

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Orangeburg County
Maite Murphy, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DERRICK LAMOUNT FURTICK,

APPELLANT

APPELLATE CASE NO 2017-001236

RECORD ON APPEAL

TAYLOR D GILLIAM
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

MARK FARTHING
Assistant Attorney General
Attorney General Office
P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR APPELLANT

DAVID M. PASCOE, JR.
Solicitor, First Judicial Circuit
140 N. Main Street, Suite 102
Moss Justice Center
Summerville, SC 29483
(843) 871-2640

ATTORNEYS FOR RESPONDENT

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State of South Carolina	)	Court of General Sessions
	)	First Judicial Circuit
County of Orangeburg	)	Case No. 2016-GS-38-1418
	)	Case No. 2016-GS-38-1419

State of South Carolina,	)	
	)	
Plaintiff,	)	

-vs-

Transcript of Record

Derrick Lamount Furtick,	)	
	)	
Defendant.	)	

May 23 & 25, 2017
Orangeburg, South Carolina

B E F O R E:

The Honorable Maite Murphy, Judge; and a jury

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

Ashley Cornwell, Esquire
Attorney for the Plaintiff

Breen Stevens, Esquire
Peggy Hinds, Esquire
Attorneys for the Defendant

Krystal J. Smith
Circuit Court Reporter

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20

COURT REPORTER LEGEND

21	dashes --	intentional or purposeful interruption
22		or change in thought
23	ellipses . . .	trailing off
24	[ph]	phonetically written
25	[sic]	written as said

1 MAY. 23, 2017

2 (WHEREUPON, the proceedings began at 12:03 p.m.)

3 THE COURT: All right. Solicitor, you may call your
4 next case.

5 MS. CORNWELL: Thank you, Your Honor. The State would
6 call Derrick Lamount Furtick, Indictment 2016-GS-38-1418,
7 kidnapping, and Indictment 2016-GS-38-1419, burglary in the
8 first degree.

9 THE COURT: Ladies and gentlemen --

10 MR. STEVENS: Judge? I apologize. If we may approach
11 just for one quick matter?

12 THE COURT: Certainly.

13 MR. STEVENS: Thank you, Your Honor.

14 (WHEREUPON, a bench conference was held in the presence
15 of the jury panel but out of the hearing of the jury
16 panel as follows.)

17 MR. STEVENS: How are you doing? His family showed up,
18 his mother and father, and they tried to get in, but I think
19 the policy of the courtroom was everyone said, no, family
20 members are not allowed in during jury selection.

21 We wanted them to be here in a spot that's all the way
22 over there where they're not going to say anything and
23 wouldn't say anything, but we just request that they be
24 allowed in here. I mean they've got a right to be in here.
25 It's an open courtroom.

1 THE COURT: That's fine. They can sit in the back as
2 long as they don't interfere.

3 MR. STEVENS: Thank you. I appreciate that. I just
4 wanted to make sure.

5 THE COURT: Yes, sir.

6 (WHEREUPON, the bench conference ended and the
7 proceedings resumed as follows.)

8 THE COURT: Ladies and gentlemen of the jury panel, we
9 are going to begin the jury selection process for the second
10 case in this -- this term of court. The trial of the case is
11 the State of South Carolina versus Derrick Lamont Furtick.

12 Ladies and gentlemen, I'm going to read the indictments
13 to you again in this case for the same reason as the previous
14 case, to see if you have any information about this case or
15 if you know anything about it.

16 Ladies and gentlemen, the first indictment is for 2016-
17 GS-38-1419, and it states that in Orangeburg County, South
18 Carolina, on or about August 19th of 2016, the defendant,
19 Derrick Lamont Furtick, did willfully and unlawfully enter
20 the dwelling of Danielle Monroe without consent and with the
21 intent to commit a crime therein and that the defendant did
22 enter during the hours of darkness. This offense is in
23 violation of the South Carolina Code of Laws, as amended.

24 The next indictment is Indictment Number 2016-GS-38-
25 1418, for kidnapping. This states that in Orangeburg County,

1. South Carolina, on or about August the 19th, 2016, the
2 defendant, Derrick Lamont Furtick, unlawfully did seize,
3 confine, inveigle, decoy, kidnap, abduct or carry away the
4 victim, Danielle Monroe, without the authority of law, this
5 offense in violation of the South Carolina Code of Laws, as
6 amended.

7 Again, ladies and gentlemen, I read these to you just as
8 the allegations that are going to be heard this week, again
9 just to see if you have any information or if there's
10 anything that we need to discuss during the jury selection
11 regarding your experiences.

12 Again, for the record, Solicitor, if you would,
13 introduce yourself and the members of your office.

14 MS. CORNWELL: Thank you, Your Honor. I can say good
15 afternoon at least. Good afternoon. I'm Ashley Cornwell.
16 I'm an assistant solicitor here in Orangeburg County. The
17 elected solicitor for Orangeburg County, as well as Calhoun
18 and Dorchester Counties, is David Pascoe, and that is for the
19 First Circuit.

20 With me is Mark Hinds, who is our intern. Again, just
21 graduated -- or finished his junior year at Clemson, fixing
22 to graduate, and Tammy Craven, who is our victim's advocate.
23 Other attorneys in my office -- Josh Edwards is in the back
24 of the courtroom here. Our deputy solicitor is Tommy Scott.
25 Sarah Ford and Phil Gize are General Sessions solicitors.

1 Our juvenile prosecutor is Taylor Owens.

2 THE COURT: Ladies and gentlemen of the jury panel,
3 anyone related by blood or marriage or has a close personal
4 or social relationship or has ever been represented in any
5 capacity by any member of the Solicitor's Office? If so,
6 please stand.

7 And obviously, there were people that came up before.
8 If your answer has not changed, but if the answer applies to
9 you, just please stand so I can mark it for the record if
10 anyone is related by blood or marriage.

11 (WHEREUPON, several people stood.)

12 THE COURT: Yes, ma'am, in the back, you're Ms. Craven;
13 is that correct?

14 JUROR NUMBER 24: Yes.

15 THE COURT: And are your answers the same, ma'am?

16 JUROR NUMBER 24: Yes, ma'am.

17 THE COURT: All right. Thank you, ma'am. And that is
18 Juror Number 24 for the record. Would counsel please
19 approach for one second?

20 (WHEREUPON, a bench conference was held in the presence
21 of the jury panel but out of the hearing of the jury
22 panel as follows.)

23 THE COURT: Do y'all have any objection to that process
24 or do you want me to bring them up individually again?

25 MS. CORNWELL: I have no objection.

1 MS. HINDS: I don't have any objection.

2 THE COURT: Okay. I just wanted to make sure.

3 MS. HINDS: I was present for the first time.

4 THE COURT: Okay.

5 (WHEREUPON, the bench conference ended and the
6 proceedings resumed as follows.)

7 THE COURT: All right. Ms. Hinds, if you would, please
8 stand and introduce yourself and the members of your office,
9 please.

10 MS. HINDS: I'm Peggy Hinds. Again, the chief public
11 defender is Mark Leiendecker. He works out of our Dorchester
12 office. Other attorneys -- sitting with me are Breen
13 Stevens, you met earlier Minh Wyman, and Doug Milner.
14 Sitting in the back -- not anymore -- is Jim Adams and also
15 our mitigation specialist, Josh Porter. Our staff includes
16 Deborah Martin, Glenda Easterland, and Lauren Kaiser.

17 THE COURT: Thank you, Ms. Hinds. Again, ladies and
18 gentlemen of the jury panel, anyone related by blood or
19 marriage or has a close personal or social relationship with
20 any member of the Public Defender's Office or has ever been
21 represented by them in any capacity? If so, please stand.

22 (WHEREUPON, one person stood.)

23 JUROR NUMBER 180: May I ask a quick question, please?

24 THE COURT: Why don't you come forward, ma'am?

25 (WHEREUPON, a bench conference was held with Juror

1 Number 180 in the presence of the jury panel but out of
2 the hearing of the jury panel as follows.)
3 THE COURT: Good morning,
4 JUROR NUMBER 180: Good morning.
5 THE COURT: Or afternoon.
6 JUROR NUMBER 180: Good afternoon.
7 THE COURT: Your juror number, please?
8 JUROR NUMBER 180: 180.
9 THE COURT: 180? Yes, ma'am, Ms. Walters?
10 JUROR NUMBER 180: I just want to ask a question, not
11 knowing. I believe the Solicitor's Office represented my
12 son. Does that make a difference?
13 THE COURT: Well, let me ask you this. Is that -- was
14 your son a victim of a crime?
15 JUROR NUMBER 180: He committed a crime of marijuana.
16 THE COURT: Okay. So in the past, he had -- he went
17 through their office --
18 JUROR NUMBER 180: Yes.
19 THE COURT: -- somehow in the process?
20 JUROR NUMBER 180: Yes.
21 THE COURT: And has that been resolved?
22 JUROR NUMBER 180: Yes.
23 THE COURT: Okay.
24 JUROR NUMBER 180: He went through probation and
25 everything is finished.

1 THE COURT: Okay. Anything about having that experience
2 with your son -- can you set that aside in this particular
3 case and listen to the evidence as it comes from the witness
4 stand?

5 JUROR NUMBER 180: Yes.

6 THE COURT: Can you be fair and impartial to both the
7 State and to the defense?

8 JUROR NUMBER 180: Yes.

9 THE COURT: All right. Thank you, ma'am. You can have
10 a seat.

11 JUROR NUMBER 180: Thanks.

12 (WHEREUPON, the bench conference ended and the
13 proceedings resumed as follows.)

14 THE COURT: Ladies and gentlemen of the jury panel,
15 anyone related by blood or marriage or connected in any
16 social capacity or know Mr. Derrick Furtick in any way,
17 please stand. And this is Mr. Furtick here sitting at the
18 counsel table with the white shirt on. Anyone related by
19 blood or marriage or a close personal or social relationship
20 with Mr. Furtick? If so, please stand.

21 I find that there is no one standing.

22 Ladies and gentlemen of the jury panel, anyone related
23 by blood or marriage or has a close personal or social
24 relationship with Ms. Danielle Monroe? If so, please stand.

25 I find that there is no one standing.

1 Ladies and gentlemen, I'm going to read to you a list of
2 potential witnesses in this case. Again, at -- at the end of
3 me listing the witnesses for you, I'll ask you the same
4 question, if you're related by blood or marriage or have a
5 close personal or social relationship with any of the
6 following people. And again, if you're in the courtroom, if
7 you would, please stand.

8 Sgt. John Stokes. There's Sgt. Stokes back there. Sgt.
9 Ryan Harter, Investigator Lakeisha Gilliard, Danielle Monroe,
10 Jamarion Davis, Larry Haynes, Dr. Wade Dencamp [ph], Jamarion
11 Davis or J.S. [REDACTED], Dr. Sarah Ludington, and Patricia
12 Hampton.

13 Anyone in the jury panel related by blood or marriage or
14 has a close personal or social relationship with any of the
15 potential witnesses? If so, please stand.

16 (WHEREUPON, several people stood and a line was formed.)

17 (WHEREUPON, a bench conference was held with Juror
18 Number 134 as follows.)

19 THE COURT: Good afternoon, ma'am. Your name, please?

20 JUROR NUMBER 134: Yvonne Owens, 134.

21 THE COURT: 134? Yes. Ms. Owens, who do you know?

22 JUROR NUMBER 134: Lakeisha Gilliard.

23 THE COURT: I'm sorry?

24 JUROR NUMBER 134: Lakeisha Gilliard.

25 THE COURT: And how do you know Ms. Gilliard?

1 JUROR NUMBER 134: We go to church together and we're
2 friends.

3 THE COURT: So you go to church together?

4 JUROR NUMBER 134: Uh-huh.

5 THE COURT: Has she talked to you anything about this
6 case at all?

7 JUROR NUMBER 134: No.

8 THE COURT: Okay. I'm not -- I'm not sure what her role
9 is in this case, but so she hasn't discussed this case with
10 you at all?

11 JUROR NUMBER 134: No.

12 THE COURT: Do you know anything about this case?

13 JUROR NUMBER 134: No.

14 THE COURT: Do you think you can set your personal
15 relationship with Ms. Gilliard aside in this case and listen
16 to the evidence solely as it comes from the witness stand?

17 JUROR NUMBER 134: Yes.

18 THE COURT: Will you be fair and impartial to both the
19 State and to the defense?

20 JUROR NUMBER 134: Yes.

21 THE COURT: All right. Thank you, ma'am.

22 (WHEREUPON, the bench conference with Juror Number 134
23 ended and a bench conference was held with Juror Number
24 81 as follows.)

25 THE COURT: Good afternoon.

1 JUROR NUMBER 81: Good afternoon.

2 THE COURT: How are you?

3 JUROR NUMBER 81: All right.

4 THE COURT: And your name, please?

5 JUROR NUMBER 81: Scott Han.

6 THE COURT: I'm sorry?

7 JUROR NUMBER 81: Scott Han.

8 THE COURT: What's your number?

9 JUROR NUMBER 81: 81.

10 THE COURT: 81? Mr. Han?

11 JUROR NUMBER 81: Uh-huh.

12 THE COURT: Who do you know, sir?

13 JUROR NUMBER 81: I work with Dr. Ludington and Dencamp.

14 THE COURT: All right. So let's take each of those at a

15 time, and where do you work?

16 JUROR NUMBER 81: Regional Medical Center.

17 THE COURT: Okay. Anything about -- do you know

18 anything about this particular case? Have they discussed

19 coming to testify with you at all?

20 JUROR NUMBER 81: No.

21 THE COURT: So you don't know anything about the facts

22 of this case?

23 JUROR NUMBER 81: No.

24 THE COURT: All right. Can you set your personal

25 relationship with them aside in this case and listen to the

1 evidence solely as it comes from the witness stand?

2 JUROR NUMBER 81: Yes.

3 THE COURT: And will you be fair and impartial to both
4 the State and to the defense?

5 JUROR NUMBER 81: Uh-huh.

6 THE COURT: All right, sir. Is that a yes?

7 JUROR NUMBER 81: Yes.

8 THE COURT: All right, sir. Thank you.

9 JUROR NUMBER 81: Uh-huh.

10 (WHEREUPON, the bench conference with Juror Number 81
11 ended and a bench conference was held with Juror Number
12 37 as follows.)

13 THE COURT: Good afternoon.

14 JUROR NUMBER 37: My name is Charles Dowling.

15 THE COURT: All right. You're Juror Number 37?

16 JUROR NUMBER 37: Uh-huh.

17 THE COURT: Yes, sir. Who do you know?

18 JUROR NUMBER 37: I know Patricia Hampton. She was my
19 guidance counselor in high school for two years.

20 THE COURT: Okay. And how long ago was that? You look
21 pretty young, but how long ago was that?

22 JUROR NUMBER 37: That was through last year.

23 THE COURT: Okay.

24 JUROR NUMBER 37: Yes.

25 THE COURT: And do you -- she was your guidance

1 counselor?

2 JUROR NUMBER 37: Uh-huh.

3 THE COURT: But do you stay in touch?

4 JUROR NUMBER 37: I knew some things about her personal
5 life.

6 THE COURT: Okay. Well, she's a witness in this case.
7 I'm not sure exactly in what capacity.

8 JUROR NUMBER 37: Uh-huh.

9 THE COURT: Do you visit with her in each other's homes
10 or anything?

11 JUROR NUMBER 37: I don't.

12 THE COURT: But basically, it was a school-type
13 relationship; is that correct?

14 JUROR NUMBER 37: Yes, ma'am.

15 THE COURT: All right. Can you set that aside in this
16 case and listen to the evidence solely as it comes from the
17 witness stand?

18 JUROR NUMBER 37: All right.

19 THE COURT: Can you do that?

20 JUROR NUMBER 37: Yes, ma'am.

21 THE COURT: And will you be fair and impartial to both
22 sides, the State and to the defense?

23 JUROR NUMBER 37: I will.

24 THE COURT: All right, sir. Thank you.

25 JUROR NUMBER 37: All right.

1. (WHEREUPON, the bench conference with Juror Number 37
2 ended and a bench conference was held with Juror Number
3 178 as follows.)
4 JUROR NUMBER 178: 178.
5 THE COURT: Good afternoon.
6 THE COURT REPORTER: Did you say 178?
7 JUROR NUMBER 178: Yes, ma'am. Ashley Walker.
8 THE COURT: Ms. Walker? Yes, ma'am. Who do you know?
9 JUROR NUMBER 178: I think I know Danielle.
10 THE COURT: I'm sorry?
11 JUROR NUMBER 178: I think I know Danielle.
12 THE COURT: You think you know her?
13 JUROR NUMBER 178: I don't know her personally. I love
14 my social media.
15 THE COURT: Okay.
16 JUROR NUMBER 178: And I heard -- I think I heard about
17 it.
18 THE COURT: All right. Well, can you tell me a little
19 bit about what you may have heard?
20 JUROR NUMBER 178: I heard that somebody tried to grab
21 her out of her house and her son was trying to help -- like,
22 help her get him or something like that because she posted on
23 social media that her son is her hero.
24 THE COURT: Okay.
25 JUROR NUMBER 178: Like, she has an older son, like ten

1 or something like that.

2 THE COURT: So you know about the facts of this case?
3 Do you ever see each other in each other's homes or do you
4 visit?

5 JUROR NUMBER 178: No. I just know her through other
6 people and I think we worked at the same job.

7 THE COURT: Okay. And how long ago was that?

8 JUROR NUMBER 178: That was years ago when I first
9 started McDonald's.

10 THE COURT: So it's -- it's been years ago? So you
11 recognize the name, but would you recognize her face?

12 JUROR NUMBER 178: (No verbal response.)

13 THE COURT: You would? Okay.

14 JUROR NUMBER 178: And she would recognize mine too.

15 THE COURT: Okay. Why don't we do this? I'm going to
16 set you aside for this case since you've heard about the
17 facts in this case and you're friends on social media. Okay?

18 JUROR NUMBER 178: Gotcha.

19 THE COURT: I'm going to set you aside.

20 JUROR NUMBER 178: Thank you, Your Honor.

21 THE COURT: We'll set her aside.

22 THE CLERK: What number?

23 THE COURT: 178.

24 (WHEREUPON, the bench conference with Juror Number 178
25 ended and a bench conference was held with Juror Number

1. 149 as follows:)

2 THE COURT: Good afternoon. Your juror number, please?

3 JUROR NUMBER 149: 149, Julie Robinson.

4 THE COURT: Yes, Ms. Robinson?

5 JUROR NUMBER 149: I'm not sure, but I think Ms.

6 Patricia -- is her last name Hampton?

7 THE COURT: Right.

8 JUROR NUMBER 149: Is she an older lady?

9 THE COURT: I honestly know nothing about that.

10 JUROR NUMBER 149: Because she's been sitting out there
11 in the hall.

12 THE COURT: Yes, ma'am.

13 JUROR NUMBER 149: She works at the restaurant in our
14 little town that I eat there, like, every Thursday and Friday
15 after work.

16 THE COURT: Okay.

17 JUROR NUMBER 149: I've even worked with her before.

18 THE COURT: All right. Well, let me ask you this.

19 JUROR NUMBER 149: I'm not sure that that's her name
20 because --

21 THE COURT: So the fact that you may know her in some
22 capacity, you don't visit in each other's homes?

23 JUROR NUMBER 149: No.

24 THE COURT: Or call each other or anything of that
25 nature?

1 JUROR NUMBER 149: Huh-uh. No

2 THE COURT: Do you think the fact that you know her --
3 can you set that aside --

4 JUROR NUMBER 149: Yes.

5 THE COURT: -- and listen to the testimony solely as it
6 comes from the witness stand?

7 JUROR NUMBER 149: Yes.

8 THE COURT: And will you be fair and impartial to both
9 sides, the State and to the defense?

10 JUROR NUMBER 149: Yes.

11 THE COURT: Thank you, ma'am.

12 (WHEREUPON, the bench conference ended and the
13 proceedings resumed as follows.)

14 THE COURT: Ladies and gentlemen of the jury panel, is
15 there any member of the jury panel who is a member of or a
16 contributor to any group which has as its primary concern the
17 promotion of law enforcement or victim's rights? These
18 groups would include but are not limited to MADD, SADD, or
19 Citizens Against Violent Crime. If so, please stand.

20 I find that there is no one standing.

21 Ladies and gentlemen of the jury panel, is there anyone
22 in the jury panel that has heard or read or have any
23 information about this case before today, whether it's
24 through social media or news or anything or just talking with
25 neighbors or friends before today or during this morning? If

1 so, please stand.

2 I find that there is no one standing.

3 Has any member of the jury panel formed or expressed an
4 opinion about any issue or matter in this case? If so,
5 please stand.

6 I find that there is no one standing.

7 Is there any member of the jury panel that was a member
8 of the grand jury which issued the indictments in this case?
9 If so, please stand.

10 I find that there is no one standing.

11 Ladies and gentlemen of the jury panel, I read to you
12 the allegations contained in the indictment. Is there
13 anything about this type of case based upon your personal or
14 your friends or immediate family or your acquaintances,
15 anything about those prior experiences that would cause you
16 to hesitate in your ability to be fair and impartial to both
17 the State and to the defense in this case? If so, please
18 stand.

19 I find that there is no one standing.

20 Is any member of the jury panel aware of any bias or
21 prejudice towards the State or the defense in this case? If
22 so, please stand.

23 I find that there is no one standing.

24 Does any member of the jury panel know of any reason
25 whatsoever why he or she should not serve as a juror in this

1 case, with a particular emphasis on your ability to be fair
2 and impartial to both the State and to the defense? If so,
3 please stand.

4 I find that there is no one standing.

5 Ladies and gentlemen, that will conclude the list of
6 questions before we begin the selection process of this case.
7 Madam Clerk, do you need just a couple minutes?

8 THE CLERK: About five.

9 THE COURT: About five minutes? Ladies and gentlemen,
10 if you would, be back in the courtroom in five minutes.
11 Again, please do not discuss this case with anyone or allow
12 anyone to discuss the case with you. We'll select the next
13 jury and then you'll be free to go on your lunch break.

14 (WHEREUPON, there was a break in the proceedings from
15 12:20 p.m. until 12:25 p.m., after which the proceedings
16 resumed as follows.)

17 THE COURT: Would Juror Number 67 please come forward?
18 Mr. Glover?

19 (WHEREUPON, a bench conference was held with Juror
20 Number 67 as follows.)

21 THE COURT: All right, Mr. Glover. Mr. Glover, I
22 understand that you had a question.

23 JUROR NUMBER 67: Yes. I worked with Danielle.

24 THE COURT REPORTER: I can't hear him.

25 THE COURT: Can you speak up a little bit?

1 JUROR NUMBER 67: ~~I worked with Danielle. I don't know~~
2 if --
3 THE COURT: With who?
4 JUROR NUMBER 67: Danielle.
5 THE COURT: Okay. Then let's -- how -- what type of
6 work do you do?
7 JUROR NUMBER 67: We work at Allied Air on the same
8 line.
9 THE COURT: Okay.
10 JUROR NUMBER 67: And we talk every day. So --
11 THE COURT: So you see her? Did she say anything about
12 this case?
13 JUROR NUMBER 67: She said a couple of things, yeah.
14 THE COURT: Pardon me?
15 JUROR NUMBER 67: She said a couple of things about it.
16 THE COURT: So you had previous knowledge about the
17 case?
18 JUROR NUMBER 67: Yeah.
19 THE COURT: Is there a reason you didn't tell me this
20 before?
21 JUROR NUMBER 67: Yeah. I didn't know it. I didn't --
22 I couldn't hear you say her name at first, but then --
23 THE COURT: Then it dawned on you --
24 JUROR NUMBER 67: Yeah.
25 THE COURT: -- who it was?

1 JUROR NUMBER 67: Yeah.

2 THE COURT: Okay. Are you friends where you visit in
3 each other's home or you do things after work or anything
4 like that?

5 JUROR NUMBER 67: No.

6 THE COURT: So basically, it's a work-type relationship?

7 JUROR NUMBER 67: Yeah.

8 THE COURT: Can you tell me what you know about the
9 case?

10 JUROR NUMBER 67: Yeah. I don't -- I don't want to talk
11 about it.

12 THE COURT: Well, you're under oath and I'm asking you a
13 question; so you need to answer it.

14 JUROR NUMBER 67: She just said that he came inside the
15 house and stuff like that.

16 THE COURT: So she gave you the facts of the case?

17 JUROR NUMBER 67: Yeah.

18 THE COURT: All right. All right. I'm going to excuse
19 you from this trial. Just have a seat in the courtroom.
20 Okay?

21 THE CLERK: What's his number?

22 THE COURT: 67.

23 THE CLERK: Thank you.

24 (WHEREUPON, the bench conference ended and the
25 proceedings resumed as follows.)

1 THE COURT: All right. Madam Clerk, are you ready to
2 proceed?
3 THE CLERK: Yes. Juror Number 158, Keysha Sheard.
4 (WHEREUPON, a black female came forward.)
5 THE CLERK: What says the State?
6 MS. CORNWELL: Please seat Ms. Sheard.
7 THE CLERK: What says the defense?
8 MS. HINDS: Please seat Ms. Sheard.
9 THE CLERK: Okay. You may have a seat in the jury box.
10 Juror Number 45, Leandrae Felder.
11 (WHEREUPON, a black male came forward.)
12 THE CLERK: What says the State?
13 MS. CORNWELL: Please seat Mr. Felder.
14 THE CLERK: What says the defense?
15 MS. HINDS: Please seat Mr. Felder.
16 THE CLERK: Okay. Juror Number 134, Yvonne Owens.
17 (WHEREUPON, a black female came forward.)
18 THE CLERK: What says the State?
19 MS. CORNWELL: Please seat Ms. Owens.
20 THE CLERK: What says the defense?
21 MS. HINDS: Please excuse Ms. Owens.
22 THE CLERK: You may return to your seat. Juror Number
23 75, Monica Green.
24 (WHEREUPON, a black female came forward.)
25 THE CLERK: What says the State?

1 MS. CORNWELL: Please seat Ms. Green.
2 THE CLERK: What says the defense?
3 MS. HINDS: Please seat Ms. Green.
4 THE CLERK: Okay. Juror Number 1, Shondra Abraham.
5 (WHEREUPON, a black female came forward.)
6 THE CLERK: What says the State?
7 MS. CORNWELL: Please seat Ms. Abraham.
8 THE CLERK: What says the defense?
9 MS. HINDS: One moment. Please excuse Ms. Abraham.
10 THE CLERK: You may return to your seat. Juror Number
11 65, Donna Gleaton.
12 (WHEREUPON, a white female came forward.)
13 THE CLERK: What says the State?
14 MS. CORNWELL: Please seat Ms. Gleaton.
15 THE CLERK: What says the defense?
16 MS. HINDS: Please seat -- please seat Ms. Gleaton.
17 THE CLERK: Juror Number 54, Jessie Funchess.
18 (WHEREUPON, a white female came forward.)
19 THE CLERK: What says the State?
20 MS. CORNWELL: Please seat Ms. Funchess.
21 THE CLERK: What says the defense?
22 MS. HINDS: Please excuse Ms. Funchess.
23 THE CLERK: You may return to your seat. Juror Number
24 156, Justin Schneider.
25 (WHEREUPON, a white male came forward.)

1 THE CLERK: What says the State?
2 MS. CORNWELL: Please seat Mr. Schneider.
3 THE CLERK: What says the defense?
4 MS. HINDS: Please seat Mr. Schneider.
5 THE CLERK: Juror Number 59, Dillon Gaskins.
6 (WHEREUPON, a white male came forward.)
7 THE CLERK: What says the State?
8 MS. CORNWELL: Please seat Mr. Gaskins.
9 THE CLERK: What says the defense?
10 MS. HINDS: Please excuse Mr. Gaskins.
11 THE CLERK: You may return to your seat. Juror Number
12 110, Joette Kittrell.
13 (WHEREUPON, a white female came forward.)
14 THE CLERK: What says the State?
15 MS. CORNWELL: Please seat Ms. Kittrell.
16 THE CLERK: What says the defense?
17 MS. HINDS: Please seat Ms. Kittrell.
18 THE CLERK: Juror Number 148, Dewayne Robinson.
19 (WHEREUPON, a black male came forward.)
20 THE CLERK: What says the State?
21 MS. CORNWELL: Please excuse Mr. Robinson.
22 THE CLERK: You may return to your seat. Juror Number
23 154, Robert Sabb.
24 (WHEREUPON, a black male came forward.)
25 THE CLERK: What says the State?

1 MS. CORNWELL: Please excuse Mr. Sabb.
2 THE CLERK: Juror Number 85, Medinia Haynes.
3 (WHEREUPON, a black female came forward.)
4 THE CLERK: What says the State?
5 MS. CORNWELL: Please seat Ms. Haynes.
6 THE CLERK: What says the defense?
7 MS. HINDS: Please seat Ms. Haynes.
8 THE CLERK: Okay. Juror Number 200, Amber Zonca.
9 (WHEREUPON, a white female came forward.)
10 THE CLERK: What says the State?
11 MS. CORNWELL: Please seat Ms. Zonca.
12 THE CLERK: What says the defense?
13 MS. HINDS: Please seat Ms. Zonca.
14 THE CLERK: Juror Number 139, Terrence Phelps.
15 (WHEREUPON, a black male came forward.)
16 THE CLERK: What says the State?
17 MS. CORNWELL: Please seat Mr. Phelps.
18 THE CLERK: What says the defense?
19 MS. HINDS: Please seat Mr. Phelps.
20 THE CLERK: Juror Number 77, Cynthia Groves.
21 (WHEREUPON, a Native American female came forward.)
22 THE CLERK: What says the State?
23 MS. CORNWELL: Please excuse Ms. Groves.
24 THE CLERK: Juror Number 129, Williamae Munson.
25 (WHEREUPON, a black female came forward.)

1 THE CLERK: What says the State?

2 MS. CORNWELL: Please seat Ms. Munson.

3 THE CLERK: What says the defense?

4 MS. HINDS: Please seat Ms. Munson.

5 THE CLERK: Juror Number 73, Earnestine Green.

6 (WHEREUPON, a black female came forward.)

7 THE CLERK: What says the State?

8 MS. CORNWELL: Please seat Ms. Green.

9 THE CLERK: What says the defense?

10 MS. HINDS: Please seat Ms. Green.

11 THE CLERK: Juror Number 194, Michele Wolfe.

12 (WHEREUPON, a white female came forward.)

13 THE CLERK: What says the State?

14 MS. CORNWELL: Please seat Ms. Wolfe.

15 THE CLERK: What says the defense?

16 MS. HINDS: Please excuse Ms. Wolfe.

17 THE CLERK: Juror Number 81, Scott Han.

18 (WHEREUPON, an Asian male came forward.)

19 THE CLERK: What says the State?

20 MS. CORNWELL: Please seat Mr. Han.

21 THE CLERK: What says the defense?

22 MS. HINDS: Please excuse Mr. Han.

23 THE CLERK: Juror Number 138, Samuel Peppers Jr.

24 (WHEREUPON, a black male came forward.)

25 THE CLERK: What says the State?

1 MS. CORNWELL: Please seat Mr. Peppers.
2 THE CLERK: What says the defense?
3 MS. HINDS: Please seat Mr. Peppers.
4 THE CLERK: Juror Number 24, Anisty -- Anisty Craven.
5 (WHEREUPON, a white female came forward.)
6 THE CLERK: What says the State?
7 MS. CORNWELL: Please seat Ms. Craven.
8 THE CLERK: What says the defense?
9 MS. HINDS: Please excuse Ms. Craven.
10 THE CLERK: Juror Number 190, Sonya Williams.
11 (WHEREUPON, a black female came forward.)
12 THE CLERK: What says the State?
13 MS. CORNWELL: Please seat Ms. Williams.
14 THE CLERK: What says the defense?
15 MS. HINDS: Please seat Ms. Williams.
16 THE CLERK: Okay. Juror Number 105, Dawn Joyner.
17 (WHEREUPON, a white female came forward.)
18 THE CLERK: What says the State?
19 MS. CORNWELL: Please seat Ms. Joyner.
20 THE CLERK: What says the defense?
21 MS. HINDS: Please seat Ms. Joyner.
22 THE CLERK: Okay.
23 THE COURT: Any exceptions or objections to the
24 selection of this jury from either the State or from the
25 defense?

1 MS. CORNWELL: None from the State, Your Honor.

2 MS. HINDS: Nothing from the defense, Your Honor.

3 THE COURT: All right. Ladies and gentlemen of the jury
4 panel that was not selected for the trial of this case, it's
5 your lucky day. These are the two trials that we will have
6 for the week; so you are free to go. If you need an excuse
7 from the Clerk of Court's office or anything, please see them
8 downstairs and they'll get that for you, but you have
9 fulfilled your jury duty.

10 (WHEREUPON, the jury panel was released and exited the
11 courtroom at 12:44 p.m.)

12 THE COURT: Ladies and gentlemen of the jury that was
13 selected for the trial of this case, we obviously have to
14 start the first trial before we get to your case. So it is
15 anticipated that we will start the trial of your case on
16 Thursday morning.

17 So I'm going to ask you to please call the Clerk of
18 Court's office for a recording that will give you your
19 instructions as to exactly when you are to report. And if
20 you would do that tomorrow afternoon, say after 4:00 or so,
21 we should have some information as to what time you're to
22 report on Thursday. If you need that phone number, Ms. Dee
23 will get it for you. Before you leave, she's going to show
24 you where your jury room is and where you are to report.

25 Please do not discuss this case with anyone or allow

1 anyone to discuss this case with you or do any research or
2 anything associated with this case, as you must make your
3 determination solely from the evidence that you hear in this
4 courtroom.

5 Have a nice couple of days and we'll see you on
6 Thursday.

7 (WHEREUPON, the jury exited the courtroom at 12:46 p.m.)

8 THE COURT: All right. Counsel, I know for the first
9 trial, I told that jury to be back at 1:45. If y'all want to
10 come in a few minutes before and hopefully you'll have enough
11 time to get lunch, but it shouldn't take us very long to put
12 the other matter as far as the Jackson v. Denno on the record
13 before we get started. So if y'all come back then and we can
14 put anything else on the record then.

15 Did you want to go ahead and place your --

16 MR. STEVENS: Yes, ma'am, if I may.

17 THE COURT: -- issue regarding the jury selection on the
18 record?

19 MR. STEVENS: Yes, ma'am. I appreciate it.

20 THE COURT: You can go ahead and do so.

21 MR. STEVENS: Just briefly, we did submit additional
22 jury requests for the voir dire. We also made sure opposing
23 counsel had a copy as well and submitted them to you, Your
24 Honor.

25 We did have additional questions on there that we did

1 want to ask the jurors. In particular, item number 1, which
2 is whether any member of the jury panel is related by blood
3 or marriage to or a friend or acquaintance of any member of a
4 law enforcement agency and, if so, please explain.

5 Item number 5, which was has any member of the jury
6 panel ever been before employed by any civilian or military
7 law enforcement agency. If so, please explain.

8 And then item number 10, which specifically indicated
9 whether any -- have you, any member of your family or any
10 close friend ever been a victim of -- of burglary or a
11 violent crime. If so, please explain the relationship to you
12 and whether charges were brought.

13 Briefly, Judge, just to touch on things we did, you
14 know, briefly touch on in chambers when we had this
15 conversation. We're aware of the Court's instructions that
16 it did give the jury and the questions that it did give the
17 jury.

18 My own personal experience as previously being in the
19 service, as well as previously being in law enforcement in
20 the service for a period of time, usually folks are really
21 conservative when they're in that field. And so when it
22 comes to that -- and also have a bent against defendants.

23 And so based on that, that's pretty much why we wanted
24 to do that. For lack of a better term, it would be indicated
25 to us any bias potentially against our client that we would

1 definitely exercise strikes on.

2 And item number 10, we did and have had experiences
3 before where people don't typically come forward with matters
4 that are pretty personal to them, including whether they were
5 victims of violent crimes, you know, earlier on in their
6 lives or recently because it's sensitive. I understand.

7 Our position though is that because it is quite
8 sensitive, it's for those purposes that the question does
9 need to be asked and to go ahead and have that at a sidebar,
10 so the person doesn't have to announce it in front of
11 everybody, but at least to help us at least identify the
12 potential biases.

13 The reason obviously -- the statute, I should say, that
14 we raise this under is 14-7-1020 of the South Carolina Code.

15 THE COURT REPORTER: I'm sorry. 14-7?

16 MR. STEVENS: Dash 1020 of the South Carolina Code.

17 That allows us to basically ask or motion the party forward
18 for questions, especially to find out if they do express or
19 formed any opinion or sense of any bias or prejudice therein.
20 Our point is that these particular questions do go toward
21 ferreting out that particular bias.

22 And based on that, Judge, if you'd like, we do have a
23 copy of that for a Court's exhibit.

24 THE COURT: I've got it here. Thank you.

25 MR. STEVENS: Is it okay if we enter it as a Court's

1 exhibit though?

2 THE COURT: Certainly.

3 MR. STEVENS: Thank you, Judge. I appreciate it.

4 (WHEREUPON, the proposed voir dire was marked as Court's
5 Exhibit Number 1.)

6 MR. STEVENS: Thank you, ma'am.

7 THE COURT: Solicitor, any position on the matter?

8 MS. CORNWELL: No, Your Honor. I think that Your
9 Honor's questions covered all of that. You asked a very
10 broad question at the end if there were any biases that
11 anybody would have.

12 Additionally, with your question of MADD, GLAD, SADD, I
13 think you encompassed any law enforcement agency with that.
14 So we believe that the questions were appropriate.

15 THE COURT: All right. Just for the record, the Court
16 does find -- I did review the request for voir dire prior to
17 the jury selection and I chose not to ask certain questions
18 because of the fact that I felt that they were encompassed
19 within the questions that I did ask as far as bringing out
20 any potential bias or prejudice towards either side.

21 There was a question regarding the promotion of law
22 enforcement and I asked also the specific question about
23 anything in a potential juror's past or their family or their
24 acquaintances, anything about their experiences that would
25 cause them in any way to hesitate to be fair and impartial

1 after hearing what the allegations are.

2 And certainly, I think that can bring out and does tend
3 to bring out the -- any potential biases as far as being a
4 prior victim of a crime. As a matter of fact, several jurors
5 did come up and state that their family members have been a
6 victim of violent crimes when those questions were asked. So
7 certainly, that is evidence that the question does work.
8 It's broad. Although it is broad, it certainly does give
9 the jurors an opportunity to express any biases or prejudice
10 that they may have.

11 So your motion to ask those questions is denied.

12 MR. STEVENS: Thank you, Judge.

13 THE COURT: All right. Anything further?

14 MS. HINDS: No, Your Honor.

15 THE COURT: All right.

16 (WHEREUPON, the proceedings adjourned for the day at
17 12:51 p.m., to resume on Thursday, May 25, 2017.)

18 MAY 25, 2017

19 (WHEREUPON, the proceedings resumed at 10:49 a.m.)

20 MR. STEVENS: Good morning, Judge. How are you doing
21 today?

22 THE COURT: I'm doing well. How are you?

23 MR. STEVENS: I'm well, ma'am. Thank you. May it
24 please the Court?

25 THE COURT: Yes, sir.

1 other matters that we had to take care of this morning.

2 unrelated to this case and I wish I had that crystal ball
3 that would always tell me how long those matters took and,
4 unfortunately, it took longer than we had anticipated. So
5 certainly, I am mindful of your time and I want to apologize
6 for keeping you waiting.

7 But now we are ready to proceed with the trial of this
8 case. Madam Clerk, if you would, please swear in the jury.

9 THE CLERK: Please stand and raise your right hand.

10 (WHEREUPON, all jurors complied.)

11 THE CLERK: Do you solemnly swear or affirm that you
12 shall well and truly try and true deliverance make between
13 the State of South Carolina and the defendant at the bar,
14 whom you shall have in charge, and a true verdict give
15 according to the evidence, so help you God? Please answer, I
16 will.

17 THE JURY: I will.

18 THE CLERK: Thank you. Take a seat.

19 THE COURT: Ladies and gentlemen of the jury, thank you
20 for accepting the important responsibility of jury service
21 and for your contribution today to our system of justice.

22 What I will now say to you is intended to serve as an
23 introduction to the trial of this case. These remarks are
24 not a charge on the law in this case. I will charge you on
25 the law in this case at the close of the trial before you

1 retire to consider your verdict. This is merely an
2 explanation of the procedure that we will follow so you may
3 better understand what is happening during the trial. You
4 may not take notes during the trial of this case.

5 Ladies and gentlemen, the defendant in this case is
6 charged with two indictments filed in this court, one with an
7 indictment of kidnapping and one with burglary in the first
8 degree. The elements of each of these indictments will be
9 explained to you later. The indictments are simply the
10 charge by which the case is brought into court. It is not in
11 any sense evidence of the allegations that they contain.

12 The defendant has pled not guilty to these indictments.
13 The State, therefore, has the burden of proving each of the
14 elements of each indictment beyond a reasonable doubt.

15 It will be your duty, ladies and gentlemen, to decide
16 whether the State has met that burden. Your purpose as
17 jurors is to find and determine the facts. You are the sole
18 judge of the facts. If at any time I make any comment
19 regarding the facts, you must disregard that. You are to
20 determine the facts from the testimony that you hear and
21 other evidence that is introduced into court.

22 It is up to you to determine the inferences which you
23 may feel are properly drawn from the evidence. It is
24 especially important that you perform your duty of
25 determining the facts diligently and conscientiously because

1 ordinarily there is no way to correct an erroneous
2 determination of the facts by a jury.

3 On the other hand and with equal emphasis, the same law
4 that makes you the judges of the facts makes me the judge of
5 the law. The law as given by the Court is the only law that
6 you may consider. You must accept it and follow it, even
7 though you may disagree with it. I cannot tell you what the
8 facts are and you cannot disagree with me about what the law
9 is or what the law should be.

10 Your job is to take the law as I give it to you and
11 apply it to the facts as you find them from the testimony of
12 the witnesses and any other evidence that is properly
13 introduced during the trial of this case. After doing that,
14 you will render your verdict under the solemn oath that you
15 just took as jurors.

16 Until I advise you to begin your deliberations, you must
17 not discuss this case with anyone, including your fellow
18 jurors, your friends, your family members, and anyone
19 involved with this case. This includes any face-to-face
20 discussions, anything by telephone, email, text, blogs or any
21 other method of communication. You may not use a computer,
22 cell phone or any other electronic device with communication
23 capabilities at any time while you're in the courtroom or
24 during your deliberations.

25 During breaks for meals or for overnight, if necessary,

1 you may use these devices. However, at no time may you use
2 these devices to get or send any information about the case.
3 This includes any information about a party, a witness, an
4 attorney, a court officer, any news accounts about the case,
5 any research on any topics that may be raised or any topics
6 that you think may be helpful in deciding the case or any
7 testimony that was presented by any witness.

8 During the trial, please do not read, listen to or watch
9 any news reports about the case. This would include anything
10 that may be in the newspapers, on the Internet, radio or TV.
11 You must not consider anything that you hear or have read
12 about the case outside of this courtroom, whether before or
13 during the trial of this case.

14 After the case is submitted to you, you must discuss it
15 only in the jury room with your fellow jurors. The attorneys
16 and parties in this case have been advised not to talk to
17 you. So again, if you see them in and out of the courthouse
18 and they don't say hello, they're not being unfriendly.
19 They're just following the Court's instructions.

20 It is important that you keep an open mind and not
21 decide any issue in the case until all of the evidence has
22 been presented, the parties have made their closing
23 arguments, and I have instructed you on the law in this case.
24 It is your solemn responsibility to determine the guilt or
25 the innocence of the defendant and your verdict must be based

1 solely on the evidence as it is presented to you during the
2 trial and the law as I instruct you during the -- during the
3 trial at the close of the trial.

4 In just a moment, the solicitor is going to make what is
5 called an opening statement, in which the solicitor will
6 explain to you what the issues in this case are or at least
7 what the solicitor thinks the issues in this case are. The
8 attorney for the defendant may also make an opening
9 statement, although they are not required to do so.

10 What the attorneys tell you during their opening
11 statements is not evidence in this case. It is only their
12 contention as to what the issues are. The evidence in this
13 case will be presented to you by the testimony of the sworn
14 witnesses from the witness stand and by any exhibits that are
15 properly introduced during the trial of this case.

16 From time to time during the trial, you may hear one of
17 the attorneys say something like, Your Honor, I have a matter
18 of law or may we approach the bench or sometimes I myself
19 might find it necessary to excuse you from the courtroom for
20 a short while so the attorneys and I can discuss a matter of
21 law.

22 The reason for this is because you are the judges of the
23 facts in this case and sometimes, when I'm discussing matters
24 of law with the attorneys, it may be necessary for me to make
25 some comment as to the facts in connection with ruling as to

1. whether or not a particular law applies. I'm not supposed to
2 tell you what I think the facts are; so I will excuse you
3 from the courtroom while these discussions take place so that
4 in no way will you be influenced by anything that I might say
5 or do in connection with the facts of this case.

6 In determining what the true facts are in this case, you
7 must decide whether or not the testimony of the witnesses is
8 believable. It will be my responsibility to rule as a matter
9 of law whether or not certain testimony is admissible or not,
10 but once the testimony is admitted, whether or not you
11 believe it is entirely up to you.

12 In deciding whether or not to believe a witness, you
13 have the right to consider the interest of any witness, the
14 bias of any witness, the opportunity for the witness to have
15 seen the matters and things about which the witness may
16 testify, and the way the witness acts on the witness stand.
17 You have a right to consider anything that is in the record
18 that will help you evaluate the testimony of the witnesses.

19 That means that it is your duty to pay close attention
20 to these witnesses, to observe the witnesses, to listen to
21 the witnesses, and to please pay close attention to the
22 attorneys and to the Court. Please don't let your thoughts
23 wander, so at the end of the -- all of the testimony and the
24 attorneys have argued their closing arguments and I charge
25 you on the law, then you will be in a position to make a

1 determination as to the facts and render a verdict in this
2 case.

3 It will be the added duty of the foreperson -- which the
4 gentleman right there in the checked shirt right there in the
5 corner, what is your name, sir?

6 JUROR NUMBER 45: Leandrae Felder.

7 THE COURT: Mr. Felder?

8 JUROR NUMBER 45: Yes, ma'am.

9 THE COURT: Mr. Felder, I'm going to appoint you as our
10 foreman since you're sitting in that chair. You get the --
11 you get the lucky spot today.

12 It will be your added duty to write the verdict on the
13 verdict form, as well as on the indictment, and I will
14 explain that process to you at a later time. Of course, if
15 the jury needs anything or if you have any questions, you're
16 the liaison to the Court.

17 THE FOREMAN: Yes, ma'am.

18 THE COURT: All right. Any objections to the opening
19 instructions from either the -- or from the State or the
20 defense?

21 MS. CORNWELL: None from the State, Your Honor.

22 MS. HINDS: None from the defense, Your Honor.

23 THE COURT: All right. You may proceed, Solicitor.

24 MS. CORNWELL: Thank you, Your Honor. May it please the
25 Court.

1 THE COURT: Yes, ma'am.

2 MS. CORNWELL: Counselor.

3 OPENING STATEMENT ON BEHALF OF THE STATE

4 MS. CORNWELL: One of the worst fears a person can have.
5 That fear is elevated when you're a parent and, when you're a
6 single mother, that fear is amplified even more.

7 You go to sleep one night in your home where you're
8 supposed to feel safe. Your child is in that home with you.
9 And in the middle of the night, you hear a noise. You get up
10 to check what that noise is and, as you look down the hall
11 towards your child's bedroom, you see a shadowy figure come
12 out, someone that you do not recognize.

13 Your fear sets in and, as a mother, all you can think
14 about is the safety of your child. You try to run out the
15 door. The person grabs you, doesn't let you leave. You
16 can't get yourself or your child out. What do you do?

17 It sounds like something you see in a movie, something
18 on TV. It doesn't happen in real life, does it?

19 Unfortunately, for Danielle Monroe and J.S. [REDACTED],
20 that's exactly what happened on August 19th of 2016.

21 The night before, on August 18th, Jamarion and his mother
22 watched TV that night, had dinner, did what normal mothers
23 and sons do. Jamarion fell asleep on the couch and Danielle
24 left him there to sleep. She decided she wasn't going to
25 carry him back in his bedroom. He's a 10-year-old boy. He's

1 got toys everywhere, clothes everywhere, and she just let him
2 sleep on the couch.

3 Ms. Monroe knew that her brother may come over later on
4 in the night and spend the night over there. So the moment
5 that she went back to her bedroom and started washing her
6 face and getting herself ready for bed, she left the door
7 unlocked, thinking that her brother would come in. Normally,
8 she locks the door every night. That's her habit.

9 And on this night, she intended to lock the door. She
10 just wanted to leave it open for a little while and then go
11 and lock it if her brother didn't come home before she went
12 to sleep. But unfortunately, as we all do, she accidentally
13 fell asleep before locking the door.

14 At around 5:30 in the morning, she heard what she
15 believed were gunshots. She got up. She looked out the
16 window to see if she saw anything. She didn't see anything;
17 so she went back to bed. A few minutes later, she hears
18 another noise. This time it came from inside the home.

19 At first, she thought it was just my brother, Rasheen,
20 coming home. Maybe it's Jamarion getting up to go to the
21 bathroom. So she laid in bed for a moment longer, but then
22 that -- that mother's intuition kicked in. Something told
23 her let me go check, let me just go make sure.

24 So as she walks out of her bedroom, she yells out her
25 brother's name. Rasheen? Rasheen, is that you? Rasheen?

1 There's no answer. There's no reply. It's silent.

2 She walks into the living room and looks to the right
3 and her son, Jamarion, is still asleep on the couch. He
4 hasn't woken up. As we all know, 10-year-olds can sleep
5 better than anybody.

6 So as she's going to the window to look out the window
7 to see if her brother's car is in the driveway, she happens
8 to look to her left down the hall where her son's bedroom is
9 and she sees coming out of her son's bedroom a shadowy
10 figure, a short figure. She says she knows it can't be her
11 brother because her brother is tall. She can't make out who
12 it is.

13 All of a sudden, that defendant, Derrick Furtick, hits
14 the bathroom light and is illuminated in her hallway.
15 Danielle Monroe is not associated with Derrick Furtick. He's
16 never been in her home before. They're not friends. He's
17 never been over there. He is a stranger to her basically.

18 And it terrifies her. She screams out. Who are you?
19 What are you doing in my house? And at that point, she
20 screams at Jamarion. Get up. We've got to go. We've got to
21 go. Her instinct is keep my son safe, get him out of harm's
22 way.

23 Well, as soon as she starts yelling, the defendant
24 charges her. She tries to open her door. She tries to
25 unlock it. She forgets because she's always locked the door

1 before. She doesn't realize that it's already unlocked. So
2 she locks it and as she's trying to open it, she's able to
3 get it unlocked and she's able to open the door to try to get
4 Jamarion out, and the defendant comes and slams the door shut
5 and won't let them out.

6 She is terrified. Her son is now terrified. They can't
7 get out of the house. She is struggling with that door and
8 she is doing everything she can. She is fighting with a
9 mother's fight. She is putting her rear end into it. She is
10 struggling. She finally gets the door open a little bit and
11 Jamarion is able to dart out and run down the street to try
12 to get help. As she is still trying to get herself out, she
13 manages to get herself out of the trailer. He's grabbing her
14 arms. He's trying to keep her in.

15 She's finally able to get her arms off and as she goes
16 to run -- she's got long braids. He grabs a handful of those
17 braids and jerks them out. They struggle down the steps as
18 she tries to get out and, at this moment, Danielle knows my
19 son is safe. He has gone to get help.

20 Now, she's got to figure out what can I do and she does
21 something and she shows courage and strength that I don't
22 know that anybody else would have at that time. She calms
23 herself down. She starts trying to negotiate. What can I
24 do? Take whatever you want. Whatever you want, just take
25 it. Just let us go.

1 The defendant is not having any of it. He gets up and
2 he drags her down the street. As he starts dragging her down
3 the street, now she's concerned again. Is he going after her
4 son? What is he going to do?

5 So she's yelling help, somebody help me. She's saying
6 please stop, you're hurting me. And as he's dragging her
7 down the street, as luck would have it, Jamarion is able to
8 knock on a door and get a neighbor to answer. It's 5:45 in
9 the morning.

10 Once that neighbor answers, law enforcement is called
11 and, fortunately, Investigator Harter is in the area. It's
12 about 5:30 at night. Shifts are about to change. He's
13 actually heading home, but he hears the call over dispatch
14 and realizes I'm only a minute or two away. I can get there.

15 So as he drives up, he's looking around. He goes down
16 the street and what does he see? Finally, in his headlights,
17 he sees that defendant dragging Danielle Monroe down the
18 street by her hair. And Danielle is walking with him because
19 he has got her braids wrapped around his hand, pulling her
20 down the street, as if she were nothing but a dog on a leash.

21 Investigator Harter pulls up, yells at him, let her go.
22 The other horrifying thing that Investigator Harter sees is
23 at this point Jamarion, who is afraid for his mama, has now
24 left the neighbor's house and he's come back and he is trying
25 to fight his little self against that defendant and get his

1 mama away.

2 Investigator Harter sees that and pulls Jamarion aside,
3 puts Jamarion behind his police car, and he's yelling at the
4 defendant, let her go, stop. He knows that he can't use any
5 tactical maneuvers. He can't employ his Taser. He can't use
6 pepper spray because Danielle would get injured as well.

7 It's a horrible realization. Fortunately, for
8 Investigator Harter, he's got a K9 in his unit. He's a K9
9 officer. His dog goes with him everywhere. And at that
10 moment, the dog starts barking inside the car and the
11 defendant hears it. And we're fortunate, because at some
12 point, the defendant ends up tripping and falling and
13 dragging Danielle down with him, and that's the moment
14 Investigator Harter realizes he can jump on him.

15 So he jumps on him, he manages to get him untangled from
16 Danielle, and Danielle runs behind the car with her son.
17 Investigator Harter holds the defendant down until he can get
18 backup to come and help him. He never lets him up.

19 Backup finally arrives on scene and they place the
20 defendant under arrest at that time. Those are the
21 indisputable facts. This defendant is caught by Investigator
22 Harter in the act of kidnapping Danielle Monroe.

23 You've heard that this case has charged Derrick Furtick
24 with burglary in the first degree and with kidnapping, and
25 the judge has told you that it's the State's burden of

1 proving each and every element of both of those charges

2 beyond a reasonable doubt, and we will do just that.

3 In the state of South Carolina, burglary in the first
4 degree is a pretty simple statute. Burglary in and of itself
5 -- there are different degrees, but in order to commit a
6 burglary, it is the unlawful entry into a dwelling without
7 consent and with the intent to commit a crime therein. We
8 have to prove each and every one of those elements beyond a
9 reasonable doubt for you to find the defendant guilty of
10 burglary.

11 To find him guilty of burglary in the first degree,
12 there are additional aggravating factors that you must
13 consider, and there are a number of aggravating factors.
14 We're only going to talk about one. I only need to prove
15 one; so I'm not going to waste your time by going through
16 anything else.

17 The one aggravating factor that we're going to talk
18 about is that it occurred during the nighttime hours. As
19 long as you believe that based on the facts and the evidence
20 that this incident occurred during the nighttime hours and
21 that he entered that house unlawfully with the intent to
22 commit a crime, then the State has proven its case on
23 burglary.

24 So what are nighttime hours in the State of South
25 Carolina? This happened at 5:30 in the morning. Nighttime

hours for burglary purposes is defined as the time between
2 sunset and sunrise. It is the time where you have to have
3 some sort of artificial light or moonlight, something that
4 would allow you to discern a man's face. Obviously, there
5 has to be more light in order to do that.

6 So by nighttime hours, while it's defined as sunrise to
7 sunset, it's not confined to a specific period of time.
8 Anytime that it is in an hour of darkness, that would be
9 considered a nighttime hour, and the State will prove that
10 this definitely happened during that time of darkness in
11 those nighttime hours.

12 The other crime the defendant is charged with is
13 kidnapping. And in the State of South Carolina, kidnapping
14 has all kinds of fancy terms that you're going to hear about.
15 It is to confine, to inveigle, to decoy, to abduct, to
16 kidnap, to carry away. It has a lot of big words, but it's
17 about the most simple thing that a prosecutor can prove.

18 To kidnap somebody is not like you see on TV. They
19 don't have to be duct taped and thrown in the trunk of a car
20 or anything. To kidnap does not mean it has to be a child.
21 Any person can be kidnapped.

22 All I have to do to kidnap somebody is to make them go
23 from one place to another against their will. I could kidnap
24 you right now. If you decided you didn't want to go sit over
25 there and I dragged you over there anyway, I have kidnapped

1 you

2 And through the course of this trial, through the
3 testimony that you're going to hear on the stand and the
4 evidence that you're going to see, you are going to see that
5 the indisputable facts in this case prove beyond a reasonable
6 doubt that this defendant is guilty of burglary in the first
7 degree and he's also guilty of kidnapping.

8 THE COURT: Counsel?

9 MS. HINDS: Thank you, Your Honor. Good morning.

10 THE JURY: Good morning.

11 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

12 MS. HINDS: I hope we didn't keep you waiting too long.
13 I'm Peggy Hinds and this is Breen Stevens, and we represent
14 Derrick Furtick.

15 This is probably going to be a relatively short trial.
16 I guess that's the good news. But just because it's short,
17 please don't mistake that for unimportant or simple or
18 somehow less necessary.

19 What you will hear is witness testimony, but what you
20 must remember from the start is that right now, as Mr.
21 Furtick sits over at that table, he is presumed innocent,
22 presumed absolutely innocent at this point in time. It is
23 the State's burden to convince all of you beyond a reasonable
24 doubt that that is not true, and I submit that's not going to
25 be the case.

1 But why, in this country, do we presume innocence at the
2 start? I mean, after all, he's been charged. He's -- you
3 know, there's been allegations made against him. So why is
4 he presumed innocent?

5 Well, the presumption of innocence is basically the
6 cornerstone of our legal system. It prevents somebody from
7 making a false allegation or somebody overreaching in certain
8 situations. In other words, it protects each and every
9 citizen's right to be heard, to confront their accusers, and
10 to offer their side of the story as well.

11 And so as he sits there right now, he is absolutely
12 innocent. The judge will tell you that. That is the law.

13 The judge will also tell you that -- and she will tell
14 you every time we leave the courtroom that you are not to
15 talk about this case and you're not to deliberate until the
16 end when she gives you instructions to do so. Again, why is
17 that important? Why does she keep bringing that up?

18 It's because in order for you to deliberate and make
19 your final judgment, you need to hear both sides of the
20 story, not just one, but the complete story so that you can
21 weigh everything that you've heard.

22 I'm going to make this relatively simple in that we're
23 not denying that Mr. Furtick was there. We aren't denying
24 that he was involved in the incident, but you're going to
25 hear things that are going to help explain to you what

happened over that -- that early morning hour and it is only

when you hear both sides of the story that you will be able to determine amongst yourselves.

Now, I would also ask you to keep up -- to keep in mind that reasonable doubt that we keep talking about. Basically, a reasonable doubt is something that would make an ordinary person kind of say "hmmm" or they hesitate where they don't just rush to judgment. Something that would make you want to know more or something that just doesn't seem right.

And it is the State's burden to prove a defendant guilty beyond a reasonable doubt and that, again, is very important because it can't just be it kind of could've happened that way or it might've happened that way. You have to be convinced that that is the truth and they have to prove -- remember, ladies and gentlemen, each and every element.

And I'm going to back up for a second because I don't know really if you understand what we're saying when we talk about elements. It's a relatively common word, but it's the building blocks of charges in the legal system. In other words, it's the definitions by which we tell -- tell the jury this is what the State needs to prove. They need to prove this element and this element and this element, and it's not an either/or or one of the above or A and B. You will hear that you need to be convinced beyond a reasonable doubt on each and every element of the crime.

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1 I submit that by the end of this trial that you will not
2 be able to find Derrick Furtick guilty of burglary in the
3 first degree or kidnapping. Thank you.

4 THE COURT: You may call your first witness.

5 MS. CORNWELL: Thank you, Your Honor. The State calls
6 Danielle Monroe.

7 MS. CORNWELL: Ma'am, hold on for one second.

8 THE WITNESS: Okay.

9 THE CLERK: Please place your left hand on the Bible and
10 raise your right hand. Do you hereby swear or affirm that
11 the testimony you're about to give will be the truth, the
12 whole truth, and nothing but the truth, so help you God?

13 THE WITNESS: Yes, ma'am.

14 THE CLERK: Thank you.

15 THE COURT: Your witness.

16 MS. CORNWELL: Thank you, Your Honor.

17 DANIELLE MONROE, being first
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. CORNWELL:

21 Q: Good morning, Danielle.

22 A: Good morning.

23 Q: I'm sorry that you have to be here for this. If you
24 don't mind, at this time, do you mind facing the jury and
25 telling them a little bit about yourself?

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1 A: I'm 28. I've just got one child, 10. He goes to

2 Rivelon. I work at Allied Air.

3 Q: Okay. And I know that this is hard for you and I know
4 that you don't want to be here, but if you can, please just
5 speak as loudly as you can. Not only does the court reporter
6 have to hear you and all of these people have to hear you and
7 I'd like for you to speak loud enough to where even these
8 people in the very back of the courtroom can hear you.

9 A: Okay.

10 Q: So I believe you just said that you have a son,
11 Jamarion. He's 11 now?

12 A: Eleven, yeah.

13 Q: And what school does he go to?

14 A: Rivelon.

15 Q: Rivelon?

16 A: Uh-huh.

17 Q: And you work where?

18 A: Allied Air.

19 Q: Okay. Where did you grow up?

20 A: Orangeburg, South Carolina.

21 Q: Okay. And where did you go to school?

22 A: O-W.

23 Q: Where do you currently live?

24 A: [REDACTED].

25 Q: And is that where you were living on the night of August

DANIELLE MONROE - DIRECT BY MS. CORNWELL

1 19th?

2 A: Yes, ma'am.

3 Q: Okay. Do you know the defendant in this case?

4 A: Yeah.

5 Q: How do you know him?

6 A: From school.

7 Q: From school?

8 A: His brother. I used to date his brother.

9 Q: Okay. And when you say from school, do you mean from
10 high school?

11 A: Uh-huh.

12 THE COURT REPORTER: Is that a yes?

13 Q: And how long ago was that?

14 THE COURT REPORTER: Is that a yes?

15 THE WITNESS: Yes, ma'am.

16 BY MS. CORNWELL:

17 Q: How long ago was that?

18 A: From school?

19 Q: Yes, ma'am.

20 A: About 2003 -- '04.

21 Q: Okay. So over 10 years ago?

22 A: Uh-huh.

23 Q: Okay.

24 THE COURT REPORTER: Is that a yes?

25 THE WITNESS: Yes, ma'am.

DANIELLE MONROE DIRECT BY MS. CORNWELL

BY MS. CORNWELL:

2 Q: And I'm sorry, Ms. Monroe. She's trying to take down
3 everything you say. So while I can see you nodding your head
4 yes and saying yes --

5 A: No.

6 Q: I just need you to verbalize yes.

7 A: Okay.

8 Q: So over 10 years ago?

9 A: Yes, ma'am.

10 Q: In the last 10 years, have you hung out with the
11 defendant?

12 A: No, ma'am.

13 Q: Have you ever invited him into your home?

14 A: No, ma'am.

15 Q: Have you ever been acquainted with him socially?

16 A: No, ma'am.

17 Q: Gone to parties with him or anything of that nature?

18 A: No, ma'am.

19 Q: In the last 10 years, do you recall being friends with
20 him on any type of social media?

21 A: No, ma'am.

22 Q: Has your son ever met him?

23 A: No, ma'am.

24 Q: So other than knowing him from school, you don't really
25 know the defendant, do you?

DANIELLE MONROE - DIRECT BY MS. CORNWELL

1 A: No.

2 Q: Okay. Why don't you take this time to kind of tell the
3 jury from your perspective what happened from the night of
4 August 18th into the early morning hours of August 19th?

5 A: I was home, me and my son, and my brother told me to
6 leave the door unlocked because he was coming to the house a
7 little later. And I told him I'm not going to leave it open
8 for a long time. I'm going to lock it before I go to sleep.
9 And I went to bed and my son was on the couch and it
10 happened.

11 Q: What caused you to wake up?

12 A: I heard gunshots. It was around four or five in the
13 morning.

14 Q: All right.

15 A: I heard gunshots and I got up to check the window to see
16 if I see anybody laying on the ground or something like that
17 because the gunshots was pretty close. That's what woke me
18 up.

19 Q: Okay. And when you woke up, do you ever remember ever
20 going and locking the door that night?

21 A: Huh-uh. No, ma'am.

22 Q: All right. And after you woke up and you looked out the
23 window and didn't see anything, what did you do?

24 A: I laid back down for a little bit. Then as soon as I
25 put the cover back over me, I saw my living room light come

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1 on and I heard the front door close. And once I heard it, I
2 thought it was my brother and I started calling his name and
3 he didn't answer. And I was, like, well, maybe he drunk or
4 something. So I just laid back down because he won't answer.
5 He'll just go straight down the hall into his room.

6 And once he didn't answer, I was, like, well, I'm just
7 going to lay back down. So I was, like, let me get up.
8 Something told me to get up. So I got up. I tiptoed in the
9 living room -- well, in the kitchen, in the middle of the
10 kitchen, the kitchen and the living room, and once I started,
11 my son was still on the chair asleep. I called my brother's
12 name again. I still ain't heard him.

13 And I was, like, well, let me go and look out the window
14 to see if I see him outside, see if his car is out there. So
15 I went to the -- I went to walk to the window. Once I walked
16 to the window and walked close to the window, I looked down
17 the hallway and I saw him standing in the hallway and I was,
18 like, this person too short. That's not my brother.

19 So he hit the light and that's when I seen him and I
20 was, like, oh, no, you got to go. And that's when I started
21 yelling and my son jumped up and I went to open the door for
22 us to run out and he came and slammed the door and, once he
23 slammed it, he grabbed my arms and somehow I was able to get
24 one of my wrists loose and I opened the door and I held it
25 open with my arm and I let my son out.

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1 And once my son was out, I worked my way out, but once I
2 was on the ground -- once my feet was on the ground and I
3 tried to get away, he grabbed a handful of my braids back
4 here. I had a bald spot back there. It done grow back now,
5 but he had a handful of my hair. I could hear my hair
6 ripping out.

7 And once we struggled for a little while, I was telling
8 my son, you know, calm down or whatever. I was trying to
9 remain as calm as possible because I didn't want to, you
10 know, make him scared to the point where he would probably
11 hurt me and then go after my son.

12 And I was, like, Jamarion, go to the neighbor's house
13 and tell them to call the police. And I was yelling for
14 help. My son was yelling for help. And once he went to the
15 neighbor's house, we was still -- you know, he was walking
16 with me with my hand in his -- with my hair in his hand. And
17 he fell in the driveway and, when he fell, he fell with me in
18 his hands.

19 Q: Take your time.

20 A: But once I got back up -- once I got up and got my
21 balance, he was sitting on the ground and he got up and then
22 he started walking with me with my hair in his hand still and
23 he was pulling me down the road. Once I got on the road,
24 like in the middle of the road, my son was standing with the
25 neighbors. Nobody came to help me and we was still in the

1 yard -- I mean still in the road or whatever.

2 And my son came back and was, like, mom, the police
3 coming and I was, like, all right. So we was just standing
4 there and I was, like, what you want, and I was, like, just
5 run before the police get here. And he wasn't really saying
6 too much and then the cops pulled up and he was, like, get
7 off of her, and he fell on the ground again and he fell with
8 my hand -- like I said, he had my hair wrapped and it was --
9 once the cop got him off of me, the braids dropped and it was
10 still some of my hair that was just hanging by a strand of
11 hair.

12 Q: Okay. I'm going to go through some of this a little bit
13 more detailed with you, if you don't mind. You stated that
14 when you woke up and heard the first noise, you looked out
15 your window and you didn't see anything?

16 A: Uh-huh.

17 Q: You didn't see anybody? Then you went back to bed and
18 the second time you noticed your light come on and then you
19 heard a noise?

20 A: Uh-huh.

21 Q: When you saw that light come on and heard a noise, did
22 you cry out at that time? Did you call out for anybody?

23 A: Yeah. I called out for my brother, Rasheen.

24 Q: And did anybody answer you when you called out?

25 A: No, ma'am.

DANIELLE MONROE DIRECT BY MS. CORNWELL

1 Q: Okay. How many times did you call out?

2 A: About two or three.

3 Q: Okay. And at no point did anybody ever answer you?

4 A: Huh-uh.

5 THE COURT REPORTER: Is that a no?

6 THE WITNESS: No, ma'am.

7 BY MS. CORNWELL:

8 Q: And at that point, I think you said you got up and went
9 to check on things?

10 A: Yes, ma'am.

11 Q: Okay. And I'm going to show you some photographs that
12 have previously been marked. I'm going to show you what's
13 been marked as State's 1 through 10. You can just look
14 through those photographs and see if you recognize what's in
15 those photographs.

16 A: Just that what's in the photograph?

17 A: Uh-huh. Just look at each one of them and you don't
18 have to tell anything about them yet. Just kind of flip
19 through them and make sure that you recognize all the
20 photographs.

21 A: Okay.

22 (WHEREUPON, there was a pause in the proceedings, after
23 which the proceedings resumed as follows.)

24 BY MS. CORNWELL:

25 A: Yes, ma'am.

DANIELLE MONROE DIRECT BY MS. CORNWELL

Q: All right. And are these true and accurate depictions
2 of your house and how it looked that night?
3 A: Yes, ma'am.
4 Q: And what you remember from that night?
5 A: Yes, ma'am.
6 Q: Okay. Has there been any changes or alterations or
7 anything made --
8 A: No.
9 Q: -- to these photographs?
10 A: No, ma'am.
11 Q: Okay.
12 MS. CORNWELL: Your Honor, at this time, the State would
13 move State's 1 through 10 into evidence.
14 THE COURT: Any objection?
15 MS. HINDS: No objection, Your Honor.
16 THE COURT: All right. They're in.
17 (WHEREUPON, State's Exhibits Number 1 through 10,
18 photographs, were admitted into evidence.)
19 MS. CORNWELL: Thank you, Your Honor. And, Your Honor,
20 if I may possibly have the victim step down so we could show?
21 I unfortunately don't have them on this TV screen this time.
22 Just so that she can walk the jury through some of the
23 photographs?
24 THE COURT: Yes, ma'am.
25 THE COURT REPORTER: Just make sure she keeps her voice

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up.

MS. CORNWELL: And Ms. Monroe, you're not going to have a microphone now. So just make sure you speak very loudly. Okay?

THE WITNESS: Okay.

BY MS. CORNWELL:

Q: Looking at State's Exhibit 1, what is that a photograph of?

A: My mom's car and the porch where we came down.

Q: Is that your trailer at 145 Dena Lane?

A: Yes, ma'am.

MS. CORNWELL: And I'm actually going to let y'all look at each of these.

BY MS. CORNWELL:

Q: And then State's Exhibit 2. Is that going to be the inside of your house?

A: Yes, ma'am.

Q: And looking down the inside of your house, where is your bedroom?

A: My bedroom is right here.

Q: Okay. And when you said that you came out of your bedroom the first time and went to the window to look out, which window did you look out?

A: This one.

Q: Okay. So you looked out I believe this window is what

1 you said?

2 A: Yes, ma'am.

3 Q: All right. And at that time, did you see anything?

4 A: No, ma'am.

5 Q: And then you went back to bed you said?

6 A: Yes, ma'am.

7 Q: And then once you heard another noise and you came out
8 of your bedroom, where did you come?

9 A: I tiptoed through here --

10 THE COURT REPORTER: I can't hear her. I'm sorry. I
11 can't hear.

12 BY MS. CORNWELL:

13 A: I tiptoed to about right here and I peeked over to see
14 my son -- to see if my son was still in the chair because I
15 thought he maybe got up to go to the bathroom. But I started
16 calling my brother's name from right here and --

17 Q: Did anybody answer?

18 A: No, ma'am.

19 Q: Okay. And looking at State's Exhibit 3, I believe you
20 had indicated you were about right here looking around?

21 A: Yes, ma'am.

22 Q: Where was your son sleeping?

23 A: On this chair.

24 Q: Okay. Was he still there when you came around the
25 corner?

DANIELLE MONROE - DIRECT BY MS. CORNWELL

1 A: Yes, ma'am.

2 Q: Okay. And what was your brother's name that you were
3 calling out?

4 A: Rasheen.

5 Q: Okay. And you called that out how many times?

6 A: Three times.

7 Q: Okay. And again, I think this is just -- you stated
8 that you were going to go to the window?

9 A: Uh-huh.

10 Q: And look out? Which window were you approaching?

11 A: This window.

12 Q: Okay. And again, is this the couch where --

13 A: Where my son was sleeping.

14 THE COURT REPORTER: I'm sorry. Say that again.

15 BY MS. CORNWELL:

16 A: My son was sleeping on this chair.

17 Q: And from your -- from the front door looking down the
18 other hallway, what is this room?

19 A: That's my son's room.

20 Q: And is that where you saw the defendant coming out of?

21 A: Yes, ma'am.

22 Q: Okay. And you stated that he hit a bathroom light?

23 A: Yes, ma'am. Right here.

24 Q: Okay. And then you indicated you yelled and y'all
25 struggled for the door?

1 A: Yes, ma'am.

2 Q: You had stated that you had left your door unlocked, but
3 you usually lock it; correct?

4 A: Yes, ma'am.

5 Q: And when you were trying to get out, y'all were
6 struggling over the door?

7 A: Yes, ma'am.

8 Q: Okay. Was your door damaged prior to this struggle?

9 A: A little bit, but not as much as that one.

10 Q: Okay. So in looking at State's 6, that was caused from
11 where you were struggling to get out?

12 A: Yeah. I think maybe that crack.

13 Q: Okay. And in looking at State's 7, can you show the
14 jury where you -- where that struggle occurred?

15 A: Once we was coming down the stairs, we was about right
16 here and then he worked me over here and then once we got to
17 about right over here, I slipped and he fell in the driveway
18 over here where all the clay is. It look like footprints and
19 stuff.

20 Q: Okay. And you said he was kind of dragging you at that
21 time?

22 A: Uh-huh.

23 Q: And this is just a closer up. And what are these marks?

24 A: My footprints.

25 Q: And that's where you were being dragged?

DANIELLE MONROE - DIRECT BY MS. CORNWELL

1 A: Sliding. Yes, ma'am.

2 Q: And looking at State's Exhibit 9, what is that a
3 photograph of?

4 A: My braids.

5 Q: Okay. And also State's Exhibit 10. Is that just a
6 closer --

7 A: Yes, ma'am.

8 Q: Okay. You can have a seat back up there.

9 (WHEREUPON, the witness complied.)

10 BY MS. CORNWELL:

11 Q: Ms. Monroe, this is going to seem like a silly question,
12 but when all of this was happening, how did you feel?

13 A: Scared.

14 Q: Were you afraid for your life?

15 A: Yes.

16 Q: Were you afraid for your son's life?

17 A: Yes.

18 Q: And --

19 MS. HINDS: Objection, Your Honor. Relevance. It has
20 nothing to do with the elements of the charge. What is the
21 relevance of that particular fear element?

22 THE COURT: Let's just move on, Solicitor.

23 BY MS. CORNWELL:

24 Q: When you saw the defendant coming out of your son's
25 bedroom and during the tussle with him, how did he appear to

1 you?

2 A: His eyes was big as golf balls. Like, he wanted to

3 attack somebody. Like, scary.

4 Q: Okay. What did you think was going on at that time?

5 A: I didn't know what to think.

6 Q: You just knew you --

7 A: I just --

8 Q: -- needed to get away?

9 A: Yeah. Get out. Just get out.

10 Q: I'm going to show you -- we've marked it as State's

11 Exhibit 12. I'm going to open it up at this time and see if

12 you recognize what these are. And while I'm doing this, at

13 some point you indicated that when the defendant had your

14 braids wrapped around his hand, you ultimately just started

15 walking with him and going with him?

16 A: Yes, ma'am.

17 Q: Were you consenting to him taking you anywhere? Were

18 you doing that willingly and voluntarily?

19 A: No, ma'am.

20 Q: At any time, did you give the defendant consent to enter

21 your home?

22 A: No, ma'am.

23 Q: Do you recognize what those are?

24 A: Yes, ma'am.

25 Q: What are those?

DANIELLE MONROE - DIRECT BY MS. CORNWELL

- 1 A: My braids.
- 2 Q: Are those what you were wearing in your hair that night?
- 3 A: Yes, ma'am.
- 4 MS. CORNWELL: Your Honor, at this time, the State would
- 5 move State's Exhibit 12 into evidence.
- 6 THE COURT: Any objection?
- 7 MS. HINDS: No objection.
- 8 THE COURT: All right. It's in.
- 9 (WHEREUPON, State's Exhibit Number 12, braids, was
- 10 admitted into evidence.)
- 11 BY MS. CORNWELL:
- 12 Q: So these are the braids that you were wearing that were
- 13 pulled out of your head?
- 14 A: Yes, ma'am.
- 15 Q: And, Ms. Monroe, after all of this happened and law
- 16 enforcement were able to come, did you give a statement to
- 17 law enforcement about what happened that night?
- 18 A: Yes, ma'am.
- 19 Q: And did you tell law enforcement exactly what you told
- 20 this jury here today?
- 21 A: Yes, ma'am.
- 22 Q: And, Ms. Monroe, when you were -- when all of this was
- 23 happening, you said it was around 5:30 in the morning?
- 24 A: Yes, ma'am.
- 25 Q: Was it light outside or was it dark outside?

DANIELLE MONROE DIRECT BY MS. CORNWELL

1 A: It was dark.

2 Q: Okay. If the defendant had not turned on the light,
3 would you have been able to make out who he was or have seen
4 him?

5 A: No, ma'am.

6 Q: And I know that Investigator Harter came and got the
7 defendant off of you, but were you able to give law
8 enforcement information on who you thought the defendant was?

9 A: Yes, ma'am.

10 Q: Did you know his name?

11 A: Yes, ma'am.

12 Q: And did you tell that to law enforcement?

13 A: Yes, ma'am.

14 Q: And what is that name?

15 A: Derrick Furtick.

16 Q: And do you see him in the courtroom here today?

17 A: Yes, ma'am.

18 Q: Can you point him out to the jury?

19 A: (Indicating.)

20 MS. CORNWELL: Your Honor, can the record reflect that
21 the victim has pointed out the defendant?

22 THE COURT: Yes, ma'am.

23 MS. CORNWELL: Thank you, Ms. Monroe. Please answer any
24 questions defense counsel may have for you.

25 THE WITNESS: Okay.

DANIELLE MONROE - CROSS BY MS. HINDS

THE COURT: cross-examination?

CROSS-EXAMINATION

BY MS. HINDS:

Q: Good morning, Ms. Monroe.

A: Good morning.

Q: I understand this has got to be difficult to relive this. So if you want to stop at any time or take a break, take some water, please let me know. Okay?

A: Okay.

Q: All right. Kind of picking up where that just let off, you did give a -- give a statement to officers?

A: Yes, ma'am.

Q: Correct? And in that statement, you said you were awakened by gunshots?

A: Yes, ma'am.

Q: Okay. And I think your testimony here today was they sounded fairly close as well?

A: Yes, ma'am.

Q: Okay. In a statement, you said it was about 5:45 in the morning?

A: Yes, ma'am.

Q: Okay. Do you remember whether it was one shot or more than one shot?

A: It was more than one, but I just don't remember how many. It was more than one.

DANIELLE MONROE - CROSS BY MS. HINDS

- 1 Q: But it was more than one?
- 2 A: Yes, ma'am.
- 3 Q: Okay. And once you didn't -- you peeped outside and
- 4 didn't see anything out of the ordinary, you went back to
- 5 bed; correct?
- 6 A: Yes, ma'am.
- 7 Q: Okay. How long after that did you hear the footsteps?
- 8 A: Not even five minutes, when I laid down.
- 9 Q: And you said you heard the door opening and closing;
- 10 correct?
- 11 A: Yes, ma'am.
- 12 Q: Okay. Let me back up for just a second. We've seen the
- 13 pictures of the place that you were living?
- 14 A: Yes, ma'am.
- 15 Q: And clearly, there's a front door with a porch. Is
- 16 there any other way in or out of the house?
- 17 A: I have a back door.
- 18 Q: There's a back door? And where would that back door be
- 19 accessed from? Where would it come in in terms of the
- 20 photographs? Since you know the layout better than I do,
- 21 just pick out the --
- 22 A: Like, on this side by my -- let me see. That's the back
- 23 door, like, on the other side of this window.
- 24 Q: That way?
- 25 A: Right here. That's the back door.

DANIELLE MONROE - CROSS BY MS. HINDS

- 1 Q: That's the back door right there?
- 2 A: Uh-huh.
- 3 Q: And can you kind of point that out to the jury?
- 4 A: On the other side of this window is the back door here
- 5 by my room.
- 6 Q: So that's back by your room?
- 7 A: Yes, ma'am.
- 8 Q: Okay. So the only two ways to get in your house would
- 9 either be that front door with the porch or that back door by
- 10 your room; correct?
- 11 A: Yes, ma'am.
- 12 Q: Okay. Was the -- was the back door locked that night?
- 13 A: Yes, ma'am.
- 14 Q: And you're sure of that?
- 15 A: Yes, ma'am.
- 16 Q: All right. And I think your testimony then continued
- 17 about you went to the living room because she thought maybe
- 18 that was your brother coming in?
- 19 A: Yes, ma'am.
- 20 Q: Okay. And that you continued to walk closer to the
- 21 front door?
- 22 A: To the front window.
- 23 Q: To the front window? Okay. And it's at that point
- 24 where you see a shadow or something that catches your eye; is
- 25 that correct?

DANIELLE MONROE: CROSS BY MS. HINDS

- 1 A: Yes, ma'am.
- 2 Q: Okay. And that shadow actually turned the light on;
- 3 correct?
- 4 A: Yes, ma'am.
- 5 Q: Okay. So you didn't turn the light on to see who it
- 6 was? They actually turned the light on; correct?
- 7 A: Yes, ma'am.
- 8 Q: And at that point, you would be standing where?
- 9 A: When the light was turned on?
- 10 A: Uh-huh.
- 11 A: Closer by -- like, I could show you on the picture.
- 12 Q: You want the inside or the outside?
- 13 A: The inside. I was about right here. Right there.
- 14 Like, coming toward the door and -- and the window.
- 15 Q: Okay. Let's see. We're looking at State's 4 and you're
- 16 at that window?
- 17 A: I'm going to that window.
- 18 Q: Okay.
- 19 A: And like, before I get to the window, I looked down the
- 20 hallway.
- 21 Q: And that would be to your left?
- 22 A: Uh-huh. That would be down that hall.
- 23 Q: Okay. And would that be the light that gets turned on?
- 24 A: No.
- 25 Q: No?

DANIELLE MONROE - CROSS BY MS. HINDS

1 A: The bathroom, right here. Not that one, but this one.

2 That's the bathroom. As soon as he came out this room, he
3 turned that light on.

4 Q: Okay. Thank you. And at that point, does he start
5 walking toward you or do you start walking toward him or away
6 from him or what happens?

7 A: He started walking towards me.

8 Q: Okay.

9 A: But he wasn't, like, walking fast at first, but once I
10 started to go for the door and was yelling for my son, that's
11 when he charged and he slammed the door.

12 Q: And while he is coming down that hallway toward you, is
13 he saying anything?

14 MS. CORNWELL: Objection, Your Honor.

15 A: No, ma'am.

16 MS. CORNWELL: It's going to be hearsay.

17 THE COURT: Sustained.

18 BY MS. HINDS:

19 Q: So he was charging down the hall? Okay. What else
20 could you notice about him?

21 A: He was wet and, like I said, his eyes was big as golf
22 balls and he just looked scary.

23 Q: I think you told officers that he was breathing hard, as
24 if he'd been running or --

25 A: Yes, ma'am.

DANIELLE MONROE - CROSS BY MS. HINDS

- 1 Q: ~~was scared or something, correct?~~
- 2 A: Yes, ma'am.
- 3 Q: Okay. All right. So you go to the front door before he
- 4 can get to you initially; right?
- 5 A: Right.
- 6 Q: You were able to get the door open?
- 7 A: Almost.
- 8 Q: Almost?
- 9 A: Almost.
- 10 Q: Okay. Is it at that point that you're struggling with
- 11 the door?
- 12 A: Struggling over him and the door.
- 13 Q: Okay.
- 14 A: Because he had me by my wrists.
- 15 Q: Which wrists?
- 16 A: Well, like, both of them. He had -- like, was holding
- 17 me.
- 18 Q: Okay.
- 19 A: Uh-huh.
- 20 Q: All right. So he's on what side of you?
- 21 A: Coming from down the hallway.
- 22 Q: Okay.
- 23 A: Down the hallway way.
- 24 Q: So you're facing him; he's facing you?
- 25 A: Right.

DANIELLE MONROE - CROSS BY MS. HINDS

- 1 Q: But he's --
- 2 A: But, like, one of my hands was on the -- on the doorknob
- 3 and, once I tried to open it, he slammed it and then he
- 4 grabbed both my arms. And somehow, I worked one of my wrists
- 5 away and I opened it and I, like, held it open with my elbow
- 6 and my hip and I let my son run out. And once he ran out, I,
- 7 like, kind of tried to keep the pressure in between the door
- 8 and the -- me and the door. So once I, like, got my backside
- 9 out, I, like, was going down the steps backwards because he
- 10 still had my arms. And then once I got my feet on the
- 11 ground, that's when he grabbed my braids and wrapped it
- 12 around his hand.
- 13 Q: Okay. So I just want to make -- make sure I got this
- 14 right. So he's -- he's got you by the hands and you're
- 15 trying to get out and that's being hindered; correct?
- 16 A: Yes, ma'am.
- 17 Q: You're able the second time to actually shimmy around
- 18 the door?
- 19 A: No. Like, slide my arm and my hip in the door.
- 20 Q: Okay. And then what happens?
- 21 A: I let my son out.
- 22 Q: Okay. That's when you let -- you're able to let your
- 23 son out?
- 24 A: Yes.
- 25 Q: Okay. What happens next?

DANIELLE MONROE - CROSS BY MS. HINDS

1 A: I worked my way out the door myself and we was going
2 down the -- I was going down the stairs backwards. He was
3 coming down with my arms and I was steady trying to get him
4 off of me. And I was, like -- I was, like, please get off of
5 me. And that's when, like, I finally got my foot on the
6 ground, got my balance and was about to run.

7 And he grabbed my hair and he wrapped my hand -- wrapped
8 his hands around my braids like that and was just holding
9 them tight, like, held me down like that. And every time I
10 come up, he'll pull down and I was pulling down and I could
11 just hear my hair ripping out, ripping out.

12 Q: Okay. But at that point, you're still standing up, but
13 he's pulling on you?

14 A: Right.

15 Q: Okay. Okay. Once you get outside, are you still
16 struggling?

17 A: Yes.

18 Q: Okay. So you were able to get down the first set of
19 steps. Is that -- you fell at the bottom of those steps or
20 further out from them?

21 A: I was able to walk backwards down the steps because I
22 know my stairs.

23 Q: Okay.

24 A: So once I got to the bottom, my feet was planted on the
25 ground.

DANIELLE MONROE - CROSS BY MS. HINDS

- 1 Q: And he's following you?
- 2 A: Right.
- 3 Q: Okay. Where is your son at this point in time?
- 4 A: He's right there.
- 5 Q: I'm sorry. On the day that it happened --
- 6 A: Oh.
- 7 Q: At that particular point in this, where is your son?
- 8 A: He was -- he was in the yard too, yelling at him, saying
- 9 please let my mama go, and I was telling him, you know, calm
- 10 down. I was, like, just go ask the neighbors to call the
- 11 police because, like I said, I tried to remain as calm as I
- 12 could, you know, to keep him from hurting me and probably
- 13 doing something mean and going after my son. I don't know
- 14 what he would have did. Like, I tried to just be calm.
- 15 Q: Okay. And what was Mr. Furtick doing at that point in
- 16 time?
- 17 A: Just holding me, holding my hair and pulling it. Every
- 18 time I lifted up to try to get away from him, he was pulling
- 19 my hair down. And I was, like, what -- I was, like, what you
- 20 want and I was, like, just run before the police get here.
- 21 Q: Did he?
- 22 A: No.
- 23 Q: Okay. During this incident, was there any conversation
- 24 between you and Mr. Furtick?
- 25 A: No, ma'am.

DANIELLE MONROE - CROSS BY MS. HINDS

- 1 Q: So the only one that spoke was you?
- 2 A: Right.
- 3 Q: And Officer Harter was able finally to -- to get him --
- 4 A: To get him off of me.
- 5 Q: -- get him off of you?
- 6 A: Right.
- 7 Q: Okay. And I think your testimony is you've known Mr.
- 8 Furtick from basically the neighborhood and --
- 9 A: School.
- 10 Q: From school?
- 11 A: And I used to date his brother.
- 12 Q: Okay. Oh, you used to date his brother? Okay.
- 13 A: A long time ago. I was about 13.
- 14 Q: I understand. I understand. So your testimony was that
- 15 he was angry looking or --
- 16 A: Scary.
- 17 Q: -- scary looking? Excuse me. That he was breathing
- 18 hard, that he was wet. At any point in any of this scenario,
- 19 did you see him with a weapon?
- 20 A: No, ma'am.
- 21 Q: Okay. He didn't threaten you with a gun?
- 22 A: No, ma'am.
- 23 Q: He didn't threaten you with a knife?
- 24 A: No, ma'am.
- 25 Q: He didn't threaten you with a bat or anything else;

DANIELLE MONROE - CROSS BY MS. HINDS

- 1 correct?
- 2 A: No, ma'am.
- 3 Q: Okay. Did he threaten to hurt your son?
- 4 A: No, ma'am.
- 5 Q: Okay. Did he -- did he ever touch your son?
- 6 A: No, ma'am.
- 7 Q: Okay. But he definitely scared both of you and I
- 8 understand that.
- 9 A: Yes, ma'am.
- 10 Q: Now, at some point -- and again, I'm just trying to
- 11 clarify. So he's gone out and he's gone to a -- he's gone to
- 12 go get help; correct?
- 13 A: My son?
- 14 Q: Yeah.
- 15 A: Right.
- 16 Q: But he -- is the testimony that he shows back up where
- 17 you're at?
- 18 A: What you mean?
- 19 Q: Was -- where was he when the cop was helping get the --
- 20 Mr. Furtick off of you?
- 21 A: He was standing in the neighbor's yard real close.
- 22 Q: He was standing in the neighbor's yard?
- 23 A: Once he saw the cop came over, he ran to me.
- 24 Q: Okay. And when he ran to you, were you already out of
- 25 Mr. Furtick's clutches, so to speak?

DANIELLE MONROE CROSS BY MS. HINDS

1 A: Yes, ma'am.

2 Q: Okay.

3 MS. HINDS: I beg the Court's indulgence for just a

4 minute.

5 BY MS. HINDS:

6 Q: And again, I think we've gone over this, but just to

7 reiterate it. If -- if Mr. Furtick hadn't turned on the

8 light, you wouldn't have been able to identify who -- who it

9 was; correct?

10 A: No. Because it was dark.

11 Q: At least at that point; right?

12 A: Right.

13 Q: At the point when the cops arrived, about how long did

14 it take for them to subdue Mr. Furtick?

15 A: Not long.

16 Q: Not very long?

17 A: No.

18 Q: What was it like outside at that point in time?

19 A: It was still dark.

20 Q: It was dark?

21 A: Uh-huh. Yes, ma'am.

22 Q: Huh?

23 A: Yes, ma'am.

24 Q: But you were able to see your son in the neighbor's

25 yard?

DANIELLE MONROE -REDIRECT BY MS. CORNWELL

1 A: Yes, ma'am.

2 MS. HINDS: No further questions.

3 THE COURT: Any redirect?

4 MS. CORNWELL: Just very briefly for clarification.

5 REDIRECT EXAMINATION

6 BY MS. CORNWELL:

7 Q: Ms. Monroe, you explained to Ms. Hinds where the back of
8 the trailer was and the back door. Looking at State's 14,
9 does that clearly show the back of your trailer and the back
10 door?

11 A: Yes, ma'am.

12 Q: Okay. Is that a true and accurate depiction of it?

13 A: Yes, ma'am.

14 Q: Don't show it to the jury quite yet.

15 A: Oh.

16 Q: That's okay.

17 MS. CORNWELL: Your Honor, at this time, the State would
18 move State's 14 into evidence.

19 THE COURT: Any objection?

20 MS. HINDS: No objection.

21 THE COURT: It's in.

22 (WHEREUPON, State's Exhibit Number 14, a photograph, was
23 admitted into evidence.)

24 MS. CORNWELL: May we publish to the jury?

25 THE COURT: You may.

~~DANIELLE MONROE - REDIRECT BY MS. CORNWELL~~~~BY MS. CORNWELL:~~

2 Q: So when you were talking about your back door and
3 everything, is that the back door?

4 A: That's the back door.

5 Q: And where's your bedroom?

6 A: That's the window that I looked out of. That's my
7 bathroom window. So my bathroom and my room is in this area.

8 MS. CORNWELL: Okay. Thank you, Ms. Monroe.

9 THE WITNESS: You're welcome.

10 MS. CORNWELL: No further questions, Judge.

11 THE COURT: You may step down, ma'am. Thank you. You
12 may call your next witness.

13 MS. CORNWELL: Thank you, Your Honor. At this time, the
14 State would call J.S. [REDACTED].

15 Before you go up, we're going to have you put your left
16 hand on the Bible here and then can you raise your right
17 hand? Can you raise your right hand and face this lady right
18 here?

19 THE CLERK: Do you hereby swear or affirm that the
20 testimony you are about to give will be the truth, the whole
21 truth, and nothing but the truth, so help you God?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: Your witness.

24 MS. CORNWELL: Thank you, Your Honor.

25 J.S. [REDACTED], being first

J.S.

- DIRECT BY MS. CORNWELL

duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. CORNWELL:

Q: Jamarion, how are you doing?

A: I'm good.

Q: All right. Now, I know that this is scary and you are nervous, but what I'm going to do is -- do you mind if I hold onto your jacket for you?

A: Yes, ma'am.

Q: All right. And I know that you want to cover your face and look down, but I'm going to need you to do me a favor.

A: Yes.

Q: And I'm going to need you -- you are being so brave coming in here and I appreciate that, but this court reporter has to be able to take down everything you say and this jury has to be able to hear everything you say.

A: Yes, ma'am.

Q: So I know usually when you come to court or church, you're told you have to be real quiet.

A: Yes, ma'am.

Q: Well, this is the one time I'm going to let you use your outdoor voice inside and I want you to be as loud as you can when you talk. Okay?

A: Yes, ma'am.

Q: Okay. Now, I'm going to try to push this down in front

J. S.

DIRECT BY MS. CORNWELL

- 1 of you and see if we can't get a little more volume. And,
- 2 then I'm going to pull your chair up some so that you can get
- 3 right into that little microphone there. All right.
- 4 Jamarion, can you tell the jury how old you are right now?
- 5 A: I'm 11 years old.
- 6 Q: Eleven? And again, if you can just talk as loud as you
- 7 can.
- 8 A: I'm 11 years old.
- 9 Q: Good job. And where do you go to school?
- 10 A: Rivelon.
- 11 Q: Who is your teacher?
- 12 A: Ms. Fulton.
- 13 Q: All right. Are you almost done with school for this
- 14 year?
- 15 A: Yes, ma'am.
- 16 Q: Good. And what grade are you in?
- 17 A: Fourth.
- 18 Q: Fourth grade? All right. Well, Jamarion, I'm going to
- 19 talk to you in a minute about some of the things that
- 20 happened on that night, but before I do that, I want to make
- 21 sure -- you're in the fourth grade and you're 11 years old
- 22 and I know that you are super smart, but do you know the
- 23 difference between a truth and a lie?
- 24 A: Yes, ma'am.
- 25 Q: And what happens when you tell a lie?

J.S. - DIRECT BY MS. CORNWELL

- 1 A: It's bad and you get in trouble for it.
- 2 Q: It's bad and you get in trouble for it?
- 3 A: Yes, ma'am.
- 4 Q: And do you know what happens if you tell a lie in court?
- 5 A: You go to jail.
- 6 Q: You can go to jail. And so today, when you're telling
- 7 this jury what happened that night, are you going to tell the
- 8 truth or are you going to tell a lie?
- 9 A: Tell the truth.
- 10 Q: All right. And let's just make sure I understand what
- 11 you know to be the truth and a lie.
- 12 A: Yes, ma'am.
- 13 Q: If I were to tell you that the shirt that I was wearing
- 14 right now was red, would that be the truth or a lie?
- 15 A: A lie.
- 16 Q: All right. And if I were going to tell you that the
- 17 shirt that Investigator Harter has on right now is a blue-
- 18 and-white striped shirt, is that the truth or a lie?
- 19 A: Truth.
- 20 Q: All right. I knew you knew what we were talking about.
- 21 So we're going to go and we're going to talk about what
- 22 happened last summer. Okay?
- 23 A: Yes, ma'am.
- 24 Q: All right. So if you don't mind, can you tell the jury
- 25 what you remember happening that night?

J. S.

DIRECT BY MS. CORNWELL

- 1 A: I was asleep right then so I woke -- I had woked up.
2 because I heard my mother screaming and then when I looked
3 up, I saw -- I saw him turn on the lights and then I had got
4 up and then my mama tried to open the door to get him out and
5 then he grabbed my mama and then my mama had -- then my
6 mother had opened the door and then I got out and ran to go
7 get help.
- 8 Q: Okay. And the first time your mama tried to open the
9 door and let y'all out, were y'all able to get out?
- 10 A: No, ma'am.
- 11 Q: Why not?
- 12 A: Because he had shut the door and locked it back and then
13 my mother unlocked it and then managed to get the door open.
- 14 Q: Okay. And when she managed to get the door open, what
15 did you do?
- 16 A: I went outside to go get help.
- 17 Q: Okay. And how were you feeling at that time?
- 18 A: Scared.
- 19 Q: Okay. Had you ever seen that man before?
- 20 A: No, ma'am.
- 21 Q: Had he ever been in your house before?
- 22 A: No, ma'am.
- 23 Q: Okay. Did you know if he was friends with your mom or
24 anything?
- 25 A: No, ma'am.

J.S. [REDACTED] - DIRECT BY MS. CORNWELL

1 Q: Okay. And before we get too far, you said you were
2 asleep. Looking at State's 3 and 4, is that the couch you
3 were sleeping on?

4 A: Yes, ma'am.

5 Q: All right. And that's the couch closest to the door;
6 correct?

7 A: Yes, ma'am.

8 Q: Okay. And then on the other side of the door, if you
9 look down the hallway, whose room is that back there?

10 A: Mines.

11 Q: Okay. And is that the room that you saw the person
12 coming out of?

13 A: Yes, ma'am.

14 Q: And when he hit the light, is that where your bathroom
15 is?

16 A: Yes, ma'am.

17 Q: And was that the light you saw?

18 A: Yes, ma'am.

19 Q: Okay. And you said when you woke up -- what caused you
20 to wake up?

21 A: Because I heard my mother screaming.

22 Q: Okay. And when she was screaming and you got up, you
23 said you tried to run out the door?

24 A: Yes, ma'am.

25 Q: And you couldn't get out the first time?

J. S.

- DIRECT BY MS. CORNWELL

- 1 A: Yes, ma'am.
- 2 Q: Okay. And once you were able to get out, was your mom
- 3 able to just run out behind you?
- 4 A: Yes, ma'am.
- 5 Q: Okay.
- 6 A: But -- but it took her some time to get out.
- 7 Q: It did take her some time to get out?
- 8 A: Yes, ma'am.
- 9 Q: Okay. And do you know why it took her some time to get
- 10 out?
- 11 A: Yes, ma'am.
- 12 Q: Why is that?
- 13 A: Because he was holding her and wouldn't let the door go.
- 14 Q: Okay. And were you -- were you yelling at him or
- 15 anything?
- 16 A: Yes, ma'am.
- 17 Q: What were you yelling at him?
- 18 A: Telling him could he please let us go.
- 19 Q: Okay. And then you said that you ran to go get help?
- 20 A: Yes, ma'am.
- 21 Q: And that is very brave. I'm going to show you what's
- 22 been marked as State's Exhibit 11. Do you recognize this
- 23 picture?
- 24 A: Yes, ma'am.
- 25 Q: Okay. Is this how kind of the back of your trailer and

J.S. [REDACTED] - DIRECT BY MS. CORNWELL

1 your neighborhood look?

2 A: Yes, ma'am.

3 Q: All right. Is this a true and accurate showing of that?

4 A: Yes, ma'am.

5 Q: All right.

6 MS. CORNWELL: Your Honor, at this time, the State would
7 move State's Exhibit 11 into evidence.

8 THE COURT: Any objection?

9 MS. HINDS: No objection.

10 THE COURT: All right. It is in.

11 (WHEREUPON, State's Exhibit Number 11, a photograph, was
12 admitted into evidence.)

13 MS. CORNWELL: All right.

14 BY MS. CORNWALL:

15 Q: And I'm going to keep you there, but can you show the
16 jury -- is this the back of your trailer?

17 A: Yes, ma'am.

18 Q: Okay. And so these are other houses that are in your
19 neighborhood?

20 A: Yes, ma'am.

21 Q: Will you show the jury where you ran to go get help?

22 A: I ran over there and then there.

23 Q: Okay. And so when you first ran over here, what did you
24 do when you went to that house?

25 A: Knocked on the door and I said can you please help.

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- 1 Someone broke into our house. And then they called the cops.
- 2 and the police asked them was he on foot or a car and she
- 3 said on foot and she told me to go over there and then I went
- 4 over there and they called the police...
- 5 Q: Okay. All right. So when you went to get help, you
- 6 knocked on the door?
- 7 A: Yes, ma'am.
- 8 Q: Okay. Would you ever just run into somebody's open
- 9 house?
- 10 A: No, ma'am.
- 11 Q: You would always knock first?
- 12 A: Yes, ma'am.
- 13 Q: That's good. All right. So when you got help and they
- 14 called the police, what did you do after that?
- 15 A: Ran back to go try to help my mom.
- 16 Q: Okay. And that's super brave. So when you ran back to
- 17 try to help your mom, were you trying to help get her away
- 18 from the defendant?
- 19 A: Uh-huh. But she told me to go back.
- 20 Q: Okay. All right. And then do you remember when the
- 21 police drove up?
- 22 A: Yes, ma'am.
- 23 Q: Okay. Can you tell the jury what happened when the
- 24 police drove up?
- 25 A: He -- when he drove up, he said let her go or he's going

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- 1 to get the dogs and stuff and then he wouldn't let go until
2 he said he was going to let the dogs out and then he let her
3 go and then I ran on by on the side of the car and then she
4 ran on the side the car.
- 5 Q: Okay. And do you see the police officer that helped
6 you?
- 7 A: Yes, ma'am.
- 8 Q: Where is he?
- 9 A: Right there.
- 10 Q: All right. And I know that this is really scary, but do
11 you see the man that was trying to hurt your mama?
- 12 A: Yes, ma'am.
- 13 Q: Where is he?
- 14 A: Right there.
- 15 Q: Thank you.
- 16 MS. CORNWELL: Your Honor, let the record reflect that
17 the witness pointed out Investigator Harter as the officer
18 that helped him and the defendant as the person he saw --
- 19 THE COURT: Yes, ma'am.
- 20 MS. CORNWELL: -- hurting his mama.
- 21 BY MS. CORNWELL:
- 22 Q: All right. So once police came and you and your mama
23 were safe, did y'all have to talk to the police for a little
24 while?
- 25 A: Yes, ma'am.

J. S.

- DIRECT BY MS. CORNWELL

1 Q: All right. And did they come to your school to talk to
2 you too?

3 A: Yes, ma'am.

4 Q: Okay. And you told them everything that you remember
5 happening?

6 A: Yes, ma'am.

7 Q: All right. And is that the same thing you told this
8 jury here today?

9 A: Yes, ma'am.

10 Q: All right. Jamarion, those are all the questions I'm
11 going to ask you. Thank you so much for coming up here. So
12 brave.

13 A: Yes, ma'am.

14 Q: This lady right here might ask you a few questions. If
15 you can, just stay up there and just answer her questions
16 just the way you did ours. Okay?

17 A: Yes, ma'am.

18 THE COURT: Cross-examination?

19 MS. HINDS: Jamarion, I think you did an excellent job.
20 I think --

21 THE WITNESS: Thank you.

22 MS. HINDS: -- I don't have any further questions.

23 THE WITNESS: Yes, ma'am.

24 THE COURT: You may step down. Thank you. You may call
25 your next witness.

INV. RYAN HARTER - DIRECT BY MS. CORNWELL

1 MS. CORNWELL: Thank you, Your Honor. The State would
2 call Investigator Harter.

3 THE CLERK: Please raise your right hand. Left hand on
4 the Bible. Do you -- do you hereby swear or affirm that the
5 testimony you're about to give will be the truth, the whole
6 truth, and nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 THE CLERK: Thank you.

9 THE COURT REPORTER: Would you spell your last name for
10 me, please?

11 THE WITNESS: H-a-r-t-e-r.

12 THE COURT: Your witness.

13 MS. CORNWELL: Thank you, Your Honor.

14 INV. RYAN HARTER, being first
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. CORNWELL:

18 Q: Investigator Harter, if you don't mind telling the jury
19 a little bit about yourself, where you work, how long you've
20 been in law enforcement?

21 A: I work with the Orangeburg County Sheriff's Office. I
22 run the special operations unit, which involves dogs, SWAT
23 team, that kind of stuff. I've been in law enforcement --
24 this year in August will be 21 years.

25 Q: Okay. And you said special enforcement, dogs, things

INV. RYAN HARTER - DIRECT BY MS. CORNWELL

1 Like that? Can you be a little bit more specific?

2 A: The Sheriff's Office employs K9s to assist us in our
3 duties, tracking, looking for narcotics, things of that
4 nature. I'm in charge of maintaining the training for those
5 dogs, as well as our tactical team.

6 Q: Okay. And that includes the SWAT team?

7 A: Correct.

8 Q: Would that include any sort of hostage negotiation and
9 all of those --

10 A: Correct.

11 Q: -- areas? And do you have specialized training for
12 those areas?

13 A: I do.

14 Q: And for this case, I'm not going to get too much into
15 that specialized training, but you stated that you have how
16 many years in law enforcement?

17 A: This August will be 21.

18 Q: Okay. And how long have you run the special
19 investigations department?

20 A: I've been a supervisor in special operations since 2013
21 I think.

22 Q: Okay.

23 A: Or '14 maybe.

24 Q: A few years?

25 A: Yes, ma'am.

INV. RYAN HARTER - DIRECT BY MS. CORNWELL

1 Q: All right. And were you working in that capacity on the
2 morning of August 19th of 2016?

3 A: Actually, that night, the patrol division -- I was
4 helping the uniformed patrol division. They were a little
5 short; so we were -- I was out assisting those guys, working
6 a 12-hour shift with them.

7 Q: Okay. And what time was that 12-hour shift coming to an
8 end?

9 A: It would -- it would have ended around 6:30.

10 Q: Okay.

11 A: The oncoming shift would have officially taken over
12 around 7 a.m.

13 Q: Okay. And what were you doing when you heard this call
14 come in?

15 A: When this call came out, I was headed out of Orangeburg
16 towards the county line. I live in Allendale; so I was kind
17 of sneaking towards the bottom of the county, hoping we
18 didn't get any more calls, so I could get home a little
19 quicker.

20 Q: All right. And where were you when you heard this call
21 come over the dispatch?

22 A: I was approaching Carver School Road. I remember --
23 when you work in law enforcement, you learn your dispatchers
24 and, when the call came out, I could hear in the dispatcher's
25 voice that she wasn't really sleepy, which means that

INV. RYAN HARTER - DIRECT BY MS. CORNWELL

1 something exciting was getting ready to come over the radio.
2 And so I pulled over into the median right at Carver School
3 Road --
4 Q: Okay.
5 A: -- when the call came out.
6 Q: All right. And what was that call that came out?
7 A: It was a kidnapping in progress.
8 Q: Okay. And did the dispatcher -- was she able to give
9 any information over dispatch regarding that?
10 A: What she gave me -- what I distinctly remember was that
11 there was a male subject actively dragging a female subject
12 down the road on Dena Lane.
13 Q: Okay. And how far away were you from Dena Lane?
14 A: I guess that's approximately five or six miles.
15 Q: Okay. So how quickly were you able to get there once
16 you heard that on dispatch?
17 A: I'd have to look at my report, to tell you the truth,
18 but I probably made it within three or four minutes.
19 Q: Okay. If I showed you your report, would it help
20 refresh your recollection as to those times?
21 A: Yes, ma'am. Thank you. Yeah. By the time the call
22 began coming out and I started towards Dena Lane, I had about
23 a three-minute -- a two-minute response time.
24 Q: Okay. And when you arrived on scene -- well, first of
25 all, when you were heading out there, what was the condition

INV. RYAN HARTER - DIRECT BY MS. CORNWELL

1 out outside? Was it light outside?

2 A: No, ma'am. It was dark.

3 Q: Did you have to have your headlights on to see?

4 A: Yes, ma'am.

5 Q: Okay. And by the time you arrived out there, what did
6 you see when you drove up?

7 A: Initially, when I turned onto Dena Lane, it's a sweeping
8 -- it sweeps around a slow curve I guess you would call it.
9 It's not a very sharp curve at all. As I progressed around
10 it, I progressed for so long that I had to ask dispatch again
11 whether or not the caller was able to observe what was going
12 on, whether or not they were still in the street, because I
13 didn't see anything. I had the windows down. I didn't hear
14 anything. And then about the time -- roughly simultaneously
15 when my dispatch responded that it was still active, I came
16 around the last part of the sweeping curve and I could
17 observe two subjects in the road at that time.

18 Q: Okay. And what were those subjects doing?

19 A: As I -- I pulled my vehicle within eight to ten feet and
20 I observed a female subject and she -- her feet weren't
21 moving, but she was moving and the male subject standing
22 behind her. He had one hand on her arm and one hand looked
23 to be entwined in her hair.

24 Q: Okay. Did they appear to be struggling?

25 A: It wasn't -- it wasn't a full-blown struggle. It looked

INV. RYAN HARTER - DIRECT BY MS. CORNWELL

1. ~~like, she had almost resigned herself to be taken because her~~
2 fight was almost up, but he was dragging. I mean she wasn't
3 willingly going. He was -- you could see him pulling.
4 Q: Okay. And did you see her son at that time?
5 A: He was pulling on -- he was pulling on one of his
6 mother's -- the arm that was not being held. He was pulling
7 on the other arm.
8 Q: Okay. And what was the condition of the mother when you
9 came? Was she in shock? Was she scared? Was she freaked
10 out?
11 A: The best way I can put this is when you get a call in
12 law enforcement, you -- you think of what you're going to
13 find when you arrive on scene, and I was thinking that this
14 was going to be some type of domestic situation. When I got
15 there, you could see from the look on her face, it was -- it
16 was pure-blown panic. I've not seen a victim look like that
17 in the long time.
18 Q: Okay. And tell the jury what you did when you -- when
19 you did pull up? You said you pulled up within ten -- eight
20 to ten feet?
21 A: I did. I immediately addressed the subject vocally
22 because of the distance between. There was no distance
23 between him and her. He was literally using her -- not
24 necessarily as a shield, but she was that close and covering
25 most of his body. I could not -- I knew I had to separate

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1 them was my first objective, to get the child away and then
2 get her away from him.

3 I figured if I fought with him, it was going to cause
4 harm to her if she was involved inside of it; so I didn't
5 want that to happen. I couldn't deploy a Taser because of
6 the spread of the prongs. One would've got her and one
7 would've got him. It would have tased both of them and I
8 couldn't deploy my OC spray because it comes out in a mist
9 and it would've covered both of them as well.

10 So luckily for me and luckily for her, as it turns out,
11 when I started addressing the subject vocally and giving him
12 -- basically just telling him to let go of her and I was
13 going to deal with him, my dog -- the windows were down in
14 the car and he heard my voice escalating and he just -- he
15 started raising sand in the car and, at the time, it seemed
16 to register with the subject, at the time with the male
17 party, and when the dog -- I said -- I let him know, you
18 know, I can direct the dog and tell him who to get.

19 So that's what was getting ready to happen and he
20 stumbled. When he stumbled, he went about halfway to the
21 ground. When he went halfway to the ground, that was my
22 opportunity to go ahead and separate those two. That's what
23 I did.

24 Q: Okay. And you used the term OC spray. Is that what we
25 commonly refer to as pepper spray?

INV. RYAN HARTER - DIRECT BY MS. CORNWELL

1 A: That's right. Mace, pepper spray, that type of thing.

2 Q: And then I'm from the country as well. I know these
3 sayings. When you say raise sand, what was the dog doing?

4 A: He sounded like a demon in the back of the car.

5 Q: So he was barking?

6 A: Oh, yes. He was barking and growling and trying to get
7 out.

8 Q: All right. You said when you first arrived on scene
9 that the young boy was trying to help his mother?

10 A: He was. He was --

11 Q: What did you do with the young boy?

12 A: I swept him to the side as quickly as I could and swept
13 him to the passenger side of my car, which put my car between
14 him and the male subject.

15 Q: And once you were able to get the defendant -- you keep
16 saying male subject. Do you see that person in this
17 courtroom today?

18 A: I do, ma'am.

19 Q: And where is he?

20 A: He's seated at the defense table.

21 MS. CORNWELL: And if the record would reflect that
22 Investigator Harter identified the defendant as the person he
23 saw?

24 THE COURT: Yes, ma'am.

25 BY MS. CORNWELL:

INV. RYAN HARTER - DIRECT BY MS. CORNWELL

- 1 Q: When you were able to separate them, what happened next?
- 2 What --
- 3 A: I basically jumped on top of him. He went down face to
- 4 the ground. I didn't want to risk -- he was very slippery at
- 5 that time, covered in sweat. You could smell it. His whole
- 6 body was saturated and I didn't want to risk not maintaining
- 7 control of him and something else happen because I knew I had
- 8 guys coming. You could start to hear other sirens and stuff
- 9 from officers responding as well. And I figured the best
- 10 thing I could do at that point in time was hang on to him
- 11 instead of trying to handcuff him. So I hung onto him until
- 12 we got one or two officers on scene. At that point in time,
- 13 he was taken into custody and handcuffed.
- 14 Q: Okay. So at no time did he ever -- did you ever lose
- 15 sight of him, did you ever lose custody or possession of him?
- 16 A: Absolutely not.
- 17 Q: So the person that you took at the scene was the person
- 18 that you saw committing these crimes?
- 19 A: Yes, ma'am.
- 20 Q: Okay. You said he's wet and slippery and sweaty. This
- 21 was in August? What was the weather like at that time?
- 22 A: It was -- it was a South Carolina humid night. It was
- 23 warm.
- 24 Q: And during your investigation, obviously this was
- 25 charged as burglary in the first degree. Did you do any

INV. RYAN HARTER - DIRECT BY MS. CORNWELL

1 preparation in finding out what the hours of sunset and

2 sunrise were?

3 A: I didn't. No, ma'am. I do know it was dark outside.

4 Q: Okay. I'm going to show you what's been marked as

5 State's Exhibit 13. This is just an August of 2016 sunrise

6 and sunset calendar. If you were to look at August 19th, can

7 you tell the jury what time sunrise would have been that day?

8 A: Sunrise was at 6:49 a.m.

9 Q: And when you arrived on scene, based on your report,
10 what time?

11 A: It was a few minutes prior to 6:00.

12 Q: Okay. So it was still dark outside before sunrise?

13 A: Yes, ma'am.

14 Q: And, Investigator Harter, once the defendant was taken
15 into custody, are you the person that takes those people into
16 custody or transports them?

17 A: No, ma'am. I don't transport. The Sheriff's Office
18 runs a policy if we -- if we carry a dog in the car, we don't
19 transport.

20 Q: Okay. So once backup arrived and he was taken into
21 custody, somebody else transported him?

22 A: Yes, ma'am. That's correct.

23 Q: Okay. And at that point in your investigation, once the
24 scene was cleared, did other investigators also arrive on
25 scene?

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1 A: Yes, ma'am.

2 Q: And did those investigators take over taking statements?

3 A: Yes, ma'am.

4 Q: Okay. So what was your involvement once you kind of had
5 the scene calmed down?

6 A: The initial response, just trying to maintain control --
7 gaining control of the situation would've been my
8 responsibility.

9 Q: Okay. Once the situation of the scene was controlled,
10 did you have any further involvement in the case?

11 A: Not much. I briefly spoke with the victim until other
12 units were there and we'd also contacted our victim's
13 advocacy office. I wanted to try to calm her down as much as
14 possible and calm her son down as much as possible. That was
15 most of my involvement at that point.

16 Q: Okay. Thank you, Investigator Harter. Please answer
17 any questions that defense counsel may have.

18 A: Yes, ma'am.

19 THE COURT: Cross-examination?

20 CROSS-EXAMINATION

21 BY MS. HINDS:

22 Q: Good afternoon.

23 A: Good afternoon.

24 Q: So from the get-go on that morning when you heard the
25 dispatch, you knew what kind of -- not maybe the specifics of

INV. RYAN HARTER - CROSS BY MS. HINDS

1 the situation, but you knew what you were being sent to

2 investigate; correct?

3 A: Yes, ma'am. Well, going on the information from
4 dispatch, yes, ma'am.

5 Q: Okay. And as you pulled up, you said you came around a
6 sweeping curve after not seeing anything, thinking maybe the
7 person had got away or it was the wrong area, but you finally
8 did see two people?

9 A: Correct. Yes, ma'am.

10 Q: Exactly where were they at at that time?

11 A: If I could -- in relation to? I mean they were in the
12 roadway.

13 Q: All the way out in the roadway? So they --

14 A: Yes, ma'am.

15 Q: -- weren't on the grass? They weren't on the clay?
16 They weren't on the grass?

17 A: Both parties were in the edge of the roadway. If -- if
18 -- if you think of the roadway as divided by two white lines
19 and a yellow line in the center, they were -- they were
20 closer to my left-hand side, which would have been the
21 passenger lane as I was advancing down Dena Lane.

22 Q: Okay.

23 A: They were closer to that white line, edge of the yard,
24 into the road just a small bit.

25 Q: Okay. And you said you got there very quickly after --

INV. RYAN HARTER - CROSS BY MS. HINDS

1 A: Yes, ma'am.

2 Q: -- after the dispatch?

3 A: I was kind of creeping back towards Orangeburg when
4 dispatch called out because Orangeburg is like our magnet for
5 call volume. That's where our highest call volume is. So I
6 figured it was going to be somewhere in that area. So she
7 put out the address off of Palm Harbor on Dena Lane. I knew
8 where I needed to go.

9 Q: You're familiar with that area?

10 A: Yes, ma'am.

11 Q: Okay. And as you come around that curve, you do see a
12 male and a female; correct? Together?

13 A: Yes, ma'am.

14 Q: Okay. And at that point, were they both standing up or
15 what? What was your initial reaction when --

16 A: They were both standing.

17 Q: -- you saw the two? They were both standing?

18 A: Yes, ma'am.

19 Q: Were they moving at that point in time or standing
20 still?

21 A: They weren't standing still, but they weren't moving at
22 a fast pace. She was being pulled and it wasn't that she was
23 -- she wasn't going willingly, but she wasn't complete
24 deadweight either. It was -- it was -- like, it almost
25 appeared like if she moved with him, it prevented her from

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1 being harmed is what it -- that was my first thought.

2 Q: Okay. But in other words, when the term drag has been
3 struck around and I mean it's not to the extent of, like,
4 dragging like a sack of potatoes on the ground or anything of
5 that nature; correct?

6 A: Not completely. No, ma'am. I mean not the full time.
7 There were -- there were moments they were standing and there
8 was a moment she wasn't standing. So there was -- you know,
9 and this is me. Like, as soon as they came into view in my
10 headlights, this what I could see.

11 Q: Okay. And did you see them actually fall or was that
12 before you had gotten there?

13 A: No, ma'am. That was prior to my arrival.

14 Q: Okay. All right. As you exited your vehicle, about how
15 far away from you again were those two people?

16 A: About ten feet maybe, you know, give or take three or
17 four feet, but I parked fairly close to them because when I
18 exited I wanted to be as close to him as possible without
19 endangering her --

20 Q: Okay.

21 A: -- with the vehicle.

22 Q: And at that point, I think your testimony was it was
23 dark, but I mean there's shades of dark. How dark are we
24 talking? Because this is the summer in August.

25 A: If I hadn't have had headlights on, I wouldn't have seen

INV. RYAN HARTER - CROSS BY MS. HINDS

1 them until they walked up under a streetlight.

2 Q: Okay. I think in your report, you said that as you got
3 there, you saw -- allegedly saw Mr. Furtick tighten his grip.
4 What did you mean by that?

5 A: There was a distance between them. When I exited the
6 vehicle, he kind of sucked her into him like this.

7 Q: Okay.

8 A: Like his arms weren't -- there was no longer an
9 extension between he and her. She was --

10 Q: He just brought her closer?

11 A: -- pulled into him. Right.

12 Q: Okay. Okay. At that point, you're in the road.

13 They're together. Is one, like, leading? Is he leading her?
14 Is he walking frontwards or backwards or --

15 A: Backwards.

16 Q: He is walking backwards?

17 A: They're both facing me.

18 Q: Okay. So both of them are facing you?

19 A: Correct.

20 Q: Which means how -- if both of them are facing you, is he
21 leading her sideways or --

22 A: No, ma'am. He's dragging her. She's facing forward.
23 Her back is into him. His back is facing away from me and
24 he's just pulling her straight back.

25 Q: Pulling? Okay. At that point in time, was he doing any

1 other physical things to her? Was he hitting her?

2 A: No, ma'am. He was not striking her.

3 Q: Okay. Not kicking her or anything else of that nature;

4 correct?

5 A: No, ma'am.

6 Q: It was strictly the pulling?

7 A: Correct.

8 Q: Okay. And what was the first command that you gave when

9 you got out of the car?

10 A: To let her go.

11 Q: Just plain and simple let her go?

12 A: Let her go.

13 Q: Okay. Are you approaching him at that point? In other

14 words, are you standing there saying let her go or are you --

15 A: Yes, ma'am.

16 Q: You're approaching him?

17 A: Yes, ma'am.

18 Q: Okay. About how fast?

19 A: I honestly couldn't tell you. Fast enough that I knew I

20 needed to get the child out of the situation. That was my

21 first --

22 Q: Sure.

23 A: That was my first priority.

24 Q: And where was the child at that point?

25 A: He was pulling on -- he was pulling on his mother's free

INV. RYAN HARTER - CROSS BY MS. HINDS

- 1 arm.
- 2 Q: Okay.
- 3 A: Which would have been her left arm.
- 4 Q: And I think in your report you put at that point then
- 5 they stumbled and both started to go down?
- 6 A: Yeah. I guess the -- I hate to even put a timeframe on
- 7 it. Stuff happened so fast. The entire verbal confrontation
- 8 between myself and him probably was less than 12 or 15
- 9 seconds before he stumbled. And when he -- when he lost his
- 10 balance is --
- 11 Q: Okay.
- 12 A: -- the opportunity I took.
- 13 Q: And you're saying that -- during that verbal sequence,
- 14 is he responding to you at all?
- 15 A: Not really.
- 16 Q: He didn't say --
- 17 A: Just kind of looking at me with blank eyes. He just had
- 18 no expression.
- 19 Q: Blank eyes?
- 20 A: He was -- I say blank. They -- they were enlarged. I
- 21 could -- I could see that they were definitely enlarged and
- 22 that he just really had no expression on his -- the rest of
- 23 his face.
- 24 Q: What was his breathing pattern at that point?
- 25 A: I couldn't really tell. The first noticeable thing that

INV. RYAN HARTER - CROSS BY MS. HINDS

1 I could really tell about his response to my presence was

2 when the dog started barking.

3 Q: So it was before the dog started barking? I'm not
4 trying to put words in your mouth, but was it like you
5 weren't there, in terms of his responding to you?

6 A: He was registering me with -- I mean he focused on me;
7 so he knew I was there.

8 Q: Okay.

9 A: But he had no response to my presence.

10 Q: And he didn't say anything to you?

11 A: No, ma'am. Not that I heard.

12 Q: Okay. And it's at that point when the two of them
13 started to go down you were able to intervene?

14 A: Yes, ma'am.

15 Q: Okay. In the -- I think in your report you said you
16 pushed both of them to a safe area or you pushed her to a
17 safe area. Was that behind the patrol car as well?

18 A: Well, I just -- I just kind of pushed her off to
19 continue the separation that started when he went to stumble.
20 I just -- I was able to push her out of his grasp towards the
21 side of the car. I didn't really -- to be very honest, I
22 have no idea where she went at that time because I was too
23 concentrated on --

24 Q: Getting him?

25 A: -- handling him.

INV. RYAN HARTER - CROSS BY MS. HINDS

1 Q: Okay. There's nothing in your report about him being
2 combative with you or resisting; is that correct?

3 A: He wasn't combative. Not what I would call combative I
4 mean. He didn't really resist. He didn't comply, but he
5 didn't resist.

6 Q: I mean he reacted to being held down, but he didn't --
7 he wasn't trying to aggressively get away from you?

8 A: No, ma'am.

9 Q: Okay. About how long did it take for backup to arrive?

10 A: I don't know. Thirty seconds. Forty-five seconds. It
11 could be a couple of minutes. I really don't know. It
12 wasn't very long.

13 Q: And at that point, he was cuffed pretty much without
14 incident; correct?

15 A: Yes, ma'am.

16 Q: Okay. And during this whole exchange, you never saw him
17 with a weapon, did you?

18 A: No, ma'am.

19 Q: Okay. Let's see. I think we talked about sunrise --

20 A: Yes, ma'am.

21 Q: -- sunset calendar and she had you refer to that?

22 A: Yes, ma'am.

23 Q: I'm going to have you refer to it again. And this may
24 be a little difficult. I'm not trying to put you on the
25 spot.

INV. RYAN HARTER - CROSS BY MS. HINDS

- 1 A: You're fine.
- 2 Q: If I may, there's -- there's more than simply a sunrise
3 and a sunset listed; is that correct? There's other
4 information?
- 5 A: It starts at twilight.
- 6 Q: Okay. Would you go across and can you read each one of
7 them and what it is?
- 8 A: It says Friday, August the 19th, that twilight started at
9 6:23 a.m. and that sunrise would have been at 6:49 a.m. and
10 then it gives a sunset at 8:03 p.m.
- 11 Q: Okay. So, in other words, it's -- it's a little more
12 detailed than just sunrise/sunset; correct?
- 13 A: Yes, ma'am.
- 14 Q: It's got more information and gradations in between?
- 15 A: Yes, ma'am.
- 16 Q: Okay.
- 17 A: This whole thing was done before twilight though. He
18 was cuffed and in a patrol car by then.
- 19 Q: Okay. There's also a column for astronomical twilight.
20 Is that --
- 21 A: I have no idea what that is.
- 22 Q: -- showing that correctly?
- 23 A: I see a nautical and an astronomical. Yes, ma'am.
- 24 Q: Okay. And if you follow -- probably the easier question
25 would be for me to turn it around and ask you. On this

INV. RYAN HARTER - CROSS BY MS. HINDS

1 sheet, that chronicles --

2 A: Uh-huh.

3 Q: -- when all the different kind of lights are present;
4 correct?

5 A: Yes, ma'am.

6 Q: There's one notation at 5:52; is that correct?

7 A: 5:52 would run to nautical twilight.

8 Q: Okay. Again, just showing different gradients of --
9 because the sun doesn't just come up and then the lights go
10 out. In other words, there's gradations of light in between?

11 A: Yes, ma'am.

12 MS. HINDS: One moment. I beg the Court's indulgence,
13 Your Honor.

14 BY MS. HINDS:

15 Q: And again, if I refer to your report one more time?

16 A: Yes, ma'am.

17 Q: Can you read out the dispatch time?

18 A: Yes, ma'am. It says dispatch time is 0551, which is
19 5:51 a.m. in the morning.

20 Q: Thank you.

21 A: Yes, ma'am.

22 MS. HINDS: I don't have any further questions.

23 THE COURT: Any redirect?

24 REDIRECT EXAMINATION

25 BY MS. CORNWELL:

INV. RYAN HARTER - REDIRECT BY MS. CORNWELL

1 Q: Investigator Harter, just to clarify, what was the light
2 outside when you arrived?

3 A: It was dark.

4 Q: Would you have been able to make out any of the parties
5 without your headlights?

6 A: Without assisted lighting, I wouldn't have been able to
7 see anything.

8 MS. CORNWELL: Thank you, Your Honor. No further
9 questions.

10 THE COURT: You may step down, sir. Thank you.

11 THE WITNESS: Thank you.

12 THE COURT: You may call your next witness.

13 MS. CORNWELL: Your Honor, at this time, the State
14 rests.

15 THE COURT: Ladies and gentlemen of the jury, it is
16 12:40. So it's a good time for us to take our lunch break.
17 Please, when you are out at lunch, remember my previous
18 instruction. Do not discuss this case with anyone or allow
19 anyone to discuss this case with you, and that includes
20 amongst yourselves.

21 If you would, please be back in the jury room at --
22 let's say 1:45. Then we'll get -- we'll resume with the
23 trial of this case. Have a nice lunch.

24 (WHEREUPON, the jury exited the courtroom at 12:40 p.m.)

25 THE COURT: All right. Solicitor, just for housekeeping

1 matters, I don't have technically that you moved in the
2 sunrise/sunset. Did you move that in?

3 THE COURT REPORTER: They didn't.

4 THE COURT: Okay.

5 MS. CORNWELL: Okay. That was a mistake that I made.
6 If I didn't move it in, I'd like to move it in now.

7 MS. HINDS: I really thought you did.

8 MS. CORNWELL: May we move it in at this time since we
9 were both under the impression that it was moved in?

10 MS. HINDS: Yes.

11 MS. CORNWELL: The State would like to move State's --

12 MS. HINDS: I thought she had, Your Honor. To be
13 perfectly honest.

14 THE COURT: All right. It's in.

15 MS. CORNWELL: Thank you, Your Honor.

16 (WHEREUPON, State's Exhibit Number 14, sunrise/sunset
17 calendar, was admitted into evidence.)

18 THE COURT: Just making sure.

19 MS. CORNWELL: I appreciate that.

20 THE COURT: And again, for the record, I had questioned
21 the juror, Ms. Green, prior to the case beginning and that
22 was because Ms. Hinds had reported to the Court that incident
23 of contact. Did either party have any objections to my
24 questioning of the juror? I just didn't want to bring her in
25 and out in front of the jury.

1 MS. CORNWELL: ~~No, Your Honor. I didn't thank anything.~~

2 of that. Thank you.

3 THE COURT: All right. And, Ms. Hinds, that was a
4 correct recitation of what happened with Ms. Green?

5 MS. HINDS: It was. It was when she asked me about my
6 job that I -- that was when I said, wait, who are you?

7 THE COURT: Thank you, ma'am. All right. Any motions
8 at this time?

9 MR. STEVENS: Yes, Judge. At this time, respectfully,
10 the defense moves for a directed verdict of acquittal on both
11 charges, first-degree burglary, as well as kidnapping.

12 The law regarding first-degree burglary is a little
13 sticky when it comes to a couple different inferences that
14 are involved. Accordingly, I thought to maybe help things
15 out, we reduced it to writing as well. May I approach, Your
16 Honor?

17 THE COURT: Certainly.

18 MR. STEVENS: Our general position regarding directed
19 verdict motions, Judge, is that obviously the State is
20 obligated to produce any evidence -- that would be the
21 evidence standard -- of any direct or substantial
22 circumstantial evidence regarding each element of the charged
23 offenses.

24 Regarding the two charges of both first-degree burglary
25 and kidnapping, Judge, we'd respectfully assert that the

1 State failed to produce evidence regarding material elements
2 of intent because both do have very real intent elements to
3 them.

4 Under the first enumerated paragraph that we actually
5 have below, on page 2, our position is that the directed
6 verdict for acquittal regarding first-degree burglary is
7 required because the State failed to produce evidence that
8 Mr. Furtick intended to commit any crime within the dwelling
9 at the time he actually entered. As you are aware, the time
10 that the State has to prove that he had the intent is at the
11 time he crossed the threshold.

12 (Coughs.) Excuse me.

13 That's derived not only from the language of the statute
14 itself, but also from our case law deriving therefrom, such
15 as State v. Peterson.

16 When we look at the evidence that was produced, there's
17 no intention of any crime, either before or after, that was
18 alleged or occurred. When we actually look at common law
19 inferences that are upon occasion allowed, such as in State
20 v. Haney, sometimes there are inferences allowed, such as
21 it's at nighttime and it's unexplained.

22 When we actually look at the surrounding circumstances
23 to what's been actually produced thus far, there were
24 gunshots and a man is coming inside, allegedly scared. I
25 believe that was the language from the victim herself. He

1 did look golf-ball sized eyes and at one point she did say he
2 looked scared.

3 When we look at the inferences from Haney, clearly it
4 says it's not just an inference every time someone actually
5 enters when it's nighttime that an inference of larceny may
6 be permitted. To the contrary, Haney does indicate that when
7 the building is entered as a dwelling, the weight of
8 authority holds that the unexplained breaking and entering in
9 the night is itself evidence of the intent to commit larceny
10 rather than some other crime.

11 The fundamental theory is that in the absence of other
12 intent or explanation for the breaking and entering, that's
13 when the inference is permitted, and that's relatively
14 consistent with other case law we have regarding permissible
15 inferences.

16 An example of that not related to burglary, but rather
17 when it comes to the malice element in homicides, we have
18 Belcher there, and whenever there's evidence of innocence
19 like that, whether it would reduce or mitigate or excuse or
20 justify the offense, then they do not get the inference of
21 malice derived from, such as, the use of a deadly weapon.

22 Our position here, Judge, is that clearly it did look
23 like someone was -- based on the -- any evidence standard we
24 have, the evidence, circumstantial or otherwise, is that
25 there were gunshots outside and a man comes running inside,

1 eyes wide and he's scared. That would be at the bare minimum
2 circumstantial evidence for the State's case that he was
3 running and he was seeking safety.

4 Next, under Subsection B of our -- of the first item, we
5 look at McMillan v. State. Our position, Judge, is that
6 McMillan v. State, which is a PCR case, number one, really is
7 not applicable given the different standards involved in PCR
8 cases, number one. Given number two, given the
9 distinguishable facts between that case and this and, when we
10 actually look at McMillan itself and the language that it
11 chooses to use, indicating that trespass in that case was
12 okay for an attorney to counsel his client to say that this
13 could be an underlying offense that the jury could find.

14 There, the Court relied upon -- I believe it was State
15 v. Christiansen from 1940 to say, well, closed doors and
16 locked windows are notice to the world. When we actually
17 look beyond that and read the Christiansen opinion itself,
18 it's not simply locked doors -- I'm sorry closed doors and
19 locked windows. It goes even further and indicates that,
20 yeah, there's that, but to do or damage or commit the breach
21 of peace or commit some unlawful act.

22 Further on down from the Christiansen opinion, it says
23 it's a correct statement of law. They see no error. For if
24 a person goes into the dwelling house for -- of another for
25 the purpose of doing damage or committing breach of peace or

1 doing unlawful acts after he gets in, that would be a
2 violation.

3 So our position is when we really read McMillan for the
4 cases that are supporting that position, that too is in
5 accord with what we see not only in Haney, but also in
6 Belcher and whenever we have these permissible inferences,
7 Judge. Our position is that, no, McMillan is not applicable
8 when it comes to that at all and, therefore, there are no
9 inferences regarding his intent at the moment he actually
10 crossed the threshold.

11 To the extent that this Court would read McMillan to be
12 dispositive and to say that in every instance whenever
13 someone does enter the dwelling of another person at
14 nighttime that it's automatically an inference of
15 trespassing, our position in that instance, Judge, would be
16 that that is violative of Mr. Furtick's constitutional
17 rights. It violates his due process, his fundamental due
18 process right to force the government to prove each element
19 of the offense beyond a reasonable doubt. It would
20 essentially diminish and shift its burden of proof regarding
21 that material element of the charged offense.

22 For that reason, as well as -- and additionally, Judge,
23 if the Court was to apply it in that manner, it would also
24 essentially abrogate sub silentio all of the other prior case
25 law in South Carolina indicating that mere breaking and

1 entering of a person's dwelling is not enough. It must prove
2 the element as well.

3 Our position is that there's no way, at least we don't
4 believe, that the Supreme Court of South Carolina ever made
5 such an intention when it did have that PCR case of State
6 versus -- McMillan v. State. Accordingly, regarding the
7 first-degree burglary charge, Judge, for all those reasons we
8 respectfully request the Court enter a directed verdict of
9 acquittal.

10 Regarding kidnapping, State v. Jeffries from 1994. In
11 that case, the South Carolina Supreme Court readily indicated
12 that the mens rea or the intent element was knowledge and
13 they gave us a definition of knowledge when it comes to
14 proving the kidnapping charge.

15 Our position, Judge, is the State does not have any
16 direct or substantial circumstantial evidence regarding that
17 element and, as such, we would move for directed verdict of
18 acquittal on that charge as well.

19 THE COURT: All right.

20 MR. STEVENS: Thank you.

21 THE COURT: Solicitor?

22 MS. CORNWELL: Thank you, Your Honor. As Your Honor
23 knows, in directed verdict, the Court must look at it in the
24 light most favorable to the State. It's also looking at not
25 the weight of evidence, but the existence of evidence.

1 Here, we've clearly heard testimony from Danielle
2 Monroe, as well as J.S. [REDACTED], that the defendant
3 entered into their home unlawfully without consent. The
4 intent to commit a crime, as far as state law has stated,
5 intent can be inferred by conduct. There is nothing in the
6 record to dispute anything of the fact that he was inside the
7 home and that there can be an inference based on his conduct
8 and his actions that the intent was to commit a crime.

9 You heard testimony that as soon as Ms. Monroe saw him,
10 she yelled at him. She attempted to exit the home. He
11 refused to allow her to exit the home. That conduct, in and
12 of itself, I believe is an inference that he had an intent to
13 commit a crime therein.

14 As far as his eyes being large and being scared being
15 circumstantial evidence that he was not there to commit a
16 crime, the State would argue the exact opposite. The fact
17 that he had just gotten caught breaking into somebody's home,
18 that, in and of itself, is probably going to elicit a fear
19 reaction from him as well.

20 So as far as proving intent, the courts have been clear
21 that there is no scientific way to prove how somebody
22 intended to act. Based on that, you're allowed to use the
23 inference of a person's conduct within that action and I
24 believe that the testimony given the defendant's conduct
25 regarding that action shows that there was an intent to

1 commit a crime therein. Therefore, on the burglary charge, I
2 believe that there is ample evidence that the defendant
3 unlawfully entered the home with the intent to commit a crime
4 therein.

5 There has also been ample testimony as to the time that
6 that incident occurred. All three witnesses indicated that
7 it was dark. It was night. That they would not have been
8 able to make a discernible face without the use of an
9 artificial light or moonlight. For that reason, the State
10 has met its burden of proving the elements of burglary in the
11 first degree, including the aggravating factor of the first-
12 degree portion being the nighttime hours.

13 In response to the kidnapping, as far as the knowledge
14 aspect goes, you've heard three witnesses testify that they
15 were screaming, that there was a struggle, that they were
16 falling down, that at no point was there a willingly -- did
17 the victim willingly go with the defendant. Obviously,
18 between the screaming and the fact that the defendant
19 struggled with the victim and would not let her out of his
20 grasp, that shows knowledge that he was taking her somewhere
21 that she did not want to be.

22 I think, based on that, we would respectfully request
23 that you deny any directed verdict motions.

24 THE COURT: Based upon the evidence that has been
25 presented thus far, there is direct evidence of each and

1 every element of both first-degree burglary and kidnapping.

2 In regards to the first-degree burglary, when he entered
3 the threshold of the home, the intent to commit a crime
4 therein was certainly demonstrated by the testimony as far as
5 the kidnapping elements are concerned and his subsequent
6 conduct, which certainly there's an inference as to what he
7 intended to do at the time. In regards to the kidnapping,
8 the same follows that she certainly was not free to leave and
9 certainly not of her own free will and in his control until
10 the officer arrived to intervene in that.

11 So I think based upon the testimony, there has been
12 direct evidence of each and every element of both charges,
13 and your motion is respectfully denied.

14 MR. STEVENS: Thank you, Judge. And just a point of
15 clarity for me. I apologize. I understand the Court's
16 ruling, if I'm correct, to be that it's not going off of the
17 common law inference for larceny or for trespass. It's
18 literally just the conduct that allegedly occurred inside.
19 Is that inaccurate?

20 THE COURT: Well, certainly, there's an inference when
21 he crosses the threshold. We don't know what he had intended
22 at that time, but certainly his conduct subsequent to that.
23 Immediately upon entering, certainly there's a crime
24 committed therein. He was told to leave. The victim
25 certainly expressed her fear and he shut the door. He

1 grabbed her.

2 So certainly, whether it was larceny and that was
3 interrupted, I don't know. That would be intent on his part
4 where the circumstances surrounding the crime would have to
5 be considered to do that. The mens rea obviously. You have
6 to consider the conduct and the circumstances surrounding the
7 crime to make that inference.

8 And so based upon that, your motion is denied.

9 MR. STEVENS: Thank you, Judge.

10 THE COURT: Anything further at this time?

11 MS. CORNWELL: Nothing from the State, Your Honor.

12 THE COURT: All right. Do y'all need time to discuss
13 with your client whether or not he wishes to testify before
14 we return or do you want to do that now?

15 (WHEREUPON, there was a pause in the proceedings as the
16 defendant and his counsel conferred, after which the
17 proceedings resumed as follows.)

18 MS. HINDS: He indicates to me that he's ready to go
19 forward.

20 THE COURT: All right. Mr. Furtick, if you would,
21 please stand.

22 (WHEREUPON, the defendant complied.)

23 THE COURT: Would you please swear him in?

24 THE CLERK: Raise your right hand, please. Do you
25 hereby swear or affirm that the testimony you're about to

1 to discuss this with your attorneys and then you can tell me
2 what your decision is at that time. Okay?
3 THE DEFENDANT: Yes, ma'am.
4 THE COURT: All right. We'll be at ease until that
5 time.
6 MR. STEVENS: Thank you, Judge. Oh, real quick. Is it
7 okay if I just make this a Court's exhibit, Your Honor?
8 THE COURT: Certainly.
9 MR. STEVENS: Thank you.
10 (WHEREUPON, the directed verdict motion was marked as
11 Court's Exhibit Number 2.)
12 THE COURT: And we'll go ahead and I'll give you the
13 proposed jury charges.
14 MR. STEVENS: Fantastic. Thank you.
15 (WHEREUPON, there was a break in the proceedings from
16 12:57 p.m. until 2:03 p.m., after which the proceedings
17 resumed as follows.)
18 THE COURT: All right. We're back on the record. Mr.
19 Furtick, would you please stand again?
20 (WHEREUPON, the defendant complied.)
21 THE COURT: Before we broke for lunch, I went over your
22 constitutional rights with you and your right as to whether
23 or not you wish to testify. Have you had an opportunity to
24 discuss that with your attorneys during the break?
25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And do you wish to testify?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Do you need any more time to think about it
4 or talk to your attorneys?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: All right, sir. You may have a seat.

7 (WHEREUPON, the defendant complied.)

8 THE COURT: Before we bring the jury out, I understand
9 -- we've had a charge conference in chambers. We had printed
10 out and given copies of the proposed charges to both sides
11 and it's my understanding that neither side has an objection
12 to the proposed jury charges. Is that correct?

13 MS. CORNWELL: Correct, Your Honor. The State does not
14 object to any of the charges.

15 MR. STEVENS: Judge, the only charge we are objecting
16 to, Judge, at this moment is the charge regarding voluntary
17 intoxication. Our position is this is tantamount to a charge
18 on the facts, which is forbidden under South Carolina
19 constitutional law.

20 THE COURT: All right. Obviously --

21 MR. STEVENS: Additionally, Judge --

22 THE COURT: Go ahead.

23 MR. STEVENS: I apologize. Thank you, ma'am.

24 Additionally, Judge, our concern is that it may serve to
25 diminish the State's burden regarding intent. Even though I

1 believe counsel, Ms. Hinds, has readily indicated that our
2 position is not to argue any voluntary intoxication as -- as
3 his defense whatsoever for reasons of either NGRI or
4 diminished capacity as is allowed in some states against
5 specific crimes, we recognize that in State v. Vaughn it's
6 forbidden.

7 Regardless of the fact that we have not produced any
8 evidence from medical witnesses or other mental health
9 experts regarding NGRI or diminished capacity, we feel that
10 if the jury is instructed on voluntary intoxication, number
11 one, under State v. Burton, it would confuse the issue.
12 Number two, it would actually diminish the government's
13 burden of proof regarding intent itself. And, number three,
14 obviously, we believe it's a charge on the facts.

15 THE COURT: All right.

16 MR. STEVENS: Thank you, ma'am.

17 THE COURT: And obviously, it will depend on what the
18 defendant testifies to whether or not that will be charged at
19 all. However, if he does testify regarding the voluntary
20 intoxication, I do intend on charging it depending on whether
21 or not he testifies to that effect.

22 I don't believe it is a -- in any way diminishes the
23 State's burden of proof. It is the law of this state and
24 would be properly charged if it is testified to in that
25 effect, but obviously we'll have to cross that bridge when we

1 get to it depending on his testimony.

2 MR. STEVENS: Yes, ma'am. Thank you, Judge.

3 THE COURT: All right. Anything further?

4 MS. CORNWELL: Nothing from the State, Your Honor.

5 THE COURT: All right. And I understand you have the
6 certified copies of the convictions?

7 MS. CORNWELL: Yes, Your Honor. Ms. Rayner just got Ms.
8 Tammy's card to go down to the basement and to grab those for
9 us.

10 THE COURT: All right.

11 MS. CORNWELL: Ms. Craven also went with them to speed
12 the process along.

13 THE COURT: I suppose while we're waiting for the actual
14 records, we could put on the record what you intend on using
15 pursuant to 609.

16 MS. CORNWELL: Yes, Your Honor. Pursuant to 609, the
17 State intends on using for impeachment purposes the
18 defendant's conviction in 2015 for shoplifting as a crime of
19 dishonesty. We also intend on introducing his convictions
20 from October of 2007 of assault and battery of a high and
21 aggravated nature, unlawful possession of a pistol,
22 threatening the life of a public official, and grand larceny.

23 As far as the assault and battery of a high and
24 aggravated nature, the weapons charge, and the threatening of
25 a public official, those are all felony charges that carry

1 THE COURT: I'd prefer that. That way they don't see
2 that and there's no prejudicial value or effect on him if the
3 Court sees -- you know, if the jury sees him, that he's
4 restrained like that.

5 MR. STEVENS: Yes, ma'am.

6 THE COURT: So if you want to go ahead and put him on
7 the witness stand and then I'll allow you to call him once
8 the jury comes in.

9 (WHEREUPON, the defendant took the witness stand.)

10 THE COURT: And, Ms. Hinds, after he testifies and, of
11 course, I'm not going to hold you to that, but do you intend
12 on calling any other witnesses?

13 MS. HINDS: We do not.

14 THE COURT: So if you don't mind, if you intend on
15 resting right after that, then I'll let the jury out and then
16 have him step down after that.

17 MS. HINDS: Yes, ma'am. I would appreciate that.

18 THE COURT: All right. All right. Let's have our jury,
19 please.

20 THE BAILIFF: Yes, Your Honor.

21 (WHEREUPON, the jury entered the courtroom at 2:19 p.m.)

22 THE COURT: Welcome back, ladies and gentlemen of the
23 jury. I hope that you had a nice lunch. We're now ready to
24 proceed with the trial of this case. Ms. Hinds?

25 MS. HINDS: The defense would call Derrick Furtick.

DERRICK FURTICK - DIRECT BY MS. HINDS

1 THE COURT: All right. Your witness. Madam Clerk, if
2 you would, please swear him in.

3 THE CLERK: Please raise your right hand. Do you hereby
4 swear or affirm that the testimony you're about to give will
5 be the truth, the whole truth, and nothing but the truth, so
6 help you God?

7 THE DEFENDANT: Yes, ma'am.

8 THE CLERK: Thank you.

9 THE COURT: Your witness.

10 DERRICK FURTICK, being first duly
11 sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. HINDS:

14 Q: Mr. Furtick, state your name and spell it?

15 A: Derrick Furtick, D-e-r-r-i-c-k F-u-r-t-i-c-k.

16 Q: And how old are you?

17 A: Thirty.

18 Q: And what is your address? Where do you -- where do you
19 live?

20 A: I was staying at [REDACTED].

21 Q: Okay. And that's where?

22 A: Where? That's in Orangeburg, South Carolina.

23 Q: Okay. How far did you go in school?

24 A: Tenth grade.

25 Q: And what school were you going to?

DERRICK FURTICK - DIRECT BY MS. HINDS

- 1 A: Orangeburg-Wilkinson High.
- 2 Q: Okay. And what kind of work do you do?
- 3 A: Anything doing, like, construction work, roofing work,
- 4 like, hard labor work.
- 5 Q: Okay. All right. Let's go back to August 19th of 2016.
- 6 A: Yes, ma'am.
- 7 Q: Do you remember that day?
- 8 A: Yes, ma'am.
- 9 Q: Okay. Let's -- let's go back a little further. What
- 10 were you doing before say 5 o'clock in the morning?
- 11 A: Well, I was at a friend's house playing poker.
- 12 Q: Okay. And where would the friend's house be?
- 13 A: On Edisto Drive.
- 14 Q: Okay. And at some point, did you leave there?
- 15 A: Yes. I dropped my brother off.
- 16 Q: Okay. And what did you do after that?
- 17 A: Well, me and a guy -- we went back to the card game.
- 18 Q: You went to the card game?
- 19 A: We went back to the card game.
- 20 Q: Okay. And you were playing cards with one person?
- 21 Several people?
- 22 A: I mean at one time, there was, like, eight people there,
- 23 but as the card game kept going on, there was, like, four
- 24 people left.
- 25 Q: Okay. And is that address that you were at where the

DERRICK FURTICK - DIRECT BY MS. HINDS.

1 card game was at, was that anywhere near Dena Lane?

2 A: Yes, ma'am.

3 Q: Okay. And obviously, at some point you left the poker
4 game; is that correct?

5 A: I never left. I left to drop my brother off, but I came
6 back.

7 Q: Okay. Were you ever at the 145 Dena Lane address on
8 that date?

9 A: Yes, ma'am. That day, no, but when I went to get help.
10 But during that day, no. No, ma'am.

11 Q: I'm sorry. I don't understand the answer.

12 A: You asked me the time or earlier that day?

13 Q: Okay. Were you at 145 Dena Lane on August 19th of 2016?

14 A: Yes, ma'am.

15 Q: Okay. How did you come to be there?

16 A: I was at the card game playing cards, you know. We was
17 drinking. We was doing drugs, you know. I had heard some
18 noise at the back door. So I told the guy whose house it was
19 that somebody was at the door. He said nobody was at the
20 door. That they would have called me before they came.

21 THE COURT: Mr. Furtick, can you slow down just a little
22 bit?

23 THE DEFENDANT: Well, I mean I talk fast.

24 THE COURT: Well, slow down a second so we can hear what
25 you're saying.

DERRICK FURTICK DIRECT BY MS. HINDS

1 BY MS. HINDS:

2 A: We was -- we was at the game card game, you know. We
3 were drinking and doing drugs. That's when I heard some
4 noise at the back door. I told the guy somebody at the door.
5 He said ain't nobody at the door because they would have
6 called me before they came.

7 So I sat down and continued to play cards. I heard
8 somebody talking again. So I told him. He said, well,
9 somebody needs to go check. I went outside to see if
10 somebody was outside. There was nobody outside. So that's
11 when I came back in the house and that's when I seen the guys
12 had guns on the table. I asked him what the guns was for.
13 They said you got to go.

14 So as we got up to go out the door, I came downstairs
15 and I looked back and the guy was cocking a pistol. He was
16 cocking a gun. So I hit the gun and ran. That's when they
17 started shooting at me.

18 Q: And was it one person shooting at you or more than one?

19 A: I didn't even look back to see.

20 Q: Okay. Did -- did any of the shots hit you?

21 A: No, ma'am.

22 Q: Okay. And what did you do? What actions did you take
23 as you left the card game?

24 A: I ran to the nearest -- nearest house I seen. That's
25 when I knocked on the door. As I knocked on the door, I was

DERRICK FURTICK - DIRECT BY MS. HINDS

1 turning the doorknob. I ran in the house to hide.

2 Q: And what were you trying to do at that house?

3 A: I was running for help. I mean I was scared.

4 Q: Were you armed as well?

5 A: No, ma'am.

6 Q: Okay. When you ran to 145 Dena Lane, were you running
7 specifically to that house for a reason?

8 A: No, ma'am. That was the first house that I seen. As I
9 was running, that was the first house that came up.

10 Q: And on that date, did you go inside?

11 A: Yes, ma'am.

12 Q: I believe you -- how did you get inside?

13 A: The door was unlocked.

14 Q: What did you do once you got inside?

15 A: I ran in and hide in one of the rooms.

16 Q: So you didn't -- you didn't break in the door and break
17 in any window? The door was unlocked and you let yourself
18 in?

19 A: Yes, ma'am.

20 Q: Okay. Did you try to make contact with any of the
21 people in the house?

22 A: I didn't know what was going on. I was just scared.
23 You understand?

24 Q: As you crossed that threshold, what were you planning on
25 doing once you got inside?

DERRICK FURTICK, DIRECT BY MS. HINDS

1 A: Just hide.

2 Q: And so you weren't planning on stealing anything?

3 A: No, ma'am.

4 Q: Did you hurt any of the property inside the house?

5 A: No, ma'am.

6 Q: Were you planning on harming anybody inside?

7 A: No, ma'am.

8 Q: You were just trying to find a safe place?

9 A: Yes, ma'am.

10 Q: Okay. All right. Then what happened?

11 A: That's when I heard a female say who is that. That's

12 when I came out of the room to turn the hallway light on and

13 I told them -- I said I need help. Somebody's trying to kill

14 me. She was, like, you need to get out of my house or

15 whatever. So she came toward me to the door and opened the

16 door to try to let her son out. I closed the door because I

17 didn't know if the guy was chasing me. I didn't want them to

18 know what house I was in.

19 So I closed the door back. That's when we tussled at

20 the door. She let her son out to go get help. As the door

21 was open, she eased out the door. That's when I grabbed her.

22 We ended up on -- we ended up in the front yard. I held her

23 close to me because I didn't want -- you know what I'm

24 saying? I just felt safer around her. I just hold her until

25 the police came.

DERRICK FURTICK - DIRECT BY MS. HINDS

1 Q: Did she say anything else to you?

2 A: She said let -- she said let her go because I had -- I
3 had her by the arm to help to try to keep her close to me.

4 Q: And at any time -- so you saw the -- excuse me. Did you
5 see the son in the hallway?

6 A: The hallway? I mean when I entered the house, I didn't
7 see nobody. But I mean as she came, I turned the light on.
8 That's when her son got up -- got up off the chair in the
9 living room.

10 Q: Did he say anything to you?

11 A: He said let his mama go.

12 Q: Did you say anything to him?

13 A: No, ma'am.

14 Q: So after her son is able to get out the door, you close
15 the door; is that correct?

16 A: Yes.

17 Q: Okay. Again, what was your -- what were you trying to
18 do?

19 A: I -- I didn't want the guys to know which house I ran
20 into. So that's why I closed the door. But as she -- she
21 let her son out to go get help, that's when I felt like they
22 was coming. So I was -- you know what I mean? I just stayed
23 -- tried to stay there until the police come.

24 Q: Did you ask her for -- to call the cops?

25 A: I asked for help. I told her somebody trying to kill

DERRICK FURTICK DIRECT BY MS. HINDS

- 1 me.
- 2 Q: At that point, she -- it must've been obvious she didn't
- 3 want you there; correct?
- 4 A: Yes, ma'am.
- 5 Q: Okay. Why not leave?
- 6 A: I was -- I was scared.
- 7 Q: Okay. Explain what happens. At some point, you go
- 8 outside; correct?
- 9 A: Yes, ma'am.
- 10 Q: How did that happen?
- 11 A: That's when she -- she went out the door and that's when
- 12 I grabbed her by the arm and we ended up on the porch. I
- 13 mean on the ground. I just hold her. I was holding her by
- 14 the hair and her arm. I didn't want to let her go because I
- 15 felt safe with her around.
- 16 Q: And at some point, somebody else comes; right?
- 17 A: Ma'am?
- 18 Q: At some point after that, somebody else comes; correct?
- 19 A: The police.
- 20 Q: Okay. And what happened next?
- 21 A: That's when they were, like, let her go, let her go.
- 22 You know what I'm saying? As I was letting her go, I had
- 23 fall and I had pulled her down with me because I still had
- 24 her hair.
- 25 Q: And at that point, you were detained; correct?

DERRICK FURTICK - DIRECT BY MS. HINDS

- 1 A: Yes, ma'am.
- 2 Q: Did you fight with the cop?
- 3 A: No, ma'am. I was happy they came.
- 4 Q: And when the cop detained you, what happened next?
- 5 A: They put me in the police car and they took me to the
- 6 hospital.
- 7 Q: Now, Mr. Furtick, we've got to talk a little bit about
- 8 things that have happened in your past. Okay?
- 9 A: Yes, ma'am.
- 10 Q: I'm going to ask you a little bit about your prior
- 11 contact with law enforcement, in other words your prior
- 12 record. Are you acknowledging that you have a shoplifting
- 13 conviction from 2015?
- 14 A: Yes, ma'am.
- 15 Q: As well as a conviction -- actually, a conviction of
- 16 four different charges from 2007?
- 17 A: Yes, ma'am.
- 18 Q: And then another charge in 2016; correct?
- 19 A: Yes, ma'am.
- 20 Q: Okay. Does the fact that -- well, so you admit you've
- 21 been in trouble before?
- 22 A: Yes, ma'am.
- 23 Q: Okay. Did you hurt Ms. Monroe physically?
- 24 A: No, ma'am.
- 25 Q: But you did pull her hair?

~~DERRICK FURTICK - DIRECT BY MS. HINDS~~

1 A: I did pull her hair.

2 Q: Okay. Did you ever touch her son?

3 A: No, ma'am.

4 Q: Did you threaten to hurt her?

5 A: No, ma'am.

6 MS. HINDS: I beg the Court's indulgence. No further
7 questions. Mr. Furtick, please answer any questions that Ms.
8 Cornwell has for you.

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Cross-examination?

11 MS. CORNWELL: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MS. CORNWELL:

14 Q: So, Mr. Furtick, your statement is that when you ran
15 into the house, it was because you were scared and looking
16 for help?

17 A: Yes, ma'am.

18 Q: Why didn't you knock on the door?

19 A: At that time, I knocked. I was twisting the knob at the
20 same time I knocked.

21 Q: Have you been taught growing up that it's okay just to
22 go into somebody's home without having anybody answer?

23 A: No, ma'am.

24 Q: And you indicated before that this poker game you were
25 at was on Edisto Drive?

~~DERRICK FURTICK - CROSS BY MS. CORNWELL~~

1 A: Yes, ma'am.

2 Q: And being somewhat familiar with Orangeburg, that's kind
3 of the main road where Family Dollar and all that is, Edisto
4 Drive?

5 A: Yes, ma'am.

6 Q: And Dena Lane is not off of Edisto Drive. It's -- to
7 get to Dena Lane from Edisto Drive, you've got to go through
8 quite a couple of different streets to get there?

9 A: The game was in the same trailer park she stayed in.

10 Q: And in fact, her trailer is on the opposite side of Dena
11 Lane from Edisto Drive; correct?

12 A: I mean I don't know. I don't know what her address is.
13 I just know I ran out the backyard and the first trailer was
14 hers. So it was in the same area.

15 Q: And that's what I'm getting at. You say that the first
16 trailer you came to was hers. That seems highly unlikely
17 given where Edisto Drive is compared to Dena Lane and all the
18 other roads and all the other trailers you would've had to go
19 to, particularly given that her trailer is on the far side of
20 Dena Lane away from Edisto Drive.

21 A: That guy's trailer I was at -- her trailer -- his
22 trailer is right behind her trailer. Well, their trailer is
23 -- their trailer's back door -- when you go out the back door
24 and go up a little bit, her trailer is the first trailer
25 right there. Her trailer -- his trailer is behind her

1 trailer.

2 Q: So now you're saying it was not on Edisto Drive?

3 A: I mean I call it Edisto Drive. Anywhere from Dodges

4 [ph] on back, I call it Edisto Drive.

5 Q: And when you went in the house, when you entered, if you

6 were so scared and just going to hide, when you claim you

7 knocked on the door and just walked in, why didn't you call

8 out, help, is anybody here, can somebody help me?

9 A: I mean I wasn't thinking right at the time. I just

10 wanted to get away and go to a safe place and try not to make

11 no noise.

12 Q: Why didn't you want to make any noise when you got

13 inside if you were looking for help?

14 A: Because I'm thinking the guys are after me chasing me.

15 Q: Okay. So -- but you said you went inside the house for

16 safety?

17 A: Yes, ma'am.

18 Q: So obviously, if you were going inside the house for

19 safety, you don't think that the people inside are trying to

20 get you?

21 A: No.

22 Q: Okay. So again, why are you trying to be so quiet when

23 you go inside? Why not go inside and --

24 A: Because if you were --

25 Q: -- yell help for help?

~~DERRICK FURTICK - CROSS BY MS. CORNWELL~~

1 A: If you were in the house and some people are following
2 you and they hear you screaming for help, they're going to
3 know what house you was in.

4 Q: So your testimony here is the reason that you went to
5 the house was to ask for help, but once you got inside you
6 didn't want to ask for help because you didn't want to draw
7 attention to these people supposedly chasing you?

8 A: I just wanted to hide.

9 Q: And when the victim started yelling out for her brother,
10 Rasheen, Rasheen, at that time, why didn't you call out,
11 ma'am, I'm in your house, I need help?

12 A: I came -- I came out the room and turned the lights on
13 so she would know that I was there.

14 Q: And when she was visibly afraid and scared and tried to
15 leave, why didn't you let her leave?

16 A: Because I didn't want the threat to come into the house.
17 I didn't know where they was at. Once I got in the house, I
18 didn't know if the guys were following me or they were
19 chasing or what.

20 Q: So you --

21 A: So I didn't want -- I didn't want them to know what
22 house I went into.

23 Q: But you didn't tell that to her? You didn't explain
24 that to her, did you?

25 A: I mean she didn't -- I mean I explained it to her, but

DERRICK FURTICK - CROSS BY MS. CORNWELL

not like that.

2 Q: Okay. And at some point, she manages to get away from
3 you and get outside; correct?

4 A: Yes, ma'am.

5 Q: So she's outside and you're afraid of all these people
6 that are going to track you down and shoot you. At that
7 point, if you're so scared, why aren't you staying in the
8 trailer, letting her go, hiding, being afraid?

9 A: I didn't want her to get hurt either. I mean, to be
10 honest with you, I just -- I just felt safer with her. At
11 the same time, I didn't want her to get hurt either. But
12 once she got out the house, I mean who would stay in
13 somebody's house they ain't supposed to be in there and
14 they're outside?

15 Q: So you didn't want her to get hurt either, but you kept
16 pulling her hair to the point that you were pulling it out?
17 You kept falling on the ground while she's struggling? You
18 hear her screaming at that point, telling you to let her go,
19 stop, and asking for help? But you thought that it was safer
20 for you to latch onto her? Explain that to me.

21 A: I just felt safer around her. I mean at the time I'm
22 just -- I'm just scared. So I just grab her. You know what
23 I'm saying? And I'm just holding onto her. I feel like if
24 somebody was trying to get me, they're not going to harm me
25 because she's around me. I just felt safe around her.

DERRICK FURTICK CROSS BY MS. CORNWELL

1 Q: So instead of staying in the safety of the trailer that
2 you claim you went into, you thought it was going to be safer
3 to be outside holding her against you so that -- because they
4 wouldn't shoot you if you were holding her?

5 A: I mean when she -- when she got outside, I was pulling
6 her, like basically trying to keep her inside the house.
7 Once she got outside the house, I ain't had no choice but to
8 stay outside with her because I was holding onto her at the
9 time.

10 Q: But that was your choice to continue holding onto her;
11 correct?

12 A: Yes, ma'am.

13 Q: Okay. So you did have a choice. You could have chosen
14 to stay inside in this safe place that you claim you were
15 looking for or you had the choice to continue to attack her
16 and not let her go while she is clearly terrified and her son
17 is terrified. Those were your choices; correct?

18 A: Yes.

19 Q: Okay. And you chose not to seek safety in the trailer,
20 but to, at that point, hold onto the victim as she's
21 struggling with you outside?

22 A: Yes, ma'am.

23 Q: The truth is when you came out of that bedroom in her
24 house, you did make a statement to her. You told her I see
25 your people trying to set me up. Is that what you said?

~~DERRICK FURTICK - CROSS BY MS. CORNWELL~~

1 A: I see who?

2 Q: It says I see people. Y'all are trying to set me up?

3 A: I asked for help.

4 Q: And obviously, at that point, she was not willing to
5 help you; correct? She was trying to get away from you?

6 A: I mean she said something about -- I guess she was
7 trying to help me because that's why she was going to send
8 her son outside to get help.

9 Q: So now you think that she was trying to help you by
10 sending her son outside to get help. However, you weren't
11 letting them open the door and get out. How --

12 A: I mean I don't -- I don't know what she was -- I don't
13 know what she was trying to do. She wasn't saying nothing.
14 She just said you got to get out, you got to get out. When
15 she went towards the door, I went to close the door because I
16 didn't want -- I didn't want nobody to know which house I ran
17 into. I didn't know what she was -- what she was trying to
18 do.

19 Q: And when you were picked up by law enforcement, you
20 didn't tell them any of that, did you?

21 A: At the time, I was -- I was lost. I mean I guess just
22 because the amount of drugs I had in my system, I was -- I
23 was lost I guess. I mean, to be honest with you, when they
24 got there, I was happy they there. They was there.

25 Q: Okay. You were happy they were there, yet you wouldn't

DERRICK FURTICK: CROSS BY MS. CORNWELL

- 1 comply with them until they threatened to sic the dog on you?
- 2 A: I mean I didn't remember none of that about them sic'ing
3 a dog on me. I know he just said let her go and I let her
4 go.
- 5 Q: And again, once you were picked up, you didn't mention
6 anything about a poker game or being chased by men with guns
7 or anything like that? You never told that to Investigator
8 Harter, did you?
- 9 A: To be honest with you, I mean I was -- to be honest with
10 you, I was dying because they sent me to the hospital for six
11 days and my liver and my kidney failed. So I mean I was in
12 the process of dying. They said if I stayed a little longer,
13 I would have died. So at the time, I don't know what was
14 going on. I just was happy they was there.
- 15 Q: Okay. All right. And you almost died for what reason?
- 16 A: Drug overdose.
- 17 Q: Okay. And you just said you stayed in the hospital for
18 about six days?
- 19 A: Yes, ma'am.
- 20 Q: Okay. And so that would have been through about August
21 24th?
- 22 A: \ Something like that. Yes, ma'am.
- 23 Q: Okay. Since August 24th, have you made any statements to
24 law enforcement? Tried to contact them, let them know that
25 this is what happened?

~~DERRICK FURTICK - CROSS BY MS. CORNWELL~~

1 A: I mean I talked to the -- the officer came and I talked
2 to him. I told him what happened.
3 Q: You told an officer what happened?
4 A: Yes, ma'am. The officer who was watching the room. I
5 told him what happened.
6 Q: Do you know that officer's name?
7 A: No, ma'am.
8 Q: Clearly, you were detained on this?
9 A: Yes, ma'am.
10 Q: Why didn't you tell any other officers?
11 A: I did.
12 Q: Why --
13 A: I talked to Stokes too. I talked to Stokes. I mean I
14 talked to all the officers that came to stay in my room while
15 I was in there. I talked to them. I talked to, like, three
16 officers.
17 Q: And you've mentioned your prior record. You've had
18 prior contact with law enforcement; correct?
19 A: Yes, ma'am.
20 Q: So you're aware that when officers investigate crimes
21 and make arrests, they do reports?
22 A: Yes.
23 Q: All right. Are you aware that there's not a single
24 report in this case that mentions where you've ever made an
25 allegation --

~~DERRICK FURTICK - CROSS BY MS. CORNWELL~~

1 MS. HINDS: Objection, Your Honor.

2 Q: -- or statement --

3 MS. HINDS: Objection.

4 THE COURT: The basis of your objection?

5 MS. HINDS: He's not under any duty to voluntarily go
6 talk to the cops.

7 THE COURT: She asked him if he was aware if there was
8 anything in there. He can say if he's aware or if he's not
9 aware. He's claiming he made a statement to law enforcement.
10 Overruled.

11 BY MS. CORNWELL:

12 Q: And you're aware that officers make reports?

13 A: Yeah. At the time, I was hospital -- I'm in -- I'm in
14 ICU. I'm hospitalized. I didn't -- it took six days for me
15 to come to my senses. I didn't even know what was going on.
16 When I came -- after six days, I asked officers what I'm here
17 for and he told me what I was being charged with. They never
18 asked me to write a statement or none of that. They just
19 asked me what happened. One officer asked me what happened.
20 They never asked me to write a statement. Nobody ever came
21 to see me to ask me for a statement.

22 Q: But again, with your prior contact with law enforcement,
23 you're aware that they write reports anytime they have
24 contact with a defendant?

25 A: Yes, ma'am.

~~DERRICK FURTICK CROSS BY MS. CORNWELL~~

1 Q: ~~All right. And would you be surprised or are you aware~~
2 that there is not a single report in this file that shows
3 that you tried to give any statement whatsoever regarding a
4 poker game --
5 MS. HINDS: Objection, Your Honor. Again, he -- she's
6 implying that he should have given a statement, and he's
7 under no obligation. He can choose to or choose not to, but
8 --
9 THE COURT: That's not the question. She asked are you
10 aware if there's any statement in there, and the answer -- he
11 can answer that and explain it. He's not under an obligation
12 to write it, but if he's aware that they write reports, he
13 can answer that.
14 MS. HINDS: Well, that's been asked and answered
15 already.
16 THE COURT: Overruled. You may proceed and then move
17 on.
18 BY MS. CORNWELL:
19 Q: Are you aware that there's no report anywhere in this
20 file from any officer indicating that you ever gave a
21 statement about a poker game, being afraid for your life or
22 being chased by people with weapons?
23 A: Yes, I'm aware now there's no statement.
24 Q: Okay. There's no statement. There's also no report
25 that you ever gave an oral statement?

DERRICK FURTICK CROSS BY MS. CORNWELL

1 A: Right.

2 Q: Okay. And you would agree based on your prior record
3 that reports are usually done on those situations?

4 A: Yes, ma'am.

5 Q: Okay. And as far as your prior record goes, you
6 mentioned the shoplifting and you said you had four charges
7 in '07?

8 A: I did.

9 Q: Do you know what those charges were?

10 A: Not really off the top of my head.

11 Q: Okay. Would you agree with me that those four charges
12 were grand larceny, assault and battery of a high and
13 aggravated nature? I believe that those were the ones in
14 '07. Would you agree with that?

15 A: Yes, ma'am.

16 Q: And then you also have -- we talked about a '16 charge
17 in 2016. Do you recall what that charge was?

18 A: Assault and battery.

19 Q: I believe it was actually domestic violence. Would you
20 agree with that?

21 A: Yes.

22 Q: And then one that was not mentioned, you also had a
23 conviction from 2010; correct?

24 A: Yes.

25 Q: And that's for possession of a weapon?

DERRICK FURTICK - CROSS BY MS. CORNWELL

- 1 A: ~~I never had no weapon. I never got charged with a~~
2 weapon in 2006 -- I mean '10.
- 3 Q: Okay. So you would disagree that you were convicted of
4 and you signed a sentencing sheet and pled guilty to unlawful
5 possession of a pistol in 2010?
- 6 A: I got -- I got that charge in, like, 2007 -- 2008. It
7 was never -- it was never 2010.
- 8 Q: Did you ever file a report with police regarding the
9 fact that you were shot at at a card game?
- 10 A: No, ma'am.
- 11 Q: Who all was at this card game?
- 12 A: Some friends.
- 13 Q: What are their names?
- 14 A: Bryce. I know Bryce, Sean, and Rico.
- 15 Q: And out of Bryce, Sean, and Rico, who had guns?
- 16 A: Ma'am?
- 17 Q: Who had guns?
- 18 A: Two of them.
- 19 Q: Bryce, Sean or Rico?
- 20 A: Bryce and Rico.
- 21 Q: What are Bryce and Rico's last names?
- 22 A: I don't know.
- 23 Q: Why were they shooting at you?
- 24 A: I don't have no idea.
- 25 Q: You were obviously playing cards with them?

DERRICK FURTICK CROSS BY MS. CORNWELL

- 1 A: Yes, ma'am.
- 2 Q: So they were your friends?
- 3 A: Yes. They say.
- 4 Q: And for some unknown reason, they started shooting at
- 5 you?
- 6 A: Yes.
- 7 Q: And once they started shooting at you, you ran off of
- 8 Edisto Drive and somehow the first place you came to was 145
- 9 Dena Lane?
- 10 A: I didn't run off Edisto Drive. I ran to the first
- 11 trailer and it was her trailer. His trailer is right behind
- 12 her trailer.
- 13 Q: So, in your testimony, at that point you are a victim of
- 14 a crime?
- 15 A: Yes, ma'am.
- 16 Q: Yet you never filed an incident report?
- 17 A: No, ma'am.
- 18 Q: You never sought out help through law enforcement in
- 19 catching the people that were doing -- that did this to you?
- 20 A: No, ma'am.
- 21 Q: And it's your testimony that, based on that, even though
- 22 you didn't call law enforcement, didn't tell anybody about
- 23 anything, the reason that you were in 145 Dena Lane was
- 24 because you were scared and you were hiding?
- 25 A: Yes, ma'am.

~~DERRICK FURTICK - CROSS BY MS. CORNWELL~~

- 1 Q: ~~But when you entered the house, you never called out?~~
- 2 A: No, ma'am.
- 3 Q: Once you were inside the house and you realized that the
- 4 victim had caught you inside her house, you would not let her
- 5 out of the house?
- 6 A: I heard a voice and that's when I turned the lights on.
- 7 Q: And then once you wouldn't let her out of the house, you
- 8 became involved in a struggle with her?
- 9 A: Yes, ma'am.
- 10 Q: Where you were grabbing her by the arms and grabbing her
- 11 by the hair?
- 12 A: Yes, ma'am.
- 13 Q: And not letting her go?
- 14 A: Yes, ma'am.
- 15 Q: And you would agree that her son witnessed all this?
- 16 A: Yes, ma'am.
- 17 Q: And you would agree that at first you wouldn't let him
- 18 out of the house either?
- 19 A: Yes, ma'am.
- 20 Q: And despite his screams and his pleas for you to let his
- 21 mother go, you would not do that?
- 22 A: Yes, ma'am.
- 23 Q: In fact, you continued dragging, walking, pushing,
- 24 however you want to describe it, all the way down the road
- 25 past her house at 145 around this slow curve until

~~DERRICK FURTICK - CROSS BY MS. CORNWELL~~

1 Investigator Harter arrived?

2 A: Around the curve? Never went around no curve.

3 Q: Okay. But you would admit that when you were caught by
4 Investigator Harter, it was not in the yard of 145 Dena Lane,
5 was it?

6 A: I can't remember, ma'am.

7 THE COURT REPORTER: I'm sorry?

8 THE DEFENDANT: I said I can't remember.

9 BY MS. CORNWELL:

10 Q: Would you disagree with Investigator Harter's assessment
11 that he got you down the road?

12 A: At that time, I was --

13 THE DEFENDANT: Objection, Your Honor. She's pitting
14 the witnesses against each other.

15 THE COURT: Sustained.

16 BY MS. CORNWELL:

17 Q: Would you disagree with me if I told you that you were
18 caught some ways down the road?

19 A: Yes, ma'am.

20 Q: You would disagree with that?

21 A: Yes, ma'am.

22 Q: Okay. You agree that you were pulling out the victim's
23 hair?

24 A: I mean I didn't know I pulled out any hair. I just know
25 I was grabbing her hair. I had my hand wrapped in her hair.

~~DERRICK FURTICK - CROSS BY MS. CORNWELL~~

~~1 I didn't know. Like, the braids got pulled out.~~

2 Q: All right. Would it surprise you that the hair was
3 found down the road, not in front of 145 Dena Lane?

4 A: Yes, ma'am.

5 Q: Because that wouldn't make any sense, would it? If you
6 were so afraid and didn't want to go out that you would walk
7 down the road with the victim?

8 A: I don't remember walking down the road.

9 Q: Okay. Mr. Furtick, I'm going to ask you this quite
10 frankly. The story that you just gave is just that, it's a
11 story, isn't it?

12 A: No, ma'am.

13 Q: The reality is that when you went in that home, you
14 entered that home with the intent of committing a crime? You
15 were going to steal items from that home?

16 A: No, ma'am.

17 Q: And when the victim came out of her home or out of her
18 bedroom and saw you and you turned on the light, it was in an
19 effort to intimidate her, to get her so she didn't call
20 police? When she tried to run out, you tried to prevent her
21 because you had just been caught red-handed burglarizing her
22 home?

23 A: No. The story I tell you is the truth.

24 Q: All right.

25 MS. CORNWELL: No further questions, Your Honor.

1 THE COURT: Redirect?

2 MS. HINDS: None, Your Honor.

3 THE COURT: All right. Do you have any other witnesses?

4 MS. HINDS: No, ma'am.

5 THE COURT: Defense rests?

6 MS. HINDS: Yes. The defense would rest.

7 THE COURT: Ladies and gentlemen of the jury, both sides
8 have rested their case. We must take a brief recess at this
9 moment. Please do not discuss this case amongst yourselves.
10 We'll be right back with you.

11 (WHEREUPON, the jury exited the courtroom at 2:53 p.m.)

12 THE COURT: You may step down, Mr. Furtick. Thank you.

13 MR. STEVENS: Judge, at this moment, we respectfully
14 renew our previous motions for directed verdict of acquittal
15 for both first-degree burglary, as well as kidnapping, for
16 all the same bases that we previously covered in our written
17 motion and the same reasons again under Roman Numeral I, as
18 well as I, subsection (a) and (b), as well as Roman Numeral
19 II.

20 THE COURT: And again, for the same reasons as
21 previously stated by the Court, you had previously argued
22 that intent -- there was no intent just by merely entering
23 the premises. However, the Court again rules that the
24 criminal intent is a matter which is to be determined by the
25 jury based upon the circumstances surrounding the situation.

1 Although he claims he merely entered, the testimony
2 shows otherwise and there is evidence to support that there
3 was criminal intent prior to him entering. It was not his
4 residence. If he claims that he was there to get help, he
5 certainly didn't stop and there's conflicting testimony as to
6 whether he asked for help. And the circumstances are shown
7 to have established each of the elements of both offenses and
8 your motion is respectfully denied.

9 MR. STEVENS: Thank you, Judge. One last time, as in
10 our last motion, I understand that your ruling applies to not
11 only Subsection I, but also the two subsections beneath that,
12 (a) and (b), and then the ruling on kidnapping applies to
13 Subsection II?

14 THE COURT: That's correct.

15 MR. STEVENS: Thank you, Judge.

16 THE COURT: And are you all ready to proceed to
17 closings?

18 MS. CORNWELL: Yes, Your Honor.

19 THE COURT: All right. Is the defense ready?

20 MS. HINDS: Yes, ma'am.

21 MS. CORNWELL: Are we still charge-wise --

22 THE COURT: Obviously, I'm taking out -- the defendant-
23 did-not-testify portion that I handed out.

24 MS. CORNWELL: Okay.

25 THE COURT: Based on him testifying, but I do believe

1 that voluntary intoxication is properly charged based upon
2 the circumstances as testified to by the defendant and,
3 again, the same ruling pursuant to your objection to that
4 charge.

5 MR. STEVENS: Thank you, Judge. We appreciate it.

6 MS. CORNWELL: The State is prepared too.

7 MR. STEVENS: Additionally, one last thing. It's my
8 understanding the government was going to have on the big
9 screen television next to the jury the charge of voluntary
10 intoxication. Obviously, our objection would extend to that
11 as well. We just wanted to do that now so we don't have to
12 do it in the middle of the closing, Your Honor.

13 THE COURT: I certainly appreciate that. The same
14 ruling would apply. It is an accurate recitation of the law
15 and the State can use it.

16 MR. STEVENS: Thank you, Judge.

17 MS. CORNWELL: Thank you, Your Honor.

18 THE COURT: Let's have our jury, please.

19 THE BAILIFF: Yes, Your Honor.

20 (WHEREUPON, the jury entered the courtroom at 2:58 p.m.)

21 THE COURT: Welcome back, ladies and gentlemen of the
22 jury. Please pay close attention as we are now ready to
23 proceed with the closing arguments. Solicitor?

24 MS. CORNWELL: Thank you, Your Honor. May it please the
25 Court. Counsel.

CLOSING ARGUMENT ON BEHALF OF THE STATE

MS. CORNWELL: There is no denying that what happened to Danielle Monroe and her son, Jamarion, was the most terrifying thing that could happen to a mother and son in their home. At the beginning of this trial, I told you the facts that you were going to hear in this case and I told you that they were indisputable facts.

Nothing that you've heard from this witness stand have changed that. There is no denying that that defendant unlawfully entered the home of Danielle Monroe and, that when he was in there, he attacked her, he refused to let her out of her house and, when she finally was able to get herself and her son out of that house, he continued to hold onto her, to pull her hair, to drag her down and not let her go.

You just heard from the defendant his version of what happened, his story. And I say story because that's exactly what it is. The reality is Derrick Furtick entered that home with the intent to commit a crime. He was breaking into that home in order to steal from Ms. Monroe.

He enters the home. He's quiet. He doesn't say anything. He goes back into the back bedroom. As he's coming out, he's caught. He knows he's caught. As soon as Ms. Monroe sees him, she yells out. She gets her son up off the couch and tries to leave. And what does he do? He slams the door on them. Won't let them leave.

1 He's told you about this poker game that he had, these
2 friends of his that he was playing with that all of a sudden
3 for no reason whatsoever turned on him and started firing
4 guns. He's the victim in this, not Danielle Monroe and
5 J.S. [REDACTED]. Sure, they're also victims, but he's a
6 victim.

7 He entered the house to hide. He didn't knock on the
8 door. He didn't wait. When he got in the room, he didn't
9 call out. He didn't ask for help. He didn't try to find a
10 phone to call for help. He snuck in the house and started
11 going through bedrooms.

12 He knew better. You had an 11-year-old get on the stand
13 and testify that during the scariest and most horrifying time
14 of his life, when he was being attacked and his mother was
15 being attacked, that he had the forethought to run outside
16 and run next door. And what did he do when he was afraid?
17 When he was afraid for his mother's life, he knocked on the
18 door and waited for someone to answer. And then when they
19 answered, he said please help me. Call the police.
20 Somebody's broken into my house and is attacking my mother.

21 That's what you do when you're scared and you're trying
22 to get help. You don't sneak into someone's house very
23 quietly and not call out for help, not answer the person when
24 they are calling out for their brother, and go back in the
25 bedroom and then come out and say, well, I came out and hit

1 ~~the night so they could see me so I could get help. Yet as~~
2 soon as they saw me and tried to leave, I went and shut the
3 door on them. That doesn't make any sense.
4 The judge is going to charge you on multiple parts of
5 the law and one of those things is going to be the
6 credibility of the witnesses. This is where your common
7 sense comes into play. You have common sense and you have
8 dealt with people your entire life. You know when people are
9 being truthful and you know when they're being dishonest.
10 There was nothing about Ms. Monroe's testimony or Mr.
11 Shivers' testimony or Mr. Harter's testimony that had any
12 reason to not be truthful. The only person in this courtroom
13 that has a reason to take that stand and not give you the
14 truthful version of the events is the defendant, Derrick
15 Furtick.
16 What likely happened is that he probably was with his
17 friends and who knows what they were doing that night. There
18 were definitely gunshots that were fired. Nobody is denying
19 that. Gunshots were heard. That's what woke Ms. Monroe up,
20 but we don't know what was happening before hand. I could
21 sit up here and I could give you a thousand scenarios. Maybe
22 all of them were breaking into trailers together. Maybe
23 somebody's trailer got broken into and they were shooting as
24 people were leaving. Who knows?
25 But I will tell you what I do know. I know that Derrick

1 Furtick didn't enter that home because he was scared, because
2 he was hiding or because he was afraid. I know that because
3 of the way he acted once he got inside the home. Clearly, he
4 entered that home with the intent to commit a crime and, once
5 he was inside that home, he also committed a crime.

6 The State has the burden of proving each and every
7 element of each charge beyond a reasonable doubt, and the
8 State has done that. We have proven each and every element
9 of kidnapping and of burglary in the first degree.

10 I told you at the beginning that burglary was entering a
11 dwelling without consent with the intent to commit a crime
12 therein. I also told you that burglary in the first degree
13 had the aggravating factor, in this case that the entering
14 remained or occurred at nighttime.

15 We talked about what nighttime was. That for the
16 purposes of burglary, it meant between the time of sunset and
17 sunrise. So let's talk about those elements and talk about
18 how the State has proven each and every one of those elements
19 beyond a reasonable doubt.

20 First of all, we need to talk about the nighttime
21 aspect. Does it become a burglary first? Clearly, you've
22 had testimony that it was dark outside. A light had to be
23 turned on for anybody to see anything. Investigator Harter
24 stated that without his headlights he would not have been
25 able to see. This happened between 5:30 and 6 a.m. You

1 heard Mr. Monroe and Mr. Shivers both state that it was dark
2 outside. It was clearly nighttime under the eyes of the law
3 when this occurred.

4 You heard that the defendant unlawfully entered the
5 dwelling and, obviously, a dwelling is simply a home. Ms.
6 Monroe didn't give him permission. She didn't allow him to
7 come in.

8 And a lot of times juries think that burglary means that
9 there has to be a breaking in, you know, that somebody broke
10 into the home. There doesn't have to be a breaking. It
11 doesn't have to be that he forced his way in or broke out a
12 window or anything. An unlawful entry can simply be an
13 entry. It can be through an unlocked door, through an open
14 window. However he becomes inside the house, if that entry
15 was unlawful, that meets the first element of burglary. And
16 you have heard even through his own testimony that he
17 unlawfully entered that house.

18 The next element is the element that they're going to
19 argue. It is the State's burden to prove each and every
20 element. The facts are indisputable. When the facts are
21 indisputable like this, the only thing there is to argue over
22 are the legal nuances of the charges and of the crimes.

23 This is where people get really frustrated with lawyers.
24 You've got the saying that everybody hates a lawyer because
25 there's always loopholes and legal hurdles that you have to

1 jump through, and a lawyer can kind of pick apart anything.

2 Here, they're trying to pick apart the intent to commit
3 a crime. How do you prove intent to commit a crime? You
4 prove it by the way the defendant acts. I can't give you a
5 specific statement showing that he intended to commit a
6 crime. Nobody enters a home saying I'm entering this home
7 intending to commit a crime. However, you can tell that by
8 their conduct and their actions.

9 In this case, the conduct was I'm going to enter this
10 home as quietly as possible. I'm not going to announce my
11 presence. I'm not going to let anybody know that I'm in
12 here. But once somebody sees me in here, I'm going to attack
13 that person and not let them leave.

14 Why would anybody do that? The reason that they entered
15 that house so quietly and didn't want anybody to know they
16 were in there is because they were going to commit a crime.
17 The reason that they would not let anybody out once they were
18 caught committing that crime is because they didn't want the
19 victims to call the police.

20 We also talked about kidnapping. I told you kidnapping
21 has a lot of big words, but it's a pretty easy statute.
22 Kidnapping is the unlawful seizure, confining, inveigling,
23 decoying, abducting, or carrying away of a person by any
24 means without authority of law. Clearly, in this case, there
25 was an unlawful seizure, an abducting while carrying away.

1. The first kidnapping occurred when the defendant would
2 not allow Ms. Monroe to exit her home. He also wouldn't
3 allow Mr. Shivers to exit the home. That's kidnapping right
4 there.

5 He committed a second kidnapping when, once Ms. Monroe
6 was outside the home, he grabbed her, took her by the hair,
7 and would not let her leave. He continues to commit
8 kidnapping when he then, holding her close to his body with
9 his -- her hair wrapped around his hand, drags her down the
10 street.

11 There is no denying from the defendant that that
12 happened. He got on the stand and told you that he kidnapped
13 Ms. Monroe.

14 He has to have the knowledge and the intent to commit
15 this crime. Intent is something the State has to prove. In
16 order to prove intent, we can rely on several things and I've
17 already touched on this a little bit. We talked about the
18 inference from the conduct of the defendant.

19 Another important thing is it does not matter if the
20 intended crime was completed or not. So just because the
21 defendant didn't actually steal anything or didn't actually
22 get to complete the crime that he entered to commit does not
23 mean that the crime doesn't happen. And obviously, once he
24 was inside the house, he committed a second crime of
25 kidnapping.

1 And intent may also be shown by acts and conducts and
2 other circumstances from which you may naturally and
3 reasonably infer intent. Again, how did he act? Does he act
4 like a reasonable person would act if they were looking for
5 help or does he act like somebody that was committing a crime
6 and got caught?

7 Criminal state -- criminal intent is a mental state, a
8 conscious wrongdoing, and that conscious wrongdoing is
9 important because, obviously, if you have no conscious
10 wrongdoing, if you're not doing anything wrong, why are you
11 going to prevent somebody from leaving? There is a conscious
12 wrongdoing when he knew he was doing wrong, which is why he
13 did not want the victim and her son to leave the house to
14 call for help.

15 And finally, a person is said to act knowingly if he is
16 aware the result is practically certain to follow his
17 conduct. He knew that he was breaking into that house. He
18 knew he was kidnapping Ms. Monroe. How did he know? Well,
19 he knew he was breaking in the house because he did so
20 quietly and hiding and going around. He knew he was
21 kidnapping Ms. Monroe, that she did not want to go with him,
22 because she's screaming at him. She's trying to get out of
23 the house. Her son is screaming at him. There is no denying
24 that he had knowledge and intent of committing the crimes
25 that he committed.

1 I want to talk a little bit about voluntary
2 intoxication. You heard the defendant get on the stand and,
3 you know, other than this fact that he was scared and hiding,
4 well, now we also find out, oh, well, I had to go to the
5 hospital for six days and, you know, the reason that I didn't
6 talk to police or give police, you know, my story of why is
7 because I was in the hospital, but I think I gave -- I think
8 I gave law enforcement, but I don't know why there's no
9 reports or why it didn't get written down. And I didn't
10 write a statement because I was, you know, in the hospital
11 and just never thought about it afterwards.

12 Voluntary intoxication is not an excuse or a defense to
13 a crime, regardless of whether the crime is one involving
14 general or specific intent. You don't get to say, well, I
15 didn't mean to. I didn't know I was committing a crime
16 because I was intoxicated or I didn't realize I was
17 committing a crime because I was intoxicated. If an act
18 committed by an intoxicated person would be a crime the same
19 as if it would've been committed by a sober person, then it
20 is still a crime. An intoxicated person is still responsible
21 for that..

22 So in this case, he doesn't get to say I didn't know
23 what I was doing. Mr. Furtick entered the home of Danielle
24 Monroe and J.S. [REDACTED] on the early morning of August
25 19th around 5:30 in the morning, sneaking in under cover of

1 darkness, silently, because he had the intent to commit a
2 crime.

3 And what he did to that mother and her child while they
4 were inside that house is nothing short of criminal. Not
5 only is it criminal, it's a horrendous act against a fearful
6 mother and her child. He claims that he was scared. He
7 thought people were after him. If he was that scared, he
8 should've understood the fear that they had, yet he wouldn't
9 let them go. He wouldn't let them leave. They were
10 terrorized. They were traumatized. They were fighting for
11 their lives.

12 You had a 10-year-old that had to run down the street
13 and legally knock on someone's door and ask for help. Yet
14 apparently, according to him though, his fear outrode theirs.
15 His concern for his safety outweighed theirs. That's not
16 right. That's a crime.

17 Derrick Furtick is guilty of burglary in the first
18 degree and he's guilty of kidnapping. The State has shown
19 you and you've heard the testimony and you've seen the
20 evidence.

21 And those pictures are going to go back with you and
22 those pieces of hair that he ripped out from Danielle
23 Monroe's head are going to go back with you and you're going
24 to see all of the photos and all of the evidence that show
25 that, when he entered that home, he did so knowingly,

1 ~~willingly, and in conscious wrongdoing because he entered that~~
2 home to commit a crime and when he was caught committing that
3 crime, he then committed a second crime of kidnapping. He
4 traumatized and terrorized that family.

5 You have the ultimate responsibility now of showing him
6 that that's not right, that it's not okay, and that it's not
7 going to be allowed in Orangeburg under the law. You have
8 the ability to do that by rendering a just and true verdict,
9 to have the courage of your convictions to find this man
10 guilty of burglary in the first degree and guilty of
11 kidnapping, and bring a little bit of security and a little
12 bit of safety back into the lives of Danielle Monroe and
13 J.S. [REDACTED].

14 THE COURT: Counsel?

15 MS. HINDS: I would ask the State to turn off the TV.

16 THE COURT: Certainly.

17 MS. HINDS: Thank you, counsel.

18 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

19 MS. HINDS: Good afternoon. I told you at the beginning
20 that we would not agree with everything, but there would be
21 some facts that we would agree with.

22 We didn't dispute the fact that he was there, that Mr.
23 Furtick was there. We did not dispute the fact that some of
24 those things happened, but we also told you that you needed
25 to hear everything and you needed to hear the other side of

1 the story.

2 You've heard from the witnesses now. There weren't very
3 many of them, but that doesn't matter. It's not the number
4 of witnesses on either side. Basically, let's go through
5 some of the testimony again.

6 Danielle Monroe. She confirmed that she heard gunshots.
7 That's what woke her up initially, that there were gunshots
8 in the neighborhood. She looks out and doesn't see any
9 problem outside; so she goes back to bed.

10 She testifies that -- that at some -- that at one point,
11 she hears a noise. She gets up to investigate and while
12 she's at one end to the house, she goes and looks. She
13 checks on her son, looks down the hall, and at that point she
14 says Mr. Furtick turns on the lights. He turned on the
15 lights. She said -- her testimony was that, but for that,
16 she would not have been able to identify him.

17 Ladies and gentlemen, does that look like he's trying to
18 hide? This is somebody that knew him, not well but knew him.
19 They lived in the same neighborhood, traveled in the same
20 neighborhood. But if he was trying to sneak in because he
21 was going to -- he was up to no good, why would he be turning
22 on the lights to give her a full view of him? It doesn't
23 make any sense.

24 She testified that she didn't know what to think of his
25 behavior except that she wanted to get away and that is

1 certainly understandable. She testified that at no point in
2 any of this did Mr. Furtick have a weapon or threaten great
3 bodily harm or anything of that nature.

4 She did tell us that she did have her braids pulled.
5 She also told us something interesting because she said that
6 when they got to the front door that she was able to get it
7 open, that her son was able to run out to go get help, but
8 then it got shut again and that basically, at that point,
9 she's able to get it back open and then she said she kind of
10 eased out the door, I think she said with her hip. She put
11 her hip between the door and was able to get outside.

12 The two of them -- now, granted, Mr. Furtick has a hold
13 of her hair, but at that point she said they went down the
14 porch steps and you can see from the pictures where the steps
15 are in relation to the front door. Now, she knew the steps.
16 She knew them well and she was able to go down them backwards
17 with no problem. So at that point, she's basically trying to
18 get away from him, but she's the one that's leading him away
19 from the house would be the testimony that she gave to you
20 today.

21 In regards to her testimony about the damage to the
22 door, the solicitor wants you to believe that there was this
23 great big struggle that resulted in damage to the door. What
24 Ms. Monroe told y'all is that basically it was already
25 damaged. That perhaps maybe that another one of those cracks

1 in there could possibly have come from that.

2 Now, I'm not trying to downplay or minimize what she
3 went through. Okay? However, it does not diminish the fact
4 that the State still has to prove to you each and every one
5 of those elements that we talked about from the beginning.
6 Let's deal with another witness first, however.

7 Officer Harter. He basically did not get there until
8 the incident had leaked outside. So he doesn't know anything
9 prior to that, but he testifies that -- that he sees the two
10 of them as he comes around the curve. He does see them.
11 That she is -- that he is kind of pulling her toward him, but
12 by his own words said not necessarily pulling her as a
13 shield, but definitely pulling her closer.

14 He said that he was not combative with Officer Harter,
15 that he never saw Mr. Furtick hitting or assaulting or
16 anything of that nature except by holding her by the braids.
17 There were no weapons involved. Again, he didn't see Mr.
18 Furtick with a weapon, nor was any weapon ever found.

19 Anyhow, he's arrested without incident. He gives
20 Officer Harter no problem. He gives the other officers no
21 problem. He's cuffed and taken away.

22 Let's talk a little bit about Mr. Furtick's testimony.
23 Mr. Furtick basically tells you that he was with some buddies
24 and things took a turn that wasn't supposed to happen. A gun
25 went off or he was being shot at. At that point, he told you

1 he was scared. He didn't want to get killed. He didn't know

2 what was going on. He wasn't even sure why they were cocking
3 guns and shooting them at him.

4 So he runs to go seek help and that -- in that
5 scaredness, unfortunately, maybe not his finest hour, but
6 he's not thinking of what his actions are going to have an
7 effect on Ms. Monroe and the son. I wish that I could say
8 that he behaved in a better manner in terms of thinking of
9 their well-being. However, at that moment in time, he's
10 thinking somebody is after him with a gun. I've got to get
11 away. I've got to get inside.

12 Again, he admits to -- once he realizes that he has --
13 that somebody is in the house, he flips on the light to let
14 them see him and let her know that he's there. He doesn't
15 hide. He doesn't threaten her. He doesn't do anything of
16 that nature. He lets himself be seen.

17 All right. Let's talk about the charges now.

18 On the burglary first, you saw the definition. There
19 does have to be an entrance into a dwelling without the
20 consent of the owner with an aggravating factor with the
21 intent to commit a crime therein.

22 Look very carefully at the testimony that you've heard
23 today. If the intent to commit that -- intent to commit a
24 crime has to be formed after entry. In other words, the
25 person when they crossed the threshold, they have to have a

1 plan or a thought or they go in intending to do a crime.

2 I would argue that that day, that morning, Mr. Furtick
3 was just looking for a place, a safe place to be, a place to
4 hide. He was not looking to commit any crime.

5 Ms. Cornwell speculates that, well, you know, he was
6 being quiet. So therefore, you can take that as some form of
7 guilt or, well, he wasn't quiet enough, because Ms. Monroe
8 heard him. And again, he didn't try to hide. He didn't try
9 to duck in the closet or become aggressive in the other -- at
10 the other extreme. He lets her know who he is.

11 Now, Ms. Cornwell argues that intent can be shown by the
12 acts and conduct and other circumstances. I wouldn't
13 necessarily disagree with that. That's a pretty broad
14 statement and there better be specifics to back it up.

15 She talked about, well, he was in there to steal. Who
16 has given you any iota of evidence that he went in there to
17 steal anything? When we talk about acts or circumstances, we
18 can talk about things like if somebody breaks into a house
19 and they start collecting things or putting them in a pile.
20 That might be an act from which you could infer that somebody
21 had gone in there to steal, but there is nothing in this
22 record that shows he went in to steal anything from that
23 house or do any other crime.

24 We would ask you to consider that because that is one of
25 the elements of a burglary first. There has to be that

1 intent to do a crime therein as he's crossing the threshold.

2 Now, in terms of the aggravating -- one of the
3 aggravating factors was that it allegedly happened in the
4 nighttime. I would submit to you that although the testimony
5 was that consistently it was dark, it was dark, it was dark,
6 number one, there's degrees of darkness.

7 You heard Ms. Monroe state that she could see her son
8 across that field, knowing that he had gotten to the
9 neighbors to safety. She could see him plain as day. She
10 could see the neighbor she said. Therefore, it's not pitch
11 black.

12 The State put into evidence -- and you will have it back
13 there to look at -- a little guide to sunrise, sunset, what
14 time it occurs, that kind of thing. Take a look at it while
15 you're back there. It's kind of interesting. I tend to pay
16 attention to -- I listen to the news every morning and I see
17 what time sunset is and sunrise is. I don't think much more
18 about it.

19 But if you'll take -- take a minute to look at this,
20 you'll see that light and daylight is a continuum. It's not
21 like a light switch is turned on and off. There's various
22 degrees of light in between and, therefore, you must consider
23 that when you're asking yourself is that element met. Is it
24 truly met that it was in the nighttime?

25 All right. As to -- moving on to the kidnapping. He --

1 Mr. Furtick has testified to you in terms of both the
2 burglary and the kidnapping, that he was not thinking, he was
3 scared. He was thinking she's trying to think about getting
4 away, but he's also thinking about not exposing himself to
5 these people that are coming after him. He didn't try to
6 keep her inside to harm her. He kept her inside initially in
7 order to keep himself safe, selfishly, but her also.

8 He also -- if you listen again to the testimony of Ms.
9 Monroe, how they get outside is basically from her pulling
10 him out and then, of course, once they're able to get
11 outside, he's able to get -- to be pulling on her.

12 We would submit to you that sometimes it is not -- or
13 its counterintuitive. We want to rush to judgment, but there
14 are elements to the crimes that are -- that are enunciated
15 for a reason. It's because there are situations that need to
16 be delineated so that we know it has to be this, this, this,
17 and this, and they all must be met or you can't be punished
18 with that crime.

19 The solicitor has said that they welcomed the burden.
20 We believe they have not met the burden, but please look at
21 and listen to and review all the testimony and all of the --
22 all of the pictures and everything that's been presented.

23 It always has to be the last one in the pile. Take a
24 look at that photo. There's been testimony that this would
25 have been Ms. Monroe's place and that shows the neighborhood

1 and the place that her son ran to. She testified that she
2 could see him. She could see him over there. She could see
3 the neighbor over there. I would submit to you it wasn't
4 dark and we would ask that you review against all the
5 standards, against the elements that you've been given, and
6 find Mr. Furtick not guilty because they have not met the
7 intent portion of the statute. Thank you.

8 THE COURT: Reply?

9 REPLY CLOSING ON BEHALF OF THE STATE

10 MS. CORNWELL: I'm not going to take up too much of your
11 time. I know y'all are probably ready to go back there and
12 discuss this. There are a couple of things that I do want to
13 go back over with you.

14 One thing that was just said that I couldn't help but
15 smile at is that Ms. Monroe was dragging the defendant out of
16 the house. He wanted to stay in safety, but she pulled him
17 out as she was trying to get out struggling.

18 You've heard testimony that he was grabbing her hands.
19 She was trying to get out. She was fighting with him and
20 trying to get away. There is nothing to indicate that she
21 was trying to get him to come out of the house with her.

22 That also goes to show you this intent that we're
23 talking about. If he was so scared, if he was so fearful for
24 his life, why did he exit the trailer? If he went in the
25 trailer for safety, why a few moments later was he willing to

1 exit the trailer with his victim, attacking her? Those are
2 the conducts and the inferences that you're allowed to see
3 and determine whether or not his intent when he entered that
4 home was to commit a crime.

5 They're also arguing about nuances such as nighttime
6 hours, daylight. Was it dark? Was it not? Ms. Hinds keeps
7 indicating that Danielle said she could see her son run
8 across. Even in darkness, if you know someone is running
9 across the yard, especially if you're a mother watching your
10 child, you can see where they're going. It doesn't have to
11 be bright daylight for you to see that.

12 You've got this whole calendar and this is just -- it's
13 the August 2016 sunrise/sunset calendar and it specifically
14 shows -- and I'm not getting involved in the astronomical and
15 nautical. It specifically states that sunrise did not occur
16 until 7:40 -- or 6:49 in the morning. The sun didn't rise
17 until almost an hour -- I think an hour and a half after this
18 occurred.

19 Clearly, this occurred in the nighttime hours. Clearly,
20 he entered the dwelling. His conduct shows that there was an
21 intent to commit a crime. His conduct further shows that he
22 committed an act of kidnapping. It's that simple.

23 Ms. Hinds was right. This was going to be a short
24 trial. Just because it's short, she said, doesn't mean it's
25 easy and it doesn't make it simple. And just because it's a

1 ~~Short trial -- she's absolutely right -- that's not what~~

2 makes this easy and that's not what makes it simple.

3 What makes this an easy and simple case is the fact that
4 you heard testimony from Jamarion and Danielle telling you
5 exactly what happened, indisputable facts. That's why it's
6 easy. That's why it's simple. Because the testimony that
7 they gave you, the terror that they went through, the trauma
8 this defendant placed on them, makes him guilty. His
9 conduct, his actions, his knowledge, his intent make him
10 guilty.

11 The State welcomed the burden of proving each and every
12 element of the crime and the State has met that burden. We
13 have shown you that he unlawfully entered. He did it without
14 consent and that his actions show that he did it with the
15 intent to commit a crime therein. And even after he entered
16 the home, he committed a second crime, once he was inside the
17 home, once he was outside the home, and once he was dragging
18 Ms. Monroe down the street, and that crime was kidnapping.

19 He entered the home with the intent to commit a crime
20 and he did it in the nighttime hours. All three of those
21 elements have been met and proven to you by testimony on that
22 stand and by the evidence you received. That is why you
23 should find him guilty of burglary in the first degree.

24 The evidence and the testimony has also shown that as he
25 was forbidding her from leaving, as he was holding her back

1 from running away, as he was dragging her down the street, he
2 kidnapped her. He did that knowingly and with the intent to
3 commit that crime as well and that is why he is guilty of
4 kidnapping.

5 And we ask when you go back to the jury room and discuss
6 this case, that when you come back and render your verdict,
7 that you render a verdict of guilty on the burglary first and
8 on the kidnapping.

9 CHARGE ON THE LAW

10 THE COURT: Ladies and gentlemen of the jury, it's now
11 time for me to charge you on the law in this case.

12 The indictments in this case charge the defendant with
13 kidnapping and first-degree burglary. I remind you that the
14 defendant has -- was -- the fact that the defendant was
15 arrested, charged, and indicted in this case is not evidence
16 and cannot be considered by you as evidence of guilt in this
17 case, nor does it create any presumption or inference of
18 guilt. The document is simply the formal written instrument
19 which contains the charge made against the defendant. It is
20 the formal document by which this case is brought into court.

21 The indictments in this case allege two different
22 offenses against the defendant. Again, the charges are
23 kidnapping and first-degree burglary. Each indictment
24 charges a separate and a distinct offense. You must decide
25 each indictment separately on the evidence and the law

1 applicable to it, uninfluenced by your decision as to any
2 other indictment.

3 The defendant may be convicted or acquitted on any or
4 both of the offenses charged. You will be asked to write a
5 separate verdict of guilty or not guilty on each indictment.

6 The defendant has pled not guilty to these indictments
7 and that plea puts the burden on the State to prove the
8 defendant guilty. A person charged with committing a
9 criminal offense in South Carolina is never required to prove
10 himself innocent.

11 I charge you that it is an important rule of the law
12 that the defendant in a criminal trial, no matter what the
13 seriousness of the crime may be, will always be presumed
14 innocent of the crime for which the indictment was issued
15 unless guilt has been proven by evidence satisfying you of
16 that guilt beyond a reasonable doubt.

17 The presumption of innocence does not end when you begin
18 your deliberations, but it accompanies the defendant
19 throughout the trial until you reach a verdict of guilt based
20 on evidence satisfying you of guilt beyond a reasonable
21 doubt. The presumption of innocence is like a robe of
22 righteousness placed about the shoulders of the defendant
23 which remains with the defendant until it has been stripped
24 from the defendant by evidence satisfying you of the
25 defendant's guilt beyond a reasonable doubt.

The presumption of innocence is not a mere legal theory.

It is not just a legal phrase. It is a substantial right to which every defendant is entitled to unless you, the jury, are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

What is a reasonable doubt in the law? A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act. The State has the burden of proving the defendant guilty beyond a reasonable doubt.

Some of you may have served as jurors in civil cases where you were told that it is only necessary to prove that a fact is more likely true than not true, such as by the greater weight or the preponderance of the evidence. In criminal cases, the State's proof must be more powerful than that. It must be beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty and, in criminal cases, the law does not require proof that overcomes every possible doubt.

If, based on your consideration of the evidence you are firmly convinced that the defendant is guilty of the crime charged, you must find the defendant guilty. If, on the other hand, you think there is a real possibility that the defendant is not guilty, you must give the defendant the

1 benefit of the doubt and find the defendant not guilty.

2 I remind you that during this trial you and I have
3 certain duties to perform. As the trial judge, it's my
4 responsibility to preside over the trial of the case and I
5 also have the duty to rule on the admissibility of the
6 evidence offered during this trial. You are to consider only
7 the competent evidence before you. If there was any
8 testimony ordered stricken from the record in this case
9 during this trial, you must disregard that testimony. You
10 are to consider only the testimony which was presented from
11 the witness stand, any exhibits which have been made part of
12 the record in this case, and any stipulations of counsel.

13 I have the additional duty to charge you the law
14 applicable to this case. As the presiding judge, I am the
15 sole judge of the law in this case and it is your duty as
16 jurors to accept and apply the law as I now state it to you.
17 If you already have any idea as to what the law is or what
18 the law ought to be and it does not agree with what I now
19 tell you the law is, you must abandon this idea because you
20 are sworn to accept the law and apply the law exactly as I
21 state it to you.

22 In every case tried in this court before a jury, the
23 jury becomes the sole and exclusive judges of the facts in
24 the case. The trial judge cannot intimate, state, comment on
25 or make any statement to a trial jury about the facts in the

case.

2 Since you, the jury, are the sole judge of facts in this
3 case, you are not to infer from what I have said during the
4 process of this trial in ruling upon the admissibility of
5 evidence or otherwise or anything that I say now during the
6 course of this instruction to you that I have any opinion
7 about the facts in this case. The law does not allow me to
8 have an opinion about the facts in this case.

9 This is a matter solely for you, the jury, to determine.
10 As jurors, it is your duty to determine the effect, value,
11 weight, and truth of the evidence presented to you during
12 this trial.

13 There are two types of evidence which are generally
14 presented during a trial: direct evidence and circumstantial
15 evidence. Direct evidence is the testimony of a person who
16 claims to have actual knowledge of a fact, such as an
17 eyewitness. Circumstantial evidence is proof of a chain of
18 facts and circumstances indicating the existence of a fact.

19 Crimes may be proven by either direct or circumstantial
20 evidence or a combination of the two. The law makes
21 absolutely no distinction between the weight or the value to
22 be given to either direct or circumstantial evidence, nor is
23 a greater degree of certainty required of circumstantial
24 evidence than of direct evidence.

25 However, to the extent that the State relies on

1 ~~circumstantial evidence, all of the circumstances must be~~
2 consistent with each other and taken together point
3 conclusively to the guilt of the accused beyond a reasonable
4 doubt. If these circumstances merely portray the defendant's
5 behavior as suspicious, the proof has failed.

6 You should weigh all of the evidence in this case.
7 After weighing all of the evidence, if you're not convinced
8 of the guilt of the defendant beyond a reasonable doubt, you
9 must find the defendant not guilty.

10 Necessarily, you must determine the credibility of
11 witnesses who have testified in this case. Credibility
12 simply means believability. It becomes your duty as jurors
13 to analyze and to evaluate the evidence and determine which
14 evidence convinces you of its truth.

15 In determining the believability of witnesses who have
16 testified in this case, you may believe one witness over
17 several witnesses or several witnesses over one witness. You
18 may believe a part of the testimony of a witness and reject
19 the remaining part of the testimony of the same witness. You
20 may believe the testimony of a witness in its entirety or
21 reject the testimony of a witness in its entirety.

22 You may consider whether the witness has exhibited to
23 you any interest, bias, prejudice or other motive in this
24 case. You may also consider the appearance and the manner of
25 a witness while on the witness stand.

1 You have heard evidence that the defendant was convicted
2 of a crime other than the one for which he is now on trial.
3 This evidence may be considered by you, if you conclude it's
4 true, only in deciding whether the defendant's testimony is
5 believable and for no other purpose. You must not consider
6 the defendant's prior record as any evidence of the
7 defendant's guilt of the charges we are trying here today.

8 In order to establish criminal liability, criminal
9 intent is required. For example, the mental state required
10 to be proven by the State for a particular crime might be
11 purpose, intent, knowledge, recklessness or criminal
12 negligence. Criminal intent must be proven by the State
13 beyond a reasonable doubt.

14 Criminal intent is always a matter that must be
15 determined by the jury from the circumstances surrounding the
16 situation. There is no way to prove intent to a mathematical
17 certainty. There's no way medical science can dissect a
18 person's brain and determine what the person had in mind. So
19 the law says that criminal intent may be inferred from the
20 circumstances shown to have existed. This is how you make a
21 determination of whether or not the element requiring intent
22 was present.

23 It is not necessary to establish intent by direct and
24 positive evidence, but intent may be established by inference
25 in the same way as any other fact by taking into

1 consideration the facts of the parties and all of the facts

2 and circumstances of the case.

3 Criminal intent is a mental state, a conscious
4 wrongdoing. It is up to you to determine what the defendant
5 intended to do based upon the circumstances shown to have
6 existed.

7 Criminal intent can arise from action or a failure to
8 act. It may arise from negligence, recklessness or an
9 indifference to duty or to consequences. That is considered
10 by the law to be the equivalent of criminal intent.

11 The defendant is charged with kidnapping. The State
12 must prove beyond a reasonable doubt that the defendant
13 knowingly and unlawfully seized, confined, inveigled,
14 decoyed, kidnapped, abducted or carried away another person
15 without authority of law.

16 The State must prove beyond a reasonable doubt the
17 specific intent of knowledge before the defendant may be
18 convicted of a kidnapping. A person is said to act knowingly
19 if he is aware that a result is particularly certain to
20 follow his conduct, whatever his desire may be as to that
21 result.

22 To do a thing unlawfully is to do it willfully against
23 the law. Knowingly means with knowledge, consciously, not
24 accidentally.

25 Seize means to take hold of suddenly or forcibly.

1 Confine means to limit, restrict or enclose within bounds,
2 imprison or shut or keep in. Inveigle means to lure, entice
3 or lead astray by false representations, promises or other
4 deceitful means. Decoy means to lure by or as if by decoy.
5 Decoy is something to entice a person into a trap.

6 Kidnap is to remove a person against their will by
7 unlawful force or by fraud. Abduct means to carry off
8 secretly or by force for an illegal purpose. Carry away
9 means to remove.

10 The State does not have to prove that the defendant did
11 all of these acts. Instead, if you find beyond a reasonable
12 doubt that the defendant did any of these acts, you may find
13 the defendant guilty of kidnapping.

14 Something done without authority of law is something
15 which the law does not sanction, permit, allow, condone or
16 provide justification for. The kidnapping does not have to
17 be for any personal or monetary gain or for illegal purpose,
18 but may be for any reason whatsoever.

19 The defendant is charged with first-degree burglary.
20 The State must prove each element of the crime beyond a
21 reasonable doubt. If the State fails to prove any single
22 element, you cannot find the defendant guilty of first-degree
23 burglary.

24 The State must prove beyond a reasonable doubt that the
25 defendant entered a dwelling without consent. A dwelling is

1 any building or portion of a building in which a person
2 ordinarily sleeps. A building constructed as a dwelling that
3 has never been occupied cannot be considered a dwelling for
4 purposes of burglary, but a building is a dwelling even if
5 the residents are temporarily absent from the building.

6 In order to prove that the defendant entered the
7 dwelling, the State does not have to show that the
8 defendant's entire body entered the dwelling. The smallest
9 entry is sufficient. It may be any part of the body, such as
10 a hand or foot or even an instrument, such as a hook or other
11 instrument. In addition, the State does not have to prove
12 that force was used to gain entry.

13 Second, the State must prove beyond a reasonable doubt
14 that the defendant entered the dwelling without the consent
15 of the person in lawful possession of the dwelling. If a
16 person enters a building by using deception, artifice, tricks
17 or misrepresentation to get consent to enter, this is an
18 entry without consent.

19 Next, the State must prove beyond a reasonable doubt
20 that the defendant intended to commit a crime, either a
21 felony or a misdemeanor, at the time of entry. The mere
22 entry into a dwelling without consent is not burglary. If
23 the intent to commit a crime is formed after the entry, it's
24 not a burglary.

25 On the other hand, if the defendant entered to commit a

1 crime at the time of entry, it is a burglary, even if the
2 intent was abandoned after the entry. It does not matter
3 that the intended crime was not completed. Intent may be
4 shown by acts and conduct of the defendant and other
5 circumstances from which you may naturally and reasonably
6 refer intent -- infer intent.

7 Finally, the State must prove beyond a reasonable doubt
8 that the defendant entered or remained in the dwelling in the
9 nighttime. Nighttime is the period between sunset and
10 sunrise during which there is not enough daylight to
11 recognize a person's face except by artificial light or
12 moonlight.

13 Voluntary intoxication is not an excuse or a defense to
14 crime, regardless of whether the crime is one involving
15 general or specific intent. This rule also extends to the
16 voluntary ingestion of drugs. A person who voluntarily
17 ingests alcohol or drugs and thereby becomes intoxicated is
18 not less responsible for his acts while in such condition.

19 If one voluntarily drinks intoxicating liquors, wine or
20 beer or ingests drugs and becomes intoxicated to whatever
21 degree and if, while in that condition, commits an act which
22 would be a crime if it had been committed by a sober person,
23 the fact of intoxication would not relieve the intoxicated
24 person from responsibility.

25 Ladies and gentlemen of the jury, your verdict must be a

1 unanimous one. Of course, that means that all twelve of you
2 must agree on that verdict.

3 Mr. Foreman, this is the verdict form. It's rather
4 self-explanatory, but I'll read it to you.

5 It states as to the crime of kidnapping, we, the jury,
6 unanimously find the defendant -- and then you circle the
7 appropriate verdict that the jury comes to. The second
8 charge says as to the charge of first-degree burglary, we,
9 the jury, unanimously find the defendant -- and then you
10 circle the appropriate verdict that the jury comes to. If
11 you would, then sign it as the jury foreperson and date it.

12 Also, on the front of each indictment, there is a
13 section where it says verdict right here. If you would,
14 write the verdict, sign and date again on each front of each
15 indictment.

16 When you come to a verdict, if you would, please knock
17 on the door. We'll bring you back in to receive your
18 verdict.

19 For the last time, I'm going to send you into the jury
20 room, but again please do not begin your deliberations until
21 you receive the verdict form, the indictments, and all of the
22 exhibits. When you receive those, then you may begin your
23 deliberations. Thank you.

24 (WHEREUPON, the jury exited the courtroom at 3:50 p.m.)

25 THE COURT: Any exception or objection to the charge on

1 the law from either the State or from the defense?

2 MS. CORNWELL: No, Your Honor.

3 MS. HINDS: No, Your Honor.

4 THE COURT: All right.

5 MR. STEVENS: Actually, we'd simply re-raise our prior
6 motions and objections that we had to involuntary
7 intoxication, as well as the State's use of the screen with
8 that same statement before the jury for all the same reasons
9 we had before.

10 THE COURT: For all the same reasons, the motions are
11 denied.

12 MR. STEVENS: Thank you, Judge.

13 THE COURT: All right. If y'all would get together and
14 make sure that you have all the exhibits. Here are the
15 indictments, as well as the verdict form. Y'all don't wander
16 off too far so when we have a verdict we can find everybody.

17 MR. STEVENS: Yes, ma'am.

18 (WHEREUPON, there was a pause in the proceedings to
19 check exhibits.)

20 THE COURT: We'll be at ease until we reach a verdict.

21 (WHEREUPON, jury deliberations began at 3:53 p.m.)

22 (WHEREUPON, there was a break in the proceedings from
23 3:53 p.m. until 4:11 p.m., after which the proceedings
24 resumed as follows.)

25 THE COURT: I understand that we have a verdict.

1 ~~Anything from either party before I bring the jury out?~~

2 MS. CORNWELL: Nothing from the State, Your Honor.

3 MS. HINDS: No, ma'am.

4 THE COURT: All right. Let's have our jury, please.

5 THE BAILIFF: Yes, Your Honor.

6 (WHEREUPON, the jury entered the courtroom at 4:12 p.m.)

7 THE COURT: Mr. Foreman, has the jury reached a verdict?

8 THE FOREMAN: Yes, ma'am.

9 THE COURT: Would you please hand it to the bailiff?

10 THE BAILIFF: Your Honor, may I approach?

11 THE COURT: Yes, ma'am. Thank you. Madam Clerk, if you
12 would, publish the verdict.

13 VERDICT

14 THE CLERK: Okay. I bring to the Court's attention two
15 indictment numbers, 2016-GS-38-1418 and 1419, the State
16 versus Derrick L. Furtick.

17 As to the charge of kidnapping, we, the jury,
18 unanimously find the defendant guilty.

19 As to the charge of first-degree burglary, we, the jury,
20 unanimously find the defendant not guilty.

21 Dated -- signed today, May 25th, 2017, by jury
22 foreperson, Leandrae Felder.

23 THE COURT: Madam Clerk, if you'd please poll the jury.

24 THE CLERK: Ma'am?

25 THE COURT: Poll the jury.

1 THE CLERK: All right. Okay. When I say -- when I say
2 your name, please stand. Keysha Sheard. Is this your
3 verdict?
4 JUROR NUMBER 158: Yes.
5 THE CLERK: Is it still your verdict?
6 JUROR NUMBER 158: Yes, ma'am.
7 THE CLERK: Okay. Leandrae Felder. Is this your
8 verdict?
9 JUROR NUMBER 45: Yes, ma'am.
10 THE CLERK: Is it still your verdict?
11 JUROR NUMBER 45: Yes, ma'am.
12 THE CLERK: Thank you. Monica Green. Is this your
13 verdict?
14 JUROR NUMBER 75: Yes.
15 THE CLERK: Is it still your verdict?
16 JUROR NUMBER 75: Yes.
17 THE CLERK: Thank you. Donna Gleaton. Is this your
18 verdict?
19 JUROR NUMBER 65: Yes.
20 THE CLERK: Is it still your verdict?
21 JUROR NUMBER 65: Yes, ma'am.
22 THE CLERK: Justin Schneider.
23 JUROR NUMBER 156: Yes, ma'am.
24 THE CLERK: Is this your verdict?
25 JUROR NUMBER 156: Yes, ma'am.

1 THE CLERK: Is it still your verdict?

2 JUROR NUMBER 156: Yes, ma'am.

3 THE CLERK: Joette Kittrell. Is this your verdict?

4 JUROR NUMBER 110: Yes, ma'am.

5 THE CLERK: Is it still your verdict?

6 JUROR NUMBER 110: Yes, ma'am.

7 THE CLERK: Medinia Haynes. Is this your verdict?

8 JUROR NUMBER 85: Yes, ma'am.

9 THE CLERK: Is it still your verdict?

10 JUROR NUMBER 85: Yes, ma'am.

11 THE CLERK: Amber Zonca. Is this your verdict?

12 JUROR NUMBER 200: Yes.

13 THE CLERK: Is it still your verdict?

14 JUROR NUMBER 200: Yes, ma'am.

15 THE CLERK: Terrence Phelps. Is this your verdict?

16 JUROR NUMBER 139: Yes, ma'am.

17 THE CLERK: Is it still your verdict?

18 JUROR NUMBER 139: Yes, ma'am.

19 THE CLERK: Williema Munson. Is this your verdict?

20 JUROR NUMBER 129: Yes, ma'am.

21 THE CLERK: Is it still your verdict?

22 JUROR NUMBER 129: Yes, ma'am.

23 THE CLERK: Earnestine Green. Is this your verdict?

24 JUROR NUMBER 73: Yes, ma'am.

25 THE CLERK: Is it still your verdict?

1 JUROR NUMBER 73: Yes, ma'am.

2 THE CLERK: Samuel Peppers.

3 JUROR NUMBER 138: Yes, ma'am.

4 THE CLERK: Is this your verdict?

5 JUROR NUMBER 138: Yes, ma'am.

6 THE CLERK: Is it still your verdict?

7 JUROR NUMBER 138: Yes, ma'am.

8 THE CLERK: Okay.

9 THE COURT: Thank you, ma'am. Thank you, ladies and
10 gentlemen of the jury. If you would, please return to your
11 jury room. I'll be in there momentarily to release you.

12 (WHEREUPON, the jury exited the courtroom at 4:16 p.m.)

13 THE COURT: All right. Solicitor, if you would, please
14 prepare the sentencing sheet. I'm going to release the jury.

15 (WHEREUPON, there was a break in the proceedings from
16 4:16 p.m. until 4:21 p.m., after which the proceedings
17 resumed as follows.)

18 THE COURT: I know some of the jurors wanted to be
19 present in the courtroom. So we'll give them an opportunity
20 to come in.

21 MS. CORNWELL: Thank you, Your Honor.

22 MR. STEVENS: Judge, at this time, we respectfully move
23 for a new trial on the charge of kidnapping with the same
24 bases that we previously raised in our motions for directed
25 verdict.

1 THE COURT: Yes, sir, Mr. Stevens, and again, for the
2 same motions, the Court does find that there was direct
3 evidence of each element of the crime of kidnapping and your
4 motion is respectfully denied.

5 MR. STEVENS: Thank you, Judge.

6 THE COURT: Is that all of them? Okay. Mr. Furtick, if
7 you would, please stand.

8 (WHEREUPON, the defendant complied.)

9 THE COURT: Solicitor?

10 MS. CORNWELL: You've obviously heard the facts of this
11 case. You've heard most of his prior record as far as the
12 stuff that did come in.

13 He does have juvenile adjudications from 2002 for
14 disturbing schools, breaking and entering motor vehicles,
15 assault and battery of a school employee. He's got a 2005
16 simple assault, a 2006 assault and battery of a high and
17 aggravated nature and grand larceny, as well as the unlawful
18 possession. He has a disorderly conduct and breach of trust
19 from 2007, possession of marijuana in 2008, and, in addition,
20 the shoplifting from '15. He's got the resisting arrest and
21 assault and battery third. In 2016, he had a domestic
22 violence second degree.

23 So clearly, this is not his first time with charges and
24 things of this nature. It was also brought to my attention
25 this morning and I brought it to the attention of Ms. Hinds

1 that there is a pending -- possible pending warrant coming
2 down on Mr. Furtick after an incident that happened yesterday
3 in the holding cells. Apparently, there are allegations now
4 that he sexually assaulted one of the corrections officers.

5 Again, that is not a conviction. They are allegations
6 where warrants are possibly being sought. I have not had a
7 chance to go over everything. I asked that everything be
8 brought to me this morning as soon as I found out. I shared
9 with Ms. Hinds what I did have. I've gotten one or two more
10 things that I will get to her, but I think that that goes to
11 show he has no regard for the law.

12 I have spoken with the victims in this case. They do
13 not wish to address Your Honor regarding sentencing at this
14 time. However, obviously, you've heard what they went
15 through. This was traumatizing to them. They are asking for
16 the maximum sentence.

17 I think that given his prior record, as well as the
18 facts surrounding this case, that the maximum sentence in
19 this is appropriate and we would ask for 30 years.

20 THE COURT: All right. Ms. Hinds?

21 MS. HINDS: Your Honor, just very briefly. He's 30
22 years old. (Coughs.) Excuse me. Single. He has a tenth-
23 grade education. Basically, what he shared with me is at
24 that point in his life is his mom was incarcerated and so he
25 didn't have a whole lot of guidance in his formative years.

1 That's not an excuse. We respect the jury's verdict.

2 However, we do take exception to the prosecution bringing up
3 these allegations that are not proven. They've not even been
4 investigated very much at this point in time.

5 However, he has been incarcerated since August 19th of
6 2016. We would ask that he be given credit for the whole
7 time that he's been incarcerated and we would just ask for
8 the mercy of the Court.

9 THE COURT: And certainly, I understand that those are
10 merely allegations and I'm not considering that as a factor
11 in sentencing, the allegations as of what's alleged to have
12 happened yesterday.

13 I am concerned though. And I understand that if his
14 mother was incarcerated, he lacked some guidance and dropped
15 out of school. Certainly, it's difficult to make it in
16 today's world.

17 However, it appears that he's been in trouble since he
18 was a juvenile and continued consistently ever since then
19 with some issues indicating violence, ABHAN or domestic
20 violence, possession of a pistol, and drugs. That's
21 certainly a pattern of conduct which is not tolerable.

22 The facts indicate in this case that it was a
23 tremendously horrific experience for this young mother and
24 her son, and certainly it's not warranted for anybody to have
25 to go through that.

SENTENCE

1
2 THE COURT: And based upon that, on Indictment 2016-GS-
3 38-1418, you are hereby committed to the State Department of
4 Corrections for a period of 30 years, and you do get credit
5 for the time that you have served.

6 MS. CORNWELL: Thank you, Your Honor.

7 MS. HINDS: Your Honor?

8 THE COURT: Yes, ma'am.

9 MS. HINDS: May we have a finding on the record that
10 this particular kidnapping charge is not of any kind of
11 sexual nature?

12 THE COURT: Yes, ma'am. And I'm glad you brought that
13 to my attention. I do find on the record that there is no
14 evidence that this kidnapping was of a sexual nature and,
15 therefore, a sex offender registry is not required.

16 MS. HINDS: Thank you, Your Honor.

17 MR. STEVENS: Thank you, Judge.

18 (WHEREUPON, the proceedings ended at 4:27 p.m.)
19

20 --- END REQUESTED TRANSCRIPT ---
21
22
23
24
25

1 State of South Carolina)

2) Certificate

3 County of Florence)

4

5 I, the undersigned, Krystal J. Smith, Notary Public and
6 Official Court Reporter for the Twelfth Judicial Circuit of
7 the State of South Carolina, do hereby certify that I
8 transcribed the foregoing pages, numbered 1 through 223, in
9 the captioned case that were reported by Bonnie Kelly,
10 Circuit Court Reporter for the State of South Carolina, in
11 the Court of General Sessions in and for the County of
12 Orangeburg, South Carolina, on the 23rd and 25th days of May,
13 2017, to the best of my ability.

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

16

17 s/Krystal J. Smith

18 Court Reporter

19

20 Florence, South Carolina

21 September 23, 2017

22

23

24

25

THE STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF GENERAL SESSIONS
FIRST JUDICIAL CIRCUIT

THE STATE)

Indictment Nos.: 2016GS3801418;
2016GS3801419.

v.)

**ADDITIONAL REQUESTS
FOR VIOR DIRE**

DERRICK I. FURTICK,)

DEFENDANT.)



The Defendant, Derrick Furtick, respectfully requests that the jury panel be put on its oath and that the Court propound the following questions, in addition to the statutory questions required by the South Carolina Code 14-7-1-20 (1976):

- 1) Is any member of the jury panel related by blood or marriage to, or a friend or acquaintance of, a member of any law enforcement agency?
a) If so, please explain.
- 2) Is any member of the jury panel employed by, related by blood or marriage to, or a friend or acquaintance of anyone employed by the Attorney General, the Solicitor, or any prosecuting attorney's office, or does anyone work with or has worked with in the past any of the above named agencies?
- 3) The Assistant Solicitors trying this case are Ashley Cornwell and Sarah Ford. The elected Solicitor for the First Judicial Circuit is David Pascoe. Do you or any members of your family know Ashley Cornwell, Sarah Ford, Mr. Pascoe or any other members

of the Orangeburg County Solicitor's Office, which include: Tommy Scott; Joshua Edwards; Phillip Giese; Taylor Owens; Ted Lupton; or any member of these people's families?

4) Are you or any member of your family or close friends related to, friends with or acquaintances with any of the supporting staff of the Orangeburg County Solicitor's Office, such as: Wanda Carroway; Dell Fowler; Jennifer Jacques; Darlene Simmons; Carolyn Middleton; Barbara Robinson; Walt Turner; Donna Cuttino; Angie Martin; Bethany Ellis; Tammy Craven; or Marion Edgemon?

5) Has any member of the jury panel ever been employed by any civilian or military law enforcement agency?

a) If so, please explain.

6) Is any member of the jury panel employed by, related by blood or marriage to, or a friend or acquaintance of, any of the prospective witnesses in this case including:

- 1) Sgt. John Stokes (Orangeburg County Sheriff's Office);
- 2) Sgt. Ryan Harter (Orangeburg County Sheriff's Office);
- 3) Inv. Lakisha Gillard (Orangeburg County Sheriff's Office);
- 4) Danielle Monroc;
- 5) Jamarion Davis;
- 6) Larry Haynes;
- 7) Dr. Wade Dehnkamp;

~~8)~~ Dr. Sarah Ludington;

~~9)~~ Patricia Hampton?

- (i) If so (to any of these witnesses), then please explain.
- (ii) Based upon your relationship, has that caused you to form an opinion regarding their potential testimony? If so, please explain.

~~7)~~ Has any member of the jury panel read about this case in the newspaper, or heard about it in the news media, seen or heard on social media, or had any conversations about this case with anyone either today or before today?

- a) If so, please explain.
- b) Based upon that, what have you heard?
- c) Have you formed an opinion regarding that information?
 - (i) If so, what opinion? Please explain.

8) Has any member of the jury panel liked or followed any of the following facebook pages?

- a) Any page dealing with any of the previously listed witnesses?
- b) Any crime watch page?
- c) Orangeburg County Sheriff's Office page?

~~9)~~ Has any member of the panel formed any opinion about this case?

- a) If so, what is that opinion?

10) Have you, any member of your family, or any close friend ever been the victim of burglary, or violent crime?

a) If so, then please explain:

- (i) their relationship to you (for example, if a shooting, who was shot at)? and
- (ii) whether or not charges were ever brought?

11) This case involves an allegation of kidnapping and burglary. Does anyone feel that subject matter is such that they just won't be able to be fair and impartial?

12) Who among you just don't like lawyers, particularly lawyers who represent persons accused of a crime in cases like this?

13) There are some crimes that make people so angry that just because a person is accused of the crime, they believe he is guilty. Would you agree with that?

14) Has any member of the jury panel ever sat on a jury before?

- a) If so, what type of case, and
- b) What was the verdict?

15) Every United States citizen has the right not to testify in his or her own trial. As a potential juror, do you feel you would NEED to hear from the defendant in order to make a decision in this case? If so, please stand.

16) You have heard that Mr. Furtick is accused of Kidnapping and First Degree Burglary.

Does anyone suspect Mr. Furtick is guilty of these crimes just because he is accused of them?

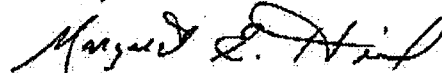
17) Has any member of the jury panel ever received assistance from the Victim's Advocacy Program?

~~18)~~ Does any member of the jury panel, a member of your immediate family, or close friend a member of MADD, SADD, CAVE, or other similar organization?

Respectfully submitted,



Margaret E. Hinds
Attorney for the Defendant



Date: _____
Orangeburg, South Carolina

WITNESSES

John G Stokes

Orangeburg County Sheriff

2016006268

ARREST WARRANT NUMBER

2016A3810700591

Arrested: August 25, 2016

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: May 3, 2017 MAY 03 2017

VERDICT

NOT GUILTY

Foreperson of Petit Jury

Date: 5/25/2017

DOCKET NO. 2016GS38-1419

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 8, 2017 TERM

THE STATE

vs.

Derrick Lamount Furtick

Indictment for

BURGLARY - FIRST DEGREE

Wanda P. Clark
CLERK OF COURT
ORANGEBURG, SOUTH CAROLINA

SC Code: 16-11-311

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

Defendant

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

Defendant

Witness:

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

FILED FOR RECORD
WANDA P. CLARK
2017 MAY - 3 P 12:12
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

INDICTMENT
2016GS38-1419

At a Court of General Sessions, convened on May 3, 2017 the Grand Jurors of Orangeburg County present upon their oath:

BURGLARY - FIRST DEGREE

That in Orangeburg County, South Carolina, on or about August 19, 2016, the Defendant, Derrick Lamount Furtick, did willfully and unlawfully enter the dwelling of Danielle Monroe, without consent and with the intent to commit a crime therein and the defendant did enter during the hours of darkness. This offense being a violation of Section 16-11-311 of the South Carolina Code of Laws, as amended.

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



Ashley B. Cornwell, Solicitor

WITNESSES

John C Stokes

Orangeburg County Sheriff

2016-6268

ARREST WARRANT NUMBER

2016A3810700590

Arrested: August 25, 2016

ACTION OF GRAND JURY

Date **MAY 03 2017**

Foreperson of Grand Jury

Date: May 3, 2017

VERDICT

Guilty

Foreperson of Petit Jury

Date: 5/05/2017

DOCKET NO. 2016GS38-1418

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 8, 2017 TERM

THE STATE

VS.

Derrick Lamount Furtick

Indictment for

KIDNAPPING

Warrant for Arrest
CLERK OF COURT
ORANGEBURG, SC

SC Code: 16-3-910

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

Defendant

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

Defendant

Witness:

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

FILED
MAY 9, 2017
CLERK OF COURT
ORANGEBURG, SC
2017 MAY -3 P 12:12

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

INDICTMENT
2016GS38-1418

At a Court of General Sessions, convened on May 3, 2017 the Grand Jurors of
Orangeburg County present upon their oath:

KIDNAPPING

That in Orangeburg County, South Carolina, on or about August 19, 2016, the
Defendant, Derrick Lamount Furtick, unlawfully did seize, confine, inveigle,
decoy, kidnap, abduct or carry away the victim, Danielle Monroe, without
authority of law. This offense in violation of Section 16-03-910, of the South
Carolina Code of Laws, as amended.

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



Ashley B. Cornwell, Solicitor

COUNTY OF
STATE

Orangeburg

VS.

Derrick Lamount Furtick

AKA:

Race: BLACK Sex: M Age: 30

DOB: [REDACTED] SS# [REDACTED]

Address:

City, State, Zip:

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping

INDICTMENT/CASE#: 2016GS38-1418

A/W#: 2016A3810700590

Date of Offense: 8/19/2016

S.C. Code §: 16-3-910

CDR Code #: 0095

RECEIVED

MAY 30 2017

SENTENCE SHEET

SC Court of Appeals

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-3-910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Cornwell, Ashley B.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-133.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$ 500.00
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 18.75

TOTAL

\$ 643.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Presiding Judge

Judge Code:

Sentence Date:

☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code:

Sentence Date:

CLERK OF COURT
ORANGEBURG COUNTY, SC

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,



Taylor D. Gilliam
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 30th day of July, 2018.

RECEIVED
JUL 30 2018
SC Court of Appeals