

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SUMTER COUNTY

George C. James, Jr., Circuit Court Judge

RECEIVED

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JEVON NICHOLS BROWN,

APPELLANT

Appellate Case No. 2011-203568

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF SUMTER	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	10-GS-43-0829
	)	
Jevon Nichols Brown,	)	
	)	
Defendant.	)	

TRANSCRIPT OF HEARING

The within Hearing was held on November 14-15, 2011, before The Honorable George C. James, Jr. in the Court of General Sessions for the County of Sumter, State of South Carolina; by counsel, as follows:

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WITNESS	Direct	Cross	Redirect	Recross
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4

Krystal Malone	32	50		
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5

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Fingerprint Card

ID Only

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Fingerprint Card

ID Only

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(None Entered)

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Investigative Report

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2

(JURY QUALIFICATION)

3

(DEFENDANT PRESENT)

4

SOLICITOR: Your Honor, Mr. Corbett

5

has -- as we discussed in chamber -- just gave

6

me two statements of witnesses who are going to

7

be testifying, that apparently he didn't know

8

about just recently. I would move to suppress

9

those statements based on a due process, 14th

10

Amendment due process, violation and also a

11

violation of the confrontation clause.

12

I think that just in general -- I know

13

what Rule 5 says, but anytime a defendant gets a

14

statement at trial, uh, and doesn't have an

15

opportunity to look over the statement, their

16

cross-examination is not going to be real and

17

instructive.

18

THE COURT: In some instances I

19

disagree with that. I disagree with that in

20

inviting the statement. But if there are any

21

issues about this statement, it needs -- it

22

needs to be marked, as a Court's exhibit, or a

23

defense exhibit for ID, so that we have a

24

record.

25

Then you all need to clarify when the

7

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1 Rule 5 and Brady material was sent out by the
2 defense, when the State answered it and when the
3 second statement was given, when it was turned
4 over. I assume the later question is answered
5 by 'that's today.'

6 So if you'all need to go on the record,
7 we need to go ahead and get these things marked.
8 Does somebody have an extra copy?

9 DEFENSE COUNSEL: Judge, I do have an
10 extra copy.

11 THE COURT: All right. Just mark the
12 whole thing as a court's exhibit. What did you
13 just hand to you?

14 SOLICITOR: Judge, I handed to you an
15 accepted copy of that.

16 THE COURT: All right, let's get that
17 marked. Have y'all previously marked all of
18 your exhibits?

19 SOLICITOR: No, sir, Judge.

20 THE COURT: Well, okay, -- are you
21 going to do that as the case progresses then?

22 SOLICITOR: Yes, Your Honor.

23 COURT REPORTER: That's one exhibit?

24 DEFENSE COUNSEL: And this includes
25 everything that I've gotten today: the two

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1 statements of Krystal Malone and the
2 investigator's report that I just received.

3 THE COURT: All right.

4 (SO ENTERED AS COURT'S EXHIBIT 1)

5 THE COURT: Does the investigator's
6 report have anything different in it, Mr.
7 Corbett, or does the investigator's report just
8 have as an attachment the summary of the
9 statement or statements of Ms. Malone and the
10 written statement that she signed?

11 SOLICITOR: Judge, the investigative
12 report has two additional paragraphs. One
13 paragraph references when the investigator spoke
14 with Ms. Malone. The second paragraph
15 references the substance of that statement?

16 THE COURT: Which statement, the
17 first one or the second one?

18 SOLICITOR: Judge, I need to pause
19 for such a moment and ask Mr. Sullivan what he
20 means by two statements, because the statement
21 that I have is dated June 29th, 2010. I may have
22 given him two copies of what was in the packet.

23 THE COURT: The one that I saw had
24 one that she gave earlier, and then she gave
25 another one. That's what y'all showed me back

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1 in the office.

2 SOLICITOR: Judge, let me back up for
3 just a moment, if I may. Ms. Malone first came
4 to the Sheriff's Office on February 10th of 2010.

5 THE COURT: And she gave a statement
6 that they took certain things because they were
7 hungry.

8 SOLICITOR: That was not in writing.

9 THE COURT: But it is in his ---

10 SOLICITOR: That's correct.

11 THE COURT: Did Mr. Sullivan have
12 that?

13 SOLICITOR: That's correct. He did.

14 THE COURT: Before today?

15 SOLICITOR: That is correct.

16 THE COURT: So that is statement
17 number one. Is that right, Mr. Sullivan?

18 DEFENSE COUNSEL: Yes, that's correct.

19 THE COURT: All right. Then
20 statement number two is the one that was given
21 in June of 2010, after Mr. Stratman (phonetic),
22 the previous Solicitor had answered discovery?

23 SOLICITOR: That's correct, Judge.

24 THE COURT: That is the one that is
25 roughly four or five months, a year old, that

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1 was given to Mr. Sullivan today?

2 DEFENSE COUNSEL: That's correct.

3 THE COURT: Does the statement have
4 anything in it that's exculpatory, the second
5 statement?

6 SOLICITOR: The State's contention is
7 that it does not.

8 THE COURT: Does it have anything
9 exculpatory in it, Mr. Sullivan?

10 DEFENSE COUNSEL: Of course, I just
11 got it but I don't see anything exculpatory in
12 it. It seems to be ---

13 THE COURT: From my review of both,
14 in the brief time that we had back in the
15 office, the second one -- in the second one, Ms.
16 Malone disassociates herself further from the
17 crime, as far as intent is concerned, because
18 the person, she said, did whatever they did
19 because they were hungry. In the second one she
20 says, 'I didn't even know what he was going to
21 do, and he came back with this three things: the
22 jug, the amplifier and the Wii' -- said that
23 he'd took because they were hungry. And he also
24 adds that she heard somebody named Jamal that he
25 was angry that all that he got was the amplifier

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1 and the change -- that was in the jug, I assume.

2 So Rule 5 says -- we know what it says.

3 I certainly feel your pain somewhat that Rule 5

4 reads to require the turning over of statements

5 only when a witness takes the stand. I

6 certainly will be willing to give you some time

7 to review that after she testifies on direct.

8 As a blanket statement, I can't sustain your

9 objection on due process or confrontation clause

10 grounds, since I don't believe that they have

11 violated any rule.

12 As far as whether or not it may have

13 made him take a plea deal, that doesn't disturb

14 Rule 5 or Brady.

15 DEFENSE COUNSEL: I would renew my

16 discovery Motion. I filed a written Motion

17 asking that the State turn over any evidence or

18 information -- apparently the items that were

19 stolen were found at this trial, 1435 Cherry-

20 ville Drive.

21 I asked Mr. Corbett to turn over any

22 evidence that he has that would show Mr. Brown's

23 address as being anywhere else, because I think

24 that would be exculpatory. He's advised me that

25 the only thing that he's aware of is the arrest

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1 warrant.

2 THE COURT: I'm not following that.
3 So the items supposedly stolen were found at
4 what address?

5 DEFENSE COUNSEL: 1435 Cherryville
6 Drive, Lot 16. It's a trailer.

7 THE COURT: Who lived there?

8 DEFENSE COUNSEL: It is my client's --
9 it is the defendant's contention that Krystal
10 Malone lived there and that he did not.
11 Anything that the State has that would show that
12 he was not living there, that that was not his
13 address, given that the stolen items were found
14 there, and any kind of Lease or anything that
15 would show that it was Ms. Malone's address, I
16 think would be exculpatory.

17 THE COURT: Do y'all have anything
18 about that?

19 SOLICITOR: (No response).

20 THE COURT: I don't think that there
21 is any duty to go out and find it, but do you
22 have -- first of all, do you have anything to
23 indicate that it was Mr. Brown's residence
24 address?

25 SOLICITOR: Other than the testimony

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1 of Ms. Malone, no, sir.

2 THE COURT: Do you have anything that
3 would indicate that he did not reside there?

4 SOLICITOR: Judge, the only thing
5 that I noticed in our file was when he was
6 served with an arrest warrant. And I'm not sure
7 who puts the address on the arrest warrant.

8 THE COURT: Was that a different
9 address?

10 SOLICITOR: Yes..

11 THE COURT: And you've got that one;
12 right, Mr. Sullivan?

13 DEFENSE COUNSEL: Yes, sir.

14 THE COURT: Okay. All right. So do
15 you have anything else to provide, Brady-wise,
16 on his place of residence?

17 SOLICITOR: (No verbal response).

18 THE COURT: Evidently not.

19 SOLICITOR: Judge, I am just trying
20 to think through the wording of how Mr. Sullivan
21 stated that.

22 THE COURT: Well, ---

23 SOLICITOR: I didn't go out and look
24 for anything that had a different address on it.

25 SOLICITOR: If you've got something

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1 to say that he positively or maybe resided at
2 another address, you've got to give that to him.
3 But you're saying that you don't have it?

4 SOLICITOR: No, sir.

5 THE COURT: You are not saying that?

6 SOLICITOR: No, sir. Sorry. I do
7 not have anything that indicates that he had a
8 different address other than the warrant that I
9 referenced.

10 THE COURT: Okay.

11 SOLICITOR: But I can tell the court
12 that Ms. Malone would testify that he lived at
13 that address with her.

14 THE COURT: All right. We will see
15 what she says. Okay. Anything else?

16 DEFENSE COUNSEL: The last issue that
17 I have is that I filed a written Motion for Mr.
18 Corbett to provide information about any verbal
19 or written plea offer to Ms. Malone, because I
20 think it goes to her credibility as a witness.
21 He verbally advised me of what would probably
22 happen in her case, that there wasn't any kind
23 of written offer. As was discussed earlier, it
24 was my understanding that I can ask her if she
25 understood what burglary first, or whatever, the

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1 second, carries?

2 THE COURT: Do you agree with that?

3 SOLICITOR: Judge, we have advised
4 Ms. Malone that if she voluntarily testified on
5 behalf of the State that we would allow her to
6 tender a plea of guilty to Burglary, second
7 degree.

8 THE COURT: Nonviolent?

9 SOLICITOR: That's correct.

10 THE COURT: So you agree that he can
11 cross-examine her on the differences in the
12 sentencing that she would be facing?

13 SOLICITOR: Yes, sir.

14 THE COURT: That won't violate the
15 basic ruling of sentencing. It's not an issue
16 for the jury. It can't go into the jury's
17 interpretation of bias on her part. Otherwise,
18 any other credibility belief. All right.
19 Are you all ready for the jury?

20 DEFENSE COUNSEL: Yes, sir.

21 SOLICITOR: Ready, Your Honor.

22 THE COURT: All right. I am going to
23 appoint Mr. Keyes, Eldredge Keyes as foreman.

24 (JURY ENTERS COURTROOM)

25 THE COURT: Ladies and Gentlemen of

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1 the jury, now we're going to begin the trial of
2 the case of the State of South Carolina versus
3 Jevon Nichols Brown. Mr. Kelly is going to
4 administer an oath -- so, if you would, please
5 stand.

6 (WHEREUPON JURY SWORN)

7 THE COURT: Okay, Ladies and
8 Gentlemen, thank you for your patience waiting
9 in the jury room. We are not ready to begin the
10 trial of the case.

11 I am going to talk to you for a few
12 minutes about what your responsibilities are and
13 in general what you might be expecting as
14 jurors. Now, how many of you have actually sat
15 in a jury box before as a juror in any type of
16 trial, whether it be criminal or civil?

17 (Response from a number of jurors). So
18 about half of you have. Those of you who have
19 not, this will be new to you. Even though you
20 have done this before, it may have been some
21 time since you've heard it.

22 In this particular case the defendant
23 is charged with the offense of burglary. I am
24 going to explain to you at the very, very end of
25 this case in more detail what that offense

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1 entails. But keep in mind this, that the
2 defendant in this case has entered a plea of not
3 guilty to this charge. The plea of not guilty
4 puts the burden of proof squarely and solely on
5 the State to prove each element of the offense
6 charged beyond a reasonable doubt. The
7 defendant does not have to prove or disprove
8 anything. The State, again, does have the
9 burden of proving the charge or the elements of
10 the charge beyond a reasonable doubt.

11 You, Ladies and Gentlemen, are the sole
12 finders of the facts in this case. The best way
13 that I can put that is that you are the only
14 people in the world who can decide at the very
15 end of this case whether or not the State has
16 met its burden of proof.

17 I have nothing to do with whether or
18 not you view particular facts either way. I
19 have no view of the facts at all. That is
20 solely your responsibility. One of the best
21 ways that I can illustrate that is that when a
22 witness testifies in this case, the witness will
23 be testifying to you, not to me. When exhibits
24 are introduced, they will be introduced for your
25 benefit and not for me. There may be some

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1 exhibits that I don't even see. There might be
2 photos, there might be pieces of paper, there
3 might be other things -- exhibits are things
4 that you can actually touch, -- that I won't
5 even see. The reason for that is that it does
6 not matter what I think about the facts. Okay?
7 That's solely up to you.

8 Keeping that in mind as I go through
9 this process now, or at any time during the
10 trial, if I say or do anything that makes you
11 think that I favor one side over the other, you
12 can certainly put that out of your mind because
13 my rulings in the case are based on the law. I
14 deal with the law and you deal with the facts.
15 I'll explain in a moment how that comes
16 together.

17 One of the things that you will have to
18 do as fact finders is that you will have to
19 evaluate the witnesses who testify. You will
20 have to evaluate whether or not you believe what
21 they have to say. In other words, believability
22 is credibility. You can believe every word of
23 what a witness has to say if you think that's
24 appropriate. You can disbelieve every single
25 word that a witness has to say. Or you can

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1 believe parts and disbelieve the rest. You do
2 that every day, using your common sense, when
3 you watch somebody talk. You're thinking, 'Do
4 I believe him? Do I believe her?' Use your
5 common sense. There is no magic formula for
6 that.

7 Now, there are some things that you can
8 take into account in determining whether or not
9 you believe somebody. One of those things is
10 what we call demeanor: how do they look, how do
11 they appear when they are testifying. Are they
12 hesitant or are they straightforward when they
13 are answering questions.

14 You can also take into account whether
15 or not that witness may have said something
16 different or the same on another occasion. In
17 other words, have they -- is their testimony
18 consistent.

19 Also you can take into account whether
20 or not somebody else in the record, other
21 testimony or other evidence, strengthens or
22 weakens what that witness has to say.

23 You can also take into account whether
24 or not that witness has a particular reason to
25 give testimony in one fashion or the other. We

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1 call that bias, or prejudice, or motive.

2 You can take that and anything else
3 that you think is appropriate into account in
4 determining whether or not you believe what that
5 person has to say.

6 Now, during the trial, it would be
7 likely than one or both of the lawyers will at
8 any given time stand up and make an objection.
9 Usually it's, 'Objection, Your Honor, hearsay.'
10 'Objection, Your Honor, relevance.' That's one
11 of the places that I come in. Our rules of
12 evidence are in this book, (displaying). I have
13 already worn out one of these brown books and I
14 had to buy a new one. The rules themselves take
15 up about that much of the book. The rest of it
16 is interpretation.

17 The lawyers at any given time may have
18 a good faith difference of opinion as to whether
19 or not a question is proper, whether evidence is
20 admissible, any one of a number of things.
21 That's where I come in. I will make rulings on
22 the admissibility of evidence in accordance with
23 the law. You have nothing to do with a ruling
24 on evidence. Some times I may have to send you
25 out of the courtroom. Typically that is because

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1 I do not know what they are going to tell me as
2 far as the law and their interpretation of it is
3 to be. So I may send you out, to be on the safe
4 side. Don't hold that against anybody but me.
5 It happens very frequently that I send you out,
6 I make a ruling, you come back in and within a
7 few minutes I have to send you right back out.
8 I apologize in advance for that but that just
9 happens from time to time.

10 And don't keep score on how I rule,
11 because I don't. I rule according to the law
12 and don't think 'well, he's ruled in favor of
13 one side or the other more, so that judge really
14 thinks that person ought to prevail.' That's
15 not the way it works.

16 Now, Ladies and Gentlemen, what you are
17 to do is to use your good common sense in
18 evaluating the evidence that is presented. In
19 the end, you put that common sense view to the
20 evidence with the law, as I give it to you, and
21 you will reach a verdict. Your verdict must
22 speak the truth.

23 Now, you have just sworn to give these
24 parties a fair trial, according to the evidence.
25 One thing that you must do in that regard is to

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1 pay very close attention. There will not be
2 many witnesses who testify. In some instances,
3 for example in other weeks, we may have twenty
4 witnesses who testify, thirty or forty. The
5 testimony of the first witness is no more and no
6 less important than the fifth or the thirteenth
7 or the twentieth. It's all equally important,
8 so you cannot decide at any given time that
9 you've heard enough, that you're going to take a
10 witness or two off and let your attention
11 wander. You'd be violating your oath if you do
12 that, because the State and the Defendant both
13 expect, and they are both entitled to, a fair
14 trial. The way that you give them that is to
15 pay attention and give them the benefit of all
16 of your attention throughout the trial.

17 Now, the trial itself will be conducted
18 in phases. In a moment the lawyers are going to
19 stand and give you an opening statement. That
20 is their opportunity to tell you what they
21 believe that the evidence will or will not show.
22 After that, the State will present its case in
23 chief and then the defendant, if he chooses,
24 even though he certainly not required to do so,
25 may present evidence.

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1 After that, the lawyers will -- you
2 will hear their closing arguments, then I will
3 give you a charge on the law and you will be
4 released to deliberate. That will likely be
5 sometime tomorrow afternoon or Wednesday,
6 because we have a gap in time tomorrow because
7 I've been summoned to do to Columbia for
8 something that I simply cannot avoid. I'm just
9 absolutely required to be there. We will
10 probably get back together around 11:30 or so
11 tomorrow morning.

12 Please give these lawyers, all the
13 witnesses and all the issues your complete and
14 undivided attention.

15 One final thing. Until I tell you that
16 you can begin your deliberations, you cannot
17 discuss this case with anybody. We probably
18 will take a break in another an hour and you
19 can't even talk about it then back in your jury
20 room. You'll get tired of me telling you that,
21 but I'll be telling you that constantly
22 throughout the trial.

23 All right. Mr. Corbett, any objections
24 to those openings remarks?

25 SOLICITOR: Nothing from the State,

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1 Your Honor.

2 THE COURT: Mr. Sullivan?

3 DEFENSE COUNSEL: Nothing from the
4 defendant.

5 THE COURT: Mr. Corbett.

6 SOLICITOR: Thank you, Your Honor,
7 may it please the Court.

8 Ladies and Gentlemen, good afternoon.

9 My name is Jason Corbett. I am one of the
10 prosecutors here in Sumter County. I say one of
11 the prosecutors, because from time to time I
12 refer to myself as an assistant solicitor.
13 Everybody who has ever watched TV has heard the
14 term "District Attorney" or "Assistant District
15 Attorney." Very seldom do they get to hear the
16 term "solicitor" or "assistant solicitor." So
17 that's why I say I am one of the prosecutors
18 here in Sumter County.

19 Now, I want to tell you a little bit
20 about the case that you're going to hear today
21 into tomorrow, perhaps the following day.

22 Because the case is important, because
23 the case touches on one of the most fundamental
24 principles and truths that we all hold, and that
25 is that your home is your castle. Your house is

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1 where you live. It's where you make your life.
2 It is where you find shelter. It is where you
3 acquire and set out and store and have the
4 things that you possess. One of the things that
5 we hold most deeply is the sanctity of our
6 homes.

7 So I have to turn you back to January
8 24th, or sometime thereabouts, of 2010 at [REDACTED]
9 [REDACTED]. That's located in what I call the
10 Cherryville area of Sumter County. If you go
11 out Highway 76, also called 378, also called
12 Broad Street, also called the road that goes to
13 Shaw Air Force Base, as you're approaching the
14 Shaw section there, it's that area off over to
15 the left; what I call the Cherryville area.

16 Christy Farmer, her castle, was at [REDACTED]
17 [REDACTED]. That was her home. That was
18 where she lived. On that day the sanctity of
19 her home was violated. On that day, Jevon
20 Brown, who was out that day with a young lady
21 who he had a relationship with, Ms. Malone, were
22 out walking through the neighborhood and he made
23 the decision that 'I am going to go take what
24 she has, I am going to go steal what she has',
25 that 'I am going to break the window in her

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1 home, go inside and take things that aren't
2 mine.'

3 Well, some time later Ms. Farmer
4 returned home to discover that her home had been
5 violated, that that space that she held dear,
6 where she lived, had been violated. That Jevon
7 Brown had gone into her home and stolen items.

8 She did what anybody would do. She
9 contacted law enforcement. That's where
10 Investigator Mays gets involved in the case.
11 Investigator Mays starts doing what we call good
12 old-fashioned police work. Because, lo and
13 behold, not too far from the house is a jug that
14 Ms. Farmer kept her change in. The police
15 gathered up that item and they dusted it for
16 fingerprints, good old-fashioned police work.
17 They tracked that fingerprint back to Ms.
18 Malone. So now they had a break in the case.

19 Ms. Malone will come into this
20 courtroom and she will testify about her
21 involvement in that offense, about her
22 involvement in that crime, and who it was that
23 went into that house -- and that is Jevon Brown,
24 the individual who went in that house and stole
25 items belonging to Christy Farmer.

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1 Ms. Farmer prepared a list for law
2 enforcement because, as you can imagine, they
3 asked her what's missing from your home. She
4 started naming off items: about the Wii, about
5 the jug with the money in it, about the
6 amplifier, about the fire alarm. Once a fire
7 alarm is stolen, that changes it. There was a
8 fire alarm stolen from her house.

9 So Investigator Mays, they continue
10 their police work and they find Mr. Brown.
11 They find Mr. Brown hiding from them.

12 Now we are here today in this
13 courtroom.

14 Now, Ladies and Gentlemen, I want you
15 to understand that I don't presume that sitting
16 on a jury is easy. I've never had to do it. I
17 don't presume for a moment that it is easy. But
18 here is what I do know, it's necessary. It's
19 necessary. You can't be free unless you're
20 safe. You can't be free unless you're safe.
21 Christy Farmer can't be free to walk in her
22 home, not worry about whether or not someone has
23 entered it. She can't be free to know that her
24 belongings are going to be there when she gets
25 back, unless she is safe.

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1 Now, these are really basic right-and-
2 wrong issues. We can stand in here and call it
3 burglary in the first degree, and at the
4 conclusion of the case the Judge can charge you
5 with various elements, the various versions of
6 burglary. We don't need a law book to tell us
7 that you can't go inside somebody else's house
8 and steal their belongings. Thank you.

9 THE COURT: Mr. Sullivan.

10 DEFENSE COUNSEL: Thank you, Judge.
11 Mr. Corbett doesn't like that word "Solicitor"
12 because, I'm assuming, his colleagues are banned
13 from so many places around town. I'm sure you
14 all have seen those signs that say 'No
15 Solicitors" at different restaurants and places.
16 (Laughter from jury).

17 Mr. Corbett talked some about the
18 victim in this case, Ms. Christy Farmer, and
19 that her house -- that your home is your castle.
20 Mr. Brown is not saying that she wasn't
21 violated. That's not the issue here. Her house
22 was broken into, that's a given. The reason
23 that you all are here is to figure out whether
24 he did it.

25 That's Jevon Brown over there

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1 (indicating defendant), that's who I represent.

2 You all are here for a very important
3 reason. You're here to decide the guilt or
4 innocence of a man, which is a grave
5 responsibility. In a criminal trial, the stakes
6 are high. In a civil trial, the plaintiff is
7 only required to tip the scales to recover. But
8 because so much more is at stake in a criminal
9 trial, the burden on the State is much higher.
10 The State has got to prove to you all very
11 element of the crime charged beyond a reasonable
12 doubt. That burden is on the State and not the
13 defendant. The defendant is not required to
14 prove anything.

15 The Judge will instruct you at some
16 point that you're not permitted to draw any
17 inference from his decision not to take the
18 stand -- if he decides to not take the stand.
19 He may take the stand. Often a defendant not
20 taking the stand doesn't have anything to do
21 with them trying to hide anything.

22 Like I said, the State, they have the
23 burden of proving him guilty. He doesn't have
24 the burden of proving himself innocent.

25 Every defendant charged with a crime is

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1 presumed innocent until the State has met its
2 high burden of proof, of guilt beyond a
3 reasonable doubt. That's not some fancy legal
4 phrase. It's a substantial right. It means
5 that Mr. Brown comes into this courtroom with a
6 clean slate. The inquiry into whether he is
7 guilty or innocent has just begun. Don't think
8 that just because he is charged with a crime
9 that that is evidence of anything. You all
10 decide whether he's guilty or innocent.

11 The evidence in this case -- the
12 testimony that you are going to hear is that Ms.
13 Farmer, on January 25th, 2010, reported that her
14 house was burglarized. Not too long after that,
15 y'all are going to find out, -- that after the
16 police searched the area, they found a water jug
17 that had some change in it out in the woods, and
18 that Ms. Malone's fingerprint was on it. That's
19 how you all are going to find out that Ms.
20 Malone was connected to this crime.

21 So then the testimony is going to show
22 that the police went and talked to her. That's
23 when she implicates Mr. Jevon Brown.

24 All of the evidence in this case is
25 going to point to her being the person who

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1 burglarized Ms. Farmer's house. The evidence is
2 going to show that the stolen goods were found
3 in her place, all the fingerprints -- being the
4 physical or the forensic evidence -- is going to
5 point to her. I would ask you all that when you
6 listen to any witness' testimony, particularly
7 hers, that you kind of filter it and consider
8 what she might have to gain by saying what she
9 is going to say.

10 I'd ask you all to listen to the
11 testimony of all the witnesses and weigh all the
12 evidence before deciding as to the guilt or
13 innocence of Mr. Jevon Brown. Don't deprive him
14 of his freedom unless the State had met its
15 burden of proving every element of the crime
16 charged beyond a reasonable doubt. He is
17 entitled to that under the Constitution.
18 Thanks.

19 THE COURT: Can I see the lawyers up
20 here just a minute?

21 (OFF RECORD BENCH CONFERENCE)

22 THE COURT: Mr. Corbett.

23 SOLICITOR: Your Honor, the State
24 would call Krystal Malone.

25 (WITNESS TAKES STAND)

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1 KRYSTAL MALONE, being duly sworn to
2 tell the truth, the whole truth and nothing but
3 the truth, testified, as follows:

4 DIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. And it is Krystal, with a K?

7 A. Yes, sir.

8 Q. Okay. Ms. Malone, good afternoon.

9 A. (No verbal response).

10 Q. Are you okay?

11 A. (No verbal response).

12 Q. Okay. If you would, please, I am going to
13 ask you to do a couple of things for me. If you
14 would, answer audibly, yes or no, in a loud
15 enough voice to where the court reporter can
16 hear you. Okay?.

17 A. (No verbal response).

18 Q. Can you answer that audibly for me?

19 A. Oh, -- yes, sir.

20 Q. Ms. Malone, is it fair to say that you're
21 nervous about being here today?

22 A. Yes, sir.

23 Q. Ms. Malone, tell us where you are
24 originally from?

25 A. Kansas.

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1 Q. How long have you lived in South Carolina?

2 A. Off and on every since I was six.

3 Q. What part of South Carolina did you live
4 in?

5 A. Sumter, Florence.

6 Q. Where did you spend most of your life here
7 in South Carolina?

8 A. Florence.

9 Q. How old are you now?

10 A. Twenty-one (21).

11 Q. Now, I am going to sort of take you back a
12 little bit to 2010. Where were you -- let me
13 take you back to 2009. Where were you living at
14 that time, what town?

15 A. You say 2009?

16 Q. Yes, ma'am.

17 A. The end of 2009?

18 Q. Yes, ma'am.

19 A. In Cherryville. In Sumter.

20 Q. Now, prior to living in Cherryville, where
21 did you live?

22 A. Florence.

23 Q. And how long had you lived in Florence at
24 that point in time?

25 A. At what point in time?

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1 Q. Let me ask you this, you said in the latter
2 part of 2009 you moved to Cherryville, is that
3 correct?

4 A. (No verbal response).

5 Q. You moved to Cherryville from where?

6 A. From Florence.

7 Q. And how long had you lived in the Florence
8 area?

9 A. Probably about -- probably like nine
10 months, I think.

11 Q. Is that the total amount of time that you'd
12 lived in Florence?

13 A. No, I've been off and on from Florence.

14 Q. How is it that you had occasion to move to
15 Sumter?

16 A. My exboyfriend.

17 Q. Who is your exboyfriend?

18 A. Jevon Brown.

19 Q. Now, just a little bit of background. At
20 the time that the two of you had met, were you
21 living in Sumter or were you living in Florence?

22 A. Florence.

23 Q. And what your purpose for moving to Sumter?

24 A. Move and find a job.

25 Q. Now, where in Sumter did you live?

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1 A. (No verbal response).

2 Q. Do you remember your address?

3 A. It was like sixteen or six.

4 Q. Like six or sixteen (6 or 16)?

5 A. (Affirmative nod).

6 Q. Do you know which street or which road that
7 you lived on?

8 A. (No verbal response).

9 Q. Well, how did you give people your address?

10 A. It was -- that's been a long time ago. I
11 don't remember it by heart, but I've got it on a
12 piece of paper. It was in Terrace Apartments,
13 like 16.

14 Q. Is that what is described as a mobile home
15 park?

16 A. Yes, sir.

17 Q. Now, at some point in the past did you ever
18 write down your address?

19 A. Yes.

20 Q. A moment ago you mentioned a piece of
21 paper. Is that something you wrote your address
22 on?

23 A. No, I didn't write my address on it.

24 Q. Now let me ask you about your relationship
25 with Jevon Brown. How do you pronounce his

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1 first name?

2 A. Jevon (je-von).

3 Q. Jevon Brown. Tell me a little bit about
4 your relationship with Jevon Brown. How did you
5 know him?

6 A. (No verbal response).

7 Q. Where did the two of you meet?

8 A. On the beach, Myrtle Beach.

9 Q. Now, at the time that you met, where were
10 you living? What was your permanent -- where
11 did you permanently live?

12 A. In Florence.

13 Q. So you were living in Florence and you met
14 him in Myrtle Beach, is that correct?

15 A. Yes, sir.

16 COURT REPORTER: You have to speak
17 up, into the microphone.

18 THE WITNESS: Oh, -- okay.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR:

21 Q. After meeting at the beach, did the two of
22 you begin dating?

23 A. Yes, sir.

24 Q. About how long after meeting at the beach
25 did you move to Sumter?

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1 A. It wasn't long.

2 Q. You then moved to Sumter?

3 A. Yes.

4 Q. Okay. How did you locate the residence in
5 which you lived?

6 A. Jevon Brown.

7 Q. Now, the residence in which you live, is
8 that the one that you were telling us is Lot 16?

9 A. Yes, sir.

10 Q. So you found a vacate residence there, is
11 that correct?

12 A. Yes, sir.

13 Q. Is it something that you bought, rented,
14 leased?

15 A. Rented.

16 Q. Now, was your situation that you moved in
17 with a roommate or somebody else, or did you
18 actually rent the residence?

19 A. I rented it.

20 Q. Now, did anyone live at that location with
21 you?

22 A. Jevon Brown.

23 Q. Can you point out Mr. Brown for me, Mr.
24 Jevon Brown, here in the courtroom today?

25 A. Yes, sir.

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1 Q. Where is he?

2 A. Sitting right there, to my left.

3 Q. Is he in the white shirt with the green and
4 white tie?

5 A. Yes, sir.

6 Q. Thank you. Now, you're living here in what
7 I believe you called Lot 16 on Cherryville; is
8 that correct?

9 A. Yes, sir.

10 Q. At this point in time are you working
11 anywhere?

12 A. No, sir.

13 Q. How long does Mr. Brown live at that
14 address with you?

15 A. Until -- I mean, -- two months, or a month.

16 Q. Now, at this time where was he working?

17 A. Nowhere.

18 Q. Now, Ms. Malone, I am going to show you
19 this document and ask if you recognize that?

20 A. (Upon review), yes. Yes, sir.

21 Q. What is that document?

22 A. A statement.

23 Q. Whose statement is that?

24 A. Mine.

25 Q. Now, I am going to ask you to look at the

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1 top portion of it here for purposes of
2 refreshing your recollection. Notice the part
3 where it says address.

4 A. Yes, sir.

5 Q. What does it state there?

6 A. 1435 Sea Terrace Road (phonetic) -- is that
7 "road"? Drive. Lot 16.

8 Q. Does that say Cherryville?

9 A. Oh, Cherryville.

10 Q. I am asking you?

11 A. Yeah.

12 Q. So what was your address at that time?

13 A. That address.

14 Q. And what address is that? What is on that
15 form as your address?

16 A. 1435 Cherryville Drive, Lot 16.

17 Q. Thank you. Now, you indicated that you
18 lived at that address; is that correct?

19 A. Yes.

20 Q. For some one to two months?

21 A. Yes, sir.

22 Q. Is that correct?

23 A. Yes, sir

24 Q. And Jevon Brown lived there with you?

25 A. Yes, sir.

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1 Q. Did anyone else live at that address with
2 you?

3 A. No, sir.

4 Q. Now, Ms. Malone, I want to turn your
5 attention to the events on or about January 24th
6 of 2010. In particular, I am going to ask you
7 about how your fingerprints arrived or managed
8 to come onto a large jug. Do you remember that
9 incident?

10 A. Yes, sir.

11 Q. Okay. If you would, please tell us how you
12 came about being at that location that day.

13 A. Jevon Brown asked me if I wanted to go for
14 a walk that day, and I said yes. And as he was
15 going out the door, I went back and got my MP3
16 player. We started walking, I was listening to
17 my music. He motioned for me to hold on and he
18 went back somewhere, then -- and I was just
19 standing out there waiting for him.

20 Q. All right. Now, hold on me for just a
21 moment there. Y'all had gone for a walk, is
22 that correct?

23 A. Yes, sir.

24 Q. Where did you leave from?

25 A. Cherryville.

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1 Q. Your residence?

2 A. Yes, sir.

3 Q. And when you left from your residence, do
4 you know which road that you were on?

5 A. (No verbal response).

6 Q. You are not originally from that area, are
7 you?

8 A. No, sir.

9 Q. So you indicated that y'all go out walking
10 and that you've got your MP3, listening to
11 music, I assume?

12 A. Yes, sir.

13 Q. You walk down the road. Tell us what
14 happens?

15 A. He motioned for me to hold on. Then he
16 went somewhere.

17 Q. Now, let me -- did he -- was it said or
18 motioned?

19 A. It was a motion for me to wait up.

20 Q. What type of area were you in?

21 A. Like four minutes from the house.

22 Q. Was it a business area or residential area?

23 A. Residential area.

24 Q. You indicated that you were walking. Were
25 you walking along the highway ---

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1 A. It was a regular road.

2 Q. You indicated that he motioned for you to
3 stop.

4 A. Yes, sir.

5 Q. What did you do?

6 A. Stopped and just stood there, waited.

7 Q. What happened next?

8 A. Seemed like I was waiting for a long time.

9 I looked back and I didn't see him, so I started
10 walking towards the house. Then before I, you
11 know, got too far off, I looked back again and
12 there he was.

13 Q. Where was he?

14 A. Walking back towards me.

15 Q. From where?

16 A. From up the road.

17 Q. Not at this point was he on the roadway,
18 coming from the side of the roadway, where was
19 he in relation to you?

20 A. He was just coming -- when I turned back
21 around, he was coming down the road.

22 Q. And what did you observe?

23 A. I seen him with a water jug full of change
24 and a Wii game and an amp.

25 Q. Now, when you say "amp", do you mean like a

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1 piece of music equipment?

2 A. Yes, sir.

3 Q. Now, were the two of you going somewhere
4 that day or were you just out for a walk?

5 A. We were just out for a walk.

6 Q. Did it strike you as odd that while just
7 out for a walk that he comes back to you with a
8 water jug of change, a Wii game and an amp?

9 A. Yes, sir, and I ask him where he got it
10 from.

11 Q. Now, did you all get back together at that
12 point?

13 A. Are you talking about when he walked up the
14 road?

15 Q. Yes, ma'am.

16 A. Yeah.

17 Q. Tell me what happened to those three items.

18 A. I'd gotten the change, the water thing/jug.
19 I had poured the change out and we went on back
20 to the house. I dropped the water jug on the
21 way back to the house.

22 Q. Now, you indicated that you poured the
23 change out of the jug?

24 A. Yes, sir.

25 Q. Did you actually handle that jug?

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1 A. Yes, sir.

2 Q. So it would not surprise you if your
3 fingerprints were on that jug?

4 A. No, sir.

5 Q. Why did you take the change out of the jug?

6 A. Because he asked me to.

7 Q. How much change was it?

8 A. After we had counted it, it came out to
9 like fifty dollars.

10 Q. Was it any paper money or all change?

11 A. It was all change.

12 Q. Did you not think that it was odd that he
13 came out with a jug with fifty dollars change?

14 A. Yes, sir. I asked him where he told it
15 from and he said that he got it from one of his
16 people's, because -- he said they say that they
17 ain't got much, so they just gave him that to
18 help out.

19 Q. And he asked you to take the change out?

20 A. Yes, sir.

21 Q. Where did you put the change when you took
22 it out of the jug?

23 A. In my pockets.

24 Q. So you put fifty dollars worth of change in
25 your pockets?

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1 A. Yes, sir.

2 Q. Were you alone carrying the change?

3 A. He had some, too. All of it wouldn't fit
4 in my pockets.

5 Q. Now, if someone gave you a jug of change,
6 wouldn't it be easier to carry it in the jug
7 than to divvy it up into your pockets?

8 A. Yes, sir. But I wasn't thinking about it
9 as far as that, no.

10 Q. Where did you go from there?

11 A. We went back to the house, went to our
12 residence.

13 Q. You say "we", who do you mean by we?

14 A. Me and Jevon.

15 Q. What happened to the money?

16 A. I had got a cell phone card and something
17 to drink.

18 Q. What happened to the Wii game and the amp?

19 A. Nothing.

20 Q. Ma'am?

21 A. Nothing. He was supposed to pawn it.

22 Q. Do you know if it was ever pawned?

23 A. No, sir.

24 Q. Do you know specifically where the change,
25 the amp and the Wii game came from?

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1 A. No, sir. I mean, I didn't know at the
2 time.

3 Q. I am going to try to understand how it
4 happened. So the two of you are walking down
5 the road; is that correct?

6 A. Yes, sir.

7 Q. And he motions for you to hold up for a
8 minute?

9 A. Yes, sir.

10 Q. Where does he go?

11 A. He turned around -- he was walking and he
12 turned around and went back down the road.

13 Q. Back down the road?

14 A. Yeah.

15 Q. How far down the road did he go?

16 A. Not that far.

17 Q. Then what he do?

18 A. I don't know what he did.

19 Q. Did he continue down the road? Did he
20 leave the roadway?

21 A. Yeah, he left the roadway. He wasn't like
22 on the same road as me.

23 Q. Now, about what time of day was this?

24 A. Daytime. In the morning.

25 Q. Before lunch?

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- 1 A. Yes.
- 2 Q. When is the first time that you saw the jug
3 of change, the Wii game and the amp?
- 4 A. When he was walking back down the road.
- 5 Q. Do you know Christy Farmer?
- 6 A. No, sir.
- 7 Q. Have you ever been in her house?
- 8 A. No, sir.
- 9 Q. Did you go in anyone's house and get this
10 jug of change and Wii game?
- 11 A. No, sir.
- 12 Q. Now, at some point in time you spoke to the
13 police concerning this matter; is that correct?
- 14 A. Yes, sir..
- 15 Q. Okay. How did that come about?
- 16 A. Because I got a phone call saying that they
17 was looking for me.
- 18 Q. Who did you get a phone call from?
- 19 A. A friend, that they was going to different
20 places looking for me. So I turned myself in.
- 21 Q. Now, did you hear Jevon Brown talking about
22 this matter any?
- 23 A. Yes, sir. That's how I knew something was
24 wrong.
- 25 Q. What was that?

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1 A. I just heard him talking about breaking
2 into the house and he ain't really get nothing.

3 Q. Now, I want to make sure that I understand
4 it. What items did you see him come back to the
5 roadway with that day?

6 A. A water jug full of change, an amp and the
7 Wii game.

8 Q. Then I believe you indicated that word got
9 back to you that the police were looking to talk
10 to you?

11 A. Yes, sir.

12 Q. Did they come get you or did you go down
13 there?

14 A. I went down there.

15 Q. So at this point in time you heard from
16 your friends that the police were looking to
17 talk to you, and you'd heard Jevon Brown say
18 that he was upset because he had busted in the
19 window and all that he got was the jug, the Wii
20 game and the amp?

21 A. Yes, sir.

22 Q. So that's when you decided that you needed
23 to get to the police station?

24 A. Yes, sir.

25 Q. Now, were you arrested for this?

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- 1 A. Yes, sir.
- 2 Q. Now, do you remember about when you first
3 went and talked to the police officers about
4 this?
- 5 A. Yes, sir.
- 6 Q. About when was that?
- 7 A. February the 11th or the 10th.
- 8 Q. So in February you went and talked with the
9 police about this?
- 10 A. Yes, sir.
- 11 Q. And you were arrested for it, was that
12 correct?
- 13 A. Yes, sir.
- 14 Q. Did you have occasion to speak with the
15 police officers about it on another occasion?
- 16 A. Yes, sir.
- 17 Q. Do you remember when that was?
- 18 A. On -- (pause).
- 19 Q. I am going to show you this document and
20 ask if you can identify that.
- 21 A. (Upon review), yes, sir.
- 22 Q. Do you see where it's dated?
- 23 A. Yeah, on the 29th.
- 24 Q. And what date is that?
- 25 A. 6/29/10.

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1 Q. As far as you know, is that accurate?

2 A. Yes, sir.

3 SOLICITOR: Your Honor, one moment,
4 please.

5 THE COURT: All right.

6 SOLICITOR: Ms. Malone, please answer
7 any questions that Mr. Sullivan may have.

8 THE WITNESS: All right.

9 THE COURT: Mr. Sullivan, do you need
10 a break?

11 DEFENSE COUNSEL: I'm okay.

12 THE COURT: Everybody on the jury
13 okay? ((No response)). Okay. Go ahead.

14 DEFENSE COUNSEL: Judge, may we have a
15 brief sidebar for just a moment?

16 (OFF RECORD SIDEBAR)

17 CROSS EXAMINATION

18 BY DEFENSE COUNSEL:

19 Q. You got arrested about February of 2010,
20 didn't you?

21 A. Yes, sir.

22 Q. All right. In that time, have you thought
23 about, a lot, what you're going to say today?

24 A. Yes, sir.

25 Q. You initially -- when you went -- you went

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1 to the police station with your parents,
2 correct?

3 A. Yes, sir.

4 Q. Your mother and your stepfather?

5 A. Yes, sir.

6 Q. And you talked to Investigator Mays, didn't
7 you?

8 A. Yes, sir.

9 Q. When you first started talking to him, you
10 told him that you didn't know anything about
11 this; didn't you?

12 A. Yes, sir.

13 Q. Later on you found out that they had your
14 fingerprints, didn't you?

15 A. Yes, sir.

16 Q. Okay. Then when you found out that they
17 had your fingerprints, you told the police --
18 and you -- you initially just gave them a verbal
19 statement, correct?

20 A. Yes, sir.

21 Q. Okay. And then you provided a written
22 statement, but not until June 29; correct?

23 A. Yes, sir.

24 Q. And your story is that after you found out
25 that they had your fingerprints, that you and

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1 Jevon went for a walk, that you had our
2 earphones on, your MP3 player, and --y'all were
3 walking and he came from somewhere down the
4 road, he had these items that he was carrying
5 and you -- that you didn't go into the house; is
6 that correct?

7 A. Yes, sir.

8 Q. That he handed you the water jug with the
9 change in it?

10 A. Yes, sir.

11 Q. And you said that Jevon was -- you referred
12 to him as your exboyfriend?

13 A. Yes, sir.

14 Q. You all had had some trouble, didn't you?

15 A. Yes, sir.

16 Q. And you broke up?

17 A. Yes, sir.

18 Q. You mad at him?

19 A. No, sir.

20 Q. So you say that only Jevon went into the
21 house, that you didn't go into the house?

22 A. Yes, sir.

23 Q. Because you knew that would be burglary, if
24 you told the police that?

25 A. No, sir.

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1 Q. But you did know that they had your
2 fingerprints?

3 A. That wasn't before I told the police that
4 I waived my rights. I found out about the
5 fingerprints after I had waived my rights.

6 Q. But you initially told them that you didn't
7 know anything?

8 A. Yeah, at first -- I had waived my rights
9 before then, and told them.

10 Q. Then you found out that your fingerprints
11 were on the water jug and that's the only thing
12 that you told them that you touched?

13 A. Because that was the only thing that I
14 touched.

15 Q. Okay. So you were originally charged with
16 burglary in this?

17 A. Yes, sir, Burglary 1st.

18 Q. And when you talked to Investigator Mays,
19 he told you that they knew that somebody else
20 was involved; didn't he?

21 A. Yes, sir.

22 Q. He did?

23 A. Yes, sir.

24 Q. Okay. Your parents were there, correct?

25 A. Yes, sir.

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1 Q. Okay. Did your parents tell you that you
2 needed to help yourself and do what the police
3 wanted you to do?

4 A. Yes, sir.

5 Q. Okay. You knew what you were facing when
6 they charged you with Burglary 1st, didn't you?

7 A. When I first came in there, I didn't. I
8 had never been in trouble like that before.

9 Q. Are you just trying to help yourself right
10 now?

11 A. No, sir. I mean, I'm telling the truth.

12 Q. Okay. Would you say that you have a lot to
13 gain from -- or, let me rephrase that. That you
14 have a lot to lose if you didn't testify?

15 A. No, sir.

16 Q. Do you know what Burglary 2nd carries?

17 A. I believe they said, uh, fifteen to zero,
18 ten to zero, or something.

19 Q. You're aware that Burglary 1st carries
20 fifteen to life?

21 A. Yes, sir.

22 Q. You don't want to go to prison for the rest
23 of your life, do you?

24 A. No, sir.

25 Q. Okay. That's why you've worked with and

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- 1 cooperated with the police, isn't it?
- 2 A. No, sir.
- 3 Q. You say that you were living at 1435
- 4 Cherryville Drive; correct?
- 5 A. Yes, sir.
- 6 Q. You talked to Mr. Corbett some before the
- 7 trial?
- 8 A. Mr. -- who?
- 9 Q. The solicitor?
- 10 A. Yes, sir.
- 11 Q. You say that Jevon lived with you at Lot
- 12 16, at that trailer, for a little while?
- 13 A. Yes, sir. I mean, for the whole time that
- 14 I was staying there.
- 15 Q. Okay. That helps your case, doesn't it?
- 16 That makes you look better?
- 17 A. What?
- 18 Q. Saying that he lived there?
- 19 A. No, sir. I'm just telling you the truth.
- 20 Q. And you told the police, more specifically
- 21 Investigator Mays, that the reason that you say
- 22 Jevon -- the reason that, uh, that you went to
- 23 that house was to get food. That was the
- 24 purpose for breaking into that house?
- 25 A. I didn't say that's the reason why I broke

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1 into the house. I said I heard that's -- that's
2 the reason why Jevon told me that he broke into
3 the house.

4 Q. Okay.

5 A. Well, he didn't tell me that he broke into
6 the house. He told me that he just went to his
7 friend's house to get something to eat and --
8 (pause).

9 Q. The items that you say that you saw him
10 with were the Wii, the amp and the water jug;
11 right?

12 A. Yes, sir.

13 Q. You didn't ever see him with any rifle?

14 A. No, sir.

15 Q. Okay. Thank you.

16 THE COURT: Redirect?

17 SOLICITOR: Nothing on redirect, Your
18 Honor.

19 THE COURT: Step down. Thank you,
20 ma'am.

21 (WITNESS STEPS DOWN)

22 THE COURT: We will take about a ten-
23 minute break, Ladies and Gentlemen. You may go
24 to your jury room. You may not discuss the case.

25 (JURY EXITS COURTROOM)

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1 THE COURT: Can you get up one more
2 witness this afternoon?

3 SOLICITOR: Judge, I am going to put
4 Investigator Mays up, if times allows. There
5 are some items that I may not get into
6 introducing into evidence because Investigator
7 Atkinson, the custodian, is here. I may mark
8 them for ID, just so that he doesn't have to
9 come back tomorrow.

10 THE COURT: Okay.

11 (BRIEF RECESS)

12 (DEFENDANT PRESENT)

13 (JURY ENTERS COURTROOM)

14 THE COURT: All right, we are ready
15 to continue, Ladies and Gentlemen. Mr. Corbett,
16 you may call your next witness.

17 SOLICITOR: Thank you, Your Honor.
18 The State would call Investigator Tripp Mays.

19 (WITNESS TAKES STAND)

20 LAWTON C. "TRIPP" MAYS, III, being duly
21 sworn to tell the truth, the whole truth and
22 nothing but the truth, testified, as follows:

23 DIRECT EXAMINATION

24 BY SOLICITOR:

25 Q. State your name, please.

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1 A. Lawton C. Mays, III. M-a-y-s.

2 Q. Investigator Mays, good afternoon.

3 A. Good afternoon, sir.

4 Q. Now, I just referenced and referred to you
5 as Tripp Mays. Is that a name that you also go
6 by?

7 A. Yes, sir.

8 Q. A nickname?

9 A. Yes, sir.

10 Q. I will try to use 'Investigator Mays' in
11 going forward. Investigator Mays, tell us why
12 whom you are employed?

13 A. I'm employed with the Sumter County
14 Sheriff's office.

15 Q. How long have you been with the Sumter
16 County Sheriff's Office?

17 A. I have been with the Sumter County
18 Sheriff's Office since April 6th of 2002.

19 Q. Do you have any law enforcement experience
20 other than with Sumter County?

21 A. Yes. I was with the Summerton Police
22 Department for three years prior to coming to
23 Sumter County.

24 Q. So your law enforcement would go back to
25 about 1999?

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1 A. That's correct.

2 Q. Tell us a little bit about the different
3 job duties that you've had with the Sumter
4 Sheriff's Department?

5 A. Well, I started out with the sheriff's
6 office back in 2002 as a patrol officer. I was
7 also a Bloodhound handler, Shepard handler,
8 which was drug detection, criminal apprehension,
9 animal protection trainer.

10 In 2006, I was promoted to investigator and
11 went to the Narcotics division. I was there
12 until September of 2009, and then transferred in
13 to the Criminal Investigation division.

14 Q. Now, Investigator Mays, did you have
15 occasion to become involved in a case involving
16 a burglary at the residence of Christy Farmer?

17 A. I did.

18 Q. When did you first become aware of that?

19 A. I think that it would have been on January
20 26th when the report came in to the criminal
21 investigation division. From that point, our
22 supervisors assigned us cases.

23 Q. Now, let me back up just so that we can
24 kind of get a picture of it. The case doesn't
25 get to you, you are not the first law

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1 enforcement contact that there would be?

2 A. That's correct.

3 Q. Just tell me a little bit about it normally
4 gets from, when somebody would call the police
5 to how it gets to you.

6 A. Whenever it originates, a victim or a
7 complainant calls in to the Sumter County
8 Sheriff's Office dispatch. The dispatch a
9 parole officer that makes a report. Once that
10 report is made, it goes to their supervisor and
11 is approved. Then the next day, or the next
12 business day, it comes to us to be investigated.

13 Q. So it found its way to you in the normal
14 course of business?

15 A. That's correct.

16 Q. Once you began aware of the case, what
17 steps do you take as an investigator to begin
18 proceeding or following up on ---

19 A. Originally what we do is we make contact
20 with the victim. In incidents like this, you
21 know, we advise them that they need to make sure
22 and do a thorough inventory, you know, of things
23 that may be missing. If so, they need to get
24 that to us. That way we can add it on our
25 reports and so on.

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1 Q. Did you do that in this case?

2 A. Yes, I did.

3 Q. And did the victim provide you with
4 information about items that were taken from the
5 residence?

6 A. Yes, she faxed me a copy of items that were
7 missing from the residence, to include the items
8 that she originally reported in the incident
9 report.

10 Q. So, step one you're figuring out what is
11 missing from Ms. Farmer's residence?

12 A. That's correct.

13 Q. What happens next in the investigation?

14 A. In this instance it depends on whether we
15 have any type of other evidence that may have
16 been submitted. In this case there was, there
17 were some fingerprints lifted from the scene
18 when crime scene went out and processed it.

19 Q. Do you know where those prints were
20 recovered from?

21 A. According to the evidence sheet that I
22 received, they were lifted from a five-gallon
23 water jug that was located in the woods -- I
24 guess not far from the residence.

25 Q. Was that a container that had come from the

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1 victim's house?

2 A. That is.

3 Q. So then you received information that
4 prints were recovered?

5 A. That's correct.

6 Q. Were you able to match those prints to an
7 individual?

8 A. Whenever those prints are lifted by crime
9 scene or one of the other investigators, they're
10 submitted to crime scene to be examined for AFIS
11 submission. In this case, the crime scene
12 investigator that responded did submit those
13 prints for AFIS submission. He also give me the
14 AFIS report.

15 Q. Let me stop you there for just a moment.

16 A. Okay.

17 Q. AFIS is a fingerprint data base?

18 A. Yes, it's the automated fingerprint
19 identification system.

20 Q. So prints are recovered and submitted to
21 what we call AFIS?

22 A. Correct.

23 Q. What happens after that?

24 A. The person that runs them through the
25 system -- once they are turned over to the

1 person who runs then through the system, they
2 run them through, verify that that is the person
3 that they belong to when they have a hit that
4 comes back.

5 Q. And in this case, who did the prints match
6 back to?

7 A. It matched Krystal Malone.

8 Q. Now, once you received the information that
9 the prints matched Krystal Malone, what did you
10 do with that information?

11 A. Whenever I received the information, I
12 immediately went and obtained an arrest warrant
13 for Ms. Malone's arrest for burglary first
14 degree.

15 Q. Now, did you have occasion to speak with
16 Ms. Malone after that time?

17 A. Yes. We went out looking for her at the
18 address that we had for her, which was off of
19 Highway 261 North in the Horatio area of Sumter
20 County. I wasn't able to locate where she was
21 at. Through the course of it, of course -- I
22 give a copy of the warrant to the guy that's on
23 the United States Marshal's Task Force and, uh,
24 he and the, uh, COP officer -- one of them two
25 came back and advised me that she staying at the

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1 Cedar Hill Mobile Home Park in the Cherryville
2 community.

3 Q. Now, let me stop you there for just a
4 moment. We had previously heard testimony as to
5 address. I am going to ask if you can read that
6 there?

7 A. Yes, sir, that says 1435 Cherryville Drive.

8 Q. Now, you just used the term Cedar Hill.

9 A. Right.

10 Q. Explain that to us.

11 A. The address for Cedar Hill Mobile Home Park
12 is actually 1435 Cherryville Drive. In order to
13 identify exactly where mail needs to go -- there
14 are so many different lots in there that have
15 mobile homes, and there is actually one house in
16 there. Each one has a lot number of where they
17 live.

18 Q. So 1435 Cherryville Drive is Cedar Mobile
19 Home Park?

20 A. It is Cedar Hill Mobile Home Park.

21 Q. Now, let me back up just a moment. Ms.
22 Farmer, whose residence was broken into, where
23 was that located?

24 A. That is in the Cherryville community of
25 Sumter County, as well, not far from Cedar Hill

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1 Mobile Home Park.

2 Q. Do you have your report handy, indicating
3 the address of that incident location?

4 A. Yes, I do.

5 Q. And what is the address of that incident
6 location?

7 A. That is [REDACTED]

8 Q. Now, is that located here in Sumter County?

9 A. It is.

10 Q. Now, at this point you've gotten a warrant
11 for Ms. Malone and you all are looking for her/

12 A. Correct.

13 Q. And you get a lead on the Cherryville
14 address?

15 A. That's correct.

16 Q. At some point in time do you make contact
17 with her?

18 A. She turned herself in. She came to the
19 Sumter Sheriff's Department and turned herself
20 in. It was actually February 10th, 2010. That
21 was the initial contact that I had with Ms.
22 Malone.

23 Q. Where did that take place?

24 A. At the Sumter County Sheriff's Office.

25 Q. Did you have occasion to speak with her at

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1 that time?

2 A. I did.

3 Q. At what point in time do you learn the name
4 of Jevon Brown?

5 A. It was during the interview, after her
6 being advised of her Miranda rights and her
7 waiving her rights, that -- it was during the
8 interview that myself and Corporal Dobson
9 (phonetic) was conducting with Ms. Malone.

10 Q. Now, did you have occasion to go to that
11 address, the 1435 Cherryville Drive, Lot 16?

12 A. Yes, sir.

13 Q. Do your records or notes indicate when you
14 went to that location?

15 A. It would have been February 11th, 2010.

16 Q. And what was the purpose of going to that
17 location?

18 A. There were several different reasons,
19 really. One was to speak with Mr. Brown.
20 Another was to possibly gain consent to search,
21 or whatever, the residence.

22 Q. Now, at any point in time did you obtain a
23 search warrant for that location?

24 A. I did.

25 Q. Do your notes or records reflect when that

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1 was?

2 A. It was the same date, February 11th, 2010.

3 Q. Now, did you in fact go to that location?

4 A. Yes.

5 Q. And who do you go to that location with?

6 A. There was myself, Deputy Newberry

7 (phonetic), Corporal Thomas, which is a local

8 COP officer in that area, Corporal Batson

9 (phonetic), the one that was on the U.S.

10 Marshal's Task Force, and there was Agent

11 William Sumter with the South Carolina Probation

12 Department, Parole.

13 Q. Is it normal course for a group of officers
14 to go on a search warrant?

15 A. Yes, it is.

16 Q. Now, when you arrived at that location,
17 tell us what happens there.

18 A. Let's see -- uh, I think it was Corporal
19 Thomas and myself that knocked on the door,
20 quite some time, several times and no one
21 answered the door. Finally we heard some
22 rumbling around on the inside and then a Mr.
23 James Martinez Brown came to the door.

24 Q. What happened when you made contact with
25 James Brown?

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1 A. We asked for Jevon and he said that he
2 wasn't there, that he was the only person inside
3 the residence.

4 Q. What happened next?

5 A. Agent Sumter went in and, uh, they found
6 Jevon Brown hiding underneath some clothes.

7 Q. You indicated hiding under clothing?

8 A. Yes, sir, in the master bedroom.

9 Q. Now, did you and the officers continue with
10 the execution of the search warrant?

11 A. It was after that, after all this took
12 place that I actually obtained the search
13 warrant. Then we went back to the residence and
14 served that search warrant. The reason that I
15 obtained the search warrant was because while
16 inside the residence originally, I noticed a red
17 and white MTX audio amplifier on top of the
18 refrigerator, which kinda matched the
19 description of the one being taken from Ms.
20 Farmer's residence on Furman Drive.

21 Q. Now, as part of the execution of this
22 search warrant, did you also take photographs?

23 A. Yes, I did.

24 Q. Tell us again the date?

25 A. It was February 11th, 2010.

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1 Q. Do you have those photographs available,
2 sir?

3 A. I do.

4 Q. The first sheet, I am going to ask you ---
5 it's four. Well, first of all, let me ask you
6 how many pictures are contained on that sheet?

7 A. There are four photographs contained on
8 this sheet.

9 Q. If you would, give us a brief description
10 of ---

11 THE COURT: Are they marked for ID?

12 SOLICITOR: Judge, if I may, I am
13 going to have marked for identification a sheet
14 with four photographs on it. The bottom right
15 one, for purposes of reference, is a green
16 laundry basket with some items in it.

17 THE COURT: Marked for ID as number
18 one.

19 SOLICITOR: Yes, sir.

20 THE COURT: Have you seen that, Mr.
21 Sullivan?

22 DEFENSE COUNSEL: No, sir.

23 THE COURT: If you would show it to
24 him.

25 DEFENSE COUNSEL: (Upon review), okay.

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1 I've seen it.

2 THE COURT: All right, go ahead.

3 (SO MARKED AS STATE'S EXHIBIT 1)

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR:

6 Q. I am going to show you what has been marked
7 for identification as State's Exhibit 1. If you
8 would, give us a brief description of -- well,
9 first of all, how many photographs are on that
10 sheet?

11 A. There are four photographs on this sheet.

12 Q. Okay. Give us a brief description of each
13 of the four.

14 A. The first one is a front porch and front
15 door of the residence, which has the number 16
16 posted on it in three different places -- once
17 on the left corner post of the porch, one on the
18 right corner post of the porch, and once up to
19 the right of the door post -- right on the door.

20 Q. Now, in case I didn't ask this, is this
21 1435 Cherryville Drive, Lot 16, that we're
22 talking about?

23 A. It is.

24 Q. And briefly describe the remaining
25 pictures, please.

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1. A. There is another one on here as you would
2 enter the front door into the living room, is a
3 photograph of the top of the refrigerator with
4 several different items on it. Then there is
5 another one on here with a green laundry basket
6 with numerous movie cases, possibly some CDs or
7 something like music CDs.

8 Q. I want to refer particularly to this
9 picture here. What are we seeing in that
10 picture?

11 A. That is the picture of the top of the
12 refrigerator that I spoke of. Behind the
13 photograph frame is the red and black MTX audio
14 amplifier.

15 Q. And do -- do these four pictures accurately
16 reflect both the exterior and interior of 1435
17 Cherryville Drive, Lot 16, on February 11th of
18 2010?

19 A. Yes, sir.

20 SOLICITOR: Your Honor, we would
21 offer this as State's 1.

22 DEFENSE COUNSEL: No objection.

23 THE COURT: All right, that's in.

24 (SO ENTERED AS STATE'S EXHIBIT 1)

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR:

2 Q. I am going to hand you this sheet and ask
3 if you can identify that.

4 A. Yes, this is some more photographs that was
5 taken at that residence at that time.

6 SOLICITOR: Your Honor, we would ask
7 that this be marked for identification as
8 State's 2.

9 (SO MARKED AS STATE'S EXHIBIT 2 FOR ID)

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR:

12 Q. If you would, briefly describe what we are
13 looking at there.

14 A. It's a picture of the TV stand, a DVD
15 player hooked up to it, a vacuum cleaner, just
16 cables and stuff in the floor; a photograph of
17 the hallway coming from the living room back
18 towards the left end of the mobile home; a
19 photograph of the top of the refrigerator with
20 the MTX audio amplifier on it, behind that
21 picture frame; and there's a photograph of one
22 of the countertops in there with several
23 bottles. It appears to be some type of coffee
24 maker, with an ashtray and stuff like that.

25 Q. And tell us if what is there basically

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1 appears to be a water bottle?

2 A. There's a roll of duct tape and it appears
3 to be a water bottle sitting inside the roll of
4 duct tape.

5 SOLICITOR: Your Honor, we would
6 offer this as State's Exhibit 2.

7 DEFENSE COUNSEL: No objection.

8 THE COURT: State's Exhibit 2.

9 (SO ENTERED AS STATE'S EXHIBIT 2)

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR:

12 Q. Now I want to show you another sheet
13 containing four pictures.

14 SOLICITOR: First of all, if I may,
15 let me go ahead and mark this for identification
16 as State's Exhibit 3.

17 (SO MARKED AS STATE'S EXHIBIT 3 FOR ID)

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR:

20 Q. And I will ask if you can identify that?

21 A. (Upon review), yes, sir. Of course there
22 are four pictures on this, as well. One picture
23 is showing one of the bedrooms. In the floor
24 there's several different shoes, electronic
25 items, CDs and things. There appears to be a

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1 DVD player. One is a picture of the master
2 bedroom with clothing lying in the floor. There
3 is some type of DVD player, along with some
4 DVDs, sitting in the floor. Bed to the left.
5 One is a photograph of the bathroom. The other
6 is going into the door -- the door entering the
7 bedroom where all the items are in the floor.

8 Q. Again, are those photographs taken at 1435
9 Cherryville, Lot 16, on February 11th?

10 A. They are.

11 Q. And they accurately reflect the residence
12 on that day?

13 A. Yes, sir.

14 SOLICITOR: Your Honor, we would
15 offer this as State's Exhibit 3.

16 DEFENSE COUNSEL: No objection.

17 THE COURT: Okay.

18 (SO ENTERED AS STATE'S EXHIBIT 3)

19 SOLICITOR: Let me mark this for
20 identification as State's 4.

21 (SO MARKED AS STATE'S EXHIBIT 4 FOR ID)

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR:

24 Q. Investigator Mays, I am going to hand you
25 what has been marked for identification as

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1 State's Exhibit 4 and ask if you can identify
2 that?

3 A. Yes, sir. This is another set of four
4 pictures taken of that residence on that day.

5 Q. Briefly tell us what we're seeing in those
6 four.

7 A. One picture shows a Wii game console, along
8 with other electronics, a DVD player, a camera,
9 a PSP, some other items, in the floor. One
10 photograph appears to be a bedroom closet. One
11 is a digital scale sitting on some type of -- on
12 what appears to be a laundry basket, with
13 several -- some form of CDs or DVDs lying around
14 it. One is a picture of a digital camera.

15 Q. Are these pictures that you took during the
16 execution of the search warrant?

17 A. Yes.

18 Q. And they accurately reflect the residence
19 on that date?

20 A. That's correct.

21 SOLICITOR: I offer this as State's
22 Number 4.

23 DEFENSE COUNSEL: No objection.

24 (SO ENTERED AS STATE'S EXHIBIT 4)

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR:

2 Q. Investigator Mays, I am going to show you
3 what has been identified as State's Exhibit 5
4 and ask if you can identify that?

5 A. Yes, sir, this is four pictures that were
6 taken during the execution of the search warrant
7 at the residence that same day.

8 Q. Briefly tell us what we're seeing in those
9 pictures.

10 A. One picture is showing the photograph of an
11 Olympus digital camera, an MP3 player. One is
12 -- and these are up-close photographs of the
13 items that were in the floor in some of the
14 other pictures. One is a closer photograph of
15 the DVD player. It's a digital Sony camera.
16 The serial number of the back of the Wii game
17 console.

18 Q. Does that accurately reflect the residence
19 on the day and at the time of the execution of
20 the search warrant?

21 A. It does.

22 SOLICITOR: Your Honor, we would
23 offer this as State's Exhibit 5.

24 DEFENSE COUNSEL: No objection.

25 THE COURT: Okay.

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1 (SO ENTERED AS STATE'S EXHIBIT 5)

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR:

4 Q. Now, Investigator Mays, after speaking with
5 Ms. Malone and the execution of the search
6 warrant, did you obtain an arrest warrant for
7 Mr. Brown, Jevon Brown?

8 A. I did.

9 Q. And you served that on him?

10 A. I did.

11 SOLICITOR: Please answer any
12 questions that Mr. Sullivan may have.

13 CROSS EXAMINATION

14 BY MR. SULLIVAN:

15 Q. Investigator Mays, all of these items found
16 in the trailer at Lot 16, they were believed to
17 be stolen from the house that was burglarized;
18 correct?

19 A. Yes, sir.

20 Q. All right. 1435 Cherryville Drive, Lot 16,
21 Cedar Hill Mobile Home Park?

22 A. Yes, sir.

23 Q. The same place that Ms. Malone -- did you
24 hear her testify earlier where she lived?

25 A. She did.

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1 Q. And that she was solely renting?

2 A. That's correct.

3 Q. Okay. Ms. Farmer's house was broken into,
4 it was January 25th, 2010?

5 A. Somewhere between January 24th and January
6 25th, 2010.

7 Q. Okay. Is it safe to say that since that
8 time you've investigated a lot of cases and that
9 you have to refer to your notes and your
10 investigative summary to remember what all
11 happened?

12 A. Yes, sir.

13 Q. And as far as your role in the
14 investigation, it was Richardson that initially
15 responding to the burglary; correct?

16 A. That's correct. He responded -- actually
17 it was a couple of them, actually. Senior
18 Corporal Jeffrey Richardson was the original
19 patrol officer that responded. Then you had
20 Investigator Bobby Richardson, or Robert
21 Richardson, that responded for processing.

22 Q. Okay. And you didn't go out there right
23 after it happened and meet with them, did you?

24 A. No, sir.

25 Q. Okay. But your investigation consists of

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1 reading their -- or listening to what the
2 responding officers had to say about what
3 happened. Correct?

4 A. Yes, sir, the reports that came to me
5 originally.

6 Q. Serving the arrest warrant, warrants, and
7 executing the search warrant; correct?

8 A. And the interview, that's correct.

9 Q. And also talking to Krystal Malone when she
10 initially gave the verbal statement. Then
11 taking the written statement several months
12 later, in June. Is that correct?

13 A. That's correct.

14 Q. That's pretty much what constitutes your
15 investigation?

16 A. Yes, sir.

17 Q. Okay. And you wrote the written report
18 based on what she was saying, or she wrote it?

19 A. As far as -- which one are you talking
20 about?

21 Q. June 29th.

22 A. June 29th, she wrote that in her own
23 handwriting.

24 Q. Okay. As far as the physical evidence, I
25 guess you would call it the forensic evidence,

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1 in this case, it pretty much all just points to
2 Ms. Malone; doesn't it? Basically I am just
3 talking about the fingerprints?

4 A. Yes, sir.

5 Q. And it wasn't until you went out and you
6 all got the -- you got the fingerprint analysis
7 back, there was an AFIS hit, ---

8 A. That's correct.

9 Q. You went and tracked -- or actually you got
10 a warrant for her and she came in and talked to
11 you?

12 A. That's correct.

13 Q. Okay. And it wasn't until then that Mr.
14 Brown's name came up?

15 A. That's correct.

16 Q. Okay. Ms. Malone initially told you the
17 first time that she talked to you, and -- and
18 you prepared an investigative report, didn't
19 you?

20 A. Yes, sir.

21 Q. Okay. The first time that she talked to
22 you, she very initially said that she didn't
23 know anything about this. Right?

24 A. That's correct.

25 Q. And her parents were there, weren't they?

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- 1 A. Yes, her mom and stepdad.
- 2 Q. And you told her that she needed to help
- 3 herself, that she needed to cooperate?
- 4 A. Yes.
- 5 Q. Okay. And wasn't it her parents that first
- 6 came up with the name of Jevon Brown? They
- 7 said, 'Wasn't it Jevon?'
- 8 A. They asked if it was him and she said yes,
- 9 that it was.
- 10 Q. The Nelsons? Her parents?
- 11 A. That's right.
- 12 Q. Then she agreed, said 'yeah' that it was
- 13 Jevon?
- 14 A. Yes. That's right.
- 15 Q. All right. And when she gave her written
- 16 statement and she said through her attorney that
- 17 she wanted to talk to law enforcement, do you
- 18 think that she knew that you all had her
- 19 fingerprints?
- 20 A. Yes, she knew that we had her fingerprints
- 21 at that time. Yes, sir.
- 22 Q. Okay. So when she talked to you -- to you
- 23 and -- who else was there when she gave the
- 24 statement?
- 25 A. Dodson. Corporal Dodson.

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1 Q. Dodson was there?

2 A. (No verbal response).

3 Q. So she knew that y'all had her, so she said
4 'Yeah, I was there, I touched the water jug, but
5 that's it. I was listening to my MP3 player, I
6 didn't know anything about what was going on.'

7 Does that sound right so far?

8 A. She said that she didn't know anything
9 about what was going on because she was
10 listening to her MP3 player.

11 Q. Okay. And he starts bringing stuff out of
12 the house and she -- she was just going for a
13 walk, that's basically what she said; right?

14 A. She stated that after she waited on him for
15 awhile that she -- that she decided that she was
16 going to go back to the house because she didn't
17 know where he was at.

18 Q. Did her story to you seem kinda self-
19 serving, like she was trying to explain
20 everything?

21 A. At the original interview, it was not like
22 she was trying to explain everything but, uh, --
23 what?

24 Q. What about her saying that she was just
25 listening to her MP3 player and she doesn't know

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1 what he's doing, and he's coming down the room
2 carrying these items and says 'hold this.' Did
3 that seem like it was a little bit "too good",
4 like maybe she was embellishing a little bit?

5 A. Maybe. I really can't say. She would have
6 to be the one to tell you her purpose. I really
7 can't say.

8 Q. Did she tell you very much about the
9 relationship that she had with Jevon,
10 specifically did she say anything about them
11 having a falling out and breaking up?

12 A. No, sir.

13 Q. She did say that there were certain items
14 that weren't taken; correct?

15 A. Yes, sir.

16 Q. Like, for instance, the rifle. She never
17 said that the rifle was taken, correct?

18 A. She stated that ---

19 SOLICITOR: Objection, Your Honor.

20 It's asking for her statement. Now, if he wants
21 to put the statement in, I have no objection.
22 But I don't think that he can ask this witness
23 what is in another witness' statement.

24 THE COURT: Isn't that what he has
25 been doing so far?

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1 SOLICITOR: To some extent, yes,
2 Judge.

3 THE COURT: All right. Overruled.
4 Go ahead. Sorry.

5 THE WITNESS: Yes, she stated that
6 they did not take some of the things that were
7 listed in the incident report, such as a gun,
8 television or the audio amplifier.

9 CROSS EXAMINATION CONTINUED

10 BY DEFENSE COUNSEL:

11 Q. Do you think from -- and those items, the
12 gun and the TV, that she said weren't taken,
13 they weren't found, at least the gun, when the
14 search warrant was executed; correct?

15 A. That's correct.

16 Q. And there was some time that passed between
17 the burglary and the execution of the search
18 warrant. The search warrant was about January
19 the 25th, right?

20 A. Yes, sir.

21 Q. And the stolen items were found at 1435
22 Cherryville Drive on February 11th, right?

23 A. Yes, sir.

24 Q. Do you have anything to show that -- do you
25 have a lease or anything to show that Jevon was

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1 living there, listed as a lessee, or ---

2 A. No, sir, I took Ms. Malone at her word that
3 she was the only person on the rental agreement.

4 Q. Well, -- but that's where the stolen items
5 were found, 1435 Cherryville Drive?

6 A. Yes, sir.

7 Q. Okay. So she would -- that would be good
8 for her if she said that Jevon was living there,
9 too, if that's where the stolen items were
10 found; wouldn't it?

11 SOLICITOR: Objection, Your Honor, to
12 the characterization that that "would be good"
13 for her.

14 THE COURT: You can rephrase that. I
15 will sustain that objection. You can rephrase
16 the question.

17 CROSS EXAMINATION CONTINUED

18 BY DEFENSE COUNSEL:

19 Q. Would it be self-serving ---

20 SOLICITOR: Objection, Your Honor.

21 THE COURT: Sustained.

22 CROSS EXAMINATION CONTINUED

23 BY DEFENSE COUNSEL:

24 Q. Mr. Jevon Brown -- when you went to execute
25 the search warrant, there were several officers

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1 that were there, correct?

2 A. Yes, sir.

3 Q. And Mr. Jevon Brown, he didn't come to the
4 door; right?

5 A. Correct.

6 Q. It was another individual?

7 A. Yes.

8 Q. James Martinez Brown?

9 A. Yes.

10 Q. And he didn't try to lie about who he was,
11 did he? He gave you his correct name?

12 A. He gave his correct name, yes, sir.

13 Q. And he said that he was the only one there?

14 A. That's correct.

15 Q. Have you ever had, in your experience in
16 law enforcement, somebody -- a suspect hid from
17 you just from -- for no other reason than they
18 know that the police are coming after them?

19 SOLICITOR: Objection, Your Honor.

20 THE COURT: Overruled.

21 THE WITNESS: If you're asking if
22 I've had other people hide from me, for no other
23 reason?

24 CROSS EXAMINATION CONTINUED

25 BY DEFENSE COUNSEL:

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1 Q. Than just that they know that the police
2 are after them?

3 A. (No verbal response).

4 Q. Or just -- let me rephrase that. To hide
5 from you just in general when you come to arrest
6 them?

7 A. No, sir. Well, when you come to arrest
8 them?

9 Q. In general, yeah.

10 A. Yeah.

11 Q. So that's not something that is unusual?

12 A. Correct.

13 Q. This happened in the daytime, from what you
14 knew?

15 A. As far as?

16 Q. The burglary?

17 A. Yes, sir. To the best of my knowledge.

18 Q. And there wasn't -- there is no allegation
19 of -- Ms. Farmer wasn't there, was she? She was
20 gone.

21 A. Correct.

22 Q. There wasn't anybody at the house?

23 A. Correct.

24 Q. The charge is based on the suspects taking
25 a gun, but there wasn't any gun that anybody

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1 had, was there?

2 A. No, sir, there was no gun found.

3 DEFENSE COUNSEL: Court's indulgence.

4 THE COURT: All right.

5 DEFENSE COUNSEL: Thank you. That's

6 all the questions that I have.

7 THE COURT: Redirect?

8 REDIRECT EXAMINATION

9 BY SOLICITOR:

10 Q. Investigator Mays, briefly, if I may, so
11 you have had people hide from you when you come
12 to arrest them?

13 A. Yes.

14 Q. Okay. I believe that you were asked about
15 whether James Brown gave you the correct name?

16 A. That's correct.

17 Q. Okay. And he did?

18 A. He did.

19 Q. Before or after he lied about Jevon Brown
20 being in the house?

21 A. Before.

22 SOLICITOR: Thank you, that's all
23 that I have.

24 THE COURT: Anything else?

25 DEFENSE COUNSEL: I will be quick.

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1 RECROSS EXAMINATION

2 BY DEFENSE COUNSEL:

3 Q. You don't know -- you don't have any
4 information about when Jevon got there or when
5 James Martinez Brown got there to that trailer,
6 do you, or how long each one of them was there?

7 A. No, sir.

8 Q. Okay. Do you know if James Martinez Brown
9 was playing the radio loud? What I am getting
10 at is, you don't know if James Brown was lying
11 or not, do you? I mean, you think he was, that
12 he was the only one there, but you don't know
13 that for sure.

14 A. You asked the question is there was a radio
15 playing loud. No, sir, there was not a radio
16 playing loud. We heard nothing after knocking
17 on the door several minutes and several times.
18 The only thing we heard inside the house was
19 some rumbling inside the house and then it took
20 approximately a minute or so for James to come
21 to the door.

22 Q. Okay.

23 DEFENSE COUNSEL: Judge, I don't have
24 anything else of this witness.

25 THE COURT: All right, you may step

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1 down. Thank you, sir.

2 (WITNESS STEPS DOWN)

3 THE COURT: Mr. Corbett, do you want
4 to publish one more witness?

5 SOLICITOR: Judge, given the hour, I
6 believe that this would be a good stopping point
7 for us.

8 THE COURT: Ladies and Gentlemen, we
9 are going to break for the afternoon. Let me
10 explain a couple of things to you. As I
11 mentioned earlier, I have to go to Columbia in
12 the morning. I should be back here by 11:30.
13 Is that a suitable starting time, Mr. Corbett?

14 SOLICITOR: For the State, yes, sir.

15 THE COURT: Mr. Sullivan?

16 DEFENSE COUNSEL: Yes, sir.

17 THE COURT: I am going to ask you to
18 please be in your jury room at 11:30. We will
19 work from then until lunch.

20 You may not discuss the case. You may
21 not read anything about it or listen to anything
22 about it. Don't do anything at all between now
23 and 11:30 that involves this case at all.

24 You may have heard reference to a
25 location or locations. Don't go by any of those

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1 locations and check it out on your own. That
2 would inappropriate and against my specific
3 instructions. See you tomorrow morning at
4 11:30.

5 (JURY EXITS COURTROOM)

6 THE COURT: Mr. Corbett, how many
7 more witnesses do you have? If we go from 11:30
8 to 5:00 tomorrow, will you be able to get the
9 case in tomorrow?

10 SOLICITOR: Yes, sir.

11 THE COURT: Do you think -- you won't
12 be in a position to argue and charge tomorrow?
13 I hesitate to do that at all if we start after
14 3:30.

15 SOLICITOR: Judge, I believe that my
16 witnesses will probably pick up speed from this
17 point forward, and there -- there really hasn't
18 been a lot of -- for example, I -- because I
19 don't think that there is a point of contention
20 about whether Ms. Malone's prints were on that
21 jug, I may try to whittle down some of those
22 witnesses that would have been in that chain.

23 THE COURT: So you will have Ms.
24 Farmer in the morning and that will take us
25 probably -- will you be able to get anybody else

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1 up in the morning? I am trying to figure out
2 that if Mr. Sullivan wants to present a case at
3 all, we'll know about what time you'll stop. He
4 has got one witness listed. Is he a charged
5 person?

6 SOLICITOR: He is.

7 THE COURT: Does he have a lawyer?

8 DEFENSE COUNSEL: I checked on this
9 and he's -- I looked on the public index and
10 checked our records, he's listed on this charge
11 as being *pro se*. He's got some other charges
12 that Tim Murphy represents him on. I asked for
13 Tim Murphy's permission and he said it's fine.

14 THE COURT: If he is going to testify
15 or be called, I need to ask him whether or not
16 he understands his rights. If he is under
17 subpoena, he needs to come on up here whenever
18 you tell him to be here.

19 SOLICITOR: He's in jail.

20 THE COURT: Oh, he is?

21 SOLICITOR: Yes, sir.

22 THE COURT: Okay, so I will see you
23 all tomorrow at 11:30.

24 DEFENSE COUNSEL: Judge, if we may, in
25 that Mr. Brown is out on bond and his trial has

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1 begun, if the Court would consider that issue --
2 it's often the State's position that once a
3 trial has started that your bond is no longer
4 valid.

5 THE COURT: What is your position on
6 custody status?

7 SOLICITOR: Judge, I guess my
8 position would be -- to be candid with the
9 court, he appeared for roll call the first day
10 and he appeared when he was supposed to for
11 trial.

12 THE COURT: Mr. Brown, stand just a
13 minute and raise your right hand. Do you swear
14 to tell me the truth, the whole truth and
15 nothing but the truth?

16 DEFENDANT: Yes, sir.

17 THE COURT: Do you understand that
18 obviously your trial has begun?

19 DEFENDANT: Yes, sir.

20 THE COURT: And do you understand
21 that if you were not here tomorrow by 11:30, or
22 whatever, if your lawyer wants you here earlier,
23 but be in this courtroom by 11:30 or the trial
24 will resume without you.

25 DEFENDANT: Yes, sir.

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1 THE COURT: Unless I change my
2 decision about what custody status that you
3 have, each recess, lunch, whatever, if you're
4 not back when I say everyone is to be back then
5 we will go on without you. Do you understand
6 that?

7 DEFENDANT: Yes, sir.

8 THE COURT: Thank you.

9 DEFENSE COUNSEL: Thank you, Your
10 Honor.

11 (COURT IN RECESS)

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1 NOVEMBER 15, 2011 11:30 A.M.

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3 (DEFENDANT PRESENT)

4 THE COURT: All right, bring in the
5 jury.

6 (JURY ENTERS COURTROOM)

7 THE COURT: I apologize for keeping
8 everybody an extra forty-five minutes. I was in
9 Columbia, in a proceedings that I had no control
10 over. Sort of like a room you were in, because
11 I was in the same kind of room. There was no
12 way that I could get over here sooner than I
13 did. We are ready now to move forward. Mr.
14 Corbett, call your next witness.

15 SOLICITOR: Thank you, Your Honor. At
16 this time the State would all Christy Farmer to
17 the stand.

18 (WITNESS TAKES STAND)

19 CHRISTY FARMER, being duly sworn to
20 tell the truth, the whole truth and nothing but
21 the truth, testified, as follows:

22 DIRECT EXAMINATION

23 BY SOLICITOR:

24 Q. Ms. Farmer, good morning.

25 A. Good morning.

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1 Q. You've told us your name, Christy Farmer.

2 Do you still live in Sumter County?

3 A. No, sir.

4 Q. Since 2010, you've moved?

5 A. Yes, sir.

6 Q. If you would, please, take us back to
7 January of 2010. Where were you living at that
8 time?

9 A. [REDACTED] Sumter.

10 Q. For folks who may not be familiar with
11 Furman Drive, just kind of generally tell us
12 where that's located here in the Sumter area.

13 A. It's out near Shaw Air Force Base. It's on
14 -- the elementary school, it's on the same road.
15 It's Furman. The elementary school is on Furman
16 Drive.

17 Q. And, Ms. Farmer, how long have you lived at
18 that address?

19 A. Since 2007.

20 Q. Now, you had occasion to make contact with
21 law enforcement on or about January 25th of 2010;
22 is that correct?

23 A. Yes, sir.

24 Q. What was the occasion that you had to call
25 law enforcement?

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1 A. I came home that morning and found that my
2 house had been broken into.

3 Q. Now, I apologize if this seems like an
4 obvious question but that address there on
5 Furman, is that here in Sumter County?

6 A. Yes, sir.

7 Q. Now, when you got home you found that your
8 house had been broken into; is that correct?

9 A. Yes, sir.

10 Q. Could you tell how it was entered?

11 A. They came through the window in the
12 kitchen.

13 Q. Your kitchen window was broken out?

14 A. Yes.

15 Q. Now, prior to leaving or prior to when you
16 had left your house before this took place, tell
17 me a little bit about the window. At that point
18 was it damaged or anything?

19 A. No, sir.

20 Q. Had you had occasion to tape it over or do
21 anything like that?

22 A. No, sir.

23 Q. Now, you indicated that you came home that
24 morning. Had you been away from your residence
25 for some time?

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1 A. I left on Friday, went out of town.

2 Q. And you discovered this on the morning of
3 the 25th?

4 A. Yes, sir.

5 Q. Now, did you -- was there anything
6 particular about your appliances, specifically
7 your freezer?

8 A. We found that the freezer was open, that it
9 was still cold, it hadn't thawed out.

10 Q. Now, Ms. Farmer, did you -- did you find
11 any of your belongings in the immediate
12 vicinity?

13 A. Across the street from my house is woods
14 and my dad and I found the change jar, a big
15 water bottle that was a change jar. It was
16 thrown in the woods, it was empty.

17 Q. And was that taken from your house?

18 A. Yes, sir.

19 Q. What was in it when it was in your house?

20 A. Change.

21 Q. Was there change still in it when you found
22 it?

23 A. No, sir.

24 Q. And what did you do with that item?

25 A. My dad picked it up with a stick and we

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1 walked across the street and gave it to the
2 officers.

3 Q. Now, were you present while they did
4 anything with that jug? I mean, of your
5 knowledge, did you see them doing anything,
6 testing or anything like that on it?

7 A. I didn't see it. We gave the jug to the
8 officers. I don't know what they did.

9 Q. Now, you indicated that you had lived in
10 that area for some years prior to this. Right?

11 A. About three years.

12 Q. Are you familiar with Cherryville Drive?

13 A. Yes, sir.

14 Q. Are you familiar with the location known as
15 Cedar Hill Mobile Home Park?

16 A. Is it on St. ---

17 Q. Let me ask it this way, perhaps a different
18 way. Do you know where Cherryville Drive is in
19 relation to Furman?

20 A. Yes, sir.

21 Q. Where is that?

22 A. About a block over.

23 Q. Now, Ms. Farmer, I am going to show you
24 what has been marked for identification as
25 State's Exhibit 6 and ask if you can identify

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1 that?"

2 A. Yes, sir, that is the list that I turned in
3 to law enforcement of things that were taken
4 from my home.

5 Q. Now, one of the items that you have listed
6 here, tell me what this item here is?

7 A. That's an amp that my dad had given me for
8 -- to put in my car.

9 SOLICITOR: Your Honor, at this time
10 we would offer into evidence State's Exhibit 6,
11 a list of the victim's property?

12 THE COURT: Mr. Sullivan?

13 DEFENSE COUNSEL: No objection.

14 (SO ENTERED AS STATE'S EXHIBIT 6)

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR:

17 Q. Also, ma'am, I am going to ask you to look
18 at this entry and tell me a little bit about
19 that item.

20 A. It's a Daisy .22 rifle. It's the only gun
21 that Daisy ever made that actually shot bullets.
22 It's like a collector's.

23 Q. That was a .22 caliber rifle made by Daisy?

24 A. Yes, sir.

25 Q. Now, Ms. Farmer, I am going to show you

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1 what has been marked for identification as
2 State's Exhibit 7 and ask if you can tell us
3 what that is.

4 A. That's the amp that my dad gave me.

5 Q. Now, when you were -- when you left your
6 home prior to the 25th, was that in your house?

7 A. Yes, sir.

8 Q. Let me ask the question this way, when you
9 returned on the 25th was that item missing?

10 A. Yes, sir.

11 Q. And that's what is contained in this list
12 that you have created?

13 A. Yes.

14 SOLICITOR: Your Honor, we offer the
15 amplifier as State's Exhibit 7.

16 DEFENSE COUNSEL: No objection.

17 (SO ENTERED AS STATE'S EXHIBIT 7)

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR:

20 Q. Now, you can -- there were some health
21 reasons why you were back and forth away from
22 home, is that correct?

23 A. Yes, sir.

24 Q. Now, Ms. Farmer, prior to you leaving home,
25 had you given anyone permission to go into your

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1 house?

2 A. No, sir.

3 Q. Okay. Had you asked anybody or was there
4 any reason why someone would have broke into
5 your window to get into your house?

6 A. No, sir.

7 Q. Do you know Krystal Malone?

8 A. No, sir.

9 Q. Is there any reason why you would have
10 asked her to go in your house?

11 A. No, sir.

12 Q. Do you know Jevon Brown?

13 A. No, sir.

14 Q. Is there any reason you would have asked
15 him to go into your house?

16 A. No, sir.

17 Q. Now, I asked you about a couple of items in
18 particular: the jug with the change, -- and let
19 me ask you, when you have any entry here -- read
20 this entry for me, tell me what that say?

21 A. That was the change that was in the jar, in
22 the jug?

23 Q. Where it says money?

24 A. Yes.

25 Q. I'd asked you specifically about the rifle

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1 and the amp, and the jug. But there were a
2 number of items that you put on this list, is
3 that correct?

4 A. Yes, sir.

5 SOLICITOR: Ms. Farmer, thank you.
6 Please answer any questions that Mr. Sullivan
7 has.

8 CROSS EXAMINATION

9 BY DEFENSE COUNSEL:

10 Q. Tell me about the -- your house is on
11 Furman Drive. Right?

12 A. Yes, sir.

13 Q. Do you -- you have a lot of trees or any
14 kind of obstructions around your house?

15 A. Across the street is a wooded lot.

16 Q. Okay.

17 A. Around my house there are a few trees in
18 the yard but it's not -- you can see through
19 them.

20 Q. So if somebody was standing on the roadway,
21 let's say on Furman Drive, they should be able
22 to see what is going on -- they should be able
23 to see your house, right?

24 A. They should be able to see ---

25 SOLICITOR: Objection, Your Honor.

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1 THE COURT: Basis?

2 SOLICITOR: The basis is that Furman
3 Drive has got some length to it. I think the
4 question is ---

5 THE COURT: You can address that on
6 redirect. Overruled.

7 CROSS EXAMINATION CONTINUED

8 BY DEFENSE COUNSEL:

9 Q. Let's say just within a couple of houses on
10 either side, let's say maybe just a couple of
11 hundred yards either way on Furman Drive, if
12 somebody was standing on the roadway in one
13 direction or the other, are there a lot of
14 obstructions that would block their view from
15 your house?

16 A. If they were standing in front of my home,
17 they could see the front yard. If they were
18 standing in front of the neighbor's home, they
19 may be able to see part of it. I -- there's
20 bushes on the sides, but they're not huge.

21 Q. Okay. And the -- the burglar apparently
22 went in through your kitchen window, in the
23 back?

24 A. Yes, sir.

25 Q. Okay. And your doors were locked, right?

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1 A. Yes, sir.

2 Q. Was that the only time that your house had
3 ever been broken into?

4 A. Yes, sir.

5 Q. Did you see any blood or anything around
6 the window, the kitchen window that was broken
7 into?

8 A. I don't remember seeing any blood.

9 Q. All right. And you said that you had fired
10 the rifle before, the Daisy .22?

11 A. I have.

12 Q. And it was a -- it was a collector's rifle?

13 A. It was the one that they -- they only --
14 Daisy made BB guns, whatever, and then they made
15 that one particular gun that shoots actual
16 ammunition. I don't know how else to say it.

17 Q. And this might seem like an obvious answer
18 to this question, but you had -- you came home
19 in the morning, correct, and found that your
20 house had been broken into?

21 A. Yes, sir.

22 Q. You don't have any knowledge about who
23 broke into it? It was already done by the time
24 you got there?

25 A. Right.

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1 Q. How disorganized was your house when you
2 got back? Could you look at how sort of messed
3 up everything was, to kinda tell what all had
4 been rummaged through?

5 A. It was a mess when I got home. The beds
6 were out of whack. I mean, I don't know how
7 else to describe it. It was a mess. I knew,
8 because I was on my way out of town again and --
9 so.

10 Q. All right. So you -- were your doors
11 unlocked when you got home?

12 A. Yes, sir.

13 Q. Okay. But you didn't lock them when you
14 left?

15 A. I did lock them when I left.

16 Q. I'm sorry. I'm sorry. That's what I meant
17 to say, that you did lock them when you left?

18 A. (No verbal response).

19 Q. And -- all right. So presumably -- you can
20 answer that. But somebody had rumm--, -- it
21 looked like somebody had spent some time
22 rummaging around in there. You didn't leave
23 your door unlocked where somebody could just
24 quickly come in and out?

25 A. No, sir.

1 Q. Okay. Thank you.

2 THE COURT: Redirect?

3 SOLICITOR: Nothing on redirect, Your
4 Honor.

5 THE COURT: Thank you, ma'am, you may
6 step.

7 (WITNESS STEPS DOWN)

8 THE COURT: Call your next witness,
9 Mr. Corbett.

10 SOLICITOR: Your Honor, due to some
11 other family commitments, may this witness be
12 excused?

13 THE COURT: Any objection, Mr.
14 Sullivan?

15 DEFENSE COUNSEL: No objection.

16 THE COURT: Thank you. Ms. Farmer,
17 you can stay if you like or leave. Thank you.

18 SOLICITOR: Judge, may we have just a
19 momentary sidebar?

20 THE COURT: Yes, sir.

21 (OFF RECORD SIDEBAR)

22 SOLICITOR: Your Honor, at this time
23 the State would recall Investigator Mays.

24 THE COURT: Mr. Mays, you are still
25 under oath. Please have a seat.

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1 (WITNESS TAKES STAND)

2 INVESTIGATOR MAYS, having been
3 previously sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. Mr. Mays, good morning.

7 A. Good morning.

8 Q. Mr. Mays, you've already testified for us
9 but I wanted to ask you a brief question. I am
10 going to show you what has been marked as
11 State's Exhibit 7 and State's Exhibit 2. First
12 of all, do you recognize number seven?

13 A. Yes, sir.

14 Q. What is number seven?

15 A. That's the MTX audio amplifier that I
16 recovered from the -- during the search warrant,
17 off the top of the refrigerator, in the kitchen
18 of 1435 Cherryville Drive, Lot 16.

19 Q. And that was the search warrant that was
20 executed on February 11th?

21 A. That's correct.

22 Q. Now, State's Exhibit 7, the amplifier, is
23 that also what we see in the photograph in
24 State's Exhibit 2?

25 A. It is.

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1 Q. Mr. Mays, thank you. That's all the
2 questions that I have.

3 THE COURT: Mr. Sullivan?

4 CROSS EXAMINATION

5 BY DEFENSE COUNSEL:

6 Q. You said that you recovered that from 1435
7 when you executed the search warrant?

8 A. Yes, sir.

9 Q. The address where Krystal Malone said that
10 she was living?

11 A. That's correct.

12 DEFENSE COUNSEL: Thank you.

13 SOLICITOR: Nothing further, Your
14 Honor.

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

17 (WITNESS STEPS DOWN)

18 SOLICITOR: Your Honor, may it please
19 the court, the State would call Investigator
20 Bobby Richardson.

21 (WITNESS TAKES STAND)

22 ROBERT "BOBBY" RICHARDSON, being duly
23 sworn to tell the truth, the whole truth and
24 nothing but the truth, testified, as follows:

25 DIRECT EXAMINATION

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1 BY SOLICITOR:

2 Q. Investigation Richardson, good morning.

3 A. Good afternoon.

4 Q. I'm sorry. I keep saying morning and it's
5 afternoon, isn't it? Good afternoon. Tell us,
6 and I know it's an obvious question, by whom
7 you're employed.

8 A. I'm employed by the Sumter County Sheriff's
9 Office, as a crime scene investigator.

10 Q. And how long have you been with the Sumter
11 County Sheriff's Office?

12 A. It's hard to say. Altogether, I've got
13 thirty-one years in law enforcement between
14 Sumter County and Richland County.

15 Q. So you've worked in the sheriffs
16 departments in both counties?

17 A. Yes, sir, I have.

18 Q. Now, I am going to ask you to kinda turn
19 back with me to January of 2010. Which agency
20 were you working for at that time?

21 A. Sumter County Sheriff's Office.

22 Q. Okay. What were your duties with the
23 Sheriff's Department at that time?

24 A. I was a crime scene investigator at that
25 time.

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1 Q. Now, did you have occasion to go out to the
2 address at [REDACTED]

3 A. Yes, sir, I did. I was requested to go out
4 and process the scene.

5 Q. What was your understanding of what had
6 taken place?

7 A. That there had been a burglary at the
8 residence.

9 Q. If you would, tell us a little bit just
10 generally about what you did and then I'll ask
11 you a little more specifically about some items.

12 A. When I first respond to a scene, I walked
13 around it. In this particular case, I did just
14 that. I walked around to see what evidence may
15 be there, what could be collected, what I could
16 process on the scene.

17 Q. When you say process, what do you mean by
18 that?

19 A. Process is -- it could be a couple of
20 different things. One could be looking for
21 signs of blood, forced entry, possibly dusting
22 for fingerprints.

23 Q. Were you able to notice anything about the
24 point of entry?

25 A. Yes, sir. It was the back kitchen window,

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1 which had been completely taped up with duct
2 tape prior to being removed from the window.

3 Q. (Tendering evidence package), do you need a
4 knife? All right. Can you tell us what is in
5 that bag?

6 A. That's the bag of duct tape and glass.

7 SOLICITOR: Hold up for just a moment
8 and let's get this marked. Your Honor, that
9 would be number eight for identification; which
10 the witness has described as glass with duct
11 tape.

12 THE COURT: So you're marking it and
13 taking it back?

14 SOLICITOR: Yes, sir. The contents
15 of it are broken glass with duct tape.

16 DIRECT EXAMINATION CONTINUED

17 BY SOLICITOR:

18 Q. Now, Investigator Richardson, if you're
19 able to do so safely -- are you able to just
20 show us sorta how the duct take and glass was
21 when you found it and put it in the bag?

22 A. (Displaying), in this condition but out
23 flatter. This was on the ground with the duct
24 tape on the back side of the glass, laying on
25 the ground.

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1 Q. I am going to let you put that back in the
2 bag.

3 A. (Complies).

4 SOLICITOR: Your Honor, we would
5 offer this as State's 8.

6 DEFENSE COUNSEL: No objection.

7 THE COURT: It is admitted.

8 (SO ENTERED AS STATE'S EXHIBIT 8)

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR:

11 Q. Do you have any idea of why the tape on the
12 glass?

13 A. No, sir, I can't answer that.

14 Q. Now, in addition to collecting this item,
15 did you collect any other items for processing?

16 A. Yes, sir, I collected a -- I believe that
17 it was a CVS photo processing envelope as well
18 as a white envelope, I believe that it was.

19 Q. What were you attempting to do with those?

20 A. Process them for latent fingerprints.
21 Those were actually brought into the office for
22 processing.

23 Q. And were you able to recover any prints
24 from those items?

25 A. No, sir, not useable prints from those

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1 items.

2 Q. Did you also have a item to process, a jug
3 of some type?

4 A. Yes, sir. It was a five-gallon water jug
5 that was recovered, that I processed on the
6 scene.

7 Q. Before we talk specifically about the jug,
8 talk to us a little bit about fingerprints, what
9 it is that you do, what it is that you -- the
10 difference between -- because I've heard you use
11 the term latent prints and prints and useable
12 prints. Tell us a little bit about what you're
13 looking for.

14 Q. It's -- when you're looking for a
15 fingerprint. Everybody has fingerprints.
16 They form before birth. Stress levels during
17 pregnancy determines your fingerprints, as far
18 as which way the loops may go and that type of
19 thing. We examine a fingerprint, looking to try
20 to determine that and you also look for ridge
21 endings, bifurcations, any distinguishable mark
22 on a fingerprint that you compare with another.

23 A useable fingerprint will have anywhere
24 from -- starting with about six different points
25 that we use before we send it to SLED. If we

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1 can't count six points, we don't need to send it
2 in, that would be what we call an unuseable
3 print or insufficient ridge detail.

4 Q. If there a difference between finding a
5 print and finding a useable print?

6 A. Yes, sir. It's not uncommon to find what
7 is commonly referred to as a "smudge."

8 Q. Now, I am going to show you these documents
9 and ask if you can identify that.

10 A. (Upon review), yes, sir. These are the
11 fingerprint cards where I lifted the prints.
12 The rest of it is the paperwork from the AFIS
13 examiner, which is the Automated Fingerprint
14 Identification System.

15 Q. And where did those prints come from?

16 A. These prints that are on these two backer
17 cards came from the bottom of the five-gallon
18 jug. It has my name on the back, my identifying
19 number, the case number, where they were
20 located, the victim's name, address. It
21 actually has a little picture drawn of the
22 bottom, pointing to the bottom.

23 Q. And you indicated that you processed that
24 container while you were at the scene?

25 A. Yes, sir. I did.

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1 Q. Did you bring the bottle back with you or
2 did you leave ---

3 A. No, sir, I left the bottle at the
4 residence. Once I lifted the prints, I had no
5 need for the bottle.

6 Q. Were there any other prints on this bottle?

7 A. Yes, sir, on the side, the rounded part
8 there were several smudges and unuseable prints
9 detected on there. Nothing with enough ridge
10 detail to submit to AFIS.

11 Q. Let me back up for just a moment. How is
12 it that you see the prints?

13 A. You use a powder. In this particular case
14 it was a powder that I used in order to dust for
15 the prints. The powder is real fine and it
16 adheres to the oils and the fatty materials left
17 by your hands on an object. Once it adheres to
18 it, then you can lift it with a lifting tape.

19 Q. Now, -- so that I can understand the
20 process, how many useable prints did you recover
21 from the water bottle?

22 A. From ---

23 Q. I called it a water bottle. I think I've
24 also called it a jug.

25 A. Yes. I lifted four. The AFIS examiner

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1 found that two were of suitable quality.

2 SOLICITOR: At this time, the two
3 separate cards bearing fingerprints, we would
4 have marked for identification as State's nine.

5 Judge, if we may, the first one will be
6 number nine and the second one will be number
7 ten.

8 THE COURT: Two separate fingerprint
9 cards?

10 SOLICITOR: Yes, sir.

11 DIRECT EXAMINATION CONTINUED

12 BY SOLICITOR:

13 Q. Now, the cards that we have marked there,
14 nine and ten, those were the lifts that you took
15 from the jug; is that correct?

16 A. That is correct.

17 Q. And of the four, subsequent examiners
18 indicated that two contained sufficient detail?

19 A. Yes, sir, that's correct.

20 Q. Do you know the individual that those
21 prints came back to?

22 A. I do not personally know them but the --
23 (pause).

24 Q. I'm sorry. I didn't hand you all of the
25 paperwork. (Tendering), I am going to show you

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1 this document and ask if you can identify that?

2 A. Yes, sir. This is the report back from the
3 Automated Fingerprint Identification System,
4 from Mr. Davis, Examiner.

5 SOLICITOR: Let me go ahead and mark
6 that sheet for identification.

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR:

9 Q. We have now got it marked as number eleven
10 for identification. Does that report reflect
11 the results of the examination of what you
12 lifted here, nine and ten?

13 A. Yes, sir, it does.

14 Q. From that, were you able to determine whose
15 fingerprints those are?

16 A. Yes, sir. From the -- print one and two
17 were the fingers of Krystal Lashonda -- and I am
18 not sure how you pronounce the middle name --
19 Malone.

20 THE COURT: Your Honor, we would
21 offer this as State's Exhibit 11.

22 THE COURT: All right. Eleven is in.
23 (SO ENTERED AS STATE'S EXHIBIT 11)

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR:

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1 Q. Investigator Richardson, let me back up to
2 something that we were talking about a moment
3 ago?

4 A. That is, did what you find on the jug base
5 compared to what is useable from the jug, is it
6 common to find unuseable prints?

7 A. Yes, sir, it's very common. In fact,
8 probably ninety-five percent of the scenes that
9 we go on we find unuseable prints of some sort.

10 Q. But from you examination that jug had other
11 prints, but they were not of ---

12 A. Yes, sir, it did.

13 Q. --- suitable quality for comparison
14 purposes?

15 A. No, sir, there was no way that they could
16 be compared.

17 SOLICITOR: Investigator Richardson,
18 thank you very much. Please answer any
19 questions that Mr. Sullivan may have.

20 CROSS EXAMINATION

21 BY DEFENSE COUNSEL:

22 Q. Investigator Richardson, did you process or
23 try to lift any prints off of the -- with regard
24 to this case -- MTX amplifier?

25 A. No, sir, I did not.

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1 Q. So your role in this case was basically
2 that you responded to the scene, to [REDACTED]
3 [REDACTED]; correct?

4 A. Yes.

5 Q. And you processed it?

6 A. Yes, sir.

7 Q. Meaning that you walked around to see if
8 there were any physical items that could be used
9 to link the crime to anybody?

10 A. That's correct.

11 Q. Okay. Do you recall if there -- if the
12 house at [REDACTED] was hidden by trees
13 or other obstacles when you were out there, so
14 that somebody at the road wouldn't be able to
15 see it?

16 A. I don't recall that. As far as what
17 somebody could see, I couldn't tell you.

18 Q. All right. And this -- this incident
19 happened and you responded on January 25th, 2010.
20 Correct?

21 A. (No verbal response).

22 Q. Around that time?

23 A. Yes, sir, I believe that it was.

24 Q. Okay. Have you worked a lot of cases since
25 then?

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1 A. Yes.

2 Q. Is it safe to say that because of the
3 volume of cases that you've worked that you
4 can't remember everything about all of them off
5 the top of your head? That you prepare incident
6 reports that you have to refer to, to refresh
7 your memory?

8 A. That's correct. I prepare reports that I
9 go by.

10 Q. And when you -- Ms. Farmer was there when
11 you showed up to the house?

12 A. That's correct.

13 Q. Okay. She didn't tell you that she saw
14 anybody? You didn't talk to any neighbors or
15 anybody who said that they could identify
16 anybody out there?

17 A. No, sir. I was just there for processing.

18 Q. Have you investigated burglaries before?
19 You were talking a little bit about your
20 experience with the sheriff's office. Have you
21 been an investigator on burglary cases?

22 A. No, sir, most of my investigation stuff was
23 narcotics investigations.

24 Q. You've responded to a lot of burglaries?

25 A. Yes, sir.

1 Q. From your experience, do people who break
2 into houses often have one person act as a
3 lookout?

4 A. It's common to have a lookout when you're
5 breaking in.

6 Q. All right. You didn't actually find the
7 water jug. Somebody who was there brought it to
8 you. Correct?

9 A. That's correct.

10 Q. And you don't have anything to indicate
11 that Mr. Brown was living at 2435 Cherryville
12 Drive, where the search warrant was executed; do
13 you?

14 A. No, sir, I have no knowledge of that.

15 Q. And when you were processing the scene, you
16 walked around the house; didn't you?

17 A. Yes, sir.

18 Q. Okay. What did you find in the house when
19 you were observing everything as far as things
20 being disturbed? Did it look like that somebody
21 who had broke in had rummaged through the house
22 a pretty good bit?

23 A. Yes, sir, it looked like your typical
24 burglary scene.

25 Q. Okay. And it appeared that somebody went

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1 through the back window?

2 A. Yes, sir.

3 Q. Okay. All right. So they came through the
4 back window, knocked the window out, crawled
5 through there and -- and, uh, -- went through
6 most of the house, rummaging around? That's how
7 it appeared from what you saw?

8 A. Yes, sir.

9 Q. And you said that -- and you showed the
10 jury where there was glass attached to duct tape
11 at that back window. You don't know -- had you
12 responded -- had you been called out there
13 before to a burglary?

14 A. No, sir.

15 Q. So you don't know if somebody broke in
16 there before or if a ball went through the
17 window or what?

18 A. No, sir. All I know is what I'm told by
19 the victim, what victims tell me when I arrived
20 on a scene.

21 Q. Did she tell you anything about the window?

22 A. That someone broke in through the back
23 window was my understanding.

24 Q. About the duct tape?

25 A. Oh, she didn't mention the duct tape.

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1 Q. Did you ask her about the duct tape?

2 A. No, sir. She just said the window is where
3 they came in, so I assume ---

4 Q. But she didn't duct tape it after the
5 burglar came in and before the police got there,
6 did she?

7 A. (No verbal response).

8 Q. That was from something in the past?

9 A. I don't know if it was anything in the
10 past. I just know what I found when I got
11 there, duct tape on the window.

12 Q. Okay. So she never told you that she had
13 duct taped it right before you came out?

14 A. No, sir, she didn't.

15 Q. All right.

16 DEFENSE COUNSEL: That's all the
17 questions that I have. Thank you.

18 THE COURT: Redirect?

19 SOLICITOR: Nothing on redirect, Your
20 Honor.

21 THE COURT: Thank you, Mr.
22 Richardson. You may step down.

23 (WITNESS STEPS DOWN)

24 THE COURT: Anything else, Mr.
25 Corbett? It's five after. Would you like to

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1 start back after we take a break for lunch?

2 SOLICITOR: Yes, sir.

3 THE COURT: All right, Ladies and
4 Gentlemen. I know that the morning schedule is
5 somewhat stilted and that's my fault. We're
6 going to break for lunch now and take a little
7 bit less than we did yesterday. Please be back
8 in your jury room at 2:15 and we will begin at
9 that time. Of course, during the interim you
10 may not discuss the case amongst yourselves or
11 with anyone else. Thank you.

12 (JURY EXITS COURTROOM)

13 THE COURT: Mr. Corbett, how many
14 more witnesses do you believe that you will
15 have?

16 SOLICITOR: Judge, my estimate at
17 this point is -- bear with me one point. Judge,
18 what I was pausing a moment to consider was that
19 I've got some additional witnesses but I think
20 their testimony is probably going to end up
21 being cumulative.

22 THE COURT: All right.

23 SOLICITOR: I may have one more
24 witness. I will speak to that individual over
25 the lunch break, but it may be zero, no more,

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1 witnesses because I think his testimony may be
2 very similar to Investigator Mays'.

3 THE COURT: Okay. The only one that
4 catches my eye, that might be somewhat out of
5 the ordinary, may be Mr. Sumter. I don't know
6 if he is a search warrant witness or has some
7 collateral involvement as far as the defendant
8 or another witness is concerned. What was his
9 involvement? Is he one of your possible
10 witnesses?

11 SOLICITOR: He is one of the possible
12 witnesses, one of the witnesses that I am
13 considering. Judge, I am trying to be careful
14 and not create issues for us down the road.
15 Agent Sumter accompanied the search warrant team
16 and at that time the defendant was wanted for a
17 probation violation.

18 THE COURT: What was he on probation
19 for?

20 SOLICITOR: Burglary.

21 THE COURT: Okay. Did you intend to
22 elicit that from him, that he was on probation
23 for burglary?

24 SOLICITOR: Judge, my understanding
25 of the Rules is that I would not be allowed to

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1 do that.

2 THE COURT: I would think that's a
3 safe assumption -- unless of course defense
4 counsel opened the door, 'Why were you involved,
5 Mr. Sumter?' That kind of thing. But if he --
6 if he does testify, make sure that you instruct
7 him on that, that he can't just say 'my name
8 William Sumter, S-u-m-t-e-r, and I was his
9 probation agent.' You know, that kind of thing.

10 SOLICITOR: Yes, sir. And, Judge,
11 that's why I was pausing. I was trying to
12 consider the risk of how that would go with him
13 on the stand.

14 THE COURT: If the defendant were to
15 testify, what would be the defendant's criminal
16 record?

17 SOLICITOR: Burglary.

18 THE COURT: Anything else?

19 SOLICITOR: No, sir, Your Honor. I'm
20 sorry, Judge. The disposition along with the
21 burglary also included a resisting arrest.

22 THE COURT: That doesn't carry more
23 than a year, so that would not come in unless
24 there was some injury to law enforcement
25 officer. As far as the burglary is concerned,

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1 there is no case in this state, yet, that says
2 whether or not it's a crime of dishonesty. In
3 the past, I've ruled that it is and so it comes
4 in. However, there is no appellate decision in
5 South Carolina that says that it is, there is
6 not one that says it is not. There is some
7 dicta in a case, and I can't remember the name
8 of it -- I'll find it -- that seems to say that
9 it is a crime of dishonesty.

10 DEFENSE COUNSEL: I would obviously,
11 as you would probably figure, argue that because
12 he's being tried for burglary that it would be
13 extremely prejudicial.

14 THE COURT: That it is not a crime of
15 dishonesty, you're correct, that burglary
16 rightfully would not come in. If it is a crime
17 of dishonesty, it comes in no matter what the
18 prejudice is. That's ---

19 DEFENSE COUNSEL: Judge, -- I'm sorry.

20 THE COURT: No, go ahead.

21 DEFENSE COUNSEL: I was wondering if
22 Mr. Corbett could elicit information that would
23 show that he was actually on parole when they
24 asked him for the search warrant. Could he ask
25 Agent Sumter -- let the jury know that he was on

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1 parole or could he just not let them know what
2 he was on parole for.

3 THE COURT: You're talking about
4 sanitizing the conviction. That's also an
5 unsettled question. In other words, on parole
6 for a -- what was it. So I will let you all
7 discuss that issue. My ruling will be that it
8 will either a crime of dishonesty and then it
9 comes in no matter what or that it is not a
10 crime of dishonesty and, under the five-factor
11 test in the *State v. Carlton* case, I would more
12 than likely be compelled not to let it in. So
13 the sanitizing is a part that y'all can discuss,
14 but it really wouldn't be for me to make a
15 ruling.

16 DEFENSE COUNSEL: But if he didn't
17 take the stand, Mr. Corbett couldn't ---

18 THE COURT: It is not going to be --
19 burglary won't be mentioned or the parole.

20 DEFENSE COUNSEL: What about the
21 parole?

22 THE COURT: No. So it is not going
23 to come out in the State's case that he was on
24 parole for anything, much less burglary. If
25 that comes out through their own efforts, then

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1 we will have a mistrial again. At least that's
2 the way that I see it.

3 All right. If you all could be back at
4 about 2:00, I know that's a little bit shorter
5 time, we could -- be prepared to have your
6 client -- educate your client a little bit on
7 the Fifth Amendment discussion that I will have
8 with him.

9 If you are going to have a witness from
10 the jail and you want me to get him over here,
11 we need to let somebody know. They're not going
12 to be -- well, he wouldn't be in the holding
13 cell.

14 SOLICITOR: Judge, if I may advise
15 the Court, I did put Mr. Sullivan's witness on
16 what we call our standard jail list for the 2:00
17 o'clock transfer. But I am a little leery of me
18 taking responsibility for his witness.

19 THE COURT: If you want him here and
20 you have any questions about it, let me know now
21 so that I can have him here at 2:15 just in case
22 he doesn't put anyone else up.

23 DEFENSE COUNSEL: Okay. I've got
24 clothes for him.

25 THE COURT: I don't care about the

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1 clothes. What is he in jail for? Is he in jail
2 for not having made bond or a bond reduction in
3 this case?

4 DEFENSE COUNSEL: I don't know why he
5 is in jail.

6 SOLICITOR: I'm sorry, Judge. I
7 don't know why he's ---

8 THE COURT: If he's got clothes, it's
9 fine with me for him to wear them as long as the
10 security folks are satisfied.

11 DEFENSE COUNSEL: If my client takes
12 the stand, his testimony would probably be kinda
13 duplicative. So it all kinda depends on how
14 things go with my client. I'd like to have him
15 on standby, but I don't know if I will put him
16 up.

17 THE COURT: So let's tell somebody
18 from the jail to make sure that they have him
19 here. James Brown.

20 All right, I will see y'all at 2:00.
21 If we finish quickly, we will argue and charge
22 this afternoon. Okay?

23 SOLICITOR: Very well. Thank you,
24 Judge.

25 (LUNCH RECESS)

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1 (DEFENDANT PRESENT)

2 THE COURT: Did you make any headway
3 to make sure that James Brown is going to be
4 here?

5 DEFENSE COUNSEL: He is here and
6 they're not going to dress him out. I talked to
7 them about that. Which is fine.

8 THE COURT: All right.

9 DEFENSE COUNSEL: And I ---

10 THE COURT: I am not asking you
11 whether you are going to call him. I just want
12 to make sure that you're satisfied that you
13 wanted him here that he was here.

14 DEFENSE COUNSEL: That's correct. He
15 is here.

16 THE COURT: You may one and perhaps
17 more witnesses, Mr. Corbett?

18 SOLICITOR: I'm sorry, Judge?

19 THE COURT: One and perhaps more
20 witnesses?

21 SOLICITOR: No, sir, Judge. I
22 believe that we're done.

23 THE COURT: So you are going to rest?

24 SOLICITOR: Yes, sir.

25 THE COURT: All right. Would you

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1 have your client stand and come on around here,
2 please, sir. Put your left hand on that Bible
3 and raise your right hand.

4 (WHEREUPON DEFENDANT SWORN)

5 THE COURT: Mr. Brown, I am
6 anticipating a couple of things. Based on the
7 recitation of Mr. Corbett, the State is going to
8 rest in just a few minutes; which means that
9 they are going to be finished with presenting
10 the evidence that they are going to present in
11 their case in chief.

12 That means that we will have arrived at
13 the part of the trial where you can present a
14 defense. Included within that is your right to
15 testify. In that regard, the Fifth Amendment to
16 the United States Constitution states, in
17 pertinent part, that no person shall be
18 compelled in any criminal case to be a witness
19 against himself.

20 That means that you cannot be forced or
21 otherwise required to testify in this case. The
22 way that I would tend to put it is that Mr.
23 Sullivan can't even call you against your will.
24 Of course, Mr. Corbett cannot. No one can call
25 you to that witness stand at all. No one can

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1 make you testify. The reason for that is the
2 right that you have under the Fifth Amendment,
3 which is a personal right. Since it is a
4 personal right, it's only yours. You are the
5 only one you can give it up.

6 If you decide to testify, you'd be
7 subject to the same rules that govern the direct
8 and cross examination of any witness in this
9 case. You can be examined and cross-examined on
10 any relevant issue.

11 Now, in addition, if you have any
12 convictions for prior crimes that involve
13 dishonesty or false statement, or if you have
14 convictions for crimes punishable by
15 imprisonment for more than one year and I
16 determine that the probative value of admitting
17 that evidence outweighs its prejudicial effect
18 to you, then the Solicitor can introduce the
19 conviction or convictions for the sole purpose
20 of attacking your believability.

21 If you decide to testify, that decision
22 has to be made by you freely and voluntarily,
23 with full knowledge of your rights under the
24 Fifth Amendment and the consequences of your
25 decision.

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1 If you decide not to testify, I will
2 tell the jury -- what I told them is this, 'that
3 you cannot think about, you cannot talk it and
4 the fact that the defendant did not testify'
5 cannot enter into their decision in any way. Do
6 you understand that?

7 DEFENDANT: Yes, sir.

8 THE COURT: It is left entirely up to
9 you in the end as to whether or not you will or
10 will not testify. You can talk to your lawyer
11 or whoever else that you think is appropriate,
12 but the final decision is left up to you.

13 Now, do you understand everything? Any
14 questions at all about your right under the
15 Fifth Amendment?

16 DEFENDANT: No, sir.

17 THE COURT: All right. Have you
18 discussed with your lawyer whether or not you
19 will or will not testify?

20 DEFENDANT: Yes, sir.

21 THE COURT: Have you made a decision?

22 DEFENDANT: Yes, sir.

23 THE COURT: Has anyone forced you to
24 make that decision?

25 DEFENDANT: No, sir.

1 THE COURT: You made that decision
2 freely and voluntarily, with full knowledge of
3 your rights?

4 DEFENDANT: Yes, sir.

5 THE COURT: Any other questions along
6 those lines, Mr. Sullivan?

7 DEFENSE COUNSEL: No, sir.

8 THE COURT: Mr. Corbett?

9 SOLICITOR: Nothing from the State,
10 Your Honor.

11 THE COURT: All right, sir, you can
12 have a seat.

13 DEFENDANT: (Complies).

14 THE COURT: Mr. Sullivan, in that
15 regard, will the Defendant be offering any
16 witnesses in the case?

17 DEFENSE COUNSEL: I've really
18 struggled with whether or not I should put this
19 one witness up. Based on how things have gone
20 in the trial, I -- I don't think that I want to
21 put him up.

22 THE COURT: Do you need to talk to
23 your client any more about that?

24 DEFENSE COUNSEL: No, sir.

25 THE COURT: So you will call no

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1 witnesses?

2 DEFENSE COUNSEL: Correct.

3 THE COURT: Will the State be ready
4 to go to arguments and charge?

5 SOLICITOR: Whatever the preference
6 of the Court, Your Honor. We'll be ready.

7 THE COURT: Is the Defendant ready?

8 DEFENSE COUNSEL: To argue and charge?

9 THE COURT: Yes. I know you've got
10 some Motions in a moment, but do you have any
11 problem with going ahead and arguing and
12 charging?

13 DEFENSE COUNSEL: I probably need just
14 a little bit of time because, uh, I usually
15 write my summation based on the testimony that's
16 presented. I would need but ---

17 THE COURT: Fifteen minutes?

18 DEFENSE COUNSEL: Fifteen minutes
19 would be fine.

20 THE COURT: All right. Does anybody
21 have a written jury charge that they want me to
22 consider?

23 SOLICITOR: Judge, I do not have a
24 written jury charge but the State would request
25 a charge of the lesser-included offense of

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1 burglary in the second degree.

2 THE COURT: All right, would it be
3 violent or nonviolent?

4 SOLICITOR: Under these
5 circumstances, it would be nonviolent.

6 THE COURT: All right. I'm not going
7 to use those words, but I assume that's what it
8 should be. Do you -- do you dispute that, Mr.
9 Sullivan?

10 DEFENSE COUNSEL: No, I think there
11 should be a lesser-included.

12 THE COURT: I think my law clerk has
13 the charge done. So I will be reviewing that
14 during the same time that you all are preparing
15 for your closing. If you would, just make sure
16 that the court reporter has all the exhibits in.

17 Are you going to want Mr. Corbett to
18 open on the law?

19 DEFENSE COUNSEL: That would my ---

20 THE COURT: Do you want to allow him
21 to waive that or do you want him to open on the
22 law?

23 DEFENSE COUNSEL: He can open on the
24 law.

25 THE COURT: I know that he can, but

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1 do you demand that he do that?

2 DEFENSE COUNSEL: No.

3 THE COURT: Do you want to waive it
4 or do you want to open on the law?

5 SOLICITOR: Judge, I think in the
6 interest of time that I will just waive and do
7 all of mine at the very end.

8 THE COURT: All right. We will take
9 a few minutes. Mr. Sullivan, do you have any
10 Motions?

11 DEFENSE COUNSEL: I have just a
12 directed verdict request?

13 THE COURT: On the issue of burglary
14 in the first degree?

15 DEFENSE COUNSEL: As far as ---

16 THE COURT: In other words, your
17 directed verdict Motion is that there is not
18 enough evidence ---

19 DEFENSE COUNSEL: --- for burglary in
20 the first degree to go to the jury.

21 THE COURT: All right. I believe
22 that, if the jury chooses to believe the
23 testimony of Ms. Malone, there is enough direct
24 evidence, in having those items in his hands and
25 circumstantial evidence that he was a party to

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1 the crime that was allegedly committed on that
2 date, -- so I am going to respectfully deny your
3 Motion. We will take a break for just a few
4 minutes.

5 What I will do when the jury comes back
6 in, so that they don't think that we've been
7 twiddling our thumbs, when you rest and then the
8 defendant rests, then I will tell the jury that
9 that was made known to me shortly before we were
10 to start and that I allotted enough time for you
11 to get prepared for your closings and my charge.

12 All right.

13 (BRIEF RECESS)

14 (DEFENDANT PRESENT)

15 THE COURT: Ready?

16 SOLICITOR: Ready, Your Honor.

17 THE COURT: Mr. Sullivan?

18 DEFENSE COUNSEL: I'm ready.

19 THE COURT: All right. Bring in the
20 jury.

21 (JURY ENTERS COURTROOM)

22 THE COURT: Thank you, Ladies and
23 Gentlemen. Mr. Corbett, any other witnesses for
24 the State?

25 SOLICITOR: The State rests, Your

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1 Honor.

2 THE COURT: Mr. Sullivan, any
3 witnesses for the defense?

4 DEFENSE COUNSEL: No, sir. The
5 defense rests.

6 THE COURT: Ladies and Gentlemen, I
7 met with the lawyers sometime before 2:15 and
8 they advised that would be the posture we would
9 be in, so I spent some time -- oh, the last
10 fifteen minutes or so -- going over the charge
11 that I am going to give you, and to also give
12 the lawyers an opportunity to make sure that the
13 exhibits were in order and that they were
14 prepared to proceed with the arguments. That
15 why we didn't start promptly at 2:15.

16 So we -- we've now arrived at the
17 portion of the trial in which the lawyers will
18 give you their closing arguments. The format
19 that we will follow is that Mr. Sullivan will
20 present -- excuse me, Mr. Corbett. I apologize
21 for my confusion earlier. The State will
22 present the first argument and then Mr.
23 Sullivan, for the defendant, will present the
24 last argument.

25 I will remind you that what the lawyers

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1 say to you during the course of their arguments
2 is not evidence. For example, if they refer to
3 some testimony or some other evidence in a way
4 that does not correspond with your selective
5 memory of what the evidence actually was, you go
6 with your memory and not what the lawyers say.
7 Again, they are not witnesses.

8 This is a very important part of the
9 trial, so it would be very important for you to
10 pay very close attention to the lawyers during
11 their arguments.

12 After they make their arguments, I will
13 give you the charge on the law. Shortly after
14 that, you will be released to your jury room to
15 begin your deliberations.

16 Mr. Corbett?

17 SOLICITOR: Thank you, Your Honor,
18 may it please the Court. Ladies and Gentlemen,
19 good afternoon.

20 I am going to put this lectern here. I
21 was told some time ago that I walk too much when
22 I talked. So if you see me holding on like
23 this, it's me trying not to walk too much as I
24 speak to you.

25 Thank you for your time and attention

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1 over the last day or so, because this is a very
2 important matter. It is a very serious charge
3 and it deserves serious attention.

4 This is an opportunity for me to talk
5 to you a little bit about the case.
6 Specifically what I want to talk to you about is
7 the evidence in the case. What is the evidence
8 that you heard. Not what Mr. Sullivan said in
9 opening statements, not what I said in opening
10 statements but what you here from right here on
11 this witness stand. In that regard, let's talk
12 about the evidence:

13 Krystal Malone took the witness stand.
14 She told you that she had met Jevon Brown in
15 Myrtle Beach and that they had begun a
16 relationship from there. Then she ultimately
17 moved to Sumter and rented a place at 1435
18 Cherryville Drive, Cedar Hill Mobile Home Park,
19 Lot 16. She told you that 'Jevon Brown lived
20 with me' at that address.

21 So I asked her how did we get to this
22 point. She sat there on that witness stand and
23 she told you about the day when Mr. Brown said,
24 'Hey, let's go for a walk.'

25 If you will remember, she said that 'we

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1 were walking and we were probably four or five
2 minutes from home,' walking. And, 'as I was
3 walking down the road, listening to some music,
4 he left the roadway and I lost sight of him for
5 a period of time.' Waited. 'I didn't know
6 where he had gone, so I was about to leave and
7 head back'. That's when I saw him coming back up
8 the roadway carrying the jug, the amplifier, and
9 the Wii game.'

10 Now, those items don't grow on trees on
11 the side of roadways, Ladies and Gentlemen.
12 Those are the items taken from Christy Farmer's
13 house.

14 She told that they walked back to the
15 house after discarding the jug there on the side
16 of the road, put it in their pockets and walked
17 back home.

18 That is the testimony that you heard
19 from this case.

20 After Krystal Malone testified,
21 Investigator Mays testified. I asked him to
22 tell you how this case came together, how they
23 put it together. I used the term called "good
24 old-fashioned police work." 'My crime scene
25 folks had recovered some prints, we were able to

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1 match those to a Krystal Malone.' The very
2 same lady who had testified. The very same lady
3 who had told you 'I handled that jug.' The
4 prints came back from her. 'We had her come
5 in and she talked with us. Her mother, her
6 stepfather was there and she told us that "I
7 was involved, Jevon Brown was with me.'" It was
8 "me and Jevon Brown."

9 So Investigator Mays goes to 1435
10 Cherryville. Remember his testimony. He goes
11 to that location, (knocking) -- we heard
12 rumbling in there, (knocking). If I remember
13 correctly, Investigator Mays said that it was
14 about a minute that 'we knocked on that door.'
15 I will tell you to knock on a door a minute is
16 a long time.

17 You know, it's funny in my business.
18 Usually when I ask people about time, people
19 usually sort are preconditioned to say, 'Oh, I
20 don't know, a couple of minutes.' But if you
21 don't think a minute is a long time, watch the
22 second hand go around one time. Imagine,
23 (knocking). 'We here rumbling in there. No,
24 sir, there wasn't any loud music playing, but
25 there was knocking around inside there.'

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1 Then James Brown came to the door.

2 'Is Jevon Brown here?' No, 'not here.' So they
3 go in. What do they find? Jevon Brown hiding
4 under a pile of clothes. Who hides under a pile
5 of clothes when somebody knocks on the door?
6 Who has committed burglary. That's who. That's
7 who hides under a pile of clothes.

8 So Office Mays says, 'We go in there
9 and Jevon Brown is hiding under a pile of
10 clothes. As we are leaving, I see something' --
11 it matches the description of what was taken
12 from the victim's house, 'So I go get a search
13 warrant. We come back and we take some
14 pictures, and we take some items into evidence,'
15 including this amplifier.

16 Now, Ladies and Gentlemen, keep in mind
17 that this was February 11th. It took a little
18 bit of time to put all this together, to match
19 prints, to locate folks. The crime happened on
20 or about January the 24th. So that's almost or
21 right around two weeks that the property has
22 been taken from there.

23 I will tell you, law enforcement was
24 fortunate because there was some property still
25 at that house -- 1435 Cherryville. There was

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1 some property still there. As you can imagine,
2 lots of times stolen property gets gone in a
3 hurry. It gets gone in a hurry. But they
4 caught a break, and there on top of the
5 refrigerator was that amplifier.

6 Investigator Mays told you about those
7 incidents and how they happened.

8 Ms. Farmer came in. 'Do you recognize
9 this?' 'Yes, that is the amplifier from my
10 house.' She told you from that witness stand,
11 'that's my amplifier that was stolen from my
12 house.'

13 Now, we did a little more work with
14 some of our witnesses. Investigator Richardson
15 talked to you about matching the prints.
16 Now, we went through that process so that you
17 could see sorta how the police -- or, excuse me,
18 the sheriff's office does that work.

19 Now, for all intents and purposes,
20 Krystal Malone had already told you that she
21 handled the jug. She told you that in her
22 testimony. But so that you would have the
23 opportunity to see how that process worked, we
24 had Investigator Richardson talk to you about
25 how you take prints, how you put the card over

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1 them and send them in to be matched. We walked
2 through the process of how that report actually
3 came back to Krystal Malone, so that you could
4 see that process; not for us just to tell you
5 that it was Krystal Malone, she came in and
6 talked to us, so that you would have an
7 opportunity to see how that process worked.
8 So they did that police work.

9 Now, interestingly enough, when we were
10 talking with Investigator Richardson, because I
11 know that one of the questions that may be
12 raised was, 'Well, where was Mr. Brown's print?'
13 Remember what Officer Richardson told you? He
14 said, 'About ninety-five percent of the time we
15 don't get useable prints, so it is actually
16 fortunate for us when we do.' In this case they
17 were fortunate because, there on the bottom of
18 that jug, he recovered prints. Remember how he
19 talked about that there were other prints on it
20 but they weren't of sufficient quality.

21 The window. Now, I want to point this
22 out because the question was asked and it gave
23 me cause for concern. I asked Ms. Farmer, 'Was
24 that window taped over? No, it wasn't.' That
25 was her testimony. Investigator Richardson told

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1 you that he recovered the glass from that broken
2 window, the way that it was duct-taped over. He
3 couldn't give you any direct knowledge of why
4 duct tape was on that glass. That was me
5 walking and talking, that somebody told me not
6 to do. He can't give you, of his own knowledge,
7 why somebody put tape over it. But what can you
8 surmise from duct tape being placed over broken
9 glass. Did someone not want it to make a lot of
10 noise? Did someone didn't want to get cut? Did
11 somebody want to be able to peel that glass out
12 so that as they went through they didn't leave
13 any evidence behind? Ask yourself why would
14 that glass be covered in the duct tape. Why?

15 Ms. Farmer testified. Ms. Farmer
16 testified and she described that jug that came
17 out of her house, that she and her dad found in
18 the woods across the street and that linked back
19 to the jug that Investigator Richardson took the
20 prints from, that Krystal Malone testified that
21 Jevon Brown came back to the road with. Part of
22 what we do is that we want to tie all of that
23 together, 'what came out of your house, how did
24 it match to this person, how did it get there.'

25 We have already talked a little bit

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1 about the amplifier. 'This is my amplifier, my
2 dad gave this to me. That's mine. It was in my
3 house.' And here it is on the refrigerator at
4 1436 Cherryville, Lot 16, right there on top of
5 the 'fridge.

6 So what did the evidence tell us in
7 this case? That Krystal Malone was walking with
8 Jevon Brown that day, that he left the roadway,
9 he came back with those items. One of those
10 items in particular was found about two weeks
11 later in the same house where Jevon Brown was
12 hiding under a pile of clothes. Hiding. That
13 is the evidence that you heard in this case,
14 Ladies and Gentlemen. Evidence.

15 Now, I want to take a few moments and
16 talk to you about the law in this case. I am
17 going to talk about the law and the evidence,
18 because they link together in this instance.

19 Jevon Brown is charged with burglary in
20 the first degree. Now, let me pause here for
21 just a moment. When I speak to you about the
22 law, the judge will instruct you on the law and
23 will tell you that the law comes from him. I
24 try to be very careful when I talk to you about
25 the statutes and the laws and the meaning of them

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1 because ultimately the description of the law
2 from the law book itself is what is going to
3 control. So -- but with respect to that, he is
4 charged with burglary in the first degree.

5 Now, what is burglary in the first
6 degree? Burglary in the first degree is the
7 breaking and entering of a residence. Okay.
8 Ms. Farmer told us, 'That's where I live, there
9 on Furman. My house was broken into.' Okay?

10 Here's the broken window.

11 'Stuff was all whipped around in my
12 house and gone from my house.' So the breaking
13 and entering of a residence.

14 One of the factors that makes that
15 burglary in the first degree is that a person
16 was armed or became armed. Let me say that
17 again: was armed or became armed. Why is that
18 important? Because when I was talking to Ms.
19 Farmer about 'what was taken your house', she
20 described a Daisy .22 caliber rifle. I asked
21 her to tell me a little bit about that and she
22 said that it was something of a collectors item.
23 Her testimony. Daisy was really more known for
24 their BB guns, but this was the one time that
25 they made a real gun that fired regular

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1 ammunition. The Daisy .22 caliber rifle, 'a
2 collectors item of mine that was stolen from my
3 house.'

4 Now, because within the province of the
5 jury that you find the facts, the Judge is also
6 going to charge you on burglary in the second
7 degree. Now, perhaps the simplest way that I
8 can say this, and it may not be the exact same
9 way that the judge would charge it, but perhaps
10 the simplest way that I can say it is that it is
11 the burglary in the first degree but you can't
12 find the firearm or that there is not a weapon
13 involved. Now, there are some other elements
14 that play into that: things about nighttime and
15 some other issues. But for the purposes of what
16 we are doing here today, the pivotal point is
17 this firearm.

18 Now, I will tell you that when Krystal
19 Malone talked about items taken from the house,
20 she described the amplifier, she described the
21 Wii game, and she described the jug of change.

22 How did the gun leave the house? There
23 are going to be times where I do not have all of
24 the answers. There will be times when police do
25 not have all the answers about every item. We

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1 just don't. Were these items set outside and
2 came back for later? Obviously you can't walk
3 off with everything that's on this list. Did
4 somebody go back and get her stuff, the rifle
5 and some of the other items? We don't know that
6 answer.

7 But here is what we do know, that a gun
8 was stolen from that house. We know that. We
9 heard testimony. And if you break into a
10 person's house and you steal a gun, that is
11 burglary in the first degree. That is what the
12 law says.

13 So, Ladies and Gentlemen, I do not want
14 to belabor the point. The case did not take an
15 exceedingly long time, but that does not mean
16 that it is unimportant. Christy Farmer.
17 Homeowners are entitled to be safe in their
18 possessions and in their property.

19 In this case, somebody went to the
20 police station, told them what they did, when
21 they did and who was with them. The police took
22 that information and they went to the house,
23 they found the person hiding and they found the
24 stolen property in that house. The victim tells
25 you what was stolen 'from my house', including a

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1 rifle. Ladies and Gentlemen, that is burglary
2 in the first degree. Thank you.

3 THE COURT: Mr. Sullivan.

4 DEFENSE COUNSEL: Thank you, Your
5 Honor. Mr. Corbett told y'all that the kind of
6 person that hides underneath a pile of clothes
7 is a guilty person. I would submit to you that
8 that is not necessarily the case. Maybe
9 somebody who hides from the police or gets
10 nervous when they see the police coming is
11 somebody who finds out that it is alleged that
12 they committed a crime. Maybe when somebody
13 knows that the police are coming after them,
14 just because the police are coming for them,
15 they get scared and they do things like hide.

16 Krystal Malone initially was the person
17 who was linked to this burglary. She was linked
18 to it because of her fingerprints.

19 Investigator Richardson shows up after
20 Ms. Farmer reports the burglary, processes the
21 scene, uh, they try to lift fingerprints or get
22 blood or whatever they can at the scene. They
23 were able to get the jug that get Krystal
24 Malone's fingerprints off it. So that's how she
25 gets linked to this crime. They talk to her and

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1 there's no physical evidence against Jevon
2 Brown. The physical evidence is pointing to
3 Krystal Malone.

4 So then they go out and -- well,
5 actually they get a warrant for Krystal Malone.
6 She comes to the police station, talks to the
7 police and -- that's how Jevon Brown's name
8 comes up in this. You all heard testimony that
9 Krystal Malone's parents were there with her and
10 said something to the effect of, 'tell them that
11 it was Jevon.'

12 You heard Krystal Malone testify when I
13 was asking her about if she knew what burglary
14 first carried, and notice that she is not
15 sitting at this table. She was testifying.
16 There was a reason she wasn't sitting at this
17 table and that she was testifying. She wasn't
18 doing that out of the goodness of her heart.
19 Looking at the prospect of going to prison for a
20 long time, that can make somebody say a lot of
21 things.

22 SOLICITOR: Objection, Your Honor.

23 THE COURT: Yes, sir?

24 SOLICITOR: Facts not in evidence.

25 THE COURT: Overruled.

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1 DEFENSE COUNSEL: Krystal Malone was
2 caught red-handed and she had to duped the
3 police officer. She had to help herself.

4 That's what I would submit to you that the
5 State is hanging their hat on, they're hanging
6 their hat on her. She is not credible.

7 Yeah, they did find Jevon Brown at that
8 trailer that day. You heard testimony from the
9 officer saying that they didn't have anything to
10 where they knew that he was living there. She
11 said that she was living there, that she was
12 renting the place. I mean, I -- you don't know
13 why he was there. Maybe he was getting his
14 stuff because he found out that she was in jail
15 or -- there wasn't any testimony about that.
16 But, at best, that's maybe -- maybe possession
17 of stolen goods. That's not evidence of
18 burglary.

19 Her story -- and I probably should have
20 gone into this a little bit more on cross-
21 examination. I did a little bit. But I would
22 submit to you all that her story was a little
23 bit too self-serving. It just doesn't make
24 sense. What I heard her testimony, her story
25 was that she was going for a walk with Jevon.

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1 She's listening to her MP3 player, got earphones
2 in, and he tells her just to hang out there. He
3 leaves for a minute and then all of a sudden she
4 sees him carrying all this stolen stuff. She
5 things that it might be a little strange but --
6 but he says, 'Well, this belongs to my people or
7 my people gave me this.' I would submit to
8 y'all that her story is just a little bit "too
9 good" to be true, that she was trying to explain
10 away her fingerprints, that she was embellishing
11 some. And if she will embellish about that, if
12 she will stretch the truth about that, if
13 somebody will lie about one thing, they will lie
14 about something else -- more specifically, my
15 client being involved in this.

16 She told y'all that she lived at 1435
17 Cherryville Drive where the stolen items were
18 found. I heard one of the investigator testify
19 -- I asked him about if he processed any prints
20 from the amplifier. It would seem that the --
21 the testimony that I heard was that he didn't
22 process any prints from the amplifier, which was
23 found at Lot 16 in that trailer on Cherryville
24 Drive. I would submit to you that it would seem
25 that that would kind of answer a lot of

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1 questions right there.

2 I would submit to you all that there's
3 a good chance that Krystal is lying, that she is
4 just not -- that she is not credible enough for
5 you all to convict my client based on her
6 testimony. I don't know why she would lie. I
7 don't know if it was just to try to -- because
8 she knew that she was looking at a really
9 serious crime, she just wanted to help herself.
10 Maybe -- maybe her parents said, 'Was it Jevon?'
11 and it was easy to say 'yeah, it was Jevon.'
12 The police said you 'need to help yourself,' she
13 just saw what she was facing and maybe that
14 seemed good for her to go with that.

15 You heard her testify when I was cross-
16 examining her that they had broke up, that they
17 had dated for a while and that they broke up.
18 Maybe she had some ill feelings towards him. I
19 don't know if that would have anything to do
20 with her lying about what happened.

21 Like I said, she initially told the
22 police that she didn't know anything -- in the
23 verbal statement she gave them when she first
24 talked to them. Later on, several months later,
25 she gave -- on June 29th, she gave a written

1 statement. She kinda changed her story.

2 She said that she didn't see a gun.

3 There was no gun found. Which, as the Solicitor
4 told you, that's what makes this a burglary
5 first.

6 You heard that there weren't
7 eyewitnesses. I guess that sometimes happens
8 with burglaries. When you have eyewitnesses, it
9 obviously makes the case stronger for the State.
10 There weren't any eyewitnesses in this case,
11 nobody who saw anybody break into Ms. Farmer's
12 house.

13 And I don't know what is going on with
14 the -- with the, uh, duct tape being on the
15 glass. I don't see why somebody who had their
16 house broken into would have a reason to lie
17 about that. So I -- who knows what happened
18 with the duct tape.

19 My client didn't take the stand. As I
20 told you all before, the Judge will instruct
21 that you can't -- you can't draw any inference
22 from him not taking the stand. I think that it
23 is human nature to wonder why a defendant
24 doesn't take the stand:

25 Why would he? To say that she is

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1 lying? What would be the purpose of it?

2 That he didn't live there? That's
3 already come out.

4 That there wasn't any physical evidence
5 against him? You already know that.

6 That's his decision whether or not he
7 wants to take the stand. Some defendants get
8 nervous about testifying. I would ask you all
9 not to hold that against him.

10 The bottom line in this case, what all
11 this boils down to is that the State's case
12 rests on the testimony of Krystal Malone. She
13 has a very good reason to lie about what
14 happened. Like I said, notice that she wasn't
15 sitting at this table today.

16 Like I told you in my opening state-
17 ment, when a witness testifies, you have to
18 filter their testimony and think about what
19 reason that they would have to lie. She has a
20 lot of reason to lie because she knows what she
21 was facing.

22 The story that she gave is just too
23 good to be true. I would submit to you that
24 what is more likely that happened was that she
25 was a lookout. You heard testimony from Ms.

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1 Farmer and from one of the officers that there
2 weren't a whole lot of obstacles, you know, in
3 between somebody standing in the road and the
4 house. So I would submit to you that it was
5 unlikely that she didn't know what was going on,
6 that all -- she wasn't just standing there and
7 she just saw him carrying all this stuff.

8 There very well could have been someone
9 else with her but I think it's questionable
10 whether that person was Jevon Brown. His name
11 came up. She ran with it. She wanted to help
12 herself. Her testimony is not good enough to
13 convict him. Thank you.

14 THE COURT: Thank you, Mr. Sullivan.
15 All right, Ladies and Gentlemen, I am going to
16 go now into the charge on the law. Your
17 deliberations in this case will end with the
18 foreperson completing this verdict form. I will
19 get to that at the end.

20 Now, as far as my charge to you on the
21 law is concerned, you may come into this case
22 with a preconceived notion of what you think the
23 law is or what you think the law ought to be.
24 You should out those things aside, because today
25 for the purposes of this trial, and any criminal

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1 trial, you must -- you are required to accept
2 the law exactly as I give it to you, even though
3 you might disagree with it. Simply put, if
4 there is some mistake that I make in charging
5 you the law, there is a different time and a
6 different place for that error to be corrected.
7 So, again, for today's purposes you are required
8 to accept the law specifically as I give it to
9 you.

10 Now, Ladies and Gentlemen, in this case
11 the Defendant has been charged with the offense
12 of burglary in the first degree. Sometimes that
13 is called first degree burglary. Same thing.
14 During the course of this charge, I will be
15 defining that for you.

16 I will be going over legal principles,
17 I will be discussing legal issues with you such
18 as the credibility of witnesses, direct and
19 circumstantial evidence, the presumption on
20 innocence, reasonable doubt. I will also
21 discuss with you something called a lesser
22 offense or a lesser-included offense, which in
23 this case I will be charging you on the offense
24 of second degree burglary or burglary in the
25 second degree. So when I go through these

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1 portions of the charge and you find in your mind
2 -- you in your mind are thinking 'well, he can
3 (inaudible due to coughing in courtroom).' The
4 reason for that is this, that these principles
5 do intertwine with one another on down the road.
6 So if I talk about one thing in the beginning
7 and I mention it again in the end, that's not to
8 give it any undue emphasis. It is simply to let
9 you know that I am explaining the law thoroughly
10 to you, and that sometimes these legal
11 principles do intertwine.

12 Now, Ladies and Gentlemen, the
13 indictment that I mentioned is not evidence.
14 The fact that a person has been arrested or
15 charged or indicted is not evidence. The
16 Defendant entered a plea of Not Guilty to the
17 charge and, as you know, that plea puts the
18 burden of proof on the State to prove the
19 elements of the charged crime beyond a
20 reasonable doubt. The Defendant does not have
21 the burden of proving or disproving anything.

22 Obviously you know by now that you are
23 the sole judge of the facts in this case. As I
24 told you at the beginning of the trial, you are
25 the only people in the world who can make the

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1 decision as to whether or not the State has
2 proven the Defendant guilty of the offense
3 charged beyond a reasonable doubt. I can't do
4 it, I have nothing to do with it. A good
5 illustration of that is that you -- you
6 obviously realized when these witnesses were
7 testifying that they were speaking to you. They
8 weren't turning around and looking at me.

9 When the exhibits were introduced, they
10 were introduced for your benefit, for you to use
11 in weighing all the evidence in this case. Some
12 of these exhibits, I made notes as to what they
13 were described as being but I don't know what
14 they were. Never seen them. The reason for
15 that is clear, if there is no dispute about
16 their admissibility, it doesn't make any
17 difference what I think about the exhibit.

18 Now, if I have said or done anything
19 during the course of the trial that makes you
20 think that I favor one side or the other, or if
21 you think that I have a particular view of the
22 facts, you can put that out of your mind. You
23 may have seen me taking notes. When I take
24 notes during a trial, I am usually writing down
25 the times of when someone took the stand, when

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1 direct started, when cross started, when an
2 exhibit was introduced, so that I will know in
3 case there is any question from you later on
4 about a witness' testimony, I want to know and
5 so that the court reporter will know what time
6 they started and how long their testimony took.
7 I wasn't taking notes because of anything in
8 particular impressed or didn't impress me.

9 Now, Ladies and Gentlemen, the evidence
10 that has come to you in this case is basically
11 two form. That is testimony, people talking
12 from the stand after they've been sworn, and
13 also exhibits. Now, you -- your responsibility
14 is to use your common sense view of that
15 evidence, the evidence and the exhibits, to
16 apply that common sense view to the law, and
17 that's how you reach a verdict in the case. All
18 you have to do is use your good common sense.

19 Evidence weighs with you if it
20 convinces you of its truth. It is purely a
21 mental exercise on your part.

22 Now, Ladies and Gentlemen, obviously,
23 as I mentioned to you at the beginning of the
24 trial, you must determine the believability of
25 witnesses who testify. You can believe every

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1 word, disbelieve every word or believe parts and
2 reject the rest. You don't count up the number
3 of witnesses and say, 'Well, fourteen said X and
4 ten said Y. Fourteen is more than ten, so I
5 have to believe the fourteen.' That is not the
6 way you do did. Again, you use your common
7 sense in determining who to believe and what to
8 believe.

9 You can take things into account, as
10 far as credibility is concerned, by how the
11 witness simply appeared on the stand:

12 Demeanor, hesitant or straightforward
13 in answering questions?

14 Was a witness' testimony consistent or
15 inconsistent with other evidence that is in the
16 record.

17 Does the witness have a reason to give
18 testimony that helps or hurts one side or the
19 other? We call that bias, prejudice or other
20 motive.

21 Also you can take into account whether
22 or not that witness' testimony is consistent or
23 inconsistent with something that they've said on
24 prior occasions.

25 Those aren't the only illustrations.

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1 You use your common sense and you can decide
2 credibility based on anything that you think is
3 appropriate.

4 Now, I mentioned to you that evidence
5 comes to you in two different forms: testimony
6 and exhibits. To explain a little bit further,
7 there are two types of evidence that are
8 generally introduced: these are direct evidence
9 or circumstantial evidence.

10 Direct evidence is evidence that
11 immediately establishes the main fact to be
12 proved. In other words, an example of that
13 would be an eyewitness, 'I saw the dog cross the
14 street. I smelled smoke, I saw fire.' Those
15 are examples of direct evidence, if you choose
16 to believe what that witness had to say.

17 Circumstantial evidence, on the other
18 hand, is proof of a chain of facts and
19 circumstances that indicate the existence of a
20 fact. So it is the evidence that immediately
21 establishes collateral facts from which the main
22 fact may be inferred. So circumstantial
23 evidence is based on inference, it's not based
24 on observation.

25 An example that I commonly give, and

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1 you might be able to appreciate this being on
2 the jury, even though your jury room does have
3 windows in it. If you were sitting in a
4 completely windowless and soundproof room for
5 eight hours, you have no clue directly what you
6 saw, heard, smelled or touched of what the
7 weather was outside. That would be the
8 situation that you would be in. If someone at
9 the end of that eight hours were to walk into
10 that room wet and shaking off a wet umbrella and
11 you saw that, and that person said 'I just came
12 in from the outside,' you could, if you wanted
13 to, if you believed that person, if you
14 otherwise chose to, you could infer that it was
15 raining outside. That's just a very fundamental
16 example of circumstantial evidence.

17 Now, the law makes no distinction at
18 all between the weight or value that you are to
19 give to either direct or circumstantial
20 evidence. Nor is a greater degree of certainty
21 required of circumstantial evidence than of
22 direct evidence. In other words, you weigh all
23 the evidence.

24 After weighing all the evidence, if you
25 are convinced of the guilt of the defendant

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1 beyond a reasonable doubt, then you must find
2 him guilty.

3 If you are not convinced, if you are
4 not firmly convinced of the defendant's guilt
5 beyond a reasonable doubt, you must find him not
6 guilty.

7 Now, Ladies and Gentlemen, as I
8 mentioned earlier, the defendant has pled not
9 guilty to the indictment. That plea puts the
10 burden on the State to prove the elements of the
11 crime beyond a reasonable doubt.

12 Now, a person who is charged with a
13 crime, no matter what it is, literally from A to
14 Z, is never required to prove himself innocent.
15 He is never required to prove himself not
16 guilty. It's a very important rule of law that
17 a defendant in a criminal charge is always
18 entitled to the presumption of innocence. That
19 presumption of innocence remains with the
20 defendant unless and until it is stripped away
21 by evidence satisfying you of their guilt beyond
22 a reasonable doubt.

23 So the presumption of innocence does
24 not end and will not end in a few minutes when
25 you get up and go to your jury room to begin

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1 your deliberations. The presumption of
2 innocence remains with the defendant until and
3 unless you reach a verdict of guilt based on the
4 evidence satisfying you of guilt beyond a
5 reasonable doubt.

6 The presumption of innocence is not a
7 legal theory or catch phrase that we casually
8 toss around. The presumption of innocence is a
9 substantial right to which every defendant is
10 entitled.

11 Now, Ladies and Gentlemen, I've
12 mentioned the term "reasonable doubt" numerous
13 times during this charge. I am going to go over
14 that now with you. What is a reasonable doubt.
15 A reasonable doubt is a doubt that would cause a
16 reasonable, honest, conscientious person who is
17 searching for the truth to hesitate to act.

18 The State does have the burden of
19 proving guilt beyond a reasonable doubt.

20 Some of you may have been on a jury in
21 a civil case and you were instructed that in a
22 civil case the burden of proof is by what they
23 call the greater weight or the preponderance of
24 the evidence, where the scales between the
25 parties are perfectly even and in a civil case,

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1 beyond -- excuse me. In a preponderance of the
2 evidence case, the party with the burden has to
3 tip those scales ever so slightly in his or her
4 favor. That's in a civil case.

5 In criminal cases the State's proof
6 must be more powerful than that. It must be
7 proof beyond a reasonable doubt.

8 Proof beyond a reasonable doubt is
9 proof that leaves you firmly convinced of the
10 defendant's guilt.

11 Obviously we know that there are very
12 few things on this earth that we know with
13 absolute certainty. The law does not require
14 the State to present proof that overcomes every
15 possible doubt. It requires the State to
16 present proof that overcomes a reasonable doubt.

17 Again, as I mentioned a moment ago, is
18 based on your consideration of the evidence, in
19 conjunction with the law, if you are firmly
20 convinced that he is guilty of the offense
21 you're considering, you must find him guilty.

22 If, on the other hand, you think that
23 there is a real possibility that he is not
24 guilty, you must give him the benefit of the
25 doubt and find him not guilty.

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1 Now, Ladies and Gentlemen, I instruct
2 you and I emphasize to you that the fact that
3 the Defendant did not testify is not a factor to
4 be considered by you in any way during the
5 course of your deliberations. In other words,
6 the fact that the Defendant did not testify is
7 something that you cannot and must not think
8 about, talk about, it must not enter into your
9 decision making in this case in any way.

10 Under your oath, and that oath is to
11 follow my instructions, you're to draw no
12 conclusions whatsoever by the fact that the
13 Defendant did not testify. That is because,
14 Ladies and Gentlemen, he does not have the
15 burden of proving or disproving anything. The
16 State maintains the sole burden of proof.

17 All right. Ladies and Gentlemen,
18 specifically in this case the Defendant is
19 charged with burglary in the first degree. As
20 I mentioned, that is also called first degree
21 burglary. If I talk during the course of this
22 specific portion of the charge that the State
23 has to prove something -- if I don't
24 specifically say it, the State would have to
25 have proven that beyond a reasonable doubt.

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1 So what does the State have to prove?

2 First, the State must prove beyond a reasonable
3 doubt that the Defendant entered a dwelling
4 without consent.

5 A dwelling is any building or portion
6 of a building in which a person ordinarily
7 sleeps. A building constructed as a dwelling
8 but that has never been occupied cannot be
9 considered a dwelling for the purposes of
10 burglary. But a building is a dwelling even if
11 a residence is temporarily absent from the
12 building.

13 Now, in order that the Defendant
14 entered the dwelling, the State does not have to
15 show that a defendant's entire body entered the
16 dwelling. The smallest entry is sufficient. It
17 may be any part of the body, such as a hand or a
18 foot or even an instrument such as a hook or any
19 other kind of instrument.

20 The State does not have to prove that
21 force was used to gain entry.

22 Next, the State must prove beyond a
23 reasonable doubt that the Defendant intended to
24 commit a crime at the time of the entry. Now,
25 the mere entry into a dwelling without consent

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1 is not burglary. The intent to commit a crime -
2 - excuse me. If the intent to commit a crime is
3 formed after the entry into the dwelling, it is
4 not burglary.

5 On the other hand, if the Defendant
6 intended to commit a crime at the time of entry,
7 it is a burglary even if the intent to commit a
8 crime was abandoned after the entry. It does
9 not matter that the intended crime was not
10 complete.

11 Not, "intent" in the context of intent
12 to commit a crime may be shown by acts and
13 conduct of the defendant and other circumstances
14 from which you can pick and choose may naturally
15 and reasonably infer intent.

16 Finally, with regard to burglary in the
17 first degree, the State must prove beyond a
18 reasonable doubt that when entering the
19 dwelling, while in the dwelling or in leaving
20 the dwelling the Defendant, or an accomplice, is
21 armed with a deadly weapon.

22 A "deadly weapon" is any article,
23 instrument or substance which is likely to cause
24 death or great bodily harm. The following are
25 examples of instruments which may be deadly

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1 weapons: a pistol, shotgun, rifle, knife,
2 slingshot, metal knuckles, gasoline, fire bomb,
3 Molotov cocktail. Those are just examples. A
4 gun may be a deadly weapon even if it is not
5 operable.

6 Now, Ladies and Gentlemen, that covers
7 the charge on burglary in the first degree or
8 first degree burglary.

9 I now am going to instruct you on a
10 topic called a lesser offense or a lesser-
11 included offense. If you find that the State
12 has failed to prove beyond a reasonable doubt
13 that the Defendant committed burglary in the
14 first degree, you must consider whether the
15 State has proved beyond a reasonable doubt that
16 the Defendant committed the lesser offense of
17 burglary in the second degree. That is also of
18 course called second degree burglary.

19 Second degree burglary includes all of
20 the elements of first degree burglary except the
21 element that when entering the dwelling, while
22 in the dwelling or while leaving the dwelling
23 the defendant, or accomplice, is armed with a
24 deadly weapon.

25 In other words, to prove second degree

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1 burglary, the State would have to have proven
2 beyond a reasonable doubt that the Defendant
3 entered a dwelling without consent, with the
4 intent to commit a crime therein. Those topics
5 are identical to the ones that I previously
6 discussed.

7 All right, Ladies and Gentlemen. Bear
8 with me a little longer. I am just about
9 finished.

10 In order to establish guilt in any
11 criminal case, the State must also prove the
12 element criminal intent. Now, criminal intent
13 is always a matter that must be determined by a
14 jury from the circumstances surrounding the
15 situation. We know that there is no way that
16 medical science can dissect a person's brain, to
17 look at the brain and determine what, if
18 anything, that person intended to do at any
19 point. The law says that criminal intent may
20 be inferred from circumstantial evidence or
21 direct evidence, and that it is not necessary to
22 establish criminal intent by direct evidence.
23 It may be established by inference in the same
24 way as any other fact, by taking into
25 consideration the actions of the parties and all

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1 the facts and circumstances.

2 So criminal intent is a mental state,
3 it is a conscious wrongdoing and it's up to you
4 to determine what, if anything, the Defendant
5 intended to do, based on the circumstances.

6 All right. Now, Ladies and Gentlemen,
7 I am going to go over the verdict form with you
8 now. The verdict form has the word "Verdict" on
9 it. That comes from the Latin word which means
10 to literally speak the truth. That's what your
11 verdict must do.

12 There is the case caption on it, the
13 State of South Carolina versus Jevon Nichols
14 Brown.

15 Number one, it says as to the charge of
16 burglary in the first degree, "We, the jury,
17 unanimously find the Defendant..." -- and there
18 are two choices: not guilty or guilty.

19 By the way, your verdict, whatever it
20 is, must be unanimous. That means that it's got
21 to be all twelve of you. It cannot be eleven to
22 one, ten to two or seven to five. It's got to
23 be every single one of you.

24 All right, those are your choices on
25 burglary in the first degree.

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1 The verdict form has, in bold print,
2 "If you find the Defendant guilty of burglary in
3 the first degree, you are to stop." You check
4 or put an X in the block that reflects your
5 decision in that regard.

6 Then if you have found him guilty, you
7 sign it, Mr. Foreman, date it, tap on the door
8 and let the bailiff know that you have reached a
9 verdict.

10 The verdict form also says, in bold
11 print, that if you have found the Defendant not
12 guilty of burglary in the first degree that you
13 go to question number two; which is as to the
14 charge of burglary in the second degree, "We,
15 the jury, unanimously find the Defendant..." --
16 and again there are two choices, guilty or not
17 guilty.

18 In accordance with my instructions and
19 the instructions on the verdict form, Mr.
20 Foreman, you sign the verdict form, date it and
21 let the bailiff know that you have reached that
22 verdict.

23 Also if you have any questions during
24 the course of the deliberations, there'll be a
25 note pad in there available for you, write the

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1 question down, sign the question, tap on the
2 door and let the bailiff know that you've got a
3 question.

4 Now, the law dictates how I respond and
5 how quickly I respond. Certainly I will
6 respond, but the law dictates specifically how I
7 am able to respond.

8 I am not concerned about what your
9 verdicts are going to be but I do want to make
10 sure that you understand that the State and the
11 Defendant both, respectively, are entitled to a
12 fair and impartial trial. The only way that you
13 can give that to them is make sure that you give
14 these issues the discussion that they deserve
15 and also make sure in your mind that the verdict
16 that you reach does speak the truth. I do
17 remind you that your verdict must be unanimous.

18 The next part of the trial, Ladies and
19 Gentlemen, will be for you to go back to your
20 jury room. The lawyers will have the
21 opportunity to tell me either if I said
22 something wrong or if I left something out.

23 Your signal to deliberate will be when
24 the bailiff comes to your door with the verdict
25 form and with the exhibits. Now, I do note that

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1 one of the exhibits that was referenced was to
2 some broken glass. Please handle that with
3 extreme care. If you need any assistance, like
4 some gloves or any assistance with that
5 exhibits, with any exhibit, just let us know and
6 we will do the best that we can.

7 Nobody is going to be back there with
8 you. You will be back there all by yourselves.

9 We do look forward to receiving your
10 verdict. Go to your jury room now. You may not
11 discuss the case until I relate word through the
12 bailiff that you can do that.

13 Madame Alternate, you can just wait
14 right out in the hall. Okay? Do you have
15 anything in the jury room?

16 ALTERNATE JUROR: No, sir.

17 THE COURT: You just wait right out
18 in the hallway. Okay?

19 ALTERNATE JUROR: Yes, sir.

20 (JURY EXITS COURTROOM)

21 THE COURT: Objections or additions
22 from the State?

23 SOLICITOR: Nothing from the State,
24 Your Honor.

25 THE COURT: Any from the Defendant?

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1 DEFENSE COUNSEL: None from the
2 Defendant.

3 THE COURT: All right, if you all
4 would make sure with Margaret (court reporter)
5 that the exhibits are in order. I'll just note
6 that we've -- you've got the verdict form.

7 Does either side any objection to me
8 releasing the Alternate? The statute, Title 14,
9 says that when the case is submitted to the jury
10 that the trial court is to dismiss the
11 alternate. I've seen people demand that the
12 alternate stay in a separate room. I typically
13 am not inclined to do that, but I will be glad
14 to hear from you at this time on that.

15 SOLICITOR: No objection, Your Honor.

16 DEFENSE COUNSEL: I have no objection.

17 (REVIEW OF EXHIBITS)

18 THE COURT: Have you all gotten the
19 exhibits in order?

20 SOLICITOR: Judge, I did pull out the
21 one that is marked as a court's exhibit.

22 THE COURT: Okay. You can tell the
23 jury that they can begin to deliberate.

24 (JURY IN DELIBERATION)

25 (ALTERNATE JUROR EXCUSED)

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1 THE COURT: We are adjourned until we
2 have a question or a verdict.

3 (RECESS)

4 (NOTIFIED OF VERDICT)

5 (DEFENDANT PRESENT)

6 THE COURT: We have a verdict. Mr.
7 Corbett, is the State ready?

8 SOLICITOR: State's ready.

9 THE COURT: Mr. Sullivan?

10 DEFENSE COUNSEL: Yes, sir.

11 THE COURT: All right, bring in the
12 jury.

13 (JURY ENTERS COURTROOM)

14 THE COURT: All right. Mr. Foreman,
15 have you reached a verdict?

16 FOREMAN: Yes, sir.

17 THE COURT: And is it unanimous?

18 FOREMAN: Yes, sir.

19 THE COURT: All right, if you would
20 hand the form to the bailiff.

21 FOREMAN: (Tenders).

22 THE COURT: Mr. Brown, if you would
23 please stand.

24 DEFENDANT: (Complies).

25 CLERK: State of South Carolina,

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1 County of Sumter, in the Court of General
2 Sessions, Case Number 2010-GS-43-0829, State of
3 South Carolina versus Jevon Nichols Brown,
4 Defendant, (reading):

5 As to the charge of burglary in the
6 first degree, "We, the jury, unanimously find
7 the Defendant not guilty."

8 As to the charge of burglary in the
9 second degree, "We the jury, unanimously find
10 the Defendant guilty."

11 I certify this unanimous decision of
12 the jury, signed Eldredge Keys, Foreperson,
13 dated 11/15/11.

14 If this is your verdict, so say ye all
15 by raising your right hands -- (unanimous
16 response by jurors). Thank you.

17 THE COURT: All right, the record
18 should show that all jurors did raise their
19 right hand. Is that correct? Did anyone not
20 raise their hand?

21 CLERK: Everybody raised their hand.

22 THE COURT: Okay. You may have a
23 seat. Thank you. Mr. Sullivan, is there
24 anything before the jury is released?

25 DEFENSE COUNSEL: No, sir.

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1 THE COURT: Anything, Mr. Corbett,
2 before the jury is released?

3 SOLICITOR: No, sir, Your Honor.

4 THE COURT: Ladies and Gentlemen,
5 this concludes your service in this case. I
6 will give you a couple of parting instructions.

7 One is that no one can quarrel with
8 your verdict. It is the verdict that you
9 reached, it is unanimous. Please do not discuss
10 this case until you are sure your service for
11 the week is over.

12 The final instruction that I will give
13 you is that the rest of the panel -- I believe
14 that there is one jury in place in another case
15 but the rest of the panel, and that will include
16 you, is to call the number that you have after
17 6:00 o'clock this evening. You will hear a
18 recording that will give you instructions about
19 perhaps coming back tomorrow or calling back
20 tomorrow. I don't know what the instruction is
21 going to be. I've kinda got a feeling what it
22 is going to be, but you'll be calling after 6:00
23 this evening and just follow the instructions on
24 that recorder.

25 Have they decided yet on a recording?

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1 CLERK: No, sir.

2 THE COURT: I am not going to guess
3 what it is but I -- I think I know what it is.
4 I don't make that decision. Does anyone have
5 any questions about my instructions?. (No
6 response).

7 Now, after your service for the week is
8 over, you can talk about this case all that you
9 want. But you don't have to. If someone
10 approaches you about it, wants to talk to you
11 about it and you don't want to, simply tell them
12 that. They should follow that request from you.
13 If they persist against your wishes, try to talk
14 to you about the case, get their name and call
15 Mr. Campbell's office. He is the Clerk of
16 Court. Give him the name and I will take care
17 of it. Okay? Thank you very much.

18 (JURY DISMISSED)

19 THE COURT: Any Motions, Mr.
20 Sullivan?

21 DEFENSE COUNSEL: No, sir.

22 THE COURT: All right. Mr. Corbett,
23 does the State want to proceed with sentencing?

24 SOLICITOR: Yes, sir, Your Honor.

25 THE COURT: Okay. The jury found

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1 the Defendant guilty of burglary in the second
2 degree. Mr. Corbett, you mentioned on the
3 lesser-included that if the jury found him
4 guilty of burglary in the second degree that it
5 would be nonviolent?

6 SOLICITOR: The State would so
7 stipulate, Your Honor.

8 THE COURT: All right. And what's
9 the State's position on what the range of
10 sentence is? Zero to ten or zero to fifteen?

11 SOLICITOR: (No response).

12 THE COURT: The omnibus bill was
13 passed in June of 2010 and shorted burglary
14 second, nonviolent, from fifteen to ten years as
15 a maximum, but there is some debate that hasn't
16 been resolved about whether or not the original
17 fifteen years for burglary second nonviolent for
18 crimes committed before the effective date of
19 that statute, uh, was saved.

20 SOLICITOR: That's correct, Judge.
21 That was the reason for my hesitation. I
22 believe the statutory provision in the omnibus
23 Act actually references the fact that it does
24 not change the prior law. However, as a matter
25 of course and practice, I've seen subsequent

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1 convictions be treated under the lesser
2 sentence. So ---

3 THE COURT: Okay, could you give me
4 your position on sentencing, the defendant's
5 record.

6 SOLICITOR: Yes, sir, Your Honor.
7 With regard to the Defendant's record:

8 2007, the Defendant was convicted of
9 burglary in the second degree, nonviolent;

10 THE COURT: 2007?

11 SOLICITOR: Yes, sir. Petit larceny
12 and resisting arrest. He received a youthful
13 offender Act not to exceed six years.

14 In 2007, it appears that there was some
15 form or fashion of probation because there was a
16 parole revocation in 2010.

17 THE COURT: All right. And the
18 matter that you mentioned earlier, about Mr.
19 Sumter, that matter has been resolved? Even if
20 it were still open, it wouldn't be for me;
21 correct?

22 SOLICITOR: And, Judge, if I am
23 correct, at the time of this arrest he was also
24 served with a Probation Department warrant. I
25 believe that revocation that I just referenced

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1 has already been resolved.

2 THE COURT: All right.

3 SOLICITOR: Judge, if I may, I will
4 hand up a plea sheet regarding this matter where
5 I have written into "convicted of burglary in
6 the second degree" with the CDR Code of 0080;
7 which, by looking it up in my book, that is
8 burglary second degree nonviolent.

9 THE COURT: Does the State maintain
10 that the ten-year maximum is in place or the
11 fifteen-year maximum is in place?

12 SOLICITOR: I believe that the only
13 decision that I could take, based on the
14 language of the omnibus Act, I believe that it
15 would be as charged before the change, which is
16 the fifteen-year provision.

17 THE COURT: All right. Does the
18 victim want to relay anything to me through you
19 or does she want to make any kind of statement
20 otherwise?

21 SOLICITOR: No, sir, Your Honor.

22 THE COURT: Mr. Mays, anything from
23 law enforcement?

24 INVESTIGATOR MAYS: No, sir, Your
25 Honor.

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1 THE COURT: It won't have anything to
2 do with my sentence but does he have any other
3 charges pending at this time?

4 DEFENSE COUNSEL: Not that I am aware
5 of.

6 SOLICITOR: Your Honor, I believe
7 that there may be an additional matter out there
8 pending.

9 THE COURT: All right. I don't care
10 what that is. It doesn't have anything to do
11 with sentencing. I just wanted to make sure
12 that Mr. Sullivan is able to discuss that with
13 his client if they wanted to.

14 Mr. Sullivan, I will be glad to hear
15 from you and Mr. Brown. Of course, he still
16 does have the right to remain silent. I will
17 leave that to his and your discretion, as to
18 whether or not there is anything that he wants
19 me to know.

20 He's twenty-one years old, is that
21 right?

22 DEFENSE COUNSEL: Can I address the
23 burglary second sentence issue?

24 THE COURT: Yes.

25 DEFENSE COUNSEL: If I understand you

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1 correctly, Judge, even though normally when a
2 sentence changes for an offense, the defendant
3 gets the benefit of the lower sentence. But in
4 this case the statute actually says that that
5 shouldn't happen, that the old sentence should
6 govern -- if the offense occurred under the old
7 law?

8 THE COURT: There is a savings clause
9 in that regard, and I believe that the law is
10 that if there is a savings clause in the statute
11 that the defendant can be sentenced under the
12 old maximum parameters.

13 DEFENSE COUNSEL: I think the -- it's
14 always difficult to decide as a defense attorney
15 if you should go along with a lesser included
16 offense. I mean, it's -- it's whether or not
17 you want an all-or-nothing type situation. I
18 think that Mr. Brown kinda dodged the bullet.
19 Burglary first is pretty -- pretty darn serious.

20 But he, uh, -- as far as his
21 background, he told me that he went to Crestwood
22 High School, he got his GED in 2010.

23 It's my understanding, as you've heard,
24 that he was on parole. Agent Sumter was serving
25 a warrant that day on February 10th when they

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1 went and executed the search warrant.

2 I'm sure -- he tells me that he's got
3 pending drug charges, that I don't see right now
4 in my file but I'm sure that is something that
5 he probably will want to go ahead and take care
6 of as soon as possible; today, if he could.

7 THE COURT: Is it a parole violation?

8 DEFENSE COUNSEL: I call it -- he told
9 me that he's on parole.

10 THE COURT: That's the parole board's
11 prerogative. I don't have anything to do with
12 continuing somebody on parole. Ms. Lee, do you
13 agree with that?

14 MS. LEE: That's correct, Your
15 Honor.

16 DEFENSE COUNSEL: I wasn't saying that
17 you did. That's for just kinda your
18 information.

19 THE COURT: Well, if his YOA parole
20 is revoked, that will be soon. That will come
21 in due time. So whether or not they may -- I
22 don't know.

23 DEFENSE COUNSEL: I think that he's
24 got some family here. I don't know if they want
25 to address the court. They've been here for

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1 most of the trial.

2 THE COURT: Anybody want to tell me
3 anything? (No response).

4 All right. Does Mr. Brown want to
5 speak to me, Mr. Sullivan?

6 DEFENSE COUNSEL: Yes, sir.

7 THE COURT: All right.

8 DEFENDANT: I'm starting school and,
9 uh, ---

10 THE COURT: Sir?

11 DEFENDANT: I said I am to start
12 school, going to Carolina.

13 THE COURT: Mr. Sullivan?

14 DEFENSE COUNSEL: As far as I -- I
15 guess myself and Mr. Corbett will try to take
16 care of the other charges. I don't know.
17 That's neither here nor there, so ---

18 THE COURT: Okay. The copy of
19 Omnibus Bill that I have, Section 65, the repeal
20 or amendment, which "amendment" is the key word
21 here, (reading): "By the provisions of this Act
22 any law does not affect pending actions, rights,
23 duties or liabilities found thereon or alter,
24 discharge, release or extinguish any penalty,
25 forfeiture or liability incurred under the

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1 repeal or amended law unless the repeal or
2 amended provision shall so expressly provide.
3 After the effective date of this Act, all laws
4 repealed or amended by this Act must be taken
5 and treated as remaining in full force and
6 effect for the purpose of sustaining any pending
7 or vested rights, civil action, special
8 proceeding, criminal prosecution or appeal
9 existing as of the effective date of this Act.
10 Rights, duties penalties, forfeitures and
11 liabilities as they stood under the repealed..."
12 -- okay.

13 The grand jury returned this indictment
14 on July 22, 2010. So the prosecution itself was
15 pending before that date. The offense occurred
16 before that date. What I had question about is
17 that the indictment date was after the effective
18 date of Omnibus Crime Bill, which I believe was
19 June 2010.

20 Any other comment on that, Mr. Corbett?

21 SOLICITOR: Nothing further from the
22 State.

23 THE COURT: Any other comment on
24 that, Mr. Sullivan?

25 DEFENSE COUNSEL: No, sir.

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1 THE COURT: Mr. Brown, please stand.

2 DEFENDANT: (Complies).

3 THE COURT: You are permitted -- did
4 you spend any time in jail on this?

5 DEFENDANT: Yes, sir.

6 THE COURT: Not a very long time?

7 DEFENDANT: Twenty months.

8 THE COURT: Twenty months. Whatever
9 that amount of time is, today you will get
10 credit for. I am going to check on this
11 sentencing sheet the block that says you get
12 credit for time that you have served. Do you
13 understand that?

14 DEFENDANT: Yes, sir.

15 THE COURT: All right. You are
16 committed to the Department of Corrections for a
17 period of twelve (12) years.

18 This case is adjourned.

19 (DEFENDANT IN CUSTODY)

20 (TRIAL CONCLUDED)

21

22

23

24

25

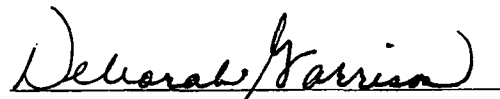
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CERTIFICATE OF REPORTER

I, the undersigned, Deborah Garrison,
official court reporter for the 9th Judicial
Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true,
accurate and complete transcript of the hearing
held before The Honorable George C. James,
Juror., on November 14-15, 2011, as prepared
from the audio notes of Margaret Sullivan, Court
Reporter;

I further certify that I am neither kin nor
counsel to any of the parties and have no
interest in the outcome of this action.



Deborah Garrison

Circuit Court Reporter

9th Judicial Circuit

Charleston, South Carolina

April 10, 2012

WITNESSES

L Mays, R. Dodson, Sumter County Sheriff

DOCKET NO. 2010-GS-43-0829

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

JULY TERM 2010

THE STATE

vs.

KRYSTAL LASHEA MALONE

JAMES BROWN

JEVON NICHOLS BROWN

ARREST WARRANT NUMBER

M440566 M440599 M440602

ACTION OF GRAND JURY

True Bill

Larry A. Thompson Jr.
Foreperson of Grand Jury
Date: *1-22-10*

VERDICT

Indictment for

Burglary / Burglary (After June 20, 1985) - First degree;
Arrest / Hindering officers serving warrant or rescuing
prisoner.

C. KELLY JACKSON, SOLICITOR

196 Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)

INDICTMENT FOR

Burglary / Burglary (After June 20, 1985) - First degree
 Arrest / Hindering officers serving warrant or rescuing prisoner.

At a Court of General Sessions, convened on July 22, 2010 the Grand Jurors of
 SUMTER County present upon their oath:

COUNT ONE - BURGLARY, 1ST DEGREE

That Krystal Lashea Malone and Jevon Nichols Brown did in Sumter County, on or about January 24, 2010, enter the dwelling of Cristy Farmer located at [REDACTED] Sumter without consent and with the intent to commit a crime therein and when, in effecting entry or while in the dwelling or in immediate flight, the defendant was armed or became armed with a deadly weapon, in violation of Section 16-11-0311(A), Code of Laws of South Carolina, 1976, as amended.

COUNT TWO - HINDERING OFFICERS OR RESCUING PRISONERS

That James Martez Brown did in Sumter County, on or about January 24, 2010, hinder, prevent, or obstruct any officer or other person charged with the execution of any warrant or other process issued under the provisions of Title 16, Chapter 5 of the S. C. Code of Laws, in arresting any person for whose apprehension such warrant or other process may have been issued, or rescue or attempt to rescue such person from the custody of the officer or person or persons lawfully assisting him, or aid, abet or assist any person so arrested, as aforesaid, directly or indirectly, to escape from the custody of the officer or person or persons assisting him, or harbor or conceal any person for whose arrest warrant or other process shall have been issued so as to prevent his discovery and arrest, after notice or knowledge of the fact of the issuing of such warrant or other process, in violation of Section 16-5-0050, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

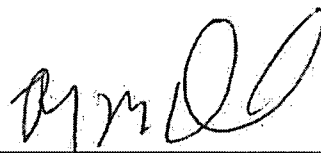
P. Kelly Jackson

SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the 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."

April 10th, 2013



Robert M. Dudek
Chief Appellate Defender

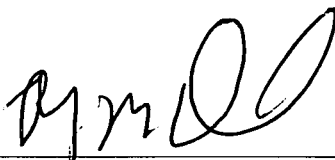
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the 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."

April 10th, 2013

A handwritten signature in black ink, appearing to read 'R. M. Dudek', is written over a horizontal line.

Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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ATTORNEY FOR APPELLANT