I don't know where the third individual, I
6 don't know where he went, could have gone, who
7 knows. But what did I see? And this is critical.
8 Officer Herman said, I saw one of the guys run
9 across. What did he have on? Remember the term?
10 He didn't just say green hoodie. He didn't say gray
11 hoodie. What'd he say? The green, gray hoodie.
12 Green and gray (holds up evidence). The other one
13 dressed in dark, lost track of him. And you heard
14 both Officers Herman and Blackmon testify how they
15 chased him, how some, one got away, don't know what
16 happened to the other one. Well, I got a feeling
17 that the evidence shows we know what happened to the
18 other one. It's quite, it's really quite simple
19 when you think about it because it's all -- the
20 evidence is there if you choose to consider it. He
21 comes around the corner and he knows he's been
22 spotted by cops, two of them. One is in the car;
23 one's on his heels. The other guy is apparently
24 faster than he is. No question, I ain't gonna be
25 able to outrun Herman in the squad car, gonna make a

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 Now, think about this in light of the DNA
2 evidence. We'll talk about the DNA here in a little
3 bit as well. Think about this (puts gray hoodie
4 on). You got that Clemson T-shirt that he still has
5 on, which I've shown you ten million times in which
6 I can't find right now, but I will show you this and
7 you're aware of it. You know, he's got that T-shirt
8 on obviously, okay. There he's got gloves on; I'm
9 gonna talk about that. However, you remember, if
10 you got this up and you got this one (indicating)
11 right on top of it. Let me put it on just the way I
12 had it. I had it on backwards but you got the idea,
13 right? There is a good chance that this is
14 protected from your skin by this. And what did
15 Miss DNA expert say? What'd she say? Where did she
16 find his DNA? On the gray hoodie. And how did she
17 say it? She said it like this, item 5 swabs from
18 the gray sweatshirt jacket, the DNA profile
19 developed from item 5 matches the DNA profile of
20 Antwan Jett and has been entered into the State DNA
21 index system and the probability of randomly
22 selecting an unrelated individual having a DNA
23 profile matching this them is approximately what?
24 One in 590 million. I asked her, what's the current
25 population. First I asked her what's the population

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 But at that stage of the game, one, he's not dead;
2 two, it doesn't look like he's got any long lasting
3 injuries from that; but three, on the other side,
4 let's look at it from the policeman's perspective.
5 You got a home invasion where weapons have been
6 used. You got two officers whose lives have as much
7 merit as Antwan Jett's. No greater merit, no less
8 merit, equal merit. You had a loaded gun that was
9 dropped, but they hadn't found it at that point.
10 Another thing, and I'm aware of this, he's a young
11 guy. He's a young guy; but then again, if we just
12 look based on things on age, Mr. Barr is a middle
13 aged guy. I don't want sympathy in terms of age to
14 play any significance, and the Court will tell you
15 this, the bottom line is we're not trying him
16 because he's a young guy or Mr. Barr is not way a
17 guy or he's a black guy or Mr. Barr is a black guy
18 I'm a white prosecutor, none of that applies. The
19 question that you have to answer is if he committed
20 the crime because, folks, your greater obligation is
21 not to the State of South Carolina, not to Judge
22 Brown, not to this defendant. Your greater
23 obligation is to the truth of what happened on
24 December 31st, 2013 at 3:30 in the morning and
25 thereafter when they pull him out from under the

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 the car, and Detective Jones, did you smell any
2 alcohol on him? No. No. Why would he say that?
3 Why would he say that? Because he had to distance
4 himself from those clothes. He had to have a reason
5 why he's hiding under the car. And you know what
6 that all is, folks, it's consciousness of guilt of
7 saying lord, they caught me, I thought I was free
8 and clear but that police officer saw me running
9 across Rose Street and they're gonna try to link me
10 with these clothes and I'm gonna have to come up
11 with some excuse of why I am under a car when it's
12 in the low 30s and I got a T-shirt on. And this
13 business of saying I got walking gloves on, who in
14 the world in Florence South Carolina wears walking
15 gloves? I have never heard of such a thing. Gowdy
16 pulls him out, struggles a little bit to get the
17 handcuffs on him, goes into the wall, pulls it out,
18 starts reading the rights to him just like he did to
19 you this morning; and before he can get finished
20 with those rights, what does Antwan Jett tell him, I
21 don't know anything about that gun. But he hadn't
22 even mentioned a gun to him yet. I don't know
23 anything about that gun. That is someone that is
24 trying to distance himself from the scene of the
25 crime. Oh, it wasn't me. Now because at that

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 can get them, but is it just a mere coincidence
2 based on all the other factors? And that's another
3 little ingredient in making this cake, right, just
4 another little factor that you have to consider. In
5 and of itself it would mean nothing. But
6 considering what that man said about his lucky two
7 dollar bill and that man within about, I don't know,
8 10, 15 minutes being found with a two dollar bill,
9 when common sense makes good sense you need no other
10 sense.

11 Now I know what the DNA expert testified
12 to. We've gone over item 5. Item 1 was swabs from
13 that Clemson toboggan and it's a mixture of at least
14 two individuals. Item 3 was a blue, a blue hat, and
15 I think maybe it's that balaclava hat. It's a
16 mixture of at least three individuals. It's been
17 entered into CODIS, and that's one that came back to
18 Matthew Thomas when we realized Matthews Thomas was
19 in jail so he's out of the picture. And then item
20 2, swabs from a blue toboggan, I guess it was that
21 knit cap with the bill. That was a mixture of at
22 least four individuals and Antwan Jett was excluded
23 as a possible contributor to the mixture. Depending
24 on what Matthew, Tim Matthews' swab, and that's what
25 he swabbed. And then the green jacket is a mixture

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. Jeperfinger 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 that. But don't you think that would have been a
2 reasonable possibility and probability that he would
3 say, look, I was under this car and this guy comes
4 flying by, African American male about my size,
5 about my skin color, having my same type voice, and
6 I mean, he took off this green jacket and picked up
7 my gray sweatshirt and put it under there. He would
8 have sung like a canary at that point. Why did he
9 do it? I have no idea. You found and you saw the
10 pill bottles strewn across Rose Street found in the
11 yard where they were found across Rose Street, had
12 Michael Barr's name on it. They're in evidence.
13 Why did they do it? Maybe they wanted pills. They
14 got so very little money out of this, why do it.
15 It's unfortunate. It's so unfortunate. Two lives
16 and two families are affected by this without
17 question. A man that has to live with the thought
18 of someone breaking in, a young man accused of these
19 very serious crimes. I understand that; but once
20 again, I bring up to you, ladies and gentlemen, you
21 have an obligation to the truth and you swore that
22 you would truly try this case based on the facts and
23 the evidence in this particular case, not what's
24 happening outside in some other area, not what you
25 read in the newspaper, not what your philosophical

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. Jupertinger'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 that it was and I think everybody paid wonderful
2 attention to the case and the evidence and I
3 appreciate your patience while I talk to you a
4 little bit about all of that.

5 First off let me say a few things about
6 some of the things you just heard. First off, one
7 of the demonstrations that Mr. Jepertinger made was
8 with regards to if -- and again, you're gonna hear a
9 lot of, a lot of the State's case is about
10 assumptions as opposed to facts, what we assume as
11 opposed to what we know from the evidence. I submit
12 to you certainly trust more what you know from the
13 evidence more so than assumptions. But one of the
14 assumptions that he demonstrated to you was that
15 whoever was wearing -- well, that in his view of the
16 evidence Mr. Jett had on this gray hoodie and on top
17 of the gray hoodie was the green hoodie, and that in
18 trying to take those items off that with the natural
19 order of things that he removed the green hoodie
20 quickly and also then the gray hoodie. If the gray
21 hoodie was on underneath it would be on top of the
22 green hoodie and showed you a picture that he
23 indicated demonstrates that. And I would say that
24 this picture demonstrates the exact opposite. That
25 certainly appears to be a green hoodie on top of the

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 descriptions he made. Officer Herman says he saw a
2 green, gray hoodie running in the dark by him, they
3 he got in his patrol car and drove off. And of
4 course, that's testimony being given. He's an
5 officer, he's involved in this case, he knows the
6 evidence coming in and what is in evidence so I
7 submit to you that nobody saw a gray hoodie.
8 Everybody's testimony was that saw was green hoodie.

9 Second of all, like I said, you know,
10 there's more than one way a to skin a cat. There's
11 more than one way to view a picture. But certainly
12 I'll submit to you that this picture shows green
13 hoodie on top of gray hoodie and that is how — and
14 who knows when these were taken. Maybe one was
15 taken when they first got located and another one
16 was taken after they sort of were able to spread
17 them out a little bit. If that's the order of
18 things, this is how they were first found. And if
19 this is how they were first found, they're found in
20 exact possession that was demonstrated to you
21 earlier. Like I said, this case is about assumption
22 versus facts.

23 The State has built a case based on a
24 whole lot of assumptions and I submit to you that
25 assumptions create reasonable doubt. If you've got

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 complexion of his skin and that it was medium
2 complexion, or brown. And he also said, like mine.
3 And I will submit to you that Mr. Jett's complexion,
4 Mr. Barr's complexion different. Mr. Barr's
5 complexion, darker complexion. So there's
6 reasonable doubt right there. If Mr. Barr's
7 description is that his, that this assailant had the
8 same complexion as him, I would submit to you that
9 that does not fit Mr. Jett and that's reasonable
10 doubt.

11 The second thing is, says that individual
12 had a young voice so the assumption on the young
13 voice is was a young person, okay. That's another
14 assumption, okay. Young voice doesn't necessarily
15 mean young person. Mike Tyson's voice has been
16 described as being a young voice many times.
17 There's other examples. It doesn't mean that the
18 individual is young. It's just a descriptive term;
19 but to take a leap to say he was a young man or a,
20 you know, young adult or however you want to phrase
21 it, that's an assumption, we don't know that. We've
22 got a description that is very, very vague. That is
23 the fact. They want you to assume this based on
24 medium complexion and young voice. But the fact is
25 that is an extremely vague description that does not

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 And remember, as I speak with you -- and the judge
2 will talk to you later, proof beyond a reasonable
3 doubt means as Mr. Jupertinger says, it doesn't mean
4 proof beyond any and all doubt. It doesn't mean
5 proof beyond a shadow of a doubt. Nobody is going
6 to stand up here and try to tell you that it is, but
7 it is a very high burden, prove beyond a reasonable
8 doubt and you can find reasonable doubt based on not
9 only the evidence that you hear, but also the
10 evidences that you don't hear. And one thing that
11 you don't hear is, could any of these items found on
12 Mr. Jett when he was located, could any of them be
13 determined to have come from that location? The
14 answer is no. They found two dollar bill so the
15 assumption is that it came out of that house that
16 was Mr. Barr's. But they didn't show that two
17 dollar bill to Mr. Barr to see if he could identify
18 it. If it's his lucky two dollar bill he'd be able
19 to identify it like that, didn't have that
20 opportunity. They didn't show it to them. That
21 evidence that you have, that's reasonable doubt.
22 It'd be good to have it if it existed, don't know,
23 don't have a chance. Evidence that you're not
24 getting to hear, that can create reasonable doubt as
25 well. So Mr. Barr comes in first time in court and

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 to determine whether or not he's telling the truth
2 because they didn't take the steps in their
3 investigation to make that determination. It
4 wouldn't have been hard; it would have been quite
5 easy. Not evidence before you to consider. That
6 creates reasonable doubt 'cause they're asking you
7 to make all the these assumptions. And assumptions
8 are not what takes people's liberties from them. It
9 should be based on the facts and what we know.

10 The green hoodie, make no mistake about it,
11 the State's theory in this case is that the
12 individual that was wearing the green hoodie is
13 Antwan Jett. The testimony from Mr. Barr was that
14 three folks were in that house that committed this
15 crime and that they all three ran out of the back of
16 the house. Police were arriving at about that same
17 time. Officers that arrived around that time
18 parked, they said, right next to one another.
19 Officer Herman, I believe, and Officer Blackmon,
20 they both saw two running in the same direction.
21 Neither one of them saw the third guy, okay. It's
22 an assumption to say he ran off in a different
23 direction. Well, it's not assumption to say he
24 wasn't running with those guys. To say what
25 direction he was running in, that's an assumption

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 that. But that hoodie was tested. They're telling
2 you that that's the hoodie that the individual
3 committed that crime was wearing. That hoodie was
4 tested for DNA and it had DNA in it, but it wasn't
5 Antwan Jett. Now that is a fact. If that's the
6 hoodie that the person was wearing that committed
7 this crime. Then Antwan Jett did not commit this
8 crime. That is what the DNA evidence tells you.
9 That is a fact. There's DNA in here; it excludes
10 Antwan Jett as a contributor. All right, that is a
11 fact. That's not assumption. And the facts are
12 what lead you to a just decision in this case.

13 You've got -- three hats were found: The
14 one described as the Clemson hat, and then two other
15 hats, a toboggan type hat that had a bill, and the
16 hat with the fur and all in it. Three hats, three
17 alleged individuals that committed this offense,
18 three hats tested for DNA, none of them tested to be
19 the DNA of Antwan Jett. They all contained DNA, two
20 of them completely excluded Antwan Jett. The other
21 one, the Clemson hat, had a mixture of two, the
22 majority contributor not Antwan Jett, okay. So the
23 DNA in all of them, three hats, none of them Antwan
24 Jett; that's reasonable doubt. That is a fact;
25 that's not an assumption. Those are facts and those

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 and of course, that's evidence before you. And I
2 think that's a really good example of how things can
3 be misleading sometimes -- not misleading, I guess
4 that's a bad choice of words, but we're conditioned
5 sort of through TV. There's countless kinds of
6 crime, TV shows, dramas, you know, and then the real
7 life shows like Dateline NBC and 48 Hours, and
8 there's a whole channel called the ID channel that
9 focuses on, you know, real criminal investigations,
10 this kind of thing. And we're conditioned and been
11 conditioned and been conditioned that DNA evidence
12 is the ultimate. And it's -- this is an example of
13 where, you know, they say it's better than
14 fingerprints, it's the ultimate evidence. But this
15 is evidence to where what DNA is telling you is at
16 some point in time somebody has come in contact with
17 something and been able transfer the DNA. Matthew
18 Thomas' DNA are on these articles; but as they told
19 you, it couldn't be him, he was locked up.
20 Everybody knows where he was so he's not a subject
21 of this investigation. I guess he's kind of lucky;
22 otherwise, he probably would be charged. Now that's
23 an assumption. But with that as it may, it's just
24 an example that everything is not as we're always
25 told and taught and sort of conditioned to think

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 you go through vigorous exercise, regardless of
2 whether it's warm, cold, or in between, you're gonna
3 break a sweat and you sweat the most once you finish
4 with the vigorous exercise so it all pours out of
5 you, all right. And the testimony is that Mr. Jett
6 was located very quickly when all this was going on.
7 I think Officer Blackmon's testimony was he was
8 running and chasing the one suspect that got away,
9 and right at that time he was hearing over the radio
10 they got another suspect, so this is bang, bang,
11 happened very quickly.

12 And you've got all these pictures are in
13 evidence. I submit to you if Antwan Jett had been
14 running at full speed from that house to that car,
15 he wouldn't be as dry as a bone without any kind of
16 perspiration or whatever; but there's certainly no
17 testimony and no evidence presented to you that his
18 appearance was anything other than completely devoid
19 of any kind of perspiration. And another thing,
20 Officer Blackmon, he's the one that ran and Officer
21 Herman, he left in his car but Officer Blackmon, he
22 ran. He was on the foot chase and he ran that
23 distance himself, and he told you that he was a fit
24 guy. You could tell in looking at him and he keeps
25 himself in good shape. And when he got around to

1 the Layton Street he was out of breath, he was done.
2 He had to pull back the reigns. 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 chasing, he would have been. The fact that he
2 wasn't creates a reasonable doubt.

3 Now when Mr. Jepertinger got up and he
4 talked to you in opening statement, one of the first
5 things he said, may have before the first thing, but
6 if it's one of the first things is that there's no
7 place like home. And he said that to kind of
8 illustrate that you should feel protected in your
9 own house, you know, and I think that's something
10 that everybody can agree with. And it's terrible
11 when you lose that confidence that your home is a
12 safe, and nobody would dispute that. And what
13 happened on this evening is a terrible thing, and
14 nobody would dispute that. But I submit to you that
15 it is equally, equally as terrible to be falsely
16 accused of this kind of thing. Two wrongs don't
17 make a right. You have the ability to keep that
18 from happening. You have the ability to make sure
19 that Antwan Jett gets justice, and I submit to you
20 that justice in this case is to bring back a verdict
21 that speaks the truth, and that is a verdict of not
22 guilty. Thank you.

23 THE COURT: Ladies and gentlemen of the
24 jury, it is now my duty as trial judge under the
25 Constitution of this State to charge and instruct

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 create any presumption or inference of guilt. The
2 indictment is simply the formal written instrument
3 which contains the charges made against the
4 defendant. It is the formal document by which this
5 case is brought into this court.

6 Now as I mentioned above, the indictment
7 in this case alleges four separate and distinct
8 offenses against the defendant. You must decide
9 each charge separately on the evidence and the law
10 applicable to it uninfluenced by your decision as to
11 any other charge. The defendant may be convicted or
12 acquitted on any or all of the offenses charged. As
13 stated previously, you will be asked to write a
14 separate verdict of guilty or not guilty for each
15 charge alleged in the indictment. Now it is vital
16 to understand, ladies and gentlemen, that the
17 defendant is presumed under the law to be innocent
18 of these charges. The defendant has no obligation
19 to prove his innocence. It is a fundamental rule of
20 our law that a defendant irrespective of the
21 seriousness of the charges against him is always
22 presumed innocent of the crimes for which he is
23 charged unless and until his guilt has been proven
24 by evidence that satisfies you, the jury, beyond a
25 reasonable doubt.

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 is not guilty, you must give him the benefit of the
2 doubt and find him not guilty.

3 Jurors, please understand that reasonable
4 doubt may arise from evidence which has been
5 presented in the case or from the lack of evidence
6 in the case. It is your responsibility to determine
7 whether or not reasonable doubt exists as to the
8 guilt of this defendant. I charge you that the
9 defendant is entitled to every reasonable doubt
10 arising in the whole case. Now if upon any issues
11 of fact essential to conviction and a verdict of
12 guilty you have a reasonable doubt as to how that
13 issue should be resolved, it would be your duty to
14 resolve that reasonable doubt in favor of the
15 defendant.

16 Now during this trial you and I had
17 separate duties to perform. As the trial judge it
18 is my responsibility to preside over this trial, and
19 I also have the duty to rule upon the admissibility
20 of the evidence offered during the process of this
21 trial. In that regard, ladies and gentlemen, you
22 are to consider only the competent evidence before
23 you and you are to disregard from your mind any
24 testimony ordered stricken from the record of this
25 case during the progress of the trial, if there was

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 about the facts. As jurors it is your duty alone to
2 determine the effect, value, weight, and truth of
3 the evidence presented during the course of the
4 trial.

5 Now in determining what the facts in this
6 case are you must judge the credibility which simply
7 means the believability of the witnesses and the
8 value of weight to be given to their testimony. You
9 alone must decide the force, effect, and truth of
10 the testimony. In making this decision there are
11 many things you may and should take into
12 consideration, such as the appearance and manner of
13 the witness on the stand, a characteristic often
14 referred to as the demeanor of the witness. Was the
15 witness forthright or hesitant? What was the
16 witness's testimony? Was the witness's testimony
17 consistent or did it contain discrepancies? What
18 was the ability of the witness to know the facts
19 about which he or she testified? Did the witness
20 have a cause or reason to be biased and prejudiced
21 in favor of the testimony that he or she gave? Was
22 the testimony of the witness corroborated or made
23 stronger by other testimony and evidence, or was it
24 made weaker or impeached by such other testimony and
25 evidence. As jurors please understand you have the

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

10 Now I'll tell you, ladies and gentlemen,
11 that a person who has a prior or a past criminal
12 record is competent to testify during a trial. A
13 past record does not effect the ability of that
14 witness to testify. The past record may only be
15 considered by you, if at all, in determining the
16 witness' believability. Remember, you are the sole
17 judge of the facts in this case and of the
18 believability of any and all of the witnesses.

19 Now you also heard the testimony of
20 someone who was qualified as an expert witness. At
21 that time I gave you a charge on that and I will
22 give it to you again. The rules of evidence, ladies
23 and gentlemen, ordinarily do not permit witnesses to
24 testify to opinions or conclusions. An exception to
25 this rule exist for witnesses we call expert

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 made the statement. If the defendant did make the
2 statement you must determine whether the statement
3 we made by the defendant voluntarily and of his own
4 free will. This means that the statement was not
5 caused by pressure, force, fear, threats, coercion,
6 or intimidation, or by hope or a promise of leniency
7 or a reward of any kind. In determining whether the
8 statement was voluntary, you should consider both
9 the characteristics of the defendant and the details
10 of the questioning. Some of the factors that you
11 must consider are the age of the defendant, the
12 defendant's education or lack of education, the
13 defendant's mental ability or capacity, the
14 defendant's IQ or intelligence, the defendant's
15 background and environment, the place and length of
16 the detention, the nature of the questioning, and
17 the advice or lack thereof, to the defendant of his
18 constitutional rights, including but not limited to
19 the right to remain silent, that any statement could
20 be used against him in a court of law, the right to
21 have a lawyer present, that if he could not afford a
22 lawyer a lawyer would be appointed to represent him
23 without any cost, and that he could stop making a
24 statement at any time. You must carefully consider
25 all of the surrounding circumstances before you give

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 you, is on the State. The defendant is not required
2 to prove his innocence. The burden of proof remains
3 on the State to prove guilt beyond a reasonable
4 doubt.

5 Ladies and gentlemen, if a crime is
6 committed by two or more people acting together in
7 committing a crime, the act of one is the act of
8 all. A person who joins with another to commit an
9 unlawful act is criminally responsible for
10 everything done by the other person which happens as
11 a probable or natural consequence of the acts done
12 in carrying out the common plan and purpose. For
13 example, two people can be guilty of killing another
14 person when only one of the two had a gun, there was
15 only one bullet and only one of the two fired the
16 shot that caused the death. If two or more people
17 are together acting together, assisting each other
18 and committing the offense, the act of one is the
19 act of all, or as it is sometimes said, the hand of
20 one is the hand of all.

21 Prior knowledge that a crime is going to be
22 committed without more is not sufficient to make a
23 person guilty of that crime. Mere knowledge that
24 another person is going to commit a crime, even if
25 the defendant is present when the crime is

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 design or intent to commit the crime and the crime
2 must have been committed pursuant, thereto, with a
3 person aiding and abetting by some overt act.
4 Intent means intending the result which actually
5 occurs, not accidentally or involuntary. Intent may
6 be shown by acts and conduct of the defendant and
7 other circumstances from which you may naturally and
8 reasonably infer intent. The State must prove these
9 elements beyond a reasonable doubt.

10 Now ladies and gentlemen, in order to
11 establish criminal liability criminal intent is
12 required. For example, the mental state required to
13 be proven by the State for a particular crime might
14 be purpose intent, knowledge, recklessness, or
15 criminal negligence. Criminal intent must be proven
16 by the State beyond a reasonable doubt. Criminal
17 intent is always a matter that must be determined by
18 the jury from the circumstances surrounding the
19 situation. There is no way, ladies and gentlemen,
20 to prove intent to a mathematical certainty. There
21 is no way that medical science can dissect a
22 person's brain and determine what the person had in
23 mind so the law says that criminal intent may be
24 inferred from the circumstances shown to have
25 existed. This is how you make a determination of

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 temporarily absent from the building. Now in order
2 to prove the defendant entered the dwelling the
3 State does not have to show that the defendant's
4 entire body entered the dwelling. The smallest
5 entry is sufficient. It may be any part of the body
6 such as a hand or foot, or even an instrument such
7 as a hook or other instrument. In addition, the
8 State does not have to prove that force was used to
9 gain entry. If a person enters a building by using
10 deception, artifice, trick, or misrepresentation to
11 get consent to enter, this is an entry without
12 consent. Next, the State must prove beyond a
13 reasonable doubt that the defendant intended to
14 commit a crime, either a felony or a misdemeanor at
15 the time of the entry. The mere entry into a
16 dwelling without consent is not burglary. If the
17 intent to commit a crime is formed after the entry,
18 it is not a burglary. On the other hand, if the
19 defendant intended to commit a crime at the time of
20 the entry, it is a burglary even if the intent was
21 abandoned after the entry. It does not matter that
22 the intended crime was not completed. Intent may be
23 shown by acts and conduct of the defendant and other
24 circumstances from which you may naturally and
25 reasonably infer intent.

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 have been done with violence or by putting the owner
2 of the property in fear of violence.

3 Finally the State must prove beyond a
4 reasonable doubt that the defendant was armed with a
5 deadly weapon during the robbery. A deadly weapon
6 is any article, instrument, or substance which is
7 likely to cause death or great bodily harm. Whether
8 an instrument has been used as a deadly weapon
9 depends on the facts and circumstances of each case.
10 The following are examples of instruments which may
11 be deadly weapons: A pistol, a shotgun, a rifle, a
12 dirk, a dagger, a knife, a slingshot, metal
13 knuckles, a razor, gasoline, a fire bomb or Molotov
14 cocktail and lighter fluid. A gun may be a deadly
15 weapon even if it is not operating.

16 Now the defendant is also charged with
17 possession of a weapon during the commission of or
18 attempt to commit a violent crime. The State must
19 prove beyond a reasonable doubt that the defendant
20 was in possession of a firearm or visibly displayed
21 what appeared to be a firearm during the commission
22 of a violent crime. A firearm means any machine
23 gun, automatic rifle, revolver, pistol, or any
24 weapon which will, is designed to, or may be readily
25 converted to expel a projectile. In order to find

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 that the agreement be a formal one, that it be in
2 writing, that the persons hold a meeting and
3 expressly state the terms of the common plan, or
4 that the agreement be stated in words between them.
5 The agreement of a criminal conspiracy may come into
6 being through an implied mutual understanding. The
7 willful, intentional, and knowing adoption by two or
8 more persons of a common plan is sufficient. No
9 overt acts is needed to be shown to establish a
10 conspiracy. A conspiracy may be shown by
11 circumstantial evidence and the conduct of the
12 parties. In order to convict the defendant of
13 conspiracy the State must prove beyond a reasonable
14 doubt not only that the defendant knew of the
15 unlawful conduct, but that the defendant agreed to
16 combining with the other person or persons for the
17 purpose of accomplishing the unlawful conduct.

18 Now ladies and gentlemen, I am now drawing
19 near the end of my charge. I want you to clearly
20 understand that you are not partisans or advocates
21 for the State of South Carolina or the Defendant.
22 It is your duty by your joint deliberation to
23 determine the truth in this case giving to the
24 defendant the benefit of every reasonable doubt on
25 each and every issue. Then, to the facts which you

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 Forelady, to write to the jury. Ladies and
2 gentlemen, I want you to further understand that the
3 order in which the choices of verdict appear on the
4 verdict form are not suggestive of any verdict on
5 the part of this Court. The verdict in this case is
6 to be determined by you, the jury, not the Court.
7 Furthermore, ladies and gentlemen, please understand
8 that even though I will give the verdict form to the
9 Forelady, it is not her verdict alone it is the
10 verdict of all twelve of you. And I emphasize
11 again, that it must be unanimous.

12 I'm also going to give you a copy of these
13 instructions in written form. During your
14 deliberations you may return to the instructions to
15 guide your decision making. You must consider the
16 instructions as a whole and not follow some and
17 ignore others. Please return these instructions,
18 Madam Forelady, to the Court at the time that your
19 verdict is rendered. I am now going to ask you to
20 retire to the jury room, but do not, do not begin
21 your deliberations until you're instructed to do so.
22 The law requires that I now consult with the
23 attorneys to make sure that I have not left anything
24 out of these instructions. Now after I have checked
25 with the attorneys the bailiff will bring in a copy

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 please step to the jury room but do not begin your
2 deliberations until you're instructed to do so.

3 (WHEREUPON, the jury was removed from the
4 courtroom at 3:52 p.m.)

5 THE COURT: Any exceptions or objections
6 to the charge by the State?

7 MR. JEPERTINGER: Yes, Your Honor, and I'm
8 sorry to do this, but there was one section when you
9 were going over possession of a weapon during the
10 commission of a violent crime, and I noticed that on
11 the form that you'd given us earlier in the day
12 there was attempted armed robbery. You didn't say
13 it. You said armed robbery is a violent crime.
14 He's also charged with burglary first which also
15 happen to be a statutorily violent crime under
16 16-1---

17 THE COURT: Correct.

18 MR. JEPERTINGER: ---60. I think they
19 need to be informed that because I don't know what
20 they're gonna decide in this case. And the other
21 matter that I would bring up too, and I guess it
22 would be to your verdict form, if he is found not
23 guilty of the burglary first and not guilty of the
24 armed robbery, the possession of a weapon during the
25 commission of violent crime becomes a nullity, Your

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 THE CLERK: Members of the jury, have you
2 agreed upon a verdict?

3 THE FORELADY: Yes.

4 (Verdict form was tendered to the Court.)

5 THE COURT: All right, the verdict appears
6 to be in order. You may publish the verdict.

7 THE CLERK: State of South Carolina versus
8 Antwan Jamal Jett, indictment 2014-GS-21-0525. As
9 to the charge of burglary first degree: We, the
10 jury, unanimously find the defendant Antwan Jamal
11 Jett guilty. As to the charge of armed robbery:
12 We, the jury, unanimously find the defendant Antwan
13 Jamal Jett guilty. As to the charge of criminal
14 conspiracy: We, the jury, unanimously find the
15 defendant Antwan Jamal Jett guilty. As to the
16 charge of possession of a possession of a weapon
17 during a violent crime: We, the jury, unanimously
18 find the defendant Antwan Jamal Jett guilty.
19 Signed, foreperson Terrance Holmes, dated
20 April 22nd, 2015.

21 Members of the jury, if this is your
22 verdict please raise your right hand.

23 (All jurors complied.)

24 THE CLERK: That is everyone.

25 THE COURT: Anything from the State?

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 his age. I know from the time I was 18 or 19 years
2 old, if you add 15 years to when I was in my early
3 30s, I certainly, there was a lot of changes in my
4 life and certainly I think that there'll be a lot of
5 changes in his life and I certainly hope it's for
6 the positive. I think that there's certainly a
7 chance for that. His mother and father have been
8 here, and certainly there's nothing that I've been
9 able to tell from them that would have been any
10 indication that this would have been a situation
11 that their child found themselves in. I think
12 they're supportive parents. I think they're very
13 loving parents. Certainly I think they taught him
14 and other children of theirs right from wrong and to
15 do right. I know they're not proud to have to stand
16 here, but certainly they love their son and are here
17 for him in that regard.

18 Your Honor, he is young. Certainly the
19 Court has in its discretion almost can sentence him
20 to pretty much anything the Court wants to except
21 for under 15 years or and up to life, but I will
22 just submit to the Court that I don't feel like that
23 this is a young man who certainly needs to have the
24 rest of his life taken from him. We would ask the
25 Court to show the mercy that would allow him to

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 THE FATHER OF DEFENDANT: No.

2 MR. MEETZE: I don't know if this is the
3 right order of things, and I would say at this time
4 for the record make a motion for a new trial in this
5 matter based on the verdict not being consistent
6 with the evidence presented for the record. I'll
7 make that motion. But otherwise, Your Honor, would
8 again, we're just asking for whatever mercy the
9 Court believes will be appropriate on Mr. Jett's
10 behalf.

11 THE COURT: With regards to your motion
12 for new trial, based upon that which was stated on
13 the record the Court respectfully denies that. As
14 previously stated the Court believes that there was
15 sufficient evidence for this case to go to the jury;
16 therefore, to render a verdict in this case based
17 upon the evidence that was presented.

18 State have any position on sentencing,
19 Mr. Jepertinger?

20 MR. JEPERTINGER: No, sir.

21 THE COURT: You know, when I was elected
22 to this position they make us judges sit with other
23 judges for a couple of weeks in criminal court and
24 in state court, I mean in criminal court and civil
25 court two weeks and then they kind of put us out on

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

1 a period of five years. On the armed robbery, the
2 defendant is hereby committed to the State
3 Department of Corrections for a period of 25 years.
4 On the burglary first, the defendant is hereby
5 committed to the State Department of Corrections for
6 a period of 30 years. Give him credit for 478 days
7 as to each count, and they're to run concurrent.

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10 * * * END OF REQUESTED TRANSCRIPT OF RECORD ***
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WITNESSES

Felicia Cox Jones Florence Police Department

John C. Jepertinger

ARREST WARRANT NUMBER

2013A2120202100 2014GS2100525A

2013A2120202105 2013A2120202107

2013A2120202108 2013A2120202109

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury

Date:

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

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

FILED
2014 APR -3 PM 1:11
COMPT. REEL-SHEARIN
CLERK, GS
FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

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

At a Court of General Sessions, convened on APRIL 3, 2014 the Grand Jurors of
 FLORENCE County present upon their oath:

COUNT ONE- BURGLARY FIRST DEGREE

That ANTWAN JAMAL JETT did in Florence County, on or about December 31, 2013, enter the dwelling of Michael Barr and Britney Foxworth, located at _____, Florence, SC, without consent and with the intent to commit a crime therein; and said defendant entered the dwelling in the nighttime; in violation of Section 16-11-0311, S.C. Code of Laws, 1976, as amended.

**COUNT TWO- ASSAULT WITH INTENT TO COMMIT CRIMINAL SEXUAL CONDUCT
 FIRST DEGREE**

That ANTWAN JAMAL JETT did in Florence County on or about December 31, 2013, assault with intent to commit Criminal Sexual Conduct one Britney Foxworth, by committing, or attempting to commit, a sexual battery in and upon the said Britney Foxworth, by using aggravated force and aggravated coercion upon her during the commission of a burglary; in violation of Section 16-03-0656, S.C. Code of Laws, 1976, as amended

**COUNT THREE - POSSESSION OF A WEAPON DURING THE COMMISSION
 OF A VIOLENT CRIME**

That ANTWAN JAMAL JETT did in Florence County, on or about December 31, 2013, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime to wit: burglary first degree, assault with intent to commit criminal sexual conduct first degree and armed robbery, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

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

COUNTY OF
STATE

Florence

VS.

Antwan Jamal Jett

AKA:

Race: Black Sex: M Age: 19

Address:

City/State/Zip: Florence, SC 29505

DL#: SID#:

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

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

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

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2014-GS-21-00525

A/W#: 2013A2120202100

Date of Offense: 12/31/2013

S.C. Code § 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Burglary / Burglary (After June 20, 1985) - First degree (15- natural life)

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The 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. Depertinger, John C

9826 SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: All convictions of 4-22-15☐ 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

Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$
TOTAL		\$ 1051.00

PTUP

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

\$ paid to Public Defender Fund

Other:

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA 217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

2180
4-22-15

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

199

COUNTY OF Florence
 STATE VS
Antwan Jamal Jett
 AKA:
 Race: Black Sex: M Age: 19
 DOB: SS#:
 Address:
 City, State, Zip: Florence, SC 29505
 DL#: SID#:

INDICTMENT/CASE#: 2014-GS-21-00525A/W#: 2013A2120202105Date of Offense: 12/31/2013S.C. Code § 16-23-0490CDR Code #: 0549

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 ☐ PLEADSTO: 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 (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST:

John C. Lepertinger
Lepertinger John C9826
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 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:☒ 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

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 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 (SCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>15.00</u>
TOTAL		\$ <u>105.00</u>

Clerk of Court/ Deputy Clerk

Court Reporter: FRANKS

SCCA/217 (03/2011)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel

§ 47-12 requires \$500 be paid to Clerk during probation

Presiding Judge

Judge Code: 2180Sentence Date: 4-22-15

STATE OF SOUTH CAROLINA

200
COUNTY OF Florence
STATE VS.
Antwan Jamal Jett
AKA:
Race: Black Sex: M Age: 19
DOB: SS#:
Address:
City, State, Zip: Florence, SC 29505
DL# SID#

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

In disposition of the said indictment comes now the Defendant who was
TO: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

☒ 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. Jernigan 9826 SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 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: 478 days 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.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS: _____

Recipient: _____

*Fine:
§ 14-1-206 (Assessments 107.5%) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 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(I) (Vehicle Assessment) \$40/ea \$
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
3% to County (if paid in installments) \$
TOTAL \$ 105.00

Clerk of Court/ Deputy Clerk U. Bayne
Court Reporter: FK Batus Bay
SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014-GS-21-00525

A/W#: 2013A2120202109

Date of Offense: 12/31/2013

S.C. Code § 16-17-0410

CDR Code #: 0049

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

(0-5)

☒ CONVICTED OF or ☐ PLEADS

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. Jernigan 9826 SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 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: 478 days 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.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS: _____

Recipient: _____

*Fine:
§ 14-1-206 (Assessments 107.5%) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 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(I) (Vehicle Assessment) \$40/ea \$
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
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.

Presiding Judge: 2180

Judge Code: 2180

Sentence Date: 9-22-15

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

201

COUNTY OF Florence
 STATE VS.
Antwan Jamal Jett
 AKA: _____
 Race: Black Sex: M Age: 19
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: Florence, SC 29505
 DL#: _____ SID#: _____

INDICTMENT/CASE#: 2014-GS-21-00525A/W#: 2013A2120202107Date of Offense: 12/31/2013S.C. Code § 16-11-0330(A)CDR Code #: 0139

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 ☐ PLEADSTO: 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. Jernigan 9826
Jernigan, John C SC Bar# _____ Defendant Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 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: All convictions - 22-154
☒ 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: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5%)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 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	\$ <u>5.00</u>
3% to County (if paid in installments)		\$
TOTAL		\$ <u>105.00</u>

_____ 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: M. B. B. B.Court Reporter: F. B. B. B.

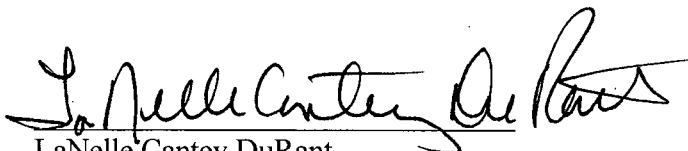
SCCA/217 (03/2011)

Presiding Judge: P. B. B. B.Judge Code: 2160Sentence Date: 4-22-15

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Amended Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Amended 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 28th day of September, 2017.



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

RECEIVED

SEP 28 2017

SC Court of Appeals