

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Colleton County

R. Scott Sprouse, Circuit Court Judge

HALDEN LAMONT HOLLMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-000843

APPENDIX

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF COLLETON) CASE NO.: 2012-GS-15-0639

THE STATE OF SOUTH CAROLINA,)
)
)
 v.) TRANSCRIPT OF RECORD
)
 HALDEN LAMONT HOLLMAN,)
)
)
 DEFENDANT.)
)

FEBRUARY 25TH - 26TH, 2013
 COLLETON COUNTY, SOUTH CAROLINA
 BEFORE THE HONORABLE PERRY M. BUCKNER, III, JUDGE.

APPEARANCES:

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1 THE COURT: Solicitor, you may call your case.

2 ASST. SOL. KNIGHT: The State is ready is ready in
3 2012-GS-15-0639, the State v. Halden Hollman. It's an
4 indictment for burglary in the first degree. May I
5 approach, Your Honor?

6 THE COURT: You may. All right. Ladies and gentlemen
7 of the jury panel, give me your attention. Previously, this
8 afternoon, each of you took an oath and I am now going to
9 ask you questions pertaining to your impartiality to serve
10 as a juror in the first case for trial.

11 I hold in my hand what we call an indictment. The
12 indictment is not evidence of any of the allegations
13 contained in the indictment. The indictment is simply the
14 formal written instrument by which the case is brought into
15 this court. This indictment charges the defendant, Halden
16 Hollman, with the offense of burglary in the first degree.

17 To the indictment, the defendant, Mr. Hollman has pled
18 not guilty. That places the burden on the State of South
19 Carolina to prove the elements of the offense beyond a
20 reasonable doubt. It will be your duty if you are selected
21 as jurors to determine whether or not the State has met that
22 burden. Now, I'm going to ask that the attorneys who are
23 going to be trying this case, stand and face the jury panel,
24 introduce themselves and their case manager, if he is going
25 to be seated at the table with you, and in the case of the

1 defendant, I expect you to have your client stand, face my
2 jury panel, introduce your client in the case of the
3 defendant; beginning with counsel for the State of South
4 Carolina.

5 ASST. SOL. KNIGHT: I'm Steve Knight and I'm a
6 Assistant Solicitor. My case officer is Jason Chapman.

7 THE COURT: Mr. Chapman is now with the Colleton County
8 Sheriff's Department; is that correct, Mr. Chapman?

9 MR. CHAPMAN: It is.

10 THE COURT: Very well. Counsel for the defendant?

11 MR. BEACH: May it please the Court?

12 THE COURT: Yes, sir.

13 MR. BEACH: Good afternoon, ladies and gentlemen. My
14 name is Harris Beach and I'm with the public defender's
15 office. This is Halden Lamont Hollman and he is the
16 defendant in this action. This is Ms. Bunny Caldwell. She
17 is going to try to keep us both straight.

18 THE COURT: Where is your client from, Mr. Beach?

19 MR. BEACH: He is from Walterboro.

20 THE COURT: Thank you very much. Please be seated.
21 All right. Ladies and gentlemen of the jury panel, you have
22 now met the defendant, Halden Hollman, H-O-L-L-M-A-N, from
23 Walterboro. I ask is there any member of my jury panel
24 related by blood, connected by marriage, or a close personal
25 friend of the defendant? If so, please stand.

1 THE COURT: Let the record reflect, no one is standing.
2 I am advised, ladies and gentlemen, first of all, that Mr.
3 Knight will be trying the case for the State of South
4 Carolina. He is with the Fourteenth Judicial Circuit
5 Solicitor's Office, and Mr. Beach will be trying the case
6 for the defendant. He is with the Colleton County Public
7 Defender's Office.

8 I ask first of all, ladies and gentlemen, is any member
9 of my jury panel related by blood, connected by marriage, or
10 a close personal friend of Mr. Steven Knight with the
11 Fourteenth Judicial Circuit Solicitor's Office? If so,
12 please stand.

13 (NO RESPONSE.)

14 THE COURT: Let the record reflect, no one is standing.
15 You have also met counsel for the defendant, Mr. Harris
16 Beach. Is any member of my jury panel related by blood,
17 connected by marriage, or a close personal friend of Mr.
18 Harris Beach with the Colleton County Public Defender's
19 Office? If so, please stand.

20 (NO RESPONSE.)

21 THE COURT: Let the record reflect, no one is standing.
22 Now, ladies and gentlemen, has anyone ever been
23 represented in the past or currently represented by counsel
24 for the State, Mr. Steven Knight? If so, please stand.

25 (NO RESPONSE.)

1 THE COURT: Let the record reflect, no one is standing.
2 Any member of my jury panel ever been represented in
3 the past or currently represented by counsel for the
4 defendant, Mr. Harris Beach? If so, please stand.

5 (NO RESPONSE.)

6 THE COURT: Let the record reflect, no one is standing.
7 Now, I told you what was in this indictment is not
8 evidence. If you are selected as a juror in the trial of
9 this case, you must base your decision solely upon evidence
10 introduced in the courtroom when both sides are present with
11 the right of cross-examination. But I will tell you a
12 little bit about the allegations in the indictment, and
13 that's all they are at this point, because the defendant has
14 pled not guilty to the indictment in order to ask you
15 questions to ensure impartiality to serve as a juror in the
16 trial of this case.

17 This indictment alleges that this offense, burglary
18 first degree, the elements of that offense I will explain to
19 you in my charge to you on the law at the conclusion of the
20 case. This indictment alleges that this occurred in
21 Colleton County on or about August 8th, 2012. It is alleged
22 that the defendant, Halden Lamont Hollman, of Walterboro,
23 did enter the dwelling of Billy and Lynn Tanner located at
24 [REDACTED] without consent and with the intent to
25 commit a crime therein. In addition, the entry occurred at

1 night.

2 I ask, ladies and gentlemen, from those allegations if
3 any member of my jury panel has read about, heard about, or
4 knows anything whatsoever about the facts which are alleged
5 in this indictment? If so, please stand.

6 (NO RESPONSE.)

7 THE COURT: Let the record reflect, no one is standing.
8 I am advised that the potential witnesses in the trial of
9 this case will be as follows. If any of the witnesses are
10 present in the courtroom when your name is called, please
11 stand and face my jury panel so they can see your face as
12 well as hear the names called out. Listen carefully, ladies
13 and gentlemen, I will be asking you questions about the
14 potential witnesses after I have called the names out.

15 Brandon Craven, Colleton County Sheriff's Office; Jason
16 Chapman, Colleton County Sheriff's Office; Craig Stivender,
17 Walterboro Police Department; Billy Lyn Tanner, Walterboro,
18 South Carolina; Merrell Moses Black, Walterboro, South
19 Carolina; Halden Lamont Hollman, Walterboro, South
20 Carolina, he's standing with defense counsel. Thank you,
21 please be seated;

22 Courtney Shantel Kirkpatrick, Walterboro, South
23 Carolina, standing to my right, your left, ladies and
24 gentlemen; thank you, please be seated. Jamal Green,
25 Walterboro, South Carolina.

1 Any additional witnesses from the State?

2 ASST. SOL. KNIGHT: None, Your Honor.

3 THE COURT: Any additional witnesses from the
4 defendant?

5 MR. BEACH: None, Your Honor.

6 THE COURT: Is any member of my jury panel related by
7 blood, connected by marriage, or a close personal friend of
8 any of the potential witnesses in the trial of this case
9 whose names I have just called? If so, please stand at this
10 time.

11 (SEVERAL JURORS STAND.)

12 THE COURT: Yes, ma'am. If you will give me your name
13 and juror number, please?

14 JUROR: Victoria Lee, 150.

15 THE COURT: Counsel, this is juror number 150, Victoria
16 Lee. Ms. Lee, give me a yes or no, please ma'am. Are you
17 related by blood to any of the potential witnesses?

18 JUROR: No, sir.

19 THE COURT: Are you connected by marriage to any of the
20 potential witnesses?

21 JUROR: Yes, sir.

22 THE COURT: And which witness are you connected by
23 marriage and how?

24 JUROR: Officer Chapman is married to my cousin.

25 THE COURT: Officer Chapman is married to your cousin.

1 I'm not sure what relation by marriage that makes you; do
2 you Ms. Lee?

3 JUROR: His cousin-in-law.

4 THE COURT: Cousin-in-law. I don't know that i've
5 heard that term before, but I will accept your word for it.
6 The fact that Officer Chapman is a potential witness in the
7 trial of this case, Ms. Lee, and that you have a cousin-in-
8 law relationship to him through marriage, would that in any
9 way affect your ability to give the State of South Carolina
10 and the defendant in this case a fair and an impartial
11 trial?

12 JUROR: No, sir.

13 THE COURT: Thank you, ma'am. You may be seated. Yes,
14 sir. Your name and jury number, please.

15 JUROR: Charles McDonald, Sr., 129.

16 THE COURT: Counsel, this is juror 129, Mr. McDonald.
17 Mr. McDonald, are you related by blood to any of the
18 potential witnesses?

19 JUROR: No, sir.

20 THE COURT: Are you connected by marriage to any of the
21 potential witnesses?

22 JUROR: No, sir.

23 THE COURT: Are you a close personal friend of any of
24 the potential witnesses?

25 JUROR: Yes.

1 THE COURT: Who is that?

2 JUROR: Chapman.

3 THE COURT: Mr. Chapman, you are pretty popular this
4 afternoon. The fact that you are a close personal friend
5 of Mr. Chapman's, would that in any way affect your ability
6 to give the State of South Carolina or the defendant in this
7 case a fair and impartial trial?

8 JUROR: No, sir.

9 THE COURT: Thank you, sir. You may be seated. Yes,
10 ma'am, your name and jury number, please.

11 JUROR: I'm jury number 105.

12 THE COURT: Counsel, this is juror number 105, Sonda
13 Jones. Ms. Jones, are you related by blood to any of the
14 potential witnesses?

15 JUROR: No, sir.

16 THE COURT: Are you connected by marriage to any of the
17 potential witnesses?

18 JUROR: No, sir.

19 THE COURT: Are you a close personal friend to any of
20 the potential witnesses?

21 JUROR: Mr. Chapman.

22 THE COURT: Ms. Jones, the fact that you are a close
23 personal friend with Mr. Chapman, would that in any way
24 affect your ability to give the State of South Carolina
25 or the defendant in this case a fair and an impartial trial?

1 JUROR: No, sir.

2 THE COURT: Thank you, ma'am. You may be seated. Let
3 the record reflect, no one else is standing.

4 Any member of my jury panel formed any opinion about
5 the alleged facts of this case? If so, please stand.

6 (NO RESPONSE.)

7 THE COURT: Let the record reflect, no one is standing.

8 Any member of my jury panel know of any bias or
9 prejudice they may have about the facts which are alleged in
10 this case? If so, please stand.

11 (NO RESPONSE.)

12 THE COURT: Let the record reflect, no one is standing.

13 Any member of my jury panel ever been the victim of a
14 violent crime? If so, please stand.

15 (JURORS STAND.)

16 THE COURT: Name and juror number, please.

17 JUROR: Victoria Lee, 115.

18 THE COURT: Counsel, this is juror number 115, Ms. Lee.
19 Ms. Lee, you were the victim of a violent crime?

20 JUROR: Yes, sir.

21 THE COURT: The fact that you were a victim of a
22 violent crime, would that in any way affect your ability to
23 give the State of South Carolina or the defendant a fair and
24 an impartial trial?

25 JUROR: No, sir.

1 THE COURT: Yes, ma'am. Your name and juror number,
2 please.

3 JUROR: Cathy Lee, juror 114.

4 THE COURT: Counsel, this is juror number 114, Cathy
5 Lee. Ms. Lee, were you the victim of a violent crime?

6 JUROR: I was and my son ---

7 THE COURT: Hold on one second. Please come forward,
8 Ms. Lee. Also counsel for the State and for the defendant
9 approach.

10 Becky, this is juror number 114, Cathy Lee. My
11 question was, and I want to make sure I was clear to you,
12 are you, yourself, a victim of a violent crime? The answer
13 is yes or no, but I wasn't sure because you were saying
14 something about your son, so I wanted to make sure. So
15 let's start with, were you the victim of a violent crime?

16 JUROR: I was by my ex-husband.

17 THE COURT: The fact that you were the victim by your
18 ex-husband, would that in any way affect your ability to
19 give the State or the defendant a fair or an impartial
20 trial?

21 JUROR: It could.

22 THE COURT: You think it might? I will excuse you from
23 service of this case only, Ms. Lee. You may return to your
24 seat. (EVERYONE RETURNS TO SEAT.)

25 Let the record reflect, no one else is standing.

1 Is any member of my jury panel currently employed or
2 formerly employed by any law enforcement agency? If so,
3 please stand at this time.

4 (NO RESPONSE.)

5 THE COURT: Let the record reflect, no one is standing.
6 Any member of my jury panel a contributor to or a member of
7 any group which has as its primary concern the promotion of
8 law enforcement or victim's rights? These groups would
9 include, but certainly not be limited to, MADD, SADD, CAVE
10 or CADRE? If so, please stand at this time.

11 (NO RESPONSE.)

12 THE COURT: Let the record reflect, no one is standing.
13 Any member of my jury panel know of any reason whatsoever
14 why he or she should not serve as a juror in this case with
15 particular emphasis being placed on the ability to be fair
16 and impartial to both the State of South Carolina and the
17 defendant? If so, please stand at this time?

18 (JUROR STANDS.)

19 THE COURT: Please come forward. This is juror number
20 63, Charles Evans. Mr. Evans, what is your problem.

21 JUROR: I don't want to be here. I mean, I don't want
22 to be here. I know I'm not gonna be a good jury. (sic.)

23 THE COURT: You are going to be here, Mr. Edwards,
24 because you are going to get treated just like everybody
25 else. Whether or not you would be a good juror, just

1 depends on whether you have the ability to listen. There
2 are a lot of people out there that don't want to be here.

3 JUROR: But if I don't want to be here, I'm not gonna
4 concentrate on listening to them.

5 THE COURT: I tell you what, Mr. Evans, you stay here
6 as long as I'm on the bench, just like everybody else, and I
7 won't make you sit on the jury. You will just sit in the
8 courtroom, but you will not leave until I leave. Take a
9 seat.

10 Any additional voir dire from the State?

11 ASST. SOL. KNIGHT: No, sir.

12 THE COURT: From the defendant?

13 MR. BEACH: None, Your Honor.

14 THE COURT: All right. Let the record reflect that no
15 one else came forward in response to my last question, other
16 than juror 63. My understanding from meeting with the
17 attorneys during the break is that the strikes are 10 and
18 five and they both agree to waive an alternate juror. Is
19 that correct from the State?

20 ASST. SOL. KNIGHT: Yes, sir.

21 THE COURT: Correct from the defendant?

22 MR. BEACH: It is, Your Honor.

23 THE COURT: All right. In that case, then, I think we
24 are ready. Is the State ready to proceed?

25 ASST. SOL. KNIGHT: Yes, sir.

1 THE COURT: Is the defendant ready to proceed?

2 MR. BEACH: We are, Your Honor.

3 THE COURT: Madame Clerk, would you give us a jury
4 please? The computer is drawing that list right now. We're
5 not going to start this trial until in the morning, so I'm
6 going to get you home in a timely fashion, but I have to
7 take a moment in order for the computer to draw the list.

8 Madame Clerk, are you ready?

9 MADAME CLERK: Yes, I am.

10 THE COURT: All right. Give us the jury, please

11 MADAME CLERK: When I call your name, please come up
12 front and bring all of your belongings with you.

13 Number 48, Irene Copeland. What says the State?

14 ASST. SOL. KNIGHT: Present the juror.

15 MADAME CLERK: Was says the defendant?

16 MR. BEACH: Please swear the juror.

17 MADAME CLERK: Please have a seat in the jury box.

18 Number 10, Douglas Bartell. What says the State?

19 ASST. SOL. KNIGHT: Present the juror.

20 MADAME CLERK: What says the defendant?

21 MR. BEACH: Please swear the juror.

22 MADAME CLERK: Please have a seat in the jury box. One
23 twenty-nine, Charles W. McDonald. What says the State?

24 ASST. SOL. KNIGHT: Present the juror.

25 MADAME CLERK: What say ye for the defendant?

1 MR. BEACH: Please excuse the juror.

2 MADAME CLERK: Please have a seat back with the panel.

3 One seventy-three, Edward Thomas, Jr. What says the State?

4 MADAME CLERK: What says the defense?

5 MR. BEACH: Swear the juror.

6 MADAME CLERK: Please have a seat in the jury box. One
7 ninety-five, Donald J. Williams. What says the State?

8 ASST. SOL. KNIGHT: Present the juror.

9 MADAME CLERK: What says the defense?

10 MR. BEACH: Swear the juror.

11 MADAME CLERK: Please have a seat in the jury box.

12 Number 52, Melody L. Craven. What says the State?

13 ASST. SOL. KNIGHT: Present the juror.

14 MADAME CLERK: What says the defense?

15 MR. BEACH: Excuse the juror.

16 MADAME CLERK: Please have a seat back with the panel.

17 Number eight, Julia Barco. What says the State?

18 ASST. SOL. KNIGHT: Present the juror.

19 MADAME CLERK: What says the defense?

20 MR. BEACH: Swear the juror.

21 MADAME CLERK: Please have a seat in the jury box. 138,
22 Rhonda Martin. What says the State?

23 ASST. SOL. KNIGHT: Present the juror.

24 MADAME CLERK: What says the defense?

25 MR. BEACH: Swear the juror.

1 MADAME CLERK: Please have a seat in the jury box.

2 Number Four, Phillip G. Arrington. What says the State?

3 ASST. SOL. KNIGHT: Present the juror.

4 MADAME CLERK: What says the defense?

5 MR. BEACH: Swear the juror.

6 MADAME CLERK: Please have a seat in the jury box.

7 Number 43, Walter Cochran. What says the State?

8 ASST. SOL. KNIGHT: Present the juror.

9 MADAME CLERK: What says the defense?

10 MR. BEACH: Swear the juror.

11 MADAME CLERK: Have a seat in the jury box. Number

12 163, Pamela G. Roberts. What says the State?

13 ASST. SOL. KNIGHT: Present the juror.

14 MADAME CLERK: What says the defense?

15 MR. BEACH: Swear the juror.

16 MADAME CLERK: Please have a seat in the jury box.

17 Number 126, Deloris W. Martin. What says the State?

18 ASST. SOL. KNIGHT: Present the juror.

19 MADAME CLERK: What says the defense?

20 MR. BEACH: Swear the juror.

21 MADAME CLERK: Please have a seat in the jury box.

22 Number 77, Dominique T. Gadsden. What says the State?

23 ASST. SOL. KNIGHT: Excuse this juror.

24 MADAME CLERK: Please have a seat back with the panel.

25 Number 87, Brandon E. Grimsley. What says the State?

1 ASST. SOL. KNIGHT: Present the juror.
2 MADAME CLERK: What says the defense?
3 MR. BEACH: Swear the juror.
4 MADAME CLERK: Please have a seat in the jury box.
5 Number 177, Yvonne B. Smoak. What says the State?
6 ASST. SOL. KNIGHT: Present the juror.
7 MADAME CLERK: What says the defense?
8 MR. BEACH: Excuse the juror.
9 MADAME CLERK: Please have a seat back with the panel.
10 Number 105, Sonda S. Jones. What says the State?
11 ASST. SOL. KNIGHT: Present the juror.
12 MADAME CLERK: What says the defense?
13 MR. BEACH: Excuse the juror.
14 MADAME CLERK: Excuse? Okay, have a seat back with the
15 panel. Number 28, Jessica L. Brown. What says the State?
16 ASST. SOL. KNIGHT: Present the juror.
17 MADAME CLERK: What says the defense?
18 MR. BEACH: Excuse the juror.
19 MADAME CLERK: Please have a seat back with the panel.
20 Number 26, Vencia A. Bolton. What says the State?
21 ASST. SOL. KNIGHT: Excuse Ms. Bolton.
22 MADAME CLERK: Please have a seat back with the panel.
23 Number 165, Cassandra E. Prater. What says the State?
24 ASST. SOL. KNIGHT: Present the juror.
25 MADAME CLERK: What says the defense?

1 MR. BEACH: Swear the juror.

2 MADAME CLERK: Have a seat in the jury box.

3 THE COURT: Are there any matters of law pertaining to
4 the selection of the jury that need to be decided before the
5 jury is sworn, by the State of South Carolina?

6 ASST. SOL. KNIGHT: No, sir.

7 THE COURT: From the defendant?

8 MR. BEACH: No, Your Honor.

9 THE COURT: You both understand that decision is now
10 irrevocable regardless of the timing of the swearing of the
11 jury. Does the State so understand?

12 ASST. SOL. KNIGHT: Yes, sir.

13 THE COURT: Does the defendant so understand?

14 MR. BEACH: I do, Your Honor.

15 THE COURT: All right. Ladies and gentlemen of the
16 jury, as I told you, we're not going to begin the trial
17 until in the morning, but I need for you to do a couple of
18 things for me. First thing I want you to do is they are
19 going to take you, Mr. Grant is going to take you to your
20 jury room. The reason I want you to go there is that is
21 where I want you to report in the morning. I want you to
22 know where to go. He's also going to give you instructions
23 about how to get in and out of the courthouse.

24 Now, do not discuss this case. You have not heard any
25 evidence in this case and it would be improper for you to

1 talk about it yet. I'm going to bring you back into the
2 courtroom. Talk about the weather, talk about anything you
3 want to talk about, but don't talk about this case, and I'm
4 going to bring you back and then I'm going to excuse you.
5 So while you're in the jury room, you'll have a chance to
6 know where you're going to be in the morning.

7 We're going to start at 9:30 in the morning. I want
8 you to get here early. I realize the weather is bad outside
9 and I'm going to get you home this afternoon. I want you to
10 be here prior to 9:30 so when you come, I want you to report
11 to your jury room where you're going now. Just don't discuss
12 the case. Talk about the weather; complain about it, like
13 I'm doing. Talk about anything; just don't talk about this
14 case and I'll be back with you in just a couple of moments.
15 You may retire to your jury room at this time. Follow Mr.
16 Grant.

17 (WHEREUPON THE JURY EXITS THE COURTROOM AND THE
18 FOLLOWING IS HELD ON THE RECORD.)

19 THE COURT: All right. Ladies and gentlemen, those of
20 you who were not selected as jurors in the trial of this
21 case, I see that big smile on your face out there. Now
22 here's what I need to know: each of you should have in your
23 possession one of these cards. If you don't have it, raise
24 your hand. It has a telephone number on it. They will
25 bring one to you. The number is 549-1775. It is the juror

1 information card. I want you to call that number after 6:00
2 tonight. One number for all jurors.

3 I will have a taped message on that number telling you
4 when I might need you to return. If I do ask you to return,
5 I want you to report to the area of the courtroom that you
6 are seated in now. If the number is busy, just wait and
7 call back, somebody is calling in. You'll get through.
8 It's one message for all jurors. It might tell you to call
9 back. It might tell you thank you for your service, you are
10 done. It might tell you to report to the courtroom at a
11 certain time and that will be the area that you are seated
12 in now.

13 Do not call the number before 6:00, we're going to be
14 working here at least until then. So wait until after 6:00
15 to call the number. On behalf of Colleton County, I want to
16 thank you for your patience during the roll call and during
17 jury qualifications and jury selection, you are now excused
18 for the balance of today. You may leave the courtroom at
19 this time.

20 (WHEREUPON, THE REMAINING JURY PANEL EXITS THE
21 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

22 THE COURT: All right, counsel, I understand that we're
23 going to take up, after I excuse the jury for the evening,
24 we're going to do a Jackson v. Denno hearing, which you've
25 made me aware of during our pre-trial conference; is that

1 correct from the State?

2 ASST. SOL. KNIGHT: Yes, sir.

3 THE COURT: Is that correct from the defendant?

4 MR. BEACH: Yes, sir.

5 THE COURT: Very well. Bring us the jury, please.

6 (WHEREUPON THE JURY ENTERS THE COURTROOM AND THE
7 FOLLOWING IS HELD ON THE RECORD.)

8 THE COURT: All right. Ladies and gentlemen of the
9 jury, thank you for your patience. I told you I would get
10 you home early, and I am. Let me give you a little bit of
11 instructions before you leave. In the morning, I want you
12 to report to your jury room. I ask you to be here prior to
13 9:30 with the hope that I can start at 9:30. Now, I'm going
14 to tell y'all, because it happens every time I tell the jury
15 that we're going to start at a certain time, something comes
16 up that I don't know about right now, because it happens
17 every day in my life. There is always an emergency every
18 day in one of my counties. I'm Chief Administrative Judge
19 of several counties and there is always something that
20 arises that doesn't involve this case, and so I might not be
21 able to start, but if you're not here, I can't start. So I
22 need for you to get to your jury room prior to 9:30.
23 Believe me, they will take good care of you. They will take
24 a lunch order from you tomorrow, because Patricia is going
25 to see to it that you fill out a menu when you get here.

1 Now, ladies and gentlemen, I don't know whether there
2 will be anything on radio, on television, or in the
3 newspaper about this case, but I'm instructing you right now
4 that I don't want you to read such, watch such, I don't want
5 you to listen to such. You must decide this case solely
6 upon evidence introduced in this courtroom when both sides
7 are present with the right of cross-examination. They have
8 a right to know exactly what you're deciding this case on.
9 Now, I know everybody thinks they can't live now without a
10 cell phone. Everybody has a smart phone, a computer, a
11 laptop, an Ipad; I'm going to ask you, please do not do any
12 type of -- even if you think it would help you during the
13 trial or at night, it would help you on some issue that you
14 think is an issue in the trial of this case, it's improper
15 for you to do any research on your own through any type of
16 cell phone, smart phone, or computer, or any other
17 electronic device. You must decide this case solely upon
18 evidence introduced in this courtroom, even if you think it
19 would help you.

20 Now, I anticipate because of the weather that it will
21 be a little wet in the morning, so I want you to give
22 yourself enough time so you can get here on time and I'm
23 going to try to be mindful of that. We normally work like
24 this: we will start at 9:30, I'll give you a mid-morning
25 break. We're going to stop around, and it's a flexible

1 time, 1:00 for lunch. You will have lunch served for you in
2 your jury room. We will then come back after lunch and you
3 will have a mid-afternoon break and we will work until 5:00
4 or 5:30 in the afternoon. I want to complete as much as we
5 possibly can. We may not finish the trial tomorrow; it may
6 be first thing on Wednesday before we finish, or some
7 portion of Wednesday.

8 I have no idea what evidence will be presented; you
9 don't either. That's why I asked you those questions. I
10 haven't heard the evidence in this case and you haven't
11 either. It's important that each of you keep an open mind
12 and not decide the case until the entire matter has been
13 submitted to you with my instructions at the conclusion.

14 Now, does anybody need transportation? Everybody okay
15 there? Because I'll provide it. I want to get everybody
16 home safely. Everybody all right?

17 (NO RESPONSE.)

18 THE COURT: I'm going to ask you to be back in your
19 jury room prior to 9:30 in the morning. I hope everybody
20 has a pleasant evening. Please do not discuss the case with
21 anyone, not even a member of your own family. It would be
22 improper for you to do it. You haven't heard any evidence
23 in this case. If someone tries to persist in talking to you
24 about the case, you get their name and you give it to me,
25 and I'll handle that problem for you, ladies and gentlemen.

1 That person will not bother you again. I promise you. I
2 hope everybody has a pleasant evening and I look forward to
3 seeing you first thing in the morning. You're now excused
4 for the balance of today.

5 (WHEREUPON THE JURY EXITS THE COURTROOM AND THE
6 FOLLOWING IS HELD ON THE RECORD.)

7 THE COURT: All right. Let the record reflect that
8 other than Mr. Evans who is staying with me, who is a
9 potential juror this week, as he did not want to serve on
10 the jury, there are no other jurors in the courtroom at this
11 time. I understand from Mr. Beach that there is a matter
12 that he wishes to take up concerning a statement that was
13 given; is that right, Mr. Beach?

14 MR. BEACH: That's correct, Your Honor.

15 THE COURT: All right. Solicitor, at this time, we
16 will follow the Jackson v, Denno procedure and you may call
17 your first witness.

18 ASST. SOL. KNIGHT: Thank you, Your Honor. We would
19 call Lt. Jason Chapman.

20 THE COURT: Please come around and be sworn, Mr.
21 Chapman.

22 (WHEREUPON, Lt. Jason Chapman is duly sworn.)

23 THE COURT: Pull that microphone over, Jason. Adjust
24 that chair. State your full name and spell your last name
25 for the court reporter.

Jackson v. Denno Hearing
Direct Examination of Lt. Jason Chapman by Asst. Sol. Knight

1 JUROR: Sure. My name is Jason Walter Chapman. Last
2 name is C-H-A-P-M-A-N.

3 THE COURT: Your witness, counsel. Direct examination.

4 ASST. SOL. KNIGHT: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY ASST. SOL. KNIGHT:

7 Q Mr. Chapman, you are now employed with the Sheriff's
8 Department; is that correct?

9 A That's correct.

10 Q On or about September the 4th of 2012, who were you
11 working for?

12 A Walterboro Public Safety.

13 Q And in what capacity, sir?

14 A Narcotics investigator.

15 Q Did you have an occasion to interview the defendant,
16 Halden Hollman?

17 A Yes, I did.

18 Q Where did this occur?

19 A At City Hall.

20 Q Here in this city of Walterboro?

21 A That's correct.

22 Q Okay. Did you advise the defendant of his
23 constitutional rights?

24 A Yes, I did.

25 Q Did you use anything to assist you in advising him of

Jackson v. Denno
Direct Examination of Lt. Jason Chapman by Asst. Sol. Knight

1 his constitutional rights?

2 A I used the Miranda form.

3 ASST. SOL. KNIGHT: May I approach, Your Honor?

4 THE COURT: You may.

5 Q Can you identify that, sir?

6 A Yes, sir. It's a copy of the Walterboro Police
7 Department Miranda form and the copy of the one that I
8 filled out that day.

9 ASST. SOL. KNIGHT: Your Honor, I would like to make
10 this a Court's Exhibit for the purposes of this hearing.

11 THE COURT: Show it to Mr. Beach.

12 MR. BEACH: No objection, Your Honor.

13 THE COURT: Very well. Court's Exhibit Number One,
14 Becky, without objection.

15 Q Would you demonstrate to the Court the manner in which
16 you advised the defendant of his constitutional rights using
17 that form, Court's Exhibit Number One?

18 A Absolutely. I advised the defendant that I was going
19 to advise him of his Miranda warning. I read the first
20 paragraph that states, "My name is Jason Chapman. I'm an
21 officer of the Walterboro Police Department. I'm going to
22 explain your Miranda Rights as listed below. Please
23 indicate that you understand these rights by placing your
24 initials in the space provided." I will read number one:
25 "You have the right to remain silent." At that point in

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1 time, I ask the defendant if they understand and he or she
2 indicated yes. In this case, Mr. Holman indicated that he
3 understood and he put his initials. "Number two, anything
4 you say can and will be used against you in a court of law."
5 He understood and initialed. "Number three, you have the
6 right to talk to a lawyer and have one present with you
7 while you're being questioned." He said he understood and
8 initialed. "Number four, if you cannot afford to hire a
9 lawyer, one will be appointed to represent you before any
10 questioning if you wish." Again, he understood and
11 initialed. "Number five, you can decide at any time to
12 exercise these rights and not answer any questions or make
13 any statements. He indicated he understood and initialed.

14 At that point in time, I explained that we were going
15 to read the waiver of rights. "Having understood these
16 rights and having these rights in mind, do you wish to make
17 a statement now? If so, please indicate that you wish to
18 talk to us by your signature below." Mr. Holman then signed
19 the line below indicating that he wanted to talk. Then
20 after that, it's time stamped by myself and by the witness.
21 In this case, Officer Craig Stivender.

22 Q That's what I was just getting ready to ask you, was
23 anyone with you? Craig Stivender?

24 A Yes, sir.

25 Q Would you describe the physical appearance of the

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1 defendant?

2 A Black male, average height, average weight.

3 Q In your experience as a law enforcement officer, have
4 you ever dealt with people under the influence of
5 intoxicants or narcotic drugs?

6 A Absolutely.

7 Q In your opinion, based upon your experience, was the
8 defendant under any intoxicants or drugs?

9 A No, sir.

10 Q Okay. Did the defendant respond to your questions when
11 you read the Miranda to him?

12 A When I explained his Miranda rights?

13 Q Yes.

14 A He stated that he understood and then initialed.

15 Q Did it appear that his speech was coherent?

16 A Yes.

17 Q Did the defendant respond when you asked him the
18 question whether he wanted an attorney?

19 A He did not indicate that he wanted an attorney.

20 Q He said he did not want an attorney?

21 A That's correct.

22 Q Okay. Did the defendant invoke his right to remain
23 silent?

24 A No, he did not.

25 Q Did the defendant agree to answer your questions at

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Direct Examination of Lt. Jason Chapman by Asst. Sol. Knight

1 that time without an attorney?

2 A Yes, he did.

3 Q Did you promise the defendant anything in return for
4 making a statement?

5 A No, I did not.

6 Q Did you coerce the defendant into making a statement?

7 A No, sir.

8 Q Did you imply or infer to him that if he made a
9 statement, good things would happen to him?

10 A No, sir.

11 Q To the best of your knowledge, was the defendant's
12 statement freely and voluntarily given?

13 A Yes, sir.

14 Q Did the defendant make a statement in response to your
15 questions?

16 A Yes, he did.

17 Q At any time, did he refuse to answer your questions?

18 A No, sir.

19 ASST. SOL. KNIGHT: That's all I have. Thank you,
20 Officer.

21 THE COURT: Cross-examination.

22 MR. BEACH: May it please the Court?

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. BEACH:

Jackson v. Denno
Cross-Examination of Lt. Jason Chapman by Mr. Beach

1 Q Lt. Chapman, in the time that you interviewed the
2 defendant, was he under arrest?

3 A Yes.

4 Q He had already been charged; is that correct?

5 A That's correct.

6 Q And his girlfriend, Courtney, was she also under
7 arrest?

8 A She was.

9 Q And she had also been charged?

10 A She had.

11 Q Did he know that she had been charged?

12 A I don't recall, but I'm sure that he did. They were
13 both at the same location the first afternoon they were
14 arrested.

15 MR. BEACH: I have no other questions, Your Honor.
16 Thank you, Lieutenant.

17 THE COURT: Redirect?

18 ASST. SOL. KNIGHT: No, sir. Nothing else.

19 THE COURT: You may step down.

20 ASST. SOL. KNIGHT: As to this issue, Your Honor,
21 that's all I have.

22 THE COURT: Counsel approach.

23 (Whereupon, a bench conference is held off the record.)

24 THE COURT: Lt. Chapman, please come back to the
25 witness stand. You're still under oath.

1 REDIRECT EXAMINATION

2 BY ASST. SOL. KNIGHT:

3 Q Mr. Chapman, did he make a statement to you?

4 A Yes, he did.

5 Q What, if anything, did he say on September the 4th of
6 2012?

7 A The defendant admitted his participation in a burglary
8 at [REDACTED]

9 Q Is that in the city of Walterboro?

10 A Yes, it is.

11 Q And would you describe where Woodlawn is as opposed to
12 where the defendant resides?

13 A At the time, the defendant was residing inside the
14 Walterboro Village Apartment complex. It's located at

15 [REDACTED] in the city. If you were to exit the
16 complex, it only has one entrance. Exit out of that
17 complex. If you made an immediate left onto Greenpond
18 Highway, you would go approximately 100 feet and turn right
19 onto Woodland. Go down, and the victim's residence would be
20 the first left, or the first residence on the left.

21 Q And that's what the defendant told you he did?

22 | A That's correct.

23 Q And he went in there at nighttime?

24 A That's correct.

25 Q And he removed certain articles?

Jackson v. Denno
Redirect Examination of Lt. Jason Chapman by Asst. Sol. Knight

1 A Yes, sir, he did.

2 Q Do you recall what articles he told you he removed? I
3 realize it's been a long time.

4 A I believe it was a television, an Apple computer, and
5 an I-phone. There may have been something else, but those
6 are the ones I remember.

7 ASST. SOL. KNIGHT: Okay. Thank you, Your Honor.

8 THE COURT: Cross-examination?

9 MR. BEACH: No recross at this point, Your Honor.

10 THE COURT: Very well. Hold on a minute. Are you
11 going to need this witness for anything else involving a
12 Jackson Denno hearing?

13 ASST. SOL. KNIGHT: No, sir.

14 THE COURT: All right. You may go back to your seat.

15 (Whereupon, the witness leaves the stand.)

16 THE COURT: Anything further from the State?

17 ASST. SOL. KNIGHT: No, sir.

18 THE COURT: Mr. Beach, would you like to put up any
19 evidence for purposes of this hearing?

20 MR. BEACH: We would call the defendant, Your Honor.

21 THE COURT: Very well. Please come around and be sworn.

22 (Whereupon, Mr. Halden Holman is duly sworn.)

23 THE COURT: Have a seat. Make yourself comfortable.

24 Pull that chair up. Adjust the microphone. State your full
25 name and spell your last name for the court reporter.

Jackson v. Denno
Direct Examination of Halden L. Hollman by Mr. Beach

1 MR. HOLMAN: Halden Hollman, H-O-L-L-M-A-N.

2 THE COURT: All right. Your witness, counsel. Direct
3 examination, Mr. Beach.

4 MR. BEACH: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. BEACH:

7 Q Mr. Holman, you heard Mr. Chapman's testimony?

8 A Yes, sir.

9 Q Do you remember talking with him at the Walterboro
10 Police Department?

11 A Yes, sir.

12 Q Do you remember making the statements that he said you
13 made?

14 A Yes, sir.

15 Q And were those statements true?

16 A No, sir.

17 Q Why did you make them?

18 A Because my old lady was still locked up and I ain't
19 want to tell on nobody.

20 Q You say she was arrested at the time?

21 A Yes. I think -- I guess it was to threaten her about
22 taking her kids.

23 Q Okay. And after you made this statement, did they
24 release her?

25 A Oh, yes, sir.

Jackson v. Denno
Direct Examination of Halden L. Hollman by Mr. Beach

1 Q Now, this old lady you're talking about, this is
2 Courtney?

3 A Oh, yes, sir.

4 Q And what relationship is she to you?

5 A She my baby mother.

6 Q How many babies do you have?

7 A Four.

8 Q And is she taking care of those children?

9 A Yes, sir.

10 Q Were you working at the time?

11 A Oh, yes, sir.

12 Q Were the statements true that you told Mr. Chapman?

13 A No, sir.

14 MR. BEACH: No other questions, Your Honor.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION

17 BY ASST. SOL. KNIGHT:

18 Q Mr. Holman, you said that they were false statements
19 that you gave Mr. Chapman?

20 A Yes, sir.

21 Q Now, do you know for a fact, and you refer to her as
22 your baby moma, was she in jail at the time you were being
23 questioned?

24 A Yes, sir.

25 Q You know she was for a fact?

- 1 A Yes, sir. I guess so.
- 2 Q No. Think clearly; you have time.
- 3 A You said did I know she was still in jail?
- 4 Q Yes.
- 5 A Oh, yes, sir.
- 6 Q And you knew for a fact that she was in jail?
- 7 A Yes, sir.
- 8 Q And Mr. Chapman threatened you with taking her children
- 9 if you didn't give a statement?
- 10 A Oh, no. He threatened my old lady.
- 11 Q He threatened your old lady?
- 12 A Yes, sir.
- 13 Q When did he threaten your old lady, if you were by
- 14 yourself with Mr. Chapman?
- 15 A No, I'm talking about when, I guess, she came back to
- 16 the jailhouse. I heard it across the wall. She told me.
- 17 Q Oh. The male and female population stays together in
- 18 jail?
- 19 A No, max in the female part, like, when you take a
- 20 record, they talk over the wall.
- 21 Q And you talked over the wall with your old lady, or
- 22 baby moma?
- 23 A Oh, yes, sir.
- 24 Q And when did you talk to her?
- 25 A That was like, what, I'd say like that Monday.

Jackson v. Denno
Cross-Examination of Halden L. Hollman by Asst. Sol. Knight

1 Q Monday?

2 A If it wasn't Monday, then it was that Friday; one or
3 the two.

4 Q You're not sure?

5 A No, sir.

6 Q Did you talk to your old lady, a/k/a baby moma,
7 concerning the threats that were made to her?

8 A Oh, yes, sir. I told her I was gonna get her out.

9 Q And she said threats were made to her?

10 A Yes, sir.

11 Q By Mr. Chapman?

12 A Yes, sir.

13 Q And threats were made to you that if you didn't give a
14 statement, that Mr. Chapman would have your children taken;
15 is that correct?

16 A Well, you're saying did he say that to me?

17 Q Yeah.

18 A Oh, no, he didn't say that to me.

19 Q He never said that to you?

20 A Oh, no, no, sir.

21 ASST. SOL. KNIGHT: That's all I have, Your Honor.

22 THE COURT: Redirect?

23 REDIRECT EXAMINATION

24 BY MR. BEACH:

25 Q Mr. Holman, when you made these statements to then

Jackson v. Denno
Redirect Examination of Halden L. Hollman by Mr. Beach

1 Sgt. Chapman, did you believe that your girlfriend was being
2 threatened?

3 A Yes, sir.

4 MR. BEACH: No other questions, Your Honor.

5 THE COURT: Recross, limited to redirect?

6 ASST. SOL. KNIGHT: No more questions.

7 THE COURT: You may step down. Call your next witness,
8 Mr. Beach.

9 MR. BEACH: We have no other witnesses, Your Honor, at
10 this point.

11 THE COURT: Very well. Mr. Beach, is it my
12 understanding, I understand that, obviously, you want the
13 Court to be aware that there is a factual difference here,
14 but we're in a Jackson Denno hearing for purposes of
15 voluntariness and intelligence by a preponderance of the
16 evidence, not beyond a reasonable doubt. So I need to know
17 whether or not you are objecting to the admissibility of the
18 testimony of Mr. Chapman in light of the testimony you have
19 presented.

20 MR. BEACH: I believe it is an issue of fact, Your
21 Honor.

22 THE COURT: I understand that you believe it's an issue
23 of fact, and my question is are you objecting to the
24 introduction by the State of that testimony?

25 MR. BEACH: Yes, sir.

Jackson v. Denno Hearing
Reply Testimony
Direct Examination of Lt. Jason Chapman by Asst. Sol. Knight

1 THE COURT: Very well. Any reply testimony by the
2 State?

3 ASST. SOL. KNIGHT: Yes, sir. I would like to call Lt.
4 Chapman again.

5 THE COURT: Very well. Mr. Chapman, you're still under
6 oath. Please come back to the witness stand.

7 REPLY TESTIMONY

8 DIRECT EXAMINATION

9 BY ASST. SOL. KNIGHT:

10 Q Lt. Chapman, did you interview Courtney Kirkpatrick? I
11 think is her name.

12 A Yes, I did.

13 Q Did you threaten her that you would take her children
14 if she didn't give a statement?

15 A No, sir.

16 Q Did you threaten her if the defendant, Mr. Holman, if
17 he didn't give a statement that you would take her children?

18 A No, sir.

19 Q Okay. Were both defendants, Ms. Kirkpatrick and Mr.
20 Holman, in jail at the same time?

21 A They were arrested at the same time. Ms. Kirkpatrick
22 was interviewed before Mr. Holman. I do not recall if she
23 made bail before he did. It seems to me like she was out
24 before I interviewed Mr. Holman, but I don't know that for
25 sure.

Jackson v. Denno Hearing
Reply Testimony
Cross-Examination of Lt. Jason Chapman by Mr. Beach

1 Q Okay. In talking with Mr. Holman on September the 4th
2 of 2012, do you recall whether or not you told Mr. Holman
3 that you had interviewed Courtney Kirkpatrick?

4 A I don't recall.

5 Q Okay.

6 ASST. SOL. KNIGHT: That's all I have.

7 THE COURT: Cross-examination?

8 MR. BEACH: Thank you, Your Honor

9 CROSS-EXAMINATION

10 BY MR. BEACH:

11 Q Lt. Chapman, any time during the interrogation, did you
12 tell Mr. Holman that Ms. Kirkpatrick was no longer in jail?

13 A Again, I'm not even sure that I brought up Ms.
14 Kirkpatrick's statement at all. So no, I can't answer that.

15 Q Do you know of any reason why he would know that she
16 was no longer in jail?

17 A No.

18 MR. BEACH: No other questions, Your Honor. Thank you,
19 sir.

20 THE COURT: Redirect?

21 ASST. SOL. KNIGHT: No, sir. That's all.

22 THE COURT: You may step down. Anything else in reply
23 from the State?

24 ASST. SOL. KNIGHT: No, sir.

25 THE COURT: All right. I have carefully considered the

1 evidence which has been offered by the State and the
2 defendant. This Court is convinced by a preponderance of
3 the evidence and I so find that before any statement was
4 obtained from the defendant, the defendant was advised of
5 his rights under the 5th and 6th Amendment of the
6 Constitution of the United States, and the defendant was
7 advised of his constitutional safeguards under Miranda v.
8 Arizona.

9 I also believe that the defendant knowingly and
10 intelligently waived his rights under the 5th and the 6th
11 Amendments of the Constitution of the United States and the
12 constitutional safeguards that are required by Miranda v.
13 Arizona.

14 I believe that the statement obtained by the defendant
15 was freely and voluntarily given without duress, without
16 coercion, without undue influence, without reward, without
17 promise or hope of reward, without promise or hope of
18 leniency, without threat of injury, without compulsion, or
19 inducing or any kind and that such statement was a voluntary
20 product of the free and unconstrained will of the defendant.

21 I make all of those findings by a preponderance of the
22 evidence and I therefore find that the statement is
23 admissible into evidence during the trial of this case. Mr.
24 Beach, of course, you will have the opportunity to present
25 what you consider to be issues of fact that goes to the

1 weight of the evidence and not its admissibility.

2 I understand clearly there is a dispute about what your
3 client may have believed or thought, and that's a matter for
4 the jury to determine and not the Court during a Jackson
5 Denno hearing. Are there any other pre-trial matters that I
6 need to take up on behalf of the State at this time?

7 ASST. SOL. KNIGHT: No, sir.

8 THE COURT: On behalf of the defendant at this time?

9 MR. BEACH: I don't believe there are, Your Honor.

10 THE COURT: All right. Mr. Evans, I'm getting ready to
11 adjourn at 5:30, but I will see you at 9:30 in the morning,
12 because I'm starting at 9:30, and my officers can come bring
13 you; do you need transportation?

14 MR. EVANS: No, I can get here.

15 THE COURT: Then I expect you to be here on time at
16 9:30 in the morning or I will be sending someone for you.
17 Court is in recess until 9:30 a.m. tomorrow morning.

18 (5:30 p.m., February 25, 2013, Whereupon, Court is
19 adjourned for the evening in the trial of this case.)

20 (9:30 a.m., February 26, 2013, Whereupon, Court is
21 resumed in the trial of this case and the following is held
22 on the record.)

23 THE COURT: Good morning, everyone. Welcome to General
24 Sessions Court. I've got a jury in the jury room. Is the
25 State ready to proceed?

1 ASST. SOL. KNIGHT: Yes, sir.

2 THE COURT: Is the defendant ready to proceed?

3 MR. BEACH: We are, Your Honor, but we do have a matter
4 to take up with the Court.

5 THE COURT: Counsel approach.

6 (Whereupon, a bench conference is held off the record.)

7 THE COURT: Let the record reflect that Mr. Beach told
8 me that he had a matter of law on behalf of the defendant
9 that he wished to address with the Court; I asked counsel to
10 approach the bench.

11 Mr. Beach informed that approximately one hour ago, he
12 learned of the existence of a witness that he thought that
13 he would like to call in the defendant's case in the trial
14 of this case. That witness is in the courtroom according to
15 Mr. Beach, and the witness's name is Nicholas Hodges of
16 Walterboro.

17 The State objects to this for several reasons. Number
18 one, the State objects because yesterday, I called out to
19 the venire a combined witness list and asked Mr. Beach is
20 there were any other witnesses from the defendant, just as I
21 asked if there were any other witnesses from the State. Mr.
22 Beach told me yesterday there were no other witnesses and
23 until this morning and until I was informed five minutes
24 ago, with the jury in the jury room, and Mr. Beach said he
25 was not aware of this, as an officer of the Court, until

1 approximately an hour ago. He went to Mr. Knight and made
2 Mr. Knight aware. I told Mr. Beach I would consider it and
3 no one is to mention this witness's testimony. I will look
4 at the materiality of the testimony and a proffer, which we
5 will do later on in the trial of this case. I will also
6 look at whether or not this witness could have been
7 discovered by the defendant rather than asked to be put up
8 at the very last minute after the jury had been empanelled.
9 The State also feels they are prejudiced if the witness
10 testifies because the State has not had time to investigate
11 any potential bias or prejudice the witness might have in
12 order to adequately prepare cross-examination if I were to
13 allow the testimony of the witness.

14 I understand this and this is the reason for the
15 proffer and the reason that I'm going to take a look at it.
16 I will ask the jury, first of all, if anybody on this jury
17 is related by blood, connected by marriage, or a close,
18 personal friend of this potential witness, who is Nicholas
19 Hodges of Waltherboro. We will then proceed with the trial
20 of the case.

21 At some point during the trial of the defendant's case,
22 I will take a proffer of his testimony outside the presence
23 of the jury in order to make a ruling as a matter of law as
24 to whether or not the witness can or cannot be allowed to
25 testify in view of the manner in which this was brought to

1 the attention of the Court.

2 Have I accurately stated what occurred at the bench as
3 far as the State is concerned?

4 ASST. SOL. KNIGHT: You have, Your Honor.

5 THE COURT: Thank you very much.

6 THE COURT: Bring me the jury.

7 (WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE
8 FOLLOWING IS HELD ON THE RECORD.)

9 THE COURT: All right. Ladies and gentlemen, a matter
10 of law arose this morning. I told you things like that
11 could happen. Let me ask you this, and I remind you that
12 you're under oath from the Clerk of Court. I failed to ask
13 you a question yesterday when I was trying to determine your
14 impartiality to serve as a juror in the trial of this case.
15 I called out a list of witnesses and one of the witnesses I
16 failed to potentially tell you about was a potential witness
17 by the name of Nicholas Hodges, H-O-D-G-E-S, of Walterboro.
18 Any member of my juror panel related by blood, connected by
19 marriage, or a close personal friend of Nicholas Hodges of
20 Walterboro, South Carolina, who may be a potential witness
21 in the trial of this case? If so, please raise your hand
22 for me at this time.

23 (NO RESPONSE.)

24 THE COURT: Becky, please let the record reflect that
25 no hands were raised in response to my last question. Any

1 additional voir dire concerning this matter from the State?

2 ASST. SOL. KNIGHT: No, sir.

3 THE COURT: From the defendant?

4 MR. BEACH: No, Your Honor.

5 THE COURT: Very well. Madame Clerk, would you please
6 swear the jury?

7 MADAME CLERK: Yes, I will. Would you please stand and
8 raise your right hand?

9 (WHEREUPON, the jury is duly sworn.)

10 THE COURT: All right. Ms. Roberts, I'm going to ask
11 you to trade seats with this nice lady right here. I'm
12 going to appoint you to be foreperson of the jury. Now,
13 ladies and gentlemen, let me tell you that there is no
14 assigned seating. The rest of you, you can sit anywhere you
15 want to. That's going to be your seat and I'm going to
16 explain your duties. I worry about that back row. I've
17 actually had a person try to get around another juror, step
18 off, and get hurt. Here's what I ask, if you want to sit by
19 somebody, that's fine. Line up that way but don't sit down
20 in a sit and make people crawl over you. Fill all the way
21 down to the end, because you can sit anywhere you want to.
22 Now, Pam, that's going to be your seat. The rest of you can
23 sit anywhere you want to during the trial of the case.

24 Now, let me explain your duties. As the Foreperson, it
25 will be your duty to see that each and every member of my

1 jury has a full and a fair opportunity to voice their
2 opinion in the jury room once deliberations begin, just like
3 the chairperson of a committee would preside at a committee
4 meeting. It will also be your job to write the jury's
5 verdict, but I will give you instructions about how to write
6 the verdict in my charge to you on the law at the conclusion
7 of the case.

8 I will be preparing a verdict form for you. You see my
9 law clerk behind me, Camden Hodge, and he is going to be
10 looking for you before you leave after this trial is over,
11 because whatever you write on that verdict form, he's going
12 to want you to write on the indictment; the exact same words
13 that you write on the verdict form for the jury. He'll be
14 looking for you to sign your name on the indictment and
15 write the same words on the verdict form.

16 Now, it will also be your job to be the jury
17 spokesperson out here in the courtroom. The foreperson
18 speaks for the entire jury. So you write the verdict, you
19 will preside to see that everybody gets a chance to voice
20 their opinions in the jury room, and if the need arises, you
21 speak for the entire jury during the trial of the case.

22 All right. Ladies and gentlemen, you have now been
23 sworn. Let me tell you a little bit about what's going to
24 happen so that you will be familiar with what's going on in
25 the courtroom. Now that you've been selected to serve on a

1 jury, and until your jury service is complete, which first
2 of all, I'm going to ask that you not discuss the case with
3 others, including your fellow jurors, until I instruct you
4 to do it. It's very important for you to keep an open mind
5 and not decide the case until the entire matter has been
6 submitted to you under my instructions. Why? Because the
7 last thing I say or one of the witnesses might say might
8 influence you, so don't engage in any premature
9 deliberations; that's prohibited. Your job is to listen to
10 the evidence and not decide the case until I ask you to
11 discuss it with each other.

12 I ask that you not read or listen to any news reports
13 about the case. Please do not try to use a computer as I
14 told you, a cell phone or any other electronic device with
15 communication capability to do any research about a party or
16 a witness or an attorney or a court officer or a news
17 account of the case. Even if you thought that it would be
18 helpful to you in deciding the case, I ask that you do not
19 do so. Why? Because the parties of this case have the
20 absolute right to know what you are basing your decision on.
21 And everything that is going to be presented is going to be
22 made a part of this record by the court reporter.

23 So please don't communicate with anyone on your cell
24 phone, through your e-mail, Blackberry, iPhone, text
25 messaging, twitter, blog or website, or any social

1 networking website, which would include Facebook, MySpace,
2 LinkedIn and YouTube. I ask you not to do that while you're
3 serving on the jury this week.

4 Now, before we begin this trial, I want each of you to
5 know that this trial will probably be different from what
6 many of you might expect. You know, most people simply
7 don't have the time to attend an actual court session as
8 each of you are doing right now. And unfortunately, many
9 people believe or think from watching television, such
10 programs such as CSI, Cold Case, Law and Order, going to a
11 movie or reading a book, that trials are always full of high
12 drama or intense action, and riveting and entertaining
13 circumstances. While all of those things may be true at
14 times, ladies and gentlemen, an actual trial is not for
15 entertainment like a television show, a movie, or even a
16 book.

17 An actual trial is a fundamental part of our democracy.
18 It is a search for the truth in an effort to make sure that
19 justice is done between the parties before the Court.

20 Searching for the truth and trying to make sure that
21 justice is done is often slow, it is often deliberate, it is
22 often repetitive. It is the exact opposite of what you may
23 have seen on television or read in a book or seen in a
24 movie. This courtroom, ladies and gentlemen, is 192 years
25 old and is a place of honor. It is dedicated to the

1 protection; it is dedicated to the preservation of citizen's
2 rights, through what many people have called the greatest
3 justice system in the entire world.

4 The attorneys who are going to be appearing before you,
5 they're advocates for the parties they represent, the State
6 of South Carolina and the defendant. But first and
7 foremost, ladies and gentlemen, the attorneys are officers
8 of this Court. And as officers of this Court, they took an
9 oath just like I did. They took an oath to uphold the
10 integrity, they took an oath to uphold the fairness of our
11 judicial system, and they also are here even though they are
12 advocates, to help you in your search for the truth, based
13 on evidence introduced during the trial of the case.

14 You should expect the attorneys to be professional.
15 You should expect the attorneys to be competent. You should
16 expect the attorneys to be courteous, to each other and to
17 you in the discharge of their duties. Remember, also, that
18 each of you now, just like the attorneys and myself, each of
19 you have now taken an oath from the Clerk of Court; and in
20 that oath, each of you said that you would try this case and
21 that you would, as a juror, reach a fair and a just verdict,
22 so you also are expected to be professional. You as a juror
23 are also expected to be reasonable and you are also expected
24 to be ethical, just like the attorneys and the discharge of
25 your duty as jurors. Before we even start this trial,

1 ladies and gentlemen, I want to thank you for accepting this
2 very important responsibility of jury service. I want to
3 thank you for your contribution today to our justice system.
4 Without you, ladies and gentlemen of the jury, justice could
5 not be accomplished in the courtroom, and I thank you for
6 that service.

7 Now, ladies and gentlemen, I told you the case we're
8 trying, and I'm holding the indictment up, is the case of
9 the State of South Carolina v. Halden Holman. Mr. Holman is
10 charged by this indictment that I hold in my hand with
11 burglary, first degree. Now, I'm going to explain to you at
12 the conclusion of the trial, because I haven't heard the
13 evidence in this case, just as you haven't. Once I hear the
14 evidence, I will explain to you the law that I feel like
15 applies to the evidence that's presented, at the conclusion
16 of the trial, including the elements of the offense for
17 which the defendant is charged, in this case burglary, first
18 degree.

19 Now, the defendant is charged by this indictment, which
20 is filed in this Court with the crime of burglary first
21 degree, and as I told you, the elements of that crime will
22 be explained later. You should understand for now that the
23 indictment, the piece of paper that I'm holding in my hand
24 right now, is simply the charge by which the case is brought
25 into this Court, the Court of General Sessions. And it is

1 not in any sense evidence of any of the allegations named in
2 this indictment.

3 Now, to the indictment, the defendant, Halden Holman,
4 has pled not guilty. The State, therefore, by that plea has
5 the burden of proving each of the essential elements in the
6 indictment beyond a reasonable doubt. It will be your duty,
7 ladies and gentlemen, to decide whether or not the State has
8 met that burden. It is your solemn responsibility to
9 determine the guilt of the innocence of the defendant and
10 your verdict must be based solely on the evidence as it is
11 presented to you in this trial and on the law as I instruct
12 it to you to be during the trial and at the close of the
13 trial.

14 Now, in just a minute, the Assistant Solicitor will
15 make what is called an opening statement, in which he will
16 explain to you the issues in this case, while as an advocate
17 for the State of South Carolina what he contends to be the
18 issues in this case, and then following that, the attorney
19 for the defendant will also make an opening statement.

20 Now, what the attorneys tell you in opening statement,
21 what the attorneys suggest to you by their questions, what
22 the attorneys argue to you in their closing argument at the
23 conclusion of the trial is not evidence in this case. The
24 attorneys are advocates for the parties that they represent.
25 So when they stand in front of you in opening statement or

1 they stand in front of you in closing argument or they
2 suggest something by a question that they ask, it is only
3 their contention as to what an issue might be, because what
4 the attorneys say as an advocate for their respective
5 parties is not evidence in this case.

6 Now, I've told you that you must decide this case
7 solely upon evidence. What is evidence? Evidence in this
8 case will be presented to you by the testimony of sworn
9 witnesses who are going to take this witness stand. You
10 will notice it's located on the side of the courtroom in the
11 closest proximity to you. So evidence may take the form of
12 sworn testimony by a witness on the witness stand.

13 Evidence may also take the form of an exhibit, such as
14 a photograph or a model, but as to any exhibit, the lawyers
15 know, because that's part of my job, to rule on the
16 admissibility of evidence. You will hear me say, we will
17 mark it with the court reporter so that it has a number,
18 like a photograph, and you will hear me say, "Ladies and
19 gentlemen of the jury, it is in evidence." That means it
20 will be with you in your jury room if it's an exhibit,
21 during your deliberations. So evidence can take the form of
22 an exhibit and evidence can even take the form of what we
23 call a stipulation, an agreement between the parties that a
24 fact is true and therefore not necessary to be proved. So
25 evidence may be sworn testimony, might be an exhibit, it can

1 even be a stipulation.

2 Now, for you, the jury, in the consideration of this
3 evidence, you should remember at all times that under the
4 constitution of the state of South Carolina, you and you
5 twelve jurors alone are the sole judges of the facts in this
6 case. The same law that makes you the same judges of the
7 facts, the jury, in this case, makes me the sole judge of
8 the law. I cannot invade your province and tell you what
9 the facts are, how I feel about the evidence, make any
10 comment to you about the evidence that's going to be
11 presented during the trial of this case, and you should not
12 invade my province and differ with me about what the law is.
13 Everything that I say during the course of this trial is
14 being taken down by my court reporter, Becky Hill, and if I
15 make a mistake as to the law to the detriment of either
16 party, they can appeal the case to an appellate court, and
17 if the appellate court feels that I've made a mistake on the
18 law, they will reverse the case and send it back for a new
19 trial. So don't any of you on the jury worry about whether
20 or not I've told you the law correctly, that is somebody
21 else's worry. That is not your concern. Your job is to
22 accept the law and apply the law exactly as I state it to
23 you during the trial and in my charge to you on the law at
24 the conclusion of the trial.

25 If any of you have any preconceived opinions about what

1 you think the law is or what you feel the law ought to be,
2 you need to put that aside, because you just took an oath
3 from the clerk to accept and apply the law exactly as I
4 state it to you during this trial and at the conclusion of
5 this trial. Your job is not only to take the law as I give
6 it to you, but you must apply it to the facts as you find
7 them to be from the witnesses who testify from this witness
8 stand, any exhibits that may be introduced into evidence,
9 and any stipulations that may occur, and after doing that at
10 the conclusion of the trial, you will render your verdict, a
11 true and just verdict, under that solemn oath which each of
12 you just took from the clerk of court.

13 Now, from time to time during the trial of this case,
14 you're going to probably hear one of the lawyers say, ladies
15 and gentlemen of the jury, something like, "Your Honor, I
16 believe we have a question of law," or "Your Honor, we have
17 a matter of law that we'd like to discuss with you," or I,
18 myself, might ask the lawyers to approach the bench. I
19 might ask you to go to your jury room.

20 Sometimes I find that it is necessary that you be
21 excused from the courtroom for a little while, while the
22 attorneys and I discuss a matter of law. Now, the reason
23 for this is not what you think. We're not trying to hide
24 anything from you. The reason for this is exactly what I've
25 just told you. You, the jury, are the sole judges of the

1 facts; I'm the sole judge of the law. I can't make any
2 comment to you about the facts, and sometimes, when I'm
3 talking to the attorneys about a matter of law, by
4 necessity, I have to make a comment about the facts in order
5 to rule on whether or not a particular piece of law applies
6 to this case.

7 So the custom in this state when such discussions like
8 that take place, now the first place I'll try to do it is
9 here at the bench so that it doesn't delay you. If I can't
10 do it there, I may have to send you to your jury room in
11 order that I can have a discussion with the attorneys about
12 some matter of law so that you will not be influenced by
13 anything that I might say or do in ruling on whether or not
14 a particular piece of law applies to this case.

15 Since I'm not supposed to tell you or suggest to you
16 what I think the facts are, the practice in this state is to
17 try to excuse you from the courtroom when such discussions
18 take place so that in no way will you be influenced by
19 anything that I might say or do in connection with the
20 facts. And in that connection, let me emphasize to each of
21 you before we begin and tell you that you, the twelve of you
22 alone, are the sole judges of the facts in this matter and
23 if you should gather at any time from anything that I might
24 say or do during the trial of this case that I have any
25 opinion whatsoever as to the facts in this case, I'm going

1 to ask you now before we start to erase that from your mind,
2 because as I've said, you and you alone are the sole judges
3 of the facts as a member of the jury. Now, I'm often asked
4 this question by jurors, "How will I know what the true
5 facts are?" Well, ladies and gentlemen, in determining what
6 the true facts are in this case, you will, of necessity, you
7 will have to pass upon the credibility or the believability
8 of the witnesses who are going to take this witness stand.

9 It will be my responsibility as the presiding judge to
10 rule as a matter of law as to whether or not certain
11 testimony is admissible or not, but once I've allowed the
12 testimony to be admitted into evidence, whether or not you
13 as a jury believe the testimony is solely a matter for you,
14 the jury, to determine. It will be your job to pass upon
15 the credibility or the believability of the witnesses who
16 will testify during the trial of this case.

17 Now, ladies and gentlemen, in passing upon the
18 credibility or the believability of the witnesses, you have
19 the right as a jury to take into consideration the interest
20 of any witness, the bias of any witness, you can take into
21 consideration the opportunity that the witness may have had
22 to observe the matters about which he or she might testify.
23 You can take into consideration the prejudice if any of any
24 witness, you may take into consideration, ladies and
25 gentlemen, what we call the demeanor of the witness. The

1 appearance of the witness while the witness is on the
2 witness stand. Anything that is in evidence, ladies and
3 gentlemen of the jury, you as a jury have the right to
4 consider in passing upon the credibility or the
5 believability of the witnesses who will testify during the
6 trial of this case. And that means, Madame Foreperson, and
7 ladies and gentlemen of the jury, that it is your duty under
8 that sworn oath that each of you took to pay close attention
9 to the witnesses, to listen to the witnesses.

10 Don't let your thoughts wander, but give strict
11 attention to the testimony so that at the conclusion of all
12 the testimony and after the final arguments of the attorneys
13 and my charge to you on the law at the conclusion of the
14 case, you will have placed yourself as a juror by listening
15 in a position to determine what the true facts are and apply
16 the law as I charge it to you to be to the facts as you find
17 them to be based on evidence introduced during the trial of
18 the case.

19 Now, you must not consider anything that you may have
20 read or heard about this case outside of this courtroom,
21 whether before or during this trial, and until this case is
22 submitted to you, you must not discuss it with anyone, not
23 even a member of your own family or your fellow jurors. And
24 after I submit it to you, you must discuss it only in your
25 jury room with your fellow jurors.

1 As I told you at the outset, it's very important that
2 each of you keep an open mind and not decide the case until
3 the entire matter has been submitted to you under my
4 instructions at the conclusion of the case when I charge you
5 the law that applies to the case.

6 Now, as I told you, Madame Foreperson, it will be your
7 added duty to preside in the jury room and see that each and
8 every member of my jury has a full and fair opportunity to
9 voice their opinions once deliberations begin. It will also
10 be your job to be the jury spokesperson out here in the
11 courtroom and I will give you instructions about the verdict
12 form and how to fill it out on behalf of the jury. You will
13 sign for the entire jury and date the verdict form and then
14 my law clerk, you will see that he has the indictment in his
15 hand, and he has chased some Foremen down on the grounds of
16 the courthouses in South Carolina, and he does not want to
17 have to chase after you, because he will want you to sign
18 the same thing on the indictment that you do on the verdict
19 form that I will prepare for you.

20 A couple of housekeeping matters, if at any time a
21 member of my jury cannot hear, I will be watching all twelve
22 of you throughout the trial, just raise your hand; that's
23 all you have to do. I can turn the volume up. And as you
24 know, you're going to see, I don't allow the lawyers or
25 people in and out. They're not supposed to be letting

1 people in and out of the courtroom. We try not to have any
2 interference. Why? Because the moment someone walks into
3 this courtroom, what do y'all do? You look to see who it is
4 and you're not paying attention to what's being said by the
5 lawyers in court or the witness; that's why we don't allow
6 interference. They know I don't allow but one lawyer to
7 speak and one lawyer stands at a time. So we've got to keep
8 it quiet. Becky has to do her job and we want you to be
9 able to hear just like we want Becky to be able to hear.

10 If you can't see an exhibit that is in evidence, and
11 the lawyers are famous for this, they will go up there and
12 they know they've got to mark it with the court reporter; it
13 has to have a number, because we keep a record. And they
14 will turn around and they will start talking, walking back
15 to their table. Mr. Knight will want to go over there and
16 talk to Mr. Chapman and, of course, when he turns his back
17 to my court reporter, he's also turning his back on you.
18 She's going to look at me and go (shrugs shoulders) because
19 it sounds like this (talking unintelligible) and she's got
20 to take that down. So if she can't hear or if she can't
21 see, she's going to let me know. And if you can't see or if
22 you can't hear, raise your hand for me. I want my jurors to
23 be able to hear and to see at all times throughout the trial
24 of the case.

25 Now, Madame Foreperson, we do not normally allow jurors

1 to ask questions out here in the courtroom. If at any time
2 a member of the jury has a question, here is the procedure
3 we have to follow. If you're not already in your jury room,
4 the entire jury, all twelve of you, must retire to the jury
5 room. You will write the question on a piece of paper,
6 knock on the jury door, give it to my bailiff. Mr. Grant
7 will bring it straight out to me. I will then have to rule
8 as a matter of law whether or not the question can or cannot
9 be answered, just as I would any question asked by either
10 one of the attorneys during the trial of the case.

11 Now, I've tried it both ways, ladies and gentlemen, I
12 ask that you do not take notes. Now, you see that I've got
13 a pen in my hand and I've got my notebook. In fact, Camden
14 is also writing. I'm a dinosaur. Camden is young,
15 everything is on his computer. I still love books and you
16 will see that he makes fun of me, when I walk out into
17 Court, there are the Rules of Court. I have them in a book.
18 He has them on the computer. So when I look things up in a
19 book, he just grins and looks at me like, boy, you're old,
20 and he's right, but I still like to hold a book in my hand.

21 I ask that you do not take written notes. Now, you're
22 probably wondering why, because I've tried it both ways.
23 I've found that if a member of the jury takes written notes
24 and makes a mistake in the written notes, the notes can be
25 harmful in your jury room, rather than helpful. The time-

1 tested system is for each of you to listen and listen
2 carefully to the evidence that is going to be presented.
3 Now, I want you to listen to the attorneys, but what the
4 attorneys tell you is not evidence in this case. They're
5 advocates; they work hard to prepare for the case and I want
6 you to listen to them, but you must decide the case solely
7 upon evidence, either testimony, the exhibits, or
8 stipulations introduced during the trial of the case.

9 All right. Ladies and gentlemen, I've told you no cell
10 phones or beepers, because I'm required to confiscate them.
11 I'm going to instruct my bailiffs again that no one comes in
12 or out of this courtroom while opening statements are being
13 made, opening remarks by the judge, or closing arguments by
14 the attorneys, or my charge to you on the law.

15 All right. Ladies and gentlemen, I do not intend that
16 you or anyone else should construe what I've just said to
17 you as a charge on the law, because it hasn't been. We have
18 rules about all kinds of things we do. For instance, I've
19 told you that the state's attorney gives the first opening
20 statement; they have the burden of proof, they present the
21 evidence first. That's why they're going to give the
22 opening statement first. We have a rule for that.

23 I'm going to charge you the law that applies to this
24 case at the conclusion of the trial, after you and I have
25 heard the evidence. This has been merely an attempt on my

1 part to explain to you some of the procedure that we follow
2 in the courtroom in the trial of the case so that you may
3 have a better understanding as to what may be happening as a
4 juror from time to time.

5 Nevertheless, in order to protect everyone's rights,
6 I'll give the parties an opportunity to object to anything
7 I've said if they have any such objections or exceptions.

8 Any objections or exceptions to the Court's comments to
9 the jury, from the State?

10 ASST. SOL. KNIGHT: No, sir.

11 THE COURT: From the defendant?

12 MR. BEACH: No, Your Honor.

13 THE COURT: Ladies and gentlemen of the jury, we will
14 now begin the trial of this case. Mr. Knight.

15 ASST. SOL. KNIGHT: May it please the Court, Your
16 Honor?

17 THE COURT: Yes, sir.

18 OPENING STATEMENT

19 ASST. SOL. KNIGHT:

20 Madame Forelady, ladies and gentlemen of the jury, the
21 issues in this case are quite simple; they revolve around
22 i.e. the elements of burglary in the first degree. In other
23 words, I have to prove that entering of a dwelling, a
24 dwelling is where someone lives, without consent of the
25 owner, the person living in that house, did not consent for

1 that person to enter, with the intent to commit a crime
2 therein; to steal something. The entering occurred at
3 nighttime. And then I've got to prove it occurred in
4 Colleton County.

5 On August the 8th, 2012, somewhere between 10:00 and
6 11:00 at night, Lyn Tanner, who lives at [REDACTED]
7 [REDACTED] went to bed. His family was at home, his
8 sons, I think he's got two; his wife, and everything is
9 good. He felt secure. And Mr. Tanner has a habit of
10 getting up around 5:00 in the morning, no problem with that.
11 Now, what does he normally do? He goes and looks for his
12 television switcher. He wants to look at the weather when
13 he gets up. He mashes it and nothing happens. He then
14 turns on the light, it's gone. A 50 to 60-inch television,
15 it's gone. It was there when he went to bed. It's gone a
16 little after 5:00, and other items were taken. He looks
17 around and checks with his family and finds out other items
18 are missing.

19 So going to bed secure, waking up with certain items
20 missing; that's what we're talking about through this case,
21 security of a person in his or her house. The Walterboro
22 Police Department was called. They ran some checks on the
23 property, ran some checks on the house, lifted a
24 fingerprint. Ultimately, Jason Chapman, who was a Sergeant
25 with the Walterboro Police Department, who is now a

1 Lieutenant with the Sheriff's Department, did an interview
2 with the defendant, Mirandized him, gave him his
3 constitutional rights, and the defendant told him how he
4 went into the house and took the items.

5 Further investigation led to a checking of a cell phone
6 and contact with a person who had purchased an item that was
7 missing from Mr. Tanner's home. It was purchased by this
8 person from the defendant. So that's the long and short of
9 this case. And His Honor told you that you took an oath to
10 truly try this case for the State of South Carolina and the
11 defendant. In addition, your obligation with that oath sets
12 forth that you must look, listen and remember, because at
13 the conclusion of the trial, I'm going to ask you to issue a
14 verdict of this guilty of this defendant of burglary in the
15 first degree. Thank you.

16 THE COURT: Mr. Beach?

17 MR. BEACH: Thank you, Your Honor.

18 OPENING STATEMENT

19 MR. BEACH:

20 Good morning, ladies and gentlemen, I'm Harris Beach,
21 and I'm with the public defender's office. I met you
22 earlier, and you probably didn't remember me. It's a nasty
23 day out today and we really appreciate you being here. This
24 is a really important civic event that you're doing and
25 something that we wish that everyone took more seriously.

1 You're the stars here today. We're doing the easy part.
2 We're here to present evidence to you and we're here to show
3 you what we've got, and show you what the case is about, but
4 what it all boils down to is your decision in the end as to
5 guilt or innocence. So you don't get to talk and you don't
6 get to act important and all that, but you're the one who
7 makes the decision, and that decision is one of guilt or
8 innocence; it's one for freedom or incarceration. This case
9 is not going to be a long case. Not a whole lot of
10 witnesses. You won't be here like O. J. Simpson for forever
11 and ever. You'll just be here for a little while.

12 But at the same time it is a vitally important case to
13 Mr. Hollman. He is charged with burglary, a major felony.
14 He is charged with that and risks losing his freedom over
15 that if he is convicted. The State has a burden to prove.
16 The State has the burden of proof. They have to prove to
17 your satisfaction what is called beyond a reasonable doubt
18 that Mr. Hollman did what they say he did. If they fall
19 short on any of that, then they haven't proved it and the
20 defendant gets the benefit of the doubt and anything like
21 that.

22 Now, you will hear some conflicting testimony. My only
23 request is that you listen to the testimony very carefully,
24 weight it, figure out why it was given, what was done, and
25 what he context was, and then make a decision on all of

1 that. Not just on initial offers of proof, but on the
2 reason why certain things were done and the reason why
3 certain things were said. Our position is that he is not
4 guilty of burglary. Our position is that he did have some
5 of the stolen goods. We know that and we will admit that.
6 He should have to answer for that, but he shouldn't answer
7 to the highest crime that you can find associated with the
8 possession of stolen goods.

9 We ask you to listen, ladies and gentlemen. I
10 appreciate your attention and we will try to present this
11 case to you in an orderly manner so that you can make a
12 decision. Thank you very much.

13 THE COURT: Call your first witness.

14 ASST. SOL. KNIGHT: May it please the Court? Billy Lyn
15 Tanner.

16 THE COURT: Mr. Tanner, if you will come around and be
17 sworn by the clerk of court, please.

18 MADAME CLERK: Please come forward. Place your left
19 hand on the Bible and raise your right.

20 WHEREUPON, Mr. Billy Lyn Tanner is duly sworn.

21 MADAME CLERK: Please have a seat on the witness stand.

22 THE COURT: Watch your step for me. Have a seat. Pull
23 that chair up and adjust that microphone. It's going to
24 amplify your voice. I want you to begin by stating your
25 full name and spelling your last name for the court

1 reporter.

2 MR. TANNER: Billy Lyn Tanner, T-A-N-N-E-R.

3 THE COURT: Thank you. Your witness, counsel. Direct
4 examination.

5 ASST. SOL. KNIGHT: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 ASST. SOL. KNIGHT:

8 Q Mr. Tanner, where do you reside?

9 A [REDACTED]

10 Q Okay. Where is that located at, sir?

11 A Off of Greenpond Highway in Walterboro City limits.

12 Q Is that in Colleton County?

13 A Yes, sir.

14 Q Greenpond Highway, what is across the street from your
15 house?

16 A Across the street is The Village.

17 Q What village?

18 A It's an apartment complex.

19 Q Is it called The Village or do you know the name of it?

20 A I don't know. I thought it was called The Village.

21 Q Could it be Walterboro Village?

22 A Yes, sir.

23 Q Okay. Let me show you what's been marked as State's
24 Exhibit Number One for identification. Can you identify
25 this, sir?

1 A Yes, sir. That's my residence.

2 (Mr. Knight shows exhibit to Mr. Beach.)

3 THE COURT: Any objection?

4 MR. BEACH: None.

5 THE COURT: Do you wish to admit it?

6 ASST. SOL. KNIGHT: Yes, Your Honor. State's Exhibit
7 Number One.

8 THE COURT: Ladies and gentlemen of the jury, State's
9 Exhibit Number One will be admitted into evidence in the
10 trial of this case without objection.

11 (Whereupon, State's Exhibit Number One, photo, is
12 received into evidence.)

13 THE COURT: State's One in evidence; you may publish.

14 ASST. SOL. KNIGHT: May I approach, Your Honor?

15 THE COURT: You may.

16 Q Mr. Tanner, that's your house, which is State's Exhibit
17 Number One, and that is across the street from Walterboro
18 Village?

19 A Yes, sir.

20 Q Okay. If you were to leave Walterboro Village, would
21 your house be on the left side of Woodland Terrace Drive or
22 the right side?

23 A On the left side.

24 Q On the left side. Is that the way your house looked on
25 August the 8th of 2012?

1 A Yes, sir.

2 Q And that's the way it looks today?

3 A Yes, sir.

4 Q When you woke up, tell the jury what you found that
5 morning on August the 8th.

6 A Walked into my den and my TV is in front of my
7 fireplace and I always walk to my chair and grab my remote
8 and turn around and turn the TV on. When I turned it on,
9 there was nothing there.

10 Q What did you do then?

11 A I started wondering where my TV was. So I went down
12 the hall and got my wife up and asked her, "Where is my TV?"
13 She asked me what are you talking about?" So we go back up
14 front and noticed that the TV was gone, my son's laptop,
15 because he was sitting on the couch and left it on the
16 couch, which he watches TV and downloads stuff in his
17 computer from the Sports Center, and then I noticed my
18 wife's wallet was out of her pocketbook, her iPhone, my
19 boy's stuff was gone, and I immediately called the police
20 department.

21 Q And do you recall what time you woke up?

22 A Around 5:00; I get up every morning right -- a little
23 before five or five.

24 Q The items that you just testified about that were
25 taken, were they in your house at the time you went to bed?

1 A Yes, sir.

2 Q And do you recall at what time, approximately, that you
3 went to bed?

4 A I went to bed between 10 and 10:30.

5 Q Do you know the defendant Halden Hollman?

6 A No, sir.

7 Q Did you invite this man into your house?

8 A No, sir.

9 Q Did you give him permission to enter your house at any
10 time?

11 A No, sir.

12 MR. KNIGHT: If the Court will indulge me one moment.

13 Q Mr. Tanner, if you would be so kind, sir, please answer
14 any questions that Mr. Beach may have.

15 THE COURT: Cross-examination?

16 MR. BEACH: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. BEACH:

19 Q Mr. Tanner, what type of TV was this?

20 A It was a Sanyo.

21 Q How big was it?

22 A It was fifty to sixty inches. Fifty to fifty-five
23 inches.

24 Q And that measurement is diagonal across the street; is
25 that correct?

- 1 A Yes, sir.
- 2 Q Okay. How heavy was it?
- 3 A Weight-wise?
- 4 Q Yes, sir. Do you have any idea how much it weighed?
- 5 A Oh, it weighs 50 pounds.
- 6 Q And how big is it? Is it big or is it small?
- 7 A It's good size. I mean, you can lift it.
- 8 Q And was it hooked to a cable or was it hooked to
- 9 something else?
- 10 A No, it's hooked to a satellite, but the box and
- 11 everything is sitting right beside the TV, because it's
- 12 sitting in front of a fireplace. There's nothing hid or
- 13 anything, it's just all sitting right there.
- 14 Q Was the box gone?
- 15 A No, sir.
- 16 Q It was disconnected from the box and taken out?
- 17 A Correct.
- 18 Q How wide is that television? If you had to pick it up,
- 19 how wide is it from one side or the other?
- 20 A If you pick it up, well, it's wider than it is tall,
- 21 like all flat screens; you can just pick it up.
- 22 Q Okay. And did you get the television back?
- 23 A No, sir.
- 24 Q Did not get it back, okay. Now, the laptop, what sort
- 25 of laptop was it?

1 A It was an Apple.

2 Q And was the laptop returned?

3 A No, sir.

4 Q You say this was in your den?

5 A Yes, sir.

6 Q And where is the den with regard to the rest of the
7 house?

8 A When you come through the side door, our back door, and
9 that's where we enter and leave and come into the kitchen,
10 then the den, and you go down the hall and the bedrooms are
11 in the back of the house.

12 Q So y'all were obviously sleeping in the bedrooms?

13 A Yes, sir.

14 Q And this stuff was in the den?

15 A Yes, sir.

16 Q Then there's the kitchen and then there's the back
17 door. Were you able to determine where the person got into
18 the house? How they got in?

19 A Yes, sir.

20 Q How was that?

21 A The back door was unlocked. My boy, who goes to
22 college, the University of South Carolina, keeps a key in
23 his car and all of our cars were ramshackled. He found a
24 key in the change drawer in my son's Envoy and unlocked it,
25 and they found the key, it was dropped on the steps.

1 Q So someone got a key out of the car and unlocked the
2 house and went in?

3 A Yes, sir. The police found the key where they dropped
4 it.

5 Q Okay. And they had to go through the kitchen to get
6 into the den?

7 A Uh-huh (affirmative). Yes, sir.

8 Q So obviously if they took something out, they would
9 have to go back through the kitchen and back out that door.

10 A Yes, sir.

11 Q No other entry points that you found?

12 A Well, unless you went through the front door, but all
13 of that was locked, and they went out the back door.

14 Q Now, do you have a security system?

15 A I do now.

16 Q Did you have one then?

17 A No, sir.

18 Q No type of security cameras or anything like that?

19 A No, sir.

20 Q All right. I have no other questions. Thank you, Mr.
21 Tanner.

22 THE COURT: Redirect?

23 ASST. SOL. KNIGHT: No, sir. May Mr. Tanner be
24 excused, Your Honor?

25 THE COURT: Any objection to this witness being

1 excused, Mr. Beach?

2 MR. BEACH: None, Your Honor.

3 THE COURT: Mr. Tanner, you may step down from the
4 witness stand and you are excused from the trial of this
5 case. You may leave the courtroom or remain with us as you
6 desire. Call your next witness.

7 ASST. SOL. KNIGHT: Your Honor, I think Mr. Beach and I
8 have a stipulation to take care of the next witness.

9 THE COURT: Counsel approach.

10 (Whereupon, a bench conference is held off the record
11 and out of the hearing of the jury.)

12 THE COURT: Ladies and gentlemen of the jury, I've been
13 advised by the attorneys that they've agreed on a
14 stipulation of fact. I told you that evidence could take
15 that form. A stipulation is merely an agreement, an
16 understanding between the parties that a fact is true, and
17 of course, you must accept the stipulation as the truth,
18 because they agree that it is true. It's an understanding
19 between the parties. Mr. Knight, on behalf of the State of
20 South Carolina, will publish for you the stipulation which
21 is agreed to by Mr. Beach, on behalf of the defendant. You
22 may proceed, Solicitor.

23 ASST. SOL. KNIGHT: Thank you, Your Honor. On August
24 the 9th, 2012, Brandon Craven with the Walterboro Police
25 Department responded to [REDACTED] in the

1 City of Walterboro. He dusted for prints and lifted a
2 print. That print was sent to the North Charleston Police
3 Department Criminal Identification Division. The results of
4 the examination were insufficient for identification.

5 THE COURT: Is that the correct stipulation, Mr. Beach?

6 MR. BEACH: It is, Your Honor.

7 THE COURT: Very well. Are you going to enter that as
8 an exhibit?

9 ASST. SOL. KNIGHT: Yes, sir.

10 THE COURT: And that would be exhibit number two?

11 ASST. SOL. KNIGHT: Exhibit Number Two, Your Honor.

12 THE COURT: Without objection, Mr. Beach?

13 MR. BEACH: No objection, Your Honor.

14 THE COURT: Ladies and gentlemen, the stipulation will
15 now be State's Exhibit Number Two in the trial of this case,
16 which is entered into evidence without objection.

17 (Whereupon, State's Exhibit Number Two, stipulation of
18 fingerprints, is received into evidence.)

19 THE COURT: You may proceed. Call your next witness.

20 ASST. SOL. KNIGHT: Jason Chapman, Your Honor.

21 THE COURT: Mr. Chapman, come around and be sworn,
22 please.

23 (Whereupon, Lt. Jason Chapman is duly sworn.)

24 THE COURT: Have a seat and make yourself comfortable.
25 State your full name and spell your last name for the court

1 reporter.

2 LT. CHAPMAN: Jason Walker Chapman. Last name, C-H-A-
3 P-M-A-N.

4 THE COURT: Your witness, counsel. Direct examination.

5 ASST. SOL. KNIGHT: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY ASST. SOL. KNIGHT:

8 Q Mr. Chapman, who are you employed with, sir?

9 A Currently the Colleton County Sheriff's Office.

10 Q In what capacity, sir?

11 A I am Lieutenant over narcotics and special operations.

12 Q On or about August the 9th through September of last
13 year, who were you employed with?

14 A Walterboro Public Safety.

15 Q In what capacity?

16 A I was a narcotics investigator.

17 Q Did you have an occasion to interview one Halden Lamont
18 Hollman?

19 A Yes, sir, I did.

20 Q Do you recall when that interview was?

21 A Should have been September 4th, I believe.

22 Q Of two thousand and ---

23 A Of 2012.

24 Q Where did this interview occur at, sir?

25 A At Walterboro Public Safety headquarters.

1 Q Did you advise the defendant of his constitutional
2 rights?

3 A Yes, sir, I did.

4 Q And in what fashion did you advise him of his
5 constitutional rights?

6 A We have a Miranda form that is published by the police
7 department, and we explained the individual's rights to him
8 or her, as we read them, they are required to initial that
9 they understand each of the five rights that are listed.
10 Following completion of that portion, if they understand
11 everything before that, we will read them a waiver, and if
12 they understand the waiver and they do waive their rights,
13 they will sign the line below consenting to talk.

14 ASST. SOL. KNIGHT: May I approach, Your Honor?

15 THE COURT: You may.

16 Q Lt. Chapman, I ask you if you can identify what's been
17 marked as State's Exhibit Number One for identification,
18 sir.

19 A Yes, sir, this is the Miranda form that was filled out
20 on September 4th, 2012, at approximately 11:12 in the
21 morning in regards to Mr. Hollman.

22 THE COURT: Counsel, look at the exhibit number that
23 you just asked a question about, I believe State's Exhibit
24 One is already in evidence in the trial of this case.

25 ASST. SOL. KNIGHT: I'm sorry. It's marked One here.

1 THE COURT: That's Court's Exhibit One. Have the court
2 reporter mark it, please.

3 Q Again, I'll go back -- I have now had this marked as
4 State's Exhibit Number Three.

5 A Yes, sir. Again, this is the Miranda form that was
6 filled out by myself and signed by Mr. Hollman on September
7 9th, 2012.

8 Q Okay.

9 ASST. SOL. KNIGHT: We would move State's Exhibit
10 Number Three into evidence.

11 THE COURT: Any objection, Mr. Beach?

12 MR. BEACH: None, Your Honor.

13 THE COURT: Ladies and gentlemen of the jury, State's
14 Exhibit Number Three will be admitted into evidence in the
15 trial of this case without objection.

16 (Whereupon, State's Exhibit Number Three, Miranda
17 Rights form, is received into evidence.)

18 THE COURT: State's Exhibit Number Three is now in
19 evidence. You may publish to the jury.

20 Q Mr. Chapman, demonstrate to the jury the manner in
21 which you advised the defendant of his constitutional
22 rights.

23 A Walterboro Police Department's statement of Miranda
24 rights and the top right-hand corner has a place for us to
25 place the case number, in this case, the case number was

1 listed as 1201460, and then I would read the top portion of
2 this and it states, "My name is Jason Chapman. I'm an
3 officer of the Waltherboro Police Department and I'm going to
4 explain your Miranda rights as listed below. Please
5 indicate that you understand each of these rights by placing
6 your initials in the provided spaces." At that point in
7 time, I would read numbers one through five. Number one,
8 you have the right to remain silent. Stop and ask the
9 defendant if he understood; he did. He indicated he
10 understood by placing his initials at the end of number one.

11 Number two, anything you say can and will be used
12 against you in a court of law. He initialed. You have the
13 right to talk to a lawyer and have one present with you
14 while you're being questioned. Number three he initialed.
15 Number four, if you cannot afford to hire a lawyer, one will
16 be appointed to represent you upon questioning if you wish.
17 He said he understood and initialed. And Number five, you
18 can decide at any time to exercise these rights, not answer
19 any questions or make any statements, and he initialed on
20 number five.

21 Following the reading and the initialing of numbers one
22 through five, we have at the bottom what we call the waiver
23 of rights. At that point in time, I would read, "Having
24 understood these rights and having these rights in mind, do
25 you wish to make a statement now? If so, please indicate

1 your wish to talk to us with your signature." Underneath
2 that statement is a line and Mr. Hollman signed that line
3 indicating that he agreed to waive his rights as listed
4 above and that he wished to talk to law enforcement at the
5 time. At the bottom, it was signed by me and time-stamped
6 11:12 and was also signed as a witness, Officer Stivender
7 signed as a witness at the same time.

8 ASST. SOL. KNIGHT: May I approach, Your Honor?

9 THE COURT: You may.

10 Q Lt. Chapman, would you describe the defendant's
11 physical appearance, please.

12 A The defendant has been incarcerated; he was brought in
13 from the jail. He was in his jail attire. He was seated at
14 a table across from myself and Officer Stivender. He was
15 coherent, not sweating, did not appear to be nervous,
16 cooperative.

17 Q In your experience as a law enforcement officer, have
18 you ever dealt with people that were under the influence of
19 alcohol and/or narcotics?

20 A Yes, sir, I have.

21 Q On September the 4th, 2012, did it appear that the
22 defendant was under the influence of either intoxicants or
23 narcotics?

24 A No, sir.

25 Q Did the defendant respond to your questions that you

1 asked him readily?

2 A Initially, the defendant denied participation in this
3 crime, but that only lasted three or four minutes and then
4 he did respond.

5 Q Did the defendant appear to understand your questions
6 regarding his rights?

7 A Yes, he did.

8 Q All right. Was his speech coherent?

9 A Yes, it was.

10 Q Did the defendant respond when you asked whether or not
11 he wanted an attorney?

12 A He stated he did not.

13 Q He did not want an attorney. Did the defendant agree
14 to answer any of your questions?

15 A Yes, sir, he did.

16 Q Without the assistance of an attorney?

17 A Yes, he did.

18 Q Okay. Did you promise the defendant anything in return
19 for him giving you a statement?

20 A No, sir.

21 Q Did you threaten the defendant?

22 A No, sir.

23 Q Did you coerce the defendant?

24 A No, sir.

25 Q Did you imply to the defendant that if he answered your

1 questions and give a statement that good things would happen
2 to him?

3 A No, sir.

4 Q To the best of your knowledge, was the defendant's
5 statement freely and voluntarily given?

6 A Yes, sir.

7 Q And the defendant did make a statement in response to
8 your questions?

9 A Yes, he did.

10 Q What did he tell you about the event of August the 8th
11 of 2012?

12 A Initially, he denied involvement and I made a statement
13 to him that -- normally, when someone is seated before that
14 particular division at the police department, that we have
15 done our homework. I explained to him that I had a lot of
16 evidence in this case and the defendant then stated that he
17 had entered the premises of Mr. Tanner's residence at [REDACTED]

18 [REDACTED] However, he did not describe it by physical
19 address. I never told him anything about which house or
20 where in Waltherboro. I simply asked him where he had been
21 and he described to me that he had come out of Waltherboro
22 Village, and in his words "bust a left" and then "bust a
23 right" and the residence was now on the left, and those were
24 the exact directions to Mr. Tanner's house. I then asked
25 him how he entered the premises and he stated he entered

1 through the side door under the carport. Then I asked him
2 what he had removed, if anything, from the residence and
3 initially he just said the TV and laptop, and when I said,
4 "Are you sure that's all?", he said, "No, sir, I took a
5 touch screen telephone."

6 ASST. SOL. KNIGHT: Court's indulgence, Your Honor.

7 (Brief pause in the courtroom.)

8 Q That's what he told you about the items he removed from
9 Mr. Tanner's house?

10 A That's correct.

11 Q Did he tell you what time he went into the house?

12 A I don't know if I asked him that or not, a specific
13 time, but he said he did go in that evening; so I don't know
14 if he ever actually admitted to a specific time.

15 Q Okay. Now, where does the defendant live? Or where
16 did he live on August the 8th of 2012?

17 A Exactly as he described. He lived on [REDACTED]
18 [REDACTED] which is the Walterboro Village Apartments,
19 physically about 200 yards away from the victim's house.
20 But if you come out of Walterboro Village, it only has one
21 entrance and one exit that faces Greenpond Highway. If you
22 come out of that driveway and make a left turn, or you turn
23 south on Greenpond Highway, you go approximately 100 feet
24 and you turn to the right onto Woodland Terrace and you go
25 about 200 feet and Mr. Tanner's residence would be the first

1 house on the left from that intersection.

2 Q When did you arrest Mr. Hollman?

3 A August 30th, 2012.

4 Q What did you discover during the course of your
5 investigation at the time of arrest?

6 A On August 30th, he was arrested for receiving stolen
7 goods, or possession of stolen property. We located what
8 took up about five eight-foot tables in the courtroom of
9 electronics, computers, telephones, various electronics.

10 Q Did you find his cell phone?

11 A I did find his cell phone, also.

12 Q What did you find on his cell phone?

13 A We found a text from the defendant to a Mr. Black. That
14 text was sent the morning of August 9th. I believe it was
15 in the area of 5:45 in the morning asking if Mr. Black
16 wanted to purchase an Apple laptop computer.

17 Q Did you touch base with Mr. Black?

18 A I did.

19 Q I don't need to know what he told you, but did you
20 contact him?

21 A I did. I spoke directly with Mr. Black.

22 Q Lt. Chapman, if you would be so kind to answer any
23 questions that Mr. Beach may have.

24 A Yes, sir.

25 MR. BEACH: May it please the Court?

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. BEACH:

4 Q Lt. Chapman, what was the date of the interrogation?

5 A September 9th of 2012.

6 Q September 9th?

7 A Oh, excuse me, September the 4th; I apologize.

8 Q September the 4th. And what was the date that the
9 Tanner house was entered?

10 A It was entered on August 9th.

11 Q And when you talked with the defendant, was he under
12 arrest at that time?

13 A He was in custody for receiving stolen goods. He was
14 not in custody for burglary.

15 Q He was charged, though, with receiving stolen goods?

16 A That's correct.

17 Q And who is Courtney Fitzpatrick?

18 A At the time, that was his common-law -- that's his
19 girlfriend that he has four children with.

20 Q Was she also charged at that time?

21 A Yes, she was.

22 Q And was she in custody when you were talking with the
23 defendant?

24 A No, she was not.

25 Q She was not in custody at that time?

1 A No, she was not.

2 Q Do you know how long she had been out?

3 A She had been out for two days.

4 Q Now, was she out of jail or were her charges dropped?

5 A No, she was out of jail on bond.

6 Q Her charges weren't dropped until the preliminary
7 hearing; is that correct?

8 A It seems like that's correct. I just know she was out
9 of jail that day on bond.

10 Q But she was still charged?

11 A That's correct.

12 Q And did -- to your knowledge, did Mr. Hollman know that
13 she was out of jail?

14 A Yes, he had to.

15 Q You say "he had to"; what do you base that on?

16 A Mr. Hollman states that he converses with Ms.
17 Kirkpatrick over the wall inside max and she had been out
18 two days. If he conversed with her on a daily basis over
19 the wall, her not being there for two days, he would know
20 that.

21 Q Did you tell him that she was out?

22 A No, sir. I never -- during this portion of this
23 interview, I never spoke about Ms. Kirkpatrick at all.

24 Q Okay. Did he ask whether she was out?

25 A No. During this portion, she was never mentioned at

1 all.

2 Q Now, you say you found some electronic equipment at the
3 house. Did you find the television?

4 A No, we did not.

5 Q Did you find the Apple computer?

6 A Physically, no.

7 Q But you found a picture?

8 A No, I didn't find a picture of it.

9 Q You found a text?

10 A That's correct.

11 Q Could you identify the computer from the text?

12 A I could only identify it as the same make and model,
13 color, description and so forth.

14 Q No serial number or anything?

15 A The serial number was provided, but at the time, I
16 didn't have the serial number from Mr. Tanner.

17 Q Now, have you since recovered that?

18 A I have not. It's my understanding that it was brought
19 in this morning.

20 Q This morning?

21 A Correct.

22 Q Is it here today?

23 A I don't have custody of it. I don't have any idea. It
24 was here this morning, so.

25 Q Okay. I don't think I have any other questions,

1 Lieutenant.

2 A Thank you, sir.

3 THE COURT: Redirect?

4 ASST. SOL. KNIGHT: That's all the questions I have for
5 Lt. Chapman at this time.

6 THE COURT: Very well. You may step down, Mr. Chapman.
7 Madame Foreperson, ladies and gentlemen of the jury, I'm
8 going to take my mid-morning break at this time and give you
9 a chance to stretch your legs and use the restroom. Please
10 do not discuss the case. Do I have any smokers on the jury?
11 All right, ma'am. I understand about that. Smoking is not
12 permitted in the courthouse, but the bailiffs will take you
13 outside so you can smoke outside. It's not permitted in
14 your jury room. Please do not discuss the case amongst
15 yourselves or anybody else. I will be back with you. I have
16 a little work to do during the break. I have a matter of
17 law I need to take up, but I will be back with you as quick
18 as I can. You may retire to your jury room at this time.

19 (WHEREUPON, THE JURY EXITS THE COURTROOM AND THE
20 FOLLOWING IS HELD ON THE RECORD.)

21 THE COURT: There is a matter of law that my law clerk
22 is researching and I'm researching and I will take up with
23 the attorneys in chambers. We will put everything on the
24 record when I come back, but I want all of you to have a
25 mid-morning break as well, so we're going to take about ten

1 to fifteen minutes so that we can deal with this. I will
2 have the attorneys in chambers. Now, my bailiffs, I
3 instruct you again, when the attorneys or I am speaking to
4 the jury, nobody in or out of the courtroom.

5 (Off the record at 11:00 a.m.; back on the record at
6 11:25 a.m.)

7 THE COURT: Is the State ready to proceed?

8 ASST. SOL. KNIGHT: Yes, sir.

9 THE COURT: Is the defendant ready to proceed?

10 MR. BEACH: Yes, Your Honor.

11 THE COURT: Bill, bring us the jury, please.

12 (WHEREUPON THE JURY ENTERS THE COURTROOM AND THE
13 FOLLOWING IS HELD ON THE RECORD.)

14 THE COURT: All right. Ladies and gentlemen, thank you
15 for your patience. We will now continue with the testimony
16 in the trial of this case. Solicitor, you may call your
17 next witness.

18 ASST. SOL. KNIGHT: Craig Stivender.

19 MADAME CLERK: Please come forward to be sworn.

20 (Whereupon, Craig Stivender is duly sworn.)

21 THE COURT: Make yourself comfortable. Pull the chair
22 up. Adjust the microphone. State your full name and spell
23 your last for the court reporter, please.

24 JUROR: Craig Allen Stivender, S-T-I-V-E-N-D-E-R.

25 THE COURT: Your witness, counsel.

1 DIRECT EXAMINATION

2 BY ASST. SOL. KNIGHT:

3 Q May I call you Craig?

4 A Yes, sir.

5 Q Who are you employed with, sir?

6 A I'm employed with Walterboro Public Safety.

7 Q And how long have you been employed with Walterboro
8 Public Safety?

9 A Approximately three years.

10 Q Were you employed with them between August the 8th and
11 September the 4th, 2012?

12 A Yes, sir.

13 Q And in what capacity, sir?

14 A I was a corporal in narcotics investigation.

15 Q Did you have an occasion on September the 4th, 2012, to
16 be with who is now known as Lt. Chapman of the Sheriff's
17 Department, who was with the city at the time?

18 A Yes, sir.

19 Q And what was the purpose of being with Lt. Chapman?

20 A We were doing an interview on the defendant, Mr.
21 Hollman.

22 ASST. SOL. KNIGHT: May I approach, Your Honor?

23 THE COURT: You may.

24 Q I show you what's been marked as State's Exhibit Number
25 Three, which is in evidence; do you recognize that?

1 A Yes, sir.

2 Q How do you recognize it, sir?

3 A I was the witness to this. It was the Miranda rights
4 and it was signed by Sgt. Chapman, myself, and the
5 defendant, Mr. Hollman.

6 Q Going through that Miranda rights form, do you recall
7 Sgt. Chapman going through it with the defendant?

8 A Yes, sir.

9 Q Go to the first question for instance; read it for the
10 jury.

11 A "You have the right to remain silent."

12 Q And is there an initial to the right of it?

13 A Yes, sir.

14 Q Who initialed that?

15 A Mr. Hollman.

16 Q Okay. What's the next one?

17 A "Anything you say can and will be used against you in a
18 court of law." It's initialed by Mr. Hollman.

19 Q Next.

20 A "You have the right to talk to a lawyer, have one
21 present with you while you're being questioned." Initialed
22 by Mr. Hollman. Number four, "If you cannot afford to hire
23 a lawyer, one will be appointed to represent you before any
24 questioning, if you wish." It was also initialed by Mr.
25 Hollman. Number five, "You can decide at any time to

1 exercise these rights and not answer any questions or make
2 any statements." Initialed by Mr. Hollman. The waiver at
3 the bottom, waiver of rights states "Having understood these
4 rights and having these rights in mind, do you wish to make
5 any statements now? If so, please indicate your wish to
6 talk to us with your signature." And it was signed by Mr.
7 Hollman.

8 ASST. SOL. KNIGHT: May I approach, Your Honor?

9 THE COURT: You may.

10 Q Craig, did either you or now Lt. Chapman threaten the
11 defendant?

12 A No, sir.

13 Q Did you or Lt. Chapman coerce the defendant?

14 A No, sir.

15 Q Did you or Lt. Chapman make any promises to the
16 defendant?

17 A No, sir.

18 Q Did you or Lt. Chapman infer to the defendant that if
19 he would talk to you that good things would happen to him?

20 A No, sir.

21 Q Would you describe his physical appearance?

22 A At the time, he came in, in his jail uniform. He
23 seemed to be healthy and calm at the time.

24 Q Your experience in law enforcement, have you dealt with
25 people who were under the influence of alcohol or narcotic

1 drugs?

2 A Yes, sir.

3 Q Do you have an opinion of whether or not the defendant
4 on September 4th, 2012, was under the influence of alcohol
5 or narcotic drugs?

6 A Yes, sir. He was not under the influence of narcotics
7 or alcohol at that time, in my opinion.

8 Q And did he ever ask for an attorney?

9 A No, sir.

10 Q And did he give a statement?

11 A He did give a statement.

12 Q Do you recall what that statement was?

13 A Originally, he advised that he did not have any part in
14 the activities. He was advised by Sgt. Chapman that we had
15 a surmountable amount of evidence at that point in time that
16 pointed towards him. He then stated that yes, he did take
17 items from that residence. He was asked to give a location
18 on where the residence was from his apartment complex at the
19 time, which was the Walterboro Village. He stated that you
20 go out of the main entrance, which is the only entrance to
21 Walterboro Village. He stated that you bust a left onto
22 Greenpond Highway and go down and bust a right, which would
23 be onto Woodlawn Drive. He stated you would go down
24 approximately half a mile and it was the first residence on
25 the left.

1 Q And the first residence on the left, whose residence is
2 that, sir?

3 A That's the victim's residence.

4 Q Mr. Billy Lyn Tanner?

5 A Yes, sir.

6 Q Did Mr. Hollman tell either you or Lt. Chapman what
7 items he removed from Mr. Tanner's residence?

8 A Yes, sir. He stated that he had taken a large flat
9 screen TV, some sort of laptop computer and also a cell
10 phone.

11 Q Thank you, Mr. Stivender. Answer any questions that
12 Mr. Beach may have.

13 CROSS-EXAMINATION

14 BY MR. BEACH:

15 Q Mr. Stivender, was he under arrest when you talked to
16 him?

17 A Yes, sir.

18 Q What was he charged with?

19 A Receiving stolen goods.

20 Q And was his girlfriend, Ms. Fitzpatrick, also under
21 arrest at that time?

22 A She was not in jail at that time, no sir.

23 Q Was she under arrest?

24 A She had been charged.

25 Q Okay. So she had been charged, but she was no longer

1 in custody?

2 A Correct.

3 Q Her charges were dropped at a later date?

4 A To my knowledge I can't answer that, I don't know.

5 Q Okay. Now when you talked with the defendant while he
6 was being interrogated, did you tell him you were going to
7 charge him with burglary?

8 A I did not do the interview. I was in a room with
9 Sergeant Chapman.

10 Q Okay. So you weren't interviewing the defendant
11 yourself?

12 A Correct.

13 Q Was he shown a list of stolen items?

14 A Not that I recall.

15 Q Was he shown a table with certain items on it?

16 A If he was, I don't recall it.

17 Q Were you there for the whole interview?

18 A Yes, sir.

19 Q And you don't recall him being taken out and shown some
20 items?

21 A Taken out of the interview room?

22 Q Yes.

23 A I don't recall him being taken out of the interview
24 room, no sir.

25 Q Was anything said to him about Ms. Kirkpatrick?

1 A No, sir.

2 Q Did you talk with him at all?

3 A I may have briefly said one thing or another, but I
4 didn't have much conversation; Sergeant Chapman led the
5 interview.

6 Q Did he mention the Tanner residence by name?

7 A He did not mention the Tanner residence by name.

8 Q How many other houses are in that area?

9 A I don't know.

10 Q Is that a subdivision?

11 A It is a subdivision.

12 Q And did y'all mention the Woodland Terrace robbery?

13 A We mentioned -- I think it was mentioned that just the
14 Woodland Terrace area.

15 Q And that's close to Walterboro Village?

16 A Yes, sir.

17 Q All right. And about how far is this house from his
18 house?

19 A By way of the crow flying, approximately 200 yards from
20 his residence to the door of Mr. Tanner's residence.

21 Q And how far is it, not by the crow flying, but as you
22 would have to go by road?

23 A Three quarters of a mile.

24 Q Thank you, sir.

25 THE COURT: Redirect.

1 ASST. SOL. KNIGHT: None, sir. May he be excused and
2 go back to his job, Your Honor?

3 THE COURT: Any objection, Mr. Beach?

4 MR. BEACH: None, Your Honor.

5 THE COURT: Mr. Stivender, you may step down and you
6 are excused from the trial of this case. Call your next
7 witness.

8 ASST. SOL. KNIGHT: M Black.

9 (Whereupon, Mr. Merrell Moses Black is duly sworn.).

10 THE COURT: State your full name and spell your last
11 name for the court reporter.

12 A My name is Merrell Moses Black, B-L-A-C-K.

13 THE COURT: Your witness, Counsel.

14 DIRECT EXAMINATION

15 BY ASST. SOL. KNIGHT:

16 Q Mr. Black, do you live here in Walterboro?

17 A Not currently. I have a residence here, but I
18 currently stay in Columbia.

19 Q In Columbia. And who are you employed with, sir?

20 A Computer Sciences Corporation.

21 Q Okay. Do you know the defendant, Mr. Halden Hollman?

22 A Yes.

23 Q Did you have the occasion to receive the text message
24 on the morning of August 9th, 2012?

25 A I don't remember the exact date, but yes.

1 Q And what was the purpose of that message?

2 A It was about an Apple computer.

3 Q And did you -- when do you come back to Walterboro?

4 A I usually come along after I get off from work, which
5 is 5:00, so roughly like a two hour drive. I'd get here at
6 like 7:00 or 7:30.

7 Q And did you go and meet with Mr. Hollman?

8 A I'm not really sure, but I believe it was either that
9 late Friday night or it might have been Saturday morning,
10 but it's been like six months, so I can't really remember
11 exactly.

12 Q I understand. And did you purchase a computer from Mr.
13 Hallman?

14 A Yes, I did.

15 Q What kind of computer was it?

16 A It was an Apple computer.

17 Q Was it an old computer? New? Or do you know?

18 A I'm not really sure; it wasn't an older computer
19 though.

20 Q Okay. Do you recall what price you paid Mr. Hollman for
21 it?

22 A \$350.00.

23 Q And that's the man that sold you the Apple computer
24 right there?

25 A Yes.

1 Q That person being Mr. Hollman?

2 A Yes.

3 Q Okay. What is the proper name of the computer you
4 brought from Mr. Hallman?

5 A It would be a Macbook.

6 Q An Apple Macbook Pro?

7 A Yes.

8 Q Thank you, sir. I have no further questions.

9 THE COURT: Cross-examination.

10 CROSS-EXAMINATION

11 BY: MR. BEACH

12 Q You bought an Apple Macbook Pro from this young man for
13 \$350.00?

14 A Yes.

15 Q What is the purchase price usually for that sort of
16 equipment?

17 A It depends on if it's used or if it's new.

18 Q And how used was this one?

19 A Fairly used, which they run around like \$600 to \$700.

20 It depends what all is inside of the computer.

21 Q So you bought a \$700 computer for \$350?

22 A Yes.

23 Q And did you question where it came from?

24 A No.

25 Q Had you bought other computers from Mr. Hollman?

- 1 A No, I haven't.
- 2 Q How does he know you?
- 3 A I'm related to him.
- 4 Q He knows that you're in the computer business?
- 5 A Yes.
- 6 Q All right. Now, what was the date of this text?
- 7 A I don't remember exactly.
- 8 Q Did you retain the text?
- 9 A No, I didn't.
- 10 Q Did you retain the computer?
- 11 A I brought it in this morning.
- 12 Q All right. Where is it?
- 13 A It's in the Solicitor's office, I believe.
- 14 Q Okay. Did you check to see if this computer was stolen
- 15 before you bought it?
- 16 A Yes, I did. I actually went through the computer and I
- 17 made sure that there wasn't anything as far as a Facebook
- 18 history, an I-Tunes account, and I also checked on Apple to
- 19 see if it was registered.
- 20 Q Was it registered?
- 21 A It showed that it was purchased, but it wasn't
- 22 registered as far as any technical support or anything like
- 23 that.
- 24 Q And nothing on the computer alerted you as to who owned
- 25 it?

1 A No, there wasn't anything on the computer.

2 Q Do you often buy computers off the street?

3 A I often do, because I actually fix computers on the
4 side.

5 Q And where were y'all when you bought this computer?

6 A I pulled up to this apartment complex.

7 Q I have no further questions. Thank you, sir..

8 THE COURT: Redirect?

9 ASST. SOL. KNIGHT: No, sir. May he be excused?

10 THE COURT: Mr. Beach, any objection?

11 MR. BEACH: None, Your Honor.

12 THE COURT: You may step down and you are excused from
13 the trial of this case. You may leave the courtroom at this
14 time, Mr. Black.

15 ASST. SOL. KNIGHT: Court's indulgence, please.

16 THE COURT: Yes, sir.

17 ASST. SOL. KNIGHT: The State rests, Your Honor.

18 THE COURT: Are there any matters of law that I need to
19 take up at this time on behalf of the defendant?

20 MR. BEACH: Yes, Your Honor.

21 THE COURT: Madame Foreperson, ladies and gentlemen of
22 the jury, I have to take up a matter of law. I'm going to
23 have to ask you if you would, retire to your jury room. I'll
24 be back with you just as quick as I can. Please retire to
25 your jury room and do not discuss the case.

1 (Whereupon, the jury exits the courtroom and the
2 following is held on the record.)

3 THE COURT: Let the record reflect, the jury is now
4 retired from the courtroom and is not present in the
5 courtroom. Mr. Beach, I understand you have a matter of
6 law?

7 MR. BEACH: Your Honor, we would seek a directed
8 verdict at this point based upon our assertion that the
9 State has failed to prove a prima fascia case of burglary.
10 They have not shown that this young man entered the house.
11 They have not shown that he did so with intent to commit a
12 crime, and that any admissions that he made were given while
13 his girlfriend was incarcerated and that he was under
14 duress. That would be the basis of our motion.

15 THE COURT: Mr. Knight?

16 ASST. SOL. KNIGHT: Your Honor, at this state of the
17 proceedings is the existence or non-existence of evidence.
18 I think there is sufficient evidence on the existence side
19 of that equation to take this to the jury.

20 THE COURT: I agree, Mr. Knight. Mr. Beach, your
21 motion for directed verdict using the standard I'm required
22 to apply at this stage in the trial is respectfully denied.
23 Counsel approach.

24 (Whereupon, a bench conference is held off the record.)

25 THE COURT: Mr. Beach, I'll give you a moment to confer

1 with your client, then I'm going to ask you to come forward
2 with your client to the microphone and the clerk will swear
3 your client.

4 MR. BEACH: I've already talked with him about this
5 Your Honor, I think he's ready.

6 THE COURT: Very well. If you'll come around please,
7 with Mr. Beach. Now clerk, please swear the defendant.

8 WHEREAS, THE DEFENDANT, HALDEN L. HOLLMAN IS DULY
9 SWORN.

10 THE COURT: All right, Mr. Hollman. State your full
11 name for the record.

12 MR. HOLLMAN: Halden L. Hollman, H-O-L-L-M-A-N.

13 THE COURT: H-O-L-M-A-N?

14 MR. HOLLMAN: H-O-L-L-M-A-N.

15 THE COURT: Two "L's". H-O-L-L-M-A-N. Mr. Hollman, at
16 this time, I'm going to explain to you your rights. If you
17 do not understand anything I say, please let me know. If
18 you want me to explain anything in further detail, please
19 let me know. Do you understand?

20 A Yes, sir.

21 THE COURT: We've now reached the stage of the trial
22 where you may present your defense. You have the right to
23 testify on your behalf, however, no one can make you
24 testify. In the event that you have a record for any
25 conviction involving dishonesty, or false statement, or for

1 a crime punishable by imprisonment for more than one year,
2 and this Court were, as a matter of law, to determine that
3 the probative value of admitting this evidence outweighed
4 it's prejudicial effect to you, the solicitor, if you've had
5 such a record, would be able to introduce this record for
6 impeachment purposes and try to attack your credibility or
7 your believability.

8 My understanding from the Solicitor and meeting with
9 your attorney and meeting with the solicitor is that you do
10 not have such a record. Is that right, Solicitor?

11 ASST. SOL. KNIGHT: Yes, sir.

12 THE COURT: Is that right, Mr. Beach?

13 MR. BEACH: Yes, sir.

14 THE COURT: Of course, if you elect, Mr. Hollman,
15 regardless of whether you have a record or not, if you were
16 to elect not to take the witness stand, I will charge the
17 jury in my charge on the law that they are not to give the
18 fact that you did not testify any consideration whatsoever;
19 and there is to be absolutely no prejudice to you because
20 you did not testify. You have a Constitutional Right to
21 remain silent. The burden of proof is on the State of South
22 Carolina. The matter of whether or not you testify will be
23 left entirely up to you, as to whether or not you wish to
24 testify. You certainly can talk with your attorney, but the
25 ultimate decision as to whether or not you testify in the

1 trial of this case will be left entirely up to you. Do you
2 understand what I just told you?

3 A Yes, sir.

4 THE COURT: Mr. Beach, would you like a minute with
5 your client?

6 MR. BEACH: We're ready, Your Honor.

7 THE COURT: Very well. Mr. Hollman, have you made a
8 decision as to whether or not you wish to testify in the
9 trial of this case?

10 MR. HOLLMAN: Oh yeah, I'll testify, sir.

11 THE COURT: It's your decision that you wish to
12 testify?

13 MR. HOLLMAN: Yes, sir.

14 THE COURT: And that's your decision and no one else's,
15 is that correct?

16 MR. HOLLMAN: Yes, sir.

17 THE COURT: And no one forced you into that decision?

18 MR. HOLLMAN: No, sir.

19 THE COURT: And you've understood everything I've just
20 advised you?

21 MR. HOLLMAN: Yes, sir.

22 THE COURT: Very well. Thank you very much. You may
23 return to your seat with your attorney.

24 All right. Let the record reflect that I have done
25 some research, and I understand that the witness is in the

1 courtroom. Mr. Beach, I've advised you of my research, and
2 Mr. Knight, that there is a Sixth amendment compulsory
3 process clause that provides that a criminal defendant has
4 the constitutional right to obtain the testimony of
5 favorable witnesses. However, the compulsory process clause
6 does not create an absolute bar to preclusion of the
7 testimony of the defense witness as a sanction for violating
8 the discovery rules.

9 It is my understanding from my lawyers, in chambers,
10 that Rule 5 was served by both the defendant and the State
11 for purposes of this case. I don't know exactly the entire
12 substance of the testimony, but I am certainly going to
13 insist, Mr. Beach, on an explanation from you as the
14 attorney for the defendant when you didn't notify the Court
15 until we were ready to start the trial this morning, why the
16 defendant failed to comply with the request of identified
17 witnesses in advance to trial.

18 Obviously, the State feels that dealing with it at this
19 stage, that it gives the defendant a tactical advantage that
20 would minimize the effectiveness of cross-examination, as
21 well as the ability to call rebuttal evidence that could be
22 important for the jury to consider the credibility of the
23 witness who was not identified until we began the trial at
24 the very beginning. I think at the very outset, Mr. Beach,
25 you need to tell this Court the content, first of all, of

1 why you failed to comply with the request to identify your
2 witnesses when I asked you yesterday when we were striking
3 the jury if there were any further witnesses from the
4 defendant for purposes of voir-dire, and you told me there
5 were not. I'm happy to hear from you first on that issue.

6 MR. BEACH: Thank you, Your Honor. Your Honor, I
7 apologize to the Court for the uproar that this has caused.
8 I'm a Presbyterian and I like to do things in good order,
9 but sometimes this is like herding cats. How this came
10 about was we had prepared the case for trial. I met with
11 the defendant this morning at my office at 8:00 and he
12 stayed until about 8:30 and left and after he left, I got a
13 telephone call from Ms. Kirkpatrick telling me that this
14 fellow had come forward and said that he had some knowledge
15 about what happened and about the contraband that we were
16 talking about. I talked with the client on the telephone --
17 -

18 THE COURT: What time was this? This was after 8:30?

19 MR. BEACH: This was after 8:30 -- between 8:30 and
20 8:45, and I asked him and he said, yes, this fellow was
21 available and he would bring him to court. He gave me the
22 name of the person and I had not talked to the person at all
23 until we got into the courtroom. I came straight over to
24 the courtroom and got here a few minutes before 9:00. He
25 got here at 9:25 and I talked with him at that time. We did

1 not know about him ahead of time.

2 I have never heard his name. I had put my investigator
3 on it, Mr. Horton, and we had not come up with any names. I
4 think what had happened was our investigation tried to
5 pinpoint what had happened on the night that Mr. Tanner's
6 home was burglarized and not the subsequent nights that we
7 were not really concentrating on. We were looking for
8 somebody who we thought was with the defendant on the night
9 the Tanner home was burglarized. We came up with the name of
10 Mr. Jamal Green. We have searched diligently for Mr. Jamal
11 Green and I found out Friday that he is living in North
12 Carolina and has no intention of coming back to assist us.
13 So we've concentrated on that and we didn't get Mr. Jamal
14 Green and so we did not concentrate on the other aspect of
15 it. This young man, as I understand it, is going to
16 testify. We're ready to proffer his testimony, is going to
17 testify that a day or maybe two days after the Tanner break-
18 in is when someone came to see Mr. Hollman ---

19 THE COURT: Someone?

20 MR. BEACH: --- saw him, two people, Your Honor, two
21 people. We do have their names. One of them is deceased.
22 Unfortunately, he was killed by one of my clients. Someone
23 came to Mr. Hollman and brought the television, or brought a
24 television, a 60-inch television, and asked him to dispose
25 of for him, went off after the break-in, and as I understand

1 it, having just briefly spoken with the witness this
2 morning, that's going to be his testimony, and he is in
3 Court today.

4 THE COURT: Very well. Now, my understanding is that
5 you first talked to this witness -- we're starting Court at
6 9:30 this morning. I actually started at 9:31 and you
7 talked to this witness for the first time in this courtroom
8 at 9:25 after I empanelled the jury yesterday, but reserved
9 swearing until this morning; is that correct?

10 MR. BEACH: That is correct, Your Honor.

11 THE COURT: Now, why couldn't you have obtained
12 knowledge of this witness prior to this morning? Can you
13 give me an answer to that question?

14 MR. BEACH: Like I said, we had concentrated on ---

15 THE COURT: I understand what you concentrated on, but
16 is there any reason that your investigator couldn't have
17 determined -- I assume from what you tell me, this witness
18 lives in Walterboro; is that right?

19 MR. BEACH: It's my understanding that the witness is
20 from Walterboro.

21 THE COURT: Is there any reason why the witness was
22 unavailable to you prior to 9:25 this morning?

23 MR. BEACH: I cannot give you a reason for that, Your
24 Honor. We just did not discover him.

25 THE COURT: You had the ability to talk to your client

1 and the fact that your client knew this all along, there
2 wasn't any reason you couldn't have discovered this prior to
3 9:25; is that correct?

4 MR. BEACH: That's correct, Your Honor. It's my
5 impression from talking with the client that he didn't even
6 remember that this young man was there, present, when this
7 occurred.

8 THE COURT: That's what your client has told you?

9 MR. BEACH: That's what he's told me, Your Honor.

10 THE COURT: Very well.

11 MR. BEACH: And because of the importance of this
12 witness, if this witness's testimony pans out as I think it
13 is, it is so vital that I think that had he recalled it,
14 that he would have brought it up immediately. I just don't
15 think this is something he would have hidden or tried to
16 bring up later.

17 THE COURT: Very well, Mr. Beach. I understand your
18 explanation, but of course, it gives me great concern when
19 this occurs, because as you all know, if this were a witness
20 from the State, you all would stand up and ask me, because I
21 know you and what kind of lawyer you are, to exclude that
22 witness.

23 MR. BEACH: Absolutely, Your Honor.

24 THE COURT: Because it would put you in a tactical
25 disadvantage, it would minimize the effectiveness of your

1 cross-examining a witness you knew nothing about and didn't
2 have time to prepare for, not to mention your ability to
3 call witnesses to rebut any surprise witness.

4 MR. BEACH: Yes, sir.

5 THE COURT: Do you agree?

6 MR. BEACH: Yes, sir.

7 THE COURT: Very well. All right. Let's proffer the
8 testimony. Solicitor, I assume you don't wish to be heard
9 on this issue concerning the explanation for his failure to
10 comply with identifying the witnesses in advance of trial
11 for purposes of voir dire and the jury. I think I've
12 handled the voir dire situation by asking whether or not any
13 member of the jury is related by blood, connected by
14 marriage, or a close personal friend of this potential
15 witness who I have not determined yet should be permitted to
16 testify in the trial of this case.

17 ASST. SOL. KNIGHT: No, sir, I do not object to making
18 any proffer.

19 THE COURT: All right, Mr. Beach, call your witness and
20 proffer.

21 MR. BEACH: Thank you, Your Honor. I call Mr. Hodges.

22 THE COURT: Come around and be sworn by the Clerk.

23 MADAME CLERK: Place your left hand on the Bible and
24 raise your right.

25 Whereupon, the witness, Mr. Hodges, is duly sworn.

PROFFER OF TESTIMONY
Direct Examination of Nicholas Hodges by Mr. Beach

1 MADAME CLERK: Please have a seat on the witness stand
2 and state your name for the record.

3 THE COURT: Watch your step and step up the stairs.
4 Have a seat. Make yourself comfortable. Pull that chair up
5 and adjust the microphone. State your full name and spell
6 your last.

7 MR. HODGES: Nicholas Hodges, H-O-D-G-E-S.

8 THE COURT: Your witness, Mr. Beach. I intend, Mr.
9 Beach, for you to proffer anything that you feel like you
10 would attempt to elicit in the presence of the jury at this
11 time so the Court can make a determination as to whether or
12 not the witness should be permitted to testify.

13 MR. BEACH: Thank you, Your Honor.

14 PROFFER TESTIMONY

15 MR. BEACH:

16 Q Mr. Hodges, where are you from?

17 || A Walterboro.

18 Q And how long have you lived here?

19 A I've been here now for three years.

20 Q Okay. How old are you?

21 | A Twenty-five.

22 | 0 Do you know Mr. Halden Hollman?

23 | A Yes, sir.

24 O What do you call him?

25 A I call him Lamont.

PROFFER OF TESTIMONY
Direct Examination of Nicholas Hodges by Mr. Beach

1 Q Lamont?

2 A Yes, sir.

3 Q How long have you known him?

4 A Maybe like 18 years.

5 Q Do y'all hang around together?

6 A Yes, sir.

7 Q And do you see him very often?

8 A Yes, sir.

9 Q Did you -- where you in Walterboro during August of

10 last year?

11 A I came back to visit. I was up in Aiken then.

12 Q Were you living in Aiken?

13 A Uh-huh (affirmative).

14 Q Do you remember going to see Mr. Hollman?

15 A Yes, sir.

16 Q And where did you see him?

17 A In the Village.

18 Q Walterboro Village?

19 A I was dropped off earlier that morning.

20 Q Do you recall what time that was?

21 A I want to say around 12 in the evening. I got dropped

22 off and I spent like the whole day with him.

23 Q Now, do you recall an incident involving a television

24 set?

25 A I know that this car pulled up, there were two fellows

PROFFER OF TESTIMONY
Direct Examination of Nicholas Hodges by Mr. Beach

1 in there with a TV in the back, and they asked us if we knew
2 anybody that wanted to buy it.

3 Q Did you know who the people were in the car?

4 A Turtle, and there was a Caucasian fellow named Jay.

5 Q Do you know Turtle's real name?

6 A No, sir.

7 Q Do you know where Turtle is now?

8 A No, sir.

9 Q How about the other fellow, do you know his name?

10 A No, sir. That was really like my first time seeing
11 them like that.

12 Q And what did they have in their car?

13 A A television.

14 Q Do you recall how big it was?

15 A It looked to be anywhere from, I guess, 52 to 86
16 inches. It was a plasma TV.

17 Q A plasma TV?

18 A A flat screen.

19 Q A flat screen?

20 A Yes, sir.

21 Q And what did they do with it?

22 A They asked us if we knew anybody that wanted to buy
23 one, so we made a few calls to see, not knowing, I guess, at
24 the time that it was stolen. We made a few calls. Took a
25 picture of it. Made a few calls to sell it and that was

PROFFER OF TESTIMONY
Direct Examination of Nicholas Hodges by Mr. Beach

1 that. They sit around for an hour or two and then they put
2 the TV back in the car and left.

3 Q They left with the TV?

4 A Yes.

5 Q About what time did they leave?

6 A Like I said, they sit around for maybe an hour or two,
7 and then left. I didn't notice the time. I can't tell you.

8 Q Do you remember anything about a computer?

9 A Yeah.

10 Q What about the computer?

11 A They had one of them, too.

12 Q The same two guys?

13 A Yes.

14 Q All right. Where did they have it?

15 A In the car.

16 Q What did they do with the computer?

17 A They brought it to see if we could get it unlocked.

18 Q What do you mean by unlocked?

19 A Unlock the computer.

20 Q Okay. What kind of computer was it?

21 A I don't recall exactly what kind.

22 Q And what happened to the computer?

23 A They came and picked it up and, like I said, they sat
24 around for a couple hours and then they left.

25 Q Okay. Did they leave with the computer?

PROFFER OF TESTIMONY
Direct Examination of Nicholas Hodges by Mr. Beach

1 A Yes.

2 Q Did they have any other stuff? Telephones or anything
3 like that?

4 A I don't recall any phones.

5 Q Had you seen these people before this?

6 A --No, sir.

7 Q Did you know turtle?

8 A No, sir.

9 Q How did you know his name was turtle?

10 A I mean, I overheard his name when we was conversating.
11 Of course, you're going to introduce yourself to somebody if
12 you're just meeting them and I remember that he told me his
13 name was Jay and Turtle.

14 Q Do you remember what night this was?

15 A I only recall maybe a Thursday, or maybe a Friday. It
16 was either a Thursday or Friday, because we were preparing
17 to go out because that's usually the nights that we go out.

18 Q Do you remember the exact day?

19 A No, sir.

20 Q I have no other questions. Please answer any questions
21 that the Solicitor may have.

22 THE COURT: Is that the extent of what you intend to
23 proffer?

24 MR. BEACH: It is, Your Honor.

25 THE COURT: Cross-examination.

PROFFER OF TESTIMONY
Cross-Examination of Nicholas Hodges by Asst. Sol. Knight

1 CROSS-EXAMINATION

2 BY ASST. SOL. KNIGHT:

3 Q Mr. Hodges, you say that you were living in Aiken,

4 South Carolina then?

5 A Yes, sir.

6 Q Who were you employed with at that time, sir?

7 A Aiken Standard.

8 Q And you came to visit, as you call him, Lamont?

9 A Yes, sir.

10 Q And you were dropped off in the evening time?

11 A Yes, sir.

12 Q And was this at the beginning of August or September,

13 or the end of August and September?

14 A This was like the beginning of August.

15 Q Which week was this?

16 A I'm not sure exactly what week, but it was in the

17 beginning of August.

18 Q Okay. Could it have been the first two days of August?

19 A No.

20 Q Could it have been the third and the fourth of August?

21 A Like I tell you, I don't know the exact date. I just

22 don't know.

23 Q I got you. You said these two fellows had this 52 inch

24 TV?

25 A Right.

PROFFER OF TESTIMONY
Cross-Examination of Nicholas Hodges by Asst. Sol. Knight

- 1 Q And they wanted Lamont to sell it?
- 2 A Yes, sir.
- 3 Q And they took it out the car?
- 4 A Yes, sir.
- 5 Q And they took this computer out the car?
- 6 A Yes, sir.
- 7 Q And you got a chance to look at it, both of them?
- 8 A Yes, sir.
- 9 Q And then they put them back in the car?
- 10 A Yes, sir. After sitting around for maybe an hour or
- 11 two, yes, sir.
- 12 Q What kind of television was it?
- 13 A I don't know the brand name.
- 14 Q How about the computer? What brand was the computer?
- 15 A I don't know.
- 16 Q Okay. Are you related to Lamont?
- 17 A No, sir.
- 18 Q So y'all hang around together when you are in
- 19 Walterboro?
- 20 A Yes, sir.
- 21 Q When did you go back to Aiken in 2012?
- 22 A Usually when I come down, me and my baby moma, we stay
- 23 in town and come down for maybe a week or a week and a half
- 24 at a time, then we will go back. Because I have a swing
- 25 shift job, so I work a week and then I may be off a week.

PROFFER OF TESTIMONY
Cross-Examination of Nicholas Hodges by Asst. Sol. Knight

1 Q Okay. Did you come back in September of 2012?

2 A Yes, sir. We usually come back maybe once or twice a
3 month, because she has family down here, also.

4 Q Do you have family, too?

5 A Yes.

6 ASST. SOL. KNIGHT: That's all I have.

7 THE COURT: You may step down.

8 MR. BEACH: That would be our proffer, Your Honor. I
9 think one of the things that leads me to believe that he
10 would not be able to identify these is the fact that he does
11 go back and forth to Aiken and lives and works in Aiken and
12 is not around here fulltime. I think that may be one of the
13 reasons why we did not pick up on it. And that may be one
14 of the reasons that the defendant did not recall that he was
15 present when the other fellows brought the stuff by his
16 apartment.

17 THE COURT: Very well. Anything else?

18 MR. BEACH: No, sir, Your Honor. I think that's it.

19 THE COURT: Mr. Knight, I will hear from you now.

20 ASST. SOL. KNIGHT: Your Honor, this young man's
21 testimony is like a smoke screen. He doesn't know when in
22 August he came down. He doesn't know what type of
23 television or what type of computer it was, and important,
24 they did not leave those items at the defendant's address.
25 He is known the defendant for 18 years. Common sense tells

1 me, and I don't have a lot of it, but it tells me that if
2 someone, and he comes all this time talking to folks, where
3 is Lamont? He's in jail. For what? Whatever the reason
4 is. An inquiry would have been made from Lamont or his
5 common-law wife, or others associated with Halden Lamont
6 Hollman to get him there and get this information to Mr.
7 Beach. All of a sudden, the person who doesn't know
8 anything, doesn't know when he was here, has known the
9 defendant 18 years, knows he's a witness. I just don't
10 understand his testimony. He doesn't put out a particular
11 date and a particular time.

12 THE COURT: Doesn't that go to the weight of his
13 testimony rather than its admissibility?

14 ASST. SOL. KNIGHT: Well, in some ways, I agree with
15 you, Judge. If he gave a date, let's say August the 12th,
16 then I have no question that it goes to the weight. Here,
17 we don't have anything. I have no idea whether it was in
18 the beginning or the end. That's my problem.

19 THE COURT: What other objections do you have to the
20 admissibility of the testimony, other than the fact that you
21 feel that the testimony does not give you a date, it does
22 not give you the brand name of a product that was identified
23 as possibly being a product similar to the one that is the
24 subject matter of this trial?

25 ASST. SOL. KNIGHT: Well, I don't think I can

1 adequately cross-examine this person in the presence of the
2 jury. I don't ---

3 THE COURT: Is there not an issue here of hearsay?
4 Because what I'm being told by Mr. Beach is he intends to
5 proffer now or call a witness who is going to testify to
6 what someone else said who is not available for cross-
7 examination. Is there an issue here as to what these people
8 said that we want the defendant to sell a television. Is
9 that not a hearsay issue or have I missed something?

10 ASST. SOL. KNIGHT: There's not a question that it's
11 hearsay.

12 THE COURT: Anything else?

13 ASST. SOL. KNIGHT: No, sir.

14 THE COURT: Thank you. Mr. Beach, I've listened
15 carefully to your proffer and I certainly want to make sure
16 that your client has the right to obtain testimony that is
17 favorable, and he tells me he is going to testify in the
18 trial of this case. I understand, and I want the Appellate
19 Court to know that I don't think the admission by you of
20 notifying the State of a witness was willful. I find no
21 evidence of that. I do think, however, bringing it up at
22 this late date gives you a tactical advantage, because it
23 minimizes, even with the proffer, the ability to effectively
24 cross-examine or to produce rebuttal evidence.

25 My feeling is this, Mr. Beach, I'm going to allow you

1 to call the witness if you so desire. If there is an
2 objection as to hearsay, Mr. Beach, unless you can give me
3 an exception, which I haven't heard from yet, I'm not going
4 to allow hearsay testimony in the trial of this case. And
5 obviously, the Solicitor will be able to, if you decide to
6 call the witness, to cross-examine the witness as to when,
7 which the witness says he has no idea, other than early
8 August. The Solicitor would be able to cross-examine as to
9 whether he is talking about the same property that is the
10 subject matter of this litigation, but I think that goes to
11 the weight of the testimony.

12 I realize I'm putting the State at a disadvantage in
13 permitting you to decide to call a witness at 9:25 a.m. on
14 the first morning of trial and we selected the jury
15 yesterday. However, in an attempt to make sure that I
16 protect your client's rights, that does not mean that the
17 entire manner of the testimony that I've just heard in the
18 proffer would be admissible in the presence of the jury. I
19 will leave that to your decision as to what you decide to do
20 after conferring with your client. I will give you a minute
21 with your client.

22 (Off the record, briefly.)

23 MR. BEACH: Your Honor, it's our intention to call the
24 witness and we ---

25 THE COURT: Hold on just one second. My law clerk

1 wants to tell me something.

2 Yes, sir?

3 MR. BEACH: Thank you, Your Honor. Your Honor, we have
4 decided to call the witness and we can avoid what these
5 folks said.

6 THE COURT: You absolutely are going to avoid it
7 because you know it's nothing but hearsay and there's no way
8 the Solicitor can cross-examine that. We're not talking
9 about a statement of the defendant.

10 MR. BEACH: Yes, sir.

11 THE COURT: The Solicitor is going to be able to elicit
12 that he can't identify the make, model, brand, date; you
13 understand that?

14 MR. BEACH: Yes, sir.

15 THE COURT: And understanding that, you still wish to
16 call the witness?

17 MR. BEACH: Yes, sir.

18 THE COURT: All right. Solicitor, I noted your
19 objection for the record and I've made my ruling. Is the
20 State ready to proceed or do you need any additional time to
21 prepare, because I will give it to you if you so desire.

22 ASST. SOL. KNIGHT: Your Honor, I would like the
23 witness's DOB and social security number.

24 THE COURT: Absolutely. Mr. Beach, come back up here.
25 Sir, you're still under oath.

1 (The witness, Mr. Hodges, takes the witness stand.)

2 THE COURT: Ask a question, Solicitor.

3 Q Mr. Hodges, what is your date of birth?

4 A [REDACTED].

5 Q [REDACTED]?

6 A Uh-huh (affirmative). Yes, sir.

7 Q And your social security number, sir.

8 A [REDACTED].

9 Q You will have to go a little slower, sir.

10 A [REDACTED].

11 ASST. SOL. KNIGHT: Thank you, Your Honor.

12 THE COURT: Hold on a second. Give us your full name.

13 First, middle and last.

14 MR. HODGES: Nicholas M. Hodges.

15 ASST. SOL. KNIGHT: M?

16 THE COURT: What's the "M" stand for?

17 MR. HODGES: Miguel.

18 ASST. SOL. KNIGHT: Thank you, Your Honor.

19 THE COURT: Mr. Hodges, one other question by the
20 Court. Have you ever been convicted of any crime carrying
21 more than one year?

22 MR. HODGES: No, sir.

23 THE COURT: You have not?

24 MR. HODGES: No, sir.

25 THE COURT: Very well. You may step down.

1 Solicitor, do you need additional time, rather than
2 proceed forward at this time? We're at 12:25. The jury is
3 going to break for lunch at 1:00. I certainly want to give
4 you time since I realized this was just sprung on you at
5 9:30 this morning.

6 ASST. SOL. KNIGHT: Could I have about 10 or 15
7 minutes, Your Honor?

8 THE COURT: You certainly can. We'll take a 15 minute
9 break.

10 (Whereupon, the court is in recess in the trial of this
11 case for a brief period of time.)

12 THE COURT: Is the State now ready to proceed?

13 ASST. SOL. KNIGHT: Yes, sir.

14 THE COURT: Is the defendant ready to proceed?

15 MR. BEACH: Yes, Your Honor.

16 THE COURT: Bring us the jury, please, Bill.

17 (WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE
18 FOLLOWING IS HELD ON THE RECORD.)

19 THE COURT: Thank you for your patience, ladies and
20 gentlemen. A matter of law came up, but I had to take
21 testimony on, so it took me a while to complete ruling on
22 that matter. I told you things like that would happen
23 during a trial. You've now heard the evidence from the
24 State of South Carolina. You will now hear from the
25 defendant. Mr. Beach, you may call your first witness.

1 MR. BEACH: Thank you, Your Honor. We call the
2 defendant, Mr. Halden Hollman.

3 THE COURT: Mr. Hollman, please come around and be
4 sworn by the Clerk of Court.

5 MADAME CLERK: Please come forward and put your left
6 hand on the Bible. Raise your right.

7 (Whereupon, the defendant, Mr. Halden Hollman, is duly
8 sworn.)

9 THE COURT: Have a seat. Make yourself comfortable.
10 Adjust the microphone. Speak into the microphone -- you
11 don't have to lean right into it. Just sit close to it and
12 speak up. State your full name and spell your last name for
13 the court reporter.

14 MR. HOLLMAN: My name is Halden Hollman. My last name
15 is H-O-L-L-M-A-N.

16 THE COURT: Your witness, Mr. Beach.

17 MR. BEACH: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MR. BEACH:

20 Q Mr. Hollman, how old are you?

21 A Twenty-six.

22 Q How far did you go in school?

23 A Oh, twelve.

24 Q Did you graduate?

25 A Yes, sir.

- 1 Q Are you married?
- 2 A No, sir.
- 3 Q Do you have a girlfriend?
- 4 A Yes, sir.
- 5 Q Who is that girlfriend?
- 6 A Courtney Kirkpatrick.
- 7 Q And is she in court today?
- 8 A Yes, sir.
- 9 Q How long have you and she been together?
- 10 A I'd say about eight years.
- 11 Q How long have you all lived together?
- 12 A For about eight -- four.
- 13 Q Do you have any children?
- 14 A Yes, sir.
- 15 Q How many children?
- 16 A Four.
- 17 Q And where are those children?
- 18 A Oh, right now?
- 19 Q Yes, sir.
- 20 A Oh, her sister is taking care of them until after
- 21 Court.
- 22 Q Do you and she live together right now?
- 23 A Yes, sir.
- 24 Q Do you and she have custody of the children?
- 25 A Yes, sir.

- 1 Q Where do y'all live?
- 2 A You said where did we live?
- 3 Q Where do you live?
- 4 A Oh, now?
- 5 Q Uh-huh (affirmative).
- 6 A At [REDACTED]
- 7 Q Okay. Where were you living in August of last year?
- 8 A Oh, on the Greenpond Highway.
- 9 Q Is that the Walterboro Village?
- 10 A Yes, sir.
- 11 Q Okay. How long had you lived there?
- 12 A I'd say, like, four or three years.
- 13 Q Did anybody else live with you other than Courtney and
- 14 the children?
- 15 A Oh, no, sir.
- 16 Q Now, did you break into Mr. Tanner's house?
- 17 A No, sir.
- 18 Q Have you ever been to Mr. Tanner's house?
- 19 A No, sir.
- 20 Q Do you know where he lives?
- 21 A I know from what the boys told me.
- 22 Q Have you ever been to the house?
- 23 A Oh, no, sir.
- 24 Q There was some testimony about a television; do you
- 25 know anything about a 50 to 60 inch television?

1 A Oh, I had seen it after the fact, like later on that
2 Thursday afternoon.

3 Q Thursday afternoon, who did you see with the
4 television?

5 A Well, first, me and my homeboy, Nicholas Hodges, was
6 chilling at my property, and we went outside to smoke a
7 cigarette, and that's when a white Impala pulled up and
8 Turtle and a boy named Jay came up.

9 Q Who is Turtle?

10 A I guess Turtle's real name is Dimitrius.

11 Q And where is Turtle now?

12 A Oh, deceased. He had been killed.

13 Q Do you know the other guys name?

14 A The other guy that was with him?

15 Q The other guy that was with Turtle.

16 A Oh, from my point of view, Turtle was just calling him
17 Jay.

18 Q His name was Jay?

19 A Yes, sir.

20 Q Do you know his last name?

21 A No, sir.

22 Q Had you ever seen him before?

23 A I'd seen him like two or three times before.

24 Q Did Turtle have something with him?

25 A Yes, sir.

- 1 Q What did he have?
- 2 A Oh, he had a TV in the back seat.
- 3 Q What kind of television was it, do you recall?
- 4 A Oh, no, I don't remember what kind.
- 5 Q How big was it?
- 6 A I'd say it was like a 50-something.
- 7 Q Did he have it in the car or in the trunk?
- 8 A No, he had it in the backseat.
- 9 Q The backseat of the car?
- 10 A Yes, sir.
- 11 Q And what did he do with the television?
- 12 A Oh, he asked me if I knew of anybody that wanted to
- 13 purchase it.
- 14 Q Did he take it out of the car?
- 15 A Oh, yes, sir.
- 16 Q How many people did it take to take it out of the car?
- 17 A Oh, both of them had grabbed one end to bring it out.
- 18 Q And you saw the TV close up?
- 19 A Yes, sir. I took a picture of it.
- 20 Q Were you able to find anybody who wanted to buy the TV?
- 21 A Oh, no, sir.
- 22 Q Did they leave the TV with you?
- 23 A No, sir.
- 24 Q Did they have any other stuff that they left with you?
- 25 A Yes, sir.

- 1 Q What did they have?
- 2 A They had an Apple laptop.
- 3 Q Did they leave that with you?
- 4 A Yes, sir.
- 5 Q What did you do with it?
- 6 A I unlocked it for them.
- 7 Q Now, what do you mean by "unlocked"?
- 8 A Like, because they had a code, a password?
- 9 Q Uh-huh (affirmative).
- 10 A I erased the code from it.
- 11 Q You made it work.
- 12 A Yes, sir.
- 13 Q Had you ever seen this television prior to this day ?
- 14 A No, sir.
- 15 Q Had you ever seen this computer prior to this day?
- 16 A No, sir.
- 17 Q What did they do with these two items?
- 18 A Oh, they kept asking me if knew anybody who could
- 19 purchase it.
- 20 Q And did they leave them with you or take them back with
- 21 them? What did they do?
- 22 A They had left the laptop for a little while, but then
- 23 they had left. After I unlocked it, they took it with them.
- 24 Q They took the TV with them?
- 25 A Yeah, they took the TV with them, but they ain't -- the

1 whole time they was there, I was unlocking the laptop for
2 them, but after I finished that, they took it back with
3 them. But then they had brung it back later on that day.

4 Q What did you do with the laptop?

5 A Oh, I had called around asking did they know anyone
6 that wanted to buy a laptop.

7 Q Was this the fellow who testified a little earlier?

8 A Oh, yes, sir.

9 Q Did you sell it to him?

10 A I wouldn't say I sold it to him. I did a transfer,
11 like, while he was in the house and the others was
12 outside ---

13 Q Did he give you money?

14 A Well, no, but I'd say I got \$20 for unlocking it and
15 I'd say another \$20 or \$30 just for helping to sell it.

16 Q Okay. What did you get from the fellow you sold it to?
17 The fellow you gave it to?

18 A Oh, I ain't got nothing. The other boys had got the
19 money, but I helped exchange it for them.

20 Q And you got how much out of it?

21 A I got \$20 for unlocking it and what, I'd say \$20 or \$30
22 for helping him sell it.

23 Q Okay. Now, you were subsequently arrested by the
24 Walterboro Police Department; is that correct?

25 A Yes, sir.

- 1 Q And what was the charge?
- 2 A Oh, receiving stolen goods.
- 3 Q And were you interrogated by the police department?
- 4 A Yes, sir.
- 5 Q And who was involved in that interrogation?
- 6 A Oh, Chapman.
- 7 Q Sgt. Chapman?
- 8 A Yes, sir.
- 9 Q Now is Lt. Chapman?
- 10 A Yes, sir.
- 11 Q Was Corporal Stivender there?
- 12 A Is that the one with the bald head?
- 13 Q Yes.
- 14 A Oh, yes, sir.
- 15 Q Okay. And did you tell them that you had one into the
- 16 Tanner house?
- 17 A Not from my point of view, sir.
- 18 Q What did you tell them?
- 19 A Oh, I just told them what they wanted to hear because I
- 20 was trying to get my old lady out.
- 21 Q And your old lady, you mean ---
- 22 A Oh, my girlfriend.
- 23 Q You mean Courtney?
- 24 A Yes, sir.
- 25 Q Okay. What was Courtney's situation?

- 1 A Oh, they had her charged with receiving stolen goods.
- 2 Q Was she still charged when you talked to the police?
- 3 A Yes, sir.
- 4 Q Was she later -- did they later drop the charges
- 5 against her?
- 6 A Yes, sir.
- 7 Q Do you know how much later?
- 8 A Oh, I guess when she went to her pre-lim hearing.
- 9 Q Okay. And was that after you had been interrogated?
- 10 A Yes, that was way after. I'd say that was probably
- 11 like the end of September or first beginning of October.
- 12 Q So they dropped the charges against her?
- 13 A Yes, sir.
- 14 Q They did not drop the charges against you?
- 15 A No, sir.
- 16 Q That's when you were charged with burglary?
- 17 A Yes, sir.
- 18 Q Now, when you told this to the police, to Sgt. Chapman,
- 19 what exactly did you tell him?
- 20 A Oh, I just told him that I had got the stuff.
- 21 Q What about going into the house? What did you tell him
- 22 about that?
- 23 A Oh, I was just repeating what the boys had told me.
- 24 Well, Turtle and them boys, I guess they was bragging about
- 25 it.

- 1 Q Was it true?
- 2 A Oh, about me?
- 3 Q Yes.
- 4 A Oh, no, sir.
- 5 Q Okay. And tell me again, tell the jury again, why you
- 6 told the police that.
- 7 A Oh, I told them I did the stuff to get my old lady out
- 8 -- I mean, my girlfriend.
- 9 Q And did it work?
- 10 A From my point of view, yes, sir.
- 11 Q Again, did you break into Mr. Tanner's house?
- 12 A No, sir.
- 13 Q Do you know Mr. Tanner?
- 14 A No, sir.
- 15 Q Do you know any of his family?
- 16 A No, sir.
- 17 Q You say you know about where his house is?
- 18 A Yes, from what they said I knew what roads to turn on
- 19 from what the boys had said.
- 20 Q About how far is it from Mr. Tanner's house back to
- 21 your apartment?
- 22 A I'd say like probably -- John knows the exact distance.
- 23 I just know when my man say he just bust a right on
- 24 Greenpond Highway.
- 25 Q Okay. How tall are you?

1 A Oh, not but five, nine.

2 Q And how much did you weigh when this happened?

3 A Oh, I'd say like 130, 120-something, something like
4 that.

5 MR. BEACH: I don't have any other questions, Your
6 Honor. Please answer any questions the solicitor may have.

7 MR. HOLLMAN: Yes, sir.

8 ASST. SOL. KNIGHT: May it please the Court, Your
9 Honor?

10 THE COURT: Proceed.

11 CROSS-EXAMINATION

12 BY ASST. SOL. KNIGHT:

13 Q Mr. Hollman, you said these two fellows came to your
14 apartment at the Village with this television.

15 A Yes, sir.

16 Q And you saw the television close up; is that correct?

17 A I wouldn't say close up; they -- when they ---

18 Q I'm quoting you what you said, not what I'm saying.

19 You saw it close up?

20 A Yes, sir.

21 Q I also think you said you took a photograph of it?

22 A Yes, sir.

23 Q Okay. What was the brand name? You saw it close up
24 and you took a photograph.

25 A I don't know, man.

1 Q Okay. Thank you. You don't know. Now, the laptop that
2 they took out of the car, their car is what you are saying.
3 You unlocked it and secured it and made it work; is that
4 true?

5 A Yeah, I unlocked it.

6 Q Okay. And you gave the laptop back to them?

7 A Yes, sir.

8 Q And they took off into the wild, blue yonder?

9 A Yes, sir.

10 Q Did it come back?

11 A Yes, I did say that.

12 Q Yes, you did say that, that did come back. And did
13 they bring the laptop with them?

14 A Oh, yeah, they had bring the laptop back.

15 Q And they just left it with you?

16 A No, that's when Merrell had came.

17 Q Oh, okay, so Merrell came and they brought the laptop
18 back. He was there when they brought the laptop back?

19 A Yes, sir.

20 Q And he was outside if I remember your testimony?

21 A Merrell?

22 Q Yeah, Merrell.

23 A Yeah, he was outside.

24 Q And they were inside?

25 A Yes, sir.

1 Q And when he got there, they had the laptop there?

2 A Yes, sir.

3 Q They got there about the same time?

4 A No, I would say them boys had probably been there about
5 20 to 30 minutes before Merrell came.

6 Q Okay. And this was in the afternoon, did you say?

7 A Yes, sir.

8 Q Okay. Afternoon. Now, you've indicated that you gave
9 a statement to now Lt. Chapman and Craig Stivender, because
10 you referred to him as the bald headed guy.

11 A Yes, sir.

12 Q That's all right, I'm bald. It doesn't bother me. And
13 you gave that statement to them, and I want to make sure
14 what you said, you told them what they wanted to hear?

15 A Yes, sir.

16 Q Okay. How did you describe the distance from your
17 house to Mr. Tanner's house, who you didn't know, and how
18 you went there in such great detail?

19 A Because the boys were bragging about it the day after
20 it happened.

21 Q Oh, so, but they didn't bring you the computer the day
22 after it, did they?

23 A Oh, no.

24 Q Okay. That's what I thought. How far is Mr. Tanner's
25 house from your house?

1 A I wouldn't really know. I just went by details.

2 Q Okay.

3 ASST. SOL. KNIGHT: If the Court will indulge me one
4 moment.

5 THE COURT: Yes, sir.

6 ASST. SOL. KNIGHT: That's all I have, Mr. Hollman.

7 THE COURT: Redirect?

8 MR. BEACH: None, Your Honor.

9 THE COURT: You may step down. Call your next witness.

10 MR. BEACH: Your Honor, we would call Nicholas Hodges.

11 THE COURT: Come around and be sworn by the Clerk.

12 MADAME CLERK: Please come forward. Place your left
13 hand on the Bible and raise your right.

14 Whereupon, Mr. Nicholas Hodges is duly sworn.)

15 THE COURT: Watch your step. Have a seat. Be
16 comfortable. Pull the microphone down. State your full
17 name and spell your last name for the court reporter.

18 MR. HODGES: Nicholas Miguel Hodges, H-O-D-G-E-S.

19 THE COURT: Your witness. Direct examination, counsel.

20 MR. BEACH: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. BEACH:

23 Q Mr. Hodges, where do you live?

24 A Currently in Walterboro.

25 Q And how long have you lived in Walterboro?

1 A For three years.

2 Q Okay. And prior to that, did you have connections with
3 Walterboro?

4 A Yeah, I would come home to visit. This is really where
5 I'm from.

6 Q Okay. Where were you living -- let me back up a
7 minute. Where were you working during the last year?

8 A Oh, the Aiken Standard.

9 Q And where is that?

10 A In Aiken, South Carolina.

11 Q Do you commute back and forth to Aiken?

12 A Yes, sir.

13 Q And do you stay in Aiken part of the time or do you go
14 live here and go back and forth?

15 A We will come home, like I work my job is a swing shift,
16 so I would work a week, I'd be off a week, and during the
17 week that I was off, me and my girlfriend would come down
18 here because she also has got family down here in
19 Walterboro.

20 Q Okay. Now, do you know Mr. Lamont Hollman?

21 A Yes, sir.

22 Q You call him Lamont?

23 A Yes, sir.

24 Q How do you know him?

25 A That's been my best friend for like 18 years.

1 Q Eighteen years?

2 A Yes, sir.

3 Q And do you see him fairly often?

4 A Yes, sir.

5 Q Now when you are going back and forth to Aiken, would
6 you still be seeing him?

7 A Not while I was in Aiken. We would just call each
8 other and conversate for maybe an hour or two.

9 Q Did you ever go to his apartment and spend time with
10 him?

11 A Yes, sir.

12 Q In August of last year, were you going back and forth
13 to his apartment?

14 A Yes, sir. Whenever I would come home, I would always
15 make sure to come by and see him.

16 Q In the early part of August of last year, do you recall
17 an incident involving a television?

18 A I remember Turtle and Jay coming and they had a
19 television also in the back.

20 Q Okay. Just tell us -- don't tell us what they said,
21 but just tell us what occurred. Did you see these people?

22 A Yes, sir.

23 Q Did you see the television?

24 A Yes, sir.

25 Q What kind of television was it?

1 A I don't know the exact kind. I know it was very big.

2 Q How big do you think it was; a 50-inch or a 60-inch?

3 A I would say a 52 or bigger. I know it wasn't no small
4 TV.

5 Q And who had the TV?

6 A Turtle and Jay.

7 Q Do you know Turtle and Jay?

8 A No, sir.

9 Q What kind of car were they driving?

10 A I can't recall. I know it was a white car.

11 Q A white car. And did they have the television in the
12 trunk or did they have the television in the back seat?

13 A They had it laying up in the back seat.

14 Q Did they have anything else in there?

15 A A laptop, also.

16 Q Did you see the laptop?

17 A Yes, sir.

18 Q And what kind of laptop was it; do you recall?

19 A That I don't recall.

20 Q What happened to the laptop?

21 A They brought it there for Lamont to unlock it. They
22 sit around for an hour or two and asked us if we knew
23 anybody that wanted to buy it.

24 THE COURT: Don't refer to what anybody else said, just
25 what you saw with your eyes and not what someone else said.

1 Proceed. Ask a question, counsel. Direct examination.

2 MR. BEACH: Thank you, Your Honor.

3 Q Just from what you saw, did they leave the laptop or
4 did they leave with it?

5 A They left it, at that time.

6 Q And what happened to the laptop, do you know?

7 A No, sir.

8 Q Okay. Did you see the television close up?

9 A No, sir.

10 Q How far away were you?

11 A Maybe from here to the podium right there.

12 Q Okay. And did they have anything other than the
13 television and the laptop?

14 A Not that I recall.

15 Q Did you stay there the rest of the day?

16 A I had left and I came back, yes, sir.

17 Q And you know Lamont very well?

18 A Yes, sir.

19 Q Does he have an automobile?

20 A Not in his name, no, sir.

21 Q Okay. Does he have a driver's license?

22 A No, sir.

23 MR. BEACH: No other questions, Your Honor.

24 THE COURT: Cross-examination?

25 ASST. SOL. KNIGHT: May it please the Court, Your

1 Honor.

2 CROSS-EXAMINATION

3 BY ASST. SOL. KNIGHT:

4 Q You do not know the make or model of the television?

5 A No, sir.

6 Q You do not know the make and model of the computer?

7 A No, sir.

8 Q And the two fellows left with the television and the
9 computer?

10 A Yes, sir. After it was unlocked.

11 Q After it was unlocked?

12 A Yes, sir.

13 Q And do you recall whether this was in the afternoon
14 hours or at night?

15 A I got dropped off there around twelve, and they came
16 like maybe three or two hours after I got dropped off. So I
17 would say like maybe around two or three they came.

18 Q Okay. Do you recall what time they left?

19 A I guess around four, because they stayed around for an
20 hour or two. So I would say around four.

21 Q And they went off with the computer and the television?

22 A Yes, sir.

23 Q And as I understand your testimony, you correct me if
24 I'm wrong, in response to Mr. Beach's question, Lamont has
25 been your best friend for 18 years?

1 A Yes, sir.

2 Q Thank you, sir.

3 THE COURT: Redirect?

4 MR. BEACH: Not of this witness, Your Honor. May he be
5 excused?

6 THE COURT: Any objection to this witness being
7 excused, Solicitor?

8 ASST. SOL. KNIGHT: No, sir.

9 THE COURT: Very well. You may step down and you are
10 excused from the trial of this case. Call your next
11 witness.

12 MR. BEACH: We call Ms. Courtney Kirkpatrick.

13 THE COURT: Ms. Kirkpatrick, please come forward and be
14 sworn.

15 MADAME CLERK: Place your left hand on the Bible and
16 raise your right.

17 (Whereupon, Ms. Courtney Kirkpatrick is duly sworn.)

18 THE COURT: Watch your step. Have a seat. Be
19 comfortable. Adjust the chair, adjust the microphone. State
20 your full name and spell your last name for my court
21 reporter.

22 MS. KIRKPATRICK: Courtney Shantell Kirkpatrick. My
23 last name is spelled K-I-R-K-P-A-T-R-I-C-K.

24 THE COURT: Your witness, counsel.

25 DIRECT EXAMINATION

1 BY MR. BEACH:

2 Q How old are you, Courtney?

3 A Twenty-five.

4 Q And where do you live?

5 A Right now I'm currently staying at [REDACTED],

6 Walterboro, South Carolina.

7 Q And do you know Mr. Halden Lamont Hollman?

8 A Yes, I do.

9 Q And how do you know him?

10 A Because he is the father of my kids and we are
11 currently together at the moment.

12 Q How many children are there?

13 A Four.

14 Q Four children?

15 A Yes, sir.

16 Q And do you and he live together?

17 A Right now?

18 Q Yes.

19 A Yes, sir.

20 Q And when this occurred back in August, were y'all
21 living together?

22 A Yes, sir.

23 Q And where were y'all living?

24 A [REDACTED]

25 Q And is that Walterboro Village?

- 1 A Yes, sir.
- 2 Q Okay. And he was living with you at the time?
- 3 A Yes, sir.
- 4 Q Does he have a driver's license?
- 5 A No, sir, he don't.
- 6 Q Does he have an automobile?
- 7 A No, sir, he don't.
- 8 Q Do you have an automobile?
- 9 A Yes, sir, I do.
- 10 Q Does he have access to your automobile?
- 11 A No, sir. I only got one key.
- 12 Q You don't let him drive it?
- 13 A No, sir, unless we're together, like going out to the
- 14 stores or something, but otherwise, going to places by
- 15 himself, no, sir. Q Okay. Do you -- were you charged with
- 16 this crime, also?
- 17 A Yes, sir.
- 18 Q What were you charged with?
- 19 A Receiving stolen goods.
- 20 Q And were you incarcerated?
- 21 A Yes, sir.
- 22 Q Where did your children go while you were incarcerated?
- 23 A My sister.
- 24 Q Your sister took them?
- 25 A Yes, sir.

1 Q Okay. How long were you in jail ?

2 A Three nights and four days, if I'm not mistaken.

3 Q What happened to the charges against you?

4 A They were dropped.

5 Q Do you remember when they were dropped?

6 A I don't recall. I'm not sure.

7 Q You remember when it was announced to you ---

8 A It was at the preliminary hearing they were dropped,
9 and I don't remember that date.

10 Q Okay. But do you remember how long you had been in
11 jail prior to this?

12 A Three nights and four days, I think.

13 Q And then you bonded out; is that correct?

14 A Yes, sir.

15 Q Okay. Do you know anything about this television?

16 A No, sir, I don't.

17 Q Okay.

18 MR. BEACH: No other questions, Your Honor. Thank you,
19 Courtney.

20 THE COURT: Cross-examination.

21 ASST. SOL. KNIGHT: No questions from the State.

22 THE COURT: You may step down. Call your next witness.

23 MR. BEACH: The defense rests, Your Honor.

24 THE COURT: Is there any reply testimony from the State
25 of South Carolina?

1 ASST. SOL. KNIGHT: May I approach, Your Honor?

2 THE COURT: You may. Counsel approach.

3 (Whereupon, a bench conference is held off the record
4 and out of the hearing of the jury.)

5 THE COURT: Ladies and gentlemen, at this time, we are
6 going to take our break for lunch. Our delicious lunch that
7 you ordered this morning will be served to you in your jury
8 room. My smokers will be taken outside if you smoke.
9 Please don't discuss the case. You have not heard possibly
10 all of the evidence in the case. You have not heard the
11 final arguments of the attorneys or my charge on the law.
12 Have a nice lunch. I will be back with you just as quick as
13 I can. You may retire to your jury room at this time.

14 (WHEREUPON, THE JURY EXITS THE COURTROOM AND THE
15 FOLLOWING IS HELD ON THE RECORD.)

16 THE COURT: All right. It's just after 1:00, and
17 obviously, I understand that the jury's lunch hasn't arrived
18 yet, but it should be here momentarily. We're going to
19 break. I would like to start back as close to 2:00 as we can
20 so that we can try to get this case, if we can, to the jury
21 this afternoon. I want to see my lawyers in chambers at
22 1:45 to 1:50 so that you can get some lunch and then come to
23 my chambers so we can discuss possible charges. Are there
24 any requests to charge from the State?

25 ASST. SOL. KNIGHT: No, sir.

1 THE COURT: Any requests to charge from the defendant?

2 MR. BEACH: No, Your Honor, just your standard charges.

3 THE COURT: Very well. I will see you in chambers at
4 about that time. We are in recess until that time for
5 lunch.

6 (Whereupon, the Court is in recess for the lunch
7 period. Thereafter, at 2:05 p.m., Court reconvenes in the
8 trial of this case.)

9 THE COURT: All right. I've met with the attorneys
10 concerning my charge and the verdict form. It's my
11 understanding that they have no additional requests to
12 charge, other than what I've been over with them and they
13 are satisfied with the verdict form; is that correct, from
14 the State?

15 ASST. SOL. KNIGHT: Yes, sir.

16 THE COURT: Correct from the defendant?

17 MR. BEACH: Yes, sir, Your Honor.

18 THE COURT: Now, Mr. Beach, you have put up evidence,
19 which means the party with the burden of proof has final
20 argument in this case. How long does the defendant propose
21 to need for final argument?

22 MR. BEACH: I would think 15 minutes, probably not more
23 than that.

24 THE COURT: Very well. That's certainly reasonable,
25 Mr. Beach. Mr. Beach, I have to tell you that I appreciate

1 you being concise and to the point.

2 MR. BEACH: Thank you, Your Honor.

3 THE COURT: Now, Rooster, how long do you need?

4 ASST. SOL. KNIGHT: Your Honor, ten minutes at the
5 minimum; fifteen at the max. If I'm past that ---

6 THE COURT: That's more than reasonable. Take as long
7 as you need. All right. Mr. Beach, are you going to
8 require the State to open?

9 MR. BEACH: We do not require the State to open, Your
10 Honor.

11 THE COURT: So Mr. Knight, it's satisfactory if Mr.
12 Beach has the first argument and you have the reply?

13 ASST. SOL. KNIGHT: No, sir, it won't upset me a bit.

14 THE COURT: Very well. Mr. Knight, Mr. Beach will have
15 first argument and you will have second argument. Now, Mr.
16 Knight, I'm going to let you tell the jury, since they heard
17 me ask you, and it is my understanding that during this
18 break, you have conferred with your client and that you have
19 decided not to introduce any reply testimony; is that
20 correct?

21 ASST. SOL. KNIGHT: That is correct.

22 THE COURT: I will ask you in the presence of the jury.
23 Now, to my bailiffs out there, we are getting ready to go
24 into closing arguments and then my charge. Nobody is going
25 to get up and walk around and talk at the door, nor is

1 anybody in or out. So if you need to leave, get up -- with
2 the exception of you, Mr. Evans, you are staying with me.
3 Anybody else? Now is the time.

4 All right. Is the State ready to proceed?

5 ASST. SOL. KNIGHT: Yes, sir.

6 THE COURT: Is the defendant ready to proceed?

7 MR. BEACH: We are ready, Your Honor.

8 THE COURT: Bill, would you bring us the jury, please.

9 (WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE
10 FOLLOWING IS HELD ON THE RECORD.)

11 THE COURT: Ladies and gentlemen of the jury, we will
12 now continue with the trial of the case. Is there any reply
13 testimony from the State of South Carolina?

14 ASST. SOL. KNIGHT: No, sir.

15 THE COURT: Ladies and gentlemen of the jury, you have
16 now heard all of the evidence in this case. You will now
17 hear the closing arguments of the attorneys, followed by my
18 charge to you on the law. I ask that you give the attorneys
19 your careful consideration. Mr. Beach?

20 MR. BEACH: May it please the Court?

21 THE COURT: Yes, sir.

22 CLOSING ARGUMENT

23 BY MR. BEACH:

24 Ladies and gentlemen, thank you for your attention to
25 this case. I said at the beginning that it wasn't going to

1 last very long, and it didn't. Not a whole lot of evidence;
2 not a whole lot of testimony, but that doesn't mean it's not
3 an insignificant case. It is a very significant case for
4 Mr. Hollman because it involves his future.

5 Our system makes it an easy job for the solicitor and
6 I, because we just have to present the evidence. We have to
7 present it in a form most conducive to our clients. Now,
8 what you have now is the hard job. You have to sort through
9 it, sift through it, and come back with a verdict, either
10 guilty or not guilty. The judge will give you a form that
11 says guilty of burglary in the first degree or not guilty of
12 burglary in the first degree. There is no in between.

13 The State has chosen to charge this man with burglary
14 in the first degree. That's what he is charged with. Our
15 system is such that it is evolved over centuries, over a
16 couple of centuries, to the proposition that if someone is
17 guilty, then they should be convicted of what they are
18 guilty, and that is the situation we have here.

19 I'm not going to stand up here and tell you that Mr.
20 Hollman is a choir boy, because he isn't. He had the
21 computer. He made calls about the television. He got paid
22 for helping to sell the computer. Obviously, he shouldn't
23 have done that. Obviously, there is a charge for that, but
24 it ain't burglary.

25 Burglary is one of the big ones. Burglary is the

1 entering of the property of another without permission with
2 the intent to commit a crime and in this situation, at
3 night.

4 We know that a house was broken into; Mr. and Mrs.
5 Tanner's house was broken into, and that's a terrible thing.
6 Burglary is a terrible crime and that's what makes this a
7 terrible offense. It was broken into at night, we know
8 that, but do we know anything beyond that? Other than the
9 cryptic statement that this young man made, there is no
10 evidence whatsoever putting him on that property or putting
11 him anywhere near that property. There's no physical
12 evidence. There are no fingerprints, and they looked for
13 them. Whoever did this was smart enough to not leave
14 fingerprints. Whoever did this knew what they were doing.

15 There's no DNA. Couldn't find anything with any DNA on
16 it, so there's no report of DNA. Whoever did this knew what
17 they were doing. No security. Whoever did this figured
18 that out; no security. And also, whoever did this knew what
19 to look for to get into the house. Again, this is someone
20 who knows what they're doing. There's no evidence of that
21 with Mr. Hollman. He has no criminal record. He has
22 nothing in his past to suggest that he would do this. He
23 doesn't have anything that would suggest that he is a master
24 burglar. And I say "master burglar" because whoever did
25 this went into someone's house while they were sleeping;

1 this house was occupied. They were right down the hall,
2 sleeping. That's what makes this thing so terrible; they
3 were right down the hall.

4 They found a key in the car that they broke into
5 outside -- that they entered into. I don't know that they
6 broke anything. But they entered into the car outside and
7 they found a key and they knew that it would unlock the door
8 and they went in and they took the stuff.

9 Now, the State says it was Mr. Hollman. How can you
10 say that? Mr. Hollman has no driver's license. He has no
11 car. His girlfriend will not let him use her car. So what
12 did he use to move the television? Maybe there was somebody
13 else. You don't convict somebody on maybe's. Maybe
14 somebody else helped him. Maybe he wasn't the one who did
15 it in the first place.

16 They way that he stole a 52 inch television. Can you
17 imagine Mr. Hollman, five-nine, 130 pounds, walking down
18 Greenpond Highway with a 52 inch television? You know,
19 you're sitting in a room where there's a big television
20 right here. I don't know whether it's a 52 inches or
21 whatever, but can you imagine somebody walking around
22 carrying that? And remember, more than one thing was taken.
23 The television was taken, a laptop computer was taken, and
24 the telephone was taken, and maybe something else was taken;
25 I don't recall what else may have been taken, but those

1 things were taken so if it was only him, then it's going to
2 take him two tries, because he ain't going anywhere with
3 that television and that other stuff. He's got to go in
4 twice. That would leave me to believe that more than one
5 person did this. Where is the other person? Where is the
6 evidence of the other person?

7 Now, he could move that television, but remember the
8 layout of the house? You came in through the door, you had
9 to go through the kitchen before you could get to the den.
10 He isn't going to wake anybody up like that in the dark
11 going through and getting this stuff, going through a
12 strange house? How did he do that? It's got to be two
13 people to get that stuff and to get rid of it and to take it
14 out of there.

15 It was two people: it was a fellow named Turtle and it
16 was a fellow named Jay that came to see Mr. Hollman and they
17 brought the stuff. They were going to get him to fix it.
18 This is long after the act -- long after this thing is over
19 with. And he did. He sold the laptop computer. He got \$20
20 out of it; \$20 to unlock it, and they ran off with the
21 television. We don't know where that is. They haven't
22 recovered it. I don't know where the computer is. There is
23 supposed to be a computer here. I don't see one on the
24 table, but the point is that there is independent evidence
25 that somebody came around with that stuff.

1 Now, quite obviously, we do not have the serial
2 numbers, so I can't sit there and say that the television
3 that was in the back of Turtle's car is exactly the same
4 television that was taken out of Mr. Tanner's den, but it
5 was big and it was right after it happened, so it's a pretty
6 good chance, at least there is a reasonable doubt that that
7 was it, and they took it away.

8 Young Mr. Hodges who sat up here, has a good job, no
9 criminal record, has nothing to say that he's some sort of
10 hoodlum. He saw it. He saw them bring the thing by and
11 show it to everybody. He saw it in the car. He saw the
12 computer. He has no reason to sit up there and perjure
13 himself.

14 Where is the evidence that Mr. Hollman took it? Now,
15 we've got this remark to the police, under interrogation, in
16 the City Police Department, two officers have Mr. Hollman
17 and were interrogating him. And he said something to the
18 effect that he went into the house. He said that; he
19 admitted it. He told you why he said it. He said they had
20 my girlfriend. They had the mother of my children. They had
21 charged her. I was trying to get her out of it. I was
22 trying to get them off of her. Is that rational? Maybe
23 not, but it worked. They dropped the charges on her. They
24 dropped all the charges and they let her go, so she could go
25 back and take care of their children.

1 Now, he's not a choir boy. At that time, he was
2 charged with receiving stolen goods, which he knew they had
3 a darn good case on, but he was trying to help the woman he
4 loved, the woman he lived with, the mother of his children
5 and get her out of this particular situation; and it worked.
6 It got her out. The charges against her were dismissed.
7 Now, they may have been dismissed otherwise, but did he know
8 that? That's his motivation for doing this. That's his
9 motivation for saying this. That's him telling everyone
10 that he was trying to do something to help somebody else.

11 Now, you know, this -- I don't see how all of this
12 rolls together into burglary in the first degree. Receiving
13 stolen goods, probably. He ought to be up here answering
14 for that. You ought to answer for what you did, but not
15 just what you can bring up and put on somebody, one thing on
16 top of another. You don't go for the highest crime when a
17 person is guilty of a lower crime. That's our system.
18 That's the beauty of our system.

19 This judicial system that I've been involved in for 40
20 years, this judicial system, we make mistakes, we have
21 delays, sometimes we make y'all sit back in the jury room
22 while you think we're not doing anything, and sometimes
23 we're not doing anything, but it's a wonderful system. It's
24 the best system in the world. And the underlying point in
25 that system is you don't convict somebody of what they

1 didn't do. If they are guilty of something, they should be
2 convicted of that. If they didn't do the other, they should
3 be convicted of the other. It's a very simple principle,
4 but it's served us well for over 200 years.

5 There's no evidence Mr. Hollman went in that house, no
6 physical evidence, and without the physical evidence and
7 with a rational excuse for what he said, I would ask you,
8 ladies and gentlemen, to find him not guilty. Thank you
9 very much.

10 THE COURT: Mr. Knight?

11 ASST. SOL. KNIGHT: May it please the Court, Your
12 Honor.

13 CLOSING ARGUMENT

14 BY ASST. SOL. KNIGHT:

15 Ladies and gentlemen of the jury, let's talk a little
16 bit about the law in this case, burglary in the first
17 degree. Entering a dwelling house without consent with the
18 intent to commit a crime therein, and the entering is at
19 nighttime. There's some other areas of law I would like
20 you to consider, and his Honor will charge you this, it's
21 called the credibility of the witnesses, and what that means
22 is you can believe a part of a witness's statement, discount
23 the rest. You can believe one witness's statement over
24 another witness's. You can accept a witness's statement.
25 You can reject a witness's statement. Also, credibility of

1 a witness is you have to judge his demeanor or her demeanor
2 on the stand; how he or she testified. Would they be biased
3 in testifying one way or the other? You can only judge that
4 by watching these folks when they are testifying, including
5 law enforcement, I might add. Not just witnesses for the
6 defendant, but law enforcement also.

7 So consider the demeanor, is there a reason for being
8 biased or testifying one way or the other when the witness
9 takes that stand, because that's important; it's very, very
10 important. Only you can make that decision. I can't, Mr.
11 Beach can't, and His Honor can't; only you can.

12 Now, as to the facts of this case, you've heard Mr.
13 Tanner testify. He went to bed. He felt good. I'm secure
14 in my house. Wakes up at 5:00 in the morning and the
15 television is gone, other items are gone. You heard him
16 testify. He didn't know this fellow, Mr. Hollman. He
17 didn't invite him into his house, didn't give him permission
18 or consent to enter the house whatsoever. But you heard him
19 testify about the items he lost as a result of this incident
20 on the late evening of August the 8th, early morning of
21 August 9th.

22 Mr. Beach says his client is not a choir boy, well,
23 I'll just leave that with you and let you make your own
24 decision what a person that is not a choir boy for your
25 determination.

1 Jason Chapman and Craig Stivender on August the 30th, I
2 think is the date, arrested Ms. Kirkpatrick and the
3 defendant, Mr. Hollman, and was at the house and they found
4 a cell phone that he determined, he being Mr. Chapman,
5 belonged to the defendant. So he sort of scrolled on the
6 phone and guess what he found? Now, this was on the 9th,
7 August the 9th. He found a text message and the time was
8 5:45 a.m. from this defendant right here to Mr. Merrell
9 Moses Black. Mr. Black shows up later, as he testified to,
10 and bought this, he considered a used computer for I think
11 \$350 or \$400, whatever. So think about the time. Somewhere
12 around 10 to 10:30 on the 8th into the late hours of 5:00 in
13 the morning, because Mr. Tanner testified that he got up at
14 5:00, and there's a text message at 5:45 on the same day
15 from the defendant to Mr. Black about this laptop. A choir
16 boy doesn't do that either.

17 Then we get to the confession that he talks about, that
18 he did it because he wanted to assist his common-law wife, I
19 guess if you want to call her that. It's amazing in that
20 confession, no prompting by Jason Chapman, none, and what
21 did Mr. Hollman tell Mr. Chapman? He described the house,
22 the location, the point of entry, and the items stolen
23 without being prompted by Jason Chapman, right down to the
24 T. This was on September the 4th of 2012. The witnesses,
25 or at least one of them, I think it was Mr. Hodges, said

1 that he went by there at about 2:00 in the afternoon
2 sometime in August; he's not sure. It was between 2 and
3 3:00 that he first saw the television which he couldn't
4 identify the make, and the computer, he couldn't identify
5 the make with these two guys. He had no idea.

6 Now, Mr. Hollman testified that these two guys, I
7 forget their names, brought the television by and brought
8 the laptop by, and he corrected the laptop so it could be
9 used by a particular buyer, and when was that done? In the
10 afternoon. He said these two guys took the laptop and left
11 with the television and brought it back. This is in the
12 afternoon now, not in the morning at 5:45, brought it back,
13 and when they brought it back, they went inside and Mr.
14 Black arrived; not at 5:45 in the morning, but in the
15 afternoon hours. I think Mr. Hodges referred to it as Jay
16 and Turtle. And of course, Mr. Hodges couldn't identify the
17 television and he couldn't identify the laptop. What did
18 Mr. Hodges say? The defendant has been my best friend for
19 18 years. I want you to take that statement by Mr. Hodges
20 and consider it, what people do for their best friends.
21 That's important. What people will do for their best
22 friends. What they will say; what they won't say for their
23 best friends for 18 years.

24 Mr. Hollman was talking about that he didn't know the
25 brand name of the television. He didn't know the brand name

1 of the computer, but he's doing all of these repairs on it,
2 or regrouping it or whatever he's called it. I'm not
3 computer literate. But you do all of that and you don't
4 know the name? The name of the television? It just amazes
5 me. And another thing, and this just amazes me, he
6 testified that in that afternoon period of time when Jay and
7 Turtle brought these items, he got close to them and took a
8 picture of them. I assume so that he could text later that
9 day. Oh, so he was looking for another customer because he
10 had already texted Mr. Black at 5:45 on the 9th in the
11 morning. He's not a choir boy.

12 I think the telling tale by Mr. Hollman was when he was
13 interviewed by Mr. Chapman and Mr. Stivender, he said I
14 would tell them what they wanted to hear, I think was his
15 exact statement. Well, what did they want to hear? What
16 did they want to hear? Because they didn't tell him what
17 house was broken into. They didn't tell him -- Jason and
18 Craig did not tell him what items were stolen. Didn't tell
19 him anything. But what did he say? You come out the
20 village, cross Greenpond Road, first house on your left,
21 described in detail. The house, the location, the point of
22 entry, and the items stolen. He told them what they wanted
23 to hear and they didn't ask any questions without prompting,
24 that's what he told them.

25 There were no threats, no coercion, no promises, and

1 another thing that amazes me, and this is a question only
2 you can answer, I can't answer it, but I'll submit it to
3 you, why would his confession get his common-law wife out of
4 jail? Jason Chapman can't release him. So what does it
5 benefit to the defendant in giving a statement since he's
6 not a choir boy? All of this is on his own valition. A
7 decision that he made when talking with Jason Chapman and
8 Craig Stivender.

9 You know, the burden of proof is on the State of South
10 Carolina to prove beyond a reasonable doubt that the
11 defendant entered the dwelling on the morning of August the
12 9th and took items out of a home. We don't have
13 fingerprints. We don't have DNA. Like Mr. Beach attested,
14 no DNA, no fingerprint, maybe he's a pro, but he's not a
15 choir boy either, according to Mr. Beach.

16 Just remember that everything concerning the laptop and
17 the television was in the afternoon, except for one thing, a
18 text message that morning at 5:45 from the defendant to
19 Merrell Moses Black saying, "I've got a laptop." I submit
20 to you that we've proved beyond a reasonable doubt that the
21 defendant, it could be somebody else, who knows, I can't
22 tell you that, entered that house that night and stole the
23 Sanyo television, the Apple laptop, an Ipod, and some other
24 things. I submit to you that we've proved it beyond a
25 reasonable doubt. Thank you.

JURY CHARGE

1
2 Madame Foreperson, ladies and gentlemen of the jury, it
3 is now my duty to charge you the law of this case. The
4 State has charged the defendant, Halden Lamont Hollman with
5 burglary in the first degree. Mr. Hollman is charged by
6 this piece of paper in Indictment Number 2012-GS-15-0639. I
7 remind you that the fact that the defendant was arrested,
8 charged, and indicted in this case is not evidence in this
9 case, nor does it created any presumption or inference of
10 guilt. This indictment is simply the formal written
11 instrument which contains the charge made against the
12 defendant. The indictment is the means by which the charge
13 is brought into this Court, the Court of General Sessions.

14 Now to the indictment, the defendant has pled not
15 guilty. And that plea of not guilty puts the burden on the
16 State of South Carolina to prove the defendant guilty beyond
17 a reasonable doubt.

18 A person charged with committing a criminal offense, is
19 never required to prove himself innocent. I charge you,
20 ladies and gentlemen, that it is an important rule of the
21 law in a criminal trial, no matter what the seriousness of
22 the charge may be, that the defendant will always be
23 presumed to be innocent of the crime for which the
24 indictment was issued, unless guilt has been proved by
25 evidence satisfying you of that guilt beyond a reasonable

1 doubt.

2 The presumption of innocence does not end when you
3 begin your deliberations, but it accompanies the defendant
4 throughout the trial until you, the jury, reach a verdict of
5 guilt based on evidence satisfying you of that guilt beyond
6 a reasonable doubt.

7 The presumption of innocence is not a mere legal
8 theory, it's not just a legal phrase, it is a substantial
9 right to which every defendant is entitled, unless you, the
10 jury, are satisfied from the evidenced of the defendant's
11 guilt beyond a reasonable doubt.

12 What is a reasonable doubt in the law? A reasonable
13 doubt is the kind of doubt that would cause a reasonable
14 person to hesitate to act. The state has the burden of
15 proving the defendant guilty beyond a reasonable doubt.
16 Some of you may have, in the past, served as a juror in a
17 civil case where you were told in a civil case, such as a
18 contract suit, that it was only necessary to prove that a
19 fact was more likely true than not true. We call that
20 burden of proof in a civil case the greater weight or the
21 preponderance of the evidence and in a criminal case, the
22 State's proof must be more than that. It must be beyond a
23 reasonable doubt.

24 Proof beyond a reasonable doubt, ladies and gentlemen,
25 is proof that leaves you firmly convinced of the defendant's

1 guilt. Now, there are very few things in this world that any
2 of us know without absolute certainty and in criminal cases,
3 the law does not require proof that overcomes every possible
4 doubt. If based on your consideration of the evidence
5 that's been presented during the trial of this case, if you
6 are firmly convinced that the defendant is guilty of the
7 crime charged, you must find the defendant guilty. On the
8 other hand, if you think there is a real possibility that
9 the defendant is not guilty, then you must give the
10 defendant the benefit of the doubt and find the defendant
11 not guilty.

12 Now, I remind you, ladies and gentlemen, that during
13 this trial, you and I have had certain duties to perform.
14 As the trial judge, it has been my duty to preside over the
15 trial of the case and I also have the duty to rule on the
16 admissibility of evidence offered during the trial. You, as
17 jurors, are to consider when you deliberate only the
18 competent evidence before you. If there was any testimony
19 ordered stricken from the record in this case during this
20 trial, you must disregard that testimony. You are to
21 consider only the testimony which has been presented from
22 the witness stand, any exhibits which have introduced into
23 evidence, and any stipulations of counsel which occurred
24 during the course of the trial.

25 Now, as a presiding judge, I also have the additional

1 duty to charge you the law that applies to this case. As
2 the presiding judge, I'm the sole judge of the law in this
3 case, and as I told you at the outset, it is your duty as
4 jurors to accept and to apply the law as I now state it to
5 you. If any of you already have any ideas as to what the
6 law is or what you think the law ought to be, and it does
7 not agree with what I now tell you the law is, you must
8 abandon any of your preconceived opinions or ideas, because
9 each of you took an oath in which you swore to accept and to
10 apply the law exactly as I state it to you.

11 In every case tried in this courtroom before a jury,
12 the jury becomes the sole and exclusive judge of the facts
13 in the case. A trial judge, such as myself, cannot
14 intimate, state, comment on, or make any kind of statement
15 to a trial jury, such as yourselves, about the facts in the
16 case.

17 Since you, the jury, are the sole judges of the facts
18 in this case, you are not to infer from what I have said
19 during the progress of this trial in ruling upon the
20 admissibility of evidence or otherwise, or anything that I
21 say now in the course of this instruction to you that I have
22 any opinion whatsoever about the facts in this case. The
23 law does not allow me to have an opinion about the facts in
24 this case. This is a matter solely for you, the jury, to
25 determine.

1 As jurors, it becomes your duty, ladies and gentlemen,
2 to determine the effect, the value, the weight, the truth of
3 the evidence that's been presented during the trial of this
4 case.

5 Now, in a trial, like many things in the law, there are
6 two types of evidence which are generally presented during a
7 trial. And like other things, we have names for those two
8 general types of evidence. We call the two general types of
9 evidence direct evidence and circumstantial evidence.

10 Direct evidence is the testimony of a person who claims
11 to have actual knowledge of a fact, such as an eyewitness,
12 to an event. It is evidence which immediately establishes
13 the main fact to be proved.

14 Circumstantial evidence, as contrasted with direct
15 evidence, is proof of a chain of facts and circumstances
16 indicating the existence of a fact. Circumstantial evidence
17 is evidence which establishes collateral facts, from which
18 the main fact may or may not be inferred. Circumstantial
19 evidence is based on inference and not on personal knowledge
20 or personal observation.

21 The law makes absolutely no distinction between a
22 weight or value to be given to either direct or
23 circumstantial evidence, nor is a greater degree of
24 certainty required of circumstantial evidence than of direct
25 evidence. You as a jury should weigh, consider, and

1 evaluate all of the evidence in this case, both direct and
2 circumstantial. After weighing all of the evidence, if you
3 are not convinced of the guilt of the defendant beyond a
4 reasonable doubt, you must find the defendant not guilty.

5 On the other hand, after weighing all of the evidence
6 in this case, both direct and circumstantial, if you are
7 convinced of the guilt of the defendant beyond a reasonable
8 doubt, you must find the defendant guilty.

9 I charge you, ladies and gentlemen, and I told you
10 during the trial, as I recall in my comments to you that a
11 stipulation is an agreement, it is an admission, or a
12 concession that is usually made in a judicial proceeding by
13 the parties or their attorneys. Stipulations, of course,
14 are binding upon those who make the stipulations.

15 A stipulation is an agreement, an understanding if you
16 will. The Court and the jury must accept stipulations of
17 fact as binding upon the parties. If counsel for the
18 parties have stipulated to any fact or any fact has been
19 admitted by the stipulation, you will regard that fact as
20 being conclusively proved as to the party or parties making
21 the stipulation or admission as a fact.

22 Necessarily, as I told you at the outset of the trial,
23 you as a jury must determine the credibility of the
24 witnesses who have testified during this case. Credibility
25 simply means believability. It becomes your duty as jurors

1 to analyze and to evaluate the evidence and determine which
2 evidence convinces you of its truth.

3 In determining the believability of witnesses who have
4 testified in this case, you may believe one witness over
5 several witnesses, or several witnesses over one. You may
6 believe a part of the testimony of a witness, and reject the
7 remaining part of the testimony of that same witness. You
8 may believe the testimony of a witness in its entirety or
9 you may reject the witness's testimony in its entirety.

10 You may consider whether any witness has exhibited to
11 you any interest, any bias, any prejudice, or other motives
12 in this case. You may also consider the appearance, or the
13 manner, of the witness while on the witness stand. We call
14 that the demeanor of the witness while the witness is on the
15 witness stand in judging the credibility, or the
16 believability, of the witnesses who have testified during
17 the trial of this case.

18 I charge you, ladies and gentlemen, that a statement
19 alleged to have been made by the defendant has been admitted
20 into evidence during the trial of this case. While the
21 Court is determined that the statement is admissible, I
22 instruct you, ladies and gentlemen, and charge you that you,
23 the jury, make the ultimate decision of whether or not the
24 defendant made any statement or statements.

25 If the defendant did make a statement, in your

1 determination, you must determine also whether the statement
2 or statements were made by the defendant voluntarily and of
3 his own free will. This means that the statement was not
4 caused by pressure, or caused by force, or fear, or threats,
5 or coercion, or intimidation or by hope of a promise of
6 leniency or a reward of any kind.

7 In determining whether the statement was voluntary, you
8 as a jury should consider both the characteristics of the
9 defendant and the details of the questioning. Some of the
10 factors that you may consider, if in evidence in the trial
11 of this case, are the age of the defendant, the defendant's
12 education or lack of education, the defendant's mental
13 ability or capacity, the defendant's IQ or intelligence, the
14 defendant's background or environment, length and place of
15 detention, the nature of the questioning and the advice, or
16 lack thereof, to the defendant of his constitutional rights,
17 including, but not limited to, the constitutional right to
18 remain silent, that any statement could be used against him
19 in a court of law, the right to have a lawyer present, and
20 if he could not afford a lawyer, one would be appointed to
21 represent him without any cost and that he could stop making
22 a statement at any time.

23 You, as a jury, must carefully consider all of the
24 surrounding circumstances based on evidence introduced
25 during the trial of the case before you give any weight to

1 an alleged statement or statements.

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

11 Now, in order to establish what we call criminal
12 liability, criminal intent is required. For example, for
13 any particular crime, just by example, purpose, or intent,
14 or malice, or recklessness, or even in some cases, what we
15 call criminal negligence. Those are examples of criminal
16 intent. Criminal intent must be proven by the State beyond
17 a reasonable doubt.

18 Criminal intent is always a matter that must be
19 determined by the jury from the circumstances surrounding
20 the situation, based on evidence introduced during the trial
21 of this case.

22 There is no way, ladies and gentlemen, to prove intent
23 to a mathematical certainty. There is no way medical
24 science can dissect a person's brain and determine what that
25 person had in mind; so the law says, ladies and gentlemen,

1 that criminal intent may be inferred from the circumstances
2 shown to have existed. This, ladies and gentlemen, is how
3 you as a jury make a determination of whether or not any
4 element in a crime requiring intent was present.

5 It is not necessary to establish intent by direct
6 evidence, but intent may be established by inference in the
7 same way as any other fact, by taking into consideration the
8 acts of the parties, and all the facts and circumstances of
9 the case based on evidence introduced during the trial of
10 the case.

11 Criminal intent is a mental state; it's a conscious
12 wrongdoing. It is up to you, as a jury, to determine what
13 the defendant intended to do, based on the circumstances
14 shown to have existed from evidence introduced during the
15 trial of the case.

16 Criminal intent can arise from action or a failure to
17 act. It may arise from negligence, recklessness, or
18 indifference to duty, or to consequences considered by the
19 law to be the equivalent of criminal intent.

20 Now, ladies and gentlemen, I charge you that in this
21 case the defendant is charged with first degree burglary in
22 this indictment. Now, Madame Foreperson, you will see that
23 I'm handing this indictment to my law clerk. He is going to
24 want your signature on that indictment and he's going to be
25 responsible to get that.

1 For this offense, first degree burglary, the State must
2 prove beyond a reasonable doubt that the defendant entered a
3 dwelling without consent. A dwelling is any building or
4 portion of a building in which a person ordinarily sleeps.
5 A building constructed as a dwelling that has never been
6 occupied cannot be considered a dwelling for purposes of
7 burglary, but a building is a dwelling even if the residents
8 are temporarily absent from the building.

9 In order to prove that the defendant entered the
10 dwelling, the State does not have to show that the
11 defendant's entire body entered the dwelling. The smallest
12 entry is sufficient. It may be any part of a body, such as
13 a hand, a foot, or even an instrument such as a hook or some
14 other instrument.

15 In addition, the State does not have to prove that
16 force was used to gain entry for purposes of burglary. If a
17 person enters a building using deception, by using trick, or
18 misrepresentation to get consent to enter. This is an entry
19 without consent.

20 Next, the State must prove beyond a reasonable doubt
21 that the defendant intended to commit a crime, either a
22 felony or a misdemeanor at the time of the entry. The mere
23 entry into a dwelling without consent is not burglary. If
24 the intent to commit a crime is formed after the entry into
25 the dwelling, it is not burglary. On the other hand, if the

1 defendant intended to commit a crime at the time of the
2 entry, it is burglary, even if the intent of burglary was
3 abandoned after the entry into the dwelling.

4 It does not matter that the intended crime was not
5 completed. Intent, as I have instructed you, may be shown
6 by acts and conduct of the defendant and other circumstances
7 from which you may naturally and reasonably infer intent
8 from evidence introduced during the trial of the case.

9 Finally, for the offense of burglary first degree, the
10 State must prove beyond a reasonable doubt that the
11 defendant entered the dwelling in the nighttime. Nighttime
12 is the period between sunset and sunrise during which there
13 is not sufficient daylight to recognize a person's face,
14 except by artificial light or moonlight.

15 Now, Madame Foreperson and ladies and gentlemen of the
16 jury, I told you I would prepare a verdict form for you.
17 Pay absolutely no attention, ladies and gentlemen of the
18 jury, to the order in which we wrote the forms of verdict.
19 We obviously had to write one before the other in order to
20 prepare the verdict form, so the order has no significance,
21 whatsoever.

22 I have put on the verdict form the title of the case.
23 It says at the top, State of South Carolina, County of
24 Colleton, Court of General Sessions, and has the indictment
25 number below it, 2012-GS-15-0639, and then it says State of

1 South Carolina v. Halden Lamont Hollman, defendant, and it
2 has the word verdict.

3 You have one question on your verdict form. The
4 question is, we, the jury, by unanimous consent, find the
5 defendant, Halden Lamont Hollman, in indictment number 2012-
6 GS-15-0639, and the first form of verdict under question one
7 is guilty of burglary in the first degree. If that be your
8 form of verdict, you would place a checkmark on the line
9 beside that form of verdict.

10 The second form of verdict under question one is not
11 guilty of burglary in the first degree. If that be your
12 form of verdict, ladies and gentlemen of the jury, you would
13 put a checkmark on that line beside that form of verdict.
14 You must find one form of verdict or the other. You cannot
15 find both, ladies and gentlemen of the jury, and Madame
16 Foreperson, you would sign your name on the line where it
17 says "foreperson" at the bottom of the verdict form after
18 you've completed filling in the appropriate lines.

19 Now, ladies and gentlemen, your verdict must be
20 unanimous. That is, the verdict must be the verdict of each
21 and every one of you. All twelve of you must agree on a
22 verdict. Now, when you reach a verdict, Madame Foreperson,
23 and you've completed the verdict form, if you will knock on
24 the jury room door, inform the bailiff that you've reached a
25 verdict, we will then bring you back into the courtroom to

1 publish your verdict.

2 Now, Madame Foreperson, ladies and gentlemen of the
3 jury, I've now charged you on the law in order to help guide
4 you to a fair and just result in this case. I've told you
5 throughout this trial that you are the judges of the facts
6 and I'm the judge of the law. I've now charged you on the
7 law in order to help guide you to a fair and a just result
8 in this case. You are the judges of the facts in this case
9 based on the evidence introduced during the trial of this
10 case, and based on your determination of the facts in this
11 case and the law as I've now explained it to you, you will
12 soon go to your jury room to begin your deliberations.

13 I want to remind you that we took a lot of time, but
14 you've been selected as fair and impartial jurors. You were
15 sworn under that oath to fairly and impartially try and
16 determine the facts of this case and when you comply with
17 that oath to do so, no one can criticize your verdict. You
18 are to decide the case based solely on the evidence that
19 you've heard from the sworn witnesses who have testified
20 before you, along with the exhibits that have been
21 introduced into evidence, which you will have with you in
22 your jury room, and any stipulations that have occurred
23 during the trial of this case.

24 You must decide the issues in this case, ladies and
25 gentlemen, without emotion, without any bias, without any

1 prejudice towards either of the parties in this case. You
2 cannot allow yourself as a juror to be governed by prejudice
3 for or against any person or party. You cannot allow
4 yourself to be governed by public opinion or by any other
5 arbitrary factor that is not in evidence, such as emotion.

6 Both the defendant and the State of South Carolina have
7 the absolute right to expect that each of you on this jury
8 will carefully and impartially consider all of the evidence
9 in this case and that you will also follow the law as I have
10 instructed it to you to be in reaching your verdict in this
11 case.

12 All right. Ladies and gentlemen of the jury, I'm going
13 to ask you at this time if you will retire to your jury
14 room. Do not begin your deliberations yet. I might have to
15 bring you back for some brief additional instructions, so I
16 don't want you to begin your deliberations just yet. When
17 it is time for you to begin your deliberation, I will send
18 the verdict form in to you by the bailiff and tell the
19 bailiff to instruct you that you may now commence your
20 deliberations, along with the exhibits which have been
21 introduced into evidence during the trial of the case.
22 Please retire to your jury room.

23 (WHEREUPON, THE JURY EXITS THE COURTROOM AND THE
24 FOLLOWING IS HELD ON THE RECORD.)

25 THE COURT: Any exceptions or additions to the Court's

1 charge from the State?

2 ASST. SOL. KNIGHT: No, sir.

3 THE COURT: Any exceptions or additions to the Court's
4 charge from the defendant?

5 MR. BEACH: No, Your Honor.

6 THE COURT: I'd ask that counsel come forward and
7 certify on the record that you're satisfied the court
8 reporter has all the exhibits and that you have no objection
9 to my bailiff taking the verdict form and the exhibits into
10 the jury and telling the jury they may now commence their
11 deliberation. Is the State so satisfied?

12 ASST. SOL. KNIGHT: Yes, sir.

13 THE COURT: Is the defendant so satisfied?

14 MR. BEACH: Yes, sir.

15 THE COURT: Any objection to the bailiff taking the
16 verdict form and the exhibits in and telling the jury that
17 they may now commence their deliberation?

18 MR. BEACH: No, sir.

19 THE COURT: All right. Take them on in and tell the
20 jury they may now commence their deliberations. We will be
21 at ease while we await the jury's verdict and we will take
22 a brief break.

23 (Whereupon, the Court is in recess

24 THE COURT: All right. Mr. Beach, I understand you
25 have a matter you wish to place on the record outside the

1 presence of the jury.

2 MR. BEACH: I do, Your Honor. We were getting all this
3 stuff together about the other witness and I had talked to
4 you about our placing on the record our motion for directed
5 verdict at the end of all the testimony.

6 THE COURT: Based on the same grounds you made at the
7 close of the State's case.

8 MR. BEACH: Exactly the same, Your Honor.

9 THE COURT: You're absolutely correct. You did and I
10 told you I would note it since we were going to other
11 matters. Let the record reflect that I promised Mr. Beach
12 that I would let him make the motion at the close of all the
13 evidence. We went straight into argument to try to save
14 time to try to get the case to the jury prior to 3:30 in the
15 afternoon. Mr. Beach is right. It is now noted that he
16 made the identical motion at the close of all the evidence
17 in this case that he made at the close of the State's case,
18 and for the reasons I enunciated at the close of the State's
19 case. His motion for directed verdict based on the same
20 grounds is respectfully denied and noted upon the record.

21 MR. BEACH: Thank you, Mr. Beach.

22 THE COURT: Now, the jury had a question and I've met
23 with the lawyers about it. I'm going to ask the court
24 reporter to mark it as a court's exhibit. Any objection to
25 making the jury's note and your response to it a court's

1 exhibit from the State?

2 ASST. SOL. KNIGHT: No, Your Honor.

3 (THE COURT: From the defendant?

4 MR. BEACH: No, Your Honor.

5 THE COURT: Court's exhibit number one.

6 (Whereupon, Court's Exhibit Number One, jury note, is
7 received into evidence.)

8 THE COURT: All right. Let the record reflect that the
9 question from the jury, which is now Court's Exhibit Number
10 One, without objection, "Is there a way that we can see the
11 defendant's statement where he confessed?" Answer: "You
12 must decide this case based upon the evidence presented to
13 you. We are willing to provide you with the audiotape of
14 any testimony if you would like." Signed Judge Perry M.
15 Buckner. Is the answer satisfactory to the State?

16 ASST. SOL. KNIGHT: Yes, sir.

17 THE COURT: Is the answer satisfactory to the
18 defendant?

19 MR. BEACH: It is, Your Honor.

20 THE COURT: Very well. I told back up Court's Exhibit
21 Number One, give it to Major Haase, ask that it be taken to
22 the jury, and I believe that we are still at ease. I
23 understand from the solicitor now that we are going to start
24 back in the morning.

25 (Whereupon, the Court is at ease while awaiting a

1 verdict from the jury.)

2 THE COURT: Counsel, I understand from the bailiff that
3 the jury has reached a verdict in the case that we've been
4 trying. Anything from the State before I publish the
5 verdict?

6 ASST. SOL. KNIGHT: No, sir.

7 THE COURT: From the defendant?

8 MR. BEACH: Nothing, Your Honor.

9 THE COURT: Now, ladies and gentlemen, I'm happy for
10 you to remain in the courtroom. When the verdict is
11 published, the Clerk will hand it to me and I will ask the
12 Clerk to publish the verdict. However, I will not tolerate
13 any emotional outburst about the verdict, particularly in
14 the presence of the jury. If you cannot control your
15 emotions or think you may not be able to, I'd ask that you
16 step out of the courtroom at this time. Very well. Bill,
17 bring us the jury, please.

18 (WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE
19 FOLLOWING IS HELD ON THE RECORD.)

20 THE COURT: Madame Foreperson, have you reached a
21 verdict?

22 FOREPERSON: Yes, we have.

23 THE COURT: You may publish the verdict. Defendant and
24 counsel will please rise.

25 MADAME CLERK: Indictment number 2012-GS-15-0639, the

1 State of South Carolina v. Halden Lamont Hollman, charged
2 with burglary first degree, we the jury, by unanimous
3 consent, find the defendant, Halden Lamont Hollman in
4 indictment number 2012-GS-15-0639 guilty of burglary in the
5 first degree. Signed by foreperson Pamela G. Roberts. If
6 this is your verdict, please raise your right hand.

7 THE COURT: Let the record reflect that all 12 hands
8 were raised in response to the Clerk's question, Mr. Beach.
9 Anything further from the defendant before I excuse the
10 jury?

11 MR. BEACH: We would request a poll, Your Honor.

12 THE COURT: Very well. Ladies and gentlemen of the
13 jury, what's going to happen now is the clerk is going to
14 call each one of your name's individually. When your name
15 is called, I'm going to ask you to stand. She is going to
16 ask you two questions. She is going to ask you, "Was that
17 your verdict?" and "Is that still your verdict?" You will
18 respond verbally on the record when the clerk inquires of
19 you. Madame Clerk, please poll the jury.

20 MADAME CLERK: Irene Copeland, was this your verdict?

21 JUROR: Yes.

22 MADAME CLERK: Is it still your verdict?

23 JUROR: Yes.

24 MADAME CLERK: Douglas W. Bartell, was this your
25 verdict?

1 JUROR: Yes.

2 MADAME CLERK: Is it still your verdict?

3 JUROR: Yes.

4 MADAME CLERK: Edward F. Sineath, Jr., was this your
5 verdict?

6 JUROR: Yes.

7 MADAME CLERK: Is it still your verdict?

8 JUROR: Yes.

9 MADAME CLERK: Donald J. Williams, was this your
10 verdict?

11 JUROR: Yes.

12 MADAME CLERK: Is it still your verdict?

13 JUROR: Yes.

14 MADAME CLERK: Julia B. Barco, was this your verdict?

15 JUROR: Yes.

16 MADAME CLERK: Is it still your verdict?

17 JUROR: Yes.

18 MADAME CLERK: Rhonda B. Morris, was this your verdict?

19 JUROR: Yes.

20 MADAME CLERK: Is it still your verdict?

21 JUROR: Yes.

22 MADAME CLERK: Phillip G. Arrington, was this your
23 verdict?

24 JUROR: Yes.

25 MADAME CLERK: Is it still your verdict?

1 JUROR: Yes.

2 MADAME CLERK: Walter Cochran, was this your verdict?

3 JUROR: Yes.

4 MADAME CLERK: Is it still your verdict?

5 JUROR: Yes.

6 MADAME CLERK: Pamela G. Roberts, was this your
7 verdict?

8 JUROR: Yes.

9 MADAME CLERK: Is it still your verdict?

10 JUROR: Yes.

11 MADAME CLERK: Deloris W. Martin, was this your
12 verdict?

13 JUROR: Yes.

14 MADAME CLERK: Is it still your verdict?

15 JUROR: Yes.

16 MADAME CLERK: Brandon E. Grimsley, was this your
17 verdict?

18 JUROR: Yes.

19 MADAME CLERK: Is it still your verdict?

20 JUROR: Yes.

21 MADAME CLERK: Cassandra E. Prater, was this your
22 verdict?

23 JUROR: Yes.

24 MADAME CLERK: Is it still your verdict?

25 JUROR: Yes.

1 MADAME CLERK: The jury has been polled.

2 THE COURT: Counsel, the jury has been polled by the
3 Clerk at your request. The verdict stands. Anything
4 further from the defendant from the jury?

5 MR. BEACH: Nothing, Your Honor.

6 THE COURT: From the State from the jury?

7 ASST. SOL. KNIGHT: No, sir.

8 THE COURT: Ladies and gentlemen of the jury, first of
9 all, on behalf of Colleton County and this Court, I want to
10 thank you for your service. All a court and the parties can
11 ask of a jury is that you listen and listen carefully. I
12 watched each of you during the trial and each of you did
13 that.

14 Now, this concludes your jury service for the week, and
15 if you remember, I told you that you would be exempt from
16 jury service for three years as a result of your service
17 this week. Now, the exemption will apply if you choose to
18 claim your exemption, in the event that you're selected by
19 the computer.

20 I wanted you to know a couple of things. Sentencing in
21 this case will take place in just a few minutes and I invite
22 you if you would like to stay; that's my role, not yours.
23 But I invite you if you'd like to stay for sentencing. You
24 may remain seated in the jury box or you can have a seat out
25 in the courtroom. It's a public proceeding and we'd be

1 happy for you to stay. If any of you need a work excuse
2 from serving on the jury this week, Pat Grant will be
3 available at the door for you since nobody's downstairs.
4 She will meet you at the door that you've been using to go
5 to your jury room. She has work excuses for those of you
6 that need it. We'll be mailing you a check for your jury
7 service at the address that you provided to us. I know it's
8 an inadequate amount, but we very much appreciate your jury
9 service. Now, I made you a promise and I always keep my
10 promise, or try to. If anybody has any questions about what
11 went on this week, I'll be happy to try to answer those
12 questions.

13 (NO RESPONSE.)

14 THE COURT: Now, Madame Foreperson, my law clerk is
15 going to need you. He's going to come around to you. You
16 stay right there in your seat, because he is going to come
17 around to you so you can use the jury ledge right there to
18 write on, because he is going to bring you the indictment,
19 the same words that are written on the jury form. He will
20 show you where to sign and where to date it.

21 Now, those of you who would like to leave, you can go
22 right past this door. Everyone else is going to remain
23 seated. Sentencing is going to occur in just a couple of
24 minutes. In fact, I'm asking them to prepare a sentence
25 sheet right now. So as soon as they have that sheet

1 prepared, you're invited to stay if you so desire or you may
2 leave at this time.

3 Are there any post-verdict motions from the defendant?

4 MR. BEACH: Your Honor, we would make a motion for a
5 new trial based upon the earlier motions that we made.

6 THE COURT: You mean the grounds at the close of the
7 State's case and the close of the evidence for directed
8 verdict?

9 MR. BEACH: Yes, sir.

10 THE COURT: All right. Anything else?

11 MR. BEACH: No, Your Honor.

12 THE COURT: That motion is respectfully denied for the
13 reasons I put on the record at the close of the State's
14 case. You and your client come around for sentencing.
15 Solicitor, I'll expect a sentence sheet.

16 ASST. SOL. KNIGHT: May I approach?

17 THE COURT: You may.

18 (Off the record, briefly.)

19 THE COURT: Mr. Beach, I'm happy now to hear from you.

20 MR. BEACH: Your Honor, this was a trial, so you've
21 heard all the facts and you've heard just about everything
22 that we had to present and everything the State has had to
23 present. He is 26 years old. He has four children. He has
24 a family here. His family is with him in the courtroom. We
25 would ask for as much mercy as possible on this. We would

1 try to get him back into the community after his time and
2 try to make a more productive citizen out of him.

3 THE COURT: Very well. Mr. Beach, I'm sure that you've
4 told your client that the minimum sentence for burglary
5 first degree is 15 years in prison.

6 MR. BEACH: I did, Your Honor.

7 THE COURT: Up to life in prison.

8 MR. BEACH: Yes, sir.

9 THE COURT: Very well. Mr. Hollman, is there anything
10 you would like to tell the Court prior to sentencing before
11 I hear from the Solicitor?

12 MR. HOLLMAN: No, sir.

13 THE COURT: Solicitor, I'm happy to hear from you.

14 ASST. SOL. KNIGHT: Your Honor, he does not have a
15 substantial criminal record. I think he's got a conviction
16 for loitering and driving under suspension, first offense or
17 second offense. But that's not the issue in this case. At
18 the time Lt. Chapman went into his home ---

19 THE COURT: You're talking about the home at Walterboro
20 Village?

21 ASST. SOL. KNIGHT: Yes, sir. It looked like a Circuit
22 City. Anything you could want in the electronic field was
23 in there. It was just amazing.

24 THE COURT: I think it's appropriate, in light of that
25 comment, which Mr. Beach and the defendant are aware of, to

1 now comment on the question that was asked by the jury
2 during the trial of the case since they are all still
3 present. There was a video, ladies and gentlemen, of the
4 statement, and in order to protect the rights of the
5 defendant because he is charged with other crimes, the
6 statement could not be redacted, or edited, on video without
7 you learning about other charges against the defendant for
8 other burglaries, and that was the reason the video was not
9 entered into evidence in the trial of the case. And that is
10 why you heard the oral testimony of Lt. Chapman and not
11 watched a video of what occurred, because there was too much
12 other information on that video involving things that you
13 should not have been influenced by in reaching your
14 decision. Go ahead.

15 ASST. SOL. KNIGHT: Thank you, Your Honor. I think
16 you have addressed the second issue of the video that I
17 could not play. There is no way I could have redacted. It
18 just went on about other burglaries, car break-ins; it was
19 unbelievable. And you've got to be fair to the defendant,
20 and that's why you explained to the jury why we did that.

21 When it comes to sentencing in a case that I consider
22 one of the most serious of all, I'm always on the high side,
23 but I'm going to defer to your judgment and I respect
24 whatever sentence you should give him.

25 THE COURT: Very well. Now, Mr. Tanner was the victim

1 and I realize that he has left the courtroom. Do you have
2 any information from your office that anybody in the
3 victim's family or the victim wishes to address the Court
4 about sentencing?

5 ASST. SOL. KNIGHT: No, sir. I talked to Mr. Tanner on
6 two occasions. He went along with the previous
7 recommendation that I made in this matter. He was
8 satisfied. Mr. Tanner is a very understanding man.

9 THE COURT: Very well. Now, Mr. Hollman, let me
10 explain a couple of things for you. Burglary first degree
11 carries a minimum sentence of 15 years in prison. It
12 carries up to life. Mr. Beach is right to point out to me
13 your age. The solicitor is right to point out to me your
14 prior record. However, there is nothing that is more
15 intrusive of the sanctity of a person's property than their
16 home. I clearly understand why the jury reached the verdict
17 that they did in this case. I have no quarrel whatsoever
18 with the jury's verdict. Not that it was my decision to
19 make based on the evidence. I told them clearly it was
20 theirs. If people can't be safe in their homes -- I thank
21 God that the people in their home did not wake up during
22 this burglary; because I am afraid someone would have been
23 hurt or killed during this burglary. I want the people in
24 this community to feel safe in their homes. On the other
25 side of that fence, I am aware, and which I do not take into

1 consideration, that you are charged in another burglary
2 first, as well as another burglary second, and we went to
3 great pains to make sure that the jury was not made aware of
4 that fact in their deliberations in this case.

5 On Indictment 2012-GS-15-0639, the State v. Halden
6 Hollman, burglary first degree. The jury has found you
7 guilty beyond a reasonable doubt. The sentence of this
8 Court is the defendant is committed to the State Department
9 of Corrections for a term of 25 years. The defendant is to
10 be given credit for time served pursuant to South Carolina
11 Code Section 24-13-40. That is to be calculated and applied
12 by the State Department of Corrections. This court stands
13 adjourned. The defendant is in custody. Please remain in
14 the box, ladies and gentlemen.

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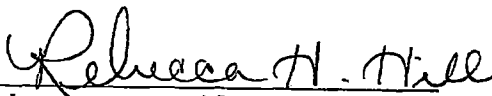
STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

CERTIFICATE

I, REBECCA H. HILL, Official Court Reporter for the Judicial Department of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had in the hearing of the captioned case, in the Court of General Sessions for Colleton County, South Carolina, on the 25th - 26th day of February 2013.

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

May 18, 2013


Rebecca H. Hill,
Official Court Reporter

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County

Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

HALDEN LAMONT HOLLMAN,

APPELLANT

APPELLATE CASE NO. 2013-000477

ANDERS BRIEF OF APPELLANT

BENJAMIN JOHN TRIPP
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err in failing to direct a verdict of not guilty on the charge of first degree burglary committed during the nighttime where the only evidence relating to when the victim's television and computer were stolen was his testimony that he went to bed at 10:00 p.m. and that the next morning he did not see the property in the den?

STATEMENT OF THE CASE

On October 18, 2012, the Colleton County Grand Jury indicted Appellant Halden Hollman on a charge of first degree burglary. R. 198 – R. 199. On February 25, 2013, Appellant proceeded to trial before the Honorable Perry M. Buckner, III and a jury. Tr. 1. Harris S. Beach represented Appellant and Steve Knight represented the State.

On February 26, 2013, the jury found Appellant guilty as charged. Tr. 186, l. 25 – Tr. 187, l. 5. The trial court sentenced Appellant to twenty five years imprisonment. Tr. 196, ll. 5-11.

ARGUMENT

THE TRIAL COURT ERRED IN FAILING TO DIRECT A VERDICT OF NOT GUILTY BECAUSE TANNER NEVER TESTIFIED TO WHEN HE LAST SAW HIS TELEVISION, AND THEREFORE THE STATE'S EVIDENCE MERELY RAISED A SUSPICION THAT APPELLANT STOLE IT DURING THE NIGHTTIME.

STATEMENT OF FACTS

The State alleged that at some point on the night of August 8, 2012 and the following morning, Appellant broke into a private residence and stole a fifty to sixty inch television and other items. Tr. 65, l. 20 – Tr. 67, l. 15. Billy Lyn Tanner, a Walterboro resident, testified that he went to bed at 10:00 or 10:30 p.m. on the night in question. The following morning, he got out of bed at around 5:00 a.m. Upon entering the living room, Tanner saw his television was missing, along with his son's laptop computer and his wife's wallet and cellular phone. Tr. 70, l. 2 – Tr. 73, l. 11. Tanner also testified that the vehicles outside the house had been broken into and a house key that was in one of the vehicles appeared to have been dropped on the steps to the back door, which was unlocked. Tr. 75, l. 16 – Tr. 76, l. 7.

The State produced as a witness Lieutenant Jason Chapman from the Colleton County Sheriff's Office. He stated that he interviewed Appellant at the Walterboro Public Safety office on September 4, 2012. Tr. 79, l. 2 – tr. 87, l. 21. Appellant denied any involvement in the theft, but Chapman implied he already had "a lot of evidence" connecting him. Chapman said Appellant then told him he "entered Tanner's residence" through the side door and took a television, laptop, and cellular phone. Tr. 85, l. 12 – Tr. 86, l. 5. Chapman said Appellant could not give the address of the house and could only give

some general directions to the house from the nearby apartment complex where Appellant lived. Tr. 85, l. 18 – Tr. 87, l. 1.

Appellant called his girlfriend to testify that law enforcement had also filed a charge against her for receiving stolen goods in connection with the theft. She was incarcerated for a few days and nights, and her sister had to look after her two children until she was released and the charges was dropped. Tr. 150, l. 15 – Tr. 151, l. 4. Appellant took the witness stand and explained that he had been dishonest during the interrogation:

Q: What did you tell them?

A: Oh, I just told them what they wanted to hear because I was trying to get my old lady out.

* * *

Q: Okay. What was [her] situation?

A: Oh, they had her charged with receiving stolen goods.

Q: Was she still charged when you talked to the police?

A: Yes, sir.

Q: Was she later – did they later drop the charges against her?

A: Yes, sir.

* * *

Q: Was [what you told the police] true?

...

A: Oh, no, sir.

Q: Okay. And tell me again, tell the jury again, why you told the police that.

A: Oh, I told them I did the stuff to get my old lady out – I mean, my girlfriend.

Tr. 136, l. 19 – Tr. 138, l. 8.

Other than Appellant's statements to Chapman, the State did not produce any direct evidence linking Appellant to the crime. The police did not recover the stolen television or computer. Tr. 90, ll. 2–24. The State called a witness to testify Appellant sold him a computer similar to Tanner's in early August of 2012. Tr. 100, l. 21 – Tr. 101, l. 25. The parties stipulated that investigators lifted a fingerprint from Tanner's home, but it was insufficient for identification. Tr. 77, l. 12 – Tr. 78, l. 18.

After the close of its case, Appellant moved for a directed verdict. The court denied the motion, stating sufficient evidence existed in the record to support the burglary charge. Tr. 105, ll. 7-23.

DISCUSSION

The trial court erred in failing to direct a verdict of not guilty because Tanner never testified to when he last saw his television, and therefore the State's evidence merely raised a suspicion that Appellant stole it during the nighttime. S.C. Code Ann. § 16-11-311(A)(3) defines first degree burglary to include entering a dwelling during the nighttime, without consent, and with intent to commit a crime therein. The accused is entitled to a directed verdict when the State fails to present evidence to support every element of the charged offense. *See In re Winship*, 397 U.S. 358, 364, 90 S.Ct. 1068, 1073 (1970) ("Lest there remain any doubt about the constitutional stature of the reasonable-doubt standard, we explicitly hold that the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged."); *see also State v. Brown*,

charged.”); *see also State v. Brown*, 360 S.C. 581, 586, 602 S.E.2d 392, 395 (2004). When considering a motion for directed verdict of acquittal, “the trial court is concerned with the existence or non-existence of evidence, not its weight.” *Brown*, 360 S.C. at 586, 602 S.E.2d at 395.

Our Supreme Court “has repeatedly affirmed the principle that when the State fails to produce *substantial circumstantial evidence* that the defendant committed a particular crime, the defendant is entitled to a directed verdict.” *State v. Odems*, 395 S.C. 582, 720 S.E.2d 48 (2011) (emphasis added). In *Odems*, the Court cited *State v. Bostick*, 392 S.C. 134, 708 S.E.2d 774 (2011) and *State v. Lollis*, 343 S.C. 580, 541 S.E.2d 254 (2001) as “jurisprudence . . . instructive in explaining the proof required in cases built wholly on circumstantial evidence.” *Id.* Specifically, the trial court “should grant a directed verdict motion when the evidence *merely raises a suspicion* that the accused is guilty.” *Odems*, 395 S.C. at 586, 720 S.E.2d at 50 (emphasis added) (citation omitted).

“Suspicion implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof.” *See State v. Buckmon*, 347 S.C. 316, 322, 555 S.E.2d 402, 404-05 (2001) (citing *Lollis*, 343 S.C. 580, 541 S.E.2d 254). Therefore, a case based solely upon circumstantial evidence should be submitted to the jury only “if there is any substantial circumstantial evidence which reasonably tends to prove the guilt of the accused or from which his guilt may be fairly and logically deduced.” *Bostick*, 392 S.C. at 139, 708 S.E.2d at 776-777 (citing *State v. Mitchell*, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000)).

In this case, the State failed to produce substantial circumstantial evidence that Tanner’s home was broken into during the nighttime. Tanner testified that he went to bed at

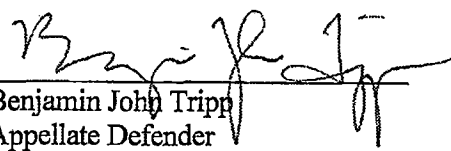
10:00 or 10:30 p.m. on the night in question and that the television, computer, and phone were missing from the den when he woke up the following morning at around 5:00 a.m. However, Tanner never testified to the last time on the first day that he saw the missing property in the den. Additionally, although he went to bed at night, no testimony or other substantial evidence in the records supports the inference that Tanner saw the property shortly before going to bed or even that he was home long enough before bed to have an opportunity to observe the property in the den.

Even considering Appellant's statement to police, the State did not adduce any direct evidence of the time at which the theft occurred either. The police did not recover and produce the computer, the usage history of which could have established that Tanner or his son had possession of it on the evening in question. The State did not call Tanner or his son or his wife to testify directly as to when either last saw the property. In a criminal case, the State has the burden to prove every element of the crime charged beyond a reasonable doubt. Here, the State simply failed to adduce sufficient evidence to meet that burden. Rather, it cast nothing more than a suspicion on Appellant and the circumstances of the theft from Tanner's home. Accordingly, Appellant was entitled to a directed verdict of not guilty, and the trial court erred in denying his motion.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court reverse the decision of the trial judge and issue an order of acquittal.

Respectfully submitted,



Benjamin John Tripp
Appellate Defender

ATTORNEY FOR APPELLANT

This 27th day of November, 2013.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County
Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

HALDEN LAMONT HOLLMAN,

APPELLANT

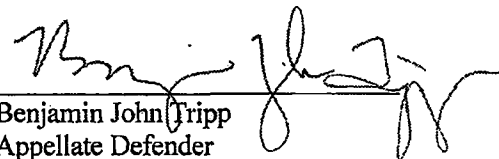
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Halden Lamont Hollman states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Perry M. Buckner, which was held on February 26, 2013, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Halden Lamont Hollman.

Respectfully submitted,


Benjamin John Tripp
Appellate Defender

ATTORNEY FOR APPELLANT

This 27th day of November, 2013.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County

Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

HALDEN LAMONT HOLLMAN,

APPELLANT

APPELLATE CASE NO. 2013-000477

**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment(s);
- (2) Entire Trial Transcript (February 25 – 26, 2013)

I certify that this designation contains no matter which is irrelevant to this appeal.

November 27th, 2013



Benjamin John Tripp
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

Attorney for Appellant

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

November 27, 2013


Benjamin A. Tripp
Appellate Defender

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County
Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

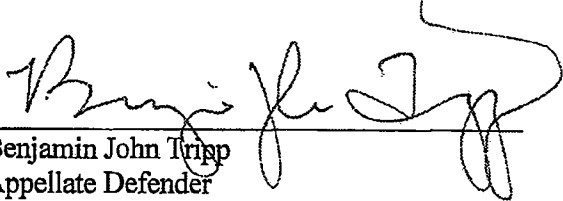
V.

HALDEN LAMONT HOLLMAN,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal have been served on Halden Lamont Hollman, #354491 at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 27th day of November, 2013.


Benjamin John Tripp
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 27th day of November, 2013.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEAL

Appeal from Colleton County

Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT

V

HALDEN LAMONT HOLLMAN

APPELLANT

APPELLATE CASE NO. 2013-000477

PRO SE BRIEF OF APPELLANT

HALDEN LAMONT HOLLMAN
Appellate

Broad River Correctional Institution
4460 Broad River Road
Columbia SC 29210

RECEIVED

FEB 11 2014

SC Court of Appeals

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err in failing to direct a verdict of not guilty of first degree burglary committed on August 8, 2012 where the only evidence relating to when the victim's television and computer were stolen was his testimony that he woke up at 5:00 Am in the morning and he didn't see his property in the den?

STATEMENT OF THE CASE

On October 18, 2012, the Colleton County Grand Jury indicted Appellant Halden Holiman on a charge of first degree burglary. R. 198. R. 199. On February 25, 2013, Appellant proceeded to trial before the Honorable Perry M Buckner, III and a jury. Tr. 1. Harris S. Beach represented Appellant and Steve Knight represented the state.

On February 26, 2013, the jury found Appellant guilty as charge. Tr. 186, 1.25- Tr. 187, 1.5. The trial court sentenced Appellant to twenty-five years imprisonment. Tr. 196, 1.5-11

ARGUMENT

THE TRIAL COURT ERRED IN FAILING TO DIRECT A VERDICT OF NOT GUILTY BECAUSE THERE WAS NO DIRECT EVIDENCE AND THERE WAS NO ELEMENTS THAT A FIRST DEGREE BURGLARY HAS BEEN COMMITTED. THE ONLY EVIDENCE THE STATE HAS IS TANNER'S TESTIMONY THAT THE TELEVISION WAS GONE WHEN HE GOT UP AT 5:00AM.

STATEMENT OF FACT

The state alleged that at some point in time of August 8, 2012 and the following morning Appellant went into a residence and stole a 55 to 60 inch television, Apple Laptop and a cellular phone. Tr. 65, 1.20 - Tr. 67, 1.15. Mr. Billy Tanner a resident of Walterboro, testified that he went to bed around 10pm on the day in question not knowing if these items were missing or not. The following morning he got up around 5:00am. Upon entering the living room he saw his television missing along with other items.

Tr. 70, 1.12 - Tr. 73, 1.11. Mr. Tanner also testified that someone went through his vehicles outside the house and a house key was in one of the vehicles appeared to have been dropped on the steps to the backdoor. Tr. 75, 1.16 - Tr. 76, 1.7. Now on August 9, 2012 Brandon Craven with Walterboro Police Department responded to the scene and dusted for fingerprints and lifted one it was sent to North Charleston P.D. Criminal Identification Division,

The results were insufficient for identification. Tr. 77, 1.24-
Tr. 78, 1.4.

The state produced as a witness Lt. Jason Chapman from the Colleton County Sheriff office. He stated that he interview Appellant at the Walterboro Public Safety office on September 4, 2012. Tr. 79, 1.2-
Tr. 87, 1.21. The Appellant denied any and all involvement in the theft, then Chapman Led the Appellant to believe that he already had alot of evidence connecting him which he didn't. Then Chapman said Appellant then told him he entered the resident through the side door and took a T.V., laptop and a touch screen telephone Tr. 85, 1.12-
Tr. 86, 1.5.

Appellant called his girlfriend to testify that law enforcement had also filed charges against her for receiving stolens goods in connection with the theft. She was incarcerated for a few days and nights, and her sister had to look after her four children until she was released and the charges was eventually dropped. Tr. 150
1.15- Tr. 1.4. Appellant took the witness stand and tried to explain that he had been dishonest during the interrogation because of the fear of the state taking his Kids due to their incarceration and the seriousness of the alleged offense.

Other than the Appellant's statement to Chapman, the State could not produce any direct evidence linking him to the crime. The police never found in the Appellant possession any of the items stolen and they were never recovered. Tr. 90, 11.2-24. The state did call a witness to testify Appellant sold him a computer but was never identified as the one Mr. Tanner owned in early August 2012. Tr. 100, 1.21- Tr. 101, 1.25. Both parties stipulated that the investigators lifted a fingerprint from Tanner's home, but it was insufficient for identification. Tr. 77, 1.12- Tr. 78, 1.18.

After the close of the case, Appellant moved for a direct verdict. Because there was no evidence or any elements that the Appellant done the crime. Unfortunately the court denied the motion, stating that sufficient evidence existed in the records to support the burglary first charge. Even in the opening statement of the State Sol. Knight talked about having to prove the elements of burglary in the first degree which he never proved. Tr. 65, 1.19- Tr. 66, 1.4.

Discussion

The trial court erred in failing to direct a verdict

Of not guilty because Tanner never testified to when he last saw his television, and therefore the state's evidence merely raised a suspicion that Appellant stole it during the nighttime. S.C. Code Ann. §16-11-311 (A)(3) defines first degree burglary to include entering a dwelling during the nighttime, without consent, and with intent to commit a crime therein. The accused is entitled to a direct verdict when the State fails to present evidence to support every element of the charged offense. See *In re Winship*, 397 U.S. 358, 364, 90 S.Ct. 1068, 1073 (1970) ("Lest there remain any doubt about the constitutional stature of the reasonable-doubt standard, we explicitly hold that the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged."); see also *State v. Brown*, 360 S.C. 581, 586, 602 S.E.2d 392, 395 (2004). When considering a motion for direct verdict of not guilty "the trial court is concerned with the existence or non-existence of evidence, not its weight." *Brown*, 360 S.C. at 586, 602 S.E.2d at 395.

Our Supreme Court "has repeatedly affirmed the principal that when the State fails to produce substantial circumstantial evidence that the defendant committed a particular crime, the defendant is entitled to a directed verdict." *State v. Odems*, 395 S.C. 582, 720 S.E.2d 48 (2011) (paying alot of attention to this) In *Odems*, the Court cited *State v. Bostick*, 392 S.C. 134, 708 S.E.2d 774 (2011) and *State v. Lollis*, 343 S.C. 580, 541 S.E.2d 254 (2001) as the system of law teaches us that the proof required in cases built solely on circumstantial evidence, "and with out any direct evidence and with out any element provin in this case the trial court should grant a direct verdict motion when there is no evidence that the accused is guilty." *Odems*, 395 S.C. at 586, 720 S.E.2d at 50 (emphasis add) (citation omitted).

"Suspicion implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof." See *State v. Buckmon*, 347 S.C. 316, 322, 555 S.E.2d 402, 404-05 (2001) (citing *Lollis*, 343 S.C. 580, 541 S.E.2d 254). Therefore, a case based solely upon circumstantial evidence should be submitted to the jury only "if there is any substantial circumstantial evidence which reasonably tends to prove the guilt of the accused of from which his guilt may

fairly and logically deduced." Bostick, 392 S.C. at 139, 708 S.E.2d at 776-777 (citing State v. Mitchell, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000)).

In this case, the State failed to prove a lot of things like when on August 8, 2012 that the theft occurred we only know that Tanner wakes up at 5:00 Am every morning and that's when he noticed that the television, computer, and phone was missing. We also know that the State said that they recovered the Apple laptop computer saying it's in the back a couple of times but never produce it or tried to submit it into evidence in the case.

Even considering Appelbarts statement to the police, the State did not find any direct evidence of time the theft occurred. The State has the burden to prove every element that a crime has been committed and the state has failed to prove by who and when the crime was committed. The state and the witness mention a computer in the back but never brought it forward or never entered it into evidence, they never produce the computer, usage history of which could have established that the Tanners had possession of it, and The State also

stated that was the long and short of this case. The State did not call Tanner or son or his wifey to testify directly as to when either last saw the property. In a criminal case, the State has the burden to prove every element of the crime charged beyond a reasonable doubt. In this case the State simply fail to adduce any sufficient evidence to meet the burden of proof. Rather, it cast nothing more than a suspicion on Appellant and the circumstances of the theft from the Tanner's home. Therefore the Appellant was entitled to a direct verdict of not guilty and the trial court erred in denying his motion.

CONCLUSION

For the foregoing reasons, Appellant respectfully request that this Court reverse the decision of the trial judge and issue an order of acquittal.

Respectfully submitted,

Halden L. Halloran
Appellant

This 19th day of February, 2014.

On the 21st day of February, 2014
Susan H. Frye

My Commission Expires
March 5, 2018

RECEIVED
FEB 28 2014
SC Court of Appeals

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Halden Lamont Hollman, Appellant.

Appellate Case No. 2013-000477

Appeal From Colleton County
Perry M. Buckner, Circuit Court Judge

Unpublished Opinion No. 2014-UP-342
Submitted August 1, 2014 – Filed September 24, 2014

APPEAL DISMISSED

Appellate Defender Benjamin John Tripp, of Columbia,
for Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General Salley W. Elliott,
both of Columbia, for Respondent.

PER CURIAM: Dismissed after consideration of Appellant's pro se brief and review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.¹

APPEAL DISMISSED.

HUFF, SHORT, and KONDUROS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

October 20, 2014

The Honorable Patricia C. Grant
PO Box 620
Walterboro SC 29488-0028

REMITTITUR

Re: The State v. Halden Lamont Hollman
Lower Court Case No. 2012GS1500639
Appellate Case No. 2013-000477

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

Jay A. Kitchings
CLERK

Enclosure

cc: Halden Hollman, 354491
Salley W. Elliott, Esquire
Alan McCrory Wilson, Esquire
Benjamin John Tripp, Esquire
The Honorable Perry M. Buckner

RECEIVED

OCT 21 2014

SC OFFICE OF
APPELLATE DEFENSE

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF Colleton)Halden L. Hollman, #354491)

Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

15-CP-15-1054
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to particular question on the reverse side of the page or on an additional page. Applicant shall make reference to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Broad River Correctional Institution
2. Name and location of Court which imposed sentence Colleton County
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2012-GS-15-0639, Burglary first degree
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) February 25, 2013 / 25 years
 - (b) _____

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty X _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes _____
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Appeal dismissed _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. September 24, 2014 _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Per curiam: "Dismissed after consideration of Appellant's pro se brief and review pursuant to Anders v. California, 386 U.S. 738 (1967)" _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel
- (b) Prosecutorial Misconduct
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Failed to investigate; failed to develop sound trial strategy
- (b) Fabrication of evidence
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (c) the disposition thereof:
- i. N/A
- ii. N/A
- iii. N/A

- iv. N/A
- (d) the date of each such disposition:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

Yes

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:
- i. Failing to Direct a verdict of not guilty
- ii.
- iii.
- (b) the proceedings in which each ground was raised:
- i. Direct Appeal
- ii.
- iii.

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) PCR Issues
- (b) Issues not properly preserved
- (c)

17. Were you represented by an attorney at any time during the course of:

Revised 3/2003

- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Harris S. Beach, 115 Benson St., Walterboro, S.C. 29488
- ii. Benjamin John Tripp, 1330 Lady St., Suite 401, Columbia, S.C. 29201
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Pretrial & trial
- ii. Direct Appeal
- iii. _____
19. State clearly the relief you seek in filing this application:
- Sentence Vacated, New trial
20. Are you now under sentence from any other court that you have not challenged?
- No

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Richland Colleton)
Halden L. Hollman, #354491)

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Halden L. Hollman

SWORN to and subscribed before me this 21
day of September, 2015.

Tennille L. Montgomery (L.S.)
Notary Public

My Commission Expires: 6/10/2018

2015 OCT -6 PM 1:50
PATRICIA C. ISAAC
COLLETON COUNTY
COMMON PLEAS

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

Halden L. Hollman, #354491

I, , hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Halden L. Hollman
Applicant

SWORN or affirmed to and subscribed before me this

21 day of September, 2015.

Temple J. Montgomery
Notary Public

My Commission Expires: 6/10/2018

2015 OCT -6 PM 1:50
 KATHLEEN C. GRAHAM
 CLERK OF COURT
 COMMON PLEAS

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Halden L. Hollman, #354491,

2015-CP-15-1054

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

In response to the post-conviction relief application filed on October 6, 2015, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Colleton County Clerk of Court's orders of commitment. The Applicant was indicted by the October 2012 term of the Colleton County Grand Jury for Burglary, 1st degree (2012-GS-15-0639). Harris S. Beach, Esquire, represented him. On February 25, 2013, the Applicant proceeded to a jury trial pursuant to which he was found guilty as indicted. The Honorable Perry M. Buckner, III sentenced the Applicant to confinement for twenty-five (25) years.

A notice of appeal was filed on Applicant's behalf and an appeal perfected pursuant to Anders v California 378 U.S. 738, 87 S. Ct. 1396 (1967). The South Carolina Court of Appeals dismissed the Applicant's appeal. State v. Hollman, Op. No. 2014-UP-342 (filed on September 24, 2014). The Remittitur was issued on October 21, 2014.

II.

In his application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. "Failed to develop sound trial strategy"
2. "Prosecutorial Misconduct"
 - a. "Fabrication of evidence"

For the purpose of this Return, the Respondent incorporates the Clerk of Court records, and the South Carolina Department of Corrections' records, the record on appeal and Court of Appeals opinion. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent construes Applicant's allegation as alleging ineffective assistance of counsel. The Respondent asserts that the Applicant's allegation of ineffective assistance of trial counsel is without merit. The Respondent also asserts that the Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625, (citing Strickland v. Washington). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant

decisions in the exercise of reasonable professional judgment. Strickland v. Washington. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Second, counsel's deficient performance must have prejudiced the Applicant such that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Id. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). In other words, where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant's second allegation is an allegation of prosecutorial misconduct. Prosecutorial misconduct is not an issue for post conviction relief. Rather, this allegation is a direct appeal issues that is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). The Applicant could have raised this

issue on appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is applicants burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989).

V.

Applicant also alleges a fabrication of evidence. This allegation raises a direct appeal issue that is procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). The Applicant could have raised this issue at trial or on appeal. His failure to do so has waived this allegation as a ground for relief. Therefore, the Court should summarily dismiss this allegation.

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, the Respondent requests an evidentiary hearing solely for the purpose of determining whether the Applicant's trial counsel was ineffective and whether the Applicant's appellate counsel was ineffective.

{Signature Block on Following Page}

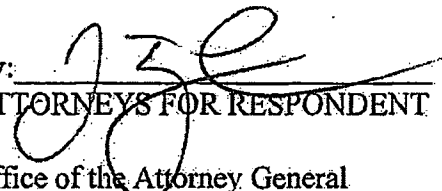
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

JOHANNA C. VALENZUELA
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON
Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

June 6, 2016

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

IN THE COURT OF COMMON PLEAS

2015-CP-15-1054

HALDEN L. HOLLMAN, #354491

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

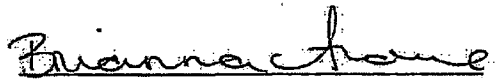
STATE OF SOUTH CAROLINA,

Respondent.

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

James K. Falk, Esquire
 Falk Law Firm, LLC
 Post Office Box 1058
 Charleston, South Carolina 29402

DATED this 6th day of June, 2016.


 Brianna Arnone, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA
FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF HAMPTON
COURT OF COMMON PLEAS
CASE NUMBER 2015-CP-15-01045

HALDEN T. HOLTMAN
APPLICANT

VERSUS

TRANSCRIPT OF POST-CONVICTION RELIEF HEARING

STATE OF SOUTH CAROLINA
RESPONDENT

FEBRUARY 15, 2017

BEAUFORT, BEAUFORT COUNTY, SOUTH CAROLINA

BEFORE HON. R. SCOTT SPROUSE, JUDGE

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

APPEARANCES

ON BEHALF OF APPLICANT
HALDEN L. HOLLMAN:

HON. JAMES K. FALK
FALK LAW FIRM, LLC
30 BROAD STREET, SUITE 350
POST OFFICE BOX 1058
CHARLESTON, SOUTH CAROLINA 29402-1058
843-606-6007
jfalklaw@gmail.com

ON BEHALF OF RESPONDENT
STATE OF SOUTH CAROLINA:

HON. RUSTON NEELY
ASSISTANT ATTORNEY GENERAL
STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
REMBERT C. DENNIS BUILDING
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COLUMBIA, SOUTH CAROLINA 29211-1549
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rneely@sca.gov

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EXHIBITS

No exhibits were admitted.

2-15-17 HOLLMAN V STATE

BY THE COURT

1 BEGINNING 12:00 P.M.

2 BY THE COURT:

3 MR. NEELY: The next case the State would call is
4 the case of Halden Hollman versus the State of South
5 Carolina, Case Number 2015-CP-07-01954. Applicant is
6 currently incarcerated in the South Carolina Department
7 of Corrections, pursuant to orders of commitment of the
8 Colleton County Circuit Court. Applicant was indicted
9 October 2012 term of the Colleton County Grand Jury for
10 burglary first degree, Indictment Number 2012-GS-15-
11 0639. There's another case where Mr. Beach represented
12 the applicant. Obviously, again, Mr. Beach is deceased
13 at this time.

14 On February 25, 2013, applicant proceeded to a jury
15 trial. He was found guilty as indicted. The Hon. Perry
16 Buckner III sentenced the applicant to confinement for a
17 period of 25 years. A notice of appeal was filed on his
18 behalf, and appeal perfected pursuant to *Anders v.*
19 *California*.

20 A remittitur was issued, with the Court of Appeals
21 dismissing the applicant's appeal on October 21, 2014.

22 THE COURT: Thank you. Mr. Falk.

23 MR. FALK: I call Mr. Hollman to the stand.

24 THE COURT: Mr. Hollman, if you'd come down to the
25 witness stand, please.

2-15-17 HOLLMAN V STATE

HOLLMAN - DIRECT - FALK

1 MADAM CLERK: Do you solemnly swear or affirm the
2 testimony you give to the Court in this case shall be
3 the truth, so help you God?

4 HALDEN L. HOLLMAN: Yes, ma'am.

5 MADAM CLERK: You may be seated.

6 HALDEN L. HOLLMAN

7 DIRECT EXAMINATION BY MR. FALK:

8 Q. Mr. Hollman, can you -- who represented you in this
9 case?

10 A. Mr. Harris Beach.

11 Q. And how did you -- was he a public defender?

12 A. Yes, sir.

13 Q. Okay. And can you go over some of visits by him
14 prior to the trial.

15 A. I say he probably came to the jail once when I was
16 in the County.

17 Q. Okay.

18 A. Yes, sir.

19 Q. And did -- when did you look at your -- did you
20 review your discovery information with him?

21 A. No, he never -- he never brung no discovery or none
22 of that when he came.

23 Q. Okay. You had had -- you and I spoke last week or
24 week before last. Is that not correct?

25 A. Week. Yes, sir. Yes, sir.

2-15-17 HOLLMAN V STATE

HOLLMAN - DIRECT - FALK

1 Q. And you had had some concerns about the
2 investigation that was done in this case. Is that
3 correct?

4 A. Yes, sir.

5 Q. Can you tell me those concerns.

6 A. One of the concern was he never did any, might as
7 well say, investigations into my trial.

8 Q. And he is, again?

9 A. Mr. Beach.

10 Q. Okay.

11 A. And then, he failed to, might as well say, call
12 witnesses during trial.

13 Q. Okay.

14 A. Then he failed to, might as well say, object to
15 some of the statements that the State made.

16 Q. All right. Now, the -- what did you want him --
17 what did you think he should have investigated further?

18 A. For instance, should have investigated the supposed
19 to be laptop the State confirmed -- I mean, might as
20 well say was -- the State, I mean, what the State had
21 claimed was evidence in the trial.

22 Q. A laptop computer?

23 A. Yeah, a laptop computer during trial.

24 Q. Was that ever presented to the Court?

25 A. Oh, no, sir. No, sir. They never brung it out.

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HOLLMAN - DIRECT - FALK

1 They just was implicating that was the laptop from the
2 family house. They never showed no serial numbers or
3 none of that.

4 Q. So was there any -- other than the way this was --
5 testimony -- was there ever proof that there was a
6 laptop in the house?

7 A. No, sir.

8 Q. Okay. What about on the large television set?

9 A. Yeah, they never brung that during trial or
10 nothing.

11 Q. Okay. Did you -- were there ever any discussions
12 on a plea agreement in this case?

13 A. Yeah, he came -- yeah, the same -- the one time he
14 did get me -- he trying to get me to plea to I think
15 they told me 20.

16 Q. For burglary or for possession of stolen property?

17 A. Burglary.

18 Q. Okay. Was the television set ever recovered?

19 A. Oh, from my point of view, no, sir.

20 Q. Okay. And was there any proof that that television
21 set was ever purchased or if there ever was a television
22 set?

23 A. No, sir.

24 Q. Okay. Now, there was a witness who testified in
25 your case.

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HOLLMAN - DIRECT - FALK

- 1 A. Moses Black.
- 2 Q. Moses Black? The female?
- 3 A. Oh, you talking about my -- Courtney Kirkpatrick.
- 4 Q. Yeah, Courtney Kirkpatrick. Can you tell me,
- 5 what's your relationship with her?
- 6 A. Oh, she's the mother of my four kids.
- 7 Q. Okay. And did you have some communications with
- 8 her prior to the trial?
- 9 A. We talked when she was locked up through the, might
- 10 as well say, speaker in max.
- 11 Q. Okay. Was she having some -- she had custody of
- 12 your children?
- 13 A. Yes, sir.
- 14 Q. Okay. And did she wind up testifying against you
- 15 at the trial?
- 16 A. No, sir. You talking testify against me?
- 17 Q. Yeah.
- 18 A. Oh, no, sir.
- 19 Q. Wasn't there a statement -- wasn't there a comment
- 20 that she -- that if she didn't change her statement?
- 21 A. Oh, you talking about -- you talking about with
- 22 Chapman.
- 23 Q. Yeah.
- 24 A. Oh, you talking about Chapman threatening taking
- 25 the kids, said if she don't make a statement?

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HOLLMAN - DIRECT - FALK

1 Q. Right. Right. So who is Chapman?

2 A. Oh, Chapman, I think he was a L.T. with Colleton
3 County Police Station.

4 Q. Law enforcement in Colleton County?

5 A. Yes, sir.

6 Q. Okay. And you believe that he had threatened to
7 take --

8 A. My kids away, yes, sir.

9 Q. And what did -- what was the threat? What did he
10 want? What did Mr. Chapman want Mrs. Kirkpatrick to do?

11 A. Oh, testify against me.

12 Q. Okay. And so, she testified against you? -

13 A. Oh, no, sir.

14 Q. One moment, please. There was testimony about two
15 people offering to sell the television set?

16 A. Yes, sir.

17 Q. What was your recollection of that?

18 A. Oh, you talking about when they came to my house?

19 Q. Yeah.

20 A. Oh, two fellows came to my house. They asked me
21 could I sell the laptop for them by what -- they gave me
22 the laptop. I unlocked it for them. And now can find a
23 sell for them. Yes, sir.

24 Q. Okay. And that was the person who would -- so
25 there were two people who were in possession of a

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HOLLMAN - DIRECT - FALK

1 television set and they were trying to sell it out of
2 the back of a car. Is that correct?

3 A. Yes, sir.

4 Q. Okay. And again, Chapman didn't -- I mean, Mrs.
5 Kirkpatrick didn't testify against you.

6 A. No, sir.

7 Q. But Chapman was trying to get her to testify
8 against you. Is that correct?

9 A. Testify, yes, sir.

10 Q. And he was threatening to take your children away
11 had she not done that.

12 A. Yes, sir.

13 Q. Okay. And was Mr. Beach aware of that threat?

14 A. Yes, sir.

15 Q. Okay. Do you know why Mr. Beach didn't bring that
16 to the jury's attention?

17 A. From my point of view, I --

18 MR. NEELY: Object to the relevance of this. If
19 she didn't testify, I don't understand what the
20 prejudice is.

21 THE COURT: Overruled.

22 BY MR. FALK:

23 Q. I'm sorry. I remember exactly what my question
24 was. Do you know why he never asked Chapman about the
25 threats?

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HOLLMAN - CROSS - NEELY

1 A. You guess is better than mine, because I wouldn't
2 know.

3 Q. Okay. And do you know why he never asked Ms.
4 Kirkpatrick about the threats?

5 A. I wouldn't know, cause the only thing he asked at
6 trial was how many kids we have and stuff in that
7 nature.

8 Q. Okay. And that was -- there was no evidence that
9 you were in the house, was there?

10 A. No, sir.

11 Q. There was no witness putting you in the house. Is
12 that correct?

13 A. No, sir.

14 Q. And there was no witness that you'd had possession
15 of the television set. Is that correct?

16 A. No, sir.

17 MR. FALK: No further questions.

18 THE COURT: All right. Mr. Neely,

19 HALDEN L. HOLLMAN

20 CROSS-EXAMINATION BY MR. NEELY:

21 Q. The items that the State alleged you stole in the
22 burglary were the cell phone, a laptop, and T.V. Is
23 that right?

24 A. Yeah, that what they claim, yes, sir.

25 Q. And they didn't find a laptop or T.V. at your

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HOLLMAN - CROSS - NEELY

1 house, did they?

2 A. No, sir.

3 Q. They did find a cell phone, thought, right?

4 A. Yeah, my cell phone.

5 Q. And on the cell phone was a picture of a laptop?

6 A. No. They -- hold on. They say it wasn't a
7 picture. They say it was a text message describing a
8 laptop that's similar to the one they say was stolen.

9 Q. And you actually testified at trial, right?

10 A. Yes, sir.

11 Q. And gave your version of events. Is that right?

12 A. Yes, sir.

13 Q. And you said -- or you told the jury that these two
14 people you knew brought items to you for you to fix
15 them. Isn't that right?

16 A. Not fix. They brung me the laptop to unlock it.

17 Q. Okay. And then, Mr. Beach, your trial attorney,
18 argued to the jury that you weren't guilty of burglary;
19 you were just guilty of possessing stolen items.

20 A. Yes, sir.

21 Q. And do you remember what the judge charged the jury
22 what they could find you guilty of burglary or
23 possessing stolen items?

24 A. I can't remember.

25 Q. Can't remember?

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HOLLMAN - CROSS - NEELY

1 A. No, sir.

2 Q. But that was basically the crux or the most
3 important part of your argument was you admitted that
4 you had those items in your possession for quite a time.

5 A. Yes. Yeah, like for the half a day.

6 Q. But that you never took the items yourself.

7 A. What are you saying?

8 A. But you never took items yourself.

9 A. Oh, no, sir. No, sir.

10 Q. But that was your argument, correct?

11 A. Yeah, that was the strategy Mr. Beach had found,
12 yes.

13 Q. Okay.

14 MR. NEELY: That's all the questions I have, your
15 Honor.

16 THE COURT: Anything further?

17 MR. FALK: No, sir, your Honor, just would like
18 time to talk about Mr. Beach's strategy.

19 THE COURT: All right. Thank you, Mr. Hollman.
20 You may step down. Before we have summations, will
21 there be any testimony, any evidence, from the State?

22 MR. NEELY: Your Honor, I would just like to argue
23 from the transcript.

24 THE COURT: I'm going to allow you to give a
25 summation, but there are no witnesses for the State?

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HOLLMAN - CROSS - NEELY

1 MR. NEELY: That's correct, your Honor.

2 THE COURT: Okay. All right. Let's have
3 summation.

4 SUMMATION BY MR. FALK:

5 MR. FALK: Your Honor, there was no discussion of a
6 lesser-included offense. There was no -- I'm, there was
7 burglary, there was no other lesser-included offense.
8 I'm not sure if receiving stolen property is a lesser
9 included, a burglary or not, but it's certainly -- in
10 the State's closing argument they said it's our choice
11 as to how to go forward, and we're going forward on a
12 burglary charge. That was Mr. Knight in closing
13 argument. My concern is that Mr. Beach probably could
14 have done a better job at trying to show that Colleton
15 County Sheriff's Office were trying to make this case
16 against my client, and the jury know that they were
17 taking such extreme measures as to try to coerce the
18 mother of his child to testify against him, with the
19 threat of taking your children away. We think that that
20 is certainly a fact that the jury should have been aware
21 of or at least had evidence of. And it was not there.

22 I think he could have -- Chapman took the stand.
23 He could have asked him about the threat, and he would
24 have either said yes or no and denied it. Then, he
25 could have brought Kirkpatrick back around and said did

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1 Mr. Chapman ever threaten you that if -- if about
2 changing your statement or I'm going to take your
3 children away from you. The fact that she didn't
4 succumb to the threat, I don't think, is the issue. I
5 think the issue is, any time law enforcement is involved
6 in an interview where they have to go to that kind of
7 lengths to try and coerce a statement out of somebody, I
8 think the jury's entitled to draw whatever inference
9 they want, that maybe law enforcement's got a pretty bad
10 case and they're going to do whatever it takes to try
11 and get a conviction.

12 I mean, this is clear that, you know, the evidence
13 that might client was anywhere near this house is --
14 it's a very brief record and very quick to read that
15 there's scant evidence that my client was ever near this
16 house. I submit evidence that he was, at one time, in
17 possession of this property. There certainly was
18 evidence of third-party guilt, and that there were two
19 individuals driving around with this television set in
20 the back seat of the car, offering to sell it. And I am
21 not sure those statements could not have come in as a
22 statement against interest.

23 Judge Buckner -- this -- and if you'll read the
24 transcript, this witness came up at kind of the last
25 minute. There was -- I think there was a guy named Jay

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HOLLMAN - CROSS - NEELY

1 and a guy named Turtle, and they became -- Mr. Beach
2 became aware of him sort of at the last minute. And
3 Jay's testimony was proffered first, and the proffer was
4 made, and Judge Buckner said I'm not going to hear
5 anything about some hearsay statements out of your mouth
6 unless you've got some sort of explanation. Sort of
7 paraphrasing what he was telling Mr. Beach. And it
8 would seem to me that certainly a statement of like two
9 people driving a car with a 52-inch television sitting
10 in the back seat, if you want to buy a television set.
11 That's not implicating if a person is -- he himself is
12 in possession of stolen property or --

13 Therefore, I think you can make at least the
14 argument that that would have been a statement against
15 such interests and could have come in. I think had the
16 jury been more aware of the fact of the two people
17 peddling the television set, that would have been
18 something the jury should have heard.

19 So I think the fact that the jury did not hear
20 about Mr. Chapman's threats, and that Mr. Beach did not
21 get the hearsay statements in from the witness who saw
22 the guy put the T.V. in the back of the car. I think
23 that those were two errors, and I don't have Mr. Beach
24 to ask him what the trial strategy would have been.

25 THE COURT: Thank you, Mr. Falk. Mr. Neely.

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1 SUMMATION BY MR. NEELY:

2 MR. NEELY: Flushing out the case a little more,
3 your Honor, law enforcement testified at trial that they
4 interviewed applicant, and during the interview they
5 asserted, as law enforcement often will, that they had
6 lots of evidence against him and that he needs to come
7 clean. And the applicant described the house without
8 law enforcement giving any indication where the house
9 actually is. He gave directions; said this is the house
10 I went into, which were accurate directions to the
11 house. That is on Page 85. After that, after giving
12 accurate directions to the house he said that he went
13 into to law enforcement, law enforcement asked him on
14 Page 86 if he had removed anything from the house, and
15 he said a T.V. and laptop. And law enforcement
16 questioned him again, and said are you sure that's all.
17 He said, no, sir, I took a touch screen telephone as
18 well, which was an accurate description of the three
19 items that were taken from the house that evening.

20 The text message from applicant's phone describing
21 the laptop that was taken the night of the burglary was
22 actually a text message at 5:45 a.m., the night after
23 the burglary. And so, it was -- that was a text message
24 describing the item that was taken of the night, it was
25 describing the item that was taken in the early morning

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1 hours the same night of the burglary. After he admitted
2 going into the house and taking the items to the law
3 enforcement, he described not only where the house was
4 but how he had entered the house that was an accurate
5 description of what law enforcement knew had been
6 burglarized.

7 As to the threats made by law enforcement, when
8 applicant was on the stand, he testified that the reason
9 he gave the statement to law enforcement was because law
10 enforcement had charged his, I think in his words, his
11 baby mama with criminal offense as well, and he was
12 testifying that he was confessing to the crime just to
13 get her out of trouble. And Mr. Beach referenced that
14 in his closing argument. He said might not have been
15 helpful to do, but that was the reason he gave the
16 statement to law enforcement was because he was trying
17 to get her out of trouble. And she was originally
18 charged. They were both originally charged with
19 receiving stolen goods. That was actually brought up in
20 testimony as well, that those were the original charges.
21 And that was the crux of Mr. Beach's argument; that this
22 was not a burglary case; it was a receiving a stolen
23 goods case; and that he merely had possession of the
24 items for a short period of time.

25 However, the State's argument was not only did he

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1 admit to having the items, but he admitted to going into
2 the house; he had a description of the laptop at 5:45
3 a.m. the night of; and that it didn't make sense with
4 this story of just making up a random story to get his
5 baby mama out of trouble. I think that's a pretty
6 simple case; pretty straight-forward case. I think that
7 all the issues that counsel is alleging the trial
8 counsel made mistakes in were brought up at trial and
9 argued at trial.

10 THE COURT: Anything further, Mr. Falk?

11 MR. FALK: Your Honor, of course, the record will
12 speak for itself, but the exact directions to Mr.
13 Tanner's house were -- Chapman is saying, I simply asked
14 him where he'd been, and he described to me that he had
15 come out of Walterboro Village. And it's his words,
16 bust a left, and then bust a right. Bust a right. And
17 the residence was now on the left. And those were his
18 exact directions to Mr. Tanner's house. I mean, that's
19 not -- I don't think -- you come out of a village, you
20 come out in the street, you bust a left, you bust a
21 right -- those were the directions that he gave, and I
22 don't think those were the exact directions to Mr.
23 Tanner's house. And I think it was exaggeration to say
24 that he was admitting to having been at the house based
25 on making those two statements.

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1 THE COURT: Thank you, Mr. Falk. Gentlemen, I want
2 to read the materials that have been submitted. I'll
3 take this under advisement, and I'll have my law clerk
4 send you an email with my decision.

5 MR. FALK: Thank you.

6 THE COURT: Thank you.

END PROCEEDING 12:21 P.M.

2-15-17 HOLLMAN V STATECERTIFICATE OF REPORTER

CERTIFICATE OF REPORTER

FEBRUARY 15, 2017 TRANSCRIPT OF PCR HEARING

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

I, Wanda H. Rowe, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing February 15, 2017 Transcript of PCR Hearing is a true and accurate record of the proceedings had on said dates, in the case of Halden L. Hollman versus State of South Carolina, Hampton County, Court of Common Pleas, Case Number 2015-CP-15-01045; that no exhibits were admitted; that I am of neither kin, counsel, nor interest to any party hereto.

This Certificate of Reporter contains my original signature and is attached to the original of this transcript requested by SCCID. Pursuant to SCACR 607, requests for copies of transcripts must be made to the court reporter. Unauthorized copying/mailing is prohibited.

Witness my signature July 8, 2018.


Wanda H. Rowe CVR-M
Official Court Reporter

STATE OF SOUTH CAROLINA)
 COUNTY OF COLLETON)

IN THE COURT OF COMMON PLEAS
 THE FOURTEENTH JUDICIAL CIRCUIT

Case no. 2015-CP-15-1054

Halden L. Hollman, #354491,)

v.)

ORDER OF DISMISSAL

State of South Carolina,)

Respondent.)

This Court convened an evidentiary hearing into the matter on February 15, 2015 at the Beaufort County Courthouse. Applicant was present at the hearing and represented by James Falk, Esquire. Ruston W. Neely, Esquire, of the South Carolina Attorney General's Office represented Respondent.

Applicant's trial counsel, Harry S. Beach, Esquire (Counsel) is deceased. However, this Court had the opportunity to listen to the testimony of Applicant and rule on his credibility. This Court had before it a copy of the trial transcript, the records of the Colleton County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the direct appeal records, and the pleadings in this matter. This Court finds as follows:

I. PROCEDURAL HISTORY

Applicant was indicted by the October 2012 term of the Colleton County Grand Jury for Burglary, 1st degree (2012-GS-15-0639). On February 25, 2013, Applicant proceeded to a jury trial. The jury found Applicant found guilty as indicted. The Honorable Perry M. Buckner, III, sentenced Applicant to confinement for twenty-five (25) years.

A notice of appeal was filed on Applicant's behalf and an appeal perfected pursuant to Anders v California 378 U.S. 738, 87 S. Ct. 1396 (1967). The South Carolina Court of Appeals

dismissed Applicant's appeal. State v. Hollman, Op. No. 2014-UP-342 (filed on September 24, 2014). The Remittitur was issued on October 21, 2014.

II. ALLEGATIONS

Applicant alleged the following grounds in his application:

1. "Ineffective Assistance of Counsel"
 - a. "Failed to develop sound trial strategy"
2. "Prosecutorial Misconduct"
 - a. "Fabrication of evidence"

III. SUMMARY OF FACTS

On August 8, 2012, Applicant broke into a private residence and stole a fifty to sixty inch television and other items. Tr. 65. Billy Tanner testified he went to bed at 10:00 or 10:30 p.m. on the night in question. The following morning, he got out of bed at around 5:00 a.m. Upon entering the living room, he saw his television was missing as well as a laptop and cell phone. Tr. 70. Tanner testified the vehicles outside were broken into as well and a house key that was in one of the vehicles had been dropped on the steps to the back door. Tr. 75.

Applicant made a confession to law enforcement. Tr. 79. Applicant stated he took the television, laptop, and cell phone. Tr. 85. Applicant knew the directions to the house. Tr. 85. A witness testified that Applicant had sold him a laptop similar to the one described by Tanner earlier that year. Tr. 90.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court finds that Applicant has failed to satisfy his burden to prove that Counsels were deficient or that he was prejudiced by Counsels' alleged deficiencies. Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a

ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984). The proper measure of performance is whether Counsels provided representation within the range of competence required in criminal cases. Id.

In evaluating allegations of ineffective assistance of counsel, the court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, Counsels' deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

This Court finds Applicant's testimony lacked credibility. This Court finds that Applicant has failed to satisfy his burden to prove that Counsel's actions were deficient. Applicant also failed to prove he was prejudiced by the alleged deficiencies. This Court finds Counsel properly prepared for Applicant's trial. This Court finds Counsel elucidated valid trial strategies in defending Applicant. This Court finds Counsel rendered adequate assistance and exercised

professional judgment his decisions at trial. This Court dismisses Applicant's application for the reasons set out below:

A. Ineffective Assistance of Counsel

1. Failed to develop trial strategy.

Applicant's allegation Counsel failed to develop a trial strategy is meritless. The trial transcript shows Counsel's arguments in defense of Applicant. Counsel argued the State failed to prove its case beyond a reasonable doubt because there was no forensic evidence produced. Counsel also argued Applicant's confession was coerced by law enforcement's detention of his girlfriend. A strategic or tactical decision does not have to be articulated by counsel on the record; counsel doesn't to have to personally identify his or her thinking. It is enough that the record show a basis for strategy, not that counsel announce that strategy on the record. See Wood v. Allen, 558 U.S. 290, 130 S.Ct. 841, 175 L.Ed.2d 738 (2010). Strickland itself recites that there are countless ways to provide effective assistance and even the best lawyers would not defend a particular client in the same way. 466 U.S. at 689. Counsel's arguments and strategy did not fall below the professional norm of an attorney. "The court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 118, 386 S.E.2d at 625. However, Applicant's confession and his knowledge of the whereabouts of the victim's house provided the State with overwhelming evidence of his guilt.

Furthermore, counsel provided competent representation in light of the overwhelming evidence against Applicant. See Harris v. State, 377 S.C. 66, 79, 659 S.E.2d 140, 147 (2008) (applicant cannot prove prejudice where there is overwhelming evidence of guilt). This Court finds Counsel's trial strategy was appropriate and competent in attacking Applicant's confession and the evidence presented against him.

Therefore, this Court finds Applicant failed to prove Counsel failed to develop a reasonable trial strategy or that Applicant was prejudiced by Counsel's trial strategy. Accordingly, this Court denies and dismisses this allegation.

2. Prosecutorial Misconduct

Applicant's allegation that there was prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issues that is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised this issue on appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is Applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989). Further, Applicant failed to provide any credible evidence that the State offered any evidence in bad faith or elicited perjury testimony. Applicant's own assertion that a witness failed to tell the truth is not sufficient evidence on which to base this allegation. No evidence was presented or testimony elicited proving the State used false testimony in convicting Applicant. Therefore, this Court dismisses this allegation.

IV. CONCLUSION

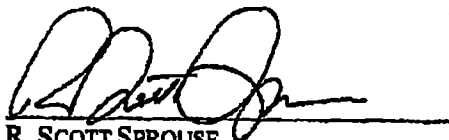
Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes Applicant must file and serve a notice of appeal within thirty (30) days from receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, his post-conviction relief attorney must serve and file a notice of appeal on Applicant's behalf. Applicant and his attorney are directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 14 day of September, 2017.



R. SCOTT SPROUSE
Presiding Judge
14th Judicial Circuit

Walhalla, South Carolina

WITNESSES

S. Bridge-WPD

ARREST WARRANT NUMBER

2012A1520300069

September 5, 2012

ACTION OF GRAND JURY

VERDICT

TRUE BILL

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012-GS-15-0639

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

October Term 2012

THE STATE

vs.

Halden Hollman

Indictment for

Burglary (After June 20, 1985) - First degree

SC Code: 16-11-0311

CDR Code:0079

COLLETON COUNTY
GENERAL SESSIONS COURT
2012 OCT 18 PM 2:10

STATE OF SOUTH CAROLINA)
COUNTY OF Colleton)

INDICTMENT

2012-GS-15-0639

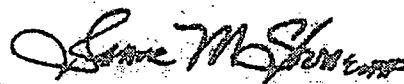
At a Court of General Sessions, convened on October 18, 2012, the Grand Jurors of Colleton County present upon their oath:

Burglary (After June 20, 1985) - First degree

That in Colleton County, South Carolina, on or about August 8, 2012, the Defendant, Halden Lamont Hollman, did enter the dwelling of Billy and Lynn Tanner, located at [REDACTED] [REDACTED] without consent and with the intent to commit a crime therein. That, in addition, the entry occurred at night; in violation of Section 16-11-311 of the South Carolina Code of Laws (1976, as amended).

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

J18 300T



Isaac M. Stone
Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

271

COUNTY OF
STATE

Colleton

VS.

Halden Hollman

AKA:

Race: AFRICAN AME Sex: M Age: 26

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

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

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

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

INDICTMENT/CASE#: 2012GS1500639

A/W#: 2012A1520300069

Date of Offense: 8/8/2012

S.C. Code §: 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §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:

Hudson, Ashley

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Presiding Judge

Judge Code: 0122

Sentence Date: 2/26/13

Clerk of Court/ Deputy Clerk

Court Reporter: Patricia C. Grant

SCCA/217 (03/2011)