

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JAMES ANTHONY HAYNES,

APPELLANT

APPELLATE CASE NO. 2017-001681

RECORD ON APPEAL

VICTOR R. SEEGER
Appellate Defender

ALAN WILSON
Attorney General

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

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF CHARLESTON	)	DOCKET NO. 2015-GS-10-4790
	)	2015-GS-10-4793
	)	2015-GS-10-4794
	)	2015-GS-10-4795
	)	
STATE OF SOUTH CAROLINA	)	
	)	
	)	
vs.	)	
	)	
JAMES ANTHONY HAYNES	)	
	)	
Defendant	)	
	)	
	)	
	)	
	)	TRANSCRIPT OF RECORD

July 10, 2017
Charleston, South Carolina

Volume 1 (of 3)

B E F O R E:

THE HONORABLE DEADRA JEFFERSON, JUDGE

A P P E A R A N C E S:

MARK BOURDON, ESQ.
CHARLES CONDON, ESQ.
Attorneys for the State

BEN LEWIS, ESQ.
NICK SMIT, ESQ.
Attorneys for the Defendant

JOYCE C. RUEGER, CVR-M
Circuit Court Reporter

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[All exhibits pre-marked prior to start of trial unless otherwise indicated in transcript]

STATE

<u>No.</u>	<u>Description</u>	<u>Marked / Admitted</u>
1	Aerial map	
2	Aerial map close up	
3	House Front picture	
4	House front' close up picture	
5	Intersection picture	
6	Intersection picture	
7	Side view house picture	
8	Back side view house picture	
9	Tompkins house picture w/gloves	
10	Tompkins house picture gloves	
11	Tompkins yard picture	
12	House back left picture	
13	House back picture	
14	Open window back picture	
15	Screen in bush picture	
16	Open window picture	
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29	Gun, million bill picture	
30	Gun sight picture	
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33	Coin/Rings picture	
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36	Gary wedding ring picture	
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48	Bank envelope back CLS up picture	
49	Cash \$210 picture	
50	Cash \$640 picture	
51	Gun in box w/ magazine	
52	Purple hat	
53	Million dollar bill	
54	Bank envelope	
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1 PROCEEDINGS

2 THE COURT: All right. Are we ready to proceed

3 with the Blair hearing for Mr. Haynes?

4 MR. BOURDON: Yes, Your Honor.

5 MR. LEWIS: Yes, Your Honor.

6 THE COURT: Do we have any medical reports or

7 doctor's evaluations that I need to make a part of the

8 record?

9 MR. BOURDON: Yes, Your Honor. I previously sent

10 it to the court and I have it marked here as 64, State's

11 exhibit 64.

12 THE COURT: Is that already in the file? Let me

13 look real quick. Bear with me.

14 MR. BOURDON: Yes, Your Honor.

15 [Whereupon, the court reviews documents]

16 THE COURT: So was there a competency hearing

17 previously?

18 MR. BOURDON: Yes, Your Honor.

19 THE COURT: Who had that?

20 MR. LEWIS: It was here; it was an evaluation.

21 THE COURT: So there was no hearing on it?

22 MR. LEWIS: No, Judge.

23 THE COURT: Was that from May 17th of 2017?

24 MR. BOURDON: Yes, Your Honor, that's correct.

25 THE COURT: Allison Floyd?

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1 MR. LEWIS: Your Honor, I think she sends out the
2 report. I think it's Doctor Jameson who is present.

3 THE COURT: Okay. I didn't look to the last page
4 of it. Now I need to know preliminarily what indictments
5 are you all proceeding on with Mr. Haynes? I have 2015-
6 4790 burglary first degree, 4794 possession of a weapon
7 during the commission of a violent crime, 4793 unlawful
8 carrying of a pistol, 4795 possession of a stolen
9 handgun. Is that the ones y'all intend to go forward ---

10 MR. BOURDON: --- yes, Your Honor, that's correct.

11 THE COURT: Now I have some other indictments.
12 What do y'all plan to do with those?

13 MR. BOURDON: Those are all rolled up into a global
14 plea offer but those are not on the docket.

15 THE COURT: I have six other indictments that are
16 unrelated.

17 MR. BOURDON: Yes, Your Honor. We're not going
18 forward on those today.

19 THE COURT: And y'all extended an offer and then
20 previously he rejected it on the record, correct?

21 MR. BOURDON: Yes, Your Honor, that's correct.

22 THE COURT: Have y'all extended any further offers
23 to him that you think are germane or worthwhile of
24 pursuing at this time?

25 MR. BOURDON: No, Your Honor. I think that was a

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1 global offer that is as far as we'll go.

2 THE COURT: What was the -- did you ever tell me
3 what the global offer was?

4 MR. BOURDON: Yes, Your Honor. I have it here if I
5 may approach?

6 THE COURT: Sure.

7 MR. BOURDON: This is what I had given Mr. Lewis in
8 court.

9 [Whereupon, Mr. Bourdon provides documents to the
10 court]

11 [Whereupon, the court reviews documents]

12 THE COURT: Okay. What's the max on a burglary
13 first?

14 MR. LEWIS: Life, Judge.

15 THE COURT: The minimum is?

16 MR. LEWIS: Fifteen.

17 THE COURT: And the max is life. Possession of a
18 weapon is five. And the stolen pistol is a year isn't it
19 or is that two years?

20 MR. LEWIS: Up to five.

21 THE COURT: And the rest of these carry a myriad of
22 lower penalties?

23 MR. BOURDON: Yes, Your Honor.

24 THE COURT: And you discussed that with your
25 client, Mr. Lewis?

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1 MR. LEWIS: Yes, Your Honor.

2 THE COURT: And he doesn't want to accept it,
3 right?

4 MR. LEWIS: That's my understanding. He did
5 hesitate briefly but we clarified that with a re-
6 evaluation ---

7 THE COURT: --- because actually what he has been
8 offered there really is no -- I mean you could still
9 argue for that if he pled straight up couldn't you?

10 MR. LEWIS: Yes, Your Honor.

11 THE COURT: Okay. So there really isn't any ---

12 MR. LEWIS: --- we had proposed a counter for 15 on
13 burglary 2nd violent, which would have also been a strike
14 but ---

15 THE COURT: --- tell me what the appreciable
16 difference would have been?

17 MR. LEWIS: Twenty percent. One is 65 percent and
18 one is 85 percent.

19 THE COURT: But if it's classified as violent
20 wouldn't it still be served at 85 percent?

21 MR. LEWIS: It affects parole eligibility but not
22 max out date.

23 THE COURT: Oh.

24 MR. LEWIS: So I assume most of my clients if not
25 all of my clients will never be paroled so we assume they

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1 are going to max it out so ---

2 THE COURT: --- so burglary second violent maxes
3 out quicker than a burglary first?

4 MR. LEWIS: It does. It maxes out about six years
5 faster.

6 THE COURT: Really?

7 MR. LEWIS: Yes, Your Honor.

8 THE COURT: I learned something new today.

9 MR. LEWIS: And so certainly it would have been a
10 significant prison sentence. My understanding is that
11 was not approved by the hierarchy in the Solicitor's
12 office.

13 THE COURT: Okay. So we're dealing with his
14 competency then, correct? And he was originally
15 evaluated it looks like on...

16 [Whereupon, the court reviews documents]

17 MR. LEWIS: May 2nd.

18 THE COURT: Yes, May 2nd of 2017 by Kathryn Jameson
19 and Elizabeth Pacheco and supervised by Sheresa
20 Christopher. And that report is dated -- it doesn't have
21 a date on here. I assume it is dated May 2nd.

22 MR. BOURDON: May 17th Your Honor I believe is when
23 they ---

24 THE COURT: --- it's when they mailed it but when
25 they signed it they didn't put a date on here. It just

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1 says the date it was done. It was dispatched to the
2 Solicitor's Office and Mr. Lewis on May 17 of 2017 as
3 well as Ms. Garner at the Department of Mental Health.
4 And it was consistent with Judge Dennis's competency to
5 stand trial order. It's a 13 page report pursuant to 44-
6 23-410.

7 In a nutshell it finds that: [Reading] He is a 30
8 year old male currently charged with the specific
9 offenses I've already stated for the record for events
10 that allegedly occurred on 5/26/15. His current
11 diagnosis is unspecified personality disorder. It is our
12 opinion that symptoms associated with this disorder are
13 not currently impairing those abilities typically
14 associated with competency to stand trial. It is also
15 our opinion Mr. Haynes has the requisite factual and
16 rational understanding of the proceedings against him and
17 the ability to consult with his lawyer with a reasonable
18 degree of rational understanding. Therefore, on the date
19 of this evaluation he is opined competent to stand trial.
20 [End of reading]

21 THE COURT: And that is signed by Ms. Jameson and
22 Ms. Christopher, Forensic Psychology Postdoctoral Fellow
23 and Licensed Clinical Psychologist. And those are the
24 two young ladies who are here to speak with him again
25 today, is that correct?

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1 MR. LEWIS: One of the two, Judge.

2 THE COURT: One of the two. And they have
3 completed that additional evaluation of him?

4 MR. BOURDON: I believe so, yes Your Honor.

5 THE COURT: And so are we ready to proceed with the
6 Blair hearing to determine -- do we need a Blair hearing?

7 MR. LEWIS: Yes, Your Honor.

8 THE COURT: Okay.

9 MR. LEWIS: I think I'm not allowed to waive it
10 even if I wanted to at this juncture ---

11 THE COURT: --- well, if they pretty much stand if
12 you don't have some real defense to it, in other words a
13 contravening expert that contradicts them -- I mean we
14 have a hearing but basically they just state what their
15 opinion is unless you have some meaningful cross-
16 examination of them.

17 MR. LEWIS: I'd like to think I would have some
18 important points to make. You might not feel so but I
19 think ---

20 THE COURT: --- well no, I don't have any opinion
21 one way or the other. I haven't heard anything; I don't
22 know.

23 MR. LEWIS: Yes, Your Honor.

24 THE COURT: So I'm just asking -- sometimes lawyers
25 say I really don't have any cross. I don't have anything

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1 to rebut what is being said and so generally folk will
2 stand up and say we evaluated him on this date and we've
3 evaluated him today and nothing has changed. Sometimes
4 you do it that way and sometimes you have a full blown
5 hearing if it's necessary. Well, basically I went around
6 Johns Farm but that's what I'm asking; do we need to have
7 a full blown hearing?

8 MR. LEWIS: Given my inexperienced observations and
9 my interactions with him, my inability to effectively
10 convey my thoughts to him and guide him especially on a
11 case that carries a potential sentence of life I think it
12 important that we do the full hearing Judge and at least
13 let me memorialize my issues during cross-examination so
14 that whatever happens it has been preserved for the
15 record.

16 THE COURT: Are we ready?

17 MR. BOURDON: Yes, Your Honor.

18 THE COURT: I'm going to have to give my court
19 reporter a break for lunch so how many witnesses do you
20 have?

21 MR. BOURDON: Your Honor, I'm just going to call
22 Doctor Jameson.

23 THE COURT: And how long do you anticipate this
24 hearing is going to take?

25 MR. BOURDON: I think 15 minutes for my part. I'm

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1 not sure what Mr. Lewis has.

2 [Whereupon, the court confers with the court
3 reporter]

4 THE COURT: All right. Let's proceed.

5 MR. BOURDON: Thank you, Your Honor.

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1 MR. BOURDON: If it pleases the court the State
2 would call Doctor Kathryn Jameson.

3 THE COURT: Doctor, if you would come forward and
4 be sworn please.

5 [Whereupon, Doctor Jameson comes forward]

6 THE COURT: And I have a copy of the report. It
7 was in the file.

8 MR. BOURDON: Thank you, Your Honor.

9 [Whereupon, the witness is duly sworn by the Clerk
10 of Court]

11 CLERK OF COURT: Please state your first and last
12 name spelling your last name for the record.

13 THE WITNESS: My name is Doctor Kathryn Jameson,
14 J-A-M-E-S-O-N.

15 THE COURT: You may proceed. And if you could,
16 spell Kathryn as well?

17 THE WITNESS: K-A-T-H-R-Y-N.

18 THE COURT: Thank you. You may proceed.

19 MR. BOURDON: Thank you, Your Honor.

20 - - - - -

21 KATHRYN JAMESON,

22 Having been first duly sworn,

23 Was examined and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. BOURDON:

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1 Q. Doctor Jameson, what is your profession or
2 occupation?

3 A. Currently I am a forensic psychology postdoctoral
4 fellow, which means I am -- I received my doctorate in
5 Clinical Psychology and I am currently completing a
6 specialization in Forensic Psychology, which is a 2,000
7 hour requirement for the specialization.

8 Q. And is there a professional license that you need to
9 have to conduct your duties?

10 A. So, I have not yet obtained my license. That's the
11 next step in the process but I have to complete this
12 first before I can obtain a license.

13 Q. And where are you employed currently?

14 A. The Medical University of South Carolina.

15 Q. Okay. And is there an area in your profession that
16 you specialize in?

17 A. Yes. So right now I am completing a specialization
18 in Forensic Psychology and I conduct competency to stand
19 trial evaluations as well as criminal responsibility
20 evaluations.

21 And there are other evaluations like fitness for
22 duty evaluations and sexually violent predator
23 evaluations that are group assesses and I have
24 participated in some of those evaluations as well.

25 Q. And how many competency evaluations have you

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1 performed?

2 A. Seventy.

3 Q. And how long have you been engaged in this
4 specialty?

5 A. This specialty I've been engaged in it for this year
6 as well as last year when I completed a pre-doctoral
7 internship in St. Louis.

8 Q. I have here what has been marked as State's exhibit
9 number 65. Can you look at this please?

10 A. Sure.

11 [Whereupon, the witness is shown document]

12 Q. What is that?

13 A. This is my C.V. -- curriculum vitae.

14 Q. And does that encompass your training, education and
15 experience in this field of forensic psychology?

16 A. It does.

17 MR. BOURDON: Your Honor, I'd have that marked as
18 65 and introduced.

19 THE COURT: Is that her C.V?

20 MR. BOURDON: Yes, Your Honor.

21 THE COURT: Any exception?

22 MR. LEWIS: No, Judge.

23 THE COURT: Marked and admitted without objection.

24 [Whereupon, State's exhibit number 65 is entered
25 into evidence by the court for the purposes of this

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1 hearing only]

2 MR. BOURDON: Your Honor, if I may approach if
3 you'd like to see it.

4 THE COURT: You need to give it to the court
5 reporter.

6 MR. BOURDON: Yes, ma'am.

7 [Whereupon, Mr. Bourdon provides State's exhibit 65
8 to the court reporter]

9 Q. [Mr. Bourdon] And can you tell Judge Jefferson a
10 little bit about your background ---

11 THE COURT: --- let me ask. Do you have any
12 objection to her being admitted as an expert?

13 MR. LEWIS: I don't.

14 THE COURT: You can skip through all that.

15 MR. BOURDON: Thank you, Your Honor.

16 THE COURT: Admitted without objection. What
17 field?

18 MR. BOURDON: Forensic Psychology.

19 THE COURT: So admitted as an expert in the area of
20 Forensic Psychology without objection. You may proceed.

21 MR. BOURDON: Thank you.

22 THE COURT: You're welcome.

23 Q. [Mr. Bourdon] Doctor Jameson, pursuant to Judge
24 Dennis' court order did you have an occasion to examine
25 the defendant in this case Mr. James Haynes?

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1 A. I did.

2 Q. And do you see him in court today?

3 A. Yes.

4 Q. And did you have a chance to discuss your evaluation
5 with him this morning or to re-evaluate him prior to
6 trial?

7 A. Yes. So prior to trial we didn't do a complete re-
8 evaluation. What we typically do is to check in with the
9 defendant and ask them a few questions about if they know
10 why they're here today, if they know what their charges
11 are and see how they are doing and if anything has
12 changed since we last evaluated them.

13 Q. Okay. Can you describe your procedure for
14 conducting the initial investigation or evaluation of Mr.
15 Haynes?

16 A. Sure. So what I will do in the very beginning is
17 request any records that I know of. And then once I
18 receive them I will review them.

19 And I also review any discovery that has been
20 provided to me to include police reports, arrest reports,
21 any psychiatric history; anything that is relevant to the
22 case.

23 And then once the defendant arrives for evaluation I
24 will do a thorough clinical interview with the defendant
25 where I ask the individual about their background

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1 history, any psychiatric history, medical history; all of
2 that. And then I will conduct a mental status
3 examination where I ask questions to see if the defendant
4 is oriented to person, place, time, situation. I assess
5 their attention and concentration, some basic functioning
6 aspects and then lastly I will do a semi-structured
7 interview.

8 And I will assess the three prongs of competency;
9 their factual understanding of the charges, their
10 rational understanding of the charges, and then their
11 ability to work with their attorney.

12 Q. Did you follow those procedures in this evaluation
13 of Mr. Haynes?

14 A. I did.

15 Q. And who was with you when you conducted this
16 evaluation?

17 A. Doctor Elizabeth Pacheco.

18 THE COURT REPORTER: Will you spell that name for
19 me?

20 THE WITNESS: Sure. P-A-C-H-E-C-O.

21 Q. [Mr. Bourdon] And where was the exam conducted?

22 A. The exam was conducted at the Medical University of
23 South Carolina.

24 Q. And was Mr. Lewis, his attorney, present for the
25 evaluation?

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1 A. Yes, he was.

2 Q. And how long did the evaluation or the examination
3 of Mr. Haynes take?

4 A. Two hours and 45 minutes.

5 Q. And you referenced looking at prior records and so
6 forth. What records in particular did you look at with
7 respect to Mr. Haynes' case?

8 THE WITNESS: Your Honor, if I may refer to my
9 report?

10 THE COURT: Yes, ma'am.

11 [Whereupon, the witness reviews document]

12 A. So with respect to his case I reviewed the order for
13 the competency to stand trial. I reviewed Charleston
14 County Detention Center records and therein was a report
15 of any interactions they've had with him as well as
16 General Sessions court records, affidavits, arrest
17 warrants, North Charleston Police Department documents.

18 I have a criminal history report of Mr. Haynes. And
19 then I reviewed a fax cover sheet from the Charleston
20 Dorchester Mental Health Center records which indicated
21 that although Mr. Haynes was seen there at some point in
22 time in the past it was over 10 years ago so those
23 records have been -- they weren't retained; they were
24 destroyed.

25 Q. And based on your evaluation of Mr. Haynes and your

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1 interaction with him did you form an opinion as to his
2 competency to stand trial?

3 A. I did.

4 Q. And what was that opinion?

5 A. I believe he's competent.

6 Q. And did Doctor Pacheco share in that evaluation or
7 that conclusion?

8 A. She did.

9 Q. Okay. And then, who is Doctor Williams?

10 A. Doctor Williams or Christopher?

11 Q. Doctor Sheresa Christopher; I'm sorry.

12 A. Doctor Sheresa Christopher is my supervisor and she
13 also -- she reads the report once I write it and has to
14 agree with the opinion as well.

15 Q. Okay. And then with respect to his competency did
16 he have the ability to understand the nature and extent
17 of the charges pending in this court against him?

18 A. Yes.

19 Q. Did he understand -- or do you believe that he had
20 the ability to aid and assist his attorney for
21 preparation of this case?

22 A. I do. I think that it's a matter of his choosing;
23 if he chooses to assist his attorney he will be able to.
24 Yes, I don't think he has any significant mental illness
25 that is impairing him from doing so.

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1 Q. Does he understand the nature and the purpose of the
2 court proceedings?

3 A. Yes.

4 Q. Okay. Does he understand the role of his attorney?

5 A. Yes.

6 Q. Does he understand the role of others that are in
7 this court proceeding such as the Judge and the
8 prosecutor and the jury and the witnesses?

9 A. He does.

10 Q. Does he have the ability to cooperate and advise his
11 attorney rationally?

12 A. Yes. If he chooses to do so he will.

13 Q. Does he have the capability to disclose pertinent
14 facts to his attorney including his movements, his
15 timing, his mental state and his actions at the time of
16 the offense?

17 A. He does. He initially didn't provide an account of
18 what was written in the police report. But over the
19 course of the evaluation it became clear to me that he
20 did have knowledge of that account.

21 And he did provide information about specifically
22 what happened or when I provided information to him he
23 was able to rationally consider and weigh that evidence
24 and how it might be perceived in court.

25 Q. Okay. And does he have the ability to help his

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1 attorney with the presentation of his defense?

2 A. Yes.

3 Q. And does he also have the ability to advise his
4 attorney as to accept the advice of his attorney and does
5 he understand that the attorneys are trying to assist him
6 in this matter?

7 A. Yes.

8 Q. Does he understand the nature and the gravity of
9 these charges against him?

10 A. He does.

11 Q. Does he understand the possible outcome of the
12 verdict in this case?

13 A. He does.

14 Q. And does he understand the penalties if he is found
15 guilty of these offenses or some of the offenses?

16 A. Yes.

17 Q. Does he understand that he has the right to a public
18 trial, to counsel, to hear testimony of the witnesses and
19 to testify in his own defense if he chooses to and as
20 well as his right against self-incrimination?

21 A. Yes. So we reviewed some of the rights that he has
22 during the evaluation.

23 Q. And did you have an occasion to determine whether he
24 suffers from any disorder or mental disease or defect?

25 A. Yes. So I diagnosed him with unspecified

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1 personality disorder.

2 Q. And can you describe to the court what that is in
3 layman's terms?

4 A. Sure. A personality disorder is an enduring pattern
5 of personality traits that go against the norms of
6 society and often cause for serious problems in their
7 personal relationships and daily functioning.

8 So in Mr. Haynes case I believe that we have
9 evidence to suggest that he has that and has difficulty
10 interpersonally with others and has a history of arrests.

11 And the reason that it is unspecified is that we
12 just would require some more information to specifically
13 diagnose something like anti-social personality disorder,
14 which is a disorder that he was diagnosed with at the
15 Detention Center.

16 And that disorder is again a personality disorder.
17 It's an enduring pattern of personality traits that are
18 problematic and go against the norms of society to
19 include other things like lacking remorse or being
20 deceitful or not following the rules of society.

21 Q. And would that diagnosis of a personality disorder
22 affect his competency to stand trial?

23 A. No.

24 Q. And also in your report it indicates that you
25 believe there was some malingering that was being

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1 displayed by Mr. Haynes. Can you explain to the court
2 what that is?

3 A. Yes. So malingering is the intentional production
4 of false or exaggerated either psychiatric or physical
5 symptoms in order to have some kind of secondary gain; so
6 avoiding military duty, avoiding prosecution, avoiding
7 work.

8 Q. And how did Mr. Haynes exhibit his malingering in
9 your evaluation of him or in that meeting that you had?

10 A. Sure. So during our evaluation of him he was very
11 inconsistent about his psychiatric symptoms. And he
12 often indicated things that would be highly uncommon in
13 individuals with a genuine psychiatric disorder.

14 For instance he said that sometimes he has tingling
15 in the back of his neck or the top of his head before he
16 hears voice, which is very uncommon. He also said
17 sometimes they speak to him in English and other times in
18 a language he doesn't know, which is also very uncommon.

19 He indicated that sometimes the voices last for
20 months or years. It is unlikely that voices would last
21 for that length of time. They may be present for brief
22 periods during that time but not the whole time.

23 He also indicated in terms of visual hallucinations
24 of things that he sees that aren't there he indicated
25 that he experiences them but depending on whether others

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1 are paying attention, which is also highly
2 uncharacteristic of somebody who actually has the
3 experience of visual hallucinations or things that are
4 not present. It wouldn't matter if others were paying
5 attention or not because it's a brain disorder and it
6 would present at the time that it was going to.

7 So his -- and in general he said that sometimes he
8 hears voices but he doesn't know. He didn't give a
9 proper timeline on the voices. He said he heard sources
10 a couple of months ago but also said he heard them as
11 early as elementary school.

12 So he gave a very inconsistent report of the
13 psychiatric symptoms he was endorsing. And then the
14 nature and the extent of them were more serious or
15 uncommon and you wouldn't find that in genuine
16 psychiatric patients.

17 Q. Did you give him any tests for malingering?

18 A. I did. I gave him the M-FAST, which is the Miller
19 Forensic Assessment of Symptoms Test. It's a brief 25
20 item evaluation designed to screen for malingering or
21 feigning faking symptoms of mental illness.

22 Q. And how did he rate on that test?

23 A. So Mr. Haynes did not have an elevated rating on
24 that test which suggests that he wasn't feigning symptoms
25 the specific symptoms of mental illness that was asked of

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1 him. But the weight of the evidence suggests that he
2 still is malingering due to the other things that I just
3 mentioned about his inconsistent report and the nature of
4 his symptoms that he endorsed.

5 Q. And did you give him any tests in terms of engaging
6 his focus and counting and remembering words and so
7 forth?

8 A. I did. So when I completed the mental status
9 examination I asked him to do things such as start at 100
10 and count backwards by sevens, which he did correctly.

11 I asked him to -- I said three words and I asked him
12 to repeat them immediately after and then did five
13 minutes of other activities and then after that delay he
14 was able to state those same words again without any
15 problem, which given the nature and the extent of the
16 symptoms he was endorsing it is highly probable that he
17 would have difficulty attending and concentrating. But
18 he didn't show any evidence of having difficulty focusing
19 and paying attention.

20 Q. And would that be typical of a person who does
21 suffer from some mental illness or disease?

22 A. No. So an individual who suffers from a serious
23 mental illness would likely have difficulty paying
24 attention, concentrating, completing basic problems
25 identifying maybe what city we are in, what state we are

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1 in, having an awareness of the date.

2 Q. Okay. And as part of your investigation of him did
3 it appear that he was trying to gain information from you
4 as to what a person who suffers from mental illness
5 experiences?

6 A. Yes. So at one point during the evaluation he asked
7 me whether someone who was mentally ill would endorse
8 that. I was asking him about what we call tactile
9 hallucinations or feeling things on your body that aren't
10 real. Sometimes people say they might feel spiders
11 crawling on their body or other things.

12 And at that point when I provided the example he
13 said that he feels that all the time. And then I asked
14 him if he felt it right now during the evaluation and he
15 said no. So that was inconsistent.

16 Q. And did you have a chance to look at the letter that
17 he had sent to the prosecution office in this case?

18 A. I did. I was able to review that after my
19 evaluation.

20 Q. Okay. And did that change your evaluation of Mr.
21 Haynes at all?

22 A. No. I think again that he in this letter was not
23 giving an accurate picture of what he truly believes.

24 Q. And in that letter he talks about a prophet or
25 something of that nature?

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1 A. Yes. He talks about himself being the prophet,
2 which also I forgot to mention that I was able to review
3 telephone conversations that he made from the Detention
4 Center. And in those telephone conversations he
5 specifically says that he is not religious and that is
6 inconsistent with the letter as well.

7 Q. Okay. And in those jail tapes was he also
8 describing the legal process?

9 A. Yes. So in those jail tapes he specifically
10 discusses a plea bargain and that the Solicitor is the
11 person who offers a plea bargain.

12 He gives an example of a plea bargain. He also
13 talks about other defendants that he is around and the
14 charges they're facing and the time that they're facing
15 and how that process works.

16 He gives an accurate description of what a
17 preliminary hearing is and how evidence works. He --
18 yes, discusses a prior misdemeanor charge and rationally
19 thinks through whether there is no guarantee that the
20 court would find him guilty.

21 But if he pleads not guilty he indicates that the
22 court would give him the maximum penalty. So yes, he
23 discusses at length legal processes in a rational manner.

24 Q. And also did he discuss bond hearings and how to
25 present himself at a bond hearing?

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1 A. Yes. He also noted he didn't want to be arrogant in
2 the courtroom so he discusses how that he is aware of how
3 to behave in a courtroom and things of that nature.

4 Q. And does that affect your analysis of him at all
5 from your written report that you provided to the court?

6 A. So I think these telephone conversations support my
7 opinion that he is competent particularly the rational
8 ability to understand his charges and the legal system
9 and how his case applies.

10 So not only do I think he has the legal knowledge
11 necessary which is a factual understanding I think that
12 he is specifically able to weigh the evidence in his case
13 and make good decisions for himself in court if he
14 chooses to do so.

15 Also during the evaluation I gave him examples of
16 how evidence might be -- certain evidence specific to his
17 case how it could be presented in court and he rationally
18 understood when that evidence wouldn't work in his favor.

19 Q. And Doctor Jameson did you have a chance to
20 reevaluate Mr. Haynes this morning or at least discuss
21 things with him regarding his evaluation or his
22 competency to stand trial?

23 A. Yes. So I did a brief check-in with him from 11:30
24 to 11:45 today.

25 Q. And who were you accompanied by when you did that?

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1 A. Doctor Emily Godfrey who is another one of my
2 supervisors at the Medical University of South Carolina.

3 Q. And what was the result of your evaluation this
4 morning?

5 A. So the result of my evaluation this morning was
6 consistent with what I found. I don't think that Mr.
7 Haynes put forth his best effort during the evaluation
8 and gave an accurate account of his full knowledge of
9 this situation.

10 And here for instance I asked him -- he had
11 mentioned earlier that he believed the Solicitor,
12 yourself, is out to get him or out to kill him and today
13 he also indicated that he believes that you are trying to
14 take him out. And when I asked him further about why
15 this was the case he said I just know; intuition, strong
16 intuition, I got a hunch.

17 And when someone -- if someone were truly to have
18 that delusion that the Solicitor or another person was
19 out to get them and even kill them they would have a
20 reason why this was happening. They would be seriously
21 focused on that reason and they would have a story and
22 perhaps large explanation for why that was the case.

23 And if someone truly did have a delusion they would
24 be so fixated on this it would be very difficult to talk
25 to them about anything else. Whereas in Mr. Haynes case

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1 he didn't have that rigid set of beliefs that then he had
2 an explanation around. He just said he has an intuition
3 about it; he just knows. And likewise he said that he
4 just knows that he will win the case but he didn't have
5 any indication beyond that he has heard sources that have
6 assured him that he will win the case.

7 So again if was really something that was a delusion
8 or a fixed false belief that wasn't true it is likely
9 that he would have a lengthy explanation for why and how.

10 Q. Did anything in your evaluation of him this morning
11 change your evaluation or your opinions that he is
12 competent to stand trial?

13 A. No.

14 MR. BOURDON: No further questions, Your Honor.

15 Q. [Mr. Bourdon] Please answer any from Mr. Lewis.

16 THE COURT: Mr. Lewis?

17 MR. LEWIS: Thank you, Judge.

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1 CROSS-EXAMINATION

2 BY MR. LEWIS:

3 Q. Good morning, Doctor.

4 A. Good morning.

5 Q. I've got this broken down a little bit differently

6 so bear with me. Prior mental health history?

7 A. Yes.

8 Q. In your opinion would it have been helpful to you

9 even ten years old, yes some things may change but to

10 review those records?

11 A. So I was able to since that time see a listing of

12 the diagnoses that he was provided that when he was seen

13 at the Charleston Dorchester Mental Health Center and

14 those indicated that he had behavioral disorders, so

15 Oppositional Defiant Disorder and Conduct Disorder.

16 And those would be helpful to see and yet I don't

17 think they would change my opinion because they are

18 behavioral disorders. There wasn't an indication of

19 psychosis or some other psychotic process. But yes, sure

20 if there was an ability to see those records I would be

21 glad to review them.

22 Q. And throughout you've reviewed a series of mental

23 health records that he has. He has been previously

24 diagnosed with psychosis has he not, or experiencing

25 those symptoms.

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1 A. So he's endorsed that he -- at the Detention Center
2 he endorsed that he was experiencing psychotic symptoms
3 and he was diagnosed there with a psychotic disorder.

4 But also it says rule out malingering, which means
5 there is the possibility that he is malingering. And
6 another time there they said he is possibly malingering
7 psychosis.

8 Q. Okay. But legitimately if you don't think someone
9 is mentally ill at all will you throw medications at them
10 that potentially have side effects?

11 A. So sometimes at the Detention Center they give
12 antipsychotics to people who are not psychotic. It is an
13 unfortunate part of the system. Sometimes they do that
14 because the person might be very aggressive.

15 But typically -- I mean I'm not a psychiatrist but
16 typically antipsychotics are prescribed to individuals
17 who have symptoms of psychosis.

18 Q. And he reported, James has reported to you that he
19 had that even when he was younger; I guess Risperdal?

20 A. So yes he reported that he was prescribed Risperdal
21 but he was not inherent so he didn't take the Risperdal.
22 And he indicated he didn't take it because he didn't like
23 the way it made me feel. So I don't know if he was ever
24 diagnosed with a psychotic disorder or just those
25 behavioral disorders I discussed.

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1 Q. And in your experience isn't it common for people
2 with legitimate mental illness to often not like to take
3 their mental health meds because of side effects?

4 A. Yes. It is an experience that individuals with
5 psychosis do have sometimes.

6 Q. And so you could never say definitively whether he
7 was experiencing the symptoms at that time or not; it's
8 just that ---

9 THE COURT: --- if someone's phone is on vibrate it
10 needs to be turned off. Thank you.

11 MR. LEWIS: I was asking a long winded question
12 anyway; thank you Judge.

13 Q. [Mr. Lewis] So I lost my train of thought
14 completely. Well, I'll come back to that. Let's talk
15 about malingering briefly if we can.

16 A. Sure.

17 Q. As you said malingering by itself it an over-
18 exaggeration or fabrication of symptoms.

19 A. Yes.

20 Q. But that does not mean that there is not an
21 underlying mental illness. I could be mentally ill but
22 also malingering symptoms that I don't have.

23 A. Yes.

24 Q. So that's sort of the trick; it makes it difficult
25 for you sometimes to find the nugget in there that

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1 actually gives you a clue.

2 A. Yes.

3 Q. So you have tests like Mr. Bourdon discussed, 'the M-
4 FAST the SIRS I guess, S-I-R-S but the results at least
5 in regards to your tests did not show an elevated level
6 of malingering?

7 A. For those specific items asked in that test, yes.

8 Q. Okay. So I guess the point I am trying to make
9 with that is just because you're malingering doesn't mean
10 that you're not mentally ill; doesn't mean that you're
11 not sick.

12 A. Right. You can be mentally ill and also malingering
13 symptoms of mental illness.

14 Q. So in regards to the rational prong we talked about
15 his ability to communicate with me if he chooses to.

16 A. Yes.

17 Q. Understanding things rationally. Part of this is
18 that you got to review the discovery in the case.

19 A. Yes.

20 Q. And I'm not asking you to become the jury completely
21 but you heard the evidence.

22 A. Yes.

23 Q. And read over it.

24 A. Yes.

25 Q. Caught wearing gloves coming out of a house with a

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1 gun on him stopped on property with stolen property in
2 his pocket.

3 A. Yes.

4 Q. And he has repeatedly to you both during your
5 initial evaluation and today said that he is guaranteed
6 to win.

7 A. He has and yet during the evaluation that we did on
8 May the 2nd when I provided examples of damning evidence
9 he gave a rational -- at first he smiled, which to me was
10 an indicator that he sort of knew what I was talking
11 about and it was possible that he was going to try to
12 lack some kind of understanding of it.

13 But then he did express an understanding that that
14 evidence would be considered damaging to his case if the
15 jury or the Judge were to hear it.

16 Q. But in your example ---

17 A. --- yes ---

18 Q. --- that was you committing a bank robbery I think
19 or something like that.

20 A. So I did both. I did hypothetical examples with him
21 where I committed a bank robbery hypothetically and then
22 he was able to reason through those examples and
23 understood if there was enough evidence then he could be
24 prosecuted for that. But I also gave him examples in his
25 own case which he was able to rationally reason through.

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1 Q. Understanding that they are damning but still with
2 that at least expressed belief that he can't lose.

3 A. Yes.

4 Q. I think I wrote it down if there was a five percent
5 chance -- no actually I'll get to that; sorry. I want to
6 talk to you a little bit about what I believed, and I'm
7 not an expert, to be religious dilutions; the idea that
8 he is supposed to be the prophet. He explained to you
9 that he is supposed to be the founder of a global
10 religion. Is that correct?

11 A. Yes.

12 Q. He said that the sources had told him that he is
13 supposed to do this.

14 A. Yes.

15 Q. And that he is also guaranteed to be acquitted at
16 trial. These same sources told him that.

17 A. Yes.

18 Q. He was also ordained in the womb.

19 A. Yes. He was inconsistent about when he came to find
20 religion. He discussed that he was religious I believe
21 he said a toddler and then he also said he just became
22 religious a couple of years ago.

23 And that is also inconsistent with on July the 1,
24 2015 he is discussing in a telephone conversation from
25 the jail that he is not religious and he's not a

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1 Christian and that he reads the books for insight. And
2 he says that he is not religious.

3 Q. Referring to the Karan, the Bible, and the satanic
4 bible in those jail phone calls.

5 A. Yes.

6 Q. Including I think maybe a series of other religious
7 texts that I'm not remembering off the top of my head.

8 But we may be parsing hairs a little bit here. He says
9 he's not religious but he's obviously studied religion.

10 A. Yes.

11 Q. Or reporting he's studied ---

12 A. --- or reporting, yes.

13 Q. And when you were able to review all those has there
14 ever been a time in your evaluation of him that he just
15 ignored this claim that is invincible to conviction?

16 A. He hasn't ignored the claim but what was troubling
17 to me was the way in which he reported the claim to me.
18 So it appeared to me that it wasn't a delusion or this
19 fixed false belief that can't be shaken but rather
20 something he was formulating or creating during the
21 course of the evaluation.

22 Because he was so inconsistent with his report of it
23 and didn't give details of it and even today said that
24 the sources just come to him and they communicate with
25 him in different ways but he didn't reveal how they did

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1 that. And then when I would press him further he would
2 say he was uncomfortable talking about it, which may have
3 been the case that he wasn't comfortable talking about it
4 or it could have been the case that he chose to withhold
5 that information and didn't want to reveal it.

6 Q. Okay. Would it have affected your view and maybe
7 that day we just didn't have one. Sometimes there is
8 like sort of a debriefing after the evaluation where I
9 can tell you hey, these are things I'm worried about.

10 A. Sure.

11 Q. Would it have affected your opinion if he repeatedly
12 throughout my representation said that he has to
13 sacrifice to save everyone, that he is the prophet, that
14 we must put forward a pure spiritual defense?

15 A. Yes. When I formulate my opinion I can take all
16 these sources into consideration. And right after the
17 evaluation I still had sources to review and other things
18 to do but yes, of course.

19 Your interactions with him and perception of those
20 are absolutely important and give me much more
21 information or the possibility of more information about
22 whether he is able to consult with you on the case.

23 Q. Okay. But you were able to hear I think he said it
24 both places that I did not need to do anything. As his
25 attorney I don't need to be here, I don't need to do any

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1 of this, don't need to have a trial because he is
2 guaranteed to win.

3 A. Yes. He did say that he -- he oscillated. When I
4 asked him how he gets along with you today he said he
5 gets along with you great and that in the evaluation you
6 likely heard him say that you provide great legal advice.

7 And yes, he also said that he 'doesn't need you and
8 that -- but he oscillated as to whether the sources could
9 talk to you or influence you.

10 Q. Did he suggest maybe that the source he hoped that
11 they would reach out to me and that I would then listen
12 to them to help him?

13 A. He did suggest that.

14 Q. In addition during the evaluation, and I'm just
15 again wanting to sort of memorialize this for the court,
16 that he said that his mother had tried to kill him when
17 he was young because either he or she was possessed;
18 someone was possessed?

19 A. Yes. He indicated -- if I could just look at my
20 report.

21 [Whereupon, the witness reviews document]

22 A. He believed that his mother was possessed and then
23 also stated that she died when he was 18 years old.

24 Q. And that he believes that Mr. Bourdon's role is to
25 execute the prophet?

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1 A. Yes. He stated that and then later on he stated
2 that the Solicitor is the attorney that works on behalf
3 of the State. So he was inconsistent with the times in
4 which he would believe that Mr. Bourdon was planning to
5 execute him and then other times when he didn't endorse
6 that.

7 When I asked him what the penalty would be for these
8 charges he didn't say -- he gave a rational statement
9 about what they would be and not that execution was in
10 the plan or anything like that.

11 Q. And correct me if I'm wrong. I thought sort of what
12 he stated was a Solicitor's role is to come in here and
13 argue on behalf of the State but this specific
14 Solicitor's role is to execute the prophet.

15 And it's possible that I wrote it down wrong but if
16 you remember I was furiously typing sort of the whole two
17 hours and 45 minutes. Do you believe that he ever
18 deviated in regards to his feelings about this specific
19 Solicitor being out to execute him?

20 A. I think throughout the course of this evaluation he
21 oscillated or went back and forth on a lot of the
22 information. I think his account was inconsistent.

23 He would say at times this is true and at other
24 times this is true; especially when he began talking
25 about the sources. And the only reason he knew that or

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1 believed that Mr. Bourdon is out to execute him was
2 because the sources revealed it to him. But then he said
3 the sources revealed it to him a couple of months ago.

4 And then he also says the sources he heard in
5 elementary school and then he later on says that other
6 people in history have heard the sources to include
7 people like Jesus and Mohammed and Socrates.

8 Q. Right.

9 A. So his report appeared to be a volitional account.

10 Q. Okay.

11 A. Of when he thought it was useful to him versus not.

12 Q. I will definitely get back to the useful part
13 because I want to talk about that to see if that part
14 comes across as rational.

15 A. Sure.

16 Q. He did state specifically though I won't be treated
17 like the next man; I'm guaranteed to win.

18 A. Yes.

19 Q. If I thought there was even a five percent chance
20 that I would lose I'd plead tomorrow. It's ordained;
21 it's in place. He, meaning me, doesn't have to do
22 anything. I don't want him to do anything.

23 But he said he definitely would not go along with my
24 advice if it was even in his best interest because it was
25 spiritual.

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1 A. Yes, and then he would listen to the sources.

2 Q. And lastly that he did not believe he was fighting a
3 legal war; it was a spiritual battle.

4 A. Yes.

5 Q. And what I want to talk about in regards to the
6 malingering traditionally will help you get somewhere.
7 Okay, if he's offered the minimum on a charge how can
8 that help him get anywhere? If the choices are 15 to
9 life how could he gain any benefit by sticking with these
10 claims?

11 A. So that would be up to him; what his secondary gain
12 would be.

13 Q. Okay. Again, having reviewed the discovery in the
14 case and I'm not asking you to be the jury again but it
15 looks like a pretty strong case against him?

16 A. Yes. So I didn't make that decision for him.

17 Q. Right. But that he remained I cannot lose; I am
18 protected throughout all this by the sources.

19 A. Yes.

20 MR. LEWIS: One moment, Judge.

21 [Whereupon, Mr. Lewis confers with Mr. Smit]

22 Q. [Mr. Lewis] One final question if I can. Is it
23 possible that people who malingers can also have a
24 delusional belief for impaired grasp of reality?

25 A. Sure. So that's I think getting at that same point

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1 of it's possible to have a mental illness and also
2 malinger symptoms.

3 Q. And again the malinger is usually to receive some
4 sort of gain. And if your spectrum is between 15 to life
5 and you're offered the minimum to resolve everything how
6 would it be rational to go into trial and lose?

7 A. So yes, that would up to Mr. Haynes. In some of his
8 jail tapes he just makes mention that he doesn't want to
9 serve any time so.

10 Q. Then again how is it rational to say I just don't
11 want to serve any time when you have evaluated the
12 evidence and you know the evidence against you how ---

13 A. --- so I think rational is here two different
14 understandings of the word. So rational in this sense is
15 it has to be tied to some kind of mental illness. And
16 rational just in terms of making poor -- like rational
17 making good decisions for yourself in that sense.

18 So I don't think he has a mental illness that is
19 impacting his rational understanding of the charges
20 against him and doesn't have a long history of mental
21 illness.

22 The jail records -- the Detention Center staff also
23 said that on multiple occasions it's possible that he is
24 malingering psychosis. So I couldn't tie his rational
25 understanding to an impairment due to a mental illness.

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1 And therefore I believe he has a rational understanding.

2 Q. But again as part of competency him having the
3 ability to work with me -- I know you've said several
4 times if he chooses to.

5 A. Yes.

6 Q. So in three years -- oh, one more thing.

7 A. Yes.

8 Q. If you were informed that two weeks into the
9 representation he fired me and on the record stated that
10 he would rather get life than have me represent him would
11 that come across as rational and competent and not be
12 represented for the foregoing two years; just sit in jail
13 by yourself.

14 A. So it is possible that he does have a mental illness
15 that would impact his abilities. But I believe that he
16 doesn't have a mental illness that would.

17 Q. I understand.

18 MR. LEWIS: One last second, Judge.

19 [Whereupon, Mr. Lewis confers with Mr. Smit]

20 MR. LEWIS: No further question, Judge. Thank you.

21 THE COURT: Any redirect?

22 MR. BOURDON: Yes, Your Honor. Thank you.

23 THE COURT: You may proceed.

24

25

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1 REDIRECT EXAMINATION

2 BY MR. BOURDON:

3 Q. Doctor Jameson, those jail tapes did you hear Mr.
4 Haynes talk about not needing a lawyer for a preliminary
5 hearing or for a bond hearing?

6 A. I did.

7 Q. And his basic premise was that he knew the rules and
8 he knew that he could tell the Judge that he's not a
9 flight risk or a danger just as well as an attorney.

10 A. Yes. He also discussed it in a manner in which he
11 said the Solicitor gets the last call meaning that if the
12 Solicitor offers a plea deal that's the last call.

13 And if for instance the Solicitor were to say that
14 the offer is 15 years and I'm not offering him anything
15 less than 15 years he said there's not a lawyer in the
16 world that can change that.

17 So he discussed it in terms of knowing how a plea
18 bargain works and that the good deal is what the deal is
19 and it's up to him whether he wants to accept that.

20 Q. Okay. And we've talked about this malingering for
21 gain wouldn't it be true that if he's found not competent
22 to stand trial then he gains because he doesn't go to
23 trial on these charges of burglary and so forth?

24 A. Yes. So if someone is not competent to stand trial
25 they prolong their situation. So they would have to go

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1 to the hospital for a 60 day commitment if they were
2 found to be incompetent. And then there would be another
3 reevaluation of their competency and it would prolong the
4 eventuality if the defendant was to be sentenced to
5 prison.

6 Q. So in a sense he does gain if he convinces you that
7 he is suffering from some mental disease or defect that
8 makes him incompetent to stand trial?

9 A. Yes.

10 Q. And while you said that people who are mentally ill
11 can also malingering do you believe that he is mentally ill?

12 A. I don't.

13 Q. And do you again stand by your opinion that he is
14 competent to stand trial here today?

15 A. I do.

16 Q. And did Doctor Gottfried share in that conclusion
17 with her limited evaluation ---

18 MR. LEWIS: --- objection to that part. 'She can't
19 give another doctor's opinion at this stage. I don't
20 think he needs to but...

21 THE COURT: If they evaluated him together and they
22 were present for the -- you were present for this
23 evaluation weren't you?

24 MR. LEWIS: We're talking about the one that just
25 happened just now; the reevaluation.

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1 THE COURT: But all three of y'all were present,
2 right?

3 MR. LEWIS: Yes.

4 THE COURT: Repeat the question again.

5 Q. [Mr. Bourdon] I was just saying did Doctor
6 Gottfried, Emily Gottfried share in your opinion that he
7 is competent based on her examination as well.

8 THE COURT: He's not asking her to repeat anything.
9 She's simply -- they have worked in tandem on this case.

10 MR. LEWIS: As of today. She wasn't the -- she
11 wasn't a part of the ---

12 THE COURT: --- I understand that. But if they
13 didn't agree -- I mean it's really a superfluous question
14 ---

15 MR. LEWIS: --- it is ---

16 THE COURT: --- if she disagreed y'all would be
17 calling her as a witness. Apparently they agree; that's
18 why you're only calling one person because it would be
19 cumulative.

20 MR. BOURDON: Thank you, Your Honor.

21 Q. [Mr. Bourdon] With respect to his global religion
22 what was your concern with him voicing that desire or
23 vision of his? Is there any basis to it? Did he have
24 any basis or factual --

25 A. So my concern with that was that it appeared he made

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1 up information about it through the course of the
2 evaluation and that if it truly was this like I said
3 delusion, this fixed false belief he would know a lot
4 more about it and be able to give a lot of details.

5 But like I said he said that he became religious a
6 couple of months ago versus as a toddler. And then I
7 provided a hypothetical scenario that if he was out of
8 prison in time to found this global religion then
9 wouldn't everything be fine.

10 But he wasn't able to reason through that so again
11 it provided more information that it appears possible
12 that this global religion is something that he is making
13 up.

14 Q. Okay. No further questions.

15 MR. LEWIS: One last thing, Judge if I may; real
16 quick.

17 THE COURT: Limited to redirect. They have the
18 burden of proof; they get the last say.

19 MR. LEWIS: Yes, Judge.
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1 THE COURT: Any other questions, Mr. Bourdon.

2 MR. BOURDON: No, Your Honor.

3 THE COURT: Doctor, you can step down.

4 [Whereupon, the witness is excused and exits the
5 witness stand]

6 THE COURT: Any further witnesses from the State?

7 MR. BOURDON: No, Your Honor.

8 THE COURT: Any witnesses from the defense?

9 MR. LEWIS: No, Your Honor.

10 THE COURT: Any argument?

11 MR. LEWIS: Yes, Judge.

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1 ARGUMENT OF COUNSEL

2 BY MR. LEWIS:

3 Judge, part of putting all this on was to make sure
4 it was memorialized because I can't necessarily call
5 myself. As I said ---

6 THE COURT: --- well, you can't make yourself a
7 witness. You're there as a courtesy.

8 MR. LEWIS: Yes, Judge.

9 THE COURT: And you don't have sufficient
10 education, training, or experience to determine your
11 client's competency.

12 MR. LEWIS: Exactly. But I can tell if somebody
13 can work with me and to think things through rationally.

14 THE COURT: But your opinion about that is not
15 going to weigh as heavily as a mental health
16 professional.

17 MR. LEWIS: I understand, absolutely.

18 THE COURT: Because clients manipulate their
19 lawyers for various reasons.

20 MR. LEWIS: I struggle to find a way that this
21 manipulation would benefit him in any way. It doesn't
22 make the charge go away.

23 THE COURT: I learned a long time ago I can't apply
24 rational thinking to people who aren't rational. And 90
25 percent of the people I see are not rational. So I can't

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1 apply my logic because if I were applying my logic they
2 wouldn't be here. So I can't apply how I think to how
3 they think especially with people who have anti-social
4 personalities, which does not make them mentally ill or
5 people who are anti-social by their nature, people who
6 have other issues following the rules of society. That's
7 why they get charged with crimes.

8 I can't apply what my logic -- in other words I
9 can't say what would this person do if they were in my
10 shoes because if they were in my shoes they wouldn't be
11 here. So I can't apply that level of logic to their
12 behavior. It's the same as when a lawyer says to me
13 please don't ask my client why I did that and I say I've
14 never asked a person that because I assume they cannot
15 give me a rational answer or they wouldn't be here. So I
16 can't apply your logic to his behavior. I have to rely
17 on what the mental health professionals are telling me.

18 And I've been doing this way too long. I've
19 encountered way too many defendants who simply shut down
20 and choose not to comply with their lawyers because they
21 figure it's going to make it go away. If I'm an ostrich
22 and I put my head in the sand I can tolerate being at the
23 Charleston County Detention Center. I can stay here
24 forever because it's not the same as the Department of
25 Corrections; a much harsher environment. And they're in

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1 an environment with other people who sometimes have
2 unfortunately resisted attempts at failing to be a
3 recidivist and they all talk. And everybody knows what
4 that system is like. So you know I can't say his failure
5 to communicate with you based on your experience makes
6 him incompetent because he may just have made a choice to
7 shut down and not talk to you thinking that is going to
8 benefit him and I don't know.

9 MR. LEWIS: I was reappointed obviously since I'm
10 here to represent him again. And since then going
11 through this process I've been exposed more to this sort
12 of thinking; this hyper-religious or whatever; even if
13 it's malingering he's still not benefitting himself in
14 any way. It's still not -- when you're offered the
15 minimum on something when on paper it's a slam dunk.

16 THE COURT: Yes, but if I applied that logic three
17 quarters of the people I sent to prison wouldn't go
18 there. Every day they turn down good offers. And I
19 stopped trying to talk to people because then they file
20 PCR's saying that the lawyer twisted their -- the Judge
21 twisted their lawyer's arms and made them take a plea
22 when really you're trying to look out for people's best
23 interest. Again, I can't apply my logic to that logic
24 because it is human nature to want the best. It is human
25 nature. It's just like when a person goes to a doctor

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1 and the doctor says you've been diagnosed with cancer;
2 it's stage four. Some people can handle that reality and
3 cognitively process I have cancer; I need to go home and
4 get my affairs in order. I may think the best that this
5 radiation and this aggressive chemo and this experimental
6 treatment is going to make me well.

7 You have some people that live in the total
8 disassociated reality that I really don't have cancer.
9 If I lay on the alter this Sunday and I pray enough the
10 Lord is going to heal me of this cancer and I don't have
11 to take any other steps for this that somehow
12 miraculously I am going to go back for my next scan and
13 this cancer is not going to be in my body. Now not to
14 devalue that thought process because I have seen people
15 have that happen.

16 But now I would be at the doctor getting every
17 treatment they could give me. But there are other people
18 who have different value systems. Again, using -- this
19 is probably not the best analogy but as a Family Court
20 judge I wouldn't have had to hear so many cases about
21 Jehovah's Witnesses and blood transfers and children's
22 lives being saved because their parents believed that
23 their children shouldn't have a blood transfusion and you
24 have a sect of Jehovah's Witnesses in Europe that say
25 it's okay to have a blood transfusion. But the ones here

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1 say you can't and literally would tell me that I am the
2 worst thing that ever walked this earth short of gills
3 above himself by saying your child can get a simple
4 treatment and be fine and be well. I just think people
5 have different value systems, they have different belief
6 systems and its human nature to want to believe the best
7 is going to happen. That's no different than a defendant
8 that turns down a wonderful offer which we see all the
9 time with a plethora of evidence against them because
10 they really want to believe the jury is going to acquit
11 me. And sometimes it happens.

12 But when it doesn't happen what's the first thing
13 they say? Mr. Lewis, I want my deal back. And then
14 they're going to file a PCR and say Mr. Lewis never
15 explained my offer to me. The Judge never explained my
16 offer to me, never gave me a chance to talk about it and
17 I want my deal back. That's 90 percent of PCR's. It's
18 not really that my lawyer was deficient in any way but I
19 just want my old deal back because things didn't turn out
20 as flowery as I'd hoped.

21 And I just think that's human nature to want to
22 believe that things are going to turn out the way I want
23 them to. That's just hopeful wishful thinking and I
24 don't think that makes you mentally ill because there are
25 a lot of people that -- I mean I just think it's human

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1 nature to want to believe the best. There are very few
2 people that walk around defeatists and like what's the
3 little guy on Peanuts, who's the one -- I'm trying to
4 think of the character who always had the cloud?

5 MR. LEWIS: I can't remember his name ---

6 THE COURT: --- he was always something horrible is
7 going to happen; you know the sky is falling. There are
8 some people that think like that. They are negative and
9 that's just their personality. But most people who are
10 at that level of negative have another issue. So most
11 people we see you just want to believe the best. I mean
12 you just want to think things are going to turn out well.

13 So I don't find that particularly persuasive because
14 90 percent of the people I see turn down really good
15 offers, even PTI. I've got a guy right now who has
16 turned PTI three times on something he probably could pay
17 a couple hundred dollars in restitution but he really
18 believes he is going to be exonerated. He's facing like
19 15 years on something he could get PTI on.

20 MR. LEWIS: I understand ---

21 THE COURT: --- and instead he's chosen to sue all
22 of us who tried to talk any sense into him. But you know
23 it doesn't bother us. We get sued all the time; it's not
24 a big deal.

25 MR. LEWIS: Judge, the only reason I was wanting to

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1 memorialize it personally was I've had a lot of clients
2 that have told me that specifically; I disagree. You're
3 just trying to sell me out. You're trying to railroad
4 me. You're a bad lawyer, blah, blah, blah. I get that.
5 He's the first one that I've had that said -- went to
6 this extent and that's what bothers me and that's why I
7 felt the need to do this.

8 THE COURT: Well, I've heard it too many times.
9 It's no different from a grandmother that comes in and
10 says I believe the Lord was going to exonerate my child
11 and that the Lord was going intervene. And someone
12 miraculously somebody wasn't going to show up or somebody
13 was going to testify differently.

14 And you have people that labor many hours in prayer
15 hoping it's going to change the situation. And I don't
16 negate that. I don't negate that belief system because I
17 do believe that prayer can change things. But you've got
18 to be realistic -- well, not necessarily realistic
19 because you never know how life is going to turn out.

20 But to me it's not an unusual belief system for
21 people to believe that way and to want to believe that
22 things are going to turn out well and that if I just pray
23 enough that some -- whether it be Allah or whether be
24 Jesus, whether it be Buddha is going to intervene for me
25 and things are going to turn out differently. Or that I

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1 just got a praying grandmamma and she been praying for me
2 all this time and I've gotten out of everything else and
3 I believe I am going to get out of this too. And again,
4 I don't know what the facts are. I have no clue. I
5 don't know what the evidence is, I haven't read the file.
6 I've looked at the indictments.

7 My clerk has done an overview of the case for me but
8 I limit that to time, place. I try to stay as neutral as
9 possible because I'm not the finder of fact; I'm just the
10 umpire basically, you know what comes in and what doesn't
11 come in. So I try to keep my mind as open as possible so
12 that I'm not predisposed myself because subjectively it's
13 very easy to become -- to have your memory colored by
14 things that you read subliminally.

15 So my summary is very boiler plate. I just want to
16 know time, place. I really don't care what evidence the
17 State has. They have the burden of proof. They need to
18 be concerned with that. The only thing I'm concerned
19 with is whether there are pretrial motions that have been
20 filed that I need to dispose of but other than that I
21 keep myself pretty neutral. I really don't read the
22 local paper. I don't watch any local news. I feel so
23 out of pocket sometimes because all I watch is CNN and
24 the cable news shows. But I do that deliberately as well
25 because I don't want to hear a news report about an

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1 event. I don't want to hear what the media perceives
2 happened and who they have talked to and all that kind of
3 stuff because I recognize their information is limited as
4 well and that they are always after what is sensational.
5 Sensational sells. Train wrecks sell, good news doesn't
6 sell. I mean every once in a while like CNN's heroes;
7 you know every once in a while good news.

8 But I try to be very objective about it so I really
9 know nothing about the case. And I don't have any idea
10 what evidence the State has against him. I don't know
11 how strong their case is. So we'll have to take that as
12 it comes. But is there any other basis for your argument
13 that you feel he is incompetent to go forward?

14 MR. LEWIS: I guess to caption it would be sort of
15 a lack of self preservation and his inability to work
16 with me. And I think I've put both those out there. As
17 I said I need ---

18 THE COURT: --- but you have all the discovery
19 don't you?

20 MR. LEWIS: Absolutely, Judge.

21 THE COURT: And you understand the deficits in the
22 State's case? I would imagine -- I've never had a
23 situation with you where you -- I mean I can't imagine
24 that you haven't worked zealously to figure that out.

25 MR. LEWIS: I've worked very, very hard, Judge.

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1 I'm also hard-pressed -- it's going to be a tough one for
2 the defense.

3 THE COURT: I think that based on now what I've
4 heard what you all have elicited from this witness it
5 would be a tough way to go anyway whether he is talking
6 to you or not.

7 MR. LEWIS: Yes, Your Honor.

8 THE COURT: Unless he had an alibi witness that
9 didn't place him because based on what I'm now hearing
10 and what I've read in the report it seems he was found in
11 close proximity with some rubber gloves on and a lot of
12 the property than an unemployed person would not have had
13 in their possession.

14 MR. LEWIS: About 20 feet away.

15 THE COURT: Yes. It's just hard pressed to know
16 what sort of -- absent an alibi that's it. For somebody
17 to say he wasn't here. He's 20 miles away; he's 10 miles
18 that couldn't have been him or mistaken identity. But
19 then he doesn't have anything to prove; they have to
20 prove it. He can sit right there and be quiet the whole
21 time and never say a word.

22 MR. LEWIS: And lastly to not destroy what rapport
23 I do have with my client it's not now that he's not
24 working with me. It's that no matter what it doesn't
25 matter because we're guaranteed to win. But I...

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1 THE COURT: Well but you've been kind of there
2 before. At least I've observed it with other lawyers who
3 are very obstinate with their lawyers and are adamant
4 that they are better lawyers than their lawyer and I'm
5 guaranteed to win this and there is a way you can spin
6 this for me. And if you don't spin it then you're --
7 it's just not that unusual for that to be the posture of
8 the case.

9 MR. LEWIS: Yes, Your Honor.

10 THE COURT: And frankly what the State offered him
11 the minimum mandatory absent -- because I don't know what
12 his bottom line is. I don't know whether he wanted to
13 serve it at 65 percent or 85 percent. I don't know if
14 they had offered him 65 percent if it might have been
15 palatable to him because he -- I don't know what his
16 bottom line is. So there may be a myriad of reasons why
17 he turned it down. And some people's attitude is well;
18 if you've offered me the minimum mandatory you really --
19 what do I have to lose? I could ask the Judge for the
20 minimum.

21 MR. LEWIS: You can always ask but it's not
22 guaranteed.

23 THE COURT: I mean that's how most defendants look
24 at it. They're like well you're not reducing the charge
25 for me. I still have the exposure of 15 to life so what

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July 10, 2017

1 do I have to lose? The worst case scenario I could throw
2 myself on the mercy of the court and say I have some
3 mitigating circumstances and will you give me the
4 minimum. In any sort of offer and rejection circumstance
5 you have to give somebody something that is worth it to
6 them to give up something. And generally when you offer
7 somebody the minimum mandatory they feel like what do I
8 have to lose? Let it roll. I'll ask the Judge for the
9 minimum if I get convicted.

10 MR. LEWIS: Yes, Your Honor.

11 THE COURT: And of course that all depends on who
12 is trying the case and people's perception of judges
13 which is usually wrong because they think we know what
14 we're going to do and we don't have a clue what we're
15 going to do. I change my mind sometimes 20 times
16 inbetween. I take breaks, my mind changes; I process a
17 lot of things.

18 And after you've heard a case you know all that is
19 out there and your perception is different. You have
20 perceptions of the witnesses; you have perceptions of the
21 circumstances, perceptions of the defendant. So nobody
22 is ever penalized for having a trial. You know I'm a
23 believer in the trial system. I think if you want a
24 trial you should have one because you shouldn't look back
25 later and say gosh, I wish I'd done that. So, anything

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Blair Hearing-Argument of Counsel-Remarks by Mr. Lewis
July 10, 2017

1 further?

2 MR. LEWIS: Nothing, Your Honor. Thank you.

3 THE COURT: Anything from the State?

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State v James Anthony Haynes
Blair Hearing-Argument of counsel-Remarks by Mr. Bourdon
July 10, 2017

1 ARGUMENT OF COUNSEL

2 BY MR. BOURDON:

3 Your Honor, we'd just ask the court to consider the
4 report of Doctor Jameson that the defendant is competent
5 to stand trial and that her evaluation this morning again
6 reconfirms that opinion.

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State v James Anthony Haynes
Blair Hearing-Ruling by the Court
July 10, 2017

RULING BY THE COURT

THE COURT: I have listened very intently to the testimony of the doctor. I find her to be credible. I find her to have made a balanced analysis of Mr. Haynes. And while -- you know Mr. Lewis cares about his clients and I would imagine he has some concern about the fact that his client has not been as communicative as he should be. But I think some of that plays into what he hopes in terms of secondary gain to gain from these proceedings.

And while he may have some unspecified personality disorder that's not the barometer. The barometer is whether it affects his ability to understand right from wrong, whether it affects his rational thought process, and whether it impairs his ability to help in his advocacy.

The problem with this case is that you have limited amount of facts to work with because of the nature of the way the case played out and what close proximity your client was found and other things. I mean it's sort of hard pressed to see where you could go with it other than of course attacking the thoroughness of the investigation. The other things, the boiler plate kinds of things that are done especially when you are caught with what are rationally perceived to be the proceeds of

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Blair Hearing-Ruling by the Court
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1 not only this robbery but maybe other robberies in the
2 vicinity of this area, which again I have no idea
3 factually how this is going to play out or what evidence
4 the State would seek to elicit.

5 But he was evaluated thoroughly and you were present
6 for that evaluation Mr. Lewis on I believe it was May 2nd
7 of 2017. He was then evaluated again today probably for
8 a lengthy -- I'm trying to think what time we broke; I
9 really don't remember. I know I was thinking it would
10 take 30 or 40 minutes and that's about what I gave y'all
11 to do it while I dealt with some other cases as well as
12 us waiting to see what was going to happen with the case
13 ahead of you all. But it is clear without rehashing
14 every bit of the doctor's testimony that his current
15 diagnosis of unspecified personality disorder does not
16 impair his ability or his competency to stand trial.

17 The court would find that he has the requisite,
18 factual, and rational understanding of the proceedings
19 against him and the ability to consult with his lawyer
20 with a reasonable degree of rational understanding
21 therefore this court find that he is competent to stand
22 trial. And there are a myriad of things that support
23 that although I have not heard the jail tapes I have no
24 reason to doubt the veracity of the doctor's testimony
25 regarding his grasp of the system when discussing that as

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1 well as the symptoms of malingering. And while it may
2 defy our rational understanding we can't apply -- that's
3 not the standard we apply to him. Rational thinking
4 comes in many varieties and I think we cannot attach such
5 a high functioning of rational -- we're lawyers; we're
6 taught to think rational. We're brainwashed in law
7 school; we think different. We all think alike to some
8 extent. And I can't apply that standard to Mr. Haynes.
9 It would really be unfair frankly to expect that of him
10 or to apply that level of logic to his behavior.

11 Mr. Haynes, I would strongly suggest you cooperate
12 with your lawyer and that you give him any information he
13 needs so that he can zealously advocate on your behalf.
14 I've known Mr. Lewis I don't know how many years now.
15 How long have you been with the PD's office?

16 MR. LEWIS: It will be ten in December.

17 THE COURT: Oh my gosh. I was about to say ten but
18 I didn't want to age you prematurely. But it has been my
19 experience that he is a zealous advocate for his clients.
20 That he is what I call a true believer. And let me help
21 you understand. No lawyer likes to lose. It's just that
22 A personality in us. So I would strongly suggest that
23 you give him any assistance he requires so that he can do
24 his best job for you, okay?

25 MR. HAYNES: Yes, ma'am.

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1 THE COURT: So any questions he asks you during
2 this break, anything that you need to provide him if
3 there are witnesses or otherwise you need to let him know
4 because we're getting ready to pick a jury here shortly
5 and I need you to give him all the information he needs
6 to be equipped to represent you, okay?

7 MR. HAYNES: Yes, ma'am.

8 THE COURT: And I'm a great believer in higher
9 powers and them coming to our rescue but right now we're
10 dealing with something a little more earthly, more
11 empirical and I need you to help him out if you can,
12 okay.

13 MR. HAYNES: Yes, ma'am.

14 THE COURT: Thank you.

15 MR. LEWIS: Thank you, Judge.

16 THE COURT: Thank you, sir. We're going to take a
17 short break because my staff has got to eat and I don't
18 want them reporting me to OSHA.

19 [Whereupon, court is in recess from 2:15 p.m. until
20 2:50 p.m.]

21 THE COURT: Y'all can go ahead and bring the jury
22 in.

23 [Whereupon, an off the record bench conference is
24 held]

25 [Whereupon, the jury panel enters at 2:53 p.m.]

State v James Anthony Haynes
Proceedings
July 10, 2017

1 THE COURT: Ladies and gentlemen we are going to
2 select a jury for the state of South Carolina versus
3 James Anthony Haynes, indictments 2015-GS-10-4790 an
4 indictment for burglary in the 1st degree. And that
5 indictment alleges as follows:

6 That in Charleston County, South Carolina on or
7 about May 26 of 2015 the defendant, James Anthony Haynes,
8 did enter the dwelling of Earle Franks without consent
9 and with the intent to commit a crime therein. That in
10 addition the defendant was armed with a deadly weapon or
11 explosive alleging a violation of Code Section 16-11-311
12 of the Code of Laws as amended.

13 In indictment 2015-GS-10-4793, an indictment for
14 unlawful carrying of a pistol and that indictment alleges
15 as follows: That the defendant, James Anthony Haynes,
16 did in Charleston County on or about May 26, 2015
17 willfully and unlawfully carry about his person a handgun
18 whether concealed or not alleging a violation of Code
19 Section 16-23-20 of the Code of Laws as amended.

20 And indictment 2015-GS-10-4794 possession of a
21 weapon during the commission of a violent crime, and that
22 indictment alleges that in Charleston County on or about
23 May 26th of 2015 the defendant, James Anthony Haynes, did
24 possess a firearm or did visibly display what appeared to
25 be a firearm or did visibly display a knife during the

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1 commission of or attempted commission of a violent crime,
2 to wit burglary first degree alleging a violation of Code
3 Section 16-23-490 of the Code of Laws as amended.

4 And indictment 2015-GS-10-4795 possession of a
5 stolen handgun and that indictment alleges that the
6 defendant, James Anthony Haynes, did on or about May 26th
7 of 2015 in Charleston County South Carolina unlawfully
8 possess or acquire a handgun which had been stolen
9 alleging a violation of code section 16-23-30 of the Code
10 of Laws as amended; and alleging all of these actions to
11 be against the peace and dignity of the state of South
12 Carolina.

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1 VOIR DIRE

2 As I've indicated we're going to select a jury for
3 that case. We're going to go through a process that is
4 called voir dire which is simply a legal term meaning
5 that we are going to ask certain questions of you so that
6 the attorneys can effectively exercise their preemptory
7 challenges in jury selection. And I assume one alternate
8 will be sufficient from the State?

9 MR. BOURDON: Yes, Your Honor.

10 THE COURT: From the defense?

11 MR. LEWIS: Yes, Your Honor.

12 THE COURT: And before we begin that process let me
13 apologize ladies and gentlemen for the time that you've
14 had to wait today. So that you know we've been working
15 consistently since I last saw you and we did not break
16 until about 2:15 and I had to give my staff a brief
17 opportunity to eat something before we resumed jury
18 selection.

19 So we appreciate your time and please know that we
20 do not take your time for granted but we appreciate your
21 indulgence so that I could give them an opportunity to
22 have lunch. Before we begin the jury selection process
23 both counsel for the State and the defense will introduce
24 themselves, any attorneys that will be assisting them in
25 the trial of their case and the defense will have their

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1 client stand and face the panel. As soon as they have
2 completed that process I will ask you some questions and
3 we will continue with jury selection. Mr. Bourdon, you
4 may proceed.

5 MR. BOURDON: Thank you, Your Honor. My name is
6 Mark Bourdon and I'm assistant Solicitor here in
7 Charleston County. With me is Charles Condon who is also
8 an assistant solicitor here in the 9th circuit.

9 THE COURT: And the names of the members of your
10 office.

11 MR. BOURDON: Yes, Your Honor. The following
12 members are part of the 9th Solicitor's office here in
13 the Charleston County office: Scarlett Wilson, Bruce
14 DuRant, Marian Askins, Jessica Baldwin, Daniel Cooper,
15 Ted Corvey, Shannon Elliott, Drew Evans, Lauren Frierson,
16 Alex Ginsberg, Amy Harrell, Debbie Herring-Lash, Culver
17 Kidd, Nick Lewis, Chris Lietzow, Stephanie Linder, Scott
18 Maynor, Matthew McClellan, David Osborne, Jenna Pizer
19 [phonetic] Newman, Charles Patrick, Daniel Poulos, Nina
20 Savas, Jennifer Shealy, Benjamin Chad Simpson, Bruce
21 Sellers [phonetic], Truc Tran, Richard Waring, Burns
22 Wetmore, Tyler Whitaker, Tod Williams, and Alex Ziegler.

23 THE COURT: Mr. Lewis?

24 MR. LEWIS: Thank you, Judge. Before I begin I
25 apologize; I don't have our office listing.

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1 THE COURT: Just do the best of your knowledge --
2 the best of your memory will be fine.

3 MR. LEWIS: I'll do what I can. Ladies and
4 gentlemen my name is Ben Lewis. I'm an attorney with the
5 Public Defender's office. This [indicates] is James
6 Haynes, he's my client that I am representing in this
7 case. Trying the case with me is Nick Smit, also in my
8 office and also assisting us is Lauren Daniels who is a
9 law clerk in our office this summer helping us out.

10 In our office, and I'll try to fill in any other
11 names if I can't remember, Ashley Pennington, Annie
12 Andrews, Benjamin Mack, Charlie Cochran, Jason King, John
13 Kozelski, Kelly Solar, Karen Barker, Lori Proctor, Luke
14 Malloy, Mary Ford, Martha Kent Runey, Michael Loignon,
15 Megan Ehrlich, Patty Kennedy, Rhett Dunaway, Shirene
16 Hansotia, Tamara Van Pala, Ted Smith, Jessica Birt, Mary
17 Ellen Rankin, and I believe that's all I can read on
18 here. I apologize, Judge ---

19 THE COURT: --- that's okay; like I said to the
20 best of your recollection. Thank you. You may take
21 your seats.

22 [Whereupon, counsel and the defendant are seated]

23 MR. LEWIS: Thank you, Judge.

24 THE COURT: You're welcome.

25 THE COURT: Ladies and gentlemen if a question

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1 applies to you please stand and in a loud and clear voice
2 give me your name, your juror number, an answer to the
3 question if applicable and remain standing until I have
4 completed questioning you. Take a few moments and review
5 your juror summons if you have it with you so that you
6 can know what your juror number is in the event that a
7 question applies to you or to your particular situation.

8 Is there any member of the panel related by blood or
9 marriage to James Anthony Haynes or Earle Franks? If so,
10 please stand at this time.

11 [Whereupon, no one stands]

12 THE COURT: Does any member of the panel have a
13 close personal or so social relationship with James
14 Anthony Haynes or Earle Franks? If so, please stand at
15 this time.

16 [Whereupon, no one stands]

17 THE COURT: The following are a list of potential
18 witnesses in this case. I would ask that you listen
19 carefully. Earle Franks, Kevin Geddis, Michael Lawrence
20 of the North Charleston Police Department, John Neale,
21 South Carolina Law Enforcement Division, Joshua Ranck,
22 Brian West, Joseph Niemiec, Michael Cook, Shawnta
23 Middleton, Jonathan Glenn, Ron Webb, Ken Hagee; all of
24 the North Charleston Police Department, Doctor Sheresa
25 Christopher; Medical University of South Carolina,

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1 Kathryn Jameson; Medical University of South Carolina;
2 Laquetta Washington, Dispatch and Kevin Sherbine of the
3 Charleston County Sheriff's Office, And Art -- I don't
4 want to mispronounce that.

5 MR. LEWIS: Art Dujovannah [phonetic].

6 THE COURT: Dujovannah [phonetic].

7 MR. LEWIS: He's also in my office.

8 THE COURT: And Art Dujovannah [phonetic] of the
9 Public Defender's office. Is there any member of the
10 panel related by blood or marriage to any of the people
11 that I've just listed or does anyone have a close,
12 personal, or social relationship with any of these
13 individuals? If so, please stand at this time.

14 [Whereupon, a juror stands]

15 THE COURT: Yes ma'am, tell me your name and juror
16 number?

17 JUROR NUMBER 206: Francyne Nathaniel and I don't
18 know my juror number.

19 THE COURT: Tell me your name again, ma'am.

20 JUROR NUMBER 206: Francyne Nathaniel.

21 THE COURT: Yes, ma'am?

22 JUROR NUMBER 206: I know the dispatcher, Laquetta
23 Washington.

24 THE COURT: How well do you know her?

25 JUROR NUMBER 206: She's a personal friend.

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1 THE COURT: How often would you say you see her?

2 JUROR NUMBER 206: When we have family events.

3 THE COURT: And how often would that be?

4 JUROR NUMBER 206: Just during the holidays and
5 things like that.

6 THE COURT: Okay. And have you ever discussed
7 this case with her?

8 JUROR NUMBER 206: No.

9 THE COURT: Do you have any personal knowledge of
10 the facts and circumstances alleged in this case?

11 JUROR NUMBER 206: No.

12 THE COURT: As a result of this experience do you
13 feel that you can remain fair and impartial and render a
14 fair and impartial decision in this case based solely on
15 the evidence as it will be presented and on the law that
16 the court will instruct?

17 JUROR NUMBER 206: Yes.

18 THE COURT: Thank you, ma'am. You may take your
19 seat.

20 [Whereupon, the juror is seated]

21 THE COURT: Has any member of the panel ever been
22 represented by any of the attorneys involved in this case
23 or any of the lawyers in their offices? If so, please
24 stand at this time.

25 [Whereupon, no one stands]

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1 THE COURT: Is there any member of the panel
2 related by blood or marriage to or have a close personal
3 or social relationship with any of the attorneys involved
4 in this case, any of the lawyers in their offices or any
5 person employed in any capacity in their offices? If so,
6 please stand at this time.

7 [Whereupon, a juror stands]

8 THE COURT: Yes, sir?

9 JUROR NUMBER 83: William Flynn, 83. Jessica Birt
10 is a close personal friend.

11 THE COURT: You said Jessica?

12 JUROR NUMBER 83: Birt, B-I-R-T.

13 THE COURT: And who is she employed with?

14 JUROR NUMBER 83: Public Defender..

15 THE COURT: And when you say -- describe that
16 friendship to me. Is it an acquaintance or how often
17 would you say you see her?

18 JUROR NUMBER 83: Her husband and I are best
19 friends. We see each other multiple times a week.

20 THE COURT: As a result of this experience do you
21 feel that you can remain fair and impartial and render a
22 fair and impartial decision in this case based solely on
23 the evidence as it will be presented and on the law as
24 the court will instruct?

25 JUROR NUMBER 83: Yes, ma'am.

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1 THE COURT: Thank you, sir. You can take your
2 seat.

3 [Whereupon, the juror is seated]

4 THE COURT: Has any member of the panel formed or
5 expressed an opinion about any issue or matter involved
6 in this case? If so, please stand at this time.

7 [Whereupon, no one stands]

8 THE COURT: Is there any member of the panel aware
9 of any bias or prejudice either toward the State or the
10 defense in this case? If so, please stand at this time.

11 [Whereupon, no one stands]

12 THE COURT: Is there any member of the panel who
13 was a member of the Grand Jury which issued the
14 indictments in this case? If so, please stand at this
15 time.

16 [Whereupon, no one stands]

17 THE COURT: Is there any member of the panel who
18 has read, watched or listened to any media accounts about
19 this case, if there has been any, in the newspaper,
20 radio, television, or Internet? If so, please stand at
21 this time.

22 [Whereupon, no one stands]

23 THE COURT: Is there any member of the panel who
24 has any personal knowledge of the alleged facts and
25 circumstances of this case? If so, please stand at this

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1 time.

2 [Whereupon, no one stands]

3 THE COURT: Is there any member of the panel who is
4 a member of or a contributor to any group which has as
5 its primary concern the promotion of law enforcement or
6 victim's rights?

7 These groups would include but are not limited to
8 Mothers Against Drunk Driving, Students Against Drunk
9 Driving, Citizens Against Violent Crime, People Against
10 Rape, Citizens Empowered to -- Parents Empowered to Save
11 Teens, or any other type community watch group? If so,
12 please stand at this time.

13 [Whereupon, no one stands]

14 THE COURT: Is there any member of the panel who
15 has a moral, philosophical, or religious opposition to
16 sitting in judgment of a fellow human being? If so,
17 please stand at this time.

18 [Whereupon, no one stands]

19 THE COURT: Is there any member of the panel who
20 has ever been the victim of a violent crime? If so,
21 please stand at this time.

22 [Whereupon, jurors stand]

23 THE COURT: If you would tell me your name and
24 juror number?

25 JUROR NUMBER 228: My name is Ordean Pelzer and my

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1 juror number is 228.

2 THE COURT: Okay. If you would, remain standing.

3 And yes, ma'am?

4 JUROR NUMBER 96: Delores Gibbs, juror number 96.

5 THE COURT: As a result of these experiences do you
6 both feel that you can remain fair and impartial and
7 render a fair and impartial decision in this case based
8 solely on the evidence as it will be presented and on the
9 law as the court will instruct? If you answer is yes,
10 please take your seats.

11 [Whereupon, one juror is seated]

12 THE COURT: Let the record reflect that 228 has
13 indicated she is unable to be fair and impartial.
14 Ma'am, you will be excused from the trial of this case
15 only. You can take your seat.

16 [Whereupon, juror number 228 is seated]

17 THE COURT: Number 96 has indicated she can be fair
18 and impartial. Is there any member of the panel who has
19 had what they would characterize as an unpleasant
20 experience with law enforcement such that it would impact
21 your ability to be fair and impartial in this case? If
22 so, please stand at this time.

23 [Whereupon, no one stands]

24 THE COURT: Is there any member of the panel, and
25 this question relates to former employment not current

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1 employment, is there any member of the panel who was
2 formerly employed in law enforcement? If so, please
3 stand at this time.

4 [Whereupon, no one stands]

5 THE COURT: Is there any member of the panel who
6 has any family members who are employed in law
7 enforcement? If so, please stand at this time.

8 [Whereupon, jurors stand]

9 THE COURT: Sir, tell me your name, your juror
10 number, which member of your family it is and what
11 agency.

12 JUROR NUMBER 69: Is it immediate family or like...

13 THE COURT: Father, brother, sister, cousin, uncle,
14 aunt.

15 JUROR NUMBER 69: Greg Norris, 069. Uncle Highway
16 State patrolman, his son my cousin, Highway State
17 patrolman and then another cousin is a city cop.

18 THE COURT: If you would remain standing. Yes,
19 sir?

20 JUROR NUMBER 297: Kenyatta Spruill --

21 THE COURT: I can't hear you sir.

22 JUROR NUMBER 297: Kenyatta Spruill, juror number
23 297.

24 THE COURT: Yes, sir?

25 JUROR NUMBER 297: My father-in-law is a sheriff in

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1 Aiken County and also --

2 THE COURT REPORTER: --- I'm sorry. I can't hear
3 you, sir.

4 THE COURT: Sir, we're going to need you to repeat
5 your answer so the court reporter can take it down. You
6 said your father-in-law is with the Sheriff's office in
7 Aiken and Barnwell and what else were you saying?

8 JUROR NUMBER 297: Aiken County and he is also with
9 the Dare Program.

10 THE COURT: D-A-R-E?

11 JUROR NUMBER 297: Yes.

12 THE COURT: If you would remain standing. Yes,
13 ma'am?

14 JUROR NUMBER 4: Juror number 4, Holly Allen. My
15 son-in-law is an officer with the Sheriff's Department in
16 Lakewood, Colorado.

17 THE COURT: Yes, sir?

18 JUROR NUMBER 159: Andre Lopez, juror 159.

19 THE COURT: 159?

20 JUROR NUMBER 159: Yes, ma'am.

21 THE COURT: And who are the members of your family?

22 JUROR NUMBER 159: Sherry Lopez, she is with the
23 Sheriff's Department.

24 THE COURT: Here in Charleston?

25 JUROR NUMBER 159: In Lieber prison --

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1 THE COURT: I'm sorry?

2 JUROR NUMBER 159: Lieber, I think.

3 THE COURT: She is a correctional officer at
4 Lieber? And how is she related to you?

5 JUROR NUMBER 159: She is my cousin.

6 THE COURT: Okay.

7 JUROR NUMBER 159: My uncle's daughter.

8 THE COURT: Any other members of your family
9 employed in law enforcement?

10 JUROR NUMBER 159: No.

11 THE COURT: As a result of these experiences do you
12 all feel that you can remain fair and impartial and
13 render a fair and impartial decision in this case based
14 solely on the evidence as it will be presented and on the
15 law that the court will instruct? If your answer is yes,
16 please take your seat.

17 [Whereupon, all jurors are seated]

18 THE COURT: Let the record reflect that all
19 answered yes. Is there any member of the panel who has a
20 moral, philosophical, or religious opposition to carrying
21 firearms or the opposite position against or in favor of
22 carrying firearms? If so, please stand at this time.

23 [Whereupon, no one stands]

24 THE COURT: Is there any member of the panel who
25 lives in the area of Elderberry Circle in Archdale or the

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1 Summerfield homes in North Charleston? If so, please
2 stand at this time.

3 [Whereupon, no one stands]

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

9 [Whereupon, no one stands]

10 THE COURT: Any additional questions from the
11 State?

12 MR. BOURDON: Yes, Your Honor.

13 THE COURT: Just give me a number from your voir
14 dire or is it something additional?

15 MR. BOURDON: Your Honor, it's from the witness
16 list. It's revised and I'm not sure you had the latest
17 copy.

18 THE COURT: When did you -- is there somebody I
19 left off?

20 MR. BOURDON: Yes, ma'am. May I approach?

21 [Whereupon, Mr. Bourdon approaches the bench]

22 THE COURT: There are additional witnesses,
23 potential witnesses in this case ladies and gentlemen. I
24 would ask that you listen very carefully. Al Kuechler,
25 Jonathan Madrid, Glen Meza; all of the North Charleston

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1 Police Department, Ray Thompkins, Freddie Wright, Amanda
2 Hiouel, Josh Chaney and Jeff Osburn; all of the
3 Solicitor's office, Scott Wyant, Tonya [sic] Westbury of
4 the Dorchester County Clerk of Court, Daniel Eckert,
5 Solicitor's office, Dr. Luz Elizabeth Pacheco and Doctor
6 Emily Gottfried both of the Medical University of South
7 Carolina.

8 Is there any member of the panel related by blood or
9 marriage to any of the individuals that I've just listed
10 or does anyone have a close personal social or business
11 relationship with any of these individuals? If so,
12 please stand at this time.

13 [Whereupon, no one stands]

14 THE COURT: Any additional questions from the
15 State?

16 MR. BOURDON: No, Your Honor.

17 THE COURT: Any additional questions from the
18 defense?

19 MR. LEWIS: No, Your Honor.

20 THE COURT: Strikes will be ten and five. Who is
21 going to demonstrate for me?

22 [Whereupon, a bailiff comes forward]

23 THE COURT: Ladies and gentlemen if your name is
24 called please come forward as he is coming forward and
25 bring all of your personal belongings with you. You will

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1 stand where he is standing facing back towards the panel
2 until we either select or excuse you as a juror. Please
3 give the Clerk your attention. And just so that you can
4 know by way of information in selecting you it is
5 completely a random process in which we employ our
6 computers for that purpose of randomly sorting your
7 names. Again, ladies and gentlemen give the Clerk your
8 undivided attention.

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1 STRIKING OF THE JURY
2 CLERK OF COURT: Juror number 224, Andrew Parker.
3 [Whereupon, the juror comes forward]
4 CLERK OF COURT: What say you for the State?
5 MR. BOURDON: Please seat the juror.
6 CLERK OF COURT: What say you for the defendant?
7 MR. LEWIS: Please seat the juror.
8 CLERK OF COURT: Thank you, sir. Please have a
9 seat in the jury box. You've been selected as a juror in
10 the trial of this case.
11 [Whereupon, the juror is seated in the jury box as
12 a juror]
13 CLERK OF COURT: Juror number 310 Christy Teal.
14 [Whereupon, the juror comes forward]
15 CLERK OF COURT: What say you for the State?
16 MR. BOURDON: Court's indulgence.
17 [Whereupon, Mr. Bourdon and Mr. Condon confer]
18 MR. BOURDON: Please seat the juror.
19 CLERK OF COURT: What say you for the defendant?
20 MR. LEWIS: Please excuse the juror.
21 CLERK OF COURT: Please have a seat back in the
22 audience. You've been excused from the trial of this
23 case.
24 [Whereupon, the juror returns to the audience]
25 CLERK OF COURT: Juror number 342 Cynthia Wood.

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1 [Whereupon, the juror comes forward]
2 CLERK OF COURT: What say you for the State?
3 MR. BOURDON: Please seat the juror.
4 CLERK OF COURT: What say you for the defendant?
5 MR. LEWIS: Please excuse the juror.
6 CLERK OF COURT: Please have a seat back in the
7 audience. You've been excused from the trial of this
8 case.
9 [Whereupon, the juror returns to the audience]
10 CLERK OF COURT: Juror number 167 Steven Martin.
11 [Whereupon, the juror comes forward]
12 CLERK OF COURT: What say you for the State?
13 MR. BOURDON: Please seat the juror.
14 CLERK OF COURT: What say you for the defendant?
15 MR. LEWIS: Please excuse the juror.
16 CLERK OF COURT: Please have a seat back in the
17 audience. You've been excused from the trial of this
18 case.
19 [Whereupon, the juror returns to the audience]
20 CLERK OF COURT: That is three strikes for the
21 defense. Juror number 28 Deborah Bowley.
22 [Whereupon, the juror comes forward]
23 CLERK OF COURT: What say you for the State?
24 MR. BOURDON: Please excuse the juror.
25 CLERK OF COURT: Please have a seat back in the

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1 audience. You've been excused from the trial of this
2 case.

3 [Whereupon, the juror returns to the audience]

4 CLERK OF COURT: Juror number 343 Ellen Woodward.

5 [Whereupon, the juror comes forward]

6 CLERK OF COURT: What say you for the State?

7 MR. BOURDON: Please seat the juror.

8 CLERK OF COURT: What say you for the defendant?

9 MR. LEWIS: Please seat the juror.

10 CLERK OF COURT: Please have a seat in the jury
11 box. You've been selected as a juror in the trial of
12 this case.

13 [Whereupon, the juror is seated in the jury box as a
14 juror]

15 CLERK OF COURT: Juror number 212 Tyler Newman.

16 [Whereupon, the juror comes forward]

17 CLERK OF COURT: What say you for the State?

18 MR. BOURDON: Please seat the juror.

19 CLERK OF COURT: What say you for the defendant?

20 MR. LEWIS: Please seat the juror.

21 CLERK OF COURT: Please have a seat in the jury
22 box. You've been selected as a juror in the trial of
23 this case.

24 [Whereupon, the juror is seated in the jury box as a
25 juror]

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1 CLERK OF COURT: Juror number 74 Jenice Edney.
2 [Whereupon, the juror comes forward]
3 CLERK OF COURT: What say you for the State?
4 MR. BOURDON: Please seat the juror.
5 CLERK OF COURT: What say you for the defendant?
6 MR. LEWIS: Please seat the juror.
7 CLERK OF COURT: Please have a seat in the jury
8 box. You've been selected as a juror in the trial of
9 this case.
10 [Whereupon, the juror is seated in the jury box as a
11 juror]
12 CLERK OF COURT: Juror number 235 Karen Pressley.
13 [Whereupon, the juror comes forward]
14 CLERK OF COURT: What say you for the State?
15 MR. BOURDON: Please seat the juror.
16 CLERK OF COURT: What say you for the defendant?
17 MR. LEWIS: Please seat the juror.
18 CLERK OF COURT: Please have a seat in the jury
19 box. You've been selected as a juror in the trial of
20 this case.
21 [Whereupon, the juror is seated in the jury box as a
22 juror]
23 CLERK OF COURT: Juror number 159 Andre Lopez.
24 [Whereupon, the juror comes forward]
25 CLERK OF COURT: What say you for the State?

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1 MR. BOURDON: Please excuse the juror.

2 CLERK OF COURT: Please have a seat back in the
3 audience. You've been excused from the trial of this
4 case.

5 [Whereupon, the juror returns to the audience]

6 CLERK OF COURT: Juror number 191 Katherine Minson.

7 [Whereupon, the juror comes forward]

8 CLERK OF COURT: What say you for the State?

9 MR. BOURDON: Please seat the juror.

10 CLERK OF COURT: What say you for the defendant?

11 MR. LEWIS: Please seat the juror.

12 CLERK OF COURT: Please have a seat in the jury
13 box. You've been selected as a juror in the trial of
14 this case.

15 [Whereupon, the juror is seated in the jury box as a
16 juror]

17 CLERK OF COURT: Juror number 108 Stephanie
18 Haecherl.

19 [Whereupon, the juror comes forward]

20 CLERK OF COURT: What say you for the State?

21 MR. BOURDON: Please seat the juror.

22 CLERK OF COURT: What say you for the defendant?

23 MR. LEWIS: Please excuse the juror.

24 CLERK OF COURT: Please have a seat back in the
25 audience. You've been excused from the trial of this

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1 case.

2 [Whereupon, the juror returns to the audience]

3 CLERK OF COURT: Juror number 115 Jennifer Hasting.

4 [Whereupon, the juror comes forward]

5 CLERK OF COURT: What say you for the State?

6 MR. BOURDON: Please seat the juror.

7 CLERK OF COURT: What say you for the defendant?

8 MR. LEWIS: Please seat the juror.

9 CLERK OF COURT: Please have a seat in the jury
10 box. You've been selected as a juror in the trial of
11 this case.

12 [Whereupon, the juror is seated in the jury box as a
13 juror]

14 CLERK OF COURT: Juror number 258 Sara Rust.

15 [Whereupon, the juror comes forward]

16 CLERK OF COURT: What say you for the State?

17 MR. BOURDON: Please seat the juror.

18 CLERK OF COURT: What say you for the defendant?

19 MR. LEWIS: Please seat the juror.

20 CLERK OF COURT: Please have a seat in the jury
21 box. You've been selected as a juror in the trial of
22 this case.

23 [Whereupon, the juror is seated in the jury box as
24 a juror]

25 CLERK OF COURT: Juror number 59 Rhonda Curtis.

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1 [Whereupon, the juror comes forward]
2 CLERK OF COURT: What say you for the State?
3 MR. BOURDON: Please seat the juror.
4 CLERK OF COURT: What say you for the defendant?
5 MR. LEWIS: Please excuse the juror.
6 CLERK OF COURT: Please have a seat back in the
7 audience. You've been excused from the trial of this
8 case. That's five strikes for the defense.
9 [Whereupon, the juror returns to the audience]
10 CLERK OF COURT: Juror number 255 Ronald Roper.
11 [Whereupon, the juror comes forward]
12 CLERK OF COURT: What say you for the State?
13 MR. BOURDON: Please seat the juror.
14 CLERK OF COURT: What say you for the defendant?
15 MR. LEWIS: Please seat the juror.
16 CLERK OF COURT: Please have a seat in the jury
17 box. You've been selected as a juror in the trial of
18 this case.
19 [Whereupon, the juror is seated in the jury box as a
20 juror]
21 CLERK OF COURT: Juror number 204 Courtney Murren.
22 [Whereupon, the juror comes forward]
23 CLERK OF COURT: What say you for the State?
24 MR. BOURDON: Please seat the juror.
25 CLERK OF COURT: What say you for the defendant?

State v James Anthony Haynes
Striking of the Jury
July 10, 2017

1 MR. LEWIS: Please seat the juror.

2 CLERK OF COURT: Please have a seat in the jury
3 box. You've been selected as a juror in the trial of
4 this case.

5 [Whereupon, the juror is seated in the jury box as a
6 juror]

7 CLERK OF COURT: Juror number 4 Holly Allen.

8 [Whereupon, the juror comes forward]

9 CLERK OF COURT: What say you for the State?

10 MR. BOURDON: Please seat the juror.

11 CLERK OF COURT: What say you for the defendant?

12 MR. LEWIS: Please excuse the juror.

13 CLERK OF COURT: Please have a seat back in the
14 audience. You've been excused from the trial of this
15 case.

16 [Whereupon, the juror returns to the audience]

17 CLERK OF COURT: Juror number 250 Marcus
18 Richardson.

19 [Whereupon, the juror comes forward]

20 CLERK OF COURT: What say you for the State?

21 MR. BOURDON: Court's indulgence please.

22 [Whereupon, Mr. Bourdon and Mr. Condon confer]

23 MR. BOURDON: Please excuse the juror.

24 CLERK OF COURT: Please have a seat back in the
25 audience. You've been excused from the trial of this

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1 case.

2 [Whereupon, the juror returns to the audience]

3 CLERK OF COURT: Juror number 96 Delores Gibbs.

4 [Whereupon, the juror comes forward]

5 CLERK OF COURT: What say you for the State?

6 MR. BOURDON: Please excuse the juror.

7 CLERK OF COURT: Please have a seat back in the
8 audience. You've been excused from the trial of this
9 case. That's four strikes for the State.

10 [Whereupon, the juror returns to the audience]

11 CLERK OF COURT: Juror number 327 Faye Westwood.

12 [Whereupon, the juror comes forward]

13 CLERK OF COURT: What say you for the State?

14 MR. BOURDON: Please seat the juror.

15 CLERK OF COURT: What say you for the defendant?

16 MR. LEWIS: Please excuse the juror.

17 CLERK OF COURT: Please have a seat back in the
18 audience. You've been excused from the trial of this
19 case.

20 [Whereupon, the juror returns to the audience]

21 CLERK OF COURT: Juror number 83 William Flynn.

22 [Whereupon, the juror comes forward]

23 CLERK OF COURT: What say you for the State?

24 MR. BOURDON: Please seat the juror.

25 CLERK OF COURT: What say you for the defendant?

State v James Anthony Haynes
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July 10, 2017

1 MR. LEWIS: Please seat the juror.

2 CLERK OF COURT: Please have a seat in the jury
3 box. You've been selected as a juror in the trial of
4 this case.

5 [Whereupon, the juror is seated in the jury box as a
6 juror]

7 CLERK OF COURT: Juror number 316 Kala Turpin.

8 [Whereupon, the juror comes forward]

9 CLERK OF COURT: What say you for the State?

10 MR. BOURDON: Please seat the juror.

11 CLERK OF COURT: What say you for the defendant?

12 MR. LEWIS: Please seat the juror.

13 CLERK OF COURT: Please have a seat in the jury
14 box. You've been selected as a juror in the trial of
15 this case.

16 [Whereupon, the juror is seated in the jury box as
17 a juror]

18 THE COURT: One alternate. Strikes are one and
19 two.

20 CLERK OF COURT: We are now selecting for the
21 alternates. The strikes are one and two. Juror number
22 233 Daniel Poole.

23 [Whereupon, the juror comes forward]

24 CLERK OF COURT: What say you for the State?

25 MR. BOURDON: Please seat the juror.

State v James Anthony Haynes
Striking of the Jury
July 10, 2017

1 CLERK OF COURT: What say you for the defendant?
2 MR. LEWIS: Please excuse the juror.
3 CLERK OF COURT: Please have a seat back in the
4 audience. You've been excused from the trial of this
5 case.
6 [Whereupon, the juror returns to the audience]
7 CLERK OF COURT: Juror number 232 Jordan Phillips.
8 [Whereupon, the juror comes forward]
9 CLERK OF COURT: What say you for the State?
10 MR. BOURDON: Please seat the juror.
11 CLERK OF COURT: What say you for the defendant?
12 MR. LEWIS: Please excuse the juror.
13 CLERK OF COURT: That's two strikes for the
14 defense.
15 [Whereupon, the juror returns to the audience]
16 CLERK OF COURT: Juror number 149 Herbert Klein.
17 [Whereupon, the juror comes forward]
18 CLERK OF COURT: What say you for the State?
19 MR. BOURDON: Please seat the juror.
20 CLERK OF COURT: Any challenge from the defense?
21 MR. LEWIS: No challenge.
22 CLERK OF COURT: Please have a seat in the jury
23 box. You've been selected as an alternate juror in the
24 trial of this case.
25 [Whereupon, the juror is seated in the jury box as

State v James Anthony Haynes
Striking of the Jury
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1 an alternate juror]

2 CLERK OF COURT: Any challenge from the State?

3 THE COURT: I ask that. Are there any motions
4 regarding the selection of the jury from the State?

5 MR. BOURDON: No, Your Honor.

6 THE COURT: From the defense?

7 MR. LEWIS: No, Your Honor.

8 THE COURT: Ladies and gentlemen we appreciate your
9 patience. Please call back after 6 p.m. this evening for
10 further instructions. You're excused with the court's
11 thanks.

12 [Whereupon, the jury panel is excused at 3:33 p.m.]

13 THE COURT: Any exception to the jury being sworn
14 from the State?

15 MR. BOURDON: Your Honor, we would ask to wait
16 until tomorrow morning in case some motions come up
17 between now and then?

18 THE COURT: Are there any? Approach please.

19 [Whereupon, an off the record bench conference is
20 held]

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State v James Anthony Haynes
Jury Sworn
July 10, 2017

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JURY SWORN

THE COURT: Ladies and gentlemen please stand so
that the Clerk can administer the oath to you.

[Whereupon, all jurors stand]

CLERK OF COURT: Please have the defendant stand.

[Whereupon, the defendant stands]

CLERK OF COURT: Mr. or Mrs. Foreman and ladies and
gentlemen of the jury please stand and raise your right
hand. Do you swear or affirm that you shall well and
truly try and a true deliverance make between the State
of South Carolina and the defendant at the bar with whom
you shall have in charge and a true verdict render
according to the evidence and the law so help you God?

[Whereupon, all jurors respond affirmatively]

CLERK OF COURT: If you have taken this oath please
take your seats.

[Whereupon, all jurors are seated]

THE COURT: You can take your seats as well.

[Whereupon, the defendant and his counsel are
seated]

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1 THE COURT: Ladies and gentlemen you have been
2 selected for the cases of the State versus James Anthony
3 Haynes. We're going to begin this case in the morning.
4 We have some brief matters of law and I have another
5 hearing that I need to dispose of that is totally
6 unrelated to this case and I would not want you all
7 waiting while I did that and I just think you all have
8 had a long day and it's best just to make a fresh start
9 of it.

10 We anticipate this case will only take a couple of
11 days to try even though we have a lot of witnesses.
12 Generally we list every potential witness just in the
13 event that somebody knows someone but that doesn't mean
14 that every witness is going to be called. So we don't
15 anticipate that this case will take particularly long in
16 its presentation. So we'll resume in the morning at
17 9:30.

18 In the interim the bailiffs are going to -- I am
19 going to put you into their hands so that they can get
20 your cell phone numbers and also show you where your jury
21 room is because when you come back to the courthouse
22 you're going to come into the courthouse a different way
23 because you're going to come directly to your jury room.
24 I would ask that you abide by the following instructions
25 strictly: That you have no discussion about this case

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1 among yourselves or with anyone else. That you not
2 speculate about what you think the case may or could be
3 about. Don't do any independent research of any type on
4 the Internet. Do not make any comments regarding your
5 jury service on any social networking sites; Facebook,
6 Twitter, Instagram or otherwise.

7 You would be amazed at the people who are not on
8 jury duty who troll those sites all day long and are very
9 happy to call us and let us know what you've said. And
10 we would not want an innocent comment to be
11 misinterpreted or to impact the perception of your
12 impartiality and your participation on this jury.

13 Also, please have no contact with anyone in or about
14 the courthouse. Again, we would not want an innocent
15 conversation to be observed and misinterpreted. And as
16 soon as you all arrive at 9:30 we will begin with opening
17 instructions, argument and witnesses. Is it supposed to
18 rain tonight? Y'all might want to look at the weather
19 and make sure just in case so that everybody can be
20 timely.

21 I hope that you all have a great evening and again
22 we appreciate your patience. I'm going to turn you over
23 to the hands of the bailiffs. Have a good evening.
24 We'll see you in the morning at 9:30.

25 [Whereupon, the jury exits at 3:38 p.m.]

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1 THE COURT: All right. Is there anything else we
2 need to take up before we adjourn for the afternoon from
3 the State?

4 MR. BOURDON: If I may consult with Mr. Lewis?

5 THE COURT: Sure.

6 [Whereupon, Mr. Bourdon and Mr. Lewis confer]

7 MR. BOURDON: Your Honor, we had one issue that Mr.
8 Lewis and I were discussing about presentation of
9 evidence in the morning. The officer got called to the
10 scene based upon a 911 call that describes a black man
11 with a white t-shirt and black shorts going over a fence
12 and into this house. We've tried to get the 911 caller.
13 He hasn't been very cooperative so we're going to try
14 again. But ---

15 THE COURT: --- it's an excited utterance; it's not
16 hearsay.

17 MR. BOURDON: So I was going to ---

18 THE COURT: --- if you can establish that
19 foundation and it's also a public record. So is the
20 objection hearsay?

21 MR. LEWIS: No, it would be confrontation clause
22 that I won't have the ability to critique any of the
23 other statements ---

24 THE COURT: --- is it being offered for its truth
25 or is it simply being offered as a part of the continuum

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1 of activities to explain why the police arrived at that
2 particular incident site?

3 MR. LEWIS: They are going to be offering it for
4 the truth of saying, hey this guy was wearing these
5 clothes; this is the right guy.

6 THE COURT: Are you sure? Is that why you're
7 offering it?

8 MR. BOURDON: No, Your Honor.

9 THE COURT: Why are you offering it?

10 MR. BOURDON: To put the jury on notice and give
11 some kind of framework for why the police are there ---

12 THE COURT: --- to know why the police just didn't
13 show up just out of the blue?

14 MR. BOURDON: Yes, ma'am.

15 THE COURT: I think its res gestae and I think it's
16 a continuum. I don't think it's being offered for its
17 truth. I'll think about it overnight but at this time I
18 am inclined to admit it as an excited utterance and not
19 part of the res gestae.

20 MR. LEWIS: Judge, may I put one thing on real
21 quick -- very briefly?

22 THE COURT: Sure.

23 MR. LEWIS: I would just ask that as you're
24 considering your final ruling we have no problem with the
25 police were called to respond. The issue is ---

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1 THE COURT: --- I haven't heard it. We'll hear it
2 in camera.

3 MR. LEWIS: Yes, Your Honor.

4 THE COURT: But I wanted to give you worst case
5 scenario so you could prepare.

6 MR. BOURDON: It's not a tape, Your Honor. It's
7 just a CAD report.

8 THE COURT: What is it?

9 MR. BOURDON: It's a CAD report. What I'm going to
10 say is the officer ---

11 THE COURT: --- I thought it was the actual tape.

12 MR. BOURDON: No, Your Honor.

13 THE COURT: So what is it exactly that you're -- I
14 misapprehended what you said so let's start over. Tell
15 me exactly what it is you would be seeking to introduce.

16 MR. BOURDON: Your Honor, my testimony through the
17 officers is that they were dispatched to this house on
18 Elderberry Street in response to a citizen calling
19 describing ---

20 THE COURT: --- I don't think you can do that if
21 you don't have the actual person's voice. It is being
22 offered for its truth under those circumstances and they
23 do have the right to confront that witness. I thought it
24 was the actual tape, not somebody saying what someone
25 said.

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1 MR. BOURDON: They didn't have it.

2 THE COURT: That's problematic. The actual tape
3 itself is different; that's a little different because
4 that's an excited utterance. And then it would be
5 offered not for its truth but as the continuum. An
6 officer reading from a CAD report; that's problematic.

7 MR. BOURDON: I mean if they are the ones that hear
8 the report going out and that's what they are looking for
9 because when they arrived ---

10 THE COURT: --- they can say that as a result of
11 the thing that's what they were looking for because
12 that's a part of their investigation.

13 MR. BOURDON: And so when they arrive at the house
14 its ---

15 THE COURT: --- I don't know. I'm going to have to
16 take it up as it comes. I have to see if you're actually
17 offering it for its truth or it's just a part of why the
18 officers showed up where they showed up.

19 MR. BOURDON: It's why the officers showed up at
20 the scene and why they suspected him ---

21 THE COURT: --- well, they can say all that without
22 saying what somebody else said.

23 MR. BOURDON: Right. And ---

24 THE COURT: --- it still -- the fact that they
25 heard it over a radio doesn't change the fact that its

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1 hearsay. And they're entitled to challenge the veracity
2 of that because you are offering it for its truth. You
3 want the jury to believe that the person who called in
4 was accurate, that the report that went over the radio
5 was accurate, and that the police had a right to rely on
6 it in looking for this particular defendant and therefore
7 them apprehending him was inherently reasonable because
8 that's who the person on the telephone described.

9 MR. BOURDON: Right. But when they look in the
10 house they see the person matching that description and
11 then he runs out the front door. So at least ---

12 THE COURT: --- I don't think it really matters
13 whether somebody -- if you catch somebody within
14 proximity of a house they don't live in and it's broken
15 into and they got rubber gloves on and they got the
16 proceeds of a burglary I really think the rest of it is
17 gravy. Why create a problem when you don't need one.

18 MR. BOURDON: That's why I was asking the court's
19 guidance.

20 THE COURT: I think they can talk about why they
21 came. You know we got a report and we were dispatched to
22 this address and we saw what we saw. As a result of this
23 call, a CAD call, a BOLO or whatever we went to this
24 particular residence. But without that actual 911 tape
25 it is problematic for him to say that over the radio this

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1 is what I heard. They can't challenge that. It is
2 somebody's statement out of court offered for its truth
3 that you want the jury to rely on was reasonable. And
4 the reason it comes in on a tape version is because when
5 people generally call in stuff like that they are
6 excited, it is contemporaneous, it is evidence of their
7 present sense impression that they are rationally
8 perceiving and it inherently has veracity versus somebody
9 else saying what somebody else said. And I
10 misunderstood; I thought you actually had the tape.

11 MR. BOURDON: No, Your Honor.

12 THE COURT: What happened to the tape?

13 MR. BOURDON: That's why I wanted to ---

14 THE COURT: --- what happened to the 911 tape?

15 MR. BOURDON: They only keep it a year and so I
16 think I asked for it a year and a day ---

17 THE COURT: --- and they had destroyed it?

18 MR. BOURDON: Yes, ma'am.

19 THE COURT: Okay. Is there anything else we need
20 to take up before we adjourn for the afternoon?

21 MR. LEWIS: Nothing from the defense, Your Honor.

22 THE COURT: Any other pretrial matters we're going
23 to have to deal with other than this indictment?

24 MR. BOURDON: Your Honor, I've got -- I've showed
25 Mr. Lewis all the exhibits and I'm not sure if there is

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1 an objection.

2 THE COURT: I'm sorry? Do y'all have any exhibits?
3 Mr. Lewis, did you have any exhibits that you needed to
4 be premarked?

5 MR. LEWIS: No, Your Honor.

6 THE COURT: I know Mr. Bourdon gave a list to the
7 court reporter. Did you object to any of those prelisted
8 exhibits? Did you get a chance to look to see?

9 MR. LEWIS: I've looked at these right here
10 [indicates]. I may just want to ---

11 THE COURT: --- I'll tell you what. Glance over
12 them. When I'm done with this hearing if you all could
13 stay and glance over them and then when I'm done with
14 this hearing if you all could let the court reporter know
15 which exhibits you agree on the ones you agree on she'll
16 make a list of those for me. We'll mark and admit them
17 beginning in the morning. The ones you don't agree on
18 need to be marked for I.D. only.

19 MR. LEWIS: Thank you, Judge.

20 [Whereupon, the court reviews documents]

21 THE COURT: Okay. 16-23-30 reads as follows:
22 [Reading] It is unlawful for a person to knowingly sell,
23 offer to sell, deliver, lease, rent, barter, exchange or
24 transport for sale into this State any handgun, two) a
25 person who has been convicted of a crime of violence in

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1 any court of the United States, the several states,
2 commonwealths, territories, possessions or the District
3 of Columbia, or who is a fugitive from justice or a
4 habitual drunkard or a drug addict or who has been
5 adjudicated mentally incompetent, subsection) to a person
6 who a member of a subversive organization, or three) a
7 person under the age of 18 -- of course it doesn't apply
8 to people in the Armed Forces -- a person who by order of
9 a Circuit judge or a county court judge has been adjudged
10 unfit to carry or possess a firearm. And those are the
11 categories.

12 The indictment reads the defendant unlawfully
13 possesses or acquires a handgun which had been stolen.
14 While conceivable this is not what's in the actual
15 language of the statute the purpose of an indictment is
16 to put you on notice of the charges. And it does cite
17 the statute and what you have been called to answer.
18 It's a notice document. It doesn't have to be perfect.

19 MR. LEWIS: Judge, if there is an opportunity do
20 you have a standard charge on that?

21 THE COURT: I'm sure I do. So it is up to them.
22 You know they run that risk when they don't put the
23 actual language on the statute.

24 MR. LEWIS: Yes, Your Honor.

25 THE COURT: So we'll note that and it is overruled.

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1 Anything else we need to deal with from the State?

2 MR. BOURDON: No, Your Honor.

3 MR. LEWIS: No, Your Honor.

4 THE COURT: All right. You said you're not
5 offering the jail phone calls, right?

6 MR. BOURDON: No, Your Honor.

7 THE COURT: So that's not an issue. And there is
8 no Biggers, Jackson v Denno; nothing?

9 MR. LEWIS: There are statements asserting his
10 right to counsel. It's my understanding at this point
11 the I.D.'s would only be done by ---

12 THE COURT: --- the officers ---

13 MR. LEWIS: --- the three law enforcement officers.
14 There are two lay witnesses in theory may show up but
15 none of those could go to the extent that they could I.D.
16 the person involved.

17 THE COURT: All right. Have a good afternoon.
18 See you all in the morning at 9:30.

19 MR. LEWIS: Thank you, Judge.

20 [Whereupon, court adjourns at 3:50 p.m.]
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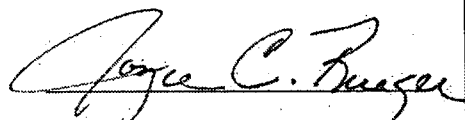
State v James Anthony Haynes
Certificate of the Court Reporter
July 10, 2017

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of General Sessions for Charleston County,
South Carolina on the 10th day of July, 2017.

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

October 1, 2017



Joyce C. Rueger, CVR-M

Court Reporter

Certified Transcript provided to SCCID, Appellate
Defense.

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF CHARLESTON	)	DOCKET NO. 2015-GS-10-4790
	)	2015-GS-10-4793
	)	2015-GS-10-4794
	)	2015-GS-10-4795
	)	
STATE OF SOUTH CAROLINA	)	
	)	
	)	
vs.	)	
	)	
JAMES ANTHONY HAYNES	)	
	)	
Defendant	)	
	)	
	)	
	)	
	)	TRANSCRIPT OF RECORD

July 11, 2017
Charleston, South Carolina

Volume 2 (of 3)

B E F O R E:

THE HONORABLE DEADRA JEFFERSON, JUDGE

A P P E A R A N C E S:

MARK BOURDON, ESQ.
CHARLES CONDON, ESQ.
Attorneys for the State

BEN LEWIS, ESQ.
NICK SMIT, ESQ.
Attorneys for the Defendant

JOYCE C. RUEGER, CVR-M
Circuit Court Reporter

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1 PROCEEDINGS

2 THE COURT: Good morning. We have several things
3 we need to deal with. Now as I understand it you all
4 have agreed to State's 1 through 50 without objection, is
5 that correct?

6 MR. LEWIS: Yes, Your Honor.

7 THE COURT: And State's 51 through 60 and 66 have
8 been marked for I.D. only.

9 MR. LEWIS: Yes, Your Honor.

10 [Whereupon, State's exhibit numbers 51 through 60
11 and number 66 are marked by the court reporter]

12 THE COURT: And the State has withdrawn 61 through
13 64.

14 MR. LEWIS: Yes, Your Honor.

15 THE COURT: Those will be marked and admitted that
16 I've already -- 1 through 50 are marked and admitted
17 without objection; State's.

18 [Whereupon, State's exhibit numbers 1 through 50 are
19 entered into evidence by the court]

20 THE COURT: Now I have a note from the jury which
21 indicates reference question yesterday is applicable. My
22 child 18 years -- I assume that means 18 years old --
23 served on the Mount Pleasant Youth Court for several
24 consecutive years and this is under the Mount Pleasant
25 police department. Her duties ended with the school year

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1 2017, non-paying community service. I would have to
2 assume her child graduated. And that's juror number 191.
3 Do we need to voir dire her or is there any exception to
4 her impartiality I guess? I guess the safe way to do it
5 would be to voir dire her and see if she can remain fair
6 and impartial. I have to admit my -- well, I wouldn't
7 say it is limited, but when I was on the Family Court I
8 was involved in Youth Court. It's really not -- it's
9 more of a peer court to help kids resolve their issues.
10 It's not really a police agency. As a matter of fact
11 it's designed to keep kids out of the system and to
12 encourage them to resolve their own issues. It's more
13 like a peer court than anything else.

14 But I don't know the extent of the police's
15 involvement except to the extent that, and I think it's
16 actually the court, the municipal court that provides
17 them with the facility to do what they need to do. I
18 don't think the police provide them with any kind of
19 facilities. I don't know if she is confused about that
20 but that's my understanding of Youth Court. Mr. Bourdon?

21 MR. BOURDON: Your Honor, I was familiar with the
22 Youth Court from the City of Charleston. I think
23 sometimes they meet at the police station but its ---

24 THE COURT: --- more to educate.

25 MR. BOURDON: Right.

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1 THE COURT: But I'm never aware of them being
2 involved directly with the police department. It's my
3 understanding it was a peer court that was really an arm
4 of the court to teach kids -- it's really in the nature
5 of arbitration. It allows their peers instead of them
6 having to come to court and have criminal charges like --
7 I'm trying to think of what all the criminal charges
8 would be on a misdemeanor level that they would deal with
9 but it was more designed for peers to resolve their
10 issues in the nature of an arbitration kind of a setting
11 versus them having to come into the system. That was my
12 understanding of what it is.

13 MR. LEWIS: Judge, I take no exception to it.

14 THE COURT: So do we need to voir dire her at all?

15 MR. LEWIS: I don't believe so.

16 THE COURT: Mr. Bourdon?

17 MR. BOURDON: I don't think so, Your Honor.

18 THE COURT: I'll have the note marked as a court's
19 exhibit.

20 [Whereupon, court's exhibit number 1 is marked by
21 the court reporter].

22 THE COURT: Are we ready to proceed from the State?

23 MR. BOURDON: Your Honor, we have a couple of
24 issues that we discussed briefly last night so I wanted
25 to kind of readdress those.

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1 THE COURT: What are they?

2 MR. BOURDON: I have the officers in court so I
3 want to make sure they are on the same page on the
4 court's rulings in terms of what they can and can't say
5 about certain things. Yesterday we discussed the 911
6 call.

7 THE COURT: Yes, I told you I'm not going to rule
8 in advance. You're going to have to seek to introduce
9 the evidence and he's going to have to make a
10 contemporaneous objection. I'll hear it in camera and
11 then I'll rule contemporaneously.

12 MR. LEWIS: Remember Judge there is no call. This
13 is the CAD report ---

14 THE COURT: --- I understand that but I assume he's
15 going to try to get him to testify about the CAD and
16 you're going to object and we're going to hear it in
17 camera and I'm going to hear it in its totality. If I
18 need argument I'll ask for it; otherwise I'll rule. That
19 way it's preserved; it's a proffer.

20 MR. BOURDON: Yes, Your Honor. At this point we
21 don't have the caller but we do have the call taker so
22 from the dispatch center ---

23 THE COURT: --- it's still hearsay. It's still
24 hearsay. But you're trying to prompt me to rule in
25 advance on something I haven't heard and I've indicated

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1 how we're going to handle it.

2 MR. BOURDON: Your Honor, the second issue that we
3 didn't address last night is the possession of the stolen
4 pistol. We have special agent Neale from South Carolina
5 Law Enforcement Division. It's his service weapon that
6 was taken from his house in a burglary on April the 27th
7 of 2015.

8 THE COURT: Do you really need his testimony to
9 confirm that the pistol was stolen? Because by him
10 testifying you're implying that this person stole it and
11 you have no proof of that at least not by clear and
12 convincing evidence. I think y'all could stipulate that
13 the pistol was stolen can't you?

14 MR. LEWIS: I offered to.

15 THE COURT: Pardon?

16 MR. LEWIS: I offered to.

17 MR. BOURDON: Your Honor, as long as the
18 stipulation would include the fact that ---

19 THE COURT: --- I think you can stipulate to the
20 timeframe and that it was stolen. But to imply -- I mean
21 what other corroboration do you have that he stole it?

22 MR. BOURDON: We don't. There was an investigation
23 of the burglary and I was ---

24 THE COURT: --- is it in the same neighborhood or a
25 different neighborhood?

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1 MR. BOURDON: It's in Summerville; it's a different
2 neighborhood.

3 THE COURT: I mean I think we know from experience
4 that stolen pistols come into possession of people in
5 strange ways and strange circumstances.

6 MR. BOURDON: So I can just have the Agent Neale
7 testify that the gun was stolen, that he didn't give
8 permission or know Mr. Haynes for him to have possession
9 of the pistol.

10 THE COURT: My only concern of him testifying to
11 that is that it implies that the defendant stole it. And
12 it sort of gets on that line of prior bad acts not the
13 subject of a conviction. I guess I'm just -- the whole
14 point of it is that it was stolen.

15 MR. BOURDON: Correct.

16 THE COURT: And if they're willing to stipulate to
17 it what's the difference. It was stolen; how it was
18 stolen doesn't matter and where it was stolen from really
19 doesn't matter.

20 MR. BOURDON: That's why I was asking for guidance
21 from the court because I didn't want to bring up the
22 burglary.

23 THE COURT: I think where it was stolen from and
24 who stole it really is of little import. The fact is
25 that it was stolen and the timeframe it was stolen. I

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1 don't know that is matters if it was stolen from a law
2 enforcement officer's house or a private citizen.

3 MR. BOURDON: Right. It just happened to be a SLED
4 agent ---

5 THE COURT: --- yes, it just happened to be.
6 That's just like when Justice Toal was in the Walmart
7 parking lot and somebody stole her wallet. I don't think
8 they knew at the time they were stealing the Chief
9 Justice's wallet you know.

10 MR. BOURDON: Yes, Your Honor.

11 THE COURT: I don't know that it really -- I think
12 it runs the risk of some things you don't necessarily
13 need in your case in chief. Is there anything else we
14 need to deal with? Are y'all willing to stipulate about
15 the stolen gun?

16 MR. LEWIS: Absolutely; 29 days prior, Judge.

17 THE COURT: I would assume there is an exact date
18 that it was stolen.

19 MR. LEWIS: There is, April 27th.

20 THE COURT: Can y'all work on the stipulation?

21 MR. BOURDON: Your Honor, I'm not sure why we still
22 couldn't have Agent Neale just testify ---

23 THE COURT: --- we'll hear it in camera and I'll
24 rule on it.

25 MR. BOURDON: Yes, ma'am.

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1 THE COURT: I have to hear what he says. But to
2 have an officer get on the stand and testify that my gun
3 was stolen from my house. I have to hear it in its
4 context. It runs the risk of implying that this
5 defendant stole it.

6 MR. BOURDON: Right.

7 THE COURT: It's a prior bad act not the subject of
8 a conviction which you would have to prove by clear and
9 convincing evidence. It's problematic. I'll hear it in
10 camera. Anything else?

11 MR. BOURDON: No, Your Honor.

12 MR. LEWIS: No, Your Honor.

13 THE COURT: Are we ready to proceed with opening
14 instruction and argument?

15 MR. LEWIS: Yes, Your Honor.

16 THE COURT: Is the State ready?

17 MR. BOURDON: Yes, Your Honor. I'd just like to
18 set the point in my opening I want to kind of have an
19 idea ---

20 THE COURT: --- stay away from anything that hasn't
21 been ruled on.

22 MR. BOURDON: Yes, ma'am.

23 MR. LEWIS: Judge, one last thing. I forgot your
24 court rule. I always like to stand ---

25 THE COURT: --- you have to stand ---

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1 MR. LEWIS: --- when the jury comes in ---

2 THE COURT: --- oh ---

3 MR. LEWIS: --- yes, I know I have to stand.

4 THE COURT: I think we need to develop like a
5 standard rule for everybody because I never -- to tell
6 you the truth I just kind of go with the flow. But I
7 think it is important in terms of setting courtroom
8 decorum for everybody to stand when the jury comes in and
9 stand when they're leaving.

10 MR. LEWIS: Yes, Your Honor.

11 MR. BOURDON: And also Officer Ranck is going to be
12 our case agent so we would ask that he be seated at the
13 table.

14 THE COURT: That's fine. I assume y'all have
15 agreed to sequester the witnesses or have you not?

16 MR. BOURDON: Yes, Your Honor. They were just in
17 here to hear the court's ruling before we proceed.

18 THE COURT: Are there any other pretrial matters
19 that we need to deal with?

20 MR. BOURDON: Your Honor, with respect to your
21 ruling yesterday at least for purposes of the opening we
22 could say police responded to a burglary in progress. Is
23 that how the court ---

24 THE COURT: --- I think they have to -- I don't
25 think there is anything in the law that precludes you

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1 from explaining why the police went somewhere. They
2 didn't just sort of pull it out of the air and show up.

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

4 THE COURT: You're welcome. Are we ready?

5 MR. LEWIS: Yes, Your Honor.

6 THE COURT: Mr. Bourdon, are you ready?

7 MR. BOURDON: Yes, Your Honor. Thank you.

8 MR. LEWIS: And actually Mr. Smit is going to be
9 giving our opening.

10 THE COURT: I selected a foreperson and I forgot to
11 tell the bailiffs. Bear with me one second.

12 [Whereupon, the court reviews documents]

13 THE COURT: Number 235 is the Foreperson if you
14 would bring her in last.

15 [Whereupon, the jury enters at 10:06 a.m.]

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State v James Anthony Haynes
Opening Instructions to the Jury
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1 OPENING INSTRUCTIONS

2 THE COURT: Good morning ladies and gentlemen. You
3 all have been selected for the case of the State versus
4 James Anthony Haynes. I'm going to give you some
5 preliminary instructions in an effort to make you feel
6 more comfortable in what I am certain are unfamiliar
7 surroundings and also let you know how we will be
8 proceeding in the trial of this case.

9 Each of you has a notebook and on the front of that
10 notebook there is a white sticker where you should place
11 your juror number. During the course of this trial you
12 will be given the opportunity to take notes and I will
13 give you some instructions regarding note taking near the
14 conclusion of this instruction.

15 These remarks are not a charge on the law. Again,
16 they are simply an explanation of the procedure that we
17 will follow in this case. At the end of the case before
18 you retire to deliberate considering your verdict I will
19 give you instructions on the law. And when you hear me
20 use the word charge that is a legal term of art that
21 simply means instructions; so those terms are
22 interchangeable in their nature.

23 The defendant is charged by several indictments
24 filed with the court with the crimes of burglary in the
25 first degree, unlawful carrying of a pistol, possession

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1 of a weapon during the commission of a violent crime, and
2 possession of a stolen handgun; the elements of which I
3 will explain to you at the conclusion of the case. The
4 indictments ladies and gentlemen are simply the documents
5 which contain a charge or charges and it is the way a
6 case is brought into court. They are not in any sense
7 evidence of any of the allegations they may contain.

8 The defendant has pled not guilty to these
9 indictments. The State therefore has the burden of
10 proving each of the elements of the indictments beyond a
11 reasonable doubt. And it will be your duty ladies and
12 gentlemen to decide whether the State has met that burden
13 or not. Your purpose as jurors is to find and determine
14 the facts of the case. You are the sole judges of the
15 facts of this case.

16 If at any time I make any comment regarding the
17 facts you must disregard it. You are to determine the
18 facts from the testimony you hear and the other evidence
19 that will be introduced during the course of this trial.
20 It is up to you to determine the inferences which you
21 feel may be properly drawn from that evidence. It is
22 especially important that you perform your duty of
23 determining the facts diligently and conscientiously
24 because ordinarily there is no way to correct an
25 erroneous determination of facts made by a trial jury.

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Opening Instructions to the Jury
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1 On the other hand and with equal emphasis the same law
2 that makes you judges of the facts makes me the judge of
3 the law. The law as given by the court is the only law
4 you may consider. You must accept and follow it even
5 though you may disagree with it.

6 The court cannot tell you what the facts are and you
7 cannot disagree with the court about what the law is or
8 what the law should be. Your responsibility ladies and
9 gentlemen is to take the law as I instruct it and to find
10 the facts as you find them from the testimony of the
11 witnesses and the other evidence that will be introduced.

12 After doing that you will render your verdict, a
13 true and just verdict under the solemn oath that you have
14 taken as jurors in this case. Until I advise you to
15 begin your deliberations you must not discuss this case
16 with anyone; that includes your fellow jurors, your
17 friends, family members or anyone involved in the case.
18 After the case is submitted to you you must discuss it
19 only in the jury room among your fellow jurors.

20 The attorneys and the parties in this case have been
21 advised that they are not to speak with you at all. So
22 if you see anyone involved in this case in the elevator
23 or in the hallways or even in the street walking to the
24 garage or in a restaurant during lunch time and they
25 don't speak with you please don't think they are being

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1 unfriendly or untoward. They are simply following the
2 court's instructions. Again, we would not want an
3 innocent conversation to be observed and misinterpreted.

4 During the trial you are not to read, watch or
5 listen to any media reports about this case. That
6 includes anything that could be on the television, radio,
7 newspaper or Internet and you're not to do any
8 independent research of any type on the Internet. I know
9 sometimes we like to believe that everything we read on
10 the Internet is accurate but I think we know that
11 everything we read is not particularly accurate.

12 In addition to that as the finders of the facts in
13 this case you are bound to decide this case according to
14 the evidence that is produced in this courtroom whether
15 by sworn witnesses or other evidence that will be
16 introduced during the course of the trial. You must not
17 consider anything that you may have read or heard about
18 the case outside the courtroom whether before or during
19 the course of the trial.

20 It is essential that you maintain an open mind and
21 not decide any issue in this case until all of the
22 evidence has been presented, the parties have made their
23 closing arguments, and I've instructed you on the law
24 applicable to this case. It is your solemn
25 responsibility to determine whether the State has met

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1 their burden of proof or not and your verdict must be
2 based solely on the evidence as it is presented to you in
3 this trial and on the law as I will instruct you during
4 and at the close of this trial.

5 In just a moment the Solicitor will make an opening
6 statement in which he will outline to you what he
7 believes the issues to be in this case or in other words
8 what he believes the evidence will show in this case.
9 The attorney for the defense may also make an opening
10 argument although they are not required to do so. Keep
11 in mind ladies and gentlemen that what the attorneys tell
12 you during their opening statements is not evidence in
13 this case. It is only their contention as to what they
14 perceive the evidence will show in this case.

15 The evidence in this case will be presented to you
16 by the testimony of sworn witnesses from the witness
17 stand and or by exhibits that may be introduced into
18 evidence. From time to time during the trial you will
19 hear the attorneys object to some bit of testimony or
20 evidence that the other side is seeking to introduce.
21 Please do not hold an attorney's objection against them
22 nor conclude from the court overruling or sustaining an
23 objection that I favor one side or the other. In fact
24 you should expect objections. That is a healthy part of
25 our system. Also, from time to time you may hear the

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1 attorneys say Your Honor we have a matter of law or we
2 have a matter of law to discuss with you or they may ask
3 to approach the bench or I may ask them to approach the
4 bench. Or it may even be necessary for us to exclude you
5 from the courtroom for a short while while we discuss
6 matters of law.

7 The reason we do this is because you are the finders
8 of the facts and sometimes when I am discussing matters
9 of law with the attorneys it might be necessary for me to
10 make some comment about the facts in connection with a
11 ruling. And for this reason we exclude you from the
12 courtroom so that in no way will you be influenced by
13 anything that the court may say or do in connection with
14 the facts of this case.

15 In determining the facts in this case ladies and
16 gentlemen you must decide whether or not the testimony of
17 a witness or witnesses is believable. It is my
18 responsibility to rule as a matter of law as to whether
19 certain testimony is admissible at all or not. But once
20 it is admitted whether you believe it is a matter solely
21 for you to determine.

22 In deciding whether or not to believe a witness you
23 have the right to consider the interest of any witness,
24 the bias of any witness, the prejudice of any witness,
25 the opportunity for the witness to have seen the matters

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1 and things about which the witness may testify, and the
2 way the witness acts on the witness stand; what we
3 commonly refer to as their demeanor. You have a right to
4 consider anything that is in the record that will help
5 you evaluate the testimony of the witnesses. That means
6 that it is your duty to pay close attention to the
7 witnesses, to observe them, to listen to them, and to pay
8 close attention to the attorneys and the court.

9 Although I know it can be very difficult do not
10 allow your thoughts to wander but give strict attention
11 to the testimony so that at the end of the testimony
12 after the arguments of the attorneys and the charge on
13 the law by the court you will then be in a position to
14 determine what the true facts are and apply the law to
15 those facts and thus render a true and just verdict in
16 this case.

17 During the course of this trial you will be allowed
18 to take notes. Note taking is a privilege that you may
19 choose to exercise or choose not to exercise. Please do
20 not feel you are required to take notes. Not everyone
21 finds note taking helpful to them. If you should decide
22 to take notes please do not try to record everything that
23 is said; it is physically impossible. I think the last
24 time I checked the average person talks at the rate of
25 200 words a minute; that's a lot of words. And that's a

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1 moderate speaker; that's not like somebody that talks
2 really fast. So don't allow yourselves to be distracted
3 in your note taking because you are, again, the finders
4 of the facts, which means you must rely on your powers of
5 observation. So do not allow note taking to become a
6 distraction to you. You may want to keep an outline of
7 the main points that are being made and the main
8 arguments that are being made by counsel so that when you
9 retire to deliberate you can allow your notes to refresh
10 your memory.

11 Please be reminded that your notes are for you
12 specific and your individual purposes. They are not to
13 be shared with anyone else. During breaks and recesses
14 your notes will be left in your seats and we do that to
15 ensure that there is no temptation to prematurely
16 deliberate about anything that you may have heard prior
17 to a break. Also be reminded that your notes should not
18 be considered any more reliable than a fellow juror's
19 memory. That person's memory should be considered just
20 as reliable as notes that may have been taken by a fellow
21 juror.

22 Madame Forelady it is your responsibility to fill
23 out the verdict form and write out any questions that the
24 jury may have during deliberations but I will give you
25 further instructions regarding that at the conclusion of

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1 the trial. Ladies and gentlemen I wish we had a more
2 scientific process but the selection of a foreperson is
3 completely random. It is designed to make sure that we
4 select from a cross section of the community to make sure
5 that everyone is represented in that capacity and it is
6 purely an administrative function. The foreperson does
7 not have any greater vote or voice than any fellow juror.

8 In order to preserve everyone's rights I'm going to
9 give counsel the opportunity take exception to anything
10 that the court has said by way of opening instruction.
11 Any exception from the State?

12 MR. BOURDON: No, Your Honor.

13 THE COURT: From the defense?

14 MR. SMIT: No, Your Honor.

15 THE COURT: Ladies and gentlemen I would ask that
16 you give counsel your undivided attention. The State may
17 proceed when it is ready.

18 MR. BOURDON: Thank you, Your Honor. May it please
19 the court?

20 THE COURT: Yes, sir.

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State v James Anthony Haynes
Opening Statements-Remarks by Mr. Bourdon
July 11, 2017

1 OPENING STATEMENT

2 BY MR. BOURDON:

3 Good morning ladies and gentlemen. May 26th, 2015
4 started out as a typical Tuesday morning for Gary Franks,
5 his wife, and his three teenage daughters. They lived in
6 a house at Elderberry Circle in North Charleston.
7 If you're familiar with the area you go up Dorchester
8 towards Ashley Phosphate after the Air Station and it's
9 the next neighborhood on the right.

10 He was the last to leave the house that day to go to
11 work at his produce company. He said before he left he
12 made sure the doors were closed, the windows were closed,
13 and he went about his business about 8:30 that morning.
14 Well, about 11:42 that morning North Charleston police
15 officers were dispatched to that location based on a call
16 about a burglary in progress.

17 Officers responded within ten minutes trying to get
18 there through the traffic and through the distance where
19 they were handling other matters. The first officer to
20 arrive was Mike Lawrence. He's a sergeant; been there
21 sixteen years. He went around to the back of the house
22 and checked the door and could tell that it was open. He
23 backed off from that scene until he had backup to come
24 follow him on this call. The next officer was Brian West
25 and he showed up and with Sergeant Lawrence went back

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1 into the backyard looked through the house and saw the
2 defendant inside the house through one of the windows.
3 At the same time Officer Ranck who is seated at the table
4 with us was positioning himself at the front door.

5 When the officers in the back started yelling he's
6 coming out the front door Officer Ranck was ready. He
7 had his weapon and his taser and he chased the defendant
8 out across the front lawn and into the driveway across
9 the street yelling taser, taser, taser at which point the
10 defendant gave up and complied with the officer's
11 demands. A neighbor Mr. Thompkins who lives right
12 across the street was out power washing and observed this
13 whole series of events take place right in front of him
14 in real time.

15 Once they apprehended Mr. Haynes they conducted a
16 search of his person. What they found on him was a
17 number of items that are both disturbing and both very
18 probative of what he was doing in the Franks' home. They
19 found coins, a unique coin from the Hoover Dam, a million
20 dollar bill that was a good luck kind of souvenir that
21 was the property of Mrs. Franks.

22 They also found a number of rings that Mr. Franks is
23 going to identify as either his or his wife's. One of
24 the rings is a high school ring that says Ananda on it,
25 which is his daughter's name. Also found on Mr. Haynes

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1 was a .40 caliber Glock pistol that was in his waistband
2 and that gun had been reported stolen about less than a
3 month before this incident occurred. Mr. Haynes was
4 wearing a white shirt, black shirts, a Clemson hat that
5 fell off as he was running across the yard, and more
6 importantly a pair of blue rubber gloves that Officer
7 Ranck took off him when he placed him into custody.

8 The defendant is charged with a number of crimes
9 that the Judge talked about and I'm going to just outline
10 what they are just so you have kind of a framework of
11 what you're listening for as jurors in this case. As the
12 Judge said the State represents the police that are
13 bringing this charge and represents Mr. Franks and it
14 represents you. And so our burden of proof as what Judge
15 Jefferson has told you is beyond a reasonable doubt.
16 That means that we have to firmly convince you of the
17 elements of each and every offense that he has been
18 charged with.

19 The most serious offense that he is charged with is
20 called burglary in the first degree. That simply means
21 that a person unlawfully entered the dwelling or home of
22 another person with intent to commit a crime once inside.
23 How do we prove intent? Well, we can't look into
24 people's minds but in this case you're going to be able
25 to infer that his intent was to steal property in the

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1 house because of the fact that he had the Franks'
2 property in his pocket as he came out the front door.
3 Also, with burglary first degree in this case it becomes
4 a burglary first because the defendant was armed with a
5 weapon while inside. And Mr. Franks is going to tell you
6 that he doesn't own a gun and he didn't own any gun that
7 Mr. Haynes could have taken from that house. And so you
8 have to be firmly convinced that Mr. Haynes was in
9 possession of this pistol when he was inside of that
10 house and leaving it when he was caught by Mr. Ranck.

11 Mr. Haynes is also charged with possession of a
12 weapon during a crime of violence. In our State burglary
13 first degree is considered a crime of violence. Even
14 though no one gets hurt or no one is home it's simply a
15 statutory category of crime. And so you have to be
16 firmly convinced that Mr. Hayes was in possession of this
17 Glock pistol when he was apprehended and when he was in
18 that house.

19 The third charge is possession of a stolen pistol.
20 And the State in this case will have to prove to you that
21 a) the pistol was stolen and that b) Mr. Haynes was in
22 possession of it and knew that it was stolen. Again,
23 knowledge is an element that you're going to have to use
24 your common sense on in determining whether he knew that
25 the gun was stolen. And finally he is charged with

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Opening Statements-Remarks by Mr. Bourdon
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1 unlawful carrying of a pistol because he did have the
2 pistol on a public street without any permit or
3 authorization to carry it. Now the burden of proof
4 doesn't shift so that you have to pay attention to the
5 State's witnesses, hold the State accountable and prove
6 to you beyond a reasonable doubt that he is guilty.
7 Myself, I'm Mark Bourdon and I introduced yesterday and
8 this [indicates] is Charles Condon my assistant and it's
9 our obligation to present these witnesses for you.

10 You accepted the jury qualification yesterday and
11 you heard the different backgrounds that each and every
12 one of you has. But the one thing that you all have in
13 common is common sense. And I ask you to just pay
14 attention to the witnesses, think this out logically and
15 at the end of the day you're going to see that there is
16 no other verdict in this case except guilty on all
17 charges. Thank you.

18 MR. SMIT: Thank you, Your Honor. May it please
19 the court?

20 THE COURT: Yes, sir.
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2 BY MR. SMIT:

9 Now ladies and gentlemen on the next couple of days
10 you're going to have the chance to hear about the events
11 that happened on May 26th, 2015. As the Solicitor stated
12 a moment ago roughly 12 o'clock in the afternoon James
13 was walking down Ruff Road. Again, Ruff Road is in the
14 neighborhood up Dorchester Road just past the Air Force
15 Base.

16 As the testimony will show James was walking down
17 the road and in his mind he felt someone was following
18 him. The facts will show he felt someone in the vehicle
19 was following him that he recognized who meant to cause
20 him harm. The power of fear; he felt that his life was
21 in danger. Again, the facts will show James had a gun on
22 him. He had purchased this gun. He was armed. But
23 again as the testimony will state he didn't pull the gun
24 out. He wasn't looking for trouble. In fact, what he
25 did was he decided to jump the fence into the backyard of

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1 the home; the home on the corner of Ruff and Elderberry.
2 He jumps the fence and as he's standing behind the fence
3 next to this house in his mind he still feels afraid. He
4 still feels he can be seen from the road, seen possibly
5 through the fence, feels he is left with no other choice;
6 no other choice but to go into the home.

7 He goes in through the backdoor. Again the only
8 thought in his mind is his safety. He had no intent to
9 go into the home for any other purpose. He proceeds as
10 the facts will show to the side bedroom and goes in.
11 Actually, opens the window, pushes the screen out so he
12 can actually see outside, see into the backyard and see
13 to the road. And he's trying to determine if he is still
14 being followed. The only thing on his mind is to protect
15 himself.

16 Now James certainly wishes this is where the story
17 ends. Obviously, because of why we are here today that's
18 not what happened. Although James is a deeply religious
19 man he would be the first to tell you that he is no
20 saint. He has made choices that he regrets. And while
21 he was standing at that window he looks down and there is
22 an envelope with cash in it. He takes that envelope. He
23 starts looking around the room and notices some rings,
24 notices some coins and he takes those as well. At that
25 moment he hears police in the back, hears them giving

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1 commands and he turns and runs out of the house. The
2 facts show he comes out the front door. Again, James had
3 a gun on him. He wasn't looking for trouble. He didn't
4 pull the gun and he was arrested by the police right over
5 on the other side of the street in front of the house.
6 The power of fear in James' mind made him believe that he
7 had no other choice but to hide in the home. This shows
8 his lack of intent in committing the crime.

9 Ladies and gentlemen in my mind what I believe I've
10 found to be the hardest part of practicing in criminal
11 law and what I can imagine the hardest part of being on a
12 jury is we all have preconceived perceptions; perceptions
13 of life and of people and perceptions of the law and how
14 the law should work.

15 As the Judge has just gone over and told you your
16 job here is to put those preconceived perceptions out of
17 your mind and focus on the facts. It's why we all
18 selected you today because we believe that you could look
19 at the facts and analyze those facts. The fact of what
20 did James intend to do on that day. That's why intent is
21 so important as part of the law that you have to
22 determine. And as the Judge stated to you your job is to
23 take the law as she will give it and apply that law. Not
24 to pick and choose portions of the law that you agree
25 with, not even to determine if you think it's a good law,

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1 but to be the judges of the facts. The facts will show
2 that James in his mind gave in to the power of fear. The
3 power of fear led him to believe that he had no other
4 choice, no other choice but to go into the home for his
5 safety. His safety was the only thing on his mind which
6 shows a lack of intent, the lack of intent to commit the
7 crimes. Thank you.

8 THE COURT: The State may proceed.
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July 11, 2017

1 MR. BOURDON: Thank you, Your Honor. The State
2 would call Sergeant Michael Lawrence.

3 [Whereupon, Sergeant Lawrence comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: Please state your first and last
7 name for the record and spell your last.

8 THE WITNESS: Michael Lawrence, spelling is L-A-W-
9 R-E-N-C-E.

10 THE COURT: Thank you. You may proceed.

11 MR. BOURDON: Thank you, Your Honor.

12 - - - - -

13 MICHAEL LAWRENCE,

14 Having been first duly sworn,

15 Was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. BOURDON:

18 Q. Officer Lawrence, how long have you been with the
19 North Charleston Police Department?

20 A. About 16 years.

21 Q. Tell the jury what assignments you've had during
22 your 16 year career.

23 A. I was in the patrol division for four years then I
24 went to special operations for about six years. Then I
25 was promoted to sergeant and that's about six years ago.

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- 1 Q. And what are your current duties as a sergeant for
2 North Charleston Police Department?
- 3 A. Current duties patrol division supervisor.
- 4 Q. How many people do you supervise?
- 5 A. Six or seven.
- 6 Q. And do you have a certain area that you patrol in?
- 7 A. Yes.
- 8 Q. Tell the jury what area that is.
- 9 A. It's Ashley Phosphate area, Cross County Road,
10 Westcott; those areas.
- 11 Q. And what did you do prior to becoming a police
12 officer?
- 13 A. I was in the military.
- 14 Q. What branch of service?
- 15 A. Navy.
- 16 Q. What did you do in the Navy?
- 17 A. I was a civil engineer.
- 18 Q. And Officer Lawrence were you dispatched to
19 Elderberry Circle on the 26th of May, 2015?
- 20 A. I was.
- 21 Q. And was that in response to a burglary in progress?
- 22 A. It was.
- 23 Q. Tell the jury what happened when you got there.
- 24 A. When I got to the residence I exited my car and then
25 I started checking windows and doors of the residence.

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- 1 Q. Do you recall what time the dispatch call came out?
2 A. I believe about 11:42 a.m.
3 Q. Okay. And what time do you think you got to the
4 scene itself?
5 A. I'd probably say about 11:50.
6 Q. So probably eight or nine minutes later.
7 A. Eight, yes.
8 Q. Okay. And were you the first to arrive?
9 A. I was.
10 Q. And as the supervisor were you aware of other
11 officers that were being dispatched to that call?
12 A. Yes.
13 Q. And who else was dispatched that you were aware of?
14 A. There were two other officers; Officer Ranck and
15 Officer West.
16 Q. Okay. And is Elderberry Circle in the city of
17 North Charleston?
18 A. Yes.
19 Q. And is that in Charleston County South Carolina?
20 A. Yes.
21 Q. Tell the jury what happened when you got to the
22 scene.
23 A. When I got to the scene like I said I exited my car
24 and I started checking the windows and doors at the rear
25 of the residence. I came to one door that was open. I

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1 stopped and I went back to the corner where I initially
2 started and I waited for backup. The next officer on
3 scene was Officer Ranck.

4 He arrived and I had him positioned in the front of
5 the residence to check the front door and then I waited
6 for another officer, which is Officer West, and he
7 arrived shortly after and then we went from there.

8 Q. When you first got to the back of the house did you
9 go in the house at all?

10 A. I did not.

11 Q. And did you notice anything unusual when you got to
12 the back door?

13 A. The back door was ajar about two inches.

14 Q. Okay. And in your mind what were you thinking at
15 that point?

16 A. Probably somebody may be inside.

17 Q. At that point did you want to go in by yourself?

18 A. I did not.

19 Q. And why is that?

20 A. It's not safe to.

21 Q. Okay. When did Officer West arrive in relation to
22 your arrival?

23 A. I'm going to say probably two or three minutes after
24 my arrival.

25 Q. Okay. And did you brief him on what you had seen

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1 in the backyard?

2 A. I did.

3 Q. Okay. Did you hear anybody or see anybody as you
4 looked at the back door?

5 A. Myself I did not.

6 Q. Okay. Did you search any more of the back yard
7 when you came to the door and saw it was ajar?

8 A. I did not. I stopped at the door.

9 Q. And please tell the jury how you re-engaged the
10 house with Officer West.

11 A. When Officer West and I were in the backyard Officer
12 West observed somebody inside. So he radioed that
13 information over dispatch. And when he said that seconds
14 later I peered inside and also seen somebody inside.

15 Q. Were you able to get a good look at the person
16 inside the house?

17 A. I did.

18 Q. When you looked in?

19 A. Yes.

20 Q. Can you describe to the jurors what the person
21 looked like that you saw?

22 A. It was a black male, white t-shirt; black shorts a
23 purple ball cap.

24 Q. Okay. And what was he doing in the house when you
25 saw him?

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1 A. When I seen him he was kind of in the foyer or
2 hallway area and he was peering out the front; he was
3 looking towards the front of the house.

4 Q. Did he see you standing at the backdoor?

5 A. I didn't make eye contact with him, no.

6 Q. Okay. And then where is Officer West in relation
7 to you if you're at the door?

8 A. If I'm at the door we were getting ready to go in so
9 he was right in front of me. So we're making
10 arrangements to enter the house to clear it.

11 Q. And does Officer West say anything when he sees the
12 person in the house?

13 A. He did. He radioed over the dispatch -- to
14 dispatch.

15 Q. What is he saying? Do you recall what he is saying?

16 A. He said there is somebody in the house. Be advised
17 all units that there is somebody else in the house.

18 Q. And did you or either Officer West call out to the
19 person in the house say you, who are you or what are you
20 doing?

21 A. We did not, no, or I didn't.

22 Q. And at some point did you see the defendant person
23 running out of the house?

24 A. I did not see him running out, no.

25 Q. Okay. When you last saw him in the house what was

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1 he doing?

2 A. He was standing in the hallway or foyer area.

3 Q. Okay. And did there come a time when he went out
4 the front door?

5 A. There was a time according to Officer Ranck out in
6 front there was.

7 Q. When you heard that he was coming out the front of
8 the house what did you then do?

9 A. Officer West and myself ran around the house and we
10 observed Officer Ranck detaining the defendant.

11 Q. Okay. And were you involved in any pursuit of him
12 or was he already in custody when you came around the
13 house?

14 A. He was already in custody.

15 Q. Whereabouts was he located?

16 A. Across the street, the driveway across the street;
17 the residence.

18 Q. Officer Lawrence I want to show you some pictures
19 here if I could to kind of help the jury orient where
20 they are in reference to this case in the house. This is
21 State's exhibit 1.

22 [Whereupon, the photograph is shown]

23 Q. Can you kind of indicate to us -- here's the pointer
24 if you would just push the red button -- can you show us
25 where Elderberry is?

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- 1 A. is in pink.
- 2 Q. Again, the house is that located on this photograph?
- 3 A. Yes, it's the red or the pink there.
- 4 Q. And State's exhibit 3.
- 5 [Whereupon, the photograph is shown]
- 6 Q. Is that Elderberry Circle?
- 7 A. That is. That's the front of the house, yes.
- 8 Q. Okay. And then exhibit 4.
- 9 [Whereupon, the photograph is shown]
- 10 A. That is a part of the house, yes.
- 11 Q. And how about exhibit number 5.
- 12 [Whereupon, the photograph is shown]
- 13 Q. What is that a view of?
- 14 A. The house over here [indicates] is where he was
- 15 captured in the driveway where the white vehicle is. And
- 16 the house is right across the street, the .
- 17 Q. Okay. And then when you received this call did you
- 18 come down Ruff Road to Elderberry?
- 19 A. I did. I came down Ruff Road and I parked on Ruff
- 20 Road just off to the right there [indicates].
- 21 Q. Okay. And then photograph 6.
- 22 [Whereupon, the photograph is shown]
- 23 Q. Tell the jury please what that is.
- 24 A. That's the house to the right is the . That's
- 25 from the Ruff Street side looking towards the garage

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1 doors.
2 Q. Those [indicates] are the garage doors?
3 A. Those are the garage doors, yes.
4 Q. Okay. And this view?
5 [Whereupon, the photograph is shown]
6 A. That's the same view only down a little farther.
7 There is a fence and again that's the garage doors.
8 Q. And number 8?
9 [Whereupon, the photograph is shown]
10 A. That's just down a little bit farther. It shows the
11 fence line.
12 Q. And how tall is the fence?
13 A. I think it was a six foot fence.
14 Q. And number 12, what is that a picture of?
15 [Whereupon, the photograph is shown]
16 A. That's the rear yard, the back yard of the
17 residence.
18 Q. Of ---
19 A. --- of , yes.
20 Q. Okay. And do you know who owned this house or who
21 was living in the house at the time?
22 A. Yes.
23 Q. What was their name? The Franks maybe?
24 A. The Franks, yes.
25 Q. Now this gate is that how you entered into the

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1 backyard?

2 A. Yes. I entered through the gate and then I
3 proceeded down the rear checking the door and the windows
4 in that order.

5 Q. Okay. And then what is this a photograph of?

6 [Whereupon, the photograph is shown]

7 A. It's the backyard again just down a little farther
8 and it covers the rest of the house.

9 Q. Now you talked about going to the backdoor of the
10 house.

11 A. Yes.

12 Q. I see that there are two backdoors; one at the
13 garage part of the backdoor ---

14 A. --- that door there goes into the garage and when I
15 checked that it was secure working my way down.

16 Q. And then with respect to number 13 again show the
17 jury how you kind of worked your way to that door.

18 [Whereupon, the photograph is shown]

19 A. After checking the garage door I checked the windows
20 and then I got to the next door and that was the one that
21 was ajar which is the one in the center right there
22 [indicates].

23 Q. And once you came to that door and saw that it was
24 ajar what did you then do?

25 A. I walked back to the corner of this house where I

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1 started and I waited for backup.

2 Q. And Officer Lawrence with respect to you coming
3 around to the front of the house how long did it take you
4 to get from the back of the house to the front where
5 Officer Ranck had the defendant?

6 A. Probably five seconds I would say.

7 Q. Did you observe the arrest of Mr. Haynes?

8 A. I did, yes.

9 Q. And how did that take place? Can you kind of
10 explain what you recall?

11 A. When we came around the defendant was laying down
12 and Officer Ranck was placing handcuffs on him.

13 Q. And exhibit number 9; tell the jury what that is
14 please.

15 [Whereupon, the photograph is shown]

16 A. That's the house directly next door across the
17 street.

18 Q. And that's the one you described earlier where the
19 white car ---

20 A. --- yes, yes.

21 Q. And then what happened after he was placed into
22 custody as far as you were concerned? What was your next
23 duty in that case?

24 A. Right. He was placed in the handcuffs and Officer
25 Ranck conducted a search on his person and then myself

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1 and Officer West went back in and cleared the residence
2 to make sure nobody else was in there.

3 Q. And when you went in the house did you find anything
4 else or anybody else?

5 A. There was nobody else in there, no.

6 Q. Okay. Did you notice any open windows or doors
7 once you went back through the house?

8 A. There was an open bedroom window.

9 Q. Okay. That's number 14.

10 [Whereupon, the photograph is shown]

11 Q. Where is this bedroom window located?

12 A. In relation to the backyard that open window is all
13 the way -- if you're looking at the backyard it's all the
14 way to the right. So that's as far as you can go over;
15 all the way over to the last bedroom.

16 Q. And did you notice that the screen was pulled out?

17 A. Yes.

18 Q. Okay. And number 15.

19 [Whereupon, the photograph is shown]

20 Q. Where is that screen located in reference to the
21 window?

22 A. On the ground.

23 Q. Tell the jury what this picture is?

24 [Whereupon, the photograph is shown]

25 A. That's the open window from the inside, taken from

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1 the inside of the house.

2 Q. Okay. So those purple bushes are the ones right in
3 front of that window?

4 A. Yes.

5 Q. And again number 17?

6 [Whereupon, the photograph is shown]

7 A. That's the same bedroom window, only taken from I
8 believe the hallway.

9 Q. And in this picture can you tell us where that
10 bedroom window is?

11 [Whereupon, the photograph is shown]

12 A. That bedroom window was all the way to the right
13 hand side; the one that was open.

14 Q. And when you originally came up to the door did you
15 even get as far as that window ---

16 A. --- I didn't see that, no, initially.

17 Q. And then, Officer Lawrence, did you observe the
18 search of the person and the items that were taken from
19 him ---

20 A. --- I did not ---

21 Q. --- or were you back in the house?

22 A. Back in the house.

23 Q. Okay. And at some point were the items placed in
24 the trunk of your car?

25 A. It appears they were, yes, according to the picture.

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1 Q. And that would have been the crime scene officer
2 that would take pictures and so forth ---

3 A. --- take photos, yes.

4 Q. Okay. And did you see the pistol being removed
5 from the defendant?

6 A. I did not.

7 Q. So you were back in the house at that time?

8 A. Yes.

9 Q. And then do you see the person that was in the house
10 that day in court here?

11 A. I do, yes.

12 Q. And can you identify him for the jury?

13 A. Yes, blue shirt.

14 MR. BOURDON: Please let the record reflect
15 Sergeant Lawrence has identified the defendant.

16 Q. [Mr. Bourdon] Was that the person that you saw in
17 the house and then ultimately be placed in custody across
18 the street?

19 A. Yes.

20 MR. BOURDON: No further questions, Your Honor.

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State v James Anthony Haynes
Michael Lawrence-Cross-Examination by Mr. Lewis
July 11, 2017

1 CROSS-EXAMINATION

2 BY MR. LEWIS:

3 Q. Good morning Sergeant.

4 A. Good morning, sir.

5 Q. How are you doing?

6 A. Good.

7 Q. I just wanted to ask you a few questions about some

8 of the photos that Mr. Bourdon just presented you.

9 A. Sure.

10 [Whereupon, the photograph is shown]

11 Q. I know you were able to address this briefly with

12 Mr. Bourdon. You did estimate about a six foot high

13 fence?

14 A. Probably a guess and say yes.

15 Q. I mean standard four foot, six foot.

16 A. Six foot, right.

17 Q. And as you can see there this is the back of the

18 house?

19 A. The fence encompasses the rear yard.

20 Q. Right. It goes up to the next lot.

21 A. Yes.

22 Q. And you went through the gate that is sort up flush

23 up against the garage on this side in order to make entry

24 in the backyard?

25 A. Yes.

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- 1 Q. Okay. Can you see through that fence?
- 2 A. I mean you can see through the slats if you look
- 3 real hard.
- 4 Q. Yes, if you get up close to it or something like
- 5 that.
- 6 A. Yes.
- 7 Q. But fences are intended for privacy.
- 8 A. Sure.
- 9 Q. To keep people out; hopefully to give you some
- 10 privacy to keep people from seeing you in your backyard.
- 11 A. Yes.
- 12 Q. State's exhibit 12.
- 13 [Whereupon, the photograph is shown]
- 14 Q. And I don't know if you can tell but this is the
- 15 door that you approached at the beginning?
- 16 A. At the beginning the door I got in from the
- 17 beginning was the garage door. This is the next door
- 18 over.
- 19 Q. Check the garage door and the garage door is secure.
- 20 A. Right.
- 21 Q. Keep going around ---
- 22 A. --- right.
- 23 Q. This [indicates] is the one that you saw ---
- 24 A. --- that's the second door, yes.
- 25 Q. Two inches wide that made you think hey, somebody's

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1 got to be in the house.

2 A. Yes.

3 Q. At the bottom of that door, the storm door, can you
4 tell what that is? Does that look like a doggie door to
5 you?

6 A. I can't tell.

7 Q. You may or may not be able to tell. I had to zoom
8 it myself. And you still may not be able to tell but
9 that section right there [indicates] at the bottom of the
10 storm door can you tell what that is?

11 A. I cannot, no.

12 Q. Okay. You can see a ramp that sort of leads up to
13 it if I can get over to it again. Do you remember that
14 ramp there [indicates] on the ground as you're
15 approaching the door?

16 A. Vaguely.

17 Q. Okay. If you don't that's fine. And then State's
18 exhibit 16.

19 [Whereupon, the photograph is shown]

20 Q. Can you identify what that is? And I can zoom out
21 if you need me to to give you some perspective?

22 A. If you can, yes.

23 [Whereupon, Mr. Lewis adjusts the photograph]

24 A. Part of the window.

25 Q. Okay. And that part right there [indicates] that

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Michael Lawrence-Cross-Examination by Mr. Lewis
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1 was zoomed in on again do you know what that is?
2 A. Probably the locking mechanism for the window.
3 Q. Right. The latch that you would sort of have to
4 unlock it from the inside.
5 A. Okay.
6 Q. Is that fair?
7 A. Sure.
8 Q. And lastly I think Mr. Bourdon also showed you, he
9 may have showed you, did you ever make a personal
10 inspection of the back door?
11 A. No.
12 Q. Okay. When you cleared it did you see if there had
13 been any damage?
14 A. I didn't see any damage, no I did not.
15 Q. Did you acknowledge that there was a door? I know
16 this sounds sort of convoluted, did you see the locking
17 mechanism on the door?
18 A. I didn't pay attention to exactly what ---
19 Q. --- I'll ask somebody else about that.
20 MR. LEWIS: One moment, Judge.
21 [Whereupon, Mr. Lewis confers with Mr. Smit]
22 MR. LEWIS: No further questions, Your Honor.
23 THE COURT: Any redirect?
24 MR. BOURDON: Nothing further, Your Honor.
25 THE COURT: Any exception to the witness being

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1 excused from the State?

2 MR. BOURDON: No, Your Honor.

3 THE COURT: From the defense?

4 MR. BOURDON: Subject to recall for this issue.

5 THE COURT: Any exception?

6 MR. LEWIS: No exception.

7 THE COURT: Sir, you're excused.

8 [Whereupon, the witness is excused and exits the
9 witness stand].

10 THE COURT: Call your next witness.

11 MR. BOURDON: Thank you, Your Honor.

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State v James Anthony Haynes
Brian West-Direct Examination by Mr. Bourdon
July 11, 2017

1 MR. BOURDON: The State would next call Officer
2 West.

3 [Whereupon, Officer West comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: Please state your first and last
7 name spelling your last name for the record.

8 THE WITNESS: My name is Brian West, W-E-S-T.

9 THE COURT: You may proceed.

10 MR. BOURDON: Thank you, Your Honor.

11 - - - - -

12 BRIAN WEST,

13 Having been first duly sworn,

14 Was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. BOURDON:

17 Q. Officer West, how long have you been a police
18 officer with North Charleston?

19 A. Sixteen years, three months.

20 Q. And tell us what your duties are with North
21 Charleston?

22 A. Currently I'm assigned to the school resource
23 officer unit. I work at Lambs Elementary School. Prior
24 to that I was assigned to day shift north. I've had
25 various jobs in traffic and crime prevention and bike

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1 team and uniform patrol.

2 Q. And prior to coming to North Charleston where were
3 you employed?

4 A. I was a New York City police officer for two years.
5 I left in April of 2011. Prior to that I worked for the
6 Federal Bureau of Prisons and prior to that I was in the
7 United States Navy for eight years.

8 Q. On May the 26 of 2015 were you on duty with North
9 Charleston police?

10 A. I was.

11 Q. And were you dispatched to a call about a burglary
12 in progress at Elderberry Circle?

13 A. Yes, sir.

14 Q. And is that address in the county of Charleston,
15 South Carolina?

16 A. Yes, sir.

17 Q. Do you recall what time the call went out for this
18 burglary?

19 A. I want to say around 11:40, 11:30 or 11:40. I was
20 coming from a distance away so I was trying to make it
21 there as quick as I could.

22 Q. And when a burglary call goes out is that a priority
23 type call?

24 A. It is. They drop tones first, they do a double
25 tones over all channels basically to alert us that there

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1 is a high priority call coming out.

2 Q. And when you proceed to that scene how do you
3 proceed; do you have blue lights and sirens flashing?

4 A. Lights and siren on until we get within proximity of
5 where the sirens might be heard and then we'll just go to
6 blue lights so we don't alert anybody on scene.

7 Q. And that would be the suspect perhaps would be
8 alerted ---

9 A. --- yes.

10 Q. Okay. When you arrived at the house do you recall
11 where you parked?

12 A. I parked on the side of the house on Ruff Road.
13 There was another officer already on scene. I parked
14 behind his vehicle and exited my vehicle.

15 Q. And that officer was Sergeant Lawrence?

16 A. Yes, sir.

17 Q. And then what did you and Sergeant Lawrence discuss
18 once you arrived at the house?

19 A. There was another officer on scene, Officer Ranck.
20 He was going around to the front of the house. Officer
21 Lawrence -- Sergeant Lawrence; I'm sorry, was around the
22 back of the house and he had been kind of covering both
23 sides. We were going around to the back of the house to
24 see if we could possibly ascertain if there was somebody
25 still inside and if so clear the residence.

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1 Q. Okay. At the time did you make any announcement
2 that you're the police; come out of the house?

3 A. Not at that time.

4 Q. Why did you not announce yourselves?

5 A. We wanted to clear it first. If we alerted to our
6 presence he's going to know where we are exactly and we'd
7 rather us know where he is rather than he know where we
8 are at that time. If we were going to make entry into
9 the house we would have announced but we hadn't gotten to
10 that point.

11 Q. Okay. Officer West, I'm going to give you this
12 pointer -- apparently the laser pointer doesn't work on
13 the television screen -- so if you need that to review
14 the pictures here. So State's exhibit number 5 if you
15 can look at this.

16 [Whereupon, the photograph is shown]

17 Q. Does this picture represent the house at
18 Elderberry Circle?

19 A. Yes sir, it does.

20 Q. Okay. And then again where did you park your
21 vehicle; roughly?

22 A. Roughly right up over here [indicates] on the
23 opposite side of the street.

24 Q. And did you make your way around to the back of the
25 house?

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1 A. We were on the side of the house and the back gate
2 was open already so we proceeded across the street and we
3 went through the open back gate to the rear of the
4 residence.

5 Q. So exhibit 12 picture this picture was taken that
6 day do you recall?

7 [Whereupon, the photograph is shown]

8 A. I believe it may have been.

9 Q. Was that gate open like that when you arrived that
10 morning?

11 A. I'm not sure why it was open but the gate was open
12 so we didn't have to hop a fence or anything like that.
13 We went right into the backyard.

14 Q. And then describe how you kind of made your way
15 around the back of the house. If you could just explain
16 to the jury how you guys ---

17 A. --- absolutely. We came in through here
18 [indicates]. Swung our turn out a little bit; we don't
19 like to hug corners, swing our turn out a little bit. If
20 there is somebody over here [indicates] and they're right
21 around the corner they can easily see us before we can
22 see them.

23 So we swing our turn out a little bit and we come
24 over this way [indicates]. Originally Sergeant Lawrence
25 was in the front and I was behind him. But me being the

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1 lower ranking person I'm going to go in front always and
2 then we proceeded our way down the house from the open
3 gate.

4 Q. And then where did you go as you worked your way
5 down the house? Did you look in the kitchen windows or
6 the backdoor?

7 A. We did. We tried the backdoor and the backdoor was
8 locked. We don't really jam on it or anything like that.
9 As we're going down we're kind of close to the house
10 right here [indicates].

11 We're peering in the windows and making our way down
12 past the door and then continuing all the way down to see
13 if we can see anything inside.

14 Q. And how far did you made your way down that back of
15 the house? If you need to walk closer to the screen you
16 can.

17 A. Thank you. If you look right here [indicates]
18 there are three windows here and then the door and then
19 there is a window here [indicates].

20 I can't exactly see where the window is but there is
21 a window right here [indicates] that once you get past
22 the bush right there [indicates] you can see right into
23 the -- the blinds were up and you can see right into the
24 house right at that point from the window over here.
25 [indicates] and that's where we made it to.

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1 Q. Okay. And when you got to that window what, if
2 anything, did you see?

3 A. Upon looking inside right as I was coming past the
4 window I saw an individual matching the description that
5 was given to us by dispatch turning the corner and
6 appearing to ---

7 MR. LEWIS: --- objection, Your Honor.

8 THE COURT: Sustained. Ladies and gentlemen you
9 are to disregard the witness's last answer. You are to
10 give it absolutely no consideration in your
11 deliberations. The question and answer are stricken from
12 the record. You may proceed and rephrase.

13 Q. [Mr. Bourdon] Did you see anyone in the house when
14 you looked in the window?

15 A. I did.

16 Q. Okay. What did the person look like that you saw?

17 A. It was a black male wearing a white shirt and black
18 shorts and a ball cap.

19 Q. And do you know what kind of ball cap it was?

20 A. I can't remember the sports team right now. It was
21 purple and yellow; LSU maybe. I'm not a college football
22 fan.

23 Q. And did the person do anything -- did he see you at
24 the window?

25 A. I believe he did. I saw him and it kind of felt

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1 like our eyes we looked at each other. And at that point
2 I don't remember whether I got on the radio or called it
3 out loud but I called out that there is someone inside
4 the house that is still in the house.

5 Q. Officer West, did you have occasion to go in the
6 house at some point?

7 A. Later on.

8 Q. Okay. When you looked through the window were you
9 able to look in the bedroom at all? Do you know what
10 room you were looking in?

11 A. It appeared to be a bedroom.

12 Q. Does this appear to be the bedroom window you were
13 looking in?

14 [Whereupon, the photograph is shown]

15 A. No, sir.

16 Q. Is there another window to the right in that
17 picture?

18 A. There is. If you look right here [indicates] there
19 is a window over here and that's the window I was looking
20 in.

21 Q. Okay. So you weren't looking in the open window;
22 you were looking in the other one?

23 A. Yes, sir.

24 Q. Okay. And number 19 do you recognize this
25 photograph?

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- 1 [Whereupon, the photograph is shown]
- 2 A. I do recognize that photograph.
- 3 Q. Tell the jury what that picture is of.
- 4 A. That's a picture of the view from out the window,
5 the first window that I pointed out, when you can see
6 right in.
- 7 Q. Okay. And who is the person in this picture?
- 8 A. That would be -- I can't recall his last name. His
9 first name is Gary; the owner of the residence or the
10 person who resides in the residence. I apologize; I
11 don't know if he owns it.
- 12 Q. So these are the crime scene officer taking pictures
13 that morning?
- 14 A. I believe so.
- 15 Q. So when you looked in that window who was standing
16 in that hallway?
- 17 A. The individual I described earlier; the black male
18 wearing the white shorts.
- 19 Q. And do you see the defendant in court here today?
- 20 A. I do.
- 21 Q. And is that the person that you saw in the house
22 when you were looking through that window?
- 23 A. Yes, sir.
- 24 Q. And then do you think he saw you as you were looking
25 through that window?

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1 MR. LEWIS: Objection, Your Honor.

2 THE COURT: Sustained. Speculation and lack of
3 foundation.

4 Q. [Mr. Bourdon] When you looked through the window did
5 you see what the defendant was doing?

6 A. He was coming around the corner and it appeared that
7 he was entering the room. Like I stated in my opinion we
8 locked eyes because he took off as soon as he saw us and
9 that's when I started calling out that there was someone
10 still in the house.

11 Q. And did you see where he went once he either saw you
12 or made this move away from coming into the bedroom?

13 A. He continued down the hallway. If you're looking at
14 the picture right now he would go to the left if you will
15 which is down the hallway leading to the front door or
16 the living room area.

17 Q. And 21 is that the hallway that you're talking
18 about?

19 [Whereupon, the photograph is shown]

20 A. Yes, sir.

21 Q. And 22 -- excuse me; 24.

22 [Whereupon, the photograph is shown]

23 Q. Tell the jurors what that view is of?

24 A. That is from the -- that is the living room. If my
25 eyesight is not failing me it's from the rear door I

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1 believe.

2 Q. Okay. And do you see the front door in this
3 picture?

4 A. Yes, sir.

5 Q. And where is this hallway that you're describing?

6 A. It's right up here [indicates].

7 Q. Okay. And once he turned around from the bedroom
8 you said you saw him go down the hallway. Did you see
9 him again in the house as you were standing at that
10 window?

11 A. I did not.

12 Q. And once he moved away and appeared to be running
13 down the hallway what did you then do?

14 A. I don't remember if I got on the radio or called it
15 out real loud. I have kind of a loud voice and I called
16 out he's still inside and he's going towards the front
17 door. And there was another officer out front.

18 Q. And that would be who?

19 A. That would be Sergeant Ranck.

20 Q. And then 25 what's that a picture of?

21 [Whereupon, the photograph is shown]

22 A. The front door of the residence.

23 Q. And then 22. Tell the jury what that is a picture
24 of?

25 [Whereupon, the photograph is shown]

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1 A. [No response]

2 Q. Is that the view from the front door ---

3 A. --- yes sir, yes, sir.

4 Q. And did you ever go in or examine the backdoor after
5 you cleared the residence?

6 A. We did. I know we went back -- I believe we went
7 back into the front door to clear the residence after the
8 situation was under control.

9 Q. So did you see the defendant running out the front
10 door?

11 A. I did not.

12 Q. Okay. Where did you next see the defendant after
13 you said he was moving or whatever you called out on the
14 radio?

15 A. Sergeant Lawrence and I moved around to the front of
16 the house. The next place I saw the individual that I
17 saw inside the house was across the street in the
18 driveway and Sergeant Ranck was taking him into custody.

19 Q. Okay. And this photograph?

20 [Whereupon, the photograph is shown]

21 Q. Do you see the driveway where he was taken into
22 custody in the picture?

23 A. Yes, sir.

24 Q. Where is that?

25 A. It was right here [indicates]. No, that's not the

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1 right house; I apologize.

2 Q. Is this a better picture?

3 [Whereupon, the photograph is shown]

4 Q. And was he taken into custody at the house where the
5 white cars are?

6 A. It was right there [indicates]. It was actually a
7 little further up on the right hand side of the driveway
8 right there.

9 Q. And in this photograph tell the jury how you got
10 from the back to the front of the house.

11 [Whereupon, the photograph is shown]

12 A. The open fence is right here [indicates] so we came
13 around to the front of the house and met with Officer
14 Ranck right over here [indicates].

15 Q. And did you hear Officer Ranck yelling anything as
16 you were making your way around back to the front?

17 A. I don't recall hearing him yelling anything.

18 Q. And when you got to the driveway across the street
19 where Officer Ranck had the defendant was he already in
20 handcuffs or was he on the ground?

21 A. He was on the ground I know that. I don't know if
22 he was in handcuffs yet.

23 Q. And did you observe the search of the defendant by
24 Officer Ranck?

25 A. I was behind Officer Ranck when he started searching

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1 him. Generally what we do is search for weapons first.
2 People keep weapons in the small of their back and the
3 waistband. I didn't actually see Officer Ranck retrieve
4 the weapon; anything from his waistband.

5 I did see that he had -- I did observe Officer Ranck
6 pull from the right front pocket like a leathery pouch
7 sort of thing and an envelope.

8 Q. How long were you with Officer Ranck as he was
9 conducting the search?

10 A. Briefly. We wanted to go back into the house to
11 make sure there wasn't anyone else in there. We had
12 already kind of left the house to assist Officer Ranck so
13 we wanted to make sure we got back in there to clear the
14 rest of the residence to make sure there was nobody else
15 in there.

16 Q. So you weren't with Officer Ranck as he was doing
17 his complete search of the defendant?

18 A. I was not.

19 Q. Did you ultimately see the Glock pistol that was
20 found?

21 A. I did.

22 Q. Where was that recovered from?

23 A. His waistband.

24 Q. And then after you determined there was nobody else
25 in the house what did you then do with respect to this

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1 case?

2 A. We came back out and we kind of formulated our game
3 plan of who was going to be doing what. All the evidence
4 was collected, all the items were collected and we called
5 crime scene.

6 I'm not sure if I called crime scene or tried to get
7 in touch with the detectives at that time but ultimately
8 we wanted a detective to speak to him because of the
9 nature of the crime ---

10 MR. LEWIS: --- objection, Your Honor.

11 THE COURT: Basis?

12 MR. LEWIS: Discussion of witnesses that aren't
13 going to be called.

14 THE COURT: He didn't say what anybody said. He
15 said what he rationally perceived, which is a continuum
16 of the investigation. Overruled.

17 Q. [Mr. Bourdon] So after you cleared the house did you
18 see Officer Cook show up and do crime scene analysis?

19 A. I don't believe I did. I believe we had departed by
20 then.

21 Q. Okay. So did you leave Officer Ranck with the
22 defendant to deal with the rest of the case?

23 A. What we do is we try and kind of divide up the
24 paperwork because there is a lot of paperwork to do. We
25 try and divide up the paperwork. To the best of my

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1 recollection I believe I transported the defendant to
2 2500 City Hall Lane, which is the North Charleston Police
3 Department headquarters for an interview with detectives.

4 Q. And then after you transported him did you have any
5 further involvement in the case?

6 A. Other than assisting with paperwork, no.

7 MR. BOURDON: Nothing further, Your Honor.

8 THE COURT: Any questions for the witness?

9 MR. LEWIS: Just briefly, Judge.

10 THE COURT: You may proceed.
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1 CROSS-EXAMINATION

2 BY MR. LEWIS:

3 Q. Officer, you said you viewed some of the arrest
4 because you came around the house.

5 A. The defendant was already on the ground by the time
6 that I got there but like I said I don't recall whether
7 he was in handcuffs yet or not. So I observed Officer
8 Ranck with him, with the individual on the ground.

9 Q. Right. Basically all I wanted to ask you about is
10 there is certainly no fighting at that point, you're not
11 having to tase him or no guns are being drawn. Did you
12 have your gun out do you know?

13 A. I did not have my gun out. I had my gun out when I
14 was clearing the back of the residence but when I started
15 running I will never run with a loaded gun in my hand so
16 I holstered up and ran out front. I'm slow enough as it
17 is; so I don't need a gun hampering me.

18 Q. I would certainly understand that. Once there
19 though it wasn't -- obviously as a police officer you've
20 been in some stressful situations when people are
21 fighting with you. This wasn't one of those?

22 A. It was not.

23 Q. Yes, there is going to be testimony about a gun. He
24 didn't try to pull it on your guys and there was never a
25 standoff or anything like that.

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1 A. I wasn't there at that point. I don't know whether
2 he reached for his waistband or anything like that. I
3 can't answer that.

4 Q. But that would certainly be something that y'all
5 would write down if it had happened.

6 A. I would assume.

7 MR. LEWIS: One moment, Judge.

8 [Whereupon, Mr. Lewis confers with Mr. Smit]

9 MR. LEWIS: Nothing further, Your Honor.

10 THE COURT: Any redirect?

11 MR. BOURDON: No, Your Honor..

12 THE COURT: Any objection to the witness being
13 excused from the State?

14 MR. BOURDON: No, Your Honor, just subject to
15 recall.

16 THE COURT: From the defense?

17 MR. LEWIS: No objection.

18 THE COURT: Sir, you're excused.

19 [Whereupon, the witness is excused and exits the
20 witness stand]

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1 THE COURT: Madame Forelady and ladies and
2 gentlemen, you all have been sitting about an hour. I'm
3 going to give you a brief restroom break. During the
4 break please do not discuss the case and please leave
5 your notepads in your seats. We'll be out for about ten
6 minutes.

7 [Whereupon, the jury exits at 11:12 a.m.]

8 THE COURT: You may be seated. We'll be at ease
9 for about ten minutes.

10 [Whereupon, court is in recess from 11:12 a.m. until
11 11:31 a.m.]

12 THE COURT: You may be seated. Is the State ready
13 to proceed?

14 MR. BOURDON: Court's indulgence just a moment,
15 Your Honor. I'm just getting something marked.

16 THE COURT: Okay.

17 [Whereupon, Mr. Bourdon and Mr. Lewis confer]

18 [Off the record momentarily]

19 MR. BOURDON: Thank you, Your Honor. I apologize.

20 THE COURT: Is the State ready?

21 MR. BOURDON: Yes, Your Honor.

22 THE COURT: Is the defense ready?

23 MR. LEWIS: Yes, Your Honor.

24 THE COURT: Please get the jury. Who is the next
25 witness?

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1 MR. BOURDON: It's Officer Michael Cook.
2 [Whereupon, the jury enters at 11:36 a.m.]
3 THE COURT: You may be seated. Call your next
4 witness.
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1 MR. BOURDON: Thank you, Your Honor. The State
2 would next call Officer Michael Cook.

3 [Whereupon, Officer Cook comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: Please state your first and last
7 name and spell out your last name for the record.

8 THE WITNESS: Michael Cook, C-O-O-K.

9 THE COURT: You may proceed.

10 MR. BOURDON: Thank you, Your Honor.

11 - - - - -

12 MICHAEL COOK,

13 Having been first duly sworn,

14 Was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. BOURDON:

17 Q. Officer Cook, please tell the jury where you are
18 employed?

19 A. North Charleston Police Department.

20 Q. And how long have you been with the police
21 department?

22 A. A little over 16 years.

23 Q. And describe your duties that you have as a police
24 officer with North Charleston?

25 A. Responding to calls, calls for service, patrolling,

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1 safety and security of the city.

2 Q. Okay. And was there a time when you became
3 assigned to the crime scene unit?

4 A. Yes, sir.

5 Q. And tell the jury what a crime scene officer does.

6 A. We're responsible for photographing, videographing,
7 processing scenes, collecting evidence, packaging
8 evidence, and submitting evidence to our evidence unit.

9 Q. And were you on duty on the 26th of May of 2015?

10 A. I was.

11 Q. And were you called to a crime scene at the location
12 of Elderberry Circle?

13 A. I was.

14 Q. And tell the jury what happened when you arrived on
15 the scene.

16 A. I made contact with Officer Ranck and Sergeant
17 Lawrence. They basically gave me a rundown of what
18 occurred and pointed some evidence items out and then
19 after that I began to photograph the scene.

20 Q. Apparently the arrest was made sometime around 11:55
21 or shortly before noon. When did you get to the scene?

22 A. Probably 20 minutes after or 30 minutes after maybe;
23 I don't actually recall.

24 Q. Do you recall where the defendant was when you got
25 on scene?

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1 A. I believe he was in the back of a police car.

2 Q. Did you ever see him or take any pictures of him?

3 A. No, sir.

4 Q. So tell us what the first thing a crime scene
5 officer does when he gets to the scene and then
6 particularly what you did on this day.

7 A. When we first get on scene we make contact with the
8 officer, the supervisor who contacts us to come out.
9 They give us a briefing on what occurred, why we're there
10 and point out maybe any evidence stuff that may be on the
11 ground that we may be interested in collecting.

12 Q. Okay. And had the officers already collected
13 evidence in this case when you got there?

14 A. There was a couple of things that were in the trunk
15 of a police car.

16 Q. Okay. And then basically you were told there was a
17 burglary that occurred at the house of Elderberry
18 Circle?

19 A. Yes, sir.

20 Q. And then did you photograph -- did you go in the
21 house at all?

22 A. Yes.

23 Q. What did you do when you got in the house?

24 A. I photographed each room as it was as I entered the
25 house.

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1 Q. When you're working your way through these rooms are
2 you moving anything or how are you conducting your
3 investigation?

4 A. I start from -- if I'm going in through the front
5 door I start at the front door and photograph from corner
6 to corner to corner to corner, go in and photograph
7 corner to corner to corner to get every angle of that
8 room as possible. And I do that to each room.

9 Q. And was the homeowner Mr. Franks present when you
10 were walking through the house and taking pictures?

11 A. Yes.

12 Q. And what was the purpose of that?

13 A. He was basically pointing out areas that had been
14 gone through.

15 Q. And did you photograph those areas?

16 A. I did.

17 Q. And those are already in evidence. Did you
18 photograph any areas outside of either the Elderberry
19 house or the house across the street?

20 A. Elderberry was photographed from the front yard and
21 also the backyard. And the house across the street I
22 photographed the driveway and the address on the cement
23 at the curb.

24 Q. Okay. And I'm showing you State's exhibit 4.

25 [Whereupon, the photograph is shown]

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1 Q. This the house at Elderberry or ; excuse
2 me?

3 A. It appears so, yes.

4 Q. And then do you recognize where this location is?
5 [Whereupon, the photograph is shown]

6 A. That's directly across the street.

7 Q. And we're kind of close up on picture number 10 or
8 exhibit number 10 it looks like two blue items on the
9 driveway.

10 A. Yes, sir.

11 Q. Can you tell the jurors what those are?

12 A. Those are blue latex gloves.

13 Q. Were those in that location when you arrived on
14 scene?

15 A. Yes, sir.

16 Q. And then what did you do with those gloves?

17 A. I photographed them and then I collected them and
18 placed them into a brown paper bag.

19 Q. And did you recover any other items through your
20 search of the house or did you find anything of
21 significance that you collected as evidence?

22 A. Not from inside the house, no.

23 Q. And then did you photograph and collect items from
24 outside of the house?

25 A. I did. I collected some items from the back of

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1 Sergeant Lawrence's police vehicle.

2 Q. Okay. I'll show you these pictures here and we'll
3 go through these. This is State's exhibit number 26.

4 [Whereupon, the photograph is shown]

5 Q. Do you recognize these photographs?

6 A. I do.

7 Q. Tell the jury please what this one is?

8 [Whereupon, the witness is shown photographs]

9 A. This [indicates] is a picture of a black leather
10 pouch, this [indicates] is a flashlight, currency
11 [indicates], and this [indicates] is a Glock handgun and
12 a purple hat.

13 Q. And was that money inside of that white envelope?

14 A. Yes, there is a white envelope right over here
15 [indicates]. Yes, right here [indicates].

16 Q. And then the second, this is State's exhibit 27.

17 [Whereupon, the photograph is shown]

18 Q. Do you recall that photograph?

19 A. I do.

20 Q. You had a chance to look at these pictures before we
21 went to court today is that correct?

22 A. Yes.

23 Q. And again, please tell the jury anything else that
24 is of significance in this or the other one.

25 A. The hat with the orange Clemson paw and then the

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1 magazine for the Glock handgun.
2 Q. Okay. And did you remove the clip from the gun or
3 was it already out?
4 A. I don't recall.
5 Q. Is that your hand in the picture?
6 A. Holding the magazine, yes.
7 Q. And then 28?
8 [Whereupon, the photograph is shown]
9 A. That's a picture of I believe that's the round that
10 was in the chamber.
11 Q. And this?
12 [Whereupon, the photograph is shown]
13 A. This is a side shot of the Glock with the model and
14 the caliber.
15 Q. And what's that item that is on the lower left
16 portion of the picture?
17 A. This [indicates]?
18 Q. Correct.
19 A. That's a flashlight.
20 Q. And then were you able to get a serial number off
21 the gun?
22 A. I did. Its right here [indicates] and there's also
23 one on the frame -- or slide [indicates]. That is a
24 close up of the serial number on the slide.
25 Q. Are you familiar with the serial numbers on pistols?

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1 A. That every gun has one and the gun manufacturer is
2 the one that puts the serial numbers on the gun.

3 Q. Okay. And is each serial number unique to one
4 specific weapon?

5 A. Yes.

6 Q. So each gun has its own serial number?

7 A. Yes.

8 Q. And the type of weapon that that pistol is is what?

9 A. A Glock, a Glock .40 caliber model 23 --

10 THE COURT REPORTER: Model?

11 THE WITNESS: 23.

12 Q. [Mr. Bourdon] Then exhibit number 33?

13 [Whereupon, the photograph is shown]

14 A. This is jewelry and some kind of coin out of the
15 black leather satchel.

16 Q. And did you remove the coins and the ring from the
17 satchel?

18 A. Yes, sir.

19 Q. So they were all in the packet or the satchel when
20 you first got there?

21 A. Yes.

22 Q. And this coin here?

23 A. Yes.

24 Q. And this looks like a Hoover Dam souvenir type coin?

25 A. Yes.

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1 Q. And then you photographed each of the individual
2 rings and so forth, is that correct?

3 [Whereupon, the photograph is shown]

4 A. I tried to photograph the distinguishing
5 characteristics of the ring, like that one [indicates]
6 had the three little clear stones in the middle of it.

7 Q. Is this another ring that was in that pouch?

8 [Whereupon, the photograph is shown]

9 A. Yes, sir.

10 Q. Again?

11 [Whereupon, the photograph is shown]

12 A. A different ring in the pouch.

13 Q. So you photographed all the rings that were in that
14 pouch, correct?

15 A. Yes, sir.

16 Q. This one here; this is 41.

17 [Whereupon, the photograph is shown]

18 A. Yes, sir.

19 Q. This is 42.

20 [Whereupon, the photograph is shown]

21 A. Yes, sir.

22 Q. Forty three?

23 [Whereupon, the photograph is shown]

24 A. Yes, sir.

25 Q. Forty-four?

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1 [Whereupon, the photograph is shown].
2 A. Yes, sir.
3 Q. Forty-five?
4 [Whereupon, the photograph is shown]
5 A. Yes, sir.
6 Q. And this is the envelope you were talking about?
7 [Whereupon, the photograph is shown]
8 A. Yes sir that the currency was in.
9 Q. And number 49 is the cash?
10 [Whereupon, the photograph is shown]
11 A. Yes, sir.
12 Q. And where was that cash located? Was that in the
13 envelope or was that ---
14 A. --- yes sir, it was in the envelope.
15 Q. Do you know how much was in the envelope?
16 A. I'd have to look through my report. It was a few
17 hundred dollars from what I remember.
18 [Whereupon, the witness reviews document]
19 A. A little over 800 dollars.
20 Q. And then exhibit number 50?
21 [Whereupon, the photograph is shown]
22 A. That is more currency that was taken from the
23 residence.
24 Q. And when you see this currency do you put that in a
25 different location from the physical evidence that is

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1 collected?

2 A. Our evidence unit places that into a safe.

3 Q. So that doesn't go in the evidence locker the same
4 as the other items?

5 A. It does. Then we let them know there is cash in
6 there and they remove it and put it into a -- well, count
7 it and put it into the safe.

8 Q. And then did you physically seize those items that
9 we just saw pictures of?

10 A. Yes sir, I did.

11 Q. And what did you do with each of these items? How
12 did you secure them and then if you would show us each of
13 those and kind of just walk through those as well. Let's
14 start with the pistol.

15 [Whereupon, the witness views exhibit]

16 A. I placed the handgun into the gun box, zip tied from
17 where the magazine well through the slot and then I
18 placed the rounds into a separate envelope.

19 Q. And if you could just lift the weapon out and show
20 the jury. It's been secured, is that correct?

21 A. Yes, it's clear.

22 [Whereupon, the jury is shown handgun]

23 Q. So that was the gun that you photographed and put
24 into evidence from this case?

25 A. Yes, sir.

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1 Q. How do you know that? Is there any markings on
2 there?

3 A. The serial number.

4 Q. So the serial number matches the one in the
5 photograph?

6 A. Yes, sir.

7 Q. Okay. And then let's go down the rest of the items
8 that were seized. Exhibit 52?

9 [Whereupon, the witness views exhibit]

10 A. Yes, sir. It is the orange Clemson hat with the
11 orange paw.

12 Q. And that was again, by the time you got there all
13 the evidence was in the trunk of the police car?

14 A. Yes, sir.

15 Q. And the next item please?

16 [Whereupon, the witness views exhibit]

17 A. Item 53 is a fake million dollar bill.

18 Q. And the fake million dollar bill can you see that in
19 this photograph [indicates]?

20 A. It's right under the flashlight.

21 Q. And it actually has a million dollars written on it?

22 A. Yes, sir.

23 [Whereupon, the witness views exhibit]

24 A. And 54 is the white paper envelope with South
25 Carolina Federal Bank on one side and the other side says

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- 1 400 to rent.
- 2 Q. And that's what we saw earlier that bank envelope?
- 3 A. Yes, sir.
- 4 [Whereupon, the witness views exhibit]
- 5 A. This is the flashlight I assume that was on top of
- 6 the money.
- 7 Q. What number is that please?
- 8 A. Fifty-five, sorry.
- 9 [Whereupon, the witness views exhibit]
- 10 A. Fifty-six is a white Bic lighter.
- 11 [Whereupon, the witness views exhibit]
- 12 A. Fifty-seven; the small black pouch with the long
- 13 string.
- 14 Q. Is that the one you photographed?
- 15 A. It is.
- 16 Q. And what was in that pouch?
- 17 A. This is where I got the rings from.
- 18 Q. Okay.
- 19 [Whereupon, the witness views exhibit]
- 20 A. Number 58 are the gloves.
- 21 Q. And those are the gloves you collected on the
- 22 driveway of the house across the street?
- 23 A. Yes, sir.
- 24 [Whereupon, the witness views exhibit]
- 25 A. And number 59 is the jewelry.

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1 Q. You can take the rings out and have them in the bags
2 so that the jurors will be able to see them.

3 [Whereupon, the witness complies]

4 Q. Do you know who the rings were taken from during the
5 course of your investigation?

6 A. I do not.

7 Q. And then after you photographed those items and
8 collected them from the back of Sergeant Lawrence's car
9 what did you then do with them?

10 A. I brought them back to my office where I placed them
11 in the brown paper bags, taped them with evidence tape
12 initialed and signed it -- or initialed and dated the
13 bag.

14 Q. And then where did those items go after you finished
15 inventorying them and putting them in those envelopes?

16 A. Each item is categorized or numbered on a chain of
17 custody. I sign it and it goes into our evidence locker
18 for our evidence techs.

19 Q. And can you describe the evidence locker? Are you
20 familiar with that area?

21 A. Where we store it, where we put our items is a metal
22 locker that you shut the door and then lock it.

23 Q. And how about the evidence compound itself in North
24 Charleston?

25 A. I have no access to that area.

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1 Q. Are you familiar with how they operate in terms of
2 when they take evidence in and how it's secured?

3 A. Usually they take every day ---

4 Q. --- once it goes into their facility who has access
5 to the evidence compound?

6 A. Just the people who work in there and their
7 supervisor.

8 Q. So you couldn't just walk in there or an officer
9 couldn't just walk in ---

10 A. --- no sir ---

11 Q. --- or a civilian off the street?

12 A. No, sir.

13 Q. And are those items do they appear to be in the same
14 condition as when you seized them on the 26th of May of
15 2015?

16 [Whereupon, the witness views exhibits]

17 A. Yes, sir.

18 Q. The cash do you recall how it was divided? Was it
19 640 dollars in one set and then 211 in another set? I
20 think it's on page 2 of ---

21 A. --- yes sir ---

22 Q. --- do you have your report with you?

23 A. I do.

24 Q. Would that refresh your memory to look at that with
25 respect to the cash?

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1 A. I don't recall how it was -- I don't know if it was
2 all in the same white envelope or if it was separate. I
3 believe it was all in the same white envelope.

4 Q. But you weren't there when it was collected by
5 Officer Ranck?

6 A. No, sir.

7 Q. So it's just the money that is in the back of the
8 trunk of the car?

9 A. Yes, sir.

10 MR. BOURDON: Your Honor, at this point the State
11 would move for admission of those exhibits.

12 THE COURT: What numbers are they?

13 MR. BOURDON: It would be 51 through 59.

14 THE COURT: Any objection?

15 MR. LEWIS: No, Your Honor.

16 THE COURT: Marked and admitted without objection.
17 Are those the correct numbers, Ms. Joy?

18 THE COURT REPORTER: Yes ma'am; 51 through 59.

19 THE COURT: 51 through 59 without objection. You
20 may proceed.

21 [Whereupon, State's exhibit numbers 51 through 59
22 are entered into evidence by the court]

23 MR. BOURDON: Thank you. No further questions.

24 THE COURT: Any questions for the witness?

25 MR. LEWIS: Just briefly, Judge ---

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1 MR. BOURDON: --- I'm sorry; I apologize. I had
2 some more questions.

3 Q. [Mr. Bourdon] With respect to the blue gloves were
4 you able to determine where they came from?

5 A. When I got there and they showed them to me I was
6 advised that they were ---

7 MR. LEWIS: --- objection, Your Honor.

8 THE COURT: Basis?

9 MR. LEWIS: Hearsay.

10 THE COURT: Sustained. Unless he knows of his own
11 personal knowledge.

12 Q. [Mr. Bourdon] Did you conduct any testing inside of
13 the house for fingerprints or DNA or anything of that
14 nature?

15 A. No, because I was told ---

16 MR. LEWIS: --- objection, Your Honor.

17 THE COURT: Sustained. Hearsay.

18 MR. BOURDON: Well, Your Honor he has...

19 THE COURT: No, he cannot say what somebody told
20 him. It is offered for its truth. He can say what he
21 did as a result of the conversation.

22 Q. [Mr. Bourdon] As a result of the conversation did
23 you discuss those gloves with the officers that were
24 involved in this case?

25 A. I did.

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1 Q. Did you discuss with Officer Ranck?

2 A. I did.

3 Q. And based on your discussion did you take any
4 fingerprints or conduct DNA testing inside the residence?

5 A. No.

6 Q. Why was that?

7 THE COURT: Sustained. Hearsay. Before he even
8 got up to stand up because it's based on somebody else's
9 statement and it's offered for its truth.

10 Q. [Mr. Bourdon] If a person were wearing -- now you've
11 done -- how many crime scenes have you been involved with
12 in your period of being with the crime scene unit?

13 A. Hundreds.

14 Q. And you've been with crime scene for the last four
15 years?

16 A. Yes, sir.

17 Q. And if a person were to be wearing gloves like
18 those rubber gloves that we saw there would they leave
19 fingerprints?

20 MR. LEWIS: Objection, Your Honor.

21 THE COURT: Basis?

22 MR. LEWIS: Speculation.

23 THE COURT: Unless you lay the appropriate
24 foundation for the question.

25 Q. [Mr. Bourdon] Are you familiar with rubber gloves?

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1 A. Yes, sir.

2 Q. And how they're used?

3 A. Yes, sir.

4 Q. And what's the basis for using those type of rubber
5 gloves? Have you seen those before?

6 A. I have.

7 Q. And if a person is wearing those gloves would a
8 fingerprint be able to come through the glove onto an
9 item?

10 MR. LEWIS: Objection, Your Honor.

11 THE COURT: Sustained. Foundation.

12 Q. [Mr. Bourdon] Do you have enough knowledge to know
13 about ---

14 THE COURT: --- you're going to have to lay
15 foundation based on his education, training and
16 experience particularized to that area.

17 Q. [Mr. Bourdon] Do you have any training and
18 experience with respect to the use of rubber gloves at a
19 crime scene?

20 A. Just from training I've received from different
21 classes I've attended.

22 Q. Tell us some of those classes and what they are?

23 A. I've attended the South Carolina Criminal Justice
24 Academy crime scene class. I've attended a Federal law
25 enforcement training center crime scene, advanced crime

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1 scene techniques level one, and a lot of on the job
2 training.

3 Q. And with respect to the use of rubber gloves you've
4 worked on cases where rubber gloves were used?

5 A. Yes, sir.

6 Q. And in those situations were fingerprints found on
7 suspects that were wearing rubber gloves?

8 A. No.

9 Q. And would DNA be transferred through a rubber glove
10 from a bare hand onto an item through those rubber
11 gloves?

12 A. Not from the glove to the item, no.

13 Q. And so based on that you didn't conduct any testing
14 fingerprints or DNA in the house?

15 A. No, sir.

16 Q. Now, did you also take photographs of the inside of
17 the house?

18 A. Yes, sir.

19 Q. And did you go into the bedroom of the residence,
20 four of the bedrooms of the residence?

21 A. Yes, I did.

22 Q. So did you go into each room in the house?

23 A. I did.

24 Q. And is this a photograph of the back bedroom window?
25 [Whereupon, the photograph is shown]

State v James Anthony Haynes
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- 1 A. It is.
- 2 Q. And was that in the condition it was when you came
3 into that room?
- 4 A. It is.
- 5 Q. And then exhibit 14.
- 6 [Whereupon, the photograph is shown]
- 7 Q. What is that a photograph of?
- 8 A. That's of the outside of the window up on the
9 picture previous.
- 10 Q. And then exhibit 15.
- 11 [Whereupon, the photograph is shown]
- 12 Q. What is that item below that in the photograph
13 there?
- 14 A. That is a storm screen.
- 15 Q. Was that laying outside the window in the bushes of
16 that bedroom we just saw?
- 17 A. Yes.
- 18 Q. Okay. And then exhibit 20.
- 19 [Whereupon, the photograph is shown]
- 20 Q. Do you know what that area is of the house?
- 21 A. That is leading into a bathroom.
- 22 Q. Okay. Now did you show the homeowner any of the
23 items that you had collected as evidence?
- 24 A. No, sir.
- 25 Q. Okay. And what interaction did you have with Mr.

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Michael Cook-Direct Examination by Mr. Bourdon
July 11, 2017

1 Franks as you were in his home?

2 A. Other than he would point out places that had been
3 rummaged through.

4 Q. And what rooms did that entail?

5 A. Bedrooms and a like a frog type room; a room above
6 the garage I believe is what it was.

7 Q. So you walked through the entire house?

8 A. Yes, sir.

9 Q. Okay.

10 MR. BOURDON: Court's indulgence.

11 THE COURT: Yes, sir.

12 [Whereupon, Mr. Bourdon and Mr. Condon confer]

13 MR. BOURDON: No further questions, Your Honor.

14 THE COURT: Any cross-examination of the witness?

15 MR. LEWIS: Yes, Your Honor, briefly.

16 THE COURT: You may proceed.

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State v James Anthony Haynes
Michael Cook-Cross-Examination by Mr. Lewis
July 11, 2017

1 CROSS-EXAMINATION

2 BY MR. LEWIS:

3 Q. Good morning.

4 A. Good morning -- afternoon, sir.

5 Q. I want to talk to you first about this serial number

6 that is on the firearm.

7 A. Yes, sir.

8 Q. He showed you some photos of that that you were able

9 to look at. The serial number you said marks the firearm

10 so that everybody knows what gun it is, right?

11 A. Yes, sir.

12 Q. And in your experience you've seen firearms that

13 have had their serial numbers obliterated?

14 A. Yes, sir.

15 Q. And that's done to conceal the source of that

16 firearm so you can't trace it.

17 A. Correct.

18 Q. It's a way to know that the gun is stolen; somebody

19 -- it's not legal to do that.

20 A. Right, right.

21 Q. So I own a firearm. If I wanted to go home today

22 and obliterate my serial number that would not be okay.

23 A. No.

24 Q. It would be against the law.

25 A. Yes.

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Michael Cook-Cross-Examination by Mr. Lewis
July 11, 2017

- 1 Q. It would be a way for me to transfer it illegally.
2 A. Yes.
3 Q. People could sell it and they wouldn't know if it
4 was stolen or not; they couldn't know anything about it.
5 A. Correct.
6 Q. But this gun from looking at it from the pictures
7 that you took there is no way looking at it that you can
8 tell that it is stolen.
9 A. No.
10 Q. No way at all.
11 A. Not from looking at it, no.
12 Q. It looks like any other Glock 23 with an under
13 barrel flashlight.
14 A. Yes.
15 Q. You talked about processing.
16 A. Yes, sir.
17 Q. And we sort of beat around that and I'm not going to
18 ask too many questions about it but part of your job is
19 not just to go on what people may suggest to you.
20 A. Correct.
21 Q. You're your own human. You do your own processing.
22 So if I was incompetent and I gave you advice you're
23 still going to do what you know is right.
24 A. Right.
25 Q. Here you didn't do any processing.

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Michael Cook-Cross-Examination by Mr. Lewis
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- 1 A. No.
- 2 Q. At all?
- 3 A. No.
- 4 Q. Was part of that because it's difficult to tell what
5 actually may have been touched, the house being in
6 disarray?
- 7 A. That and...
- 8 Q. The suggestion?
- 9 A. Yes.
- 10 Q. Okay. And I'm asking you to speculate just a tiny
11 little bit. Since we talked about gloves and wearing
12 gloves and all this does it matter when I put gloves on
13 whether I leave evidence or not? Like if I don't have
14 them on.
- 15 A. Now you wouldn't -- or you would; sorry.
- 16 Q. And in regards to DNA, DNA comes from sources other
17 than just our fingers.
- 18 A. Correct.
- 19 Q. Spit, skin flakes, epithelials; things like that.
- 20 A. Correct.
- 21 Q. No processing whatsoever was done in this residence
22 to see where someone had been.
- 23 A. Correct.
- 24 MR. LEWIS: One moment, Judge.
- 25 [Whereupon, Mr. Lewis and Mr. Smit confer]

State v James Anthony Haynes
Michael Cook-Cross-Examination by Mr. Lewis
July 11, 2017

1 MR. LEWIS: No further questions.
2 THE COURT: Any redirect?
3 MR. BOURDON: Yes, Your Honor.
4 THE COURT: You may proceed.
5 MR. BOURDON: Thank you, Your Honor.
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State v James Anthony Haynes
Michael Cook-Redirect Examination by Mr. Bourdon
July 11, 2017

1 REDIRECT EXAMINATION

2 BY MR. BOURDON:

3 Q. With respect to processing the house describe the
4 rest of the rooms that you examined. Were they neat and
5 tidy?

6 A. No.

7 Q. Please tell the jury what they looked like.

8 A. Drawers pulled out, items thrown on the floor.
9 Basically the house I would say was ransacked, which
10 means things thrown everywhere.

11 Q. And would that have been a benefit to processing
12 those areas for any fingerprints or DNA?

13 A. Some of the surfaces you wouldn't have been able to
14 get fingerprints off of.

15 Q. What were you made aware of with respect to the
16 officer seeing the suspect in the house? Were you made
17 aware that the officer saw the defendant in the house?

18 A. I was aware that he was arrested coming out.

19 Q. Okay. And so what would the need to have
20 fingerprint and DNA testing be?

21 A. I would say none.

22 Q. So basically in your conversations with the officers
23 and your experience was there any benefit or need to
24 process for prints or DNA?

25 A. No, sir.

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Michael Cook-Redirect Examination by Mr. Bourdon
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1 Q. And with respect to the serial number that Mr. Lewis
2 asked you about are those unique to each weapon?

3 A. Yes.

4 Q. And if a gun is reported stolen is there a
5 repository or some record system that keeps track of what
6 gun is or isn't stolen?

7 A. Yes.

8 Q. And so if I were to go to the police department
9 wanting to buy a gun with a serial number could I give
10 the police that number and they would tell me if it was
11 stolen or not?

12 A. Yes, you should be able to, yes.

13 Q. And since there is no registration for guns that
14 would be a prudent thing to do?

15 A. Yes.

16 Q. And with respect to Mr. Lewis saying there is
17 nothing that could tell if that gun was stolen, obviously
18 there is nothing that says this is a stolen gun. Now
19 when he talked about serial numbers that are filed off in
20 your experience what does that indicate?

21 A. The gun was stolen.

22 Q. And why is that?

23 A. Or it has been used in other crimes.

24 Q. Why do people wipe the serial number off a gun?

25 A. You can't trace it. You can't find out ---

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Michael Cook-Redirect Examination by Mr. Bourdon
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1 Q. --- explain what that means to the jury tracing it.

2 A. You can't run it through NCIC, you can't basically
3 get a history if the gun has been stolen or not. You
4 can't even do an ATF trace form on a gun without a serial
5 number.

6 MR. BOURDON: Court's indulgence.

7 [Whereupon, Mr. Bourdon and Mr. Condon confer]

8 MR. BOURDON: No further questions, Your Honor.

9 THE COURT: Any objection to the witness being
10 excused from the State?

11 MR. BOURDON: No, Your Honor.

12 THE COURT: From the defense?

13 MR. LEWIS: Just one last question, Judge; I'm
14 sorry.

15 THE COURT: He has the burden of proof. He gets
16 direct, you get cross, he gets re-direct for future
17 reference. But I'll give you latitude this time only.

18 MR. LEWIS: I appreciate that, Judge.

19 THE COURT: You may proceed.
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State v James Anthony Haynes
Michael Cook-Recross Examination by Mr. Lewis
July 11, 2017

1 THE COURT: Yes.

2 [Whereupon, an off the record bench conference is
3 held]

4 THE COURT: Madame Forelady and ladies and
5 gentlemen I have a brief matter of law to take up with
6 counsel. During this break please do not discuss the
7 case and please leave your notepads in your seats. We
8 appreciate your patience.

9 [Whereupon, the jury exits at 12:16 p.m.]

10 THE COURT: You may be seated. Call your next
11 witness.

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State v James Anthony Haynes
John Neale-Proffer Testimony-Direct Examination by Mr. Bourdon
July 11, 2017

1 MR. BOURDON: The State would call John Neale.

2 [Whereupon, Mr. Neale comes forward]

3 THE COURT: Go to the witness stand sir, to be
4 sworn.

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 CLERK OF COURT: State your first and last name and
8 spell your last name for the record.

9 THE WITNESS: John Neale, N-E-A-L-E.

10 THE COURT: You may proceed.

11 MR. BOURDON: Thank you, Your Honor.

12 - - - - -

13 JOHN NEALE,

14 Having been first duly sworn,

15 Was examined and testified as follows:

16 DIRECT EXAMINATION (PROFFER)

17 BY MR. BOURDON:

18 Q. Special Agent Neale, where are you employed?

19 A. With the South Carolina Law Enforcement Division.

20 Q. And what is your occupation with SLED?

21 A. I'm a narcotics agent for SLED.

22 Q. And with respect to being a SLED agent were you
23 issued a Glock firearm as part of your duties?

24 A. I was.

25 Q. And is that the Glock that we have in question here

State v James Anthony Haynes
John Neale-Proffer Testimony-Direct Examination by Mr. Bourdon
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- 1 today?
- 2 A. It is.
- 3 Q. And do you know when you received the gun
- 4 originally?
- 5 A. It was I believe November of 2013.
- 6 Q. And do you know the age of the gun when you received
- 7 it?
- 8 A. It was fairly new.
- 9 Q. And did you have the serial number for it the KNS
- 10 331?
- 11 A. I did.
- 12 Q. And did you report that Glock pistol stolen?
- 13 A. Yes.
- 14 Q. And what date did you report it stolen?
- 15 A. On the 27th of April, 2015.
- 16 Q. And where was it stolen from?
- 17 A. My residence.
- 18 Q. And when did you report it stolen?
- 19 A. That same day.
- 20 Q. And did the weapon have the sight system on and full
- 21 magazine when it was stolen?
- 22 A. Yes. It had a tactical light.
- 23 Q. Where were you contacted about your weapon being
- 24 stolen?
- 25 A. Whenever Berkeley County I responded to my residence

State v James Anthony Haynes
John Neale-Proffer Testimony-Direct Examination by Mr. Bourdon
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1 shortly after my ---

2 Q. --- I'm sorry; when were you contacted by the North
3 Charleston about the gun being recovered?

4 A. On the 26th of May, 2015.

5 Q. So it was the same day they got the gun they called
6 you?

7 A. Yes, sir.

8 Q. Okay. And then did you recover the gun since it
9 has been stolen?

10 A. No.

11 Q. And do you know the defendant in this case, James
12 Haynes?

13 A. I do not.

14 Q. Would there be any reason or did you give any
15 permission to be in possession of that weapon?

16 A. I did not.

17 MR. BOURDON: That's all I have, Your Honor.
18 That's all I would be asking. If I can get around the
19 burglary part I would do that just to say that he
20 reported it stolen.

21 THE COURT: Any objection?

22 MR. LEWIS: The only other objection that I have to
23 it, Judge is the relevance as to him being a SLED
24 narcotics agent and it being a service weapon. I think
25 that that's not relevant to any of the charges and it's

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1 also prejudicial to bring it in and the suggestion that
2 law enforcements has their firearm stolen. And again it
3 ties back in to the same suggestion when you reference
4 residence that you're suggesting that James stole it from
5 Mr. Neale.

6 THE COURT: So let me be clear. You don't have any
7 opposition to this testimony as long as there is no
8 reference to Officer Neale's employment and that the gun
9 was stolen from his house?

10 MR. LEWIS: None, other than those two things.

11 THE COURT: All right. He can testify with those
12 exceptions because I agree with them. It's prejudicial
13 ---

14 MR. BOURDON: --- that he's not a SLED agent? I'm
15 sorry, Your Honor.

16 THE COURT: No mention of his employment and no
17 mention of the fact that it was a service weapon and no
18 mention of the fact that it was stolen from his house.
19 None of it is germane to any issue in this case. The
20 only thing that is germane is that it was stolen.

21 MR. BOURDON: Yes, ma'am.

22 THE COURT: And it didn't belong to the defendant.
23 Otherwise the rest of it is prejudicial. It implies that
24 especially since this is a burglary case it implies that
25 somehow remotely or loosely that he could have committed

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1 the burglary at Officer Neale's house. And there is no
2 evidence of that.

3 MR. BOURDON: Yes, Your Honor. That's correct, so
4 I wasn't going to ---

5 THE COURT: --- so he can testify to everything
6 he's already testified to with the exception of his
7 employment at SLED, with the exception of the fact that
8 he is a narcotics agent, with the exception of the fact
9 that this was a service weapon, and the fact that it was
10 stolen from his house. Everything else is fair game and
11 is admitted without objection.

12 MR. LEWIS: Yes, Your Honor.

13 THE COURT: Are we ready?

14 MR. BOURDON: Yes, Your Honor.

15 MR. LEWIS: Yes, Your Honor.

16 THE COURT: Please get the jury.

17 [Whereupon, the jury enters at 12:22 p.m.]

18 THE COURT: Counsel approach.

19 [Whereupon, an off the record bench conference is
20 held]

21 THE COURT: Ladies and gentlemen we appreciate your
22 patience. We will now resume with the trial. The State
23 may call its next witness.

24 MR. BOURDON: Thank you, Your Honor.
25

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1 MR. BOURDON: The State would next call John Neale.

2 [Whereupon, the witness is duly sworn by the Clerk
3 of Court]

4 - - - - -

5 JOHN NEALE,

6 Having been first duly sworn,

7 Was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. BOURDON:

10 Q. Mr. Neale, how old are you sir?

11 A. I am 37.

12 Q. And in 2015 did you own a Glock model 23 .40 caliber
13 pistol?

14 A. I did.

15 Q. And do you recall how old the gun was back then?

16 A. It was fairly new.

17 Q. Okay. And when you received that weapon did you
18 record the serial number on it?

19 A. It was.

20 Q. And do you know what that number is?

21 A. It was KMS 331.

22 Q. Okay. And at some point did you report that gun
23 stolen?

24 A. I did on the 27th of April 2015.

25 Q. Okay. And were you notified that the gun was

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1 recovered at some point?

2 A. I was notified by North Charleston on the 26th of
3 May, 2015.

4 Q. And what date did you report the gun stolen, sir?

5 A. The 27th of April, 2015.

6 Q. And was that the same day that you -- had you not
7 noticed it being gone for some time or was it that same
8 day that you noticed ---

9 A. --- it was that day.

10 Q. Okay. And at some point did you discover that the
11 weapon was found in the possession of Mr. James Haynes?

12 A. Yes, whenever I got the notification from North
13 Charleston.

14 Q. Do you see Mr. Haynes in court today?

15 A. I do.

16 Q. Do you know him at all?

17 A. I do not.

18 Q. Is there any reason why he would have possession of
19 your pistol?

20 A. No.

21 Q. And did you give him any permission to have that
22 pistol?

23 A. No.

24 Q. And if you could look at exhibit number 51, sir.

25 Can you take it out the box and show us?

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1 [Whereupon, the witness views exhibit]
2 Q. Is that pistol yours?
3 A. It is.
4 Q. And how do you know that?
5 A. Because of the serial number that is inscribed on
6 the slide and also the tactical light that was on it
7 whenever...
8 Q. That light was part of the weapon when it was
9 stolen?
10 A. Yes, it was.
11 Q. And was there a magazine in the weapon when it was
12 reported stolen?
13 A. There was.
14 Q. Is that in there as well?
15 A. It is.
16 MR. BOURDON: No further questions, Your Honor.
17 THE COURT: Any questions of the witness?
18 MR. LEWIS: No, Judge.
19 THE COURT: Any exception to the witness being
20 excused from the State?
21 MR. BOURDON: No, Your Honor.
22 THE COURT: From the defense?
23 MR. LEWIS: No, Your Honor.
24 THE COURT: Mr. Neale, you're excused. Thank you.
25 THE WITNESS: Thank you, Judge.

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1 [Whereupon, the witness is excused and exits the
2 witness stand]

3 THE COURT: Call your next witness.

4 MR. BOURDON: One moment, Your Honor.

5 [Whereupon, Mr. Bourdon and Mr. Condon confer]
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1 MR. BOURDON: Your Honor, the State would next call
2 Officer Joshua Ranck.

3 [Whereupon, Officer Ranck comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: Please state your first and last
7 name and spell your last for the record.

8 THE WITNESS: My name is Joshua Ranck, R-A-N-C-K.

9 THE COURT: You may proceed.

10 - - - - -

11 JOSHUA RANCK,

12 Having been first duly sworn,

13 Was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. BOURDON:

16 Q. Officer Ranck, where are you employed?

17 A. With North Charleston Police Department.

18 Q. How long have you been with the police department?

19 A. Eleven and a half years.

20 Q. Again, if you could please briefly describe your
21 prior duties with the police department since you
22 arrived.

23 A. I've mainly spent my time on patrol. I did three
24 years with patrol followed by two and a half years of
25 bicycle patrol followed by another year -- five years of

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1 patrol. And now I am the sergeant of the technology
2 unit.

3 Q. Okay. And what does that job entail?

4 A. Basically I do everything with issuing body worn
5 cameras, car cameras. I upfit cars with equipment, radio
6 programming, laptops; anything computers or digital video
7 evidence.

8 Q. Okay. And Officer Ranck were you on duty of the 26th
9 of May of 2015?

10 A. I was.

11 Q. Okay. And again did you receive a call in reference
12 to a burglary in progress at Elderberry?

13 A. I did.

14 Q. And what did you do when you heard that call go out?

15 A. I was across town on Otranto Road, which is a fair
16 distance apart from the location so I immediately started
17 responding with lights and sirens to get there as fast as
18 I could.

19 Q. Okay. And the call went out approximately 11:42.

20 What time do you think you got there?

21 A. I would imagine it probably took near ten minutes
22 for me to get there from where I was.

23 Q. Okay. And then what happened when you arrived? How
24 did you get there? Were you running blue lights and
25 sirens?

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1 A. I was. I run blue lights and sirens. And I heard
2 over the radio that Sergeant Lawrence checked on scene.
3 They put the channel on emergency status for him
4 therefore nobody else talks on the radio except for the
5 people on scene.

6 He indicated over the radio that there was an open
7 back door so that made me expedite my response even
8 further. He said he was taking up a position near the
9 back of the residence.

10 As soon as I pulled up on scene I placed my car in
11 park; it was on the road. I believe I got there just
12 about the same time as Officer West. We parked behind
13 Sergeant Lawrence's vehicle.

14 I got out of my car and was briefed by Sergeant
15 Lawrence. And he asked me to cover the front while they
16 went to the back of the residence.

17 Q. Okay. And how did you get to the residence and
18 whereabouts did you actually position yourself?

19 A. If you're looking at the front door of the residence
20 I was instructed to check the front door. So I walked up
21 to the front door and checked to see that it was locked.

22 I found out it was locked and then I immediately
23 exited the front porch and went to the front left corner.
24 If you're facing the door onto the front left corner so
25 that I could see that left side as well as the entire

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1 front side of the residence.

2 Q. I want to catch up to you and get some pictures of
3 the house itself.

4 [Whereupon, the photograph is shown]

5 Q. Is that the front of the house?

6 A. That is.

7 Q. And then once you met with the officers on the side
8 of the house where did you go first, front door?

9 A. Just at this tree here [indicates] surrounded by a
10 large planter if you will we met probably in the front
11 corner between that planter and the driveway. So over
12 there [indicates] near where the driveway is on the other
13 side of that planter is where we met.

14 I walked between the planter and the house up to the
15 front door, checked the front door and then immediately
16 walked to the far corner of the house away from the front
17 door.

18 Q. And when you checked the front door did you look
19 inside the door?

20 A. I did not.

21 Q. And why did you not do that?

22 A. I don't like to peek into windows because --
23 gunshots aren't stopped by windows. So I don't stick my
24 head in a window because it's not protected by anything.
25 So I'm not going to stick my face into a window. I'm

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1 going to check to see if it is shut and if I can see that
2 it is shut I'm moving on to the next position.

3 Q. Okay. And then what was the next position you took
4 after you checked the front door?

5 A. After I checked the front door I immediately went to
6 the far left corner of the house and just stood there
7 where I could see the whole left side and the whole front
8 side at the same time.

9 Q. Okay. And then did you go look in either of those
10 windows that are on the front left of that house?

11 A. I did not.

12 Q. Okay. And then how long were you outside in your
13 position at that location?

14 A. I believe less than 30 seconds from the time I
15 became stationary at that corner to the time that I was
16 notified by Officer West that somebody was still inside
17 the house and that they were moving towards the front
18 door.

19 Q. Okay. And how did he notify you of that?

20 A. I can't recall exactly whether he yelled it out or
21 he said it across the police radio. All I know is I
22 heard there is somebody in the house, he's moving to the
23 front door.

24 Q. Okay. And then what was the next thing you
25 observed after you heard West calling that out?

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1 A. As he said that I took several steps towards the
2 front door with my weapon drawn and then the defendant
3 fled to the front door out of the residence in my
4 direction.

5 Q. Okay. And so was he heading towards you or which
6 way was he heading?

7 A. Well, directly straight towards the street from the
8 front door.

9 Q. Okay. And what if anything did you say to him when
10 he came out the front door?

11 A. I believe I yelled stop with my weapon drawn and
12 then as I realized this was going to be a foot pursuit I
13 holstered my weapon and I began following him on foot as
14 I was drawing my taser at the same time.

15 After I drew my taser I know I yelled taser as loud
16 as I could several times. And by the time we crossed the
17 street into the driveway the defendant just gave up
18 saying okay; I don't want to be tased, kind of put his
19 hands up and got down on the ground, followed our orders
20 and was placed into handcuffs.

21 Q. And what uniform were you wearing that day when you
22 were at the house when he came out and saw you?

23 A. I was wearing this uniform [indicates].

24 Q. And how about Officers West and Lawrence?

25 A. We were all wearing the same uniform.

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1 Q. Okay. Any doubt that you were a police officer?

2 A. No.

3 Q. Did he say anything to you when he came out of the
4 residence?

5 A. He didn't say anything until he got to the other
6 driveway and he realized that I was fast enough to keep
7 up with him and I was within range he just said okay,
8 okay and then got on the ground and that was it.

9 [Whereupon, the photograph is shown]

10 Q. Officer Ranck in this picture here can you tell the
11 jury what this is?

12 A. Behind the trees is the victim's residence and then
13 these two cars [indicates] are in the driveway where the
14 defendant was apprehended.

15 Q. And this is another view of the same corner?

16 [Whereupon, the photograph is shown]

17 A. Correct.

18 Q. And exhibit number 9.

19 [Whereupon, the photograph is shown]

20 Q. Is that the house where he ran to?

21 A. Correct.

22 Q. And whereabouts in that photograph did you stop him?

23 Did you ---

24 A. --- I can't recall exactly. It was either between
25 the car -- it was somewhere either between the cars up by

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1 the garage door or anywhere between the cars and the road
2 in the driveway.

3 Q. Okay. And then describe what he was wearing when
4 he came out of the house.

5 A. When he came out the house he had a white t-shirt
6 on, black basketball type shorts, a purple Clemson hat
7 and he had blue vinyl gloves on this hands.

8 Q. And then once he got across the street and you
9 apprehended him who else was with you at that time?

10 A. Essentially I was by myself until the point of
11 handcuffs going on at which time I already had him on the
12 ground and he was already complying and Sergeant Lawrence
13 ran up and just basically stood over to observe while
14 handcuffs went on.

15 Q. Okay. And then did you conduct a search of his
16 person at that time?

17 A. I did.

18 Q. And with respect to these gloves [indicates] they
19 were on his hands when he came out of the house?

20 A. They were.

21 [Whereupon, the photograph is shown]

22 Q. And in this photograph here are those the same
23 gloves?

24 A. Yes.

25 Q. How did they get to that part of the driveway if

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1 they were on his hands?

2 Q. After handcuffing and part of the search is I
3 removed the gloves. It's a possibility that you can
4 conceal items inside the gloves so I just removed the
5 gloves and placed them on the ground there for crime
6 scene to later collect.

7 Q. And that would be Officer Cook that testified
8 earlier?

9 A. Correct.

10 Q. Okay. Did you maintain control and custody of
11 those gloves until he got there ---

12 A. --- I never left the scene from view of that
13 driveway to the front of the residence to where my patrol
14 car was we placed the defendant after he was handcuffed
15 and searched he was placed in the rear of my patrol car.
16 And then I stayed outside in that area the entire time.
17 I never went in the residence.

18 Q. Okay. And then as part of your search of the
19 defendant incident to his arrest what did you find on his
20 person?

21 A. I removed the handgun from his waistband and
22 immediately stuck it in the back of my pants. Then I
23 removed that leather pouch, the envelope that had
24 currency, some loose currency that was also in his pocket
25 as well as the other items; I believe it was a lighter

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1 and I believe that was it.

2 Q. Okay. And then when did the homeowner arrive after
3 he was placed in custody?

4 A. I believe it was within a half hour or 45 minutes
5 that he arrived on scene.

6 Q. Okay. And did you wait for him to get there?

7 A. I believe I was still there when he arrived?

8 Q. And did you have any interaction with the victim?

9 A. Not that I can recall.

10 Q. And you saw Officer Cook go through the items that
11 were seized and that he placed into evidence. Were those
12 the same items that you took off of Mr. Haynes?

13 A. Yes.

14 Q. And ultimately you determined that he was in fact
15 James Haynes. Did you know an address that you were able
16 to put him at?

17 A. Without looking at the booking sheet there is no way
18 I would remember what his address was.

19 Q. From your investigation did he have any connection
20 to that house ---

21 MR. LEWIS: --- objection, Your Honor.

22 THE COURT: Basis?

23 MR. LEWIS: Speculation.

24 THE COURT: Approach, please.

25 [Whereupon, an off the record bench conference is

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1 held]

2 THE COURT: The objection is sustained.

3 [Whereupon, Mr. Bourdon and Mr. Condon confer]

4 Q. [Mr. Bourdon] Did Mr. Haynes have any type of
5 identification on him?

6 A. I do not believe so.

7 Q. Well, the items that were seized are all those items
8 that you took off him are those the items that you placed
9 in the -- where did you put them; Sergeant Lawrence's
10 car?

11 A. Yes.

12 Q. Okay. So there not being any in evidence was there
13 any identification on him?

14 A. No.

15 Q. Did he have any type of permit for the gun that was
16 in his possession?

17 A. No.

18 Q. Were you able to determine whether or not he had any
19 type of concealed carry permit or any authorized permit
20 for that gun?

21 A. I was.

22 Q. And did he have any such permit?

23 A. No.

24 Q. Okay. And after he was placed into custody where
25 did you take him at? Did you transport him?

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1 A. No. I believe Officer West took him to City Hall to
2 speak to detectives.

3 Q. Okay. Did you have any further interaction with
4 Mr. Haynes?

5 A. In the booking area of the jail, yes.

6 Q. And do you see the defendant in the courtroom today?

7 A. Yes.

8 Q. Can you point him out please?

9 A. Yes, sir. Blue shirt, green tie.

10 [Whereupon, the witness indicates towards defendant]

11 MR. BOURDON: Let the record reflect that the
12 witness identified the defendant.

13 Q. [Mr. Bourdon] And is that the person that you saw
14 coming out of the house on Elderberry on the date in
15 question, the 26th of May 2015?

16 A. Yes, sir.

17 Q. And if you could Officer Ranck just look at those
18 items again. Are those the same items that you seized
19 off the defendant?

20 [Whereupon, the witness views exhibits]

21 A. Yes.

22 Q. Take a look at the gun in particular and the other
23 items if you would.

24 [Whereupon, the witness views exhibits]

25 A. Yes.

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1 Q. And with respect to those items were the rings in
2 the pouch or did you take the rings out of the pouch?

3 A. I believe they were all inside the pouch.

4 Q. And how about the coins and the million dollar bill?
5 Do you know where those were located?

6 A. I believe the coin was also in the pouch with the
7 rings and that million dollar bill was with the loose
8 currency.

9 Q. And then with respect to the rubber gloves that he
10 had on are you familiar with those kind of gloves?

11 A. Yes.

12 Q. And how are you familiar with those?

13 A. I am a blood borne pathogens instructor so I am
14 uniquely aware of the benefits of wearing a glove and
15 what it can do for your hands for protection wise.

16 Q. And do you carry them with you now?

17 A. I do.

18 Q. Do you have them in court here today?

19 A. I do.

20 Q. Can you show the jury?

21 [Whereupon, the witness displays the gloves]

22 A. They are essentially very similar to the ones. We
23 use a latex free product due to latex allergies so it is
24 made of a vinyl product like this [indicates].

25 Q. Are they easy to get on and off?

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1 A. They are not, not at all.

2 Q. And how did you get those gloves off Mr. Haynes in
3 the exhibit that is in court here?

4 A. When they were on his hands I would have stuck my
5 finger under the cuff of the glove and just pulled
6 straight down and dropped it on the ground.

7 Q. And did it come off easily or was they difficult to
8 come off?

9 A. These gloves come off fairly easy; they just don't
10 go on very easy.

11 Q. How about the ones that he had on how were they in
12 terms of ease of getting off?

13 A. They are extremely similar. It's just about the
14 same exact glove; just different color.

15 Q. Okay.

16 MR. BOURDON: One moment please, Your Honor.

17 [Whereupon, Mr. Bourdon and Mr. Condon confer]

18 Q. [Mr. Bourdon] And Officer Ranck you've had a chance
19 to look at these other photographs that we've shown
20 Officer West ---

21 A. --- yes ---

22 Q. --- and Lawrence and the crime scene technician, is
23 that correct?

24 A. Yes.

25 Q. Are these all fair and accurate pictures of the

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1 items that you seized from him and the house and the way
2 it looked that day?

3 A. Yes.

4 Q. I don't believe I have any further questions at this
5 time, Officer Ranck.

6 MR. LEWIS: Thank you, Judge.

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State v James Anthony Haynes
Joshua Ranck-Cross-Examination by Mr. Lewis
July 11, 2017

1 CROSS-EXAMINATION

2 BY MR. LEWIS:

3 Q. Officer, you said that you are now the sergeant in
4 the technology unit?

5 A. That's correct.

6 Q. And that primarily its body cam, in-car video; that
7 kind of stuff?

8 A. Anything technology.

9 Q. But at the time this happened that wasn't common
10 practice for North Charleston?

11 A. We did not have issued body cameras at that point.

12 Q. What about in-car video?

13 A. There would be in-car video.

14 Q. Do you know if there was any in-car video from this
15 case?

16 A. I actually looked for it when this case came up
17 towards the docket. I'm an administrator of our video
18 file storage and I was unable to locate any video. When
19 we first started with the video policy it's actually a
20 digital type format.

21 When you record it on your car it records to a hard
22 drive. When you get close enough to the station it
23 automatically uploads the video from the car into the
24 centralized server and once it's there nobody can do
25 anything with it. On top of that we set up purge

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1 records. Currently I have 70 terabytes worth of video
2 stored on my server which is a ton. We record roughly
3 30,000 videos a month so I can't keep video forever. So
4 video is purged from the system on a 90 day basis is what
5 we have set up to automatically do.

6 Unless the video is categorized, saved and burned to
7 a DVD the video is deleted after that 90 day retention
8 period and is gone forever.

9 Q. So if ---

10 A. --- there are no videos from this because there were
11 no body cameras. And the direction of which the cars
12 were facing the cars were facing down Ruff Road with the
13 victim's residence over here [indicates] so nothing of
14 video evidence was caught on the actual car cameras.

15 They automatically come on when you turn your lights
16 and sirens on so I know they would have recorded. But
17 because there was nothing on there, it was just looking
18 down the road, everything was occurring to the left those
19 videos were just purged after the 90 day retention
20 period.

21 Q. But if they had been requested they would have been
22 provided?

23 A. Within that 90 day period they had to be requested.

24 Q. Okay. In regards to his being taken into custody
25 the way you described it today was just like okay, okay,

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1 not fighting with you at all; not trying to go for the
2 gun, not doing anything aggressive towards you ---

3 A. --- absolutely ---

4 Q. --- just trying to run away.

5 A. Absolutely.

6 MR. LEWIS: One moment, Judge.

7 [Whereupon, Mr. Lewis confers with Mr. Smit]

8 MR. LEWIS: Nothing further. Thank you.

9 THE COURT: You're welcome. Any redirect?

10 MR. BOURDON: No further questions, Your Honor.

11 THE COURT: Sir, you may step down.

12 MR. BOURDON: Can he be subject to recall depending
13 on ---

14 THE COURT: --- well he's here; he's the case
15 agent.

16 MR. BOURDON: Yes, ma'am.

17 [Whereupon, the witness is excused and exits the
18 witness stand]

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1 THE COURT: Madame Forelady, ladies and gentlemen
2 we're going to take advantage of this break to take our
3 lunch and recess. During the break please do not discuss
4 the case, please leave your notepads in your seats.
5 Please don't have any contact with anyone in or about the
6 courthouse.

7 You'll return directly to your jury room at 2
8 o'clock; that gives you an hour and 15 minutes for lunch.
9 And you'll thank me with the tourist traffic downtown in
10 getting back into the building. I hope y'all have a good
11 lunch. Try to stay cool. We'll see you at 2 o'clock.

12 [Whereupon, the jury exits at 12:48 p.m.]

13 THE COURT: Y'all can be seated. Is there anything
14 further from the State before we adjourn for lunch? I
15 mean is there anything we need to take up before we go
16 eat? I'm sorry if I wasn't clear.

17 MR. BOURDON: I think we're okay right now, Your
18 Honor. From their opening it appears they have a
19 rendition that it isn't from any other witness so I
20 didn't bring up what he did or didn't say to the police
21 at this point because he did exercise ---

22 THE COURT: --- so do we need a Jackson v Denno
23 hearing?

24 MR. LEWIS: He asks for a lawyer, Judge ---

25 MR. BOURDON: He asks for an attorney so there is

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1 no statement.

2 THE COURT: So I'm sorry, what is it that you would
3 be talking about? He can't -- that can't be used against
4 him so I'm trying to figure out ---

5 MR. BOURDON: --- right. That's why I didn't go
6 into unless he testifies ---

7 MR. LEWIS: --- in the event he testifies I still
8 don't think a comment on his rights or exercise his right
9 to ---

10 THE COURT: --- except to the extent that he
11 understood his rights.

12 MR. LEWIS: Right.

13 THE COURT: Let me ask a fundamental question. I
14 assume you're calling Mr. Franks who is number one on
15 your list.

16 MR. BOURDON: Yes, Your Honor.

17 THE COURT: Are you calling Kevin Geddis?

18 MR. BOURDON: No, Your Honor. That was the 911
19 caller but I don't think ---

20 THE COURT: --- Joseph Niemiec, number 7?

21 MR. BOURDON: No, ma'am.

22 THE COURT: Number 9, Laquetta Washington?

23 MR. BOURDON: She's out in the hall. She's the
24 dispatcher but I think given the posture of the case and
25 the court's...

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1 THE COURT: I don't know what she said. If you
2 want to call her in camera that's up to you. I'm not
3 clairvoyant. Y'all only tell me what people say; that
4 doesn't always develop that way. It's up to you. Kevan
5 Sherbine, number 10?

6 MR. BOURDON: Not at this point, Your Honor.

7 THE COURT: Number 11, Shawnta Middleton?

8 MR. BOURDON: No, Your Honor.

9 THE COURT: Twelve, Jonathan Glenn?

10 MR. BOURDON: No.

11 THE COURT: Thirteen, Ron Webb?

12 MR. BOURDON: No.

13 THE COURT: Fourteen, Ken Hagee?

14 MR. BOURDON: No.

15 THE COURT: Fifteen, Kathryn Jameson?

16 MR. BOURDON: No, Your Honor.

17 THE COURT: Sixteen, Doctor Christopher?

18 MR. BOURDON: No, Your Honor.

19 THE COURT: Seventeen, Al Kuechler?

20 MR. BOURDON: Perhaps, Your Honor, but not in the
21 case in chief.

22 THE COURT: Jonathan Madrid?

23 MR. BOURDON: No, Your Honor.

24 THE COURT: Ray Thompkins?

25 MR. BOURDON: Yes, Your Honor, he is coming after

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1 lunch.
2 THE COURT: Freddie Wright?
3 MR. BOURDON: No, Your Honor.
4 THE COURT: Amanda...
5 MR. BOURDON: No, ma'am.
6 THE COURT: Josh Chaney?
7 MR. BOURDON: Perhaps, Your Honor.
8 THE COURT: Jeff Osburn?
9 MR. BOURDON: No, Your Honor.
10 THE COURT: Scott Wyant?
11 MR. BOURDON: No, Your Honor.
12 THE COURT: Glen Meza?
13 MR. BOURDON: No, Your Honor.
14 THE COURT: Tonda Westbury?
15 MR. BOURDON: Not at this point, Your Honor. She's
16 just a clerk to verify a prior conviction if that's an
17 issue.
18 THE COURT: Daniel Eckert?
19 MR. BOURDON: No, Your Honor.
20 THE COURT: Doctor Pacheco?
21 MR. BOURDON: No, Your Honor.
22 THE COURT: Doctor Gottfried?
23 MR. BOURDON: No, Your Honor.
24 THE COURT: Do you plan to call any of these
25 witnesses that he has said he's not calling?

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1 MR. LEWIS: No, Judge.

2 THE COURT: Okay. Do you plan to call any
3 witnesses? I have a list of James Haynes, which of
4 course is optional to him once I advise him of his
5 rights. Art Dujovannah [phonetic]?

6 MR. LEWIS: Dujovannah [phonetic]. No, Judge.

7 THE COURT: I always just butcher it.

8 MR. LEWIS: It took me years.

9 THE COURT: And so that Mr. Lewis can get a head
10 start does the defendant have any record that the State
11 would be seeking to use to impeach his creditability?
12 Let's just say does he have any record at all? Let's go
13 from there.

14 MR. BOURDON: Yes, Your Honor, he does.

15 THE COURT: What is his record?

16 MR. BOURDON: He's got a possession of marijuana in
17 2005 that was a trial in absentia.

18 THE COURT: That's Magistrate's Court I assume.

19 MR. BOURDON: Correct, Your Honor. A simple
20 assault in 2005, assaulting police while resisting arrest
21 in 2006, assaulting police while resisting arrest; that
22 was a General Sessions level in 2006.

23 THE COURT: So the other one in '06 was a
24 Magistrate's level ---

25 MR. BOURDON: --- I'm sorry; I'm trying to read ---

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1 THE COURT: --- I didn't know assaulting a police
2 officer while resisting arrest ever could be a
3 Magistrate's; a zero to one or a zero to ten depending on
4 the section A or B.

5 MR. LEWIS: He had a resisting and an assault on a
6 police; both, two separate charges.

7 THE COURT: So one was ---

8 MR. BOURDON: --- one is Magistrate's level and
9 then one is ---

10 THE COURT: --- so he had resisting arrest and then
11 he had assaulting a police officer while resisting
12 arrest?

13 MR. BOURDON: Correct, Your Honor.

14 THE COURT: Okay. So the resisting arrest was in
15 '06 in the Magistrate's Court and the assault while
16 resisting arrest was '06 in the Circuit Court?

17 MR. BOURDON: The same day of arrest. It has on
18 the rap sheet ---

19 THE COURT: --- so does he have two assaulting
20 police officer while resisting arrest or one?

21 MR. BOURDON: It looks like two. It looks like one
22 may have been pled in Magistrates.

23 THE COURT: You can't plead to assault on a police
24 officer while resisting arrest in Magistrate's Court.

25 MR. BOURDON: He got time served.

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1 THE COURT: That's not a Magistrate's level
2 offense.

3 MR. BOURDON: Yes, ma'am. But some jurisdictions
4 have it as ---

5 THE COURT: --- well if it's in South Carolina I
6 need to know because that's a substantial change in the
7 statutory framework that I'm not aware of.

8 MR. BOURDON: So it looks like he has here he was
9 given one time served sentence and one ten year suspended
10 to two years probation ---

11 THE COURT: --- in South Carolina?

12 MR. BOURDON: Correct.

13 THE COURT: So it would have had to been something
14 else because assault while resisting arrest is a Circuit
15 Court offense.

16 MR. BOURDON: Yes, ma'am.

17 THE COURT: And it either carries one or two
18 penalties; one if there is a substantial injury to the
19 officer and one where there is not.

20 MR. BOURDON: I'll follow up on that during the
21 break, Your Honor.

22 THE COURT: Okay. And then what else does he
23 have? None of which I've heard so far can be used to
24 impeach his creditability.

25 MR. BOURDON: 2006 is an unlawful carrying of a

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1 pistol and disorderly conduct. Interference -- he's got
2 another unlawful carry in 2008 and resisting arrest, a
3 one-year offense ---

4 THE COURT: --- I'm sorry, resisting arrest and
5 what else?

6 MR. BOURDON: Carrying a pistol.

7 THE COURT: What year is that?

8 MR. BOURDON: 2008.

9 THE COURT: So that's two gun charges in '08 or
10 one?

11 MR. BOURDON: In that arrest it's from February of
12 2008. Then in 2012, Your Honor, he has a burglary second
13 degree non-violent and malicious injury to personal
14 property; those were both General Sessions out of
15 Dorchester County. In 2014 he has false information to
16 police and possession of marijuana; it was a trial in
17 absentia and he was found guilty. It appears to be
18 Magistrate level court.

19 THE COURT: That's his whole record?

20 MR. BOURDON: Yes ma'am, that's I'm aware of.

21 THE COURT: I guess conceivably the false
22 information could be used to impeach his creditability
23 but everything else would be inadmissible. Anything
24 else before we break for lunch from the State?

25 MR. BOURDON: [No response]

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1 THE COURT: Is there anything else before we break
2 for lunch from the State?

3 MR. BOURDON: No, Your Honor.

4 THE COURT: From the defense?

5 MR. LEWIS: No, Your Honor.

6 THE COURT: Y'all have a good lunch. See you at 2
7 o'clock.

8 [Whereupon, court is in recess from 12:56 p.m. until
9 2:13 p.m.]

10 THE COURT: Is the State ready to proceed?

11 MR. BOURDON: Yes, Your Honor.

12 THE COURT: Is the defense ready to proceed?

13 MR. LEWIS: Yes, Your Honor.

14 THE COURT: Who is the State's next witness?

15 MR. CONDON: Ray Thompkins, Your Honor.

16 THE COURT: Where is he?

17 MR. CONDON: He's in the hall. I'll go grab him.

18 THE COURT: Thank you, sir.

19 MR. BOURDON: Your Honor, the victim Mr. Franks is
20 also present so I think under the law he's entitled to be
21 here.

22 THE COURT: Yes, he's entitled to be here.

23 THE COURT: Is the State ready to proceed?

24 MR. CONDON: Yes, Your Honor.

25 THE COURT: Is the defense ready to proceed?

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1 MR. LEWIS: Yes, Your Honor.

2 THE COURT: Please bring in the jury.

3 [Whereupon, the jury enters at 2:14 p.m.]

4 THE COURT: Ladies and gentlemen I hope you all had
5 a pleasant lunch. We will now resume testimony. The
6 State may proceed.

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State v James Anthony Haynes
Ray Thompkins-Direct Examination by Mr. Condon
July 11, 2017

1 MR. CONDON: Thank you, Your Honor. The State
2 calls Ray Thompkins.

3 THE COURT: Sir, if you would come forward to be
4 sworn.

5 [Whereupon, Mr. Thompkins comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk
7 of Court]

8 CLERK OF COURT: Please state your first and last
9 name spelling your last name for the record.

10 THE WITNESS: My name is Kenneth Thompkins, K-E-N-
11 N-E-T-H and Thompkins, T-H-O-M-P-K-I-N-S.

12 THE COURT: You may proceed, Mr. Condon.

13 - - - - -

14 KENNETH THOMPkins,

15 Having been first duly sworn,

16 Was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. CONDON:

19 Q. Mr. Thompkins, what do you go by as a first name?

20 A. Ray.

21 Q. Ray. And can you tell the jury where you live?

22 A. in North Charleston.

23 Q. Okay. And how long have you lived there for?

24 A. Twenty-one years.

25 Q. And is that directly across the street from the

State v James Anthony Haynes
Ray Thompkins-Direct Examination by Mr. Condon
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1 house that was burglarized at Elderberry Circle?

2 A. Correct.

3 Q. And both those are in Charleston County?

4 A. Correct.

5 Q: Can you explain to the jury are you currently
6 retired right now?

7 A. Yes, I am.

8 Q. And where did you retire from?

9 A. The Air Force reserve with 32 years and Robert Bosch
10 with 25 years.

11 Q. And on Tuesday, May 26th, 2015 just prior to this
12 burglary incident what were you doing in your backyard?

13 A. I was in the backyard getting ready to pressure wash
14 my house and getting everything set up. About that time
15 I heard a commotion. I looked up and I saw the defendant
16 coming out of the house and a cop chasing him.

17 And the police officer said stop, stop, taser,
18 taser, taser. And the guy ran toward where I was in my
19 backyard and at the last instant he took a left turn and
20 they caught him in my driveway.

21 Q. And the person that they caught was that the same
22 person that ran out of the home?

23 A. Correct.

24 Q. And have you ever seen him around your neighborhood
25 before?

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Ray Thompson-Direct Examination by Mr. Condon
July 11, 2017

1 A. No, sir.

2 Q. And to the best of your ability, I know it's been a
3 long while, can you give a description of the person that
4 you saw run out of the house?

5 A. A black male, six feet tall in the neighborhood;
6 other than that I couldn't tell you anything else.

7 Q. And you described when he was running out of the
8 house can you explain to the jury was he running towards
9 you in the backyard?

10 A. He was running directly towards me in the backyard
11 because I was standing out there with the pressure washer
12 I had already made up my mind when the police officer was
13 chasing him if he came in my backyard I was going to beat
14 him with the pressure washer for protection because I
15 didn't know what he was going to do.

16 Q. And then he turned left?

17 A. But he made a left turn and they caught him right
18 there in the driveway probably 50 feet away.

19 Q. Did y'all make eye contact when he was running
20 towards you?

21 A. I imagine we did but to swear to it no, I couldn't
22 swear to it.

23 Q. I'm going to show you what has been admitted into
24 evidence already as State's exhibit 6 and 9. If you
25 could take a second and look at those two exhibits.

State v James Anthony Haynes
Ray Thompkins-Direct Examination by Mr. Condon
July 11, 2017

1 [Whereupon, the witness views photograph]

2 A. Okay.

3 Q. Do you recognize both of those?

4 A. Yes, I do.

5 Q. I'm going to put them up on this overhead real
6 quick.

7 [Whereupon, the photos are shown]

8 Q. If you don't mind if you could look up at this T.V.
9 and explain to the jury what each picture shows.

10 A. That's my house on the left hand side with the two
11 white vehicles in it. And the place that they broke into
12 or allegedly broke into is the one on the right hand
13 corner.

14 Q. And you observed the defendant run out of that home?

15 A. Correct.

16 Q. Where is your house?

17 A. That's [indicates] my house and then the privacy
18 fence in the back is where I was at. And he came
19 running out of the house across the street straight into
20 there [indicates] into the grassy area then they caught
21 him right here [indicates] in the driveway.

22 Q. I'm going to show you one more picture.

23 [Whereupon, the photograph is shown]

24 Q. Can you point out to the jury whereabouts you were
25 standing when this incident occurred?

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Ray Thompkins-Direct Examination by Mr. Condon
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1 A. Yes. Right about where you see that thick post
2 [indicates] -- I don't have a pointer -- right about here
3 [indicates] in the backyard I was getting ready to
4 pressure wash that area there [indicates]. And he came
5 running into this area here [indicates] and then he made
6 a right turn and they caught him over here [indicates] in
7 the middle of the driveway.

8 Q. Did you hear anything about a gun?

9 A. I thought I heard the police officer say gun, gun
10 but when I heard that I quit looking because -- for my
11 safety.

12 Q. And did you help the police get in touch with the
13 victim, Mr. Gary Franks after this happened?

14 A. Yes, I did.

15 Q. And how did you do that?

16 A. I was aware that he owned Gary's Organic Produce so
17 I looked up the telephone number on the Internet and I
18 called him to let him talk to the police officer.

19 Q. And did he show up on the scene pretty quickly
20 thereafter?

21 A. Yes, he did.

22 MR. CONDON: No further questions.

23 THE COURT: Any questions of the witness?

24 MR. LEWIS: Yes, Your Honor.

25 THE COURT: You may proceed.

State v James Anthony Haynes
Ray Thompkins-Cross-Examination by Mr. Lewis
July 11, 2017

1 CROSS-EXAMINATION

2 BY MR. LEWIS:

3 Q. It's nice to meet you in person. I'm the guy that
4 called you a couple of times on the phone.

5 A. Okay, no problem.

6 Q. I wanted to talk to you about a couple of things
7 that we had talked about.

8 A. All right.

9 Q. While you saw all this taking place -- well, first
10 off you don't know James.

11 A. No, I don't.

12 Q. You said when you were in a restaurant you could see
13 people and you don't recognize them and I said I was the
14 exact same way.

15 A. Yes.

16 Q. Can't pick anybody out; doesn't know if that's the
17 right guy ---

18 A. --- unless it's something that really sticks out I'm
19 a people watcher but I don't really focus on what they
20 look like.

21 Q. And I said I'm the exact same way. But what you did
22 remember seeing that day was a cream Ford F-150 following
23 the guy.

24 A. Well, I didn't see the cream 150 following the guy.
25 The guy that called 911 driving a cream colored pickup he

State v James Anthony Haynes
Ray Thompkins-Cross-Examination by Mr. Lewis
July 11, 2017

1 said that he had ---

2 Q. --- without going into specifically what he said ---

3 MR. CONDON: --- Your Honor, can you let the
4 witness answer the question.

5 THE COURT: He cannot say what someone said to him.

6 Q. [Mr. Lewis] But was following him, was trailing him.

7 A. Yes, but he jumped the fence when he called 911.

8 Q. Okay.

9 MR. LEWIS: One moment, Judge.

10 [Whereupon, Mr. Lewis and Mr. Smit confer]

11 MR. LEWIS: Nothing further.

12 THE COURT: Any redirect?

13 MR. CONDON: May I approach, Your Honor?

14 THE COURT: Sure.

15 [Whereupon, an off the record bench conference is
16 held]

17 THE COURT: If you have any redirect you may
18 proceed.

State v James Anthony Haynes
Ray Thompkins-Redirect Examination by Mr. Condon
July 11, 2017

1 REDIRECT EXAMINATION

2 BY MR. CONDON:

3 Q. This fellow that was in the truck do you know what
4 his name was?

5 A. I sure don't.

6 Q. Do you know if he is a neighbor?

7 A. Yes, he lives two blocks up from where I live at.

8 Q. And he had called the police?

9 A. Correct. He observed the guy ---

10 MR. LEWIS: --- objection, Your Honor.

11 THE COURT: Sustained. Hearsay.

12 [Whereupon, Mr. Bourdon and Mr. Condon confer]

13 Q. [Mr. Condon] And the neighbor did he stick around
14 until the -- when the police came did he come back?

15 A. No, he did not; not that I'm aware of.

16 MR. CONDON: No further questions, Your Honor.

17 THE COURT: Any objection to the witness being
18 excused from the State?

19 MR. CONDON: No objection, Your Honor.

20 THE COURT: From the defense?

21 MR. LEWIS: No, Your Honor

22 THE COURT: Sir, you're excused.

23 [Whereupon, the witness is excused and exits the
24 witness stand]

25 THE COURT: Call your next witness.

State v James Anthony Haynes
Earle Gary Franks-Direct Examination by Mr. Bourdon
July 11, 2017

1 MR. BOURDON: Thank you, Your Honor. The State
2 would call Earle Gary Franks.

3 THE COURT: Sir, if you could come to the stand to
4 be sworn.

5 [Whereupon, Mr. Franks comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk
7 of Court]

8 CLERK OF COURT: Please state your first and last
9 name spelling your last name for the record.

10 THE WITNESS: First is Earle Franks, I go by Gary;
11 my middle name.

12 THE COURT: You may proceed.

13 MR. BOURDON: Thank you, Your Honor.

14 - - - - -

15 EARL GARY FRANKS,

16 Having been first duly sworn,

17 Was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. BOURDON:

20 Q. Mr. Franks, how old are you?

21 A. Pardon?

22 Q. How old are you?

23 A. Sixty.

24 Q. Okay. And do you have a family?

25 A. Yes.

State v James Anthony Haynes
Earle Gary Franks-Direct Examination by Mr. Bourdon
July 11, 2017

- 1 Q. And who are the members of your family?
- 2 A. I have a wife and three daughters.
- 3 Q. Okay. And what kind of business are you in?
- 4 A. I deliver organic produce to people's homes.
- 5 Q. Okay. And where are you originally from?
- 6 A. I grew up in San Diego.
- 7 Q. Okay. And how long have you been in the Charleston
- 8 area?
- 9 A. Since 2000.
- 10 Q. And how old are your girls right now?
- 11 A. Nineteen, 21, and 23.
- 12 Q. Okay. And where did you live on the 26th of May of
- 13 2015?
- 14 A. Elderberry Circle.
- 15 Q. Is that the address?
- 16 A. Yes.
- 17 Q. And when did you move into that residence?
- 18 A. Probably about a year and a half before that.
- 19 Q. Okay. And were you renting the house or did you
- 20 own it?
- 21 A. Renting.
- 22 Q. Okay. And did your wife and the girls also live in
- 23 the house?
- 24 A. Yes.
- 25 Q. And what are the girls names?

State v James Anthony Haynes
Earle Gary Franks-Direct Examination by Mr. Bourdon
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- 1 A. Chante [phonetic] Sierra, and Ananda.
2 THE COURT REPORTER: What was the last one?
3 THE WITNESS: Ananda, A-N-A-N-D-A.
4 Q. [Mr. Bourdon] And at the time back in 2015 what were
5 they engaged in? Were they in school or out of school?
6 A. Yes, they were in school.
7 Q. And how about your wife, was she employed at the
8 time?
9 A. Yes, she's self-employed and she also cleans houses.
10 Q. And is that house in Charleston County, South
11 Carolina?
12 A. Yes.
13 Q. Can you describe the neighborhood a little bit to
14 the jurors? Is it a residential neighborhood ---
15 A. --- residential, suburbia; three bedrooms, two
16 baths, double car garage.
17 Q. And when did you move out of that residence?
18 A. A few months after the event.
19 Q. Now, I want to call your attention to the 26th of May
20 of 2015 that was a Tuesday morning. Do you recall your
21 routine that morning?
22 A. Yes. The kids went to school and I went to the
23 warehouse.
24 Q. Where were the kids in school at at the time?
25 A. My youngest was at the School of the Arts, my middle

State v James Anthony Haynes
Earle Gary Franks-Direct Examination by Mr. Bourdon
July 11, 2017

1 daughter was West Ashley High, and my oldest was at the
2 Academic Magnet.

3 Q. Okay. And what time did the girls leave the house
4 about?

5 A. They varied in times but 7 to 8 o'clock.

6 Q. Okay. And what about your wife, when did she leave
7 the house?

8 A. I believe she took them to school so she probably
9 took them at that time.

10 Q. And were you the last to leave the house that day?

11 A. Yes.

12 Q. What time do you think you left?

13 A. About 9:00.

14 Q. Okay. Before you left the house did you know if
15 the doors were locked or unlocked or did you check to
16 see?

17 A. The doors locked. I didn't check but yes, I came
18 out the front door.

19 Q. And how about the windows were they closed?

20 A. Yes.

21 Q. Do you know if they were all locked?

22 A. My guess is. I couldn't say exactly for sure but
23 yes.

24 Q. And then were you called back to the house at some
25 point that morning?

State v James Anthony Haynes
Earle Gary Franks-Direct Examination by Mr. Bourdon
July 11, 2017

- 1 A. Yes.
- 2 Q. And do you know who called you?
- 3 A. The neighbor called me.
- 4 Q. And was that Mr. Ray that was just here?
- 5 A. Yes.
- 6 Q. Okay. And how long did it take you to get back to
- 7 the house?
- 8 A. Probably seven minutes; five to seven minutes.
- 9 Q. Whereabouts were you at the time?
- 10 A. I was at the warehouse.
- 11 Q. And is that on Cross County Road?
- 12 A. Cross County Road.
- 13 Q. Okay. And then what happened when you got there?
- 14 A. Well, I saw a lot of police officers there and I saw
- 15 a gentleman in handcuffs and they told me that my house
- 16 was robbed so...
- 17 Q. And then after they told you that did you then have
- 18 an occasion to go in the house with the police?
- 19 A. Yes. They walked me through the house.
- 20 Q. And what happened when you did the walk through with
- 21 the police?
- 22 A. He just showed me around. I guess he asked where a
- 23 couple of items were.
- 24 Q. Okay. Did you notice anything that caught your
- 25 attention right off the bat when you went in the house;

State v James Anthony Haynes
Earle Gary Franks-Direct Examination by Mr. Bourdon
July 11, 2017

1 anything that was different from when you left?

2 A. No, I did not.

3 Q. Now Officer Cook said it looked like the house was
4 ransacked. Could you tell if you was or not?

5 A. I couldn't. We're not real organized so we're not
6 anal around picking up.

7 Q. How many bedrooms did the house have?

8 A. It had three bedrooms and a frog.

9 Q. Okay. And can you tell the jury who was situated
10 kind of where?

11 A. Well, at the end of the hall was the master bedroom
12 my wife and I. Across that was my youngest daughter
13 Chante [phonetic] and then if you walk down the hall
14 there was my middle daughter Sierra and then Ananda was
15 in the frog upstairs.

16 Q. Okay. And is it a one floor plan except for the
17 frog?

18 A. Correct, yes.

19 Q. And when you got into the master bedroom is there
20 anything unusual that you saw at that point that was
21 different from when you left the house?

22 A. No, it didn't seem -- I didn't notice anything
23 different except for the screen was ripped out and the
24 shades were crooked, yes.

25 Q. And was the window open or closed when you got

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Earle Gary Franks-Direct Examination by Mr. Bourdon
July 11, 2017

- 1 there?
- 2 A. I'm trying to remember -- I don't recall that part.
- 3 Q. Were you there with the police officer when he was
- 4 taking the pictures?
- 5 A. I'm not sure if I was there when he took the
- 6 pictures but he walked me through.
- 7 Q. And was your dog at home at the time?
- 8 A. Yes, but she's pretty -- she loves people. She
- 9 wouldn't have done anything.
- 10 Q. There were some questions earlier the back door does
- 11 it have a dog door in it?
- 12 A. Yes.
- 13 Q. And how big is the dog door?
- 14 A. It's probably about that [indicates]. She's a
- 15 golden lab so it's a pretty good size.
- 16 Q. And when you're not home is that open and close or
- 17 is it closed?
- 18 A. No, it's opened so the dog can go in and out.
- 19 Q. I want to show you something. How big is the door?
- 20 Could a person fit through it, a full size man?
- 21 A. The dog door?
- 22 Q. Uh Huh?
- 23 A. Probably a small person could, a thin person. You
- 24 know I probably could. I mean I don't know.
- 25 Q. Can you reach the door from the dog door, the handle

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1 or the lock?

2 A. That would be hard but I don't know; I never tried
3 so I'm not sure.

4 Q. I'm going to take a few minutes here to show you
5 some pictures and then we're going to look at some
6 evidence. We're going to have this television here so if
7 you need to point to something we have a pointer.

8 I know we've been through these pictures quite a bit
9 this morning but do you just want to tell us what that is
10 pictures of?

11 [Whereupon, photographs are shown]

12 A. Yes, it's a street and my house is on the right on
13 the corner.

14 Q. And when you left that morning did you notice if the
15 back gate was open or closed?

16 A. The back gate was closed.

17 Q. So this gate here [indicates] when you left that
18 morning ---

19 A. --- it's closed because if our dog goes out it would
20 get out of the yard so we keep it closed.

21 Q. Okay. And this [indicates] is the backdoor of the
22 house?

23 A. Correct.

24 Q. And did you say there is a dog door there?

25 A. Yes.

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1 Q. Is it in the actual door that is in the center there
2 [indicates]?
3 A. Yes, not --
4 Q. I'm sorry?
5 A. So there is a storm door and a door.
6 Q. Okay.
7 A. As you can see [indicates] the storm door is open in
8 the direction where it looks like there is just the brown
9 door. But the brown door is the hard door and then we
10 have the dog door on the storm door.
11 Q. And when you left the house that day was the storm
12 door open or was it closed?
13 A. The storm door was closed.
14 Q. That white door that we see kind of ---
15 A. --- correct, because the dog gets in and out.
16 Q. And is the dog allowed out when you guys are not
17 home?
18 A. Yes.
19 Q. Okay. But you said that storm door was closed.
20 A. Correct.
21 Q. So the dog couldn't have gotten out of the house
22 right?
23 A. Well, I don't know why the door would be closed
24 because we usually lock up the storm door and leave that
25 door open.

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- 1 Q. So I guess my question again was that storm door
2 open or closed when you left that day?
- 3 A. That storm door was closed.
- 4 Q. Okay. And this window here [indicates] what is
5 that a window to?
- 6 A. It looks like a back window. Can you go up a little
7 bit? Or go down or up?
- 8 [Whereupon, the photograph is shown]
- 9 A. So that's the back window in our bedroom.
- 10 Q. Okay. And your bed is the green sheets that we see
11 there [indicates].
- 12 A. Correct.
- 13 Q. And this photo here?
- 14 [Whereupon, the photograph is shown]
- 15 A. That's looking out the bedroom, the master bedroom
16 of our bedroom.
- 17 Q. So that's the inside view of the picture we just saw
18 the outside of?
- 19 A. Correct.
- 20 Q. And this photo here, what is that a photo of?
- 21 [Whereupon, the photograph is shown]
- 22 A. That's the master bedroom.
- 23 Q. And who's in the photograph in the hallway?
- 24 A. You mean our dog? Yes.
- 25 Q. Anybody else?

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- 1 A. Is somebody in there?
- 2 Q. Is that you?
- 3 A. I can't tell. Is somebody standing there?
- 4 Q. Let me hand you this picture -- I'll show you number
- 5 19.
- 6 [Whereupon, the witness is shown photograph]
- 7 A. Yes, that's me. That's better now.
- 8 Q. So is it fair to say the police when they were
- 9 taking these pictures you were there accompanying Officer
- 10 Cook?
- 11 A. Correct.
- 12 Q. Okay. And this picture here what is that of?
- 13 [Whereupon, the photograph is shown]
- 14 A. It's the hallway.
- 15 Q. And then if you go down that hallway and turn right
- 16 where do you end up?
- 17 A. That would be the front door. I'm trying to get the
- 18 direction. If you take a right that would be our bedroom
- 19 and then left would be the youngest. And right there
- 20 [indicates] is the bathroom.
- 21 Q. If you look at this picture here tell the jury what
- 22 that is?
- 23 [Whereupon, the photograph is shown]
- 24 A. That's the living room.
- 25 Q. Okay. And as we're looking out is that the front

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1 door that we see in the background?

2 A. Yes, that's the front door, yes.

3 Q. And that hallway we saw where is that in this
4 picture?

5 A. That as you go out that one door you take a right
6 and the hallway is there.

7 Q. Okay. And so down that hallway where are your
8 daughter's rooms in this hallway?

9 A. On the left.

10 Q. So that would be your two daughters in those two
11 bedrooms.

12 A. Correct.

13 Q. And then where's the frog in relation to these
14 pictures that we've just looked at?

15 A. Well, in the living room picture it would be you
16 take a direct left and there is the kitchen and then
17 there is a little door and you go up to the frog.

18 Q. So that's in a separate part of the house from where
19 your bedroom is, is that correct?

20 A. It's on the other side opposite.

21 Q. So in this picture where is the frog?

22 [Whereupon, the photograph is shown]

23 A. Well you can see that part of it is the second floor
24 there [indicates].

25 Q. And how do you get to the frog from say downstairs

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1 of the house?

2 A. Well, like I said where the living room is you go
3 through the kitchen and then there is the utility room
4 where the washer and dryer. And then that utility room
5 there is a door that goes upstairs to the frog, which is
6 the garage is right there [indicates] on the left; that
7 door on the left goes to the garage.

8 Q. So is it fair to say it is a fairly good distance
9 from your master bedroom to the frog bedroom?

10 A. Yes, it's the other side of the house; yes.

11 Q. And at some point did the police show you the items
12 that they recovered from the person?

13 A. Yes.

14 Q. And where did you get shown those items?

15 A. Where did we see the items?

16 Q. Did they show them to you at the scene?

17 A. Yes. They showed us on the -- I don't know if it
18 was on the trunk or the -- on his car.

19 Q. And did you identify any items at that time? Did
20 you see any that looked familiar?

21 A. Yes.

22 Q. And we're going to go through some of those items
23 now. With respect to item number 52 did you own any
24 handguns?

25 A. No.

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1 Q. Did you own any guns in your house?

2 A. I don't believe in owning guns.

3 Q. I'm sorry?

4 A. I don't believe in owning guns. We don't have any
5 guns.

6 Q. So it's fair to state that this weapon that has been
7 marked as 51...

8 [Whereupon, the witness is shown exhibit]

9 A. Yes, that is not my gun.

10 Q. Did you ever see this gun before?

11 A. No.

12 Q. Okay. Did they show you the gun when they were out
13 there that day, the police?

14 A. I'm really not sure. I don't know if they showed
15 me; I'm not sure. I think they asked if I had a gun and
16 I told them no.

17 Q. Okay. You're going to have to speak up so the
18 reporter can hear you and the jurors can all hear you.
19 Did you own a white lighter? Do you know if that was in
20 your possession?

21 A. I could have owned a white lighter. I mean I could
22 have; I probably had a couple of those.

23 Q. So item 56 I'm showing you --

24 [Whereupon, the witness is shown exhibit]

25 Q. Is that something that was yours or something

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1 that...

2 A. It's hard to -- I mean I could have. I don't
3 remember having a white lighter. My wife has a little I
4 guess altar where she lights candles so it could have
5 been there.

6 Q. Did you notice any of the items that were taken from
7 your house? I'm going to show you what has been marked
8 as State's number 53.

9 [Whereupon, the witness is shown exhibit]

10 Q. Can you tell you jurors what that is?

11 A. Yes, that's a fake, I wish it wasn't, a million
12 dollar bill that we ---

13 Q. --- can you kind of hold it up and show them.

14 [Whereupon, the witness complies]

15 A. My wife put it on her altar as a prosperity thing
16 just to you know encourage prosperity.

17 Q. This altar that you're talking about is that the
18 dresser there in the bedroom?

19 [Whereupon, the photograph is shown]

20 A. What's that?

21 Q. Is that the altar you're talking about where the
22 stones and so forth are? Let me hand you the picture ---

23 A. --- I'm trying to remember because that looks a
24 little messier than...

25 [Whereupon, the witness is shown photograph]

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1 Q. Is that your bedroom at the time from the house on
2 Elderberry?

3 A. Well, it's not the altar.

4 Q. Okay.

5 A. But it looks like Chris's bookshelf.

6 Q. Okay. I'm going to put number 17 up here.

7 [Whereupon, the photograph is shown]

8 Q. Tell us what that picture is of?

9 A. Well, that's looking from the door entering the
10 bedroom and the back window.

11 Q. And when you left that morning was the venetian
12 blind in that condition?

13 A. No.

14 Q. Okay. And was the window open at the time?

15 A. I don't recall -- no, the window was closed; that's
16 right, the window was closed. When we left the window
17 was closed. I'm kind of a stickler to try to save energy
18 and I always got on my kids for -- anyway...

19 Q. And that shelf that I just showed you the picture of
20 is that in this photograph here [indicates]?

21 A. I don't know. This looks lighter. I'm trying to
22 remember ---

23 Q. --- let me give you the original picture. It's a
24 little difficult on the screen.

25 [Whereupon, the witness is shown photograph]

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- 1 A. I guess that is the bookshelf. Yes, that's this
2 bookshelf.
- 3 Q. Okay. And were those papers and so forth ---
- 4 A. --- yes, because there is that calendar. Huh?
- 5 Q. Were those papers and so forth on the floor when you
6 left the house that day?
- 7 A. I don't recall. I don't recall.
- 8 Q. And you talked about the altar. Where did your wife
9 have this?
- 10 A. The altar is under the window.
- 11 Q. Okay.
- 12 A. You could see it on the other picture looking out.
- 13 Q. How about number 14?
- 14 [Whereupon, the photograph is shown]
- 15 Q. Do you see it in that picture of the bedroom?
- 16 A. Yes, you can see it right on the bottom.
- 17 Q. If you can get the pointer can you show the jury
18 where what you call the altar is?
- 19 A. Right there [indicates].
- 20 Q. And what was on that altar when you left the house
21 that day?
- 22 A. Well, this bill [indicates] was on there and
23 crystals. Chris has a lot of crystals and things like
24 that.
- 25 Q. And were there some other items that the police

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1 showed you that they had recovered from the defendant
2 were in this black bag?

3 A. Pardon?

4 Q. And so there are other items that the police showed
5 you or that you are aware of that were recovered from the
6 defendant when he was arrested?

7 A. Yes, there was some jewelry and an envelope with
8 some cash.

9 Q. Okay. How about this photograph here of the
10 property?

11 [Whereupon, the photograph is shown]

12 Q. Do you recognize the hat or that gun?

13 A. I don't recognize the hat and I don't recognize the
14 gun. The purse was my wife's and her sister gave it to
15 her and the envelope was in the purse.

16 Q. Okay. And where was the envelope that had the
17 money in it when you left that day?

18 A. With the purse.

19 Q. Was it in the purse or was it just in the envelope?

20 A. I'm not sure.

21 Q. Okay. What was the envelope for?

22 A. Extra money for rent. She just puts money in there
23 -- extra money for vacations and things like that; rent
24 and...

25 Q. And the flashlight that is in there do you recognize

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1 the flashlight? Do you know if that's from your house or
2 not?

3 A. I don't know. I've had flashlights. It could be
4 but I don't recall that one specifically.

5 Q. What about that purple hat there [indicates]? Was
6 that something from your house?

7 A. I don't think so. I mean my daughter went to USC so
8 that's Clemson.

9 Q. Now there were some rings and coins that were also
10 missing that were recovered?

11 A. Pardon?

12 Q. I said there were some rings and coins missing as
13 well?

14 A. Yes.

15 Q. Let's go through those. Did you have a chance to
16 look at these rings prior to court today or at least the
17 photographs?

18 A. Uh Huh.

19 THE COURT REPORTER: Is that a yes?

20 A. Yes.

21 Q. [Mr. Bourdon] And how about the coin that was in
22 that picture as well?

23 A. Yes.

24 Q. And tell us a little bit about this coin that you
25 can see here [indicates]?

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1 [Whereupon, the photograph is shown]

2 A. The coin has zero value. We were travelling from
3 California to actually Ohio first and our car broke down
4 going across the mountains from California and we were
5 stuck in Reno, Nevada for a week.

6 So we visited Circus Circus with the little kids;
7 our kids were really small at the time. And this is a
8 coin that we had from the casino there, the Circus Circus
9 Casino.

10 Q. And on the back of that coin it says near the Hoover
11 Dam in Nevada?

12 A. Uh Huh.

13 Q. Okay. So you recognize that coin as your property?

14 A. Yes.

15 Q. And where was it in your house when you last saw it?

16 A. It probably was in a drawer of Chris's jewelry
17 drawer that was in the bathroom.

18 Q. I'm sorry; you have to speak up please.

19 A. I believe it was in jewelry drawer where Chris had
20 in the bathroom with the other rings and things.

21 Q. Okay. I'm next going to show you number 36.

22 [Whereupon, the photograph is shown]

23 A. That's a wedding ring; our wedding rings.

24 Q. Okay. And how do you recognize that as yours?

25 A. Well, three diamonds were mine and she has the one

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- 1 exactly like it but with two diamonds.
- 2 Q. And that's no doubt that's your wedding rings?
- 3 A. No doubt.
- 4 Q. And how long you been married?
- 5 A. Then or now?
- 6 Q. When were you married?
- 7 A. What date?
- 8 Q. Give me a ballpark.
- 9 A. It was '93 I believe.
- 10 Q. So would that be fair to state you've had that ring
- 11 since 1993?
- 12 A. Yes.
- 13 Q. And then number 37.
- 14 [Whereupon, the photograph is shown]
- 15 Q. This ring here [indicates] how do you recognize that
- 16 ring?
- 17 A. That's the two diamond ring. It's the wedding ring
- 18 but one had three and that had two.
- 19 Q. Okay. So she had the two and you had the three?
- 20 A. Yes.
- 21 Q. And did you buy that ring for you and your wife?
- 22 A. Yes.
- 23 Q. And then 38.
- 24 [Whereupon, the photograph is shown]
- 25 Q. Tell us about that ring.

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- 1 A. That's my daughter's, my oldest daughter's school
2 ring.
3 Q. Okay. And what school did she go to?
4 A. Academic Magnet.
5 Q. And does that indicate that on the ring? Does it
6 say that?
7 A. Yes. It says her name too, Ananda.
8 Q. I'm going to show that one next.
9 [Whereupon, the photograph is shown]
10 Q. And that is her high school ring?
11 A. Correct.
12 Q. And again tell us her name?
13 A. Ananda.
14 Q. And how do you spell that?
15 A. A-N-A-N-D-A.
16 Q. And is that the name on the ring there [indicates]?
17 A. Yes.
18 Q. And what room did Ananda live in at the house?
19 A. Ananda lived in the frog.
20 Q. Okay. And were you able to determine whether that
21 ring was in the frog the day it was taken?
22 A. I was and it was in the bathroom with Chris's stuff
23 so it's wasn't in the frog.
24 Q. So it wasn't in the frog it was in your room?
25 A. Correct.

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- 1 Q. And then how about this next ring.
2 [Whereupon, the photograph is shown]
3 Q. Tell us about that.
4 A. I think -- the side view it's hard to tell -- my
5 grandmother's ring, her engagement ring.
6 Q. And how long have you been in possession of that
7 ring?
8 A. Probably since '96 when my mother died.
9 Q. And then number 41.
10 [Whereupon, the photograph is shown]
11 Q. What's the deal with that ring?
12 A. That's a sapphire ring that Ananda gave to Chris, my
13 wife, for a Christmas present one year.
14 Q. And where was that ring located before it was taken?
15 A. Same place in that bathroom area. She had a little
16 jewelry box.
17 Q. Number 42?
18 [Whereupon, the photograph is shown]
19 A. That actually also Ananda gave her that ring.
20 Q. How about number 43?
21 [Whereupon, the photograph is shown]
22 A. And that's from my mother's passing away but it was
23 just some junk jewelry I think but I got it from my
24 mother.
25 Q. But it was your property, correct?

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1 A. Yes.

2 Q. And it was in your house that morning?

3 A. Correct.

4 Q. And these last two rings?

5 [Whereupon, the photograph is shown]

6 Q. How about this ring here?

7 A. They gave it -- I guess they started doing this when
8 one of the kids order a high school ring they give them
9 these to put on their finger until the ring comes in.

10 Q. And whose ring would this have been?

11 A. '15?

12 Q. You've got a '16 as well.

13 A. So it must have been Sierra's because she graduated
14 and Chante [phonetic] graduated in '16.

15 Q. Okay. And this is the next ring.

16 [Whereupon, the photograph is shown]

17 A. Yes, that's Chante's [phonetic] ring.

18 Q. And where would the girls have kept those rings?
19 Were they in your bathroom or were they in the girl's
20 rooms?

21 A. My guess is they probably were in the bathroom.

22 Q. The next thing we're going to -- and again I want to
23 show you these rings here -- and the coin that we just
24 looked at on the screen can you look at exhibit number...

25 [Whereupon, the witness is shown exhibit]

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1 A. Yes.

2 Q. Okay. Were those the rings we just saw up on the
3 screen?

4 A. Yes.

5 Q. Okay. And also number 57.

6 [Whereupon, the witness is shown exhibit]

7 Q. Is that pouch that your wife owned?

8 A. Yes.

9 Q. I'm also handing you number 55, which is the
10 flashlight.

11 [Whereupon, the witness is shown exhibit]

12 Q. Can you take a look at that?

13 A. I mean I can't say for sure. I can't say for sure.

14 Q. That you owned it or don't own it?

15 A. Yes -- I mean I think it's mine but I couldn't say
16 absolutely for sure because I think I remember getting
17 this but I can't remember.

18 Q. Now you had an envelope with some money in it as
19 well is that correct?

20 A. Yes.

21 Q. And I'll show this to the jury here?

22 [Whereupon, the photograph is shown]

23 Q. Is that where you bank at South Carolina Federal?

24 A. Yes.

25 Q. Where was this envelope located?

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- 1 A. I believe it was on the altar.
- 2 Q. Okay. And that notation that says 400 rent?
- 3 A. Uh Huh.
- 4 Q. Do you recognize the handwriting?
- 5 A. Yes, that's Chris's handwriting; that's my wife's
- 6 handwriting.
- 7 Q. And did you have any other loose cash in the house
- 8 that day? Did you have any loose cash besides the cash
- 9 that was ---
- 10 A. --- just sitting around? Not that I'm aware of.
- 11 Q. Okay. Do you know how much money was in that
- 12 envelope?
- 13 A. No. We just put money in there here and there...
- 14 Q. I'm going to hand you what has been marked as 54.
- 15 [Whereupon, the witness is shown exhibit]
- 16 Q. Is the envelope that was at your house?
- 17 A. Yes.
- 18 Q. Okay. This is some of the cash that was recovered.
- 19 [Whereupon, the photograph is shown]
- 20 Q. Is that million dollar bill in that picture as well?
- 21 A. Yes.
- 22 Q. On the far right?
- 23 A. Yes.
- 24 Q. Okay. Now the next thing I want to show you is
- 25 exhibit number 58.

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1 [Whereupon, the witness is shown exhibit]
2 Q. It's a pair of rubber gloves, latex rubber gloves.
3 Did you own any of those in your house?
4 A. No.
5 Q. So those wouldn't have come from your house?
6 A. No.
7 Q. Okay. And do you know where those were recovered
8 from?
9 A. No.
10 Q. And then when you came home did you have occasion to
11 speak to Mr. Ray that was here earlier today who just
12 testified?
13 A. Pardon?
14 Q. Did you have a chance to talk to Ray when you got
15 back to the scene?
16 A. Yes, I think we talked a little bit.
17 Q. Do you know a neighbor by the name of Geddis?
18 A. Yes. I don't know the name specifically.
19 Q. Do you know where he lives?
20 A. I'm not sure Geddis. I'm not good with names; I'm
21 better with faces.
22 Q. Was there a man you saw driving a white pickup truck
23 that day?
24 A. Well, there is a neighbor that was down the street
25 that told me what he did ---

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1 MR. LEWIS: --- objection, Your Honor ---
2 THE COURT: --- basis?
3 Q. [Mr. Bourdon] --- without telling me what he said --
4 THE COURT: --- there is an objection pending.
5 Basis of the objection?
6 MR. LEWIS: Hearsay.
7 THE COURT: Sustained. Hearsay. Sir, you cannot
8 say what someone said to you. You can only say what you
9 did as a result of the conversation. You may proceed.
10 Q. [Mr. Bourdon] Did -- tell us who this person is you
11 talked to, your neighbor.
12 A. It was a neighbor that was a couple of blocks away.
13 Q. Okay. Did he live up on Ruff?
14 A. Yes, Ruff ---
15 Q. --- a couple of streets up on Ruff?
16 A. Yes.
17 Q. And what kind of vehicle did he drive?
18 A. A pickup truck.
19 Q. Do you know what color it was?
20 A. It was whitish, kind of yellowish.
21 Q. And did you see him that morning after you got back
22 when the police called you back to your house?
23 A. Yes.
24 Q. And where was he?
25 A. He was talking to the police.

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- 1 Q. Okay. And did you ever get to speak with him?
- 2 A. Yes.
- 3 Q. And based on your conversation do you know if he was
- 4 a witness to anything that occurred?
- 5 MR. LEWIS: Objection.
- 6 THE COURT: Sustained. Hearsay.
- 7 Q. [Mr. Bourdon] Did you have any further conversation
- 8 with him after you saw him at the house -- did you
- 9 actually speak ---
- 10 A. --- yes ---
- 11 Q. --- at the scene that day?
- 12 A. Yes, after the police had gone I talked to him.
- 13 Q. With respect to the defendant did you recognize him
- 14 on scene? Did the police ever show you the person they
- 15 had caught coming out of your house?
- 16 A. Yes.
- 17 Q. Do you know if that's [indicates] the man that they
- 18 had ---
- 19 A. --- he looks familiar. I couldn't say 100 percent
- 20 because he was in handcuffs and it was away.
- 21 Q. Okay. Now that you see him in court and you know
- 22 that his name is James Haynes did you give him any
- 23 permission to be in your house that day?
- 24 A. No, I did not.
- 25 Q. Do you know if he had any relation with your

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1 daughters or your wife that would have allowed him to be
2 in your house ---

3 MR. LEWIS: --- objection.

4 THE COURT: Basis?

5 MR. LEWIS: That would call for speculation.

6 THE COURT: Overruled; within his rational
7 perception. Sir, you may answer the question to the best
8 of your knowledge.

9 A. No.

10 Q. [Mr. Bourdon] And the home that you lived in that
11 was your residence, your dwelling?

12 A. Correct.

13 Q. You slept there at night.

14 A. Correct.

15 Q. And you lived there day to day?

16 A. Yes.

17 MR. BOURDON: One moment, Your Honor.

18 [Whereupon, Mr. Bourdon and Mr. Condon confer]

19 Q. [Mr. Bourdon] And again, you didn't own any handguns
20 and that gun there [indicates] wasn't in your house prior
21 to ---

22 A. --- I do not.

23 Q. And with respect to Mr. Haynes had you ever seen him
24 in your neighborhood? Do you know if he was a next door
25 neighbor or someone that did work for you or have any

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1 reason to be in your house?

2 A. No, I had never seen him before.

3 MR. BOURDON: No further questions, Your Honor.

4 THE COURT: Any questions for the witness?

5 MR. LEWIS: Thank you, Judge.

6 THE COURT: You may proceed.

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State v James Anthony Haynes
Earle Gary Franks-Cross-Examination by Mr. Lewis
July 11, 2017

1 CROSS-EXAMINATION

2 BY MR. LEWIS:

3 Q. Mr. Franks, my name is Ben Lewis. I'm sorry to meet
4 you under these circumstances. I just have a few
5 questions for you. The first one is somewhat indelicate.
6 You mentioned that y'all don't necessarily keep an overly
7 tidy home, is that fair to say?

8 A. Yes.

9 Q. I'm sort of at the other end of that spectrum; you
10 know hand washing constantly and that kind of stuff. Did
11 it appear to you that your home had been ransacked; torn
12 through and things strewn about all over the place?

13 A. I didn't notice that, no.

14 Q. And I'm sorry, can you keep your voice up for her
15 [indicates]?

16 MR. LEWIS: Your Honor, may I move the mic?

17 THE COURT: You may.

18 A. No, I didn't notice.

19 [Whereupon, Mr. Lewis adjusts the witness's
20 microphone]

21 Q. [Mr. Lewis] But you did notice that certain things
22 obviously had been disturbed like the bedroom window.

23 A. Correct.

24 Q. Had been raised up, the screen was for the Levolors
25 or whatever brand they are was at an angle?

State v James Anthony Haynes
Earle Gary Franks-Cross-Examination by Mr. Lewis
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- 1 A. Correct.
- 2 Q. But the rings to the best of your recollection were
3 all within your wife's black pouch or purse?
- 4 A. No.
- 5 Q. Oh, sorry.
- 6 A. It was in a jewelry box.
- 7 Q. Jewelry box. Where was the purse, the little black
8 bag?
- 9 A. I'm not sure where the purse was.
- 10 Q. Okay. The cash in the envelope and the million
11 dollar bill were all on her sort of prosperity altar?
- 12 A. Correct.
- 13 Q. Okay. And that's right next to the window that had
14 been raised up?
- 15 A. Correct.
- 16 Q. In your backyard, and I may try to find a picture of
17 it here in a second, did you have like a ramp that led
18 up?
- 19 A. Correct.
- 20 Q. To let your dog -- is your dog older?
- 21 A. Yes.
- 22 Q. Okay. So bad hips; golden retrievers get those, so
23 that she could go up into the house?
- 24 A. Yes.
- 25 Q. And I think we didn't necessarily convey this well

State v James Anthony Haynes
Earle Gary Franks-Cross-Examination by Mr. Lewis
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1 earlier. My understanding is you keep the storm door,
2 the white door locked with the little lock that it has on
3 it.

4 A. Correct.

5 Q. But it's open so that your dog can go in and out.

6 A. Correct.

7 Q. The black door that was in the picture would have
8 been opened to allow her to go in and out?

9 A. Correct.

10 Q. So that she can go outside and use the restroom if
11 she needs to, do whatever -- live her life while you're
12 at work.

13 A. Correct.

14 Q. In regards to the actual amount of currency you're
15 not aware how much was supposed to be in that so you
16 don't know if funds had gotten co-mingled or anything
17 like that?

18 A. Not sure what you mean by co-mingled.

19 Q. Let's say I'm the guy that got arrested and I had
20 some money in my pocket. Let's say the amount was 1,000
21 dollars. If you don't know how much you had and you
22 don't know how much I had you can't say that it was all
23 y'all's money that day?

24 A. Unless he took his money and put it into the
25 envelope I guess, but no I couldn't say for sure.

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1 MR. LEWIS: One moment, Judge.

2 THE COURT: Yes, sir.

3 [Whereupon, Mr. Lewis and Mr. Smit confer]

4 Q. [Mr. Lewis] And lastly the bathroom where I guess
5 you said the jewelry box would have been?

6 A. Correct.

7 Q. Is that your master bath is that connected to your
8 master bedroom?

9 A. Yes.

10 MR. LEWIS: No further questions, Your Honor.

11 THE COURT: Any redirect?

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State v James Anthony Haynes
Earle Gary Franks-Redirect Examination by Mr. Bourdon
July 11, 2017

1 REDIRECT EXAMINATION

2 BY MR. BOURDON:

3 Q. Mr. Franks, the cash that was recovered by the
4 police was approximately 850 bucks. There was 210 loose
5 and then 640 separately which they think was in the
6 envelope. Does that sound familiar that those were the
7 funds you had in the house or did you have a dollar in
8 that envelope?

9 A. I thought it was more but that could be accurate.

10 Q. Give the jury an idea how much that cash that was
11 recovered is from your house or your savings or your
12 envelope or your wife's purse or whatever?

13 A. I'm sorry, what?

14 Q. Okay. He got caught with about 800 bucks in cash.

15 A. Correct.

16 Q. I'm trying to figure out how much of that is from
17 your house. And so I'm trying to have you narrow down
18 how much money you think was in the envelope and how much
19 was in drawers, hiding spot, any other area of your
20 house.

21 A. It was a go-to so to be honest I couldn't say
22 exactly how much was in there.

23 Q. Can you give us an estimate? I know it was two
24 years ago and you might not have ---

25 A. --- like I said I thought it was more. I thought it

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Earle Gary Franks-Redirect Examination by Mr. Bourdon
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1 was close to a couple thousand but I guess it wasn't. So
2 I'm not sure how much of that. I mean I'm -- I don't
3 know. To be honest I can't say exactly how much we had
4 in that pouch.

5 Q. Would 850 be a fair amount for what you thought was
6 in there?

7 A. That would be very fair, yes.

8 Q. Now with respect to the doors once again the back
9 door that we saw -- is the dog door part of that black
10 door?

11 A. No.

12 Q. Pardon me?

13 A. No.

14 Q. Where is the dog door then?

15 A. It's in the white storm door.

16 Q. Okay. And so how does -- is there an opening -- is
17 there also a dog door with the black door?

18 A. No, that was always open and we lock the storm door.

19 Q. Okay. And then with respect to the ransacking are
20 you saying because the rooms were kind of messy that you
21 couldn't really tell if someone had dumped everything out
22 or that is was just kind of disarray?

23 A. Correct. I couldn't tell. I mean if there was a
24 drawer overturned I guess I could since we didn't live
25 that bad. So I couldn't say for sure. I mean I'm not

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Earle Gary Franks-Redirect Examination by Mr. Bourdon
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1 detailed so I don't like see the room exactly as it was.

2 I didn't pay attention to that when I leave each day.

3 Q. Let me hand you what has been marked at number 20,
4 this photograph here if you can take a look at that
5 please.

6 [Whereupon, the witness is shown photograph]

7 Q. What room is that?

8 A. That's the master bedroom going into the bathroom.

9 Q. Okay. And is that where Mr. Lewis was asking about
10 the rings was that where they were in that bathroom?

11 A. Yes. There is a little white jewelry box right in
12 there.

13 Q. Okay. I'm going to put that up on the screen.

14 [Whereupon, the photograph is shown]

15 Q. And then how about that box that is right on the
16 carpet there, that white box?

17 A. I don't know why that would be in the middle of the
18 floor.

19 Q. And how about the backpack? Is that something from
20 you?

21 A. That wouldn't have been in the middle of the floor.

22 Q. Let me put these up here.

23 [Whereupon, photographs are shown]

24 Q. Mr. Franks, this is number 20. Tell the jury what
25 that is?

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Earle Gary Franks-Redirect Examination by Mr. Bourdon
July 11, 2017

1 A. What what is?

2 Q. This picture, what is this a view of?

3 A. That's the master bedroom with the bed over there
4 [indicates] and you walk into here [indicates] and here's
5 the bathroom. There is a walk-in closet on the right and
6 the shower and toilet on the left.

7 Q. And this jewelry that we're talking about that was
8 in your room whereabouts if you don't mind please?

9 A. It's right there [indicates], that white jewelry
10 box.

11 Q. In the corner of that?

12 A. Uh Huh.

13 Q. And how about this white box [indicates] that is on
14 the floor?

15 A. Yes, I don't -- I mean it's a box but we wouldn't
16 have put it in the middle of the floor; I mean it would
17 have been to the side. Plus my bag wouldn't have been
18 there either so.

19 Q. And what was in that box?

20 A. I'm not sure.

21 Q. And how about that bag, is that your backpack?

22 A. Yes, it's a backpack. I mean it could have been gym
23 clothes or something like that in there; I'm not sure
24 what.

25 MR. BOURDON: Thank you. No further questions,

State v James Anthony Haynes
Earle Gary Franks-Redirect Examination by Mr. Bourdon
July 11, 2017

1 Your Honor.

2 THE COURT: Any questions for the witness?

3 MR. LEWIS: Nothing further, Judge.

4 THE COURT: Sir, you may step down.

5 [Whereupon, the witness is excused and exits the
6 witness stand]

7 THE COURT: You may call your next witness. The
8 State may call your next witness.

9 MR. BOURDON: One moment, Your Honor. I believe
10 that was our last witness.

11 [Whereupon, Mr. Bourdon and Mr. Condon confer]

12 MR. BOURDON: Nothing further, Your Honor.

13 THE COURT: Does the State rest?

14 MR. BOURDON: Your Honor, pending admission of all
15 the exhibits that we've offered into evidence the State
16 does rest.

17 THE COURT: Madame Forelady and ladies and
18 gentlemen, the State has rested their case. There are
19 some matters of law I need to take up with counsel.
20 During this break please do not discuss the case and
21 please leave your notepads in your seats. We appreciate
22 your patience.

23 [Whereupon, the jury exits at 3:15 p.m.]

24 THE COURT: Any motions?

25 MR. LEWIS: Yes, Judge.

State v James Anthony Haynes
Motion for Directed Verdict-Remarks by Mr. Lewis
July 11, 2017

1 MOTION FOR DIRECTED VERDICT

2 MR. LEWIS: At this point I need to move for a
3 directed verdict with regards to burglary first. I don't
4 think there has been any evidence or testimony that shows
5 specific intent at the time of entering if he intended to
6 commit a crime inside. I understand that they are going
7 to ---

8 THE COURT: --- that can be inferred can it not?

9 MR. LEWIS: It can be bootstrapped up from the
10 actions that take place once inside but there hasn't been
11 anything at this stage in regards to James' intent as he
12 crossed the threshold. In regards to the possession of a
13 stolen there has been no testimony whatsoever that could
14 suggest that James knew or should have known that the
15 firearm was stolen. There is no obliterated serial
16 number, nothing else that would suggest that on its face
17 it is stolen.

18 There has been -- as we have the facts in evidence
19 are 29 days from the first theft to the time that he is
20 found in possession of it throughout. The court's
21 experience I'm sure and in my experience guns change
22 hands on the street. That by itself is not an indication
23 that the weapon was known to be stolen or should have
24 known to be stolen and ---

25 THE COURT: --- did he buy it from a reputable

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Motion for Directed Verdict-Remarks by Mr. Lewis
July 11, 2017

1 dealer or did he buy it from an individual that gave him
2 a license and exchanged the title to the weapon?

3 MR. LEWIS: Judge, there ---

4 THE COURT: --- I think you know whether a gun is
5 stolen or not because there are certain things you do
6 when you buy a gun legally.

7 MR. LEWIS: We don't have to do any of that in
8 South Carolina; none of that. I can sell my firearm to
9 Mr. Bourdon right now for cash without asking any
10 questions. It's terrifying ---

11 THE COURT: --- that's not what I'm saying. But as
12 a person who is buying something from somebody I want
13 some title to it. I want something to prove it's mine.
14 I want something in case anybody comes and tries to take
15 it from me I can say I bought this from so and so and
16 it's mine. That's what I'm talking about. I'm not
17 talking about running any checks on it to see if it's
18 stolen; I'm not talking about any of that.

19 MR. LEWIS: And I agree. But again I think this
20 gets back to our sort of that you and I try to live in a
21 more rational world and try to document our ownership.
22 James is not held to that standard. None of us are
23 actually held to that standard in South Carolina. And we
24 do a gun forfeiture at the end of a case but there is
25 nothing about the chain of it before that; who owned it

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Motion for Directed Verdict-Remarks by Mr. Lewis
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1 or anything except for the first purchase. After that
2 point guns are not traceable in South Carolina and for
3 that reason without an obliterated serial number or any
4 admission by James there is no evidence that he knew or
5 had reason to know it was stolen especially in light of
6 the 29 days between the theft. And I have no motion in
7 regards to the unlawful carrying of a pistol.

8 THE COURT: Any further -- you need to make your
9 motion in total so they can respond in total because I'm
10 not going back and forth. So I need you to argue all the
11 grounds for your motion for directed verdict if there are
12 any more or is that the totality of your grounds?

13 MR. LEWIS: That should be the totality of my
14 grounds.

15 THE COURT: I'm just making sure.

16 MR. LEWIS: Give me one second.

17 [Whereupon, Mr. Lewis and Mr. Smit confer]

18 MR. LEWIS: Yes, Judge. I believe I now know how
19 the Court will likely rule on my burg first; I could be
20 wrong, but in regards to that if the Court does not find
21 that there was sufficient evidence to continue the charge
22 for burglary first there would not be a violent crime
23 that would allow the possession of a weapon during the
24 commission of a violent crime to continue forward.

25 THE COURT: You lost me. I need you to start over.

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Motion for Directed Verdict-Remarks by Mr. Lewis
July 11, 2017

1 MR. LEWIS: Yes, Your Honor. Burglary first is the
2 only violent crime before us. So if the Court granted my
3 directed verdict motion in regards to the burglary first
4 there is no other prerequisite defense for the possession
5 of a weapon during the commission of a violent crime.

6 THE COURT: Okay. I got you now.

7 MR. LEWIS: That's it, Judge.

8 THE COURT: Okay.

9 MR. LEWIS: And nothing about the unlawful
10 carrying.

11 THE COURT: Okay. Would the State like to
12 respond?

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State v James Anthony Haynes
Motion for Directed Verdict-Remarks by Mr. Bourdon
July 11, 2017

1 MOTION FOR DIRECTED VERDICT

2 MR. BOURDON: With respect to the burglary first
3 charge we'd call the Court's attention to the State v
4 Pinckney.

5 THE COURT: Just give me the citation.

6 MR. BOURDON: That would be 339 S.C. 346, Supreme
7 Court of South Carolina from 2000. What it says is that
8 the Supreme Court held that the defendant's actions after
9 he entered the house was some evidence of his intent to
10 commit a crime therein thus the trial judge did not err
11 in refusing his directed verdict as it was for the jury
12 to decide if the defendant entered the house with the
13 intent to commit a crime inside.

14 I think in this case we have the defendant coming
15 out of the house with rubber gloves and stolen property
16 from the residence is certainly enough to meet that
17 standard to deny the directed verdict.

18 THE COURT: Your need you to respond in total to
19 his motion.

20 MR. BOURDON: Your Honor, with respect to his
21 unlawful carrying or possession of a weapon during a
22 crime of violence I would agree that if the burglary
23 first goes away then that charge goes away. But since
24 we're counting on the fact that there shouldn't be a
25 directed verdict on the burglary first that issue is moot

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Motion for Directed Verdict-Remarks by Mr. Bourdon
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1 with respect to that charge as long as the burglary first
2 remains in place. With respect to the stolen weapon I
3 think that under the law it also infers that the weapon
4 was stolen given the proximity of time from the time it
5 was taken to the time it was recovered which was less
6 than 30 days in this case.

7 THE COURT: You got some case law that says that?

8 MR. BOURDON: Yes, Your Honor. Your Honor, with
9 respect to the stolen weapon too the serial number was
10 clearly still visible. And from the testimony of Officer
11 Cook I believe there could have been some reasonable way
12 that they would have been able to check whether the
13 weapon was stolen or not out of some abundance of
14 caution. And since he didn't have any carry permit on
15 him and he didn't have any permit or any ownership of
16 that weapon on his person at the time that would also
17 kind of show that he didn't have -- or he was aware that
18 the weapon was stolen.

19 Given his record, Your Honor we know that he is not
20 able to possess a weapon and so the Court could also
21 infer that his actions in receiving that weapon would be
22 one that he should have and could have been aware that
23 that weapon was also stolen. Your Honor, this is an
24 older case but it is State v Dewitt, 254 S.C. 527. It's
25 a Supreme Court case and it talks about the person being

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Motion for Directed Verdict-Remarks by Mr. Bourdon
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1 in possession of recently stolen property five days after
2 the theft. And I believe in this case he had it for five
3 days but it was recovered sometime after that; two months
4 later. So again, we believe it is a question for the
5 jury with respect to that charge. And there is some
6 evidence that he knew or should have known the gun was
7 stolen.

8 In this case, Your Honor it looks like it was a
9 drill that was stolen from a farm on the 27th or 28th of
10 1968 and was found November the 22nd 1968 two months later
11 in the possession of the appellant on his farm 20 miles
12 away from where the theft had taken place. It says there
13 is no direct evidence of the identity of the thief -- or
14 the prints when he was found in possession of the
15 recently stolen goods --

16 THE COURT REPORTER: -- I'm sorry I can't hear you
17 Mr. Bourdon.

18 THE COURT: Yes, you're mumbling a little bit.

19 MR. BOURDON: Okay. I'm trying to read and look
20 down. It says the -- drill was taken from the farm on
21 our about the 27th or 28th -- Your Honor, if I could have
22 Mr. Condon address the stolen property. He's more versed
23 on this than I am.

24 THE COURT: I think that Mr. Lewis was trying to be
25 kind and tell you that the precedent you're relying on

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Motion for Directed Verdict-Remarks by Mr. Bourdon
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1 has been overruled.

2 MR. CONDON: That's correct. There was only one
3 part of the case and I think the part that has been
4 overruled was the jury charge in that case used the
5 language of presumption whereas the appropriate language
6 is an inference.

7 So in the jury instructions in that case they
8 charged the jury that if they are in possession of the
9 stolen property they can be presumed to have knowledge
10 whereas the appropriate charge should be that they can
11 infer they had knowledge because if you have a
12 presumption it shifts the burden to the defense, which is
13 inappropriate. And that's the point that the case was
14 overruled on; not in the entirety is my understanding,
15 Your Honor.

16 THE COURT: What I need you to address is 16-23-30,
17 which is what you have charged the defendant with which
18 is the statute for selling a stolen handgun. You
19 entitled it possession of a stolen handgun but there is
20 no language in the statute to support such a charge.

21 The statute says it is unlawful for a person to
22 knowingly sell, offer to sell, deliver, lease, rent,
23 barter, exchange, or transport for sale into this state
24 any handgun to and then it lists a certain criteria of
25 people. So is there any evidence that the defendant in

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Motion for Directed Verdict-Remarks by Mr. Bourdon
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1 this case sold, offered to sell, delivered, leased,
2 rented, bartered, exchanged, or transported for sale into
3 this state any handgun to one; a person who has been
4 convicted of a crime of violence in any court of the
5 United States, several states, commonwealths,
6 territories, possessions, or the District of Columbia or
7 was or who is a fugitive from justice or habitual
8 drunkard or drug addict or who has been adjudicated
9 mentally incompetent or a person who is a member of a
10 subversive organization or a person under the age of 18
11 but this shall not apply to the issue of handguns -- and
12 deals with people who are in ROTC or members of the armed
13 forces -- or for a person who by order of a Circuit Court
14 -- in other words has been adjudged unfit to carry a
15 firearm. And then subsection (b) deals with it is
16 unlawful for a person enumerated to possess -- well,
17 that's the subsection that applies and you all didn't say
18 that in the indictment.

19 MR. BOURDON: And Your Honor (c) is the one we
20 would be talking about.

21 THE COURT: A person shall not knowingly buy, sell,
22 transport, pawn, receive, or possess any stolen handgun
23 or one from which the original serial number has been
24 removed or obliterated. So in this case the serial
25 number has not been removed or obliterated. So Mr.

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Motion for Directed Verdict-Remarks by Mr. Bourdon
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1 Lewis's argument says that your proof is deficient
2 because you've not proven that he knowingly bought, sold,
3 transported, pawned, received or possessed any stolen
4 handgun. And that's the part I need you to address with
5 more clarity.

6 MR. BOURDON: Yes, Your Honor. With respect to
7 that ---

8 THE COURT: --- because I think I lost you in your
9 argument and I apologize. Your head might have been down
10 talking.

11 MR. BOURDON: Yes, ma'am. With respect to the
12 charge we would say the fact that the property was
13 recently stolen within 30 days of the time that Mr.
14 Haynes was caught with it in his possession that is
15 something the jury can infer and there is some evidence
16 based on the recent possession of stolen property the
17 jury can infer that he knew that weapon was stolen when
18 he was in possession of it.

19 THE COURT: Well, when I used the definition of
20 knowingly, knowingly means deliberate; not accidentally
21 and not unintentionally. In other words that you knew
22 that what you had was something that was stolen. And I'm
23 not certain you can just infer that. You can infer that
24 from surrounding facts and circumstances but I'm going to
25 study that a little bit. I'm going to have to see

State v James Anthony Haynes
Motion for Directed Verdict-Remarks by Mr. Bourdon
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1 exactly what the legal definition of knowingly is and
2 then you get into the whole thing about motive and
3 intention and whether he really -- not motive; that's not
4 the word I meant to use, mens rea is the word I'm really
5 thinking of whether he really knew this was stolen. And
6 I think it might well be problematic but I got to think
7 about it a little bit.

8 MR. BOURDON: Your Honor, we also call the court's
9 attention to State v Williams and that's 350 S.C. 172; a
10 Court of Appeals case from 2002.

11 THE COURT: I'm listening. Did you want to bring
12 something to my attention?

13 [Whereupon, Mr. Bourdon and Mr. Condon confer]

14 MR. LEWIS: Judge, did you want me to respond to
15 that?

16 THE COURT: No, I'm going to give him a full chance
17 to make his argument and then I'll let you respond.

18 MR. BOURDON: Your Honor, this has to do with a
19 stolen motor vehicle. And the last element on that is
20 that a person possessing the vehicle must know that it is
21 stolen. The last line is the issue in that case where
22 the guy was on a stolen motorcycle. It says there is
23 evidence -- Your Honor, in that case he did flee after he
24 saw police but he was in possession of a motor vehicle.
25 Soon after it was stolen it was in his possession and

State v James Anthony Haynes
Motion for Directed Verdict-Remarks by Mr. Bourdon
July 11, 2017

1 then the police came to stop him he fled on it so we can
2 infer that he knew it was stolen by fleeing from the
3 police. In this case we have our defendant fleeing from
4 the police in possession of a stolen weapon.

5 So again we believe there is some directive or
6 substantial circumstantial evidence that at least gets us
7 to a jury. Again, there are a number of cases in the
8 footnotes that talk about the possession of recently
9 stolen property is an evidentiary fact from which the
10 possessor's guilt can be inferred.

11 THE COURT: There is a difference between -- I
12 think inherently, and I've done enough guilty pleas where
13 you all have reduced possession of a stolen motor vehicle
14 to receiving stolen goods because you couldn't prove the
15 person knew the car was stolen. And I think you have to
16 know, I think there has to be some knowledge either
17 imputed to you or actually that you knew something was
18 stolen either by your conduct and activities or your
19 actual knowledge. It might be something I just need to
20 deal with in a jury charge because you do have to prove
21 that he knew.

22 MR. BOURDON: Yes, ma'am

23 THE COURT: And it's just a matter of what proof is
24 required in knowing and the legal definition of knowing
25 because really at this point what I see is somebody who

State v James Anthony Haynes
Motion for Directed Verdict-Remarks by Mr. Bourdon
July 11, 2017

1 may have received stolen goods and had it in their
2 possession at the time. There is no link between him
3 having bought it from somebody, bartered from somebody,
4 negotiated with somebody to get this gun. You know, I
5 don't know.

6 MR. BOURDON: In these cases it's difficult, Your
7 Honor because there is no way to trace that once it left
8 the possession of Mr. Neale in this case as to how it
9 ended up with him. But certainly his possession of it
10 within a month of the time it was stolen ---

11 THE COURT: --- that's a factual issue for you to
12 argue. I don't know. I'm going to think about it a
13 little bit. I've got to process it and do a little
14 reading.

15 MR. BOURDON: Thank you.
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State v James Anthony Haynes
Motion for Directed Verdict-Ruling by the Court
July 11, 2017

1 THE COURT: As it regards to burglary in the first
2 degree the motion for directed verdict is denied. The
3 State must prove beyond a reasonable doubt the following
4 things in order to establish a burglary in the first
5 degree pursuant to 16-11-311:

6 They have to prove that he entered a dwelling
7 without consent. They have met that burden. And we know
8 that a dwelling is any building or any portion of a
9 building which people ordinarily sleep. The State
10 doesn't have to show his entire body entered the
11 dwelling. The smallest entry is sufficient.

12 The next thing the State has to prove is that the
13 defendant entered with an intent to commit a crime;
14 either a felony or a misdemeanor at the time of the
15 entry. The mere entry into a dwelling without consent is
16 not burglary and of course the intent to commit a
17 burglary cannot be formed after the entry. It has to be
18 a premeditated attempt on the defendant's part before
19 entering. In other words that has to be his motivation
20 and his purpose for entering the dwelling without
21 consent.

22 There is testimony from witnesses -- well from the
23 neighbor who indicated he heard rustling and that he saw
24 the defendant enter into the premises without consent. I
25 think there can be some argument at least inferentially

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Motion for Directed Verdict-Ruling by the Court
July 11, 2017

1 from the facts that when you wear gloves and you enter
2 into somebody else's house where you do not live that you
3 intended to commit a crime when you entered into it. And
4 that's a factual issue for the jury to discern. But
5 certainly at this point there is direct and substantial
6 circumstantial evidence of that element. And the law is
7 very clear that intent may be shown by acts and conduct
8 of the defendant and other circumstances from which a
9 person may reasonably and naturally infer intent.

10 Finally the State has to prove one of several
11 things: That when entering while in the dwelling or when
12 fleeing the defendant or an accomplice was armed with a
13 deadly weapon or explosive. And certainly that has been
14 established when they searched him incident to arrest
15 that he did in fact have a deadly weapon on his person.

16 Subsection (2) would not apply which deals with
17 causing injury. Threatening to use the weapon would be
18 subsection (3) which would be inapplicable and subsection
19 (4) likewise would be inapplicable because there is no
20 evidence that he brandished, showed the weapon or
21 displayed it upon his exit of the or when he encountered
22 the police.

23 The fifth element would -- well the other thing the
24 way the State could prove their case however of they
25 chose not to do that would be the prior record of

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1 burglaries and so that would be inapplicable as well. So
2 there is direct and substantial circumstantial evidence
3 reasonably tending to prove the defendant's guilt
4 regarding burglary in the first degree. This court is
5 not the finder of fact. All of the issues that have been
6 argued or the evidentiary issues that have been argued
7 are matters of fact to be argued to a jury.

8 As to regard of a stolen weapon I need to do a
9 little thinking about that one and I'll have an answer.
10 I'll take it under advisement while I do a little
11 research.

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Fifth Amendment Rights
July 11, 2017

1 FIFTH AMENDMENT RIGHTS
2 THE COURT: Sir, if you would stand for me please
3 and raise your right hand to be sworn.
4 [Whereupon, the defendant stands]
5 [Whereupon, the witness is duly sworn by the Court]
6 THE COURT: Sir, state your full name for me.
7 MR. HAYNES: James Anthony Haynes.
8 THE COURT: You can put your right hand down.
9 [Whereupon, the defendant complies]
10 THE COURT: Sir, at this time I'm going to advise
11 you of certain of your rights. If you do not understand
12 something that I say please let me know. If you need me
13 to repeat anything please let me know. Do you
14 understand?
15 MR. HAYNES: Yes, ma'am
16 THE COURT: We have now reached the stage of the
17 trial where you may present your own defense. You have
18 the right to present a defense if you desire to do so.
19 However, you have certain constitutional protections and
20 safeguards which I am going to explain to you so I need
21 you to listen to me carefully. And again if you do not
22 understand something that I say or if you need clarity on
23 something that I've explained to you please do not
24 hesitate to let me know. Sir, you have the right to
25 claim the protections given to you by the Fifth Amendment

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1 of the Constitution of the United States and that
2 amendment reads in pertinent part that no person shall be
3 compelled in any criminal case to be a witness against
4 himself. This means that you cannot be required to
5 testify in this case.

6 You have the right to testify on your own behalf;
7 however no one can make you testify. This is a personal
8 right and no one can waive this right except you. If you
9 decide to testify you will be subject to the same rules
10 that govern other witnesses and you may be examined and
11 cross-examined on any relevant issue in this case.

12 In addition if you have any convictions involving
13 dishonesty or false statement -- involving dishonesty or
14 false statements or for a crime punishable by
15 imprisonment for more than one year and this court
16 determines that the probative value of admitting this
17 evidence outweighs its prejudicial effect to you the
18 Solicitor will be able to introduce your record to attack
19 your creditability.

20 If you decide to testify this decision must be made
21 freely, voluntarily and intelligently with full knowledge
22 of the protections given to you by the Fifth Amendment of
23 the Constitution and the consequences of you testifying.
24 Sir, I advise you that if you decide not to testify I
25 will instruct the jury that they cannot give this fact

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1 any consideration whatsoever; that there is to be
2 absolutely no prejudice to you because you did not
3 testify. In fact I will instruct them that the burden of
4 proof remains on the State regarding each and every
5 element of the offenses that you've been charged with,
6 that you have no burden of proof and that your failure to
7 testify could not be construed against you in any manner
8 whatsoever, that it does not amount to any type of
9 inference and that it cannot be discussed in any manner
10 whatsoever during their jury deliberations.

11 Sir, you may talk with anyone you would like to;
12 your family members, your friends, your attorneys or
13 anyone else but the final decision as to whether you
14 should or should not testify is one that you will solely
15 have to make. Do you understand your rights as I have
16 just explained them to you?

17 MR. HAYNES: Yes, ma'am.

18 THE COURT: Do you need to ask me any questions
19 about what I've just explained to you? Take your time or
20 do you want to talk with your lawyers a little bit?

21 [Whereupon, Mr. Lewis confers with the defendant]

22 MR. LEWIS: Could we have a brief moment, Judge?

23 THE COURT: Yes. Y'all go right in. We'll take a
24 brief recess and you discuss with him any -- and answer
25 any questions he may have and if he has any questions for

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1 the court help him articulate that so he can ask me.

2 MR. LEWIS: Yes, Your Honor.

3 [Whereupon, court is in recess from 3:40 p.m. until
4 3:58 p.m.]

5 THE COURT: Mr. Haynes, I'll remind you that you
6 are still under oath. Have you had an adequate
7 opportunity to discuss with your lawyers your right to
8 testify?

9 MR. HAYNES: Yes, ma'am

10 THE COURT: Do you have any questions for the court
11 about your rights that I explained to you?

12 MR. HAYNES: No, ma'am.

13 THE COURT: And sir, do you need any more time to
14 talk with your lawyers?

15 MR. HAYNES: No, ma'am.

16 THE COURT: And sir, do you wish to testify?

17 MR. HAYNES: Yes ma'am, I do.

18 THE COURT: Okay. Are y'all ready?

19 MR. LEWIS: Yes, Your Honor.
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1 THE COURT: And while we're waiting on them as I
2 understand it there is no -- would the State be seeking
3 to use any of his record to impeach him?

4 MR. BOURDON: Your Honor, I think based on our
5 pretrial conference the State would be the 2006 filing a
6 false police report.

7 THE COURT: Would that be within ten years?

8 MR. BOURDON: No, Your Honor let me correct myself.
9 It's the 2014 false information to police.

10 THE COURT: That would be within ten years. Any
11 exception to the State's indicating they would cross-
12 examine your client regarding false information?

13 MR. LEWIS: Judge, I've been trying to do some
14 research on it. It's my understanding it's a TIA. I
15 didn't find anything ---

16 THE COURT: --- the problem -- that is a bit of a
17 rub. It was in Magistrate's Court?

18 MR. LEWIS: Yes, Your Honor.

19 THE COURT: Was that a Magistrate's Court offense?

20 MR. BOURDON: Yes, Your Honor I believe it was.

21 THE COURT: I didn't know there was a Magistrate's
22 level of false information. There is?

23 MR. LEWIS: That's just a 30 day false...

24 THE COURT: I didn't know that one existed.

25 MR. BOURDON: Let me just see if I can check...

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1 [Whereupon, Mr. Bourdon reviews documents]

2 MR. BOURDON: Actually one of these charges is
3 related to his pending General Sessions for the weapon,
4 habitual offender from the date of arrest is 6-19 of
5 2014. And so what happened is...

6 [Whereupon, Mr. Bourdon and Mr. Condon confer]

7 THE COURT: Is it a Magistrate's level or a Circuit
8 Court level of false information?

9 MR. BOURDON: I'm trying to determine that now,
10 Your Honor.

11 MR. LEWIS: I do not believe there is a General
12 Sessions level of false info. There is obstruction of
13 justice ---

14 THE COURT: --- are you sure?

15 MR. LEWIS: Filing a false police report yes, but
16 no false info.

17 THE COURT: Okay. I was getting it too confused
18 because on the sentence sheet when people plead to that
19 it always says false information to police. It doesn't
20 say filing a false police report which maybe now it's
21 going to peek my curiosity to make sure I've listed
22 correctly and what the statute says instead of what ---

23 MR. BOURDON: --- Your Honor, I believe those were;
24 excuse me.

25 THE COURT: That's okay.

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1 MR. BOURDON: Those are Magistrate level offenses.

2 THE COURT: The problem that you have is you're
3 going to have to prove that it was counseled, that he
4 knew he had the right to a lawyer and that he had
5 adequate notice before he was tried in his absence before
6 you can use that against him.

7 MR. BOURDON: Your Honor, I'd have to get that
8 through North Charleston.

9 THE COURT: I don't know how you're going to do it
10 because it's not a court of record and it's been all
11 these years ago and I doubt they've kept anything.

12 MR. CONDON: Your Honor, I believe there is a case
13 on point that actually discusses this in terms of
14 enhancements. And I believe my ---

15 THE COURT: --- enhancements are different than you
16 impugning him with it. But it's still almost sort of the
17 same soup different bowl because you still have to prove
18 it was counseled before you can use it as an enhancement.
19 But I'm not aware of anything that a false information
20 would enhance.

21 MR. CONDON: I was going to say -- I was going to
22 use the logic, I don't have the case on me right now but
23 I can get it. But my understanding the logic of that
24 case is that it says that all convictions are presumed
25 valid and the burden is on the person contesting it to

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1 show otherwise.

2 THE COURT: My recollection is the Supreme Court
3 said unless something -- the United States Supreme Court
4 said unless something is counseled it can't be used as an
5 enhancement. And I think for you to use this conviction
6 against him you're going to have to prove he was
7 counseled. If y'all want to try to find something while
8 we're waiting for you to cross-examine him I'll be glad
9 to consider it.

10 But that's the problem with Magistrate Court because
11 I don't know whether they issued him a ticket and I don't
12 know if he considered it just like a traffic ticket which
13 you know people look at things differently. Some people
14 don't show up for traffic court and others do. But I
15 don't know what they do in Magistrate Court with that.

16 I know it's not a court of record and I'm not aware
17 of North Charleston Magistrate Court or Municipal Court
18 keeping any records of their criminal proceedings. And
19 after this long I doubt they have anything regarding it.
20 And he wouldn't have had a bail form that would have
21 advised him you can be tried in your absence.

22 That's the reason you can do it differently in
23 Circuit Court because there is a presumption when you
24 sign that form that you know we're going to try you in
25 your absence if you don't show up and that all this stuff

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1 can be used against you later. Are we ready to proceed
2 from the State?

3 MR. BOURDON: Yes, Your Honor. I have a little
4 more information on that charge that he was arrested on
5 6-19 of 2014. And I know that because I also have
6 related General Sessions charges that are related to that
7 same stop; the habitual traffic offender and stolen
8 pistol. Mr. Lewis I believe -- I'm not sure if he saw
9 those or not.

10 It looks like he was arrested on 6-19 of 2014 and
11 bonded out on the 22th of June, 2014. So I thought I had
12 the record from the City of North Charleston on this case
13 but my point would be if he was advised of his court date
14 and willfully failed to appear ---

15 THE COURT: --- but you're not going to prove that
16 to me ---

17 MR. BOURDON: --- and he wasn't in custody at the
18 time then I think...

19 THE COURT: That's not the issue. The issue is
20 whether it was counseled or not.

21 MR. BOURDON: Correct.

22 THE COURT: And whether he was advised of his right
23 to a trial and all that other stuff. So you're going to
24 have to give me some information about that before I
25 could make a determination because it clearly bears on

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1 his -- I mean a false information clearly is a
2 creditability offense.

3 MR. BOURDON: Yes, Your Honor.

4 THE COURT: But I just have to know that he was
5 counseled, that he was advised that he knew he would be
6 tried in his absence for it to be used against him.
7 We're going to do a little research but I see no need for
8 us to delay his direct examination for that purpose.
9 Ready?

10 MR. LEWIS: Yes, Your Honor.

11 THE COURT: The State ready?

12 MR. BOURDON: Yes, Your Honor.

13 THE COURT: Defense ready?

14 MR. LEWIS: Yes, Your Honor.

15 THE COURT: Please bring in the jury.

16 [Whereupon, the jury enters at 4:05 p.m.]

17 THE COURT: Ladies and gentlemen we appreciate your
18 patience. Please give counsel your attention. Mr.
19 Lewis, you proceed.

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James Haynes-Direct Examination by Mr. Lewis
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1 MR. LEWIS: Your Honor, the defense calls James
2 Haynes.

3 THE COURT: Sir, if you would come and stand to be
4 sworn.

5 [Whereupon, Mr. Haynes comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk
7 of Court]

8 CLERK OF COURT: State your first and last name for
9 the record spelling your last.

10 THE WITNESS: My name is James Haynes, H-A-Y-N-E-S.

11 THE COURT: You may proceed.

12 MR. LEWIS: Thank you, Your Honor.

13 - - - - -

14 JAMES HAYNES,

15 Having been first duly sworn,

16 Was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. LEWIS:

19 Q. James, would you please introduce yourself to the
20 jury?

21 A. My name is James Haynes, James Anthony Haynes.

22 Q. And James where did you grow up?

23 A. North Charleston; right across the street in Forest
24 Hills subdivision from the incident.

25 Q. And where did you go to school?

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- 1 A. I went to Midland Park Elementary, Alice Birney
2 Middle, and Stall High School.
- 3 Q. And what do you do for a living?
- 4 A. I do landscaping and I sell and install cameras.
- 5 Q. What do you mean by that? I know what landscaping
6 is but what is selling and installing cameras?
- 7 A. Well, I had an older guy in the neighborhood who he
8 does electronics. And he used to let me do side jobs
9 with him. He taught me how to wire cameras and do
10 certain type of wiring and I used to work with him.
- 11 Q. Do you have any family in the area?
- 12 A. Yes. I have well most of my family is in the area
13 like my grandmother -- my mother passed away, and my
14 father, brother, and my kids.
- 15 Q. How many kids do you have?
- 16 A. I have two.
- 17 Q. James now that we've got unfortunately the
18 pleasantries out of the way we need to talk about some
19 admissions you had. James, did you take property from
20 Elderberry Circle that belonged to Mr. Franks who
21 was here earlier?
- 22 A. Yes, I did.
- 23 Q. Did you have a gun on your person at the time that
24 you did that?
- 25 A. Yes, I did.

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1 Q. Did you have a concealed weapons permit which would
2 allow you to carry a gun lawfully on your person?

3 A. No, I did not.

4 Q. Now for the most important question I can ask you.
5 When you went into that house, when you went -- well,
6 I'll ask you in a second how you got in there. But when
7 you went through into that house were you intending to
8 commit a crime?

9 A. No, I wasn't.

10 Q. Were you intending to steal anything?

11 A. No, I was not.

12 Q. Were you intending to cause any damage to their
13 property?

14 A. No, I wasn't.

15 Q. I want to talk to you about your mindset. Why did
16 you go in? Why are we here? Why did you go into that
17 house?

18 A. Well actually as I was walking down the street I
19 noticed that I was being followed. And I was being
20 followed by a truck that looked similar to an incident
21 that had happened earlier, like a couple weeks earlier to
22 me; probably two to three weeks earlier.

23 And when I noticed the truck was following me it
24 stopped on the corner. I don't know if they have -- it
25 stopped on the corner because the house on Elderberry is

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1 on a corner street to where you can get into the back of
2 a neighborhood.

3 Q. Let me see if I can find one of those pictures for
4 you. I'm showing the defendant State's 5. You were
5 talking about a picture. Is that the picture you're
6 talking about?

7 [Whereupon, the photograph is shown]

8 A. Yes this could probably be ---

9 Q. --- we can use that?

10 A. Yes.

11 Q. Okay. So when you say you were walking down the
12 street what road are we talking about?

13 A. I'm walking down Ruff Road.

14 Q. Okay.

15 A. Coming towards this back way [indicates].

16 Q. And back then what used to be back there down that
17 Ruff Road?

18 A. It's like a bike park -- well, it's not a bike park
19 but we turned it into a bike park because you know people
20 do construction with new houses. Behind there is new
21 houses so they still have like the dirt mounds, a lot of
22 dirt mounds back there.

23 Like back there is a whole new neighborhood so
24 behind it is like a nice little place where we would ride
25 bikes at and stuff like that; dirt bikes and four

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1 wheelers.

2 Q. Okay. And so as you're walking along Ruff Road
3 were you planning on breaking into someone's house?

4 A. Absolutely not.

5 Q. How did seeing this truck change the way you felt
6 about your day, going about your day? Why did seeing
7 this truck cause you to feel this way?

8 A. It set me on high alert because like I said I had
9 got into some incidents with some people and I've been
10 shot before you know what I'm saying.

11 I've got some incidents with some people who shot at
12 me and they had a truck very similar to this truck and it
13 wasn't too far from around this area.

14 Q. How many times have you been shot?

15 A. Twice.

16 Q. Was that -- a stupid question but was that a
17 pleasant experience?

18 A. No, it wasn't.

19 Q. Do you want to get shot again?

20 A. No, I do not.

21 Q. Do you like being followed?

22 A. No, I don't.

23 Q. Does it make you feel comfortable when people are
24 following you after you've been shot?

25 A. No, it does not.

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1 Q. I want to talk to you about how you decided to
2 respond to that. So when you saw that you were being
3 followed, when that made you scared, what did you do?
4 How did you respond to that?

5 A. Well at first I tried to act like I didn't know I
6 was being followed because I was actually being followed
7 from -- they don't have a picture of down the road. This
8 house is kind of at the back of the neighborhood.

9 Q. Okay.

10 A. So I was being followed for like three or four
11 blocks before that. So I was actually trying to make it
12 like I didn't know I was being followed because it was a
13 truck but you know it's not going past me so I can see
14 that it's basically creeping behind me.

15 When it finally did pass me I was almost on this
16 corner [indicates]. So what it did is it turned around
17 and was about to come back. So what I did when I saw it
18 turn was I ran and jumped this fence [indicates]. And by
19 the time they had turned around I was already crouched
20 down on the side.

21 Q. Why did you crouch down?

22 A. Because I didn't want to see -- I was trying to kind
23 of disappear.

24 Q. Is this because you're wanting to break into
25 somebody's house?

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1 A. No, absolutely not.

2 Q. Why isn't that where our story ends? Why didn't
3 this car just keep on going or not be able to find you
4 and you could stay crouched down? Why did you feel the
5 need to take it another step?

6 A. Because the truck actually pulled up to the street
7 and it stopped on the side of the fence. But it was
8 coming from like this other direction [indicates]. It
9 was coming from the direction I was walking.

10 It turned around and it stopped so I kept on moving
11 because I didn't want -- I just felt like I knew they was
12 about to get out the car it seemed like you know what I'm
13 saying.

14 So I actually kept walking up the side but I was
15 crouched and I came almost midway to the house when I saw
16 or heard the door open, the truck door open.

17 Q. Okay. Let me see if I can find a picture of the
18 backyard. State's 13.

19 [Whereupon, the photograph is shown]

20 Q. Is that [indicates] the area that we are talking
21 about?

22 A. Yes, it is.

23 Q. Okay. How did you -- what did you do once you were
24 in this area?

25 A. Well, I was already crouched down kind of looking

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1 back moving upward because I could tell if I went too far
2 up they would have been able to see me. And I know if I
3 went back, going back towards them basically wasn't an
4 option. So I basically stopped right about that little
5 white thing [indicates]. I don't know if that's a stand
6 or you know.

7 Q. Okay. Are you talking about you stopped about like
8 right here [indicates]?

9 A. Yes, at first before when they opened the door.

10 Q. And when you say they opened the door are you
11 talking about somebody you can see or you talking about
12 hearing a car door?

13 A. The car door, the truck door. It was a truck
14 actually; an F-150.

15 Q. Okay. After you heard that what did you do? How
16 did you -- again, how did we get here?

17 A. I eased up and I saw the doggie door and I crawled
18 through the doggie door.

19 Q. Okay. And there has been some discussion about
20 that. I know you're tall were you able to make it
21 through?

22 A. Yes, I was.

23 Q. Okay. I mean you saw the picture of the golden
24 retriever earlier today. And you were able to make it
25 through?

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1 A. Yes.

2 Q. Why did you go into that house? Why did you do
3 that?

4 A. Because I was trying to avoid being seen or any
5 conflict with whoever was inside this truck.

6 Q. So I'm glad this didn't happen but you were armed?

7 A. Right.

8 Q. You could have started shooting at people?

9 A. Yes, I could have but I didn't want to. I didn't
10 want to hurt anyone. And I also didn't want to be hurt
11 furthermore.

12 Q. Because you know what it's like to get shot?

13 A. Exactly.

14 Q. Let's talk a little bit if we can about the gun that
15 you had on you. We'll get back to what happened inside
16 here in a second. What kind of gun was it?

17 A. It was a Glock .23 if I'm not mistaken.

18 Q. And why did you have it?

19 A. For protection.

20 Q. It seems after I've already talked to you about this
21 why do you feel you need protection?

22 A. Because like I said I've been shot and I've had
23 things going on to where you know I just feel like I
24 needed to make sure I protected myself unless I was going
25 to lose my life?

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1 Q. Did you ever pull that gun on anyone that day?

2 A. I have not.

3 Q. Did you ever threaten anyone with it?

4 A. I did not.

5 Q. We talked about this earlier. Did you know that it
6 was stolen?

7 A. No, I did not.

8 Q. How did you come to be in possession of this gun?

9 A. Well, after I got shot at the last time like I said
10 like three weeks, two or three weeks prior to the
11 incident I contacted one of my friends and they put me in
12 with a guy who basically said he had a gun for sale and I
13 bought one from him at a local bar.

14 Q. Do you remember how much you paid for it?

15 A. Like around 250 something dollars. I don't know the
16 exact price but I remember that.

17 Q. Is that an exceptionally low price? I don't know
18 how many guns you've bought. Is that low price?

19 A. Yes, it seems like it. It seems reasonable.

20 Q. Right. Do you remember about when it was; any idea?

21 A. That I purchased the gun?

22 Q. Yes.

23 A. It was like two or three weeks prior to the
24 incident.

25 Q. Okay. I want to talk to you now about the stolen

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1 rings, the stolen coin, the property that was taken from
2 Mr. Franks. Why in the world if you were trying to just
3 protect yourself are you going to steal somebody's stuff?

4 A. A horrible decision. I let temptation get the best
5 of me because when I crawled through the doggie door the
6 first thing I did was look to the left hand side so I
7 could see a window so I can see if the truck was still
8 there or what they was doing if they done got out or
9 whatever.

10 But it wasn't because there is no windows over
11 there. It's like just the garage so I went to the back.
12 That's how I ended up going to the very back room which
13 is the only room I was in and I upped the window and
14 pushed the screen up so I can look out.

15 And then when I looked down it was like a stand,
16 like a nightstand in the corner and I saw an envelope
17 that had money in it. And I grabbed it and from there on
18 like I said I let temptation get the best of me and I
19 just started looking for things.

20 Q. Okay. And so you took rings that didn't belong to
21 you?

22 A. I did, I absolutely did. But I mean I understood
23 the whole time between now and then that it was wrong.
24 When I actually saw Mr. Bourdon and I don't know the
25 officer who took the crime scene photos they had the bag

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1 of rings that was right there and I really realized, like
2 it hurt me because I realized that these people still
3 haven't gotten their stuff back even to this day. So I
4 realized how much my bad decisions affected them.

5 I wouldn't want nobody in my family or me to have to
6 go through something like that. I just want them to have
7 their stuff back. I just want this stuff to be over
8 with. But I did, I did take those things.

9 Q. Are you glad you did what you did?

10 A. I'm not. I'm not.

11 Q. Are you proud of that?

12 A. No, I am not.

13 Q. Would you undo it if you could?

14 A. I definitely would.

15 MR. LEWIS: One moment, Judge.

16 [Whereupon, Mr. Lewis and Mr. Smit confer]

17 Q. [Mr. Lewis] Please answer any questions that Mr.
18 Bourdon has for you.

19 THE COURT: You may proceed.

20 MR. BOURDON: Thank you, Your Honor.

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State v James Anthony Haynes
James Haynes-Cross-Examination by Mr. Bourdon
July 11, 2017

1 CROSS-EXAMINATION

2 BY MR. BOURDON:

3 Q. Mr. Haynes, you told this story to the jury and Mr.
4 Lewis asked you a few questions. I want to kind of
5 follow up on some of the things he asked you. You and I
6 haven't spoken previously, correct?

7 A. No, sir

8 Q. Okay. So tell us what you were doing on Ruff Road
9 to begin with. Where do you live or where were you
10 living at the time?

11 A. Well, I was living across the street in Archdale
12 Forest.

13 Q. And Archdale Forest is way up Dorchester Road isn't
14 it?

15 A. No, it's actually directly across the street from
16 this neighborhood, from Summerfield.

17 Q. Now when they booked you in you had an address of
18 ---

19 MR. LEWIS: --- objection, Your Honor.

20 THE COURT: Basis?

21 MR. LEWIS: The foundation ---

22 THE COURT: --- approach please.

23 [Whereupon, an off the record bench conference is
24 held]

25 THE COURT: Objection sustained. You may proceed.

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1 MR. BOURDON: Thank you, Your Honor.

2 Q. [Mr. Bourdon] So on this morning about 11:40 in the
3 morning you are walking down Ruff Road.

4 A. Yes, sir.

5 Q. Wearing a white t-shirt, black shorts, Clemson hat;
6 all the evidence that we have here.

7 A. Yes, sir.

8 Q. And you got the gun in your waistband.

9 A. Yes, sir. I had the gun. I can't remember exactly
10 where I had it but.

11 Q. And so what's the purpose of having that gun and
12 walking down Ruff Road?

13 A. Because sir like I said I've been attacked numerous
14 amount of times in different circumstances in different
15 areas so it's just for protection purposes.

16 Q. Okay. Where were you heading at the time?

17 A. I was going to ---

18 Q. --- just wandering down the street?

19 A. No. Like I said in the back if you go all the way
20 down Ruff Road it comes into like a -- it goes up into a
21 back neighborhood. And in the back they just started
22 building these houses so in the back people gather back
23 there. They chill; it's just like people ride bikes and
24 dirt bikes and stuff. It's like a dirt park, almost like
25 right at the back, not even...

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1 Q. But right at the end of this Ruff Road was other
2 houses, isn't that true?

3 A. Right. And that's what I'm saying. Once you turn
4 and go behind its just two roads; two roads you can turn
5 down. And at the back of this [indicates] it's like a
6 dirt park almost.

7 Q. So you can see where Ruff Road goes down to the end
8 there [indicates]. And that pink line that's the house
9 that you were found coming out of and going into, right?

10 A. Right.

11 Q. Okay. So you're saying this white truck comes up
12 behind you. Can you see who's in the truck?

13 A. No. I couldn't see who was in the truck.

14 Q. And what street were you coming from at the time?

15 A. It's a side street that you can come from when you
16 come from Pepper Tree. I don't know what that
17 neighborhood is called but it's actually connected to
18 another neighborhood that you can come to straight from a
19 road.

20 Q. Were you coming between that cut where the fences
21 are one street up from there?

22 A. No, I was not.

23 Q. Up down this next block here [indicates]. That's
24 not where you were coming from?

25 A. I actually I don't -- what exactly are you talking

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1 about sir?

2 Q. I'm talking about this area right here [indicates].

3 These houses right here [indicates] and these houses

4 [indicates] up in the next block. Isn't there a cut

5 somewhere along there?

6 A. A cut that leads -- I don't understand. Are you

7 saying if I was coming from this area [indicates]?

8 Q. Right. If you come up Ruff Road this way

9 [indicates].

10 A. Can you back the picture up a little bit?

11 Q. This is as far as it will go. We agree this is Ruff

12 Road here [indicates].

13 A. Right. That's what I'm saying.

14 Q. And it goes -- Ruff Road goes all the way to

15 Dorchester.

16 A. Right.

17 Q. Okay. So where do you first get onto Ruff Road?

18 A. If you -- from this right hand side [indicates], this

19 right hand side I don't know if it is this street

20 [indicates] or the street before that it's a street that

21 leads straight from another neighborhood. Pepper Tree is

22 right next -- it's connected to this neighborhood. I

23 came from Pepper Tree.

24 Q. And so how familiar are you with this neighborhood?

25 Where did you live in Archdale Forest?

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- 1 A. Right in the front in the apartments.
- 2 Q. And how long did you live there?
- 3 A. Probably like two years, but I actually grew up
- 4 across the street in Forest Hills right next to Archdale.
- 5 Q. Right. But we're trying to figure out what you were
- 6 doing on Ruff Road that morning. Were you going to work
- 7 that day?
- 8 A. I was going to the back I told you. In the back of
- 9 this neighborhood it's almost like a skate park.
- 10 Q. Okay. And did you have a skateboard with you?
- 11 A. No, not a skateboard. People ride dirt bikes and
- 12 people just chill.
- 13 Q. And you didn't have any dirt bike and you weren't
- 14 riding a bike that day were you?
- 15 A. No, no I wasn't.
- 16 Q. Okay. And this truck you talked about had you seen
- 17 the truck before?
- 18 A. I believe I have.
- 19 Q. And who was in the truck?
- 20 A. I have no idea right now.
- 21 Q. Okay. Could it have been one of the neighbors
- 22 following you to find out what you were doing walking
- 23 down the street?
- 24 A. I don't think so, sir.
- 25 Q. Okay. You're sure you didn't come out from between

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- 1 a fence line a couple of blocks up on Ruff Road?
- 2 A. I'm absolutely sure.
- 3 Q. And this person in the truck did they ever tell you
- 4 what they were doing? Did they say anything to you?
- 5 Honk the horn?
- 6 A. No, they didn't.
- 7 Q. Try to cut you off?
- 8 A. No, they didn't. They was just like following me
- 9 like kind of crazy like. Like the last time before I got
- 10 shot at.
- 11 Q. Let's talk about getting shot. Are you in law
- 12 enforcement or the military?
- 13 A. No sir, I'm not.
- 14 Q. So what is all this shooting about?
- 15 A. Just getting in situations with the wrong kind of
- 16 people, growing up in a rough neighborhood, being in a
- 17 rough area.
- 18 Q. Or being part of the wrong crowd isn't that true?
- 19 A. Not exactly.
- 20 Q. So on this intersection here [indicates] we can see
- 21 that there are several houses, right? There are houses
- 22 on each corner here of Ruff Road, right? So where do you
- 23 first see this white truck?
- 24 A. Can you back the picture up?
- 25 Q. I don't have any better aerials of these right now.

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- 1 A. It's just confusing looking at it.
- 2 Q. I'm not trying to confuse you. Get your bearings.
- 3 That's [indicates] the house on the corner. And we know
- 4 where Ruff Road is. This [indicates] is Ruff Road here
- 5 right?
- 6 A. Right.
- 7 Q. Where do you first see this truck?
- 8 A. A couple of blocks before this.
- 9 Q. Is it following you all the way down?
- 10 A. Yes, it is.
- 11 Q. Why don't you make any move to go to the left or the
- 12 right to see if the truck keeps following you?
- 13 A. Because I'm very nervous because I know it's
- 14 following me because it's a car and I'm walking so if a
- 15 truck is coming and it's not passing me then something is
- 16 seriously wrong.
- 17 Q. Tell us what you were going to do once you got to
- 18 the end of Ruff Road and went to this park or whatever it
- 19 is.
- 20 A. I was going to just hang out and just chill.
- 21 Q. But it's a Tuesday morning. Why aren't you
- 22 landscaping or doing your electrical work?
- 23 A. I was just off that day. That was the day I wasn't
- 24 doing anything.
- 25 Q. But it was a nice sunny day right? There was no

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1 reason you couldn't have been landscaping. It's May
2 which is landscaping season, right?

3 A. Right, but ---

4 Q. --- you're out walking down the street with a gun
5 going to meet -- were you meeting anybody or just walking
6 down the street going to hang out at a park?

7 A. I just was going because like I said that's a place
8 where people just ---

9 Q. --- you sure you weren't walking around that
10 neighborhood looking for houses that were empty to rob?

11 A. Yes, I'm sure.

12 Q. Because most people are at work that time of day,
13 right?

14 A. Yes, sir.

15 Q. It's a good time to find a house that's empty and go
16 in and see what you can get. Now, when this guy follows
17 you with the truck you could have gone to the left or to
18 the right, right?

19 A. Yes, sir.

20 Q. But you decided to go over that big fence that we
21 saw pictures of.

22 [Whereupon, the photograph is shown]

23 Q. You heard Officer Lawrence talk about it being a six
24 foot fence. So that's the fence you decided to go over
25 right there?

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1 A. Yes, sir.

2 Q. Okay.

3 A. But I actually did that at the only point in which
4 the truck wasn't following me when it was trying to turn
5 around and do a U-turn.

6 Q. And here's another picture here.

7 [Whereupon, the photograph is shown]

8 Q. So that's looking down Ruff Road and that house is
9 on the corner that you went in.

10 A. Yes, sir.

11 Q. And when that truck came by you could have gone to
12 the left or to the right and you could have gone to one
13 of those other houses on there.

14 When that car was chasing you and you went over that
15 fence you never knocked on the door and said help me,
16 someone is following me, call the police.

17 A. No, I didn't.

18 Q. You just decided to crawl in that dog door and hide
19 out is that what you're saying?

20 A. I did. But as I did I did announce -- I was asking
21 for help like I was yelling inside the house and I
22 realized nobody was there, once I was already in.

23 Q. Really? Do you expect them to believe this?

24 MR. LEWIS: Objection, Your Honor.

25 THE COURT: Be careful, Mr. Bourdon. No editorial

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1 comment.

2 MR. BOURDON: Yes, Your Honor.

3 THE COURT: Ladies and gentlemen you are to
4 disregard Mr. Bourdon's last comment. You are to give it
5 absolutely no consideration in your deliberations.

6 Please rephrase the question.

7 Q. [Mr. Bourdon] So you say you're calling for help.

8 A. I did.

9 Q. Okay. Now you also had the chance didn't you once
10 you went into that backyard you could have gone through
11 -- since you were able to climb a six foot fence you
12 could have gotten over that fence and into another yard
13 and gotten away from those people that apparently they
14 were following you or you felt threatened, right? Like
15 going in the house wasn't your only option.

16 A. Probably not because like I said when I was
17 crouching down I felt like they couldn't see me. So if I
18 had just took off running then I knew they probably would
19 have jumped out and chased me.

20 Q. But no one ---

21 A. --- and it would have been some kind of gun ---

22 Q. --- gets out of that truck do they? No one ever got
23 out of the truck that you're ---

24 A. --- I don't know sir because I went inside the
25 house, sir. I heard the door open. I know that.

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1 Q. Once you got in the house did you see a house phone?

2 A. No, I didn't.

3 Q. You didn't think to call the police or try to find
4 some way to get assistance when you are in the house?

5 A. No, I didn't because actually like I said after I
6 looked out the window and I saw the envelope that's when
7 I let temptation get the best of me.

8 Q. And at that point you weren't worried about anyone
9 in the truck anymore, correct? The money was more
10 important, the rings were more important than whoever was
11 in the truck threatening your life.

12 A. Well, I actually had already looked out the window
13 and saw that truck was no longer right there.

14 Q. Okay. So the coast is clear at that point?

15 A. Well, yes you can say so. They wasn't -- there was
16 no longer the immediate threat.

17 Q. But when you got in the house you didn't just -- you
18 could have gone right out the front door and kind of
19 ditched those guys if they were in the truck looking for
20 you.

21 A. Yes, I could have.

22 Q. And as Mr. Lewis asked you you said you could have
23 just crouched down behind the fence or gone in those
24 bushes and they wouldn't have seen you either. He didn't
25 say that but I'm elaborating on what he said. Once you

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1 got over that fence no one came over the fence after you
2 did they?

3 A. Not to my knowledge.

4 Q. And did you ever talk to the person in the truck?
5 Did you ever see who was in it?

6 A. No, I didn't.

7 Q. You never told him hey, I have a gun leave me alone;
8 stay away from me?

9 A. No, I didn't.

10 Q. So now you've broken into the house. You got in the
11 house, you got the money, you got the rings, you got the
12 million dollar bill and these other items that were shown
13 here today; you took all those correct?

14 A. I did.

15 Q. Okay. And then when the police come do you see
16 them in the windows?

17 A. No I did not, sir.

18 Q. So the officer said that he believed that you saw
19 him and then turned around.

20 A. I didn't. I actually heard, I actually heard the
21 police. I didn't see them.

22 Q. But again if you're in danger and now you hear the
23 police -- at some point you knew they were outside did
24 you not?

25 A. Yes, sir.

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1 Q. Okay. And at that point you don't tell them hey, I
2 had to come in this house because someone is after me.
3 A. No, I didn't.
4 Q. You didn't say any of that. You ran out the front
5 door and you saw Officer Ranck standing at the front of
6 the house, correct?
7 A. Correct.
8 Q. And at that point you didn't say hey ---
9 MR. LEWIS: --- objection, Your Honor.
10 THE COURT: Basis?
11 MR. LEWIS: Commenting on his right to remain
12 silent.
13 THE COURT: Please approach.
14 [Whereupon, an off the record bench conference is
15 held]
16 THE COURT: Overruled. Res gestae. But be very
17 careful, Mr. Bourdon.
18 MR. BOURDON: Yes, Your Honor. Thank you, Your
19 Honor.
20 Q. [Mr. Bourdon] Now Mr. Haynes when you came out the
21 front door you knew the police were already on scene.
22 A. Yes sir, I did.
23 Q. Okay. And you did see Officer Ranck in front of
24 you at the front door.
25 A. No, I did not.

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1 Q. Okay. So at some point he's telling you to stop,
2 isn't that correct?

3 A. Yes.

4 Q. And you don't tell him hey, I'm here because I'm
5 being chased or I'm here because I'm seeking shelter in
6 this house and some guys are after me in a truck.

7 A. No sir because that that point I had already put my
8 hands on things that didn't belong to me. So it had
9 already gone to a whole other matter.

10 Q. But certainly you agree that you were in that house
11 to be protected from some men that were after you so
12 telling the police I'm here and this is why for my safety
13 and be thankful the police were there to help. But you
14 never told them anything about these guys following you
15 in the truck.

16 A. No sir, I didn't because like I said by that time it
17 was already -- I had already committed a crime that I
18 was...

19 Q. Now one of the things that is interesting that we've
20 talked about here and you've heard all the officers
21 testify here today is this pair of blue gloves. And
22 you're wearing those when you come out the house, isn't
23 that correct?

24 A. I believe that's correct from the officer's
25 testimony. I can't really remember because it was two

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1 years ago.

2 Q. But you'd certainly remember putting those on.

3 They're not exactly easy to put on are they?

4 A. I wouldn't say.

5 Q. And you heard Mr. Franks testify that he didn't have
6 those gloves in his house.

7 A. I did.

8 Q. So the way they got on your hands is you put them on
9 there, isn't that true?

10 A. If they was on then I would say that's true that I
11 put them on.

12 Q. And you had those gloves on when you went into that
13 house didn't you?

14 A. I'm not sure, sir I don't think so. As a matter of
15 fact I'm pretty sure that I didn't like I said when I
16 went in...

17 Q. So you had the blue gloves on your person, correct?
18 They were in your possession when you went to that
19 property when you were walking down Ruff Road that day.

20 A. I probably did but I honestly can't remember sir to
21 be honest with you. I know I put them on but I can't
22 remember.

23 Q. You put them on so you could get in the house and
24 not be detected with your fingerprints and your DNA if
25 you were successful in breaking in and stealing things

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1 from the house, isn't that true?

2 A. No sir, that is not true. If anything I put them on
3 when I was already inside the house.

4 Q. The gloves that the officers took off your hands
5 isn't that correct that those were what you were wearing
6 when you came out of the house?

7 A. I can't remember, sir but of the officer's testimony
8 I would say probably yes.

9 Q. Now this gun you got you've seen the gun here.
10 You're familiar with weapons aren't you since you said
11 you bought one from a friend.

12 A. Yes sir, I am.

13 Q. Who is the guy you bought the gun from?

14 A. Well it was a guy that my friend introduced me to.
15 I met him like once or twice.

16 Q. Okay. And you know that Glock is a good pistol,
17 don't you?

18 A. Yes sir, I do.

19 Q. And you know that they don't cost 250 dollars do
20 they?

21 A. No sir, they don't.

22 Q. A nice Glock probably cost you with that sight
23 probably cost you 800 to a grand maybe; 500 to 600 with
24 the scope.

25 A. Probably 4 or 500; it depends on where you get from.

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- 1 Q. Right. If you get it from a dealer, it's probably a
2 lot more money like 800 bucks to 1,000 dollars.
- 3 A. Yes, if you go to a gun store but...
- 4 Q. You didn't go to a gun store did you?
- 5 A. No, I didn't.
- 6 Q. Where did you go to meet this guy to get the gun?
- 7 A. At a bar, a local bar.
- 8 Q. Okay. Did you get any paperwork for the gun?
- 9 A. No sir, I did not.
- 10 Q. Anything to see if it was stolen when you bought it?
- 11 A. No sir, I didn't.
- 12 Q. And we talked earlier today that you could have gone
13 to the police station to make sure that the gun was legit
14 when you bought it, right?
- 15 A. Yes sir, I could have.
- 16 Q. Because you know the problem if it's a stolen gun
17 you could be in trouble for it.
- 18 A. Yes, sir.
- 19 Q. Okay. When did you buy the gun?
- 20 A. Probably like two or three weeks prior to the
21 incident.
- 22 Q. Okay. And you heard Mr. Neale say that the gun he
23 reported it stolen April the 27th, isn't that correct?
- 24 A. Yes, I did.
- 25 Q. And you don't know Mr. Neale and he didn't give you

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1 the gun. He's not the guy that sold you the gun at the
2 bar is he?

3 A. No sir, he's not.

4 Q. And do you know the guy's name that did sell you the
5 gun?

6 A. He told me his name was Ryan but I didn't see his
7 I.D. but that's what everybody calls him.

8 Q. How did you contact him to get a gun?

9 A. Actually he contacted me. I contacted my friend and
10 I guess he knew of the guy and told the guy I was looking
11 to buy a gun and he contacted me and we met up.

12 Q. And what are all these shootings about that you were
13 talking about? You said you had been shot twice. When
14 were those incidents?

15 A. Well, one was a couple of years back.

16 Q. A couple of years back from 2015?

17 A. Yes, a couple years back from the incident. And
18 then another one was probably eight to nine months before
19 the incident. The first one was a couple of years and
20 the other one was a couple months before.

21 Q. But nothing in that proximity of May the 26th of
22 2015?

23 A. Well, I've been shot at in that proximity but not
24 actually hit. I've actually been hit twice.

25 Q. When was the last time you were shot at?

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- 1 A. Like two to three weeks before the incident.
- 2 Q. But nothing that day or that night prior to that?
- 3 A. No, sir. No, sir...
- 4 Q. And what does this white truck got to do with
- 5 anything?
- 6 A. Well, the last time I got shot at I got shot at by
- 7 some people in a white -- well, it wasn't even white.
- 8 It's like a champaign lightish colored F-150 and a black
- 9 Envoy.
- 10 Q. There were two cars?
- 11 A. Yes, sir.
- 12 Q. A black, Envoy is a SUV, right?
- 13 A. Yes, sir.
- 14 Q. And you're just saying you saw this white truck.
- 15 How many white trucks like that do you think there are in
- 16 South Carolina and Charleston?
- 17 A. Thousands probably, hundreds at least.
- 18 Q. And so did you ever make any connection between that
- 19 truck and the truck that you said shot at you?
- 20 A. I definitely did, instantly when I first saw it
- 21 following me.
- 22 Q. And you're sure it wasn't a neighbor following you
- 23 to see what you were doing in that neighborhood walking
- 24 down the street or coming through those yards?
- 25 A. I wasn't coming through any yard, sir. I was

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1 walking right up Ruff Road so I didn't see any reason for
2 anybody to be following me besides it doing me some type
3 of harm. Like I said I had on a white shirt, baseball
4 cap, basketball shorts. I didn't have on anything
5 alarming.

6 Q. Except for the gun, right?

7 A. Well yes, but I don't think they saw the gun. Was
8 that reported?

9 Q. And how about the flashlight? Was that in your
10 pocket as well when you were walking down the street?

11 A. No sir, it wasn't.

12 Q. Where did that come from?

13 A. I believe it came out the house.

14 Q. It certainly would help you if you were committing a
15 burglary to have a flashlight wouldn't it?

16 A. Probably not at 11 o'clock in the daytime. It's
17 broad daylight. I don't see why I would need a
18 flashlight for a burglary in the morning; with all due
19 respect.

20 MR. BOURDON: Court's indulgence.

21 [Whereupon, Mr. Bourdon and Mr. Condon confer]

22 Q. [Mr. Bourdon] So Mr. Haynes you said you were going
23 to the dirt park. Where were you coming from in order to
24 get to the dirt park?

25 A. I was coming from Pepper Tree, the neighborhood that

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1 is right connected to whatever that neighborhood is
2 called.

3 Q. And what street is that on?

4 A. What street is what on, sir?

5 Q. Where you were coming from, Pepper Tree?

6 A. Pepper Tree is a neighborhood, sir.

7 Q. Okay. What street were you on?

8 A. On Suzanne Street. Like I said these neighborhoods
9 are connected. That's why I said Archdale, Forest, the
10 park, Forest Hill where I grew up they are all connected
11 like three or four neighborhoods just connected.

12 You can walk from one neighborhood through to the
13 next neighborhood. They have streets that connect them.
14 You don't have to go through any cuts or anything like
15 that.

16 Q. If you were going to the skate park from Suzanne why
17 wouldn't you just have gone down Forest Hills instead of
18 Ruff Road?

19 A. You can't get to the skate park from Forest Hills.
20 You have to -- if you come down Forest Hills Drive you
21 will have to turn on a street to actually get to the
22 street that connects to this neighborhood to go to the
23 back of the park.

24 It's not possible to come down Forest Hills to get
25 to the park. If you had a big layout of the neighborhood

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1 you could see it's just one street that connects the
2 neighborhood and that's the street I came down.

3 Q. But the skate park was closer to Forest Hills which
4 would be to the right on this picture [indicates] instead
5 of Ruff Road.

6 A. No, the skate park is actually right behind Ruff
7 Road. You can't get to it from Forest Hills. You have
8 to come down that road. It's no other way to get to it.

9 So anybody in Forest Hills they would have to walk
10 down that street and come up Ruff Road to get to the back
11 of there. There is no other way.

12 Q. Okay. So let's get back to the house itself. You
13 said you came into the back door where the dog door was
14 right?

15 A. Yes sir, I did.

16 Q. So when you do that you end up in the living room.

17 A. Yes, sir.

18 Q. So the items that you heard Mr. Franks talk about
19 that were getting stolen were from the back master
20 bedroom.

21 A. Yes sir, they was.

22 Q. Okay.

23 [Whereupon, the photograph is shown]

24 Q. And you saw this open window. We've been showing
25 pictures of that with the blind.

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1 A. Yes sir, I did.

2 Q. And that's not you lifting that up and then lifting
3 the blinds so you could get in the window that way?

4 A. No sir, I did not.

5 Q. Okay. How about that screen that is laying in the
6 grass. You didn't knock that out either?

7 A. Yes sir, I did. I opened the window but I didn't
8 enter through the window. I opened the window once I
9 actually had gotten in the house.

10 Q. And what were you doing at the back window there in
11 the back bedroom?

12 A. Trying to look out the window to see the street.

13 Q. And that's when you decided to rummage around in the
14 bedroom and look for money and take jewelry?

15 A. Well, actually as you can see it's a stand right by
16 the window and that's where it was an envelope at that I
17 saw the money.

18 So after I actually pushed the window out I saw that
19 envelope out and I grabbed it. And like I said I let
20 temptation get the best of me which was a very bad
21 decision but I started to search.

22 Q. And this picture here where we see Mr. Franks
23 Officer West said you were in there and saw him and then
24 took off down the hall. So you saw the police that day
25 didn't you since the window is in close proximity to that

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1 hallway?

2 A. No, sir. Actually sir I actually heard the police
3 radio. That's what made me; I didn't see them.

4 Q. Okay.

5 [Whereupon, the photograph is shown]

6 Q. And here you are in the bathroom taking the jewelry
7 from the jewelry case up in that corner [indicates],
8 correct?

9 A. Correct.

10 Q. Where was the purse when you took it? Whereabouts
11 was that located?

12 A. It was on the same nightstand. Everything I had
13 came from two areas; the nightstand or from that jewelry
14 box.

15 Q. You didn't go upstairs in the frog or those other
16 rooms?

17 A. No, I didn't go to any other room.

18 Q. And again when you heard that police radio clicking
19 it was in the backyard, right? Is that where you heard
20 the radio?

21 A. To be honest I don't know what I heard but I think I
22 heard it because the window was up so I heard it. I know
23 I heard a radio.

24 Q. So they were in the back of the house as Officer
25 West said he was on the radio. So you knew the police

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1 were in the back of the house but you didn't call out to
2 them and say hey, I'm in here. I'm being chased by
3 someone who is after me.

4 A. No, I did not.

5 Q. At that time you could have put the money back and
6 the purse down and you wouldn't have anything in your
7 possession, right?

8 A. Right.

9 Q. But instead you decided to run out the front door
10 past Officer Ranck and then across the street until you
11 were captured, is that correct?

12 A. An extremely bad decision but yes it is correct,
13 sir.

14 Q. It doesn't sound like actions of someone who is in
15 fear that someone is after you.

16 MR. LEWIS: Objection.

17 THE COURT: Basis?

18 MR. LEWIS: Again, he's making an editorial comment
19 not asking questions.

20 THE COURT: Sustained. Rephrase the question.
21 Ladies and gentlemen disregard the question. Give it
22 absolutely no consideration in your deliberations. You
23 may proceed, Mr. Bourdon.

24 MR. BOURDON: Thank you. One moment please.

25 [Whereupon, Mr. Bourdon and Mr. Condon confer]

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1 Q. [Mr. Bourdon] So I want to get back to the gloves.

2 What was the purpose of putting those on at that point?

3 A. To conceal I guess my identity, sir.

4 Q. And about your identify did you tell the police your
5 name?

6 MR. LEWIS: Objection, Your Honor.

7 THE COURT: Basis?

8 MR. LEWIS: Again, this is now ---

9 THE COURT: --- please approach. No speaking
10 objections.

11 MR. LEWIS: Yes, Your Honor.

12 [Whereupon, an off the record bench conference is
13 held]

14 THE COURT: Ladies and gentlemen, we'll take a
15 brief restroom break. Please go into your jury room and
16 do not discuss the case. Leave your notepads in your
17 seats.

18 [Whereupon, the jury exits at 4:50 p.m.]

19 THE COURT: Now repeat the question again, Mr.
20 Bourdon?

21 MR. BOURDON: Your Honor, I think I asked him if he
22 told the police what his name was.

23 THE COURT: At the time of his arrest?

24 MR. BOURDON: Right. At the time he was arrested.

25 THE COURT: Did they Mirandize him at the time of

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1 his arrest?

2 MR. BOURDON: Yes, Your Honor.

3 THE COURT: And for what purpose are you eliciting
4 this information?

5 MR. BOURDON: Your Honor, I think I'll withdraw the
6 question.

7 THE COURT: Okay. We'll be at ease for a few
8 moments while the juror avails herself of the facilities.
9 Sir, do you need to go to the restroom?

10 THE WITNESS: No, but could I please speak to my
11 lawyer?

12 THE COURT: As long as you don't discuss your
13 testimony. You can talk to him; you just can't discuss
14 his testimony.

15 MR. LEWIS: Since I'm the one doing the questioning
16 maybe Mr. Smit should ---

17 THE COURT: --- that works. Do you need to go into
18 your room to talk to him, sir or do you feel comfortable
19 talking to him right there?

20 MR. HAYNES: It's up to you, ma'am.

21 THE COURT: It's up to you. Your comfort level is
22 what I need to ascertain. While we're taking a break go
23 ahead and take him in there please.

24 [Whereupon, Mr. Smit confers with the defendant]

25 [Off the record momentarily]

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1 THE COURT: Sir, stay at counsel table for me.
2 We're going to go ahead and break for the evening because
3 it's just a few minutes before 5:00. I mean do you have
4 questions to go until 5:00 with him or do y'all think
5 it's a good time to break ---

6 MR. BOURDON: --- we could just pick up in the
7 morning.

8 THE COURT: Why don't we just pick up in the
9 morning?

10 [Whereupon, the jury enters at 4:56 p.m.]

11 THE COURT: Ladies and gentlemen we've decided to
12 take advantage of this break in testimony to take our
13 evening recess. During the break please do not discuss
14 this case in any manner whatsoever. Please do not have
15 any contact with anyone when you return to the courthouse
16 in the morning. You will follow the same routine by
17 returning directly to your jury room.

18 As soon as everyone has arrived we will then resume
19 testimony. I anticipate that we will conclude this case
20 on tomorrow. I just tell you that for your planning
21 purposes. Hopefully I won't have to eat crow but it has
22 happened in the past but I anticipate that we will finish
23 the case on tomorrow. We may probably order lunch for
24 you tomorrow. I'll check with my Clerk and see if we can
25 do that. If we are going to order lunch we will have

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1 menus for you in the morning to make your selections
2 before we resume testimony. Please do not read, watch,
3 or listen to any media accounts if there are any. Please
4 don't do any independent research on the Internet.
5 Please don't make any comments regarding your jury
6 service on any social networking sites. If you will
7 stack your notepads on that banister as you leave we will
8 secure them for the evening recess. Hope you all have a
9 great evening. We will see you in the morning at 9:30.

10 [Whereupon, the jury exits at 4:57 p.m.]

11 THE COURT: I am anticipating that probably Mr.
12 Haynes testimony at worst will take another 30 minutes?

13 MR. BOURDON: Yes, Your Honor.

14 THE COURT: What I'm thinking between them
15 finishing cross and you doing redirect if there is any.
16 Is the State going to have any rebuttal witnesses?

17 MR. BOURDON: Perhaps, Your Honor.

18 THE COURT: How long would those be if you have
19 any?

20 MR. BOURDON: I think 30 minutes or less.

21 THE COURT: So I'm thinking we may close and charge
22 before lunch. What do y'all think or at least after
23 lunch. Either way why don't we just go ahead and plan
24 for lunch at 12:30 and just get their orders. Anything
25 from the State before we adjourn for the evening?

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1 MR. BOURDON: No, Your Honor.

2 THE COURT: Anything from the defense?

3 MR. LEWIS: No, Your Honor.

4 THE COURT: If y'all could make sure that the court
5 reporter has all of the exhibits that they're not on
6 anybody's table. We have to collect all that so if y'all
7 could make sure she has them all. Check your tables to
8 make sure you don't have anything so that we can account
9 for everything.

10 Sir, during the break you can talk with your
11 attorneys but please don't discuss your testimony, okay.

12 MR. HAYNES: Yes, ma'am.

13 THE COURT: Y'all have a good evening and I'll see
14 you in the morning at 9:30.

15 [Whereupon, all counsel and the court reporter
16 confer regarding the exhibits]

17 [Whereupon, court is adjourned at 5:00 p.m.]

18

19

20

21

22

23

24

25

State v James Anthony Haynes
Certificate of the Court Reporter
July 11, 2017

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of General Sessions for Charleston County,
South Carolina on the 11th day of July, 2017.

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

October 1, 2017


Joyce C. Rueger, CVR-M
Court Reporter

Certified Transcript provided to SCCID, Appellate
Defense.

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF CHARLESTON	)	DOCKET NO. 2015-GS-10-4790
	)	2015-GS-10-4793
	)	2015-GS-10-4794
	)	2015-GS-10-4795
	)	
STATE OF SOUTH CAROLINA	)	
	)	
	)	
vs.	)	
	)	
	)	
JAMES ANTHONY HAYNES	)	
	)	
Defendant	)	
	)	
	)	
	)	
	)	TRANSCRIPT OF RECORD

July 12, 2017
Charleston, South Carolina

Volume 3 (of 3)

B E F O R E:

THE HONORABLE DEADRA JEFFERSON, JUDGE

A P P E A R A N C E S:

MARK BOURDON, ESQ.
CHARLES CONDON, ESQ.
Attorneys for the State

BEN LEWIS, ESQ.
NICK SMIT, ESQ.
Attorneys for the Defendant

JOYCE C. RUEGER, CVR-M
Circuit Court Reporter

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STATE

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COURT

<u>No.</u>	<u>Description</u>	<u>Marked / Admitted</u>	
2	State's request Charge	421	

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PROCEEDINGS

[Whereupon, State's exhibit numbers 67 through 70
are marked by the court reporter]

THE COURT: Good morning. While we're waiting for
the jury are there going to be any requests for any
lesser included offenses from the defense?

MR. LEWIS: No, Your Honor.

THE COURT: Okay. Are there any other requests
you all need me to consider while we're completing his
testimony?

MR. BOURDON: Your Honor, I have -- Officer Ranck
was able to go to the North Charleston Police Department
and ---

THE COURT: --- let me do one thing at a time. Are
there going to be any other requests for instructions
that I need to consider while we are finishing up this
witness?

MR. BOURDON: Yes, Your Honor. I have a request to
charge with intent to commit a crime with respect to the
burglary.

THE COURT: Sure. I'll be glad to look at it. Do
you have a copy for Mr. Lewis?

MR. BOURDON: I showed it to him.

THE COURT: Do you need a copy?

MR. LEWIS: I'll deal with that later. I'll let

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1 you review it first.

2 MR. BOURDON: May I approach?

3 [Whereupon, Mr. Bourdon provides documents to the
4 court]

5 THE COURT: Thank you, sir.

6 [Whereupon, the court reviews documents]

7 THE COURT: That first part is already black letter
8 so ---

9 MR. BOURDON: --- the second part is what I was
10 actually wanting the court to consider.

11 THE COURT: I'll have to look at the case and see
12 if that's the actual holding or if that is different.
13 Anything else we need to take up regarding the jury
14 charge before I move to the next topic?

15 MR. BOURDON: No, Your Honor.

16 MR. LEWIS: No, Judge.

17 THE COURT: We're going to have a charge conference
18 but if there is something that I need to study in advance
19 I would like to do that instead of having to on the back
20 end. All right. Did you get the information you said
21 you were going to try to look for?

22 MR. BOURDON: Yes, Your Honor. Officer Ranck was
23 able to go to North Charleston. We have a certified copy
24 of his ticket where he was found guilty in his absence, a
25 certified copy of his bond notification, and his

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1 notification of his court date.

2 THE COURT: Notification of what?

3 MR. BOURDON: His court date.

4 THE COURT: Let me see it, please.

5 MR. BOURDON: May I approach?

6 THE COURT: Yes.

7 MR. BOURDON: I've shown it to Mr. Lewis.

8 [Whereupon, Mr. Bourdon provides documents to the
9 court]

10 [Whereupon, the court reviews documents]

11 THE COURT: So what was the penalties? I'm
12 curious; they don't have that listed on here or am I
13 missing it?

14 MR. BOURDON: Your Honor, Magistrate level offenses
15 are 30 days ---

16 THE COURT: --- I understand that but what do they
17 do? I know what we do when somebody is tried in their
18 absence; what do they do? We sentence you and seal it
19 and issue a bench warrant. What do they do?

20 OFFICER RANCK: Same difference.

21 THE COURT: Same thing?

22 OFFICER RANCK: Yes, ma'am.

23 THE COURT: So they do what; 30 days and 500
24 dollars and issue a bench warrant?

25 OFFICER RANCK: If you look at the bottom of that

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1 ticket there might be a fine written on the bottom of the
2 ticket.

3 THE COURT: Oh, 470.

4 OFFICER RANCK: Yes, ma'am. That would be the fine
5 they would find and they would issue a bench warrant to
6 pay this fine or ---

7 THE COURT: --- or do the 30 days?

8 OFFICER RANCK: Yes, Your Honor.

9 THE COURT: Do you know if they issued a bench
10 warrant? I'm just curious.

11 OFFICER RANCK: Yes, Your Honor. According to that
12 court case the warrants were served at Charleston County
13 Detention Center ---

14 THE COURT: --- once he was arrested on this?

15 OFFICER RANCK: Yes, Your Honor.

16 MR. BOURDON: And Your Honor as I mentioned earlier
17 he was ---

18 THE COURT: --- I need to read right quick and then
19 you can tell me that.

20 [Whereupon, the court reviews documents]

21 THE COURT: Okay. What were you going to tell me?

22 MR. BOURDON: Your Honor, just to note that he was
23 arrested on that on 6-19 of 2014 and was bonded out on 6-
24 22 of 2014 so he wasn't in at least Charleston County
25 Detention Center ---

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1 THE COURT: --- what did they do with that bond
2 that he posted the 1,300 dollars?

3 MR. BOURDON: Your Honor I believe -- I'm not sure
4 what the distinction was but I have a pending habitual
5 traffic offender and gun charges ---

6 THE COURT: --- it was just a 1,300 PR bond? This
7 bond form says the defendant will provide good and
8 sufficient surety -- it was a surety bond -- approved by
9 the court in the form hereinafter set forth acknowledging
10 an indebtedness to the State in the amount of 1,300
11 dollars. So he would have had to have posted the 1,300
12 dollars or have a bondsman post the 1,300 dollars. Do
13 you know what happened, Mr. Lewis?

14 MR. LEWIS: My understanding is he paid a bondsman,
15 Judge.

16 THE COURT: Okay. Now are there any objections to
17 the State impeaching Mr. Haynes with this false
18 information to police conviction?

19 MR. LEWIS: No, Judge.

20 THE COURT: Okay. That resolves it. Mr. Haynes,
21 if you could retake the stand for me, sir I'll remind you
22 you are still under oath.

23 [Whereupon, Mr. Haynes returns to the witness stand]

24 MR. BOURDON: Your Honor, I still have four new
25 exhibits that I had marked ---

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1 THE COURT: --- which are? Did you agree to those?
2 Have you seen them?

3 MR. LEWIS: I've seen them.

4 THE COURT: What are they?

5 MR. LEWIS: He's just wanting to expand sort of on
6 the cross since he had the night to kind of work on it.

7 THE COURT: That's what happens unfortunately ---

8 MR. LEWIS: --- I know ---

9 THE COURT: --- that's why I like to try to
10 complete stuff but it is what it is. What is it that
11 you'd like to --- what are the four exhibits?

12 MR. BOURDON: There are four aerial maps of the
13 area.

14 THE COURT: Do you have any objection to those
15 exhibits?

16 MR. LEWIS: No, Judge.

17 THE COURT: What numbers are they Mr. Bourdon?

18 MR. BOURDON: They are 67, 68, 69, and 70.

19 THE COURT: So 67 through 70?

20 MR. BOURDON: Yes, Your Honor.

21 THE COURT: Those will be marked and admitted
22 without objection.

23 [Whereupon, State's exhibit numbers 67 through 70
24 are entered into evidence by the court]

25 THE COURT: Is there anything else we need to take

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1 up before we resume with cross-examination from the State
2 or the defense?

3 MR. BOURDON: No, Your Honor not at this point.

4 MR. LEWIS: [Nods negatively]

5 THE COURT: Just so the record is clear Mr. Bourdon
6 has provided the court with a uniform traffic ticket
7 which indicates that Mr. Haynes was tried in his absence
8 on July 10th of 2014, that a 470 dollar fine was imposed.
9 In compliance with State law he was also provided with
10 notice of his trial in absence which it appears, which
11 his signature appears on that document indicating that it
12 has been explained to me that if I fail to appear before
13 the court as required a warrant for my arrest will be
14 issued.

15 I understand and I have been informed that I have a
16 right and obligation to be present at trial and should I
17 fail to attend the court the trial will proceed in my
18 absence. And he was notified at that time that his court
19 date in the Municipal Court of North Charleston was
20 Thursday, July 10th of 2014 at 10 a.m. and that if the
21 matter did not go forward he would be notified of an
22 additional trial date.

23 MR. BOURDON: Thank you, Your Honor.

24 THE COURT: You're welcome. And of course you
25 recognize that you are limited to asking about the

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1 offense and if he denies it then you get to use this
2 certified copy.

3 MR. BOURDON: Yes, Your Honor. Thank you.

4 THE COURT: All right. Is the State ready to
5 proceed?

6 MR. BOURDON: Yes, Your Honor.

7 THE COURT: Defense ready to proceed?

8 MR. LEWIS: Yes, Your Honor.

9 THE COURT: Sir, if you will retake the stand for
10 me? Again I remind you, you are still under oath.

11 [Whereupon, Mr. Haynes comes forward]

12 THE COURT: You can bring in the jury for me.

13 [Whereupon, the jury enters at 9:54 a.m.]

14 THE COURT: Good morning ladies and gentlemen. I
15 hope that you all had a pleasant evening. We are now
16 going to resume the cross-examination of the witness. I
17 would ask that you give counsel your attention. You may
18 proceed, Mr. Bourdon.

19 MR. BOURDON: Thank you, Your Honor.
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State v James Anthony Haynes
James Haynes-Cross-Examination by Mr. Bourdon (resumes)
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1 JAMES HAYNES,
2 Having been previously duly sworn,
3 Was examined and testified as follows:
4 CROSS-EXAMINATION (resumes)
5 BY MR. BOURDON:
6 Q. Mr. Haynes, let's get back to your testimony
7 yesterday. We kind of went through the events and I want
8 to kind of focus a little bit more on what had happened
9 on that day. What were your living arrangements at the
10 time? Where were you living?
11 A. I was staying across the street in Archdale Forest.
12 Q. And Archdale Forest do you see that on the map here
13 [indicates]?
14 [Whereupon, the photograph is shown]
15 A. It's kind of blurry.
16 Q. How about down there [indicates]? Is that where
17 Archdale Forest is?
18 A. Yes.
19 Q. Now on this map you agree this is the house that you
20 were found in on Elderberry Street, correct?
21 A. Yes, I believe so if you can zoom in a little bit.
22 Q. Okay.
23 [Whereupon, Mr. Bourdon adjusts the photograph]
24 Q. Does that work for you?
25 A. Yes, sir.

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1 Q. So Archdale Forest is down here [indicates] on the
2 map, isn't that correct?

3 A. Yes, sir.

4 Q. And then the house is up here [indicates]?

5 A. Yes, sir.

6 Q. So who were you living with at this house in
7 Archdale?

8 A. Well, the girlfriend I was dealing with back then;
9 that I no longer deal with now.

10 Q. What was the address of that place?

11 A. I can't even remember, sir to be honest with you.

12 Q. And did you keep the gun there?

13 A. Yes I did, sir.

14 Q. Now tell us about your morning that day. You said
15 you were working at a landscape company. What landscape
16 company was that?

17 A. I was working for a guy -- do you know where
18 Evergreens is in Goose Creek?

19 Q. Okay.

20 A. Well, things were getting kind of slow around that
21 time. It wasn't slow for everybody but just for me
22 because I wasn't really qualified for doing everything
23 that they was doing because they were working on the
24 military base and stuff like that around those days.

25 Q. How many hours a week did you work there?

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1 A. Like almost 40, 30ish. It just depends; you know we
2 didn't have set days. It depends on when we finished our
3 work.

4 Q. Who was your supervisor for that?

5 A. It was actually my father.

6 Q. And you're telling us you had Tuesday off in May of
7 2015?

8 A. Yes, sir.

9 Q. Was that a normal day to take off? It was a good
10 day to landscape wasn't it; it was sunny and clear out?

11 A. Yes, sir. But it was certain places that they used
12 to go that I wasn't certified to go on.

13 Q. Okay. So let's talk about your day. What time did
14 you get up?

15 A. Honestly sir I can't remember.

16 Q. When do you think you left the house?

17 A. I can't remember, sir.

18 Q. Okay. Let's kind of put it in perspective. The
19 police caught you about 11:50 in the morning down at this
20 house at Elderberry Circle so why don't you get the jury
21 through what time you got up until the time you got
22 caught by the police.

23 A. Well, I was actually hanging out at a friend's house
24 earlier who lives on Suzanne Street because like I said I
25 know a lot of people around the area because I was

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1 actually raised up in that neighborhood. And I decided
2 to see if there was some people at the skate park; well,
3 we just called it like a little hang out area.
4 Q. And you had the gun with you when you left the house
5 right?
6 A. Yes sir, I did.
7 Q. And how about the rubber gloves? Did you get them
8 from the house?
9 A. I can't remember sir to be honest with you.
10 Q. And who were you with at the house on Suzanne
11 Street?
12 A. A couple of friends of mine. Two of my friends like
13 they're girlfriends.
14 Q. Okay. Suzanne Street is right here [indicates] is
15 that correct?
16 A. Yes sir, it is.
17 Q. Whereabouts -- can you kind of give us an idea of
18 where their house was in relation on this map as far as
19 where the house was on Suzanne?
20 A. It would be on the left hand side of Suzanne -- on
21 the right hand. The left side because it goes across two
22 -- on the left side but on the right hand side of the
23 street.
24 Q. Okay. How far -- closer to Purcell or to Forest
25 Hills?

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1 A. Close to Purcell.

2 Q. How long did you stay at that house?

3 A. I can't remember. It had to be like 30 minutes to

4 an hour; not long you know.

5 Q. So then you left the Suzanne Street house to go

6 where?

7 A. To go to the skate park.

8 Q. And there is no skating that goes on back there is

9 there?

10 A. Not really. But like I said biking and stuff like

11 that.

12 Q. Okay. And who is down there biking at 11:30 or

13 11:50 in the morning?

14 A. All types of people.

15 Q. Okay. And in fact that area you can see it on the

16 top of the map isn't it; that sandy area up at the top of

17 the picture [indicates]? Is that the area you're talking

18 about?

19 A. Yes, sir. Not the area as far as to the right hand

20 side but to the left hand side.

21 [Whereupon, the photograph is shown]

22 Q. So tell us where you were going that day.

23 A. To the area -- do you see where it says Lumber Road

24 and Spring Creek? The area behind that area, not the one

25 behind where it says Kingston because it's like different

State v James Anthony Haynes
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1 terrain; the one behind this area [indicates] is kind of
2 like hills and stuff like that.

3 Q. Okay. And does that look like how it looked back
4 in 2015?

5 A. I can't really tell from that map to be honest with
6 you, sir.

7 Q. So you decided to walk down from Suzanne over to
8 Purcell down Ruff Road, isn't that correct?

9 A. You can say that I walked up Purcell and turned down
10 I don't know if it's Rosalyn [phonetic]. There's only
11 one road that you can actually get to from Pepper Tree to
12 this neighborhood but it's actually a road. It is
13 Rosalyn [phonetic]; that middle street right there
14 [indicates].

15 Q. Okay. And what do they do back in that area where
16 you're talking about, the skate park?

17 A. To hang out and ride dirt bikes, park cars; just
18 hang out.

19 Q. And did you have a car at the time?

20 A. I did not.

21 Q. Did you have a dirt bike?

22 A. I did not.

23 Q. Or a bike?

24 A. I did not.

25 Q. So you're going to go down where people allegedly

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1 ride motorcycles and dirt bikes ---
2 A. --- yes, I was and hang out.
3 Q. And the kids are the ones, if they are back there,
4 are riding their bikes not grown men; isn't that true?
5 A. No, kids don't be back there at all.
6 Q. At the time this happened you were 28 years old
7 right?
8 A. Yes, sir.
9 Q. You also told us about your electric business. Tell
10 us about your electric business.
11 A. No, I didn't own a business. I worked with someone
12 who actually he had an electric business and he taught me
13 how to you know wire things and I used to help him out.
14 Q. Who's that?
15 A. A guy named Bob.
16 Q. And where is Bob's office?
17 A. Well, he has an office off of Rivers Avenue.
18 Q. Why weren't you working there that day?
19 A. He didn't ask me. He didn't need me.
20 Q. And you were wearing a white t-shirt and black
21 shorts. What kind of shoes did you have on?
22 A. I honestly can't remember sir to be honest with you.
23 Q. And did you need the rubber gloves to go down to the
24 dirt park?
25 A. No, I did not.

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- 1 Q. But you had those in your pocket with you?
- 2 A. Once again I honestly can't remember.
- 3 Q. Well, they got on your hands at some point that
4 morning didn't they?
- 5 A. Yes they did apparently.
- 6 Q. And they weren't from the house so obviously you had
7 them in your possession isn't that true?
- 8 A. Sir, I honestly can't remember. It was two years
9 ago. I'm trying but...
- 10 Q. And you've had two years to think about this because
11 it's a pretty important day, isn't it?
- 12 A. Say that again, sir.
- 13 Q. You've had two years to think about this because
14 it's a pretty important day for you and for the State
15 isn't it?
- 16 A. It is.
- 17 Q. So you told the jury yesterday that there was a
18 truck that you were in fear of.
- 19 A. Yes sir, there was.
- 20 Q. What's the deal with this truck? What was the first
21 time it became an issue for you in the past?
- 22 A. Well ---
- 23 Q. --- linking it to what happened this day?
- 24 A. It was probably like I said two or three weeks prior
25 to the incident.

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1 Q. What happened two or three weeks prior?

2 A. Well, over on Corley [phonetic] Drive I have an aunt
3 that stays over there. And behind my aunt's house they
4 have they got some type of operation and I don't know if
5 they are selling drugs or whatever and in front of her
6 house there are some guys who use drugs so they're always
7 jumping her fence just to go do their transaction.

8 So I got into it with some guys behind that telling
9 them don't be jumping my aunt's fence just to do their
10 things. And some other people got involved and that
11 night a truck very extremely similar, I believe the exact
12 same truck, came around and some guys jumped out and they
13 told me to come there so I was coming.

14 And I said that one of the guys had like a towel
15 around his face and he started shooting at me and I ran.
16 And I believe that they chased me but I got away.

17 Q. Did you report that to the police?

18 A. I did not.

19 Q. Why not?

20 A. Well actually sir because I had warrants for
21 previous if I'm not mistaken the false information ticket
22 that I had gotten.

23 Q. You've been convicted of false information to police
24 from that incident on the 10th of July of 2014, correct?

25 A. I believe so, that was the date.

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1 Q. And you were found guilty of that in court, right?

2 A. Yes, sir.

3 Q. And that's not the first time you've said about
4 getting shot. Tell us about these other times.

5 A. I actually didn't get shot that time; I just got
6 shot at.

7 Q. How many other times have you been shot at?

8 A. A couple sir but I've only actually been shot twice.

9 Q. When were those times?

10 A. One was a couple of years ago and one was a couple
11 of months before the actual incident.

12 Q. Okay. What were those about? What was the first
13 one about?

14 MR. LEWIS: Objection, Your Honor.

15 THE COURT: Basis?

16 MR. LEWIS: Relevance.

17 THE COURT: Please approach.

18 [Whereupon, an off the record bench conference is
19 held]

20 THE COURT: The objection is sustained. Character,
21 prior bad acts not the subject of --

22 Q. [Mr. Bourdon] Mr. Haynes, in that first shooting
23 that you talked about a couple of years before that did
24 that have anything to do with a truck with the people
25 that you thought were involved ---

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- 1 A. --- which shooting, sir?
- 2 Q. The one that you said was a couple of years ago?
- 3 A. No, no it did not.
- 4 Q. And you were shot a second time. When was the
- 5 second time that you were shot?
- 6 A. Like nine months before the incident.
- 7 Q. Okay. And how long would that have been in
- 8 relation to this incident here from May of 2015?
- 9 A. Like nine months, sir.
- 10 Q. Okay. Does that have anything to do with the
- 11 person that you were involved with with this white truck?
- 12 A. Not to my knowledge, sir.
- 13 Q. And with respect to the white truck incident with
- 14 your aunt's house if you will how far away was that from
- 15 the incident for the burglary that you were charged with
- 16 from May the 26th?
- 17 A. It was actually right around the corner because ---
- 18 Q. --- in terms of time?
- 19 A. It was like three weeks before but it was at night
- 20 time so.
- 21 Q. Did you get a look at the people that were involved?
- 22 A. I did not sir, but I got a good look at the truck.
- 23 Q. And you said yesterday how many doors were the
- 24 truck? Was it a two door truck or a four door truck?
- 25 A. Probably like a four door.

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1 Q. What color was it again?

2 A. It was beige champagne color; lightish.

3 Q. So it wasn't a white truck?

4 A. No sir, it wasn't.

5 Q. And when you say champagne do you see something in
6 the room that kind of looks like that color?

7 A. It's almost is like this desk. It's very light but
8 it was dark like it was night time so I don't know to be
9 honest with you.

10 Q. Then you started walking down Ruff Road and then at
11 some point you jumped a fence into this backyard isn't
12 that true?

13 A. Yes, sir.

14 Q. And why did you decide to go into that yard?

15 A. Because -- I don't know if you can enhance the
16 picture -- like I said as I was walking down the street
17 and I realized I was being followed and the truck wasn't
18 ever passing me it made me extremely nervous.

19 So when it actually did pass me I was almost to this
20 fence but it was actually trying to make a U-turn so I
21 took that advantage, that opportunity just to try to get
22 out of sight of the vehicle.

23 [Whereupon, the photograph is shown]

24 Q. Okay. Now the house that you were found at is
25 right here, correct?

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1 A. Yes, sir.

2 Q. At that point once you got over that fence you had a
3 number of options to get away from that truck if they
4 were in fact a threat to you.

5 A. Yes, I did sir.

6 Q. Okay. You could have gone into this yard
7 [indicates], you could gone over this fence [indicates]
8 into another yard. You could have gotten onto
9 Elderberry. You could have gone back and gone through
10 High Maple and gone back to those dirt piles that you
11 talked about, correct?

12 A. Correct.

13 Q. But you didn't do any of those things.

14 A. No sir, because as I said before at the first
15 incident they actually got out the truck and chased me so
16 I wasn't trying to get into another chase but I was
17 actually trying to hide so that's why I got up against
18 the fence and laid down.

19 Q. And then someone came by and you said there are
20 number of trucks that look like that right? I mean a
21 white Ford truck is a pretty common truck.

22 A. Yes, sir.

23 Q. The truck that came by you no one rolled down the
24 windows or threatened you or called your name did they?

25 A. No, sir.

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1 Q. And no one -- they weren't driving at a high rate of
2 speed and they didn't try to swerve and hit you on the
3 street did they?

4 A. No sir neither did the first truck though. They was
5 actually following and creeping behind me in the exact
6 same fashion almost.

7 Q. And it's as likely that truck was the neighborhood
8 that was calling 911 that saw you go over the fence ---

9 MR. LEWIS: --- objection, Your Honor.

10 THE COURT: Basis?

11 MR. LEWIS: Speculation.

12 THE COURT: Sustained. He has no rational
13 perception or knowledge of that; speculation and lack of
14 foundation.

15 Q. [Mr. Bourdon] You don't know if that truck was the
16 same truck that was involved that night was it? You
17 can't say for sure.

18 A. Right now at this point sir I really honestly don't
19 know.

20 Q. Okay. So your response at seeing that truck was to
21 jump over the fence and then get into the house on
22 Elderberry Street, correct?

23 A. Well, that's what happened but that wasn't exactly
24 what I planned on doing.

25 Q. So what you did was you went in that yard to go

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1 break into the house isn't that really true?

2 A. No sir, it's not.

3 Q. You put the gloves on and you went into the house
4 and then you stole the items inside.

5 A. No sir, I did not.

6 Q. Well, the dog door you didn't know about the dog
7 door did you?

8 A. No, I did not.

9 Q. Okay. You could have gone -- you saw pictures of
10 that house -- you could have gone and hid in those bushes
11 if you were really trying to get away from somebody and
12 you could have gotten over those other fences like I
13 said, right?

14 A. No sir, I don't think that would have been possible
15 from the angle of the street where the truck was parked
16 at because it did actually stop right there.

17 Q. Okay.

18 A. I'm pretty sure if I went any further they would
19 have been able to see me.

20 Q. Okay.

21 [Whereupon, the photograph is shown]

22 Q. You see that picture that's of the backyard right?

23 A. Yes, sir.

24 Q. And you can see in that back corner there is plenty
25 of area where there are bushes and so forth to hide in if

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1 you were just trying to hide somewhere.

2 THE COURT: Please identify the exhibit.

3 MR. BOURDON: That would be State's number 13, Your
4 Honor.

5 THE COURT: Thank you.

6 Q. [Mr. Bourdon] What you really did was you went into
7 that back corner and then popped the screen and climbed
8 in that back bedroom window isn't that true?

9 A. No sir, I did not.

10 Q. Okay. Your story is you climbed in through the dog
11 door?

12 A. Yes, sir.

13 Q. And then you went all the way down the hall into the
14 living room down that hall back in that back bedroom, is
15 that correct?

16 A. Yes, sir.

17 Q. So you weren't hiding at that point; you were
18 searching for property in that house weren't you?

19 A. No sir, I wasn't until I actually got to the window
20 and saw -- but if you have a picture of the window you'll
21 see it has a safety latch where you can't even -- do you
22 have the exhibit of the window, of the open window?

23 Q. I know what you're talking about ---

24 A. --- I didn't go into the window ---

25 Q. --- the victim doesn't know if he had that closed

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1 all the way. So if it's not completely locked you can
2 push it open from the outside, isn't that true?

3 A. Well I would presume so but he did say yesterday in
4 testimony that he knew that the window was closed and
5 locked if I'm not mistaken.

6 Q. I don't think he said that. But the point being you
7 had those rubber gloves on and you pulled the screen out
8 and you popped that window and you got in through the
9 bedroom and you took the items that you were caught with
10 outside, isn't that true?

11 A. No sir, that is not true.

12 Q. I believe you said yesterday that you opened the
13 window and popped the screen so you could look out who
14 was coming after you.

15 A. To look out and see if the truck was still in the
16 street.

17 Q. And you didn't need to pop that screen out to do
18 that. You could have lifted the shades and looked
19 through the window at that point, isn't that true?

20 A. No, sir. Actually from that window you can't just
21 standing there looking out the window you can't see the
22 street and the fence right there ---

23 Q. --- exactly ---

24 A. --- you actually have to look out a little bit
25 because if you can see where this white thing is at

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1 [indicates] it's kind of pushed out kind of so you can't
2 just stand right there from a window and so you actually
3 have to look out of it ---

4 Q. --- if you wanted to look out to the street you
5 could have gone up to the frog which is right here
6 [indicates] isn't that true? You could have had a good
7 view of the street and the whole area.

8 A. Yes sir, but I wasn't trying to case the whole
9 house.

10 Q. You just cased the back bedroom and took the items
11 from that bedroom right?

12 A. I actually didn't case it but that was the first
13 place I went and the only place I went.

14 Q. How did you know there was a dog door there? If you
15 in fact went through the dog door how did you know that
16 was there?

17 A. Because I was kneeled down, I was crouched down.

18 Q. Had you been to the house before and know there is a
19 dog door there?

20 A. No sir, I did not.

21 Q. And you had the gun on you when this car stopped
22 right? But again they didn't do anything untoward to
23 you. You don't know who was driving that truck did you?

24 A. No sir, I do not.

25 Q. And when you were coming down Ruff were you on the

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1 sidewalk or where were you walking; the middle of the
2 street, the side of the street?

3 A. I don't know if there is a sidewalk. Is it a
4 sidewalk? I know I wasn't in the street but I honestly
5 can't remember sir to be honest with you.

6 Q. And with respect to this gun that you said you
7 purchased why did you in fact call your friend to get a
8 gun?

9 A. Because I'd been shot at like the day before, the
10 night before.

11 Q. And who is the guy that you called for a gun?

12 A. One of my friends.

13 Q. What's his name?

14 A. A guy named Brian.

15 Q. Does he have a last name?

16 A. I don't know his last name, sir.

17 Q. And did Brian have a gun? Why did you call Brian to
18 get a gun?

19 A. To be honest I don't know if he had one or not. I
20 just inquired about trying to buy one and he told me that
21 he knew somebody who had some.

22 Q. Okay. And the guy that had some is this guy you
23 said his name was Ryan?

24 A. Yes, sir.

25 Q. Did you know Ryan?

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1 A. Not really but I knew him from around. I didn't
2 ever like hang out with him.

3 Q. And was Ryan a gun dealer or why did Ryan have a gun
4 for sale?

5 A. I don't know. He had a couple of them sir, not just
6 that one.

7 Q. Did he work at a gun store or what is the reason for
8 him having all these guns?

9 A. I have no idea, sir. But I know he goes to the gun
10 shows that's in the fair grounds. I know he goes to
11 those a lot.

12 Q. You didn't know him but you know that he goes to
13 these fairs and does gun shows.

14 A. Because I'm familiar with him I don't like hang out
15 with him.

16 Q. So where did you go get this gun at?

17 A. I met me at the Owner's Box. It's like a little
18 local bar.

19 Q. And when was that?

20 A. This was like the next day after I got shot at.

21 Q. And how long ago were you shot at from the time you
22 got caught here? Give us a timeframe again.

23 A. It was like two or three weeks before. Like I'm not
24 really sure about the exact date to be honest with you.

25 Q. And did he bring the gun into the bar?

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1 A. No, actually we met in the parking lot.

2 Q. How much did you buy it for?

3 A. I can't really remember sir but I know it's like 200
4 or 250 somewhere around -- 250 something.

5 Q. And you know that's a low price for a Glock isn't
6 it?

7 A. Well, I actually never bought a Glock.

8 Q. Okay. You know they're nice guns. You know it's
9 worth about 500 bucks at least right.

10 A. It was pretty nice. I don't know the exact price to
11 be honest with you, sir ---

12 MR. LEWIS: --- objection, Your Honor.

13 THE COURT: Basis?

14 MR. LEWIS: We're getting cumulative; asked and
15 answered.

16 THE COURT: It's already been asked and answered on
17 yesterday. Sustained.

18 Q. [Mr. Bourdon] But he's not your friend that he would
19 give you such a good deal on a gun like that is he?

20 A. I don't know if he needed the money but like I said
21 I don't hang out with him.

22 Q. You know you could have sold it for more if he went
23 to a pawn shop or something like that.

24 A. I doubt it. Pawnshops try to give you little or
25 nothing for anything you have.

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1 Q. And you never did check with the police on the
2 serial number to see if it was a legit gun or not did
3 you?

4 A. No sir, I didn't. But I had no reason to believe it
5 wasn't.

6 Q. So you had that gun in your pocket when you hopped
7 that fence and went into that house isn't that true?

8 A. I honest don't -- I had it on my person. I don't
9 know where it was at exactly.

10 Q. You don't know where you had this gun [indicates]
11 that has a flash light hooked to, a loaded gun with a
12 clip with nine rounds and one in the chamber and you
13 don't know where you had this on your person?

14 A. No sir, I doubt it was on my pocket because I had on
15 basketball shorts.

16 Q. How does this heavy gun stay in your pocket?

17 A. That's what I'm saying is I doubt it was in my
18 pocket.

19 Q. Well was it in your waistband?

20 A. Possibly sir. I honestly can't remember exactly
21 where it was.

22 Q. So you're walking down the street with this gun in
23 your waistband in your pocket someplace.

24 A. Yes sir, I was.

25 Q. All to go hang out with some people at this skate

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1 park that you can't name and don't know who was there.

2 A. No, I mean I never made it to the skate park. I
3 just showed you exactly where it's at.

4 Q. Did you need the gun when you go to the skate park?

5 A. Well, at the time I felt like I needed it everywhere
6 I went.

7 Q. So you needed it when you went in that house too,
8 didn't you?

9 A. No, I did not sir.

10 Q. How did you think you could be safe in that house if
11 the homeowner was in there because you know you can get
12 legally shot if you break into someone's house?

13 A. I know.

14 Q. Wasn't that a danger to you?

15 A. Yes sir, it was a terrible decision on my part.

16 Q. In fact you had guns so if you went in for the
17 burglary you'd have some protection if you needed it,
18 isn't that true?

19 A. Absolutely not, sir.

20 Q. And this whole story about being threatened by
21 somebody or being in fear because of this truck there is
22 no basis for that, is there?

23 A. Yes it is, sir.

24 Q. It's not the same truck is it?

25 A. I believe it is.

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1 Q. Now when the police came you knew they were at the
2 back of the house isn't that true?

3 A. Well, I heard -- I actually heard a radio. I heard
4 like some conversation over ---

5 Q. --- you knew it was the police that was there,
6 right? At some point you said that yesterday.

7 A. I'm just saying I heard the radio so I had a pretty
8 good feeling.

9 Q. And you actually looked out the window because the
10 screen was already knocked out. Did you see anybody out
11 there?

12 A. No, I didn't look out the window at that point.

13 Q. At some point we can all agree that you knew the
14 police were out there while you were still in the house.

15 A. Well, yes sir.

16 Q. And you didn't tell them or call out to them hey,
17 I'm in danger and I'm hiding in this house because of
18 this white truck.

19 A. No sir, I did not.

20 Q. And you had the opportunity to do that didn't you?

21 A. Yes sir, I did.

22 Q. When you came out the front door Officer Ranck was
23 out there. You had the same opportunity to tell him hey,
24 I'm just hiding out from some guys. You didn't do that,
25 you ran across the street didn't you?

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- 1 A. Yes sir, I did.
- 2 Q. And you were making a bee line for Mr. Thompkins
- 3 yard until you saw him in the backyard isn't that true?
- 4 A. I guess so. I can't remember exactly ---
- 5 Q. --- you came running out of the house. You didn't
- 6 walk out the house you ran out the house didn't you?
- 7 A. Yes I did, sir.
- 8 Q. And you saw Officer Ranck out in front of the house
- 9 as well didn't you?
- 10 A. No I didn't, sir. I saw him after he was behind me.
- 11 Q. So the way I understand this you were walking down
- 12 the street and you've got this loaded gun with ammunition
- 13 in it and this flashlight hooked to it.
- 14 You've got rubber gloves, you hop the fence go in
- 15 the house, take the property, take the rings, take the
- 16 jewelry, take the money run out of the house with the
- 17 rubber gloves on your hands and you're telling us none of
- 18 this happened and this isn't a burglary.
- 19 A. Oh no, sir. I'm not telling y'all that none of that
- 20 happened. That's not what I'm saying. A lot of that
- 21 happened.
- 22 Q. When you went into that house you intended to steal
- 23 items in that house ---
- 24 A. --- absolutely not, sir ---
- 25 Q. --- and that's why you had the rubber gloves on and

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1 that's why you ran from the police isn't that true?

2 A. No sir, that is not true.

3 [Whereupon, Mr. Bourdon and Mr. Condon confer]

4 MR. BOURDON: Thank you, Your Honor, no further
5 questions.

6 THE COURT: Any redirect for the witness?

7 MR. LEWIS: Yes, Your Honor.

8 THE COURT: You may proceed.

9 MR. LEWIS: Thank you, Judge.

10 THE COURT: You're welcome.

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James Haynes-Redirect Examination by Mr. Lewis
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1 REDIRECT EXAMINATION

2 BY MR. LEWIS:

3 Q. I want to get something out of the way real quick.
4 We talked about false information to police. It's
5 something called a TIA wasn't it ---

6 MR. BOURDON: --- objection, Your Honor.

7 THE COURT: Sustained. You cannot go beyond the
8 conviction. The rules are very clear. You ask is there
9 is a conviction and he gets to admit it or deny it and
10 that's the end of it. Sustained.

11 MR. LEWIS: Yes, Your Honor.

12 Q. [Mr. Lewis] Let's talk about yesterday's testimony
13 since we went over a lot of that again today. Again the
14 moment you went into the house were you doing that
15 because you wanted to steal from Gary Franks who was here
16 yesterday?

17 A. No sir, I did not.

18 Q. Why did you do it?

19 A. Because I was in fear for my life.

20 Q. Was it because I'm halfway in fear for my life and
21 I'm halfway wanting to steal from people?

22 A. No sir, not at all.

23 Q. Okay. Yesterday did you say that you were sorry
24 for this?

25 A. Definitely.

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1 Q. Are you embarrassed?

2 A. I am very embarrassed.

3 Q. Are you glad you did what you did?

4 A. No I'm not. I'm definitely not.

5 Q. Would you undo it if you could?

6 A. Yes, I would. And I just wish like I said that it
7 would be over so the man could get his stuff back. The
8 first time I ever saw him was yesterday. He seemed like
9 a real good guy and I don't want to put them through
10 that; put the family through that.

11 Q. When you ran from the police as you come out of the
12 house why did you run?

13 A. Because I had -- I felt like I had already committed
14 myself to a crime.

15 Q. But had you committed yourself to the crime when you
16 went through the doggie door?

17 A. No, I did not. I committed myself when I actually
18 saw the envelope -- well, I don't have the picture again
19 -- right by the window and there was a nightstand right
20 there and it had an envelope on it and it had money. I
21 could see the money in it and like I said I let
22 temptation get the best of me.

23 MR. LEWIS: Thank you. No further questions.

24 THE COURT: Sir, you may step down.

25 [Whereupon, the witness is excused and exits the

State v James Anthony Haynes
James Haynes-Redirect Examination by Mr. Lewis
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1 witness stand]

2 THE COURT: Anything further from the defense?

3 MR. LEWIS: No, Your Honor.

4 THE COURT: Does the defense rest?

5 MR. LEWIS: Yes, Your Honor.

6 THE COURT: Reserve motions. Any rebuttal

7 witnesses from the State?

8 MR. BOURDON: No, Your Honor.

9 THE COURT: Madame Forelady ladies and gentlemen
10 both the State and the defense have rested their cases.
11 I have some matters of law that I need to take up with
12 counsel. During this break please do not discuss the
13 case and please leave your notepads in your seats. The
14 next part of the process will be closing argument and
15 instruction. Again, I emphasize do not discuss the case
16 in any manner whatsoever. We appreciate your patience.
17 Leave your notepads in your seats please.

18 [Whereupon, the jury exits at 10:27 a.m.]

19 THE COURT: The defense has rested are there any
20 motions.

21 MR. LEWIS: Yes, Your Honor.

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State v James Anthony Haynes
Motion for Directed Verdict-Remarks by Mr. Lewis
July 12, 2017

1 MOTION FOR DIRECTED VERDICT

2 MR. LEWIS: At this time I renew my motion on the
3 same basis that you had yesterday in regards to directed
4 verdict supplemented now by the opportunity to hear James
5 himself exposing him to cross-examination in regards to
6 possession of a stolen firearm.

7 In particular there is still no evidence in the
8 record that he knew or should have known the suggestion
9 -- he is the only person that has provided any context to
10 having received the firearm around three weeks before the
11 incident. Other than that there is nothing that could
12 possibly connect the two. There is no suggestion that he
13 knew or had reason to know that it was stolen from Mr.
14 Neale's home. And because of that without any evidence
15 he should not have that charge continue forward.

16 Just the same arguments I made in regards to the
17 others previously, Judge. Oh, sorry; I will supplement I
18 understand it is the presence of the evidence and not the
19 strength of the evidence. But you've also heard from
20 James now in regards to his mindset and I think that that
21 speaks to the first element required burglary first --
22 sorry, entering with intention of committing a crime.
23 But entering part with the intention has been questioned
24 now by James. But nothing further, Judge.

25 THE COURT: Yes, sir. You may proceed.

State v James Anthony Haynes
Motion for Directed Verdict-Remarks by Mr. Bourdon
July 12, 2017

1 MOTION FOR DIRECTED VERDICT

2 MR. BOURDON: Thank you, Your Honor. With respect
3 to the stolen pistol Your Honor given his testimony that
4 it occurred two to three weeks prior to this burglary
5 would make it two weeks from the time that the weapon was
6 actually stolen. So the proximity to the possession of a
7 weapon that was recently stolen has even been
8 strengthened by his testimony.

9 In addition to that the circumstances in receiving
10 this would really make it a jury question of whether he
11 had that knowledge that the gun was stolen given the
12 circumstances of calling a friend of a friend and meeting
13 at a bar and purchasing the weapon for considerably less
14 than its market value would all be indicators that this
15 was a sketchy transaction and likely a stolen pistol.

16 So I think there is enough evidence to go to the
17 jury on that point. And with respect to the intent Your
18 Honor I think we've already addressed that so that to me
19 would be a jury call whether or not they believe his
20 intent or lack thereof for the burglary. Thank you, Your
21 Honor.

22 THE COURT: Anything further?

23 MR. LEWIS: Nothing further, Judge.
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State v James Anthony Haynes
Motion for Directed Verdict-Ruling by the Court
July 12, 2017

1 THE COURT: The court in considering a motion for
2 directed verdict is concerned with the existence or non
3 existence of evidence and not its weight. The court is
4 not the finder of fact. It is not within its prerogative
5 to weigh evidence, to parse out the creditability of
6 witnesses. And the court is required to construe the
7 evidence in the light most favorable to the State. And
8 taking those requirements into account and weighing them
9 appropriately as I'm required to do there is both direct
10 and substantial circumstantial evidence reasonably
11 tending to prove the defendant's guilt.

12 While arguably there is a lack of direct evidence
13 there is certainly substantial evidence from which the
14 jury can review the surrounding facts and circumstances
15 and determine if there is -- if those circumstances
16 amount to intent; that being the intent to commit the
17 crime before entering the residence. Or as he indicates
18 he did not formulate his intent until after he entered
19 the residence.

20 But those are all factual issues for the finder of
21 fact to resolve; not for me. I'm not a finder of
22 creditability. I'm not a finder of fact period. So it
23 is not within the court's prerogative to -- basically
24 what the defense is asking the court to do is act as the
25 finder of fact to weigh the relative creditability of the

State v James Anthony Haynes
Motion for Directed Verdict-Ruling by the Court
July 12, 2017

1 witnesses and basically render a verdict in this case,
2 which is not the appropriate standard for a directed
3 verdict. And while Mr. Lewis is correct that the court
4 is not required to -- evidence has to rise above mere
5 suspicion. The court does not have to find that it
6 eliminates -- they don't have to prove it beyond every
7 other reasonable hypothesis regarding the extent of the
8 offense, therefore the motion is denied. The renewed
9 motion is denied. Are we ready for charge conference?

10 MR. LEWIS: Yes, Your Honor.

11 MR. BOURDON: Yes, Your Honor.

12 THE COURT: Let me ask before we do that how long
13 does the State anticipate their closing to be?

14 MR. BOURDON: I'd say less than 30 minutes, Your
15 Honor.

16 THE COURT: And Mr. Lewis?

17 MR. LEWIS: I'd say about the same, Judge.

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State v James Anthony Haynes
Charge Conference
July 12, 2017

1 CHARGE CONFERENCE

2 THE COURT: I will give the jury a general
3 instruction regarding their responsibility and my
4 responsibility, how they are to judge witness
5 creditability and believability. I'll give them a
6 general instruction regarding direct and circumstantial
7 evidence.

8 I will give them a general instruction regarding the
9 charge, the arrest and the indictment not being evidence
10 or providing any presumption of guilt. I will give a
11 general instruction on the presumption of innocence. I
12 will charge Victor v Nebraska on reasonable doubt.

13 I will then charge the elements of burglary in the
14 first degree which is 16-11-311. The only evidence as I
15 indicated during directed verdict on yesterday that will
16 applicable in the subsections would be that when
17 entering, while in the dwelling or when fleeing the
18 defendant or an accomplice was armed with a deadly weapon
19 or explosive.

20 And I will instruct what a deadly weapon is and I
21 will also instruct the jury that those are simply
22 evidentiary facts for them to give any weight they feel
23 is appropriate and consider any other evidence in the
24 case. I will then instruct on the elements of unlawful
25 carrying of a pistol which is 16-23-20 which is directly

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1 from the statutes, just two paragraphs. I think we all
2 know what the elements of those are.

3 I will then instruct on possession of a weapon
4 during the commission of a violent crime and we likewise
5 know what that is. And I will instruct on possession of
6 a stolen handgun. And I will only be instructing 16-23-
7 30(c) and I will instruct as follows just because I had
8 to craft that charge and I took it straight from the
9 statute.

10 The defendant is charged is with possession of a
11 stolen handgun. The State must prove beyond a reasonable
12 doubt that the defendant knowingly did buy, sell,
13 transport, pawn, receive or possess any stolen handgun or
14 one from which the original serial number has been
15 removed or obliterated. Knowingly means intentionally
16 and willfully intending the result which actually occurs
17 not accidentally or involuntarily.

18 I will then give a general instruction on
19 identification and then on multiple charges which is
20 simply that there is several indictments each has
21 separate and distinct elements; all of which the State
22 must meet beyond a reasonable doubt and that he may be
23 acquitted or convicted on any of all combinations of the
24 indictments. And then I will instruct on the form of the
25 verdict. Are there any exceptions to the charges

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Charge Conference
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1 proposed from the State?

2 MR. BOURDON: No, Your Honor.

3 THE COURT: From the defense?

4 MR. LEWIS: No, Your Honor.

5 THE COURT: I looked at your request for
6 instruction Mr. Bourdon and while it is an accurate
7 statement of law it's the court's assessment of the
8 sufficiency of evidence on a denial of the directed
9 verdict. So it would not be applicable. The court
10 states things differently when it is reviewing
11 sufficiency of evidence from a legal standpoint versus
12 what is instructed to a jury.

13 But that general concept is already encompassed in
14 our general case law which says you have to form the
15 intent before you go in even if it is abandoned after you
16 go in. You can't form the intent once you're in there.

17 MR. BOURDON: Yes, ma'am.

18 THE COURT: That's it in a real sort of boilerplate
19 lay person's statement. A little more complicated that
20 than when I instruct it. My charge is a current
21 statement of the law.

22 MR. BOURDON: Thank you, Your Honor.

23 THE COURT: Do you want this marked as a court's
24 exhibit?

25 MR. BOURDON: Yes, please.

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1 [Whereupon, court's exhibit number 2 is marked by
2 the court reporter]

3 THE COURT: And your first part is already in our
4 standard instruction which is it is not required that the
5 defendant actually commit or be convicted of the crime he
6 intended -- well I don't know what that language is from
7 because our instructions say he doesn't have to
8 accomplish it; he just has to have the intent when he
9 entered, which is basically what this first paragraph is
10 saying. It's just saying it really complicated. It got
11 me a little confused so I know it would confuse a jury.

12 And then the second part of this is in a burglary
13 trial the defendant's actions after he entered the house
14 can be evidence used to determine if he had the intent to
15 commit a crime at the time of entry. And the court was
16 looking at the sufficiency of evidence on a denial of
17 directed verdict, which is an appropriate statement of
18 the law but it's in my estimation an inappropriate
19 statement on the facts for purposes of this trial.

20 You can argue that but I'm going to give a general
21 instruction which is you have to have the intent to
22 commit the crime. In other words I intend to burglarize
23 your house before I break in. Even if I abandon the
24 attempt once I get in there even if it is unsuccessful it
25 really doesn't matter. The point is I intended to break

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1 into your house. You can't form the intent once you get
2 inside.

3 MR. BOURDON: Yes, Your Honor.

4 THE COURT: That's it in a nutshell. Is there
5 anything else the court needs to consider in terms of
6 instructions from the State?

7 MR. BOURDON: No, Your Honor. Thank you.

8 THE COURT: From the defense?

9 MR. LEWIS: Nothing else, Judge.

10 THE COURT: If y'all give me just a few seconds
11 we're going to print the verdict forms so that y'all can
12 look at those as well and I just need to do a little
13 housekeeping matters for myself regarding my instruction
14 and then that will give y'all a few minutes to collect
15 yourselves and then we will have instruction and charge.
16 I have instructed the clerk to have the jury's lunch here
17 at 12:30.

18 So I'm thinking if y'all are 30 minutes, 30 minutes;
19 that's an hour. I'm 30 minutes, that's an hour and a
20 half, their lunch will be here within 30 minutes of them
21 beginning to deliberate; give or take. We'll resume in
22 about ten minutes. Please make sure the court reporter
23 has all the exhibits for me as well. If y'all could go
24 through them with her for me while we're doing this
25 break, that would be helpful. And then you also can see

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1 what you want to use during argument and then that
2 eliminates y'all having to do it after we close and
3 charge.

4 [Whereupon, counsel and the court reporter review
5 the exhibits]

6 [Whereupon, court is in recess from 10:44 a.m. until
7 11:13 a.m.]

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State v James Anthony Haynes
Proceedings
July 12, 2017

1 THE COURT: Is the State ready to proceed?

2 MR. BOURDON: Yes, Your Honor.

3 THE COURT: Defense ready to proceed?

4 MR. LEWIS: Yes, Your Honor.

5 THE COURT: Did y'all double check with the court
6 reporter to make sure all the exhibits were present and
7 accounted for?

8 MR. BOURDON: Yes, ma'am.

9 THE COURT: Will y'all approach and look at the
10 verdict forms?

11 [Whereupon, all counsel approach the bench to review
12 verdict forms with the court]

13 THE COURT: Any exception to the form of the
14 verdict from the State?

15 MR. BOURDON: No, Your Honor.

16 THE COURT: From the defense?

17 MR. LEWIS: No, Judge.

18 THE COURT: Okay. Are we ready to start closing
19 arguments?

20 MR. BOURDON: Yes, Your Honor.

21 MR. LEWIS: Yes, Your Honor.

22 THE COURT: Please bring in the jury.

23 [Whereupon, the jury enters at 11:16 a.m.]

24 THE COURT: Ladies and gentlemen we appreciate your
25 patience as we worked through those preliminary matters

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1 so that we could conclude this portion of the trial.
2 Both the State and the defense have rested their cases.
3 You will now hear closing arguments and the court's
4 instruction. You will hear from the State followed by
5 the defense and then rebuttal argument from the State.
6 Under our rules of procedure the party with the burden of
7 proof gets the last say so to speak. So I would ask that
8 we give counsel your undivided attention. If we need to
9 take any breaks during that process we will do so.

10 I have arranged for your lunch to arrive at 12:30.
11 I give that to you for planning purposes. And once you
12 have eaten of course you will have the ability to go
13 outside and get some air if you would like to; you will
14 just need to let the bailiffs know. Mr. Bourdon, you may
15 proceed.

16 MR. BOURDON: Thank you, Your Honor. May it please
17 the court and Mr. Lewis?

18 THE COURT: Yes, sir.
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State v James Anthony Haynes
Closing Argument-Remarks by Mr. Bourdon
July 12, 2017

1 CLOSING ARGUMENT

2 BY MR. BOURDON:

3 Good morning ladies and gentlemen. As I told you
4 yesterday in my opening statement it was the intent of
5 the State to present evidence to you to prove the
6 defendant guilty of these charges that stand before you
7 today. In a few minutes the Judge is going to turn this
8 case over to you where you are going to have the ability
9 to discuss this case with each other, to look at the
10 evidence, to go over it and interact and come to a
11 unanimous decision on the guilt of this defendant.

12 As I told you the evidence will show you that on the
13 26th of May of 2015 the defendant unlawfully entered the
14 home of Mr. Gary Franks on Elderberry Circle and intended
15 to commit a crime therein. I told you the evidence would
16 show you that he was in the house, the police saw him in
17 the house, they chased him out of the house and caught
18 him in the yard across the street. And in his possession
19 were items taken from the Franks family including rings,
20 money and trinkets and things that belonged to them
21 specifically.

22 And I told you it is the burden of the State to
23 prove that and that the defense and the Judge will tell
24 you that, the defense didn't have to prove anything.
25 They didn't have to put up any witnesses or call anybody

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Closing Argument-Remarks by Mr. Bourdon
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1 or present anything. So as I told you the burden of
2 proof lies on the State. And the burden of proof that
3 you are going to be hearing about from Judge Jefferson is
4 that proof beyond a reasonable doubt in that you have to
5 be firmly convinced of the defendant's guilt on each and
6 every element and each and every charge.

7 So what I would like to do quickly is go over the
8 elements of each offense and see what you're going to
9 actually have to discuss and find is there is enough to
10 support each of these elements of every offense. This
11 isn't a law school exam and you don't need the attorneys
12 to go through this. This is all as I said yesterday all
13 based on your common sense and your reason and your
14 ability to think and put things together and come up with
15 an answer that is fair and just and speaks the truth
16 about what we are here for today.

17 The first charge that he is facing is called
18 unlawful carrying of pistol. And these elements of the
19 offense are things that you have to find. And in this
20 case the law says it is unlawful for anyone to carry
21 about their person whether it is concealed or not any
22 pistol. And to prove that I would have to show you that
23 the defendant did possess a pistol, that he carried it
24 and that he was not authorized by law or licensed to
25 carry a pistol. There are a number of exceptions of

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Closing Argument-Remarks by Mr. Bourdon
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1 being able to lawfully carry a pistol. For example if
2 you have a permit, if you are a law enforcement officer,
3 you're going hunting and things of that nature, if you
4 are on your own property or it is properly stored in the
5 glove compartment of your car those are exceptions. But
6 none of those apply here. And we know for a fact that
7 the defendant has even admitted to walking down the
8 street carrying that gun and having it in his possession
9 when he was coming out of that house and into the yard
10 across the street.

11 Again, do you find the -- of the offense, has the
12 proof been established beyond a reasonable doubt so you
13 are firmly convinced that he was in possession of a
14 pistol and he had no lawful means to be able to carry
15 that on a public street.

16 The second charge that he is facing is possession of
17 a stolen pistol. And in this situation the law says that
18 a person shall not knowingly buy, sell, transport, pawn,
19 receive or possess any stolen handgun or one from which
20 the original serial number has been obliterated.

21 In this case we know the serial number is legitimate
22 and we know that it was traced to Mr. John Neale. And
23 Mr. Neale told you that this gun was stolen and he
24 reported it stolen on April the 27th of 2015 and that he
25 didn't give Mr. Haynes any permission or authority or any

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1 reason for him to be in possession of Mr. Neale's pistol.
2 Now with respect to the pistol the State has to prove
3 that he knew about it. And how do we show that except
4 going through each of the facts of the case and I'm going
5 to talk about those as we kind of put this all together.
6 But if you can kind of keep these legal concepts in mind
7 Judge Jefferson is going to again reiterate those in her
8 charge to the jury.

9 The third crime that he is charged is possession of
10 a weapon during a crime of violence. And what it says
11 under our laws is a person in possession of a firearm or
12 who visibly displays what appears to be a firearm during
13 the commission of a violent crime is guilty of this
14 offense. And so in order to be guilty of this offense
15 you'd have to find that he is indeed guilty of this
16 burglary in the first degree and that while he was
17 committing this burglary he was in possession of this
18 firearm.

19 Finally, the most important charge that you're all
20 going to make a decision on and the real key to this
21 whole case is the burglary in the first degree. And in
22 order to be found guilty of that offense you're going to
23 have to find that the State has proven beyond a
24 reasonable doubt that is that you're firmly convinced
25 that the defendant committed this burglary. What the law

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Closing Argument-Remarks by Mr. Bourdon
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1 says is that a person is guilty of burglary in the first
2 degree if a person enters the dwelling without consent
3 with the intent to commit a crime in the dwelling and
4 either when effecting the entry while in the dwelling or
5 in immediate flight he or another participant in the
6 crime is armed with a deadly weapon or explosive. In
7 this case maybe you can all agree that this Glock pistol
8 is a deadly weapon and that indeed he was armed with it
9 when he went in that house and when he exited the house.

10 So the real question in this case we also know that
11 from Mr. Franks there was no consent for Mr. Haynes to be
12 in his home. And we know that this dwelling is a legal
13 term but it means residence or home for a person as
14 opposed to a building like a warehouse or a shed. So we
15 all know that this is a dwelling this address on
16 Elderberry Street is the dwelling of Mr. Franks and that
17 Mr. Franks nor any member of his family gave permission
18 to Mr. Haynes to be in that house.

19 So the real issue in this case is intent. Did Mr.
20 Haynes intend to break into that house to commit a crime
21 therein? And that intent has to be born when he was
22 going into that house either through that window or
23 through that dog door. And that's really the key to what
24 we're here to decide today with respect to this burglary
25 first. The other elements are pretty clear that he went

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Closing Argument-Remarks by Mr. Bourdon
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1 in that house through his own admission that he didn't
2 have permission from Mr. Franks and that it was a
3 dwelling of Mr. Franks. So the issue that you're going
4 to have to decide and we're going to talk about this is
5 his intent and how we prove that.

6 And if you can see the screen here it says intent
7 can be inferred from the facts and circumstances shown to
8 have existed at the time of the offense. That means you
9 can take into consideration the acts of the defendant.
10 And in a burglary case what we would say the defendant's
11 actions after he entered the house can be evidence used
12 to determine that he had the intent to commit a crime at
13 the time that he entered because what do we know that he
14 did when he went in that house?

15 He took all the stuff. He took these rings
16 [indicates], he took this purse [indicates], he took this
17 fake million dollar bill [indicates]. He took a number
18 of things that all belonged to the Franks family. All
19 that cash that was in his possession. So we know that he
20 intended at some point to steal those items.

21 Did he form that intent to break into that house to
22 burglarize it to steal something once he got inside? And
23 that's really the key to this case that you're going to
24 have to weigh and use your common sense to determine.
25 The next thing that you're going to have to do when you

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Closing Argument-Remarks by Mr. Bourdon
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1 weigh these things is the creditability of its witnesses.
2 And really creditability means believability. And the
3 things to consider what was the manner and appearance of
4 the witness? Was the witness straightforward or
5 hesitant? Did the witness come to know these facts and
6 how did they come to know it? What are the reasons for
7 their testimony? And finally was the witness potentially
8 biased or prejudiced?

9 Those are all things that weigh when you engage in
10 factors in your daily life. When you're going to buy a
11 car is the guy telling you the truth about the car? Is
12 it low mileage car or is it something that was in a
13 flood. You use your common sense everyday to determine
14 those things even though you're not a car expert. It's
15 the same way with this case here. You're not attorneys
16 but again these are common sense principles and at the
17 end of the day you're going to have to use your common
18 sense to figure this out.

19 And finally reasonable doubt is the standard that we
20 have to use. It's not some crazy doubt or some
21 mathematical uncertainty that maybe someone from Mars did
22 this. Probability isn't ridiculous. Proof beyond a
23 reasonable doubt is the doubt or the proof that leaves
24 you firmly convinced of the defendant's guilt. And as
25 the slide says there are very few things in the world

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Closing Argument-Remarks by Mr. Bourdon
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1 that we know with absolute certainty. And in criminal
2 cases the law does not require proof that overcomes every
3 possible doubt. So it has to be reasonable. If you have
4 a hesitancy in your decision it has to be reasonable why
5 you hesitate.

6 So let's talk about this case. You heard what
7 happened and you know the facts and you've seen the
8 pictures and you've been attentive throughout the entire
9 proceeding yesterday and again today. And that's very
10 important because it's an important day for the State and
11 for Mr. Franks and again for Mr. Haynes.

12 We know that Haynes came down that street. And he
13 was wandering -- he said he left his house in Archdale
14 and wandered over to some house on Suzanne Street and
15 ended up on Ruff Street to go to some dirt park down and
16 hang out with somebody that rides motorcycles, okay. We
17 know that at some point he jumped that fence and he went
18 over that fence. And when he went over that fence he was
19 armed with this gun [indicates].

20 We know that the police arrived on scene minutes
21 after the 911 call or excuse me; the dispatch call was
22 put out for burglary in progress. They looked inside and
23 Officer West saw the defendant. West said the defendant
24 saw him and took off down the hallway. West called out
25 for backup. Officer Ranck is in front of the house

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1 telling the defendant to stop, stop, police, taser,
2 taser. You heard Mr. Thompkins from across the street
3 say that he kept running, the defendant kept running
4 after the police were chasing him. He tried to go over
5 into his yard and he turned when he saw Mr. Thompkins and
6 finally gave up when Officer Ranck had pursued him at the
7 point where he gave up.

8 All these factors matter. He was found through the
9 search incident to arrest by Officer Ranck with the
10 pistol. And you will be able to take this pistol back in
11 your deliberation and look at it. Feel this gun, feel
12 the weight, feel the impact it's got with this tactical
13 light on it. This is something that you know is in your
14 pocket or not. Mr. Haynes walked down that street with
15 that gun in his pocket.

16 And when he talked to you on the stand this morning
17 he talked about well, I don't know where it was. I think
18 it was in a pocket and I don't know if it was in my
19 waistband. How do you not know where this is? This
20 isn't a little Derringer. This isn't something you put
21 in your sock. This is a big piece of machinery. This is
22 a deadly weapon. He had that the whole time.

23 The other thing that he had that he can't get around
24 when he talks to you about what happened is these gloves
25 [indicates]. There is no reason for these gloves except

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1 to commit a crime, to hide your identity as he said and
2 prevent your prints from being discovered. Now he
3 doesn't need these for his landscaping job that he wasn't
4 at that day. He doesn't need these to go dirt biking
5 with people that don't have dirt bikes and he doesn't
6 have a dirt bike. There is no reason for these except
7 these are burglary tools.

8 This gun [indicates] is a burglary tool. These
9 gloves [indicates] are burglary tools because in this
10 instance he is a burglar. He is not working. He doesn't
11 have any creditability with his job at a landscaping
12 place. Tell me who is off on Tuesday as a landscaper in
13 May on a nice sunny day when there is no rain to prevent
14 you for working. And he says he has some job at an
15 electrical place but didn't get to work that day.

16 So he's wandering around, gets up and puts on his
17 pants and a shirt and shoves the gun in his waistband has
18 these gloves [indicates] in his pocket and goes about his
19 way looking for a house to break into in the
20 neighborhood. Now you say why would he do it in broad
21 daylight in the morning? And I would say to you why not?
22 It's a perfect time. You saw the neighborhood and you
23 met one of the neighbors. It's a nice well-kept
24 neighborhood. And what happens with well-kept
25 neighborhoods the people there are at work. And at this

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1 time of the day all the kids are in school so it's a
2 perfect place to break in because if you're a burglar you
3 don't have to worry about people being home. So I submit
4 to you that's what he was doing that day. He was walking
5 down that street looking for a house to break into. The
6 Franks home looked like an easy one because there were no
7 cars in the driveway. He gets over that fence and nobody
8 can see him and he's free to do what he wants in that
9 backyard and free to figure out a way to get into that
10 house and free to commit that burglary.

11 Now the defendant has the right to remain silent.
12 Again, the burden is always on the State. He doesn't
13 have to take the stand and the Judge will tell you if he
14 didn't you can't hold that against him. That's a very
15 important right that we have. But when he gets on the
16 stand he becomes like any other witness; he's subject to
17 cross-examination and he's subject to your examination of
18 his creditability because that's really what we're here
19 to deal with today. That's important for you to weigh
20 his creditability like you do anybody else.

21 And I'm submitting to you that his story makes no
22 sense; that it's a self-serving statement to get him out
23 of this jam because the only thing he can say to get out
24 of this burglary, given all the evidence that he has, the
25 property on him, that he's seen in the house, that he's

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1 caught running out of the house the only thing he can say
2 is I didn't even commit a crime. I just went in to get
3 away from some bad guys and low and behold this dog door
4 open or the State's position is he actually went in
5 through that window and not that dog door. But either
6 way I was just getting away from bad guys. And so I
7 didn't have any intent to commit a crime except to get
8 away from bad guys. And he wants you to believe that
9 because that's the only way that he gets out of this
10 burglary.

11 The other elements of the offense like I said
12 unlawfully entering, he admits to going in the house.
13 There is no permission and it is the dwelling of the
14 Franks. Those are the three elements. So the fourth one
15 is intent to commit a crime and he's aware of that when
16 he is telling you today and yesterday I didn't mean to
17 commit a crime; I was being chased by bad guys.

18 MR. LEWIS: Objection Judge, burden shifting.

19 THE COURT: Please approach.

20 [Whereupon, an off the record bench conference is
21 held]

22 THE COURT: The objection is sustained. Ladies and
23 gentlemen you are to disregard the Solicitor's last
24 comment and you are to give it absolutely no
25 consideration in your deliberations. You may continue

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1 Mr. Bourdon.

2 MR. BOURDON: Thank you, Your Honor. Again, so we
3 get back here to your decision here is based upon the
4 testimony of Mr. Haynes versus the testimony of the other
5 witnesses; the police officers, Mr. Franks, and Mr.
6 Thompkins. Again, we get back to the story at hand.

7 These gloves [indicates] are really the key. The
8 defendant wants you to believe that he doesn't know where
9 these gloves came from and not really sure if he had them
10 but admits that they were on him at some point obviously
11 when he was caught by Officer Ranck who told you that he
12 took these gloves off of him and threw them in the
13 driveway where they were collected by Officer Cook.

14 These gloves are important because it's the State's
15 position that he put these on before he broke into that
16 house, that his intent was to commit a crime and get in
17 that house and not to get away from anybody. So the
18 truck that may or may not have been following him may not
19 have been the one that was allegedly involved in some
20 shooting weeks earlier because he can't tell you who was
21 driving the car and he can't tell you it's the same
22 truck.

23 And when he talked about the truck he didn't say the
24 people yelled that he identified him and they tried to
25 cut him off or run him over or do anything like that. So

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1 there is no indication that there is true danger in his
2 mind. And if there was what would a reasonable person do
3 once the police came to that house? A reasonable person
4 would say thank God you're here. I'm being chased by
5 some guys in a white truck. He didn't do that. He knew
6 they were at the back door. He told you yesterday and I
7 believe today that he heard the radios and surmised it
8 was the police. Instead he hung on to these items that
9 he took from the back bedroom, had them in his pockets
10 and decided to bolt out the front door.

11 Now he tells you temptation got the best of me. His
12 temptation was going in the house to begin with because
13 his temptation, his mission was to break into that house
14 to steal things inside of it; not to hide out from some
15 imaginary truck or some imaginary guys that shot at him.
16 Because truly if he was in fear for himself why would he
17 go back into that neighborhood if he was already being
18 shot at by other guys that were still present in that
19 neighborhood.

20 It doesn't make any sense at all and those are the
21 things that you're going to have to talk about because if
22 you believe him then you have to find him not guilty. If
23 you find that he had no intent to commit a crime or to
24 break into that house and he was going there to commit a
25 crime inside then you under the law have to find him

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1 guilty [sic]. I know that is a bold statement for me to
2 make as a prosecutor but that's the law. So that's why I
3 am hitting on this intent because it's the only issue
4 that we all are going to fight about. Everything else he
5 has admitted to. Everything else has been proven beyond
6 a reasonable doubt with respect to stealing these items
7 or having them in his possession and not having
8 permission to go in that house.

9 So again weigh his testimony. Weigh what he has to
10 gain today by telling you this tale about this phantom
11 car and weigh what he did when he went in that house and
12 when he was inside of the house and when he came out of
13 the house. Does that make any sense that he was truly a
14 victim of just hiding out from bad guys instead of being
15 the perpetrator of burglary at the Franks residence?

16 I asked him about going into that house because it's
17 a danger to go in a house because under our stand your
18 ground law you can defend yourself in your home and you
19 can shoot an intruder such as Mr. Haynes no questions
20 asked. That's what the law is and he is taking a big
21 risk just going into a house like that.

22 Now what did he say yesterday? He said I called out
23 to the people inside. And he didn't tell that to Mr.
24 Lewis; he said that to me. And what I'm submitting is
25 that he's kind of making the story better as it goes

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1 along. And all these things go to the creditability that
2 you have to weigh when you are assessing the testimony.
3 His story doesn't make sense. His story helps him quite
4 a bit because it eliminates the intent to commit the
5 burglary when he goes into that house. Just because he
6 took the stand doesn't mean you have to believe him. You
7 believe part of what he said or none of what he said.

8 Now let's talk about this gun too because under that
9 stolen gun you have to prove that he knew that the gun
10 was stolen. And the State would submit based on all the
11 facts and circumstances of him needing a gun and calling
12 a friend having a friend of a friend named Ryan come by
13 and sell a gun for about half price of what a Glock is
14 worth at a bar two weeks after the gun was stolen from
15 Mr. Neale is ridiculous. And so this gun doesn't say
16 stolen gun and it doesn't light up when you touch it but
17 it's a stolen gun. He should know that. Any
18 commonsensical person would know that and Mr. Haynes was
19 aware that gun was stolen when he bought it.

20 Again, the burglary is the most important crime that
21 we have and as I asked you yesterday in my opening to use
22 your common sense to weigh the evidence to figure out
23 what really happened in this case. And once you're able
24 to do that and discuss it there is no other decision that
25 you can come to rationally except that he intended to

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1 commit that crime of burglary before he went into that
2 house. There is no phantom dangerous people that are
3 chasing him because in that case wouldn't any burglar be
4 able to tell you that and come into court any day of the
5 week and say I really wasn't breaking into a house; I was
6 just kind of afraid ---

7 MR. LEWIS: --- objection.

8 THE COURT: Basis?

9 MR. LEWIS: Burden shifting again.

10 THE COURT: Please approach.

11 [Whereupon, an off the record bench conference is
12 held]

13 THE COURT: The objection is sustained. Ladies and
14 gentlemen you are to disregard the last comment and give
15 it no consideration in your deliberations. You may
16 proceed Mr. Bourdon.

17 MR. BOURDON: Thank you, Your Honor. With respect
18 to that the defense is proposing and Mr. Haynes is
19 proposing that I was just getting away. And that's a
20 good story because it's the only story again that he can
21 come up with that makes everything plausible. He didn't
22 just get into that house. You saw these pictures of the
23 house.

24 [Whereupon, photographs are shown]

25 MR. BOURDON: You saw the backyard of the house has

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1 a number of areas to hide in. He's got the bushes to
2 hide in. We saw this whole area of the back of the
3 house. There was plenty of avenues of opportunity for
4 him to get away if someone is truly chasing him. He
5 could have gone over those fences in the yards next to
6 him. If he was able to hop this six foot fence in the
7 Franks yard he certainly could have done it in this next
8 yard and gotten to these other streets that you saw on
9 the maps. The maps will be going back with you into
10 evidence so that you can kind of look for yourself and
11 kind of touch these items and see.

12 The point is if he was really in fear he had a
13 number of options to get away from somebody aside from
14 breaking into the Franks house and then while in there
15 stealing these items. He could have gone -- if he went
16 through the front gate he could have gotten onto
17 Elderberry. If he had gone out the back gate he could
18 have gone onto that street behind him. He could have
19 gone into another yard.

20 And when he's in the house what's he doing? If he
21 went in the dog door he would be coming down the center
22 of the living room. But he didn't just stay here. He
23 didn't stay in the kitchen window and look out for these
24 bad guys. He decided to wander down to the main bedroom.
25 In that sense you saw the picture of the hallway. He's

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1 going to have to go past the two girls bedrooms, make a
2 right, go back into the Franks main bedroom. How does
3 that window get open? Well, according to him he went
4 back there and popped the window open and then pushed the
5 screen out so he could stick his head out and look for
6 these bad guys that were apparently looking for him. Now
7 does that make any sense that he would have to pop a
8 window screen out to look out the window? No. You saw
9 the pictures of that window. That window shade was
10 pulled up and Mr. Franks said it wasn't like that when he
11 left.

12 The State would submit that he actually went back
13 into that back corner pulled that screen out and then
14 popped the back window out and climbed into that master
15 bedroom and took those items because that's where all the
16 good stuff was. That's where the cash was and that's
17 where the jewelry was and that's why he was back in
18 there.

19 So again each part of his story doesn't hold water.
20 It doesn't make any sense and it isn't something you
21 should buy simply because he said it was so. In these
22 trials we don't weigh the number of witnesses; we weigh
23 the creditability of the witnesses. Although the State
24 called more witnesses you have to weigh their
25 creditability. But all the officers were fairly

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1 consistent with what they said in this case. All the
2 evidence is consistent with what Mr. Haynes confirms
3 except for this part about this phantom burglar or these
4 phantom guys following him and his actions once he went
5 in that house. He wasn't hiding for anybody. He was
6 searching for loot to take in that house. He had those
7 gloves on before he went in that house and he had those
8 gloves on when he busted out the front door.

9 If he was running from somebody he could have gone
10 in that back and gone right out the front door or hidden
11 somewhere in that room. If he wanted to look out at the
12 street you can see those frog windows, those big windows,
13 he would have had a perfect view of the street if he was
14 really concerned about who was out there.

15 He wasn't concerned with anybody being out there
16 when he was rummaging around in their property. When
17 he's in that back bedroom how does he know where these
18 guys are? He has no concern about those guys because
19 there are no guys, right? The only thing back there is
20 the money that he wants to take.

21 And he was bold enough to take that money even
22 though he knew the cops were outside. I even asked him
23 that. Why didn't you just leave the money and throw the
24 stuff back where it was and walk out the door and say
25 hey, I just got jumped or chased by some bad guys? He

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1 didn't do that to anybody because that isn't true. He
2 was in there to take that money and he was going to get
3 out with all that money. He was going to keep that money
4 and keep those rings and get out that house because
5 that's how he needed to get money and keep it.

6 And despite the cops being at the front door he said
7 I never saw this officer. Do you believe that? Do you
8 believe the officer who is yelling stop stop wearing his
9 full uniform that he has on today after he knows there
10 are two other cops at the back of the house and other
11 cops based on them talking on the radio that he doesn't
12 see him? That's ridiculous. And that's something you
13 don't have to believe just because he said it is so.

14 I think if you weigh all the testimony in the case
15 there is only one verdict you can come up with with
16 respect to this burglary; that is he unlawfully entered
17 the dwelling of Mr. Franks. When he entered it, he was
18 going in that dog door or going in that back window he
19 had the intent to commit a crime once inside; and that
20 was to steal stuff in that house and he accomplished that
21 until the police did their job and caught him. I'm
22 asking you to return a verdict of guilty on all these
23 charges. Thank you.

24 THE COURT: You may proceed.

25 MR. LEWIS: Thank you, Judge.

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CLOSING ARGUMENT

BY MR. LEWIS:

May it please the court? Ladies and gentlemen of the jury the good news is this is going to be the last time you're going to have to hear from me and the week will be over at least having to be here doing jury service.

Nick, my co-counsel spoke to you at the beginning of the trial about the power of fear. I can't try to represent to you what it would be like to be shot. I've never been shot. I would imagine it would be an incredibly unpleasant experience. I can tell you that having lived my life and having been a criminal defense lawyer I've purchased a firearm because I want to have the ability to protect myself because I've been threatened.

I know different people have different beliefs about firearm possession. It's a right that we have. I did it to protect myself. And as James told you he had a firearm that day to protect himself. That's why he had it. When he saw the good guys in blue he didn't pull the gun on them and fight with them. He ran because he had stolen stuff; he admitted to that but he didn't pull that gun out and get into a gun battle with law enforcement. That wasn't what he was intending to do that day. Even

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1 after getting caught he experienced fear. That was the
2 fear that led him to run; to make a bad decision worse.
3 But the bad decision is the decision to take the
4 property. The bad decision was not the decision to
5 enter. The decision to enter was the only good decision
6 and the only decision he could make was to protect
7 himself.

8 Yes, we don't want people having gun battles in the
9 middle of North Charleston. We don't want people sitting
10 out there shooting at people if they are worried that
11 someone is coming after them. And as he testified to you
12 from the witness stand and as you heard from Mr. Franks
13 there was a white truck out there waiting afterwards.
14 Someone in a white vehicle was following him.

15 And yes the clear cut point about that is if you're
16 being followed by a car that you know if you're on foot
17 because cars are faster than we are it would have passed
18 him. If it is just out there driving around it would
19 have passed him; it would not have paced him. And that
20 made him nervous; someone who has been shot before it
21 made him feel fear.

22 I want to talk to you about what Mr. Smit also
23 discussed the absence of choices. Yes, it's really easy
24 for us 780 days now later to go back and say yes, he
25 should have jumped this fence or that fence or gone into

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1 this house or gone into that house or called the police
2 or done this or that. We're able to sit back because
3 we're in a nice air conditioned room and think about it.
4 When you're scared that someone is coming after you you
5 don't have that luxury. You don't have the ability to
6 think through something that clearly.

7 Yes he stole. That's a different crime; something
8 he wasn't charged with. He was just charged with
9 entering with the intention of committing a crime. If he
10 had been charged with larceny or grand larceny convict
11 him of it all day long because he committed that crime.
12 That's not what he was charged with. He was charged
13 with burglary which is the entering with the intent as
14 Mr. Bourdon explained.

15 I want to talk to you about the evidence. Yes, he
16 does have a reason in theory so he has a reason to lie
17 because he doesn't want to get in trouble. Fine. But he
18 told you the truth about the doggie door. They didn't
19 even seem to know that that existed when they were asking
20 their own witness hey, is there a doggie door? No, I
21 don't know. Yes, of course there was. Oh, but the door
22 behind it was closed right? No, it wasn't; we kept it
23 open so our dog could walk through and use the restroom
24 when she needed to. James is telling you the truth about
25 that. In regards to the window itself I brought this up

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1 during direct and Mr. Franks talked about it as well.
2 This window was closed and that latch is the kind of
3 latch that some of us have in our houses that you have to
4 open from the inside otherwise someone can break a window
5 and get in. That's not what we have here.

6 In addition the same thing with our screens, how do
7 you open a screen? Maybe y'all haven't done it. I'm a
8 new homeowner so I had to do it you have to pull little
9 levers so that you can actually pop the screen out. If
10 you're doing it from the outside you'd have to break out
11 the screen. That's not what we have here.

12 In regards to the doggie door yes, that's how scared
13 James was; a grown man crawling through a doggie door to
14 get away from people because he didn't want to get shot.
15 And if I could fit and I was being chased by somebody I
16 would have done the same thing.

17 I want to talk to you about his response to law
18 enforcement's discussion of the gloves. He said what
19 none of my clients have ever said which is well, if the
20 police said that I had them on then it must be true. He
21 believes Officer Ranck. If Ranck said that then yes,
22 that's true; I had the gloves on when I came out. He
23 doesn't remember the specifics of it like I said because
24 it was 780 days ago. What was I doing 780 days ago? No
25 clue. What was I doing 500 days ago? No idea. It's

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1 hard to remember specifics. Yes, you can remember
2 specifics about when you got arrested but you might not
3 remember exactly when you put gloves on or how did that
4 go down. I want to talk to you about the admissions that
5 James made to you. He admitted yes, I had a gun on me.
6 That's a crime so in regards to the unlawful carrying of
7 a pistol I would ask that you find my client guilty.
8 We're not fighting about that at all. He's guilty of
9 that; there is no question.

10 In regards to the other crimes that they have
11 accused him of yes, there are definitely things that we
12 have to discuss. First off possession of a stolen gun
13 that's not strict liability. Strict liability is the
14 idea that if you're driving down the road and the speed
15 limit is one thing and you're going faster than that
16 you're guilty of it. It doesn't require any criminal
17 intent.

18 Mr. Bourdon made my argument for me. If you look at
19 the gun and you can't tell that it is stolen how are you
20 expected to know that it's stolen unless you stole it?
21 There is no evidence that James stole this [indicates].
22 Silly, this suggestion that you can just magically look
23 at something when you buy it and know its stolen is not
24 reasonable. In South Carolina we are allowed to purchase
25 a firearm without any exchange of documentation. You

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1 don't have to do any of that. The suggestion that you're
2 supposed to go to the police and get your gun registered
3 we don't do that; nothing like that. I've never heard
4 that before until in court with you guys this week.

5 In regards to possession of a weapon during the
6 commission of a violent crime that I also agree with Mr.
7 Bourdon on that in the event that you convict my client
8 of burglary first he's guilty of possession of a weapon
9 during the commission of a violent crime because burglary
10 first is a violent crime. James told you the truth that
11 he was in possession of it.

12 The issue that the only thing really that we're
13 arguing about is how he felt when he crossed into that
14 home and why he did it. That's a decision that you all
15 have to make based on your own personal experiences what
16 you believe. No one can tell any of you, not me and not
17 them, no one can tell any of you how you lived your life
18 or what common experiences you've had that structure how
19 you feel about things that have happened. You make your
20 own decisions.

21 I actually want to share with you I sat where you
22 all are briefly as the alternate. It was just a moped
23 wreck so I didn't get to deliberate, I didn't get to go
24 through the process that all of you are going to go
25 through. But even then I knew that it was going to be a

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1 struggle to think about all these different elements and
2 to think about what was going on. It's an important duty
3 that each of you have and I ask that you take that
4 seriously and think about it and don't just jump to the
5 conclusion that he stole some stuff so that means he's
6 guilty of a burglary. There's a lot more to it than
7 that. It's what he thought when he went in.

8 Do you completely discount everything he said or do
9 you say hey, I just don't know, I don't know what to
10 believe; then he is not guilty under our system. If you
11 don't know, he is not guilty. If you are he probably did
12 something wrong, that's not guilty under our system. We
13 have different tiers of the burdens of proof that the
14 State has that today felt like somewhat they were
15 minimizing beyond a reasonable doubt but I want to talk
16 to you about what that actually means.

17 When we have a preponderance of the evidence that's
18 probably our lowest standard, people can take money from
19 each other. If we sue each other that's down here
20 [indicates]. Clear and convincing is the next step up.
21 If I was going to put someone in a mental hospital or
22 take their children away from them that's here
23 [indicates]. Beyond a reasonable doubt is as high as it
24 goes. This is the highest standard. It's more than
25 putting someone in a mental hospital, more than taking

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1 their kids away from them that's how convinced you have
2 to be. And to me the way I imagine beyond a reasonable
3 doubt is if someone said that my Mom committed a crime,
4 because y'all don't know James; you couldn't be here if
5 you knew him, but if someone that you cared about was
6 facing these charges what standard of proof would you
7 have to have? Would you give them the benefit of the
8 doubt? Would you believe them? Would you say I don't
9 know? Well, if that happened then you have to find him
10 not guilty.

11 You heard from James. He exposed himself to cross-
12 examination and he answered all of Mr. Bourdon's
13 questions to the best of his ability. He can't answer
14 every question if he doesn't know. But he said, yes I've
15 lived in that area. This is how you get to the place
16 where my friends and I hang out. There is no undoing
17 what has been done. It's done. James is guilty of the
18 unlawful carrying of the pistol; he admitted to that.
19 He's guilty of theft; a crime that he was not charged
20 with, he's admitted to that.

21 He's guilty of running from the police which is
22 actually not a crime unless you're fight with them or
23 you're told you're under arrest. But he admitted that.
24 The things that he has contested are why he went into
25 that house. Just the moment that he crossed through that

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1 doggie door that's all he's arguing about. He did not
2 intend to do anything bad when he got inside. He
3 intended to keep himself safe. James did what he needed
4 to do at the beginning and then definitely did what he
5 should not have done afterwards. Stealing that property
6 from the Franks family was not okay. James said he is
7 sorry about that. He wishes he could give it back to
8 them and have it all be over and no matter what that will
9 happen. They will get their property back. But when he
10 went in he did not intend to do anything except escape.

11 And for those reasons ladies and gentlemen I'd ask
12 that you find him again, it's weird to say, guilty of the
13 unlawful carrying of a pistol because he committed that
14 crime. Find him not guilty of the others because there
15 is not sufficient evidence to show how he felt as he
16 crossed through that that was done with the intention of
17 committing a crime.

18 And with regards to the stolen gun you'll be able to
19 look at it yourselves. If you look at that can you tell
20 me that it was stolen? What evidence do you have that
21 it's stolen? Thank you.

22 THE COURT: Mr. Bourdon?

23 MR. BOURDON: Thank you, Your Honor.
24
25

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1 CLOSING ARGUMENT REBUTTAL

2 BY MR. BOURDON:

3 Thank you again ladies and gentlemen. With respect
4 to the reasonable doubt Mr. Lewis is right; it is a high
5 standard. But it's not an impossible standard. I don't
6 try to minimize the effect of what it means and what it
7 means is you have to be firmly convinced of his guilt on
8 each of these charges.

9 You just have to be sure about it. Not like well,
10 maybe he did it as Mr. Lewis's comment on a money case is
11 a civil case and it's like he probably did it and that's
12 probable cause to arrest somebody. Preponderance of the
13 evidence is 51/49 but that's not what we're talking about
14 here. But it's not something that is impossible when you
15 go back there. So again using your common sense as to
16 reasonable doubt when you just attach a reason to it if
17 you don't have a reason that you can attach to it you
18 can't just have the case dropped because of that.

19 We talked about these gloves. I know it's been a
20 while since he was arrested and so maybe his memory is
21 not clear but how can you not remember how you put these
22 gloves on? The specifics of which Mr. Lewis said how it
23 all went down he can't describe. He can't describe it
24 because the truth is he put those gloves on before he
25 went in the house. They want you to believe that he had

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1 these gloves in his pocket or somewhere that he doesn't
2 remember, gets in the house and at some point says hey,
3 I'm going to put these gloves on so I can hide my
4 identity. That doesn't make any sense. He went in that
5 house with the gloves on so that he wouldn't be detected
6 and his prints wouldn't be in there and his DNA wouldn't
7 be in there and he would be able to get these items and
8 leave.

9 And Mr. Lewis said well he had the gun but he didn't
10 have any gun battles. We don't reward him for that. The
11 fact is Officer Ranck got the drop on him. He was behind
12 him and had a taser and a weapon and told him to stop and
13 he figured he couldn't get past Mr. Thompkins and the
14 only thing sensible to do was to give up. So in that
15 sense he didn't fight with the police and that is good
16 but that doesn't reward him for what got him into that
17 house to begin with; what he is on trial here for today.

18 So don't pat him on the back for that. But thank
19 God he didn't use that weapon against any officer or any
20 person if they had been in that house because that's the
21 question. What would have happened then armed with this
22 weapon? Mr. Haynes had sort of these crocodile type
23 tears although he didn't cry but saying I'm sorry about
24 the family and I wish they would have gotten their
25 property back sooner that's all just a play on your

State v James Anthony Haynes
Closing Argument-Rebuttal by Mr. Bourdon
July 12, 2017

1 sympathy. That's him sorry that he got caught. Not
2 sorry that he was in their house, not sorry that he took
3 their possessions, not sorry that he took their memories
4 from Mr. Franks' mother's ring and his grandmother's ring
5 and putting that family in the position where a man comes
6 home hearing his house was burglarized while he and his
7 family were away. Sorry doesn't cut it in this case and
8 it doesn't negate his intent to break into that house to
9 commit a crime therein.

10 Weigh his creditability as you've done and consider
11 what he has told you on the stand and consider his prior
12 conviction for false information to police when you go
13 back to weigh who is telling the truth and who is a
14 credible witness. And at the end of the day I'm going to
15 ask you to find him guilty of burglary in the first
16 degree along with these other charges. Thank you.

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State v James Anthony Haynes
Jury Charge
July 12, 2017

JURY CHARGE

THE COURT: During this trial ladies and gentlemen you and I have certain duties to perform. As the trial judge it is my responsibility to preside over the trial of this case and I also have the duty to rule upon or pass upon the admissibility of evidence offered during this trial.

You are to consider only the competent evidence before you and you are to disregard and disabuse from your mind any testimony or arguments ordered stricken from the record in this case during the progress of this trial. You are to consider only the competent evidence and testimony which has been presented from the witness stand together with any exhibits which have been made a part of the record in this case.

I have the additional duty to charge or instruct you on the law applicable to this case. As the presiding judge I am the sole judge of the law of this case and it is your duty as jurors to accept and apply the law as I now state it to you. If you have a preconceived idea as to what the law is or what the law ought to be in a case or in this case and it should not agree with what I now tell you the law is you are obligated under your oath to abandon this preconception on your part because you are sworn to accept the law and apply the law precisely as I

State v James Anthony Haynes
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1 now state it to you. In every case tried in this court
2 before a jury the judge becomes the sole and exclusive
3 judge of the -- becomes the sole and exclusive judge -- I
4 apologize, let me start over. In every case tried in
5 this court before a jury the jury becomes the sole and
6 exclusive judges of the facts in a case. You, the jury,
7 are the judges of the facts in this case. The court is
8 the judge of the law.

9 The Constitution of our state has declared that a
10 trial judge shall not intimate,, state, comment upon or
11 make any statement to a trial jury about the facts in a
12 case. Since you, the jury, are the sole judges of the
13 facts in this case you are not to infer anything from
14 what I have said during the progress of this trial in
15 ruling upon the admissibility of evidence or otherwise or
16 anything that I say now to you during the course of this
17 instruction that I have any opinion about the facts. The
18 Constitution does not allow me to have an opinion about
19 the facts. This is a matter solely for you, the jury, to
20 determine.

21 As jurors then it is your duty as I have instructed
22 to determine the effect, the value, and the weight of the
23 evidence presented during this trial. Necessarily you
24 must assess the creditability of witnesses who have
25 testified in this case. Creditability is simply a legal

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1 term meaning the believability of each witness. It
2 becomes your duty as jurors to analyze and to evaluate
3 the evidence and determine that evidence which convinces
4 you of its truth.

5 Some of the things you may consider as you decide
6 whether or not to believe a witness's testimony about a
7 particular matter include what was the manner and
8 appearance of the witness who testified? Was he or she
9 straightforward or hesitant in answering? Was the
10 testimony of a witness consistent or inconsistent? How
11 did the witness come to know the facts that he or she
12 testified to or what was his or her ability to know these
13 facts? Is there some reason a witness would want to give
14 testimony which would help or hurt one side or the other?
15 In other words was the witness biased or prejudiced. And
16 was the testimony of a witness strengthened or weakened
17 by other testimony or evidence?

18 I further instruct you that in determining the
19 question of the creditability or believability of
20 witnesses who have testified you may believe one witness
21 as against several witnesses or several witnesses as
22 against one witness. You may believe a part of the
23 testimony of a witness and reject the remaining part of
24 the testimony of that same witness. If you have a good
25 and sound reason you may believe the testimony of a

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Jury Charge
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1 witness in its entirety or reject the testimony of a
2 witness in its entirety. Ladies and gentlemen you can
3 believe as much or as little of each witness's testimony
4 as you think proper. You may consider the demeanor of a
5 witness; that is the manner and appearance of the witness
6 from the witness stand. Again, ladies and gentlemen you
7 can believe as much or as little of each witness's
8 testimony as you think proper and give the weight, value,
9 and effect to that testimony that you feel is appropriate
10 in your fact finding province.

11 Ladies and gentlemen there are two types of evidence
12 which are presented during a trial, direct evidence and
13 circumstantial evidence. Direct evidence is the
14 testimony of a person who asserts or claims to have
15 actual knowledge of a fact such as an eyewitness.

16 Circumstantial evidence is proof of a chain of facts
17 and circumstances indicating the existence of a fact.
18 The law makes absolutely no distinction between the
19 weight or value to be given to either direct or
20 circumstantial evidence nor is a greater degree of
21 certainty required of circumstantial evidence than of
22 direct evidence.

23 And as I've explained crimes may be proven by
24 circumstantial evidence and again the law makes
25 absolutely no distinction between the weight or value to

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1 be given to either direct or circumstantial evidence.
2 However, to the extent the State relies on circumstantial
3 evidence all of the circumstances must be consistent with
4 each other and when taken together point conclusively to
5 the guilt of the accused beyond a reasonable doubt.

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

13 Again, ladies and gentlemen you should weigh all of
14 the evidence in this case. After weighing all the
15 evidence if you are not convinced of the guilt of the
16 defendant beyond a reasonable doubt you must find the
17 defendant not guilty. Conversely, if you are convinced
18 of the guilt of the defendant beyond a reasonable doubt
19 then you must find him guilty.

20 I instruct you ladies and gentlemen that the fact
21 that the defendant was arrested, charged and indicted in
22 this case is not evidence in this case and cannot be
23 considered by you as evidence of guilt in this case nor
24 does it create any presumption or inference of guilt.
25 This documentation ladies and gentlemen are simply the

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1 formal written instruments which contain the charge or
2 charges made against the defendant. They simply serve as
3 the formal documentation by which the case is processed
4 or brought into the court. The defendant has pled not
5 guilty to the indictments and that plea casts the burden
6 on the State to prove the defendant guilty because a
7 person charged with committing a criminal offense in
8 South Carolina is never required to prove himself
9 innocent.

10 I instruct you ladies and gentlemen that it is a
11 cardinal and important rule of the law of evidence that
12 the defendant in a criminal trial no matter what the
13 seriousness of the charge or charges made against him may
14 be will always be presumed to be innocent of the crimes
15 for which he is indicted unless his guilt has been proven
16 by evidence satisfying you of that guilt beyond a
17 reasonable doubt.

18 This presumption of innocence does not cease when
19 you retire to deliberate regarding this case but it
20 accompanies the defendant from the time of his appearance
21 throughout the trial until you reach a verdict in this
22 case. Our Supreme Court has said that the presumption of
23 innocence is like a robe of righteousness placed about
24 the shoulders of the defendant and it remains with him
25 and assigns him to that class, the innocent until that

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1 presumptive robe of righteousness has been stripped from
2 his person by evidence satisfying you of that guilt
3 beyond a reasonable doubt. Madame Forelady, ladies and
4 gentlemen the presumption of innocence is not mere legal
5 theory. It is not just a legal phrase. It is a
6 substantial right to which every defendant is entitled
7 unless you, the jury, are satisfied from the evidence of
8 his guilt beyond a reasonable doubt.

9 The State has the burden of proving the defendant
10 guilty beyond a reasonable doubt. Some of you may have
11 served as jurors in civil cases where you were told that
12 it is only necessary to prove that a fact is more likely
13 true than not true such as by the greater weight or the
14 preponderance of the evidence. In criminal cases the
15 State's proof must be more powerful than that. It must
16 be beyond a reasonable doubt.

17 Proof beyond a reasonable doubt is proof that leaves
18 you firmly convinced of the defendant's guilt. There are
19 very few things in this world that we know with absolute
20 certainty and in criminal cases the law does not require
21 proof that overcomes every possible doubt. If based on
22 your consideration of the evidence you are firmly
23 convinced that the defendant is guilty of the crime
24 charged you must find the defendant guilty. If on the
25 other hand you think there is a real possibility that the

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1 defendant is not guilty you must give the defendant the
2 benefit of that doubt and find him not guilty. The
3 defendant is charged with first degree burglary or
4 burglary first degree as it is stated on the indictment.

5 The State must first prove beyond a reasonable doubt
6 that the defendant entered a dwelling without consent. A
7 dwelling is any building or portion of a building in
8 which a person ordinarily sleeps. A building constructed
9 as a dwelling that has never been occupied cannot be
10 considered a dwelling for purposes of burglary but a
11 business is a dwelling even if the residents are
12 temporarily absent from the building.

13 In order to prove that the defendant entered the
14 dwelling the State does not have to show that the
15 defendant's entire body entered the dwelling. The
16 smallest entry is sufficient. It may be any part of the
17 body such as a hand or foot or even an instrument such as
18 a hook or other instrument. In addition, the State does
19 not have to prove that force was used to gain entry.

20 If a person enters a building by using deception,
21 artifice, trick, or misrepresentation to get consent to
22 enter this is an entry without consent. Next, the State
23 must prove beyond a reasonable doubt that the defendant
24 intended to commit a crime either a felony or a
25 misdemeanor at the time of the entry. The mere entry

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1 into a dwelling without consent is not burglary. If the
2 intent to commit a crime is formed after the entry it is
3 not burglary. On the other hand if the defendant
4 intended to commit a crime at the time of the entry it is
5 a burglary even if the intent was abandoned after the
6 entry. It does not matter that the intended crime was
7 not completed. Intent may be shown by acts and conduct
8 of the defendant and other circumstances from which you
9 may naturally and reasonably infer intent.

10 Finally ladies and gentlemen the State must prove
11 beyond a reasonable doubt that when entering, while in
12 the dwelling or when fleeing the defendant or an
13 accomplice was armed with a deadly weapon or explosive.
14 A deadly weapon is any article, instrument, or substance
15 which is likely to cause death or great bodily harm.
16 Whether an instrument has been used as a deadly weapon
17 depends on the facts and circumstances of each case.

18 The following are examples of instruments which may
19 be considered deadly weapons: A pistol, a shotgun, a
20 rifle, a dirk, a dagger, a knife, a slingshot, metal
21 knuckles, a razor, gasoline, a fire bomb or Molotov
22 cocktail, and lighter fluid. A gun may be a deadly
23 weapon even if it is not operating. Ladies and gentlemen
24 these would simply be evidentiary facts to be considered
25 by you, the jury, along with the other evidence in the

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1 case and you may give it the weight, value, and effect if
2 any you decide it should receive. The defendant is
3 charged with unlawful carrying of a pistol. The State
4 must prove beyond a reasonable doubt that the defendant
5 carried a pistol about his person whether concealed or
6 not. A weapon is about the defendant's person if it is
7 readily assessable and convenient for immediate use. The
8 pistol need not be actually touching the person of the
9 defendant.

10 He is also charged with possession of a weapon
11 during the commission or attempt to commit a violent
12 crime. The State must prove beyond a reasonable doubt
13 that the defendant was in possession of a firearm or
14 visibly displayed what appeared to be a firearm during
15 the commission of a violent crime. A firearm means any
16 machine gun, automatic rifle, revolver, pistol, or any
17 weapon which will, is designed to or may be readily
18 converted to expel a projectile.

19 In order to find the defendant guilty of possession
20 of a weapon during the commission of a violent crime you
21 must first find the defendant guilty of either committing
22 a violent crime or attempting to commit a violent crime.
23 I instruct you ladies and gentlemen that burglary in the
24 first degree is a violent crime as defined and specified
25 by South Carolina Code annotated section 16-1-60. The

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Jury Charge
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1 defendant is charged with possession of a stolen handgun.
2 The State must prove beyond a reasonable doubt that the
3 defendant knowingly did buy, sell, transport, pawn,
4 receive or possess any stolen handgun or one from which
5 the original serial number has been removed or
6 obliterated. Knowingly means intentionally and
7 willfully intending the result which actually occurs; not
8 accidentally or involuntarily.

9 THE COURT: Could counsel approach for me please?
10 Ladies and gentlemen I appreciate your indulgence. Bear
11 with me one second.

12 [Whereupon, an off the record bench conference is
13 held]

14 THE COURT: Thank you ladies and gentlemen for that
15 indulgence. Ladies and gentlemen there are several
16 indictments in this case. They each allege different
17 offenses and they are as follows: 2015 GS-10-4790
18 burglary in the first degree; 2015-GS-10-4793 unlawful
19 carrying of a pistol; 2015-GS-10-4794 possession of a
20 weapon during the commission of a violent crime; and
21 2015-GS-10-4795 possession of a stolen handgun.

22 Each indictment charges a separate and distinct
23 offense. You must decide each indictment separately on
24 the evidence and the law applicable to it uninfluenced by
25 your decision as to any other indictment. The defendant

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1 may be convicted or acquitted on any or all of the
2 offenses charged and you will be asked to write a
3 separate verdict of guilty or not guilty for each
4 indictment. Ladies and gentlemen there are two possible
5 verdicts for each of the indictments and I will go over
6 that with you. You don't have to try to write any of
7 that down because the verdict forms will go into the jury
8 room with you. There is absolutely no significance
9 whatsoever to the order in which I state these potential
10 verdicts; it is simply that one must be stated first.
11 And they are as follows:

12 As to burglary in the first degree we, the jury,
13 unanimously find the defendant guilty of burglary in the
14 first degree or not guilty. On unlawful carrying of a
15 pistol; guilty of unlawful carrying of a pistol or not
16 guilty. And as to possession of a weapon during the
17 commission of a violent crime we, the jury, unanimously
18 find the defendant guilty of possession of a weapon
19 during the commission of a violent crime or not guilty.
20 And as to possession of a stolen handgun we, the jury,
21 unanimously find the defendant guilty of possession of a
22 stolen handgun or not guilty. Again, there is absolutely
23 no significance whatsoever to the order in which I state
24 these potential verdicts; it is simply that one must be
25 stated first. Ladies and gentlemen your verdict must be

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1 unanimous which means that all twelve of you must agree
2 before you can reach a verdict on each of the
3 indictments.

4 Madame Forelady, once the jury has reached a
5 unanimous verdict on each indictment it is your
6 responsibility to fill out the verdict form, to sign and
7 date the form and advise the bailiffs that the jury has
8 reached verdicts on each of the indictments. At that
9 time we will receive you back in the courtroom and
10 receive the jury's verdict. Again, your verdict ladies
11 and gentlemen must be unanimous.

12 Also Madame Forelady if the jury has any questions
13 during deliberations it is likewise your responsibility
14 to write out those questions on the notebook that you
15 have, sign and date the note, knock on the door and
16 likewise advise the bailiffs that the jury has a
17 question.

18 Ladies and gentlemen there is a procedure that we
19 have to follow in answering your questions. So if you
20 have any questions during deliberations please know that
21 there will be a delay in us responding to you. It is not
22 that we're ignoring you. We are simply following the
23 process that is required to answer your questions.

24 Also Madame Forelady any notes to the court should
25 not reveal any of the jury's deliberative process nor

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Jury Charge
July 12, 2017

1 should it reveal any breakdown numerically of any votes
2 that the jury may or may not have taken. That is not
3 appropriate for the court's consideration.

4 Ladies and gentlemen again your verdict must be
5 unanimous which means all twelve of you must agree. I'm
6 going to ask that you return to your jury room but do not
7 yet begin your deliberations. I have some brief matters
8 of law to take up with counsel which may require further
9 instruction or clarification of instruction.

10 If there is no further instruction we will send in
11 the evidence, your notebooks, the verdict forms and at
12 that time we will excuse the alternate and you will be
13 allowed to begin your deliberations. I anticipate that
14 your lunch should be here in about 10 to 15 minutes so I
15 just tell you that for your planning purposes. If you
16 would as you exit the courtroom stack up your notebooks
17 as you leave and again do not yet begin your
18 deliberations. We appreciate your patience.

19 .[Whereupon, the jury exits at 12:20 p.m.]

20 THE COURT: Any exceptions to the court's charge
21 from the State?

22 MR. BOURDON: No, Your Honor.

23 THE COURT: From the defense?

24 MR. LEWIS: No, Your Honor.

25

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1 THE COURT: Could y'all just check for me and make
2 sure all the evidence is there. You need to take out
3 number 233's notes, that's the alternate, and go ahead
4 and prepare to take their notes in to them and take those
5 verdict forms.

6 [Whereupon, all counsel and the court reporter
7 review the evidence]

8 [Whereupon, State's exhibit number 51-A is marked by
9 the court reporter]

10 [Whereupon, the alternate juror enters the
11 courtroom]

12 THE COURT: Sir, we want to thank you for your time
13 and your attention to this case. I know being an
14 alternate may seem incredibly thankless but it is so very
15 necessary to the process in the event that someone gets
16 ill or otherwise can't proceed. And you've been
17 attentive, you've been timely and we truly appreciate
18 your service.

19 I hope it has been educational for you. We have
20 your lunch and we will give it to you. You are welcome
21 to stay here and eat with us if you'd like; we will find
22 you a comfortable place or if not you are welcome to
23 leave. Do you need a work excuse before you leave today?

24 JUROR NUMBER 233: No, ma'am.

25 THE COURT: We will mail everything else to you.

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1 You're welcome to discuss this case but I would ask that
2 you not do it until the entire panel is dismissed.

3 JUROR NUMBER 233: Yes, ma'am.

4 THE COURT: But you're welcome to hang around like
5 I said if you want and the bailiffs will make you
6 comfortable if you'd like to. If not, you're welcome to
7 go. You're excused with the court's profound thanks.

8 JUROR NUMBER 233: Thank you.

9 THE COURT: Thank you, sir.

10 [Whereupon, the alternate juror is dismissed]

11 THE COURT: The record should reflect that the jury
12 began their deliberations at 12:24. Why don't y'all plan
13 to have lunch until 1:15? Usually once they eat -- it
14 takes them about 20 minutes to eat, go downstairs and get
15 some air if they want to and usually that's when we might
16 have a question. So I'm thinking 45 -- is 45 minutes
17 enough?

18 MR. BOURDON: Yes, ma'am.

19 MR. LEWIS: Yes, Your Honor.

20 THE COURT: And if y'all could leave your cell
21 phone numbers with us that would be helpful in the event
22 that something comes up in the interim while y'all are at
23 lunch. Is there anything before we recess for lunch from
24 the State?

25 MR. BOURDON: No, Your Honor.

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1 THE COURT: From the defense?

2 MR. LEWIS: No, Your Honor.

3 THE COURT: Enjoy your lunch and we'll see you at
4 1:15.

5 [Whereupon, court is in recess from 12:30 until 2:00
6 p.m.]

7 THE COURT: The jury has a verdict. Is there
8 anything before we proceed with receiving the verdict
9 from the State?

10 MR. BOURDON: No, Your Honor.

11 THE COURT: From the defense?

12 MR. LEWIS: No, Your Honor.

13 THE COURT: Please bring us the jury.

14 [Whereupon, the jury enters at 2:10 p.m.]

15 THE COURT: Madame Forelady, is it correct that the
16 jury has reached a verdict?

17 MADAME FORELADY: Yes.

18 THE COURT: If you would, give the verdict forms to
19 the bailiff for me please.

20 [Whereupon, the verdict forms are given to the
21 court]

22 THE COURT: Thank you.
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State v James Anthony Haynes
Verdict
July 12, 2017

1 VERDICT

2 THE COURT: Please stand sir, for publication of the
3 verdict.

4 [Whereupon, the defendant stands]

5 CLERK OF COURT: The State of South Carolina versus
6 James Anthony Haynes, defendant as to indictment number
7 2015-GS-10-04790 we, the jury, unanimously find the
8 defendant guilty of burglary in the first degree. Signed
9 this date by the foreperson, Karen Pressley 7-12-17.

10 The State of South Carolina versus James Anthony
11 Haynes as to indictment number 2015-GS-10-4793 we, the
12 jury, unanimously find the defendant guilty of unlawful
13 carrying a pistol. Signed the foreperson this day 7-12-
14 17.

15 The State of South Carolina versus James Anthony
16 Haynes as to indictment number 2015-GS-10-4794
17 unanimously find the defendant guilty of possession of a
18 weapon during the commission of a violent crime. Signed
19 Karen Pressley, the foreperson of the jury 7-12-2017.

20 The State of South Carolina versus James Anthony
21 Haynes as to indictment number 2015-GS-10-4795 we, the
22 jury, unanimously find the defendant not guilty of
23 possession of a stolen handgun. Signed the foreperson
24 7-12-2017.

25 If this is your verdict please raise your right

State v James Anthony Haynes
Verdict
July 12, 2017

1 hands.

2 [Whereupon, all jurors raise their right hands]

3 THE COURT: All have raised their right hands and
4 the verdict stands. Any request to poll the jury from
5 the State?

6 MR. BOURDON: No, Your Honor.

7 THE COURT: Any request from the defense?

8 MR. LEWIS: Yes, Your Honor.

9 THE COURT: Ladies and gentlemen, please listen
10 carefully as the clerk asks you two questions. He is
11 going to call your name and your juror number if you will
12 raise your right hand when he does that and he will ask
13 you is this your verdict and is this still your verdict
14 and if you could answer each of those questions as he
15 proceeds. You may proceed.

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State v James Anthony Haynes
Polling of the Jury
July 12, 2017

1 POLLING OF THE JURY
2 CLERK OF COURT: Juror number 235, Karen Pressley
3 please raise your right hand. Is this your verdict?
4 JUROR NUMBER 235: Yes.
5 CLERK OF COURT: Is this still your verdict?
6 JUROR NUMBER 235: Yes.
7 CLERK OF COURT: Juror number 224, Andrew Parker?
8 Is this your verdict?
9 JUROR NUMBER 224: It is.
10 CLERK OF COURT: Is this still your verdict?
11 JUROR NUMBER 224: It is.
12 CLERK OF COURT: Thank you. Juror number 343
13 Ellen Woodward. Is this your verdict? /
14 JUROR NUMBER 343: Yes.
15 CLERK OF COURT: Is this still your verdict?
16 JUROR NUMBER 343: Yes.
17 CLERK OF COURT: Juror number 212 Tyler Newman. Is
18 this your verdict?
19 JUROR NUMBER 212: Yes.
20 CLERK OF COURT: Is this still your verdict?
21 JUROR NUMBER 212: Yes.
22 CLERK OF COURT: Juror number 74 Jenice Edney.. Is
23 this your verdict?
24 JUROR NUMBER 74: Yes.
25 CLERK OF COURT: Is this still your verdict?

State v James Anthony Haynes
Polling of the Jury
July 12, 2017

1 JUROR NUMBER 74: Yes.
2 CLERK OF COURT: Thank you. Juror number 191
3 Katherine Minson. Is this your verdict?
4 JUROR NUMBER 191: Yes.
5 CLERK OF COURT: Is this still your verdict?
6 JUROR NUMBER 191: Yes.
7 CLERK OF COURT: Juror number 115 Jennifer Hasting.
8 Is this your verdict?
9 JUROR NUMBER 115: Yes.
10 CLERK OF COURT: Is this still your verdict?
11 JUROR NUMBER 115: Yes.
12 CLERK OF COURT: Juror number 258 Sarah Rust. Is
13 this your verdict?
14 JUROR NUMBER 258: Yes.
15 CLERK OF COURT: Is this still your verdict?
16 JUROR NUMBER 258: Yes.
17 CLERK OF COURT: Juror number 255 Ronald Roper. Is
18 this your verdict?
19 JUROR NUMBER 255: Yes.
20 CLERK OF COURT: Is this still your verdict?
21 JUROR NUMBER 255: Yes.
22 CLERK OF COURT: Juror number 83 William Flynn. Is
23 this your verdict?
24 JUROR NUMBER 83: Yes, it is.
25 CLERK OF COURT: Is this still your verdict?

State v James Anthony Haynes
Polling of the Jury
July 12, 2017

1 JUROR NUMBER 83: Yes, sir.
2 CLERK OF COURT: Juror number 316 Kala Turpin. Is
3 this your verdict?
4 JUROR NUMBER 316: Yes.
5 CLERK OF COURT: Is this still your verdict?
6 JUROR NUMBER 316: Yes.
7 CLERK OF COURT: Juror number 204 Courtney Murren.
8 Is this your verdict?
9 JUROR NUMBER 204: Yes.
10 CLERK OF COURT: Is this still your verdict?
11 JUROR NUMBER 204: Yes.
12 CLERK OF COURT: Your Honor, the jury has been
13 polled and the verdict stands.
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State v James Anthony Haynes
Proceedings
July 12, 2017

1 THE COURT: Thank you. You may take your seats.
2 Ladies and gentlemen we thank you for your time and your
3 service. This is the last case that we will try this
4 week so you are excused from any further jury service.
5 If you need a work excuse you can get those on the first
6 floor of the courthouse on the Circuit Court Clerk side
7 of the building. And I'm not even going to try to
8 predict which way you go off the elevators. I've never
9 gone that side of the building and I'm directionally
10 challenged. Any of the deputy clerk's at those windows
11 can give you a work excuse. Otherwise we will mail those
12 to you along with your checks.

13 You are welcome to discuss this case if you would
14 like. Sometimes counsel will contact you because they
15 just really need a common sense perspective on how the
16 case was tried and how they can do things better. And
17 sometimes they just want a layperson's opinion of the
18 trial. So don't be surprised if anyone should contact
19 you.

20 If you don't want to discuss the case however you
21 don't have to and if someone should exceed your comfort
22 level please contact us so that we can take the
23 appropriate action to protect your privacy. Is there any
24 member of the panel that wishes to remain for sentencing
25 if you would raise your hand for me? You will be able to

State v James Anthony Haynes
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1 collect your belongings and then exit the building as I
2 have excused you for the remainder of the week. I hope
3 this has been an educational experience for you. I hope
4 that you learned that it is absolutely nothing like what
5 you see on television. Our system is the only time where
6 12 ordinary citizens listen to the facts of a case,
7 determine the facts and render verdicts. So I hope again
8 it has been educational for you. We hold jury trials in
9 Charleston every week with the exception of holidays. We
10 generally have five trial courts operating -- well
11 actually six.

12 In the Circuit Court we usually have six; three
13 civil which are all trial and in addition to that we
14 usually have some non-jury court where the judges act as
15 the finders of fact and then we have two criminal courts
16 as well as a non-jury criminal court operating again
17 where one judge handles all the non-jury criminal
18 matters.

19 But that is of course not the only court going on in
20 the building. We have five Family Courts that operate on
21 the first floor. We have the Master in Equity, three
22 Probate judges -- I think we may have four now -- so
23 there is a lot of activity going on in this building. So
24 you can well imagine we have a great deal of business to
25 dispose of but we could not do it without your

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1 willingness to participate and to assist us in resolving
2 matters that require a jury service. Just so that you
3 have a point of reference in Philadelphia they have nine
4 judges just for the city of Philadelphia that only hear
5 murder cases. That's all they do all year long.

6 In South Carolina we have 51 judges who hear both
7 criminal and civil court and we travel across the state.
8 And with what most people would consider a lack of
9 resources we still dispose of cases faster than most
10 states in the country at under a year.

11 So I just give you those numbers because sometimes I
12 think people don't recognize how very much we appreciate
13 you because even though there are circumstances where we
14 sit as the finders as fact, in other words where we're
15 the jury in a non-jury capacity the bulk of our work we
16 really need your services.

17 So again I hope it has been educational. I hope it
18 has been enjoyable and I hope that you all enjoy the rest
19 of your day. Try to stay cool; I think it might be a tad
20 hot outside. You are excused with the court's profound
21 thanks. I'll hear post trial motions and sentencing.

22 [Whereupon, the jury exits at 2:19 p.m.]

23 [Off the record momentarily]

24 THE COURT: Do you have the sentencing sheet?

25 MR. BOURDON: Yes, Your Honor, I do.

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1 THE COURT: If you could pass them up please.

2 MR. BOURDON: Yes, ma'am.

3 [Whereupon, Mr. Bourdon provides documents to the
4 court]

5 THE COURT: How long has your client been in jail
6 Mr. Lewis?

7 MR. LEWIS: 778 days.

8 THE COURT: So he has already maxed out the gun
9 charge, day for day. Now is he on probation out of
10 Dorchester County for this burglary 2nd?

11 MR. BOURDON: Yes. I was going to try to get the
12 probation agent to ---

13 THE COURT: --- do you know?

14 MR. LEWIS: I believe so, Judge.

15 THE COURT: Do y'all want to deal with that?

16 MR. LEWIS: Can we?

17 THE COURT: Yes. All they have to do is give you
18 permission unless -- otherwise they're going to send him
19 to R and E and they're going to put a hold on him and
20 it's never really going to get dealt with.

21 MR. LEWIS: I've always gotten a lot of pushback
22 for anything out of the 9th circuit.

23 THE COURT: You sure?

24 MR. LEWIS: I'd love to.

25 THE COURT: Let's ask. All they can tell us is no.

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1 The problem usually is the other county has never
2 transmitted the documents to this county because the main
3 issue is him waiving venue. But usually they just
4 haven't sent the documents is usually -- or haven't made
5 the other county aware. Like Charleston gets blindsided
6 because Dorchester hasn't told them that they have a
7 probation that is in the Detention Center so that they
8 can prepare in advance knowing that the case is on the
9 docket for this week and get all the documentation is
10 usually what happens. We'll see if they can accommodate
11 us because it doesn't make any sense for him to have to
12 be transported back and forth for something we can take
13 care of today. Or he could always voluntarily sign the
14 paperwork but let's see what we can get accomplished.
15 Okay. Are there any motions?

16 MR. LEWIS: On the probation violation he said yes,
17 I'd waive that.

18 THE COURT: Okay. So let's just get with Darien
19 or Ms. Kesia and see what they can do for us.

20 MR. LEWIS: Yes, Your Honor, I would renew all
21 previously made objections, a motion to set aside the
22 verdict and a motion for new trial.

23 THE COURT: I'm listening; anything more?

24 MR. LEWIS: Nothing more, Judge.

25 THE COURT: Would the State like to respond.

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1 MR. BOURDON: Your Honor, we object and believe
2 that the verdict is fair and just --

3 THE COURT: I can't hear you.

4 MR. BOURDON: There is no new ground, Judge.

5 THE COURT: Anything further Mr. Lewis?

6 MR. LEWIS: No, Your Honor.

7 THE COURT: The motion is denied. If there is any
8 evidence to support the jury's verdict the court is
9 constrained to leave the verdict in place. You very
10 artfully argued to the jury that your client was not
11 guilty of the possession of a stolen weapon because there
12 was no evidence that he knowingly possessed a stolen
13 firearm. And the jury found that argument as well as
14 your client's testimony to be credible on that point and
15 found him not guilty. The other charges which he was
16 found guilty all came down to really a creditability
17 contest that being whose version of events the jury
18 believed. And as the finders of fact there is more than
19 sufficient evidence direct and substantial circumstantial
20 evidence in the record to support the jury's finding and
21 there is no basis for the court to either grant a new
22 trial or to set aside the verdict therefore the motion is
23 denied. The court will stand on its contemporaneous
24 rulings regarding any previously preserved objections.

25 MR. LEWIS: Thank you, Your Honor.

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1 SENTENCING

2 THE COURT: Now it's my understanding that he has a
3 simple possession of marijuana in '05, a simple assault
4 in '05, assaulting a police officer with resisting arrest
5 in '06, then an resisting arrest in '06, a gun charge in
6 '06 and disorderly conduct, '08 gun charge and resisting
7 arrest and gun charge in '08, burglary 2nd and malicious
8 injury in 2012 out of Dorchester County and in 2014 false
9 information, possession of marijuana and those were the
10 ones that had the Magistrate's TIA. Is that an accurate
11 summary of his record?

12 MR. BOURDON: Yes, ma'am. I also believe in 2013
13 he had a driving under suspension third offense.

14 [Whereupon, Mr. Bourdon reviews documents]

15 THE COURT: He had what else?

16 MR. BOURDON: It was a DUS third in 2013.

17 MR. LEWIS: Judge, I apologize; I left the majority
18 of my file back in my office. But in regards to the
19 assault police while resisting arrest I think there was
20 one with several parole revocations that involved some
21 prison time.

22 THE COURT: Okay.

23 MR. LEWIS: Sometimes it is difficult to read on a
24 rap sheet.

25 THE COURT: That's the totality of his record?

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1 MR. BOURDON: Yes, Your Honor.

2 THE COURT: I'll be glad to hear from the State on
3 sentencing.

4 MR. BOURDON: As you heard the evidence in this
5 case this was as burglary to a residential home. You
6 heard the testimony of Mr. Franks. I've spoken to Mr.
7 Franks and he was not able to be here this afternoon due
8 to work commitments. He was here and testified at trial.

9 He spoke about the impact of this crime on his
10 family. It upset him but it certainly more upset his
11 young daughters or his teenage daughters and his wife
12 that someone had broken into their house and had
13 committed the crime of taking their property once inside.
14 A particular aggravation in this case is the fact that he
15 was armed with that loaded pistol that had a full
16 magazine clip of bullets and one in the chamber. That
17 combined with his blue gloves certainly indicated he was
18 up to no good that day and he used that house as his
19 target or opportunity to take the items that he did.

20 It was particularly brazen and particularly bold
21 given all the facts and circumstances of that
22 neighborhood at that time of day. Obviously the jury
23 didn't believe his story that he was there hiding from
24 people that were out to hurt him and in fact believed
25 that he was actually there to commit this burglary.

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1 Particularly of concern as well is the fact that as he
2 testified when he heard the police at the house that he
3 didn't call out to them. He didn't try to minimize what
4 he had done if he had in fact been a victim instead of a
5 defendant and that he ran away.

6 And luckily didn't use the pistol so he should be
7 given I guess some consideration for not pulling that out
8 but the fact that he had that there is no telling what he
9 would have done to anyone that he found inside that
10 residence that may have confronted him or used it for
11 some other nefarious purpose.

12 He was on probation I believe for burglary second
13 from 2012. It was a seven year sentence suspended on two
14 years probation. He's done time before for assaulting
15 police and resisting arrest. I believe he was bench
16 warranted when these charges occurred for other weapons
17 violations and habitual traffic offender and ---

18 THE COURT: --- what other weapons offenses?

19 MR. BOURDON: Those are still pending so I don't
20 want to prejudice him ---

21 THE COURT: --- were those other -- do y'all want
22 to deal with those -- what other charges does he have
23 pending? Does he have other pending charges?

24 MR. BOURDON: Yes, Your Honor. He's got a number
25 of charges ---

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1 THE COURT: --- like what?

2 MR. LEWIS: Habitual traffic offender, possession
3 of a pistol, unlawful carrying ---

4 THE COURT: --- y'all don't want to try to deal
5 with those too. Do you really plan to bring him back
6 here and try him on those? Habitual traffic offender
7 carries what? A third or subsequent carries five years
8 at 65 percent. What else does he have?

9 MR. BOURDON: If I may, Your Honor? For his
10 pending charges they're still with this office he has
11 19th June '14; that's the case where we dealt with his
12 false information. He has habitual traffic ---

13 THE COURT: --- you didn't deal with this false
14 information, the Magistrate's Court did.

15 MR. BOURDON: Yes, Your Honor. I meant that's what
16 we talked about ---

17 THE COURT: --- so he will serve the 30 days on
18 that and he's already maxed that out; he's done 778 days
19 so that's a moot issue.

20 MR. BOURDON: Yes, Your Honor. What I was saying
21 is the habitual traffic offender and the pistol charge
22 are from that same incident where he gave false
23 information.

24 THE COURT: Oh, I got you.

25 MR. BOURDON: He gave a fake name and they got him

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1 on this. And then on the 28th of December of '14 he was
2 charged again with habitual traffic offender and an
3 unlawful carry of a pistol.

4 THE COURT: So he has two of those?

5 MR. BOURDON: Correct. And then while he was in
6 custody on the 25th of June of 2015 he assaulted,
7 allegedly assaulted an inmate so he also has a pending
8 assault and battery second pending.

9 THE COURT: Have you been able to get in touch with
10 the victim on that?

11 MR. BOURDON: Your Honor, he's still available.
12 He's a defendant in another case.

13 THE COURT: What does the A & B second carry I
14 can't remember?

15 MR. BOURDON: Up to three, Your Honor.

16 THE COURT: So what do y'all want to do with those?
17 Do y'all still want to leave those out there or what do
18 y'all want to do? All of them have such minimal time.

19 MR. BOURDON: Part of our thing was a global
20 resolution to all of these charges if he will plead to
21 those we're amenable to doing ---

22 THE COURT: --- did the global offer include him
23 pleading to those ---

24 MR. BOURDON: --- yes ---

25 THE COURT: --- or y'all not pressing them ---

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1 MR. BOURDON: --- no, we're going to tie those all
2 in.

3 THE COURT: Do you want to talk to him about what
4 he wants to do Mr. Lewis? Does he really want these
5 things hanging over his head or what does he want to do?

6 MR. LEWIS: I mean I can certainly talk to him
7 about it, Judge.

8 THE COURT: Why don't you talk to him right quick
9 and see what he wants to do.

10 [Whereupon, Mr. Lewis confers with his client]

11 THE COURT: Probation, can you help me out?

12 PROBATION AGENT: Yes, ma'am. His case is out of
13 Dorchester and we haven't received any charging documents
14 to ---

15 THE COURT: --- I figured they didn't. Do you
16 think they know he had a trial today?

17 PROBATION AGENT: They probably did not. These
18 cases are from 2014. It's a malicious injury ---

19 THE COURT: --- and a burglary second non violent
20 right? And he had seven years suspended to two years
21 probation? Is there any way -- he said he would consent
22 to his revocation.

23 PROBATION AGENT: If he would consent we could do
24 the paperwork ---

25 THE COURT: --- you could just do the paperwork

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1 right ---

2 PROBATION AGENT: --- once we get the charging
3 documents we can fill out the forms.

4 THE COURT: Okay. How long do you think it will
5 take them to send that stuff over?

6 PROBATION AGENT: I sent them an email about five
7 minutes ago.

8 THE COURT: Probably what; an hour or two hours?

9 PROBATION AGENT: I hope not that long.

10 THE COURT: What I can do is ask them to leave him
11 downstairs so that Mr. Lewis can go over that with him if
12 you think you're going to get it in a reasonable time.

13 PROBATION AGENT: We should get it within the next
14 hour I hope.

15 THE COURT: Okay. That's workable. Yes sir, Mr.
16 Lewis? You still talking to your client or you need more
17 time? It is your call, sir. You don't have to.

18 MR. LEWIS: And sort of originally there were
19 issues with several of these cases. The big case
20 obviously has now been resolved and so that was sort of
21 driving all this.

22 THE COURT: Well, the habitual traffic offender
23 can't be up in the air. Either he had a valid license or
24 he didn't. Either he was habitual traffic offender
25 status or he wasn't. The Highway Department is pretty

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1 meticulous about that. I've rarely -- I've never seen
2 them make an error about that because it's all -- you
3 know the problem is once your license gets suspended and
4 you don't correct it it just snowballs and never goes
5 away. So those certainly I don't think -- I don't know
6 about the pistol charge because I have no idea and I
7 don't know about this assault and battery and how serious
8 the State is and how credible a victim you got.

9 MR. BOURDON: Your Honor, I've listened to jail
10 tapes where the defendant is almost bragging about doing
11 it so.

12 THE COURT: Well, you know that's a whole different
13 environment that we probably can't relate to and I don't
14 know what precipitated it. I don't know what
15 justification he felt he had. I'm just saying when you
16 have a victim they need to be sympathetic and somebody
17 with pending charges is not particularly sympathetic
18 usually depending on what the nature of those charges are
19 ---

20 MR. BOURDON: --- well he's an elderly man charged
21 with some child abuse charges and apparently Mr. Haynes
22 took offense to that ---

23 THE COURT: --- you and I both know that isn't a
24 particularly sympathetic -- not that it makes it right.
25 I'm not trying to say that it does but it's not unusual

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1 for that to happen is somebody has those kind of charges.

2 MR. BOURDON: Well, Your Honor frankly this
3 happened June of 2015 so it's been two years and he's
4 almost at the maximum ---

5 THE COURT: --- and this gentleman is still in
6 jail?

7 MR. BOURDON: I think he's out right now, Your
8 Honor. I haven't followed up. This is really ---

9 THE COURT: --- so what I need you all to do is
10 make an assessment so he can determine whether it's
11 really in his best interest whether to deal with these
12 are not because if the cases are weak it's not in his
13 best interest to do anything. I don't know. I don't
14 know what the evidence is.

15 I have no idea what the pistol charges are about but
16 you've already heard me tell Mr. Lewis a habitual traffic
17 offender is pretty straight forward. Either you were
18 declared a habitual traffic offender and your license was
19 invalid or it wasn't. There isn't too much debate about
20 it. And he probably has already maxed those out at 65
21 percent anyway if he got the full five years on each one
22 them because that's what habitual traffic offender
23 carries.

24 MR. LEWIS: Judge, I haven't looked at this but I
25 will bring out my reading of the warrant in regards to

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1 the HTO is it was sort of a flight where the person
2 wasn't caught in the car. So there were issues with that
3 in addition ---

4 THE COURT: --- you know the funny thing about
5 being a habitual traffic offender is that you get on the
6 police's radar. They know you, they know when you're
7 driving when you're not supposed to and frankly when
8 they've got dead time they don't have nothing else to do
9 but look for you driving a vehicle when you're not
10 supposed to especially if your neighborhood is within
11 their realm of where they are supposed to be. I mean we
12 know that and I'm not faulting them for it because
13 frankly if your license is suspended you should not be on
14 the public highways of this State with a car no matter
15 what your reasoning is for it.

16 So generally when people get stopped for that unless
17 it is out of their zone of where they frequent usually
18 the officers know them, they know what kind of cars they
19 drive and just because you flee the car doesn't mean they
20 didn't see you driving and they're not going to be able
21 to say I know him and I know his license is suspended and
22 I knew to stop him. And that's usually how that plays
23 out.

24 So you need to ask him what he wants to do. It
25 really doesn't matter to me one way or the other because

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1 otherwise they can lollygag and never call it and wait
2 until he's about to be released and then try him on it.

3 MR. LEWIS: We have a couple of mechanisms to work
4 on that Judge.

5 THE COURT: You could but you got a lot of people
6 ahead of you.

7 MR. LEWIS: Unfortunately Judge we're also going to
8 have a minute before we're going to be able to consider
9 ever being released. He's got at least 15.

10 THE COURT: I know.

11 [Whereupon, Mr. Lewis confers with his client]

12 THE COURT: Yes sir, I was just giving you the
13 option if you wanted to. If you don't want to -- you
14 ultimately have to make that decision; it's up to you. I
15 don't take a position one way or the other but I just
16 wanted you to know it was available to you if you wanted
17 to deal with it.

18 [Whereupon, Mr. Lewis confers with his client]

19 THE COURT: Mr. Bourdon, is there anything else you
20 want to tell me?

21 MR. BOURDON: Your Honor, if I could just finish my
22 argument on this I think we could deal with these other
23 charges either today or at some other time. But based on
24 his record and the fact that he was on probation for
25 burglary and malicious injury and his history of violence

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1 and assaults on police while resisting arrest, his
2 continued involvement with law enforcement, the fact that
3 he had a gun when he went into that house makes him a
4 danger to the community. We're asking for a sentence of
5 25 to 30 years in this case.

6 MR. LEWIS: I'd love to respond to that, Judge.

7 THE COURT: Well as soon as he is finished -- is
8 that your argument?

9 MR. BOURDON: Yes, Your Honor. Thank you.

10 THE COURT: You're welcome. Yes, sir?

11 MR. LEWIS: Judge, every single one of those facts
12 was known to the State of South Carolina when they
13 extended the offer of 15 to resolve nine charges
14 including those. To now say that because we went through
15 a trial and he testified deserves double that sentence
16 seems mildly vindictive. In fact amazing we would go
17 from 15 a negotiated minimum to 30 because we had a
18 trial. I think that sums up a perfect example of a trial
19 tactic that is completely inappropriate.

20 In regards to James this will definitely be the
21 longest prison sentence he has ever served. He
22 previously served five years at 65 percent, which would
23 have been a three year sentence. Now the mandatory
24 minimum requires a 15 year prison sentence at 85 percent
25 so 12.75 years to serve; more than doubling the time he

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1 has ever been in prison. I think that's an incredibly
2 substantial punishment. I think it's more than
3 satisfactory for his conduct that day. We don't punish
4 people on conduct that could have occurred. We punish
5 them on the conduct that did occur. No one was killed.
6 No one was shot. No one was injured. Nothing happened
7 in regards to that. Fifteen years is not an
8 insubstantial amount of punishment and I think it would
9 be appropriate and I'm asking the court to consider that
10 as a reasonable sentence on each of these cases.

11 MR. BOURDON: Your Honor, I don't believe my
12 request for the sentence was vindictive in any way.
13 We've been able to see him and I've never spoken before
14 and I was able to evaluate him on the stand and see his
15 reaction and see the story that he made up to try to get
16 out of this.

17 In addition this evaluation that he went through
18 that he tried to manipulate and malingering to get out of
19 these charges he's a manipulative person and he's tried
20 to do that today. He's a danger and he needs to be off
21 the street. Thank you.

22 THE COURT: You're welcome. How old is your
23 client, Mr. Lewis?

24 MR. LEWIS: Judge, he's 30 years old; a lifelong
25 resident of the Charleston area.

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1 THE COURT: How far did he go in school? He said,
2 he recited his history but did he graduate?

3 MR. LEWIS: I don't think he has his GED.

4 [Whereupon, Mr. Lewis confers with his client]

5 MR. LEWIS: He believes 2010 is when he would have
6 gotten his GED.

7 THE COURT: So he dropped out of high school?

8 MR. LEWIS: Yes, Your Honor.

9 THE COURT: Sir, did you drop out of high school?

10 MR. HAYNES: Yes, ma'am.

11 THE COURT: What year did you drop out of high
12 school?

13 MR. HAYNES: Like 2003 or 2004.

14 THE COURT: How old were you?

15 MR. HAYNES: Like 16 or 17.

16 THE COURT: And what grade had you completed?

17 MR. HAYNES: The tenth.

18 THE COURT: Have you ever been diagnosed with ADD,
19 ADHD, or oppositional defiant disorder do you recall?

20 MR. HAYNES: I believe so, ma'am. When I was
21 younger I was going through things like that but I can't
22 remember exactly the diagnosis.

23 THE COURT: Did they put you on any medication?

24 MR. HAYNES: Yes, ma'am.

25 THE COURT: What did they put you on?

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1 MR. HAYNES: Risperdal.

2 THE COURT: How long were you on Risperdal?

3 MR. HAYNES: Since I was back in elementary school.

4 THE COURT: Where are you family?

5 MR. HAYNES: Ma'am, my mother died when I was 18
6 and my father he lives in the Summerville area. My
7 grandmother she stays in North Carolina now. But my
8 grandmother on my father's side she stays in Ladson.
9 That's the Kenwood address.

10 THE COURT: Do you have any siblings?

11 MR. HAYNES: Yes, ma'am. My brother he stays in
12 North Charleston.

13 THE COURT: What does your brother do?

14 MR. HAYNES: He does like construction.

15 THE COURT: So you have one brother?

16 MR. HAYNES: Yes, ma'am.

17 THE COURT: How old is he?

18 MR. HAYNES: He's 33.

19 THE COURT: So he is older than you?

20 MR. HAYNES: Yes, ma'am.

21 THE COURT: Sir, is there anything you'd like to
22 share with the court?

23 MR. HAYNES: Not really. I'd just like to say I
24 appreciate the fairness in what you ruled over my case
25 in. And I ask that you have mercy on me.

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1 THE COURT: As a practical matter he's already
2 maxed out the unlawful carrying because that only carries
3 a year and or 1,000 dollars. So he will be sentenced to
4 the State Department of Corrections for a period of one
5 year. But again as I've indicated that's already been
6 maxed out with his 778 -- actually he's probably done
7 more than twice the amount of time that would be required
8 for that.

9 As regards to possession of a weapon during the
10 commission of a violent crime as we know that carries a
11 five year sentence which must be served day for day and
12 sir you are sentenced to the State Department of
13 Corrections for a period of five years.

14 Regarding the burglary in the first degree you are
15 sentenced to the State Department of Corrections for a
16 period of 15 years. These sentences are concurrent with
17 one other and you'll get credit for any time that you
18 served to be calculated pursuant to 24-13-40. Now my
19 question is do you need substance abuse treatment?

20 MR. HAYNES: No ma'am, I don't.

21 THE COURT: Are you certain?

22 MR. HAYNES: Yes, ma'am.

23 THE COURT: Okay. Thank y'all very much. It's
24 been a pleasure. Have a good day.

25 [Whereupon, the jury trial concludes at 2:50 p.m.]

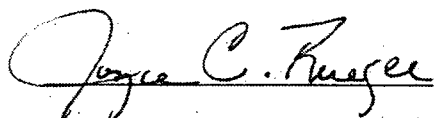
State v James Anthony Haynes
Certificate of the Court Reporter
July 12, 2017

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of General Sessions for Charleston County,
South Carolina on the 12th day of July, 2017.

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

October 1, 2017


Joyce C. Rueger, CVR-M
Court Reporter

Certified Transcript provided to SCCID, Appellate
Defense.

504

MJB/0305198
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2015-016358

ARREST WARRANT NUMBER

2015A1010202318

DATE OF ARREST

05/27/2015

ACTION OF GRAND JURY

TRUE BILL
[Signature]

Foreperson of Grand Jury

SEP 15 2015
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-10-04790

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2015

THE STATE

VS.

JAMES ANTHONY HAYNES
B/M DOB:

Indictment for

BURGLARY FIRST DEGREE

SC Code: § 16-11-0311
CDR Code: 0079

FILED

9/23/2015 9:53:25 AM
JULIE J. ARMSTRONG
CLERK OF COURT

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF COURT
By *[Signature]*
DEPUTY CLERK

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

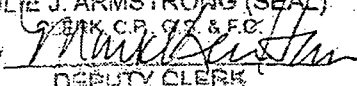
At a Court of General Sessions, convened on September 14, 2015, the Grand Jurors of Charleston County present upon their oath:

BURGLARY FIRST DEGREE

That in Charleston County, South Carolina on or about May 26, 2015, the Defendant James Anthony Haynes, did enter the dwelling of Earle Franks without consent and with the intent to commit a crime therein. That, in addition, the defendant was armed with a deadly weapon or explosive; in violation of Section 16-11-311 of the South Carolina Code of Laws (1976) as amended.

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


MARK J. BOURDON
ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK C.P., C.T. & F.C.
By 
DEPUTY CLERK

506

MJB/0305198
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2015-016358

ARREST WARRANT NUMBER

2015A1010202319

DATE OF ARREST

05/27/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

SEP 15 2015
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-10-04793

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2015

THE STATE

VS.

JAMES ANTHONY HAYNES
B/M DOB:

Indictment for

UNLAWFUL CARRYING OF A PISTOL

SC Code: § 16-23-0020
CDR Code: 0044

FILED

9/23/2015 9:53:26 AM
JULIE J. ARMSTRONG
CLERK OF COURT

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF C.S. & C.
By: *Mark Scott*
DEPUTY CLERK

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF CHARLESTON

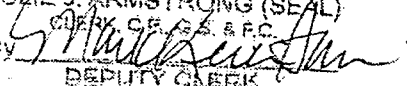
At a Court of General Sessions, convened on September 14, 2015, the Grand Jurors of Charleston County present upon their oath:

UNLAWFUL CARRYING OF A PISTOL

The defendant, James Anthony Haynes did in Charleston County, on or about May 26, 2015, willfully and unlawfully carry about his person a handgun, whether concealed or not, in violation of §16-23-20 of the South Carolina Code of Laws (1976) as amended.

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


MARK J. BOURDON
ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.G. & S. & P.C.
BY 
DEPUTY CLERK

508

MJB/0305198
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER
2015-016358

ARREST WARRANT NUMBER
2015A1010202320

DATE OF ARREST
05/27/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

SEP 15 2015
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-10-04794

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
SEPTEMBER TERM 2015

THE STATE

VS.

JAMES ANTHONY HAYNES
B/M DOB:

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490
CDR Code: 0549

FILED

9/23/2015 9:53:26 AM
JULIE J. ARMSTRONG
CLERK OF COURT

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF COURT
By *M. J. Armstrong*
DEPUTY CLERK

STATE OF SOUTH CAROLINA

INDICTMENT

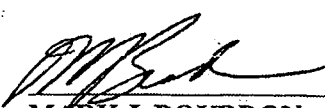
COUNTY OF CHARLESTON

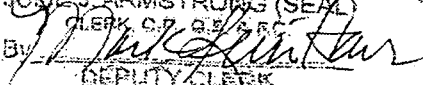
At a Court of General Sessions, convened on September 14, 2015, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about May 26, 2015, the Defendant, James Anthony Haynes, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Burglary First Degree; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

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


MARK J. BOURDON
ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
JUNE J. ARMSTRONG (SEAL)
CLERK OF DISTRICT COURT
By 
DEPUTY CLERK

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Victor R Seeger
Appellate Defender

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

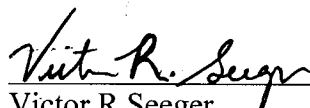
ATTORNEY FOR APPELLANT

This 4th day of December, 2017.

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Victor R Seeger
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 4th day of December, 2017.

RECEIVED
DEC 04 2017
SC Court of Appeals