

21196

STATE OF SOUTH CAROLINA

ORIGINAL

In The Court of Appeals

RECEIVED

JUN 20 2014

SC Court of Appeals

APPEAL FROM DORCHESTER COUNTY
The Honorable Doyet A. Early, III, Circuit Court Judge

THE STATE,

Respondent,

v.

DRISTIN JOHNSON,

Appellant.

Appellate Case No. 2012-213404

Record on Appeal

Jennifer Breaux Howe
DeMint Howe, P.A.
505 Pettigru Street
Greenville, SC 29601
(864) 214-0161

ALAN WILSON
Attorney General

Robert M. Dudek
Chief Appellate Defender

Attorneys for Appellant

JENNIFER ELLIS ROBERTS
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

DAVID M. PASCOE JR.
Solicitor, First Judicial Circuit
140 North Main Street
#102
Summerville, SC 29483

Attorneys for Respondent

Index

Index	i
Opening Statements by Mr. Justis	1
Opening Statement by Ms. LeMatty	6
Trial Testimony	
Amber Fish,	
Direct Examination by Mr. Justis	9
Cross-Examination by Ms. LeMatty	21
Karen Parker,	
Direct Examination by Mr. Justis	23
Karen Parker,	
Direct Examination by Mr. Justis	26
Cross-Examination by Ms. LeMatty	30
Kelsey P,	
Direct Examination by Mr. Justis	31
Cross-Examination by Ms. LeMatty	40
Redirect Examination by Mr. Justis	45
Winfred Boyd,	
Direct Examination by Mr. Austin	46
Cross-Examination by Ms. LeMatty	48
Joli Tumbleston,	
Direct Examination by Mr. Austin	51
Andy Martin,	
Direct Examination by Mr. Austin	57
Catherine Leisey,	
Direct Examination by Mr. Justis	66
Cross-Examination by Ms. LeMatty	71

Carl Chaplin, Direct Examination by Mr. Justis	72
Adam Smith, Direct Examination by Mr. Justis	85
Directed Verdict.....	90
Robin Caulter, Direct Examination by Ms. LeMatty	92
Cross-Examination by Mr. Austin	95
Closing Argument by Mr. Justis	99
Closing Argument by Ms. LeMatty	105
Closing Argument by Mr. Justis	116
Verdict of the Jury	131
Sentence of the Court.....	133
Indictments and Sentencing Sheets.....	134
Certificate of Counsel	146

1 these crimes. It's an important case for the state and for
2 the victim. And it's now going be left to 12 citizens from
3 this community to decide what the true facts are and what
4 -- what happened. So I ask that you pay close attention.

5 And I think you will find that it's a -- it's a
6 different task to perform. This is not Court TV. This is
7 the real world. You've been asked to serve as a citizen
8 from your county to determine whether or not the state's
9 able to prove this man's guilt to you beyond a reasonable
10 doubt. So please play -- please pay close attention.

11 Any objections to the opening remarks by the state?

12 MR. JUSTIS: None by the state, Your Honor.

13 THE COURT: By the defendant?

14 MS. LEMATTY: None, Your Honor.

15 THE COURT: All right, sir. You may start.

16 MR. JUSTIS: Thank you, Your Honor. May it please the
17 Court?

18 THE COURT: Yes, sir.

19 OPENING STATEMENT BY MR. JUSTIS

20 MR. JUSTIS: A pickup truck eases down the road on a
21 December night, approximately nine o'clock. Cone Lane --
22 more specifically, 204 Cone Lane -- the vehicle comes to a
23 stop. It's a Saturday night; it's December. It's three
24 weeks before Christmas.

25 Inside the house Amber Fish, seated in the second row,

1 is in the house with her boyfriend; Shawn Rabine; and her
2 10-month-old daughter. They're watching a movie. She's
3 preparing some food for her daughter.

4 All of a sudden, she hears a knock on the door. She
5 goes to the door. Shawn's dozing on the couch. When she
6 opens the door, a shotgun is thrust into her chest. She
7 immediately begins struggling with the armed individual.
8 That armed individual is Dristin Johnson.

9 As she struggles with him, trying to push him out the
10 doorway, another individual who is with Mr. Johnson assists
11 him in pushing her back into the house. When they get in
12 the house, they order her at gunpoint to the floor. Shawn,
13 as he's waking up, he also is ordered to the floor.

14 While Dristin Johnson alternates placing the muzzle of
15 that shotgun to the back of Amber Fish's head and Shawn's
16 head, the other individual is tying them up with rope that
17 they brought. When they get up tied up -- now, they're
18 wearing masks. When they get them tied up, Dristin Johnson
19 holds the gun on both individuals while the other
20 individual goes through the house, collecting items of
21 value. At one point they take 10-month-old daughter of
22 Amber Fish and toss her on the couch.

23 Finally, after they get what they came to get, they
24 exit the house. On their way out, they say, "Merry
25 Christmas." They leave the house and they get in a pickup

1 truck. A third individual is waiting for them in the
2 pickup truck. They get in the pickup truck, and they drive
3 away into the night.

4 Ladies and gentlemen, my name is Glenn Justis. And
5 along with Matt Austin, we work for the State of South
6 Carolina as solicitors. And we're here, bringing this case
7 to you this week. Mr. Johnson is charged with multiple
8 offenses, the first being burglary in the first degree, two
9 counts of kidnapping, and possession of a weapon during the
10 commission of a violent crime.

11 Now, it's the state's burden to prove these crimes
12 beyond a reasonable doubt, as the judge explained to you.
13 But real briefly, burglary in the first degree is the
14 unlawful breaking and entering of a dwelling without
15 permission with the intent to commit a crime therein. And
16 there must be some aggravating circumstances: Either it
17 happened during the nighttime; or the offender or another
18 participant in the crime was either armed with a deadly
19 weapon when they went in, while they were in there, or as
20 they were leaving.

21 Kidnapping simply is seizing, confining, inveigling,
22 decoying, kidnapping, abducting, carrying away another
23 person by any means without the authority of law.

24 And finally, possession of a weapon during the
25 commission of a violent crime is just that: possessing or

1 appearing to possess a -- or -- or attempting to possess a
2 -- a weapon -- a deadly weapon -- a gun, a knife, or
3 something that appears to be a gun -- while you're
4 committing a violent crime, one of the crimes that the --
5 that the legislature has determined is a violent crimes,
6 such as kidnapping or burglary.

7 Now, we must prove -- the state must prove these
8 beyond a reasonable doubt, as the judge told you. Now, let
9 me tell you: That does not mean beyond any and all doubt.
10 It's a reasonable doubt. So at the end of the trial when
11 you're deliberating, if you're firmly convinced of the
12 defendant's guilt, then you must find him guilty.

13 Now, back to December 3rd, 2011: It's late
14 afternoon/early evening. Three individuals -- Dristin
15 Johnson; 16-year-old Christopher Baty; and 58-year-old Carl
16 Chaplin -- meet at 236 Cone Lane. That's the home of Karen
17 Parker. And when they go there, they bring with them rope,
18 a shotgun, shells for that shotgun, and masks. They wait
19 till it gets later in the evening.

20 While they're there, a 10-year-old girl who resides at
21 that address overhears them talking about doing this
22 burglary. And then shortly before 9 p.m., they all get
23 Carl Chaplin's truck and they ease their way down Cone Lane
24 towards 204, Amber Fish's house.

25 After the home invasion is complete, Carl Chaplin

1 drives them back to Christopher Baty's house, where they
2 split up the proceeds of the burglary. Within one to two
3 hours, police already have leads; already have names of
4 Baty, Johnson, and Chaplin. When they serve a search
5 warrant on Christopher Baty's house in the early-morning
6 hours of December 4th, they find several pieces of
7 evidence, to include Amber Fish's driver's license, in the
8 trash can at Christopher Baty's house.

9 Couple days later they actually go back; they look in
10 the woods. They find more evidence. They find the masks.
11 They find gloves. Some items are recovered that night;
12 some a couple days later; some items, never recovered.

13 As we go through this trial, you're going to hear from
14 witnesses that were at 236 Cone Lane that night, where they
15 met before going to commit this crime. You're going to
16 hear from investigators and police that were involved in
17 the investigation. You're going to hear from Amber Fish.
18 You're going to hear what happened to her and her family
19 that December night.

20 And finally, you're going to hear from Christopher
21 Baty and from Carl Chaplin. You're going to hear what they
22 did. And most importantly, you're going to hear from them
23 what that man did.

24 And when you hear all this evidence and you look at
25 all the admitted exhibits, the state is going to ask that

1 you return a verdict of guilty against Dristin Johnson for
2 burglary in the first degree, the kidnapping of Amber Fish,
3 the kidnapping of Shawn Rabine, and possession of a weapon
4 during the commission of a violent crime. Thank you.

5 OPENING STATEMENT BY MS. LEMATTY

6 MS. LEMATTY: May it please the Court: Good
7 afternoon, ladies and gentlemen. My name is Mary LeMatty;
8 I work with the public defender's office here in Dorchester
9 County; and I'm here today to represent Dristin Johnson,
10 who's seated at the table beside me.

11 As the judge has already told you, you've got
12 basically one of the most important jobs here today because
13 what you do is you listen to the testimony that comes from
14 that witness stand. And there's going to be vast
15 differences in what various people have to say in this
16 case. That will become very clear to you. And you've got
17 to make a determination as far as what the truth is and,
18 from that, reach your verdict.

19 As children we put things together, starting real
20 simple like -- my kids are older, but I have a lot of
21 coworkers with young children; I enjoy going to their
22 birthday parties, watching little 3-year-olds put together
23 farm puzzles and things of that nature. And it seems that
24 they try very hard sometime to put the wrong piece in the
25 wrong in the hole. And no matter what, they just want that

1 cow to fit where that sheep fits. And they're just not
2 going to give up, no matter what.

3 And that got me thinking about some of what's going to
4 be presented to you in this trial. And we're here today,
5 as the solicitor told you, because Amber Fish, on December
6 3rd, was robbed at gunpoint in her home. She believed that
7 she heard the voice of one of the perpetrators and, from
8 that voice, identified Mr. Baty. And they pursued Mr. Baty
9 as a suspect.

10 Also, within hours that night, they did come across
11 information; they believed that Dristin Johnson was
12 involved. Amber Fish couldn't identify Dristin Johnson as
13 being involved in that night. Christopher Baty gave a
14 statement that said basically he committed this crime under
15 duress from Dristin Johnson and Carl Chaplin. Carl Chaplin
16 gave a statement that he didn't know what was going on; he
17 was driving a truck and some people asked to get out
18 somewhere. He didn't know what they were up to.

19 And law enforcement went out; they did an
20 investigation, as the solicitor told you. They executed
21 search warrant at Christopher Baty's house. They found
22 certain items. They never executed a search warrant a
23 Dristin Johnson's house. They never really followed up
24 with him at all. They took Christopher Baty's word that he
25 was involved and -- and stopped. They didn't do anything

1 further to follow up on the information that they had.

2 So you're going to hear various pieces of evidence.
3 You're going to hear from various witnesses who will have
4 differing stories to tell you. And -- and from that you --
5 you sort out what you believe is the truth.

6 But I ask you to please remember that Mr. Johnson does
7 not have to prove anything here today. The burden is
8 wholly, 100 percent on the state to prove each and every
9 element of each and every crime that they've charged him
10 with; and that each and every element of each and every
11 crime has to be proven beyond a reasonable doubt before you
12 can find Mr. Johnson guilty.

13 He is grateful for his day in court here today. He
14 would ask that you pay very careful attention to -- to what
15 is presented to you. You'll hear from Ms. Fish, who
16 couldn't identify him. You're going to hear from DNA
17 analysts at SLED, who -- not going to be able to tell you
18 about any conclusive match to Mr. Johnson. You'll hear
19 from a fingerprint analyst, who's going to say: These
20 items of evidence that were collected -- search warrant of
21 Mr. Baty's house -- were sent up; none of Mr. Johnson's
22 fingerprints are on any of these items.

23 And when you finish listening to all that evidence, we
24 submit it would not be sufficient or appropriate for you to
25 find Mr. Johnson guilty of these crimes. Thank you for

DIRECT EXAMINATION BY MR. JUSTIS - AMBER FISH

44

1 your service today.

2 THE COURT: You may call your first witness.

3 MR. JUSTIS: Thank you, Your Honor. May it please the
4 Court: The state would call Amber Fish to the stand.

5 THE COURT: Come around, Ms. Fish, please. If you
6 would come right over here, please, ma'am, and place your
7 left hand on the bible and raise your right.

8 (Whereupon, the witness came complied.)

9 THE COURT: Thank you.

10 AMBER FISH, having been first duly sworn,
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MR. JUSTIS:

14 Q Ms. Fish, where do you live?

15 A Michigan.

16 Q Okay. And how long have you lived in Michigan?

17 A A couple months, about ---

18 THE COURT: Hold on one second. Can you hear? Pull
19 that up a little closer for you, Ms. Fish.

20 THE WITNESS: (Complied.)

21 THE COURT: Just take a deep breath and relax and
22 speak into the mic.

23 A About two months -- three months, maybe.

24 Q Okay. And who do you live with in Michigan?

25 A Shawn Rabine and my daughter, [REDACTED]

DIRECT EXAMINATION BY MR. JUSTIS - AMBER FISH

45

1 Q And where did you live -- let's turn back the clock to
2 December 3rd, 2011. Where did you live back then?

3 A On Cone Lane -- 204 Cone Lane.

4 Q And who did we -- who did you live with then?

5 A The same: Shawn Rabine and [REDACTED]

6 Q And is that address -- in that in Dorchester County?

7 A Yes.

8 Q Where is Mr. Rabine right now?

9 A He is in Michigan with my daughter.

10 Q And turning your attention back to December 3rd, 2011,
11 you remember that day?

12 A I do.

13 Q And what were you doing that evening?

14 A I was making my daughter -- I was heating up some
15 chicken for her to have a snack. Shawn was sleeping on the
16 couch. We were just watching TV and -- and getting ready
17 for bed.

18 Q Okay. And at some point in time, was there a knock on
19 the door?

20 A Yes. Around nine o'clock. It was more of a pound.

21 Q Okay. When you heard the pounding on the door, what
22 did you do?

23 A I just assumed it was my brothers and went and opened
24 the door. I set the plate of food down on the couch and
25 opened the door. And they were -- he was standing there

DIRECT EXAMINATION BY MR. JUSTIS - AMBER FISH

46

1 with a gun.

2 Q Now, when you said you thought it was your brothers,
3 where do your brothers live?

4 A They live right down the -- right around -- right down
5 the road from Ms. Parker's house, 248 Cone Lane, right
6 around the corner.

7 Q Can you see Ms. Parker's house from your house?

8 A No.

9 Q Now, when you -- when you opened the door, what did
10 you see when you first opened the door?

11 A I saw a man with a mask -- a black man with a mask and
12 a black hoodie and a shotgun barrel in my gut. And that
13 was the -- it.

14 Q And what did you think when -- when -- when that
15 barrel was -- was pushed into your gut, what were you
16 thinking?

17 A I was thinking that I didn't want the gun in the house
18 with my daughter.

19 Q And what did you do?

20 A I grabbed it and tried to push him out the door with
21 it. But it was in his hoodie, in his sleeve. And
22 eventually, it -- we struggled for maybe a few seconds and
23 then it -- somebody pulled the door open all the way and
24 pushed me into the house.

25 Q Did they say anything to you as they were doing this?

DIRECT EXAMINATION BY MR. JUSTIS - AMBER FISH

47

1 A I can't remember. I remember asking him what he was
2 doing -- like, I couldn't believe that it was happening,
3 you know. You know, I don't think he said anything.

4 Q Okay. And where was your daughter at this time?

5 A She was right behind me on the other side of the baby
6 gate.

7 Q And what was your baby doing at that time?

8 A Crying. She didn't know what was going on.

9 Q Could you see what they looked like?

10 A No. They had masks on. I could see his eyes. And I
11 only knew the other one because I had seen him so much
12 around the neighborhood. And all I could see was his eyes.

13 Q As they pushed you inside the house, what'd they do
14 next?

15 A They told me to get on the floor. And I grabbed my
16 baby and I sat on the floor with her in my lap. And they
17 kept yelling at me to get on the floor face-down. And I
18 kept asking them to let me hold my baby.

19 Eventually, Christopher got mad about that -- got
20 frustrated and grabbed her by the shirt and just tossed her
21 onto the couch. And then I went to go get her, and I was
22 put to the floor and tied up. Shawn -- I yelled for Shawn
23 to wake up. He woke up and he had a gun pointed at him and
24 was told to get on the floor also and was tied up.

25 Q Now, you mentioned "Chris."

DIRECT EXAMINATION BY MR. JUSTIS - AMBER FISH

48

- 1 A Right.
- 2 Q You said the -- the name "Chris."
- 3 A (Nodded head up and down.)
- 4 Q How do you know it was an individual named Chris?
- 5 A I knew his voice. He has a speech impairment. And he
- 6 has a problem saying his r's. And I just -- his size, his
- 7 height, everything -- it just hit me that it was him once
- 8 he started talking.
- 9 Q Did he live in the neighborhood?
- 10 A I didn't know if he lived in the neighborhood. I knew
- 11 that he was always around, hanging out with other people in
- 12 the neighborhood. I believe he had a girlfriend right down
- 13 the road, like right behind my house on the next street
- 14 back. I just always saw him walking around.
- 15 Q What about the other individual?
- 16 A I didn't know who he was.
- 17 Q Is that the individual that had the shotgun?
- 18 A Uh-huh. Yes.
- 19 Q Did he say anything ---
- 20 A Not ---
- 21 Q --- that you ---
- 22 A --- really.
- 23 Q --- remember?
- 24 A No. He seemed to be kind of quiet about it. He just
- 25 kept telling us to get on the floor.

DIRECT EXAMINATION BY MR. JUSTIS - AMBER FISH

49

1 Q Okay. So when you -- when you got on the floor, what
2 was happening at that point?

3 A Shawn was also getting on the floor, and I was being
4 tied up. My daughter was on the couch, rolling around and
5 -- I thought she was going to fall. I was arguing with him
6 to please put her back on the floor with me so she didn't
7 fall off the couch. And he kind of just grabbed her and
8 tossed her into my head after he was done tying me up. And
9 then he went to Shawn and tied Shawn up.

10 Q And who was tying everyone up?

11 A Christopher was.

12 Q And what was the other individual doing?

13 A Just standing there with a gun, telling -- basically
14 letting us know not to do anything -- not to try to fight
15 him off.

16 Q Did they both have guns?

17 A No.

18 Q The individual with the gun, what kind of description
19 could you give of -- of that person?

20 A A little taller than me, not much bigger than me, and
21 cold eyes. That's all I remember, is his eyes. They were
22 cold, like dead -- soulless, I guess.

23 Q How did they actually tie you up?

24 A They tied our hands and feet together behind our
25 backs.

DIRECT EXAMINATION BY MR. JUSTIS - AMBER FISH

50

1 Q Sort of like a -- a hog-tie?

2 A Uh-huh. Yes.

3 Q So you're tied up on the floor; one individual has a
4 gun. After you get tied up, what happens at that point?

5 A Chris started asking where the money was, just running
6 his mouth, and searching through my house while the other
7 guy stood there with the gun pointed at Shawn most of the
8 time. And he really didn't say much. Chris just went
9 through the whole house, looking for whatever he could find
10 and just kept asking where the money was.

11 Q Now, at any point did you try to get up?

12 A I couldn't. I was tied up. And after he threw [REDACTED]
13 my daughter, back on the floor to me, she kind of stayed
14 right by me. So I just stayed still. I didn't move.

15 Q And what -- what was your daughter doing at that
16 point?

17 A She was hanging onto my head, like, just clinging to
18 my head.

19 Q Was she making any noise?

20 A She was scared.

21 Q What about Shawn?

22 A He was scared too. He was begging them not to hurt
23 him ---

24 MS. LEMATTY: Objection ---

25 A --- begging ---

DIRECT EXAMINATION BY MR. JUSTIS - AMBER FISH

51

1 MS. LEMATTY: --- Your Honor ---

2 A --- them not ---

3 MS. LEMATTY: --- hearsay.

4 A --- to hurt his baby.

5 THE COURT: Hold on a second. Restate the question.

6 Q Without telling us anything that Shawn said, how was
7 he acting?

8 A He was terrified.

9 Q And how long do you think they were in your house?

10 A Not even seven minutes. They weren't in there long at
11 all.

12 Q And did they actually remove some items from your
13 house?

14 A Yes. They took cell phone; they went through my
15 wallet. They took my ID, for some reason. They took the
16 necklace off me; my Xbox; a -- a couple video games that
17 were sitting there. I can't even think of it. We didn't
18 have much. They took -- our rent money was sitting on the
19 TV. That disappeared; it was about \$415. I don't really
20 remember much else they took.

21 Q Now, you talked about your necklace. Were you wearing
22 that?

23 A Yes, I was ---

24 Q And who ---

25 A --- wearing it.

DIRECT EXAMINATION BY MR. JUSTIS - AMBER FISH

55

1 Q Okay. Explain that a little bit. When they left, at
2 that -- at -- when they walked out the door, what did you
3 do next?

4 A I untied myself. And I got up and I untied Shawn and
5 grabbed my daughter and walked next door and called the
6 police -- or called 911.

7 Q And finally, I'm showing you State's 16. Tell me what
8 that is a picture of.

9 A That's my van and my trailer -- the front yard.

10 Q So that would be the front of your house?

11 A Yes. That ---

12 Q And that ---

13 A --- looks like it's almost taken from right by the
14 road.

15 Q And was your van there that evening?

16 A Yes.

17 Q Now, you stated that after they left, you untied
18 yourself.

19 A Yes. Chris kind of left me -- my hands a little
20 loose, I guess. I was able to get out pretty quickly.

21 Q What about -- what about Shawn? Was he tied up loose
22 or ---

23 A He was tied up pretty tight. It took me a second.

24 Q And then you stated you went next door to call the
25 police?

DIRECT EXAMINATION BY MR. JUSTIS - AMBER FISH

56

1 A Yes.

2 Q And why didn't you call the police from your house?

3 A Because they took my cell phones.

4 Q And you didn't have a home -- a -- a -- a landline?

5 A No.

6 Q And how long would you say it was between the time you
7 called and police started to arrive?

8 A I was still on the phone with the 911 operator when
9 they started arriving.

10 Q Okay. And when police arrived, did -- did you speak
11 with police?

12 A Yeah. I -- yes. I was still on the phone with her.
13 And I was trying to tell them to go back to Brooks Loop
14 behind my house. That's where I had seen Chris so much.
15 But when they got there, we just told them everything that
16 happened and kind of sat on the porch, waiting.

17 Q Did you have an opportunity to write a statement -- a
18 written statement?

19 A Yes. We both did.

20 Q And did police come in your house that evening?

21 A Yes, they did.

22 Q Did they look around?

23 A Yes, they did.

24 Q Now, prior to court, Amber, did you have an
25 opportunity to -- to listen to your 911 recording?

DIRECT EXAMINATION BY MR. JUSTIS - AMBER FISH

98

1 THE COURT: Yes, sir.

2 DIRECT EXAMINATION

3 BY MR. JUSTIS:

4 Q Ms. Fish, I believe you had testified that you had
5 listened to State's Exhibit 12, the 911 tape?

6 A Yes.

7 Q And was that a fair and accurate representation of
8 what you heard?

9 A Yes. Uh-huh.

10 MR. JUSTIS: At this time, Your Honor, the state would
11 offer State's 12 into evidence.

12 THE COURT: All right. And I've already heard the
13 objections by the defense, and you're protected on the
14 record. You may proceed.

15 (Whereupon, State's Exhibit 12 was entered into
16 evidence.)

17 MR. JUSTIS: At this time, Your Honor, the state would
18 like to publish State's ---

19 THE COURT: Very well.

20 MR. JUSTIS: --- 12 to the jury.

21 THE COURT: You're going to have to turn that up.

22 (Whereupon, the recording was published to the jury.)

23 Q Ms. Fish, that evening did you have an opportunity to
24 -- to identify any individuals with law enforcement?

25 A They brought me by Christopher's house a couple hours

CROSS-EXAMINATION BY MS. LEMATTY - AMBER FISH

99

1 after I called them. I was down at my parents.' And they
2 came and picked me up, brought me by to identify him, and
3 they drove me by another house to identify a black male.

4 But I didn't recognize him, you know, because he was
5 wearing a hoodie and everything when he was in my house. I
6 had never seen him before. The only reason I could
7 recognize Chris is because I knew him. I just didn't know
8 for sure if it was him or not. So -- and I didn't want to
9 put somebody in jail if they didn't do it, you know.

10 Q And that was the black male you were ---

11 A Yes.

12 Q --- referring to?

13 A I didn't know.

14 Q Okay. No further questions. Please answer any
15 questions Ms. LeMatty might have for you.

16 THE COURT: Ms. LeMatty?

17 MS. LEMATTY: Good afternoon, Ms. Fish.

18 THE WITNESS: Hi.

19 MS. LEMATTY: May it please the Court.

20 CROSS-EXAMINATION

21 BY MS. LEMATTY:

22 Q So on this night you were at home, watching a movie,
23 making some -- some food for your child?

24 A (Nodded head up and down.)

25 Q It was dark outside that night, wasn't it?

CROSS-EXAMINATION BY MS. LEMATTY - AMBER FISH 103

1 A --- a group. It was about six kids out there, six
2 people. I don't know who, for sure, it was. I just
3 recognized Chris and a couple of the other boys from down
4 the road.

5 Q Okay. Okay. And so later that night, the police took
6 you the police took you to -- to Chris's house?

7 A Yes. To identify him.

8 Q And did they have you talk to Chris before you
9 identified him?

10 A No. I didn't get out of the vehicle.

11 Q Okay. And then they took to you a -- another house in
12 the same neighborhood?

13 A Yes.

14 Q And they had a black male outside in front of a car,
15 shining a light on him?

16 A Yes. But I wasn't sure.

17 Q And so you -- you did not identify anybody at that
18 particular ---

19 A I identified ---

20 Q --- time?

21 A --- Chris, but I didn't identify the black male. No.

22 Q Okay. And ---

23 MS. LEMATTY: Beg the Court's indulgence.

24 (Whereupon, Ms. LeMatty conferred with the defendant.)

25 Q When you were driven to the house to -- to take a look

DIRECT EXAMINATION BY MR. JUSTIS - KAREN PARKER 105

1 Q And where do you -- where do you currently live?

2 A Summerville.

3 Q Okay. And how long have you lived in Summerville?

4 A My whole life, pretty much.

5 Q Okay. Do you -- where were you living back in
6 December of 2011?

7 A On Cone Lane.

8 Q And what was the address?

9 A 236 Cone Lane.

10 Q Let me turn your attention to the events of December
11 3rd, 2011. Do you remember that night?

12 A Yes, sir.

13 Q What could you tell us about that night? What were
14 you doing?

15 A I had been at the hospital all day. My sister was on
16 life support. And, you know, later on that evening, I came
17 home after we had to remove her off of life support.

18 Q Okay. And what did you discover when you arrived
19 home? Who was at your house?

20 A My teenage daughters -- I've got 17-year-old twins --
21 my youngest daughter; Chris; Carl; a guy I knew -- knew as
22 "Savage" is ---

23 MS. LEMATTY: Objection ---

24 A --- what I knew ---

25 MS. LEMATTY: --- Your Honor.

DIRECT EXAMINATION BY MR. JUSTIS - KAREN PARKER 106

1 A --- him by.

2 THE COURT: A guy what?

3 MS. LEMATTY: May -- may we approach?

4 (Whereupon, a bench conference took place while the
5 jury was in the courtroom.)

6 THE COURT: Move along.

7 MR. JUSTIS: Thank you, Your Honor.

8 Q So, Ms. Parker, you said your daughters were there?

9 A Yes, sir.

10 Q And what are their names?

11 A Caitlyn [REDACTED], Courtney [REDACTED] and Kelsey [REDACTED].

12 Q Okay. And which ones are the twins?

13 A Caitlyn and Courtney [REDACTED].

14 Q And how old is the third child?

15 A She'll be 12 the day after Christmas.

16 Q And they were there. And then, you mentioned some
17 other people were there.

18 A Right.

19 Q You stated "Carl."

20 A Right.

21 Q Do you know his full name?

22 A I don't know his full name. I met him through Chris.

23 Q Okay. What about Chris? What's Christopher's name?

24 A Christopher Baty.

25 Q And how do you know Chris?

DIRECT EXAMINATION BY MR. JUSTIS - KAREN PARKER 107

1 A I met him when my children and I had moved into
2 Gadsden Acres.

3 Q Okay. So you used to live near him?

4 A Yeah. A few houses down.

5 Q Was he friends with some of your daughters?

6 A Yes, sir. He actually dated one of my twins at one
7 point.

8 Q Okay. Was it unusual for Chris to come to your house?

9 A Chris stayed many nights at my house. His mother was
10 sick, so he stayed at my house a lot.

11 Q Okay. And what about -- what -- who was the third
12 individual?

13 A What -- Carl, Chris, and ---

14 Q You mentioned someone else.

15 A Savage. That's what I knew him by.

16 Q Do you know his real name?

17 A Dristin, I think. I believe his real name is Dristin.

18 Q Okay. Is he -- is he friends of the family also?

19 A He had been to my house a couple of times.

20 Q Okay. And where did you -- when -- when did you first
21 meet him or where did you first meet him?

22 A In Gadsden Acres when my daughters and I had first
23 moved there.

24 Q So you knew -- so you knew him from that neighborhood?

25 A Right.

DIRECT EXAMINATION BY MR. JUSTIS - KAREN PARKER 116

1 y'all step out, and I'll be right back with you. Don't
2 discuss the case; leave your notes in your chair, please.
3 Turn them over.

4 (Whereupon, the jury exited the courtroom at 2:32
5 p.m.)

6 THE COURT: Mr. Bailiff, there's somebody trying to
7 get in. Let them in at this little, quick break, please.

8 THE BAILIFF: (Complied.)

9 THE COURT: All right. Move along.

10 MR. JUSTIS: Thank you, Your Honor. I'm going to go
11 ahead and do Ms. Parker's testimony first, since she's
12 already on ---

13 THE COURT: Very well.

14 MR. JUSTIS: --- the witness stand.

15 THE COURT: Very well.

16 MR. JUSTIS: Then we'll ---

17 THE COURT: Very well.

18 MR. JUSTIS: --- take the officer.

19 DIRECT EXAMINATION

20 BY MR. JUSTIS:

21 Q Ms. Parker, when you spoke with police, did you have
22 an opportunity to look at a photo lineup?

23 A Yes, sir.

24 Q Okay. What I'm showing you -- has been marked as
25 State's Exhibit No. 4.

DIRECT EXAMINATION BY MR. JUSTIS - KAREN PARKER 117

1 MR. JUSTIS: May I approach the witness, Your Honor?

2 THE COURT: You may.

3 Q Do you recognize this?

4 A Yes, sir.

5 Q And what is that?

6 A It's the -- one of the photo lineups I was given.

7 Q Okay. And you say "one of the photo lineups you were
8 given."

9 A Yes, sir.

10 Q How many photo lineups were you given?

11 A Three.

12 Q Okay. And is that -- what is that a photo lineup of,
13 which individual?

14 A Dristin.

15 Q Okay. Did -- what -- did the officer -- who -- who
16 was present when you looked at these photo lineups?

17 A Just the officer and I.

18 Q Okay. Did the officer give you any kind of
19 instructions with the photo lineups, what you were supposed
20 to do with them?

21 A Well, I had spoken already and -- with a -- a
22 detective, and he told me I would -- it was getting sent
23 out to me. And so whenever he handed it to me, he just
24 told me -- he said, "You know, you -- you know, these are
25 your -- the lineups. If there's anyone, you know,

DIRECT EXAMINATION BY MR. JUSTIS - KAREN PARKER 118

1 concerning this case that you recognize, circle and put,
2 you know, what you know them by and your initials and the
3 date," stuff like that.

4 Q Okay. And when he gave you those lineups, did he
5 suggest to you which people should be picked?

6 A No, sir.

7 Q Did he -- did he help you pick anybody?

8 A No, sir.

9 Q When -- when you looked at that particular photo
10 lineup, could you tell us about -- about that first page on
11 the lineup, basically what that is?

12 A Just, you know, tells you what to do; the photographs;
13 you know, that you shouldn't guess; only if you're certain.
14 And then, it's got my signature and -- and stuff like that
15 on it.

16 Q And that's your signature?

17 A Yes, sir.

18 Q And you ---

19 A And my printed name.

20 Q And you signed it that day?

21 A Yes, sir.

22 Q Now, when you looked at the photos in that photo
23 lineup, were you able to select anyone?

24 A Yes, sir.

25 Q And which number were you able to select?

DIRECT EXAMINATION BY MR. JUSTIS - KAREN PARKER 119

1 A Two.

2 Q And how did you denote on that photo that you selected
3 that one?

4 A I circled it, put my initials, put the date, put the
5 name that I knew him by as, and then Dristin beside it.

6 Q Okay. And what did -- well, what was the name you
7 knew him by?

8 A Savage.

9 Q Okay. And why did you pick out that particular
10 person?

11 A He's the one that was with Carl and Chris.

12 Q Okay.

13 A He was at my house.

14 Q Okay. Was that the only lineup that you looked at
15 that involved Dristin Johnson?

16 A The only one.

17 Q Was it the only lineup you looked at that involved any
18 black males?

19 A I can't remember that.

20 Q Okay.

21 A I can't -- I don't . . .

22 Q And the person you selected in that lineup, do you see
23 that person in the courtroom here today?

24 A Yes, sir.

25 Q Could you point him out for the jury.

CROSS-EXAMINATION BY MS. LEMATTY - KAREN PARKER 120

1 A (Indicated.)

2 THE COURT: What's he got on? That blue ---

3 THE WITNESS: He has a blue shirt.

4 THE COURT: Okay.

5 MR. JUSTIS: Please let the record reflect she's
6 identified Dristin Johnson.

7 Q And how certain were you of that -- of that photograph
8 that you selected in that lineup?

9 A A hundred percent.

10 Q Okay. Thank you. No further questions.

11 THE COURT: Anything on cross concerning the lineup?
12 You'll get the full cross in a little bit.

13 MS. LEMATTY: Yes. Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MS. LEMATTY:

16 Q You knew Mr. Johnson because you had formerly lived in
17 his neighborhood, Gadsden Acres; it's up the road, correct?

18 A Well, it was our neighborhood.

19 Q And you had been to his mom's house? eaten over
20 there?

21 A Actually, his mother served summer lunches, and I had
22 taken my kids over there.

23 Q Okay. And so you -- you read this statement on top of
24 the lineup, which reads, in part, that: "You should not
25 conclude or guess that the photographs contain the person

DIRECT EXAMINATION BY MR. JUSTIS - KELSEY PARKER 136

1 THE COURT: --- need her to remain? (To the witness)
2 Ma'am, you are released from your subpoena. Thank you for
3 coming. (To Mr. Justis.) Next witness.

4 MR. JUSTIS: The state calls Kelsey [REDACTED]

5 THE COURT: Ms. Parker, if you would come this way,
6 please. Ms. Parker, if you'd come right over here, please,
7 ma'am, for me.

8 THE WITNESS: Yes, sir.

9 KELSEY PARKER, having been first duly sworn,
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MR. JUSTIS:

13 Q Good afternoon, Kelsey. How are you?

14 A Good. You?

15 Q I'm doing well.

16 What -- how old are you?

17 A Eleven.

18 Q Okay. And what grade in school are you?

19 A Sixth grade.

20 Q Okay. And what school do you go to?

21 A Gregg Middle School.

22 Q You have a favorite subject?

23 A All.

24 Q All of them? Okay.

25 Let's go back to December of last year; more

DIRECT EXAMINATION BY MR. JUSTIS - KELSEY PARKER 137

1 specifically, December 3rd of last year. Do you remember
2 that night?

3 A Yes, sir.

4 Q What was going on that night at your house?

5 A A lot of stuff.

6 Q A lot of stuff?

7 Well, who was -- first of all, let's talk about who
8 was at your house that night. Tell me who was at your
9 house.

10 A Me, my sister, and her boyfriend.

11 Q Okay. And did anybody else come -- come home or come
12 to your house later in the evening?

13 A Yes, sir.

14 Q Who came?

15 A Savage, his girlfriend, Chris, Carl, my mom, and my
16 other sister.

17 Q Okay. Did they all come together? Did your mom come
18 with all those people?

19 A No, sir.

20 Q Okay. Who got there first, your mom or the other
21 people?

22 A The other ones.

23 Q Okay. And what were they doing -- before your mom got
24 home, what were they doing?

25 A They -- Savage and his girlfriend went to my sister's

DIRECT EXAMINATION BY MR. JUSTIS - KELSEY PARKER 138

1 room.

2 Q Uh-huh.

3 A And Chris and Carl technically just, like, got there.

4 Q Okay. And what were they doing?

5 A They were, like, in the yard.

6 Q Okay. Were people -- what -- what were people doing?

7 Were they watching TV? Were they . . .

8 A We -- they were watching TV.

9 Q Okay. And what about Carl and Chris? What were Chris
10 doing?

11 A Chris and Carl, they were just talking outside for a
12 little bit. And then they walked inside.

13 Q Okay. Did you ever see Chris, Carl, and Savage -- do
14 you know his real name?

15 A Dristin.

16 Q Okay. Chris, Carl, and Dristin, did you ever see them
17 together?

18 A Yes, sir.

19 Q What were they doing together?

20 A They were leaving together. Well, first they were in
21 the yard. And then they all left together.

22 Q Okay. When they were in their yard -- or in your
23 yard, what were they doing?

24 A Talking.

25 Q Could you hear what they were saying?

DIRECT EXAMINATION BY MR. JUSTIS - KELSEY PARKER 139

1 MS. LEMATTY: Objection ---

2 A Yes, sir.

3 MS. LEMATTY: --- Your Honor. The ---

4 THE COURT: Hold on, now. Hold on. Who you going ask
5 about?

6 MR. JUSTIS: Dristin.

7 THE COURT: Well, ask her specifically.

8 Q Could you hear -- were they talking? The three
9 individuals, were they talking or just standing?

10 A Talking.

11 Q Okay. Could you hear anything that Dristin was
12 saying?

13 A Yes, sir.

14 Q Okay. Without telling us what the other two were
15 saying, could you tell us what Dristin was saying?

16 A He was -- he was saying that -- he was saying, "Let's
17 go down the street and go to a girl's house." And I don't
18 know what he meant to go in. I don't know if he meant to
19 rob or to break in. I don't know.

20 Q Right. But you heard him talking about going down to
21 some girl's house?

22 A Yes, sir.

23 Q Okay. Do you know what girl they were talking about?

24 A At first, I didn't. But after ---

25 MS. LEMATTY: Objection, Your Honor.

DIRECT EXAMINATION BY MR. JUSTIS - KELSEY PARKER 140

1 A --- after we ---

2 THE COURT: Hold on. Whoa. Whoa. What's the
3 objection?

4 MS. LEMATTY: Calls for speculation.

5 THE COURT: Well, she said she's learned. (To the
6 witness) Who was it?

7 THE WITNESS: Amber.

8 THE COURT: Thank you.

9 Q And do you know Amber?

10 A Yes, sir.

11 Q How do you know Amber?

12 A Because I play with her little brother in the
13 neighborhood.

14 Q Okay. And did Amber live in the neighborhood back
15 then?

16 A Yes, sir.

17 Q Did you used to see her in the neighborhood?

18 A Yes, sir.

19 Q What did you see her doing in the neighborhood?

20 A She would walk down to her parents' house.

21 Q Okay. So her parents lived in the neighborhood too?

22 A Yes, sir.

23 Q And how old's her brother?

24 A You mean her brother?

25 Q Yeah, her -- her brother.

DIRECT EXAMINATION BY MR. JUSTIS - KELSEY PARKER 141

1 A Eleven.

2 Q Okay. So he's your age?

3 A Yes, sir.

4 Q Now, you said you saw those three individuals: Carl,
5 Chris, and Dristin. They were standing there, talking?

6 A Yes, sir.

7 Q And was that before or after your mom came home?

8 A That was after -- well, no. I don't -- I don't
9 remember.

10 Q Okay. But you saw them talking that night?

11 A Yes, sir.

12 Q Okay. What else do you remember them doing that night
13 while they were at your house? Anything else?

14 A Chris and Carl took my mom to the store.

15 Q Okay. And what happened when they came back from the
16 store?

17 A They got Savage and they all left together.

18 Q Okay. Did you actually see them leave?

19 A Yes, sir.

20 Q Okay. And how did they leave?

21 A They just all got in the truck and they just left in
22 Carl's truck.

23 Q Okay. So they left in Carl's truck. Do you know --
24 could you tell us what the truck looked like?

25 A It was blue, like a navy blue.

DIRECT EXAMINATION BY MR. JUSTIS - KELSEY PARKER 142

- 1 Q Okay. Was it a pickup truck?
- 2 A No, sir.
- 3 Q Okay. A blue truck?
- 4 A (No audible response.)
- 5 Q So you testified they all left together: Carl, Chris,
6 and Dristin?
- 7 A Yes, sir.
- 8 Q Okay. And when they -- when they left, did you happen
9 to see which direction they went?
- 10 A They went right.
- 11 Q Okay. Where -- where were you -- when you saw them
12 leave, like, where were you?
- 13 A In my sister's room.
- 14 Q Okay. So your sister's room -- what -- were they
15 parked in the front of the house? in the back of the
16 house?
- 17 A In the front.
- 18 Q Okay. And that faces the road, I guess?
- 19 A It faces ---
- 20 Q Like ---
- 21 A --- the driveway.
- 22 Q Okay. And your sister's room where you were, were you
23 in the front of the house or the back of the house or
24 somewhere else?
- 25 A When they backed up, I went to the side of the house.

DIRECT EXAMINATION BY MR. JUSTIS - KELSEY PARKER 143

1 Q Okay. And you said you saw them go right out of the
2 driveway?

3 A Yes, sir.

4 Q Okay. Is that how you get out of your neighborhood,
5 to go to the right?

6 A You can go to the left or right.

7 Q Okay. Which way is shorter?

8 A The left.

9 Q Okay. So the -- but they went the longer way?

10 A Well, I don't technically know, because they're just
11 about the same.

12 Q Okay. Depends where you're going to, right?

13 A Yes, sir.

14 Q Okay. So if they went right out of the neighborhood,
15 is that away from or towards Amber's house?

16 MS. LEMATTY: Objection: leading.

17 THE COURT: Overruled.

18 A Toward Amber's house.

19 Q Okay.

20 A Uh-huh.

21 Q Was there anything else you noticed about them when
22 they left?

23 A They -- Savage looked a little bit more suspicious,
24 like, wanted to get -- like, hurry up and go.

25 Q Okay.

DIRECT EXAMINATION BY MR. JUSTIS - KELSEY PARKER 144

1 MR. JUSTIS: Beg the Court's indulgence.

2 Q Kelsey, how long have you known Chris, Carl, and --
3 and Savage -- or Dristin?

4 A I don't know.

5 Q Oh, okay. Do you know -- what about Chris? Chris ---

6 A I knew him about for a long time, about a year.

7 Q Okay. So you knew Chris the best?

8 A Yes, sir.

9 Q What about Carl? Did you know Mr. Carl? Have you
10 seen him before?

11 A Yes, sir. I knew him about for about three to two
12 months.

13 Q Okay. And what about Dristin?

14 A I knew him about two/three months.

15 Q Okay. Do you see Dristin in the courtroom today?

16 A Yes, sir.

17 Q Could you point him out for me.

18 A (Indicated.)

19 Q Tell me what he's -- what color shirt he's wearing.

20 A A light blue.

21 Q Okay.

22 MR. JUSTIS: Please let the record reflect that the
23 witness has identified Dristin Johnson.

24 Q Okay. Thank you. Please answer any questions Ms.
25 LeMatty has for you, okay?

CROSS-EXAMINATION BY MS. LEMATTY - KELSEY PARKER 145

1 A Yes, sir.

2 Q Thank you.

3 CROSS-EXAMINATION

4 BY MS. LEMATTY:

5 Q Good afternoon, Kelsey. You said Chris and Carl came
6 up to your house before your mom got home that day?

7 A I don't really, like, remember. I know they came a
8 little bit before my mom came.

9 Q And what about Dristin and his girlfriend? Did they
10 get there before Chris and Carl did?

11 A Yes, sir -- I mean, yes, ma'am.

12 THE COURT: (To the witness) That's okay.

13 Q So you and your sister are at home. And was your
14 sister's boyfriend there at the time too? Is his name ---

15 A Yes, ma'am.

16 Q --- Dustin, I think?

17 A Yes, ma'am.

18 Q So you, your sister, and her boyfriend are there. And
19 Dristin and his girlfriend come up?

20 A Yeah.

21 Q And I believe you said they went into the bedroom?

22 A Yes, ma'am.

23 Q Okay. And then after that Chris and Carl drove up?

24 A Yes, ma'am.

25 Q And did Chris and Carl come in the house?

CROSS-EXAMINATION BY MS. LEMATTY - KELSEY PARKER 146

1 A They walked in, like, for a couple minutes. And then
2 they walked out. Then my mom pulled up.

3 Q Okay. So when your mom came in the house, who was in
4 the house?

5 A Only me and my sister and my other sister and Destin.

6 Q Okay. And where were Dristin and his girlfriend when
7 your mom came in the house?

8 A Sat -- Dristin's girlfriend left a couple minutes
9 before my mom got there. And he walked out, like, a couple
10 -- when his girlfriend was leaving, he walked out of the
11 house with her.

12 Q Okay. So Dristin and Carl and Chris weren't sitting
13 in the living room when your mom came home?

14 A No, ma'am.

15 Q And were both of your sisters -- were you in the
16 living when your mom came home?

17 A Repeat that, please.

18 Q Were you in the living room when your mom came home?

19 A Yes, ma'am.

20 Q Were your twin sisters in the living room when your
21 mom came home?

22 A Yes, ma'am.

23 Q Okay.

24 A Well, my sister -- one of them, Caitlyn, she was with
25 my mom. But she came in with my mama.

CROSS-EXAMINATION BY MS. LEMATTY - KELSEY PARKER 147

1 Q Okay. Okay. And those are just the -- those are the
2 only two sisters you have, right, your twin sisters who are
3 -- what -- how old, 17/18, I think?

4 A Yes, ma'am.

5 Q Okay. So your sister wasn't in the shower when your
6 mom came home?

7 A No, ma'am.

8 Q Okay. And you guys have a dog too, right? Your dog
9 was there?

10 A Yes, ma'am.

11 Q A little Chihuahua?

12 A Yes, ma'am.

13 Q Does he like to bark at people when they come in the
14 house?

15 A No, ma'am. He just like licking them.

16 Q Okay. And you said that Dristin's girlfriend left
17 right before your mom came home?

18 A Yes, ma'am.

19 Q And Dristin stepped out of the house then too?

20 A Yes, ma'am.

21 Q And so it was after that when you say you heard
22 Dristin and Carl and Chris talking?

23 A Yes, ma'am.

24 Q And where were you when you heard them talking?

25 A In my sister's bedroom.

CROSS-EXAMINATION BY MS. LEMATTY - KELSEY PARKER 148

1 Q And your sister's bedroom is where in your house?

2 A At the end of the house, where it's closer to the
3 road.

4 Q Okay. And when you were in that bedroom, were you in
5 there by yourself?

6 A Yes, ma'am.

7 Q And was the TV on in there?

8 A It was. I just turned it down.

9 Q And was the TV on in the living room part of the
10 house?

11 A Yes, ma'am.

12 Q And there were still people talking and having a
13 conversation in the living room part of the house?

14 A They were. But they weren't loud.

15 Q Okay. And outside where Carl and -- and Chris were
16 standing, that was pretty far away from the house, wasn't
17 it?

18 A Not that much. It was sort of.

19 Q Sort of, like you to me? Farther than that? Closer
20 than that?

21 A Yes, ma'am.

22 Q Oh. Was it farther than you to me?

23 A Oh, about a little bit.

24 Q Okay. And how did you see that they were out there?

25 A By the window.

CROSS-EXAMINATION BY MS. LEMATTY - KELSEY PARKER 149

1 Q Okay. And when you were -- was the window open or was
2 it closed?

3 A Closed.

4 Q Okay. So even though the TV is going on, even though
5 your turned it down some, with the windows closed you could
6 still hear them talking from this -- as far away from you
7 to me?

8 A Yes -- yes, ma'am.

9 Q Okay. And do you remember what Dristin's girlfriend's
10 name was?

11 A No, ma'am.

12 Q But she came over to the house with Dristin?

13 A Yes, ma'am.

14 Q And did she and Dristin drive to the house?

15 A No, ma'am.

16 Q Do you know how they got to the house?

17 A I assume they walk, because that's how they showed up.

18 Q Didn't have a car with them?

19 A No, ma'am.

20 Q Didn't have anybody else with them?

21 A No.

22 Q Okay. And you're sure that the two of them came
23 together to your house?

24 A Yes, ma'am.

25 Q Okay. No further questions.

REDIRECT EXAMINATION BY MR. JUSTIS - KELSEY PARKER 150

1 MR. JUSTIS: Just one, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. JUSTIS:

4 Q Kelsey, if the window was closed, how could you hear
5 what they were saying outside?

6 A I -- I guess it's because of the walls. They weren't
7 so big. And they were just, like, small. They were thin.

8 Q Okay. You -- is your house a -- a mobile home, a
9 trailer?

10 A Yes, sir.

11 Q Okay. Thank you. No further questions.

12 THE COURT: All right. Ma'am, you may step down.
13 Thank you for coming.

14 (Whereupon, the witness exited the witness stand.)

15 THE COURT: May she be excused?

16 MR. JUSTIS: Yes, Your Honor.

17 THE COURT: Ma'am?

18 MS. LEMATTY: Yes.

19 THE COURT: All right. Next witness, please.

20 MR. AUSTIN: The state calls Winfred Boyd.

21 THE COURT: Where's Mr. Boyd? (To the bailiff)
22 Winfred Boyd, please.

23 (Whereupon, the witness came forward.)

24 THE COURT: Come around, please, sir.

25 WINFRED BOYD, having been first duly sworn,

DIRECT EXAMINATION BY MR. AUSTIN - WINFRED BOYD 151

1 testified as follows:

2 DIRECT EXAMINATION

3 BY MR. AUSTIN:

4 Q Deputy Boyd, where do you currently work?

5 A Dorchester County Sheriff's Office.

6 Q And how long have you worked there?

7 A About three years.

8 Q And what are your primary duties there?

9 A I'm a patrol deputy. I respond to 911 calls for
10 emergency, and we do traffic enforcement.

11 Q And did you work anywhere else prior to sheriff's
12 department?

13 A I did. Charleston City Police Department.

14 Q And so how many years of law enforcement would you say
15 you have?

16 A About four.

17 Q Okay. And did you have an opportunity to respond to a
18 call on December 3rd on Cone Drive?

19 A I did.

20 Q And are you familiar with that address?

21 A I am.

22 Q And where exactly is that located?

23 A It's off of Orangeburg Road in Summerville, which is
24 in Dorchester County.

25 Q Okay. And when you responded to the location, what

DIRECT EXAMINATION BY MR. AUSTIN - WINFRED BOYD 152

1 did you observe?

2 A I spoke with both victims, Mr. Rabine and Ms. Fish.
3 They were both very frantic. They said that ---

4 MS. LEMATTY: Objection, Your Honor: hearsay.

5 THE COURT: Sustained.

6 Q You said they seemed -- I'm sorry. I'll move on.
7 Were you the first officer to arrive on scene?

8 A I was.

9 Q And did other officers respond as well?

10 A They did.

11 Q Okay. Did you have a chance to actually speak with
12 the victims?

13 A Yes, sir.

14 Q And did you obtain statements from them?

15 A We did. Yes, sir.

16 Q And were those statements memorialized into writing?

17 A They were.

18 Q What did you do with those statements?

19 A We submitted them with the rest of the paperwork ---

20 Q Okay.

21 A --- into evidence.

22 Q I'm sorry?

23 A We submitted them with the rest of the paperwork.

24 Q And did you have a chance to go inside the home?

25 A I did.

CROSS-EXAMINATION BY MS. LEMATTY - WINFRED BOYD 155

1 THE COURT: Any cross, ma'am?

2 MS. LEMATTY: Thank you, Your Honor. May it please
3 the Court?

4 THE COURT: Yes, ma'am.

5 CROSS-EXAMINATION

6 BY MS. LEMATTY:

7 Q You were the first responder, basically, to the scene?
8 You were the first law enforcement officer to make contact
9 with the victim?

10 A Yes, ma'am.

11 Q Okay. And they gave you a description of the
12 perpetrators in this incident?

13 A Yes, ma'am.

14 Q And Ms. Fish told you that she recognize the white
15 male's voice?

16 A Yes, ma'am.

17 Q Okay. And you collected -- where was this rope when
18 you -- when you collected it?

19 A It was in the front yard, you know, a few feet from
20 the steps leading up to the house.

21 Q Okay. Did you just take it and put it in a bag?

22 A Yes, ma'am. An evidence bag.

23 Q Okay. To your knowledge, was that rope sent for any
24 form of testing?

25 A I'm not sure. I just submitted it to crime scene.

CROSS-EXAMINATION BY MS. LEMATTY - WINFRED BOYD 156

1 Q Okay. In the course of your investigation that night,
2 did you happen to speak also to Ms. Karen Parker?

3 A Yes, ma'am.

4 Q And Ms. Karen Parker -- from that conversation with
5 her is where you got the information on where Mr. Chris
6 Baty resided?

7 A Yes, ma'am.

8 Q Okay. And she mentioned to you that Chris was looking
9 for her cousin earlier that day?

10 A Yes, ma'am.

11 Q Okay. She never mentioned Carl Chaplin at that point
12 in time?

13 A No, ma'am.

14 Q Okay. And because obviously, if she had, you would've
15 included that information in your report, correct?

16 A Yes, ma'am.

17 Q Okay. Later that night did you receive information
18 through your dispatch and supervisors that Chris Baty had
19 been detained?

20 A Yes, ma'am.

21 Q Did you take Amber Fish over to Chris Baty's residence
22 to make an identification of him?

23 A I did.

24 Q And she did make an identification of him?

25 A Yes, ma'am.

CROSS-EXAMINATION BY MS. LEMATTY - WINFRED BOYD 157

1 Q And did you also take Amber Fish to Dristin Johnson's
2 residence to make an identification of him?

3 A I did.

4 Q And she did not identify Mr. Johnson at that time,
5 correct?

6 A That's right.

7 Q Did you do any further investigation in this case with
8 regard to Mr. Johnson?

9 A No, ma'am.

10 Q Thank you. Nothing further.

11 THE COURT: Anything ---

12 MR. AUSTIN: Nothing further from the ---

13 THE COURT: (To the witness) Thank you.

14 MR. AUSTIN: --- state ---

15 THE COURT: You ---

16 MR. AUSTIN: --- Your Honor.

17 THE COURT: --- may step down. (To Mr. Austin) Next
18 witness.

19 (Whereupon, the witness exited the witness stand.)

20 MR. AUSTIN: The state calls Joli Tumbleston.

21 THE COURT: Ms. Tumbleston, if you'd come around,
22 please.

23 THE WITNESS: (Complied.)

24 JOLI TUMBLESTON, having been first duly sworn,
25 testified as follows:

DIRECT EXAMINATION BY MR. AUSTIN - JOLI TUMBLESTON 158

1 THE COURT: Thank you.

2 MR. AUSTIN: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. AUSTIN:

5 Q Sgt. Tumbleston, where do you currently work?

6 A Dorchester County Sheriff's Office.

7 Q And how long have you been there?

8 A Approximately 13 years.

9 Q And did you work in law enforcement prior to the
10 sheriff's office?

11 A No, sir.

12 Q Okay. And are you a patrol sergeant?

13 A That's correct.

14 Q And what are some of the duties of a patrol sergeant?

15 A As a patrol sergeant, I still answer calls of service,
16 respond to calls, traffic enforcement. And I supervise a
17 -- a shift as a midline supervisor.

18 Q And are you in charge of deputies?

19 A Yes.

20 Q Okay. And let me take you December 3rd, 2011. Did
21 you respond to a call on Cone Lane that night?

22 A Yes, sir.

23 Q And in what -- what was that call in regards to?

24 A It was in reference to a armed robbery/home invasion.

25 Q And when you arrived on scene, who was there?

DIRECT EXAMINATION BY MR. AUSTIN - JOLI TUMBLESTON 159

1 A Deputy Boyd and, I believe, Deputy Jacob Will ---

2 Q And ---

3 A --- with him.

4 Q --- did you have a chance to speak with them?

5 A I did. I spoke with Deputy Boyd.

6 Q And did you have a chance to speak with any of the
7 victims?

8 A I did.

9 Q And did they brief you on the scene ---

10 A Yes, sir.

11 Q --- on the incident?

12 Were you briefed by the other officers?

13 A That's correct.

14 Q And so tell the Court what you observed that night, as
15 far as the victims go.

16 A When I arrived on scene, I walked into the residence
17 after speaking with Deputy Boyd. And I spoke with the
18 female victim, Ms. Fish. She was holding her -- a baby.
19 She was, you know, a little upset. And she said that her
20 baby had been ---

21 MS. LEMATTY: Objection, Your Honor.

22 THE WITNESS: Sorry.

23 THE COURT: (To the witness) Don't testify about what
24 she said ---

25 THE WITNESS: Okay.

DIRECT EXAMINATION BY MR. AUSTIN - JOLI TUMBLESTON 160

1 THE COURT: --- please, ma'am.

2 A So I spoke with her on the -- to what happened and --
3 and I spoke back with Deputy Boyd and Lt. Caudle arrived on
4 scene.

5 Q And what did you do as a result of what you learned
6 when you arrived on scene?

7 A I notified Lt. Caudle. And he arrived on scene and
8 took charge of the scene.

9 Q And who is Lt. Caudle?

10 A He is the Team 4 shift commander.

11 Q Okay. Did you actually go into the residence?

12 A I did.

13 Q And did you go through the entire home?

14 A No, sir.

15 Q Could you describe where in the home you actually
16 observed?

17 A I walked into the -- the front door of the residence,
18 maybe eight feet into the -- it was a living room.

19 Q Okay. And could you describe the condition of the
20 living room?

21 A I -- I can't.

22 Q Okay. Did you have a chance to anywhere else that
23 night in relation to this incident?

24 A Yes, sir. I went down to 110 Pintail, which is in
25 Gadsden Acres located in Summerville.

DIRECT EXAMINATION BY MR. AUSTIN - JOLI TUMBLESTON 161

1 Q Okay. And why'd you go there?

2 A I received some information that a possible suspect
3 would be at that -- or could be at that residence.

4 Q And who was that?

5 A His name was Christopher Baty, I believe is how you
6 pronounce it.

7 Q And so you went out to that residence. Was
8 Christopher Baty there when you got there?

9 A He was. And he was actually already detained by some
10 Summerville Police Department officers.

11 Q Okay. So what was your role when you went to that
12 location?

13 A I secured that residence and remained on scene. And I
14 made detective notification, as well as crime scene
15 notification that we had a -- a secondary possible crime
16 scene.

17 Q Okay. Now, was that it? Did you -- did you do
18 anything else at that location?

19 A I did. I walked around the perimeter of the residence
20 -- the front perimeter, around the front door. And I
21 observed some stuff in the trash can that I had believed
22 was taken from the original crime scene.

23 Q Okay. And did you speak to anybody at that location?

24 A I did. I spoke with Christopher's mother. And I
25 can't recall her name.

DIRECT EXAMINATION BY MR. AUSTIN - JOLI TUMBLESTON 162

1 Q Okay. And what -- what was the -- the general nature
2 of that conversation?

3 A I -- I told her that we had some detectives that we
4 were waiting to call us back and we were possibly waiting
5 on them to respond to us, as well as a crime scene
6 detective. And I, you know, basically just talked to her
7 while we waited on detectives to come so she wouldn't be
8 sitting there by herself. She was a little upset.

9 Q Okay. And you mentioned a crime scene detective. Did
10 a -- one actually come out to the residence?

11 A Yes, sir.

12 Q And who ---

13 A Lieutenant ---

14 Q --- was that?

15 A Lt. Earl Asbell.

16 Q Okay. And did any other detectives come out to the --
17 the home?

18 A That's correct. Detective Cheek.

19 Q Okay. And so what other reason would you have stayed
20 there at the location that night ---

21 A To ---

22 Q --- at that ---

23 A --- secure the residence.

24 Q And why is that?

25 A I was told that a search warrant was being drafted to

DIRECT EXAMINATION BY MR. AUSTIN - JOLI TUMBLESTON 163

1 be executed at that residence.

2 Q And were you the only officer to secure that
3 residence?

4 A I was not. Lt. Caudle actually stayed at the
5 residence with me until a detective got there.

6 Q Okay. You mentioned this trash can. Tell us what you
7 saw in the trash can.

8 A Face-up was a South Carolina driver's license that was
9 issued to Amber Fish, and I recalled that that was the
10 victim on Cone Lane.

11 Q Uh-huh.

12 A And also, there was an insert to an Xbox game. And I
13 recalled that an Xbox game was also stolen from the
14 residence. And there was also an Xbox insert or an
15 informational pamphlet on the ground.

16 Q And did you do anything with that, with ---

17 A I did not.

18 Q --- those items?

19 A No.

20 Q And why is that?

21 A Because I knew that a search warrant was coming and
22 that Lt. Asbell from crime scene would be handling all
23 evidence located there.

24 Q Okay.

25 MR. AUSTIN: Beg the Court's indulgence, Your Honor.

DIRECT EXAMINATION BY MR. AUSTIN - ANDY MARTIN 174

1 THE COURT: Redirect?

2 MR. AUSTIN: Nothing from the state, Your Honor.

3 THE COURT: (To the witness) You may step down. (To
4 Mr. Austin) Next witness.

5 (Whereupon, the witness exited the witness stand.)

6 MR. AUSTIN: The state calls Andy Martin.

7 (Whereupon, the witness came forward.)

8 ANDY MARTIN, having been first duly sworn,
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. AUSTIN:

12 Q Afternoon. Detective Martin, where do you currently
13 work?

14 A Sir, I work for the Dorchester County Sheriff's
15 Office, CID, Detectives Division.

16 Q And were you working there back in December of 2011?

17 A I was.

18 Q And were you involved in the investigation of a
19 burglary on Cone Lane?

20 A I was.

21 Q And can you explain for the Court just your
22 involvement with that investigation?

23 A May I read from my notes?

24 Q Sure.

25 A On December 5th, 2011, I was informed by Detective

DIRECT EXAMINATION BY MR. AUSTIN - ANDY MARTIN 175

1 Adam Smith that there was possible ---

2 MS. LEMATTY: Objection ---

3 THE COURT: Hold on.

4 MS. LEMATTY: --- Your Honor ---

5 THE COURT: Hold on.

6 MS. LEMATTY: --- hearsay.

7 THE COURT: Sustained. (To the witness) You can
8 testify about what somebody told you.

9 THE WITNESS: Okay. Then, I'll just go by ---

10 Q Detective Martin, did you -- did you respond out to
11 the home of Christopher Baty that night?

12 A No, sir.

13 Q Okay. Did you respond to any incident locations on
14 December 3rd?

15 A No, sir. I had no involvement in this case until the
16 5th.

17 Q I'm sorry. And -- and where did you go on the 5th?

18 A On the 5th I went to -- the actual address is 110
19 Pintail. I was advised to this possible evidence behind
20 that location. And I went there on the 5th and met with a
21 canine officer to conduct a search of the area behind the
22 house to locate possible evidence.

23 Q And whose home is that?

24 A I do not know.

25 Q And so you said you met with a -- a canine officer.

DIRECT EXAMINATION BY MR. AUSTIN - ANDY MARTIN 176

1 Take us through that process. What -- how did y'all
2 investigate that -- that location?

3 A When I went out there on that -- that day, it was
4 about 12:40 in the afternoon. I pulled up. Lt. Burnett --
5 he's the senior canine officer with that county. He parked
6 in front of me. I observed him remove his canine from his
7 vehicle.

8 We went to the side of the road, and he gave the
9 command for his dog to do an article search. The dog went
10 through the front yard, through the backyard of 110
11 Pintail. If you can imagine, in the backyard of the
12 residence, there's a -- a fence. It's like a cattle fence
13 that's partially pushed down and flat.

14 The canine crossed that fence; walked straight into
15 the woods. There's a old building, cinder block in
16 structure, abandoned. The dog walked to that building;
17 turned around; worked an arc; and located a -- a piece of
18 evidence. The dog -- when it located it, it stood up on
19 its back legs, came down on all fours, and then set
20 directly in front of this evidence.

21 At that time myself and Lt. Burnett walked over to
22 where the canine was -- had -- had identified as finding
23 something. Laying on the ground was a bag of -- of -- it
24 wasn't a white, see-through bag. It was like a bag you'd
25 get a Dollar General store or something. It was white in

DIRECT EXAMINATION BY MR. AUSTIN - ANDY MARTIN 177

1 color, but you couldn't see clear through it.

2 At that time I took my camera. I photographed the bag
3 where it lay. And at the -- then I walked over, and I
4 recovered the bag.

5 Q Did you -- did you touch the bag or remove any items
6 before you took pictures of it?

7 A No, sir.

8 Q And why is that?

9 A As a -- as a general rule, you want to -- you want to
10 photograph the evidence in the location you find it. It's
11 not been manipulated by anybody in law enforcement. The
12 last person who touched that bag set it there. And I just
13 wanted to -- for record's sake, identify where I found it
14 and its -- and its condition.

15 Q And what did you do with the bag after you took
16 pictures of it?

17 A Once I had identified the bag and I took photographs
18 of it, I walked over and I -- I picked it up and looked at
19 it. You could -- you could see items inside because the
20 bag was bulging all the way around with a lot of items
21 inside. Some things you can kind of -- you could see what
22 it was through the bag just by the shape and nomenclature.

23 But I didn't open it. I took the bag back to my
24 patrol car. I drove back to CID, the criminal-
25 investigations division. I went inside. I untied the bag.

DIRECT EXAMINATION BY MR. AUSTIN - ANDY MARTIN 178

1 And I placed every item from the bag on my desk.

2 Once I had every item on my desk, I photographed the
3 items as a whole, as everything there, and then one item at
4 a time as I entered it into the evidence log.

5 MR. AUSTIN: Beg the Court's indulgence, Your Honor.

6 (Whereupon, Mr. Austin and Ms. LeMatty conferred.)

7 Q I'm going to show you what's been marked for
8 identification purposes as State's Exhibit 7 and 8.

9 MR. AUSTIN: May I approach the witness, Your Honor?

10 THE COURT: (Nodded head up and down.)

11 Q You need to take those out of the bag and tell the
12 Court what you see. Just so we're clear, is that State's
13 Exhibit 7 there.

14 A Yes, sir. The first one I opened is State's Exhibit
15 7.

16 Q And what's that?

17 A This is the first piece of evidence, and which I
18 logged into the evidence log. It is one black, three-
19 holed, cold-weather mask.

20 Q And State's Exhibit 8?

21 A This was the second item, which I recovered. It is
22 one pair blue, cotton-type gloves.

23 Q And are both of those items in essentially the same
24 condition as you found them?

25 A Yes, sir.

DIRECT EXAMINATION BY MR. AUSTIN - ANDY MARTIN 179

1 MR. AUSTIN: Your Honor, at this time I'd like to
2 offer State's Exhibit 7 and 8 into evidence.

3 MS. LEMATTY: I do have a matter, Your Honor.

4 THE COURT: All right, then. You want to put it in a
5 sidebar, or you want to put it on the record? Come on.
6 We'll do it over here.

7 (Whereupon, a bench conference took place while the
8 jury was in the courtroom.)

9 THE COURT: All right. We'll argue it on the record.
10 Y'all step out just for one second. Won't take long.
11 Don't discuss the case and don't deliberate.

12 (Whereupon, the jury exited the courtroom at 4:07
13 p.m.)

14 (Off the record briefly.)

15 THE COURT: All right. Ma'am, your objection?

16 MS. LEMATTY: Thank you, Your Honor. At this point
17 our objection to those particular items would be foundation
18 and relevance. Detective Martin testified he went to 110
19 Pintrail -- Tail Drive. That is a duplex. One half of it
20 was, I think we've established, Mr. Baty's residence. But
21 the other half was not. He said this was in the backyard,
22 back behind this building. And it's not a -- a large
23 duplex. But nonetheless, it is a duplex.

24 We also have no -- no connection between these items
25 and -- and what anybody else has testified to as ---

DIRECT EXAMINATION BY MR. AUSTIN - ANDY MARTIN 180

1 THE COURT: Well, hadn't the -- didn't the victim say
2 they had masks on and gloves on?

3 MR. AUSTIN: That's correct, Judge.

4 MS. LEMATTY: I believe the victim did say masks. I'm
5 not sure if the victim said -- said gloves or not. But I
6 ---

7 THE COURT: Okay.

8 MS. LEMATTY: --- well, the victim did describe a -- a
9 mask. However, at this juncture from this detective, we
10 don't have -- he just said he responded on that date; that
11 that is all we have. We're missing a link there ---

12 THE COURT: Well ---

13 MS. LEMATTY: --- at this juncture. And I -- I -- not
14 that I don't believe he'll be able to fill the link with
15 the appropriate ---

16 THE COURT: Well, I ---

17 MS. LEMATTY: --- testimony.

18 THE COURT: --- think there's enough in -- in the
19 record to -- at this point of -- in the case to deem them
20 relevant. And, you know, the jury have to give it whatever
21 weight they want to give it. I'm going to admit it, but
22 let the jury decide what weight, if any, they want to give
23 the mask. The testimony from the victim was that the
24 intruder had a mask on. And she said that in the 911 tape,
25 as well as her statement -- well as her testimony.

DIRECT EXAMINATION BY MR. AUSTIN - ANDY MARTIN 181

1 The Pintail address is the address of the codefendant,
2 who was -- either found guilty, pled guilty, or whatever so
3 far. And it was found in his backyard. Ms. Parker and her
4 daughter identified your client and the other codefendants
5 at the house; all left together. So I think there's enough
6 connects us to the mask on relevancy to allow them at this
7 time. So I'll allow it.

8 MS. LEMATTY: Thank you ---

9 THE COURT: (To the bailiff) Bring the ---

10 MS. LEMATTY: --- Your Honor.

11 THE COURT: --- jury back in for me, please.

12 (Off the record briefly.)

13 (Whereupon, the jury entered the courtroom at 4:09
14 p.m.)

15 THE COURT: Every now and then, an objection is made
16 that I have to consider facts in making a ruling on it.
17 And I don't want my expression of talking about what's in
18 evidence already to influence you. So that's why I send
19 you out. It's -- it's -- I'm not trying to hide anything
20 from you. It's just a matter of whether or not, under the
21 law, certain exhibits are admissible. And I've ruled that
22 -- you've moved to admit them; they objected. I'm going to
23 allow the admittance. Move along.

24 MR. AUSTIN: Thank you, Your Honor.

25 (Whereupon, State's Exhibits 7 and 8 were entered into

DIRECT EXAMINATION BY MR. AUSTIN - ANDY MARTIN 182

1 evidence.)

2 DIRECT EXAMINATION BY MR. AUSTIN CONTINUES.

3 Q Detective Martin, could you please tell the Court what
4 else you found in that bag?

5 A Yes, sir. Starting from the top, I found the one
6 black, three-hole, cold-weather mask; one pair blue, cloth,
7 cotton-type gloves; one multicolored bong ---

8 THE COURT: (To the witness) One what?

9 THE WITNESS: A multicolored bong, a glass-type device
10 used for smoking whatever you choose to smoke in it, sir.

11 THE COURT: Thank you.

12 A One Job cigarette-paper roller; one Cricket phone,
13 Model X500, with a PIM number of 101531; one red in color
14 plastic phone-protector case; one digital scale, Model
15 M600, with two batteries installed; one empty pill bottle,
16 Wal-Mart Pharmacy lid, no label; one pack of blue Baggies,
17 17 count, small; one knotted-but-torn-open plastic Baggie,
18 clear in color; a clear -- clear-plastic sandwich bags --
19 there were 51 of those; plastic bags, 6 count; and one
20 plastic bag with a knot tied in the handle.

21 Q Thank you. Please answer any questions that Ms.
22 LeMatty has.

23 THE COURT: Ms. LeMatty?

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

DIRECT EXAMINATION BY MR. JUSTIS - CATHERINE LEISEY 216

1 THE WITNESS: Thank you.

2 (Off the record briefly.)

3 (Whereupon, the witness came forward.)

4 CATHERINE LEISEY, having been first duly sworn,
5 testified as follows:

6 THE COURT: Good morning, ma'am.

7 THE WITNESS: Good morning.

8 THE COURT: Good to see you again.

9 THE WITNESS: Thank you.

10 DIRECT EXAMINATION

11 BY MR. JUSTIS:

12 Q Good morning, Ms. Leisey.

13 A Good morning.

14 Q Could you tell us where you work?

15 A For the South Carolina Law Enforcement Division,
16 commonly known as "SLED."

17 Q And what's your job title at SLED?

18 A I am a forensic scientist assigned to the DNA and
19 serology unit.

20 Q So generally, what are your -- what are your job
21 duties as a forensic scientist?

22 A My responsibilities include processing forensic cases;
23 generating reports based on the results and conclusions
24 drawn; and testifying to those reports as necessary. I
25 also assist in the training of newly hired analysts.

DIRECT EXAMINATION BY MR. JUSTIS - CATHERINE LEISEY 217

1 Q Okay. And what's your educational background?

2 A I have a bachelor of science degree in genetic
3 engineering from Cedar Crest College in Allentown,
4 Pennsylvania.

5 Q And do you have any specialized training in your job?

6 A I've received in-house training by other court-
7 qualified analysts covering all the different types of
8 tests and analysis I'm required to perform. I'm also
9 required to participate in continuing education, which
10 includes seminars or conferences related to the specific
11 topics in forensics that relate to my position.

12 Q And how long have you been at SLED?

13 A For six years.

14 Q And have you ever been qualified as an expert in DNA
15 analysis before?

16 A I have.

17 Q Approximately how many times?

18 A On approximately 40 occasions, through jurisdictions
19 throughout South Carolina, California, Massachusetts, New
20 Jersey, Florida, the District of Columbia, and United
21 States District Court.

22 Q And when was the last time you were qualified?

23 A In South Carolina I believe it was last month. I was
24 qualified in Massachusetts last week.

25 MR. JUSTIS: At this time, Your Honor, the state would

DIRECT EXAMINATION BY MR. JUSTIS - CATHERINE LEISEY 218

1 offer Ms. Leisey as an expert in DNA analysis.

2 THE COURT: Any examination concerning her
3 qualifications?

4 MS. LEMATTY: No, Your Honor.

5 THE COURT: Thank you. All right. Madam Forelady,
6 ladies and gentlemen, she'll be allowed to give opinion
7 testimony in the field of her expertise. I'll explain that
8 to you when I charge you at the conclusion of the case.

9 MR. JUSTIS: Thank you, Your Honor.

10 Q Could you briefly tell us what DNA is?

11 A "DNA" stands for deoxyribonucleic acid. It's the
12 genetic material found in all of our body cells with the
13 exception of our red blood cells. DNA is packaged into
14 structures called "chromosomes," which contain our genes.
15 And genes are simply strands of DNA that code for our
16 physical characteristics, such as our height or our eye
17 color. We receive half of our DNA from our mother and half
18 from our father and, therefore, have two copies of every
19 gene.

20 Approximately 99.9 percent of an individual's DNA is
21 identical to that of everyone else's. And it's the
22 variation in that remaining 0.1 percent that allows us to
23 tell different people apart.

24 Q Okay. Thank you. And how do you go about doing your
25 DNA analysis? What's the standard procedure you follow?

DIRECT EXAMINATION BY MR. JUSTIS - CATHERINE LEISEY 224

1 compared them to the mask and the gloves that you had
2 swatches for ---

3 A Uh-huh.

4 Q --- or scrapings for, what were the results of your
5 examinations?

6 A The DNA profile developed from the swab from the
7 outside of the black, knit ski mask is a mixture of at
8 least three individuals. Christopher Baty and Dristin
9 Johnson cannot be excluded as possible contributors to this
10 mixture. And the probability of randomly selecting an
11 unrelated individual who could have contributed is
12 approximately 1 in 7.

13 The DNA profile developed from the swab from the
14 inside of the ski mask is a mixture of at least two
15 individuals. The DNA profile developed from the major
16 contributor to this mixture matches the DNA profile of
17 Christopher Baty. And the probability of randomly
18 selecting an unrelated individual having a DNA profile
19 matching this major contributor is approximately 1 in 330
20 trillion. Dristin Johnson is excluded as a possible minor
21 contributor to this mixture.

22 The DNA profile developed from the swab from the
23 outside of the gloves is a mixture of at least three
24 individuals. Christopher Baty cannot be excluded as a
25 possible contributor to this mixture. And no conclusive

DIRECT EXAMINATION BY MR. JUSTIS - CATHERINE LEISEY 225

1 statement can be made regarding the inclusion or exclusion
2 of Dristin Johnson as a possible contributor.

3 And the DNA profile developed from the swab from the
4 inside of the gloves is a mixture of at least four
5 individuals. Christopher Baty and Dristin Johnson cannot
6 be excluded as possible contributors to this mixture. And
7 the -- excuse me -- the probability of randomly selecting
8 an unrelated individual who could have contributed to this
9 mixture is approximately 1 in 8.

10 Q So, Ms. Leisey, let me get this straight: You're
11 essentially testing four areas: the outside and inside of
12 a mask, and the outside and inside of gloves; is that
13 correct?

14 A That's correct.

15 Q And the only positive match, to some degree of -- of
16 certainty, would be the inside of the mask to Christopher
17 Baty?

18 A That's correct. Mr. Baty did match the major profile
19 to that item.

20 Q And of the four areas you -- you tested, the only area
21 that you can definitely exclude Mr. Johnson would be the
22 inside of the mask, correct?

23 A That's correct.

24 Q Thank you. No further questions. Please answer any
25 questions Ms. LeMatty might have.

CROSS-EXAMINATION BY MS. LEMATTY - CATHERINE LEISEY 227

1 off that that is enough of a -- of a contact to leave DNA.

2 Q And on the outside of the ski mask was a mixture of at
3 least three individuals, you said?

4 A That's correct.

5 Q Okay. And on in the inside, at least two?

6 A Correct.

7 Q And with regard to the outside of the mask, you
8 testified the probability of randomly seeking an unrelated
9 individual who would -- who have contributed to this
10 mixture is approximately 1 in 7?

11 A That's correct.

12 Q And so if there are -- oh, I don't know -- 30 people
13 in this room right now, several of them could have
14 contributed to this mixture?

15 A Mathematically speaking, that is correct. Yes.

16 Q Okay. And on the outside of the gloves was a mixture
17 of at least three people, correct?

18 A That's correct.

19 Q And on the outside of the gloves, you just can't say
20 that Dristin Johnson was a contributor at all to that
21 mixture?

22 A Based on the mixture that I have for that particular
23 item, I'm not comfortable making a conclusive statement
24 either way with Mr. Johnson's profile.

25 Q Okay. And with regard to the inside of the gloves,

DIRECT EXAMINATION BY MR. JUSTIS - CARL CHAPLIN 230

1 A He worked for me at the flea market.

2 Q Okay. And what kind of job did you have at the flea
3 market?

4 A An appliance business.

5 Q And what did Christopher do for you at the flea
6 market?

7 A Went on deliveries and -- with another fellow beside
8 me and just helped me move stuff around and sell stuff.

9 Q Okay. And what kind of appliances were?

10 A A little of everything: washers, dryers,
11 refrigerators, stoves.

12 Q So large appliances?

13 A Yeah. Uh-huh.

14 Q Okay.

15 A Yeah. Everything.

16 Q Let me -- let me take you back to December 3rd of
17 2011. Do you remember that day?

18 A Yes, sir.

19 Q Okay. Was Chris working with you that day?

20 A Yes, sir.

21 Q And after work that day, what did you do?

22 A I went to my shop to take a refrigerator up there and
23 took Chris with me.

24 Q Okay.

25 A And ---

DIRECT EXAMINATION BY MR. JUSTIS - CARL CHAPLIN 231

1 Q And after you -- after you took him to your shop, did
2 you go anywhere else after that?

3 A Yeah. I went to a liquor store and then went to Wal-
4 Mart and to McDonald's. And I bought a box of shells,
5 shotgun shells, for Chris at Wal-Mart for the gun he had
6 bought at the flea market ---

7 Q Okay.

8 A --- that -- the same day.

9 Q Okay. And what kind of gun was it?

10 A A .410.

11 Q A shotgun?

12 A Uh-huh.

13 Q And after you went to Wal-Mart and -- and McDonald's
14 and bought some bullets for his shotgun, where'd you go
15 after that?

16 A Well, we had bought some cheeseburgers and stuff and
17 -- for his -- took some to his mother. And then Chris was
18 going inside and took the stuff -- cheeseburger and all to
19 his mom and all. And then he come back out. He seen
20 Dristin in the yard, so he went down there and wanted to
21 try to get some weed. And then couldn't get none, so after
22 that we went to this other place to try and get some and
23 they didn't have none. So we went to Ms. Karen's house
24 after that.

25 Q Okay. Would that be Karen Parker?

DIRECT EXAMINATION BY MR. JUSTIS - CARL CHAPLIN 232

1 A Right, Karen Parker.

2 Q And where did she live?

3 A Cone Lane.

4 Q Okay. And just to back up a little bit: Where did
5 Christopher Baty live?

6 A I -- I can't think of the name of the neighborhood.
7 Off of Central Avenue -- I know the name of -- name of the
8 -- know the neighborhood, but I can't think of it. It's a
9 ---

10 Q Right. Is it in Summerville?

11 A Yes, sir.

12 Q Okay.

13 A Uh-huh.

14 Q And you ---

15 A Gadsden Acres.

16 Q Gadsden ---

17 A Yeah.

18 Q --- Acres?

19 A Yeah. Yeah.

20 Q And you stated that's where -- that's where you saw --
21 or -- or met Dristin?

22 MS. LEMATTY: Objection: leading.

23 A Uh-huh.

24 THE COURT: All right. Don't lead, please.

25 Q And when you got to Karen's house, what -- what was

DIRECT EXAMINATION BY MR. JUSTIS - CARL CHAPLIN 233

1 going on at Karen's house?

2 A It was a bunch of people over there, and we just went
3 inside. And everybody was talking and stuff like that.
4 And TV was -- you know, watching TV and everything. And we
5 went outside and smoked a joint. And Chris and Dristin was
6 drinking beer over there.

7 Q Okay. And who else, besides -- so you, Dristin, and
8 Chris were together at -- at Karen's house, correct?

9 A Uh-huh. Right.

10 Q Who -- who else was there? Did -- did you know any of
11 the other people there?

12 A No, I didn't know any of them. Unh-unh.

13 Q Okay. Had you been to their house before?

14 A Twice.

15 Q Okay. And did you know Ms. Karen?

16 A Not really all that good or nothing. It was just
17 where she bought a dryer from me one time, and she give me
18 a washing machine. Just -- that's all I knew. That's the
19 only thing I know about her.

20 Q But -- but you've met her before?

21 A Right. Right.

22 Q You would recognize her if you saw her?

23 A Yes, sir.

24 Q Was she there when you got there?

25 A No, sir.

DIRECT EXAMINATION BY MR. JUSTIS - CARL CHAPLIN 234

1 Q Did she come later on in the evening?

2 A Right.

3 MS. LEMATTY: Objection: leading.

4 THE COURT: Please ask direct questions.

5 Q Did -- you stated she came later in the evening. When
6 did she come?

7 A Little while after we got there. She had been to the
8 hospital, I guess, with her sister or something.

9 Q Okay. And when she got there, what did you do at that
10 point?

11 A Nothing. Just -- she didn't want anybody in the house
12 because she was upset and all that stuff. So Chris and
13 them said we best go outside and everything. And we went
14 outside for a little while and all. And then Chris went
15 back in there. And then Chris came outside and told me ---

16 MS. LEMATTY: Objection: hearsay.

17 Q Yeah. Don't -- don't tell us what anybody else said.

18 A Okay.

19 Q Okay? You can't -- you can't testify to that ---

20 A All right.

21 Q --- so -- other than anything Dristin might've said.
22 Did Dristin say anything?

23 A Not that I know of.

24 Q Okay. Now, so you're outside. At some point -- what
25 -- what happens after that -- after you go back outside;

DIRECT EXAMINATION BY MR. JUSTIS - CARL CHAPLIN 235

1 she doesn't want anybody in the house; you go back outside.

2 A We left there and went to get her some -- took her to

3 -- I took her get some pills at somebody -- someone's

4 house. And ---

5 Q You took who?

6 A Karen Parker.

7 Q Okay.

8 A To get ---

9 Q And ---

10 A --- some pills.

11 Q --- who else? Anybody else in the ---

12 A Me and Dristin and Chris and her.

13 Q Okay.

14 A All four of us went there. And then after that we
15 left and went to the Kangaroo gas station and got something
16 to drink. And me, Dristin, and Chris went inside. Karen
17 Parker sit in the truck. She never went inside.

18 And then after that we left and went back to Karen
19 Parker's house. And Chris wanted to talk to one of the
20 daughters, all that. And hung around up a few minutes and
21 all. I told them I had to go. And they wanted me take
22 them to get a ride to get some weed. So ---

23 MS. LEMATTY: Objection: hearsay.

24 THE COURT: (To the witness) All right. Don't
25 testify about what somebody else tells you. What did --

DIRECT EXAMINATION BY MR. JUSTIS - CARL CHAPLIN 236

1 just tell us what you did.

2 Q So you got back. What did you do after you -- after
3 you got back from the store, what did you do? You said you
4 hung around for a little bit. After you hung around for a
5 little bit, what did you do next?

6 A I give them a ride to get some weed. And then that's
7 when -- I can't say anybody's name?

8 Q You -- you can say what people did. You -- you can't
9 ---

10 A Okay.

11 Q --- tell us what they -- what they told you, except
12 for Dristin. You can tell us anything he said to you.

13 A Oh, okay.

14 Q You can't tell us what Chris said to you.

15 A All right. Well ---

16 Q But you can tell us what you saw, what they did.

17 A Okay. Well, I parked at -- I parked down a dirt road
18 so they could go there and get some weed. And they got out
19 with the shotgun. It was still in the case and everything.

20 And I never seen any gloves or rope or anything like
21 that. Chris had a toboggan on his head, you know, as far
22 as just a toboggan. I didn't know it was a -- a mask or
23 nothing ---

24 Q A toboggan, you said?

25 A Toboggan. And trying to remember now; it's been so

DIRECT EXAMINATION BY MR. JUSTIS - CARL CHAPLIN 237

1 long ago.

2 Q Where -- where'd you -- you said you went down a dirt
3 road?

4 A (Nodded head up and down.)

5 Q Where was it? Was this -- how far from the house?

6 MS. LEMATTY: Objection, Your Honor: leading again.

7 THE COURT: Mr. Solicitor, please quit asking leading
8 questions. You know ---

9 MR. JUSTIS: Yes, Your Honor.

10 THE COURT: --- the rules. (To the witness) Tell us
11 where you went, please.

12 THE WITNESS: Okay.

13 A We left Karen Parker's house and went down a dirt road
14 and parked about -- I would say about 60/70 yards from the
15 house or whatever, the people's house where they robbed.
16 And they got out of the truck with a shotgun and all this
17 and went down there and -- because he said that didn't want
18 nobody at the house because the people dealt drugs, you
19 know.

20 MS. LEMATTY: Objection, Your Honor: hearsay again.

21 THE COURT: Who said that? Just only -- you -- you
22 can only testify as to about what this defendant over here
23 said, Dristin Johnson ---

24 THE WITNESS: Okay.

25 THE COURT: --- not your codefendant.

DIRECT EXAMINATION BY MR. JUSTIS - CARL CHAPLIN 238

1 THE WITNESS: Okay. Okay.

2 Q So you stated you parked?

3 A (Nodded head up and down.)

4 Q Where did you park?

5 A Well, about 60/70 yards from the house, behind a
6 tractor-trailer.

7 Q And you ---

8 A Maybe ---

9 Q --- stated ---

10 A --- maybe it was a little further than that.

11 Q What did Christopher and Dristin do when you parked?

12 A Got out of my truck with a shotgun that was still in
13 the case.

14 Q And what did you do?

15 A I just sit there, smoking a cigarette, waiting to come
16 back, because they was going to buy some weed.

17 MS. LEMATTY: Objection, Your Honor.

18 THE COURT: That's overruled. Go ahead.

19 Q How long would you say they were gone?

20 A Probably about maybe 20/25 minutes, something like
21 that.

22 Q Okay. And did they return?

23 A Yes, sir.

24 Q And what did they do when they returned?

25 A Come running to the truck and told me to go, go, and

DIRECT EXAMINATION BY MR. JUSTIS - CARL CHAPLIN 239

1 ---

2 MS. LEMATTY: Objection, Your Honor: hearsay.

3 THE COURT: (To the witness) Please only tell us what
4 Mr. Johnson said.

5 A He was saying that too: Go. You know, because -- and
6 then I was asking them why, you know. But -- but
7 instantly, I just crank my truck up and I was -- you know,
8 because I didn't know what was going on.

9 And I was leaving out of there. And then they was
10 telling me what was going on down the road: that they had
11 robbed them.

12 THE COURT: (To the witness) No. Tell me exactly
13 what ---

14 MS. LEMATTY: Objection ---

15 THE COURT: --- Mr. Johnson said, not what the other
16 gentleman said, if he said anything at all.

17 THE WITNESS: I can't remember what he said.

18 THE COURT: All right. Move -- move along.

19 Q So they got in the car. And then you started the car
20 and you -- you left?

21 A (Nodded head up and down.)

22 Q Where did you go?

23 A Chris's house.

24 Q And that would be in Gadsden ---

25 A Gadsden ---

DIRECT EXAMINATION BY MR. JUSTIS - CARL CHAPLIN 240

1 Q --- Acres?

2 A --- Acres. Uh-huh.

3 Q And when you got to Chris -- Chris's house, what
4 happened next?

5 A Just got everything out of the truck. And then I
6 left; I went home.

7 Q Did -- you got to Chris's house. Did anybody get out
8 of the truck?

9 MS. LEMATTY: Objection ---

10 A Yeah.

11 MS. LEMATTY: --- Your Honor: leading.

12 THE COURT: I -- I'm being very patient, but about to
13 lose it.

14 Q What did Chris do?

15 A He got out of the truck. And he was getting all the
16 stuff out of the truck.

17 Q And what did Dristin do?

18 A Same thing.

19 Q And you -- you stated you left at that point?

20 A Yeah. I stayed in the truck. I never got out the
21 truck. And then I left. I started to call the police, you
22 know, but -- about it. But with my record, they wouldn't
23 have believed me no way so . . .

24 Q Did you have any contact with Chris or Dristin after
25 you dropped them off?

DIRECT EXAMINATION BY MR. JUSTIS - CARL CHAPLIN 245

1 A --- pick it out ---

2 MS. LEMATTY: --- hearsay.

3 THE COURT: Can't answer that. Go ahead.

4 MR. JUSTIS: Okay. Thank you, Your Honor.

5 Q Now, Mr. Chaplin, you've been convicted before of
6 burglary; is that correct?

7 A Yes, sir.

8 Q What are some of the crimes that you've been convicted
9 of in your lifetime?

10 A Burglary, grand larceny, housebreaking. That's about
11 it.

12 Q Approximately how many times would you say you've been
13 arrested and convicted of crimes?

14 A Probably about five/six time or more.

15 Q Okay. And -- and, in fact, you've been convicted in
16 your participation in this crime, haven't you?

17 A Yes, sir.

18 Q Okay. Now, why are you testifying here today?

19 A I'm testifying of my own free will. I mean ---

20 Q Okay. Are you getting ---

21 A --- so ---

22 Q --- a deal to testify?

23 A Yes, sir.

24 Q And what's that deal?

25 A Knock five years off of my sentence.

DIRECT EXAMINATION BY MR. JUSTIS - CARL CHAPLIN 246

1 Q Okay. And what was the conditions of that? In other
2 words, what do you have to do to get five years off your
3 sentence?

4 A Testify and tell the truth.

5 Q Okay. And are you telling the truth here today?

6 A Yes, sir. That's not just to get time knocked off my
7 sentence. But I'm -- you know, I'm telling the truth.

8 Q Okay. So it would be your testimony here today that
9 Dristin Johnson was with you ---

10 MS. LEMATTY: Objection ---

11 Q --- that night?

12 MS. LEMATTY: --- Your Honor: leading.

13 THE COURT: Sir, please refrain from asking leading
14 questions on direct examination. Restate the question.

15 Q Who was with you that night?

16 A Chris Baty and Dristin Johnson.

17 Q And who did you take to that house on Cone Lane that
18 night?

19 A Chris Baty and Dristin Johnson.

20 Q And who did you see with the shotgun that night?

21 A Chris Baty got out of the truck with the shotgun. And
22 when they came back, Dristin Johnson had the gun.

23 MR. JUSTIS: Beg the Court's indulgence.

24 (Whereupon, Mr. Justis and Mr. Austin conferred.)

25 Q No further questions. Please answer any questions Ms.

DIRECT EXAMINATION BY MR. JUSTIS - ADAM SMITH

278

1 objection right here?

2 MS. LEMATTY: Yes, Your Honor. I'm sorry.

3 THE COURT: Hearsay, maybe?

4 MS. LEMATTY: Yes, Your Honor.

5 THE COURT: Thank you. Sustained.

6 Q After you served the warrants on him, what did you do
7 next?

8 A We then reinterviewed him at that time.

9 Q Did Mr. Baty give a statement at that time?

10 A Yes, he did.

11 Q In what form did he give a statement?

12 A It was a verbal statement, and he asked us to
13 transcribe ---

14 MS. LEMATTY: Objection ---

15 THE COURT: All right.

16 MS. LEMATTY: --- Your Honor.

17 THE COURT: Whoa. Don't testify about what he said.

18 THE WITNESS: Yes, sir.

19 THE COURT: He's ---

20 A The statement was transcribed for him per his request.

21 Q And who ---

22 MS. LEMATTY: Objection ---

23 Q --- was it ---

24 MS. LEMATTY: --- Your Honor.

25 Q --- transcribed by?

DIRECT EXAMINATION BY MR. JUSTIS - ADAM SMITH 279

1 A Detective Cheek.

2 Q Okay. And who was present when this -- when this
3 statement was given?

4 A It was Mr. Baty, myself, and Detective Cheek at that
5 time.

6 Q When this statement was obtained, was -- what -- where
7 was it obtained? What was the -- the actual location?

8 Where were you ---

9 MS. LEMATTY: Objection ---

10 A It was at ---

11 MS. LEMATTY: --- Your Honor: leading.

12 THE COURT: Overruled.

13 A The statement was obtained at our criminal-
14 investigations-division office in our interview room.

15 Q Could you describe the interview room?

16 A The interview room is a -- essentially a conference
17 room that we use to conduct interviews in at our office.
18 It's approximately maybe 10-by-12 room that has a table.

19 Q And how long were you in that room with Mr. Baty?

20 MS. LEMATTY: Objection, Your Honor: relevance.

21 THE COURT: Well, it's part of the investigation.

22 Overruled. I've ruled the statement out, so you better
23 tiptoe around it, Mr. Solicitor -- need to tiptoe around
24 it.

25 A Approximately an hour and a half to two hours.

DIRECT EXAMINATION BY MR. JUSTIS - ADAM SMITH

280

1 Q Okay. Did you make any promises to Mr. Baty?

2 A No, sir, I did not.

3 Q Did anyone else?

4 A No, sir.

5 Q Did you deny him any food or comfort or bathroom
6 breaks?

7 A No, sir.

8 MS. LEMATTY: Objection, Your Honor: I -- relevance
9 again.

10 THE COURT: Overruled.

11 Q What was the next thing you did in your investigation?

12 A After that I had compiled all the evidence that we had
13 obtained up until this point in the investigation and also
14 obtained arrest warrants for Dristin Johnson, as well as
15 Carl Chaplin.

16 Q Okay. And when you obtained those arrest warrants for
17 those other two individuals, what did you do with those
18 arrest warrants?

19 A Those arrest warrants were provided to our warrants
20 division so they could be put in NCIC, which is the
21 National Crime Information Center, which is a national
22 database for law enforcement. So if somebody -- law
23 enforcement comes in contact with a person on the street
24 and runs their name and date of birth, it'll come back and
25 show that there's an active arrest warrant for their

DIRECT EXAMINATION BY MR. JUSTIS - ADAM SMITH

284

1 do they do at that point?

2 A They're asked to look at each individual picture
3 separately. And if they are able to identify somebody,
4 they're asked to circle that picture, including the number
5 of the picture, and also date and initial that picture.

6 Q Tell us about Item No. 2 there, State's Exhibit No. 2.
7 Who was that photo lineup shown to?

8 A State's Exhibit No. 2 was shown to Carl Chaplin.

9 Q And how do you know it was shown to Carl Chaplin?

10 A Because he signed and printed his name on the cover
11 page of that photographic lineup

12 Q Did Mr. Chaplin select a photo out of that photo
13 lineup?

14 A Yes, sir, he did.

15 Q And which photo did he select?

16 A He selected Photograph No. 2.

17 Q And how did he denote that?

18 A He circled the picture, as well as initialing and
19 dating the picture.

20 Q And who did he identify in that picture?

21 A Photograph No. 2 was a -- a driver's license
22 photograph of Dristin Johnson.

23 Q Okay. What about Item -- State's Exhibit No. 4?

24 A State's Exhibit No. 4 was completed by Karen Parker.

25 Q Okay. And did she identify anyone?

DIRECT EXAMINATION BY MR. JUSTIS - ADAM SMITH

285

1 A Yes, she did.

2 Q And who did she identify?

3 A She identified Photograph No. 2, which is a driver's
4 license photograph of Dristin Johnson.

5 Q And how'd she denote that identification?

6 A She circled the picture, as well as initialing and
7 dating it, and then also wrote the names which she knew
8 that person by.

9 Q And how do you know that was the lineup she looked at?

10 A Because her -- she had also signed and printed her
11 name on the front page.

12 Q Now, when did you show this photo lineup to Karen
13 Parker?

14 A Karen Parker -- the photographic lineup was shown on
15 December 12th, 2011.

16 Q And where was that photo lineup shown to her? Where
17 ---

18 A That ---

19 Q --- were you?

20 A That was shown to her at her residence.

21 Q And who was present?

22 A At that point in time, it was myself and Ms. Parker.

23 Q Did you denote to her in any way which photo she
24 should pick?

25 A No, I did not.

1 point. I'm sorry ---

2 THE COURT: Well, I---

3 MS. LEMATTY: --- Your Honor.

4 THE COURT: --- that's up to you.

5 MS. LEMATTY: Your Honor, at this point -- I -- I
6 thought we were doing scheduling for a minute. I'm -- I'm
7 very ---

8 THE COURT: No problem.

9 MS. LEMATTY: --- sorry.

10 THE COURT: Just -- no. We're at the conclusion of
11 the state's case. Any motions you would like to make?

12 MS. LEMATTY: Yes, Your Honor. At this ---

13 THE COURT: Thank you.

14 MS. LEMATTY: --- point we'd like to make a motion for
15 a directed verdict. We do not believe that the state has
16 presented evidence on each and every element of each and
17 every crime charged sufficient to cause the case to be sent
18 to the jury. Notably, I'm -- I'm not sure they ever
19 established that this was in Dorchester County. So ---

20 THE COURT: They did.

21 MS. LEMATTY: So at -- at this point in time, we would
22 ask for a directed verdict.

23 THE COURT: Thank you. Well, obviously, I'm concerned
24 with the existence of the evidence, not the weight. And it
25 -- certainly, there's a substantial amount of evidence in

1 the record that, if the jury chooses to believe so, that
2 your client could be convicted. And certainly, there's
3 enough evidence to meet all the elements of each and every
4 crime set forth in the indictments. So I respectfully deny
5 the same.

6 All right. Let me ask Mr. Johnson: First of all, Mr.
7 Johnson, would you stand and raise your right hand.

8 DRISTIN JOHNSON, having been first duly sworn,
9 testified and stated as follows:

10 THE COURT: Mr. Johnson, we've reached the stage in
11 the trial now where you may present your side of the story;
12 in other words, your defense. You can do that by calling
13 witnesses; you can do that by introducing relevant
14 exhibits. And you can also do that by testifying in your
15 own defense.

16 If you choose to testify, obviously you will be
17 subjected to the same rules of cross-examination as all
18 other witnesses. (To Mr. Justis) And does he have any
19 record for impeachment purposes?

20 MR. JUSTIS: I believe he does, Your Honor. Back in
21 August of 2011, four months before this incident, he was
22 convicted of attempted burglary in the third degree and
23 currently was on probation when this incident occurred.

24 THE COURT: The state could use that particular
25 offense to which you either were found guilty or pled

DIRECT EXAMINATION BY MS. LEMATTY - ROBIN CAULTER 306

1 MR. JUSTIS: Nothing from ---

2 THE COURT: And I ---

3 MR. JUSTIS: --- the state.

4 THE COURT: --- understand this witness is very brief?

5 MS. LEMATTY: Yes, Your Honor.

6 THE COURT: (To the bailiff) Bring the jury.

7 (Off the record briefly.)

8 (Whereupon, the jury entered the courtroom at 1:32
9 p.m.)

10 THE COURT: We got one short witness, and that's it.

11 (To Ms. LeMatty) You may call your witness.

12 MS. LEMATTY: Defense calls Robin Caulter.

13 THE COURT: Ms. Caulter, if you would please come up
14 here.

15 (Whereupon, the witness came forward.)

16 THE COURT: Ma'am, if you'd come right around here for
17 me, please.

18 THE WITNESS: Yes, sir.

19 THE COURT: How are you today?

20 THE WITNESS: Doing well.

21 ROBIN CAULTER, having been first duly sworn,
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MS. LEMATTY:

25 Q Ms. Caulter, where do you live?

DIRECT EXAMINATION BY MS. LEMATTY - ROBIN CAULTER 307

1 A 109B Wood Duck Drive.

2 Q And where is that?

3 A That's in Summerville, South Carolina.

4 Q And what do you do for a living, Ms. Caulter?

5 A I manage a meat market ---

6 THE COURT: I'm sorry. You do what?

7 THE WITNESS: Manage a meat market -- meat -- meat
8 market ---

9 THE COURT: Yes, ma'am.

10 THE WITNESS: --- business. Uh-huh.

11 A --- and pastor of our congregation.

12 Q And do you know the defendant, Dristin Johnson?

13 A Yes.

14 Q And how do you know him?

15 A That's my son.

16 Q Let me take you back to the night of December 3rd of
17 2011. Do you remember that night?

18 A Yes.

19 Q How is that you remember that night?

20 A My husband and I were in the room, and we had a knock
21 came to the door. And he answered the door, and there was
22 a Dorchester County Sheriff Department asking for my son,
23 Dristin.

24 THE COURT: Ma'am, speak up for me, please. Step --
25 get a little closer to that mic so we can hear you.

DIRECT EXAMINATION BY MS. LEMATTY - ROBIN CAULTER 308

1 THE WITNESS: Okay.

2 Q And Dristin was home at that time?

3 A Yes.

4 Q And did Dristin go outside with the officers as
5 requested?

6 A Yes.

7 Q And did you watch what happened after that?

8 A Yes.

9 Q What did you see happen after that?

10 A Dristin stepped outside beside the door. A Dorchester
11 County Sheriff rode past the house. And after that sheriff
12 car passed by, the -- Officer Jefferson said, "Thank you,
13 Dristin. We sorry for any inconvenience" ---

14 THE COURT: Ma'am, you can't testify about what the
15 officer said.

16 THE WITNESS: Okay.

17 A And that's what I saw. And Dristin came in the house.

18 Q Okay. Let's go back to earlier in that day. Can you
19 kind of take the -- the jury through what you had done from
20 -- from -- what time did you get up that morning?

21 A Could've been about ---

22 THE COURT: Ma'am, please don't speculate, now. The
23 -- if you remember ---

24 A Eleven ---

25 THE WITNESS: (To the Court) Thank you, sir.

CROSS-EXAMINATION BY MR. AUSTIN - ROBIN CAULTER 309

1 A Eleven, merging into twelve o'clock.

2 Q Okay. And did you leave your house that day?

3 A No, ma'am.

4 Q And during any portion of that day, was Dristin at
5 home?

6 A Yes.

7 Q Okay. And what -- was he home when you got up?

8 A Yes.

9 Q And what happened in the afternoon? Did he go
10 anywhere?

11 A He -- that evening he stepped, you know, outside and
12 come back in.

13 Q Okay. And do you remember why he stepped outside?

14 A No.

15 Q Okay. And after he came back in, did he leave the
16 house again?

17 A No.

18 Q And he was there when the law enforcement officers
19 knocked on your door?

20 A Yes. Cooking.

21 Q Okay. Thank you. If you'd answer any questions the
22 state has for you.

23 THE COURT: Cross?

24 CROSS-EXAMINATION

25 BY MR. AUSTIN:

CROSS-EXAMINATION BY MR. AUSTIN - ROBIN CAULTER 310

1 Q Good afternoon, Ms. Caulter.

2 A Hi.

3 Q You said that Dristin stepped outside that night. How
4 long did he step outside?

5 A Could've been a few minutes. No ---

6 Q Anything ---

7 A --- speculation.

8 Q I'm sorry?

9 A They said no speculation, so I'm just saying could've
10 been a few minutes, you know. I hear the door go in and
11 out, so ---

12 Q Not like an hour or so? Something less ---

13 A No, sir.

14 Q --- than ---

15 A Right.

16 Q Okay. Now, how many children do you have?

17 A Four.

18 Q Four?

19 Okay. And you said that you're a -- a pastor and you
20 work in a meat market. What -- what else have you done
21 prior to that, workwise?

22 A I've -- supervisor of security team on ---

23 Q Now -- I'm sorry.

24 A Supervisor of security team and an officer for the
25 weapons station.

CROSS-EXAMINATION BY MR. AUSTIN - ROBIN CAULTER 316

1 Dristin was arrested?

2 A Yes.

3 Q Must've been big a surprise to you to find out that --
4 that he was being arrested if he had been home all day on
5 Saturday, right?

6 A Yes.

7 Q Okay. Did you ever call law enforcement and tell
8 them, "Hey, my son was home with me all day on December
9 3rd"?

10 A No.

11 Q You didn't think that was important?

12 A Well, I didn't know at what point should I call and
13 let them know after they came to my house and asked for
14 Dristin and after Dristin came out and came back inside the
15 house. I figure all things was clear.

16 Q You said you had somewhat worked in law enforcement.
17 I mean -- I mean, so you should be aware, right, that it
18 would be important for officers to know that your son had
19 been home with you all day ---

20 MS. LEMATTY: Objection ---

21 Q --- and at the ---

22 MS. LEMATTY: --- Your Honor.

23 Q --- time of ---

24 MS. LEMATTY: I think he's mischaracterized her
25 testimony. I don't believe she ever said she worked in law

CROSS-EXAMINATION BY MR. AUSTIN - ROBIN CAULTER 317

1 enforcement.

2 THE COURT: Overruled. Restate the question.

3 Q So you -- just want to be clear: Your son was
4 arrested December 8th. Have you ever gone forward to speak
5 with law enforcement since that time about what happened on
6 December 3rd?

7 A No.

8 Q Isn't that kind of strange that you would be able to
9 provide an alibi for your son, but you've never come
10 forward to say this until he's standing trial for this?

11 MS. LEMATTY: Objection, Your Honor. I think that
12 calls for speculation or ---

13 THE COURT: Overruled.

14 A No. I -- I don't find it to -- I don't -- I don't
15 find it strange. When that happened, I was just going on
16 based on what happened on December the 3rd. And they
17 allowed my son to come back in. I just said, you know,
18 thank the Lord that this -- this is done with, you know.
19 When it comes to court, you know, the -- the truth will
20 prevail.

21 Q Uh-huh.

22 A And I didn't -- and I don't exercise my expertise in
23 what I did on my job -- my previous job.

24 Q Right. But it would -- you think -- do you think it
25 would be helpful for law enforcement to know that your son

1 opening on the law? Are you going to open on the law? How
2 do you want to do it?

3 MR. JUSTIS: Your Honor, we'll open on the law.

4 THE COURT: All right. The way the closing arguments
5 go is the state has the -- has the right to open and tell
6 you what -- or instruct you or tell you what they think the
7 law is. I'll tell you what the law is. But anyway, they
8 can open on the law, followed by the defendant. And then
9 the state has the right to finish up -- close.

10 MR. JUSTIS: Thank you, Your Honor. May it please the
11 Court?

12 THE COURT: Yeah. You may.

13 CLOSING ARGUMENT BY MR. JUSTIS

14 MR. JUSTIS: Ladies and gentlemen, on behalf of the
15 State of South Carolina; the victim, Amber Fish; and
16 Dristin Johnson, I'd like to thank you for your service
17 this week. Hasn't been a very long trial, but a very --
18 but it's a very important trial. And it's because of
19 citizens like you giving your time and doing your civic
20 duty that we're able to resolve these -- these differences
21 that come up.

22 Real briefly, I'm going to cover the -- the -- the law
23 in this case, as far as the -- the crimes that are charged
24 in this case. In the first one, the defendant's charged
25 with burglary in the first degree. And real briefly,

1 burglary in the first degree is entering a dwelling of
2 another without consent with the intent to commit a crime
3 therein. And it has to have an aggravating circumstance.

4 And in this -- this case, we have to prove that either
5 while entering or leaving, the defendant or a codefendant
6 is armed with a deadly weapon or uses or threatens the use
7 of a deadly weapon or displays what is or what appears to
8 be a knife or firearm; or, in the alternative, the breaking
9 and entering occurred during the nighttime. Now, ladies
10 and gentlemen, I would submit we actually have both of
11 those situations in -- in this case: not only a weapon,
12 but there was testimony it occurred at the nighttime.

13 Those are the elements that the state must prove. And
14 we must prove that Dristin Johnson did those things beyond
15 a reasonable doubt in order to prove burglary in the first
16 degree.

17 The next charge is the kidnapping charge. And there
18 are two kidnapping charges. The first one -- kidnapping is
19 defined as unlawfully seizing, confining, inveigling,
20 decoying, kidnapping, abducting, or carrying away another
21 person by any means without the authority of the law. And
22 without the authority of the law, that means obviously if
23 someone has a arrest warrant and they're arresting someone,
24 they're actually carrying away; they're seizing them,
25 another person. But that is not a kidnapping because they

1 have the authority of law to do it.

2 In this case we're talking about going into someone's
3 home, retraining their movement -- either through rope or a
4 gun -- and not having the authority of law to do so. And
5 in this case, there's two charges of kidnapping: one for
6 Amber Fish and one for her boyfriend, Shawn Rabine.

7 Next, the defendant is charged with possession of a
8 weapon during the commission of a violent crime. And real
9 simply, that's being in possession of or displaying a
10 firearm or what appears to be a firearm or displays a knife
11 during the commission or attempted commission of a violent
12 crime. And when I say "violent crime," it's a violent
13 crime defined in Section 16-1-60 of the South Carolina Code
14 of Laws, of which burglary in the first degree and
15 kidnapping are both defined as a violent crime.

16 So if you find the defendant is guilty of kidnapping
17 and/or burglary, then you would move on and determine
18 whether or not he was in possession of a firearm during the
19 commission of that. If he's not guilty of a burglary, not
20 guilty of both kidnappings, then he cannot be found guilty
21 of possession of a weapon. That's one of the -- so that's
22 actually the last thing you -- you -- you kind of go to and
23 you find.

24 Those are the basic crimes that he's charged with and
25 the basic definitions. Now, the judge, as he told you,

1 after our closing arguments, he's going to instruct you on
2 the law. And he's going to cover those elements again with
3 you. If anything he says differs than what I've told you,
4 you follow the judge because he is the judge of the law.

5 In this trial most of the evidence in this trial came
6 in the form of testimony on that stand. And when you're
7 judging testimony and weighing testimony, you come across
8 something called "credibility," believability. So each
9 witness that took the stand, you're constantly -- that's
10 why you're the judge of the facts. You're constantly
11 making judgments on the credibility of the witnesses.

12 And when you do that -- and this is something you do
13 in everyday life. You do it when you're talking to other
14 people: you know, your family members; your children; your
15 friends; your enemies; your coworkers. You're constantly
16 evaluating their credibility: Do I believe them? Do I
17 believe what they're telling me? You know, are they acting
18 in such a way that makes me kind of pause, as far as
19 believing them?

20 So we look at things like demeanor of the witness.
21 And these are just factors you can use. You don't have to
22 use all of them. It -- it is something you can use.
23 That's up to -- up to you.

24 Are they forthright or hesitant when they're answering
25 questions? Were they consistent, or did their story

1 change? Did they have the opportunity to know the facts
2 they were testifying to? Was there any bias? You know, do
3 they have a -- an ulterior motive for testifying the way
4 they did? Are they trying to protect someone: a relative
5 or a friend?

6 And finally, was their testimony corroborated? In
7 other words, did other witnesses or other evidence, even
8 evidence that's exhibits, did it corroborate, or kind of
9 seem to back up, what they were saying? So that's what we
10 mean when we say "corroboration."

11 Reasonable doubt: This is something the judge
12 mentioned to you at the beginning of the trial and you'll
13 hear him instruct you on again. In criminal trials the
14 state -- we're -- we're the party that's bringing the
15 action. So we have the burden of proof. In a civil trial,
16 it's the plaintiff.

17 But in criminal trials we have to prove beyond a
18 reasonable doubt. As -- as the judge told you, you use
19 that scale analogy: beyond a reasonable doubt. It's not
20 just more likely than not; it's something a little bit
21 stronger than that.

22 However, as I told you, you know, the defendant has
23 rights. But the states have right -- the state has rights
24 too. And the state has a right to a guilty verdict if
25 you're firmly convinced of the defendant's guilt. After

1 looking at all the evidence, listening to all the
2 testimony, discussing it, if you find there's proof beyond
3 a reasonable doubt, then the state is entitled to a guilty
4 verdict.

5 Now, as I told you in my opening, it's not proof
6 beyond any and all doubt. It's a reasonable doubt. We all
7 doubt things in our lives. We might doubt that the earth
8 revolves around the sun. But the question you ask is: Is
9 that a reasonable doubt to have? And ultimately, if you're
10 firmly convinced of the defendant's guilt, then you must
11 find him guilty.

12 Now, as I told you, ladies and gentlemen, that's the
13 law as the state would perceive it in this case. The judge
14 is going to instruct you on that.

15 Ms. LeMatty's going to -- going to come before you and
16 she's going to tell you what the defense believes the
17 evidence that you heard leads you to believe. What she
18 says is not testimony; what I say is not testimony. The
19 only testimony in this case comes from the witness stand
20 and these exhibits. Okay?

21 So I ask that you give her your undivided attention.
22 Do not make any decisions at this point. Wait until you've
23 heard all the arguments and you've been charged on the law.
24 Thank you.

25 MS. LEMATTY: Thank you, Your Honor. May it please

1 the Court?

2 THE COURT: Yes, ma'am.

3 MS. LEMATTY: If I could, I'd like to get this.

4 MR. AUSTIN: Here you go.

5 MS. LEMATTY: Could you get it for me?

6 THE COURT: Please speak loudly.

7 MS. LEMATTY: Your Honor, that's what I'm going to
8 make a -- make an effort to do, so I'm asking for something
9 over here to -- to help me with -- with my notes in -- in
10 this case.

11 THE COURT: All right.

12 MS. LEMATTY: Try to get over here a little bit closer
13 and hope that y'all can hear me.

14 THE COURT: (To the jury) If you can't hear at any
15 time, please raise your hand, okay?

16 CLOSING ARGUMENT BY MS. LEMATTY

17 MS. LEMATTY: Ladies and gentlemen, the state came
18 before you yesterday and told you they were going to
19 present evidence to present you -- to persuade you that
20 Dristin Johnson is guilty beyond a reasonable doubt of the
21 charges brought against him. This case has moved very
22 quickly. You've received a lot of information. And I want
23 to thank you for listening so carefully to everything that
24 has been presented.

25 Under our rules, as the judge explained to you, this

1 is the only time that the defense gets to speak to you in
2 closing. After I sit down, Mr. Justis will get back up.
3 And -- and he will get to present his argument with regard
4 to what the evidence means, from the state's perspective.

5 And just as he said, what -- what I say is not
6 evidence; what -- what he says is not evidence. Evidence
7 is what you heard from that witness stand and -- and
8 whatever exhibits are brought to you.

9 I ask you to keep some things in mind as you go
10 through this process. As the judge has told you, you're
11 the judge of the facts in this case. And the judge is the
12 judge of the law. And he'll instruct you on what the law
13 is after our closing arguments are completed.

14 At the beginning of this case, the -- you stood up and
15 the clerk had you raise your hands and take an oath. And
16 as part of that oath, you're required to provide Mr.
17 Johnson, the defendant, with the presumption of innocence
18 as this trial goes forward. That's a presumption that any
19 person in our country gets when they're charged with a
20 crime.

21 In this day and age, it can be a little bit difficult
22 to keep that at the top of your mind. How many of us turn
23 on the news in the morning or pick up the newspaper at
24 breakfast and look at an article and say to the person
25 seated there beside you, "Oh, they caught that guy who was

1 robbing the CVS for drugs," when, in fact, the article's
2 just about that person's arrest. We're making a jump
3 where, at that point, the jump does not need to be made.

4 And that's something that happens with all of us. And
5 it's just important to remember that when you're in this
6 process, when you're serving in this capacity as jurors,
7 can't jump that quickly. You got to listen very carefully
8 to the evidence, listen very carefully to the law, and make
9 a determination based on that.

10 In this -- in -- in our system of justice, it's the
11 state and only the state who has the burden of proving the
12 defendant guilty of each of the crimes he's charged with
13 beyond a reasonable doubt. The judge is going to tell you
14 what reasonable doubt means in the law. The simplest --
15 definition that I know is that it's a kind of doubt that
16 would cause a reasonable person to hesitate to act. If,
17 after considering all the evidence presented, you're not
18 firmly convinced of the defendant's guilt, you have an
19 obligation to find him not guilty.

20 Now, let's look back at everything you've heard over
21 the last day and a half. And -- and again, it's -- it --
22 it's been a lot, and it's moved very, very quickly. But
23 first, you heard from Amber Fish. You heard that two
24 people went inside her home; tied her and her boyfriend up;
25 took her belongings. She testified they took an Xbox and

1 some Xbox games, some money, her necklace. She recognized
2 Chris Baty by his voice. She told the 911 operator that.

3 She described what they were wearing. And when law
4 enforcement came out and started their investigation, they
5 took her over to Mr. Baty's house. And she identified Mr.
6 Baty.

7 They also took her over to Mr. Johnson's house. They
8 brought him outside of his house. They placed him in front
9 of a -- a light in front of a police car. They drove her
10 by. And she couldn't -- she could not identify him.

11 She said that they were outside of her house with a
12 group of other kids earlier and she had shooed them off.
13 But she couldn't identify Dristin Johnson when she was
14 taken over to his house. And, in fact, she testified that
15 she didn't want someone to go to jail unless she was sure.

16 Karen Parker came in and testified that she came home
17 from the hospital; it was dark. She was upset; her sister
18 had been taken off of life support. When she got home, she
19 wasn't happy to see this crowd of people in her living
20 room.

21 One of her daughters was there. I think she said the
22 other one was in the shower. Daughter's boyfriend, Dustin;
23 younger daughter, Kelsey; and Carl; Chris; and Dristin
24 Johnson, who she says is sitting in her living room. She
25 said that her daughters knew better; that people weren't

1 supposed to be there without that adult supervision.

2 She said she rode to the store with Carl and Chris.

3 She went back inside. And she didn't see any of them
4 leave. She just went back in and got ready and -- and went
5 to bed.

6 She spoke with law enforcement the night of the
7 incident. You heard -- I believe it was Officer Boyd, I
8 think, testify that she didn't say anything about Carl
9 being there that first night. That part of her story came
10 later when she met with Detective Smith.

11 Her daughter, Kelsey, came up and testified: young
12 girl, 11 years old, sixth grade at DuBose Middle School.
13 She tells something different yet again. She says that
14 when Mom comes home, it's only she, her sister, and her
15 sister's boyfriend inside. She said that Dristin walked up
16 to the house and that he came there with a girlfriend and
17 that Dristin and the girlfriend went into the bedroom and
18 that Dristin's girlfriend was later told to leave right
19 before Mom got home.

20 She said that when Mom came home, Carl was outside and
21 Chris was outside. They left to go to the -- the store
22 with -- with her mom. Well, where was Dristin during that?

23 Kelsey also said that she heard Dristin talking about
24 going into a girl's house. And she didn't really have a
25 sense of -- of what that meant. But what's curious is how

331

1 she heard it. She testified -- if you remember, that when
2 I was standing over there at counsel table, she was sitting
3 on the witness stand -- that she heard this information
4 from a distance at least that great or greater in a room
5 with the TV going on. I think she did say it was turned
6 down. But the TV was going on with all these other people
7 in the house, with the Chihuahua in the house, with the
8 window closed -- it -- it's December -- and she heard all
9 of this by putting her ear to the -- to the wall of the
10 mobile home.

11 And we have law enforcement. Y'all saw -- heard from
12 a number of police officers. Officer Boyd, first
13 responder, went to the scene. He collected some rope.
14 That wasn't tested for anything. He spoke to Karen Parker,
15 who didn't tell him about Carl Chaplin being around her
16 house that night.

17 He took Ms. Fish to Christopher Baty's house, and she
18 identified him. He took Ms. Fish to Dristin Johnson's
19 house, and she didn't identify him.

20 Officer Tumbleston, she was the senior officer on the
21 scene until she called in her lieutenant, who -- who didn't
22 testify. She went to the incident location, and she went
23 to Christopher Baty's house. She secured that scene while
24 law enforcement procured a search warrant. And that search
25 warrant was executed.

1 She didn't do any kind of a report detailing her
2 involvement in the case. She didn't do any investigation
3 regarding Dristin Johnson. She didn't have any contact
4 with Dristin Johnson.

5 Next we heard from Detective Cheek. He was the
6 detective on call that night. He had to work -- I guess
7 I'd call it -- regular street crimes, as well as the white-
8 collar crimes that he testified he was on grant for. He
9 went to Christopher Baty's house and assisted with getting
10 him processed and taken to DJJ that night.

11 He did a report. But all of his attention was focused
12 on Christopher Baty. None of it had any bearing -- he had
13 no investigation regarding Dristin Johnson. And again, he
14 had no contact with Dristin Johnson at all.

15 Detective Martin responded to Christopher Baty's
16 house. He saw a canine track to a bag. He collected those
17 items, some of which were consistent with drug
18 paraphernalia. And he photographed them; he submitted them
19 into evidence. And he did a report regarding that.

20 And like Detective Cheek and Officer Tumbleston, he
21 didn't do any investigation regarding Dristin Johnson
22 either. He also didn't have any contact with Dristin
23 Johnson at all.

24 Detective Earl Asbell, crime scene investigator, been
25 here in Dorchester County a long time. He responded to the

333

1 search warrant at Mr. Baty's house. He testified he took
2 photographs of the outside and the inside of the house and
3 the items they found. You have in evidence the photographs
4 of the trash can with the driver's license inside of it and
5 the various Xbox game covers and -- and that kind of thing.

6 He collected all those items, according to their
7 protocols. He went back and he processed the items for
8 latent prints. He -- I believe he told you about doing the
9 process where they get gas to fume up and you can cause
10 fingerprints to -- to be seen so that they can be sent to
11 SLED and be analyzed. He also said that there weren't any
12 fingerprints on these items that came back to Dristin
13 Johnson.

14 Today we heard from Catherine Leisey, who works at
15 SLED in the DNA department. And what did was she took the
16 mask and the gloves that were found that swabs had been
17 taken from. And she developed a DNA profile from the
18 buccal swabs that were taken from Dristin Johnson and from
19 Christopher Baty. And she analyzed those to see if there
20 were matches. And she looked at the outside and the inside
21 of the gloves and the outside and the inside of the -- of
22 the mask. Mr. Johnson was excluded completely from the
23 inside of the mask.

24 There was another item of -- of the gloves, where you
25 couldn't be -- no statement could be made about inclusion

1 or exclusion. And with regard to the other items that were
2 tested, the best she could say is that there was a 1 in 7
3 or a 1 in 8 chance that he could be a contributor to the
4 mixture that was found on those items.

5 Again, math is not my strong suit. But if we've got
6 about 32 people in this courtroom right now, 1 in 8, any 4
7 of them could've contributed to that profile. I'd submit
8 to you that that is certainly not something that is up to
9 the standard of beyond a reasonable doubt.

10 You heard from Carl Chaplin today. Well, Carl Chaplin
11 was here to -- to testify so that he could get the state to
12 knock five years off of his sentence. He gave yet another
13 account of what was going on in Ms. Parker's house that
14 day: that there were two different adults there. Hadn't
15 heard about them before. There was marijuana-smoking going
16 on. Karen Parker said there certainly wasn't any party
17 going on in her house.

18 He also told you that he'd been arrested five or six
19 times. We went through his criminal history and he had
20 around 13 or 14 convictions. I would say that he severely
21 underestimated that. And those are certainly issues that
22 you should think about when determining credibility, bias,
23 his motive for testifying in this case.

24 Briefly saw Christopher Baty. All you learned about
25 him was he'd been convicted of these crimes.

1 And finally, Detective Smith called -- testified, the
2 officer in charge of this case, the officer who told you
3 he's responsible for gathering and assembling all the
4 evidence in the case. He arrested Dristin. And with
5 regard to that, that's about all he did.

6 He could've gotten a search warrant on Dristin's
7 house. He could've gone there and looked for the Xbox that
8 Amber Fish said was stolen or anything else: her -- her
9 necklace, anything like that. He didn't.

10 He could've followed up on Dristin's statement about
11 being with his girlfriend. But he only had a first name.
12 I -- I guess that was too -- too difficult. I mean, law
13 enforcement -- he's got the mighty power of the state
14 behind him. I would submit, with a -- a first name and a
15 -- an approximate location, that law enforcement can -- can
16 find somebody if that's what they mean to do.

17 He could've tried harder and follow up with Dristin's
18 mom. He acknowledges calling her. They traded a couple
19 phone messages. That wasn't something he ever followed up
20 on. He knew where she lived. He knew what her phone
21 number was. But he just didn't follow up beyond that.

22 He had no physical evidence that directly ties Dristin
23 Johnson to this case. He didn't try to get any.

24 The state may well get up and say, "Well, that means
25 nothing. Could've, should've, would've. We can always say

336

1 that -- that we could've done more." But I'd submit to you
2 that it does mean something.

3 He's -- he's the state. He's got the power of the
4 state at his disposal. And when something as important as
5 this case is going on, got an obligation to try.

6 I would also expect that Mr. Johnson's -- I mean --
7 Mr. Justis, rather; I'm sorry -- is going to make some
8 comment about Dristin's mom testifying on his behalf.
9 She's his mom; she's trying to help him out.

10 However, as I've heard the state say in -- in -- on
11 other occasions, we don't get to pick our witnesses. When
12 you're at home and you live with people in your house and
13 you need to -- to demonstrate something about that
14 situation, the person you live with is who you have to
15 testify. And if it's your mother, it's your mother. You
16 have to simply use what's available to you.

17 So at the end of all the evidence the state's
18 presented, what we have is a victim who can't identify
19 Dristin Johnson. We have a law enforcement officer who
20 arrested Mr. Johnson and basically didn't do anything
21 further with regard to investigating Mr. Johnson's
22 involvement in this case. Didn't go looking for that Xbox
23 or those other items that they didn't find in the search
24 warrant of Mr. Baty's house. Didn't interview the other
25 people in Karen Parker's house, as -- as far as the story

1 goes. Didn't get any fingerprints back that implicated
2 Dristin Johnson. Didn't get any DNA that conclusively
3 identified Dristin Johnson.

4 Yeah. This -- this case is a search for the truth.
5 And it's important for those who are charged with
6 investigating crimes to -- to search for the truth and
7 undertake that obligation appropriately. You don't just
8 take the first information you get; try to fit everything
9 else into it. You check it all out.

10 But you have people you determine are important
11 witnesses, important enough to be called to testify at
12 trial. And you -- you do what you can to -- to make sure
13 that no stone is unturned when investigating something this
14 serious. The victim deserves no less. The defendant
15 deserves no less.

16 And given the lack of identification of Mr. Johnson by
17 the victim, the lack of credible testimony putting him at
18 the scene of the crime, the lack of fingerprints, the lack
19 of other physical evidence identifying him, and the -- the
20 lack of investigation into what he -- what Mr. Johnson
21 presented -- that he wasn't there and he didn't do it -- we
22 would submit to you that the only appropriate verdict in
23 this case is not guilty. Thank you.

24 CLOSING ARGUMENT BY MR. JUSTIS

25 MR. JUSTIS: Ladies and gentlemen, what does it feel

1 like to lay helpless on a floor with your hands and feet
2 tied behind you like an animal while your baby is crying,
3 trying to get to you, and there's the muzzle of a shotgun
4 pressed into the back of your head? What does that feel
5 like? Amber Fish knows exactly what it feels like. And
6 the person doing that is none other than Dristin Johnson.

7 Now, Ms. LeMatty went over some things with you, and
8 I'd just like to address those points real quick before we
9 get into the evidence. And -- and one of those was, first
10 of all, the police should've done more; police didn't their
11 job because they -- they -- they could've done a search
12 warrant on his house that night.

13 Well, let's go back to the -- the testimony, the
14 evidence in this case. And what did we learn from the
15 evidence in this case? Moments after this incident
16 happened, 911's called. Amber Fish tells 911 she believes
17 one of the individuals is a man named Chris. So when
18 police arrive, they start going through the neighborhood,
19 trying to see if (a) they could see anyone suspicious; and
20 (b) see if anybody knows about this Chris person.

21 And that's when they come across Karen Parker. She
22 says, "Yeah. I know Chris. Chris Baty lives in Gadsden
23 Acres." That's what she tells police.

24 And she also tells the police that there was another
25 individual, Dristin, that she knows as "Savage" with him.

1 They both live in -- she knows both of them, because
2 they're both from Gadsden Acres. Okay.

3 So what does police do with that information? They go
4 over to Chris Baty's house. Now, when they get to Chris
5 Baty's house, they detain him. And as they're walking
6 around the yard, they see the victim, Amber Fish's,
7 driver's license in his trash can. So what do they do?
8 They don't touch anything. They're like, Let's get a
9 search warrant.

10 That's what Detective Smith was working on, was the
11 search warrant. Because at that point they have some
12 probable cause to believe he was involved. Someone gave
13 his name that said he was in the area that night. The
14 victim knows his voice; says, "I believe that's who it
15 was." And lo and behold, the victim's driver's license is
16 in his trash can in his yard.

17 What do they have on Dristin, a black male? And he
18 was with Baty earlier in the evening, 30 minutes before.
19 They go to his house. They drive Ms. Fish by his house.
20 And she says, "I can't pick him out."

21 Why? It's real simple why. Because what did we
22 learn? We learned that the individuals, according to Ms.
23 Fish, were wearing masks. Now, this one, based on the
24 evidence, we believe -- I would submit to you -- was
25 Christopher Baty's. Kind of hard to identify somebody when

1 they're wearing something like this.

2 So why don't they do a search warrant? Because
3 someone threw out the name Dristin. But she's not able to
4 identify him that night. And no evidence was found in his
5 yard. There's something called the "Constitution." We
6 just can't get search warrants whenever we feel like it.
7 We have to have probable cause.

8 Police should've done more. That's what the defense
9 would have you to believe. What did they do? Well, let me
10 tell you what the police did that night.

11 Well, first of all, by the end of the evening, they
12 had Christopher Baty in custody. They had evidence linking
13 him to the crime. They had another lead on Dristin. She
14 couldn't identify him. But his name -- they know he was in
15 the neighborhood that night, according to Ms. Parker.

16 So within a day or two when they bring Mr. Baty back
17 in, he gives a statement. He testified he gave a
18 statement. All of a sudden, after he gives a statement,
19 what happens? Arrest warrants are issued on two other
20 people: Dristin Johnson and Carl Chaplin. Those arrest
21 warrants were issued after they spoke to Mr. Baty.

22 Then Detective Smith goes back to Ms. Parker.
23 Because, remember, he's working on a search warrant that
24 night. It was the deputies out there, trying to talk to
25 the neighbors. He goes back out to her days later and gets

341

1 a written statement from her and takes her a photo lineup.

2 And in that photo lineup, signed by her -- this is
3 evidence; you'll have it back there; you can look -- she
4 picks out No. 2. And she says, "That's the person I know
5 as 'Savage.' And that's who was at my house that night
6 with Carl and Chris.

7 And then eventually, when Carl's arrested, when he
8 comes in, again, he's shown a lineup. And who does he pick
9 out as the person with him at Karen Parker's house and at,
10 eventually, Amber Fish's house? Dristin. And I think he
11 even said "Savage." Claimed he just met him that day, but
12 he was able to pick him out of the lineup.

13 Now, I think when he was testifying, Ms. LeMatty kind
14 of intimated that -- that he had told Dristin in the jail
15 that, you know, he just -- he just picked a face. Well,
16 he's pretty darn lucky, because he just happened to pick
17 the face everyone else in the case was picking.

18 Police also collected evidence. They tried to lift
19 fingerprints off the evidence they could. You heard Lt.
20 Asbell say on those game covers, very hard to get it off.
21 He couldn't get prints off some of them. So he sent them
22 to SLED to see if they could do anything with it.
23 Ultimately, found -- we found out no. Nobody's
24 fingerprints came back. Wasn't just Dristin; they couldn't
25 get any usable fingerprints.

1 All right. The DNA? What did they send off for DNA?
2 The mask and gloves, which is found behind Baty's house.
3 They send it off. It come out the inside of the mask,
4 Baty. I submit to you, that's because that's the mask and
5 the gloves that Baty wore.

6 You say, Well, why is that important if Baty wore it?
7 Who cares? This is Dristin's trial. Because it
8 corroborates Amber Fish, where she said they had masks.
9 Sure enough, we find a mask that they had. Never found a
10 second set of mask and gloves. I submit to you, the
11 defendant got them and got rid of them.

12 Within one to two hours of this burglary, they had Mr.
13 Baty behind bars. And they had some leads as to the other
14 two. And within a couple days, they had arrest warrants
15 for all three individuals.

16 She also talked about, you know, the witnesses: Their
17 stories don't add up; you can't believe the witnesses.
18 Well, let's talk about some of the witnesses. And I -- I
19 think the phrase she used with her witnesses is "you don't
20 get to pick your witnesses." Neither do I. I didn't pick
21 Mr. Chaplin. I didn't pick Mr. Baty. They're not my
22 friends. They're his friends. But you got to work with
23 what you got.

24 Carl Chaplin, he's just lying because he's trying to
25 get time cut off. Well, he could've done the same thing

1 Christopher Baty did: I'm not testifying.

2 Although what did Christopher Baty -- what did he
3 actually say? Well, he kept saying he wasn't going to
4 testify. But he did admit to giving the written statement.
5 He didn't deny the statement he gave to police. He didn't
6 denying testifying in Carl Chaplin's trial. In fact, what
7 he did say is, "I don't want to rat." Well, the question I
8 -- I have for Mr. Baty: If Dristin didn't do it, then how
9 would you be ratting on him?

10 And Kelsey and Karen [REDACTED] mother and daughter:
11 What motivation does Kelsey have to lie? She was, at that
12 time, 10 years old. You know, and she said they were there
13 before her mother got home. Carl Chaplin confirmed that.
14 And he tried to say there were other adults there, but he
15 didn't know who they were. I submit to you, that's because
16 he probably didn't want to admit he was the only adult with
17 a bunch of kids.

18 But, you know, everybody said that they took Karen
19 Parker to the store. Everybody testified to that. I mean,
20 all the events they testified to at Karen Parker's house
21 happened. And they all testified to them. That -- they
22 all said all three were there. They all said that at some
23 point, at least two of them took Ms. Parker to the store.
24 And they all said at some point after getting back from the
25 store, they left. Now, Kelsey says she saw all three of
26

21
22

1 them leave together -- actually watched them leave -- and
2 saw them do down in the direction of Amber's house.

3 Karen, I don't think she -- she testified that she
4 actually seen them leave. But they left. They didn't --
5 none of them stayed the night. And she said within an hour
6 of them leaving, police were all over the place.

7 So, I mean, they all corroborate the same thing. And,
8 of course, Kelsey says she -- she heard Dristin talking
9 about going in someone's house.

10 Now, ladies and gentlemen, those are the major points
11 that -- that Ms. LeMatty brought up. So let's talk about
12 what the evidence actually shows. And when I say
13 "evidence," I'm talking about the testimony and the -- and
14 the exhibits.

15 And Karen -- let -- let's start with Karen. You know,
16 she said they were all three out of her -- at -- at her
17 house. And -- and they were there when she got home. What
18 are they doing there?

19 And then she gave the cops the names and addresses.
20 She knows all three of them. And I asked her -- and, of
21 course, she picked them out of a lineup. But I asked her,
22 "Do you want to be here today?" She said, "No." I submit
23 to you, that's because she knows these people. She used to
24 live near Dristin; live near Chris. And she was asked to
25 come in and testify about them being at her house, knowing

345

1 that that puts them right down the road from where this
2 burglary happened right before it happened.

3 And Kelsey, her daughter: You know, what motivation
4 does she have to lie in this case? She said Chris dated
5 her sister. But she wasn't testifying against Chris here.
6 She wasn't trying to protect Chris here. She was saying
7 they were at the house. They were together.

8 And Carl claims he just met Dristin that day. I don't
9 know. I don't know if he's telling the truth or not. But
10 he's able to pick him out. And what I do know about Carl
11 is that he says: We were together prior to going to Karen
12 Parker's house in Gadsden Acres, where Chris and Dristin
13 live. We went to Karen Parker's house. We were there for
14 a while, smoking weed, whatever. We went to the store,
15 which is exactly what all the others said. And then at
16 some point, all three of us left.

17 Now, he claims: I didn't know what we were going to
18 do. But, of course, he buys shotgun shells for Chris. And
19 this is a man that's been convicted of burglary I don't
20 know how many times. Ms. LeMatty got into that. He wants
21 you to believe he didn't know what was going to happen. I
22 submit to you, he knew. He just doesn't have the guts to
23 admit it.

24 But he does tell us some things. And he says:
25 Dristin was there with us. He's the person, along with

1 Christopher Baty, that I dropped off at that house and I
2 pulled around the corner and waited on them. He says Chris
3 had the gun when they got out, but Dristin had it when they
4 came back.

5 And then he took them to Chris's house. And he says
6 he just dropped them both off and then he left. Well, of
7 course, Dristin just lives down the road -- I mean, down
8 the street from -- from Chris's house.

9 And then he says -- Ms. LeMatty asked him about that
10 conversation in the jail. And what he said Dristin told
11 him was, quote: You don't know me. I don't know you.

12 I submit to you, that's code for: You keep your mouth
13 shut; I'll keep my mouth shut.

14 Now, I've already talked about Chris. We all saw
15 Chris. He doesn't want to be a rat.

16 Finally, Ms. Robin Caulter, Dristin's mom:
17 Apparently, Dristin didn't tell her a lot about what he did
18 that day. He didn't tell her about seeing Chris that day,
19 smoking with Chris that day, seeing Chris's shotgun that
20 day. I mean, he knows about a -- a shotgun. He knows to
21 say a shotgun.

22 And, of course, that night when police come by the
23 house and do the little show-up lineup, that's where they
24 bring the police car by with the victim in it and they
25 bring him out and they look and "No, that's not him."

347

1 When they do that show-up lineup, at that point, since
2 she doesn't say, "That's the guy," they say, "Okay. Well,
3 go back." See you later."

4 That's when Dristin's mom says, "You know, I thought
5 everything was cool," which is not an unreasonable to --
6 thing to think at that time. But what about four days
7 later when he gets locked up and you're home and he gets
8 arrested and hauled off to jail? Did you think things were
9 still cool then?

10 From December 8th until today, she doesn't say
11 anything to police, like, "Hey -- hey, wait a second. You
12 know, this is my -- he was home all day." Because she
13 admits he did go out. And she is his mom. What mom
14 wouldn't want to help her son out?

15 But ultimately, this case is about Amber Fish and what
16 happened to Amber Fish. And you heard her testify. You
17 heard her 911 tape. And you heard what she says the two
18 individuals that were in her house did that day.

19 Christopher Baty has already taken responsibility for
20 what he did. He pled guilty. He told you that.

21 But the person with the mask on and the shotgun to the
22 back of Amber's head and to the back of Shawn's head hasn't
23 taken responsibility. And the scary thing is Carl Chaplin
24 bought him bullets for that gun.

25 Ladies and gentlemen, if they're all lying, how can

1 they corroborate each other's stories so well? How did
2 Chris know that Karen gave Dristin's name? How did Karen
3 know that Chris gave Dristin's name? How did Carl know
4 that Karen and Chris gave Dristin's name? How'd all -- how
5 did Kelsey know? How did all these people know that? I
6 submit to you, because it's the truth. It's the truth.

7 Now, Ms. LeMatty, in her opening, talked about a
8 puzzle, you know, trying to stick the wrong piece on the
9 wrong place -- puzzle when you're a kid. And it reminded
10 me of a story. And it's not a story, a -- an actual thing
11 that happened to me with a puzzle.

12 I came home from work one day. And my son, who was
13 about 6, was putting together a puzzle about yay big. And
14 it was a little Christmas puzzle. It had a snowman and
15 stuff.

16 And he was just about to finish it up. And, of
17 course, you come home; you say hi to your kid. I mean, you
18 look. And he puts the last piece in, and he's missing
19 about three or four pieces. And he's looking around.

20 And I said, "Where's the other pieces?"

21 He said, "Well, I -- I lost them."

22 I said, "All right." And it's just a little, like,
23 dollar-store puzzle. It wasn't an expensive -- I said,
24 "Well, we'll just -- we'll just trash that one and get you
25 a new one."

1 And he looked at me. And he said, "Why, Daddy? I can
2 still tell what the picture is."

3 That's kind of like reasonable doubt, kind of like
4 trials. They're -- they're puzzles. And sometimes you
5 don't have all the pieces. Sometimes it'd be great to have
6 DNA that says Dristin wore this. But sometimes you just
7 don't have it. Reasonable doubt is: Are you still firmly
8 convinced of what that picture shows you?

9 You know, us adults, we argue about reasonable doubt
10 all day long, trying to come up with a definition. And out
11 of the mouths of children, they figure it out.

12 You know, when you force your way into someone's home
13 and you order them down to the floor and you rip their baby
14 out of their arms and toss it on the couch and you put a
15 gun to the back of their head and you tie them up and you
16 rob them, that's burglary in the first degree. That's
17 kidnapping times two. And when you've got the gun, that's
18 possession of a weapon during the commission of a violent
19 crime. And that's exactly what Dristin Johnson did. And I
20 ask that you come back with a verdict of guilty on all four
21 counts. Thank you.

22 THE COURT: Madam Forelady, probably the charge is 15
23 minutes. Everybody okay? You need a bathroom break before
24 I start? Sometimes it might go beyond 15 minutes. So if
25 you need a break during the middle of it, raise your hand.

1 and to rule on the admissibility of the case. Your jobs
2 are more important. You're the judge of the facts in the
3 case. So if, at any time during the trial of the case,
4 you've looked up here and I've been yawning or rolling my
5 eyes or smiling or whatever -- chewing on my glasses,
6 whatever -- and you think I have some opinion about the
7 facts, please set that aside. I do not, and the law does
8 not allow me to have any opinion about the facts.

9 So if anything I've done during the trial makes you
10 think I have an opinion about the facts, that's not my job.
11 That's your job. You are judges of the facts in the case.
12 And obviously, you have the most important job in the
13 courtroom.

14 In order to determine what the true facts are in the
15 case, as I told you earlier, obviously you must determine
16 the credibility of the witnesses who have tried -- who have
17 testified in the case. And credibility simply means
18 believability. It becomes your duty to analyze and
19 evaluate the evidence and determine which evidence
20 convinces you of its truth.

21 In determining the believability or credibility of the
22 witnesses who have testified in this case, you can believe
23 one witness over several; several over one. You can
24 disbelieve everything somebody says. You can believe a
25 little bit and not the rest. So use your common sense in

1 dealing with people how to tell who's telling the truth.

2 In making that determination here in this case, you
3 may consider whether any witness has a -- any witness has
4 exhibited to you any interest, bias, prejudice, or other
5 motive in the case. And you may also consider the
6 appearance and manner of a witness while on the witness
7 stand.

8 We heard one witness testify I qualified as an expert.
9 Normally, our rules of evidence do not permit witnesses to
10 testify about opinions; you can only testify about what you
11 see or hear, directly are able to see. We have an -- have
12 an exception to that rule for someone who's been, by way of
13 education, training, and experience, has become an expert
14 in some art or science or field. That witness is allowed,
15 under our rules, to give an opinion.

16 So the SLED lady doing the DNA, I qualified her as an
17 expert. So she was able to give an opinion. And you
18 should consider it -- consider any expert opinion received
19 in this case and evidence that they give like any other
20 evidence and give it the weight you think it deserves. If
21 you decide that the opinion of an expert is not based on
22 sufficient education and experience or if you conclude the
23 reasons given in support of the opinion are not sound or
24 that the opinion is outweighed by other evidence, you can
25 disregard that opinion.

366

1 THE COURT: Madam Forelady, have y'all reached a
2 verdict?

3 FOREPERSON: Yes, sir.

4 THE COURT: If you would hand it to the bailiffs.
5 Pass it up, please.

6 THE BAILIFF: (Complied.)

7 THE COURT: Thank you, ma'am. Madam Clerk?

8 VERDICT OF THE JURY

9 CLERK OF COURT: In the matter of *State of South*
10 *Carolina v. Dristin Leroy Johnson*, 2012-GS-18-56, as to the
11 offense of burglary in the first degree, we, the jury, find
12 the defendant guilty. We unanimously agree; signed
13 November the 14th, 2012, by Foreperson Rita Kazirskis.

14 In regards to *State of South Carolina v. Dristin*
15 *Johnson*, Indictment 2012-GS-18-57, as to the offense of
16 kidnapping of Shawn Rabine, we, the jury, find the
17 defendant guilty; dated November the 14th, 2012; signed by
18 Foreperson Rita Kazirskis.

19 In the matter of *State of South Carolina v. Dristin*
20 *Johnson*, 2012-GS-18-58, as to the offense of kidnapping of
21 Amber Fish, we, the jury, find the defendant guilty; dated
22 November the 14th, 2012; signed by Foreperson Rita
23 Kazirskis.

24 Regards to *State of South Carolina v. Dristin Johnson*,
25 2012-GS-18-124, as to the offense of possession of a weapon

367

1 during the commission of a violent crime, we, the jury,
2 find the defendant guilty; dated November 14th, 2012;
3 signed by Foreperson Rita Kazirskis.

4 THE COURT: Thank you. Anything for the jury before I
5 dismiss them by the defendant lawyer?

6 MS. LEMATTY: Request the jury be polled, Your Honor.

7 THE COURT: Thank you. Ladies and gentlemen of the
8 jury, the clerk will now ask you a question: "Is this your
9 verdict and is it still your verdict?" She'll call your
10 name out. Please stand and respond.

11 CLERK OF COURT: Juror No. 66, Rita Kazirskis, please
12 stand.

13 JUROR: (Complied.)

14 CLERK OF COURT: Is this your verdict in the jury
15 room?

16 JUROR: Yes, ma'am.

17 CLERK OF COURT: Is it still your verdict?

18 JUROR: Yes, ma'am.

19 CLERK OF COURT: Thank you. Number 97, Lloyd Medlin,
20 was this your verdict in the jury room?

21 JUROR: Yes.

22 CLERK OF COURT: Is it still your verdict?

23 JUROR: Yes.

24 CLERK OF COURT: Thank you. Number 141, Andrea
25 Thomas, was this your verdict in the jury room?

1 SENTENCE OF THE COURT

2 THE COURT: All right. As to Indictment 12-GS-18-
3 0056, an indictment for burglary in the first degree, the
4 sentence of this Court is that you be committed to the
5 State Department of Corrections for a period of 25 years.

6 As to the two kidnapping indictments, the sentence of
7 the Court, you be committed to the State Department of
8 Corrections for a period of 25 years.

9 As to the possession of a weapon during the commission
10 of a violent crime, the sentence is 5 years.

11 They'll all run concurrent. You'll be given credit
12 for your time served. Good luck to you.

13 THE BAILIFF: (To the defendant) Let's go.

14 MS. LEMATTY: Thank you, Your Honor.

15 MR. JUSTIS: Thank you, Your Honor.

16 THE COURT: Madam Forelady, ladies and gentlemen,
17 under our current law, the burglary first and the two
18 kidnappings are what we call "most serious" classified.

19 (Off the record briefly.)

20 (Whereupon, the jury exited the courtroom at 3:52
21 p.m.)

22 THE COURT: All right. Let's take -- let's take about
23 a ten-minute break.

24 (Whereupon, the Court was in recess from 3:52 p.m.
25 until 4:34 p.m.)

15-LIFE

STATE OF SOUTH CAROLINA

COUNTY OF Dorchester
STATE VSDristin Leroy Johnson

AKA:

Race: B Sex: M Age: 20DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]DL#: [REDACTED] SID#: [REDACTED]CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

in disposition of the said indictment comes now the Defendant who was:

TO: Burglary - First Degreein violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Jusbs, Glen P.

SC Bar#

Dristin Leroy Johnson

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 35 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Dept. of Corrections☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine:

14-1-206 (Assessments 107.5 %)	\$	
14-1-211(A)(1)(Conv. Surcharge)	\$100	\$ 100
14-1-211(A)(2) (DUI Surcharge)	\$100	\$
56-5-2995 (DUI Assessment)	\$12	\$
56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25
§ 33.7, 1B TP (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL		\$ 133.90

Clerk of Court/Deputy Clerk

Court Reporter: [Signature]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS18-0056A/W#: M472550Date of Offense: 12/3/2011S.C. Code § 16-11-311CDR Code #: 0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEAPRESIDING JUDGE: [Signature]Judge Code: 0136Sentence Date: Nov 14, 2012

SCCA217 (06/2010)

WITNESSES

A Smith

Dorchester County Sheriff

ARREST WARRANT NUMBER

M472550

Arrested: December 8, 2011

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: March 1, 2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012GS18-0056

CERTIFIED COPY
2013 JAN 11 AM 10:14

The State of South Carolina

County of DORCHESTER

Clerk of Court
DORCHESTER COUNTY

COURT OF GENERAL SESSIONS

March 5, 2012 TERM

THE STATE

vs.

Dristin Leroy Johnson

Indictment for

BURGLARY - FIRST DEGREE

SC Code: 16-11-311

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED - RECORDED
2012 MAR - 1 PM 2:10
CHERYL FARMER
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)

INDICTMENT
 2012GS18-0056

At a Court of General Sessions, convened on March 5, 2012 the Grand Jurors of
 Dorchester County present upon their oath:

BURGLARY - FIRST DEGREE

That in Dorchester County, South Carolina, on or about December 3, 2011, the
 Defendant, Dristin Leroy Johnson, did willfully and unlawfully enter the dwelling
 of Shawn Rabine, without consent and with the intent to commit a crime therein
 and the defendant or another participant in the crime did arm themselves with a
 deadly weapon and/or the entry was committed during the nighttime. This
 offense being a violation of Section 16-11-311 of the South Carolina Code of
 Laws, as amended.

CERTIFIED COPY
 2013 JAN 11 AM 10:14
 Clerk of Court
 DORCHESTER COUNTY

Against the peace and dignity of the State, and contrary to the statute in
 such case made and provided



 Glenn P. Justis, Solicitor

0-304

STATE OF SOUTH CAROLINA

COUNTY OF Dorchester
 STATE VS
Dristin Leroy Johnson
 AKA:
 Race: B Sex: M Age: ●
 DOB: ■■■■■ SS#: ■■■■■
 Address: ■■■■■
 DL#: ■■■■■ SID#: ■■■■■

CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

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

TO: KidnappingIn violation of § 16-3-910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ § 17-25-45
The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Justis, Glenn P.SC Bar# 7660Dristin Leroy Johnson

Attorney for Defendant

SC Bar# CG 4852

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, ☐ Youthful Offender Act, not to exceed 25 days/months/years or 25 years and/or to pay a fine of \$ 100; provided that upon the service of 12-65-18-005556 days/months/years and/or payment of \$ 100; plus costs and assessments as applicable; the balance is suspended with probation for 12-65-18-005556 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12-65-18-005556
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Dept. of Corrections
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
Total: \$ 100 plus 20% fee: \$ 20Payment Terms: 100☐ set by SCDPPPSRecipient: 100

*Fine:

14-1-206 (Assessments 107.5 %)	\$	
14-1-211(A)(1)(Conv. Surcharge)	\$100	\$ <u>100</u>
14-1-211(A)(2) (DUI Surcharge)	\$100	\$
56-5-2995 (DUI Assessment)	\$12	\$
56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
73.3, 1B TP (Law Enforce. Funding)	\$25	\$ <u>25</u>
33.7, 1B TP (Drug Court Surcharge)	\$150	\$
50-21-114 (BUI Breath Test Fee)	\$50	\$
56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 80.5 (SCCJA Surcharge)	\$5	\$ <u>5</u>
44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.90</u>

Cheryl Graham

Clerk of Court Deputy Clerk

Court Reporter: Marjorie NewsNo sex offender registration. Att

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS18-0057
 A/W#: M472551
 Date of Offense: 12/3/2011
 S.C. Code § 16-3-910
 CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADED

CERTIFIED COPY
 2013 JAN 11 AM 10:11
 CLERK OF COURT
 DORCHESTER COUNTY

100 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. 100May serve W/E beginning 100Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 100 Beginning 100\$ 100 paid to Public Defender FundOther: 100☐ Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.☐ Appointed PD or appointed other counsel. § 47.12 requires \$500 be paid to Clerk during probation.PRESIDING JUDGE: TPA EarlyJudge Code: 0136Sentence Date: Nov 14, 2012

SCCA/217 (08/2010)

WITNESSES

CERTIFIED COPY

A Smith
2013 JAN 11 AM 10:14

Cheryl A. Smith
CLERK OF COURT
DORCHESTER COUNTY

Dorchester County Sheriff

ARREST WARRANT NUMBER
M472551

Arrested: December 8, 2011

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: March 1, 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012GS18-0057

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

March 5, 2012 TERM

THE STATE
vs.

Dristin Leroy Johnson

Indictment for
KIDNAPPING

SC Code: 16-3-910

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment
or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED - RECORDED
2012 MAR -1 PM 2:10
CHERYL A. SMITH
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)

INDICTMENT
 2012GS18-0057

At a Court of General Sessions, convened on March 5, 2012 the Grand Jurors of
 Dorchester County present upon their oath:

KIDNAPPING

That in Dorchester County, South Carolina, on or about December 3, 2011, the
 Defendant, Dristin Leroy Johnson, unlawfully did seize, confine, inveigle, decoy,
 kidnap, abduct or carry away the victim, Shawn Rabine, without authority of law.
 This offense in violation of Section 16-03-910, of the South Carolina Code of
 Laws, as amended

CERTIFIED COPY
 2013 JAN 11 AM 10:14
Christy L. Hester
 CLERK OF COURT
 DORCHESTER COUNTY

Against the peace and dignity of the State, and contrary to the statute in
 such case made and provided

JIM JUSTIS

Glenn P. Justis
 Glenn P. Justis, Solicitor

0-304

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Dorchester

vs.
Dristin Leroy Johnson

AKA:

Race: B

Sex: M

Age: 21

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

DL#: [REDACTED]

SID#: [REDACTED]

CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

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

TO: Kidnapping

in violation of § 16-3-910 of the S.C. Code of Laws, bearing CDR Code #

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)☐ § 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Justis, Glenn P.

SC Bar#

Dristin Leroy Johnson

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act, not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12-65-18-0056☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Dept. of Corrections☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine:

14-1-208 (Assessments 107.5 %)	\$	
14-1-211(A)(1)(Conv. Surcharge)	\$100	\$ 100
14-1-211(A)(2) (DUI Surcharge)	\$100	\$
58-5-2995 (DUI Assessment)	\$12	\$
56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25
§ 33.7, 1B TP (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2842(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (If paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Cheryl Graham
Clerk of Court/Deputy Clerk

Court Reporter:

Maryann Newers
No sex offender registration

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS18-0058

AW#: M472552

Date of Offense: 12/3/2011

S.C. Code § 16-3-910

CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF

or

PLEA: [REDACTED]

CLERK OF COURT
DORCHESTER COUNTY

2013 JAN 11 AM 10:14

CERTIFIED COPY

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

SCCA/217 (06/2010)

WITNESSES

CERTIFIED COPY

A Smith 2013 JAN 11 AM 10:14

Cheryl...
CLERK OF COURT
DORCHESTER COUNTY

Dorchester County Sheriff

ARREST WARRANT NUMBER
M472552

Arrested: December 8, 2011

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: March 1, 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012GS18-0058

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

March 5, 2012 TERM

THE STATE
vs.

Dristin Leroy Johnson

Indictment for
KIDNAPPING

SC Code: 16-3-910

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment
or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED - RECORDED
2012 MAR -1 PM 2:10
CHERYL S. BRYANT
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)

INDICTMENT
 2012GS18-0058

At a Court of General Sessions, convened on March 5, 2012 the Grand Jurors of
 Dorchester County present upon their oath:

KIDNAPPING

That in Dorchester County, South Carolina, on or about December 3, 2011, the
 Defendant, Dristin Leroy Johnson, unlawfully did seize, confine, inveigle, decoy,
 kidnap, abduct or carry away the victim, Amber Fish, without authority of law.
 This offense in violation of Section 16-03-910, of the South Carolina Code of
 Laws, as amended

CERTIFIED COPY
 2013 JAN 11 AM 10:14
 Clerk of Court
 CLERK OF COURT
 DORCHESTER COUNTY

Against the peace and dignity of the State, and contrary to the statute in
 such case made and provided

Glenn P. Justis

Glenn P. Justis, Solicitor

LIBRARY

54

STATE OF SOUTH CAROLINA

COUNTY OF Dorchester
 STATE VS
Dristin Leroy Johnson
 AKA:
 Race: B Sex: M Age: 20
 DOB: 01/15/1991 SS#: 123456789
 Address: 12345 Main St, Charleston, SC 29405
 DL#: 12345678 SID#: 98765432

CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

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

TO: Poss. Weapon During Violent Crime. If not Also Sentenced to Life without Parole or Death

in violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

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

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Glenn P. Justice Justice, Glenn P. 76626 SC Bar# 12345 Dristin Leroy Johnson Attorney for Defendant 4882 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 2 days/months/years or ☐ under the Youthful Offender Act ☐ not to exceed 2 years and/or to pay a fine of \$ 100; provided that upon the service of 2 days/months/years and/or payment of \$ 100; plus costs and assessments as applicable; the balance is suspended with probation for 2 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12-65-18-0056

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Dept. of Corrections

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

14-1-206 (Assessments 107.5 %)

14-1-211(A) 1(X) Conv. Surcharge) \$100 \$ 100

14-1-211(A)(2) (DUI Surcharge) \$100 \$

56-5-2995 (DUI Assessment) \$12 \$

56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

73.3, 18 TP (Law Enforce. Funding) \$25 \$ 25

33.7, 18 TP (Drug Court Surcharge) \$150 \$

50-21-114 (BUI Breath Test Fee) \$50 \$

56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5

§ 44-53-450(C) (Conditional Discharge) \$350 \$

3% to County (If paid in installments) \$ 3.90

TOTAL 133.90

Cheryl Graham Clerk of Court/Deputy Clerk

Court Reporter:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS18-0124

A/W#: M472553

Date of Offense: 12/8/2011

S.C. Code § 16-23-490

CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or PLEA

TO: Poss. Weapon During Violent Crime. If not Also Sentenced to Life without Parole or Death

in violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

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

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

 Justice, Glenn P. 76626 SC Bar# 12345 Dristin Leroy Johnson Attorney for Defendant 4882 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 2 days/months/years or ☐ under the Youthful Offender Act ☐ not to exceed 2 years and/or to pay a fine of \$ 100; provided that upon the service of 2 days/months/years and/or payment of \$ 100; plus costs and assessments as applicable; the balance is suspended with probation for 2 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12-65-18-0056

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Dept. of Corrections

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

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

 days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ Beginning

\$ paid to Public Defender Fund

Other:

☐ Conditional Discharge § 44-53-450(C) requires \$350 be

paid to the Clerk prior to disposition.

☐ Appointed PD or appointed other counsel, § 47.12

requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 0136

Sentence Date: Nov 14, 2012

SCCA217 (08/2010)

WITNESSES

A Smith

CERTIFIED COPY

2013 JAN 11 AM 10:14

Cheryl Gray
CLERK OF COURT
DORCHESTER COUNTY

Dorchester County Sheriff

11-012205

ARREST WARRANT NUMBER

M472553

Arrested: December 8, 2011

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

Date: March 1, 2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012GS18-0124

The State of South Carolina

County of DORCHESTER

COURT OF GENERAL SESSIONS

March 5, 2012 TERM

THE STATE

vs.

Dristin Leroy Johnson

Indictment for

POSS. WEAPON DURING VIOLENT
CRIME, IF NOT ALSO SENTENCED TO
LIFE WITHOUT PAROLE OR DEATH

SC Code: 16-23-490

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment
or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED - RECORDED
2012 MAR - 1 PM 2:10
CHERYL GRAY
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)

INDICTMENT
 2012GS18-0124

At a Court of General Sessions, convened on March 5, 2012 the Grand Jurors of
 Dorchester County present upon their oath:

**POSS. WEAPON DURING VIOLENT CRIME, IF NOT ALSO SENTENCED TO
 LIFE WITHOUT PAROLE OR DEATH**

That in Dorchester County on or about December 8, 2011, the defendant, Dristin
 Leroy Johnson did visibly display or have in his possession, a shotgun during the
 commission of a violent crime, to wit: kidnapping and/or Burglary. This offense in
 violation of Section 16-23-490, of the South Carolina Code of Laws, as amended.

CERTIFIED COPY
 2013 JAN 11 AM 10:15
Cheryl A. Williams
 CLERK OF COURT
 DORCHESTER COUNTY

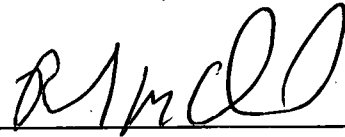
Against the peace and dignity of the State, and contrary to the statute in
 such case made and provided

JUL 2011

Glenn P. Justis
 Glenn P. Justis, Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all the material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies, to the best of my ability, with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



Robert M. Dudek
Post Office Box 11589
Columbia, SC 29201
(803) 734-1330

Jennifer B. Howe
DeMint Howe, PA
505 Pettigru Street
Greenville, SC 29601
S.C. Bar #: 74634
(864) 214-0161

Attorneys for Appellant

June 20th, 2014

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

JUN 20 2014

SC Court of Appeals

Appeal from Dorchester County
Doyett A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

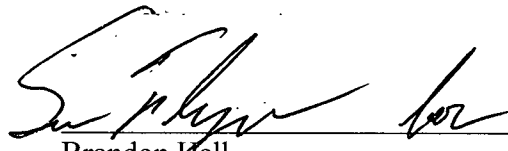
V.

DRISTIN JOHNSON,

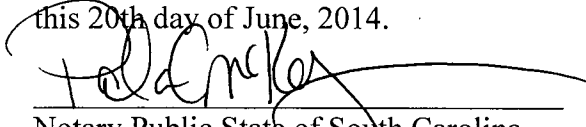
APPELLANT

AFFIDAVIT OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Jennifer Ellis Roberts, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room.519, Columbia, SC 29201 this 20th day of June, 2014.


Brandon Hall
Administrative Specialist

Sworn to and subscribed before me
this 20th day of June, 2014.


Notary Public State of South Carolina
My Commission Expires: July 24, 2022